

## SLIDE 1

Good afternoon Chairman, Members of the Board My name is Guillermo Rueda, a District of Columbia architect for more than 30 years. My testimony as an expert in zoning and architecture is offered on behalf of Mary Lee and Deborah Hernandez whose properties on Albemarle Street adjoin and have use of the 16' pipestem that provides access to the applicant's tax lot at 3007.

The application proposes creating two theoretical lots with real problems: one, a larger lot [about 18,000 sf] is to be created [for a new house and pool] for the applicant's use that will be accessed by way of a new driveway from Appleton at the northwest corner of the lot where it meets 31<sup>st</sup> Street. This work [house one] is to be funded with the sale of a speculative second house of comparable footprint [83%] and height, but developed on half the buildable area on a lot 2. [About 9,000 sf, the pipestem represents about 10% of the total property.]

My clients oppose the approval of this second lot and principal dwelling, which in this application, is sited directly behind their properties. The non-conforming zoning elements of the proposed smaller lot and dwelling create substantial public and private adverse effect to prevent its approval.

The nonconforming street frontage and lot width cannot be ignored in the special exception review process for theoretical subdivision, especially where a property is removed from the street almost 200 ft. These elements are confirmed by OP to be noncompliant and OP's report indicates that the non-conforming lot width requires variance relief [that they do not support]. Likewise, the Zoning Administrator has also advised that the application requires variance relief (BZA Exhibit No. 5).

Importantly, the application fails the basic test for a special exception for applying for a theoretical lot subdivision because Section C-305.1 requires "a single record lot." The Applicants have a tax lot, which is *not* a single record lot.

With that background, I also believe that any house sited and sized as shown at the end of the pipestem will have a disproportionately negative affect on my clients' properties—because of the lack of functional vehicular access to and from the new house. If approved, access to the property would be significantly changed from the current condition to terminate less than 20' from the end of the pipestem at the start of a 14 ft wide ramp down to a basement level 2-car garage in the speculative home. Traffic, having nowhere to turn will by default backup onto the narrow 16' pipestem shared with 3005 and 3009—which they use for access to their respective garages.

To demonstrate the significant adverse affect of the proposed, second house, we modelled the proposed development in three-dimensions to show what the applicant does not --- the impact of the location, failed access, and size of the development on my clients' adjoining properties. I should note that a few of the images did not make it into the presentation (ex. 163).

## **SLIDE 2**



*Slide 2 Image: View of Development from Southeast*

This first view captures how the proposed subdivision's addition of a second house directly behind 3009 and 3005 conflicts with R-8 zoning purpose and intent. The scale, volume and hardscapes at house 2 creates density that is incompatible

with R8 goals. In this case, placement of the second home at the bottom of the steeply sloped site is a direct result of the natural topography that the regulations seek to preserve. House 2 is proposed on the flatter terrain less than 50' from my clients' rear property lines with significant alteration required of the rear grade to provide an outdoor patio area cut into the hill.

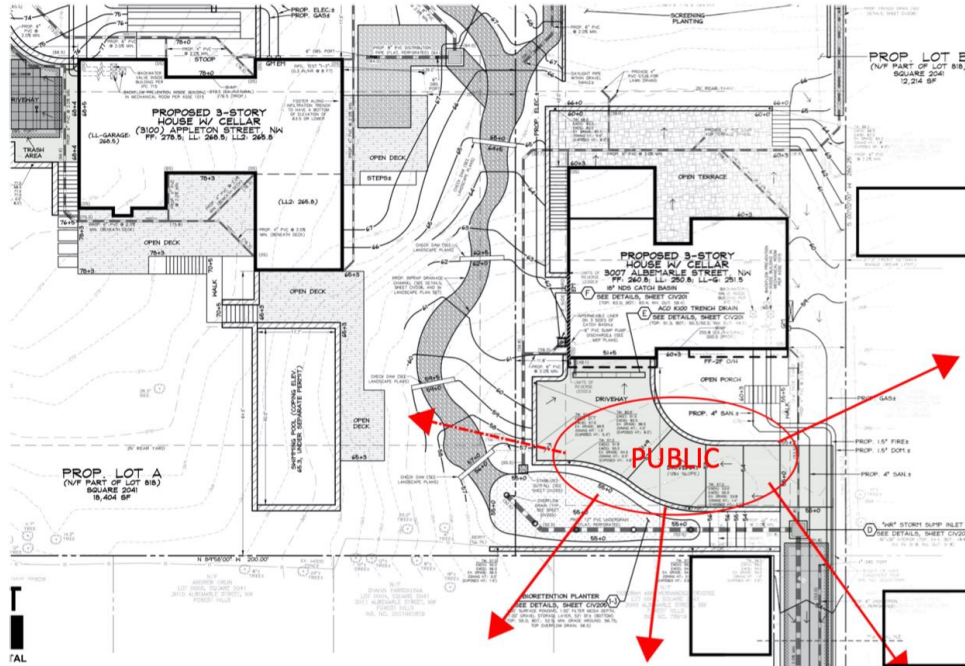
### **SLIDE 3**

In answering a recent question on Theoretical Subdivisions, Mr. LeGrant communicated to all parties that the Board would be directed to assess this application based on a long and detailed list of Special Exception factors, including lot dimensions, access, and driveway design to ensure that there is a comprehensive review of potential impacts through the Special Exception process.

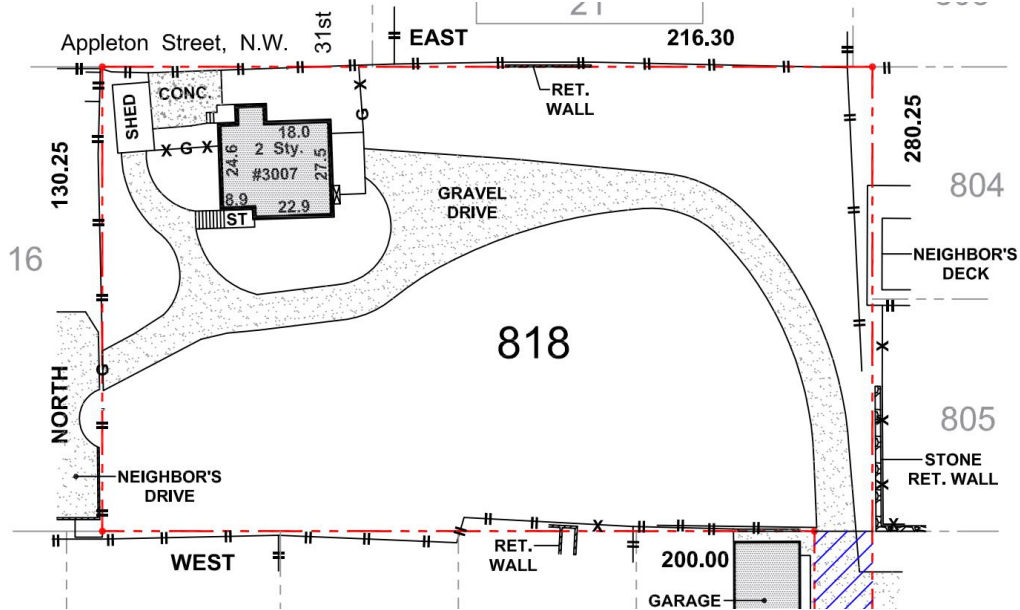
The site plan is marked up to show how public space by necessity will terminate more than 200 ft from Albemarle at the end of the pipestem and front yard of 3007—this newly created receiving space for 3007 is directly behind 3005 and 3009 and provides direct access and views to the back of no less than (5) different neighboring lots. This new setback means that 3005 and 3009 will have two public faces at the front and rear of their properties.

The House 2 project cannot rely on Special exception relief by theoretical subdivision because it cannot suitably meet the 24 ft access requirement of 305.3 (b). The 16' pipestem acts more like a street or alley and cannot be excluded as a driveway in this case as it is shared by three properties (3005, 3007 and 3009). Beyond the 3005 and 3009 garages, vehicular access onto 3007 would be limited to a 12' x 24' concrete pad next to a ramp down below grade to the basement level garage a big change from the current meandering 300 ft long drive. The grade change requires it be bound by site retaining walls and nowhere does the applicant show (as they report) where (4) zoning sized parking spaces can be located on lot 2—they don't fit. A small area on the drive ramp is shown for some chance of turnaround, but forget about delivery trucks or guests that will try to venture on-site to avoid the

250 ft. walk along the pipestem to house 2. There is no room to properly stack or turn around—especially if even one car is parked on the 14-15' driveway. Without room on site for cars, folks will necessarily walk between 3005 and 3009 and ensure further compromised privacy.



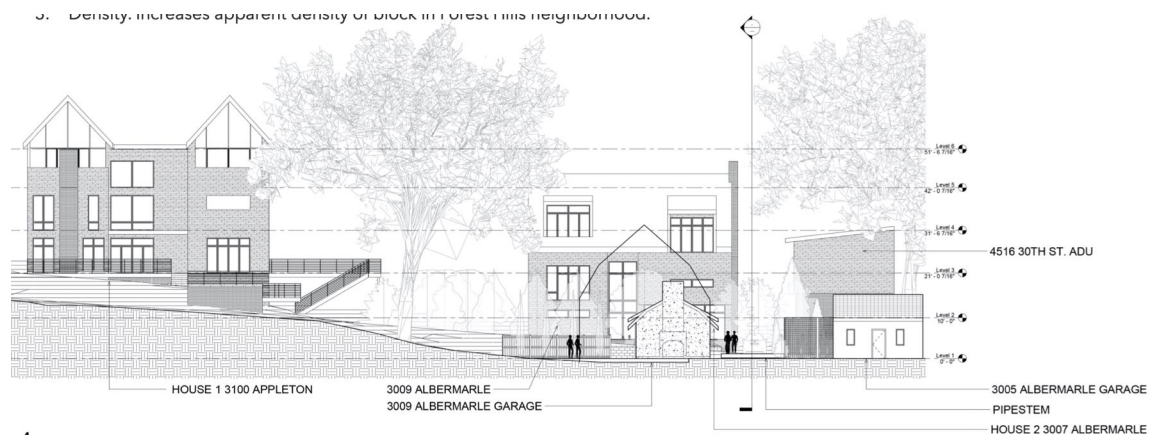
Slide 3 image—Public Street shift to back of 3005 and 3009



Current access allows public/ vehicle access and turnaround on-site.

SLIDE 4

As I mentioned previously, the larger volume and scale of the proposed homes is adverse to the character of the neighborhood and near-by residences. Instead of the relying on the typical lower profile one and two-story homes in the immediate square and on Albemarle, the subdivision proposes 3 story schemes whose lower basement levels rise above the ground the maximum allowed (5 ft) so as not be considered an additional 4<sup>th</sup> floor. This creates a high vantage point look into the 3005 and 3009 properties.

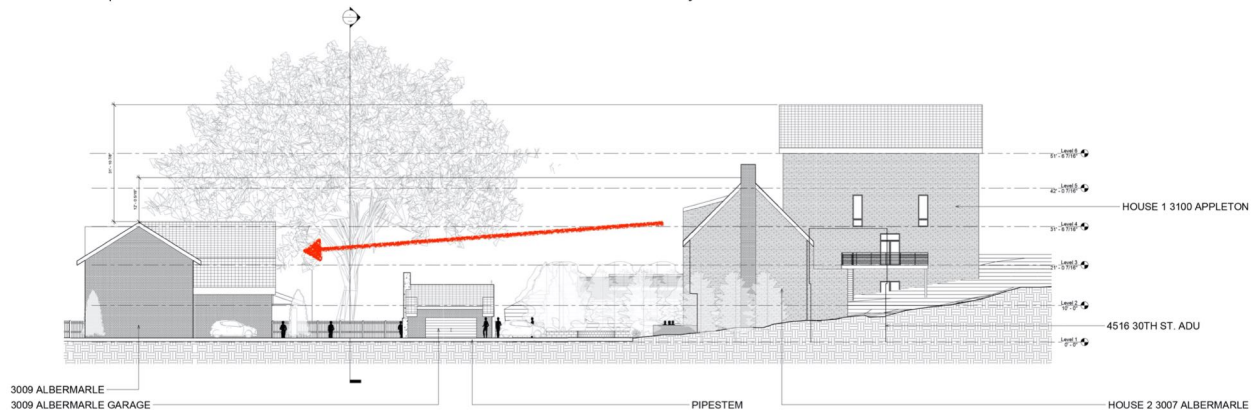


*Slide 4 Cross Section*

## SLIDE 5

The longitudinal section shows how the slope influences locating the house closer to the rear property line of 3009 Albemarle. Additional site stress on the adjoining properties is created by the need to accommodate stormwater retention adjacent to the 3009 garage and also in the pipestem next to 3005 and 3009---well away from the 3007 house.

Furthermore, the height of House 2 when sited so close to rear line will negatively affect neighboring privacy. While trees are shown as possible screening at the 3009 property line, privacy concerns are not mitigated by the specified 12' high tree specimens even years later. This is evident even at the modelled height of 18 ft - there is little chance that the trees will provide privacy.



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*Slide 5 Longitudinal Section*

**SLIDE 6**

This highlighted view is taken from the third floor balcony of House 2, which clearly shows the adverse affect on the privacy, use and enjoyment of 3005 and 3009. A similar view back to House 2 was added to the slide deck as Ex. 163.



*Slide 6 Image View from 3<sup>rd</sup> floor balcony–House 2 to 3005 and 3009*



*View to House 2 from 3005 2nd floor*



*View to House 2 from 3009 2nd floor*

**SLIDE 7**

Efforts in negotiation to reduce the story count and provide more space between house 2 and the 3009 rear property line were rejected by the Harrisons. The slide image shows how vehicular access to the lower level garage bifurcates the front yard of 3007 and prioritizes car traffic. The limited area in front of house 2, which is used for vehicle access pushes a bio retention pond against 3009 garage—closer than the 10' minimum required by DOEE and shifts storm water collection to the pipestem area between 3005 and 3009. These elements will both require on-going maintenance to keep them in working order—maintenance that will likely be entrusted to the buyer of house 2.



*Slide 7 Image - View at end of Pipestem*

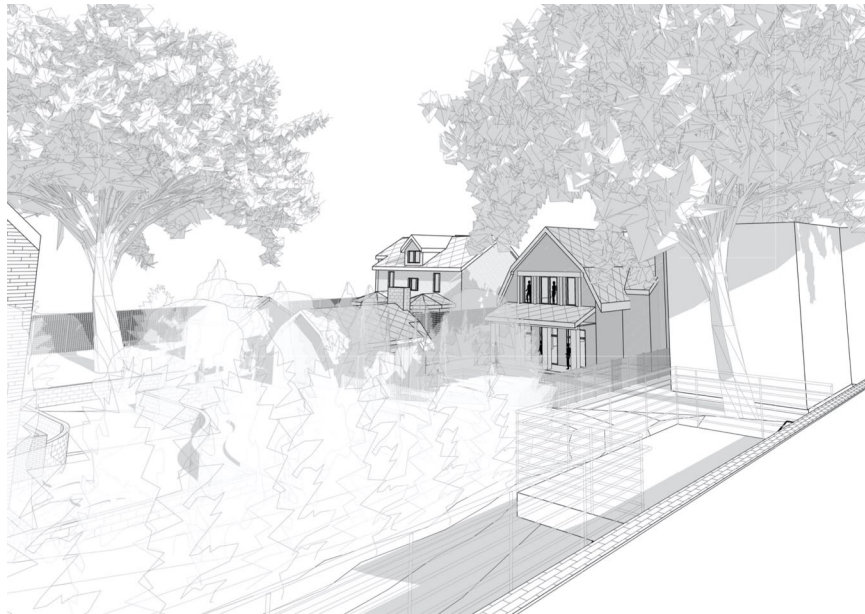
## **SLIDE 8**

In conclusion, I offer this view this additional view from house 1's pool as it looks towards my clients' properties. The pool, located within 10 ft of the property line creates another vantage point above the neighboring properties.

The many cited measures and mitigating factors listed by the applicant to attempt to persuade this Board that a subdivision is possible are mainly reserved for



House 1. The actual solution provided for house 2 does not rise above the problems created by a lack of street frontage, narrow lot width and nonfunctional egress / ingress. The lot and principal dwelling that would be accessed from Albemarle are not only incompatible with the zoning plan but create insurmountable adverse affect on the neighbors.



*Slide 8 Image - View from Pool*

Rebuttal testimony:

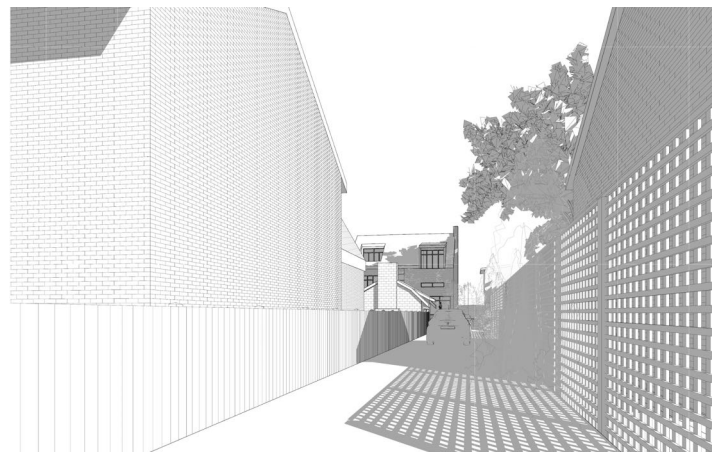
Ms Hernandez and Dr. Lee originally approached me to review to review the project plans with an eye to their various technical and personal concerns and to even suggest design modifications that could ultimately be presented to the Harrisons to mitigate impacts on their homes. The Harrisons denied the possibility of negotiation without bringing the Berringers, who pursued their own defense, to the table.

Privacy is one of many issues reviewed by the Board for undo adverse affect that can be considered subjective. However, it cannot be disputed that there are important differences between visitors to the front of one's house with those who are provided access to the back. Where there is no public alley, visitors are known to the occupants and gain access through the home. Certainly, neighbors whose rear yards face each other understand privacy concerns. But a front to back configuration also

adds a security concern, different from those who only interface with a property at the front door aligned with fellow neighbors along the street. The 3007 front door and garage are 250 feet back from Albemarle. Unlike the former 3007—the new driveway ramp does not extend deep onto the property or provide turnaround space away from 3005 and 3009. The proposed design creates a bottleneck on the pipestem. The 3007 driveway does not allow for multiple cars on-site or any obvious place for surface parking. It is limited to access the for the 2-car garage that crosses the front yard and descends more than 4 feet between site walls. This obvious problem of width and street frontage made OP conclude that variance relief is not possible for the smaller lot.

Presentation views were taken from a 3d model built using Revit: BIM software for Designers by Autodesk. We relied on the Architect’s design represented in Exh. 75 (online as Ex.94) Where there are conflicts with the civil information, Civil took precedent for site info, floor levels and building placement.

The modelled houses are accurate for placement on site, mass, and height with proportional differences between the applicant’s design and the extruded model—especially at the roof volumes. We confirmed that our model shows House 1 to be 3” taller and House 2 to be 12” taller than drawn by CFA, this error is offset by having placed the 3009 house and rear yard 12” higher than Civil documents show. Also, the model shows House 2 narrower in footprint in the north south direction.



*View from Albemarle Public Space*