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November 8, 2005

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2005 NOV -8 PM 2:08

VIA HAND DELIVERY

Board of Zoning Adjustment
for the District of Columbia
441 4th Street, N.W., 2nd Floor
Washington, D.C. 20001

Re: BZA Application No. 17393
1425 11th Street, N.W.

Dear Members of the Board:

On behalf of Ellis Denning Properties, we are submitting herewith an original and twenty copies of the Applicant's Pre-Hearing Statement in support of the above-referenced application. We look forward to the Board's hearing in this matter on November 22, 2005.

Respectfully submitted,

Mary Carolyn Brown

Enclosures

cc: Advisory Neighborhood Commission 2F (w/encl. by mail)
John Moore, Office of Planning (w/encl. by hand delivery)

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 17393
EXHIBIT NO. 30

Board of Zoning Adjustment
District of Columbia
CASE NO. 17393
EXHIBIT NO. 30

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

ELLIS DENNING PROPERTIES
ON BEHALF OF ERNEST L. MURPHY

BZA APPLICATION NO. 17393

PUBLIC HEARING: NOVEMBER 22, 2005

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Submitted by:

Holland & Knight LLP
2099 Pennsylvania Ave., N.W.
Suite 100
Washington, D.C. 20006
Counsel for the Applicant

BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application of Ellis Denning Properties
On behalf of Ernest L. Murphy

BZA Application No. 17393
Public Hearing: November 22, 2005

ANC 2F

STATEMENT OF THE APPLICANT

I.
NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of Ellis Denning Properties (the "Applicant")[1] in support of its application pursuant to 11 DCMR § 3103 for variance relief from section 773 to permit approximately eleven percent of the residential area to be provided as recreation space instead of twenty percent; and variance relief from section 2117.4 to permit required parking spaces to be accessed from an alley less than ten feet in width. This relief is requested in order to permit the construction of a new four-story residential addition to four existing flats at 1421-1425 11th Street, N.W. (Square 338, Lots 37-40 and 800-803) (the "Property"). The Property is located in a C-2-A Zone District.

II.
JURISDICTION OF THE BOARD

The Board of Zoning Adjustment has jurisdiction to grant the requested variance relief pursuant to D.C. Code § 6-641.07 (2001 ed.) and section 3103.2 of the Zoning Regulations.

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[1] Ellis Denning Properties is the contract purchaser of the Property; Ernest L. Murphy, the current property owner, has authorized Ellis Denning Properties to process this application on its behalf.

III.
EXHIBITS IN SUPPORT OF THE APPLICATION

Before proceeding with the discussion of the merits of this application, the following additional materials are submitted:

Exhibit A:	A portion of the Sanborn Atlas showing the Property highlighted in yellow.
Exhibit B:	A portion of the Zoning Map showing the Property highlighted in yellow, with zoning designation of C-2-A.
Exhibit C:	Outline of testimony of Representative of Ellis Denning Properties, Applicant.
Exhibit D:	Outline of testimony of Representative of Hickok Warner Cole, Architects.
Exhibit E:	Outline of testimony of Steven E. Sher, Director of Zoning and Land Use Services, Holland & Knight LLP.
Exhibit F:	Minutes of Advisory Neighborhood Commission 2F, CDC, June 22, 2005, indicating unanimous support for the project.
Exhibit G:	Revised and updated architectural plans.

IV.
BACKGROUND

A. Site and Vicinity Characteristics

1. The Property

The Property includes Lots 37-40 and 800-803 in Square 338 and contains 11,156 square feet of land area. The northern portion of the site (Lots 800-803) is vacant, while the southern four Lots (Lots 37-40) are each improved with a three-story flat (two residential units). The Property has approximately 118 feet of frontage along 11th Street. Square 338 is bounded by P Street on the north, 10th Street on the east, O Street on the south, and 11th Street on the west. The Property is located along 11th Street, midblock between P and O Streets, and is bounded by

public alleys to its south and east (see Exhibit A). The Property is included in a C-2-A Zone District as shown in Exhibit B.

2. Vicinity

To the north of the Property are single family residential and retail uses. To the east of the Property are a public alley and row dwellings. To the south of the Property are a public alley, row dwellings and multiple dwellings. To the west of the Property, across 11th Street, are multiple dwellings and retail uses.

B. Description of Proposed Construction

The Applicant proposes to subdivide the Property into a single lot, connect the four existing flats to form a single building, and construct a new four-story residential addition with a basement on the vacant parcel to the north. The building will be constructed to a height of 50 feet and contain approximately 24,543 square feet of gross floor area devoted to residential use, which equates to a density of 2.2 floor area ratio ("FAR"). Upon completion, the project will provide 28 residential units, 20 of which will be located in the new addition and 8 of which will be located in the existing flats. Fourteen surface parking spaces will be provided along the alleys to the rear of the development.

The building has been designed to be compatible with the small-scale qualities of the Shaw Historic District. The Historic Preservation Review Board approved the design of the addition and renovations to the existing buildings at its September 2005 meeting.

Residential recreation space, consisting of approximately 2,800 square feet, will be located on the roof of the building and elsewhere on the property, as shown on Sheet A-2 of the architectural drawings submitted separately. This represents approximately 11 percent of the

total gross floor area of the building whereas 20 percent is required under section 773 of the Zoning Regulations.

In order to proceed with this development, the applicant seeks the following areas of relief from the Zoning Regulations: 1) variance relief from §773 to allow approximately ten percent of the residential area to be provided as recreation space instead of twenty percent; 2) variance relief from §2117.4 to permit required parking spaces to be accessed by an alley less than ten feet in width.

V.
THE APPLICATION MEETS THE REQUIREMENTS FOR VARIANCE RELIEF FROM THE ZONING REGULATIONS

A. Standard of Review

Under D.C. Code § 6-64107(g)(3) (2001 ed.) and 11 DCMR 3103.2, the Board is authorized to grant an area variance where it finds that three conditions exist:

> (1) the property is unique because, *inter alia*, of its size, shape or topography; (2) the owner would encounter practical difficulties if the zoning regulations were strictly applied; (3) the variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zoning plan.

French v. District of Columbia Board of Zoning Adjustment, 658 A.2d 1023, 1035 (D.C. 1995), *quoting Roumel v. District of Columbia Board of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980). *See, also, Capitol Hill Restoration Society, Inc. v. District of Columbia Board of Zoning Adjustment,* 534 A.2d 939 (D.C. 1987). As set forth below, the Applicant satisfies this three-pronged test for a variance from the area requirements for residential recreation space and parking spaces off an alley less than ten-feet in width. Variance relief is therefore appropriate in the present case.

A. The Property is Affected by an Exceptional Or Extraordinary Situation or Condition

As noted above, development on the Property is constrained by the existing four attached dwellings, which will be renovated as part of the proposed development and contain approximately 7,068 square feet of building area. The configuration of these existing buildings dictates that the interior space be devoted exclusively to private residential use; there are no opportunities for recreational space in these flats. Nevertheless, the square footage of these existing buildings count toward the residential recreation space requirement, which equals almost 1,414 square feet of space. In order to comply with the requirement for the existing buildings only, the majority of the residential recreation space would need to be provided in the new building area and reduce the number of apartments by one or two units. Furthermore, the existing flats occupy 2,356 square feet of the Property, leaving a limited area for new construction that would comply with lot occupancy and floor area ratio regulations and an even more limited area that could be utilized for residential recreation space.

Given the limited size of the Property, parking must be located at-grade instead of underground. The location of the required parking spaces, in addition to the existing flats, further limits building area that could be devoted to residential recreation space.

Additionally, the roof of the proposed addition cannot feasibly be used for residential recreation space as roof decks are required to have two means of egress, one of which must be a separate stairway that is not part of the main roof structure. Adding a separate stairway would create multiple issues with regard to the number and setbacks of roof structures, as well as the height of the proposed addition in a historic district.

The public alley that borders the Property on its east and provides access to the proposed development is 9.75 feet in width. This is an existing condition that does not allow the project to

adhere to the regulation that alleys providing access to required parking spaces be at least ten feet in width due to the necessary configuration of the project, as detailed below.

The D.C. Court of Appeals has held that existing structures are as important as topography in creating "other extraordinary or exceptional situation or condition of a specific piece of property." *See Clerics of Saint Viator, Inc. v. District of Columbia Board of Zoning Adjustment*, 320 A.2d 291, 294 (D.C. 1974); *see also Monaco v. District of Columbia Board of Zoning Adjustment*, 407 A.2d 1091, 1099 (D.C. 1979) (extraordinary conditions are not limited to physical aspects of the land). Further, the D.C. Historic Preservation Review Board has imposed specific limitations on the massing, configuration and articulation of new construction for this property, which creates further exceptional conditions for the Subject Property. The confluence of these extraordinary and exceptional conditions create practical difficulties for the Applicant, as described below. *See Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164 (D.C. 1979) (uniqueness may stem from a confluence of factors).

B. The Strict Application of the Zoning Regulations Would Result in a Practical Difficulty

1. Section 773

The existence of four flats on the Property that count toward the residential recreation space requirement but cannot themselves provide any inside residential recreation space creates an unintended and unnecessary burden on the new construction. Although the proposed new addition includes only twenty residential units, a strict application of the Zoning Regulations would require 5,493 square feet of residential recreation space for the entire project – or approximately 275 square feet per new residential unit.

The allotment of 4,087 square feet (813 square feet is provided on the rooftops of the existing flats) of residential recreation space within a new building that is only 20,400 square feet

and includes only twenty units is both impractical and unnecessary. It is not feasible to establish this space in any kind of meaningful way while maintaining the required building core elements and reasonably configured living spaces. Furthermore, the existence of that large of a space within a multi-family residential building of the proposed size would ultimately be burdensome on the future residents in terms of maintenance.

2. Section 2117.4

As noted above, the limited size of the Property creates the need for parking to be located at-grade instead of underground. The retention of the four existing flats and the necessity to have the remainder of the project front on 11th Street – the site's only street frontage – demands that the surface parking be located at the rear of the development. The alley to the south does not have adequate frontage for it to provide access to all of the required parking spaces.

C. <u>Variance Relief Can Be Granted Without Substantial Detriment to the Public Good and Without Impairing the Intent, Purpose and Integrity of the Zone Plan.</u>

The requested relief can be granted without harm to the public good and without threat to the integrity of the zone plan.

1. Section 773

The proposed development will refurbish the facades of the existing rowhouses and establish an additional vibrant residential use on 11th Street. The proposed development includes a total of 2,800 square feet of residential recreation space, or approximately eleven percent of the total residential building area. This amount represents approximately 100 square feet per residential unit, or 140 feet per new residential unit. Additionally, there are numerous recreational opportunities in the vicinity of the Property, including Logan Circle two blocks to the west.

2. Section 2117.4

The parking spaces at the rear of the Property have been moved one foot farther away from the adjacent public alley, creating an effective alley width of 10.75 feet. As Section 2117.4 requires that alleys providing access to required parking spaces be at least ten feet in width, the proposed development meets the intent of the Zoning Regulations without harm to the public good and without threat to the integrity of the zone plan.

For all the above reasons, the Applicant satisfies its burden of proof for variance relief.

VI.
WITNESSES

A. Representative of Ellis Denning Properties, Applicant
B. Representative of Hickok Warner Cole, Architects
C. Steven E. Sher, Director of Zoning and Land Use Services, Holland & Knight LLP

VII.
CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards of the Zoning Regulations and can be granted without substantially impairing the intent, purpose and integrity of the Zoning Regulations. The applicant therefore requests that the Board grant the application.

Respectfully submitted,

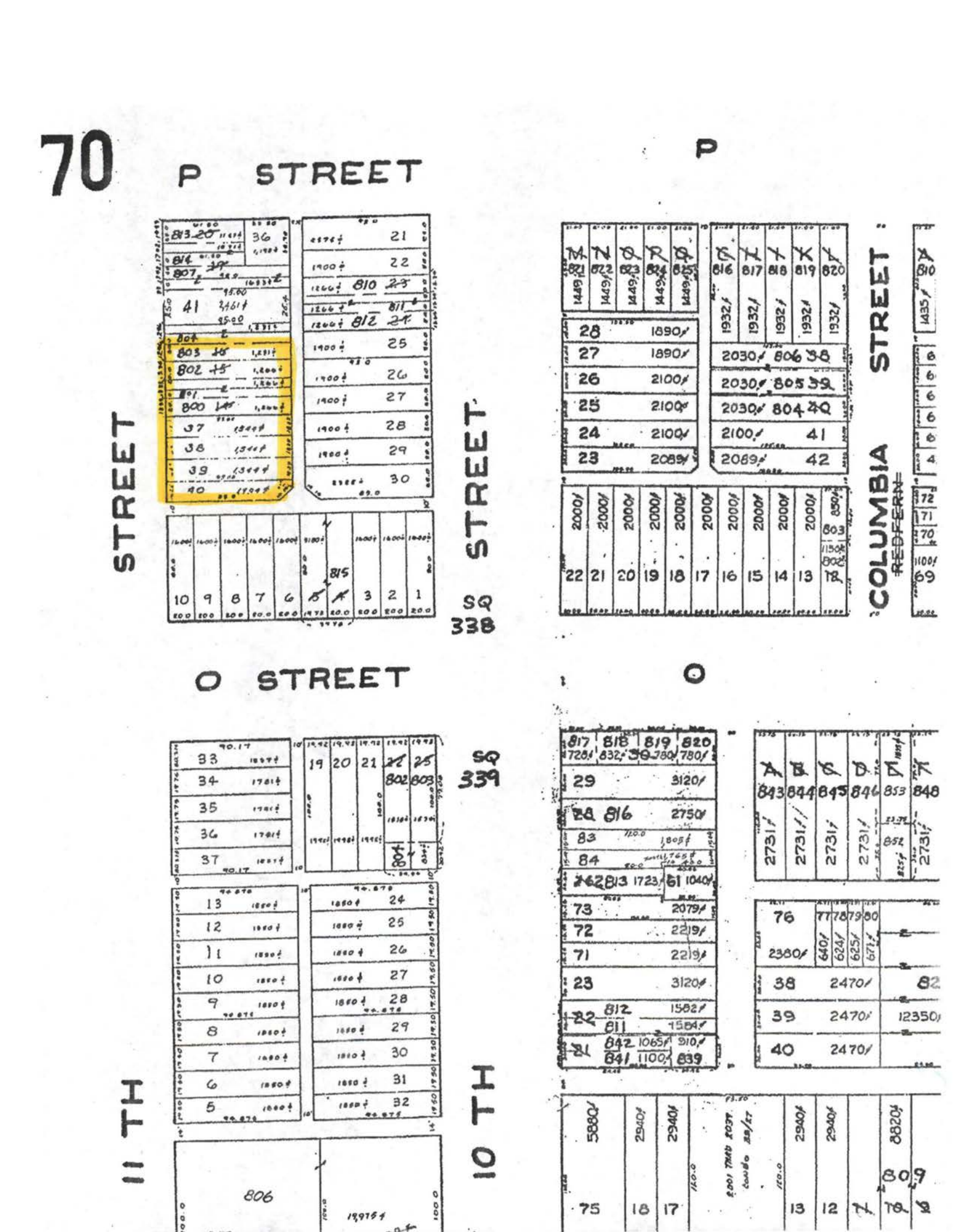
HOLLAND & KNIGHT LLP

By _____
Mary Carolyn Brown

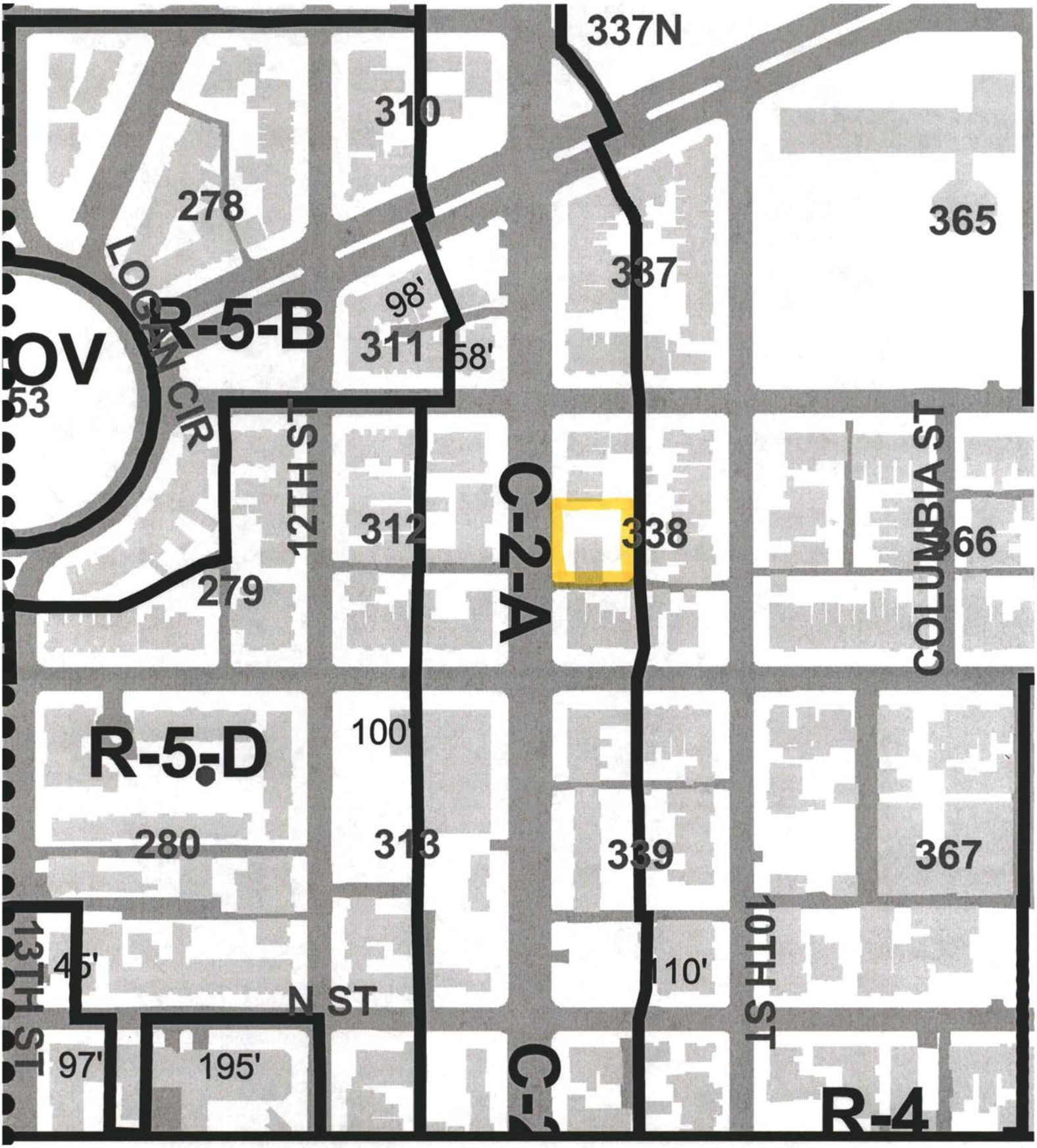
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(202) 955-3000

Date: November 8, 2005

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R-4

C

OUTLINE OF TESTIMONY
APPLICANT
ELLIS DENNING PROPERTIES

I. INTRODUCTION

II. EXISTING USE OF SITE

III. PROPOSED DEVELOPMENT

IV. EXISTING CONDITIONS AND LIMITATIONS

V. REQUIREMENTS FOR GRANTING THE VARIANCE RELIEF HAVE BEEN MET

VI. CONCLUSION

D

OUTLINE OF TESTIMONY
REPRESENTATIVE
HICKOK WARNER COLE, ARCHITECTS

I. INTRODUCTION AND PROFESSIONAL QUALIFICATIONS

II. SITE AND LOCATION DESCRIPTION

A. OVERVIEW OF SITE, VICINITY AND LAND USE/ZONING

B. SITE PLANNING – SIZE, LOT CONFIGURATION, TOPOGRAPHY

III. PROJECT AND BUILDING DESIGN CONSIDERATIONS

IV. ZONING RELIEF IS NEEDED AND THE APPLICANT MEETS ITS BURDEN OF PROOF

V. CONCLUSION

E

OUTLINE OF TESTIMONY
STEVEN E. SHER
DIRECTOR OF ZONING AND LAND USE SERVICES
HOLLAND & KNIGHT LLP

I. SITE LOCATION AND DESCRIPTION

II. DESCRIPTION OF SURROUNDING AREA

III. EXISTING ZONING – C-2-A

IV. PROPOSED DEVELOPMENT

V. VARIANCE RELIEF REQUIRED

VI. STANDARDS FOR VARIANCE RELIEF

VII. COMPLIANCE WITH THE VARIANCE STANDARDS

VIII. CONCLUSIONS

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F

ANC 2F Community Development Committee
June 22, 2005 – 7 PM
Washington Plaza Hotel

In Attendance:
Mike Benardo, 2F06
Sandra Biasillo, 2F05
Jim Cook, 2F02
Chris Dyer, Chairman
Helen Kramer, at large
Jim Loucks, 2F06
Jim Richardson, 2F02
Samuel Robfogel, 2F01
Mike Sheaffer, 2F05

Absent:
Kevin Ivers, 2F04
Kara McCabe, 2F01
Ryan McGuinness, 2F03

Note: The meeting began late due to an unforeseen scheduling problem with the hotel.

Consent Calendar (These items were approved without objection)



1425 11 Street NW
Shawn Wayne and Laurence Caudle presented to the committee last month and received approval. They appeared again to ask for a variance on recreational space pertaining to this property.

The variance requested is 10% rather than 20% as required in a C2A Zone.

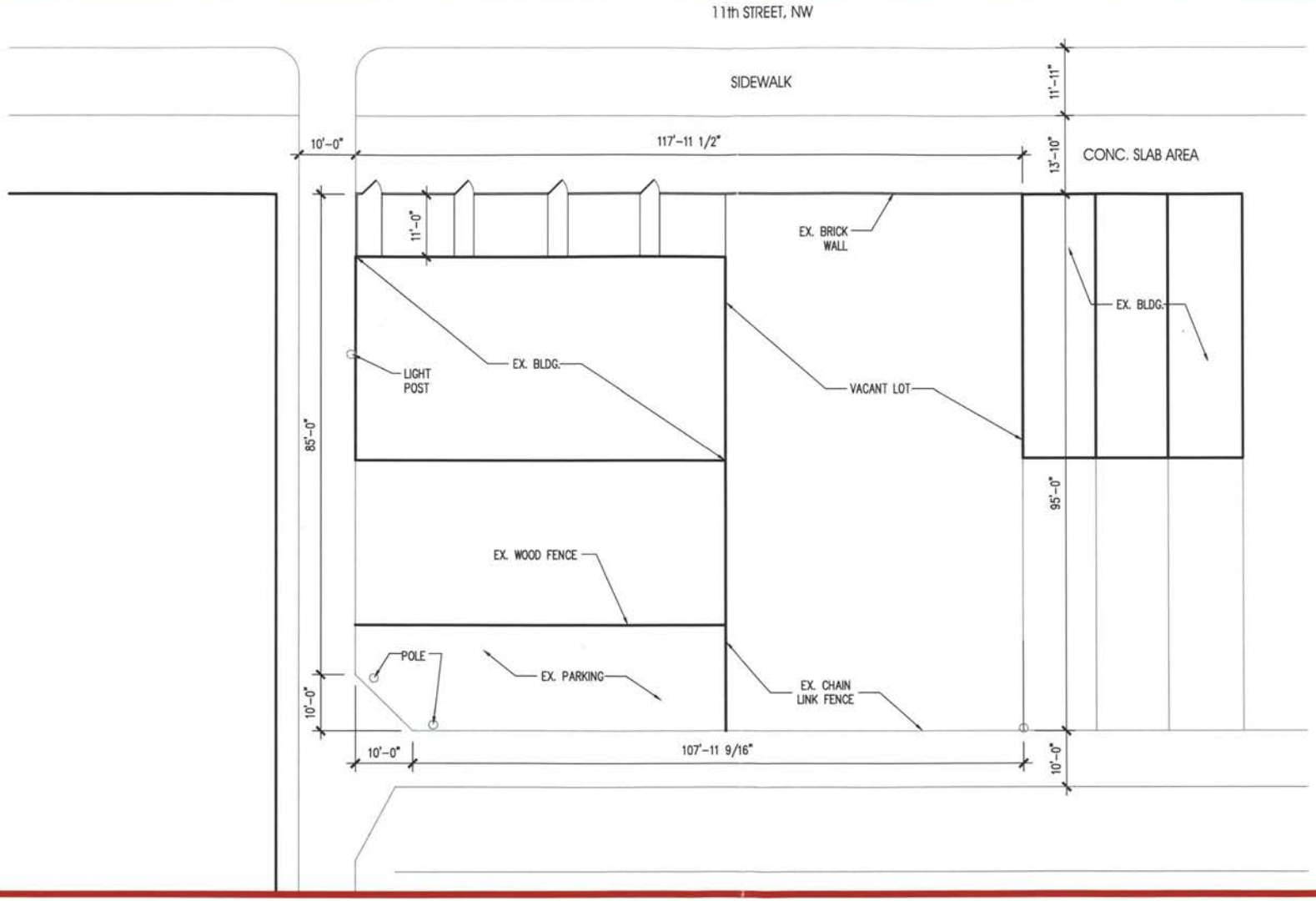
Kramer moved that the committee recommend to the ANC that it supports the proposed variance space from Section 773 of the Zoning Regulations to permit 2,803 square feet of residential recreation space or ten percent of the residential area to be provided as recreation space for the project at 1425 11 Street NW because the applicant has demonstrated practical difficulty.

Approve: Unanimous.
The motion carried.

1006 M Street
Dan Hazard, of Dan Scott Development appeared with architect Scott Jaffo to present the project's concept and design.

This is a single family home that will be developed into three condominiums. Balconies will have metal railings to match the infrastructure. There is now a one story loft atop the proposed building that will not be visible from the street. Garbage removal will be in the rear of the building. No parking will be provided, however, they hope to work with a

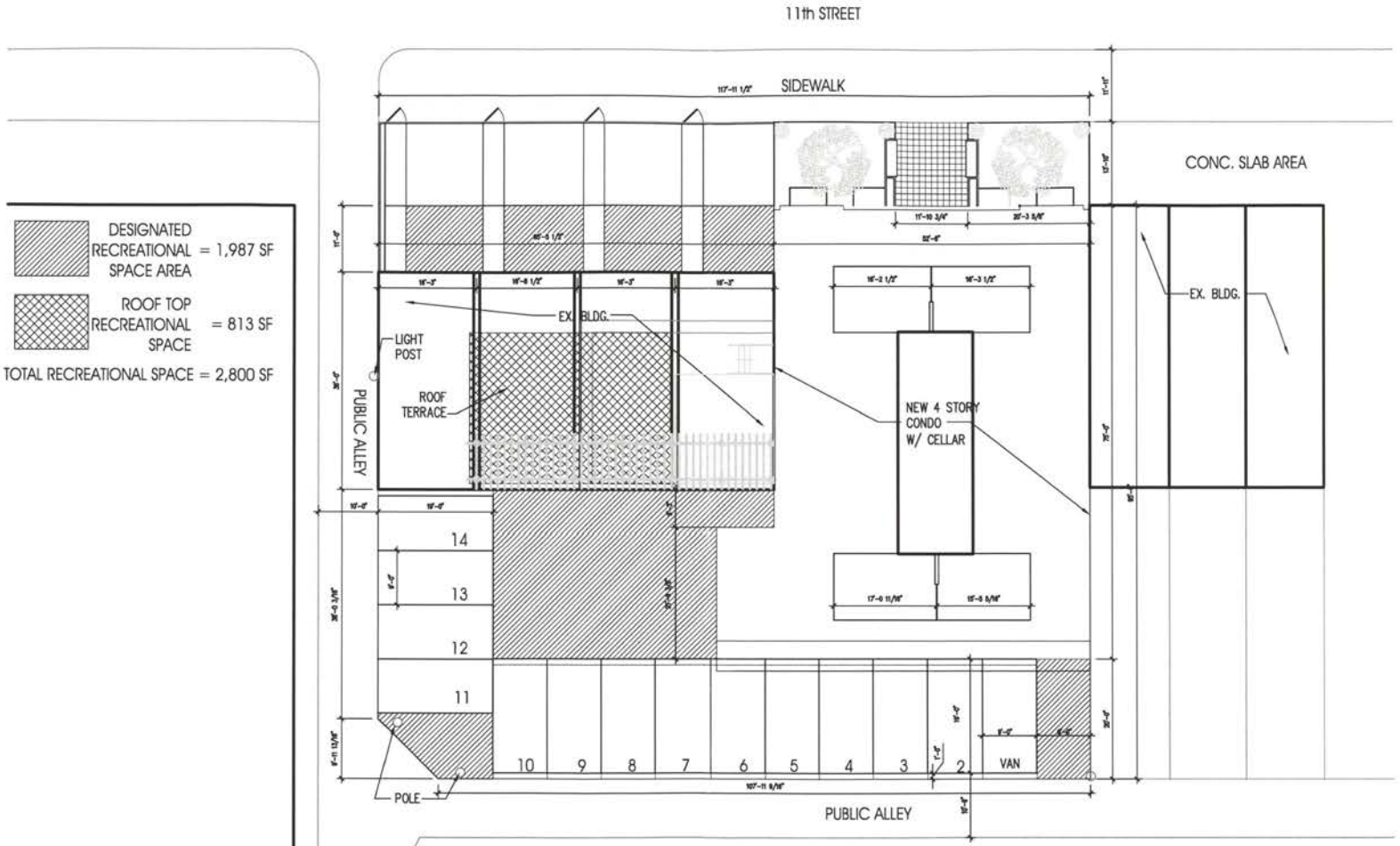
G



A1 - SITE CONTEXT

1425 11th Street - BZA SUBMISSION - NOVEMBER 22, 2005

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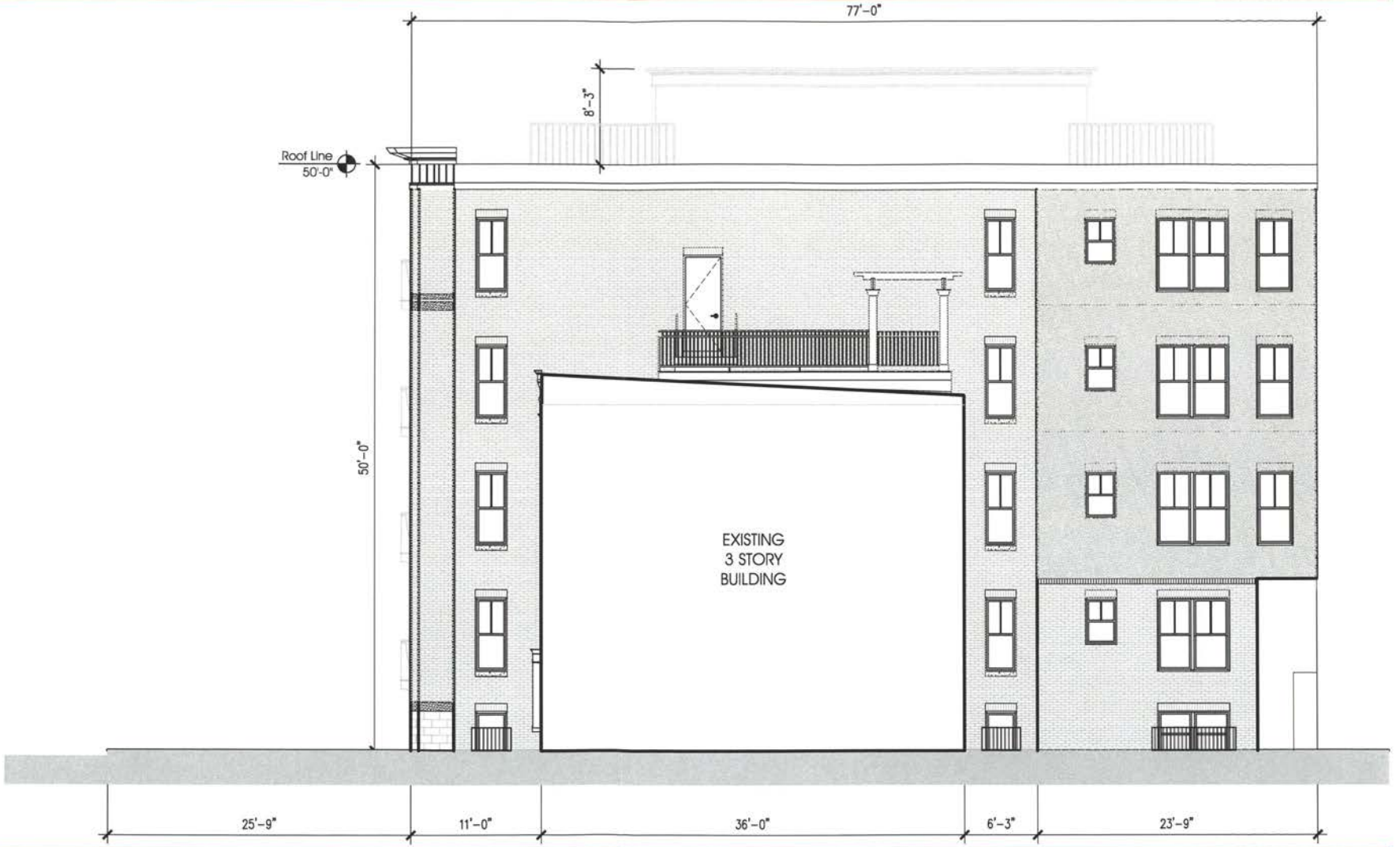
A2 - PROPOSED SITE PLAN
1425 11th Street - BZA SUBMISSION - NOVEMBER 22, 2005

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A3 - WEST ELEVATION
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A4 - SOUTH ELEVATION

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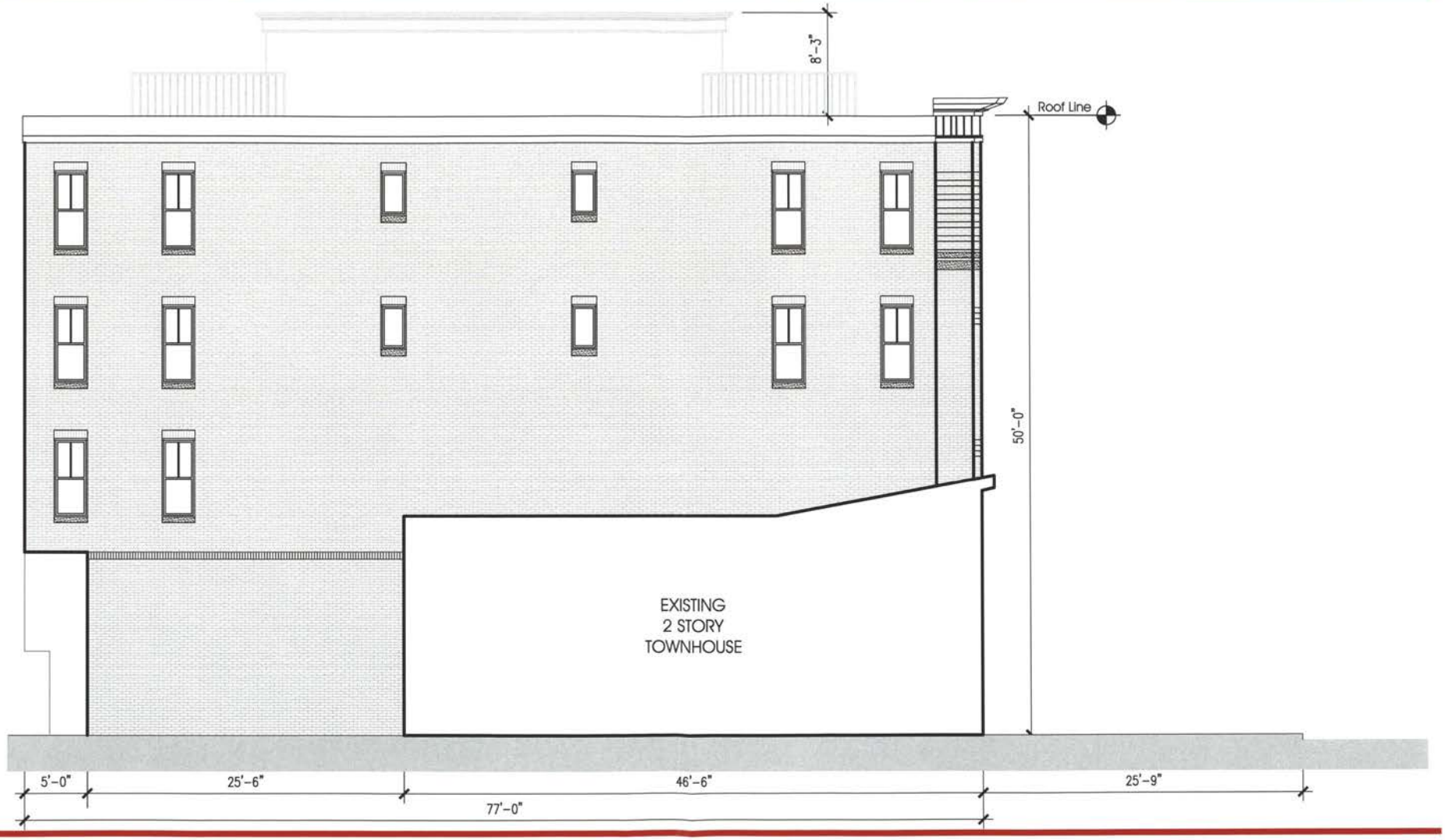
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A5 - EAST ELEVATION

1425 11th Street - BZA SUBMISSION - NOVEMBER 22, 2005

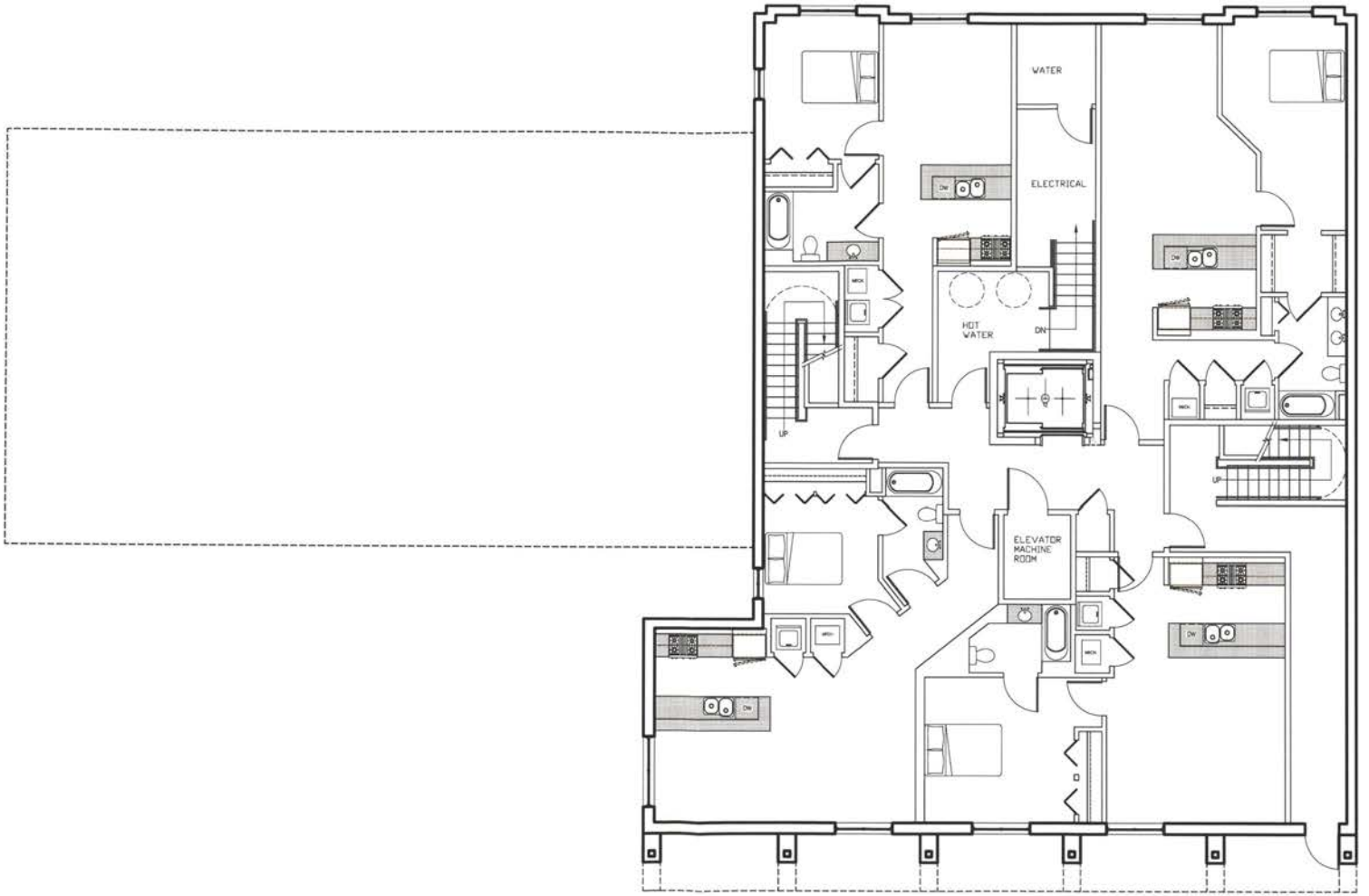
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A6 - NORTH ELEVATION

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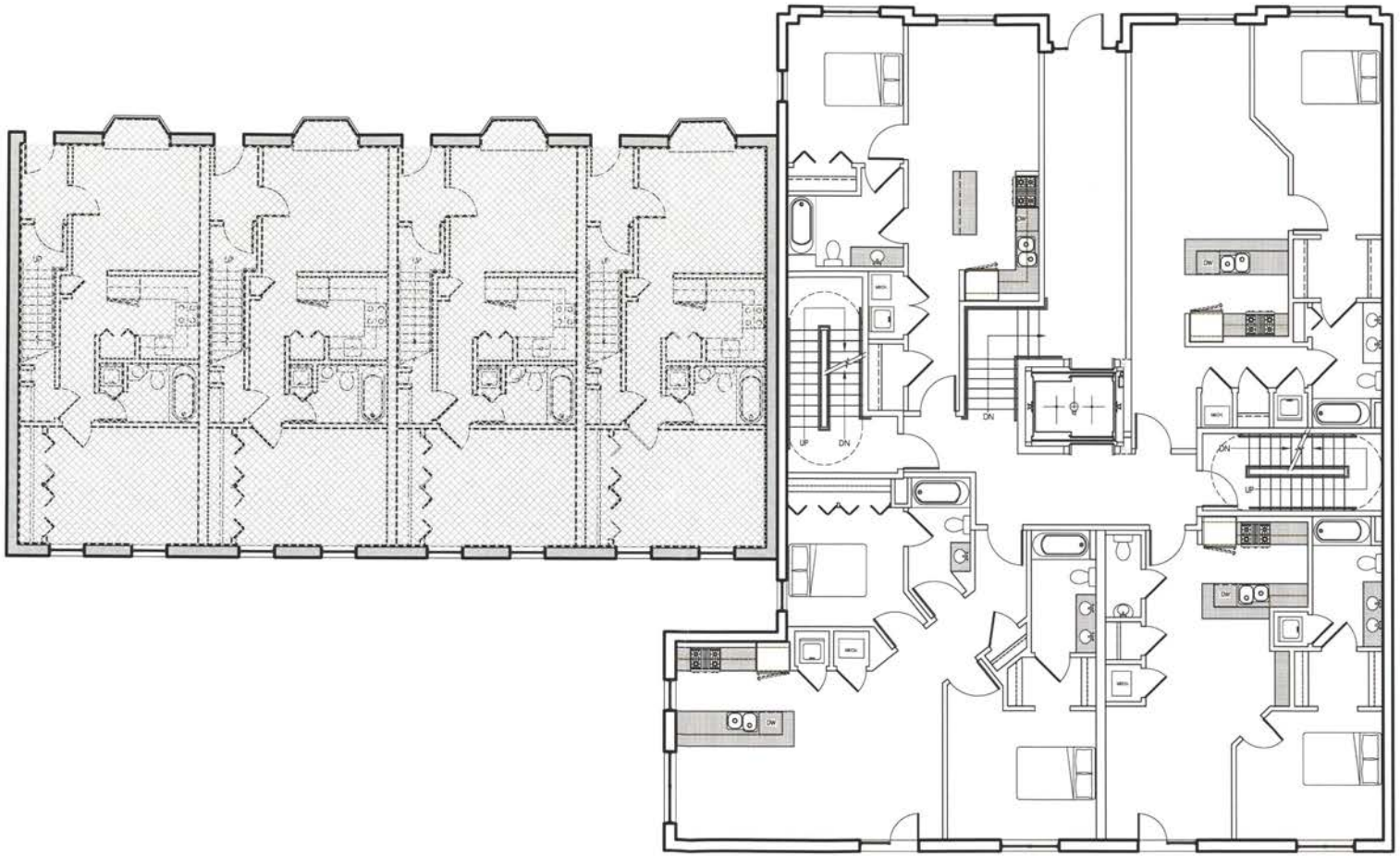
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A7 - CELLAR LEVEL PLAN

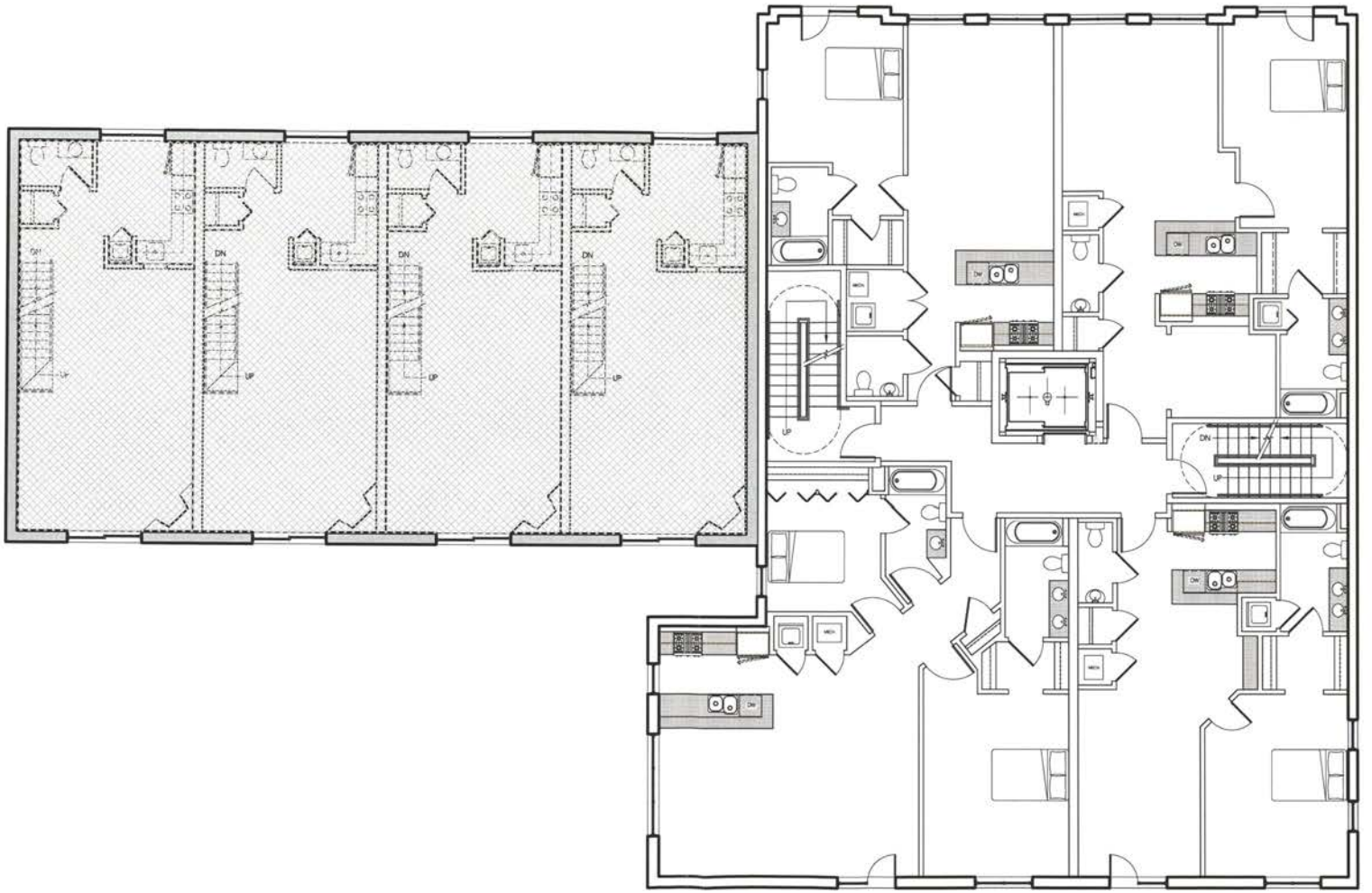
1425 11th Street - BZA SUBMISSION - NOVEMBER 22, 2005

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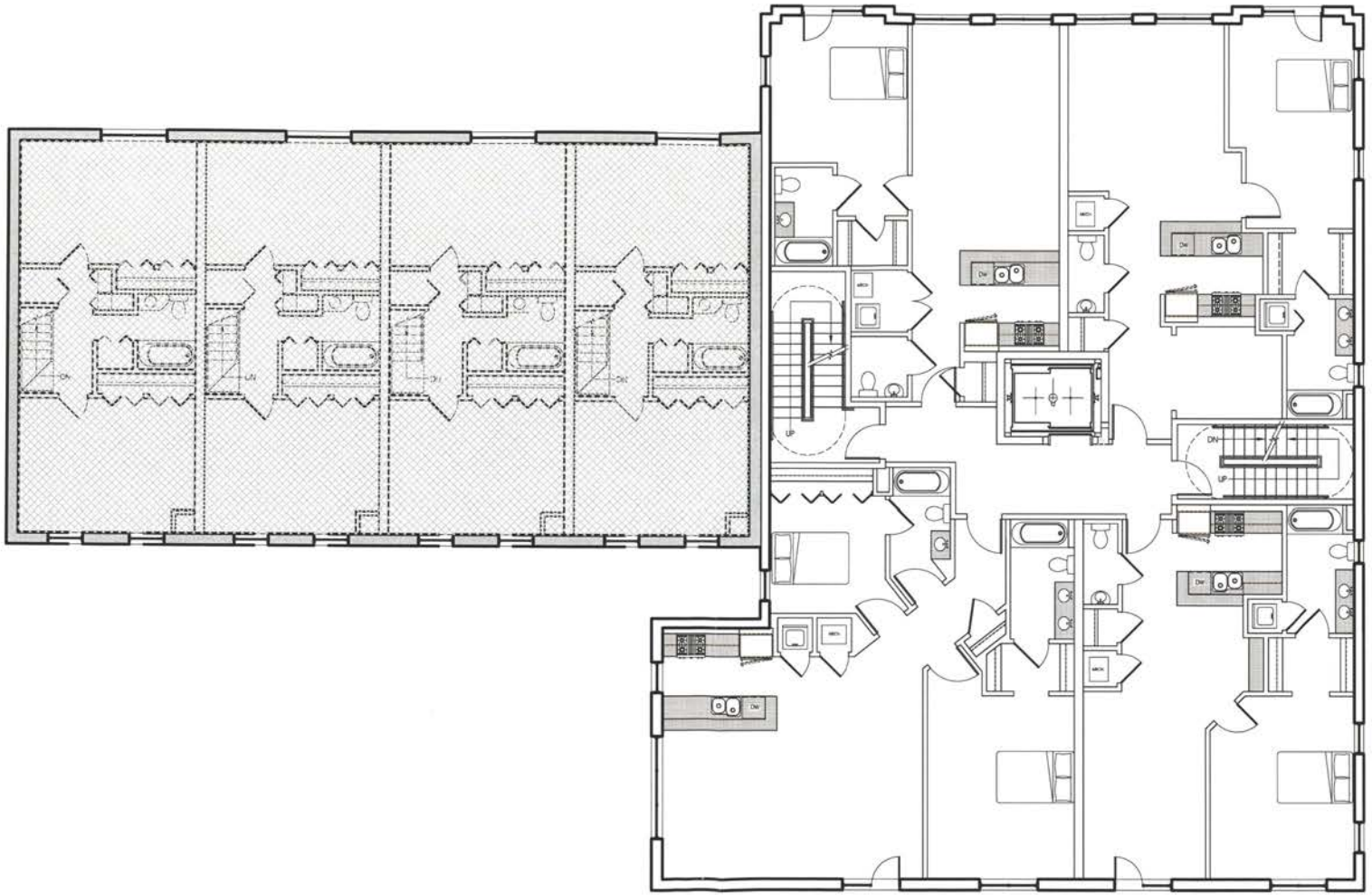
A8 - FIRST FLOOR PLAN
1425 11th Street - BZA SUBMISSION - NOVEMBER 22, 2005

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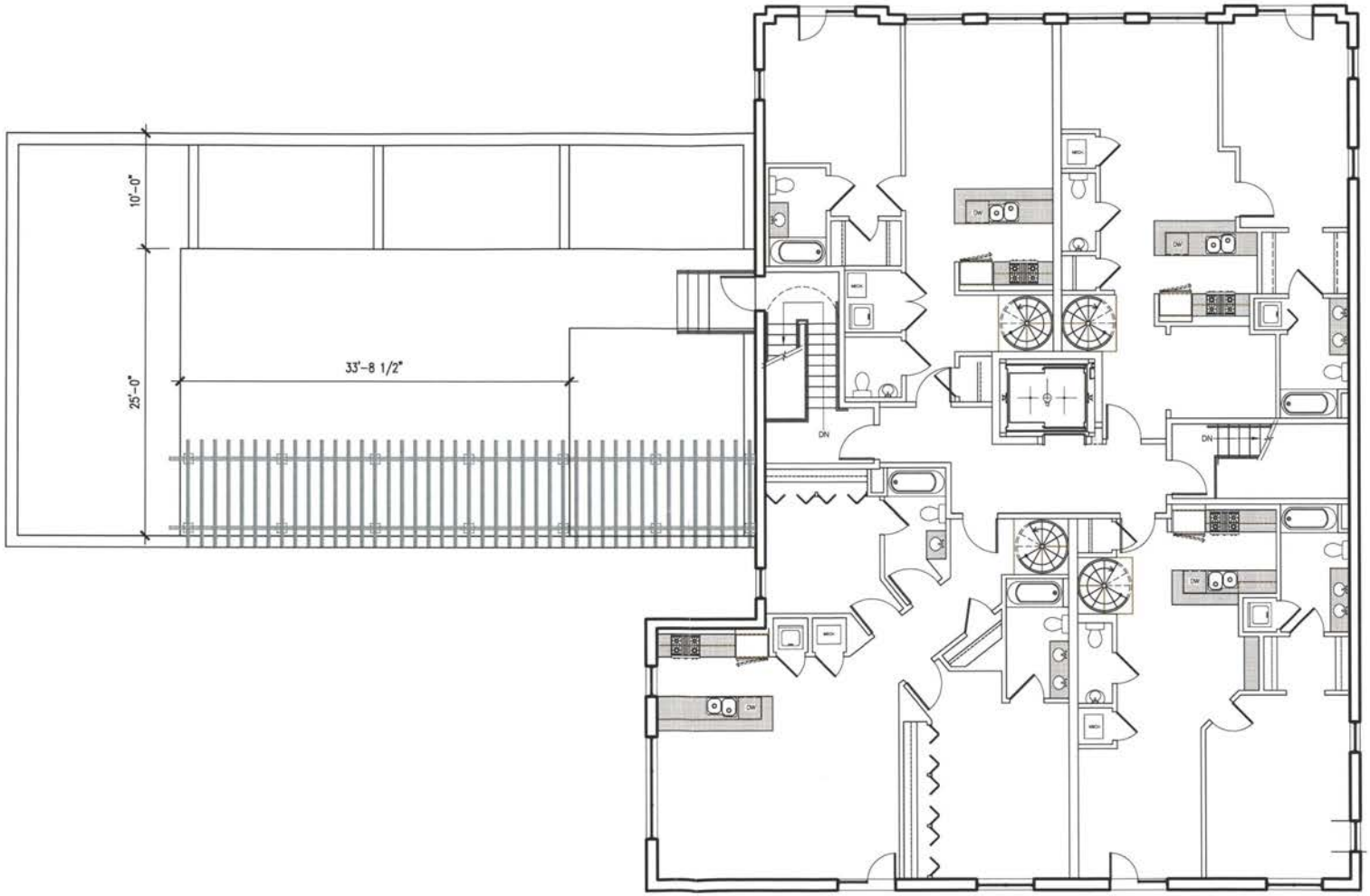
A9 - SECOND FLOOR PLAN
1425 11th Street - BZA SUBMISSION - NOVEMBER 22, 2005

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A10 - THIRD FLOOR PLAN
1425 11th Street - BZA SUBMISSION - NOVEMBER 22, 2005

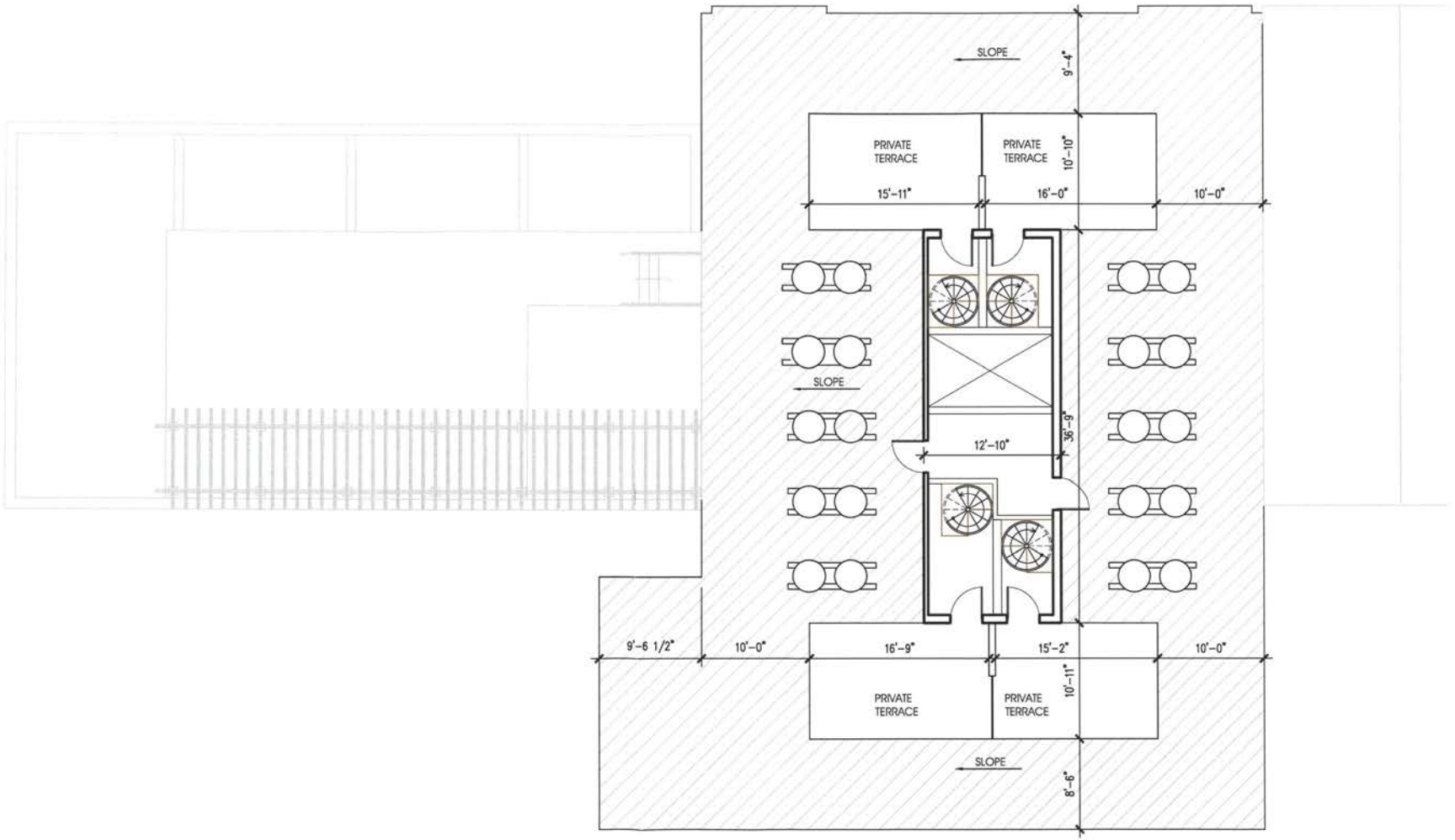
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A11 - FOURTH FLOOR PLAN

1425 11th Street - BZA SUBMISSION - NOVEMBER 22, 2005

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A12 - ROOF PLAN

1425 11th Street - BZA SUBMISSION - NOVEMBER 22, 2005

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