GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

**MEMORANDUM**

**TO:** Board of Zoning Adjustment

**FROM:** Andrew Altman
Director

**DATE:** October 22, 2004

**SUBJECT:** BZA Application 17228 - Request filed by Stephen N. Gell for **area variances** for a mixed-use building, proposed by Samuel C. Reynolds at 3109 Georgia Avenue, N.W.

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**APPLICATION**
Application of Samuel C. Reynolds:

1. **Variance relief to § 772.1 of 11 DCMR** to permit an increase in the maximum lot occupancy from 60 percent to 88.75 percent;
2. **Variance relief to § 771.2 of 11 DCMR** to permit an increase in the "other permitted use" FAR from 1.5 to 2.34 and to permit an increase in the maximum permitted FAR from 2.5 to 2.59; and
3. **Variance relief to § 2101.1 of 11 DCMR** to reduce the number of off-street parking spaces required from 3 to 2

for an existing building located on the east side of Georgia Avenue, N.W., between Irving Street and Kenyon Street, Square 3047, Lot 113. The property is zoned C-2-A, medium density community business center district (§ 105.1(d)(2)(A)).

**SUMMARY RECOMMENDATION**
The Office of Planning recommends **APPROVAL** of the requested variances.

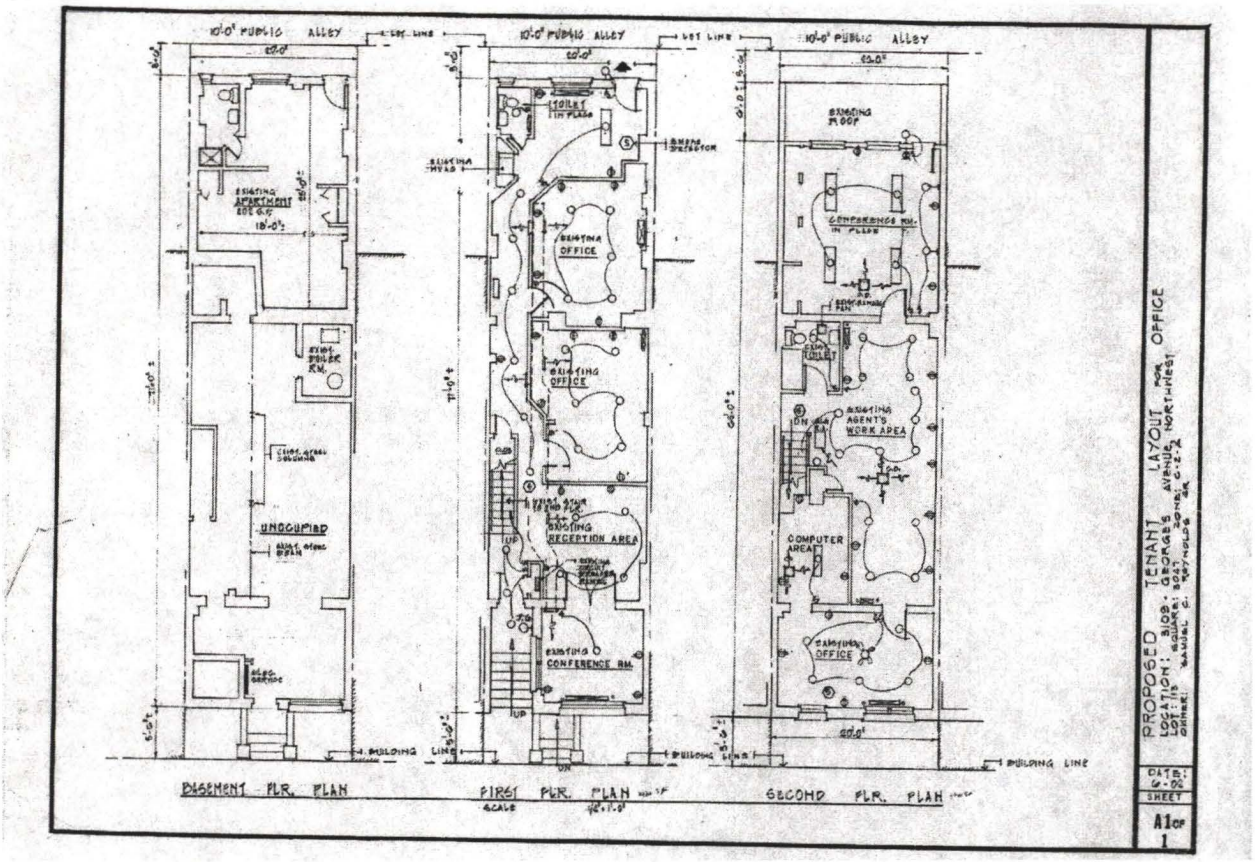
**PROJECT DESCRIPTION**
The application proposes to use the first, second and a portion of the basement of an existing building as office space for one office user. The remainder of the basement level is an existing efficiency apartment that is proposed to remain as residential.

The application contains copies of the Certificates of Occupancy that were last issued for the subject property. These certificates indicate that the basement, with the exception of the

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efficiency apartment at the rear, and the first floor were used for separate retail (nonresidential) uses, with the remainder of the building used as a four room rooming house. As a result, the nonresidential FAR of the building was 1.52, slightly over the maximum permitted by the R-4 Zone District. The applicant now requests to use the first and second floors of the building for one office user, as a staircase internal to the building connects those two spaces. The basement level is not connected internally to the upper two floors.




PROPOSED FLOOR LAYOUT

**SITE AND AREA DESCRIPTION**

The subject property is a rectangular lot on the east side of Georgia Avenue. It is 20 feet wide and 80 feet deep, with a land area of 1,600 square feet. It is improved with a three-story building that was originally constructed 1917. Building additions have been added to the front and rear of the original structure, resulting in a building footprint of 1,420 square feet and a lot occupancy of 88.75 percent. Rear access to the property is provided via a 10-foot wide public alley that runs parallel to Georgia Avenue. No on-site parking is provided and the rear yard has a depth of 3.5 feet.

The existing building contains three levels. The first and second are connected via an internal staircase, with 1,420 square feet on the first floor and 1,300 square feet on the second. The

basement level consists of 1,420 square feet, with 402 square feet devoted to the efficiency apartment at the rear accessible from the alley only. The remaining 1,018 square feet of the basement level at the front has a ceiling height of 6 feet, 8 inches and is accessible from the street only. There is no internal access between the front and rear of the basement level, and there is no internal access between the basement and the upper two levels.

To the north of the subject property and within the C-2-A Zone District, is a vacant building undergoing renovation. To the south of the subject property is a beauty salon and medical supply business within the C-2-A Zone District. To the west, across Georgia Avenue, is a mixture of commercial retail, commercial service and office uses within the C-2-A Zone District. To the east, across the public alley, are row houses within the R-4 Zone District.

The area has been identified on the Generalized Land Use Map as being located within "mixed use" land use category, consisting of the "moderate density residential" and "low density commercial" land use categories. The mixed use land use category is described as *"[a] combination of land use categories are depicted in areas where a variety of uses are to be encouraged. Mixed use areas include existing commercial areas and areas proposed for significant land use changes."*

Moderate Density Residential Land Use: "*Row houses and garden apartments are the predominant uses; may also include low density housing.*"

Low Density Commercial Land Use: "*Shopping and service areas that generally low in scale, character and activity and that provide a limited range of retail goods and services are the predominant uses.*"

**EXISTING ZONING**
The subject property is located within the C-2-A Zone District, "*medium density community business center commercial district.*" (§ 105.1(d)(2)(A))

**Community Business Center Districts**
"*The C-2-A District is designed to provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core.*" (§ 720.2)

"*The C-2-A Districts shall be located in low and medium density residential areas with access to main highways or rapid transit stops, and shall include office employment centers, shopping centers, and medium-bulk mixed use centers.*" (§ 720.3)

**RELIEF REQUESTED:**
**Section 3103- Variances,** empowers the Board of Zoning Adjustment to grant variances subject to the following:

> *"[ wlhere, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Official Code §§ 6-641.01 to 6-651.02 would result in peculiar and exceptional 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, that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map."* (§3103.2)

**Variance pursuant to § 772.1 Percentage of Lot Occupancy**

Section 772.1 sets forth the maximum lot occupancy permitted within the C-2-A Zone District as 60 percent. The subject property is currently improved with a building constructed prior to the adoption of the Zoning Regulations with a lot occupancy of 88.75 percent, making it unique within the C-2-A Zone District. No building additions or changes to the lot occupancy are proposed by the subject application. The extraordinary or exceptional situation is that the building on the subject property exists and can only be brought into conformance through the removal of a portion of the building, which would result in a peculiar and practical difficulty to the applicant. Therefore, the Office of Planning recommends that the variance to increase the lot occupancy to 88.75 be approved.

**Variance pursuant to § 771.2 Floor Area Ratio**

Maximum Permitted FAR
Section 771.2 permits a maximum FAR of 2.5 within the C-2-A Zone District. The existing building has an FAR of 2.59, making it nonconforming. The application proposes to maintain this existing situation. No building additions or increases in FAR are proposed. The extraordinary or exceptional situation is that the building predates the zoning regulations and exists as a nonconforming structure in that it exceeds the maximum permitted FAR. Therefore, to bring the property into conformance with the maximum total FAR permitted, removal of a portion of the building would be required, which would result in a peculiar and exceptional practical difficulty to the applicant.

Maximum "Other Permitted Use" FAR
The subject property is unique by reason of the structure that has been built upon it. The existing building is improved with a three-story building that does not provide internal connections to all parts of the building, and the majority of the basement level has a ceiling height of only 6 feet, 8 inches. There is no internal connection between the basement and first or second floors.

The applicant proposes to use the first and second floor of the building for his business. The two floors are connected via an internal staircase to the building, making access between the spaces possible without having to exit the building. However, the combined "other permitted use" or

nonresidential FAR of the upper two floors is 1.7, in excess of the maximum permitted FAR of 1.5, or 320 square feet more than permitted. Use of the remaining 320 square feet as residential is not achievable without the addition of a second stairwell and entrance, which would be a practical difficulty to the owner as the internal width of this existing structure is less than 20 feet wide. Therefore, provision of a residential unit on a portion of the second floor would be difficult, and use of the entire second floor for a nonresidential use is appropriate.

The basement level is divided into two parts. The rear part is improved as an efficiency apartment, resulting in a residential FAR of 0.25, and within the maximum 2.5 FAR permitted for residential uses within the C-2-A Zone District. The remainder of the basement is not suitable for residential use due to a ceiling height of 6 feet, 8 inches, less than required by the Building Code.

Section 1207.2 of the International Building Code, 2000 Edition, adopted by the City Council, states the following:

> *"Occupiable spaces, habitable spaces and corridors shall have a ceiling height of not less than 7 feet 6 inches (2286mm). Bathrooms, toilet rooms, kitchens, storage rooms and laundry rooms shall be permitted to have a ceiling height of not less than 7 feet (2134mm)".*

This provision applies to all habitable residential spaces with the exception of basement rooms within one and two-family dwellings. The subject property is a mixed use building and not a one or two-family dwelling. Therefore, unless the applicant converts this existing mixed use building to a one or two-family dwelling, which would not be consistent with the mixed use recommendation of the Generalized Land Use Plan, this basement area cannot be used for residential purposes.

The applicant requests to use this space for nonresidential use because the front portion of the basement is not suitable for residential use. This, in combination with the request to use the entire second floor for nonresidential use, will increase the nonresidential FAR of the building to 2.34. Although this is in excess of what is permitted by the Zoning Regulations, the uniqueness of the building having a low basement ceiling height of 6 feet, 8 inches and the lack of internal connections between the basement and the upper two floors, serve to result in a unique situation. It would be a practical difficulty for the applicant to structurally alter this existing building by excavating down to increase the basement ceiling height so that the entire basement level is suitable for residential use. In addition, if the applicant cannot use this space for nonresidential use, than the space cannot be used at all, which would be a peculiar and practical difficulty. Therefore, the Office of Planning recommends that a variance to increase the nonresidential FAR to 2.34 be approved.

**Variance pursuant to § 2101.1, Schedule of Requirements to Parking Spaces**

The subject application requests a reduction of the off-street parking requirements from 3 to 2 spaces. The subject property is developed with a rear yard only 3.5 feet in depth. As the minimum size of an off-street parking space as provided by § 2115.1 is 9 feet by 19 feet, the rear yard is not of sufficient size to accommodate parking. The subject property has no side yards.

Section 2100.4 provides that only the additional parking required by § 2101.1 for the proposed uses above and beyond what was required by the previous uses need be provided, as no parking was required to be provided for the previous uses. The number of off-street parking spaces required under § 2101.1 by the previous uses of the subject property was 2, as shown below.

| USE | REQUIRMENT | TOTAL REQUIRED |
|---|---|---|
| Rooming House (4 rooms) | 1 plus 1 for each 5 rooms | 2 |
| Retail (1,420 sf) | In excess of 3,000 sf, 1 for each additional 300 sf of GFA | 0 |
| Retail (1,018 sf) | In excess of 3,000 sf, 1 for each additional 300 sf of GFA | 0 |
| TOTAL | -- | 2 |

The total number of off-street parking spaces required under § 2101.1 of the Zoning Regulations for the proposed uses is 3, as shown in the table below:

| USE | REQUIREMENT | TOTAL REQUIRED | PROVIDED |
|---|---|---|---|
| Apartment (1 dwelling unit) | 1 for each 2 dwelling units | 0.5 | 0 |
| Office (3,738 sf) | In excess of 2,000 sf, 1 for each additional 600 sf of gross floor area | 2.9 | 0 |
| TOTAL | -- | (3.4) or 3* | 0 |

* Section 2118.5 of the Zoning Regulations permits the sum of the requirements to be computed separately. Section 2118.6 of the Zoning Regulations provides that any fraction under one-half shall be disregarded.

As 2 parking spaces were required by the previous uses and none could be provided, and the proposed uses require 3 spaces, only one off-street parking space is required pursuant to § 2100.4 for the applicant to meet the requirement of three. However, since the applicant is unable to provide any parking spaces on-site, a variance is requested to reduce the number of parking spaces from 3 to 2. By reducing the number of off-street parking spaces to 2, the one additional parking space need not be provided.

The subject property is unique in that there is not sufficient space on-site in which to provide parking. Only through the removal of a portion of the existing structure could the applicant provide this one space, which would be peculiar and exceptional practical difficulty. Therefore, the Office of Planning recommends approval of the variance request to reduce the number of off-street parking spaces from 3 to 2, with the applicant not required to provide the two spaces pursuant to § 2100.4

It is the Office of Planning's conclusion that the applicant has satisfactorily met the criteria for variance relief to §§ 772.1, 771.2, and 2101.1 and *"that the relief can be granted without*

*substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.*" (§ 3103.2)

**COMPREHENSIVE PLAN**

This proposal will contribute towards achieving the following economic development objectives and actions of the Ward 1 Plan:

> *"To encourage the development and retention of needed commercial and service establishments in appropriately zoned locations;"* (§ 1202.1(m))
>
> *"To relate selective conditional regulatory relief from zoning restrictions, if appropriate, to neighborhood employment, training, education, and other community services as well as to the surrounding neighborhood."* (§1202.1(o))
>
> *"To revitalize and improve the functioning and appearance of the following areas, with emphasis on retaining small business:*
> *(5) Lower Georgia Avenue;"* (§ 1203.1(m))

**COMMUNITY COMMENTS**

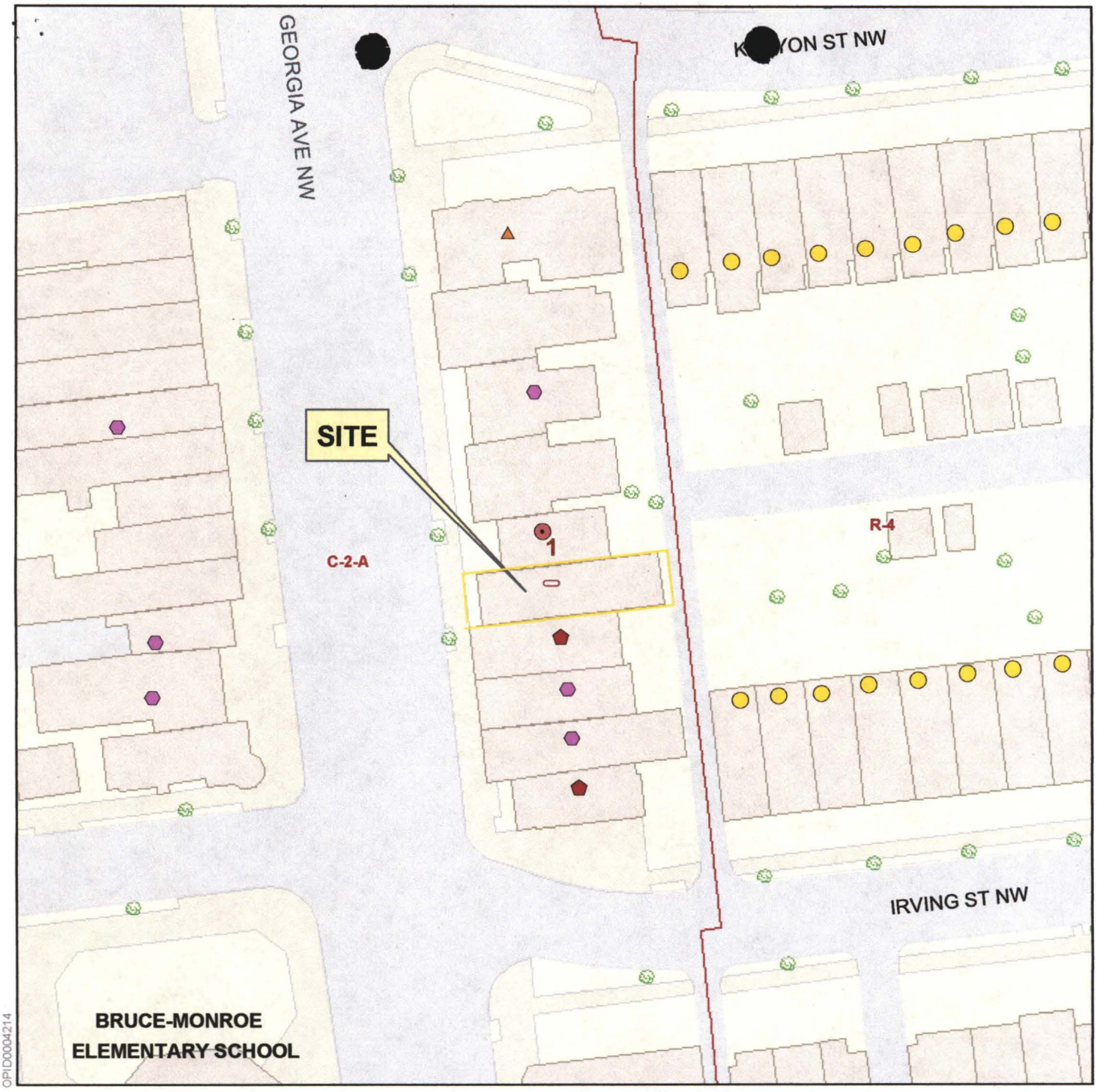
**ANC 1A** has not responded to Office of Planning telephone inquiries regarding this application.

**RECOMMENDATION**

The Office of Planning has reviewed the application in terms of the property's zoning, the intensity of use, the character of the neighborhood and the standards for variance relief, and concludes that the variances can be granted by the Board "*without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.*" (§ 3103.2) Therefore the Office of Planning recommends that the application be **APPROVED** as follows:

1. Variance to Section 771.2 to increase the maximum permitted floor area ratio from 2.5 to 2.59 and to increase the maximum "other permitted use" FAR from 1.5 to 2.34;
2. Variance to Section 772.1 to increase the maximum permitted lot occupancy from 60 percent to 88.75 percent; and
3. Variance to Section 2101.1 to reduce the number of off-street parking spaces from 3 to 2.

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# BZA APPLICATION NO. 17228
# 3109 GEORGIA AVENUE, N.W.

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★ ★ ★ Government of the
District of Columbia
Anthony A. Williams, Mayor

**Office of Planning ~ October 12, 2004**

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.

- Rowhouse
- Store
- Non-conforming SF Use
- Office
- Multi-family

