District of Columbia
Office of Planning

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Joshua Mitchum, Development Review Specialist
MBR Maxine Brown-Roberts, Associate Director, Development Review

DATE: September 25, 2026

SUBJECT: BZA Application No. 21502: Request to construct a three-story rear addition with penthouse and cellar, and to convert an existing semi-detached, two-story with cellar into a flat in the RF-1 Zone.

I. RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following special exceptions pursuant to Subtitle E § 5201, Subtitle C § 1506, and Subtitle X § 901:

- **E § 5201, Addition to a Building or Accessory Structure;**
- **E § 204.1**, **Roof Top or Upper Floor Elements, pursuant to** Subtitle E § 204.4 and Subtitle X § 901.2**;**
- **E § 210.1, Lot Occupancy** (60% max. required, 48% existing, 68.2% proposed); Subtitle E § 5201 and Subtitle X § 901:
- **C § 1504.1, Penthouse Setbacks, pursuant to** Subtitle C § 1506, and Subtitle X § 901:
- **C § 1501.1, Penthouses Height, pursuant to** Subtitle X § 901:

II. BACKGROUND

In 2023, the Applicant applied for and obtained a building permit to convert the existing building into a two-story flat with a rear and upper floor addition. According to the Applicant , the project was originally intended to be matter-of-right construction built to the standards of the RF-1 Zone. At the conclusion of construction, the project had deviated from the approved building permit plans in three areas:

1. The existing building's front porch roof and cornice were meant to be retained. During construction, the Applicant states that their contractor had discovered that the porch roof and cornice were damaged beyond repair and required replacement. As such, the Applicant has completely replaced the porch roof and proposes to replace the cornice at the second level.

2. The approved building permit had authorized a rooftop deck with access provided by a hatch door. The Applicant states that they have altered the roof plan to provide access via an enclosed stair with a small bathroom in the penthouse enclosure. The project's building height is 35 feet with a penthouse height of 8 feet and 2 inches, therefore necessitating special exception relief. Additionally, a portion of the penthouse used to shield mechanical

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equipment is not setback a distance equal to its height from the southern side roof wall, also necessitating relief.

3. Balconies and stair access were added to the rear of the building. The Applicant states that this was in order to provide more outdoor space for residents. The additions increased the project's lot occupancy to 68%, exceeding the RF-1 Zone's by-right maximum of 60% and therefore necessitating special exception relief.

III. LOCATION AND SITE DESCRIPTION

Address:	800 10th Street, NE
Applicant :	SSDS1, LLC, represented by Cozen O'Connor
Legal Description:	Square 0933, Lot 0054
Ward / ANC:	Ward 6 / ANC 6A
Zone:	RF-1, Residential Row Buildings
Historic Districts:	N/A
Lot Characteristics:	The 1,735 square foot lot is rectangular in shape and has a width of 16.38 feet and a length of 106 feet. The lot abuts a 19.75 foot alley to the rear and a 10-foot-wide alley to the south of the lot.
Existing Development:	The property is currently improved with a two-story, semidetached single-family home and concrete parking pad.
Adjacent Properties:	The property is bounded to the north, east and west by attached residential uses in the RF-1 Zone, and to the south by mixed uses in the NMU-4/H-R Zone.
Surrounding Neighborhood Character:	The surrounding neighborhood is characterized by attached and semidetached residential buildings.
Proposed Development:	The Applicant is proposing to construct a third story, rear addition with penthouse and cellar and to convert the existing dwelling into a flat.

IV. ZONING REQUIREMENTS AND RELIEF REQUESTED

RF-1 Zone	Regulation	Existing	Proposed	Relief
Height E § 203	35 ft. max.	23 ft.	35 ft.	None requested
Lot Width (Semidetached) E § 201	30 ft. min.	16.3 ft.	No change	None requested (Existing nonconformity)
Lot Area (Semidetached) E § 201	3,000 sq. ft. min.	1,735 sq. ft.	No change	None requested (Existing nonconformity)

RF-1 Zone	Regulation	Existing	Proposed	Relief
Lot Occupancy E § 210	**60% max.**	**48%**	**68.2%**	**Special Exception requested**
Front Setback E § 206	Consistent with blockface	Consistent with blockface	No change	None requested
Rear Yard E § 207	20 ft. min.	56 ft.	31 ft.	None requested
Side Yard E § 208	None required, but 5 ft. min. if provided	0 ft.	No change	None requested
Parking C § 701	1 parking space per 2 dwelling units	1 space	No change	None requested
Roof Top or Upper Floor Elements E § 204	**Significant removal or alteration of rooftop or upper floor architectural element requires Sp. Ex.**	**Second level cornice**	**Replacement of cornice (Cornice has already been removed)**	**Special Exception requested**
Setbacks (Penthouses and Rooftop Structures) C § 1504	**Setback distance equal to the height of penthouse/rooftop structure min. (8 ft. 2 in. required)**	**None**	**6 ft. 4 in.**	**Special Exception requested**
Height (Penthouses and Rooftop Structures) C § 1501	**Penthouse/rooftop structure within matter-of-right height for zone min.**	**35 ft.**	**Total height 43 ft. 2 ins. (Penthouse height 8 ft. 2 ins.)**	**Special Exception requested**

V. OFFICE OF PLANNING ANALYSIS

Subtitle E § 5201 ADDITION TO A BUILDING OR ACCESSORY STRUCTURE

5201.1 For an addition to a principal residential building on a non-alley lot or for a new principal residential building on a substandard non-alley record lot as described by Subtitle C § 301.1, the Board of Zoning Adjustment may grant relief from the following development standards of this subtitle as a special exception, subject to the provisions of

this section and the general special exception criteria at Subtitle X, Chapter 9:

(a) Lot occupancy up to a maximum of seventy percent (70%) for all new and existing structures on the lot;

(b) Yards, including alley centerline setback;

(c) Courts; and

(d) Pervious surface.

The Applicant has requested special exception from the lot occupancy requirements of Subtitle E § 210.1 to increase the lot occupancy of the subject property to 68.2%.

5201.2 Not applicable to the subject application.

5201.3 Not applicable to the subject application.

5201.4 An Applicant for special exception under this section shall demonstrate that the proposed addition, new building, or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

(a) The light and air available to neighboring properties shall not be unduly affected;

The requested special exception should not unduly affect the light and air available to neighboring properties. The balcony over the front porch is behind the neighboring northern property's front façade. Furthermore, the rear balconies are not enclosed, allowing for light and airflow out at the sides and above. Additionally, the addition retains approximately 31 feet of rear yard, nearly double the required amount, leaving adequate airflow for neighboring properties.

(b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;

The requested special exception should not unduly compromise the privacy of use and enjoyment of neighboring properties. The property is largely separated from residential uses by a large rear yard setback and the 10th Street NE right-of-way to the east. Furthermore, the property does not feature any windows on the front and rear that would face into a neighbor's property. The windows along the side alley are adjacent to a commercial building with some windows. However, the windows do not line up, thereby preserving the privacy of both buildings. Therefore, this criterion has been satisfied.

(c) The proposed addition or accessory structure, together with the original building, or the new principal building, as viewed from the street, alley, and other public way,

shall not substantially visually intrude upon the character, scale, and pattern of houses along the street or alley frontage; and

The constructed addition, on balance, does not substantially visually intrude upon the character, scale, and pattern of houses along 10th Street NE. While the subject property features vinyl siding and an overall modern architectural style that differs from other brick-façade, "Federalist"-style buildings along the west side of 10th Street, it remains aesthetically consistent with the property directly adjacent to it as well as with some of the nearby commercial buildings that front on H Street NE.

(d) In demonstrating compliance with paragraphs (a), (b), and (c) of this subsection, the Applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways.

The Applicant has submitted plans, photographs and elevations as part of their application that sufficiently represents the relationship of the existing addition to adjacent buildings and views from the alley and 10th Street NE.

5201.5 The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent and nearby properties.

OP does not recommend special treatment in this case. The Applicant has elected to install privacy siding along the alley-facing side of the porch roof.

5201.6 This section shall not be used to permit the introduction or expansion of a nonconforming use, lot occupancy beyond what is authorized in this section, height, or number of stories, as a special exception.

The special exception, if granted, would not be introducing or expanding non-conforming uses. The proposed lot occupancy is 68.2%, which is an 8% increase above the RF-1 Zone's by-right maximum of 60%, but below the 70% maximum allowed via special exception.

Subtitle C § 1506 RELIEF FROM PENTHOUSE OR ROOFTOP STRUCTURE REQUIREMENTS of SUBTITLE C § 1504

1506.1 Relief from the requirements of Subtitle C §§ 1503 and 1504 may be granted as a special exception by the Board of Zoning Adjustment subject to:

The Applicant has requested relief from the requirements of Subtitle C § 1504 as the penthouse is not setback from the as the penthouse is not setback form the

(a) The special exception requirements of Subtitle X, Chapter 9;

As shown further below in this report, the Applicant has demonstrated compliance

with Subtitle X, Chapter 9.

(b) The Applicant 's demonstration that reasonable effort has been made for the housing for mechanical equipment, stairway, and elevator penthouses to be in compliance with the required setbacks; and

The penthouse has a requirement to be set back 8 ft. 2 inches. However, the setback from the southern wall is 6 feet 4 inches. The reduction is due to the need to provide mechanical space and a small bathroom, which is an amenity that serves the residents of all floors. The proposal minimizes the amount of relief necessary (1 feet 10 inches).

(c) The Applicant's demonstration of at least one (1) on the following:

(1) The strict application of the requirements of this chapter would result in construction that is unduly restrictive, prohibitively costly, or unreasonable, or is inconsistent with building codes;

The Applicant states that the strict application of the requirements of this chapter would result in construction that is unduly restrictive. The Applicant states that the location of mechanical equipment is dictated by the stair access point as well as the kitchens located in the lower floors of the building. Per the Applicant 's plans, the mechanical room is located directly above the kitchen and bathroom for each of the two units in the building.

OP concurs with the Applicant that, should the mechanical penthouse be located in an area other than the stair area, it would make the internal building connections for water more difficult to achieve.

(2) The relief requested would result in a better design of the penthouse or rooftop structure without appearing to be an extension of the building wall;

(3) The relief requested would result in a penthouse or rooftop structure that is visually less intrusive; or

(4) Operating difficulties such as meeting D.C. Construction Code, Title 12 DCMR requirements for roof access and stairwell separation or elevator stack location to achieve reasonable efficiencies in lower floors; size of Subtitle C § 115 building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly or unreasonable.

Subtitle C § 1501.1(b)(1) USES

(b) Notwithstanding the requirements of paragraph (a), penthouse space shall only be permitted on the roof of a single household dwelling or flat in any zone, or on the roof of an apartment house converted pursuant to Subtitle U § 320.2, if it:

(1) Is located entirely within the matter of right permitted height for the building, or the special exception permitted height for the building when authorized by the Board of Zoning Adjustment;

The maximum building height in the RF-1 zone is 35 feet and allows a penthouse if it is within the maximum height of the zone. However, this section allows the penthouse to exceed the height if approved via a special exception, pursuant to Subtitle X § 901. The proposed height of the building would be 43 feet 2 inches. How the proposal meets the standards of Subtitle X § 901 is discussed further below in this report.

Subtitle E § 204 ROOFTOP OR UPPER FLOOR ELEMENTS

Subtitle E § 204.1 requires that:

> *". . . a roof top architectural element original to a principal building such as cornices, porch roofs, a turret, tower, or dormers, shall not be removed or significantly altered, including shifting its location, changing its shape, or increasing its height, elevation, or size; provided that: . . ."*

The Applicant states that during construction it was discovered that the porch roof and cornice were damaged and required replacement. The Applicant replaced the porch roof, added privacy siding on the porch along the alley side and a guardrail over the roof for a second level balcony. The Applicant is also now proposing to replace the cornice at the second level. The Applicant has therefore requested relief pursuant to Subtitle E § 204.4.

204.4 The Board of Zoning Adjustment may grant relief from the requirements of Subtitle E § 204.1 as a special exception pursuant to Subtitle X, Chapter 9, and subject to the following conditions:

(a) The proposed construction shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

(1) The light and air available to neighboring properties shall not be unduly affected;

The replaced cornice, porch roof and guardrails on the porch roof would not unduly affect the light and air of the adjacent properties as it does not protrude past the adjacent residential building and is separated from the alley from the commercial building.

(2) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and

The special exception, if granted, should not unduly affect the privacy of use and enjoyment of neighboring properties. The Applicant's removal of the existing cornice does not introduce any elements that would create nor exacerbate existing privacy issues for neighboring properties.

(3) The proposed construction, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the street or alley frontage;

The removal of the cornice should not substantially visually intrude upon the character, scale, and pattern of houses along 10th Street NE or the public alley in the rear. As noted earlier in the report, the existing building remains

aesthetically consistent with the adjacent properties as well as the varying architecture along 10th Street NE.

(b) In demonstrating compliance with paragraph (a), the Applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed construction to adjacent buildings and views from public ways; and

The Applicant has submitted plans, photographs and elevations as part of their application that sufficiently represents the relationship of the existing addition to adjacent buildings and views from the alley and 10th Street NE.

(c) The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent or nearby properties, or to maintain the general character of a block.

OP does not recommend special treatment in this case. OP notes that the Applicant states that they intend to replace the cornice at the second floor level.

Subtitle X § 901 SPECIAL EXCEPTION REVIEW STANDARDS

901.2 The Board of Zoning Adjustment is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), to grant special exceptions, as provided in this title, where, in the judgment of the Board of Zoning Adjustment, the special exceptions:

(a) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;

The special exceptions would be in harmony with the general purpose and intent of the Zoning Regulations and the RF-1 Zone. The requested relief is within the criteria of what can be granted via special exception in Subtitle C § 1501.1(b)(1), Subtitle C § 1504**,** Subtitle E § 204.4 and Subtitle E § 5201 and has not resulted in a building use, form, or bulk that is inconsistent with the RF-1 Zone. Furthermore, per the intent of the RF-1 Zone, the constructed addition is consistent with allowing for "the limited conversion of single household dwellings and other structures for flats".

(b) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and

As shown in this report, the requested relief should not result in a building use or form that would adversely affect the use of neighboring properties. The constructed penthouse is set back approximately 106 feet from the property's front lot line, and cannot be viewed from 10th Street, which should mitigate potential impacts created by the penthouse's height.

Furthermore, the neighboring property to the north of the subject property is constructed to a similar height whilst also containing a penthouse structure on its

rooftop. South of the subject property is the 10-foot-wide alley as well as the rear façade of several commercial buildings fronting on H Street NE. Since these commercial buildings do not face the subject property, it is not anticipated that they would be impacted by the penthouse.

(c) Subject in specific cases to the special conditions specified in this title.

As shown in this report, the subject application satisfies the special conditions for the addition, the penthouse, and the alteration and removal of rooftop or upper floor architectural elements

VI. OTHER DISTRICT AGENCIES

The District Department of Transportation (DDOT) has asked OP to convey to the BZA that they have no objections to the subject application as presented.

VII. ADVISORY NEIGHBORHOOD COMMISSION

At Exhibit 20 is a report from ANC 6A offering a position of no comment on the subject application.

VIII. COMMUNITY COMMENTS

As of the filing of this report, three letters in support of the subject application from the community have been submitted to the record.

Attachment: Location Map

Location Map

