

SUPPLEMENTAL EXHIBIT E

Submitted Prior to Hearing (Pending Grant of Party Status)

BZA Case No. 21360 — Lot 832, Square 1206 (Prospect Street NW)

Submitted by: Joanna Perkowska, Adjoining Property Owner, 1220 Potomac Street NW

1. Purpose of This Submission

This supplemental exhibit clarifies and documents facts already in the record.

This submission does not introduce new arguments.

It corrects omissions and supports points previously submitted regarding:

1. The long-standing open-space and walkway function of Lot 832;
2. The direct and unique impacts on adjoining properties, including 1220 Potomac Street NW;
3. Controlling BZA precedent — the Board denied substantially identical relief for this same parcel in Order No. 14854 (1988);
4. The unanimous ANC 2E resolution denying the application; and
5. The absence of required public placard notice during Old Georgetown Board (OGB) concept review, depriving adjoining owners of the opportunity to review and comment, resulting in a record comprised solely of applicant submissions.

The purpose of this submission is to ensure the Board has a complete record for decision.

2. Existing Conditions and Longstanding Open-Space Function (Exhibit E-1)

For over 40 years, Lot 832 has served as:

- A vegetated open-space buffer between Prospect Street and Potomac Street properties;
- A walkway for the Eton Condominium owners and emergency access;
- A source of daylight, airflow, and natural cooling; and
- The only open green relief on this block face of the Georgetown Historic District.

Exhibit E-1 shows the existing tree canopy and continuous privacy buffer.

If developed, the buffer would be entirely removed and replaced with a two-story structure occupying nearly the full lot area.

3. Direct Adverse Impacts if Relief Is Granted

Impact Category	Effect on Adjoining Properties
Light & Sky Access	Permanent shadowing of rear-facing windows and gardens
Airflow & Cooling	Loss of vegetated cooling and cross-ventilation buffer
Privacy	New second-story windows create direct sightlines into private yards and rooms
Historic Spatial Rhythm	Complete elimination of the block's long-standing open-space gap and its emergency access

These impacts are **material, unavoidable, and permanent.**

4. Controlling Precedent — BZA Order No. 14854 (1988) and *Taylor, 308 A.2d 230 (1973)*

(Attached as Exhibit E-2)

In BZA Order No. 14854 (1988), the Board denied substantially identical relief for this same parcel, finding:

- The claimed hardship was self-created through voluntary subdivision; and
- Granting relief would undermine the purpose and integrity of the zoning plan.

Under binding precedent (*Taylor v. District of Columbia Board of Zoning Adjustment, 308 A.2d 230 (1973)*):

- The conditions that are self-created cannot constitute the requisite “hardship” for a variance. Self-imposed difficulties carry minimal weight and do not justify relief.
- A property owner cannot rely solely on economic feasibility or potential profit as a basis for a variance. Hardship must be based on unique physical conditions, not market considerations.

Here material conditions have not changed since the prior BZA denial:

Factor	1988	Present
Lot size	≈1,441 sq ft	1,437 sq ft (essentially unchanged)
Zone	R-3/GT	Same
Configuration	Deliberately undersized parcel	Same
Hardship Basis	Developer-created	Same
Walkway and Open space reliance	Established	Same

Under established variance law, where the site conditions, zoning context, and asserted hardship remain unchanged, the Board's prior denial remains directly relevant and highly persuasive.

To depart from its previous ruling, the applicant bears the burden to demonstrate a material change in conditions. No such change has been identified in the application or record.

Thus, under Order No. 14854 and *Taylor*, the variance standard cannot be met as a matter of law.

Precedent and Policy Integrity

Granting relief here would invite applicants to create variances by design, subdividing conforming land into undersized lots and then seeking relief.

This would erode the variance standard, blur the distinction between relief and entitlement, and undermine zoning stability district-wide.

5. ANC 2E Resolution — Great Weight (D.C. Code § 1-309.10(d))

(Entered into the record 10/20/25, Exhibit 27)

ANC 2E voted 6-0-0 to deny the application, finding that:

- The lot-area and lot-occupancy variances are excessive and unjustified;
- The proposal would adversely affect adjoining properties; and
- The existing open-space function must be preserved.

The Board must give great weight to both the ANC's position and its reasoning.

6. Rebuttal to the Office of Planning Report (10/16/25, Exhibit E-23)

The OP report relies on premises contradicted by the record:

OP Assertion	Record Evidence
Project unlikely to affect neighboring properties.	Exhibit E-1 documents direct loss of privacy, light, and air.
70% lot occupancy may be permitted by special exception.	Incorrect. Per Table D § 5201.3(e) (Final Rulemaking, 63 DCR 2447 (Mar. 4, 2016)), detached dwellings in R-3/GT are limited to 50% lot occupancy. The proposal therefore requires a variance.
Privacy not unduly compromised.	Proposed second-story windows introduce direct sightlines into adjacent dwellings and gardens.
No ANC objection.	ANC opposition was entered 10/20/25, and adjoining-owner evidence was filed 10/15/25; the OP report was issued before this record was considered, and entered on 10/16/25.
OGB concept approval shows appropriateness.	OGB does not review zoning compliance. Additionally, the OGB review occurred without required public notice, reflecting only applicant submissions.

Accordingly, the OP recommendation should receive reduced weight.

7. Lack of Required Public Notice During OGB Review (Exhibit E-3)

- The applicant's OGB submission is dated November 13, 2024.
- In the Georgetown Historic District, public notice must be posted on the property upon OGB filing.
- No notice placard was posted during OGB review (February–June 2025).

As a result:

- Adjacent property owners were deprived of the opportunity to review and comment;
- The applicant's statements that the project had "full support from the Eton Condominium" were incorrect and are contradicted by the record (Exhibit 20: Letter - Eton Condo Association); and
- The OGB concept recommendation was issued on an incomplete and untested record that reflected only the applicant's submissions. (Exhibit E-4)

Because OGB review is concept-only and does not evaluate zoning compliance, its recommendation should carry limited weight in these proceedings.

8. Conclusion

The existing record demonstrates that:

- The claimed hardship is self-created (*Taylor*; Order No. 14854);
- The requested relief is extraordinary, not minimal;
- The adverse impacts on light, air, privacy, and historic character are substantial;
- ANC 2E unanimously denied the requested relief; and
- The OGB concept record was procedurally incomplete and cannot substitute for zoning compliance analysis.

Accordingly, denial is the appropriate outcome.

Upon being granted party status at the hearing, the undersigned will request that this submission be treated as Proposed Findings of Fact and Conclusions of Law in support of denial.

Respectfully submitted,

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Exhibit Index

- **Exhibit E-1: Existing Conditions** – View from 1220 Potomac Street NW. This image shows the current open green buffer and tree canopy on Lot 832, which provides light, air, and privacy for adjoining properties. If the application is approved, all visible vegetation will be removed and replaced with a two-story mass occupying nearly the full lot.



• **Exhibit E-2: Precedent - BZA Order No. 14854 (1988) – Prior Denial, (Excerpt)**

BZA denied nearly identical relief for this same parcel, finding the hardship was self-created during subdivision. Since 1988, no material conditions have changed. The prior denial therefore remains directly relevant and persuasive authority.

****Parcel:**** Lot 832 (≈1,441 sq ft), R-3/GT District

****Board Finding (Self-Created Hardship):**** “The exceptional conditions were either created or exacerbated by the owner’s resubdivision of the lot subsequent to the adoption of the Zoning Regulations and are therefore self-imposed.”

****Board Finding (Variance Substantial Detrimental Impact):**** “Board further concludes that the requested variances are substantial in nature and cannot be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zone plan. The Board has accorded to the ANC, the “great weight” to which is entitled.

****Result:**** *Application DENIED (3-0).*

• **Exhibit E-3: Lack of Required OGB Public Notice Placard;** Project: OG 25-111/HPA 25-129; In the Georgetown Historic District, public placard must be posted on the property upon filing for OGB review to allow neighbors the opportunity to comment. The required public notice placard was not posted. The applicant's concept submission to the OGB is dated November 13, 2024. Concept Review Dates in 2025: 2/6, 4/3, 5/1, 6/5, 6/18. Photographs taken on the following dates show no public notice placard present:

- May 17, 2025 —



- June 16, 2025 —



• **Exhibit E-4: Applicant’s Renderings — Inaccurate Depiction of Existing Conditions**

The applicant’s perspective renderings (Applicant’s Exhibits 9, 10, and 19) omit the existing private garden adjoining the subject lot to the west, replacing it with a blank space that creates the visual impression of greater openness than actually exists. The renderings also rely on wide-angle distortion that exaggerates the lot width and spatial separation, giving a false sense that the proposed structure fits comfortably within its surroundings. The renderings further alter the context by depicting trees and vegetation that will be removed. The plans repeatedly mislabel “1220 Potomac Street NW” as “1220 Eton Court NW,” an error found throughout the submission, including the sun and shadow studies. Combined, these visual and factual distortions materially affect the reliability of the applicant’s visual evidence and should be accorded limited weight in the Board’s assessment of compatibility and impact.