

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING



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Memorandum

TO: Board of Zoning Adjustment
FROM: *US for*
Ellen McCarthy, Director
Office of Planning
DATE: February 21, 2006
SUBJECT: BZA Application #17431 (Kings Creek, LLC)
2329 and 2335 Champlain Street, N.W. (Square 2566, Lot 103)

APPLICATION

The application by Kings Creek, LLC (Applicant) requests, pursuant to 11 DCMR 3103.2, area variances from the provision of §402.4 to increase the allowable floor area ratio (FAR); §403, from the lot occupancy requirements; §406.1 to permit an open court measuring 16 feet in width; §2001.3 to expand a nonconforming structure and a special exception to exceed the height provision of §1403.1 of the Reed-Cooke Overlay in order to construct an addition to an existing building for a residential development in the RC/R-5-B District.

SUMMARY RECOMMENDATION

OP has requested information to support the applicant's assertion the soil conditions and its remediation have been overly burdensome. OP believes that the applicant has not provided any convincing arguments or facts that would justify further increasing the non-conformity of the building. OP therefore recommends that the variance for the court width and the lot occupancy be **APPROVED** as existing conditions and the variances for the increase in FAR and Expanding a Non-Conforming Structure be **DENIED**. Further, OP recommends that the private access areas to the roof from the units below be reduced.

SITE AND AREA DESCRIPTION

The subject property, 2335 & 2329 Champlain Street, N.W. (Square 2563, Lot 103 and 816), is in the area generally bounded by Kalorama Road on the south, Ontario Road on the east, Euclid Street on the north, and 18th Street on the west. Lot 103 was developed in 1924 with a 2-story, granite building and has had uses such as office, garage, warehouse, and retail. Until recently, the building had retail use on the first floor, The Brass Knob, and office and storage on the upper floor. Lot 816 is a two-story commercial building that was recently vacated.

BOARD OF ZONING ADJUSTMENT
Board of Zoning Adjustment
District of Columbia
CASE NO. 17431
EXHIBIT NO. 31
GASNO. 17431
EXHIBIT NO. 31

The subject site is in the Reed-Cook neighborhood and is surrounded by a variety of uses but predominantly residential uses. Immediately north of the site is a small, 2-story building that has a plating, polishing, and repair store. Further north is a parking lot, row houses, and apartment buildings, some of which are between 5 and 7 stories. To the east of the site is a 15-foot wide alley. Beyond the alley are row houses some of which are residential and some have commercial uses. Immediately south of the site is a four story apartment building. Directly east of the site is a mixed-use development, The Lofts of Adams Morgan, with a parking garage, 80 residential units, and retail space and a height of 56 feet.

PROPOSAL

The applicant proposes to demolish the building on Lot 816, and rebuild as an addition to the existing building on Lot 103 with an additional two floors. The use will be for twenty-two (22) condominium units and twenty-one (21) parking spaces.

ZONING REQUIREMENTS

The subject site has a base zoning of R-5-B and is within the Reed-Cooke Overlay District (RC). The R-5 Districts are designed to permit flexibility for all types of urban residential developments along with those institutional and semi-public buildings that are compatible with adjoining residential uses. The R-5-B District permits developments of a moderate height and density. Generally, the purpose of the RC Overlay is designed to protect existing housing, provide for new development, and encourage small-scale business development that does not affect the residential uses. The R-5-B district limits the heights of buildings to 40 feet. The R-5-B requirements and how the proposal meets them are outlined below in Table 1.

Table 1

Item	Existing	Required/Allowed	Provided	Variance/SE
Lot Area	10,779 sf.	N/A	10,779 sf.	N/A
Lot Width	96.7 ft.	N/A	96.7 ft.	
Lot Occupancy	92.8%	60%	92.8%	32.8%
FAR	1.9	1.8	2.66	0.86 FAR
Parking Spaces	0	7	21 + 4 tandem	N/A
Height	24.66 ft.	50 ft. (40 ft. max in the RC District).	50.0 ft.	10 ft.

HISTORY

Lot 103 was the subject of BZA Application # 16869 which requested to retain the retail use on the lower floor and added two floors for a total of four upper floors for residential use. The request increased the FAR to 3.9 and the height to 69.6 feet. This application was approved by the BZA but was the subject of further review by the Zoning Commission. The Zoning Commission stated

that the extent of the increase in the FAR and height approved was a de-facto rezoning of the property and overturned the Board's decision.

ANALYSIS

The Reed Cook Overlay District, adopted May 29, 1987 and amended April 26, 1991 (Zoning Commission Orders 523 and 523A), was to implement the objectives of the Reed-Cook Special Treatment Area of the Comprehensive Plan. At that time, the area was predominantly zoned R-5-B and C-M-2. There were many residential properties that were in the C-M-2 zones and many residences were being converted to commercial uses. The overlay was adopted to protect these residences and introduce additional residences with community serving retail uses.

Prior to the adoption of the Reed-Cooke Overlay District, the subject property was in the C-M-2 District and became a nonconforming structure as to lot occupancy and FAR when the zoning was changed to R-5-B.

The proposed development will retain the existing 18,401 square feet building and demolish the existing building on Lot 816. The improvement will add 10,298 square feet of space for a total of 28,699 square feet in the entire development. The main entrance into the building will be from an entrance on Champlain Street that was formerly used as an access to the second floor. Each unit will have a private open space area.

Variances

Lot Occupancy

Section 403.2 of the Zoning Regulations allows a maximum lot occupancy of 60% for developments in the R-5-B District. The existing building has a lot occupancy of 92.8 % which is nearly the entire lot. The proposed addition will be entirely on top of the existing building and therefore the lot occupancy will not be increased.

The standard by which the BZA should approve a variance is set forth in Section 3103.2 of the Zoning Regulations. The following demonstrates how these standards are met:

The property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition;

The subject property is unique due to an exceptional situation as it was originally developed over 78-years ago as an industrial/commercial building under the yard requirements of those zones. Since then, the zoning of the property has changed to a residential zone and became a nonconforming structure that does not meet the lot occupancy and FAR requirements of this residential zone.

By reason of the aforementioned unique or exceptional condition of the property, the strict application of the Zoning Regulations will result in peculiar and exceptional practical difficulties or to exceptional and undue hardship upon the owner of the property.

If the building were required to meet the lot occupancy requirement, it would be a practical difficulty, as it would require demolishing the building and reconstructing a new building. The addition does not extend the non-conformity of the structure with respect to lot occupancy.

The variance will not cause substantial detriment to the public good and will not impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

The existing lot occupancy of the building will not be detrimental to the public good as it has existed in this manner for over 50-years and has not been a problem. The lot occupancy requirement is aimed at providing light and air to all buildings. Many of the buildings in the area have lot occupancies of 100% and do not have a problem with light and air. Converting the building to all residential use will be consistent with the goal of increasing the number of residents in the community.

FAR, Expanding a Non-Conforming Structure and Court Width

Section 403.2 of the Zoning Regulations allows a maximum lot occupancy of 60% for developments in the R-5-B District. The existing building has a lot occupancy of 92.8 % which is nearly the entire lot. The proposed addition will be entirely on top of the existing building and therefore the lot occupancy will not be increased.

The existing building has a FAR of 1.9 and the maximum allowable FAR in the R-5-B District is 1.8. The applicant proposes to increase the FAR to 2.26. As with the lot occupancy requirement, the building became nonconforming as to FAR when the zoning on the property was changed by the Reed-Cooke Overlay. Because the proposal is to retain the existing building and add the residential portion the FAR naturally increases. Therefore, a variance from the maximum FAR in the R-5-B District and a variance for increasing a nonconforming structure are required as outlined in Section 2001.3 of the Zoning Regulations:

“(c) The addition or enlargement itself shall not increase or extend any existing, nonconforming aspect of the structure, and shall not create any new nonconformity of structure and addition combined.”

The proposed addition will increase the FAR and the height and will create a court that does not meet the requirements of the R-5-B district of the overlay.

The proposal addresses the requirements for a variance as follows:

The property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition;

The subject property was previously an industrial/commercial building built under those standards and became a nonconforming structure as a result of the Reed-Cooke Overlay. Since the building already exceeds the maximum FAR permitted, any enlargement will only enlarge the nonconformity. The applicant has stated that the building is unique because it cannot continue to be used for industrial or commercial use so it has to be converted to residential use. As demonstrated by the applicant the building can be converted to residential use, within the existing lot occupancy and FAR. The applicant further states that the property is affected by contaminated soils and needs stabilizing. However, no documentation that addresses these situations has been presented to OP.

A below grade court is created in order to bring light into the units in the basement. The area is currently the rear yard of Lot 103 that will become an open court having a width of 16 feet. The court is bounded by property lines on the north and east and by the walls of the building to the south and east. To attain the required width would require removing a portion of a foundation wall that extends 17 feet below grade.

By reason of the aforementioned unique or exceptional condition of the property, the strict application of the Zoning Regulations will result in peculiar and exceptional practical difficulties or to exceptional and undue hardship upon the owner of the property.

The applicant states that they have not utilized the option to demolish the building and build a new structure because they have invested six to eight million dollars in stabilization and remediation and a threat that a landmark application will be submitted if the applicant tries to demolish the building. They have also stated that continuing the existing uses on the property would not be economically feasible and residential use is the only feasible use for the property.

The applicant has not demonstrated that there is a practical difficulty in developing the property at 40 feet and with a FAR that would be less than requested. The building only has one adjacent building and light and air could still be brought into the internal units through the roof as shown on the proposal. Further, the applicant states that converting the existing building to residential use without the addition would not be feasible because there would be no "upper floors" to offset the cost of the "lower floors". This seems to suggest that condominiums buildings are only economically feasible if they have a height and an FAR in excess of what is permitted in the zone district.

If the applicant were required to meet the court width it would require demolition of a structural portion of the building which could compromise the building.

The variance will not cause substantial detriment to the public good and will not impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

The applicant has not provided any information to demonstrate that the proposed increase in FAR requested above the zone plan is justified. The applicant was aware of the cost to remediate the property and the building can be demolished since it is not landmarked. Additionally, the applicant refers to other buildings that have been granted increases in FAR but in those examples information was provided to show hardships that were not self inflicted. Additionally, these buildings provided affordable housing which is lacking in the Reed-Cooke area. The setbacks provided in the proposal could also be achieved in a smaller building to get light and air into the building.

The reduction of the court width will not be a substantial detriment to the public good because although it is not at the required width light and air will still be available to the units below grade.

REED-COOKE OVERLAY

Special Exception

The Reed-Cooke Overlay District specifies that buildings should have a height limit of 40-feet or 4-stories except in specified places. The Overlay District allows exceptions of up to 50-feet if the criteria outlined in Section 1403 are met:

- (a) The use, building, or feature at the size, intensity, and location proposed will substantially advance the stated purposes of the Reed-Cooke Overlay District;

The purposes of the Reed-Cook Overlay are outlined in Section 1400.2 of the Zoning Regulations:

- (a) *To implement the objectives of the Reed-Cooke Special Treatment Area (Section 1128 of the Comprehensive Plan as adopted), which are to do the following:*
 - (1) *Protect current housing in the area, and provide for the development of new housing;*
 - (2) *Maintain heights and densities at appropriate levels; and*
 - (3) *Encourage small-scale business development that will not adversely affect the residential community;*
- (b) *To ensure that new non-residential uses serve the local community by providing retail goods, personal services, and other activities that contribute to the satisfaction of unmet social, service, and employment needs in the Reed-Cooke and Adams-Morgan community; and*
- (c) *To protect adjacent and nearby residences from damaging traffic, parking, environmental, social, and aesthetic impacts.*

The proposal will not displace any existing residences but in fact will be adding to the residential character envisioned for the Reed-Cooke area. The existing building has a height of 24.66 feet

and the proposal would increase the height by an additional 25.34 feet, and essentially doubles the height of the building. The applicant has stated that this height is consistent with other buildings in the area such as the Lofts of Adams Morgan and the adjacent building to the south of the property. At the time of the discussion of the Overlay, the community had knowledge about the proposal for the development of the site to the west of the site, the Lofts of Adams Morgan, which was constructed at a height of 55 feet. That development fronts on 18th Street and was approved as a Planned Unit Development (PUD) and is making significant contribution to the community in order to have additional height, e.g. the parking lot. There development to the south of the site was granted additional height because they provided information that demonstrated that there were situations which was deemed to be unique to that property and also contributed affordable units. OP has requested that the applicant provide evidence to show why the permitted 40 feet is not an appropriate height for building and none has been forthcoming. The applicant stated that they have setback the upper floors to allow light into the units but this same setback and providing open space could be achieved at a height of 40 feet.

- (b) Vehicular access and egress shall be designed and located so as to minimize conflict with pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic condition;

The parking lot for the residents will be accessed at the rear of the building through the alley. The alley can be accessed from Ontario Road, Kalorama Road and further north on Champlain Street. Since there are only 22 parking spaces, this development will not introduce an excessive amount of traffic into the alley.

- (c) Adequate off-street parking shall be provided for employees, trucks, and other service vehicles;

Most delivery trucks to serve the residents will be short term and should be able to park in front of the building.

- (d) If located within a C-2-B zone, the use shall not be within twenty-five feet (25 ft.) of a Residence District, unless separated therefore by a street or alley;

N/A

- (e) Noise associated with the operation of a proposed use will not adversely affect adjacent or nearby residences;

The proposed residential units will introduce additional activity but not noise into the neighborhood.

- (f) No outdoor storage of materials, nor outdoor processing, fabricating, or repair shall be permitted; and

Garbage from the units will be delivered via chutes from each apartment to a storage area in the parking garage, where it is stored and later collected.

- (g) The use, building, or feature at the size, intensity, and location proposed will not adversely affect adjacent and nearby property or be detrimental to the health, safety, convenience, or general welfare of persons living, working, or visiting in the area.

The development is a reuse of an underutilized building. The applicant has requested an increase in height over the 40 feet allowed by the RC Overlay district. The applicant states that the increase in height will allow the building to have a unique architecture that will allow the upper floors to be setback and allow light to the street. However, there has been no demonstration that these characteristics cannot be achieved with a 40 feet building. Therefore, OP does not support granting the special exception.

The applicant has provided a roof structure (Sheet A-07 of applicant's submission) on the roof that is setback for the outer walls and will enclose the air conditioning units as well as private recreation areas for the four units below. On the advice of OP, the access area has been reduced but OP still believes that these rooms are too large and can easily be converted into living space. OP still recommends that these areas be reduced.

COMMUNITY COMMENTS

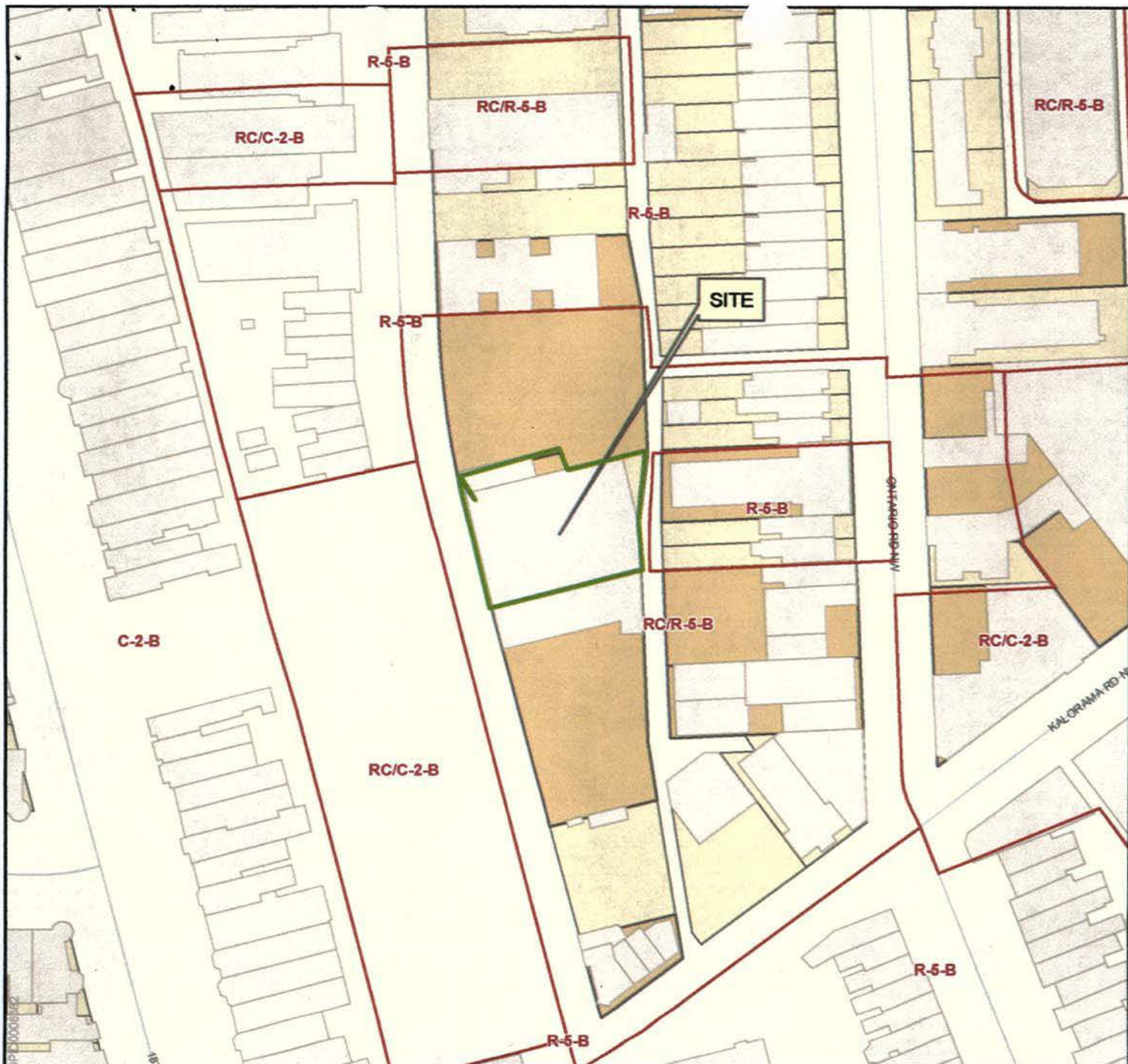
On February 2, 2006 ANC-1C vote to recommend denial of the Special Exception to increase the height of the proposed building and the variance to increase the FAR. The ANC further recommended approval of the variances for the lot occupancy and the court width. The ANC also expressed concerns regarding the height and volume of the roof structure. The Reed-Cooke Neighborhood Association has reviewed the application but to date has not taken a formal vote.

SUMMARY AND RECOMMENDATION

OP as requested information to support the applicant's assertion the soil conditions and its remediation have been overly burdensome. OP believes that the applicant has not provided any convincing arguments or facts that would justify further increasing the non-conformity of the building. OP therefore recommends that the variance for the court width and the lot occupancy be **APPROVED** as an existing condition and the variances for the increase in FAR and Expanding a Non-Conforming Structure be **DENIED**. Further, OP recommends that the private access areas to the roof from the units below be reduced.

Attachment

1. Vicinity Map
2. Aerial Photograph



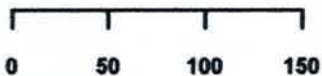
BZA 174321

King's Creek, LLC

2329 & 1335 Champlain Street, N.W.



Feet

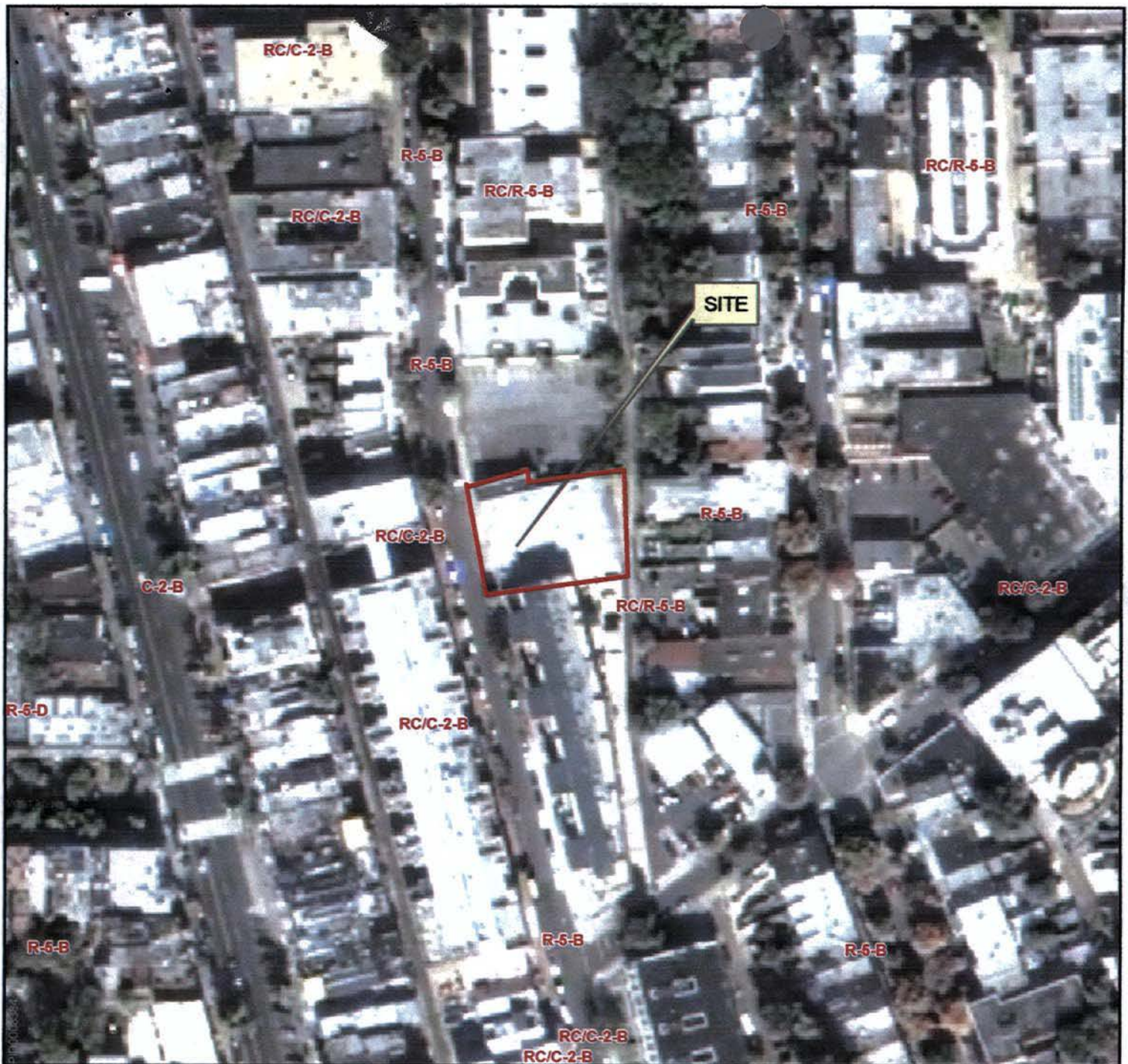


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Anthony A. Williams, Mayor

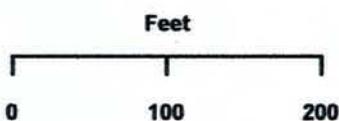
Office of Planning ~ February 21, 2006

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	Zoning Districts
	Street Centerlines
	Major Roads
	Major Roads
	Buildings
	Buildings



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