GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Ellen McCarthy, Director

DATE September 30, 2005

SUBJECT: **BZA Application 17367 - 2129 S Street, N.W. - Supplemental Report**

At the BZA hearing of September 27, 2005 the Board requested a supplemental report from the Office of Planning addressing the additional information (Exhibits A through F and the Property Details for four properties) distributed by the applicant at that hearing. The Board also requested citations relevant to this property from the Comprehensive Plan.

Exhibit A
This exhibit indicates that larger units without parking sell for less and take longer to sell than smaller units without parking. Further, the exhibit indicates that if a flat (two units) were created with no parking for the second unit, the second unit would sell for less, resulting in a financial hardship to the owner. However, the exceptional or undue hardship should not be that the owner will make less money if the use variance is not granted, but that the building cannot be used for a use permitted within the R-3 Zone District. The information contained within this exhibit indicates that the building could be converted to a flat, but with less of a return to the owner. Although a flat is also not a use permitted within the R-3, it is less intense of a use than an apartment building and consistent with the Comprehensive Plan. An apartment building is inconsistent with the Comprehensive Plan.

Exhibit B
This exhibit indicates that the subject property has been used as a school for two-thirds of its life and has a commercial interior. Attached to this exhibit are the listings of two residential properties that sold within a shorter frame than the subject property. However, these listings also indicate that upgrades had been made to those buildings, something the subject property does not benefit from, and which probably contributed to the shortened time those properties were on the market. Despite this, other properties within the surrounding area have been converted back to single family use, including 2111 S Street, where the applicant had testified at a BZA hearing that it was not

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 17367
EXHIBIT NO. 26

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CASE NO. 17367
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financially feasible to convert the building back to one-family use. In addition, Exhibit C includes documentation that a school in the 2100 block of Bancroft Place is being converted back to two one-family houses, indicating that such conversions are feasible.

Exhibit C
This exhibit indicates that the 2100 block of Bancroft Place is entirely "single-family houses." However, the information from the Office of Tax and Revenue and the documentation attached to this exhibit indicates that 2111 Bancroft Place is a conversion of less than 5 units. The lot size is sufficient to support three units, and the applicant's documentation states that the building at 2111 Bancroft Place has three kitchens. Therefore, the block is not entirely single-family, although it is predominantly single-family. However, the use variance must relate to the exceptional and undue hardship to the owner as a result of an extraordinary or exceptional situation. The presence of non-single family residences within a block does not support the use variance, as the R-3 Zone District permits many uses other than single-family.

Exhibit D
This exhibit states that of 45 properties in the 2100 block of S Street, only 8 are single family. However, this statement is deceiving. As this is a use variance application to use the building on Lot 13 not in conformance with the Zoning Regulations, a more accurate measure would be to compare the number of lots used in conformance with the R-3 Zone District with those not. It should be noted that embassies, schools and home occupations (which may include dental offices) are permitted within the R-3 Zone District. The presence of a variety of R-3 uses on the block does not support the need for a use variance, as all of the uses permitted within any one zone district are assumed to be compatible. The only uses in the R-3 zoned portion of the 2100 block of S Street not in conformance with the zone district are the apartment buildings, which account for only 3 of the 17 lots.

Exhibit E
This exhibit correctly states that parking is not required for the subject property. However, the applicant is also not proposing a use permitted within the R-3 Zone District. Three of the units proposed will have no parking, which will increase the demand for on-street parking, more so than if only two units (a flat) were proposed. At the hearing the applicant stated that due to the inability to provide parking for more than one unit, three additional units are proposed because smaller units sell better than larger ones when no parking is provided. Although this may make sense from a marketing perspective, it is counterintuitive from a zoning perspective. As the number of units increases, so does the demand for parking. The lack of parking is not a unique situation that results in an exceptional and undue hardship to the owner that can be rectified through the provision of more units.

Exhibit F
This exhibit indicates that the building has six levels, an unheard of number for a single family residence. The Office of Planning agrees that this is an unusual number of floors for a one-family residence.

This exhibit also states that the proposed use will generate less traffic than the previous use, a private school. However, a school is a use permitted by special exception within the R-3 Zone District and an apartment building is a use not permitted at all. Whether the proposed use will generate more or less traffic than a special exception use is not relevant to the application. Uses included as special exception uses within specific zone districts are deemed to be compatible subject to approval by the BZA and conforming to specific criteria. Uses not included within specific zone districts, either as a matter of right or by special exception, are not deemed compatible by their absence.

Property Details
The staff report compared the gross building area (GBA) of the subject property with the GBA of other one-family residential row houses, ensuring a comparison of like figures. The Office of the Chief Financial Officer defines GBA as *"the 'total area under roof.' This building area includes the total size of such areas as living area, garage area, storage are, etc. without any adjustments for the type of area."*

The Office of Tax and Revenue bases its assessments on residential properties on "living area." The living area, as defined by the Office of Tax and Revenue, *"is the unadjusted size of the actual finished floor area above grade in the building."* As can be noted from the definitions above, living area is only a portion of the GBA.

The size of the GBA of the subject property as listed by the Office of Tax and Revenue is 9,024 square feet. This number is supported by the drawings submitted as a part of the variance application. Tax and Revenue has no living area figure for the subject property because it has not been used and taxed as a residence. However, there are living area figures available for the surrounding residential row houses because they are used residentially.

The applicant's comparison of the GBA of the subject property to the living area of the surrounding row houses is not a fair comparison. This is because it compares the entire building square footage of the subject property to only a portion of the building square footage on the other properties. This distorts the figures and makes the subject property appear substantially larger than the others, when in fact it is not. Therefore, the Office of Planning maintains its policy of comparing like figures to like figures.

Comprehensive Plan
At the time of the adoption of the Comprehensive Plan in 1999, the subject property was located within Ward 1. As a result of the 2000 Census the ward boundaries shifted and the subject property became a part of Ward 2. However, as the subject property was

located within Ward 1 during the preparation of the current Comprehensive Plan, relevant citations to the subject property are located within that ward plan.

The use variance request to permit a four-unit apartment building is inconsistent with the following actions of the Ward 1 Plan:

> *"To protect the character of residentially zoned row house neighborhoods by limiting the density of development and preventing intensification of use through the subdivision of structure..."* (§ 1231.1(d))
>
> *"To encourage appropriate height, bulk, and density so that new developments are designed to be harmonious with their surroundings by changes in the Zoning Regulations as necessary to make new development compatible with existing buildings in areas where rehabilitation or moderate density development goals are primary neighborhood goals, such as Sheridan-Kalorama, ..."* (§ 1231.1(m))

The conversion of the row house on the subject property to a four unit apartment house will result in the "intensification of use through the subdivision of the structure", inconsistent with Section 1231.1(d) of the Comprehensive Plan. In addition, a four-unit apartment building on the subject property would be a medium density development in an area recommended for moderate density by the Generalized Land Use Map, inconsistent with Section 1231.1(m) of the Comprehensive Plan. Therefore, the proposed use variance is inconsistent with the provisions of the Comprehensive Plan.

Conclusion

The Office of Planning continues to recommend **DENIAL** of the request to permit a four-unit apartment house on the subject property. Although the subject property is larger than others within the surrounding area, it is not substantially larger, especially when comparing the GBA of the subject property to the GBA of the surrounding row houses.

Creation of a four-unit apartment building on the subject property would also establish an R-5 use, a medium density residential use, in violation of the moderate density land use recommendation of the Generalized Land Use Map and inconsistent with the provisions of the Comprehensive Plan.

The Office of Planning still does not object to a flat at the subject property, which would be consistent with the Generalized Land Use Map and the Comprehensive Plan. Fewer units would also reduce the demand for on-street parking. Although the applicant has testified that smaller units without parking sell better and for more than larger units without parking, the evidence submitted by the applicant indicates that these units do sell. However, they may not generate the income the smaller units can do.

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