GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

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MEMORANDUM

DATE: December 27, 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: BZA Case No. 17260
Saba B & B – 2224 R St., NW
Square 2512 Lot 13

Summary

The applicant, 2224 R Street LLC, the owner of 2224 R St., NW, seeks approval of a special exception under §203.10(b) to convert a former Taiwanese Military Attaché dormitory into a ten (10)-bedroom Bed and Breakfast. The subject property is occupied by a contributing structure to the Sheridan-Kalorama Historic District. A Bed and Breakfast home occupation is permitted as an accessory use in the D/R-3 Zone District subject to the provisions of §203. DCMR Title 11, §203.8(c), permits up to six (6)-bedroom Bed and Breakfasts in structures contributing to an historic district if granted a special exception by the Board. The applicant requests modification of two of the conditions limiting home occupations. First, the applicant requests relief from the conditions of §203.8(c) to permit a total of ten (10) bedrooms. Second, the applicant requests relief from the conditions of §203.4(m), which limits the number of clients or customers to eight (8) in a one hour period.

Recommended Action:
The Office of Planning does not believe §203.10(b) permits the granting of a special exception for more than six (6) bedrooms, but rather the provision allows special exception relief from the limitation of two (2) rooms to either four (4) rooms or six (6) rooms for historic structures. The Office of Planning recommends that the Board **approve a use variance for the 10-bedroom Bed and Breakfast**. The applicant meets the tests for a variance based on the following findings:

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- There are exceptional conditions of the subject property. The structure, currently vacant since 1993, had been in use as a dormitory and chancery by the Government of Taiwan. The structures current interior configuration, deteriorated condition, large size and historic status combine to create exceptional conditions.
- Because of these exceptional conditions, the strict application of the zoning regulations results in an undue hardship. The fact that the structure has been vacant for ten years speaks to the economic difficulties in using the structure for a permitted use.
- The use of this property as an single-family detached dwelling with an accessory Bed and Breakfast home occupation will not be a substantial detriment to the intent of the zone plan and the residential character of the D/R-3 zone. The presence of so many foreign missions already heavily impacts the area. The conversion of former chanceries to residential use would return the property to a use consistent with the residential nature of the neighborhood. The restoration of this long vacant structure to use will have a positive impact on the neighborhood.

Background

The subject property is located at 2224 R Street, NW (Square 2512, Lot 13) mid-block between Sheridan Circle on the west and 22nd Street, NW on the east (see Attachment 1). The area is part of the Diplomatic Overlay District and is zoned R-3, which is a row dwelling district. The area contains predominately row house-style buildings, which contribute to its historic character. The site is in the Sheridan-Kalorama Historic District and exterior modifications are subject to review by the Historic Preservation Review Board.

The lot is occupied by an approximately 8,245 square foot, three and a half-story single-family detached dwelling, which is a contributing structure to the historic district. The structure to the west along R Street is occupied as offices by the American Society of International Law. To the east is semi-detached structure owned by the Republic of Guatemala. To the south across the alley is a large detached structure owned by the Government of Greece. Structures across the street are used for foreign missions.

Project Description

Application No. 17260 requests a special exception pursuant to §203.10(b) to permit a Bed and Breakfast with ten bedrooms. The special exception request includes relief from the provisions of 203.8(c), which limits Bed and Breakfast home occupations to two bedrooms and 203.4(m), which limits the number of clients or customers to eight in a one-hour period.

The existing building interior is designed for offices and dormitory-style rooms to accommodate 26 individuals with community toilet facilities on each floor. The applicant will have to make substantial interior modifications to restore single-family use of the structure. No major exterior alterations or additions are to be undertaken as part of this renovation. Laura and

Raymond Saba, the managers of 2224 R Street, LLC, will reside at the subject property and are renovating the subject property for their principal use as a single-family detached structure.

The Bed and Breakfast will be operated in accordance with the home occupation regulations, with the following exceptions:

1) Ten sleeping rooms will be available for guests of the Bed and Breakfast.
2) A maximum of 20 overnight guests would be accommodated.

The applicant states they will not offer any programs or other accommodations to persons who are not overnight guests at the bed and breakfast, nor will they allow guests to hold events for non-guests.

Comprehensive Plan

The Comprehensive Plan sets goals of encouraging the renovation and adaptive re-use of existing structures rather than demolition. Also, §805 outlines the following goals.

805.1 Every effort should be made to provide for the continued, appropriate use of all historic properties. If the original use or a reasonable intensification of the original use is no longer feasible, appropriate adaptive uses consistent with applicable land use regulations should be encouraged.

805.13 When possible, deteriorated historic landmarks or buildings that contribute to historic districts should be repaired rather than demolished.

The Land Use Element of the Comprehensive Plan provides the following policies in support of the residential neighborhood objectives:

1104.1 The policies established in support of the residential neighborhoods objectives are as follows:

(r) Control the conversion of residential housing to guest houses, bed and breakfast establishments, clinics, and other non-residential or transient uses;

The property is identified as Low Density Residential on the General Land Use map (See Attachment 2). The Low Density Residential land use category includes single-family detached and semi-detached housing as the predominant uses.

The Land Use Element of the Comprehensive Plan, §1104.1, sets forth policies to meet the residential neighborhoods objectives that includes conserving and maintaining the District's sound, established neighborhoods through the strict application and enforcement of housing, building, and zoning codes and the maintenance of the general level of existing residential uses, densities, and heights (§1104.1(b)).

The Ward 1 Element of the Comprehensive Plan (which covered this area prior to the 2002 redistricting) recommends the following actions to support the housing objectives of the Ward 1 Plan (1207.1(g)):

> To address the erosion of the housing stock that has resulted from increasing numbers of Community-Based Residential Facilities, bed-and-breakfast inns, private clubs and clinics by *enforcing existing zoning* and other regulations and enacting zoning and other corrective measures *to prevent the saturation of any neighborhood with non-residential* or institutional uses, or uses of large size, or incompatible facilities and services;

These goals can be met by allowing a variance with conditions for a Bed and Breakfast in this historic residential structure. The variance allows preservation and restoration of a historic structure that has remained vacant for many years, thereby establishing productive use of the historic building. The conditions of the home occupation regulations should ensure that operational impacts on the neighborhood are minimal. The use variance for the accessory use would not deplete the housing stock nor does it displace a residential use, but it permits residential use to return to this large, historic structure.

Zoning Analysis

The subject property is located in a D/R-3 zone. The Mixed Use Diplomatic Overlay District (D) provides for the mapping of suitable locations for chancery uses.

The R-3 District sets forth the following purposes:

> 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-l districts.

The combination of Mixed Use Diplomatic Overlay and R-3 preserves or encourages new development of row house-type structures and lots, but permits foreign missions to use these structures as offices.

The proposed development does not require any relief from the area requirements of the zoning regulations as no improvements that would require relief are proposed. Additional parking is not required in accordance with §2100.5.

Residential zones permit a home occupancy use of a 6-bedroom Bed and Breakfast in a historic district as an accessory use in accordance with §203.8:

An owner of a dwelling may operate a Bed and Breakfast facility, offering rooms and breakfast to guests on a daily basis: Provided, that the following requirements shall be met:

(a) The use shall not be permitted in a multiple dwelling;

The structure will be restored as a single-family dwelling with accommodation for a home occupation of a 10-bedroom Bed and Breakfast.

(b) Breakfast is the only meal served, and is served only to overnight guests;

The applicant proposes breakfast to be the only meal served and only to overnight guests.

(c) The maximum number of sleeping rooms shall be two (2), except as follows:
(1) Pursuant to §203.10(b) of this section, the maximum number of sleeping rooms may be increased to four (4); or, in a dwelling which is an historic landmark, or which is located in an historic district and is certified by the State Historic Preservation Officer as contributing to the character of that historic district, the number of sleeping rooms may be increased to six (6); and
(2) The number of sleeping rooms permitted as a matter of right or by special exception as set forth in this paragraph shall be reduced by one (1) for each person who rooms or boards in the dwelling pursuant to §202.5 of this title;
The applicant is seeking relief from this provision to allow 10 sleeping rooms.

(d) The floor area limitations set forth in §203.4(b) shall not apply to this use;
This provision exempts the use from the requirement that only 25% of the FAR may be used for a home occupation.

(e) In addition to the required parking for the dwelling unit, one (1) parking space shall be provided for each two (2) sleeping rooms devoted to guest use;
In accordance with §2100.5 no additional parking spaces are required for historic structures. The existing garage, which can accommodate four vehicles, will remain.

(f) No cooking facilities shall be permitted in any of the rented rooms;
No cooking facilities are proposed in the rented rooms.

(g) The dwelling shall be owned and occupied as the principal residence of the operator(s); and
According to the applicant, the dwelling will be owned and occupied as the principal residence of the operator.

(h) Except as provided in paragraph (d) of this subsection, the Bed and Breakfast facility shall comply with the provisions of §§203.4 through 203.6 of this section.
The provisions of §§203.4 through 203.6 are enumerated below.

203.4 A practitioner of a home occupation, and any owner of a dwelling unit in which a home occupation is practiced, shall comply with the requirements of §§203.5 and 203.6 of this section, and with the following conditions and requirements:
(a) A home occupation shall be clearly secondary to the use of a dwelling unit for residential purposes;
The applicant indicates that Laura and Raymond Saba, the managers of 2224 R Street, LLC, will be full-time residents of the dwelling; the exterior and interior of the dwelling will be maintained

in their residential character, the kitchen, living and dining rooms will continue to be residential in character. In developing the home occupancy regulations the Zoning Commission, specifically in regard to this specific occupation, established that up to 6 rooms can be considered a clearly secondary accessory use. The extent of the physical characteristics and operations of the property expressed by the applicant and the parameters for home occupations permitting the use in §203.8 indicate a clearly a maximum of six sleeping rooms be permitted by special exception. The additional four rooms requested (total of 10) would require a variance from this provision.

(b) Except as provided in paragraphs §§203.7(c) and 203.8(d) of this title, no more than the larger of two hundred fifty square feet (250 ft.') or twenty-five percent (25%) of the floor area of the dwelling, excluding basement or any accessory structure, shall be utilized in the home occupation;

This requirement for home occupations regarding percentage of the dwelling used for the home occupation is specifically waived for bed and breakfast uses.

(c) The practitioners shall store all materials or finished products within the floor area, which is designated in paragraph (b) of this subsection, or in a basement or accessory structure;

There are no materials or finished products associated with this use.

(d) No more than one (1) person who is not a resident of the dwelling unit shall be engaged or employed in the home occupation;

The applicant has stated that there will be only one nonresident employee employed in the home occupation.

(e) The dwelling unit owner and the practitioner shall maintain the residential character and appearance of the dwelling unit and lot;

The applicant proposes to maintain the residential character and appearance of the dwelling unit and lot.

(f) No interior structural alteration shall be permitted if it would make it difficult to return the premises to use, which is exclusively residential;

There are no interior structural alterations proposed that would make it difficult to return the premises to use that is exclusively residential.

(g) Neither the practitioner nor any other person shall conduct or allow any operations outside a structure, nor maintain or allow any storage or other unsightly condition outside a structure:

The applicant states that there will be no operations or storage of materials outside the building as a result of the home occupation.

(h) Neither the practitioner nor any other person shall use any equipment or process which creates visual or audible electrical interference in television or radio receivers

outside the subject home, or which causes fluctuations in line voltage outside the subject home;

The applicant states that there will be no equipment or process that will cause TV or radio interference or electrical line voltage fluctuations.

(i) The use shall produce no noxious odors, vibrations, glare, or fumes, which are detectable to normal sensory perception outside the subject home;

The applicant states that no noxious odors, vibrations, glare or fumes will be created.

(j) The use shall not produce a level of noise, which exceeds the level which is normally associated with the category of dwelling or the immediate neighborhood;

The applicant states that the use will not produce a level of noise that exceeds the level normally associated with the immediate neighborhood. In addition, the applicant indicates they will not offer any programs or other accommodations to persons who are not overnight guests at the bed and breakfast, nor will they allow guests to hold events for non-guests.

(k) No more than two (2) vehicles may be used in the practice of the home occupation;

The applicant states that no more than two vehicles will be used in the practice of the home occupation to purchase food and other supplies.

(l) Vehicular trips to the premises by visitors, customers, and delivery persons shall not exceed eight (8) trips daily on a regular and continuing basis;

The applicant indicates that the majority of guests will use public transportation and that the fluctuation in occupancy that will typically occur will not exceed eight trips on average. The Office of Planning notes that the property is only five blocks from the Dupont Circle Metro station and adequate management of guest transportation options can keep the number of vehicle trips to the site low.

(m) The practitioner shall have no more than eight (8) clients or customers on the premises in any one (1) hour period; and

The applicant indicates that the limit of eight customers on the premises in any one-hour period could not be met. The applicant indicates that a maximum of 20 overnight guests could be accommodated by the 10-bedroom Bed and Breakfast.

(n) If more than one (1) home occupation is practiced in a dwelling unit, the cumulative impact of all such home occupations, considered as a whole, shall not exceed any of the standards set forth in paragraphs (a) through (m) of this subsection.

The applicant states that there will be no other home occupations.

203.5 A sign on a dwelling or building in which a home occupation is practiced shall be permitted, subject to the following conditions:

(a) ***Pursuant to the provisions of paragraphs (b) through (g) of this subsection, a person may display one (1) exterior sign on a dwelling or other building in which a home occupation is practiced;***

(b) ***The sign shall not exceed one hundred forty-four square inches (144 in^2) in area;***
(c) ***The sign shall be flush-mounted;***
(d) ***The sign shall not be illuminated;***
(e) ***The sign may state only the name of the practitioner and the type of home occupation;***
(f) ***The practitioner shall not display more than one (1) sign outside a dwelling or building; and***
(g) ***The practitioner shall not display any sign which does not meet the requirements of paragraphs (b) through (e) of this subsection.***

The applicant would propose a sign conforming to these requirements.

203.6 Sales shall be permitted, subject to the following conditions:
(a) ***A practitioner may make sales by telephone;***
(b) ***A practitioner may perform and be paid for a service, even in the service results in the creation of a product;***
(c) ***During a twelve-month (12) period, as many as five (5) sales in the nature of yard sales, garage sales, or home sales parties may be held at a dwelling; and***
(d) ***During a twelve-month (12) period, a person with a home occupation permit may hold six (6) or more sales in the nature of yard sales, garage sales, or home sale parties at a dwelling, if approved by the Board of Zoning Adjustment as a special exception pursuant to §203.10 of this section.***

The applicant states that there will be no sales of goods on the premises.

Special Exception Tests

The two provisions above that must be modified are §203.8(c) (maximum number of permitted rooms) and §203.4(m) (no more than eight customers on site in a one-hour period). As outlined through the specific evaluation above, the granting a special exception for a 6-bedroom will be in harmony with the general purpose and intent of the zone plan and maps and will not adversely affect the surrounding neighborhood.

The Office of Planning believes that 203.10(b) does not allow an unlimited number of rooms by special exception as the applicant advises in the application, but that it is read in conjunction with 203.8(c) to allow for special exception relief of either 4 or 6 rooms. Therefore, OP believes a bed and breakfast with ten rooms requires a variance.

Variance Tests

Extraordinary or Exceptional Situation Resulting in an Undue Hardship

In considering this request, the Board must determine if by reason of some extraordinary or exceptional situation or condition of this property the strict application of zoning regulations would result in an undue hardship. In the case of a use variance the exceptional situation of the property should relate to the difficulty in establishing other reasonable uses. Though the

applicant does not address the variance tests many of the existing conditions described in the application indicate an exceptional situation.

The structure, currently vacant since 1993, had been in use as a dormitory and chancery by the Government of Taiwan. The interior configuration of the structure is like a dormitory with community toilet facilities, a situation that would require substantial rehabilitation for any permitted use, which in the R-3 zone would be a single-family dwelling, a church or an embassy. With over 8,200 square feet of floor area the costs of operation and maintenance would be well above the average single-family dwelling. The status as a contributing building to the historic district requires preservation of the building, which adds further limitations on use and the costs of renovation.

Substantial Detriment the Public Good

The Board should determine if the variance could be granted without substantial detriment to the public good and without impairing the intent, purpose and integrity of the zone plan. Through compliance with the home occupation regulations, the impacts of the proposed use will be minimal. The expansion the accessory Bed and Breakfast use from the 6 sleeping rooms permitted by special exception to 10 rooms that would be permitted by granting this variance would not substantially impair the intent, purpose and intergrity of the zone plan. The principal use remains a single-family residence and the applicant will maintain the residential character of the property. The renovation and use of this property that has sat vacant and deteriorating for 10 years will bring needed activity and security this portion of R Street.

ANC Recommendation

Advisory Neighborhood Commission 2D supports the application provided the granting of approval does not alter the residential zoning designation and a Bed and Breakfast is a "residential-type" land use for purposes of determining the Diplomatic Overlay Zone. In response to these concerns, the Office of Planning provided the following analysis:

> The principal use of the structure will remain a one-family detached dwelling. The addition of the B & B use is only permitted in the R-3 zone as an accessory use under §321.1.1(a), which references the accessory uses permitted in §202. Section 202 permits accessory uses "incidental to the uses permitted... provided, that particular requirements for each use are met." Among the list of accessory uses permitted are home occupations subject to the provisions of §203 (§202.9). The conditions of §203 help to distinguish whether or not the home occupation is "incidental" and to mitigate any adverse affects of the home occupation on the residential character of the neighborhood. Therefore, the granting of a special exception does not change the zoning, but ensures that the proposed accessory use does not impact the residential neighborhood.
>
> Two provisions of §203 specifically protect against the home occupation changing the character of the neighborhood. Section 203.4(e) requires the home occupation to "maintain the residential character and appearance of the dwelling unit and lot." Section 203.5 further controls the appearance of the property with strict limitations on signage. The fact that the principal use is single-family residential with an accessory B&B home occupation and that there are substantial controls on the residential appearance of the property combine to ensure that this property will continue to be viewed as a residential property.

In order to change the residential zoning, a zoning map amendment would need to be filed with the Zoning Commission; the Board of Zoning cannot change the zoning of a neighborhood through its actions. Furthermore, any action that the Zoning Commission could take "cannot be inconsistent with the Comprehensive Plan". Square 2512, as well as squares to the north and south are designated "Low Density Residential" on the Generalized Land Use Map; therefore, the Office of Planning would not recommend any non-residential zoning for the area.

Given the above, it follows that if the Office of Planning were required to provide analysis of the mixed-use ratio between residential-type uses and office, institutional and other land uses on the square, as was done for the implementation of the Mixed-Use Diplomatic Overlay District, it would designate a B & B as a residential-type use.

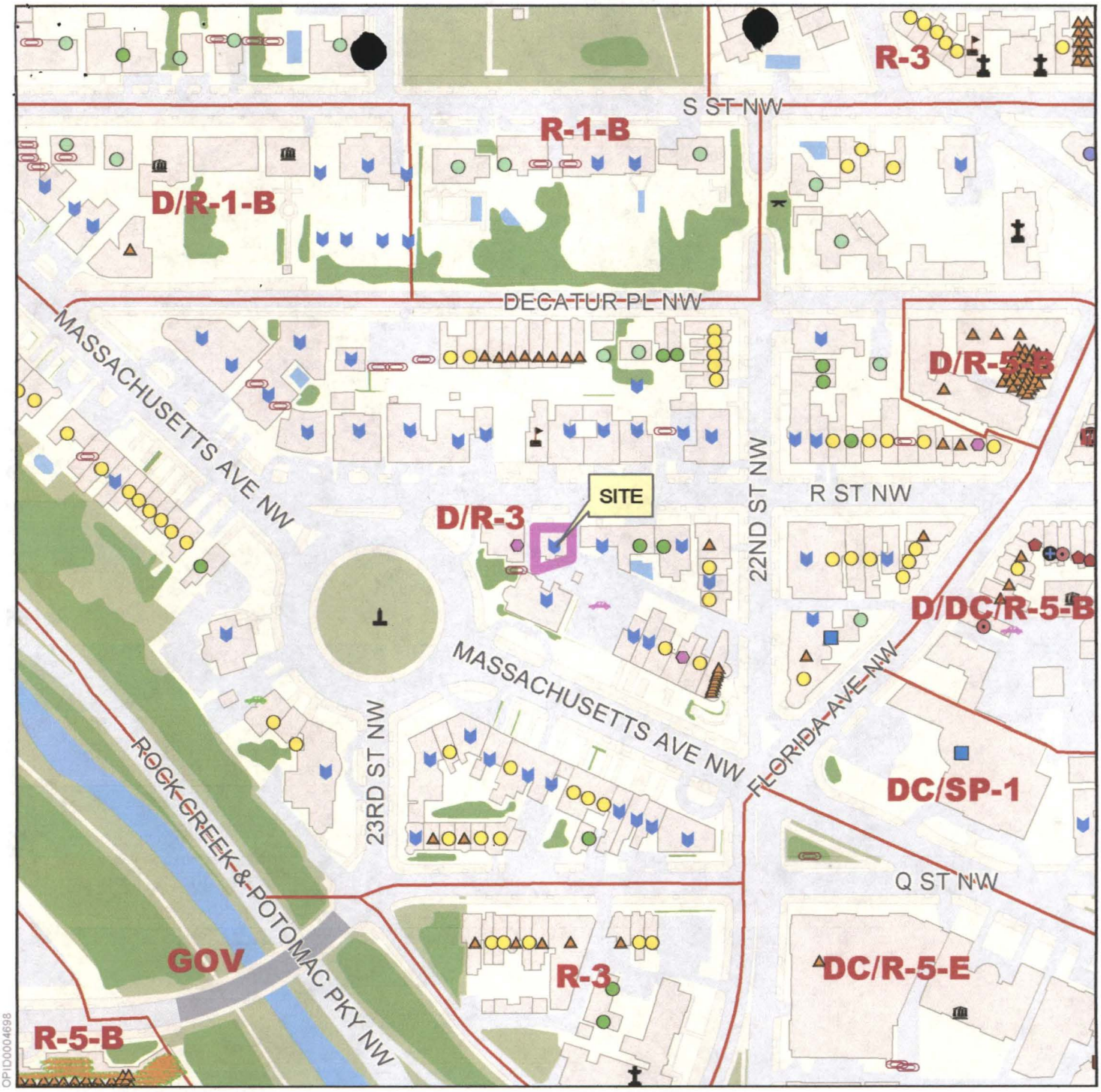
Even though a variance is required by this application from a specific provision of the home occupation regulations, the fundamental residential character of the proposed use is not diminished.

Recommendation

The Office of Planning recommends approval of BZA Application 17260 requesting a special exception from the restrictions of §203.8 (to permit 6 sleeping rooms) and §203.4(m) (to allow 20 customers on premises at one time) pursuant to §203.10(b) and in accordance with §3104. In addition, the Office of Planning recommends approval of a variance from the conditions of §203.8(c) to permit a Bed and Breakfast with 10 sleeping rooms.

Attachments:

1. Zoning and Land Use Map
2. Comprehensive Plan Map
3. Aerial Photo
4. Aerial Oblique Photos



Zoning and Land Use Map
BZA Application #17260
2224 R Street, NW

N

Feet

0 100 200 300

Land Use Legend

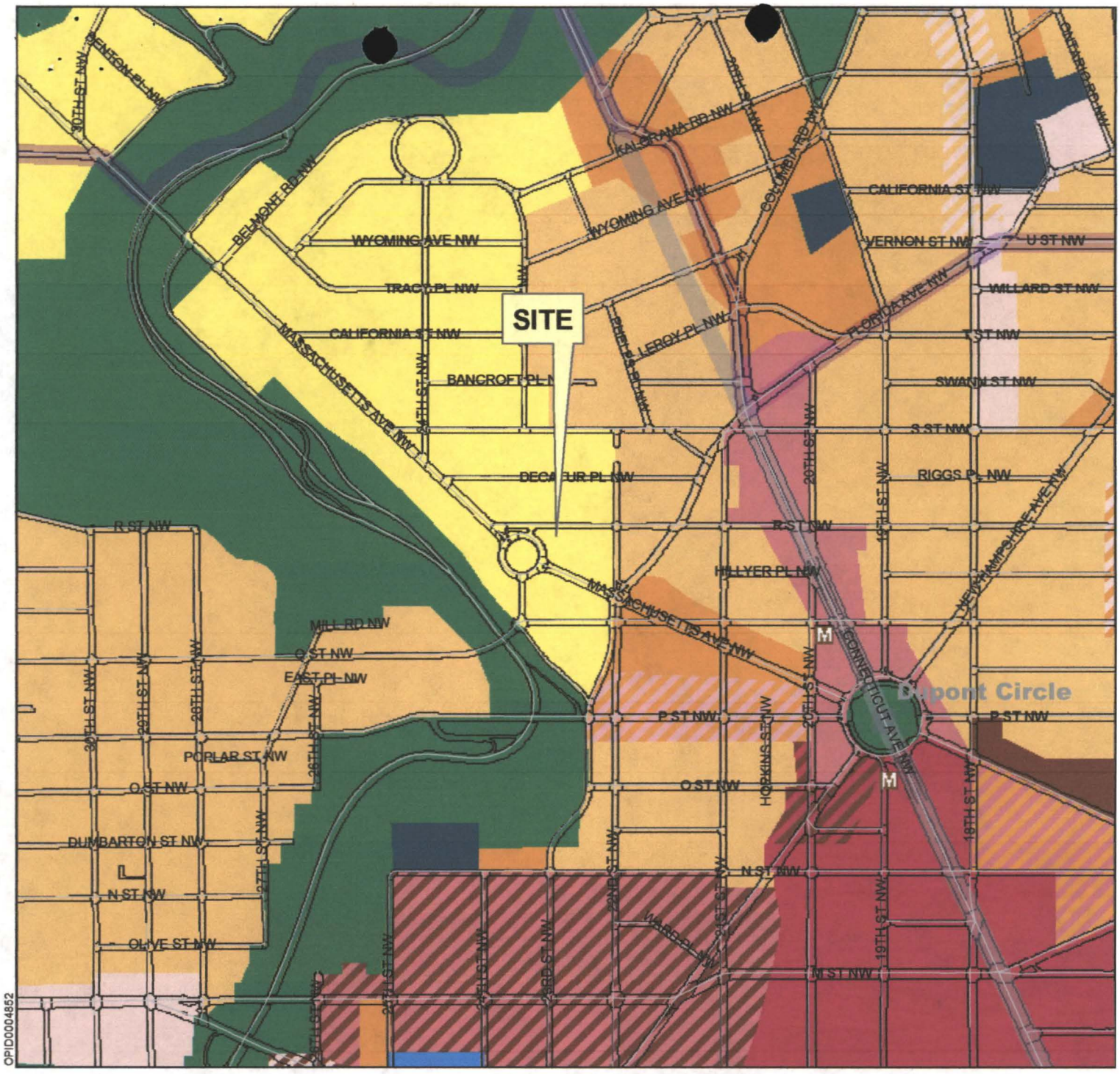
- Non-conforming SF Use
- Rowhouse
- Single-Family Detached
- Single-Family Semi-Detached
- Resid. Garage
- Resid. Mixed Use
- Multi-family
- Multi-Resid. Garage
- Hotel - Small
- Hotel - Large
- Club
- Resid. Transient
- Store
- Restaurant
- Office
- Vehicle Service Station
- Parking - Special Purpose
- Warehouse
- Religious
- Educational
- Embassy or Chancery
- Museum, Library, Gallery
- Recreational
- Health Care Facility
- Memorial
- Special Purpose
- Vacant

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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.

Attachment 1



Comprehensive Plan Map
BZA Application #17260
2224 R Street, NW

N

Feet

0 500 1,000

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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



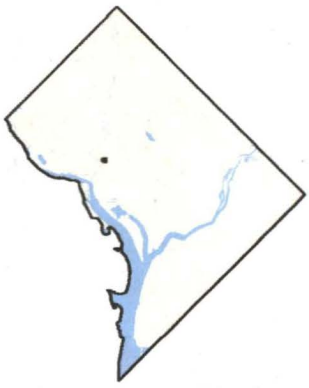
Ortho Photo
BZA Application #17260
2224 R Street, NW

N

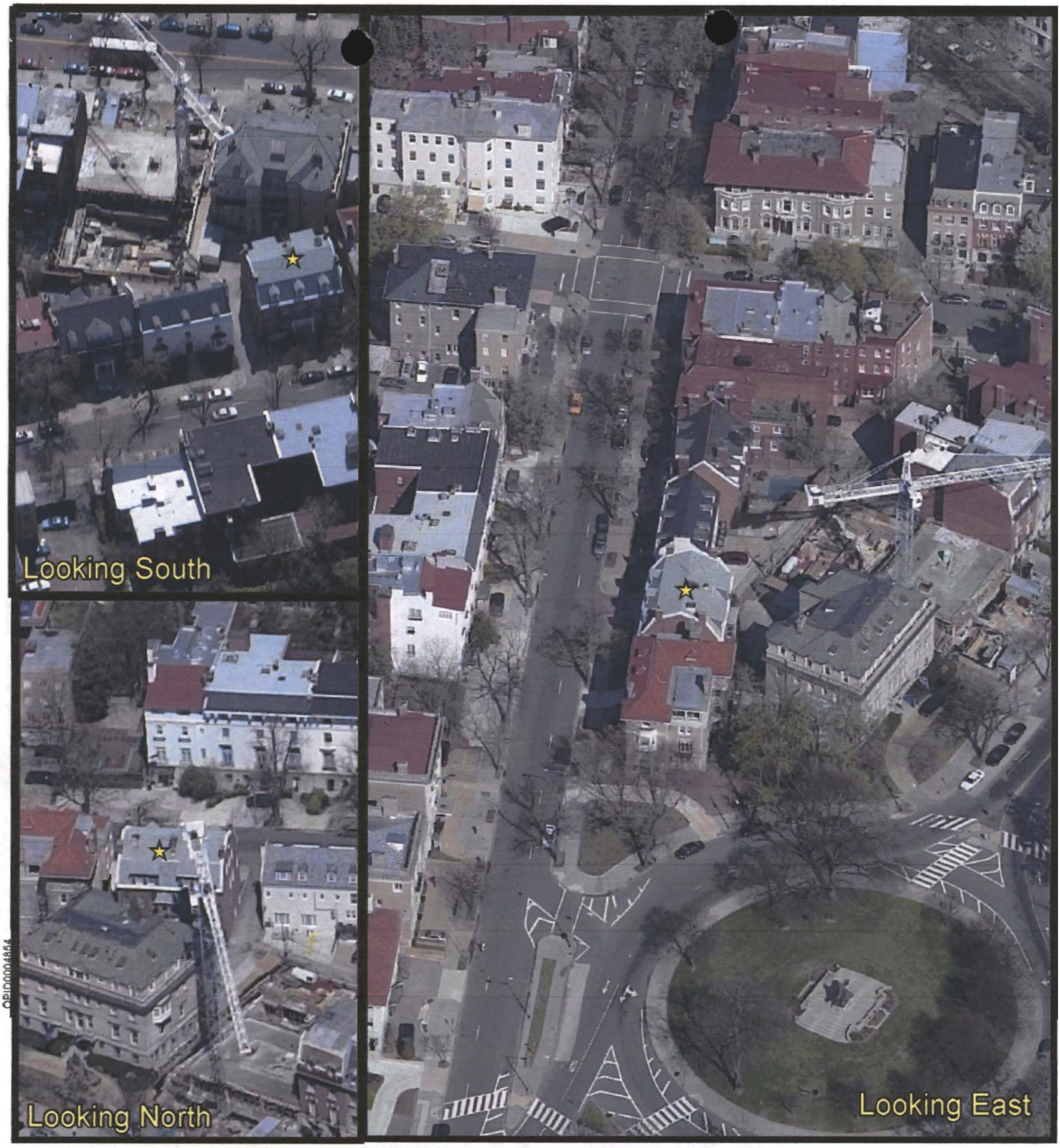
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Attachment 3



Aerial Oblique Photos
BZA Application #17260
2224 R Street, NW

☆ Subject Site - 2224 R Street, NW

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Attachment 4