

**BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA**

Appeal No. 19550

Appeal of ANC 6C

Hearing Date: November 15, 2017

Statement of Amy Stouffer

As an adjoining property owner to 1125 7TH ST NE, I urge the Board of Zoning Adjustment (the Board) to revoke permit B1706219.

As my house is located directly across the alley, due east of 1125 7th St. NE, this proposed construction will have a material, adverse impact my home's access to air and light. One of the reasons I purchased my home was because of the light it receives as a happy result of its east-west facing placement, a relative rarity in D.C. Permit B1706219 allows the construction of two separate three (3) story rowhouses on the same lot, one directly behind the first, both thirty-five (35) feet tall, plus a roof deck on each. The second of these two rowhouses will be constructed less than forty (40) feet from the rear of my property line, and will, quite literally, cast a shadow on my property. In addition, I am extremely concerned about the precedent permitting this construction will set and the impact on our neighborhood going forward. Should this construction be permitted, it is very conceivable; in fact, it seems highly likely, that the ultimate end result will be a double row of row houses on each side of the alley, each lot with one row house adjoining the street, with another adjoining the alley.

- **Building Permit B1706219 should be revoked because it directly contradicts the "Development Standards" of the RF zones.**

Per Subtitle E Section 101.2 of the Zoning Regulations, the "Development Standards" of the RF zones, are intended to: "Control the bulk or volume of structures, including height, floor area ratio, and lot occupancy;" and "Control the location of building bulk in relation to adjacent lots and streets, by regulating rear setbacks, side setbacks, and the relationship of buildings to street lot lines;" Subtitle E Chapter 101. Constructing two (2) three (3) story buildings, each thirty-five (35) feet tall, plus roof-decks on each, on one single lot where only one rowhouse exists, where all neighboring lots have only one row house, is clearly not an exercise in controlling the bulk and volume of structures.

- **Building Permit B1706219 should be revoked because it exceeds the maximum number of dwelling units.**

Subtitle E, Section 302.1 imposes a maximum of two dwelling units on a property. The application for the Permit B1706219 depicts four units: two principal units and two accessory units. I've attached drawings from the permit application which show laundry facilities upstairs in both Unit 1 and Unit 2, in addition to the two basement laundry closets in Unit 1 and Unit 2.

- **Building Permit B1706219 should be revoked because it is two separate buildings.**

Subtitle B Section 309 of the Zoning Regulations provides that "Structures or sections shall be considered parts of a single building if they are joined by an enclosed connection that is fully above grade, is heated and artificially lit; and either a common space shared by users of all portions of the

building, such as a lobby or recreation room, or space that is designed and used to provide free and unrestricted passage between separate portions of the building, such as an unrestricted doorway or walkway" (emphasis added). Accordingly, Building Permit B1706219 was rubberstamped by DCRA as an addition to the existing building presumably because of the "breezeway" connecting the two "units".

However, the "breezeway" clearly does not fulfill the Zoning Regulation connection requirement such that these two (2) rowhouses should be considered one (1) building for the following reasons:

- The "breezeway" is not fully above ground. It has stairs that go below grade to Unit 1. Drawing A.5.2 of the approved plans for Building Permit B1706216 clearly depicts a set of stairs in the breezeway, starting below grade.
- It is not a common space shared by all users, as it would only be used by the owner of Unit 2 for ingress and egress to 7th street via the underground corridor. It certainly does not provide "free and unrestricted passage between separate portions of the building". The breezeway provides no access to Unit 1. It starts an underground accessway that circumvents Unit 1 entirely, leading directly into Unit 2. And it will only be used to access Unit 2 by the owner of Unit 2, as there would be no reason for the owner of Unit 1 to access Unit 2. Moreover, the owner of Unit 2 is not going to permit "free and unrestricted access" to Unit 2 to the owner of Unit 1, the other user of the "building". The only semi-legitimate purpose of the breezeway is to provide access to the owner of Unit 2 to and from the street. That is not "free and unrestricted passage between separate portions of the building." That is restricted access, benefiting one (1) owner.

Even the applicant acknowledges that Unit 2 is a new, separate townhome: the cover sheet to the approved plans for Building Permit is titled "Renovation of Single Townhome to a 2-Unit Separate Townhouse". In their letter responding to DCRA's comments to the plans, the developer's structural engineer states "We are two buildings each being one unit." The DCRA inspector's notes, available on DCRA's website, refer to this project is referred to as "two buildings" multiple times. This is unequivocally **not** a fully integrated building, with free and unrestricted access.

- **As a separate building, Unit 2 does not comply with the accessory building regulations.**

Subtitle E Chapters 50 and 51 of the Zoning Regulations provides that the maximum permitted height for an accessory building in an RF zone shall be twenty feet (20 ft.) and two (2) stories, including the penthouse (the approved plans for Building Permit B1706219 allow for a 35 foot tall accessory building PLUS a roof deck), and the maximum lot occupancy for an accessory building in an RF zone shall be the greater of thirty percent (30%) of the required rear yard area or four-hundred and fifty square feet (450 sq. ft.) the approved plans for Building Permit B1706219 allow for an accessory building with a footprint of at least 640 sq. ft.

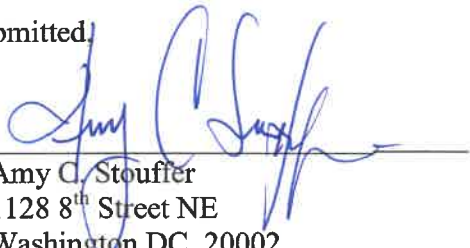
Subtitle U Section 301.1 (c) of the Zoning Regulations provides that a permitted principal dwelling unit is only permitted in an accessory building as a matter of right if the accessory building was in existence on January 1, 2013. Unit 2 does not exist now. It cannot be constructed and used as a principal dwelling unit as a matter of right.

- **Even if it is somehow determined that this is one (1) building, with two dwelling units, the proposed development still violates the RF-1 zoning requirements because Unit 2 lacks side yards.**

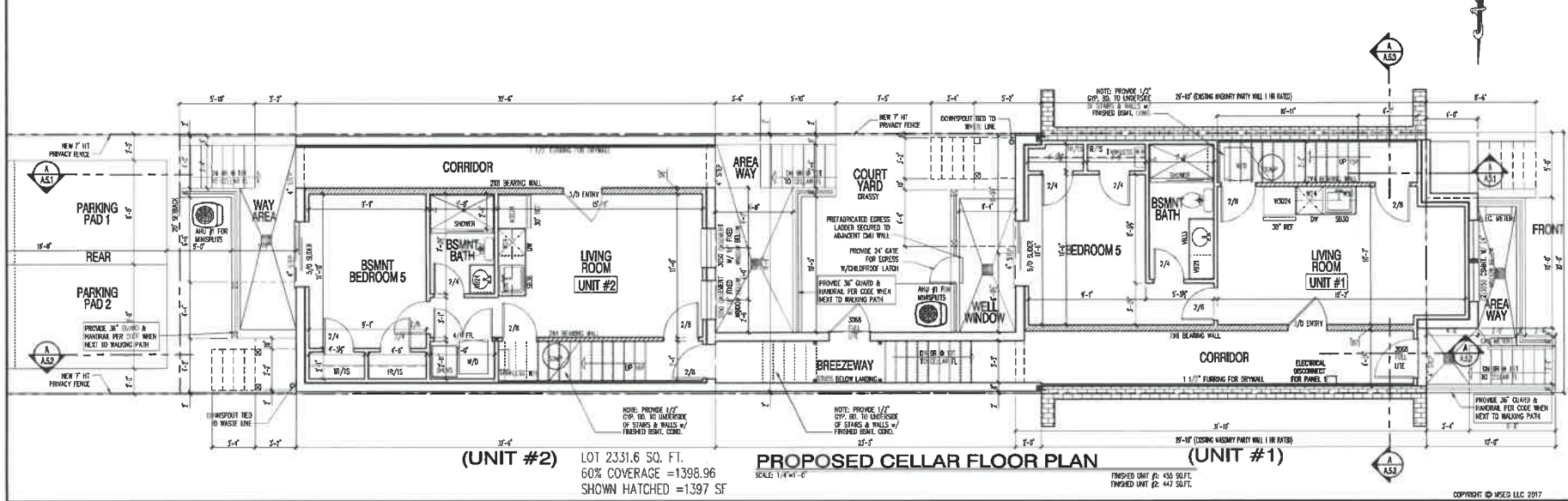
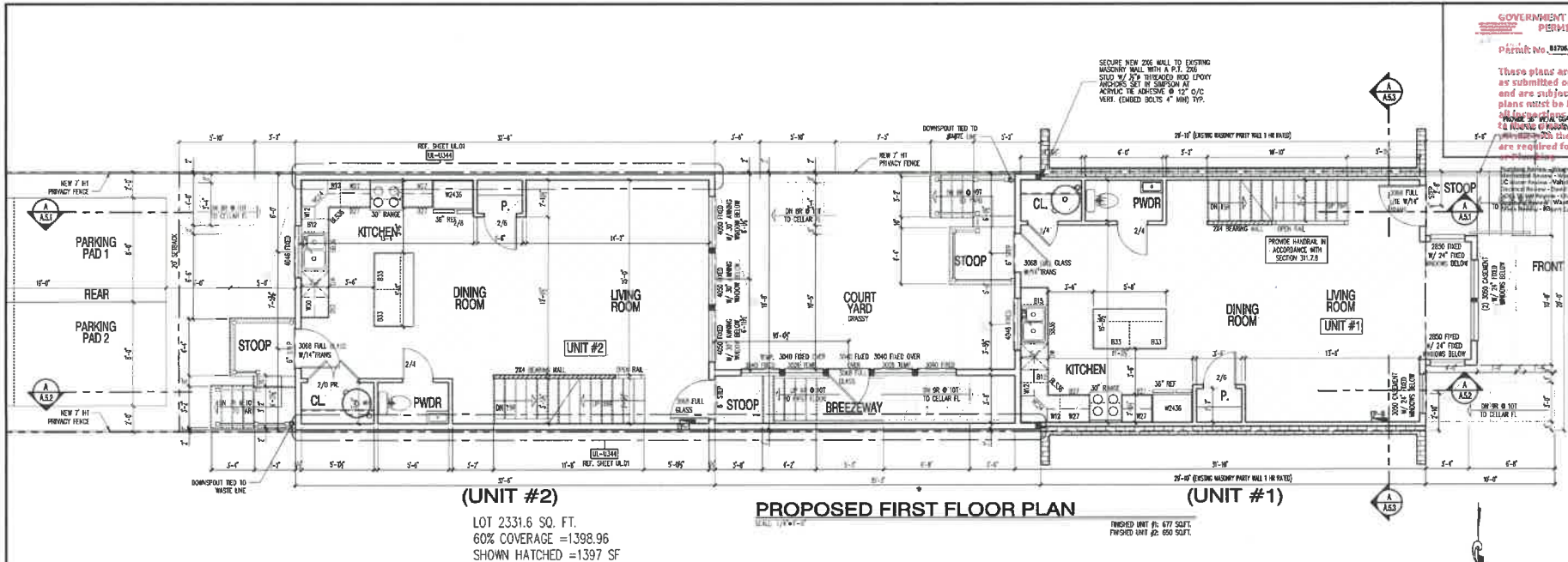
Per Subtitle E Chapter 307.1, "When a new dwelling or flat is erected that does not share a common division wall with an existing building or a building being constructed together with the new building, it shall have a side yard on each resulting free-standing side." Unit 2 of 1125 7th NE is, at the very least, a new dwelling that does not share a common division wall with an existing building on either side. So it follows that it must have a side yard. The approved plans for Building Permit B1706219 do not account for a side yard, Subtitle E Chapter 307.1 also states that "No side yard is required for a principal building; however, any side yard provided on any portion of a principal building shall be at least five feet (5 ft.) except as provided in this section." Of course, assuming that Unit 2 is part of the principal building that does not share a common division wall with an existing building renders this section internally inconsistent, likely because the drafters did not foresee a new dwelling in a "principal building" not sharing common division walls with the rest of the principal building. But in the event of an inconsistency, the Zoning Regulations are meant to be interpreted as imposing the higher or stricter standard. Accordingly, even if Unit 2 is considered part of the principal building, as it also is a new dwelling that does not share a common division wall with an existing building, it is required to have side yards. To interpret otherwise would result in another secondary row of adjoining rowhomes on both sides of the alley.

For all the reasons stated above and contained in ANC 6C's submittal, I urge the Board to reverse the decision of the Zoning Administrator and to order the immediate revocation of permit B1706219. Thank you for your consideration.

Respectfully Submitted,



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GOVERNMENT OF THE DISTRICT OF COLUMBIA
 PERMIT OPERATIONS DIVISION
 PLAN
 PERMIT NO. 1170219

These plans are conditionally approved as submitted or noted. All reviews and are subject to the District of Columbia and are subject to the District of Columbia. Plans not to be kept as-is. No changes are allowed without the District of Columbia. No changes are allowed without the District of Columbia. No changes are allowed without the District of Columbia.

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 WASHINGTON, D.C. 20024
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 Fax: 703.223.2301
 Website: www.dcd.com

22434 Plotted at 1/4" = 1'-0" - 11x17 Plotted at 1/8" = 1'-0"

1125 7th St NE - STONY CREEK HOMES

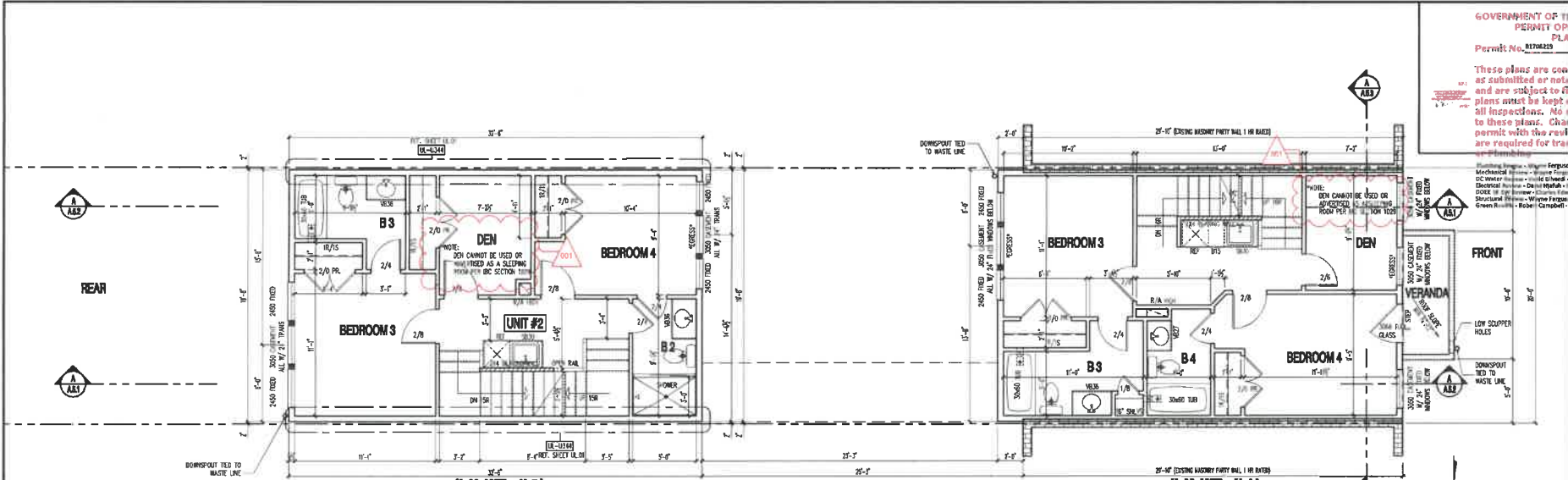
PROPOSED CELLAR & FIRST FLOOR PLAN

DRAWN BY:
 MCR
 DATE: 08/18/17
 REV. NO. DATE
 XXX XXXX-XX

01.01.17

SHEET No.
A1.1

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(UNIT #2)

PROPOSED THIRD FLOOR PLAN

(UNIT #1)

FINISHED UNIT #1: 637 SQ.FT.
FINISHED UNIT #2: 650 SQ.FT.

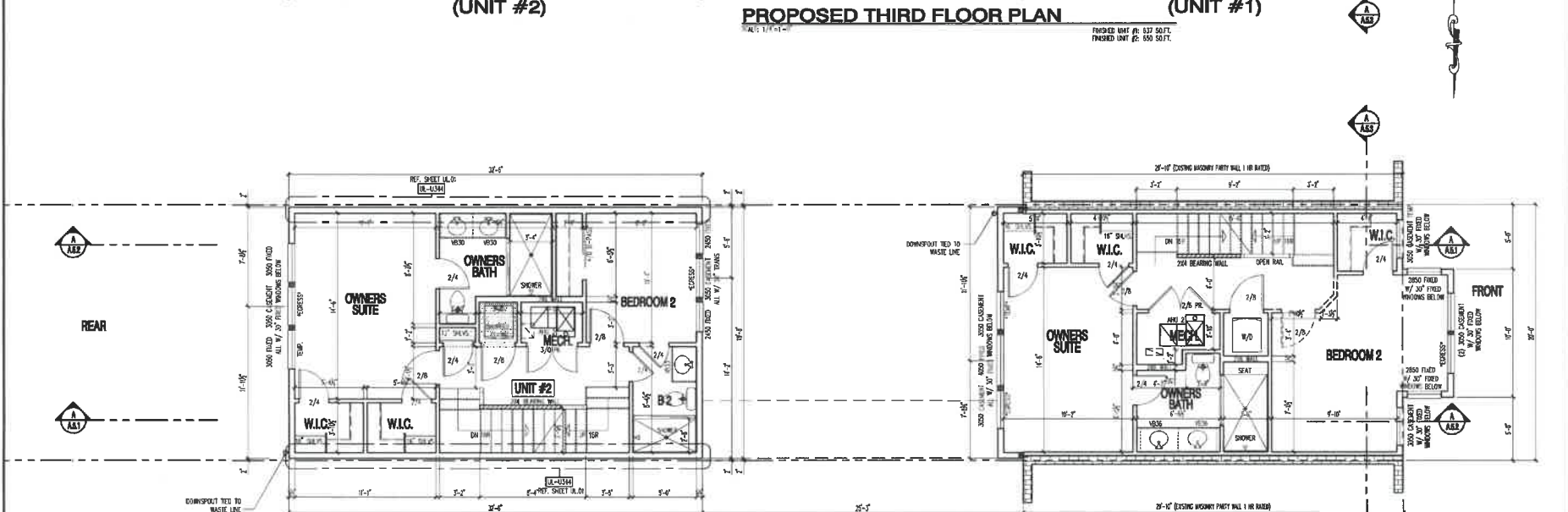
GOVERNMENT OF THE DISTRICT OF COLUMBIA
 PERMIT DIVISION
 Permit No. B1704220
 Date: 08/20/17

These plans are submitted as noted and are subject to inspection and approval for all inspections. No modifications are permitted without the required permits for the work shown on these plans.

Structural Review: Wayne Ferguson
 Green River
 Mechanical Review: Wayne Ferguson
 Green River
 Electrical Review: Wayne Ferguson
 Green River
 Plumbing Review: Wayne Ferguson
 Green River
 Fire Review: Wayne Ferguson
 Green River
 Civil Review: Wayne Ferguson
 Green River

DISTRICT OF COLUMBIA
 PERMIT DIVISION
 Permit No. B1704220
 Date: 08/20/17

DC ENGINEERING AND ARCHITECTURE
 10330 WARWICK AVE. SUITE 200
 FARMINGTON, MD 21048
 Phone: 301-271-1100
 Website: www.dceand.com



(UNIT #2)

PROPOSED SECOND FLOOR PLAN

(UNIT #1)

FINISHED UNIT #1: 677 SQ.FT.
FINISHED UNIT #2: 650 SQ.FT.

20254 Plotted at 1/4"=1'-0" - 11x17 Plotted at 1/8"=1'-0"

1125 7th St NE - STONY CREEK HOMES
 PROPOSED SECOND & THIRD FLOOR PLAN

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DATE: 08/20/17
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