GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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MEMORANDUM

TO: Board of Zoning Adjustment

FROM: JLS for Andrew Altman, Director

DATE September 14, 2004

SUBJECT: BZA Application 17185 – Revised
Request filed by Jim Firsker for **five area variances** to construct a deck onto the rear of a row house at 2130 Leroy Place, N.W.

APPLICATION
Application of Jim Firsker for:

1. **Variance to § 401.3 pursuant § 3103.2 of Title 11 DCMR** to reduce the minimum lot area from 2,000 square feet to 1,206 square feet and the minimum lot width from 20 feet to 16.67 feet;
2. **Variance to § 403.2 pursuant § 3103.2 of Title 11 DCMR** to increase the maximum lot occupancy from 60 percent to 95.6 percent;
3. **Variance to § 404.1 pursuant § 3103.2 of Title 11 DCMR** to reduce the minimum rear yard from 20 feet to 2.5 feet;
4. **Variance to § 406.1 pursuant to § 3103.2 of Title 11 DCMR** to reduce the minimum width of an open court from 6 feet to 1.46 feet; and
5. **Variance to § 2001.3(a) and (b) pursuant to § 3103.2 of Title 11 DCMR** to allow a building addition to a structure that does not conform to the percentage of lot occupancy requirements, that does not conform to structure requirements, and to increase the nonconforming aspect of the structure

for property located on the south side of Leroy Place, N.W., between Connecticut Avenue and Phelps Place, 2130 Leroy Place, Square 2531, Lot 41. The property is located within the R-3 (row dwellings) Residence District and the Sheridan-Kalorama Historic District.

BZA
Case No. 17185
Exhibit No. 29

Board of Zoning Adjustment
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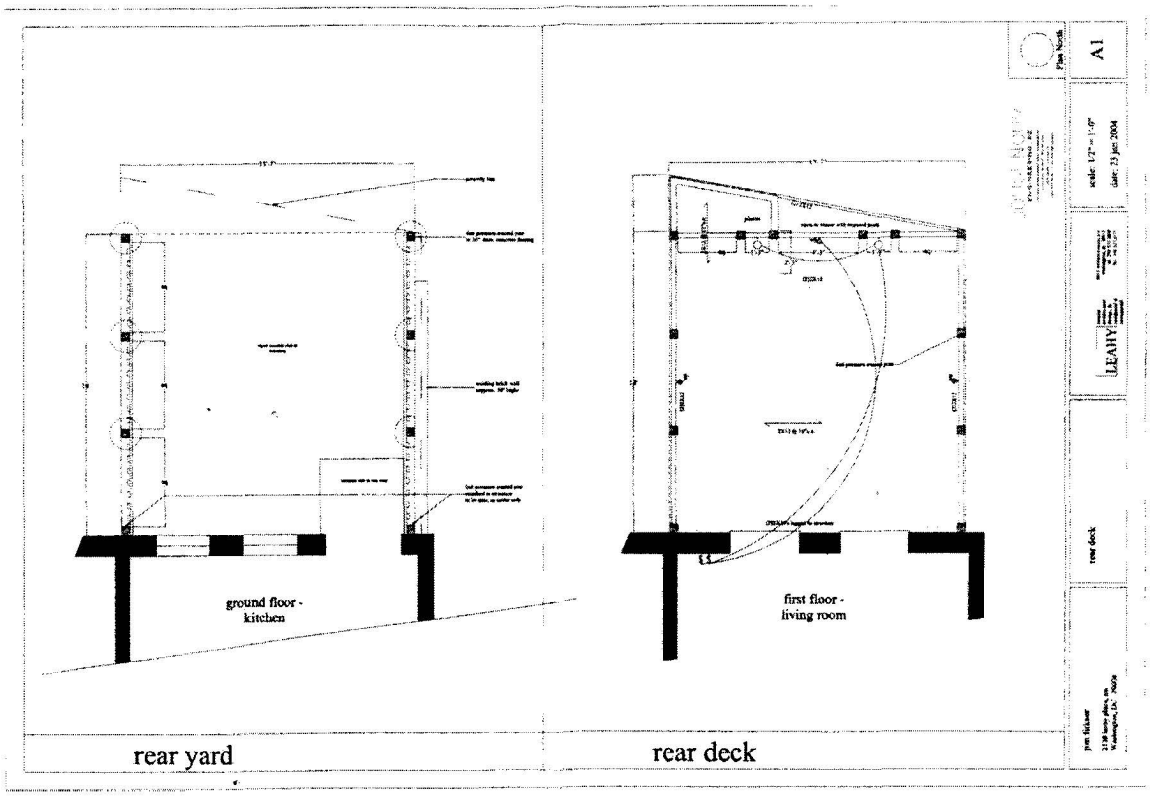
SUMMARY RECOMMENDATION

The Office of Planning recommends **APPROVAL** of the application, subject to the following condition:

1. That the area beneath the deck not be enclosed along the rear lot line (facing the alley); and
2. That the "planter" as shown on the plans submitted as a part of the application be maintained with one ornamental tree, as proposed by the applicant.

PROJECT DESCRIPTION

The applicant proposes to construct a 244 square foot deck off the rear of the main level of an existing 3-story row house. Due to the topographical slope of the subject property, the main level of the row house at the rear is one flight lower than it is at the front. As a result the applicant is only able to walk out of the basement level of the dwelling at the rear.



Parking Level Deck Level

The applicant proposes to construct a deck that will be directly accessible from the main level of the dwelling, with the area beneath the deck to be used for off-street parking. The deck will include a planter along a portion of the structure along the alley and the

applicant has informed the Office of Planning that it will be planted with an ornamental tree a minimum of 10 feet in height. The sides of the area beneath the deck will be enclosed with a wooded fence, demarcating the side lot lines of the rear yard of the subject property and the area to be used for parking.

SITE AND AREA DESCRIPTION

The property consists of Square 2531, Lot 41 in the North West quadrant of the District, and is 1,206 square feet in area. A 15-foot wide public alley provides access to the rear of the subject property. The lot is improved with a 3-story plus basement row house that was originally constructed in 1904, consisting of approximately 3,420 square feet of gross floor area. The rear yard is paved and used for parking.

The surrounding neighborhood is a mixture of residential, institutional, office and embassy uses. To the north, across Leroy Place, are 3-story row houses and detached dwellings used for residential, embassy or religious purposes. To the south, across the public alley, are 3-story row houses. To the west is a residential row house and to the east is a row house used as office space. All surrounding properties are located within the R-3 Zone District and the Sheridan-Kalorama Historic District.

Several embassies and chanceries are located within either the subject square or the square located that includes the north side of the 2100 block of Leroy Place. Those embassies and chanceries include the Republic of Guinea, the Republic of Colombia, the Government of the Russian Federation, the Islamic Representative Mauritania and the Government of Nepal. In addition, there are other uses within the block that include religious institutions and office space for organizations.

ZONING REQUIREMENTS

The subject property is located in the R-3, row dwellings residence district.

The R-3 District "*is designed essentially for row dwellings, but there shall be included in an R-3 District areas within which row dwellings are mingled with one-family detached dwellings, one-family semi-detached dwellings, and groups of three (3) or more row dwellings. To maintain a family-life environment, permitted related uses are the same in R-3 Districts as in R-1 Districts.*" (§ 320.1)

RELIEF REQUESTED

The Board of Zoning Adjustment is empowered to grant variances as provided by Section 3103.2 as follows:

"With respect to variances, the Board has the power under § 8 of the Zoning Act, D.C. Code, 2001 Ed. § 6-641.07(g)(3) (formerly codified at D.C. Code § 5-424 (g)(3) (1994 Repl.)), "[w]here, by reason of exceptional narrowness, shallowness, or shape of a

specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Code, 2001 Ed. §§ 6-641.01 to 6-651.02 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship; provided, such relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map."

Variance to § 403.2 pursuant § 3103.2 of Title 11 DCMR
The R-3 Zone District permits a maximum lot occupancy of 60 percent for row dwellings. The subject property is developed with a lot occupancy of 75.37 percent. As such, the lot occupancy is more than 25 percent over the maximum permitted. The subject application requests a lot occupancy of 95.6 percent, an increase of 59.3 percent over the maximum permitted by the R-3 Zone District. This application is not eligible for special exception approval to increase the lot occupancy under § 223 because that provision limits the increase in lot occupancy to a maximum of 70 percent.

A lot occupancy of 95.6 percent on a lot of 1,206 square feet results in only 53 square feet of the lot that is not covered by a structure. The application indicates that the dwelling at 2126 Leroy Place has a lot occupancy similar to the one proposed within this application. However, the Office of Planning was unable to locate any record of variance approvals for that property. Within the entire square the Office of Zoning has record of four properties for which the BZA has granted relief, shown below.

1. BZA Application No. 17032: Special exception application for 2124 Leroy Place pursuant to § 223. The application was approved in 2003 to increase the lot occupancy to 64 percent.

2. BZA Application No. 16563: Variance application for 2134 Leroy Place to increase the lot occupancy to 99.2 percent for the construction of a one-story building addition and deck. The file indicates that the application was approved in 2000.

3. BZA Application No. 14808: Variance application for 2136 Leroy Place to increase the lot occupancy to 100 percent. It was approved in 1988 and the Office of Planning recommended approval.

4. BZA Application No. 7435: Variance application for 2135 Bancroft Place to increase the lot occupancy, approved in 1963.

The square also contains many other lots that appear to be improved with lot occupancies in excess of the maximum permitted 60 percent, many of which likely pre-date the 1958 Zoning Regulations as they appear on the Baist Maps dated 1960.

The exceptional circumstances of the subject property are that it is a legally existing nonconforming lot that predates the adoption of the Zoning Regulations in 1958 and that it was improved with the existing row house prior to the adoption of the Zoning Regulations in excess of the maximum lot occupancy. Therefore, therefore there is no opportunity to provide a secured off-street parking space for the subject property. It is also shallow due to the narrowing of the square from east to west. As a result the subject property is one of the shallowest of those located on the south side of Leroy Place.

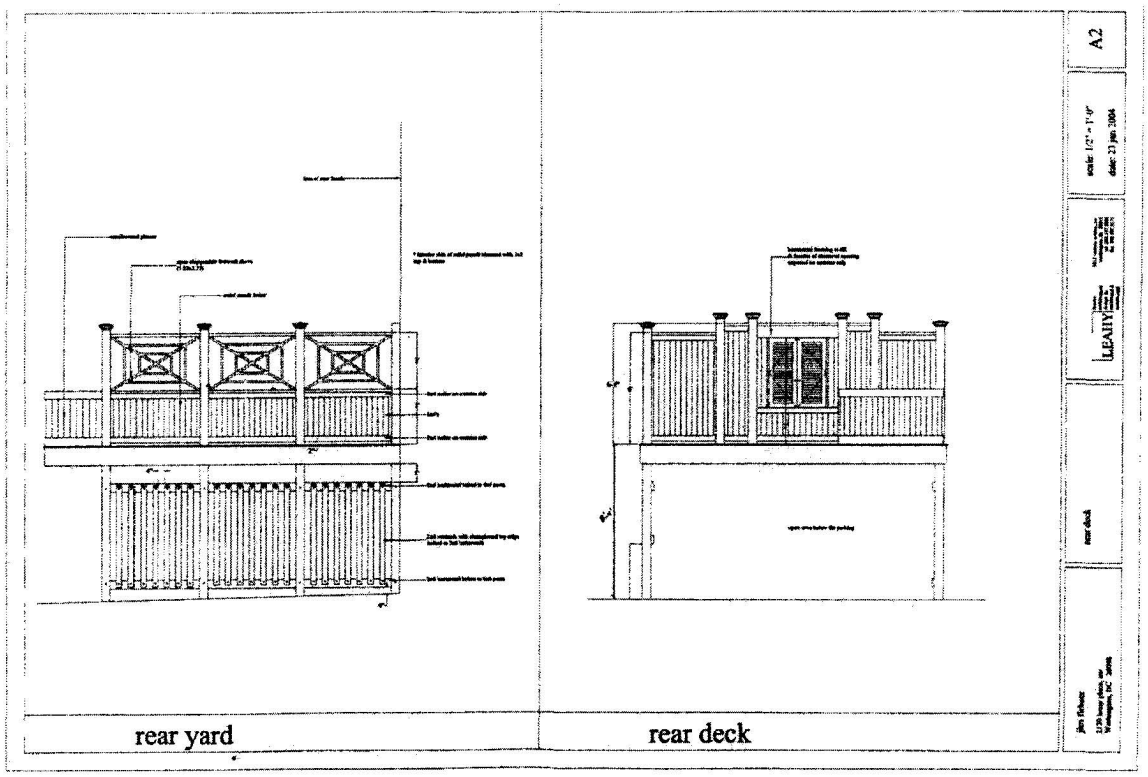
The rear of the subject property is paved from the alley to the rear wall of the house, resulting in a situation where the parking appears to be an extension of the alley. However, there is nothing delineating this private property as a private parking space, resulting in unauthorized use of the parking space by others. Therefore, the applicant proposes to construct fences along the side lot lines of the rear yard with a deck above, which will also have the effect of delineating his off-street parking from the alley, giving the appearance of a private parking space and better securing the use of the space for the occupants of the subject property.

There are several embassies or chanceries, religious institutions and offices within 200 feet of the subject property, which create an extraordinary demand on available on-street parking within the neighborhood. Only one off-street parking space is required by the Zoning Regulations for and is available within the subject property, as is the situation with many of the other surrounding residential properties. The result is that off-street parking is in high demand.

The increase in the lot occupancy as requested can be permitted "*without impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.*" (§ 3103.2)

Variance to § 404.1 pursuant § 3103.2 of Title 11 DCMR
The minimum rear yard required within the R-3 Zone District is 20 feet. The building on the subject property is constructed at an angle to the rear lot line, ranging between 16 and 19 feet, with an average of 17.5 feet. The subject application requests to reduce the rear yard to 2.5 feet for the construction of a deck. The deck will include a planter along a portion where it borders the alley, which will have the effect of softening the impact of the proposed deck on the alley, and the applicant has informed the Office of Planning that the a minimum 10-foot high ornamental tree will be provided within the planter. The area beneath the deck will not be enclosed along the rear lot line and the alley, reducing the bulk of the proposed structure while allowing for vehicular access to the parking space. No garage door is proposed along the rear lot line. Therefore, the request variance to reduce the rear yard to 2.5 feet can be approved "*without impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map*"

(§ 3103.2), provided that the area beneath the deck not be enclosed along the rear lot line (facing the alley), and that an ornamental tree be planted within the planter.



Side Elevation Rear Elevation

Variance to § 406.1 pursuant to § 3103.2 of Title 11 DCMR
The minimum permitted width of an open court is 6 feet and the application proposes to reduce the width to 1.46 feet, less than one-quarter of that required. The need for the open court is a result of an existing brick wall approximately 36 inches in height that was constructed on the common property line with the adjoining lot to the west. The applicant's proposal is to construct a fence beneath the proposed deck along side of this existing wall, resulting in an open court of 1.46 feet. Although a minimum of 6 feet is required, an open court is more commonly associated with a building wall, with the minimum area intended to ensure the provision of light and air. In this case the proposed structure is a fence separating the rear yard of two row houses, which will not adversely impact light and air. Therefore, the request to reduce the width of an open court to 1.46 feet can be approved "*without impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map*" (§ 3103.2).

Variance to § 2001.3(a) and (b) pursuant to § 3103.2 of Title 11 DCMR
The application requests permission to construct a building addition onto a structure that does not conform to the percentage of lot occupancy requirements, that does not conform to structure requirements, and to increase the nonconforming aspect of the structure.

Although the existing structure does not conform to all of the provisions of the R-3 Zone District, it is legally nonconforming as it predates the adoption of the Zoning Regulations.

The variances requested are to allow the construction of a deck that will also serve to delineate an off-street parking space for the subject property within that property's rear yard. These variances include lot occupancy, open court provisions and rear yard. Should the Board find it appropriate to approve these aforementioned variances, the rear yard, open court and lot occupancy will be permitted as a result of Board action, and not as a nonconforming situation predating the adoption of the Zoning Regulations. Therefore the variance to § 2001.3 can be approved "*without impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map*" (§ 3103.2).

Variance to § 401.3 pursuant § 3103.2 of Title 11 DCMR
The R-3 Zone District requires a minimum 20 foot lot width and a minimum lot area of 2,000 square feet. The existing lot, which has been developed with a row dwelling for 100 years and predates the Zoning Regulations, is 16.67 feet in width and 1,206 square feet in area. There are no adjoining properties with which the subject property could be assembled to increase either the lot area or the lot width. There is no use that may be constructed on the subject property that will not result in the need for a variance to lot area and lot width, and row dwellings require the least amount of lot area and lot width within the R-3 Zone District, minimizing the variance to the extent possible.

The extraordinary or exceptional situation is that the lot has been in existence in this configuration since prior to the adoption of the Zoning Regulations and there are no vacant or unimproved properties that the subject property could be combined with to increase its size or width. Therefore, the variance to reduce the lot area to 1,206 square feet and the lot width to 16.67 feet can be approved "*without impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map*" (§ 3103.2).

COMPREHENSIVE PLAN
The Generalized Land Use Map recommends the Moderate Density Residential land use category for the subject property- "Row houses and garden apartments are the predominant uses; may also include low density housing."

This proposal will contribute toward achieving the following objectives:

> "*To preserve the design quality of historic and special streets and places in Ward 2.*" (§ 1319.1(c))
>
> "*To conserve and enhance existing residential neighborhoods in Ward 2.*" (§ 1326.1(a))

COMMUNITY COMMENTS
ANC 2D, at their meeting of June 21, 2004, unanimously voted to support the application.

The L'Enfant Trust, in a letter dated June 18, 2004, gave support for the proposed deck.

Seven neighbors within the square signed a letter indicating approval of the plan in June 2004.

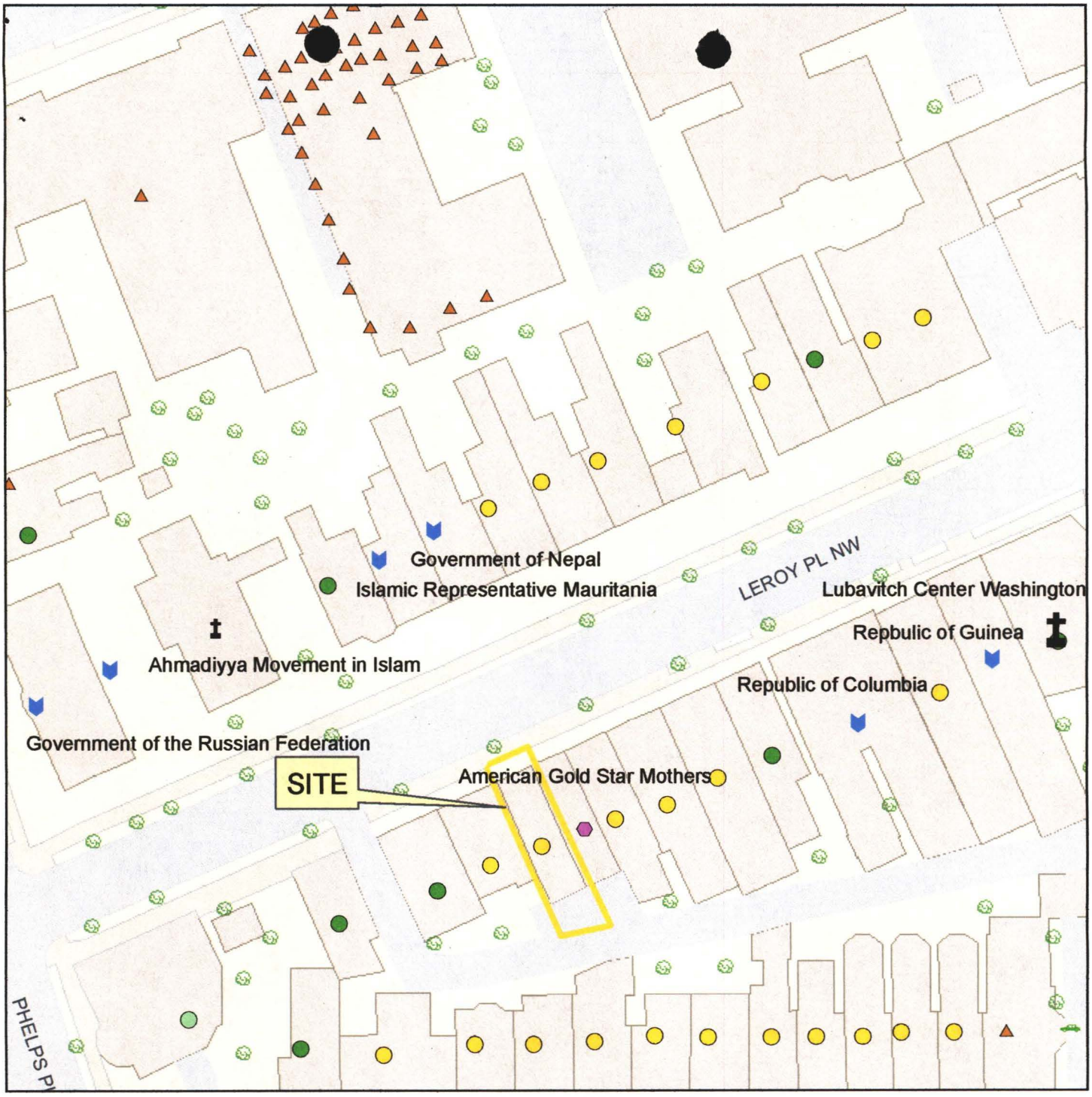
AGENCY COMMENTS
The Historic Preservation Review Board, on July 25, 2002, approved "*the concept as consistent with the character of the Sheridan-Kalorama Historic District.*"

RECOMMENDATION
The Office of Planning has reviewed the application in terms of the property's zoning and the standards for a variance. OP concludes that the proposal does meet the required variance tests and can be granted *"without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map."*

The Office of Planning recommends **APPROVAL** of the application, subject to the following condition:

1. That the area beneath the deck not be enclosed along the rear lot line (facing the alley); and
2. That the "planter" as shown on the plans submitted as a part of the application be maintained with one ornamental tree, as proposed by the applicant.

AA/sjm$_{AICP}$



BZA APPLICATION NO. 17185
2130 Leroy Place, N.W.

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★ ★ ★ **Government of the District of Columbia**
Anthony A. Williams, Mayor

Office of Planning ~ June 15, 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 should be verified with them where appropriate.

- Religious
- Office
- Rowhouse
- Single-Family Semi-Detached
- Single-Family Detached
- Multi-family
- Embassy or Chancery
- Resid. Garage

