

SETTLEMENT AND CONSTRUCTION MANAGEMENT AGREEMENT

This SETTLEMENT AND CONSTRUCTION MANAGEMENT AGREEMENT (this "Agreement") is made as this 22 day of October, 2024, between ABDOLLAH POOZESH and MARWICK ASSOCIATES LLC (hereinafter referred to collectively as the "Parties").

RECITALS:

WHEREAS, Mr. Abdollah Poozesh (the "1709 Owner") is the owner of the property located at 1709 17th Street, NW, Washington DC (Square 178, Lot 87) (the "1709 Property"), which is currently improved with a three-story plus basement row building used for residential purposes on the upper floors and as a framing shop on the lower levels (the "1709 Building").

WHEREAS, the 1709 Owner obtained BZA Approval for a rear addition to its basement and first floor in BZA Case No. 20603.

WHEREAS, MARWICK ASSOCIATES ("1641 Owner") is the owner of 1641 R Street, NW in Washington DC (Square 178, Lot 97) (the "1641 Property"), which is currently improved with a four-story plus basement mixed-use building (the "1641 Building").

WHEREAS, the 1641 Property and 1709 Property are adjoining and share a property line—the southern lot line of the 1709 Property and northern lot line of the 1641 Property.

WHEREAS, 1709 Owner was delayed in obtaining its BZA Order due to the 1641 Owner's Party Status in Opposition to its BZA Case. Accordingly, the 1709 Building's approved addition has yet to be constructed nor have any permits been issued as of the effective date of this agreement.

WHEREAS, 1641 Owner originally applied for and obtained BZA relief for a small rear addition in BZA Case No. 20042 and subsequently exceeded the scope of the approval by enlarging the interior space approved and constructing balconies within inches of the shared Property line. The 1641 Owner originally sought BZA relief for the enlarged scope in Case No. 21132 (the "BZA Application" or "BZA Case").

WHEREAS, 1709 Owner requested Party Status in Opposition to the BZA Case as the proposed balconies would directly impact the privacy of the existing residential units on the 1709 Building.

WHEREAS, the Parties have agreed to fully and finally settle their disagreements and differences in regard to the BZA Application, to include a promise by the 1641 Owner to revise the BZA plans, along with other promises included below, in exchange for, and contingent upon, the 1709 Owner withdrawing its party status opposition to the BZA Application, along with other promises included below.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, the Parties hereby agree as follows:

1. Revision of BZA Plans. 1641 Owner agrees to remove the balconies as shown on the most recent set of plans in the record for the BZA Case in Exhibit 45B (the "Plan Revision"), and attached as Exhibit A, herein.
2. Withdrawal of Party Status Opposition. 1709 Owner agrees to submit a written withdrawal of party status opposition to the BZA immediately following the execution of this Agreement.
3. Agreement to Not Request an Increase in Massing. Following approval of the BZA Application and completion of the Project, the 1641 Owner will not apply for any additional special exception that would increase the massing approved in the BZA Application, including as to any new balconies or decks, unless approved in advance by the 1709 Owner.
4. Reciprocal Access. 1709 Owner agrees to grant 1641 Owner access to its property, upon 24-hour notice, only as necessary to complete its demolition and related work discussed in the recitals. 1641 Owner agrees to grant 1709 Owner access to its property, upon 24-hour notice, only as necessary to complete the addition at the 1709 Property as discussed in the Recitals.
5. Permit Submission. 1641 Owner shall submit a permit application (demolition and/or building Permit ("Permit")) for removal of the balconies to DOB within 14 days of the issuance of the BZA Order for the BZA Case and provide a copy of the confirmed submission to 1709 Owner via counsel. 1641 Owner agrees to provide status updates regarding the permit process and permit approval.
6. Permit Approval. 1641 Owner shall notify 1709 Owner, via counsel, that the Permit for the balcony demolition and associated work has been issued within 5 days of the Permit issuance. 1641 Owner shall provide 1709 Owner with a copy of the stamped permit plans.
7. Construction Commencement. 1641 Owner agrees to promptly begin construction — within six (6) weeks, weather permitting, once the Permit is issued by DOB. If this is not feasible, 1641 Owner shall inform 1709 Owner's counsel.
8. Construction Communication and Timing. 1641 Owner agrees to provide construction status updates to 1709 Owner's counsel every 2 weeks. 1641 Owner agrees to use its best efforts to remove the balconies within 90 days of Permit issuance, weather permitting.
9. Property Protection and Applicable Construction Regulations. 1641 Owner and 1709 Owner agree to follow all District rules and regulations pertaining to construction, including hours of construction, cleanliness regarding dust and debris, noise, and protection of the 1709 Property.

10. Amendment. Modifications, waivers, and consents regarding this Agreement shall only be binding if in writing and signed by the party against whom such modification, waiver or consent is sought to be enforced.
11. Notices. All notices and other communications hereunder shall be in writing and either personally delivered (which will be deemed given upon delivery or upon the first refusal to accept delivery) or mailed by certified mail, or e-mailed to:

If to the 1709 Owner:

Alexandra Wilson
1155 15th Street, NW, Suite 1003
awilson@sullivanbarros.com

If to the 1641 Owner:

John Sisk
Marwick Associates, LLC
19 Muzzey Street, Suite 205
Lexington, MA 02421-5211
jsisk@marwickassoc.com

with copy to:

John Patrick Brown, Jr.
Greenstein DeLorme & Luchs, P.C.
801 17th Street, NW, Suite 1000
Washington, D.C. 20006
jpb@gdllaw.com

The Parties to this Agreement shall be responsible for notifying each other of any change of address or change in the persons to be notified.

12. Entire Agreement. This Agreement constitutes the entire Agreement between the Parties hereto and no party is liable to the other or bound in any manner by express or implied warranties, guarantees, promises, statements or representations pertaining to the subject matter hereof unless such warranties, guarantees, promises, statements, or representations are expressly and specifically set forth herein.
13. Future Disputes. This Agreement shall not be construed as a waiver of either party's rights to bring future claims against one another—the Agreement only requires the recitals expressly stated herein.

14. Counterparts. This Agreement may be executed simultaneously in any number of counterparts by original or facsimile signature, each of which shall be deemed an original, but all of which shall constitute one and the same Agreement.
15. Binding on Successors and Assigns. This Agreement shall be binding upon the successors in interest to the 1641 Owner and the 1709 Owner.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

1709 Owner

By: 

Name: ABDOLLAH POOZESH

Title: OWNER

1641 Owner

By: _____

Name: John Sisk

Title: Member

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

1709 Owner

By: _____

Name: _____

Title: _____

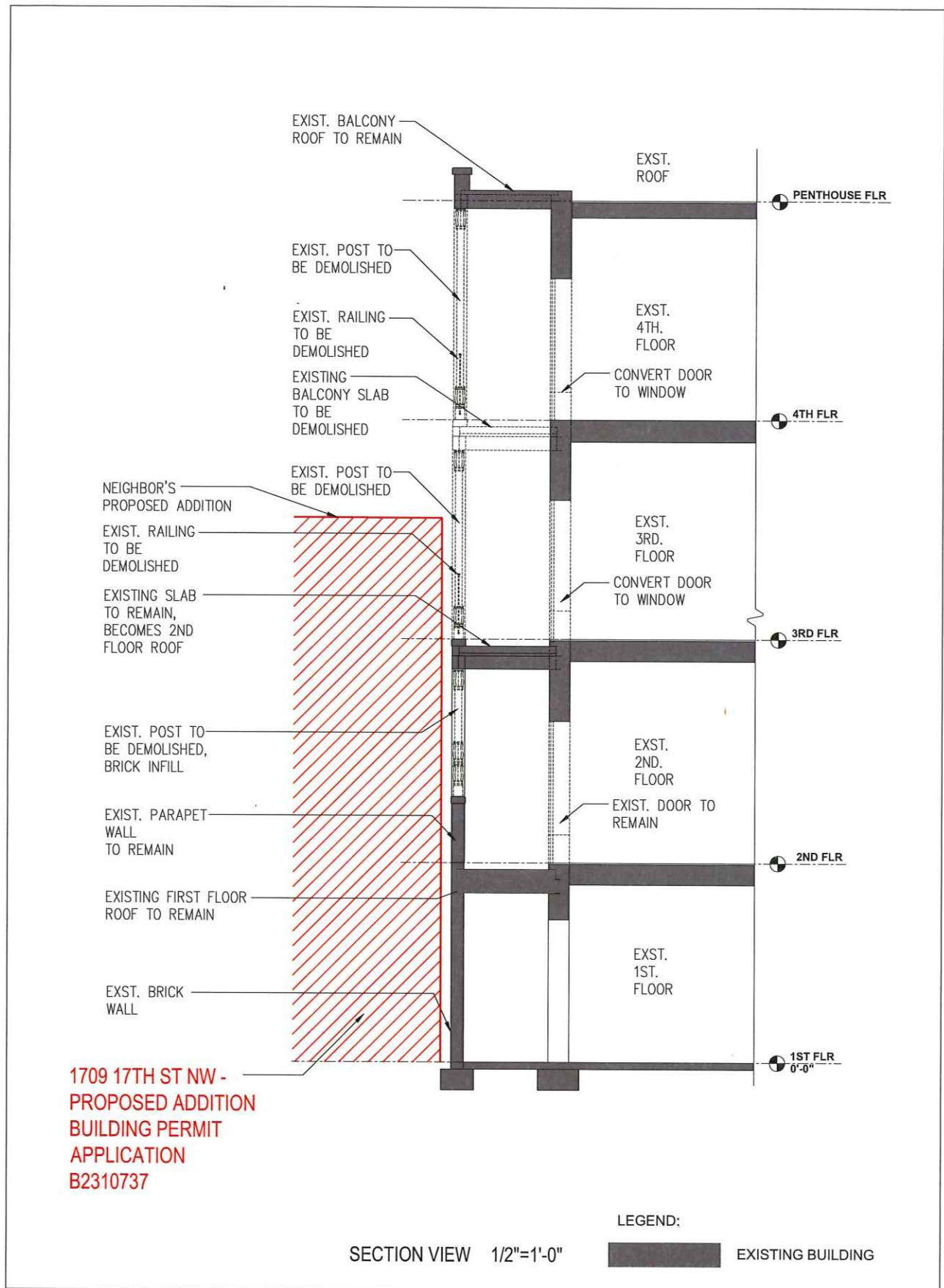
1641 Owner

By:  _____

Name: John Sisk _____

Title: Member _____

EXHIBIT “A”



UA Design LLC
301 256 4113
www.ua-d.com

REAR BALCONY SECTION

1641 R ST NW, WASHINGTON DC 20009

09/30/2024