GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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D.C. OFFICE OF PLANNING
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MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Ellen McCarthy, Director

DATE September 13, 2005

SUBJECT: **BZA Application 17367** – Request filed by Holland & Knight LLP for a use variance and two area variances to establish an apartment building at within the R-3 Zone District at 2129 S Street, N.W., proposed by Hurteau Properties, LLC.

APPLICATION
Application of Hurteau Properties, LLC. for:

1. **Use Variance to § 320.3 of Title 11 DCMR** to permit a four unit apartment building within the R-3 Zone District;
2. **Area Variance to § 403.2 of Title 11 DCMR** to increase the maximum percentage of lot occupancy from 40 to 95.6 percent; and
3. **Area Variance to § 2001.3 of Title 11 DCMR** to allow enlargements or additions to a nonconforming structure

for property located on the north side of S Street, N.W., between Florida Avenue and Phelps Place, Square 2532, Lot 13.

SUMMARY RECOMMENDATION
The Office of Planning recommends **DENIAL** of the application as submitted by the applicant.

PROJECT DESCRIPTION
The applicant proposes to convert a vacant 9,024 square foot building into four apartments. Built originally as a one family row house in 1910, it has been used as private school since 1945. A nonconforming closed court is to be enclosed to provide an elevator and a concrete deck erected over the rear yard at grade with the rear alley to provide for one off-street parking space. A masonry wall with a garage door will enclose the parking space.

BZA
Case No. 17367
Exhibit No. 21

Board of Zoning Adjustment
District of Columbia
CASE NO. 17367
EXHIBIT NO. 21

SITE AND AREA DESCRIPTION

Square:	2532	**Lot:**	13	**Quadrant:**	North West
Area:	2,125 sf	**Lot Width:**	25 ft	**Zone District:**	R-3
Rear Yard:	16 ft., 1 in.	**Lot Occupancy:**	75 %	**Alley:**	15 ft.

Historic District: Sheridan-Kalorama
Improvements: 5-story plus basement building and approximately 9,024 sf of gross building area
Topography: Slopes downward from the north to the south toward S Street

Surrounding Properties:
All surrounding properties are located within the R-3 Zone District.

North: Across the public alley, one family row dwellings
South: Across S Street, institutional uses, one family row, semi-detached and detached dwellings
East: Eight unit apartment building
West: One family row dwellings

Zone 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)

Generalized Land Use Map: moderate density residential land use category- *"Row houses and garden apartments are the predominant uses; may also include low density housing."*

ZONING ANALYSIS for Use Variance
The subject property was originally constructed as a one family row dwelling in 1910. It was subsequently converted to a school in 1945 and has not been used as a residence since. The application indicates that the interior has been modified to accommodate a school.

Surrounding Area
The surrounding area consists primarily of row houses that are used residentially. The Office of Planning, for purposes of this analysis, defined the surrounding area as the R-3 zoned portions of Square 2532, the square in which the subject property is located, Square 2531, the square to the north, and Squares 2533 and 2515, the two squares to the south.

The row houses located within these squares consist of gross building areas (GBA) that range in size from 3,662 to 8,646 square feet. There are also several single family detached dwellings between 9,931 and 18,360 square feet of GBA, and the north side of S Street includes three buildings that were converted to apartment use following BZA approval of use variances.

Prior Board of Zoning Adjustment Actions
The Board has approved four use variance applications for apartments within the surrounding area. Those BZA applications are:

1. Application No. 12762 for 2115 and 2117 S Street to permit 10 condominium units within an 11,000 square foot building. The BZA granted this request on November 14, 1978. A parking program was established to allow the owners of each unit to lease up to 10 spaces in the Universal Building.
2. Application No. 13348 for 2107-09 S Street to permit 14 units within a 15,700 square foot building. The BZA granted this request on December 1, 1980. The application provided for 2 on-site parking spaces.
3. Application No. 16497 for 2125 S Street to permit 8 units within a 16,000 square foot building. The BZA granted this request on October 13, 1999. The application provided for 5 on-site parking spaces.

A fourth BZA application, No. 16161, was approved for a use variance to convert a 6,650 square foot (GBA) row house that had been used as a rooming house into a 5-unit apartment house. The BZA granted this request on June 18, 1990. The Order indicates that "*[t]he applicant testified that the property was affected by an exceptional condition in terms of physical size and configuration of the existing structure; the existing lot constraints; and the economic constraints of the massive renovation necessary to re-convert the structure into a single-family use.*" Despite this, the structure was converted back to a single-family row dwelling and is used that way today, according the Office of Tax and Revenue.

Existing Apartment Building Uses
The adjacent property to the east, which was originally constructed as the Holton Arms School, is now 8 apartment units per BZA Application No. 16947. It differs from the subject property due to the size of the building, the original use of the building and the size of the lot. With a lot size of 8,500 square feet, the resulting density is 1,062.5 square feet per unit, almost twice that of the subject application. As there is more than 900 square feet of lot area per dwelling unit, the intensity of this building is more similar to that of an R-4 conversion, and not an R-5 apartment building.

The other two existing apartment buildings were approved under BZA Application Numbers 12762 and 13348. These two buildings are also larger and located on larger pieces of ground than the subject application. They differ from the subject application in that they were approved in a different era (25-30 years ago), when there were many institutional uses and boarding houses located on the north side of the 2100 block of S

Street within the R-3 Zone District. However, those uses are no longer there, with residential uses replacing them.

Zoning Analysis
A use variance may be approved if the subject property is unique due to exceptional narrowness, shallowness or shape or exceptional topographic conditions. As the subject property has already been developed with a use conforming to the Zoning Regulations, the lot itself does not preclude the use of the property for a conforming use. A use variance may also be approved for any other extraordinary or exceptional situation. In this case the application claims that the subject property cannot be used for a use permitted as a matter of right or as a special exception. The application cites as evidence the size of the structure, the configuration of the interior and the fact that the property sat on the market for 3.5 months, during which time the only use proposed for the property was apartments.

The size of the structure, 9,024 square feet, is large. However, according to the Office of Revenue and Taxation, there are several other similar sized row houses used as one-family dwellings within the surrounding area. These include 2133-35 Bancroft Place (8,682 sf), 2122 Bancroft Place (8,646 sf), 2111 Bancroft Place (8,646 sf) and 2132 Bancroft Place (8,226 sf). Therefore, the Office of Planning does not consider the size of the subject structure to be exceptional or extraordinary.

The application also indicates that the cost of converting the structure back to one family use is exceptional or extraordinary. A breakdown of those figures has not been submitted to the Office of Planning. However, this case is similar to the BZA application for 2111 S Street. In that case the structure was subsequently converted back to one family use, despite the testimony of the applicant, indicating that the market can support such a conversion.

The Office of Planning does not find the subject property to be unique as result of the size of the existing structure or costs associated with the required interior renovations. Therefore, the Office of Planning recommends denial of the use variance request.

Variance to Section 2001.3, Nonconforming Structures Devoted to Conforming Uses
The application requests a variance to permit a structure within the R-3 Zone District that is nonconforming to the bulk regulations of the R-3 to permit a building addition. However, the use proposed by the applicant, an apartment house, is not permitted within the R-3, and the Office of Planning does not support the request for a use variance to permit an apartment house. Therefore, the Office of Planning recommends denial of this variance request.

Variance to Section 403, Percentage of Lot Occupancy
The application requests a variance to increase the maximum permitted lot occupancy from the maximum 40 percent permitted to 95.6 percent. The existing lot occupancy is

Street within the R-3 Zone District. However, those uses are no longer there, with residential uses replacing them.

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Variance to Section 403, Percentage of Lot Occupancy
The application requests a variance to increase the maximum permitted lot occupancy from the maximum 40 percent permitted to 95.6 percent. The existing lot occupancy is

75 percent. This variance request is to accommodate the enclosure of the closed court for the installation of an elevator and the construction of a parking pad within the rear yard.

The rear yard slopes downward from the alley toward the building. In order to create a level parking surface a slab is proposed at grade with the alley, creating an enclosed area beneath. As a result of these two proposals, the lot occupancy increases to 95.6 percent. However, as this variance is to support a use not permitted within the R-3 Zone District, the Office of Planning cannot recommend approval of this variance.

INTENT, PURPOSE AND INTEGRITY OF ZONE PLAN

The Zoning Regulations state that R-3 Zone District is designed essentially for one-family row dwellings. Other one-family dwelling uses, such as detached and semi-detached dwellings and groups of three or more row houses are also permitted, creating an environment of one-family uses. Apartment buildings are not included.

The Office of Planning acknowledges that the subject property is nonconforming for building height, lot occupancy, lot area, lot width, rear yard and parking. However, the subject application proposes to bring none of these existing nonconformities into conformance, but rather adds use to the list and exacerbates the lot occupancy nonconformity. In addition, if the FAR of 4.24 is permitted, although none is prescribed for the R-3, the requested relief becomes more similar to a map amendment request, as the subject property would be more conforming to the R-5-E Zone District if approved.

The Generalized Land Use Map recommends the moderate density residential land use category for the subject property. The R-3 is a moderate density zone district. Medium density begins at R-5-B (maximum FAR of 1.8) and high density begins at R-5-D (maximum FAR of 3.5). The subject application proposes a plan that would not even be permitted within the R-5-E without variances to lot occupancy and rear yard. As a result the proposed use is more similar to a high density residential zone district, and not in conformance with the Generalized Land Use Map. However, the Office of Planning could support the conversion of the property to a flat because that is a use supported by the Land Use Map. It is also a less intensive use than an apartment building, as it is first permitted by the Zoning Regulations in the R-4 District.

The application proposes the addition of only one parking space to the site. However, four units are proposed. With only one parking space proposed, the application provides for less parking than other conversions that were permitted by the BZA. The building next door at 2125 S Street provides one parking space for two-thirds of its units and the building at 2115 S Street made arrangements for one off-street parking space per unit. As the R-3 is a one family residential zone district, the Office of Planning finds that the lack of sufficient parking would be a detriment to this neighborhood, and not in conformance with the Land Use Map.

COMMUNITY COMMENTS

ANC 2D, at their meeting on June 20, 2005, voted unanimously to support the application.

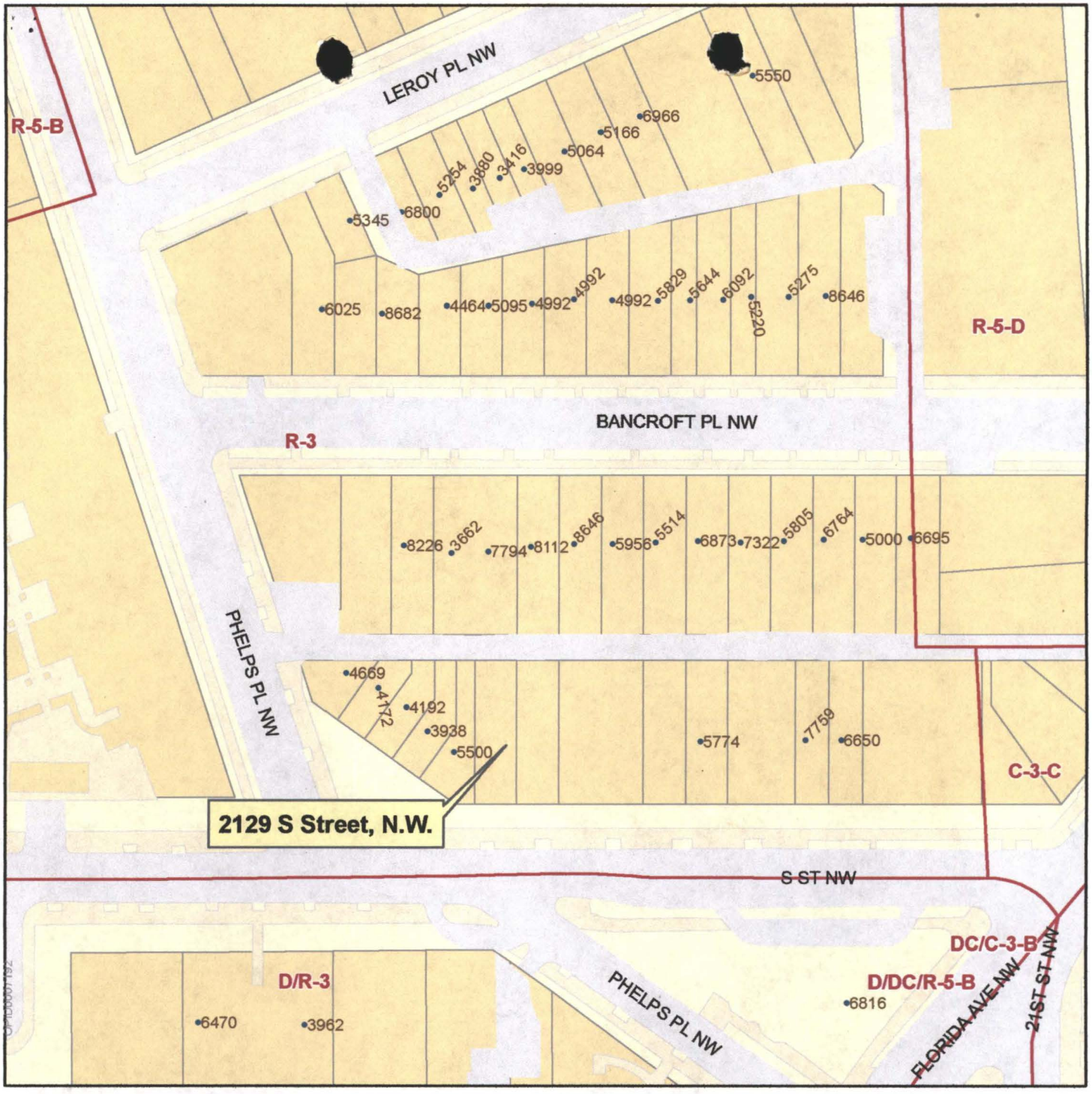
AGENCY COMMENTS

The **Historic Preservation Office** informed the Development Review Division that they have no issues regarding application.

RECOMMENDATION

The Office of Planning recommends **DENIAL** of the application for apartments, but does not object to a variance that would allow a flat, which would be more consistent with the Comprehensive Plan, and would have less impact on the neighborhood due to parking.

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Anthony A. Williams, Mayor

Office of Planning ~ September 9, 2005

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.

BZA APPLICATION NO. 17367

Gross Building Area (GBA) of One-Family Residential Row Dwellings within the R-3 Zone District

Zoning Districts

• CAMA Residential (Gross Building Area) in Square Feet

