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October 13, 2015

Marnique Heath, Chairperson
Board of Zoning Adjustment
441 4th Street, NW
Suite 210S
Washington, DC 20001

Re: Application No. 19094 – 64 W Street NW (Square 3118, Lot 52)
Prehearing Statement of the Applicant

Chairperson Heath and Honorable Members of the Board:

On behalf of 28th Street Partners, LLC, please find enclosed the Prehearing Statement for the above--referenced application. The application is scheduled to be heard before the Board of Zoning Adjustment on October 27, 2015.

Thank you for your attention to this matter.

Sincerely,

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS,
LLP



By: Meredith H. Moldenhauer

Cc: Advisory Neighborhood Commission 5E
c/o Teri Janine Quinn, Chair (via email)
5E08 Single Member District Commissioner Austin Pearl (via email)
Office of Planning (via email)

Board of Zoning Adjustment
District of Columbia
CASE NO. 19094
EXHIBIT NO. 26

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

**APPLICATION OF
28th STREET PARTNERS, LLC**

**BZA APPLICATION NO. 19094
HEARING DATE: OCTOBER 27, 2015**

PREHEARING STATEMENT OF THE APPLICANT

I. NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of 28th Street Partners, LLC (the “Applicant”), the owner of property located at 64 W Street NW, Lot 52 in Square 3118 (the “Property”) in support of the application for special exception relief pursuant to 11 DCMR §336. The Applicant seeks special exception relief under §3104.1 to permit the conversion of an existing residential building to a three-unit apartment house in the R-4 District.

II. EXHIBITS IN SUPPORT OF THE APPLICATION

Exhibit A: Architectural Plans¹

**III. APPLICANT COMPLIES WITH GENERAL SPECIAL EXCEPTION
CRITERIA**

The Board is authorized to grant a special exception where it finds:

- 1) The proposed use is in harmony with the general purpose and intent of the Zoning Regulations and Zone Maps; and
- 2) the proposed use is not likely to adversely affect the use of neighboring property, subject to the conditions specified in the Zoning Regulations for the particular special exception use. 11 DCMR §3104.1.

For a special exception for a conversion to an apartment house in the R-4, the BZA must also find the following:

¹ The Applicant’s architect was unavailable to complete substantive changes to the plans at this time. However, the attached plans identify the Applicant’s intent to keep the front façade the same as existing and to make minor changes to the proposed porch.

336.2 The maximum height of the residential building and any additions thereto shall not exceed thirty-five feet (35 ft.), except that the Board of Zoning Adjustment may grant a special exception from this limit under § 3104, subject to §§ 336.3 through 336.11.

336.3 The fourth (4th) dwelling unit and every additional even number dwelling unit thereafter shall be subject to the requirements of Chapter 26, Inclusionary Zoning, including the set aside requirement set forth at § 2603.9.

336.4 There must be an existing residential building on the property at the time of filing an application for a building permit.

336.5 There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per dwelling unit.

336.6 Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent on an adjacent property required by any municipal code.

336.7 Any addition, including a roof structure or penthouse, shall not interfere with the operation of an existing or permitted solar energy system on an adjacent property, as evidenced through a shadow, shade, or other reputable study acceptable to the Zoning Administrator.

336.8 A roof top architectural element original to the house such as a turret, tower, or dormers shall not be removed or significantly altered, including changing its shape or increasing its height, elevation, or size.

336.9 Any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

- (a) The light and air available to neighboring properties shall not be unduly affected;
- (b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and
- (c) The conversion and any associated additions, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street or alley.

336.10 In demonstrating compliance with § 336.9 the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the conversion and any associated addition to adjacent buildings and views from public ways.

Unlike an area variance, relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the requested relief are met. In reviewing an application for special exception relief, “[t]he Board’s discretion . . . is limited to a determination of whether the exception sought meets the requirements of the regulation.” *First Baptist Church of Washington v. District of*

Columbia Bd. of Zoning Adjustment, 423 A.2d 695, 706 (D.C. 1981 (*quoting Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973))). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.* As described in the Initial Submission, supplemented in this Prehearing Statement, and as will be further explained at the public hearing, all the conditions for a conversion of a residential building to an apartment house are satisfied.

A. The Proposed Conversions Complies with Section 336

The Applicant proposes to convert an existing vacant residential building into a 3-unit apartment house. The lot is exceptionally deep, has 2,880 square feet of land area, and easily complies with the 900 square foot requirement for the proposed three units. As noted on the updated plans, *see **Exhibit A***, the Applicant proposes to maintain the existing façade with minor changes to the porch. Also, the Applicant will retain the architectural elements of the roof and will not be constructing a third floor. The proposed structure will continue to be 28 feet-3 inches, which is well under the maximum 35 foot height limit.

As mentioned above, the Applicant will not be constructing a third floor. The proposed addition only includes a minor rear addition that will extend out approximately 10 feet from the existing structure. Consequently, the proposed addition will have no impact on any external vent, chimney, or solar energy system located on an adjacent property. Moreover, the adjacent properties, 66 and 64 W Street NW, as shown on the aerial images, *see **BZA Exhibit 7D***, do not have chimneys, or solar energy systems. Due to the exceptional depth of the lot and the small size of the proposed addition, the project will also have no adverse impact on the use or enjoyment of neighboring properties, nor impact the light and air available to those properties. The proposed addition does not include a new third floor, retains the existing architectural elements of the façade, and will restore the existing dilapidated porch². As such, the addition does not substantially visually intrude upon the character, scale or pattern of houses along W Street.

B. Harmony with the General Purpose and Intent of the Zoning Regulations and Maps

² The floor of the porch will be raised approximately one foot for better entrance to the basement.

The proposed conversion is in harmony with the general purpose and intent of the Zoning Regulations and Maps. The Property satisfies all the requirements of the new regulations set forth pursuant to Zoning Commission order 14-11. It is located on a very large lot with a substantial amount of land area. Furthermore, as the proposed conversion will not include a new third floor and the existing façade will remain, the addition and increased use of the Property will not impact the character or feel of the neighborhood.

C. No Adverse Effect on the Use of Neighboring Property

The proposed project will result in the improvement of a vacant property. Additionally, as shown above, due to the large lot size, the proposed project will have no adverse effect on the use of neighboring property.

III. COMMUNITY OUTREACH

The Applicant recognizes that the Bloomingdale neighborhood has been the location of a few of the developments that have been characterized as “pop-ups” that led, in part, to the passing of Zoning Commission order 14-11. As a result, the Applicant has vigorously engaged in community outreach to adjacent and nearby neighbors, members of the Bloomingdale Citizens Association (the “BCA”) and to ANC 5E to ensure that members of the community are accurately informed about the proposed project.

At the suggestion of 5E08 SMD Commissioner Pearl, the Applicant presented the project to the BCA on September 21, 2015. During that meeting, the Applicant showed plans and images of the proposed project, explained its community outreach efforts and listened to community concerns.

During the BCA meeting, it became clear that some of the community members mistakenly believed that the Applicant proposed to construct a “pop-up” or that ZC 14-11 prohibited the conversion of homes into 3 units. At the BCA meeting, the Applicant and his representatives explained that the proposed project is not a “pop-up” because it does not propose a third story and will maintain the existing

architectural roof elements. Further, its representatives reviewed the requirements of ZC 14-11 with the attendees and passed out copies of the new regulation to explain that under the law, row dwellings can be converted to apartment houses through a special exception. Directly following the meeting, the Applicant continued his discussion with community members and neighbors to obtain a more complete understanding of the community's concerns.

Following the BCA meeting and in response to the comments expressed there, the Applicant has been working through 5E08 SMD Commissioner Pearl, who is also a BCA Board Member, to address the neighbors' questions and concerns about the project. Following the meeting, Commissioner Pearl conducted a meeting with some of the nearby neighbors and provided to the Applicant a list of community concerns about the project. As a part of the community outreach effort, the Applicant has given a tour of similar projects to an adjacent property owner and to Commissioner Pearl. Most importantly, as a result of the meeting between certain community members and Commissioner Pearl discussed above, the Applicant has received and reviewed a list of community conditions regarding the development of the Property.

The Applicant has informed Commissioner Pearl that it can agree to most of the recommended conditions. The Applicant understands that certain community members are scheduled to meet again with Commissioner Pearl on October 15, 2015 to discuss the conditions to which the Applicant has agreed.

Following the result of the October 15 meeting, the Applicant will revise its plans to reflect the agreed-upon conditions, if necessary. The Applicant will be presenting the project, including any revised plans, to the BCA on October 19th and the full ANC 5E on October 20th. If revised plans are needed, the Applicant expects to submit a supplemental submission to the Board no later than October 21.

IV. WITNESSES

The following witness will appear on behalf of the Applicant:

1. Mohammad Pishvaeian, on behalf of the Applicant

The Applicant reserves the right to call additional witnesses.

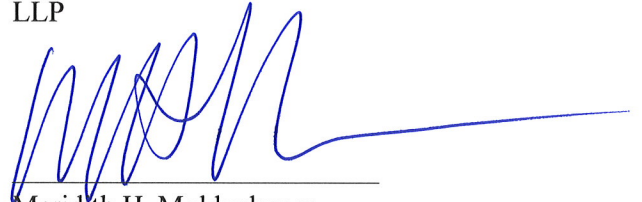
V. CONCLUSION

For the reasons stated above, and for the reasons enumerated in the Applicant's prior filings in this case, we hereby submit that the application meets the requirements for special exception relief.

We look forward to presenting our case to the Board on October 27, 2015.

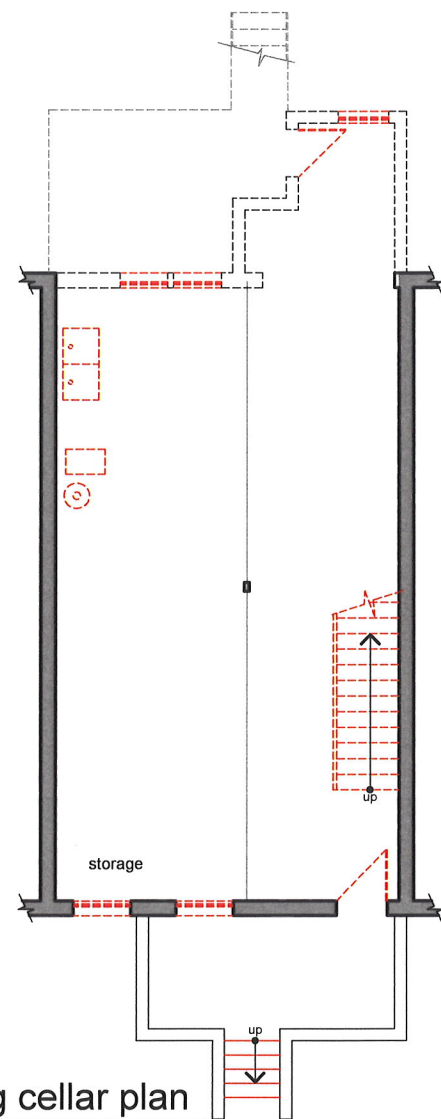
Respectfully submitted,

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS,
LLP

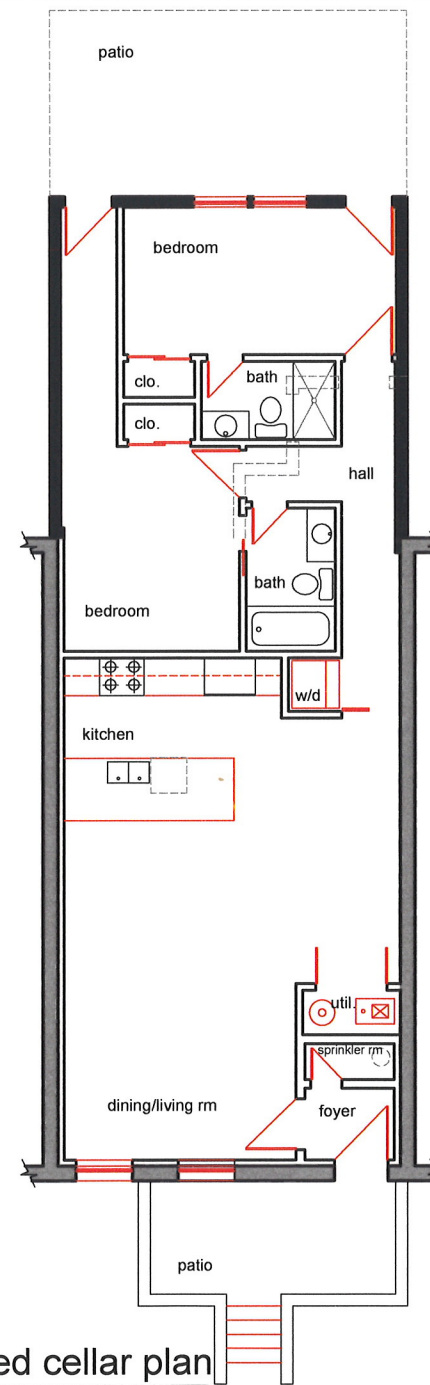


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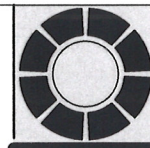
Exhibit A



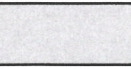
existing cellar plan



proposed cellar plan

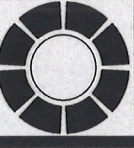
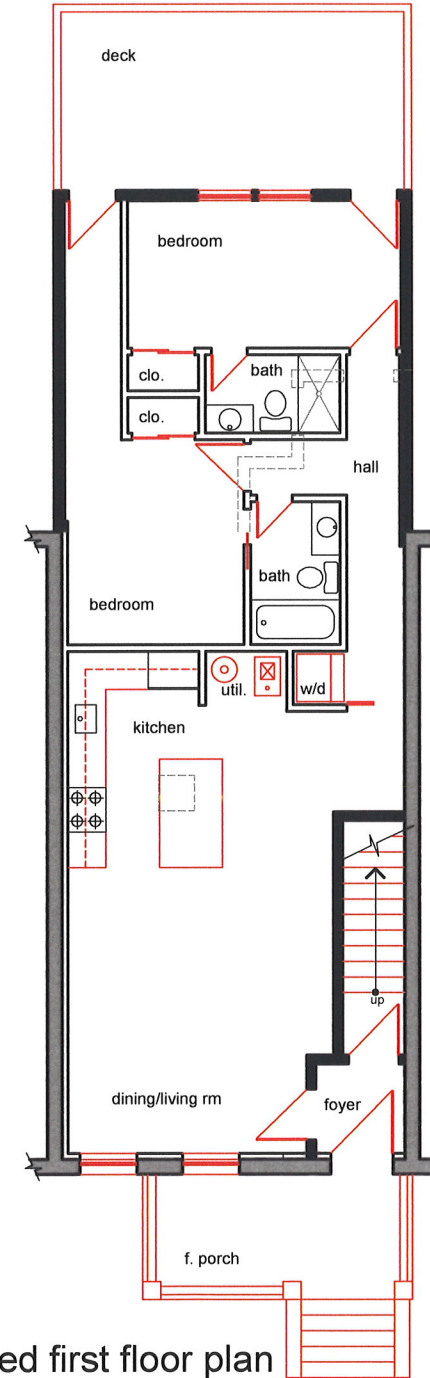
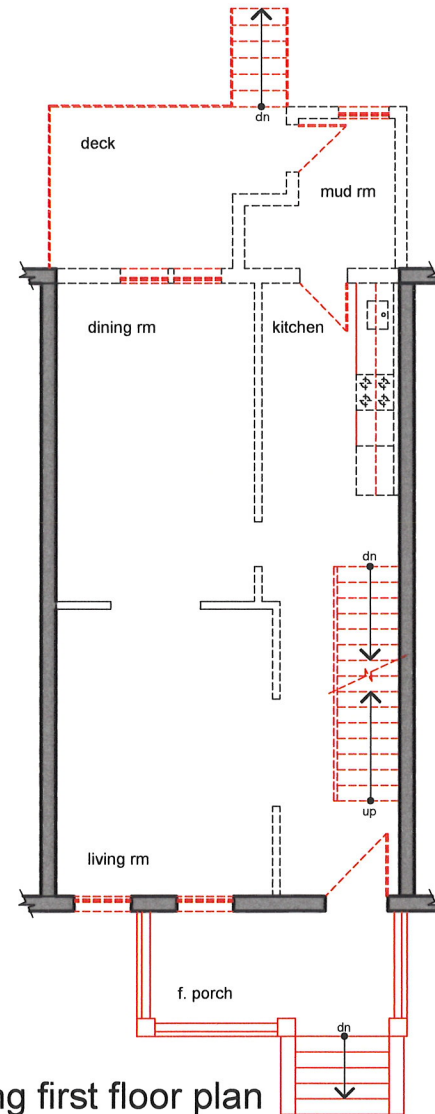


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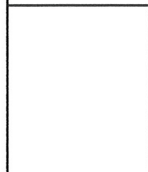


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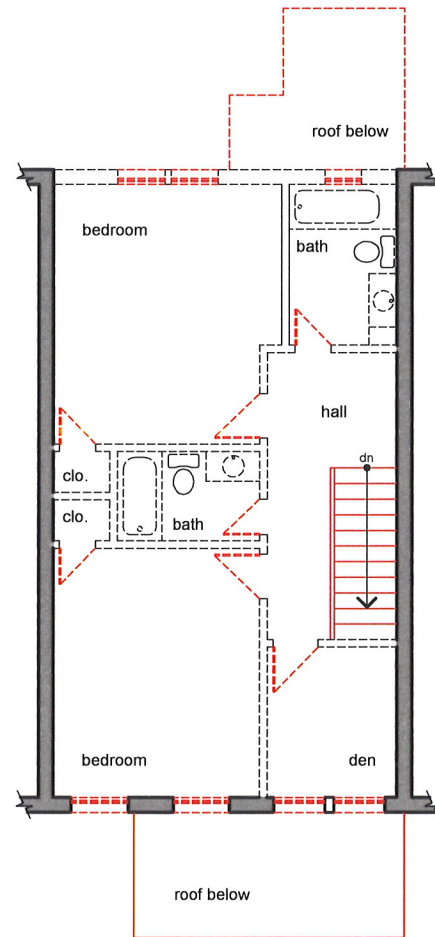
Architect was unable to update plans prior to filing the pre-hearing statement.



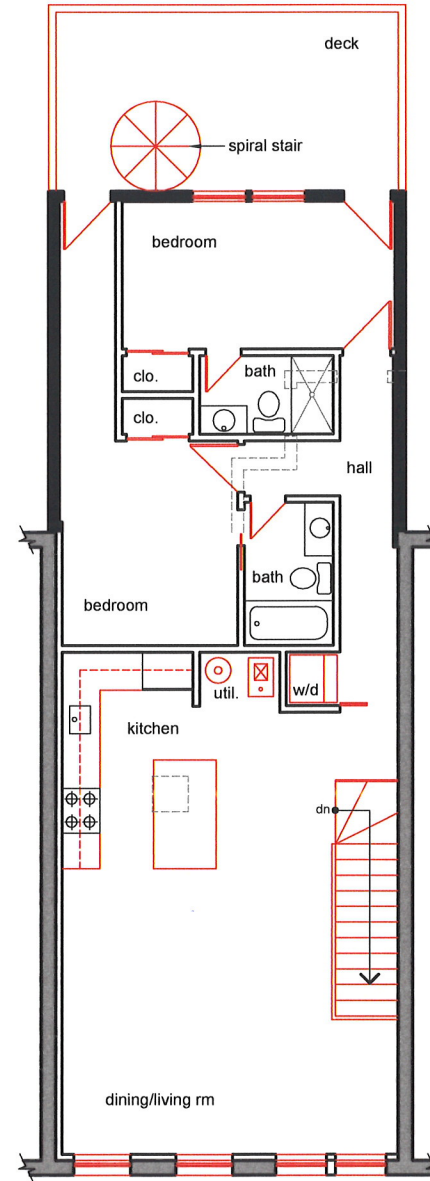
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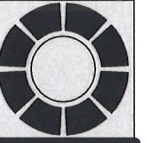
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existing second floor plan



proposed second floor plan

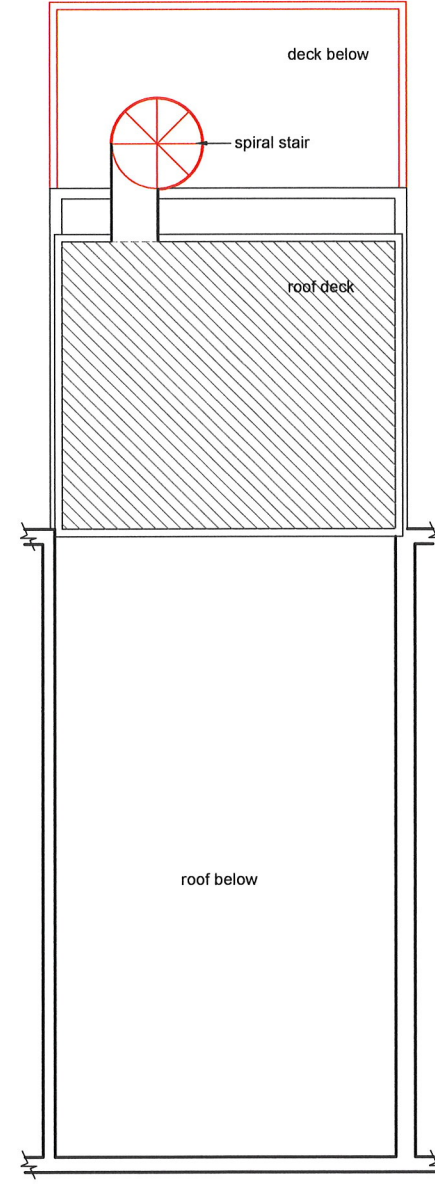


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a3



proposed roof plan



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a4



proposed rear elevation

The front facade will remain the same with minor changes to the porch.



proposed front elevation

