



BEFORE THE ZONING COMMISSION OR
BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA



FORM 140 - PARTY STATUS REQUEST

Before completing this form, please review the instructions on the reverse side.
Print or type all information unless otherwise indicated. All information must be completely filled out.

PLEASE NOTE: YOU ARE NOT REQUIRED TO COMPLETE THIS FORM IF YOU SIMPLY WISH TO TESTIFY AT THE HEARING. COMPLETE THIS FORM ONLY IF YOU WISH TO BE A PARTY IN THIS CASE.
(Please see reverse side for more information about this distinction.)

Pursuant to 11 DCMR §§ 3022.3 or 3106.2, a request is hereby made, the details of which are as follows:

Name:	Kenyon Street Yes We Can Cooperative (Luzmila Tivey, Board President)		
Address:	1372 Kenyon St NW, WDC, 20010		
Phone No(s):	202-805-0913, 202-413-0339	E Mail:	tivey84@ymail.com
I hereby request to appear and participate as a party in Case No.:		ZC 14-24	
Signature:			Date: 11/20/15
Will you appear as a(n)	☐ Proponent	☒ Opponent	Will you appear through legal counsel? ☒ Yes ☐ No

If yes, please enter the name and address of such legal counsel.

Name:	Louise Howells, Esq. Community Development Law Clinic		
Address:	David A. Clarke School of Law, 4340 Connecticut Ave NW, WDC, 20008		
Phone No(s):	202-274-7325	E Mail:	lhowells@udc.edu

PARTY WITNESS INFORMATION:

On a separate piece of paper, please provide the following witness information:

1. A list of witnesses who will testify on the party's behalf;
2. A summary of the testimony of each witness (*Zoning Commission only*);
3. An indication of which witnesses will be offered as expert witnesses, the areas of expertise in which any experts will be offered, and the resumes or qualifications of the proposed experts (*Zoning Commission only*); and
4. The total amount of time being requested to present your case (*Zoning Commission only*).

PARTY STATUS CRITERIA:

Please answer all of the following questions referencing why the above entity should be granted party status:

1. How will the property owned or occupied by such person, or in which the person has an interest be affected by the action requested of the Commission/Board?
2. What legal interest does the person have in the property? (i.e. owner, tenant, trustee, or mortgagee)
3. What is the distance between the person's property and the property that is the subject of the application before the Commission/Board? (Preferably no farther than 200 ft.)
4. What are the environmental, economic, or social impacts that are likely to affect the person and/or the person's property if the action requested of the Commission/Board is approved or denied?
5. Describe any other relevant matters that demonstrate how the person will likely be affected or aggrieved if the action requested of the Commission/Board is approved or denied.
6. Explain how the person's interest will be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than that of other persons in the general public.

Except for the applicant, appellant or the ANC, to participate as a party in a proceeding before the Commission/Board, any affected person shall file with the Zoning Commission or Board of Zoning Adjustment, this Form 140 not less than fourteen (14) days prior to the date set for the hearing.

ZONING COMMISSION
District of Columbia
CASE NO.14-24
EXHIBIT NO.31

Opposing Party: Kenyon Street Yes We Can Cooperative

Party Witness Information

1. A list of witnesses who will testify on the party's behalf: Ms Luzmilla Tivey, Ms. Fanny Birsch, Mr Darryl Foster; consultant to be named

2. Summary of Testimonies:

- Luzmilla Tivey: Ms Tivey is the president of the Board of Directors of the Kenyon Yes We Can Cooperative. She will testify as to the impact on the Cooperative as a whole of the proposed rezoning and the accompanying "as of right" construction, including economic loss and social and environmental impact. Among other things, she will address the effect of the density, height, and impact on light and air of the proposed rezoning. She will also testify on the economic and quality of life impact of the proposed development on her and her family, as her unit is on the east side of 1372 Kenyon Street. She will speak directly to the potential loss of privacy.
- Fanny Birsch: Ms Birsch lives on the east side of 1372 Kenyon St on the first floor. She will bear the brunt of light restriction caused by the proposed development. Ms Birsch will testify to the impact this will have on her quality of life, as well as the economic impact on her use of electricity and property value.
- Darryl Foster: Mr Foster is the son of Luzmilla Tivey and was raised in the Kenyon Street Yes We Can Cooperative. Mr Foster will speak to the issue of privacy, loss of light and air, and other impacts caused by the density and height of the proposed development. Specifically, Mr. Foster will address the increased costs that will be incurred by the member-owners who live on the east of their building due to the increased need for artificial light, as their natural light will greatly decrease as a result of the proposed development. Mr. Foster will also address the social and environmental impacts that will be caused by an increased burden on this already dense neighborhood through the increased need for street parking, as well as the increased burden on traffic and other services in the neighborhood.
- Professional consultant: The Cooperative's current architectural consultant will be unavailable for the hearing on December 7, and the Cooperative requests that it be permitted time to submit the name of another professional consultant prior to the hearing.

Party Status Criteria

- 1. How will the property owned or occupied by such person, or in which the person has an interest be affected by the action requested of the Commission/Board?** The Kenyon Street Yes We Can Cooperative will be affected by the rezoning of Square 2848, Lots 39, 40, 72 and 838 in multiple ways. Firstly, the Cooperative's building on lot 838 will be rezoned from R-4 to R-5-B, against the wishes of the Cooperative. Secondly, the requested rezoning will permit development that will cause the Cooperative's units to be flawed, resulting in substantial decreases in property values. The Cooperative's owner-members will be negatively affected in multiple ways. Member-owners who live on the east side of the building will suffer a significant loss of direct sunlight and air, which will decrease both the livability and property value of their units. It also will likely cause an increase in electricity costs. Also, the proposed rezoning unduly increases density and overcrowding in the neighboring property, which will increase pressure on both street traffic and street parking, increase noise levels, and increase the refuse and refuse collection services in the alley that borders 1372 Kenyon Street. Moreover, the design of the proposed building raises privacy concerns, and will negatively affect the neighborhood character.
- 2. What legal interest does the person have in the property?** The Kenyon Street Yes We Can Cooperative owns the property, and all of its units are owned by member-owners, who reside on the property and own the cooperative shares relating to their units.
- 3. Explain how the person's interest will be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than that of other persons in the general public.** The member-owners of The Kenyon Street Yes We Can Cooperative will be directly affected by the rezoning of square 2848, lots 39, 40, 72 and 838, as the lot on which their property sits (838) will be rezoned in a way that will permit significantly increased density on the adjacent property (lots 39 and 40). The applicant's proposal, if allowed, will in effect rezone the cooperative's property for the sole benefit of the applicant's development of the neighboring property. And, as stated in the answer to question 1, the member-owners who live on the east side of 1372 Kenyon Street will be especially impacted by the proposed development through a loss of air and direct sunlight, and all of its member-owners will suffer loss in the value of the cooperative's property along with the other negative impacts discussed in Question 1.
- 4. What is the distance between the person's property and the property that is the subject of the application before the Commission/Board?** The Kenyon Street Yes We Can Cooperative's property line (lot 838) abuts the property line of the proposed construction (lots 38 and 39); additionally, the applicant is requesting that the Kenyon Street Yes We Can Cooperative property be rezoned from R-4 to R-5-B.

- 5. What are the environmental, economic, or social impacts that are likely to affect the person and/or the person's property if the action requested of the Commission/Board is approved or denied?** As discussed above, the proposed construction under the R-5-B will greatly impact the access to direct sunlight for the members who live on the east side of the Kenyon Street Yes We Can Cooperative, particularly for the units on the lower level and the first and second floors of the cooperative. The analysis provided by Chip Keener, Studio K Architecture, shows that the first floor northeast unit will get 1 hour of direct sunlight in July (See Attached Study). This will considerably decrease the Cooperative's property values for the affected units and will increase the cost of electricity for affected owner-members.

The Cooperative's residents are also concerned with the increase in population and land overcrowding that an R-5-B District designation allows. The apartment building proposed by the Applicant will result in a greater concentration of people in an already densely populated area. (The proposed building will consist of eight (8) multi-bedroom units, but could be more under an R-5B zone.) This area of Kenyon Street currently experiences excessive automobile traffic and inadequate street parking. Inevitably, the increased population density will exacerbate the existing traffic and parking issues and other problems associated with an increase in density.

- 6. Describe any other relevant matters that demonstrate how the person will likely be affected or aggrieved if the action requested of the Commission/Board is approved or denied.** If the lots are rezoned from an R-4 to an R-5-B, the stabilizing effect of the R-4 designation on its neighbors will be negated. The 1300 block of Kenyon Street is a row-house community, separated both aesthetically and physically from the 14th street commercial corridor to the west. A fork and curve in the road visually narrows the perspective from 14th Street and a wide alley separates 1372 Kenyon Street from the large buildings to its west. The Cooperative's property is the visual beginning of a distinctively well-settled residential R-4 zone.
- 7. Explain how the person's interest will be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than that of other persons in the general public.** The Kenyon Street Yes We Can Cooperative property is contiguous to the lots on which construction is proposed (38, 39), and the Cooperative's own property will be rezoned from an R-4 to an R-5-B. Therefore, the Kenyon Street Yes We Can Cooperative and its members are directly affected by the potential rezoning, as well as the subsequent construction if this square is rezoned.



**KENYON STREET YES WE CAN COOPERATIVE
CLEARANCE AND NATURAL LIGHTING IMPACT STUDY**

1372 Kenyon Street, NW
Washington, DC 20010

November 11, 2015

Prepared for The Kenyon Street Yes We Can Cooperative, Inc
 1372 Kenyon Street, NW
 Washington, DC 20010

November 11, 2015

Ms Luzmilla Tivey
The Kenyon Street Yes We Can Cooperative, Inc
1372 Kenyon Street, NW
Washington, DC 20010

Reference: The Kenyon Street Yes We Can Cooperative
1372 Kenyon Street, NW
Washington, DC 20010

Dear Ms Tivey

Thank you for allowing us to assist you with a study of the impact that the proposed Kenyon Condos will have on the existing Kenyon Street Yes We Can Cooperative building. We understand that the proposed condominium will be constructed on the adjacent, vacant parcel, and that the proposed structure is not permitted under the current zoning ordinance. The Owner of the adjacent property is applying for a map amendment, which will change the zoning from R-4 to R-5-B, and allow for construction of the proposed structure "By Right". At the request of the cooperative's board, we have focused this study on the impact to the East facing windows on the existing cooperative building. We reviewed the Application for Map Amendment, conducted site reconnaissance, took field measurements, and prepared a massing study of the structures. This report summarizes our study and findings in more detail.

EXECUTIVE SUMMARY

Kenyon Street Yes We Can Cooperative

The existing cooperative building is located at 1372 Kenyon Street, NW, and was originally constructed in 1910. The structure is a four stories above grade, with a fifth story, partially submerged. The roof is flat, with a typical building height of approximately 44'-5" above grade. The exterior finish is predominantly brick masonry. There is a total of 18 dwelling units. Each floor is approximately 4,230 square feet, and the cumulative gross area is approximately 21,490 square feet. A number of apartments have East facing windows for daylighting and natural ventilation, and an exterior, emergency egress stair is located on the East façade.

The site is 7,413 square feet, and currently zoned R-4. The calculated Floor Area Ratio (FAR) is 2.9. In the current configuration, the existing building does not comply with the current zoning for building height, number of floors or lot occupancy, but is assumed grandfathered.

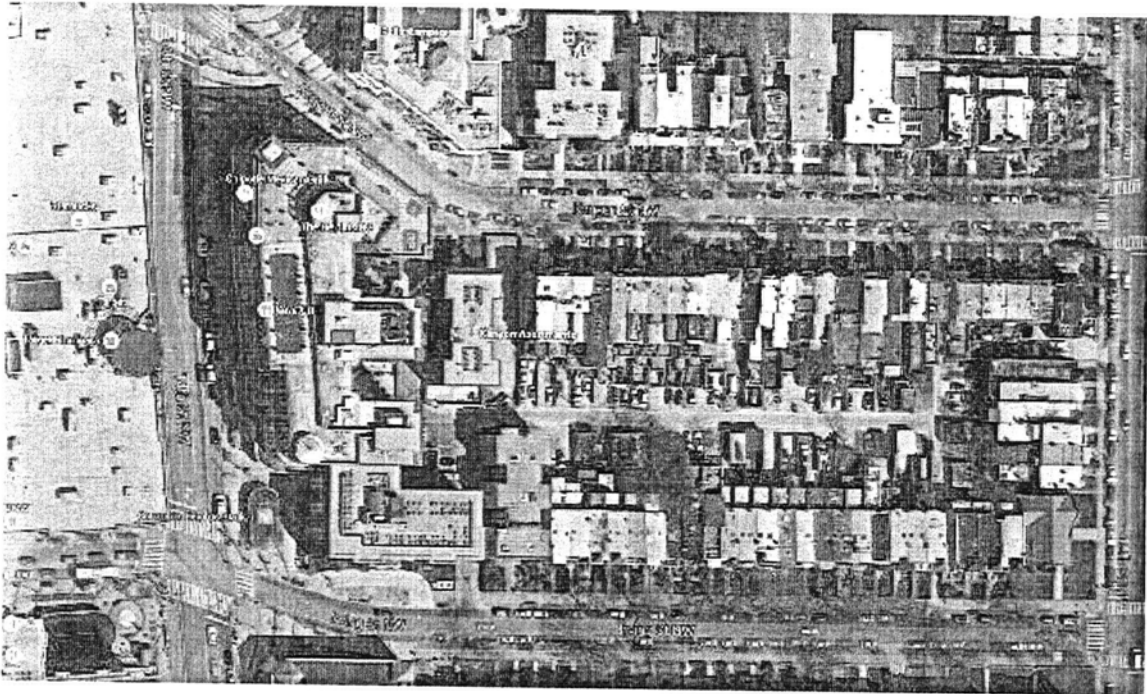
Proposed Kenyon Condos

An 8-unit condominium building is proposed for the vacant lot adjacent to the Kenyon Street Cooperative. This structure will be four stories above grade, with one story below grade, and partial fifth-story penthouse. Building height varies from 40 feet above grade to 50 feet above grade. The proposed gross building area is 12,180 square feet on a lot area of 4,942 square feet, which yields an FAR of 1.8.

The site is currently zoned R-4. Under this zoning ordinance, the proposed building does not comply with the building height, maximum number of stories, or lot occupancy restrictions.

SITE LOCATION

Washington, DC

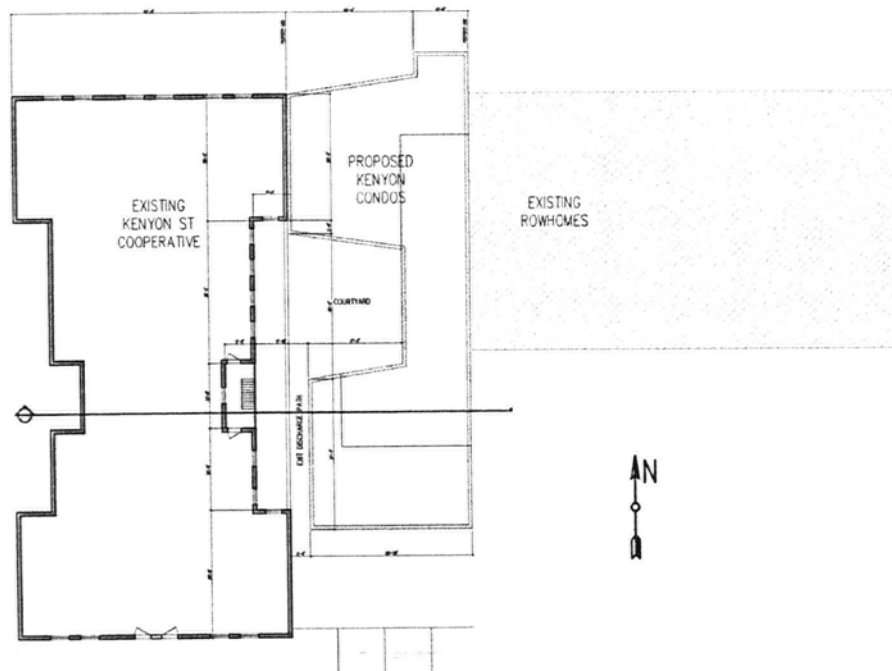


The Kenyon Street Yes We Can Cooperative is located at 1372 Kenyon Street, NW, and is oriented in the North-South direction. The North façade fronts Kenyon Street, and the South Façade fronts the public alley. The East façade fronts an adjacent lot, which is the proposed site for the Kenyon Condos.

BUILDING PLAN STUDY

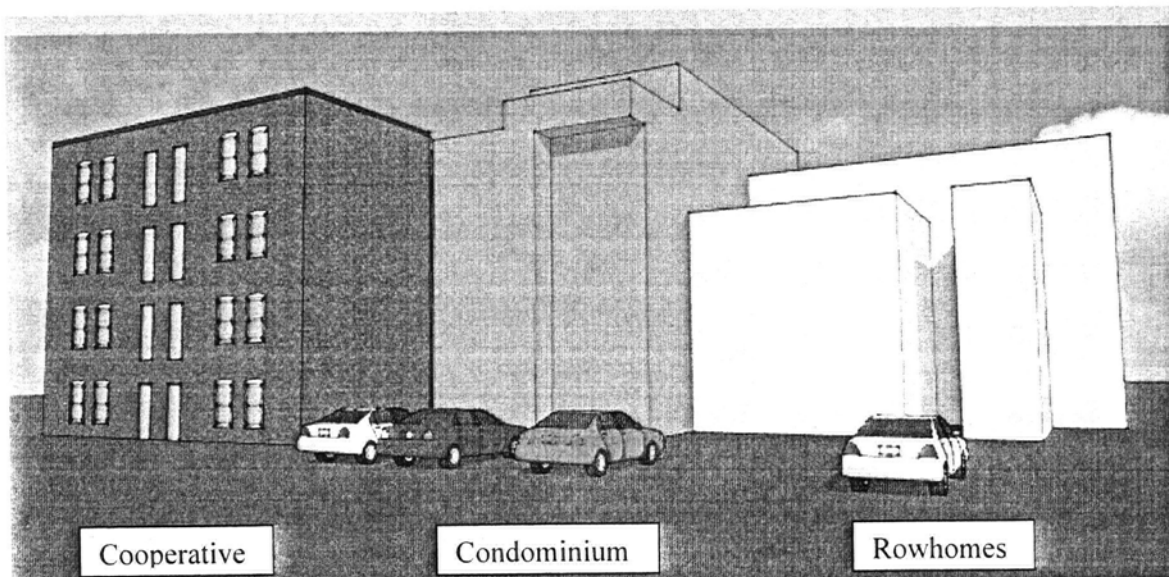
The initial effort to ascertain the impact of the proposed Kenyon Condos on the existing cooperative building necessitated field measurements of the existing building at 1372 Kenyon Street, NW. The footprint was measured, along with the locations of the existing East-facing windows. This layout was juxtaposed with the proposed condos to identify points of contact and clearances between the two structures. The articulation of the west façade of the proposed condo building includes an open courtyard and setback for an exit discharge path to the alley at the South end of the properties. The resulting clearance between the existing cooperative apartment windows and the condominium's exterior walls ranges from 9'-10" to 27'-2".

Following is an illustration of the juxtaposed building plans.

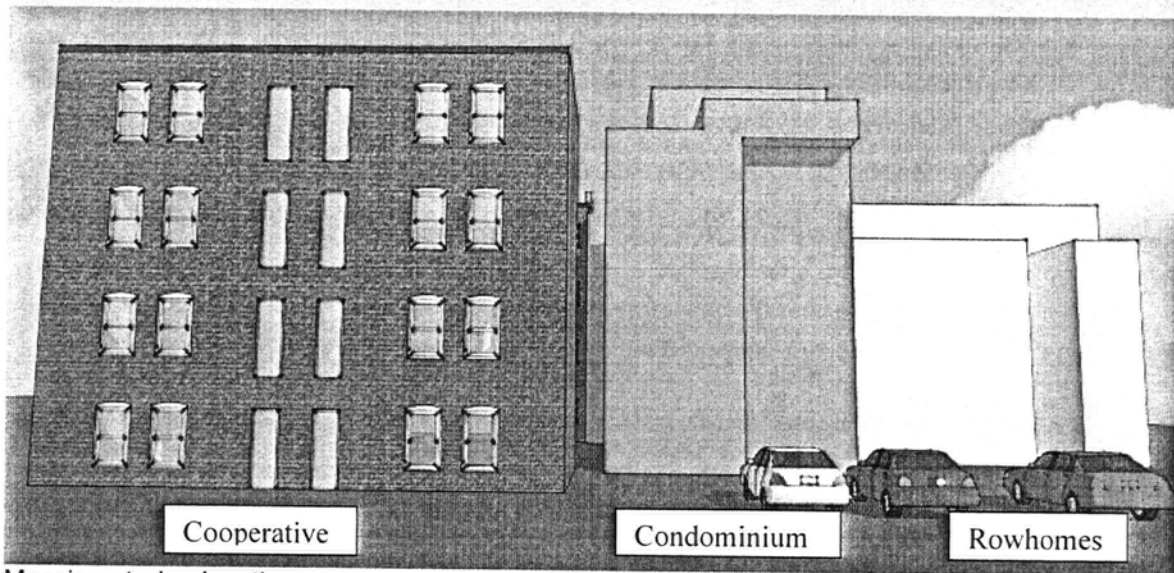


MASSING STUDY

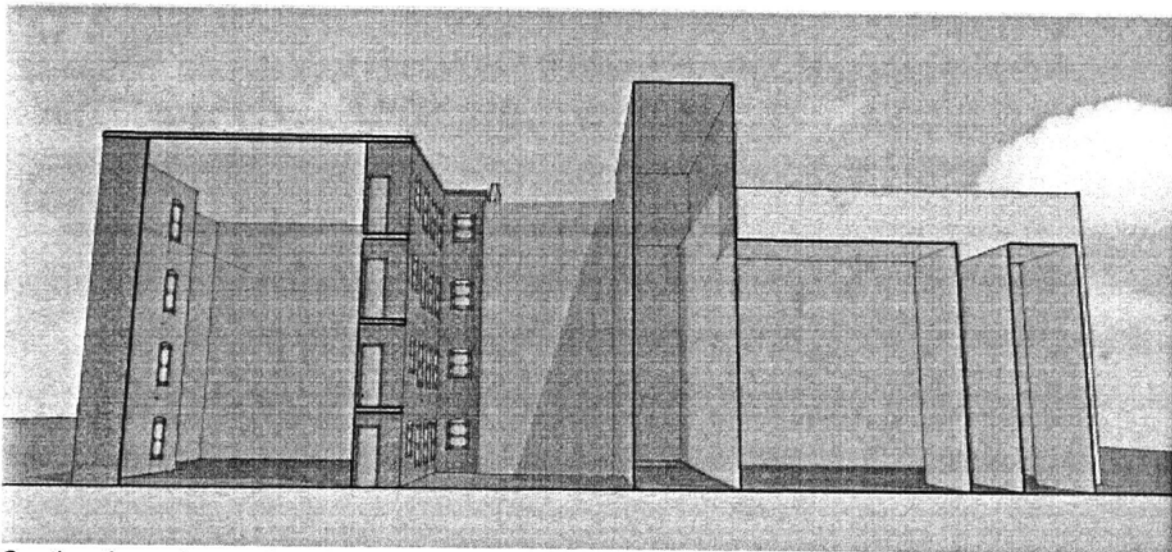
A massing study was prepared based upon the information available for both structures. The focus was on the South façade and shared property line to demonstrate the clearance between the two buildings and relationship of building heights. A section plane was cut on the East-West axis to illustrate the clearance in the courtyard area.



Massing study perspective.



Massing study elevation.

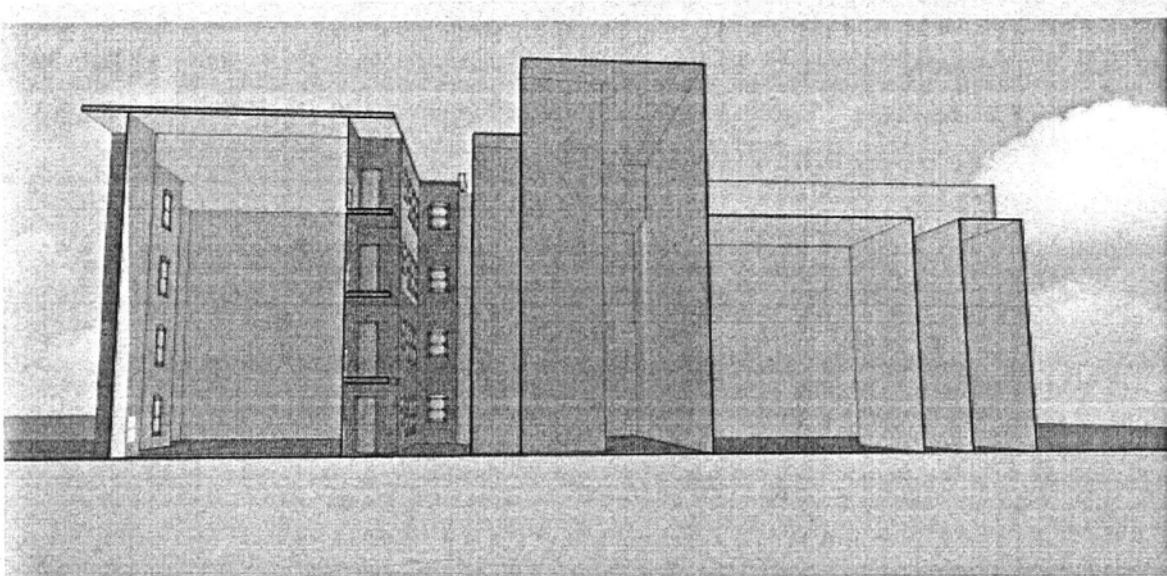


Section through massing showing Cooperative egress stair and Condominium courtyard.

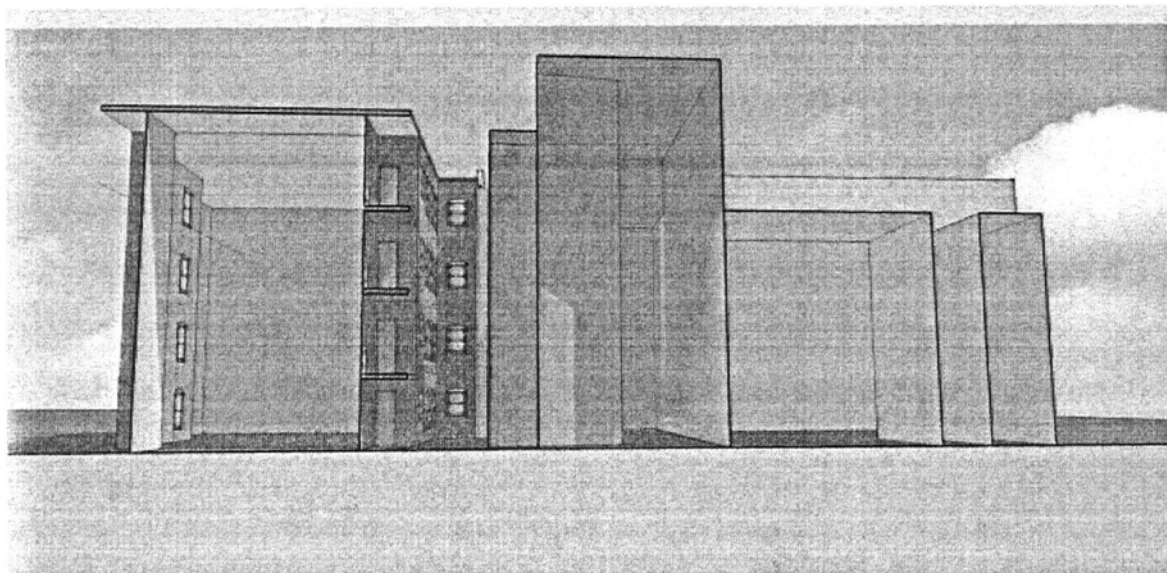
CLEARANCE AND NATURAL LIGHTING IMPACT STUDY

The third step was a study of the amount of direct sunlight that the cooperative windows on the East façade would receive, if the condominium building was constructed in the currently proposed configuration. We identified the geospatial location of the cooperative building to simulate the solar activity during the month of July. The solar activity was evaluated in one-hour increments, starting at 8:00 am, and continuing until 1:00 pm. Our study showed that the fourth floor apartment windows received direct sunlight between the hours of 8:00 am and 12:00 pm. Third floor apartment windows received direct sunlight between the hours of 9:00 am and 12:00

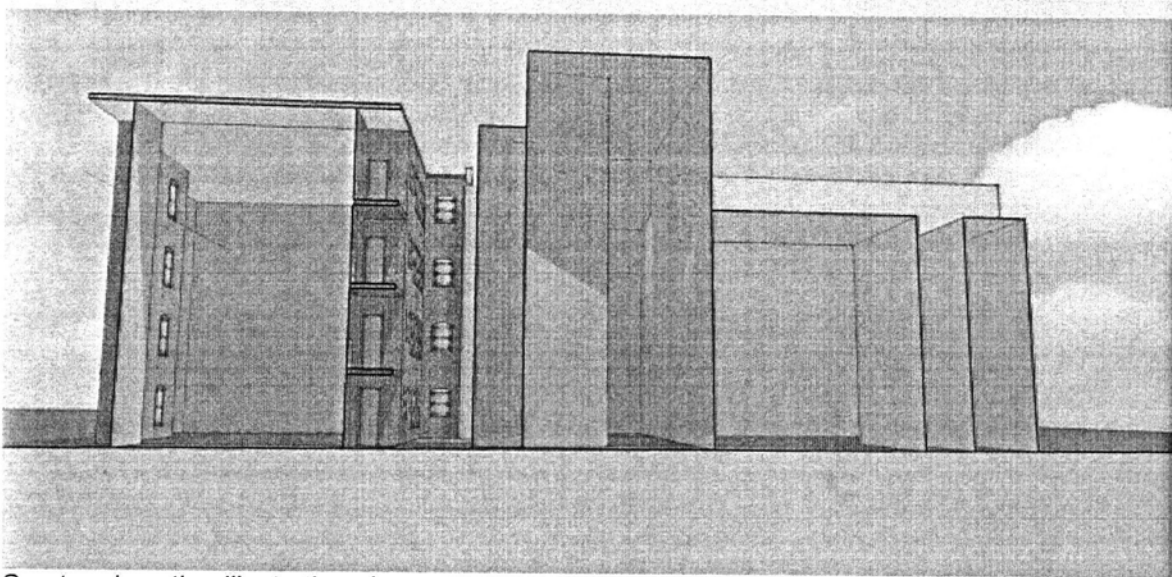
pm. Second floor apartments received direct sunlight between the hours of 10:00 am and 12:00
pm. First floor apartments received direct sunlight between 11:00 am and 12:00 pm.



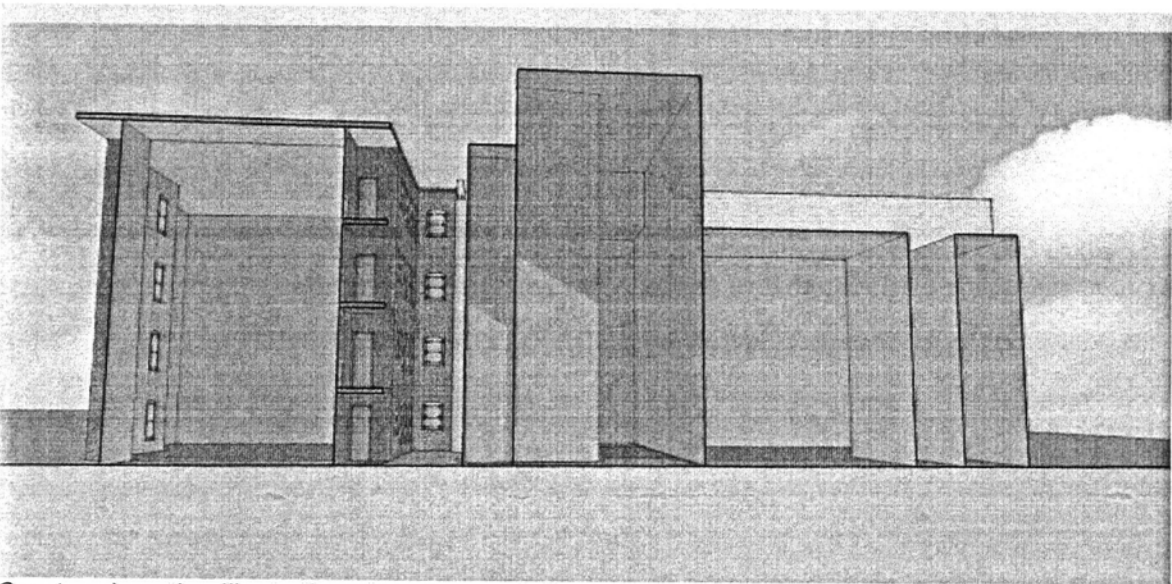
Courtyard section illustrating clearance and direct daylight at 9:00 am



Courtyard section illustrating clearance and direct daylight at 10:00 am



Courtyard section illustrating clearance and direct daylight at 11:00 am



Courtyard section illustrating clearance and direct daylight at 12:00 pm

CONCLUSIONS

Because the lot adjacent to the existing Kenyon Street Cooperative building is currently vacant, the East-facing apartment windows on all four floors above grade receive direct sunlight between the hours of 8:00 am and 12:00 pm in a theoretical study of solar activity in the month of July. The proposed Kenyon Condos building will impact the amount of direct sunlight

reaching those windows, reducing the duration to as little as 3 hours on the third floor, and 1 hour on the first floor

Under the current R-4 zoning ordinance, any new construction is limited to three stories, 40 feet above grade, and 60% lot coverage. As proposed, a portion of the Kenyon Condos exceeds the allowable height and number of floors. The proposed building will be constructed to the Western lot line, and then articulate away from the shared property line, providing clearance between the two buildings ranging from 3'-6" to 27'-2". By right, the new building could be constructed to the shared property line for the entire length of the building, but alternatively, the new building is not required to touch the property line, and could be configured to increase the natural lighting received by the Cooperative's East-facing apartment windows.

The proposed condo building does not appear to impede the egress from the existing cooperative building, but the fire separation could not be evaluated with the limited information available. Chapter 7 of the International Building Code addresses the minimum fire rating of walls on a shared property line, and the maximum percentage of openings in an exterior wall, based upon the distance between two buildings. It is incumbent upon the Architect of Record for the Kenyon Condos to verify that the construction of the new building does not compromise the safety of the residents in either building.

We appreciate this opportunity to be of service to you. Please contact us if you have any further questions or comments concerning the project or this report, or if we can otherwise be of service.

Sincerely,



Charles C Keener II AIA, LEED AP BD+C

Attachments A-1 0, 1 1, 1 2, 1 3, 1 4