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May 7, 2013

Via Hand Delivery

Board of Zoning Adjustment
for the District of Columbia
441 4th Street, N W, Suite 210S
Washington, DC 20001

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D.C. OFFICE OF ZONING
2013 MAY -7 PM 4: 16

Re BZA Application No. 18511 of Alleyoop, LLC/1018 Irving Street, NW
Amended and Restated Application

Dear Board Members:

At the April 30 Public Meeting, the Board approved a motion to table the decision pending a subsequent submission by the Applicant. The Applicant greatly appreciates the Board's willingness to allow a supplemental submission at this juncture.

The Applicant has considered various alternatives to the proposed project submitted with the Initial Submission. The Applicant, after carefully listening to the Board's comments during the Public meeting, is hopeful that this supplemental proposal will address any and all concerns. While none of the alternatives contemplated are financially viable, as stated in the Initial Application, the Applicant has worked with OP in developing a proposed project that allows the Applicant to recoup some of the costs associated with revitalization of the Property while requiring substantially less zoning relief from the Board. The Applicant speculates that with a long-term hold approach, the losses associated with the project may be minimized.

The new proposal includes subdividing the existing lot from one large lot into three smaller lots. One lot will serve as a small, low-intensity office similar to the use presented previously. The two remaining lots will be artist studios, a use permitted as a matter of right. The two stories of multifamily residential use and the vast majority of the height relief associated with that request have been removed. Other than for the office use, which the Office of Planning previously supported, the project now requires only limited area variance relief.

The Amended and Restated Submission package includes

- A Amended and Restated Statement of the Applicant
- B Revised Form 135 for Each Proposed Subdivided Lot
- C Revised Subdivision Plat
- D Revised Architectural Plans
- E Diagram

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18511
EXHIBIT NO. 45

Respectfully submitted,

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS, LLP


By Meredith H. Moldenhauer

Enclosures

Cc Ms Jennifer Steingasser, Office of Planning (via email)
Mr. Joel Lawson, Office of Planning (via email)
Mr Paul Goldstein, Office of Planning (via email)
Advisory Neighborhood Commission 1A, c/o Commissioner Thomas Boisvert, Chair (via email)
Mr Adetokunbo Ladejobi (via email)

EXHIBIT A

EXHIBIT A

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

**APPLICATION OF
ALLEYOOP, LLC**

**1018 (REAR) IRVING STREET NW
ANC 1A**

AMENDED AND RESTATED STATEMENT OF THE APPLICANT

I. NATURE OF RELIEF SOUGHT

This Amended and Restated Statement of the Applicant is submitted on behalf of Alleyoop, LLC (the “Applicant”), the owner of an alley lot located at 1018 Irving Street NW, Lot 837 in Square 2851 (the “Property”), in support of its revised application for variance relief, pursuant to 11 DCMR §3103.2. The new proposal requests relief from the alley lot requirements (§2507), the use requirements exclusively for the office use (§330), and the nonconforming structure requirements (§2001), lot area and width requirements (§401), rear yard requirements (§404), and side yard requirements (§404.1) to allow the Applicant to subdivide an alley lot into three separate lots and convert an existing automotive repair shop to an office use and two artist studios in the R-4 District at the Property located within on an alley lot. See Revised Form 135 at Exhibit B and Revised Subdivision Plat at Exhibit C.

II. JURISDICTION OF THE BOARD

The Board of Zoning Adjustment (the “Board” or “BZA”) has jurisdiction to grant the variance relief requested herein pursuant to §3103.2 of the Zoning Regulations.¹

III. DESCRIPTION OF THE PROPOSED DEVELOPMENT

As shown on the revised architectural plans, see Revised Architectural Plans at Exhibit D, the Applicant proposes to subdivide the existing alley lot into three separate lots. The lots are labeled as “Lot A,” “Lot B,” and “Lot C.” Each subdivided lot will have a portion of the existing automotive repair

¹ Due to the reduction in relief submitted in this amended and restated statement of the application, we respectfully submit that no additional notice is required. However, if the Board determines otherwise the Applicant will renote the community and repost the Property.

structure Lot A will have an office Lots B and C will have artist studios The Applicant will preserve the existing building and the existing footprint will remain the same After careful consideration of the Board's concerns, the Applicant has substantially reduced the size of the project The existing height, at 18.5 feet, will be increased slightly to 19.5 feet tall, which is scaled back significantly from the 39.5 foot story structure in the Initial Submission. The office component will be used as an Architecture and Design office for a local residential design-build company Operation of the office will be during the day and by appointment only

IV. THE APPLICANT MEETS THE BURDEN OF PROOF FOR VARIANCE RELIEF

A. The Property is Unusual Because of its Size, Shape or Topography and is Affected by an Exception Situation or Condition

As discussed in great detail in previous submissions and at the Public Hearing, the Property is unusual and affected by an exceptional situation and condition as a result of a confluence of the following factors: (1) the large size and irregular shape of the Property, (2) the physically deteriorated condition of the building including a compromised roof structure, deteriorating exterior walls, water damage, and fire damage, (3) the contamination of the site as a result of the Property's prolonged use as an automotive repair shop, and (4) the presence of a network of alleys surrounding the lot rather than just one alley.

B. Strict Application of the Zoning Regulations Result in Practical Difficulty to the Owner

Strict application of the zoning regulations in this case would result in a practical difficulty and undue hardship to the Applicant The exceptional condition of the Property makes any matter-of-right use impractical. Any use other than an artist studio, including a single family home, would require zoning relief. The continued use as an automotive repair shop would require relief under 2507.3 to restore and repair the existing structure. As demonstrated in the Initial Application, utilization of the entire Property in its current condition for any of the permitted matter-of-right uses is not financially feasible The same is true of the parking and storage uses permitted only by special exception ²

² The Applicant respectfully points out that if the Property were used for parking or storage, under a special exception standard, the intensity of use from both additional cars and moving trucks has the potential to cause more damage to surrounding homes

The Applicant submits this amended and restated application following extensive dialogue with its partners in hopes of creating a more acceptable alternative. By subdividing the lot into three separate lots, the Applicant can greatly reduce the relief being requested and create three lots that can be separately sold or held for long term investment. Future development options may be available following adoption of the ZRR. Due to the substantial size of the lot, division into the three lots creates lots of a similar size to those already on the Square. The revised proposal reduces the costs associated with construction but is still predicted to result in a loss or a breakeven project at best. This revised proposal has been submitted to hopefully avoid a more daunting circumstance resulting from an outright denial by the Board.

1 Office and Artist Studio Use

Use of Lot A under the revised plans for office use requires the same relief as the prior proposal under the use restriction in an R-4 District (§330.4). The Office of Planning recommended approval of the zoning relief requested with respect to the office use proposed by the Initial Submission. As stated previously, while the amount of commercial space is being substantially reduced, and a far less offensive use permitted in a more restrictive zone as a matter of right is taking its place, use variance relief is required from §330.4 to allow office use in an R-4 District. The Applicant revised the proposal to further reduce the square footage devoted to office use from 2660 square feet to 2300 square feet. The justification for such relief remains unchanged from the Initial Application.

The revised proposal removes the five-unit residential use, which required a use variance. Instead, Lots B and C will be used as artist studios, a permitted use as a matter of right on alley lots under §2507.5. Therefore, by reducing the square footage devoted to office and replacing multiunit residential use with artist studio use, the revised application drastically reduces the use variance relief required.

2 Subdivision

To reduce the amount of relief necessary, the Applicant intends to subdivide the Property into three lots. The subdivision modifies the prior relief with respect to the requirements for lot occupancy, lot

area and lot width, rear yard, and side yards *See Diagram at Exhibit E* The Property currently has a lot occupancy of 69% The maximum allowed for office and artist studios, grouped into “all other structures” under §403.2, is 40% The proposed Lots A and B will reduce the existing nonconforming lot occupancy but still require relief at 57% lot occupancy and 67% lot occupancy respectively Lot C, at 85% lot occupancy after subdivision, also requires lot occupancy relief. The second floor of the structure on Lot C is reduced by 250 square feet relative to the first floor, a 16% decrease While the new lot lines change the lot occupancy on each lot, the footprint of the existing structure will remain unchanged.

Subdivision also requires lot area and lot width relief. While row dwellings and flats require only 1800 square feet and 18 feet in width, the office and artist use are again grouped into the “all other structures” under 401.3, which requires 4000 square feet of lot area and 40 feet in lot width Lot A is 2301 sq ft and Lots B and C are 1800 sq ft Thus, all 3 require lot area relief Lot C, at 35.6 feet wide, also requires lot width relief

Subdivision also modifies the existing nonconforming rear yard and side yard relief required. An R-4 District requires a 20 foot rear yard While lots A and B both have 24.8 foot side yards, division of the existing structure into three segments on three different lots does not allow for a compliant rear yard to be provided for any of the three lots Lots A and B have no rear yard Lot C has a rear yard of 5 feet Lot C also has a nonconforming side yard. A side yard is not required in an R-4 District, however if one is provided, it must be 3 in/foot of height but no less than 8 feet The side yard is 2'-4" Thus, side yard relief is required for Lot C While relief is being requested for the various rear and side yards of the new lots, the size and orientation of the footprint of the existing structure remains unchanged.

The lot occupancy, lot area, lot width, rear yard, and side yard requirements discussed above cannot be met without wasteful demolition of the existing nonconforming structure on the lot. Regardless of how the lots are subdivided, a similar combination of relief would be required. Again, the footprint of the structure on the lot will remain unchanged

3 Height

Under §2507.4, the height of an alley structure may not be greater than the distance from the opposite side of the abutting alley to the outside wall of the structure nearest the alley. When all three alleys are considered, the most restrictive allows for a height of 12.4 feet. The existing structure is 18.5 feet tall which may be continued as an existing nonconformity. The revised proposal increases the height, as measured to the top of the finished ceiling, by 1 foot and thus variance relief is required.

Above the ceiling height is a roof peak and 2'-9" parapet. The roof peaks, sloping in two directions, which is necessary for proper stormwater management. Due to the large site and lack of existing stormwater sewer system, the Applicant has sloped the roof to direct as much runoff as possible to the side yard to be piped into drywells and catch basins. The sloped roof also allows for a small attic space to house the HVAC air handling unit and ductwork trunk lines.

The existing one-story structure, at 18.5 square feet, must be divided into two stories to reduce first floor use due to the environmental conditions at the site. Furthermore, an office or matter-of-right use such as an artist studio occupying a single 18.5 foot tall space would be inefficient and present marketing difficulties. Division into two stories allows for a more conventional layout in the spaces.

The repair and 1 foot addition is pulled back from the property line on the southern end to allow for light and air on neighboring properties. As described in great detail in prior submissions, the existing structure is in poor condition due to a damaged roof structure, deteriorating exterior walls, water damage, and fire damage. The capacity of the existing masonry walls to support the roof structure, which must be replaced, has been compromised. Setbacks are inefficient from a construction and waterproofing perspective. The Applicant contemplated setbacks on the second story but any additional setbacks require additional interior columns, which makes achieving a proper interior parking layout difficult.

The parapet allows for the rooftop mechanical equipment to be hidden by a small architectural embellishment. Additionally, in order to create quality art studios, large windows are necessary on the

second floor. These windows reach all the way to the ceiling and the parapet adds a proportionate scale to the significantly masonry building.

4 Parking

Due to the prior use as an automotive repair shop on 4,071 square foot, the automotive repair shop was required to provide 24 parking spaces but provided none. Thus the Property has 24 parking credits. While the required parking for the artist studio and office uses is far less than 24 spaces, the Applicant has provided 9 parking spaces on site. Thus no parking relief is necessary. Use of personal cars on the alley will cause little or no damage, particularly in comparison to storage trucks, tow trucks, delivery trucks, moving trucks and other vehicles necessary for an auto repair shop or other potential uses.

C. No Substantial Detriment to the Intent, Purpose and Integrity of the Zoning Plan

There will be no substantial detriment to the public good or impairment to the intent, purpose, and integrity of the zone plan by approving the zoning relief. The ANC voted to support the original Application, which included significantly more relief, and is entitled great weight. The requested variance is in furtherance of the public good and zoning regulations. The zoning relief will permit renovation of a dilapidated automotive repair shop. An automotive repair shop, which relies upon a significant number of unscheduled daily visitors and the use of combustible chemicals and solvents, is incompatible with a residential district. The Applicant is expending considerable resources to resolve environmental and health related hazards at the Property as a result of the prior use. The office use proposed by the applicant is far more in keeping with the intent of the R-4 District and the artist studios are permitted as a matter of right. As described previously, the Applicant has carefully considered waste management, traffic patterns, pedestrian friendliness, and safety in the alley and submits that the proposed project will improve the alley.

The 1 foot addition is consistent architecturally with the surrounding neighborhood and provides the requisite light and air necessary. Furthermore, as testified to at the hearing, all rear yards on the block

are required to have 20 foot rear yards and the alley lot is surrounded on three sides by public alleys
Thus, the new proposed height will have a limited impact on the light and air of neighboring property owners

For the reasons stated, the proposed project adequately balances the Zoning Regulations' goals of protecting neighboring properties and modernizing a deteriorating property into a functional, beneficial condition

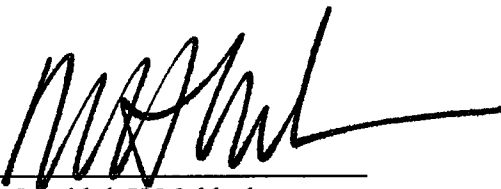
V. CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards for variance relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests that the Board grant the application

Respectfully submitted

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS, LLP

By. _____



Meridith H Moldenhauer
1912 Sunderland Place, N W
Washington, D C 20036
(202) 429-9000

EXHIBIT B

EXHIBIT B

Lot A ("office")

Revised 1/1/11

INSTRUCTIONS

Any request for self-certification that is not completed in accordance with the following instructions shall not be accepted.

1. All self-certification applications shall be made on this form. All certification forms must be completely filled out (front and back) and be typewritten or printed legibly. All information shall be furnished by the applicant. If additional space is necessary, use separate sheets of 8½" x 11" paper to complete the form.
2. Complete one self-certification form for each application filed. Present this form with the Form 120 - Application for Variance/Special - Exception to the Office of Zoning, 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001. (All applications must be submitted before 3:00 p.m.)

ITEM	EXISTING CONDITIONS	MINIMUM REQUIRED	MAXIMUM ALLOWED	PROVIDED BY PROPOSED CONSTRUCTION	VARIANCE Deviation/Percent
Lot Area (sq. ft.)	5901 sq. ft.	4000 sq. ft.	-	2301 sq. ft.	42% (401.3)
Lot Width (ft. to the tenth)	109.9 ft	40 ft	-	74.3 ft	-
Lot Occupancy (building area/lot area)	69%	-	40%	57%	2001.3 (403.2)
Floor Area Ratio (FAR) (floor area/lot area)					
Parking Spaces (number)	0 (24 credits TOTAL)	4 spaces (1/600 sf)	-	2 spaces	-
Loading Berths (number and size in ft.)					
Front Yard (ft. to the tenth)					
Rear Yard (ft. to the tenth)	0	20 ft.	-	0	404.1
Side Yard (ft. to the tenth)	24.8 feet	8 feet	-	24.8	
Court, Open (width by depth in ft.)					
Court, Closed (width by depth in ft.)					
Height (ft. to the tenth)	18.5 ft	-	12.4 ft	19.5 ft	1 ft.

If you need a reasonable accommodation for a disability under the Americans with Disabilities Act (ADA) or Fair Housing Act, please complete Form 155 - Request for Reasonable Accommodation.



District of Columbia Office of Zoning - 441 4th Street, N.W. Ste. 200-S, Washington, D.C. 20001
(202) 727-6311 * (202) 727-6072 fax * www.dcoz.dc.gov * dcoz@dc.gov

Lot B (artist studio 1)

Revised 1/1/11

INSTRUCTIONS

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ITEM	EXISTING CONDITIONS	MINIMUM REQUIRED	MAXIMUM ALLOWED	PROVIDED BY PROPOSED CONSTRUCTION	VARIANCE Deviation/Percent
Lot Area (sq. ft.)	5901 sq. ft.	4000 sq. ft.	-	1800 sq. ft.	55% (401.3)
Lot Width (ft. to the tenth)	109.9 ft	40 ft	-	74.3 ft	-
Lot Occupancy (building area/lot area)	69%	-	40%	67%	2001.3 (403.2)
Floor Area Ratio (FAR) (floor area/lot area)					
Parking Spaces (number)	0 (24 credits TOTAL)	1 per 3 occupants	-	4 spaces	-
Loading Berths (number and size in ft.)					
Front Yard (ft. to the tenth)					
Rear Yard (ft. to the tenth)	0	20 ft.	-	0	404.1
Side Yard (ft. to the tenth)	24.8	8 feet	-	24.8	-
Court, Open (width by depth in ft.)					
Court, Closed (width by depth in ft.)					
Height (ft. to the tenth)	18.5 ft	-	12.4 ft	19.5 ft	1 ft. (2507.4)

If you need a reasonable accommodation for a disability under the Americans with Disabilities Act (ADA) or Fair Housing Act, please complete Form 155 - Request for Reasonable Accommodation.



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Lot C (artist studio 2)

Revised 1/1/11

INSTRUCTIONS

Any request for self-certification that is not completed in accordance with the following instructions shall not be accepted.

1. All self-certification applications shall be made on this form. All certification forms must be completely filled out (front and back) and be typewritten or printed legibly. All information shall be furnished by the applicant. If additional space is necessary, use separate sheets of 8½" x 11" paper to complete the form.
2. Complete one self-certification form for each application filed. Present this form with the Form 120 - Application for Variance/Special - Exception to the Office of Zoning, 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001. (All applications must be submitted before 3:00 p.m.)

ITEM	EXISTING CONDITIONS	MINIMUM REQUIRED	MAXIMUM ALLOWED	PROVIDED BY PROPOSED CONSTRUCTION	VARIANCE Deviation/Percent
Lot Area (sq. ft.)	5901 sq. ft.	4000 sq. ft.	-	1800 sq. ft.	55% (401.3)
Lot Width (ft. to the tenth)	109.9 ft	40 ft	-	35.6 ft	11% (401.3)
Lot Occupancy (building area/lot area)	69%	-	40%	85%	2001.3 (403.2)
Floor Area Ratio (FAR) (floor area/lot area)					
Parking Spaces (number)	0 (24 credits TOTAL)	1 per 3 occupants	-	3 spaces	-
Loading Berths (number and size in ft.)					
Front Yard (ft. to the tenth)					
Rear Yard (ft. to the tenth)	5 ft	20 ft.		5 ft	404.1
Side Yard (ft. to the tenth)		8 feet			405.6
Court, Open (width by depth in ft.)					
Court, Closed (width by depth in ft.)					
Height (ft. to the tenth)	18.5 ft		12.4 ft	19.5 ft	1 ft. (2507.4)

If you need a reasonable accommodation for a disability under the Americans with Disabilities Act (ADA) or Fair Housing Act, please complete Form 155 - Request for Reasonable Accommodation.



EXHIBIT C

EXHIBIT C

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D C , October 31, 2012

Plat for Building Permit of SQUARE 2851 LOT 837 PROPOSED SUBDIVISION

Scale 1 inch = 20 feet

Receipt No.

Furnished to LEROY JOHNSON

I hereby certify that all existing improvements shown hereon are completely dimensioned and are correctly platted that all proposed buildings or construction or parts thereof including covered porches are correctly dimensioned and platted and agree with plans accompanying the application that the foundation plans as shown hereon is drawn and dimensioned accurately to the same scale as the property lines shown on this plat and that by reason of the proposed improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this area has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or flats, or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property)

Surveyor D C

Date

By A.S

(Signature of owner or his authorized agent)

NOTE Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration and do not necessarily agree with deed description

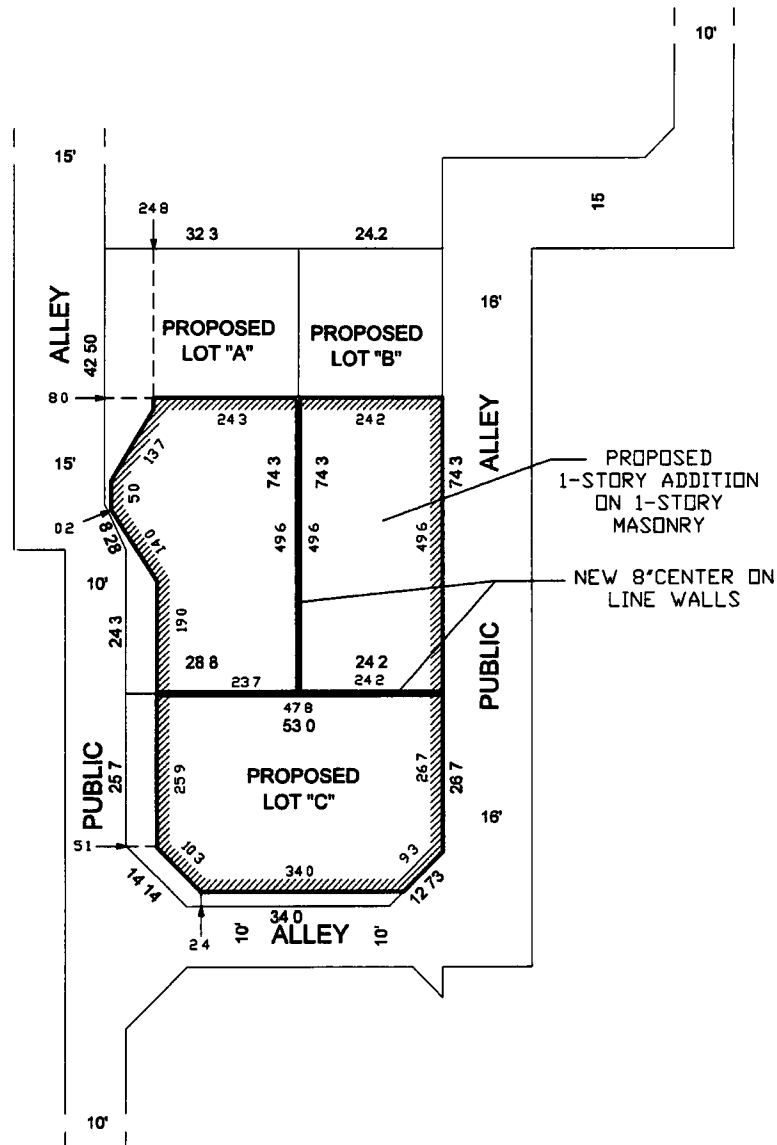
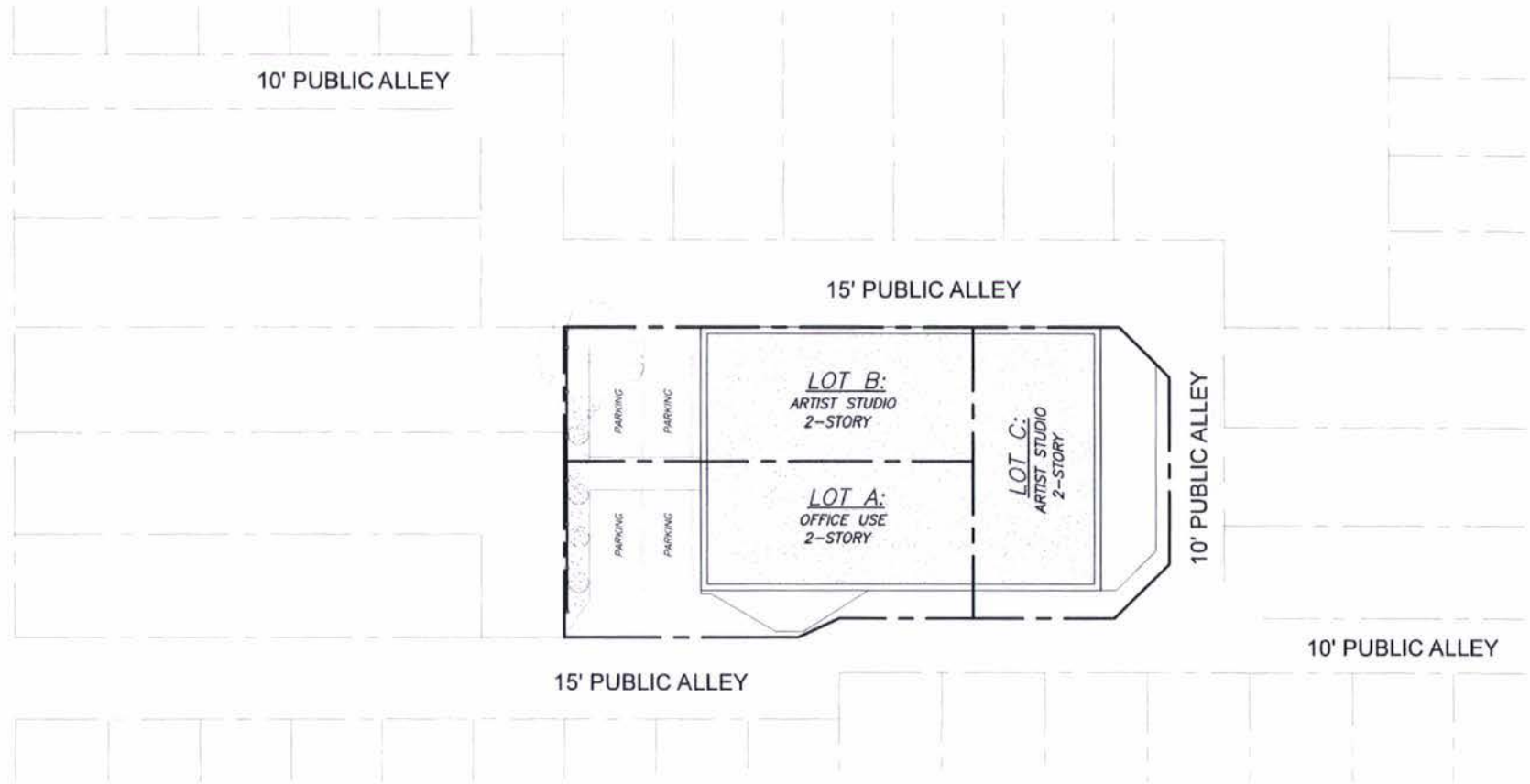


EXHIBIT D

Exhibit D

IRVING STREET, N.W.



SEVENFIVETHREE DEVELOPMENT
753 Fairmont Street NW - Washington, DC 20001 - 202.421.6776
www.sevenfivethree.com

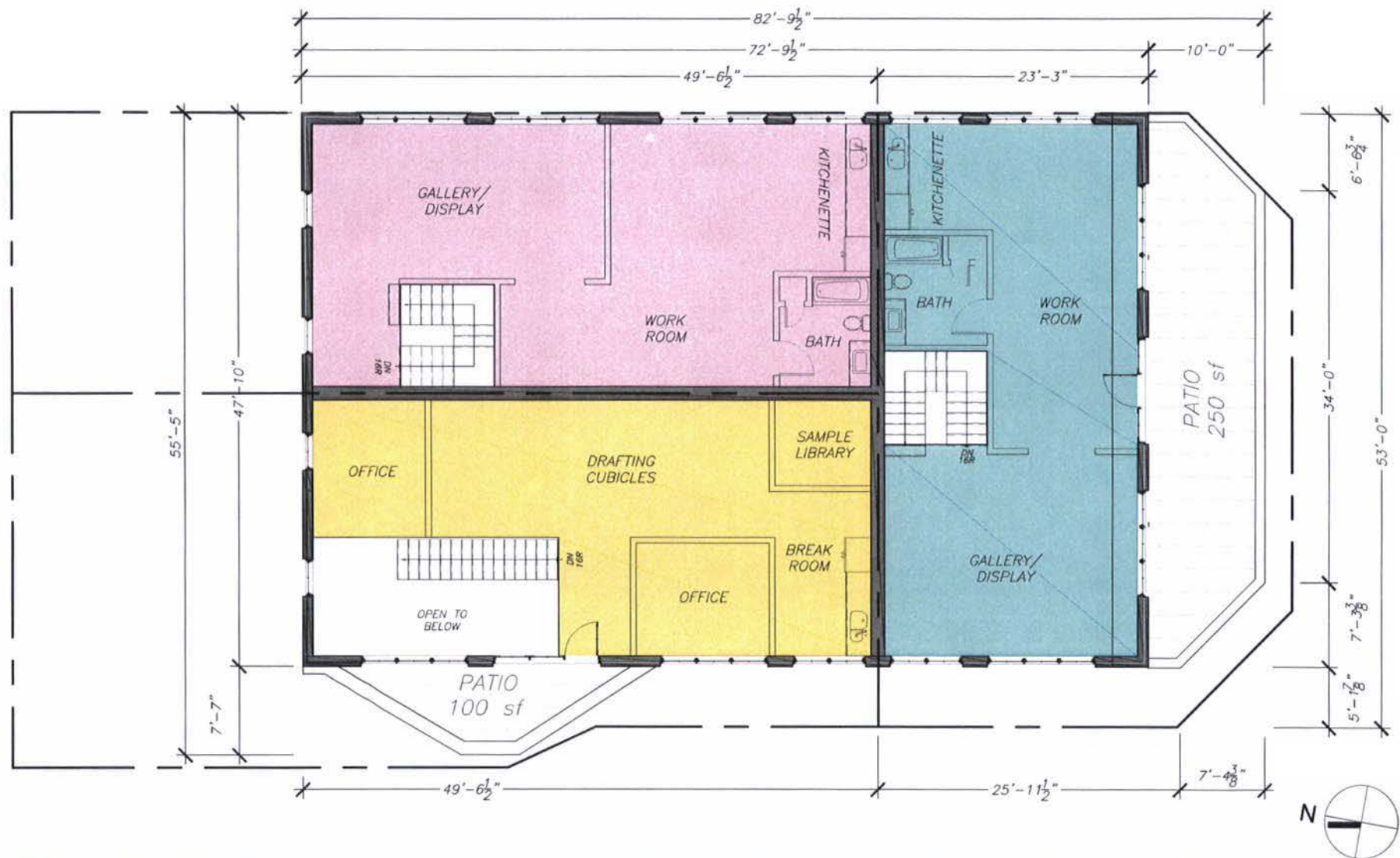
date
7 MAY 2013

scale
1" = 20'-0"

title
SITE & ROOF PLAN

sheet number
A1.0

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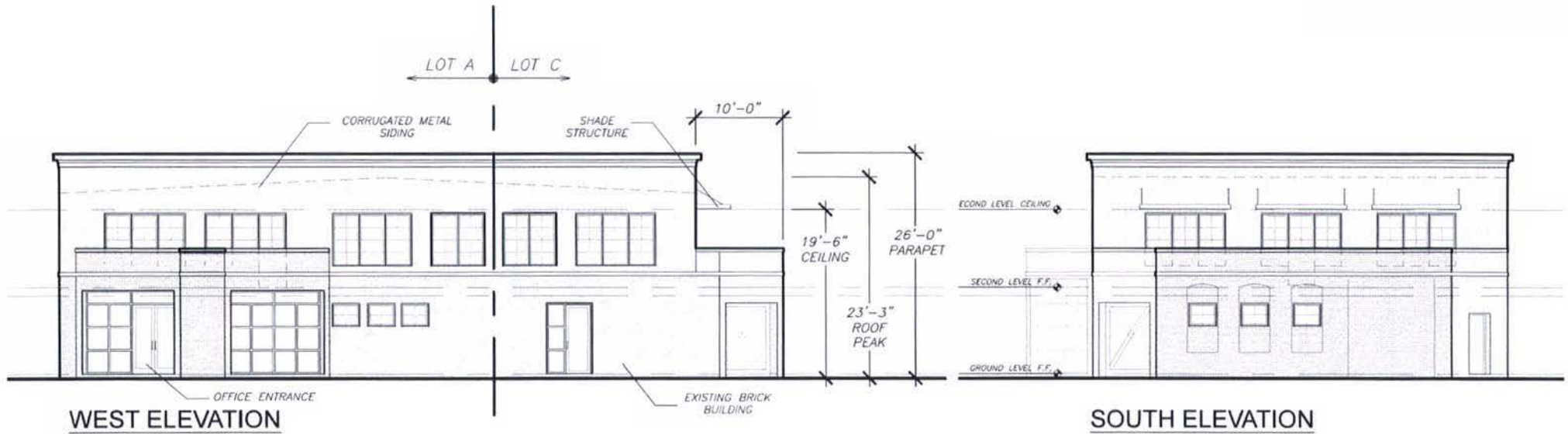
date
7 MAY 2013

scale
1/8" = 1'-0"

title
SECOND FLOOR PLAN

sheet number
A1.2

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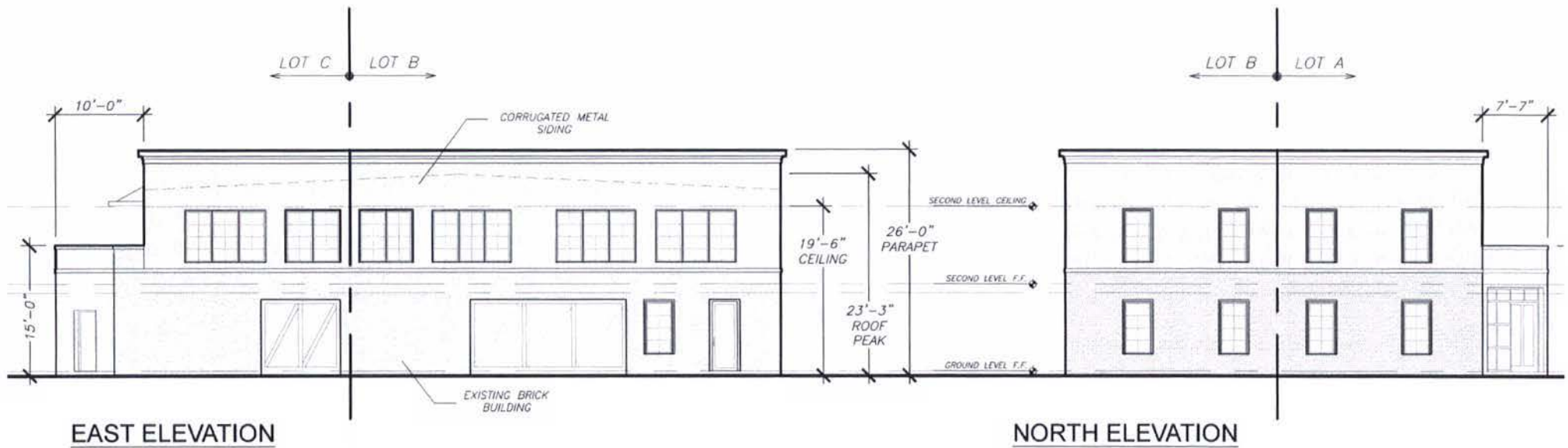
date
7 MAY 2013

scale
3/32" = 1'-0"

title
EXTERIOR ELEVATIONS

sheet number
A2.1

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date
7 MAY 2013

scale
3/32" = 1'-0"

title
EXTERIOR ELEVATIONS

sheet number
A2.2

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EXHIBIT E

Exhibit E

Exhibit E

LOT A
SIDEYARD

LOT B
SIDEYARD

FUTURE
LOT "A"

2301 SF

FUTURE
LOT "B"

1800 SF

LOT A
FRONT
YARD

LOT C
REAR
YARD

FUTURE LOT "C"

1800 SF

16' PUBLIC ALLEY

LOT C SIDE YARD

