GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

**MEMORANDUM**

**TO:** Board of Zoning Adjustment

**FROM:** JLS for Andrew Altman, Director

**DATE:** July 6, 2004

**SUBJECT:** BZA Case #17188, Variance Request

## I. OFFICE OF PLANNING RECOMMENDATION-IN-BRIEF

**The Office of Planning has no concerns with this application and recommends denial of the requested lot occupancy, alley setback, rear yard coverage variances.**

## II. APPLICATION-IN-BRIEF

| | |
|---|---|
| **Location** | 409 3rd Street NE<br>Square 780, Lot 26; Ward 6 |
| **Applicant:** | Deborah Miles Domingue, owner |
| **Zoning:** | R-4 |
| **Proposal:** | Construction of a new detached garage. |
| **Relief Sought:** | Variances to lot occupancy, alley setback, rear yard coverage |

## III. EXECUTIVE SUMMARY

Deborah Miles Domingue, owner of a property at 409 3rd Street NE, has submitted this application to construct a new detached garage to the rear of the existing rowhouse. OP feels that a sufficient case for the requested variances has not been made, and that the development of garages along the alley on these small lots would have a detrimental impact on the character of the square and the integrity of the zoning regulations.

## IV. AREA AND SITE DESCRIPTION – Refer to Location Plan Attachment I, Site Plan Attachment II, and Context Photos Attachment III

The property is within Square 780, bound by 3rd Street NE to the west; E Street NE to the north; 4th Street NE to the east; and D Street SE to the south. The square is developed with rowhouses. There is an internal alley system with access from 3rd, 4th and E Streets, providing vehicular access to the rear of private lots and to a large commercial surface parking area at the center of the square. The lots facing 3rd and 4th Streets (including the subject lot) are typically smaller and have parking pads rather than rear garage structures. Lots facing D and E Streets are larger, and many have detached garages along the alley.

The subject site – lot 26 - is located mid-block, facing 3rd Street NE (west). The lot is 16.5 feet wide and 80 feet deep, and is developed with a rowhouse. Parking is located on a concrete pad accessed from the rear alley. The applicant notes that a carriage house was formerly

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located on the rear of the lot; it was removed at some point in the past although portions of a concrete block wall remains along the side lot line.

## V. PROJECT DESCRIPTION

The owners wish to construct a new 10-foot high detached garage over the location of the existing concrete pad. Formerly proposed additions to the rear of the house (described in the original application) are no longer proposed, so the only alterations to the rowhouse are repair and upgrading, currently underway.

## VI. RELATIONSHIP OF THE APPLICATION TO THE COMPREHENSIVE PLAN

The property is designated "**moderate density**" residential (row houses and garden apartments being the predominant uses) on the Comprehensive Plan Generalized Land Use Map. Development on the property is consistent with this designation. The proposal is not considered inconsistent with Comprehensive Plan goals and objectives, particularly ones for Ward 6 and properties within the Capitol Hill Historic District.

***Chapter 8 – Preservation And Historic Features Element***

*§805 Specific Policies For Protection And Enhancement Of Historic Properties*

*§805.9 In historic districts the established form of development, as evidenced by lot-coverage limitations, yard requirements and other standards that contribute to the open space character and attractiveness of those districts, should be protected.*

***Chapter 17 – Ward 6 Plan***

*§1721 Ward 6 Objectives For Urban Design*

*§1721.1 (a) To acknowledge and protect the unique architectural character of Ward 6 and preserve the continuity of the well established, essential and historic areas;*

## VII. AREA ZONING – CAP/R-4

The property and the remainder of the square are zoned R-4, which permits one family dwellings, rowhouses and flats. The site is within the Capitol Interest (CAP) Overlay District "*established to promote and protect public health, safety, and general welfare of the U.S. Capitol precinct and the area adjacent to this jurisdiction ...*" (DCMR Title 11 §1200.1). The CAP Overlay provides for additional land use, height and bulk controls. For the subject site, the proposed use is a permitted one under the CAP Overlay, and conforms to the Overlay's height, area, and bulk regulations.

## VIII. REQUESTED VARIANCE RELIEF (refer to Project Profile, Attachment IV)

The variances requested by the applicant have changed over time, due to amendments to the scope of work being proposed. OP's understanding from DCRA is that the applicant currently requires variances to lot occupancy, setback of an accessory garage from the alley, and amount of rear yard covered with building.

| 1. | Zoning Regulation: | Proposed: |
|---|---|---|
| | **Lot Occupancy** (§403) – 60% max. | 89% - variance required. |

The property currently exceeds lot occupancy requirements[1]. The garage would increase lot occupancy to greater than the maximum permitted by special exception, so a variance is required.

**Does the property exhibit specific uniqueness with respect to exceptional shape, narrowness, shallowness, topography or other extraordinary or other exceptional situations or conditions?**

The existing non-conforming site is smaller than would currently be permitted, with a width of 16.5', a depth of 80', and an area of 1,323 sq.ft. (current requirements are for a minimum width of 18' and a minimum area of 1,800 sq.ft.). However, the other lots facing east or west on this square, including both adjacent lots, are of a similar size, so the property is not "unique" in this respect. Most of these lots have open parking spaces or fenced in rear yards. Lots facing north or south (D and E Streets) are generally substantially larger (greater than 1,800 square feet), and many of them have garages along the alley.

The existing dwelling covers virtually all of the permitted lot coverage area. This appears to be consistent with the pattern of development on other lots on the street within this square. The area where the garage is to be located is currently paved, and enclosed from neighboring lots by tall fences and wall remaining from a former carriage house. The presence of an extensive commercial parking lot at the center of the lane is a unique circumstance, in that there is no building opposite this one, and there is likely a greater than normal number of vehicles utilizing the alley system.

**Does the extraordinary or exceptional situation impose a practical difficulty that is unnecessarily burdensome to the applicant?**

The property currently has secured parking for two cars. Enclosing this area to provide one conforming parking space requires BZA approval of relief from current zoning regulations. It may be possible to eliminate this variance by reducing the width of the proposed garage, but special exception review would still be required.

**Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?**

Most or all of the alley garages within this square are located on substantially larger lots where this much development would be more consistent with zoning regulations. Similar variances to the ones requested in this case would be required for the addition of a garage on any of the smaller lots, and OP is concerned that this would be contrary to the intent and integrity of the Zoning Regulations, and would have an overall negative impact on the character of the area.

| 2. | Zoning Regulation: | Proposed: |
|---|---|---|
| | **Accessory Building Setback** (§2300.2b) - 12' min. to centerline of 15' wide alley | 7.5' – variance required. |

The existing house has a rear yard of over 28', so provides the 20' rear yard required in §404, while §2300.2(a) permits a detached garage to be located within the rear yard. As the alley is 15' wide, a garage on this lot would be required to be located 4.5 from the rear lot line to conform to

[1] It appears that the building alone has a lot occupancy of approximately 59.5%, so conforms, but zoning regulations require that a narrow courtyard (115 sq.ft.) be included in lot occupancy, raising defined lot occupancy to 65%.

§2300.2 (b). The new garage would be located directly on the rear lot line, necessitating the requested variance of 4.5 feet.

**Does the property exhibit specific uniqueness with respect to exceptional shape, narrowness, shallowness, topography or other extraordinary or other exceptional situations or conditions?**

The lot is regularly shaped and relatively level. Like other adjacent properties, it is only 80' deep, and the existing rowhouse covers over 50' of this depth. As such, it is not unique. The site proposed for the garage is currently paved and used for parking.

**Does the extraordinary or exceptional situation impose a practical difficulty that is unnecessarily burdensome to the applicant?**

The shallow depth of the lot and the depth of the existing house would make providing a garage that conformed to this regulation difficult. To eliminate the variance, the garage would have to be moved further onto the lot to provide a 4.5' setback from the rear lot line, which would increase impervious surface, reduce the size of rear yard area, and create a new court width variance requirement. A garage attached to the rear of the house would have a greater impact on the livability and character of the rowhouse located in a historic district, eliminate any back yard area, and increase the amount of impervious surface on the property.

**Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?**

The intention of the required setback of the garage from the alley is presumably to minimize negative visual and maneuverability impacts of the garage on the alley, and to ensure that service and emergency vehicles can adequately access what are often confined spaces. The District Department of Transportation has noted that the proposed may impact the ability of trash and other vehicles to get through the alley without damaging vehicles and the garage, and has recommended the provision of a setback of 2 – 3 feet minimum.

| 3. | Zoning Regulation: | Proposed: |
|---|---|---|
| | Rear Yard Coverage (§2500.3) – 30% max. | 96.7% - variance required |

**Does the property exhibit specific uniqueness with respect to exceptional shape, narrowness, shallowness, topography or other extraordinary or other exceptional situations or conditions?**

At 16.5' wide, the property is relatively narrow, but of a similar width to other lots on the street including adjacent ones. Most other structures that are on or close to the rear lot line and cover the full rear width of their respective lots are on lots that have the required 18' width.

**Does the extraordinary or exceptional situation impose a practical difficulty that is unnecessarily burdensome to the applicant?**

A garage wide enough accommodate a vehicle would not be possible within the restriction of this regulation. Even if the garage were reduced in width to the minimum necessary for one vehicle, it would still require a variance to this section of the regulations. However, the property currently

has parking for two vehicles, so there would only be a "practical difficulty" is an enclosed garage is considered a normally expected basic necessity.

**Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?**

As the site for the garage is currently paved for parking two cars, this proposed garage would not result in the removal of pervious surface or garden. Although the impact of the garage on neighboring lots, beyond that of existing fences and walls along the side lots lines, would likely be minimal, development of the small lot rear yards with structures would have an overall detrimental impact on the character of the square and the functioning of the alley system. The zoning regulation is intended to ensure some amount of open space at the rear of properties, so the proposal would be contrary to its intent.

## IX. HISTORIC PRESERVATION REVIEW BOARD

The subject property is within the Capitol Hill Historic District, so the garage required the review of the Historic Preservation Office review. The design of the proposed garage underwent Historic Preservation (HP) review in 2003, along with a then proposed replacement of a rear addition to the rowhouse. HP Staff at the time commented that a 6' wall wood screen for a deck on top of the garage should be reduced to 4'. The garage roof deck was then eliminated, a change reflected in the drawings submitted with this BZA application. HP Staff also noted that the proposed lot occupancy of 84% (which does not include the narrow court area) is not inconsistent with the historic coverage of many properties in the Capitol Hill Historic District.

## X. COMMUNITY COMMENTS

The applicant has advised OP that the ANC voted to recommend approval of the proposed garage.

The Capitol Hill Restoration Society has submitted a letter recommending that the application be denied.

## XI. OTHER AGENCY COMMENTS

District Department of Transportation (via email) – "This garage is pretty close to the alley. I'm worried about the ability of trash and other vehicles to get through without damaging themselves and the garage. Is there any way that they could accommodate a 2-3' setback from the alley?"

OP has not received comments on this application from any other District agency.

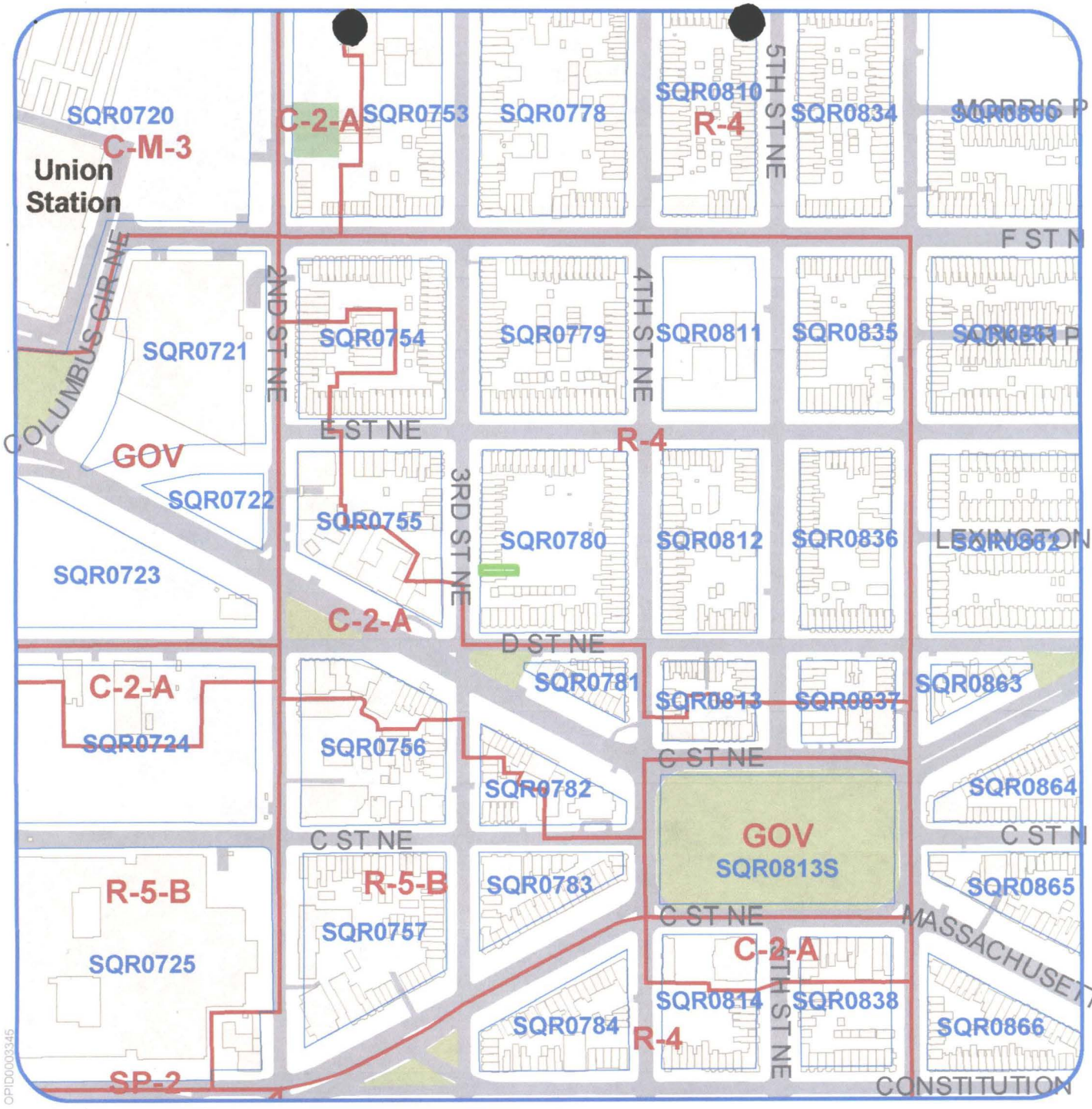
## XII. OP SUMMARY RECOMMENDATION

OP feels that the tests have not been sufficiently met for approval of the requested variances on this small lot, and recommends that the variances be denied.

AA/jl

**ATTACHMENTS:**

I. Context Plan
II. Site Plan
III. Context Photos
IV. Project Profile




## BZA Case 17188
## 409 3rd Street NE

**Legend**

- Property Squares
- Zoning Districts
- Parks
- Site

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

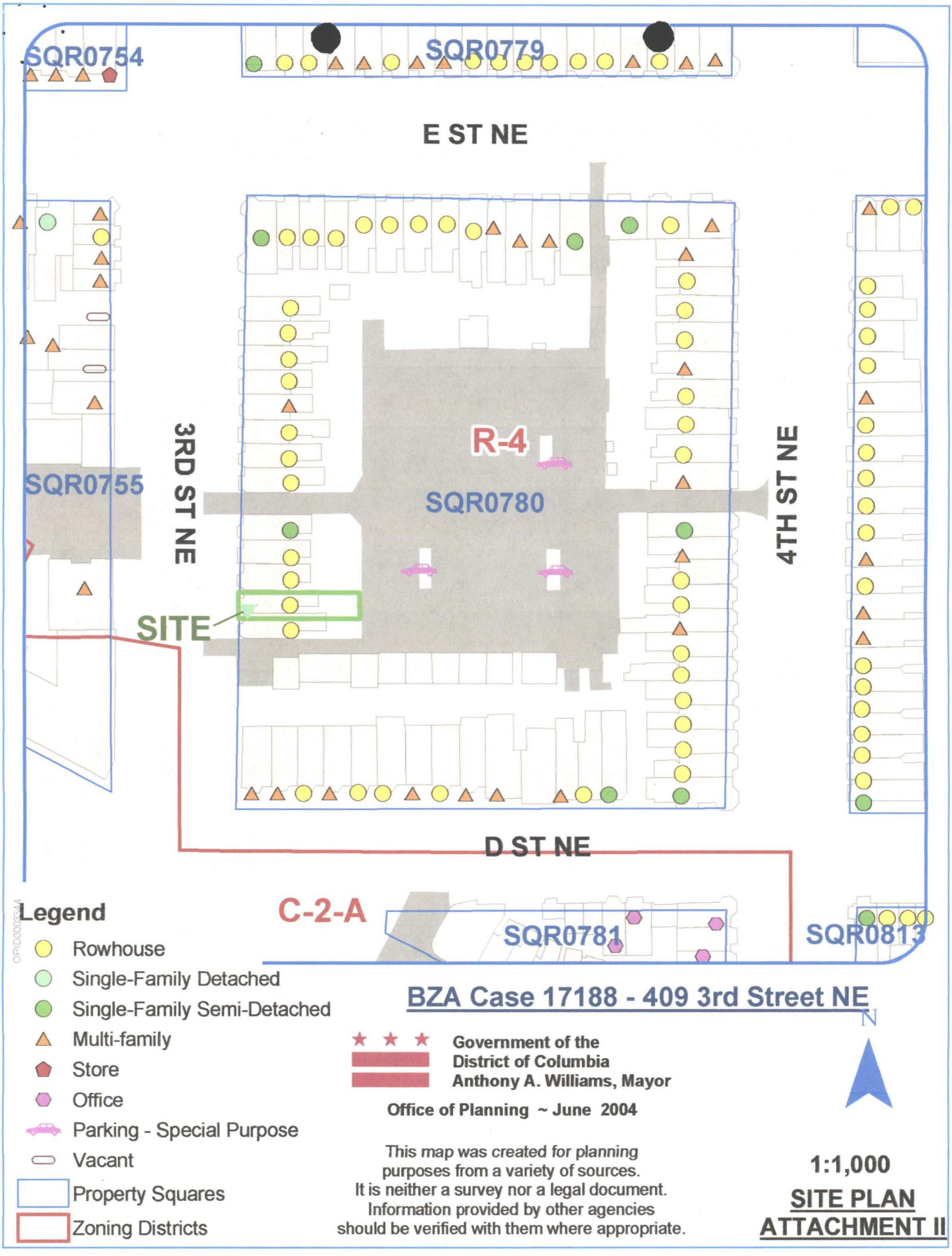
**Office of Planning ~ June, 2004**

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.

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**LOCATION PLAN**
**ATTACHMENT I**




# BZA Case 17188 - 409 3rd Street NE

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

Office of Planning ~ June 2004

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**SITE PLAN**
**ATTACHMENT II**


Mass Ave, NE
D St. NE
4th St. NE
SITE
3rd St. NE
E St. NE
Facing South


Mass Ave. NE
3rd St. NE
D St. NE
SITE
E St. NE
4th St. NE
Facing West

| Standard | CAP/R-4 Zone Regulations | Existing | Proposed[1] | Relief- |
|---|---|---|---|---|
| **Dwelling Type:** | Row dwelling or flat | Row dwelling with parking slab | Row dwelling with detached garage | Conforming |
| **Height: house (§400)** | 40 ft. max; 3 stories max. | House – 23' 2 +basement | unchanged | Conforming |
| **garage: (§2500.4)** | 15 ft. max.; 1 story | n/a | 1 | Conforming |
| **Lot Area (§§401 & 2001.3)** | 1,800 sq.ft. min. | 1,323.2 sq.ft. | Unchanged | Existing non-conforming |
| **Lot Width (§401& 2001.3)** | 18 ft. min. | 16.54 ft. | Unchanged | Existing non-conforming |
| **Floor Area Ratio: (§402)** | n/a. [2] | | | |
| **Square Footage** | | 1,709.4 sq.ft. | 2,081.3 sq.ft. | Conforming |
| **Lot Occupancy: (§403)** | 60% max (794 sq.ft.) | 65.3% (863.6 sq.ft.) | 89% (1,182 sq.ft.)[3] | **Variance Required** |
| **Rear Yard: (§404)** | 20 ft min. | 28.3 ft. | 28.3 ft to house | Conforming |
| **Rear Coverage: (§2500.3)[4]** | 30% max. (99 sq.ft.) | 0% | 96.7% (319.7 sq.ft.) | **Variance Required** |
| **Side Yard: (§§405.3 / 405.9)** | Not required | 0 ft. | 0 ft. | Conforming |
| **Open Court: (§406.1)** | 4" / ft. of height; 6' min. | n/a | 8.8 ft. [5] | Conforming |
| **Parking: (§2101.1)** | 1 min. | 1 - uncovered | 1 covered[6] | Conforming |
| **Accessory Building Setback: (§2300.2b)** | 12' min. to centerline of alley (15' wide) | n/a | 7.5 ft.[7] | **Variance required** |

1 Information provided by the applicant.
2 This zone does not establish a maximum FAR.
3 Zoning regulations require that a small 4.9' wide open court (76.8 sq.ft.) be included in lot occupancy. Minus the court, the existing lot occupancy is 59.5%, and the proposed lot occupancy is 83.5%.
4 Amount of "required rear yard" (20' in this case) which may be occupied by accessory buildings.
5 Between the house and the garage. There is also an additional existing non-conforming court.
6 The proposed garage would provide one regulation space, although drawings indicate that it could accommodate two cars.