GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

MEMORANDUM

DATE: September 14, 2004

TO: District of Columbia Board of Zoning Adjustment

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

FROM: David J. McGettigan, AICP

SUBJECT: Board of Zoning Adjustment Case No. 17204
Donnell Property
2512 I Street, N.W.
Square 17 Lot 35

Summary

The applicant seeks area variances from the lot occupancy provisions of §403.2 to allow lot occupancy of 75% where 60% is permitted and from the provisions of §404.1 to allow a rear yard of 0' where 20' is required in the FB/R-3 zone. The applicant seeks to add a 3-story, 4-level addition to the rear of the existing two-story structure. The Office of Planning also believes that a variance is required from §1523.1, which states "In the FB Overlay District, buildings constructed on or before April 17,1992 … shall be deemed conforming, except that no addition, replacement, or expansion of the building, … shall be permitted unless in conformance with the requirements of the underlying R-3 District."

Recommendation:
The Office of Planning recommends **denial** of the variances based on the following findings:

- The applicant has not shown an exceptional situation that creates the need for the relief sought.

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Board of Zoning Adjustment
District of Columbia
CASE NO. 17204
EXHIBIT NO. 36

- ❖ No evidence has been provided to document that the strict application of the zoning regulations results in a practical difficulty to the extent of relief requested. There remains reasonable use of the property.
- ❖ The intensified use of this property is not consistent with the intent of the zone plan, the character and purposes of the FB/R-3 zone, or the public good.

Background

The subject property is located mid-block on the south side of I Street, NW between 25th and 26th Streets, NW. The lot contains approximately 1362.5 square feet of lot area and is occupied by a small two-story row house most recently used as a flat. The property is located in the Foggy Bottom Historic District and is a contributing structure to the District. The lot is rectangular with a width of 13.625 feet and a depth of 100.00 feet. The existing lot occupancy is 47% and the existing rear yard is approximately 22.6 feet. The rear yard is occupied by a set of steps, a concrete retaining wall and a freestanding carport. The lot abuts the end of a dead end 30-foot public alley.

To the west of the subject property is a two-story row house with a 3-story addition at the rear. To the east is a vacant lot between the subject site and another row house. Across I Street can be found principally row house uses (see Attachment 1). The property lies on the southwestern edge of the Foggy Bottom Historic District.

Project Description

The applicant proposes to construct a four level addition at the rear and above the dwelling. The addition will be approximately 70 feet long and occupy the entire rear of the subject site. The new addition will replace an existing 2-story and 1-story addition. The building area will increase from approximately 1850 square feet to approximately 2700 square feet. In order to minimize the impact of the addition on the street the third story will be set back approximately 30 feet from the front of the house. The lot occupancy will increase from approximately 640 square feet (47%) to approximately 1020 square feet (75%). New interior space will include 3 bedrooms, living room, dining room, kitchen, 2 ½ baths, office, laundry room, dressing area, and one-car garage. Additionally, there will be a new roof deck and a balcony

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).

A major theme of the Comprehensive Plan is to stabilize and improve District neighborhoods (§101.1(a)). Infill development of a reasonable scale is not inconsistent with this theme. The granting of a large variance to §§403.2 and 404.1 in the FB/R-3 zone would permit a large addition that would negatively impact the visual character of the neighborhood and the Historic District. Therefore, granting this variance would be inconsistent with the objectives and policies of the Comprehensive Plan.

Zoning

The FB/R-3 Zone District permits a maximum lot occupancy of 60% for structures that are row dwellings, flats, churches or public schools and the applicant is seeking relief under 11 DCMR §3103 for an area variance from the provisions of §403.2 to permit a lot occupancy of 75%. In addition §404.1 requires that row dwelling provide a 20' rear yard. The R-3 District sets forth the following purposes:

320.1 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.

320.2 Except as provided in chapters 20 through 25 of this title, in an R-3 district, no building or premises shall be used and no building shall be erected or altered that is arranged, intended, or designed to be used except for one (1) or more of the uses listed in §§320 through 329.

The proposed use as a row dwelling is a permitted use in the zone. The Foggy Bottom Overlay District sets forth the following additional purposes:

1521.3 The purposes of the Foggy Bottom Overlay District shall be as follows:

(a) To require a scale of development consistent with the following:

(1) The Comprehensive Plan which provides that the land use map for the Foggy Bottom Historic District be amended from the present "medium" category to the "moderate" category; and

(2) The characteristics of the low scale harmony of rhythmic townhouses of a purely residential neighborhood which formed the basis on which the area was designated a historic district;

(b) To protect the integrity of the historic district, its small scale and open spaces, to require compatibility of any development with the purposes of D.C. Law 2-144, and to preclude demolitions or partial demolitions which would lead to an increase in height and floor area ratio inappropriate to the area;

(c) To enhance the residential character of the area by maintaining existing residential uses;

(d) To preserve areas planned as open backyards and alleyways that provide the only access to historic alley dwellings, and to protect light, air, and the privacy that they provide;

(e) To enhance the special human scale streetscape by maintaining the public space in front of the buildings as landscaped green spaces and limiting future curb cuts; and

(f) To encourage greater use of public transportation through use of the nearby Foggy Bottom Metro Station, so as to protect the narrow residential streets and alleys from the deleterious effects of disruptive excessive traffic.

Based on the applicant's self-certification the following table summarizes the area requirements:

Area Req.	Existing	Required/Allowed	Proposed	Variance	Code Ref.
Height	20.5'/2 Stories	40'/3 Stories	33'[1]/3 Stories	None	§400.1
Min. Lot Area	1362.5 SF	2000 SF	1362.5 SF	None[2]	§401.3
Min. Lot Width	13.625'	18'[2]	13.625'	None[2]	§401.3
Lot Occupancy	47%	60%	75%	15%(25%)[1]	§403.2
Rear yard	22.6'	20'	0'	20'(100%)[1]	§404.1
Side yard	None	None	None	None	§405.9
Parking	1	1	1	None	§2100
Loading	0	None	0	None	§2200

[1] See discussion below regarding possible additional relief from §1523.1.
[2] See discussion below regarding possible additional relief from §§401.1 and 2001.3.

Possible Additional Relief

In the R-3 zone, the minimum lot area requirement of 2000 square feet applies to row dwellings. For lot width the minimum lot width for row dwellings is 20 feet. Section 401.1 states:

> Except as provided in chapters 20 through 25 of this title, in the case of a building located, on May 12, 1958, on a lot with a lot area or width of lot, or both, less than that prescribed in § 401.3 for the district in which it is located, the building may not be enlarged or replaced by a new building unless it complies with all other provisions of this title.

The proposed enlargement of the existing building does not comply with all other provisions of this title (namely lot occupancy and rear yard). Chapter 20 does allow for the enlargement of non-conforming structures subject to the specific conditions of §2001.3, which state:

> 2001.3 Enlargements or additions may be made to the structure; provided:
>
> (a) The structure shall conform to percentage of lot occupancy requirements;
>
> (b) The addition or enlargement itself shall:
>
> (1) Conform to use and structure requirements; and

(2) Neither increase or extend any existing, nonconforming aspect of the structure; nor
(3) Nor create any new nonconformity of structure and addition combined.

The proposed development would not meet any of these conditions. This issue was one of the concerns that prompted the Zoning Commission's adoption of the Foggy Bottom Overlay District, which includes a specific provision regarding this issue in §1523:

§1523.1 In the FB Overlay District, buildings constructed on or before April 17, 1992, and existing legitimate uses within the buildings shall be deemed conforming, except that no addition, replacement, or expansion of the building, or change in use (except to a more conforming residential use other than a dormitory) shall be permitted unless in conformance with the requirements of the underlying R-3 District.

This provision gives conforming status to existing structures thus obviating the need to meet the requirements of §2001.3 specifically and §401.1 generally. However, this relief is conditional in that no addition, replacement, or expansion of the building shall be permitted unless in conformance with the requirements of the underlying R-3 District. The Office of Planning believes that additional variance relief is required from this provision to permit the proposed development.

Analysis

The provisions of §3103.2 require the applicant to show a unique physical aspect or other extraordinary or exceptional situation or condition of a specific piece of property that creates an undue hardship or practical difficulty. In addition, there should be no harm to the public or to the zone plan.

Extraordinary or Exceptional Situation

The applicant has not shown an exceptional situation that creates the need for the lot occupancy or rear yard relief sought. Although the lot is narrow, no evidence was provided that showed how this exceptional situation would limit reasonable development of the property with a structure that would conform to the lot occupancy and rear yard requirements.

The applicant's statement presents four points that they believe address this test:

1) The 100-foot deep lot is burdened with a 25-foot front setback;
2) The topography of the site slopes from front to rear, which puts the basement below ground in the front and at grade in the back;
3) The lot is considerably shallower than neighboring lots; and
4) The poor condition of the structure.

The Office of Planning finds that other lots in the Foggy Bottom area similarly have a 25-foot setback, the topography is not exceptional nor is it particularly relevant to the relief requested, and the lot depth is common for a District with a minimum lot area of 2,000

square feet and a minimum lot width of 20 feet. The interior condition of the existing structure is not relevant to meeting the test.

Practical Difficulty

The practical difficulties identified by the applicant that result from the strict application of the lot occupancy requirements of §403.2 and rear yard requirements of §404.1 are:

1. The poor condition of the existing structure results in a very high (this is not quantified by the applicant) cost of renovation, which can only be justified by this large addition;
2. Historic Preservation considerations limit the location of the proposed addition to the rear of the structure
3. The house is very small and the addition is essential to gain living space.

Regarding the first point there is no information provided by the applicant regarding the renovation costs. No comparison was provided to a matter-of-right development. The applicant has not met the burden of proof that this is a practical difficulty.

Regarding the second point, there is no documented evidence provided that the Historic Preservation Review Board would "require" this design solution. Nor has the HPRB reviewed this proposal as acceptable. Even if this documentation was acquired, all properties in the historic district are similarly burdened.

As to the third point, no evidence has been provided to document that the strict application of the zoning regulations results in a practical difficulty to the extent of relief requested. There remains reasonable use of the property as its current matter-of-right use and the property could be expanded in conformance with R-3 requirements. There is no evidence provided that the current living space, which was adequate for almost one hundred years is suddenly inadequate.

The Office of Planning believes that the applicant has not met the burden of proof for this test.

Substantial Detriment

In addition to the above tests, §3103.2 further requires that the relief requested could be granted, provided that it will not be a substantial detriment to the public good or substantially impair the intent, purpose and integrity of the zone plan. The application proposes that the following points address this standard:

1. Eight close neighbors have signed a petition approving the addition.
2. Because the adjacent houses are larger and because they have more lot area the impact on them is minimal.

However, OP cannot conclude the expansion will not impair the intent of the Zoning Regulations or the integrity of the Plan. Specifically, the purposes of the Foggy Bottom Overlay District are to require a scale of development consistent with the characteristics

of the low scale harmony of rhythmic townhouses, to protect the integrity of the historic district and its small scale and open spaces, to preclude partial demolitions that would lead to an increase in height, and to preserve areas planned as open backyards and alleyways and protect the light, air and privacy they provide. OP cannot reconcile these purposes with the total elimination of the backyard and the four level structure that would be constructed directly on the alley as proposed by this application.

ANC Recommendation

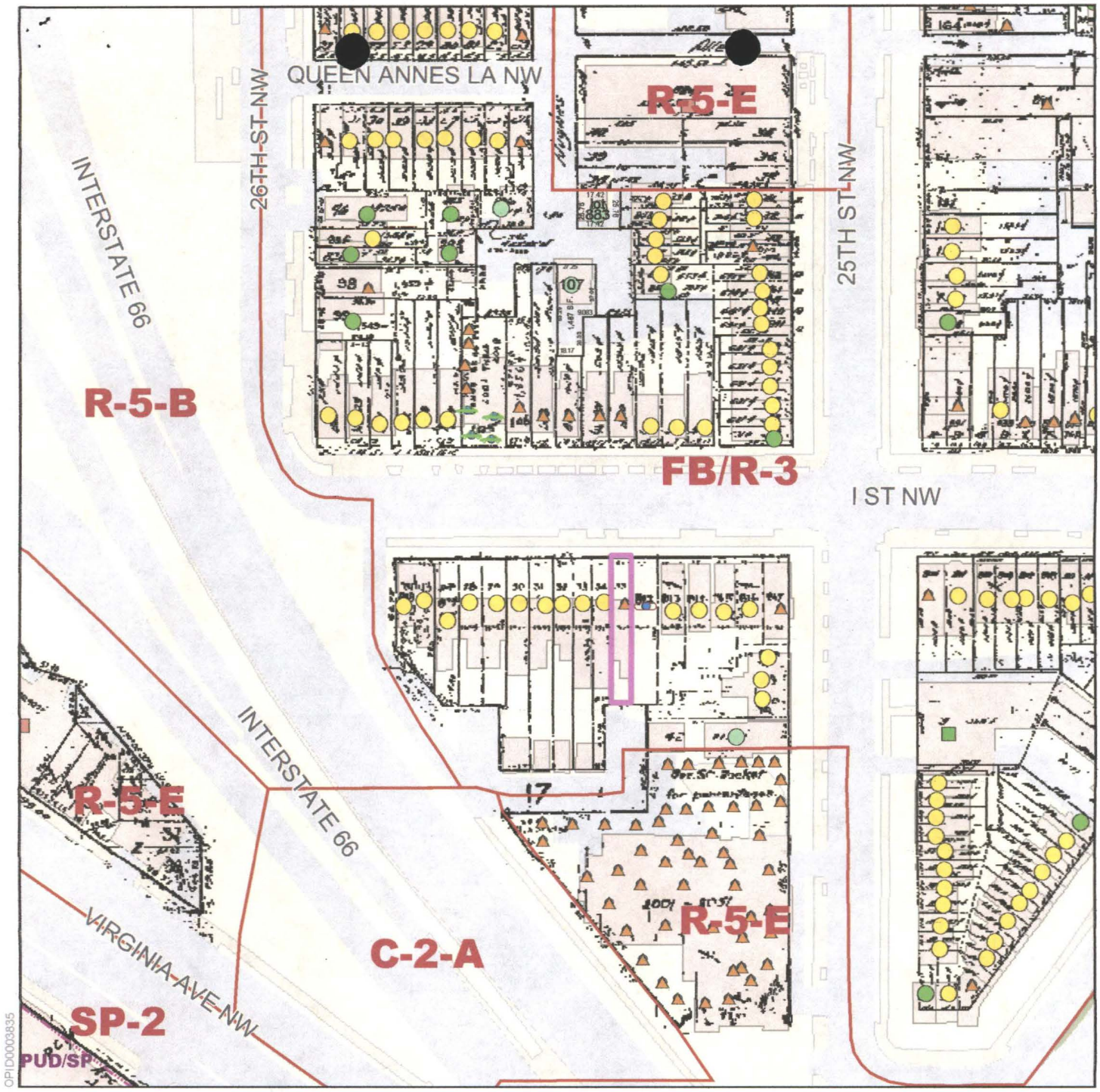
ANC 2A is reviewing the application and has concerns with the impact on the neighboring property, the alley, the historic district, and compliance with the purposes of the overlay district.

Recommendation

In summary, the Office of Planning recommends that the project, as proposed by the applicant **be denied**, as the applicant has not met the burden of proof for a variance and the application is not within the intent and purpose of the Foggy Bottom Overlay District.

Attachments:

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



Zoning Map

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Feet

0 50 100 150

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Office of Planning ~ September 2, 2004

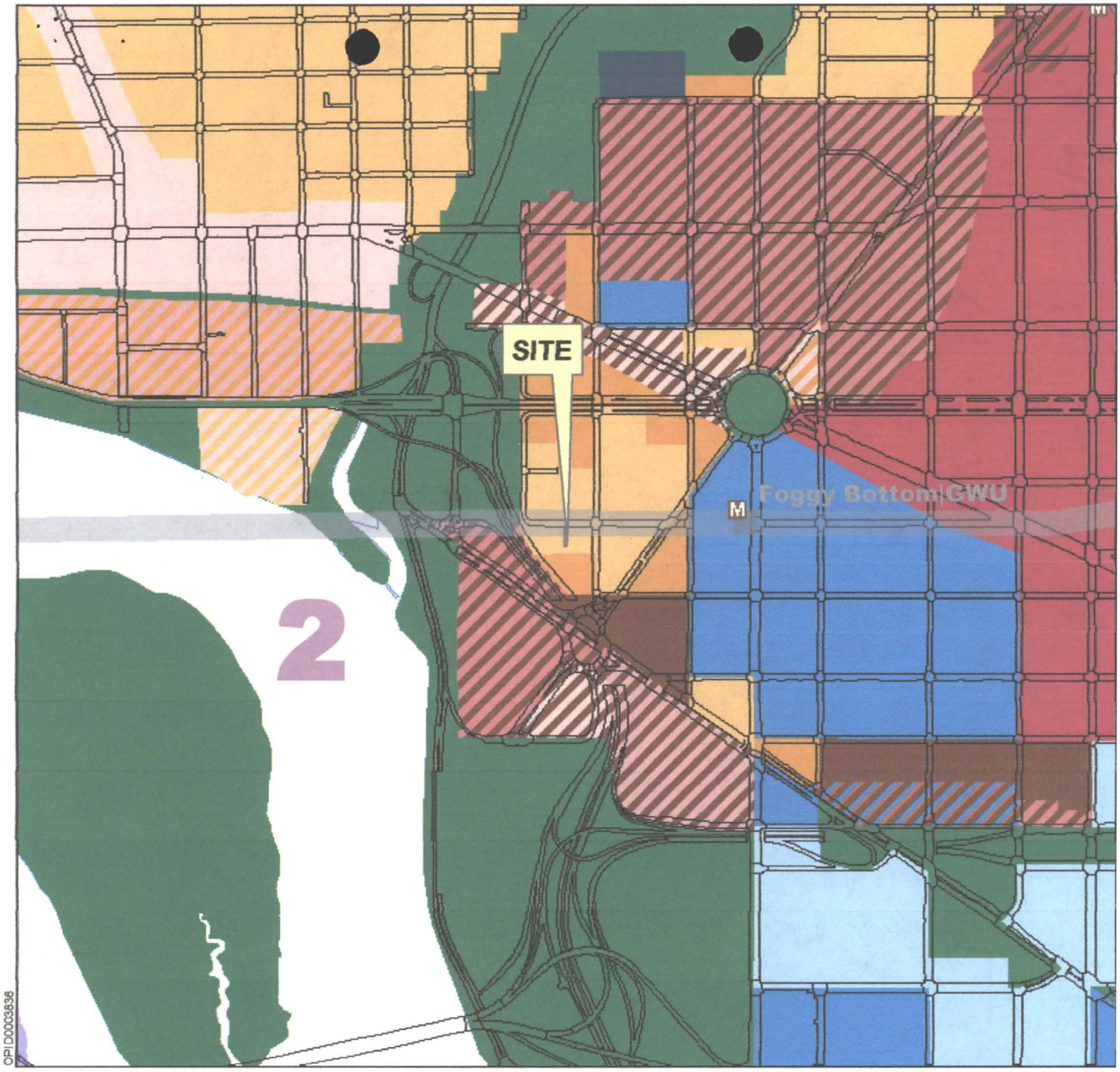
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Land Use Legend

- Non-conforming SF Use
- Rowhouse
- Single-Family Detached
- Single-Family Semi-Detached
- Resid. Garage
- Multi-family
- Small Hotel
- Large Hotel
- Fraternity/Sorority House
- Store
- Restaurant
- Office
- Parking - Special Purpose
- Religious
- Educational
- Embassy/Chancery
- Special Purpose
- Vacant



Attachment 1



Comprehensive Plan Map
BZA Application #17204
2512 I Street, N.W.

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Feet

0 500 1,000 1,500

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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 #17204
2512 I Street, NW

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Feet

0 25 50 75

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Attachment 3



Aerial Oblique Photos
BZA Application #17204

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☆ Subject Site - 2512 I Street, NW

Attachment 4