GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

MEMORANDUM

DATE: April 13, 2004

TO: District of Columbia Board of Zoning Adjustment

THROUGH: Andrew Altman, Director OP
Ellen McCarthy, Deputy Director OP

FROM: David J. McGettigan, AICP

SUBJECT: Board of Zoning Adjustment Case No. 17153
Rosenau Property
1304 Rhodes Island Avenue, N.W.
Square 242 Lot 65

Summary

The applicant seeks a special exception to allow a home occupation with two non-resident employees where only one is permitted. The proposed home occupation is a law firm with three associates, all of whom reside in the dwelling and two paralegal staff who are non-residents. Relief from up to two of the home occupation provisions may be granted by the BZA with a special exception in accordance with §§3104.1 and 203.10.

Recommendation:
The Office of Planning recommends approval of the special exception based on the following findings:

- In accordance with 11DCMR§3104.1 the Office of Planning has determined that the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Map.

BZA
Case No. 17153
Exhibit No. 22

Board of Zoning Adjustment
District of Columbia
CASE NO. 17153
EXHIBIT NO. 22

- In applying the conditions identified in §203.10, the proposed use and related conditions are consistent with the purposes set forth in § 203.1 and generally comply with the other requirements of §§ 203.4 through 203.8.
- Granting the relief requested would not be inconsistent with the Comprehensive Plan.

In summary, the Office of Planning recommends that the special exception, as proposed by the applicant, be approved.

Background

The subject property is located on the south side of Rhodes Island Avenue, NW just a few lots away from Logan Circle. The lot contains approximately 1441 square feet of lot area (according to tax records) and is occupied by a 4 and a half-story structure used as a flat. The property is located in the Greater 14th Street Historic District and is a contributing structure to the District.

Project Description

The applicant proposes to use 1165 square feet of the existing flat for a law office as a home occupation. Relief is requested to allow one additional employee that does not reside in the residence. The law firm concentrates on medical guardianship, probate, elder law and criminal appellate work, which does not require a high volume of clients visiting the office as the vast majority of the clients are patients at hospitals, senior citizen group homes or prison inmates that the applicants meet at these off-site locations.

Comprehensive Plan

The property is identified as moderate density residential on the General Land Use map (See Attachment 2). The moderate density designation includes row houses and garden apartments as the predominant uses and may also include, as appropriate uses, low density housing (§1103.2). The use of a portion of the existing residence as a home occupation is not inconsistent with the Plan.

Zoning

The R-5-B Zone District permits a home occupation meeting the conditions of §203 and the applicant is seeking relief under 11 DCMR §3104 for a special exception from the provisions of §203.4(d) to permit a total of two non-resident employees. The Board may grant a special exception if the conditions of §203.10 are met.

Special Exception Tests (§203.10)

A home occupation that is not permitted or prohibited in this section may be permitted as a special exception by the Board of Zoning Adjustment under § 3104; provided:

(a) The proposed use and related conditions shall be consistent with the purposes set forth in § 203.1 and shall generally comply with the requirements of §§ 203.4 through 203.8, subject to specific findings and conditions of the Board in each case;

The proposed use is permitted as a home occupation in §203.7(j) as a *home office of a scientist, clergyman, inventor, academician, licensed health care professional other than one proived for in paragraph (k) of this subsection* ***or other professional person***. Except for the relief requested from number of employees not residing in the home, the applicant complies with the requirements of §§203.4 through 203.8.

(b) An applicant for a home occupation that is permitted by §§ 203.6 through 203.8 may request the Board to modify no more than two (2) of the conditions enumerated in §§ 203.4 through 203.8; provided that the general purposes and intent of this section are complied with;

The applicant requests relief from one (1) of the conditions enumerated in §§203.6 through 203.8. Specifically, §203.4(d) which states, "no more than one (1) person who is not a resident of the dwelling unit shall be engaged or employed in the home occupation."

(c) In no case shall more than two (2) persons who are not residents of the subject home be permitted as employees of the home occupation, and those persons shall not be co-practitioners of the profession;

The applicant requests only that two (2) persons who are not residents of the subject home be permitted as employees of the home occupation. The employees will be paralegals hired to assist the occupants in their law profession.

(d) Any request to modify more than two (2) of the requirements found in §§ 203.4 through 203.8 shall be deemed a request for a variance. However, a person with a demonstrated physical handicap may be permitted special consideration by the Board, and a request for more than two (2) modifications of the Home Occupation requirements shall be considered in this instance as a special exception governed by this subsection; and

The applicant does not request a modification from more than two requirements; however, the applicant has a physical handicap that would warrant special consideration by the Board in granting relief. According to the application, Ms. Rosenau, one of the applicants, suffers from obesity, arthritis, and orthopedic problems affecting her knees, back and ankles. These disabilities create a need for additional paralegal assistance for her to conduct a normal practice.

(e) In considering any request for approval under this subsection, the Board may impose conditions relating to operating conditions of the home occupation, parking, screening, or other requirements, as it deems necessary to protect adjacent and nearby properties consistent with the general purpose and intent of this section.

The operations proposed by the applicant are consistent with the general purpose of §203 to "*allow home occupations as accessory uses to residential uses; provided, that they are compatible with the residential neighborhood in which they are located. The intent is to protect*

residential areas from adverse effects of activities associated with home occupations, while permitting residents of the community the opportunity to use the home as a workplace and source of livelihood under specific regulatory conditions." Most client meetings occur off-site and no other aspects of the operation are likely to adversely impact the neighborhood.

ANC Recommendation

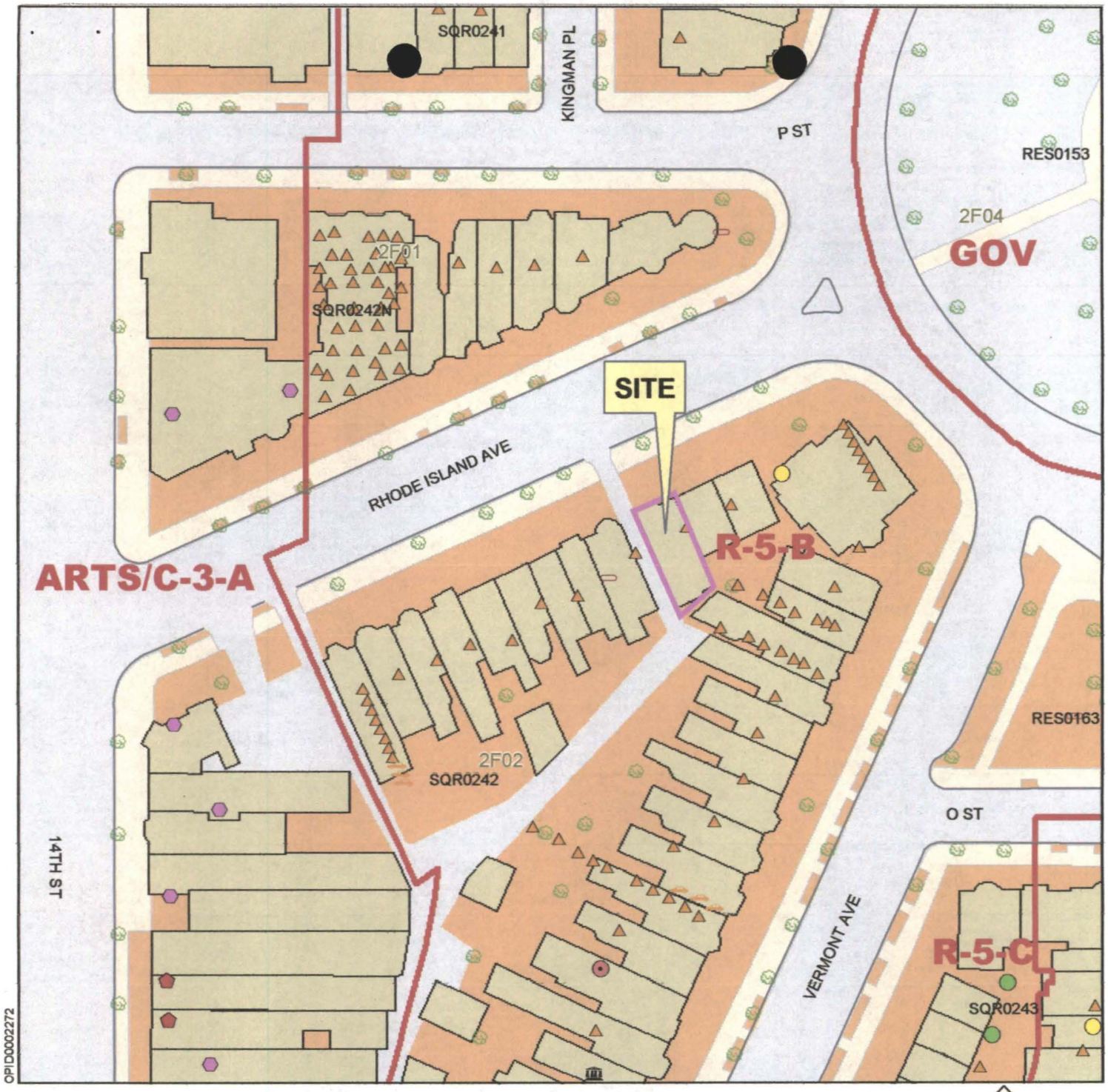
ANC 2F supports the application.

Recommendation

In summary, the Office of Planning recommends that special exception be approved because it is consistent with the special exception standards of §203.10.

Attachments:

1. Zoning and Use Map
2. Comp Plan Map
3. Aerial Photo
4. Aerial Obliques



Zoning and Land Use
BZA Application #17153
1304 Rhode Island Ave., N.W.

N

Feet

0 50 100

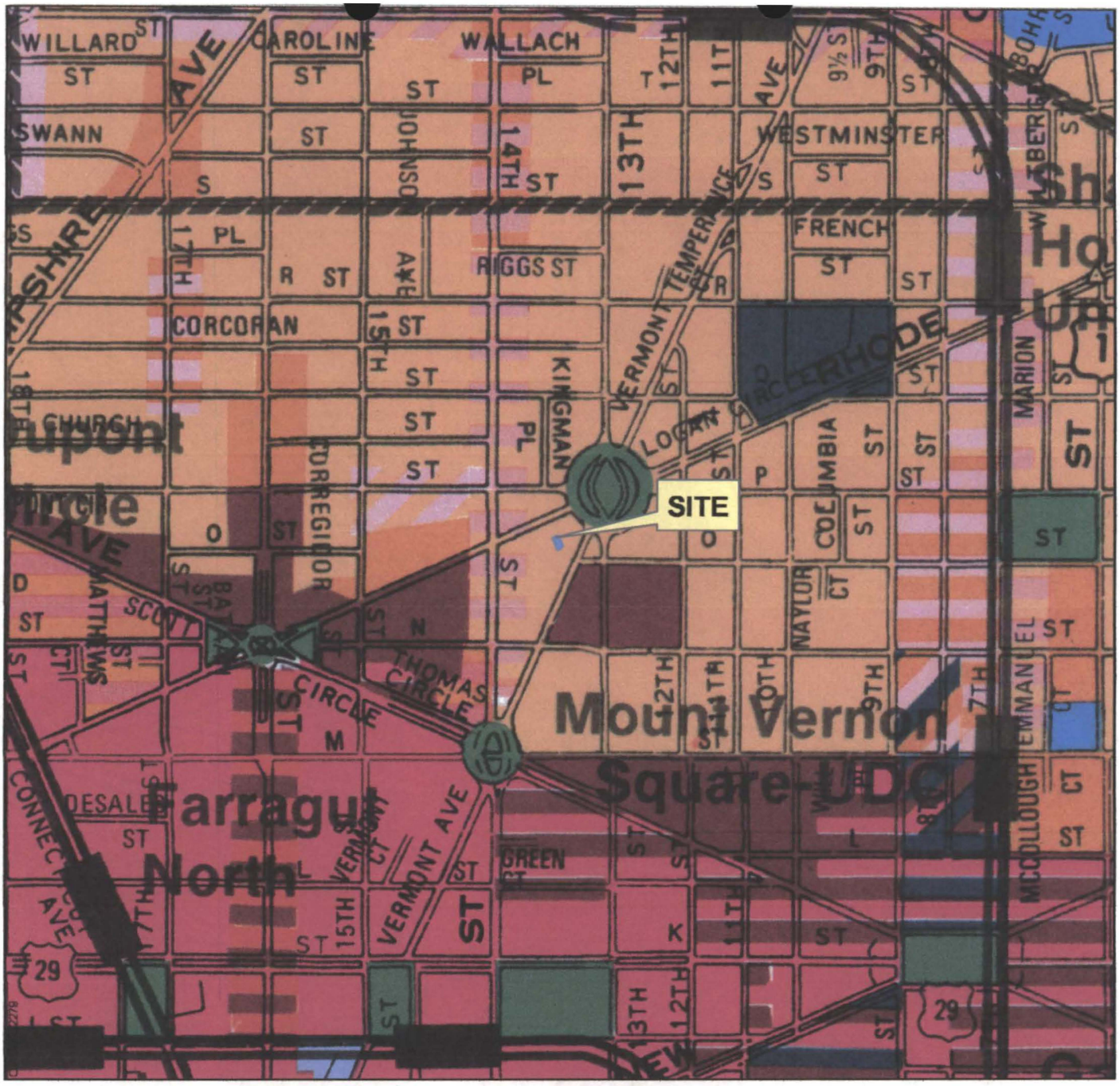
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Anthony A. Williams, Mayor

Office of Planning ~ February 24, 2004

This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies

Land Use Legend

- Non-conforming SF Use
- Rowhouse
- Single-Family Detached
- Single-Family Semi-Detached
- Resid. Garage
- Multi-family
- Multi-Resid. Garage
- Hotel
- Club
- Dormitory
- Fraternity/Sorority House
- Resid. Transient
- Store
- Office
- Parking - Special Purpose
- Restaurant
- Religious
- Medical
- Educational
- Embassy or Chancery
- Museum, Library, Gallery
- Special Purpose
- Vacant
- Vehicle Service Station



Comprehensive Plan Map
BZA Application #17153
1304 Rhodes Island Ave., NW

N

Feet

0 500 1,000

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Office of Planning ~ March 25, 2004

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Generalized Land Use Key

- Residential Low Density
- Residential Moderate Density
- Residential Medium Density
- Residential High Density
- Water
- Commercial Low Density
- Commercial Moderate Density
- Commercial Medium Density
- Commercial Med.-high Density
- Commercial High Density
- Federal
- Institutional
- Local Public
- Parks, Recreation and Open Space
- Production and Technical Employment



Attachment 2



Aerial Photo
BZA Application #17153
1304 Rhodes Island Ave., NW

N

Feet

0 25 50 75

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Anthony A. Williams, Mayor

Office of Planning ~ April 12, 2004

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Attachment 3



Aerial Oblique Photos
BZA Application #17153

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Anthony A. Williams, Mayor
Office of Planning ~ April 12, 2004

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purposes from a variety of sources.
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Oblique imagery ©2003 Pictometry International

☆ Subject Site - 1304 Rhodes Island Ave., NW



Attachment 4