

BZA 20183

Residences of Columbia Heights

1420 Clifton Street NW

Failure to Apply for Special Exception: U-513.1(b)

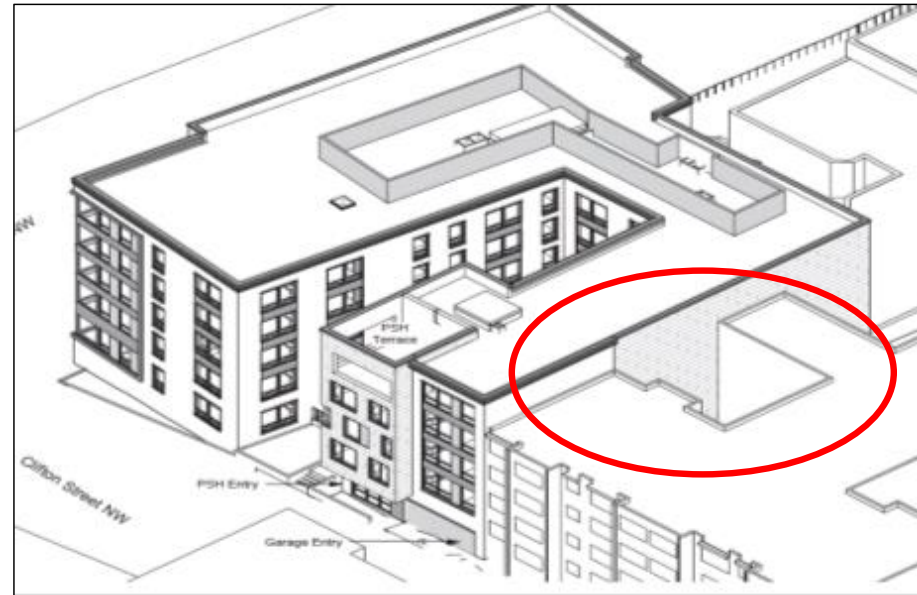
Failure to Provide Meaningful Connection: B-309.1

Parking shortfall: C-701.5

Loading shortfall: C-901.1

No ANC Endorsement of Building

Filed in Timely Manner



*Residents do not oppose Ward 1 shelter;
they oppose violations of regulations.*

Zoning Error

Failure to Apply for Special Exception for
Emergency Shelter Per U-513.1(b)

Why?

Avoid Review of Impact on Neighboring Property?

What the Legislation Says

Homeless Services Reform Act of 2005 – Part of B-100 Definition for Emergency Shelter

40) A **Temporary shelter** means: (A) A housing accommodation for individuals who are homeless that is open either 24 hours or at least 12 hours each day...for the purpose of providing shelter and supportive services; or (B) **A 24-hour apartment-style housing accommodation** for individuals or families who are homeless... for the purpose of providing shelter and supportive services.

Homeless Shelter Replacement Act of 2016 - Amends Homeless Services Reform Act of 2005

Replace DC General Family Shelter with “**temporary shelter** for families experiencing homelessness” in Wards 1, 3-8, including “**one facility containing apartment-style units**”

Homeless Shelter Temporary Amendment Act of 2018

“**capital project HSW01C – Ward 1 Shelter** to construct a facility to provide **temporary shelter** for families experiencing homelessness containing 35 2- and 3-bedroom **apartment-style units** on District-owned land at 2500 14th Street, N.W.”

What the Zoning Regulations Say

“Emergency shelter” is a **special exception** use in MU-5A zone. (U-513.1(b))

B-100 - Emergency Shelter: A facility providing **temporary housing** for one (1) or more individuals who are otherwise homeless as that arrangement is defined in the **Homeless Services Reform Act of 2005**, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code §§4-751.01 *et seq.*); an emergency shelter use may also provide ancillary services such as counseling, vocational training, or similar social and career assistance. (B-100.2)

What is the Site?

Originally, 29 emergency shelter units increased to:

- 35 “apartment-style” units (no change in statutory authorization)
- 15 permanent supportive housing (PSH) units

All DC General Replacement Units Are Emergency Shelters or Short Term Family Housing (STFH)

- Ward 1: *The new building will be comprised of 50 residential apartments. Of these, 35 will be 2- and 3-bedroom apartments for families in need of short term **emergency housing** (STFH). (Sheet A0.11, Approved Plans)*
- Ward 3: *To allow construction of an **emergency shelter** in the RA-1 Zone District (Case 19450, Applicant's Prehearing Statement, Exhibit 75)*
- Ward 4: *The District of Columbia Government, proposes an **emergency shelter** for 49 families or up to 148 people in the C-2-A District (Office of Planning Report, 6/21/16, Exhibit 38)*
- Ward 5: *46-housing unit **emergency family shelter** (Statement of the Applicant, Case 19452, Exhibit 7)*
- Ward 6: *A new building with **emergency shelter** (Statement of the Applicant, BZA Application, Case 19451, Exhibit 9)*
- Ward 7: *A four-story **emergency shelter** for families with wrap around services on-site (BZA application for Case 19287, Exhibit 34)*
- Ward 8: *A six-story **emergency shelter** for families with wrap around services on-site (Case 19288, Exhibit 34)*

All Other STFH Units Secured Special Exceptions

- Ward 3: BZA Special Exception Order 19450
- Ward 4: BZA Special Exception Order 19289
- Ward 5: BZA Special Exception Order 19452
- Ward 6: BZA Special Exception Order 19451
- Ward 7: BZA Special Exception Order 19287
- Ward 8: BZA Special Exception Order 19288

However, City Claims STFH is an “Apartment Building”

Apartment: One (1) or more habitable rooms with kitchen and bathroom facilities exclusively for the use of and under the control of the occupants of those rooms. Control of the apartment may be by rental agreement or ownership.

However, building has multiple uses:

- 15 PSH units = 15 apartments
- 35 “apartment-style” emergency shelter units
- no rental agreement or ownership

B-202.1, Applicability of Multiple Uses: “When a site contains more than one (1) use and these uses fall within different use categories, each use is subject only to the regulations of the applicable use category.”

And Emergency Shelters Are Temporary Shelter and Apartment-Style Units

Homeless Services Reform Act of 2005	D.C. Law 21-141. Homeless Shelter Replacement Act of 2016	Homeless Shelter Replacement Temporary Amendment Act of 2018
<p>40) A Temporary shelter means: (A) A housing accommodation for individuals who are homeless that is open either 24 hours or at least 12 hours each day...for the purpose of providing shelter and supportive services; or (B) A 24-hour apartment-style housing accommodation for individuals or families who are homeless... for the purpose of providing shelter and supportive services.</p>	<p>...for the purpose of...the apartments used for temporary shelter at 1433 and 1435 Spring Road... (5) The apartments used by the District to provide temporary shelter to families experiencing homelessness at 1433 and 1435 Spring Road...are antiquated... Sec. 3. (a) ... to use designated funds...to provide temporary shelter for families experiencing homelessness...and one facility containing apartment-style units, as defined in section 2(3) of the Homeless Services Reform Act of 2005... (1) The Mayor is authorized to use funds appropriated for capital project HSW01C – Ward 1 Shelter....</p>	<p>Sec. 2. Section 3(a)(1) of the Homeless Shelter Replacement Act of 2016, ...is amended "(1) The Mayor is authorized to use funds appropriated for capital project HSW01C – Ward 1 Shelter to construct a facility to provide temporary shelter for families experiencing homelessness containing 35 2- and 3-bedroom apartment-style units on District-owned land at 2500 14th Street, N.W.</p>

But City Calls this an Emergency Shelter/STFH

Press Releases

Planning Documents

Budget Documents

Approved Plans

DGS-Hired Counselor

The Mayor's Remarks

Ward 1 STFH Defined by City as an **Emergency Shelter**: Examples

Mayor Bowser Breaks Ground on Ward 1 Short-Term Family Housing

Tuesday, July 2, 2019



(Washington, DC) – Today, Mayor Bowser broke ground on the Ward 1 Short-Term Family Housing, the final building in the Mayor's plan to replace the DC General Family Shelter with dignified, service-enriched programs across DC. Programs in Wards 4, 7, and 8 opened in Fall 2018, programs in Wards 5 and 6 will open in Fall 2019, and Ward 3's program is scheduled to open in 2020.

"When our neighbors experience a housing crisis, we're going to be there for them with programs in all eight wards that are safe, service-enriched, and support a quick return to permanent housing," said Mayor Bowser. "Closing DC General was only the first step. We're also investing in resources and supports to ensure fewer families in our city ever experience homelessness in the first place. When they do, though, we will have the shelter and programming in place to help them get back on their feet quickly."

Establishing an effective crisis response system, including the development of smaller, community-based short-term family housing programs, is one part of Mayor Bowser's strategic plan to end homelessness in the District. Short-term family housing buildings provide a safe, clean, and private place for up to 50 families while they work to obtain permanent housing. Each building is equipped with places for children of all ages to play and do homework and will include services to help families quickly stabilize and exit shelter. The Ward 1 site will include 35 apartment-style emergency shelter units for families and 15 permanent supportive housing apartments for senior women.

*"The Ward 1 site will include 35 **apartment-style emergency shelter** units for families and 15 permanent supportive housing apartments for senior women." Mayor Bowser Press Release on Groundbreaking, 7/2/19*

*"**Emergency shelter** is a critical component of any homeless service system," said DC Interagency Council on Homelessness Director Kristy Greenwalt.*

"Ward 1 Short-Term Family Housing shelter" Meridith H. Moldenhauer, DGS Reply to Opposition to Motion.... 1/28/20 (Exhibit 58)

<https://mayor.dc.gov/release/mayor-bowser-breaks-ground-ward-1-short-term-family-housing>

Report/Recommendations of Committee on Human Services FY20 Budget Review, DC City Council, May 1, 2019

Short-Term Family Housing (“STFH”): In furtherance of the closure and replacement of DC General, the proposed capital budget includes an additional \$800,000 for the Ward 1 STFH facility and continued investment in the Ward 3 STFH facility of \$7.5 million for FY2020.

Short Term Family Housing Facilities: In October 2018, DHS accomplished an important step in the *Homeward DC* plan by successfully exiting all families from DC General and closing the facility for good. All of the families exited from DC General were transitioned to Short Term Family Housing (“STFH”) facilities, including three facilities that have already opened in Wards 4, 7, and 8. The Committee is pleased to report that DHS, in partnership with the Department of General Services (“DGS”), is proceeding with the design and construction of four more STFH facilities in Wards 1, 3, 5, and 6.

CMSSIC Total	
HSW01C	WARD 1 TEMPORARY HOUSING FOR FAMILIES

HSW01C – see Homeless Shelter Temporary Amendment Act of 2018

Report/Recommendations of Committee on Human Services FY20 Budget Review, DC City Council, May 1, 2019

Committee Analysis and Comments

The Committee supports the continued capital investments in STFH facilities as well as the program enhancements for the Department of Human Services. This capital budget signals meaningful improvements to the system that will create dignified shelter spaces for an aging homeless population and eliminate the need to house families in overflow hotels.

Ongoing STFH Facilities: The capital budget continues the investment into the STFH facilities intended for each ward, with an enhancement for the STFH facility in **Ward 1**. The completion of Phase 2 of the Ward 3 STFH facility is expected in the Winter of 2019. The Ward 3 STFH facility will provide 50 STFH units and space for program activities for residents. The STFH facility in **Ward 1** will be co-located with the Rita Bright Family and Youth Center and is expected to be completed in the Spring of 2020. The **Ward 1** project is expected to provide 35 STFH units as well as 15 units of PSH dedicated for seniors. The Ward 5 STFH facility and the Ward 6 STFH facility both have Summer 2019 completion dates and will include 46 and 50 STFH units respectively. DHS's plans to discontinue housing families in the overflow hotels by 2020 is contingent on several factors, primarily the availability and operation of the STFH facilities that have yet to open in Wards 5,6, 3,and 1.

Mayor Bowser States All STFH Facilities Secured BZA Approval

“We made the decision to present all of our Short Term Housing facilities to the Board of Zoning Adjustment for approval.”

- 8/21/19 Ward 5 Shelter Ribbon Cutting

RECAP: Why a Special Exception is Required

Per U-513.1(b)

1. Homeless Services Reform Act of 2005 includes “apartment-style” emergency shelters
2. Temporary housing and temporary shelter are used throughout the zoning definition and the implementing legislation
3. Emergency shelters are referred to as Short Term Family Housing (STFH)
4. All DC General Replacement shelters are defined as emergency shelters
5. Ward 3-8 DC General replacement shelters sought and obtained, BZA approval
6. Ward 1 is referred to by the City as an emergency shelter
7. Ward 1 building is both STFH (35 units) and Permanent Supportive Housing (PSH) (15 units)
8. Building is primarily an “emergency shelter”
9. Mayor Bowser: all DC General Replacement Shelters presented to BZA for Special Exception approval

Zoning Error

Failure to Provide Rear Yard Setback G-405.2

Why?

Two buildings are permissible, but why does the city pursue a meaningful connection?

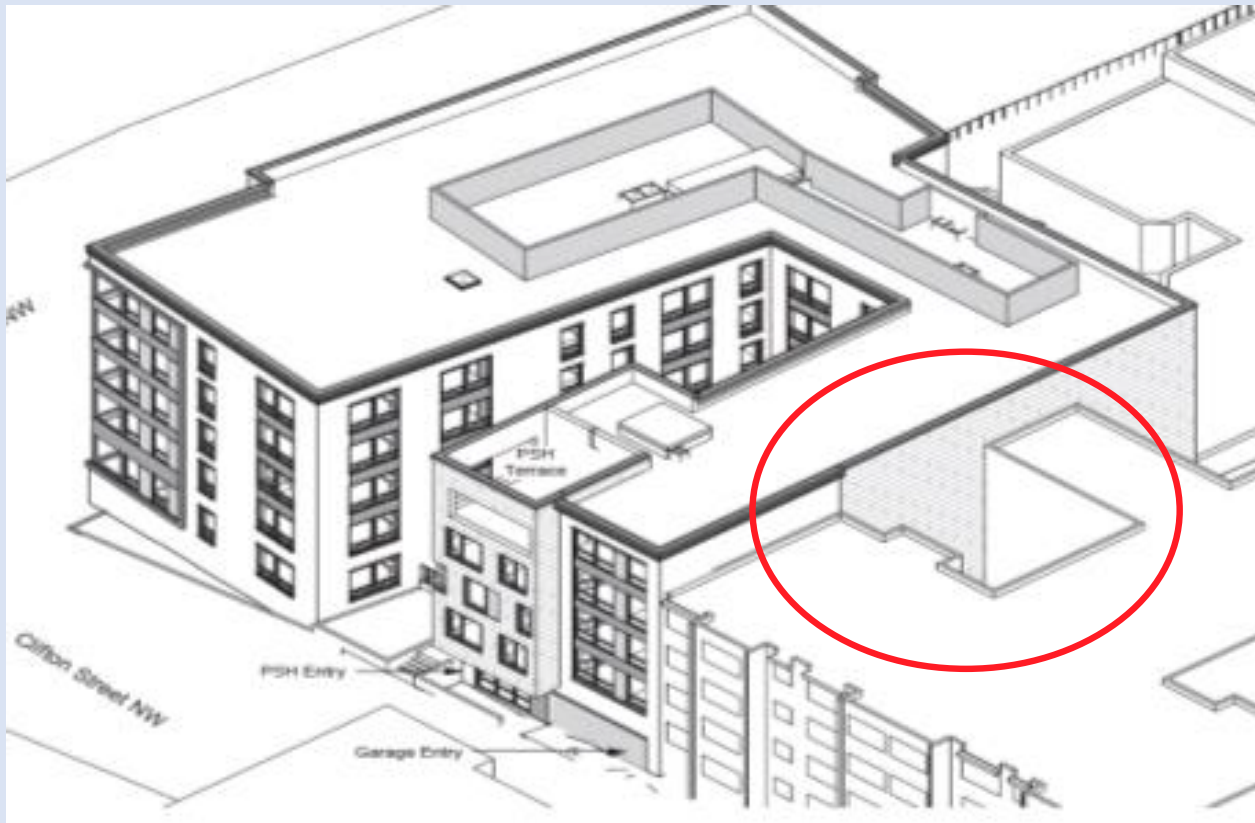
Failure to Provide Rear Yard Setback

- MU-5A requires a 15-foot rear-yard setback (G-405.2)
- City avoids setback by making spurious claims:
 - Clifton St is the “front” of the building; rear yard is on Chapin
 - Existing community center and STFH are “one building” for zoning purposes because of an alleged “meaningful connection”
- Requirements violated:
 - Connection between Rita Bright community center and STFH is not “meaningful connection”; STFH must be considered separate building with rear-yard setback requirement

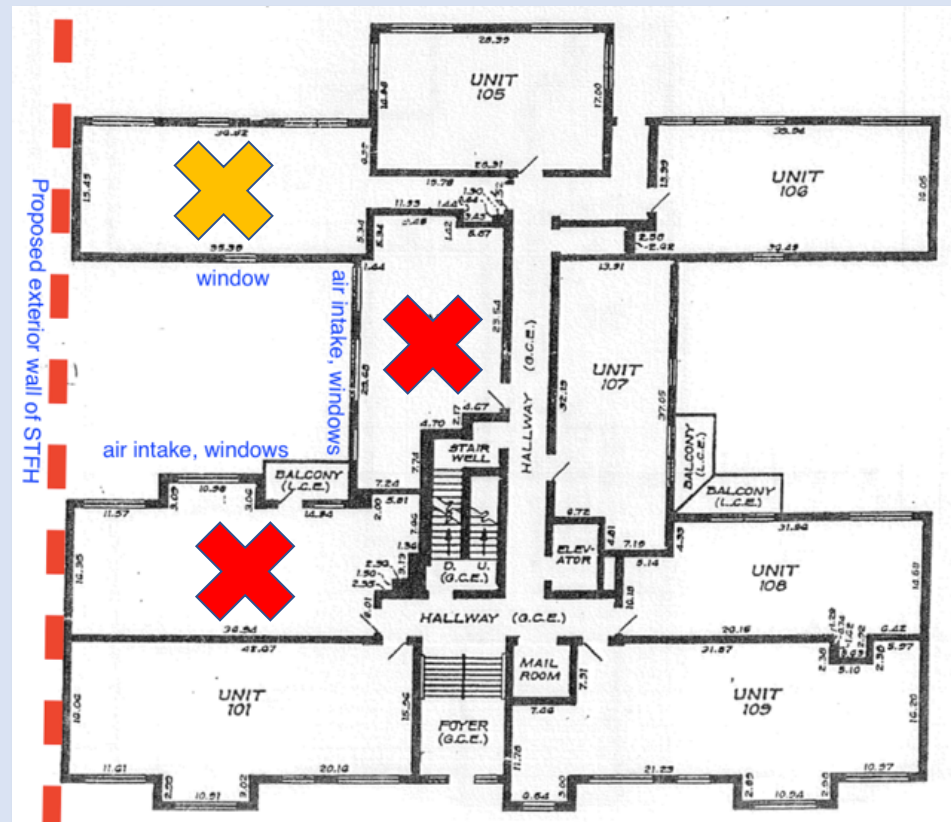
Meaningful Connection is Unnecessary

- MU-5A allows for 2 primary buildings on same lot. Artifice of meaningful connection is unnecessary but was done to avoid rear yard setback requirement, which negatively impacts the neighboring property
- DGS argued that Ward 3/MPD meaningful connection would be “practically difficult”; Board concurred that “the connection of two structures devoted to two very different uses would create operational difficulties for both the emergency shelter and, likely, the MPD facility....” (BZA 19450)

Effects of Failure to Provide Rear Yard Setback



Effects of Failure to Provide Rear Yard Setback



DGS Sought Zoning Guidance from ZA Only After Neighbor Concerns

City sought and secured “advisory statement” (not a Zoning Determination Letter) from Zoning Administrator well after designs were in place:

- 18 months after site selected
 - 9 months after first plans developed and permits applied for
 - 1 month after residents pointed out the lack of rear setback

Meaningful Connection Requirements (B-309.1)

For purposes of this chapter, structures that are **separated from the ground up** by common division walls or contain multiple sections separated horizontally, such as wings or additions, are separate buildings. Structures or sections shall be considered parts of a single building if they are joined by a connection that is:

- a) Fully above grade;
- b) Enclosed;
- c) Heated and artificially lit; and
- d) Either
 1. Common space shared by users of all portions of the building such as a lobby or recreation room, loading dock or service bay; or
 2. 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.

Basis of Meaningful Connection Rule

Zoning Definitions

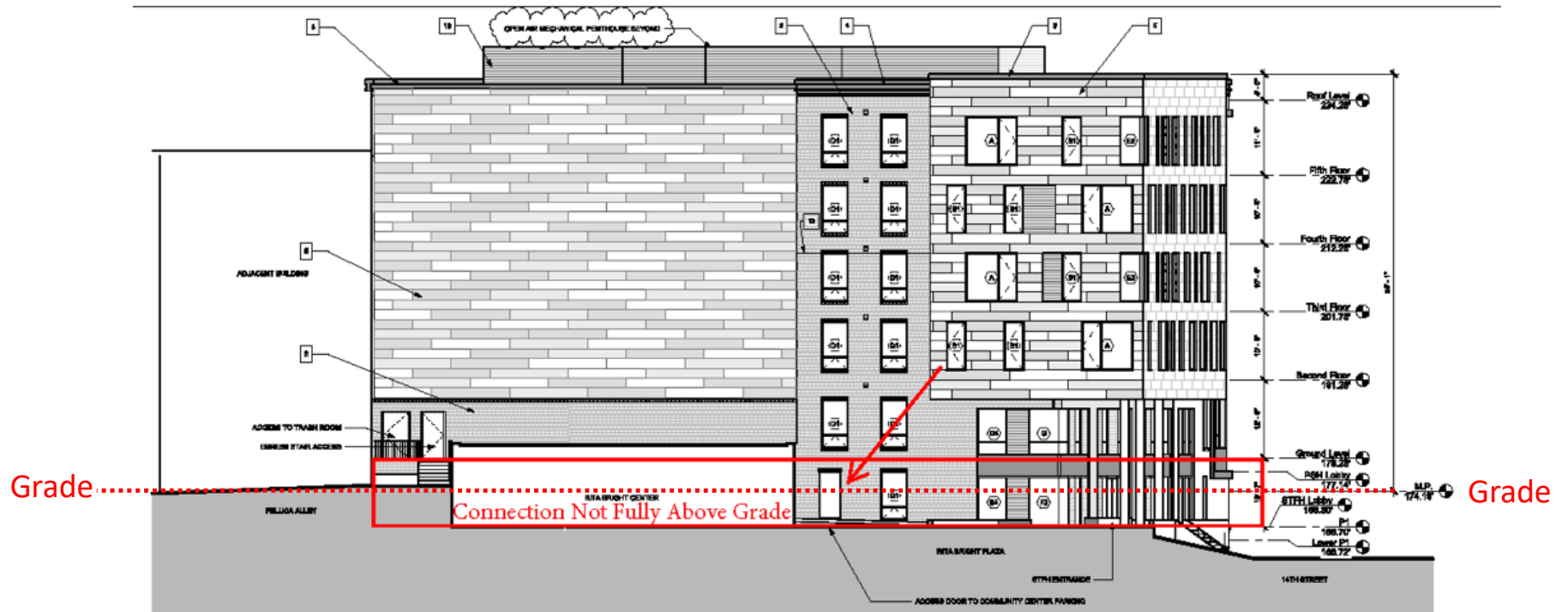
- Building: “...The existence of communication between separate portions of a structure **below the main floor** shall not be construed as making the structure one (1) building.”
- Building, Separate: “Structures that are **separated from the ground up....**” [rest of definition is 4-point B-309.1 rule]
- B-309.1 Single or Separate Buildings: “...structures that are **separated from the ground up....**” [rest of definition is 4-point B-309.1 rule]

History: From Trellis to B-309.1 Rule

Ward 1 Shelter Fails B-309.1 Requirements for Meaningful Connection

B-309.1	Criteria	Explanation
→ (a) Fully above grade;	No	<ul style="list-style-type: none"> • Connection is at P1 per plans and is not fully above grade • ZA uses B-304.5 (partly above/partly below) grade definition, but B-309.1(a) is a “fully above grade” • ZA email is inconsistent with other meaningful connection Zoning Determinations
(b) Enclosed;	Yes	Yes
(c) Heated and artificially lit; and	No	Parking garage is not heated; to do so would impact LEED
(d) either (1) Common space shared by users of all portions of the building, such as a lobby or recreation room, loading dock or service bay; or	No	Not accessible to “all users of all portions of the building”
(2) 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.	No	STFH safety and security rules prohibit unrestricted access

Connection is P1 Level - Not Fully Above Grade



And Another: Exhibit 12 – Elevation Drawing

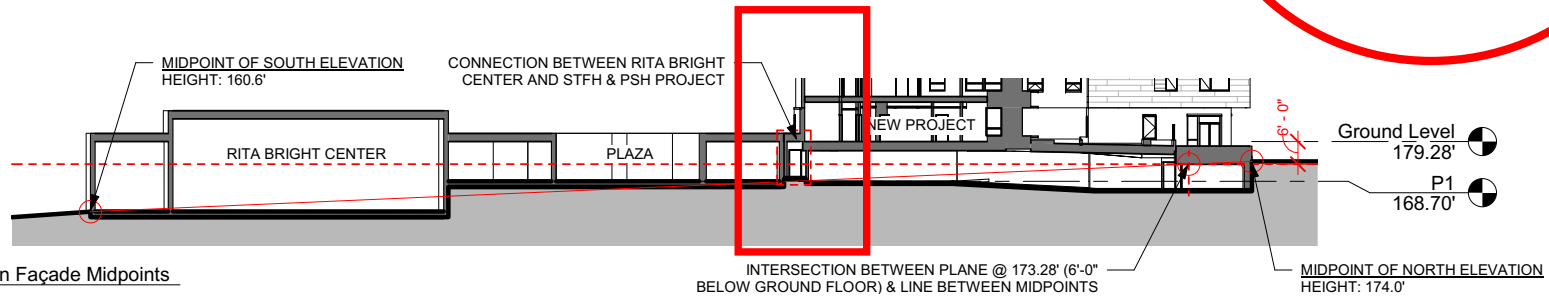
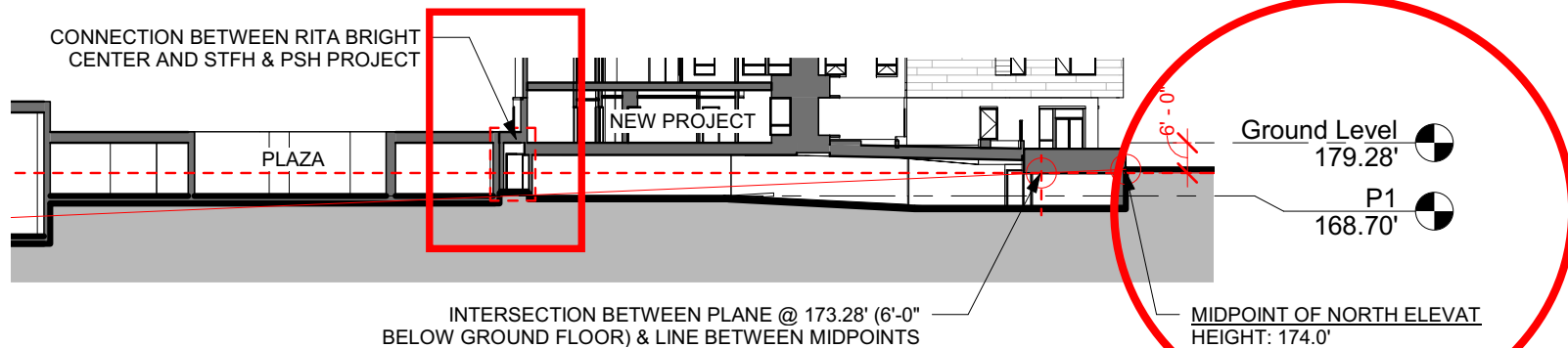
Connection Not Fully Above Grade

Level P1 GFA

1" = 30'-0"

CUNNINGHAM | QUILL ARCHITECTS

03/22/19



tween Façade Midpoints


Building code analysis: Connection is not fully above grade

Building Code / 2013 District of Columbia Building Code Analysis:


Definitions		
Table / Section	Requirement	Proposed
Section 201 : Definitions	GRADE PLANE: A reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than 6 feet from the building, between the building and a point 6 feet from the building.	Grade Plane as defined by the IBC is 173.46 for the project
Section 201 : Definitions	STORY ABOVE GRADE PLANE: Any story having its finished floor surface entirely above grade plane, or in which the finished surface of the floor next above is: 1. More than 6 feet (1829 mm) above grade plane 2. More than 12 feet (3658 mm) above the finished ground level at any point.	1. Ground Level is at 179.28', which is 5' - 10" above Grade Plane (173.46). 2. The lowest finished ground level is 167.92. The Ground Level is 10' - 11 1/4" above this point. Therefore P1 is NOT considered a story above grade plane and does not count towards the allowable stories of a building per table 503.

“Therefore P1 is NOT considered a story above grade plane and does not count towards the allowable stories of a building per table 503.”

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Parking Garage is Not Heated

Jim Schulman, Architect for Appellant: *“So, in the winter it will be cold, and in the summer it will be humid?”*

Datillio Radcliffe, DGS: *“Yes.”*

– Status Meeting, OAH Appeal 2019-DCRA-00155, December 11, 2019

Parking Garage is Not Heated

*“DGS intends to specify a garage door for the new underground parking on its property with **penetrations adequate to permit natural ventilation of the parking level** of the proposed construction that will thereby inhibit but not eliminate, automobile exhaust from migrating into The Residences.”*

– Joint Status Report, OAH Appeal 2019-DCRA-00155, December 18, 2019

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Summary: Permitted Building & Rita Bright Lack Meaningful Connection

1. Connection at P1 level and is not fully above grade
2. Connection is not heated
3. Connection is not common space available to all building
4. Connection does not allow unrestricted access
5. ZA email on meaningful connection is inconsistent with other projects

Permitted Building Requires a Separate 15-Foot Setback

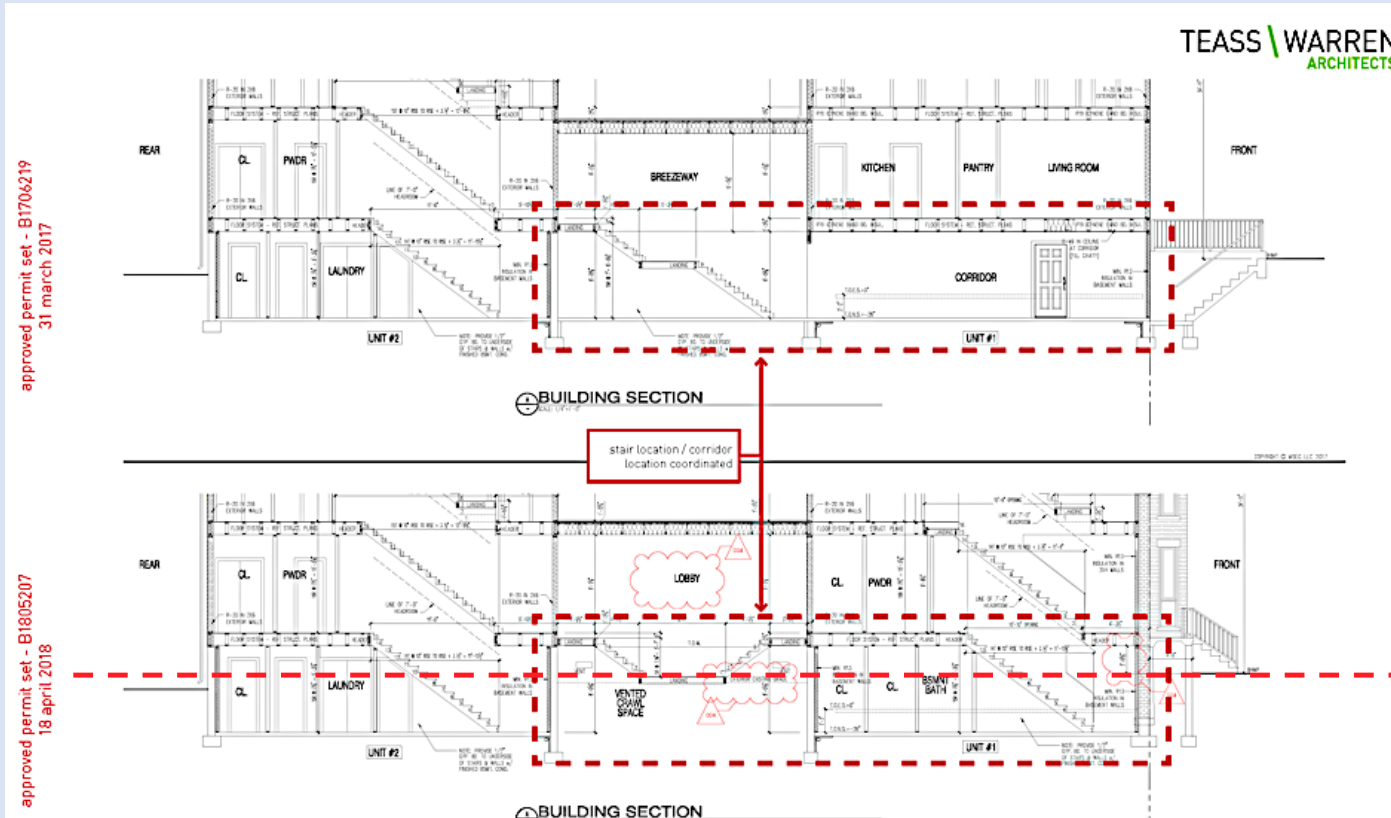
Why DGS Argument Fails

Why DGS Argument Fails: Point 1 Misrepresents Case 19550 on B-309-1(a) Fully Above Grade

- Board had extensive discussion on whether “fully above grade” rule met (e.g., Vice Chair Hart cited the definition “Building, Separate” in questioning whether the meaningful connection test was met).
- In response to concerns about “fully above grade” compliance, set of stairs descending to below grade were removed in revised design.
- Contrary to DGS assertion, ZA spoke to the stair configuration with regard to compliance with B-309.1(d) (specifically, access to the courtyard) and not the “fully above grade” B-309.1(a) requirement.

BZA Case 19550 (2018)

Below main level connection altered to comply with B-309.1(a)



approved permit set - B1706219
31 march 2017

approved permit set - B1805207
18 april 2018

Before

After

Grade

Why DGS Argument Fails: Point 2

Case 19550 Board Ruling on B-309.1(d) Access or Use Standard Cannot be Met

Case 19550: Board Decision

Access - Yes

To access the closed courtyard and users can use the common hallway. ZA: "It's a common space that all users of the building can use to utilize this passageway with the connection to the door to the court" to meet the first standard of 309.1(d) (page 69, 9/18/18 transcript).

OR

Use – No

Turnbull: "that's not an unrestricted passageway" because of the locked doors (page 69, 9/18/18 transcript). "Of course, you're noting the second point, and that's why I started with the first point. It's a common space that all users of the building can use to utilize this passageway with the connection to the door to the court" to meet the first standard of 309.1(d)

Case 20183 Appellant Position

Access – No

Common space is not "shared by users of all portions of the building" per (d) as it is only accessible only those with parking privileges

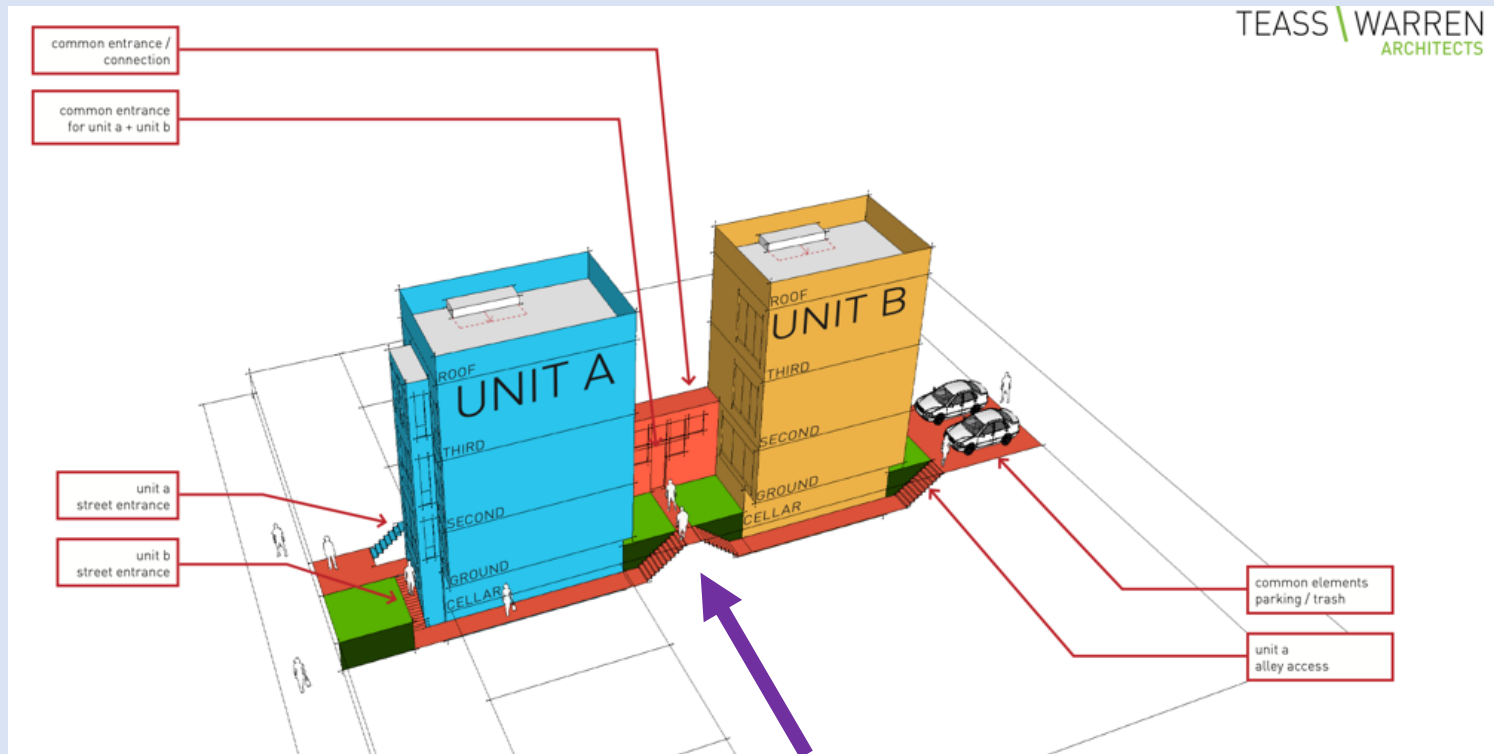
OR

Use - No

Space is not "designed and used to provide free and unrestricted passage between separate portions of the building" per (d) as security provisions exist and limit access

BZA Case 19550 (2018)

Connection to door to court to meet 309.1(d)



ZA: "connection to the door to the court" to meet the first standard of 309.1(d) but connection to door is outside 38

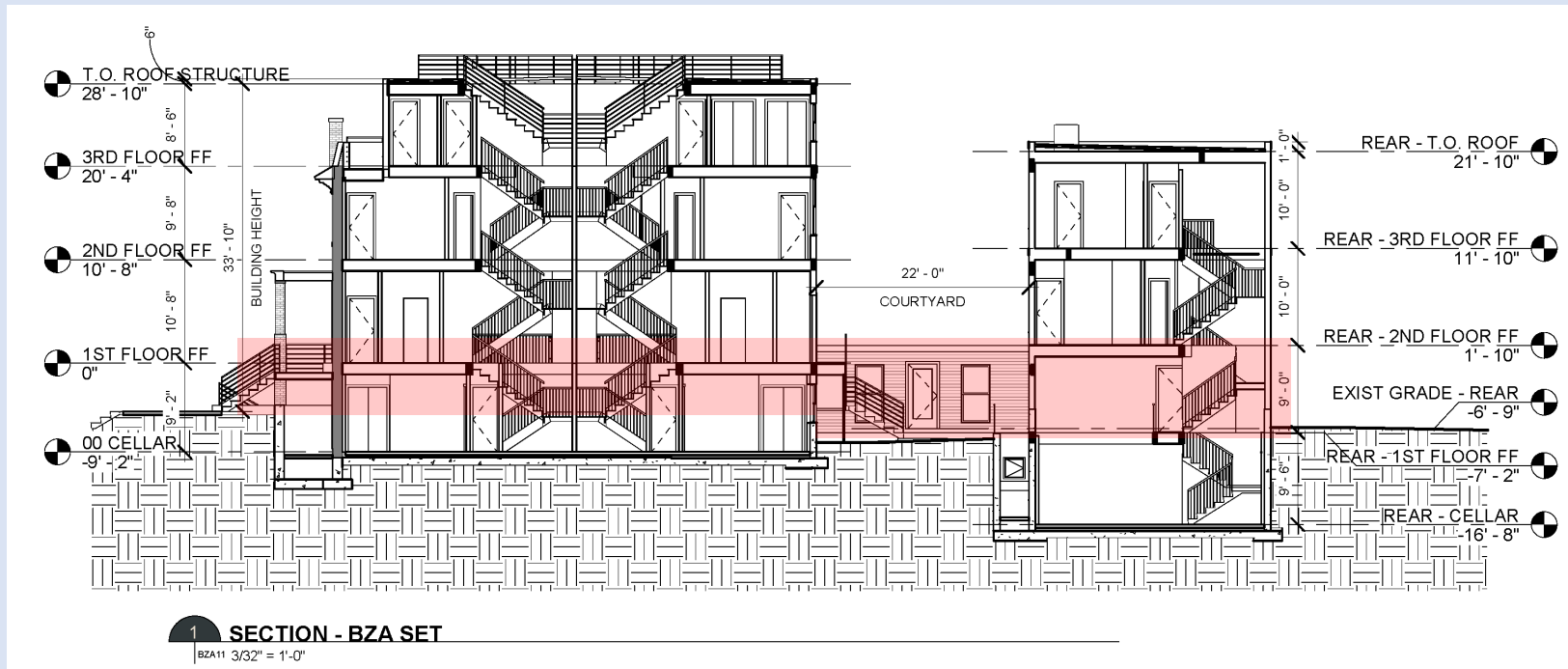
Why DCRA/DGS Argument Fails: Point 3

ZA has not “historically interpreted Subtitle B § 309.1 to require that the connection itself, not the entire common space or passageway, to be fully above grade.”
Common Finding in Other Meaningful Connection Projects: Connection deemed fully above grade

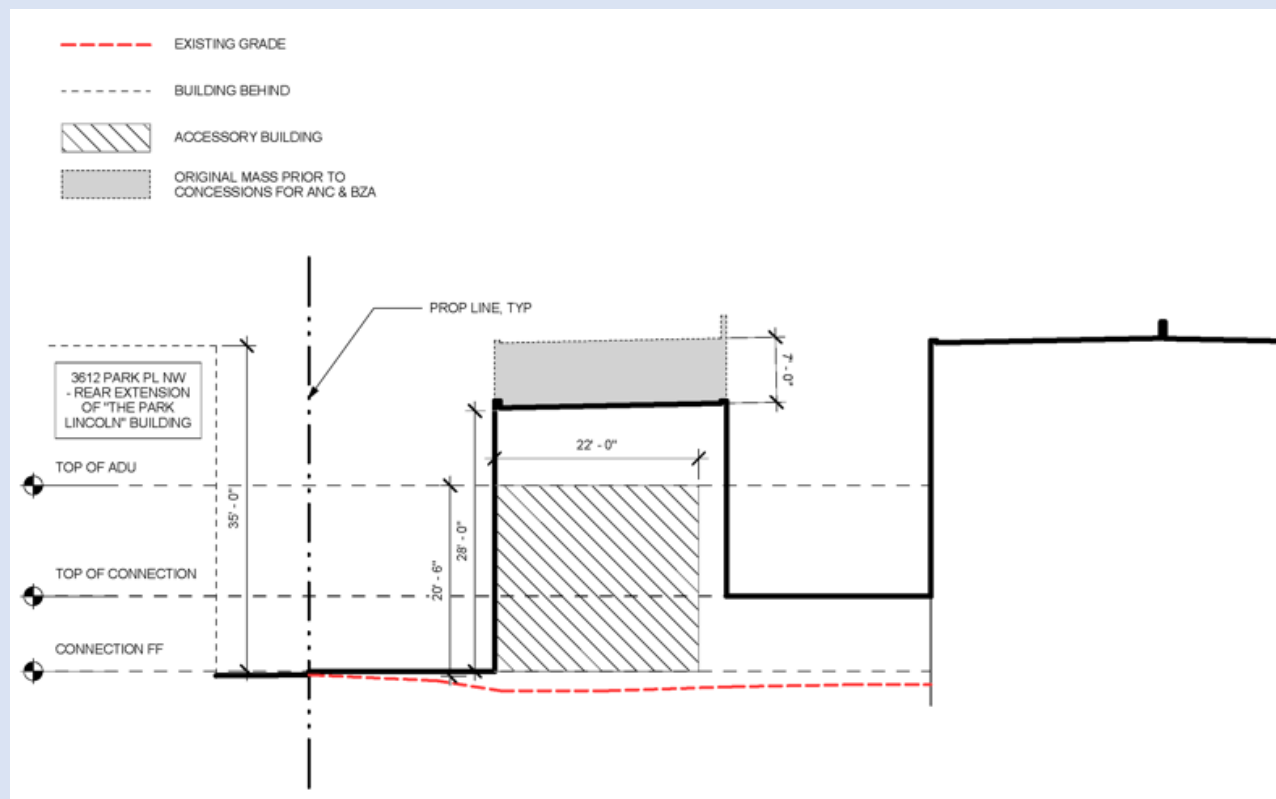
- BZA Case 19929 (2019)
- 2800 Columbia Road, NW (2017 Zoning Determination Letter)
- 727 Euclid (2017)
- Case 19524 (2017)
- 711 Irving Street NW (2016 Zoning Determination Letter)
- 1311 R Street, NW (2018 Zoning Determination Letter)
- 33 N Street, NE (2013 Zoning Determination Letter)
- 831 Rock Creek Church Road (2017 Zoning Determination Letter)

BZA Case 19929 (2019)

Connection deemed fully above grade

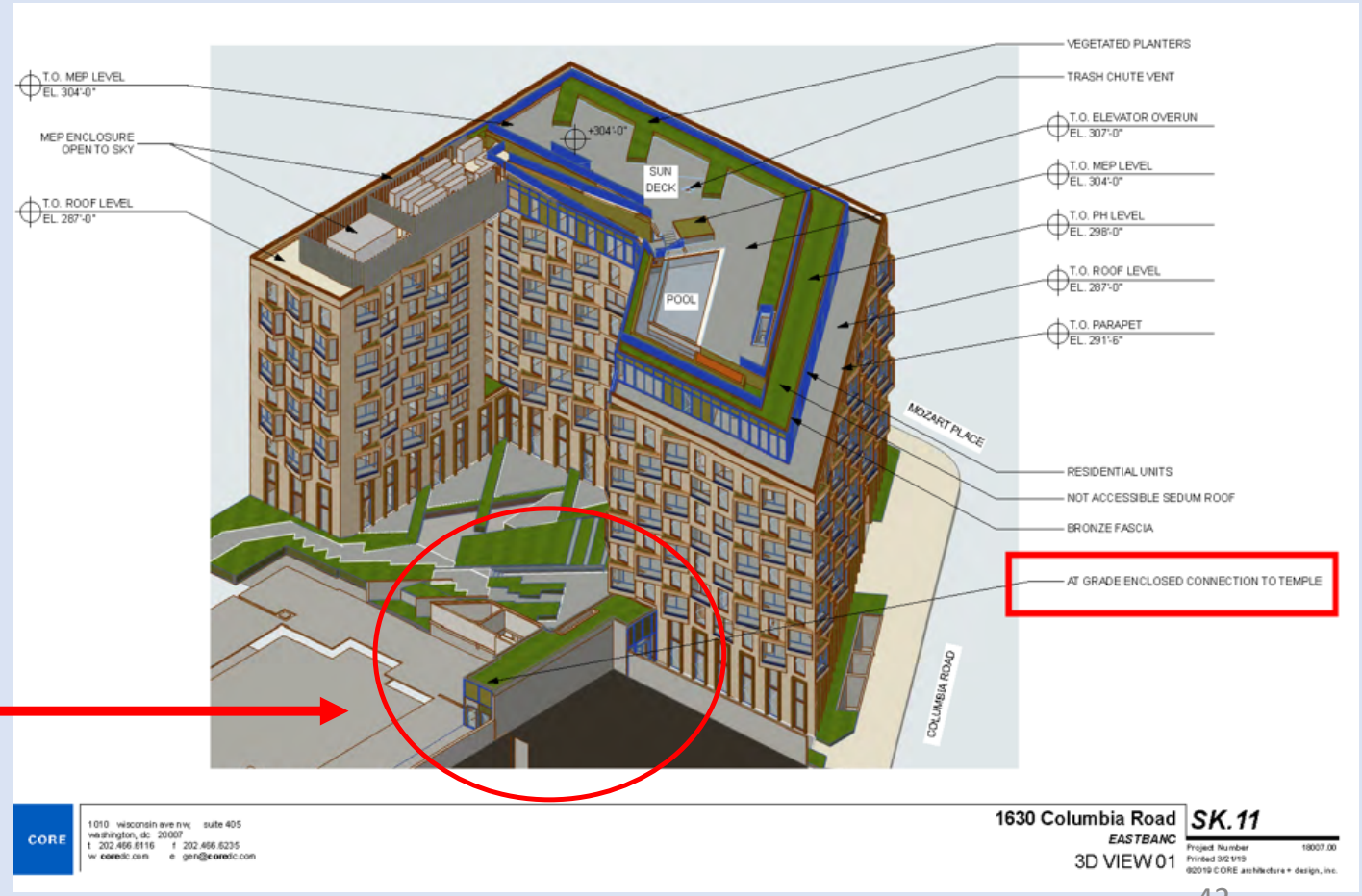


Case 19929 – ZA Approved Meaningful Connection Connection deemed fully above grade



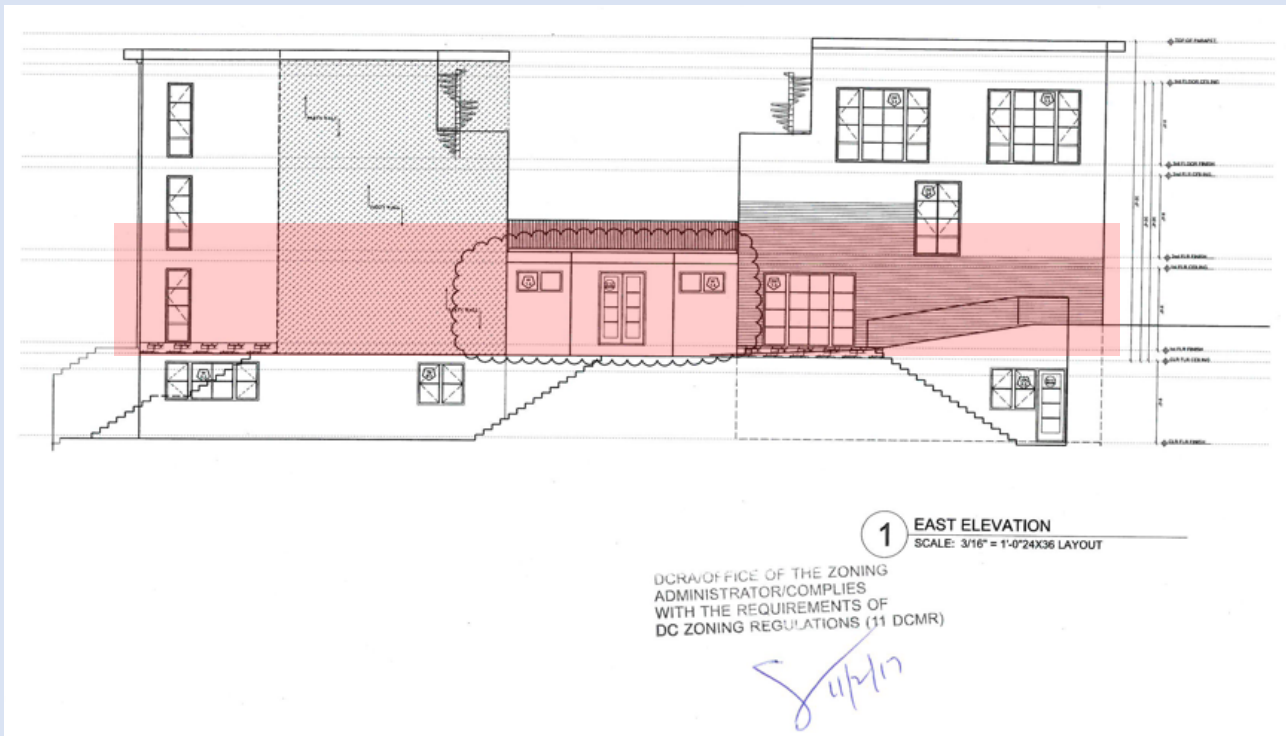
2800 Columbia Road NW

2017 Zoning Determination Meaningful Connection is Fully Above Grade



727 Euclid (2017)

Connection deemed fully above grade



Case 19524 (2017)

Connection deemed fully above grade



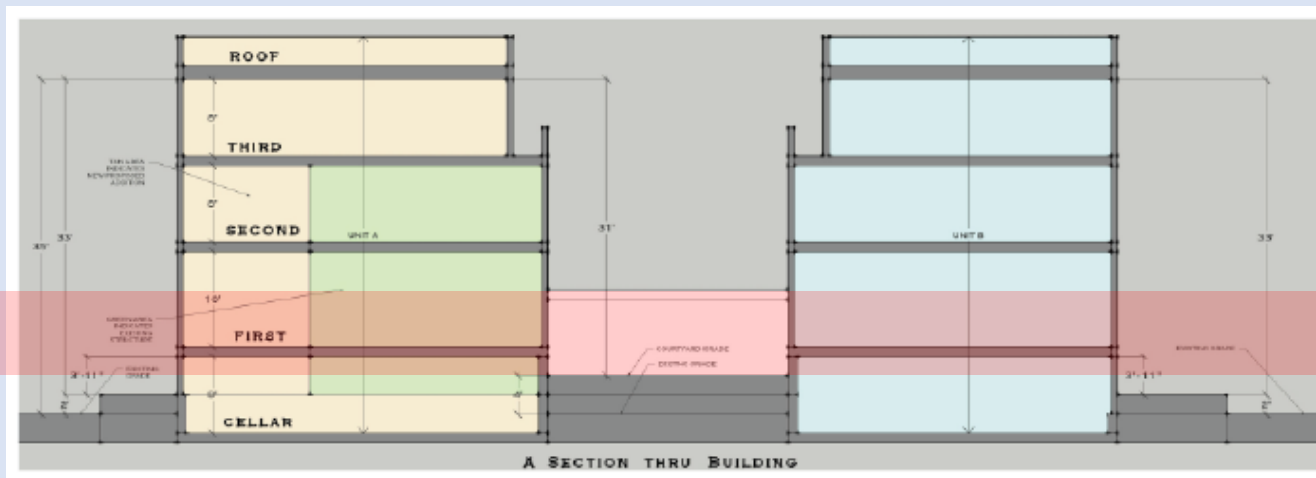
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PROPOSAL FOR 429 & 431 QUINCY STREET NW
WASHINGTON DC

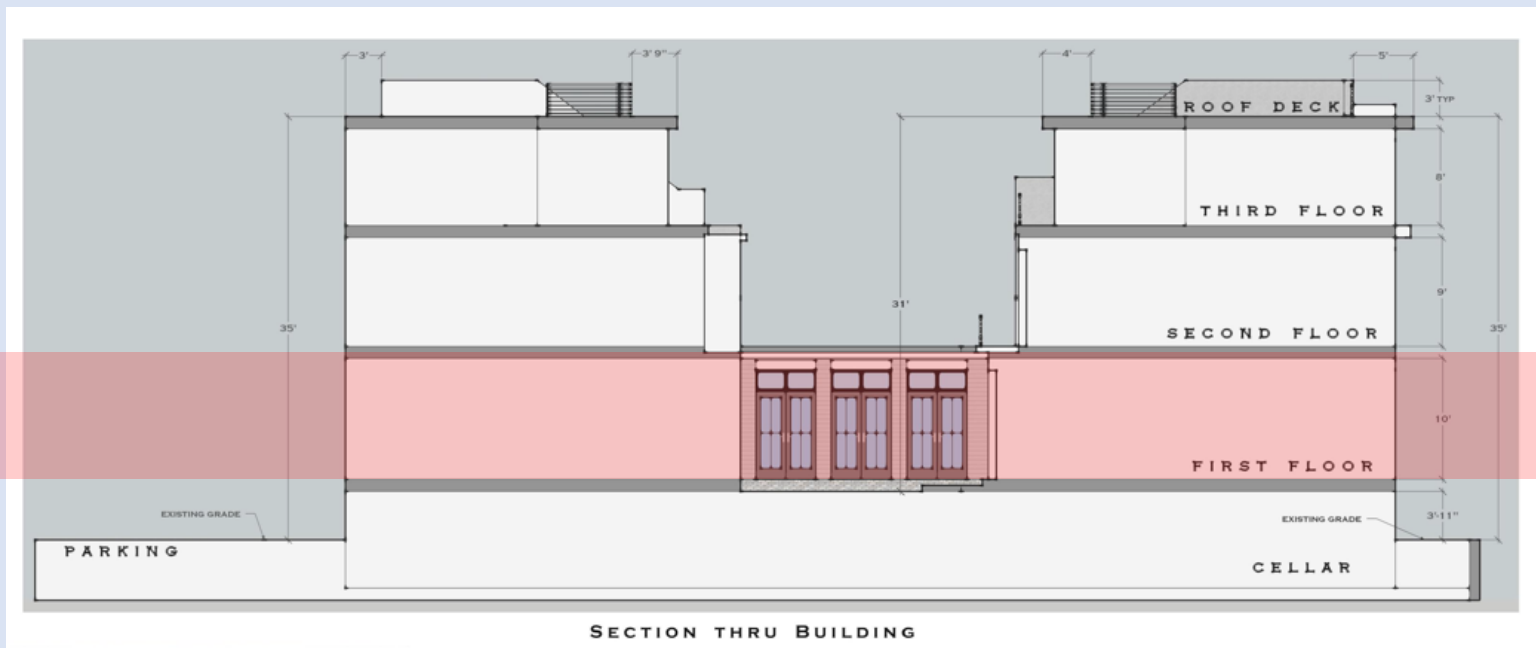
ARCADIA DESIGN
1737 JOHNSON AVE NW
WASHINGTON DC 20009
jfox@arcadadesign-dc.com 202-234-8222

711 Irving Street NW (2016 Zoning Determination Letter) Connection “above natural grade” and (mostly) “above first floor plane”

"SINGLE BUILDING: As per section 199.1 under the definition of Building, a "communication" or meaningful connection, attaches the two portions of this single building. The floor of the connector is above natural grade, the ceiling is in alignment with the first floor ceiling throughout and 80% of the total volume of the connector is above the first floor plane." Zoning Administrator Determination Letter, February 1, 2016



831 Rock Creek Church Road, NW (2017) Connection deemed fully above grade

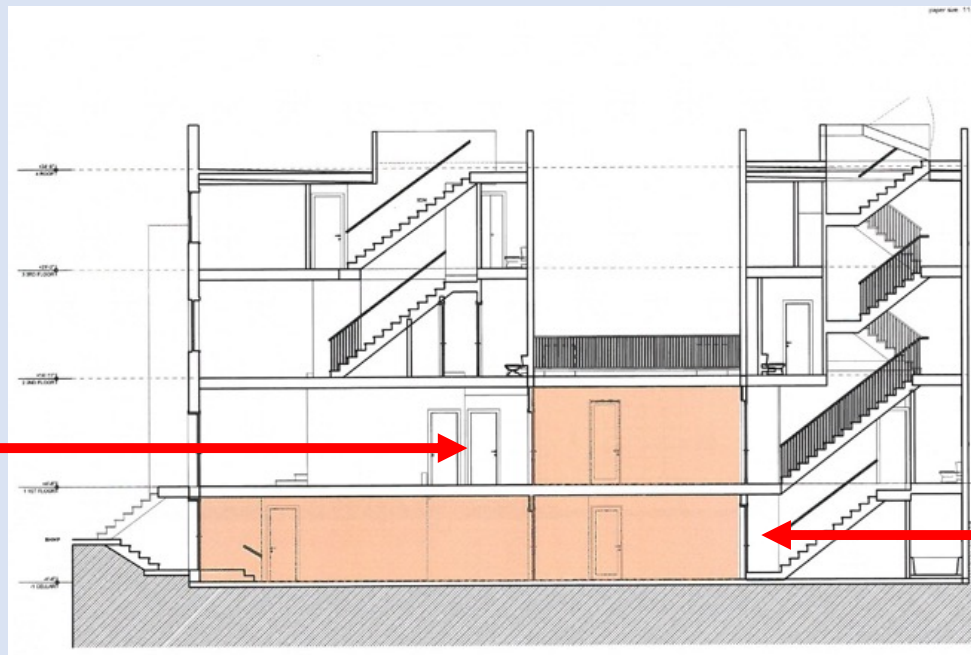


1311 R Street NW: 2018 Zoning Determination

Connection deemed fully above grade

Above Grade is Meaningful Connection

"...proposed structure will comply with the requirements for a meaningful connection because a hallway connection ("Common Corridor") between the Units will be constructed fully above grade."



Below Grade is Common Corridor, Not Part of Meaningful Connection

"...semi-below grade hallway will provide access to the Rear Unit. This entrance will not serve to satisfy the Zoning Regulations but will be a private entrance for the Rear Unit, and the Front Unit will not have access to this hallway."

33 N Street NE: 2013 Zoning Determination Letter

Single Building Connections:

The Zoning Regulations provide that the existence of communication below the level of the main floor does not make a single building. Conversely, the existence of communication at or above the level of the main floor does create a single building. Assuming that the separate structures (i.e., each phase) are connected at or above the level of the main floor (the floor on which the principal entrance to the building is located), as required by the regulations currently in effect, the entire building will be considered as a single building and will be eligible for a maximum height of 130 feet and a maximum FAR of 10.0, provided that sufficient TDRs are vested in the property.

“...existence of communication below the level of the main floor does not make a single building.”

Zoning Commission Identifies Meaningful Connection as Above Main Floor

ZC Order No. 08-34 (2011), PUD case : "[T]he Commission finds that the North Block is a single building with meaningful connections at the level of the main floor...."

ZC Case No. 06-14D, PUD discussion, Matt Robinson from MRP, Mid-Atlantic Realty: "...the lobby connection here...share a vestibule above grade on the plaza level" and final order: "The Applicant's counsel also referred to electronic communications with the Zoning Administrator confirming that the shared vestibule between the North Tower and South Tower establishes a meaningful connection between the towers such that they constitute a single building.

Parking and Loading

Parking C-701.5, 709.3

- Requirement is 14 spaces (with 50% bus corridor reduction) but only 8 spaces provided

Loading C-901.1

- Plans do not provide the required C-901.1 minimum of one loading berth and one delivery space for an emergency shelter between 30,000 and 100,000 sq ft of gross floor area

No ANC Endorsement of Approved Permit/Plans

- ANC1B resolution (December 7, 2017) endorses only **location** of Ward 1 STFH.
 - *...we stand ready to work with the Administration to develop a plan where all the requirements of this project are exceeded, the walls between neighbors remain low, and the neighborhood continues to realize the tangible and intangible benefits that come from supporting each other.”*
- No additional ANC1B resolutions on the Ward 1 STFH have been introduced or approved.

Consequences of Evading Rear-Yard Setback

Consequences of Evading Rear-Yard Setback

- Snowdrift twice allowable level (under OAH review)
- Carbon monoxide buildup through garage walls (OAH)
- Loss of light
- Enclosed fresh air intake

BEFORE

Unit 403 - Purchased 2/2001 for \$242,500

Sold 9/2019 for \$250,000



AFTER
Diminished Light and Air and a Brick Wall



Disregard of Efforts of Clifton Residents

- Evasion of requirement for Special Exception BZA hearing
- Advisory Team said it was “too late” to address concerns
- Councilmember’s Chief of Staff said “zoning was on another track”
- No responses to emails to DGS, ZA
- No response to FOIA requests
- Disregard of zoning regulations by DGS, DCRA, ZA

Disregard of Regulations

“There’s obviously a greater good here,” she [Nadeau] told DCist.

D.C. Breaks Ground On Ward 1 Homeless Shelter. DCist. July 2, 2019

Nelson, chair of the 1B Zoning Preservation and Development Committee said, “their argument is basically, they don’t want to lose their view.”

15 feet and a wall: Why some homeowners feel marginalized by the city’s plan to help families without homes. Street Sense Media. August 29, 2019

BZA Has Precedent for Special Exception and Setback

BZA 19705 (2018) – similar conditions as Ward 1 site

- Project identifies frontage as side street (W Street, like Clifton)
- Impact on neighbors examined (like Clifton but abuts alley)
- Both sites with setback concerns (height vs. rear-yard)
- **Outcome: OP, ANC1B, BZA, and developer agreed to increase height setback**

BZA 19722 (2018) - developer provided one (1) foot setback to accommodate concerns of a neighboring apartment building; Board Order: “will provide adequate light and privacy to habitable rooms.”

Neighbor Testimony

Barbara Bridges

Amity Kirby

Jordan MacKenzie

Jumana Qamruddin

RECAP of the Facts

- **Special Exception is Required:** STFH is “apartment-style” temporary housing emergency shelter per Homeless Services Reform Act of 2005 (U-513.1(b))
- **Rear Yard Setback is Required:** Lacks meaningful connection (B-309.1)
- **Parking and Loading Requirements Not Met:** 14 spaces required (C-701.5) but only 8 spaces provided; plans do not provide the required minimum of one loading berth and one delivery space (C-901.1)
- **No ANC Support for Permit and Plan**

Timeliness: Filing Complies with Y-302.4 and Y-302.5

- Appeal filed 24 days following issuance of building permit
- 3/25/19 “advisory statement” email footnote: “This email is NOT a “final writing”, as used in Section Y-302.5 of the Zoning Regulations [...] Therefore this email does NOT vest an application for zoning or other DCRA approval process....”
- Board ruled 4-0: ZA advisory footnote clearly establishes that document is not “first writing” Case 20141 (12/18/19)
- Response to DGS: Appeal not related to foundation permit as it does not authorize issues under appeal in building permit