GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

MEMORANDUM

DATE: September 28, 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. 17217
Flowers Property
3360 18th Street, N.W.
Square 2615 Lot 46

Summary

The applicant seeks area variances from the lot occupancy provisions of §403.2 to allow lot occupancy of 71.9% where 60% is permitted, from the provisions of §404.1 to allow a rear yard of 11.83' where 20' is required and from the provisions of §406.1 to allow an open court width of 4.625' where 10' is required in the R-4 zone. The applicant seeks to demolish an existing rear porch and add a screen-enclosed porch to the rear of the existing three-story structure. The Office of Planning also believes that a variance is required from §2001.3, which controls additions and expansions of non-conforming structures.

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

- The applicant has not shown an exceptional narrowness, shallowness, or shape of the property that creates the need for the relief sought. All of the lots facing 18th Street in the subject block are the same depth or shallower than the subject property.
- No evidence has been provided to document that the strict application of the zoning

BZA
Case No. 17217
Exhibit No. 21

Board of Zoning Adjustment
District of Columbia
CASE NO. 17217
EXHIBIT NO. 21

- ❖ No evidence has been provided to document that the strict application of the zoning regulations results in a practical difficulty. No reasonable practical difficulty has been provided by the applicant.
- ❖ The intensified use of this property is not consistent with the intent of the zone plan, the character and purposes of the R-4 zone, or the public good. It is particularly inconsistent with the intent of §2001.3 and would impinge further on an already substandard rear yard.

Background

The subject property is located mid-block on the west side of 18th Street, NW between Monroe and Newton Streets, NW. The lot contains approximately 1386 square feet of lot area and is occupied by a three-story row structure currently used as a flat. The property is located in the Mt. Pleasant Historic District and is a contributing structure to the District. The lot is rectangular with a width of 18 feet and a depth of 77 feet. The existing lot occupancy is approximately 70% and the existing rear yard is approximately 14.3 feet. The rear of the lot abuts the rear yard and open court of Lot 42 at 1808 Newton Street, NW.

The subject property is one of a set of six rowhouses along the northern portion of 18th Street from Newton Street to a mid-block alley. To the west and rear of the subject property are a set of rowhouses facing Newton Place. Many of these structures have been converted to flats. Across 18th Street can be found principally row house uses (see Attachment 1).

Project Description

The applicant proposes demolition of the existing porch and construction of a new larger screened porch. The addition will be 13'-1 ½" wide and 5.5 feet deep. The addition will increase lot occupancy approximately 5% to 75.5%. The rear yard will be reduced 2.5 feet to approximately 11.8 feet. The wider porch will extend past the rear face of the building thereby lengthening the open court and reducing its width to 4'-7 ½" for a 5'-6" portion of the court. The proposal has not been reviewed by the Historic Preservation Review Board.

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 the requested variances from §§403.2, 404.1, 406.1 and 2001.3 in the R-4 zone would permit an addition, though small, would create an incremental deterioration of the character of the zone and the historic district. Continued intrusions on the integrity of the zone will not stabilize and improve the neighborhood. Therefore, granting these variances would be inconsistent with the objectives and policies of the Comprehensive Plan.

Zoning

The R-4 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 75.5%. In addition, §404.1 requires that structures in the R-4 zone provide a 20' rear yard. Open courts in the R-4 Zone District must have a minimum width of 4" per foot in height of the court (but not less than 6').

The existing use as a flat is a permitted use in the zone.

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

Area Req.	Existing	Required/Allowed	Proposed	Variance	Code Ref.
Height	38.5'/3 Stories	40'/3 Stories	38.5'/3 Stories	None	§400.1
Min. Lot Area	1386 SF	1800 SF	1386 SF	None[1]	§401.3
Min. Lot Width	18'	18'	18'	None	§401.3
Lot Occupancy	70.1%[2]	60%	75.5%[2]	15.5%[2]	§403.2
Rear yard	14.33'	20'	11.83'	8.17'(41%)	§404.1
Side yard	None	None	None	None	§405.9
Open Court	5.8'	10'	4.625'	5.375'(54%)	§406.1
Parking	0	None	0	None	§2100

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

[2] The self-certification shows a proposed lot occupancy of 71.9%; however, OP estimates the existing house plus the new addition occupies 73.6% of the lot, but the portion of the open court that is below 5' counts toward lot occupancy and brings the total lot occupancy to approximately 75.5%.

Possible Additional Relief

In the R-4 zone, the minimum lot area requirement of 1800 square feet applies to row dwellings. 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. 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, rear yard or open court relief sought. Although the lot is shallow, it is not so shallow as to be termed exceptional. In fact, all of the other structures on the block, facing 18th Street are similarly burdened.

The applicant's statement presents three points that he believes address this test:

1) The current depth of the porch renders it useless;
2) The lot is smaller than neighboring lots; and
3) The lot is considerably shallower than neighboring lots.

The Office of Planning finds that other lots in the surrounding area similarly have a 77-foot lot depth. Although the lot is smaller than the median rowhouse lot in the Mt. Pleasant Historic District, the lot size falls within the second quartile for lot size in the Mt. Pleasant Historic District. The functionality of the porch, though problematic, does not create an exceptional situation.

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The proposed development would not meet any of these conditions. The Office of Planning believes that additional variance relief is required from this provision to permit the proposed development. Although this relief request is not listed in the application, the advertisement for the hearing does list this relief.

Analysis

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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. Because of its size the existing porch is unusable;
2. Because of its size and configuration the existing porch impedes egress; and,
3. There are no options that would not require some variance relief.

The applicant points out that placing any furniture on the porch would block egress from the house. One of the two kitchen doors also blocks egress from the house when opened. Though not explicitly stated, the applicant implies that the existing porch creates a practical difficulty in that no other reasonable options for replacement of the dysfunctional porch exists. One option mentioned by the applicant is the creation of stairs directly off the porch from the kitchen doors. This option, according to the applicant, substantially impacts the usability of the remaining small rear yard. The screened porch is necessary for the applicants' young child to enjoy the light and air of the rear yard without being endangered by mosquitoes and other insects.

The arguments presented by the applicant assume there is some basic need or right to have a screened porch as opposed to the use of the rear yard with no porch or an uncovered deck. The Office of Planning cannot conclude that zoning restrictions which preclude development of a screened porch result in a practical difficulty in the use of the property. There remains reasonable use of the property as its current matter-of-right use.

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. Because the porch is screened it will have little or no impact on air.
2. The proposed porch will not reduce the rear yard depth to a greater extent than the rear yard of the lot to the south.
3. The proposed porch will extend past the house to the north, but this structure had a porch that has been subsequently demolished that would have extended further into the rear yard than the proposed porch.
4. The reduction in court width is minimal and the impact is minimized by a corresponding court on the property to the south.

However, OP cannot conclude the expansion will not impair the intent of the Zoning Regulations or the integrity of the Plan. Specifically, the purposes and intent of the non-

conforming structure provisions state that non-conformities not be enlarged or extended. The Office of Planning cannot support additional encroachments into the limited open space available to this set of rowhouses and any decline in open space, however incremental, could lead to further degradation of light and air in this confined space. OP cannot reconcile these purposes with the requested relief, no matter how small and unimposing the screen porch will be.

ANC Recommendation

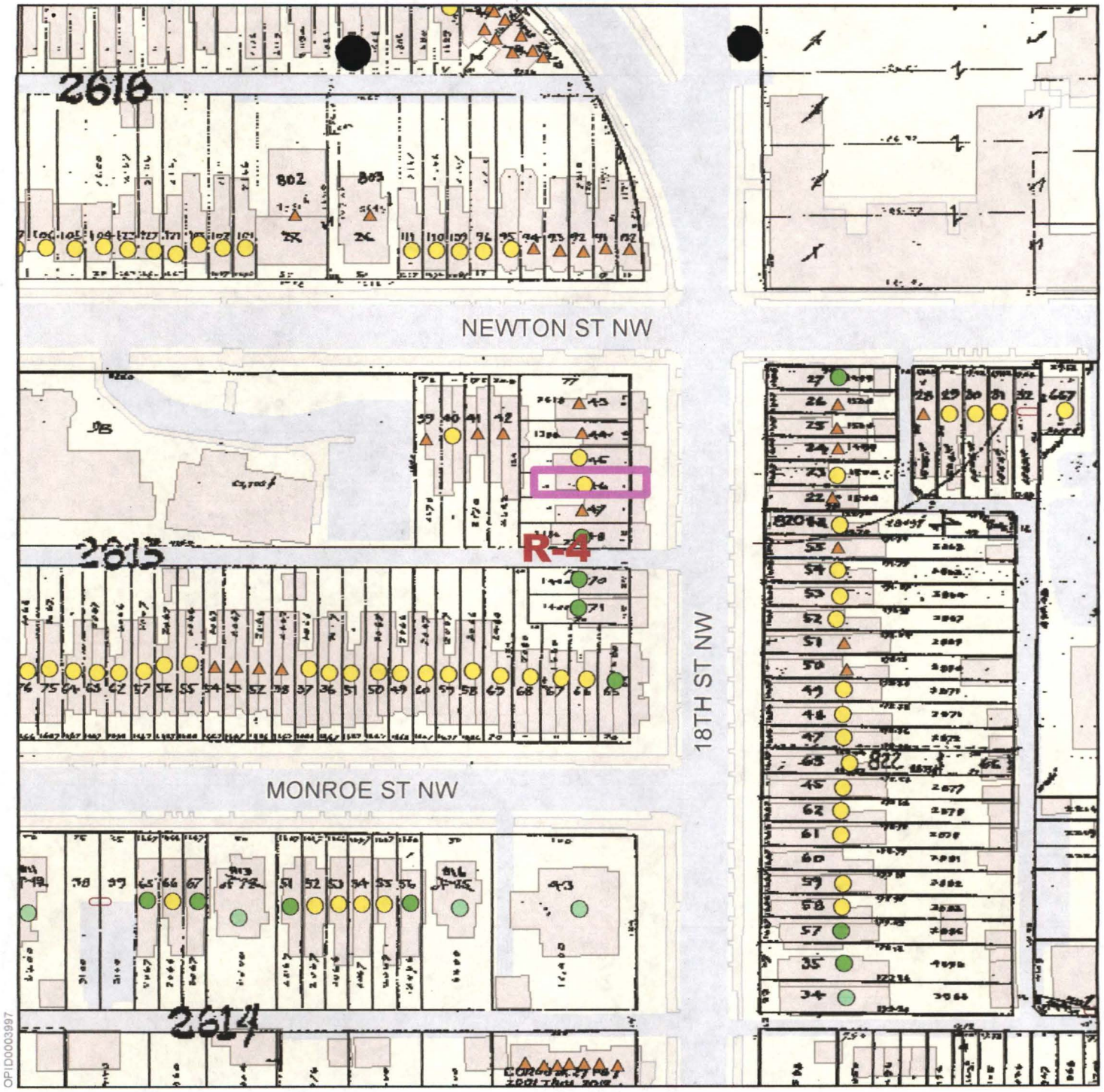
ANC 1D has reviewed the application and is preparing a letter recommending approval.

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 zoning regulations.

Attachments:

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



Zoning and Land Use Map

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Feet

0 50 100 150

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Anthony A. Williams, Mayor

Office of Planning ~ September 2, 2004

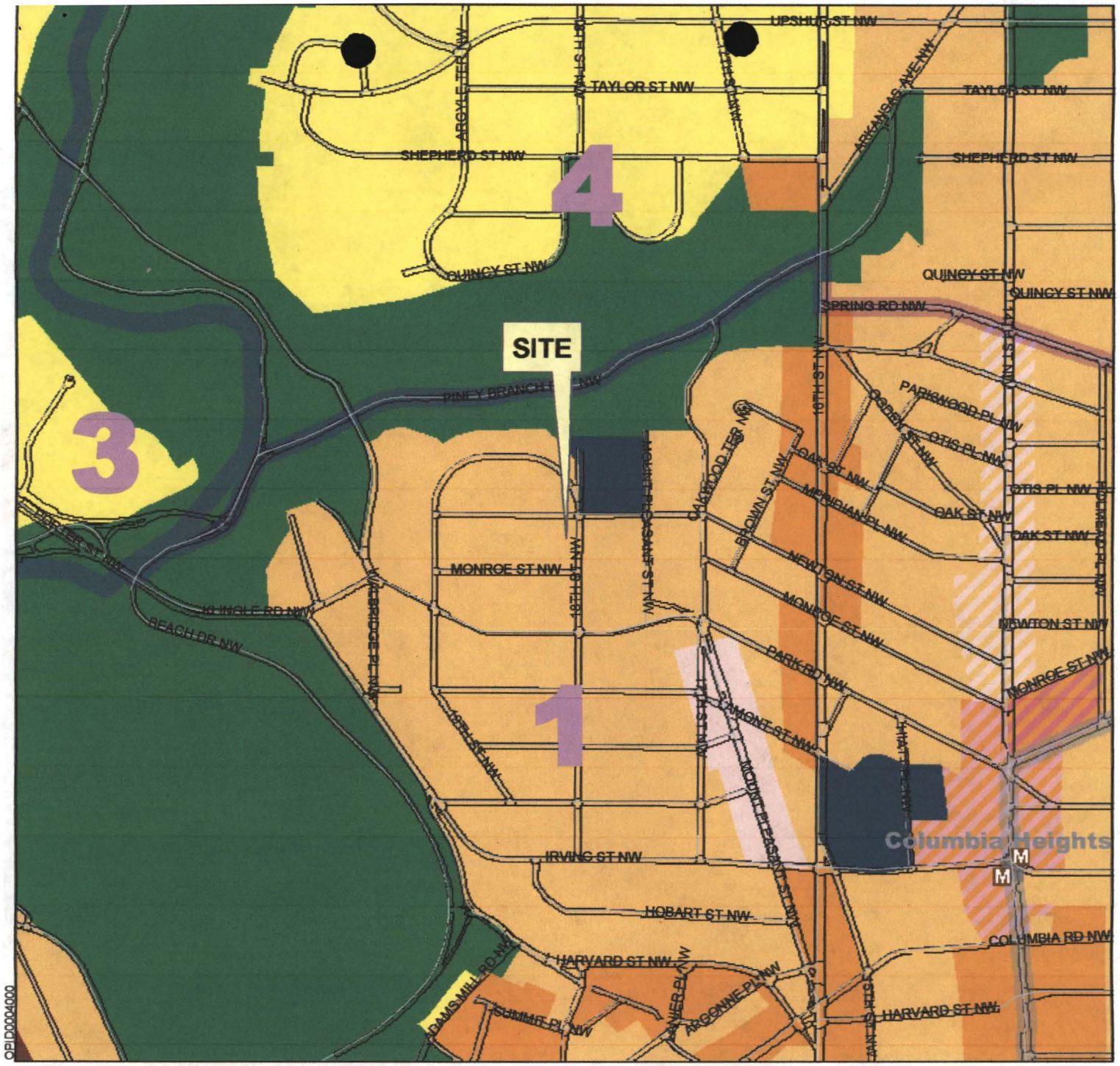
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Land Use Legend

- 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 #17217
3360 18th Street, N.W.

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Feet

0 500 1,000

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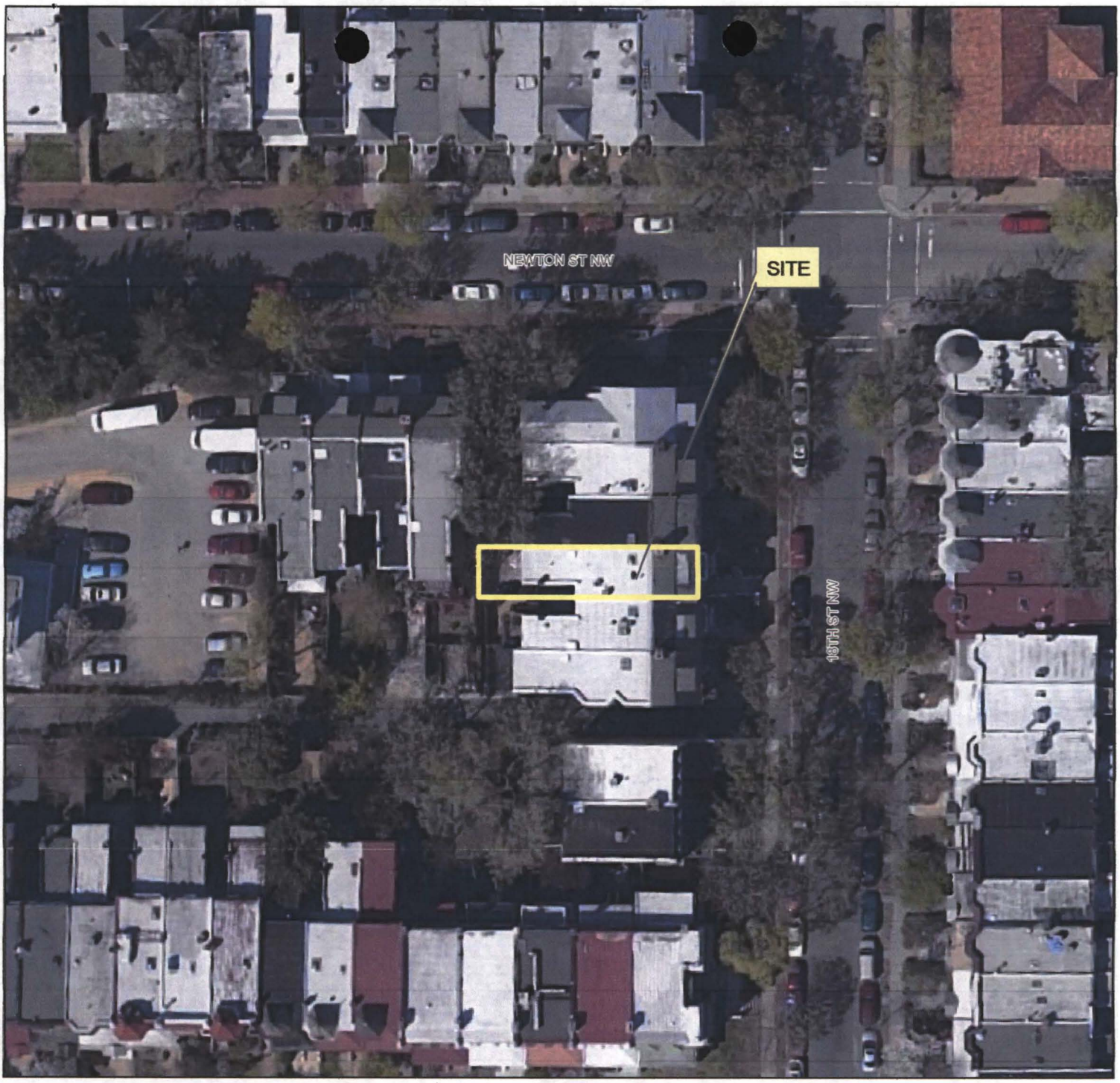
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Generalized Land Use Key

- 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 #17217
3360 18th Street, NW

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Feet

0 25 50 75

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District of Columbia
Anthony A. Williams, Mayor

Office of Planning ~ September 22, 2004

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purposes from a variety of sources.
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Attachment 3