Pillsbury
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Shaw
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October 25, 2005

Paul Tummonds
Counsel
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By Hand Delivery

Mr. Geoffrey Griffis
Chairperson
District of Columbia Board of Zoning Adjustment
441 4th Street, NW, Room 210
Washington, DC 20001

RECEIVED
D.C. OFFICE OF ZONING
2005 OCT 25 PM 3:25

Re: 936 N Street, LLC - Application No. 17385
Pre-Hearing Statement of Applicant

Dear Mr. Griffis:

Enclosed please find the pre-hearing statement of 936 N Street, LLC, the applicant in the above-mentioned BZA application. The applicant looks forward to presenting its case to the Board at the public hearing on November 8, 2005.

Sincerely yours,

Paul Tummonds

Enclosure

cc: Charles Reed, ANC 2F (via hand delivery)
Joel Lawson, Office of Planning (via hand delivery)

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 17385
EXHIBIT NO. 26

Board of Zoning Adjustment
District of Columbia
CASE NO. 17385
EXHIBIT NO. 26

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Application of 936 N Street, LLC
Application No: 17385

Hearing Date: November 8, 2005
ANC 2F

RECEIVED
D.C. OFFICE OF ZONING
2005 OCT 25 PM 3: 28

STATEMENT OF THE APPLICANT

This is an application of 936 N Street, LLC ("**936 N Street**" or "**Applicant**") for area variance relief from the limitation on the number of floors permitted in an R-4 Zone District pursuant to 11 DCMR §400.1, and from the nonconforming structure provisions under 11 DCMR §2001.3 at premises 936 N Street, N.W. (Square 368, Lot 832) (the "**Property**"). The amended hearing notice also advertised the need for the Applicant to obtain variance relief from 11 DCMR §2002 regarding the prohibition against enlarging a structure devoted to a nonconforming use. As discussed herein, the Applicant does not believe that such relief is required for this case.

I. Description of the Property and the Surrounding Area

The Property that is the subject of this application is located in the R-4 Zone District at 936 N Street, N.W., in Square 368, Lot 832 (See Exhibits A and B). The Property is improved with a former thirteen unit apartment building (the "**Building**") that was constructed prior to the adoption of the Zoning Regulations in 1958. The Property is located between another row dwelling and an empty lot. The rear of the Property abuts Blagden Alley. The properties to the east of the Property are zoned C-2-A, while the properties immediately surrounding it are located in the R-4 Zone District. Row houses with English Basements and three above-grade levels are the predominant building type along 10th Street. On the north side of N Street, directly across the street from the

Property are three, four, and five story buildings, including an apartment building and a church. Photographs of the Property and the surrounding area are attached as Exhibit C. The Property is one half block west of the convention center and is directly adjacent to the quickly developing hotel district. The Property is also located in the Blagden Alley/Naylor Court Historic District.

II. History of Redevelopment of the Building on the Subject Property

The Building is located mid-block on the south side of N Street and is currently vacant. It was previously used as a thirteen unit apartment building, but was abandoned several years ago. It has been in a state of disrepair for the past few years and the Applicant would like to renovate it so it can contribute, once again, to the vibrant character of the community. Applicant seeks to renovate the building to create seven condominium units. This renovation includes the addition of a mezzanine within the existing third floor ("**Project**"). As the plans attached as Exhibit D demonstrate, the height of the mezzanine remains within the forty foot height limit established by the R-4 requirements of the Zoning Regulations. The total square footage of the renovated structure is 9,945 square feet, including the proposed mezzanine, which consists of 870 square feet and the cellar, which consists of 3,025 square feet.

Prior to filing a building permit application with the Building and Land Regulation Administration ("**BLRA**") of the Department of Consumer and Regulatory Affairs ("**DCRA**"), the Applicant and the project architect met with a zoning technician of the BLRA staff to review the proposed Project, including the proposed mezzanine. Thereafter, BLRA issued a building permit for the necessary construction and Applicant

commenced construction activity on the Property pursuant to the permit. The Applicant was nearly completed with the framing of the proposed mezzanine level when the BLRA issued a stop work order that prevented completion of the previously approved Project. The Office of the Zoning Administrator informed the Applicant that the previously approved mezzanine was a "fourth" floor requiring variance relief.[1] Thereafter, in consultation with the previous Zoning Administrator, the Applicant filed this application.

III. Nature Of Relief Sought

As noted above, the Applicant is seeking variance relief from §400.1 regarding the limitation on the number of stories permitted in the R-4 Zone District. The Project also requires area variance relief from §2001.3 because the existing structure occupies approximately 78.3% of the lot, which is in excess of the permissible maximum lot occupancy of 40% in the R-4 Zone District for buildings other than a row dwelling, flat, church or public school.

As previously mentioned, an amended hearing notice also advertised the need for the Applicant to obtain variance relief from 11 DCMR §2002 regarding the prohibition against enlarging a structure devoted to a nonconforming use. Though this structure is located in an R-4 Zone District, it does not require a use variance to operate as an apartment or condominium building. The Zoning Regulations contemplate the fact that some buildings will be used as multiple dwellings in the R-4 Zone District. See 11

---

[1] Litigation is currently pending in the Superior Court for the District of Columbia between Applicant and the City which raises issues based upon the legal theory of promissory estoppel. See 936 N St., LLC v. District of Columbia, No. 05-6559 (D.C. filed August 18, 2005). Applicant reserves its right to pursue the above-referenced litigation as well as pursue equitable relief based on estoppel for the initial approval of the Project and the subsequent rescission of that approval.

DCMR §§ 330.5(c), 350.4, 401.3. In fact, use of property in an R-4 Zone District as an apartment building is permitted as a matter-of-right, so long as certain lot area requirements are met. See 11 DCMR § 330 (the conversion of existing structures to apartment houses in the R-4 Zone District is controlled by "minimum lot area per family" requirements.) Accordingly, the Zoning Regulations are clear that multiple dwellings are a permitted use in the R-4 Zone District; thus, the Applicant is not required to obtain relief from §2002.

IV. Jurisdiction Of The Board

The Board has jurisdiction to grant the relief requested pursuant to § 3103.2 of the Zoning Regulations.

V. The Application Meets the Requirements For A Variance Under Sections 400.1, 2001.3, and 31013.2 Of The Zoning Regulations

The Applicant is seeking variance relief from 11 DCMR §§ 400.1 and 2001.3 of the Zoning Regulations for an addition to an existing nonconforming apartment building that does not comply with the lot occupancy requirements for structures in an R-4 Zone District and for an additional story. In order to satisfy the standards for area variance relief, the Applicant must satisfy a three part test:

(1) the property must be subject to an extraordinary or exceptional situation or condition;

(2) a practical difficulty will result if the applicant is required to satisfy the strict application of the Zoning Regulations; and

(3) no harm to the public or to the zone plan will occur as a result of the approval of the variance application.

See Gilmartin v. District of Columbia Bd. of Zoning Adjustment, 579 A.2d 1164, 1167 (D.C. 1990).

The Applicant meets the test as follows:

A. An extraordinary or exceptional situation or condition is inherent to the Property

The D.C. Court of Appeals held in Clerics of St. Viator v. D.C. Board of Zoning Adjustment, 320 A.2d 291 (D.C. 1974) that the exceptional situation or condition standard goes to the "property", not just the "land"; and that "....property generally includes the permanent structures existing on the land [footnote omitted]." *Id.* at 293-294. The Court held that the exceptional situation standard of the variance test may be met where the required hardship inheres in the land, or the property (i.e., the building on the land).

The Property is subject to an extraordinary or exceptional situation or condition. The existing vacant building occupies approximately 78.3% of the Property so it is deemed to be a nonconforming structure. In addition, the Property is also located in the Blagden Alley/Naylor Court Historic District and the Building has been deemed to be a contributing building to the historic district, which limits the ability to demolish portions of the structure.

B. A practical difficulty exists in satisfying the strict application of the requirements of the Zoning Regulations

It is important to note how the DC Court of Appeals has defined "practical difficulty". In reviewing the standard for practical difficulty, the D.C. Court of Appeals stated in Palmer v. D.C. Bd. of Zoning Adjustment, 287 A. 2d 535, 542 (D.C. 1972) that, "[g]enerally it must be shown that compliance with the area restriction would be unnecessarily burdensome. [Footnote omitted.] The nature and extent of the burden

which will warrant an area variance is best left to the facts and circumstances of each particular case." In area variances, applicants are not required to show "undue hardship" but must satisfy only "the lower 'practical difficulty' standards." Tyler v. D.C. Bd. of Zoning Adjustment, 606 A.2d 1362, 1365 (D.C. 1992), citing Gilmartin v. D.C. Bd. of Zoning Adjustment, 579 A.2d 1164, 1170 (D.C. 1990). Finally, it is well settled that the BZA may consider "... a wide range of factors in determining whether there is an 'unnecessary burden' or 'practical difficulty' ....". Gilmartin, 579 A.2d at 1171, citing Barbour v. D.C. Bd. of Zoning Adjustment, 358 A. 2d 326, 327 (D.C. 1976). See also, Tyler v. D.C. Bd. of Zoning Adjustment, 606 A.2d 1362, 1367 (D.C. 1992). Thus, to demonstrate practical difficulty, the Applicant must show that strict compliance with the regulations is burdensome, not impossible. The Applicant, as demonstrated below, meets this standard.

Practical difficulties satisfying the above standard have been established where zoning personnel approved certain construction as compliant with Zoning Regulations only to later rescind the approval on the grounds that the construction is not consistent with Zoning Regulations. See De Azcarate v. District of Columbia Board of Zoning Adjustment, 388 A.2d 1233, 1237 (D.C. 1978) (property owner was told his property was suitable for a single family home, but he was later denied a building permit because his lot failed to conform with width requirements. The court considered the fact that zoning personnel implicitly informed owner on three different occasions that his land complied with width requirements, when it upheld the granting of the variance.) The Board of Zoning Adjustment has also noted that where the Zoning Administrator approved proposed renovations and construction commenced on the building, a practical difficulty

results if the applicant is faced with the task of undoing the work it has already completed in reliance on the Zoning Administrator's assurances. Transcript of Public Meeting for Case No. 17352 – Application of 1464 Harvard LLC, p. 12.

In this case the Applicant pursued proper channels to receive a building permit for the Project. Upon receiving a building permit, the Applicant began construction and was near completion of the mezzanine when he was informed it did not comply with the story limitations of the R-4 Zoning Regulations. Asking the Applicant to change his plans at this point presents a practical difficulty not only because the addition is now intertwined with the existing structure making it difficult to remove, but also because the design for renovating the entire building relies on having the extra space the mezzanine provides. All of the units in the building would be negatively affected by removal of the mezzanine and the amount of available space per unit would have to be reconfigured and a new design for the renovations be made. Also, due to the existing limited rear yard site area at grade, the proposed mezzanine with stairs to the roof and private roof decks, allows needed public space on the roof of the building.

The Applicant is also faced with a practical difficulty due to the existing nonconformity of the structure. Since the building is presently over the permitted lot occupancy in the R-4 District, the creation of any additional gross floor area requires variance relief from §2001.3. The strict application of the height regulations poses a practical difficulty for the Applicant because an addition to the top of the structure is the only (and best) alternative for providing appropriate living spaces in the existing structure. The strict application of the 3-story limit would prohibit the provision of this additional space, even though the height of the structure, with the proposed addition, will

not exceed the 40 foot height limit in the R-4 District. It is interesting to note that if there was no floor in the mezzanine space, and the proposed construction merely intended to create a third floor with double height space, there would be no need for variance relief as the structure is within the permitted 40 foot height limitation. For these reasons, the Applicant has satisfied the practical difficulty standard.

C. No harm to the public good or to the zoning plan will occur as a result of the approval of the variance application

Relief can be granted without substantial detriment to the public good. The addition of the mezzanine/"fourth" story does not negatively impact the surrounding properties. The proposed height of the mezzanine/fourth floor level is still within the permitted 40 foot height limit in the R-4 District. The proposed height of the structure is generally consistent with buildings in the general area.

The variance can also be granted without impairing the intent, purpose and integrity of the Zone Plan. The apartment building on the Property stood vacant for a number of years, was a general eyesore for the neighborhood and created opportunities for unwanted and illegal activity on the Property. The proposed renovation of this structure will return the Property to a vibrant and important contributor to the neighborhood. The additional 870 square feet of gross floor area included in the mezzanine level of the structure does not increase the overall lot occupancy of the structure, yet provides the necessary amount of square footage to make this renovation project financially possible.

This application was reviewed and unanimously approved by the Community Development Committee of ANC 2F on September 26, 2005. On October 5, 2005 ANC

2F unanimously adopted a resolution in support of this application. As noted in their resolution, the ANC concluded:

> The community, and the ANC is, as might be expected, quite concerned to preserve the historic character of the area, and to assure that building[s] relate to this character. The CDC unanimously determined, and our Commission has concurred, that the applicant/developer has met its burden demonstrating justification under D.C. Code § 6-641.07(g)(3)(2001) for the variance. With the addition of the additional floor, the building is under the 40 foot height limitation applicable to this property. Further, the applicant demonstrates that, by reason of conditions recognized under the cited Code provision, compliance with existing zoning requirements would impose peculiar and exceptional practical difficulties to and exceptional and undue hardship on the applicant.
>
> This project has previously received approval from ANC 2F as well as from the Logan Circle Community Association and by [the] District of Columbia Historic Preservation Review Board.
>
> (See ANC 2F Letter to BZA, dated October 13, 2005, attached as Exhibit F).

VI. List of Witnesses Expected to Testify

The following witnesses are expected to testify at the public hearing on behalf of the Applicant:

1) Scott Friedman, Representative of the Applicant; and
2) Bill Bonstra, AIA Project Architect.

VII. Exhibits in Support of Application

Exhibit A: Portion of the Zoning Map showing the Property outlined in red.

Exhibit B: Portion of the Sanborn plat showing the Property outlined in red.

Exhibit C: Photos of the Property and the surrounding area.

Exhibit D: Plans, Elevations, and Zoning Computations for the Project.

Exhibit E: Copy of the building permit issued for the Project.

Exhibit F: Letter of Support from ANC 2F.

Exhibit G: Outlines of Witness Testimony.

VIII. Conclusion

For all of the above reasons, the Applicant is entitled to the requested variance relief in this case.

Respectfully submitted,

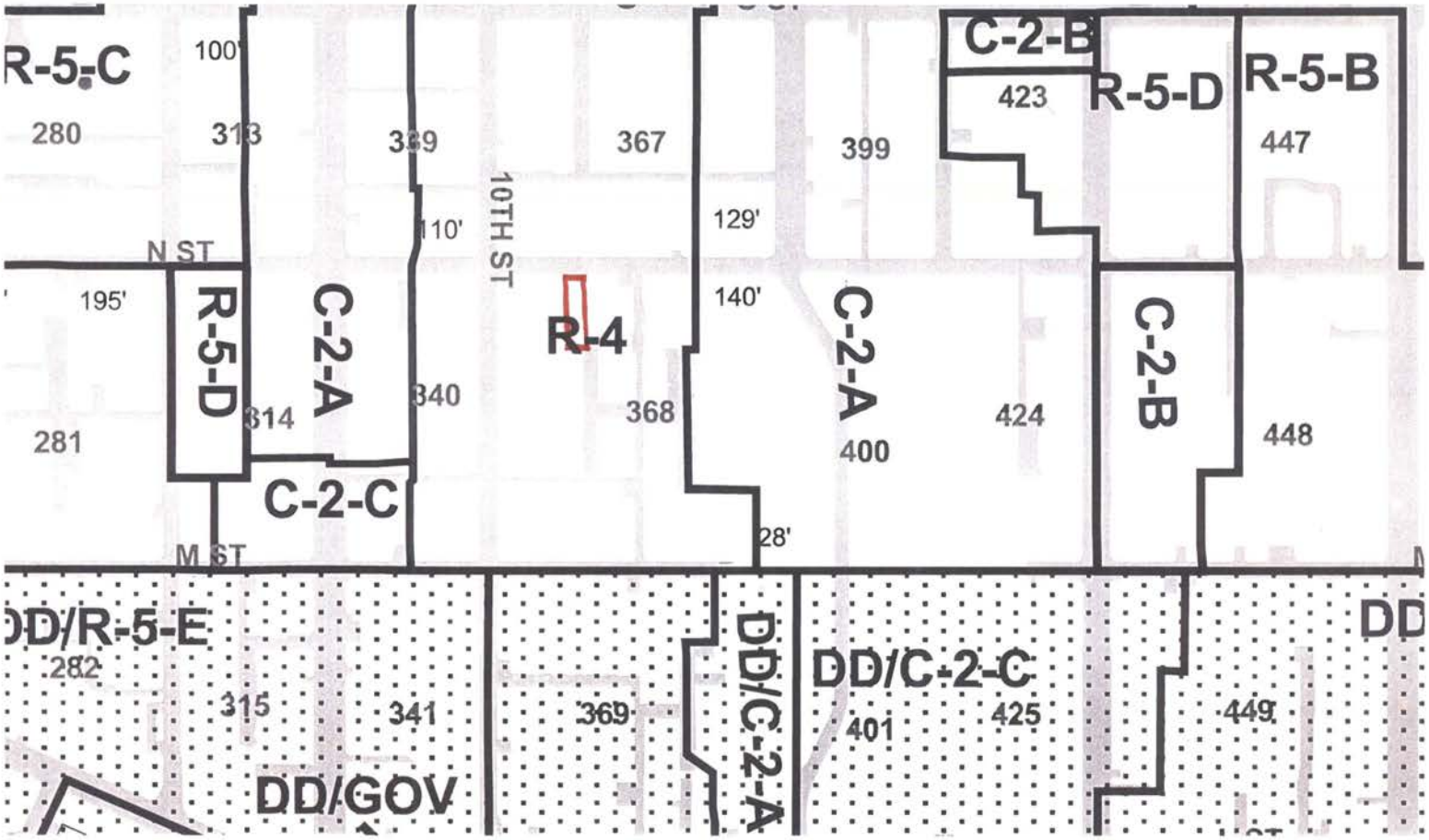
PILLSBURY WINTHROP SHAW
PITTMAN LLP

By: _____
Paul A. Tummonds

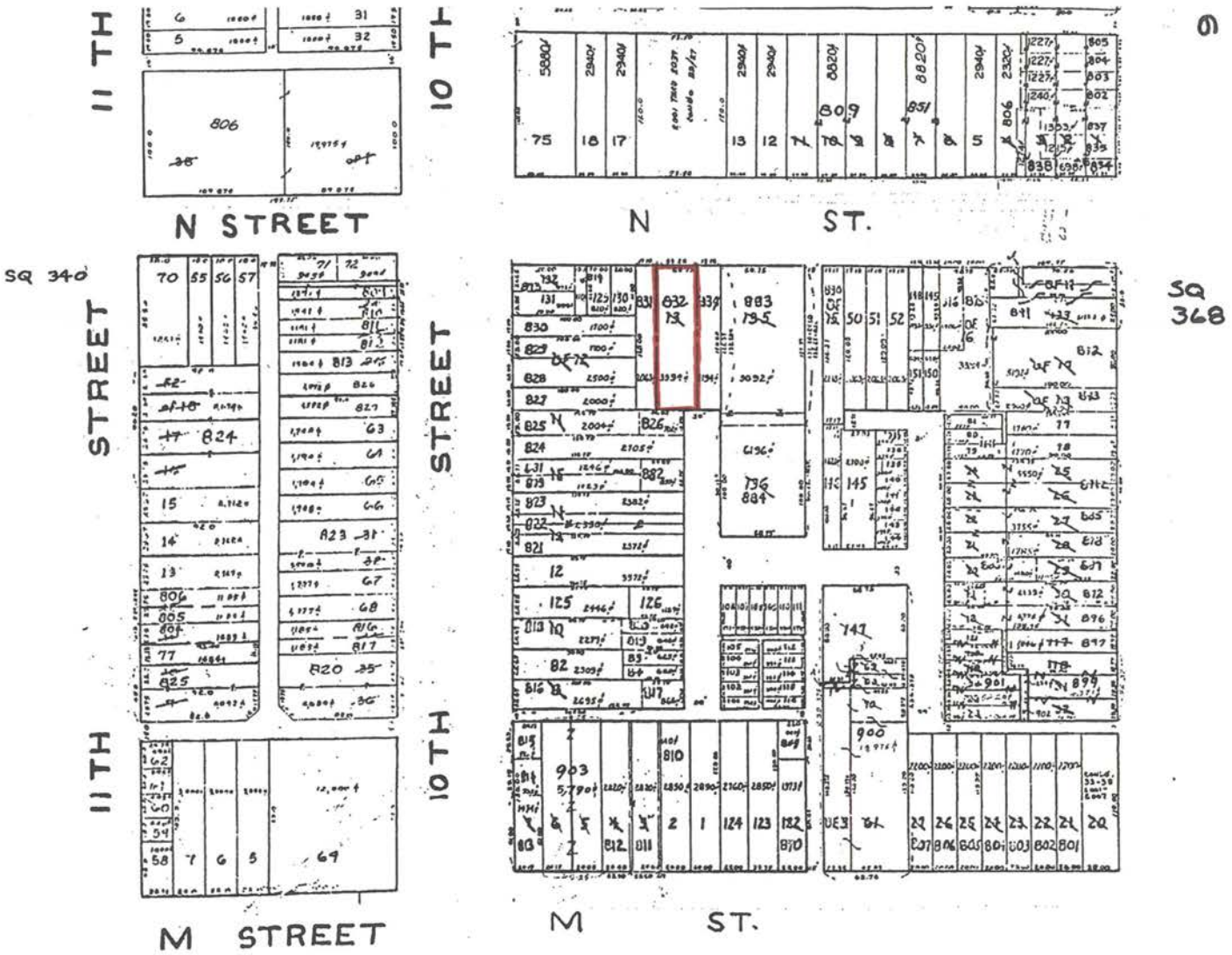
By: _____
Christine A. Roddy*

* Not licensed to practice in Washington, D.C.; licensed in the State of Georgia and supervised by members of the District of Columbia Bar.

A


R-5-C
100'
280
313
339
367
399
C-2-B
423
R-5-D
R-5-B
447
10TH ST
110'
129'
N ST
195'
R-5-D
C-2-A
R-4
140'
C-2-A
C-2-B
340
314
368
424
448
281
400
C-2-C
28'
M ST
DD/R-5-E
282
315
341
369
DD/C-2-A
DD/C-2-C
401
425
449
DD/GOV

B


11 TH
10 TH
N STREET
N ST.
SQ 340
SQ 368
STREET
STREET
11TH
10 TH
M STREET
M ST.

C



Entrance to Blagden Alley | Commercial Site | Empty lot Adjacent to 936 N St | Front View 936 N St | 938 N St. | Houses Between 938 N And Corner of 10th Street



Mezzanine as Completed from Adjacent Lot



936 N St. Front View



Buildings Across Site on N Street







10th Street Elevations

***936 N Street**, Washington DC, NW*

D

936 N STREET CONDOMINIUMS
WASHINGTON, DC

PROJECT DESCRIPTION

THIS PROJECT INCLUDES THE COMPLETE RENOVATION OF AN EXISTING MULTI-UNIT APARTMENT BUILDING. THE EXISTING INTERIOR PARTITIONS AND FLOOR FRAMING WILL BE REMOVED AND NEW PARTITIONS AND INTERNAL STRUCTURE INSTALLED AS SHOWN ON THE DRAWINGS.

COMPLETELY NEW ELECTRICAL, PLUMBING, HVAC, AND FIRE ALARM SYSTEMS WILL BE INSTALLED. THE EXISTING SANITARY DRAIN TO THE STREET WILL BE UTILIZED WITH ALL OTHER UTILITIES TO BE REPLACED TO THE STREET. THE BUILDING WILL BE FULLY SPRINKLERED. NEW AREA DRAINS WILL BE PROVIDED AS SHOWN AND THE EXISTING ROOF LEADERS WILL BE TIED TO A NEW STORM DRAIN SYSTEM.

CODE DATA

ADDRESS:	936 N STREET, NW WASHINGTON, DC 20005
LOT NUMBER:	832 (RECORD LOT APPLIED FOR)
SQUARE:	364
EXISTING SITE AREA:	3,993.6 SF
PROPOSED SITE AREA:	NO CHANGE
EXISTING PARKING:	1 SPACE (GARAGE)
PROPOSED PARKING:	1 SPACE - NO CHANGE (PARKING WAIVER OBTAINED)
ZONING DISTRICT:	R-4
EXISTING USE:	R-2 RESIDENTIAL
PROPOSED USE:	R-2 RESIDENTIAL
EXIST. C OF O:	13 UNITS - NO. B150741
EXISTING DEMO PERMIT:	NA
PROPOSED UNITS:	7 UNITS
HISTORIC DISTRICT:	SHAW

BUILDING DATA

EXISTING/PROPOSED BUILDING AREA:

MEZZANINE -	870 SF
2ND FLOOR -	3,025 SF
1ST FLOOR -	3,025 SF
BASEMENT -	3,025 SF
TOTALS	9,945 SF

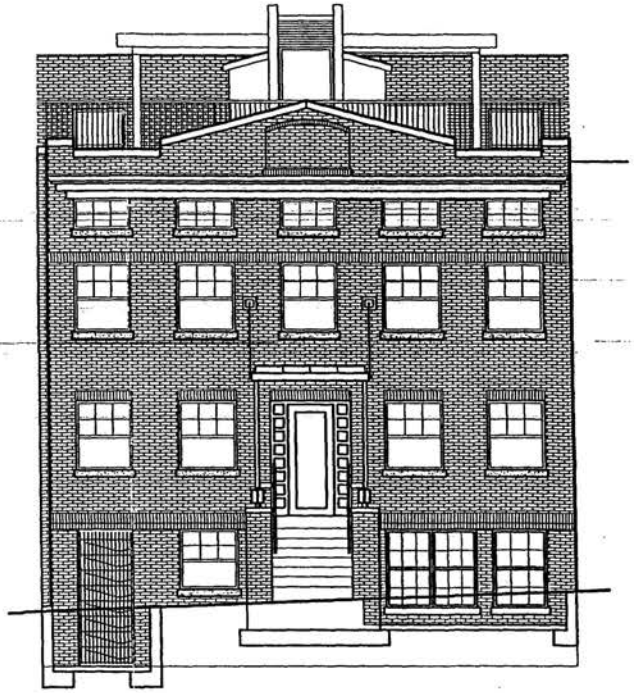
CONSTRUCTION TYPE:	3B - UNPROTECTED
FULLY SPRINKLERED	YES, PER 904.9
STANDPIPE:	NOT REQUIRED, LESS THAN 30' FROM FIRE DEPT. VEHICLE ACCESS
EXISTING BUILDING HEIGHT:	32'-8" ±
PROPOSED BUILDING HEIGHT:	39'-0"
ALLOWABLE BUILDING HEIGHT:	40'-0" MEASURED AT TOP OF CURB AT CL OF BUILDING ALONG N STREET.
ALLOWABLE STORIES:	3 STORIES
ALLOWABLE BUILDING AREA/HEIGHT:	9,600 SF/40'
SPRINKLER INCREASE:	100%, 1 STORY/20'
STREET FRONTAGE INCREASE:	NA
HEIGHT REDUCTION (506.4):	NA

RATED CONSTRUCTION

STAIR RATING:	1 HR (LESS THAN 4 STORIES)
ELEVATOR RATING:	NA
FLOOR RATING:	1 HR
DEMISING/CORRIDORS:	1 HR
ROOF:	0 HOUR
EMR:	NA
STORAGE:	NA

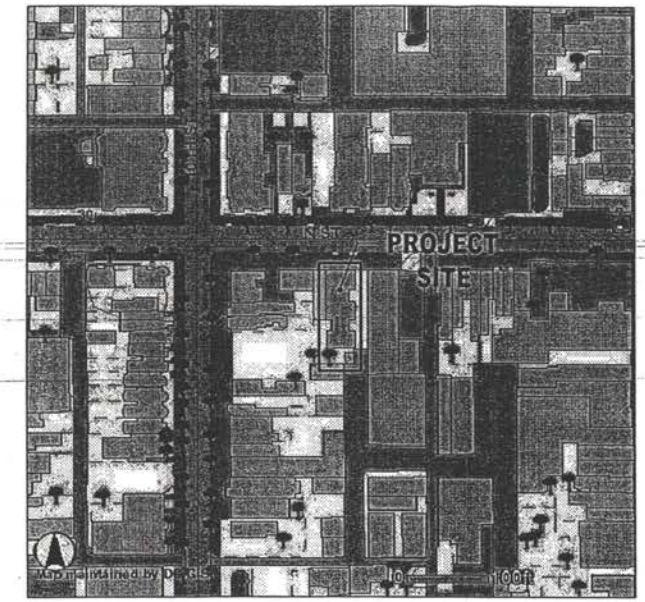
APPLICABLE CODES

1996 BOCA NATIONAL BUILDING CODE (DCMR 12, 1999)
1995 INTERNATIONAL PLUMBING CODE
1996 INTERNATIONAL MECHANICAL CODE
1996 NFPA 13R
1996 NFPA NEC
HANDICAPPED: DCMR 12, 1999, CHAPTER 11

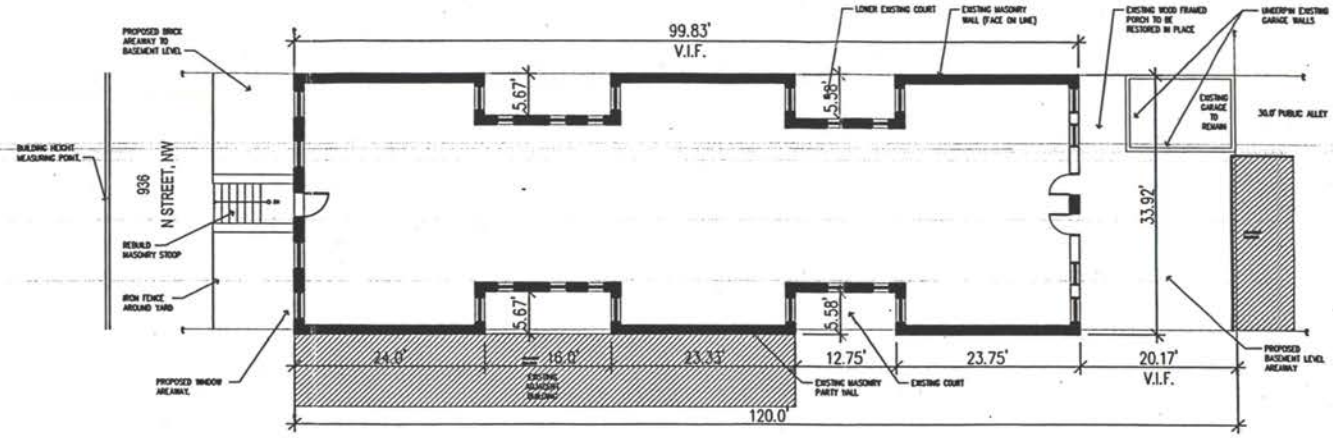


BZA SUBMISSION	JUNE 14, 2005	TITLE SHEET	936 N STREET CONDOMINIUMS	936 N STREET, NW WASHINGTON, DC 2005	T-01

Bonstra | Haresign ARCHITECTS



VICINITY MAP

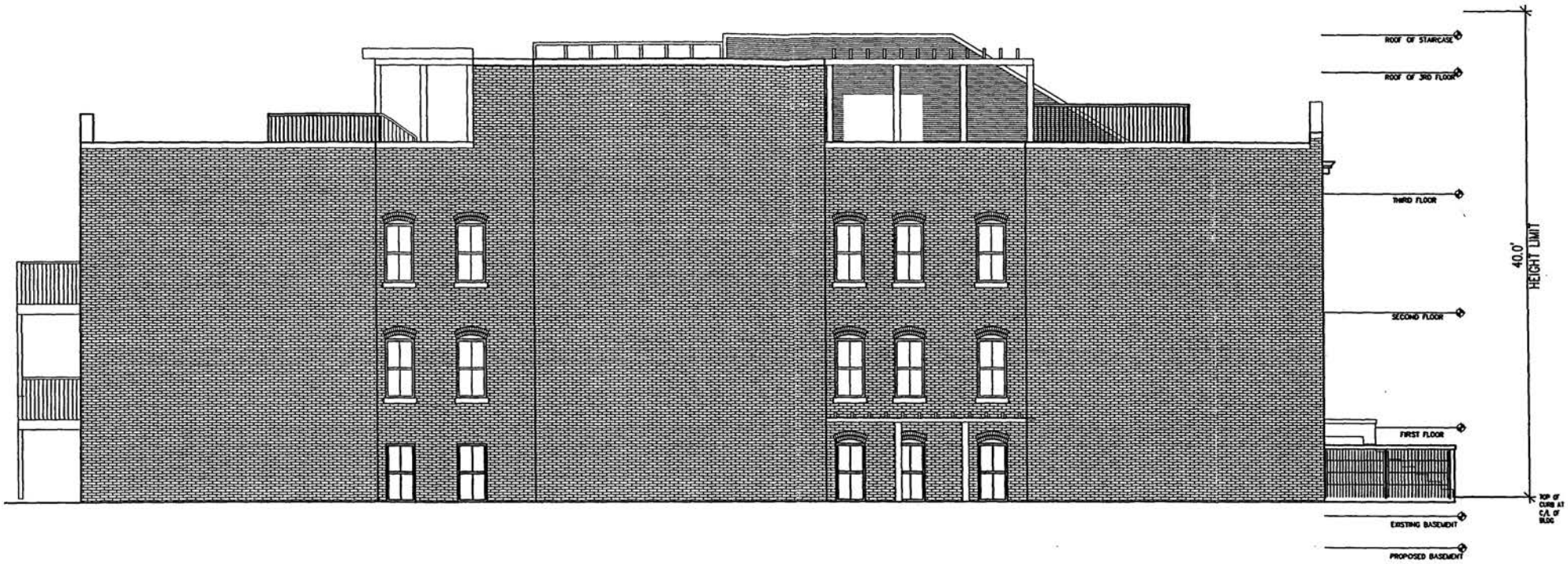


SITE PLAN
1/16" = 1'-0"

DRAWING SET	DATE
BZA SUBMISSION	JUNE 14, 2005

Bonstra | Haresign ARCHITECTS

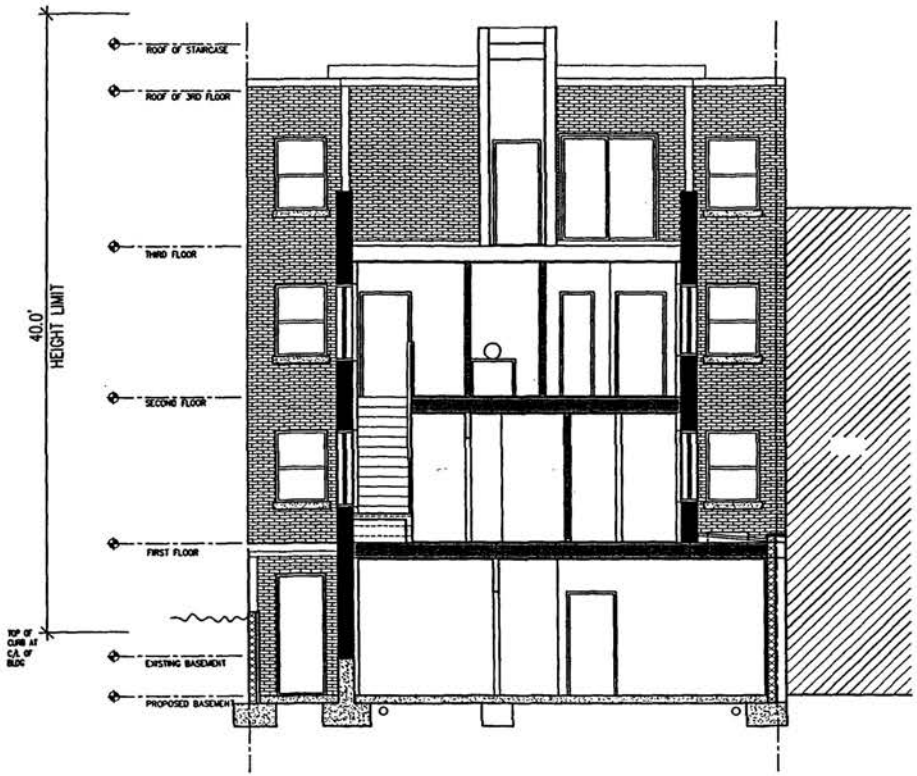
DRAWING TITLE	PROJECT	LOCATION	PAGE #
VICINITY MAP & SITE PLAN	936 N STREET CONDOMINIUMS	936 N STREET, NW WASHINGTON, DC 2005	A-01



1/A-06 SIDE ELEVATION

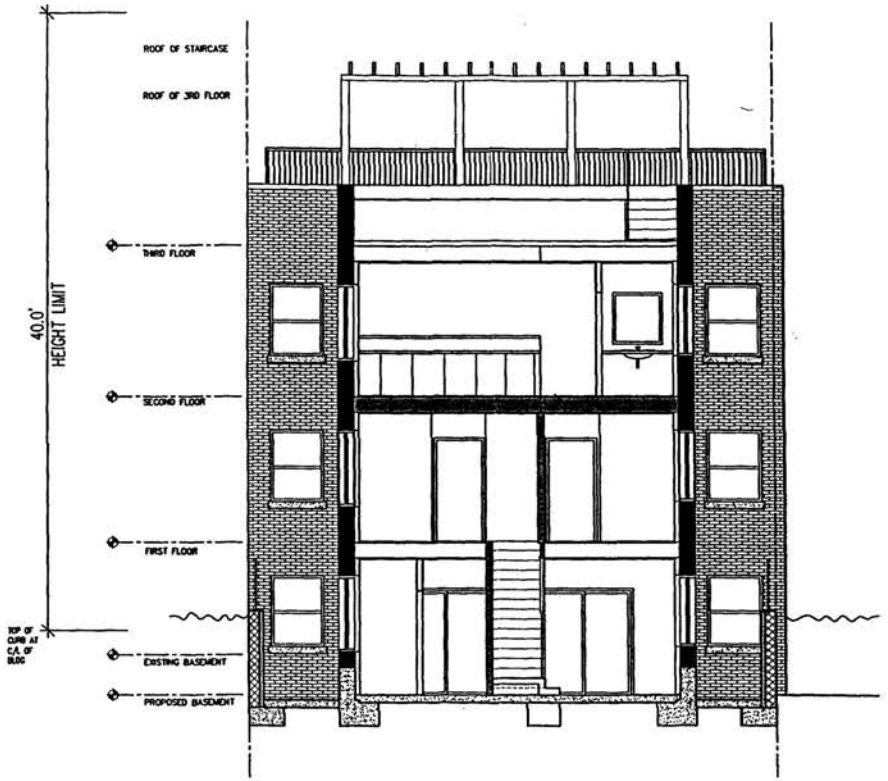
1/8" = 1'-0"

BZA SUBMISSION	JUNE 14, 2005				Bonstra | Haresign ARCHITECTS
	SIDE ELEVATION	936 N STREET CONDOMINIUMS	936 N STREET, NW WASHINGTON, DC 2005		A-06



EAST/WEST SECTION 1

1/8" = 1'-0" LOOKING SOUTH



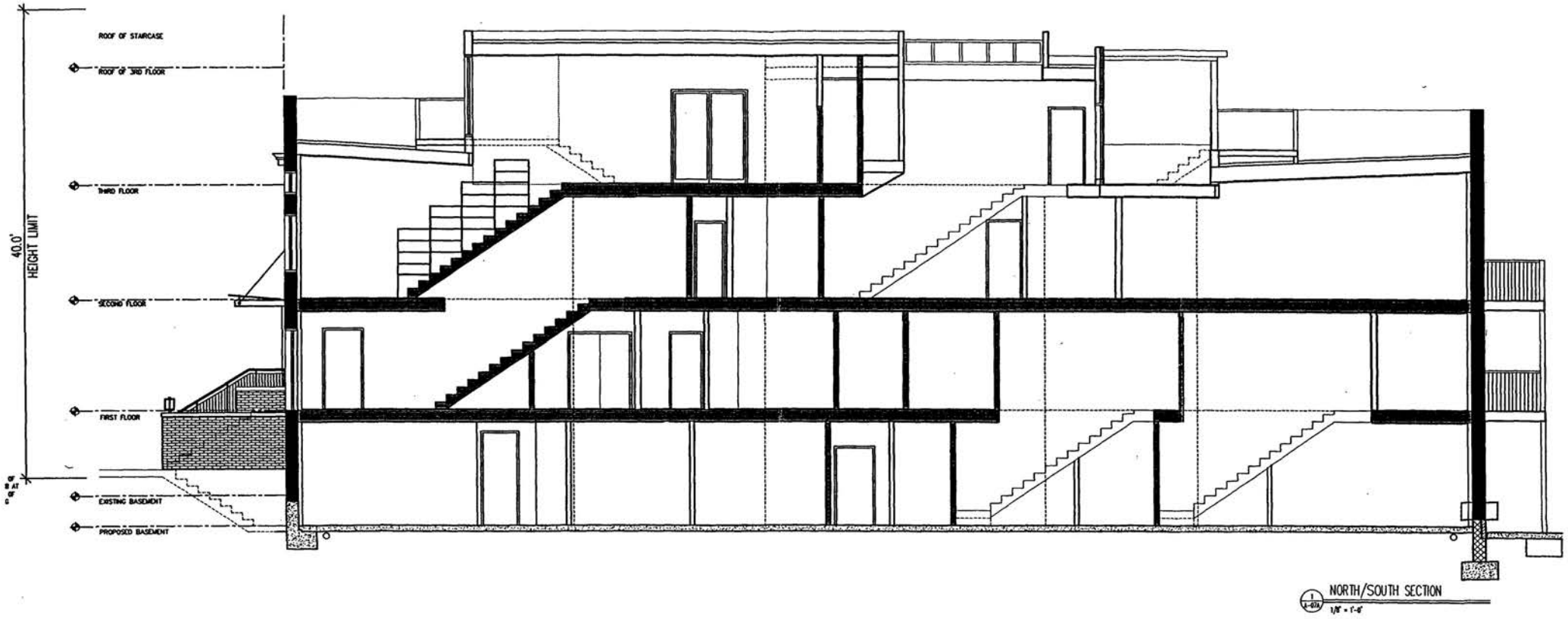
EAST/WEST SECTION 2

1/8" = 1'-0" LOOKING SOUTH

DRAWING SET	DATE
BZA SUBMISSION	JUNE 14, 2005

Bonstra | Haresign ARCHITECTS

DRAWING TITLE	PROJECT	LOCATION	PAGE #
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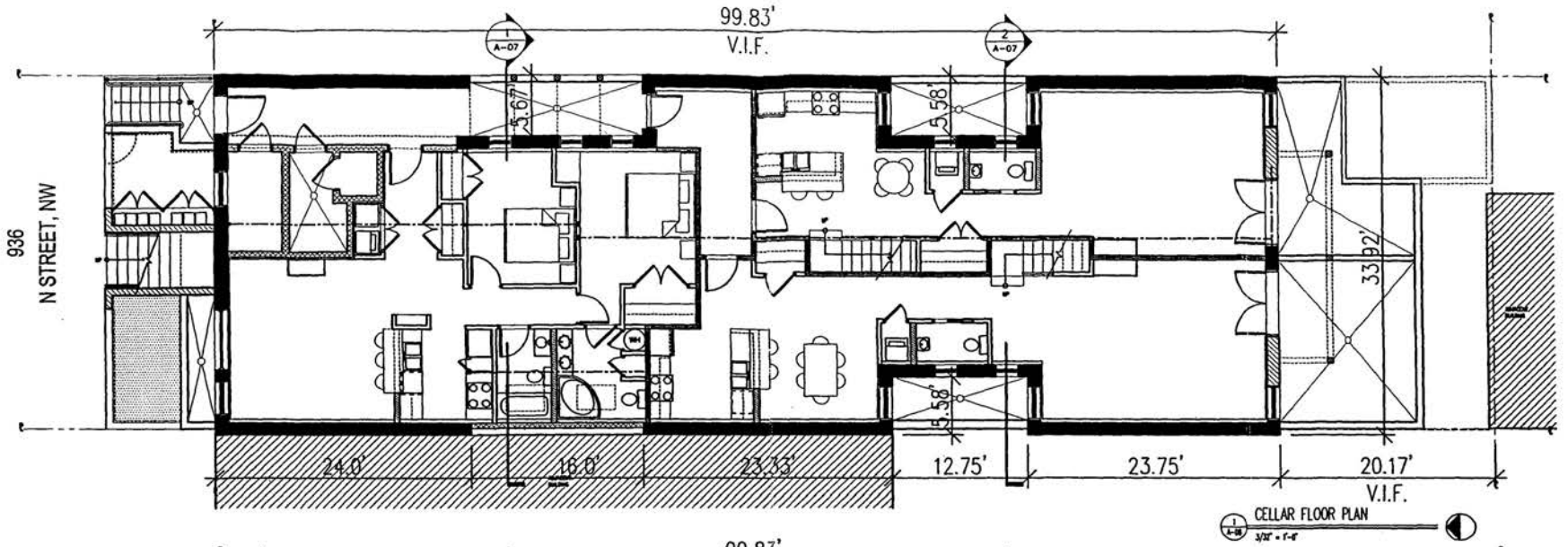


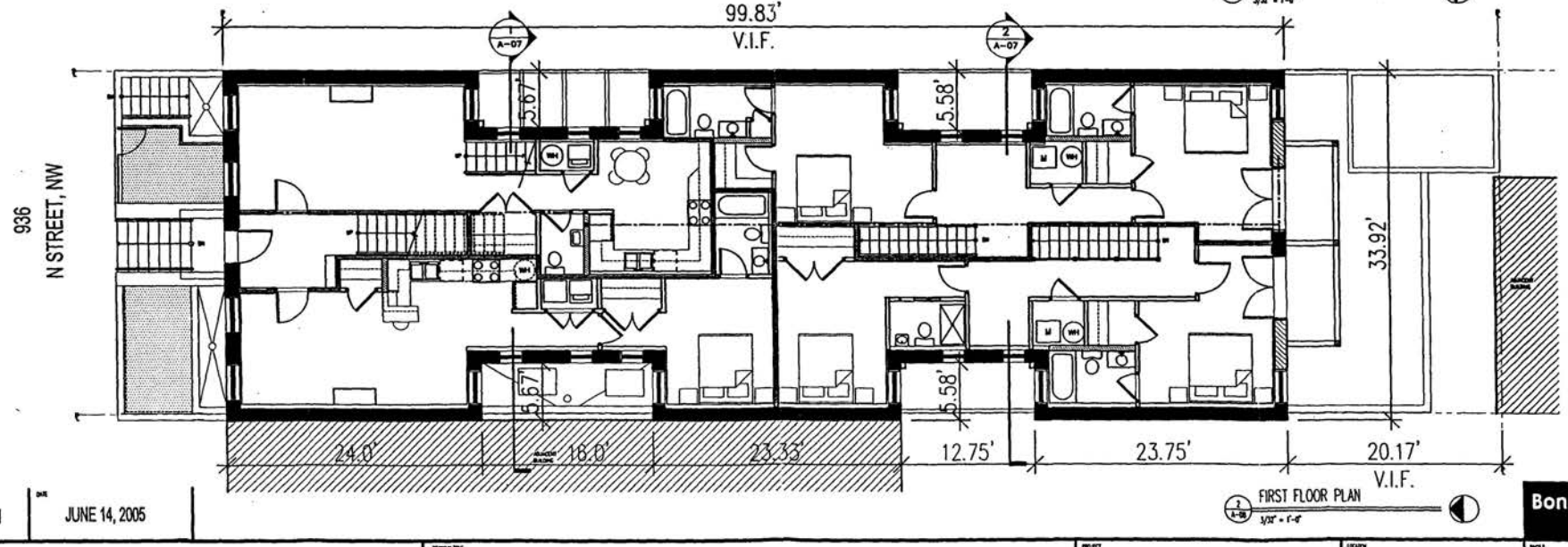
NORTH/SOUTH SECTION
1/8" = 1'-0"

BZA SUBMISSION	JUNE 14, 2005

Bonstra | Haresign ARCHITECTS

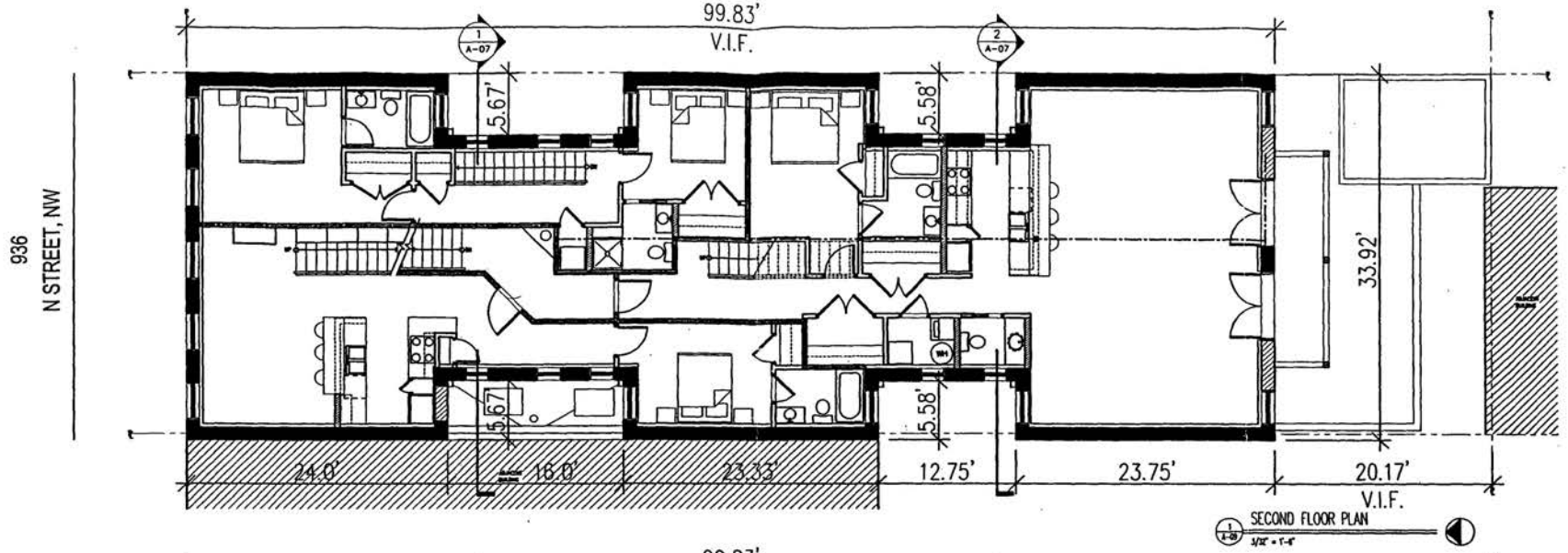
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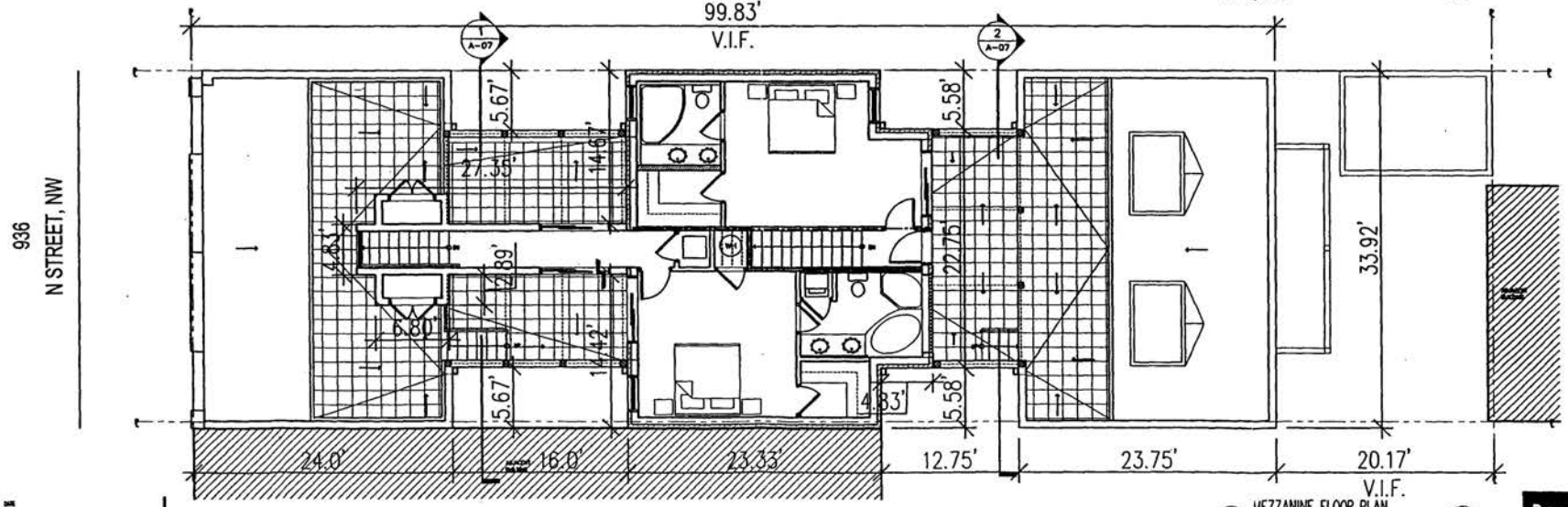


BZA SUBMISSION	JUNE 14, 2005	CELLAR AND FIRST FLOOR PLANS	936 N STREET CONDOMINIUMS	936 N STREET, NW WASHINGTON, DC 2005	A-08

Bonstra | Haresign
ARCHITECTS



SECOND FLOOR PLAN



MEZZANINE FLOOR PLAN

BZA SUBMISSION	JUNE 14, 2005

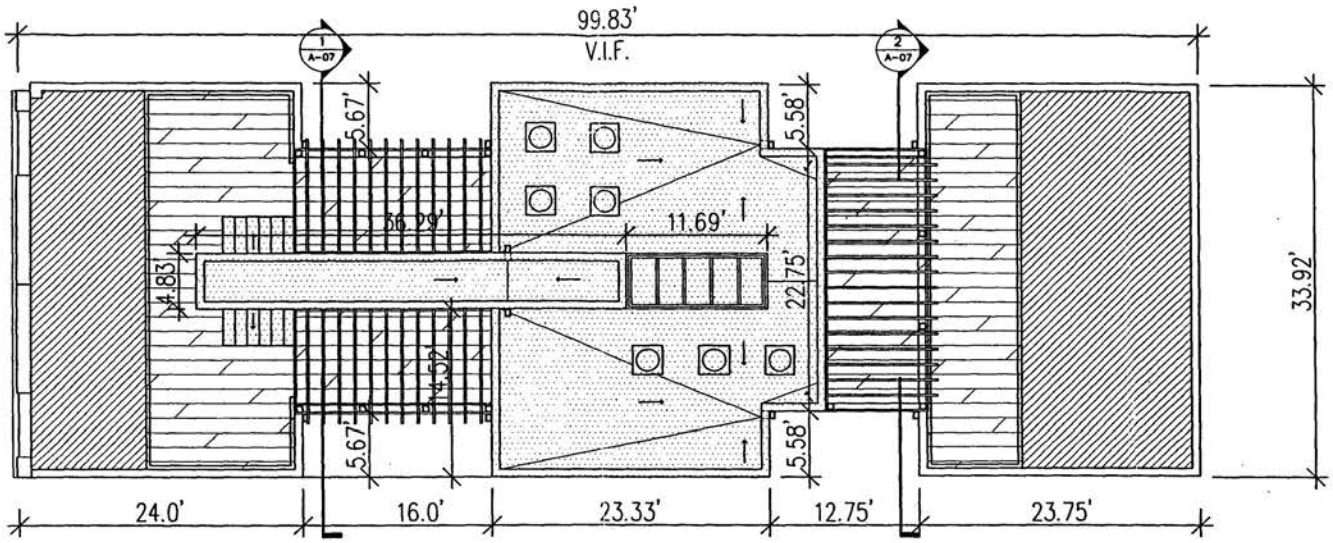
Bonstra | Haresign ARCHITECTS

SECOND AND MEZZANINE FLOOR PLANS

936 N STREET CONDOMINIUMS

936 N STREET, NW
WASHINGTON, DC 2005

A-09



1 A-10 ROOF PLAN
3/32" = 1'-0"

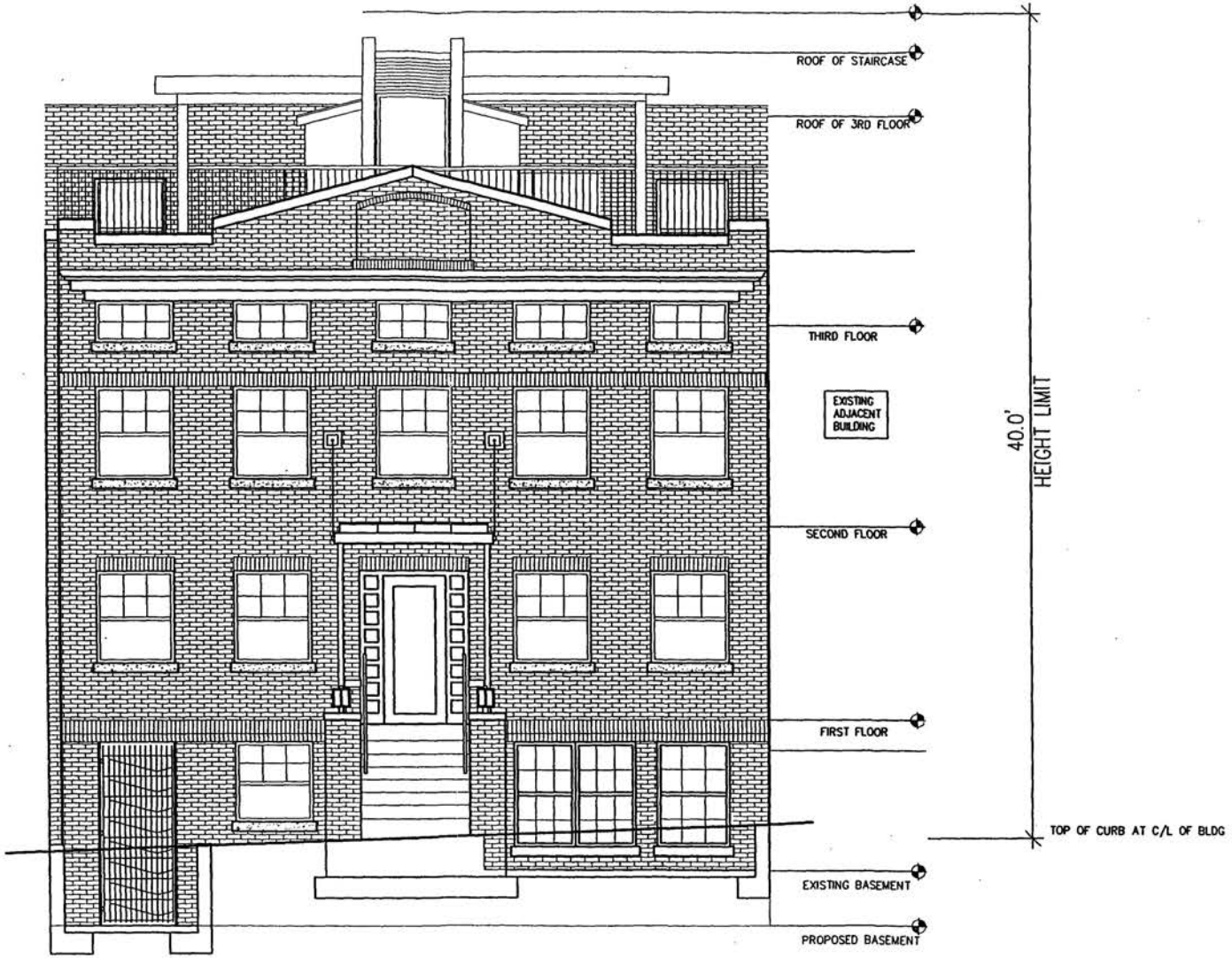
KEY

ROOF
795 SF

ROOF DECK
1048 SF

MEZZANINE
870 SF

BZA SUBMISSION	JUNE 14, 2005				Bonstra | Haresign ARCHITECTS
		ROOF PLAN	936 N STREET CONDOMINIUMS	936 N STREET, NW WASHINGTON, DC 2005	A-10

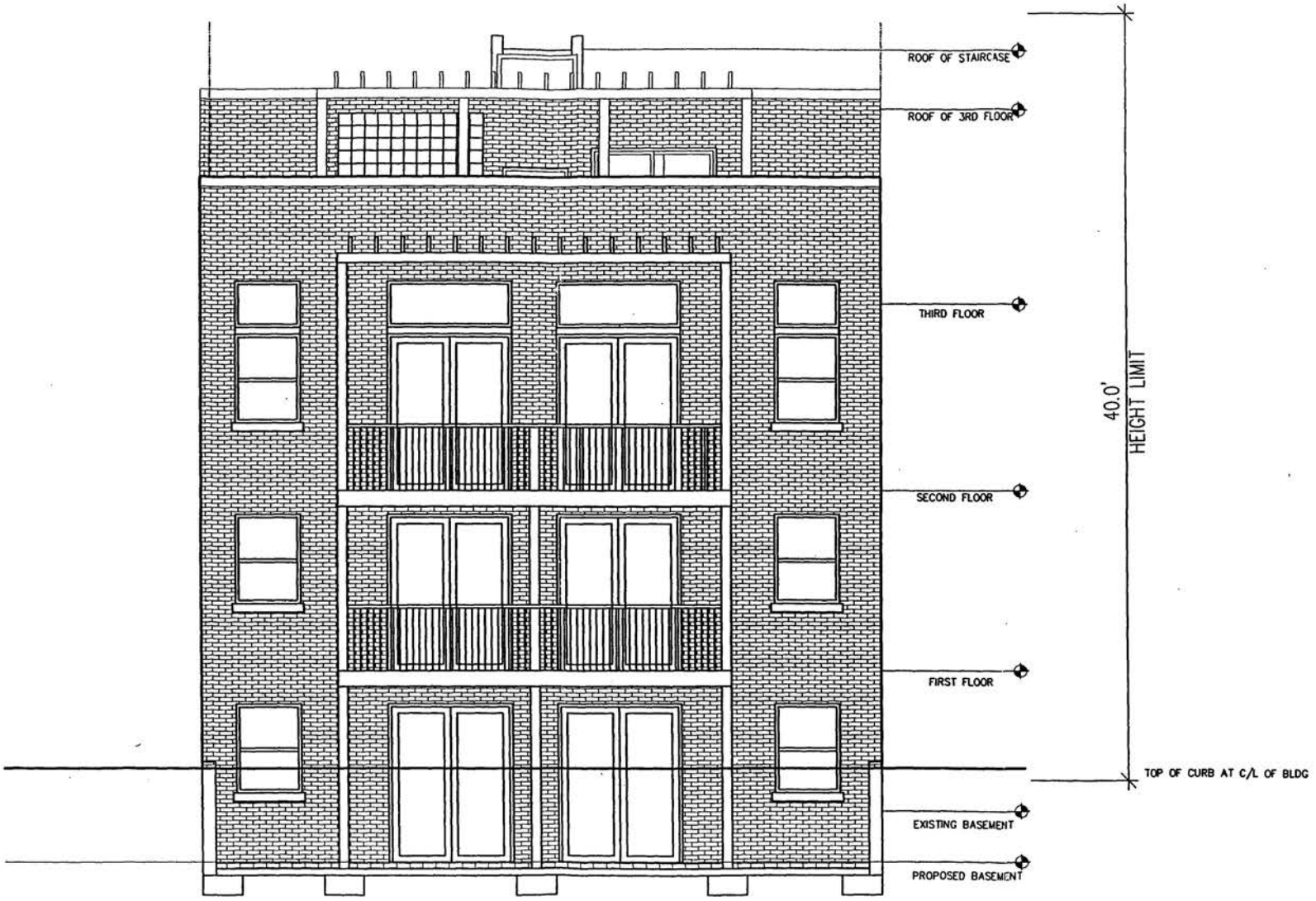


1/A-03 N STREET ELEVATION
3/16" = 1'-0"

DRAWING SET	DATE
BZA SUBMISSION	JUNE 14, 2005

Bonstra | Haresign ARCHITECTS

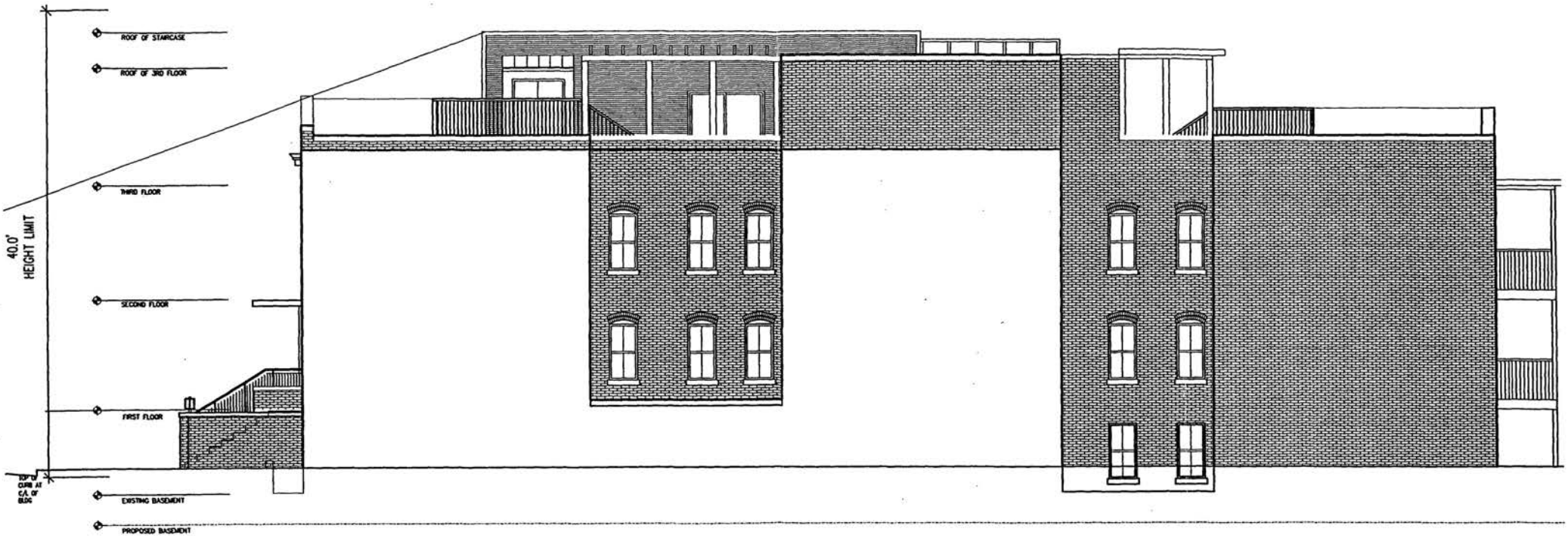
DRAWING TITLE	PROJECT	LOCATION	PAGE #
N STREET ELEVATION	936 N STREET CONDOMINIUMS	936 N STREET, NW WASHINGTON, DC 2005	A-03



REAR ELEVATION
3/16" = 1'-0"

BZA SUBMISSION	JUNE 14, 2005	REAR ELEVATION	936 N STREET CONDOMINIUMS	936 N STREET, NW WASHINGTON, DC 2005	A-04

Bonstra | Haresign ARCHITECTS



SIDE ELEVATION
1/4" = 1'-0"

BZA SUBMISSION	JUNE 14, 2005				Bonstra | Haresign ARCHITECTS
	SIDE ELEVATION	936 N STREET CONDOMINIUMS	936 N STREET, NW WASHINGTON, DC 2005		A-05

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Form BLRA-15
(Rev. 9/30/91

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

BUILDING PERMIT

PERMIT NO. B461861

PERMIT

Date (Type) ALTERATION AND REPAIR

Lot 832 Square 368

Address of work 936 "N" ST. NW.

TOTAL PERMIT FEE $

FILING FEE $

DATE

FEE PAYABLE $ 14,948.00

Permission is hereby granted to
936 N STREET NW. , LLC. SCOTT FRIEDMAN (Owner)
who is authorized to perform the work described herein at the address shown above in strict accordance with the conditions stated on BOTH sides of this permit.

NO.

Authorized work and conditions of performance thereof:

FOR INSPECTIONS CALL [redacted] 442-4641

RENOVATION OF EXISTING APARTMENT BUILDING REDUCING 13-UNITS TO 7-UNITS, PER SUBMITTED PLANS INCLUDING NEW ELECTRIC, WATER AND SEWER, MECHANICAL SYSTEM: SEPARATE ELEC.,PLUMB., & MECH. INSTALLATION PERMITS ARE REQUIRED.

Building DCRA BLRA/HISTORIC PRESERVATION CLEARANCE: CONFORMS WITH MAYOR'S AGENT APPROVAL Value $ No. of Bldgs.

Width UNDER D.C. LAW 2-144. Length Height No. of Stories

Zone : R-4 To be occupied as : 3

Height of terrace above grade Projections:

Address of owner: 8511 CEDAR ST. SIL. SPG. MD. 20910

Deposit No. Amount $

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Chief, Permit Issuance Branch

By Permit Clerk

DAVID CLARK
DIRECTOR

E. DYER

F

ADVISORY NEIGHBORHOOD COMMISSION 2F
Government of the District of Columbia
5 Thomas Circle, NW, Washington, D.C. 20005
Telephone: (202) 667-0052 Fax: (202) 667-0053 www.anc2f.org

Commissioners
2F01 Charles Reed, *Chairman*
2F02 Jim Brandon, *Vice Chairman*
2F03 Christopher Dyer
2F04 Bob Ellison, *Secretary*
2F05 Sandra Biasillo, *Treasurer*
2F06 Michael Nelson
Chris Kohatsu, *Executive Director*

October 13, 2005

(Via Email and First Class Mail)
Geoffrey H. Griffis
Chair
Board of Zoning Adjustment
441 4th Street, NW, Suite 210
Washington, DC 20001

Re: Report of Advisory Neighborhood Commission 2F with Respect to 936 N Street, NW – BZA App. No. 17385

Dear Chairman Griffis and Members of the Board:

In accordance with 11 CDCR § 3115, Advisory Neighborhood Commission 2F (hereinafter "ANC2F" or "Commission") submits its report with respect to the above application for zoning variance. *ANC2F advises the Board to grant the requested application.*

As required by 11 CDCR § 3115.1, ANC2F provides the following information (paragraph numbers correspond to those in the quoted regulation):

(a) *Identification of the appeal or application:* See reference above.

(b) *ANC meeting date:* October 5, 2005.

(c) *Notice:* Proper notice of the meeting was provided in accordance with law and the bylaws of ANC2F. Copies of such notice are contained in the minutes of the meeting.

(d) *Quorum and attendance:* Under ANC2F bylaws, a quorum requires the attendance of at least four of the six elected and acting commissioners. All six were present. A quorum was present and acting throughout the meeting.

(e) *Issues and ANC concerns:* The applicant seeks a variance to permit a mezzanine to be incorporated into the project, which would add a fourth floor to the existing structure. The building, located in a historic district is undergoing condominium conversion. The variance is required because the zoning applicable to this property would prohibit the requested addition.

In a full presentation before a public meeting of the Community Development Committee ("CDC") of our Commission, the developer through its representatives and its architect provided evidence in support of the variance. The community, and the ANC is, as might be expected, quite concerned to preserve the historic character of the area, and to assure that building relate to this character. The CDC unanimously determined, and our Commission has concurred, that the applicant/developer has met its burden demonstrating justification under the D.C. Code § 6-641.07(g)(3)(2001) for the variance. With the addition of the additional floor, the building is under the 40 ft. height limitation applicable to this property. Further, the applicant demonstrates that, by reason of conditions recognized under the cited Code provision, compliance with existing zoning requirements would impose peculiar and exceptional practical difficulties to and exceptional and undue hardship on the applicant.

This project has previously received approval from ANC2F as well as from the Logan Circle Community Association and by District of Columbia Historic Preservation Review Board.

(f) *ANC recommendation:* That the Board approve the application.

(g) *ANC resolution vote:* The vote of ANC2F to adopt this recommendation was unanimous (6 to 0, with no abstentions).

(h) *Authorized persons:* ANC2F authorizes its Charles D. Reed, its Chairman, to represent this report.

We request that the Board give great weight to our advice herein expressed, as provided by § 1-309.10 of the District of Columbia Code, and 11 CDCR § 3115.2 of the Board's regulations.

Sincerely yours,

Charles D. Reed
Chairman, ANC 2F

cc: (*Via Email)*
Bill Bonstra
Paul Tummonds
Scott Friedman

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OUTLINE OF TESTIMONY OF THE APPLICANT

I. INTRODUCTION

A. Description of the Property

B. Location and Description of the Area

II. COMMUNITY OUTREACH

III. DESCRIPTION OF THE PROJECT

A. Need for Renovations and Additional Space

B. Description of the Project

IV. CONCLUSION

OUTLINE OF TESTIMONY OF REPRESENTATIVE OF THE ARCHITECT

I. INTRODUCTION

A. Representative of the Architect

B. Experience in the District of Columbia

II. THE PROPERTY AND SURROUNDING AREA

A. Lot 832 in Square 368

B. Relationship of the Properties to the Immediate Neighborhood

C. Description of the Surrounding Neighborhood

III. PROPOSED PROJECT

A. Current Deficiencies of the Existing Building

B. Renovation of the Existing Building

C. Plans for the Project

D. Need for Variance Relief

IV. SATISFACTION OF VARIANCE STANDARDS

A. An extraordinary or exception situation or condition is inherent to the Property.

B. A practical difficulty exists in satisfying the strict application of the requirements of the Zoning Regulations.

C. No harm to the public good or to the zone plan will occur as a result of the approval of the variance application.

V. CONCLUSION