



DONOHUE & STEARNS, PLC

June 28, 2013

Mr. Richard Nero, Chief Support Services  
D.C. Board of Zoning Adjustment  
441 4<sup>th</sup> Street, NW  
Suite 210  
Washington, D.C. 20001

RECEIVED  
D.C. OFFICE OF ZONING  
2013 JUN 28 PM 12: 22

**Cc:** D.C. Office of Planning; ANC 2D

**Re:** Minor Modification Request in BZA Case No. 18390 – Request for placement on the agenda for the July 9, 2013 BZA Hearing

Rick:

On July 31, 2012, in Case No. 18390, the Board of Zoning Adjustment (“BZA”) granted Community Three Development, LLC’s (“Community Three”) request for variances from the drive aisle width requirements under §2117.5 and the compact space requirements under §2115.2 to allow for the conversion of an existing building into a 22-unit, four-story, multi-family residential building in the C-2-A District at 435 R Street, N.W. Community Three is requesting expedited review of the attached Minor Modification Request given that it is one year since the above-described variances were granted and Community Three is ready to proceed with the development.

During the technical review subsequent to the BZA’s granting of the requested variances and prior to the issuance of the building permit, DCRA technical staff directed Community Three to create a pedestrian egress separate from the driveway. The resulting revised parking plan is consistent with the plan approved by the BZA in July of 2012 and the relief provided. It has just been refined to effect the changes that DCRA technical staff directed Community Three to make. We have met with the Office of Planning to discuss the revised parking plan and have their support. Currently, Community Three has all required permit approvals except that for the above-described driveway.

Attached is the Form 152-Minor Modification Request requesting that this alteration to the parking scheme approved by the BZA be permitted, the Form 126 and filing fee in the amount of \$270.<sup>40</sup>, a copy of BZA Order for Case No. 18390, the originally proposed parking design and the revised parking scheme. We respectfully request that the item be placed on the BZA’s July 9, 2013 agenda so that the permitting process can be completed.

Thank you for your consideration,

Edward L. Donohue

**Attached:** Form 152  
Form 126 and check for \$270.<sup>40</sup>  
BZA Order for Case No. 18390  
Proposed Parking Design Plan  
Revised Parking Design Plan

BOARD OF ZONING ADJUSTMENT  
District of Columbia

CASE NO. 18390  
EXHIBIT NO. 33

Board of Zoning Adjustment  
District of Columbia  
CASE NO.18390  
EXHIBIT NO.33



BEFORE THE BOARD OF ZONING ADJUSTMENT  
OF THE DISTRICT OF COLUMBIA



FORM 152 – MOTION FOR MINOR MODIFICATION

Before completing this form, please review the instructions on the reverse side. Print or type all information unless otherwise indicated. All information must be completely filled out.

CASE NO.: 18390

Motion for Minor Modification to:

☐ Final Order

☒ Approved Plan

☐ Amount of Relief

☐ Other \_\_\_\_\_

Points and Authorities:

Below and/or on a separate sheet of 8 1/2" x 11" paper, state each and every reason why the Board of Zoning Adjustment (BZA) should grant your motion, including relevant references to the Zoning Regulations or Map.

On July 31, 2012, in Case No. 18390, the Board of Zoning Adjustment ("BZA") granted Community Three Development, LLC's ("Community Three") request for variances from the drive aisle width requirements under §2117.5 and the compact space requirements under §2115.2 to allow for the conversion of an existing building into a 22-unit, four-story, multi-family residential building in the C-2-A District at 435 R Street, N.W. Community Three is requesting expedited review of the attached Minor Modification Request given that it is one year since the above-described variances were granted and Community Three is ready to proceed with the development.

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CERTIFICATE OF SERVICE

I hereby certify that on this

28

Day

day of

June

Month

,

2Y

0Y

1Y

3Y

I served a copy of the forgoing motion or request to each Applicant, Petitioner, Appellant, Party, Intervenor, and the Office of Planning on

the above referenced BZA case via:

☒ Mailed letter

☐ Hand delivery

☐ E-Mail

☐ Other \_\_\_\_\_

Signature:

Print Name:

Grant W. Epstein

Firm/Organization:

Community Three Development, LLC

Address:

515 Eighth Street, SE Second Floor Washington, DC 20003

Phone No.:

202-543-8002

E-Mail:

gwe@communitythree.com

To be notified of hearing and decision: (Maker of Motion or Authorized Agent)

In the event an authorized agent files a motion on behalf of the Maker of the Motion, a letter signed by the Maker of the Motion authorizing the agent to act on his/her behalf shall accompany the notice of application, petition, or appeal.

Print Name:

Grant W. Epstein

Address:

515 Eighth Street, SE Second Floor Washington, DC 20003

Phone No.:

202-543-8002

E-Mail:

gwe@communitythree.com



**BEFORE THE BOARD OF ZONING ADJUSTMENT  
OF THE DISTRICT OF COLUMBIA**



**FORM 126 – BOARD OF ZONING ADJUSTMENT FEE CALCULATOR**

Per §3180 of the Zoning Regulations, at the time of the filing of an application or an appeal with the Board of Zoning Adjustment, the applicant or appellant shall pay a filing fee in accordance the fee calculator below. In the case of an application combining two (2) or more actions, or for an application requesting consideration of more than one alternative, the fee shall be the total of the amounts for each action or alternative computed separately. However, for applications involving owner-occupied, one-family dwellings or flats, regardless of the number of variances, special exceptions, or alternatives requested, the fee is three hundred and twenty-five dollars (\$325.00). A department, office, or agency of the Government of the District of Columbia shall not be required to pay a filing fee where the property is owned by the agency and the property is to be occupied for a government building or use.

| APPLICATION OR APPEAL TYPE:               | FEE     | UNIT | TOTAL |
|-------------------------------------------|---------|------|-------|
| <b>VARIANCE:</b>                          |         |      |       |
| Owner-Occupied Dwelling                   | \$325   |      |       |
| All Other Variances Per Section Requested | \$1,040 |      |       |
| <b>TOTAL FOR VARIANCES:</b>               |         |      |       |

|                                                                    |         |   |                 |
|--------------------------------------------------------------------|---------|---|-----------------|
| <b>SPECIAL EXCEPTION:</b>                                          |         |   |                 |
| Parking Lot/Garage/Accessory Parking (per space)                   | \$104   |   |                 |
| Child Development Center (per student)                             | \$33    |   |                 |
| Private School (per student)                                       | \$33    |   |                 |
| Residential Under §353                                             | \$520   |   |                 |
| CBRF (per person)                                                  | \$104   |   |                 |
| Office Use in SP (per 100 square feet)                             | \$52    |   |                 |
| Roof Structures                                                    | \$2,600 |   |                 |
| Hotel or Inn in SP (per room or suite)                             | \$104   |   |                 |
| Gasoline Service Station                                           | \$5,200 |   |                 |
| Repair Garage                                                      | \$1,560 |   |                 |
| Home Occupation                                                    | \$1,560 |   |                 |
| Accessory Apartment Under §202                                     | \$325   |   |                 |
| Theoretical Lot Under §2516                                        | \$1,560 |   |                 |
| Additional Theoretical Lot Under §2516                             | \$520   |   |                 |
| Recycling Facility Under §802                                      | \$5,200 |   |                 |
| Antenna Under §211                                                 | \$2,600 |   |                 |
| Any Other Special Exception                                        | \$1,560 |   |                 |
| Chancery (per 100 square feet)                                     | \$65    |   |                 |
| Owner-Occupied Special Exception                                   | \$325   |   |                 |
| Time Extension/Modification – Owner Occupied                       | \$130   |   |                 |
| Time Extension/Modification – All other (percentage of filing fee) | 26%     | 1 | \$270.40        |
| <b>TOTAL FOR SPECIAL EXCEPTIONS:</b>                               |         |   | <b>\$270.40</b> |

|                                                                  |         |  |                 |
|------------------------------------------------------------------|---------|--|-----------------|
| <b>APPEAL:</b>                                                   |         |  |                 |
| NCPC/ANCs/Citizens Association/Civic Association/Not-for-Profits | \$0     |  |                 |
| All other organizations, groups or persons                       | \$1,040 |  |                 |
| <b>TOTAL FOR APPEALS:</b>                                        |         |  |                 |
| <b>GRAND TOTAL:</b>                                              |         |  | <b>\$270.40</b> |

I/We certify that the above information is true and correct to the best of my/our knowledge, information and belief. Any person(s) using a fictitious name or address and/or knowingly making any false statement on this application/petition is in violation of D.C. Law and subject to a fine of not more than \$1,000 or 180 days imprisonment or both. (D.C. Official Code § 22 2405)

Name: Grant W. Epstein Signature: 

Exhibit No. \_\_\_\_\_ Last Revised (10/18/10) Case No. 18390

RECEIVED  
D.C. OFFICE OF ZONING  
2013 JUN 28. PM 12: 26

**DONOHUE & STEARNS PLC**

801 N FAIRFAX ST STE 209  
ALEXANDRIA, VA 22314

1623

DATE June 28, 2013

15-172/540  
203

PAY  
TO THE  
ORDER OF

DC Treasurer

\$ 270.40

Two hundred and seventy dollars and

40/100

DOLLARS

 Security  
Features  
Details on  
Back



**Bank**

America's Most Convenient Bank®

FOR Min Mod Recy 18390

E.C. Donlin

MP

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Board of Zoning Adjustment**



**Application No. 18390 of Community Three Development LLC**, pursuant to 11 DCMR § 3103.2, for a variance from the drive aisle width requirements under § 2117.5 and a variance from the compact space requirements under § 2115.2, to allow the conversion of an existing building into a 22-unit, four-story multi-family residential building, in the C-2-A District at premises 435 R Street, N.W. (Square 508, Lots 52, 53, and 66).<sup>1</sup>

**HEARING DATE:** July 31, 2012  
**DECISION DATE:** July 31, 2012

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 5 and 23.)

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, and by mail to Advisory Neighborhood Commission (“ANC”) 2C and to owners of property within 200 feet of the site as well as to the Office of Planning (“OP”). The site of this application is located within the jurisdiction of ANC 2C, which is automatically a party to this application. ANC 2C submitted a written report of support. The ANC’s report indicated that at a duly noticed and regularly scheduled meeting held June 6, 2012, at which a quorum was present, the ANC voted 3:0:0 to support the application. (Exhibit 28.)

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<sup>1</sup> The Applicant amended the application and at the hearing reconfirmed that it was seeking area variances under §§ 2115.2 and 2117.5. (Exhibit 23.) There are 11 required parking spaces; in its revised plan the Applicant will provide nine legal spaces and two compact spaces. According to the Office of Planning report, the 11 parking spaces proposed in the Applicant’s revised proposal would satisfy the off-street parking requirements under § 2101.1, so that variance relief under that subsection would no longer be required.

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441 4<sup>th</sup> Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone: (202) 727-6311

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Web Site: [www.dcoz.dc.gov](http://www.dcoz.dc.gov)

Board of Zoning Adjustment  
District of Columbia  
CASE NO 18390  
EXHIBIT NO.

**BZA APPLICATION NO. 18390**  
**PAGE NO. 2**

The Office of Planning ("OP") submitted a report dated July 24, 2012, recommending approval of the application. (Exhibit 24.) The District Department of Transportation ("DDOT") submitted a report that recommended approval of the application.<sup>2</sup> (Exhibit 27.)

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3103.2, for area variances from the drive aisle width requirements under § 2117.5 and from the compact space requirements under § 2115.2, to allow the conversion of an existing building into a 22-unit, four-story multi-family residential building.

Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the Applicant has met the burden of proving under 11 DCMR §§ 3103.2, 2117.5, and 2115.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates an undue hardship for the owner in complying with the Zoning Regulations, 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. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT** to the approved revised plans, as shown on Exhibit 25.

**VOTE: 4-0-1** (Lloyd J. Jordan, Peter G. May, Rashida Y.V. MacMurray, and Jeffrey L. Hinkle to **Approve**; Nicole C. Sorg, not present or participating, not voting.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this summary order.

**ATTESTED BY:**



**for**

**SARA A. BARDIN**  
**Director, Office of Zoning**

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<sup>2</sup> In its report recommending approval of the application, DDOT also recommended a loading management plan and transportation demand measures. At the hearing, the Board asked the Applicant about DDOT's recommendations and it was pointed out that those recommendations seemed to relate to the application before it was amended. The Applicant indicated that the revised application requested less relief than originally sought. DDOT did not attend the hearing. The Board did not impose DDOT's recommended conditions.

**FINAL DATE OF ORDER: August 6, 2012**

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

## Zoning Variance Submission

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*for*  
*435 R Street, NW • Washington, DC • 20001*

May 21, 2012



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## Aerial Photograph

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435 R Street, NW • Washington, DC • 20001

May 21st, 2012



*View of the R Street facade*



*View inside the structure*



*View of abandoned chemical press*



*View of old drying machines*



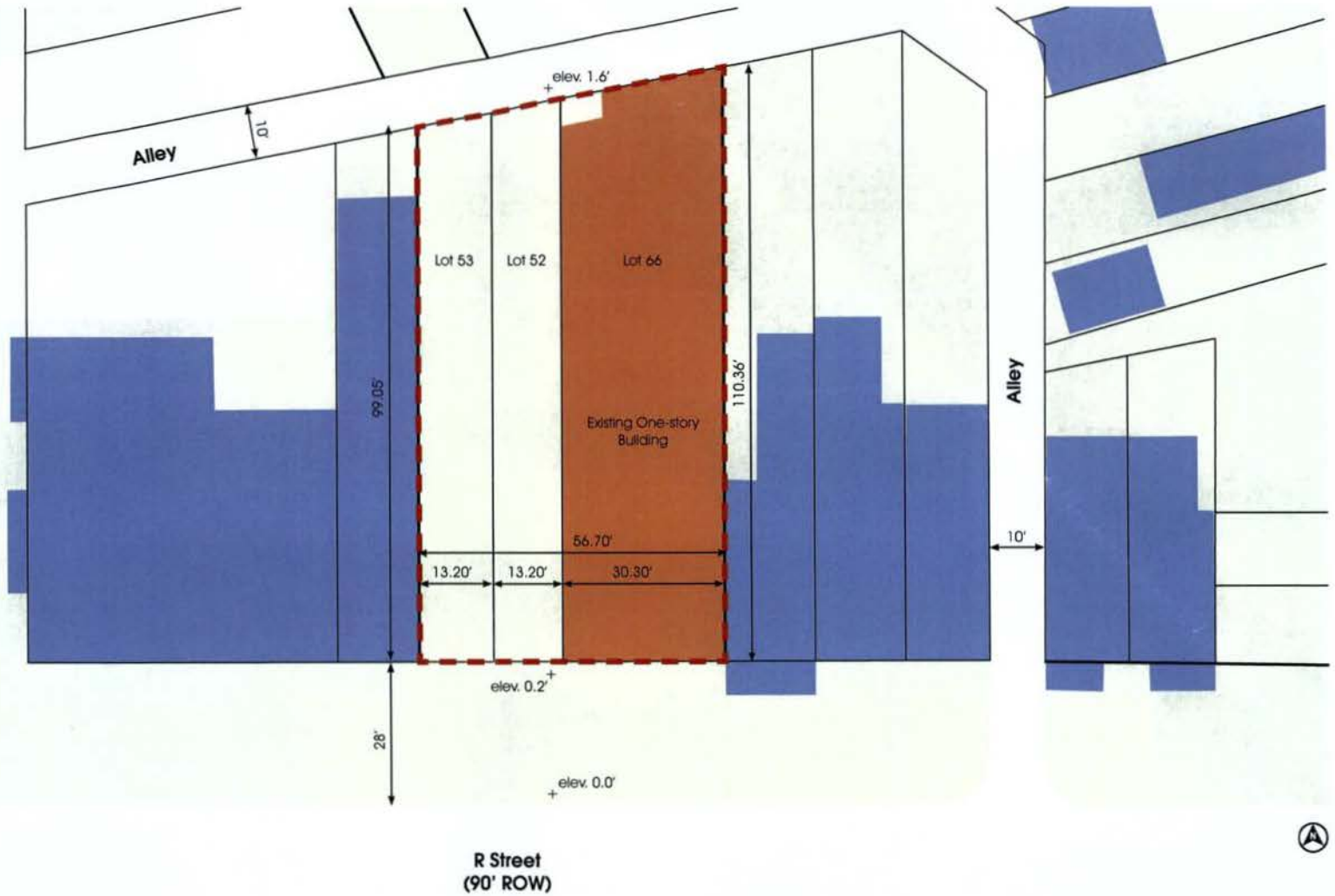
*View of the rear of the property*



*View of the roof structure*

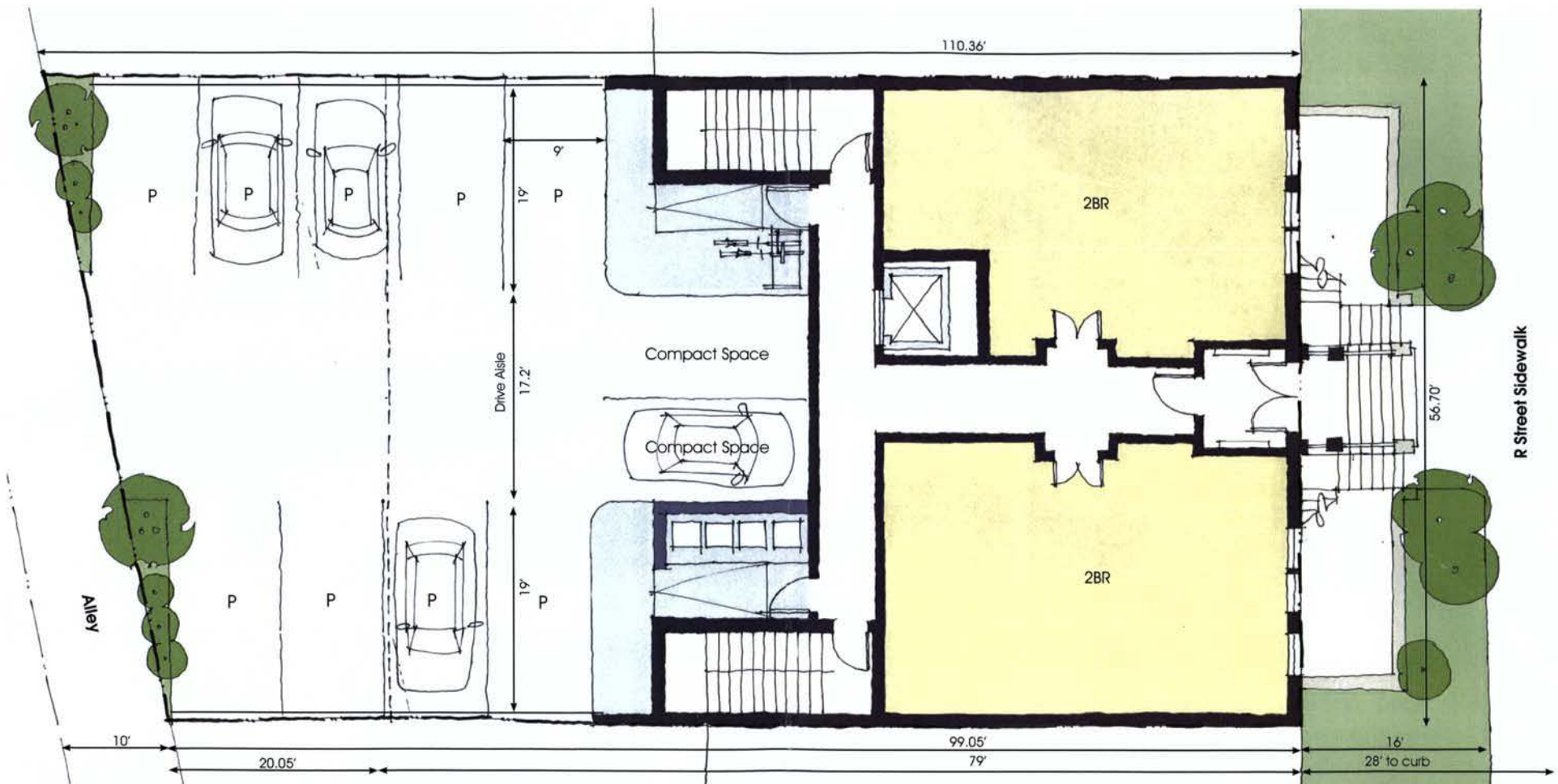
## Site Photographs

5th Street  
(80' ROW)



**Existing Plan**





Existing Parking: 0 Spaces  
 Required Parking Spaces: 11 Spaces (1 per 2 dwellings)<sup>1</sup>  
 Proposed Parking Spaces: 11 Spaces (1 per 2 dwellings)



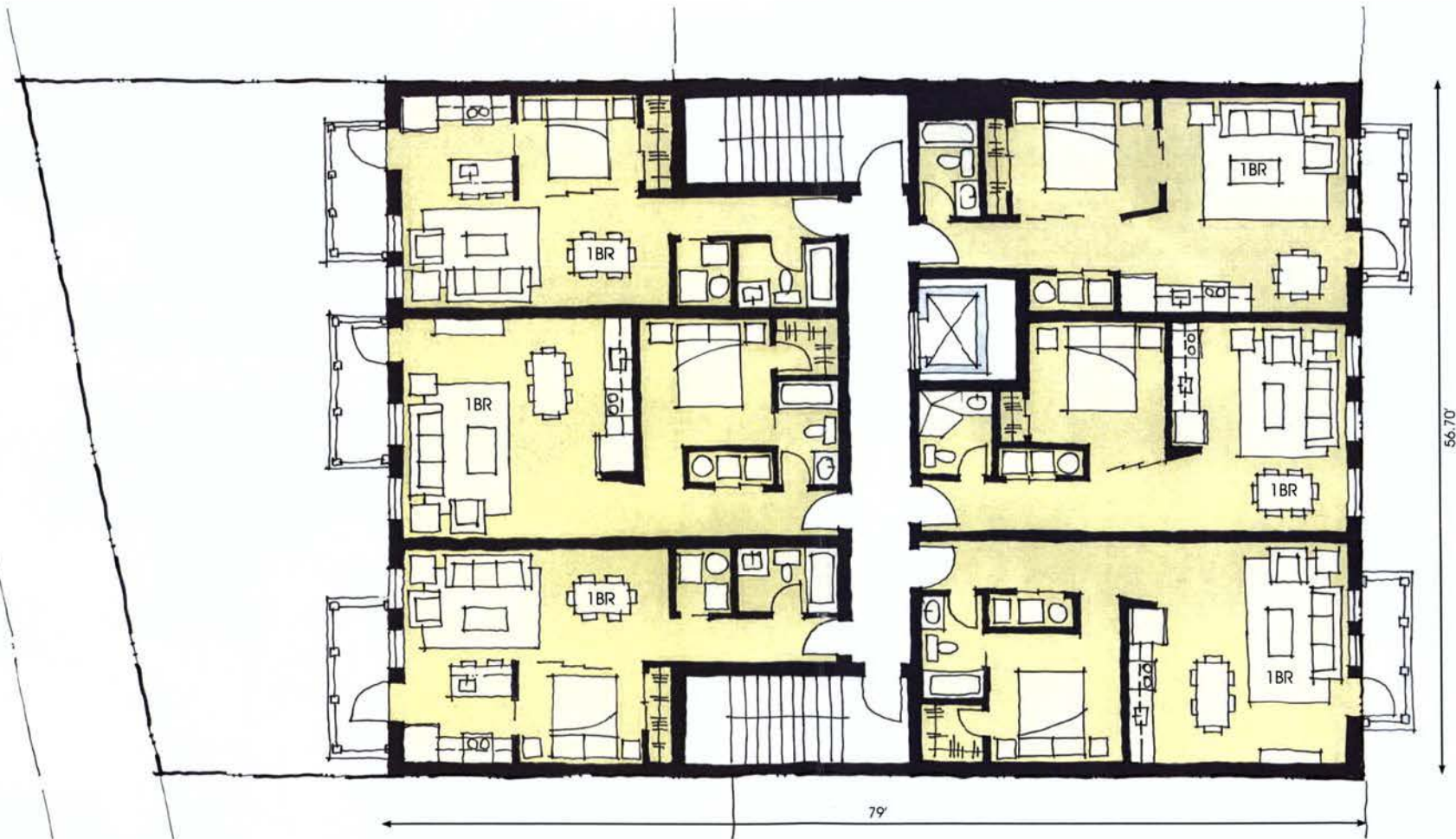
<sup>1</sup>According to DC Zoning Ordinance, Section 2101.1, one (1) parking space is required for every two (2) dwelling units in an R4 zone. A total of 22 dwelling units are proposed, resulting in a requirement of 11 total parking spaces.

## Proposed Ground Floor Plan

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435 R Street, NW • Washington, DC • 20001

May 21st, 2012

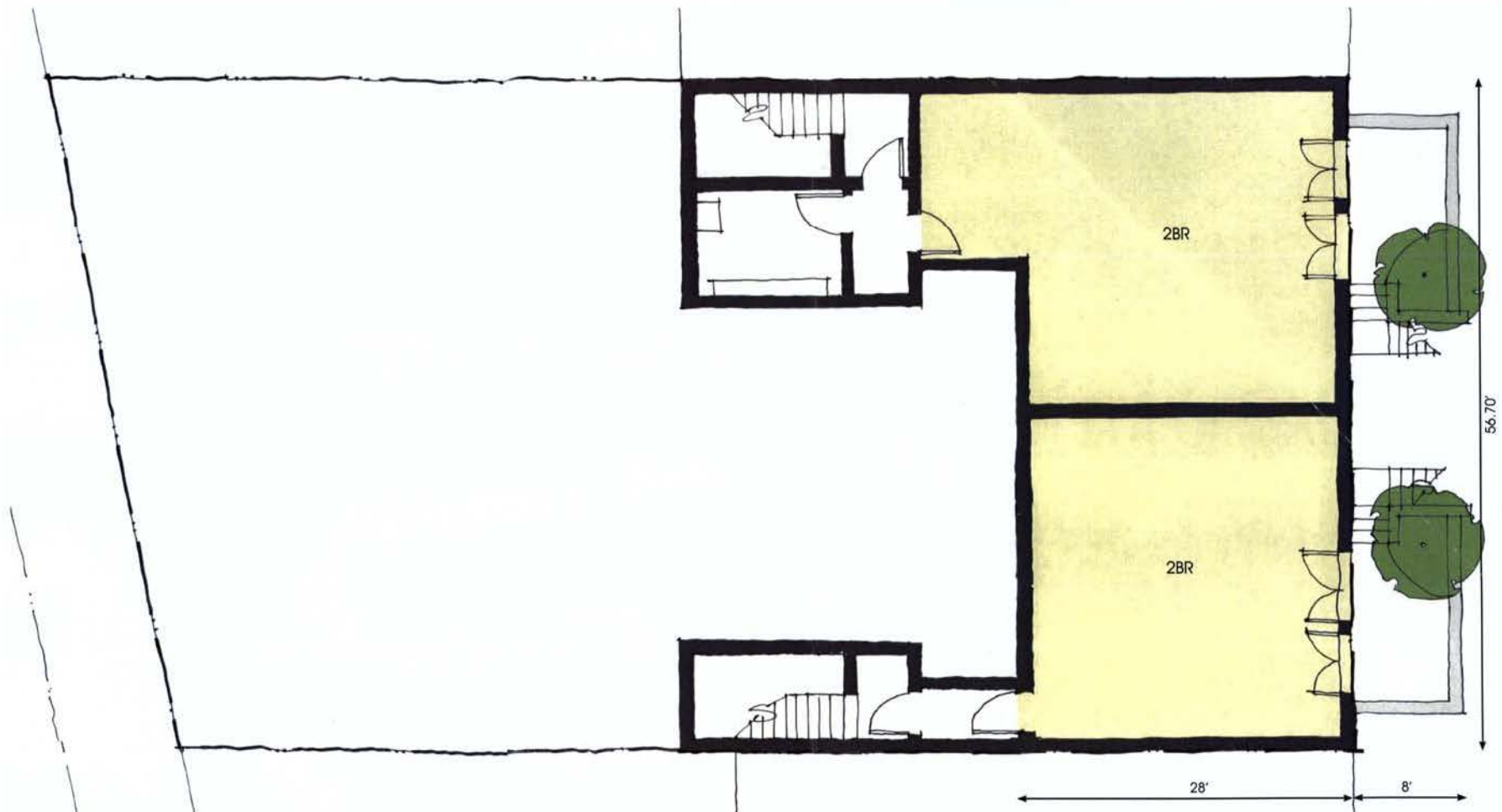


## Proposed Typical Floor Plan

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435 R Street, NW • Washington, DC • 20001

May 21st, 2012



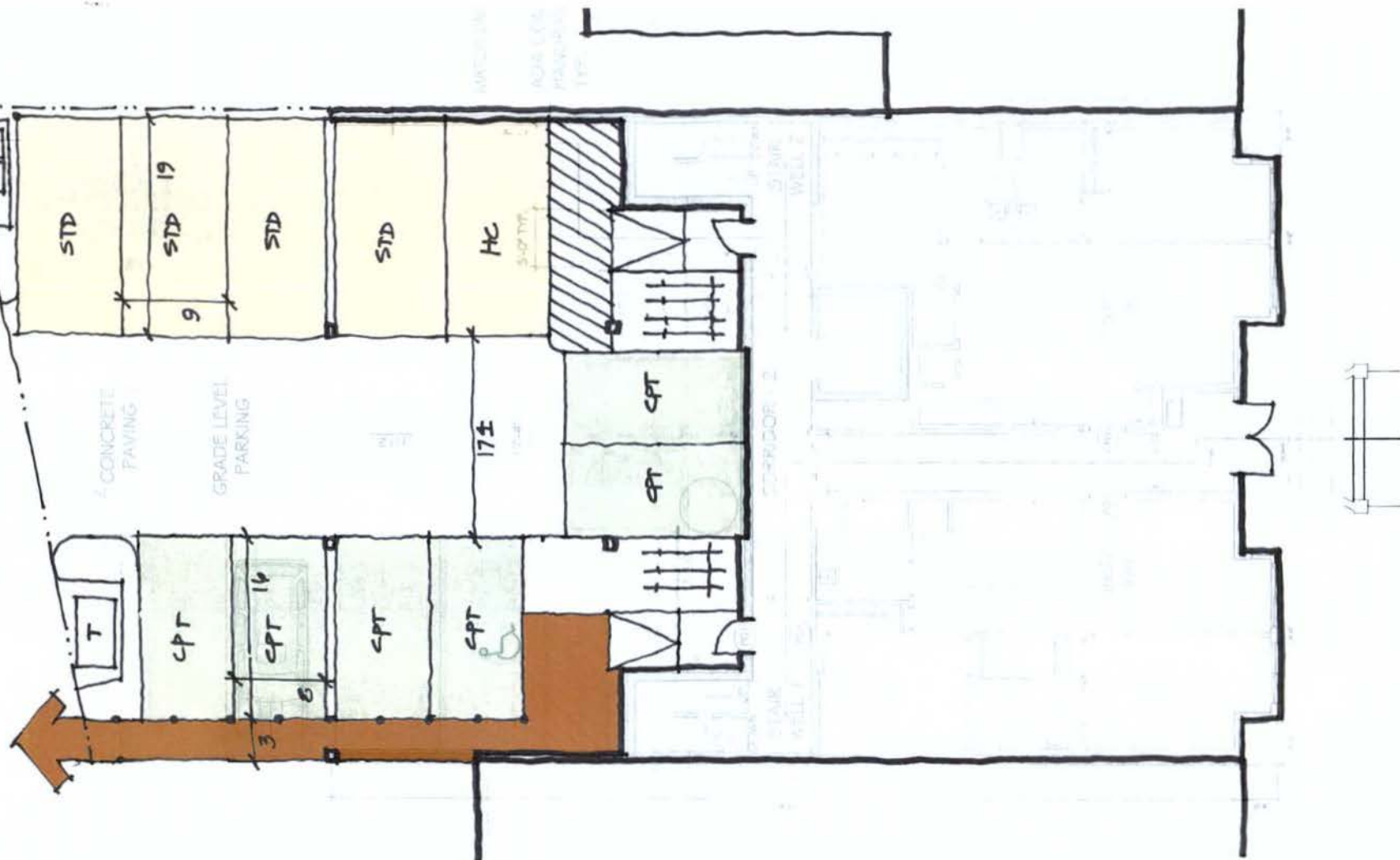
## Proposed Lower Floor Plan

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435 R Street, NW • Washington, DC • 20001

May 21st, 2012

ALLEY



## Revised Ground Floor Plan

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435 R Street, NW • Washington, DC • 20001

June 2013