GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman, Director
Office of Planning

DATE: March 29, 2002

SUBJECT: Waiver of Rules for Submittal of a Supplemental Report concerning BZA Application 16827 requesting a Special Exception and a variance for an office use on property located at 1750 N Street, N.W.

The attached supplemental report concerning an application from The Stuart Building, LLC, requesting approval of a variance from the floor area ratio limit under Section 531, and a Special Exception for a office use under Section 508, pursuant to Sections 3103 and 3104.1, respectively, under Title 11 of the District of Columbia Municipal Regulations (DCMR), Zoning, is submitted after March 21, 2002. The Office of Planning respectfully requests that the Board waive its rule and accept the report into the record.

BZA
Case No. 16827
Exhibit No. 42

Board of Zoning Adjustment
District of Columbia
CASE NO.16827
EXHIBIT NO.42

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

TO: Board of Zoning Adjustment

FROM: Andrew Altman
Director

DATE: March 29, 2002

SUBJECT: BZA Application 16827 – Supplement II

APPLICATION
In this application, Stuart Building LLC originally requested approval of a variance from the floor area ratio (FAR) limit of 2.5 under Section 531, and a Special Exception under Section 508, pursuant to Sections 3103 and 3104.1, respectively, under Title 11 of the District of Columbia Municipal Regulations (DCMR), Zoning, to allow office conversion and expansion of a vacant building located at 1750 N Street, N.W. (Square 159 Lot 70). Subsequent to the original submission, a variance was requested to allow reduction of the existing on-site parking spaces.

SUMMARY RECOMMENDATION
The Office of Planning recommends approval of:

- A Special Exception under Section 508 to allow principal office uses at 1750 N Street, N.W. (Square 159 Lot 70);
- A variance to Section 531 to increase the allowable nonresidential FAR under from 2.5 to 3.2 for office uses; and
- A variance to Section 2100.10 (a) to allow reduction of the existing on-site parking in the rear yard from three to two spaces.

ADDITIONAL INFORMATION
During it's public hearing on January 29, 2002, the Board of Zoning Adjustment (BZA) asked the Office of Planning to provide the following additional information:

- Determine the status of the alley spur extending to the southeast corner of the subject property from St. Mathews Court;
- Request Department of Public Works (DPW) Transportation staff to revisit the alley to determine whether the rear yard of the subject property is adequate for parking; and
- Confirm with the Fire Marshall whether the project "will be capable of meeting fire code regulations" with regard to occupants being able to exit the premises from the rear, and whether the proposed stairs would eliminate one of the "proposed" parking spaces.

The applicant was asked to verify with the Historic Preservation Office (HPO) that the subject property is considered to "contribute" to the Dupont Circle Historic District, and that the Historic Preservation Review Board (HPRB) would approve the construction. General comments from HPO staff about the merits of this proposal are provided in this report.

Planning staff also requested that the applicant document testimony presented during the Public Hearing so it can be considered in light of the zoning relief being requested. Two Supplemental Statements of the Applicant have since been submitted to the Office of Zoning: one statement received on February 19, 2002 and a second statement draft received by the Office of Planning on March 20, 2002.

APPLICANT'S PROPOSAL

Briefly, Stuart Building LLC proposes to renovate the existing building for office uses. Plans include extending the floor plates of the upper two floors and attic to match the 2nd floor, adding approximately 1,139 square feet of gross floor area. This would increase the total gross floor area to 5,816 square feet.

The subject lot and properties to the north and east are zoned Medium-density Special Purpose (SP-1)/ Dupont Circle Overlay District (DCOD). Properties to the west are zoned Major Business and Commercial Center (C-3-C)/DCOD. The referenced properties all fall within the Dupont Circle Historic District (please refer to Exhibit 1).

The second Statement provided the following additional information:

- This development application was formally submitted for review and approval through the HPO, and for certification that the subject property "contributes" to the Dupont Circle Historic District (summarized below);
- An explanation why this proposal is consistent with the goals of the Dupont Circle Overlay District, including statements that: the proposed office use and addition would have less impact (on the neighborhood) than residential uses in the same space; and *that useable floor area in the planned addition is less than the area in the existing building that is "unusable" for offices.*
- A drawing of the roof structure showing lines of sight from the street to the proposed addition.
- Additional justification for expanding office uses beyond a 2.5 FAR to a 3.2 FAR, including:
  - Reiterating that the addition floor area is less than the gross floor area in the existing building that is "unusable";
  - Describing the "unusable" floor area as being occupied by the large open staircase between the 1st and 4th floors; the narrow first floor ("service") entryway with a low ceiling along the western property line; and most of the 5th floor attic (also due to the lack of ceiling height).
  - Clarifying the exceptional conditions faced by this site:
    1. At 17'x103', this narrow, deep lot cannot be expanded because The American Society for Microbiology building addition borders it on two sides;
    2. The overall irregular shape of Square 159 results in lots from west to east along N Street and Rhode Island Avenue, N.W. getting progressively shallower; and
  - Providing a project pro forma, and encouraging the Board to consider the economic implications of denying this request.

- Updated floor area and lot occupancy calculations;

- Reference to a meeting with D.C. Fire Department, Fire Protection Division, when the agency confirmed that national and local Fire Codes require a rear stairway as a secondary means of ingress/egress, sprinkler, fire alarm and smoke detector systems, and a smoke evacuation fan. It was also noted that the stairway in the rear yard would probably reduce available space so that it is only enough to park two vehicles (a reduction from the current three parking spaces).
- Reference to a meeting with D.C. Department of Transportation (DDOT), where the applicant stated that the owner of the adjacent property at 1748 N Street, N.W. (that also abuts the alley connection to St. Matthews Court) indicated a willingness to sign a cross-access agreement. To date no agreement has been signed.
- A response to the letter of opposition from The American Society of Microbiology, owners of the adjacent property to the west at 1752 N Street, N.W.

ANALYSIS

As requested by the BZA, OP staff researched the following information.

- Based on the records of the District of Columbia Surveyor's Office and DPW Public Space Division, the subject alley spur is still public (refer to Exhibit 2).
- The applicant met with DDOT staff concerning parking in the rear yard. Agency comments will be submitted separately to the BZA.
- Subsequent to the referenced meeting, the Fire Marshall issued a letter continuing to recommend approval (refer to Exhibit 3).
- HPO staff reviewed the submitted plans and indicated that:
  - *The subject property at 1750 N Street, N.W., does contribute to the Dupont Circle Historic District*; and
  - Preservation of the interior stairwell, high ceilings and first floor entrance lobby and service corridor would enhance the architectural integrity of the building.

  However, HPO staff cannot state whether or not this project will be approved because the application is the Federal Preservation Tax Incentive Program. Under this program, the National Park Service has final approval authority, and not HPRB.

Based on the revised floor area measurements submitted by the applicant, the existing building has a total floor area of 4,677 square feet, equaling a floor area ratio (FAR) of 2.57. The expansion would increase the total floor by 1,139 square feet to 5,816 square feet, equal to a 3.2 FAR. The SHPO determined the property contributes to the Dupont Circle Historic District, so no additional parking spaces are required for the change in (authorized) use under Section 2100.5 of the Zoning Regulations (refer to Exhibit 4).

Section 2100.6 requires additional parking when the "intensity of use" is increased by the addition of gross floor area, but Section 2100 states that additional parking is not required unless the aggregate increase in intensity is greater than 25%. Since the aggregate increase in gross floor area is only 24.35%, no additional parking spaces are required for the proposed addition. Section 2100.10 (a) also states that, if the existing number of parking spaces is equal to or less than the number required under the regulations, than the current number of spaces cannot be reduced. Therefore, the existing parking

spaces should be maintained.

The public alley is 10' wide overall, however the portion of alley that abuts the subject property is approximately 3' wide. As a result, vehicles can only enter the site by driving on private land. This is inconsistent with the provisions of Section 2117.4 (access to parking spaces). According the Subdivision Book #17 in the District Surveyor's Office, the subject property was created by subdivision in 1887 in the current figuration. As a result, the subject property predates the current Zoning Regulations adopted in 1958. Therefore, the existing nonconformity is allowed to continue under Section 2000.3.

There is also some confusion about whether the proposed emergency stair should be included in FAR calculations for the addition. To answer this question, staff referred to the zoning definitions. As defined under Section 199, the floor area ratio is "determined by dividing the (building) gross floor area ... by the area of that lot", and gross floor area is measured "from the exterior faces of exterior walls and the centerlines of walls separating two buildings." The further definition of gross floor area includes interior spaces such as basements, and attics, but no exterior elements (except for balconies that extend more than 6'). Based on this information, staff concludes that the exterior stair should be excluded from project FAR calculations.

Based on this information, the following zoning relief is required for the proposed addition:

- a Special Exception for the proposed office use;
- a variance to utilize the entire 2.57 FAR of the existing building for office use (since this exceeds the 2.5 FAR allowed for office uses is SP-1 zoning);
- a variance to increase the allowable FAR to 3.2 for the proposed addition; and
- a variance to allow the reduction of existing parking spaces from 3 to 2.

Section 3104.1 grants the Board of Zoning Adjustment (BZA) the authority "to grant special exceptions where in the judgment of the Board, those special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps."

The requested Special Exception is also subject to the requirements under Sections 508.3 through 508.5.

Compliance with Section 508:

Staff determined the following:

- Surrounding uses are predominantly office and this proposal would not substantially change the front building façade. Changes to the rear of the building would not be visible from any adjacent street or alley (due to the Society addition and garages along St. Matthews Court).

  Staff concurs with the applicant that the proposed building expansion would have minimum impact on the atrium area of The American Society of Microbiology addition at 1752 N Street, N.W.,

because: buildings along the N Street frontage all have a north-south orientation; the atrium space next door is located further south than the rear wall of the building on the subject property; the proposed addition will align itself with the existing second floor; therefore, the east-west shadows cast by proposed addition should generally fall north of the atrium space. Note that the proposed open emergency stair would cast a shadow on the atrium space, but to a much less degree than the retaining wall to the east at 1748 N Street, N.W., in the morning, and the eight-story portion of the Society addition to the south and west in the afternoon. Therefore, the use, height, bulk, and design shall be continue to be in harmony with existing uses and structures on neighboring property.

- The applicant indicated that the proposed office uses would only require regular deliveries by panel trucks that could park along N Street N.W. The applicant also provided a trash collection plan. Therefore, the use shall not create dangerous or other objectionable traffic conditions.

- The site would remain essentially as it has appeared for years, therefore staff does not think that any special treatment is needed to protect the value of neighboring property.

Therefore, OP staff continues to think this proposal meets the requirements of Section 508.

Compliance with Section 3104.1:

Based on above analysis of compliance under Section 508, it appears that this proposal will be in harmony with the general purpose and intent of the Zoning Regulations, and Zoning Map, and will not tend to affect adversely the use of the neighboring properties.

Compliance with Section 3103.2

This section grants the Board of Zoning Adjustment (BZA) the power to grant variances from regulations set forth under the Zoning Act:

"[w]here by reason of exceptional narrowness, shallowness or shape of a piece of property at the time of the original adoption of the regulations, or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Code Ann. §§5-413 to 5-432 (1981) would result in peculiar and extraordinary practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship; Provided the relief can be granted without substantially impairing the intent, purpose and integrity of the zone map as embodied in the Zoning Regulations and Map."

The zoning relief requested consists of a "use variance" from the FAR limitation on non-residential floor area and one "area" variance to reduce the existing parking spaces on-site. The circumstances surrounding each request must be "unique" and the usual application of the referenced zoning regulations would have to result in "exceptional and undue hardship" for use variances and "peculiar

and extraordinary practical difficulties" for area variances. Based on the referenced information, staff determined the following:

- **Unique conditions:** At 17' wide, the subject property is the narrowest parcel on the square, and is bounded on three sides by existing buildings. The HPO encouraged the owner to preserve certain the interior spaces and architectural features during the course of this project to enhance the building's historical integrity (such as maintaining low ceiling in the servant entrance, the high ceilings on the upper floors, the open central stairwell, etc.). These conditions establish the uniqueness of this application.

- **Exceptional and Undue Hardship:** From visual inspection, it does appears that the layout of the lower floor would not be suitable for residential use in the midst of offices uses on the upper floors, and that locating an apartment on the top floor is impractical given the additional Building Code requirements (secondary ingress/egress, handicapped accessibility, access to air and light, etc.). Under these circumstances, it appears more efficient to use the entire building either for office or residential uses. Preservation of the noted architectural spaces and features also would not allow the applicant to fully utilize the existing floor area.

  In fact, the second Statement of Justification includes a claim that square footage added by the three-story addition would be less than the existing building square footage that will be preserved or otherwise unavailable for office uses. Examination of the existing and proposed floor plans confirmed this to be the case (refer to Exhibit 5). The total increase of 1,139 square feet of gross floor area include 638 square feet resulting from increasing the 5th (attic) level ceiling height to 6'-6" or greater. The balance of 501 square feet is the result of expanding 3rd, 4th and 5th floor (attic) plates by 167 square feet each.

  By contrast, 660 square feet of gross floor area would be preserved on the 1st through 4th floors. The current unusable attic area increases the total preserved and unusable space to 1,293 square feet, 13.5% more the proposed "addition" floor area (this total does not include the handicapped accessible elevator core that will occupy space on all five floors).

- **Practical Difficulty:** With regard to the available parking on-site, the existing 17.5' x 38' rear yard is a narrow space that appears adequate to park two vehicles perpendicular to the building and one vehicle along the rear property line. The referenced emergency fire stairway is a Fire Code requirement that could reduce the available space for parking and maneuvering (note that the Fire Marshall confirmed this requirement), and there is no additional space available to provide on-site parking. On-street parking in this area of the Downtown is very limited, so it is important to retain on-site parking whenever possible. However, there are available commercial parking resources (garage) in close proximity to the site.

Based on this information, the current Zoning Regulation creates an undue hardship for the applicant in there attempt to get full utility out of existing building floor area for office uses, while preserving its historical integrity. Retaining circulation and parking space for three vehicles in the limited rear yard in light of the referenced public health and safety requirement, also presents a "practical difficult".

Therefore, staff determined that both variances could be granted without substantially impairing the intent, purpose and integrity of the zone map as embodied in the Zoning Regulations and Map.

Planning staff also concurs with the applicant that this proposal does not raise any issues related to the Dupont Circle Overlay District.

COMPREHENSIVE PLAN

The Generalized Land Use Map designates the subject property and other property south of N Street N.W. as "High Density" commercial, characterized as "The business and retail heart of the District and metropolitan area includ(ing) a mix of employment, retail, office, cultural and entertainment centers." Note that residential is not listed as a predominant use under this designation.

COMMUNITY & AGENCY COMMENTS

Advisory Neighborhood Commission (ANC) 2B discussed this request during a meeting on January 16, 2002 and recommended approval. Comments from The American Society of Microbiology and DPW were noted above.

RECOMMENDATION

The Office of Planning recommends approval of:

- A Special Exception to allow offices uses on the subject property;
- A variance to increase the allowable nonresidential FAR to 3.2 for office uses; and
- A variance to allow reduction of existing parking in the rear yard from three to two spaces.

Attachments:	Exhibit 1	Aerial with Zoning
	Exhibit 2	Square 159 Plat with Alley Closings near 18th Street, N.W.
	Exhibit 3	Memorandum from Bruce Cowan, Fire Marshall, to Andrew Altman, Director, D.C. Office of Planning, dated March 22, 2002
	Exhibit 4	Pertinent Provisions of the Zoning Regulations
	Exhibit 5	Comparison of Preserved/Unavailable Floor Area to Overall Building Expansion

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Exhibit 3

GOVERNMENT OF THE DISTRICT OF COLUMBIA
FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT
WASHINGTON, D.C. 20001

MEMORANDUM

TO: Andrew Altman
Director
Office of Planning

FROM: Bruce Cowan
Fire Marshal

DATE: March 22, 2002

SUBJECT: BZA Application No. 16827

The Fire and EMS Department has reviewed your application and made a site visit to the reference property.

The Fire and EMS Department is concerned about the rear access to the property. However, we will approve your request if the applicant is willing to install a fire sprinkler system in the new addition as well as the existing building.

The issue concerning the exterior stairs is a building code issue and should be addressed by officials at the Department and Consumer and Regulatory Affairs.

If you have any questions, please contact my office at 727-3659.

Excerpts from the Zoning Regulations

508 OFFICE USES (SP)

508.1 Construction of a new office building or construction of an addition to a building for office use, or conversion of an existing building to office use, shall be permitted in an SP District if approved by the Board of Zoning Adjustment in accordance with the conditions specified in §3108 of chapter 31 of this title, subject to the provisions of this section.

508.2 Each application shall be referred to the Office of Planning in accordance with the provisions of §500.6.

508.3 The use, height, bulk, and design shall be in harmony with existing uses and structures on neighboring property.

508.4 The use shall not create dangerous or other objectionable traffic conditions.

508.5 The Board may require special treatment in the way of design, screening of buildings, accessory uses, signs, and other facilities as it shall deem necessary to protect the value of neighboring property. ...

2100 Authority to Require Parking Spaces ...

2100.5 No additional parking spaces shall be required for a historic landmark or a building or structure located in a historic district which is certified by the State Historic Preservation Officer as contributing to the character of that historic district. ...

2117 Access, Maintenance, and Operation ...

2117.4 Except as provided in §2117.15, each required parking space shall be accessible at all times directly from improved streets or alleys or shall be accessible from improved streets and alleys via graded and unobstructed private driveways which form an all-weather impervious surface. Improved streets or alleys providing access to required parking spaces shall have a minimum width of ten feet (10 ft.) and be paved in compliance with the standards of the District of Columbia Department of Public Works.

Comparison of Preserved/Unavailable Floor Area To Overall Building Expansion

	Square Footage			
	Existing	Proposed		
Level	Total	Vplate*1	Vheight*2	Total
1st	1,200	--	--	1,200
2nd	1,212	--	--	1,212
3rd	1,045	167	--	1,212
4th	1,045	167	--	1,212
5th	175	167	638	980
	4,677			5,816

Net increase in floor area (NI) 1,139

	Proposed	Portion of Floor Area Total Relating to ...		
Level	Total	PE*3	Vheight*2	Total
1st	1,200	420	--	420
2nd	1,212	96	--	96
3rd	1,212	72	--	72
4th	1,212	72	--	72
5th	980		638	638
	5,816			1,298

Preserved, unavailable and non-expansion square footage (PN) 1,298

Notes:

*1 Floor area increase resulting from expanding the floor plate

*2 Floor area increase on the 5th floor resulting from increasing the ceiling height over the existing floor plat to 6'-6" or greater

*3 Floor area that will not be leased for office use in order to preserve existing architectural features including the open interior stairwell, first floor entrance lobby, and service corridor

*4 Floor area occupied by elevator core (already included in preserved 1st floor corridor and 5th floor increase under *2