

Tamatane Aga and Chee-Yuen Hung
2109 10th Street, NW, #102
Washington, D.C. 20001

June 6, 2016

Board of Zoning Adjustment
of the District of Columbia
441 4th Street, N.W., Suite 400S
Washington, DC 20001

RE: Request for Extension of Order No. 18723A
2105 10th Street, N.W. (Square 358, Lots 5, 6, and 802)

Dear Members of the Board,

This letter is in opposition to the request by 2101 Morning Bright LLC (the "Applicant") for a two-year extension of the effectiveness of Board of Zoning Adjustment ("BZA" or "Board") Order No. 18723A. As indicated by the Applicant, the Order granted approval of a mixed-use residential building with ground floor retail in the Arts, C-2-B District at 2105 10th Street, N.W. (Square 358, Lots 5, 6, and 802) (the "site").

We live within 200 feet the site and previously submitted party status requests regarding Order No. 18723A. In the event our requests for party status are denied, we respectfully request the Board consider our remarks in opposition to the Applicant's request for extension.

We respectfully request that the Board *deny* the Applicant's request for a two-year extension of the Order because the Applicant fails to show good cause for the extensions or otherwise meet the requirements of 11 DCMR § 3130.6.

§ 3130.6(a): "The extension request is served on all parties to the application by the applicant, and all parties are allowed thirty (30) days to respond"

The Applicant's request merely states that "a copy of the extension request was served on the Office of Planning and Advisory Neighborhood Commission 1B, the other only party to the application."

However, the Applicant fails to provide any evidence that the request for extension was properly served on the alleged parties. Therefore, the Applicant has not sufficiently shown that the request meets the requirement set forth by 11 DCMR § 3130.6(a).

§ 3130.6(b): "There is no substantial change in any of the material facts upon which the Board based its original approval of the application that would undermine the Board's justification for approving the original application"

The Applicant's request states that "[t]he Applicant is not proposing to change the exterior of the building approved by the Board pursuant to Order No. 18723A. In addition, no new areas of relief are requested and the plans are consistent with the relief approved by the previous BZA Order. There also have been no changes to the zone district classification applicable to the Site or to the Comprehensive Plan affecting the Site since the issuance of the Order."

As a preliminary matter, with respect to § 3130.6(c) the Applicant alleges that "detailed construction plans" have been developed apparently pursuant to a Request for Proposals (RFP) and Letter of Intent (LOI) for a new project apparently subject to approvals by the DC Council and/or Mayor. Accordingly, because the Applicant uses the newly proposed development plan as a basis for extension, this new project and its "detailed construction plans" must be considered as to whether the requirements of § 3130.6(b) are met. The Applicant should not be able to both *rely on* the newly proposed development plan as a basis for the extension and *ignore* the newly proposed development plan with respect to substantial changes in the design.

First, the Applicant fails to provide the detailed construction plans or other evidence showing that the Applicant's assertions and Ms. Sorg's declarations are, in fact, true. For this reason alone, the Applicant fails to sufficiently show that the request meets the requirement set forth by 11 DCMR § 3130.6(b).

Second, the Applicant appears to misrepresent certain underlying facts of the newly proposed development plan for the site. For example, based on a review of "current site designs" provided by the Mayor's office in April 2016, excerpts of which are attached hereto as Exhibit A, the newly proposed development plan appears to make substantial changes from the Applicant's previously presented plans to develop the site. In particular, contrary to the Applicant's assertion, the current site design does not include retail space. We believe other material changes to the development plan also undermine the Board's justification for approving the original application such as, for example, inclusionary zoning or other economic reasons justifying the need for certain variances, a change in the number of proposed apartments/units, a change in the number of parking spaces, and significant changes in various external features. See Exhibit A.

Third, the Applicant argues that the newly proposed development plans is not a change in use from an "apartment house." We believe the Board may consider *how* the building will be used, without respect to *who* will occupy the building, as a substantial change which may undermine the Board's justification for approving the original application. One particularly relevant issue is whether inclusionary zoning still applies to the newly proposed development plans. In any event, the Applicant

has not shown with any specificity that the newly proposed development plans do not undermine the Board's justification for approving the original application.

The Applicant fails to address any of the substantial changes proposed with the new development plan for the site. We believe these changes would undermine the Board's justification for approving the original application (*i.e.*, many of the Board's previous justifications to increase the FAR to 5.0 may no longer apply). In any event, the Applicant has not sufficiently shown that their request meets the requirement set forth by 11 DCMR § 3130.6(b).

§ 3130.6(c): "The applicant demonstrates that there is good cause for such extension, with substantial evidence of one or more of the following criteria: (1) An inability to obtain sufficient project financing due to economic and market conditions beyond the applicant's reasonable control; (2) An inability to secure all required governmental agency approvals by the expiration date of the Board's order because of delays that are beyond the applicant's reasonable control; or (3) The existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control."

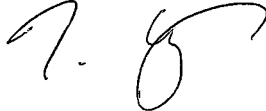
For the requirements under § 3130.6(c), the Applicant does not explain whether the alleged facts pertain to any of subparts (1)-(3). As a reason for delay, the Applicant cites primarily to an "application for a Foundation Permit," which was initially filed on December 5, 2013 and resubmitted on December 20, 2013. Further, the Applicant then waited until March 20, 2015 to address the Green Area Ratio (GAR) requirements – *nearly 15-months after* the Foundation Permit application was submitted. Further, although the Foundation Permit was allegedly finally approved on October 28, 2015, the Applicant has made no visible efforts to begin developing the site as of the mailing of this letter. The Applicant fails to give any explanation as to its delay in addressing the GAR requirements and failure to proceed with developing the site. Accordingly, the Applicant has not sufficiently shown any delays or factors beyond the Applicant's reasonable control.

The Applicant conveniently cites to the January 7, 2016 response to the District of Columbia RFP and subsequent approvals from the DC Council. Notably, the Applicant submitted the response to the RFP merely months prior to expiration of the Order. However, the two-year delay in proceeding with development of the site cannot be fairly attributed to the RFP and the subsequent approvals. For example, the Applicant has not provided substantial evidence to show why the response to the RFP could not have been submitted earlier. In other words, the Applicant has not provided substantial evidence to show that the delays or other factors described in subparts (1) – (3) were beyond the Applicant's reasonable control. Therefore, the Applicant has not sufficiently shown that their request meets the requirement set forth by 11 DCMR § 3130.6(c).

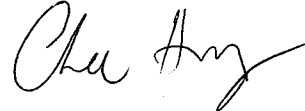
Conclusion

In view of the foregoing, we respectfully request that the Board *deny* the Applicant's request for a two-year extension of the Order. We respectfully submit that the Applicant's request is replete with allegations that are either unsupported by evidence or are contrary to the underlying facts. Therefore, we believe the Applicant fails to show good cause for the extension or otherwise meet the requirements of 11 DCMR § 3130.6.

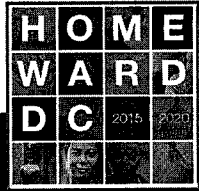
Sincerely,

A handwritten signature in black ink, appearing to be 'T. Aga', with a stylized flourish at the end.

Tamatane Aga

A handwritten signature in black ink, appearing to be 'Chee Yuen Hung', with a long, sweeping horizontal stroke at the end.

Chee-Yuen Hung



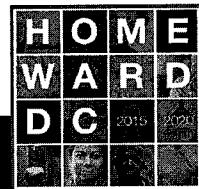
★ ★ ★ GOVERNMENT OF THE DISTRICT OF COLUMBIA
MURIEL BOWSER, MAYOR

A FRESH START TO ENDING FAMILY HOMELESSNESS



Short -Term Family Housing Design Overview
April 2016

Ward 1
2105-2107 10th Street, NW | Washington DC 20001

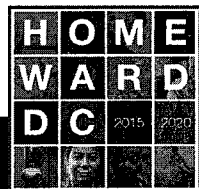


★ ★ ★ GOVERNMENT OF THE DISTRICT OF COLUMBIA
MURIEL BOWSER, MAYOR

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Purpose of Tonight's Meeting

- Continue to provide information and hear from you
- Share process updates and current site designs
- Initiate discussion about a Ward 1 Community Advisory Committee and design elements

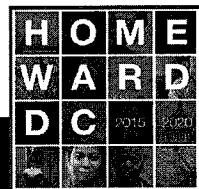


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Features in Design

- Outdoor playground and recreational space
- Age appropriate indoor recreation space
- Computer Labs
- Programming / Services Space
- All Sites are ADA Accessible

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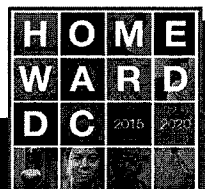


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Site Location



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Ground Floor Plan

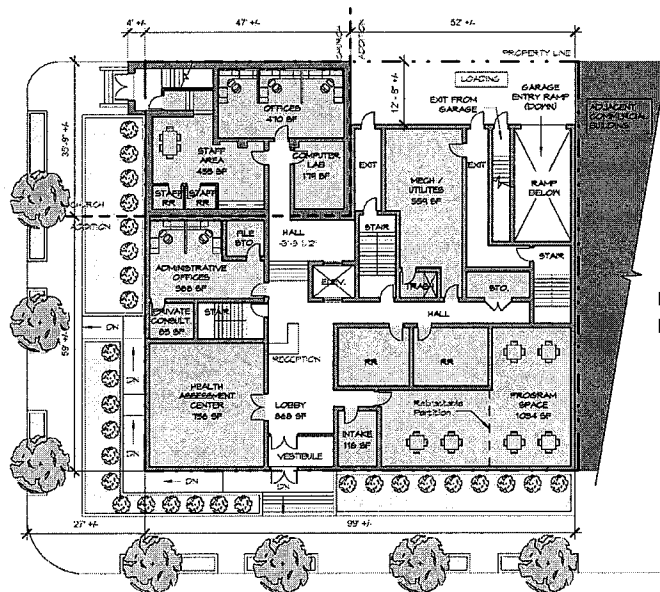
Program Requirements

Administrative

- Grand Lobby
- Office (4 to 5)
- Intake
- Private Consult

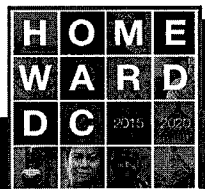
Common Areas

- Program Space
- Computer Lab
- Health Assessment Center



SCALE: 1" = 16'-0"
CUNNINGHAM | QUILL ARCHITECTS

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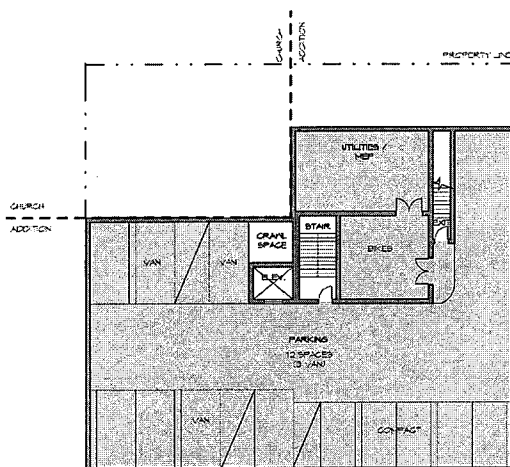


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Cellar Floor Plan

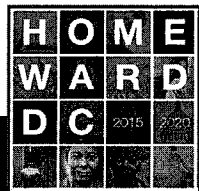
Common Area Requirements

- Parking Spaces, including 3 van spaces
- Bike Storage



SCALE: 1" = 16'-0"
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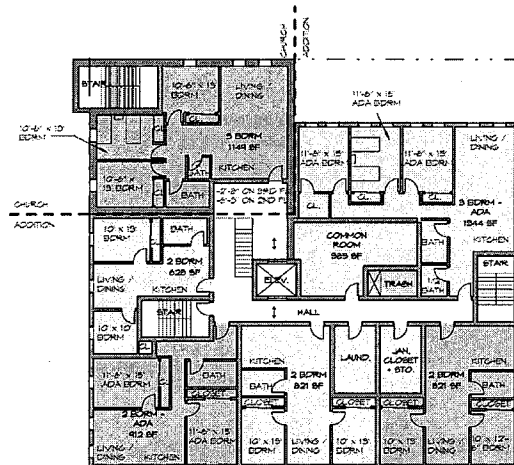


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Typical Floor Plan (Floors 2-3)

Per Floor Requirements

- Monitoring Station
- Common Room
- Laundry Room
- Trash Room
- Janitors Closet



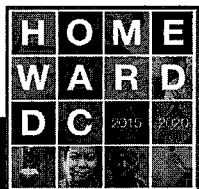
Key

- Administrative / Bldg. Services
- Apartment
- Apartment
- Circulation / Lobby
- Resident Common Spaces

SCALE: 1" = 16'-0"

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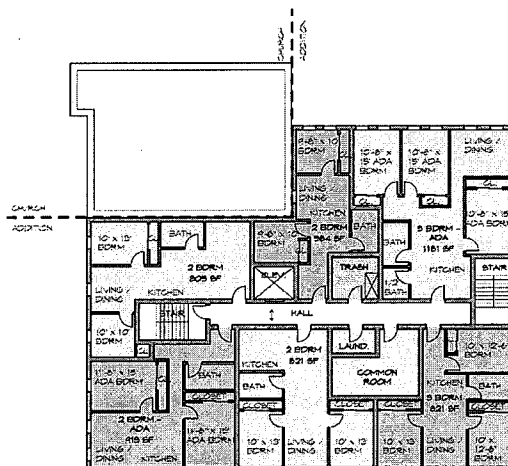


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Typical Floor Plan (Floors 4-5)

Per Floor Requirements

- Monitoring Station
- Common Room
- Laundry Room
- Trash Room
- Janitors Closet



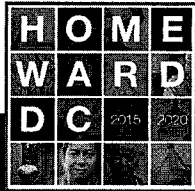
Key

- Administrative / Bldg. Services
- Apartment
- Apartment
- Circulation / Lobby
- Resident Common Spaces

SCALE: 1" = 16'-0"

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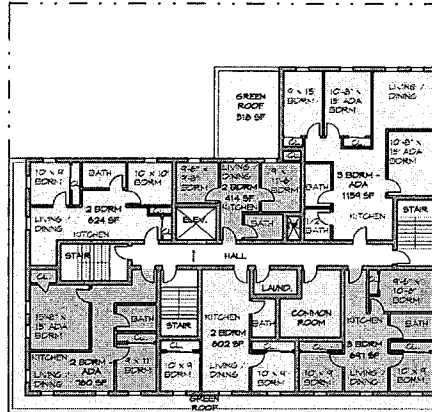


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6th Floor Plan

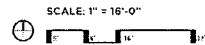
Per Floor Requirements

- Monitoring Station
- Common Room
- Laundry Room
- Trash Room
- Janitors Closet



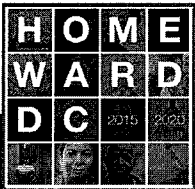
Key

- ☐ Administrative / Bldg. Services
- ☐ Apartment
- ☐ Apartment
- ☐ Circulation / Lobby
- ☐ Green Space
- ☐ Resident Common Spaces



CUNNINGHAM | QUILL ARCHITECTS

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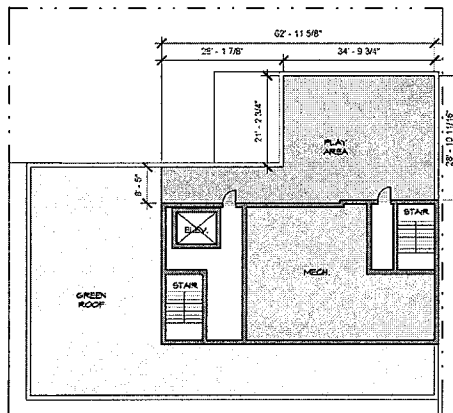


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Roof Plan

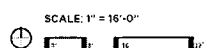
Per Floor Requirements

- Mechanical Enclosure
- Play Area
- Green roof



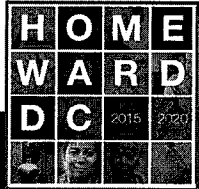
Key

- ☐ Administrative / Bldg. Services
- ☐ Circulation / Lobby
- ☐ Green Space
- ☐ Play Area

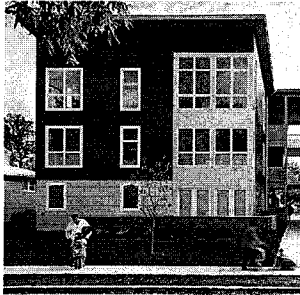


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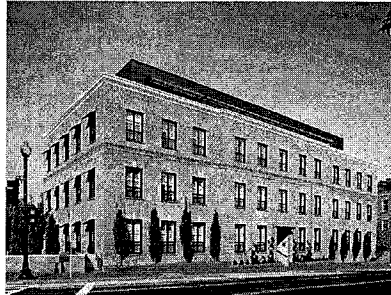
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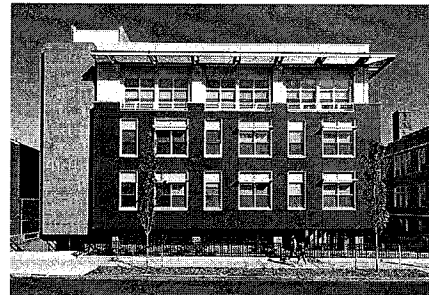
Examples of Exterior Materials



SIDING

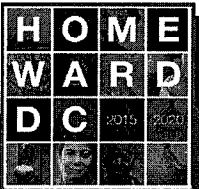


BRICK



PANEL

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Small Group Discussions

(45 minutes)

- Part 1: Initiate a discussion about a Community Advisory Committee
- Part 2: Provide initial feedback on desires for exterior features of architectural design

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