



BZA Case No. 20350

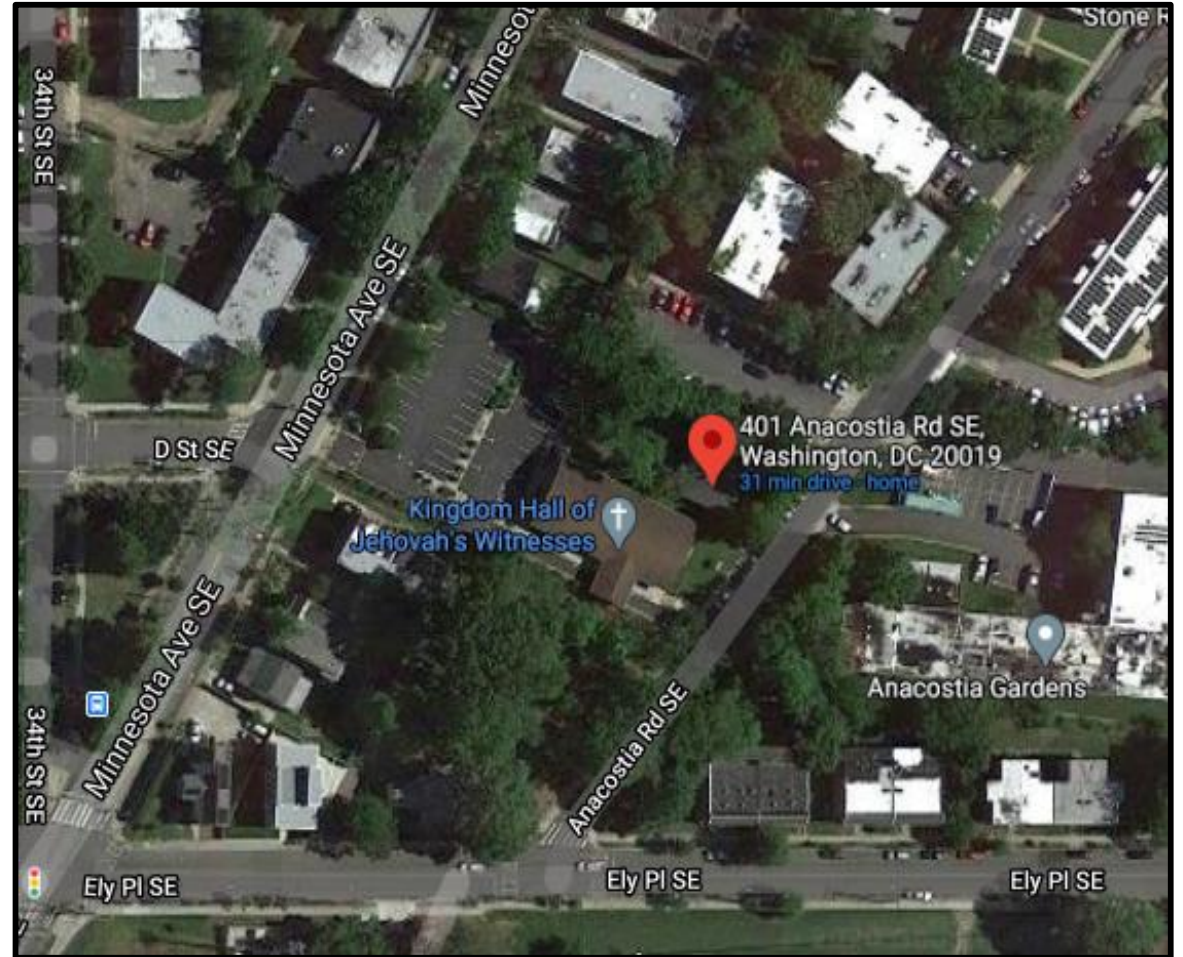
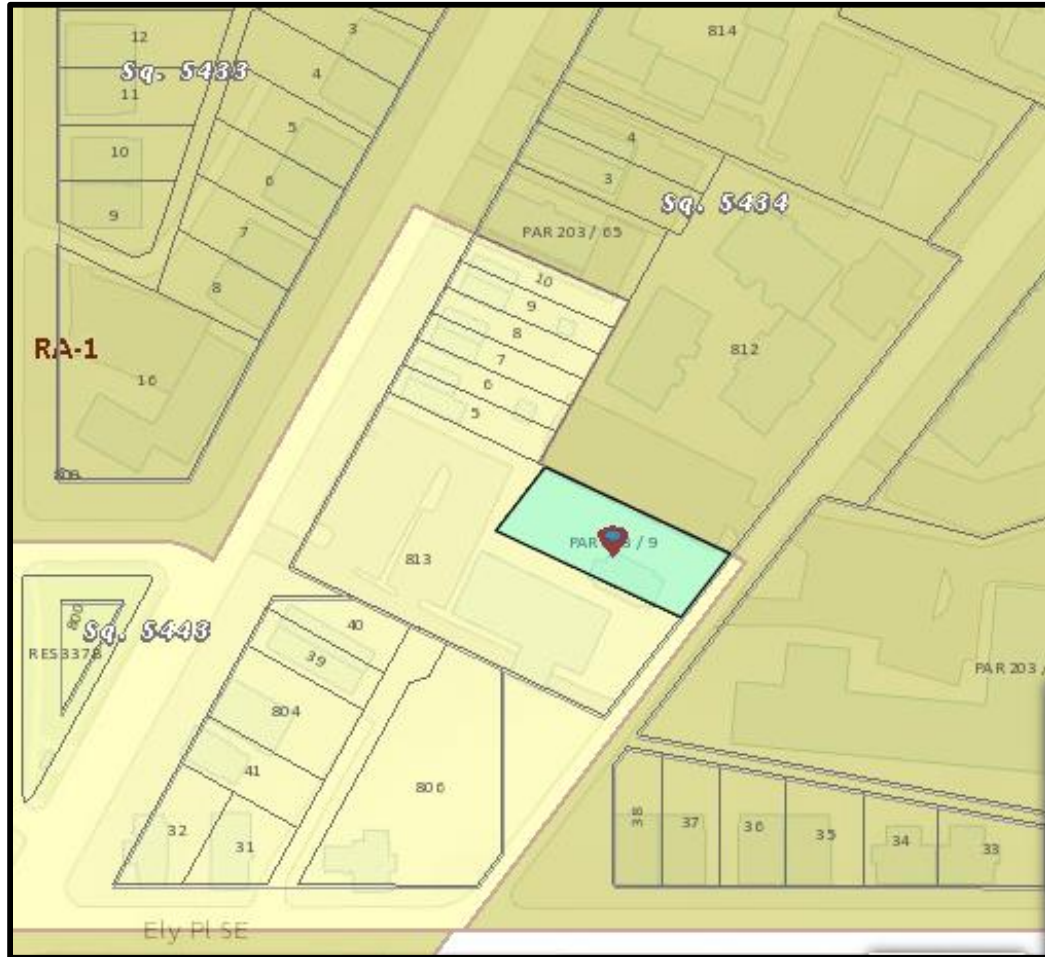
Mary's House for Older Adults, Inc.
401 Anacostia Road, SE

Board of Zoning Adjustment Public Hearing
January 13, 2021



Holland & Knight

Site Orientation



Overview

- **“Second iteration” of BZA Case No. 19482**
 - Board granted approval for same project in 2019 w/ BZA Order No. 19482
- **Relief requested**
 - SE for Continuing Care Retirement Community (“CCRC”) in R-3 zone
 - Use variance to permit 15 residents
 - Area variances to permit driveway width, lot occupancy, and side yard
- **Case record highlights**
 - OP recommends approval (Ex. 46)
 - DDOT no objection (Ex. 48)
 - ANC 7F Resolution in support filed on Oct. 14, 2020 (Ex. 16)

Mary's House for Older Adults, Inc.

- **Non-profit organization**

- Mission of providing affordability and access to housing for seniors in the LGBTQ/SGL community

- **Vision**

- Provide independent living retirement communities with amenities that promote aging in place
- Provide companionship for many older adults who identify as LGBTQ/SGL

- **Programmatic needs**

- Affordable at 50% and 60% AMI
- Culturally competent

Community Outreach, Public Support, & Priority

- ANC 7F filed resolution in unanimous support (4-0-0) (Ex. 16)
- Support has carried over from BZA Case No. 19482
 - 18 letters in support – neighbor, D.C., and national support
- *“Affordable Housing for LGBTQ Seniors”*
 - <https://shelterforce.org/2020/12/21/affordable-housing-for-lgbtq-seniors/>
 - “There’s much more awareness of the significant obstacles LGBTQ people face as they age—barriers that amplify financial and health challenges.”
- *“Mary’s House Receives \$1.19 million in D.C. funding”*
 - <https://www.washingtonblade.com/2018/06/18/marys-house-receives-1-19-million-in-d-c-funding/>
 - “. . . would boost the city’s and the mayor’s goal of increasing and preserving affordable housing in the District.”

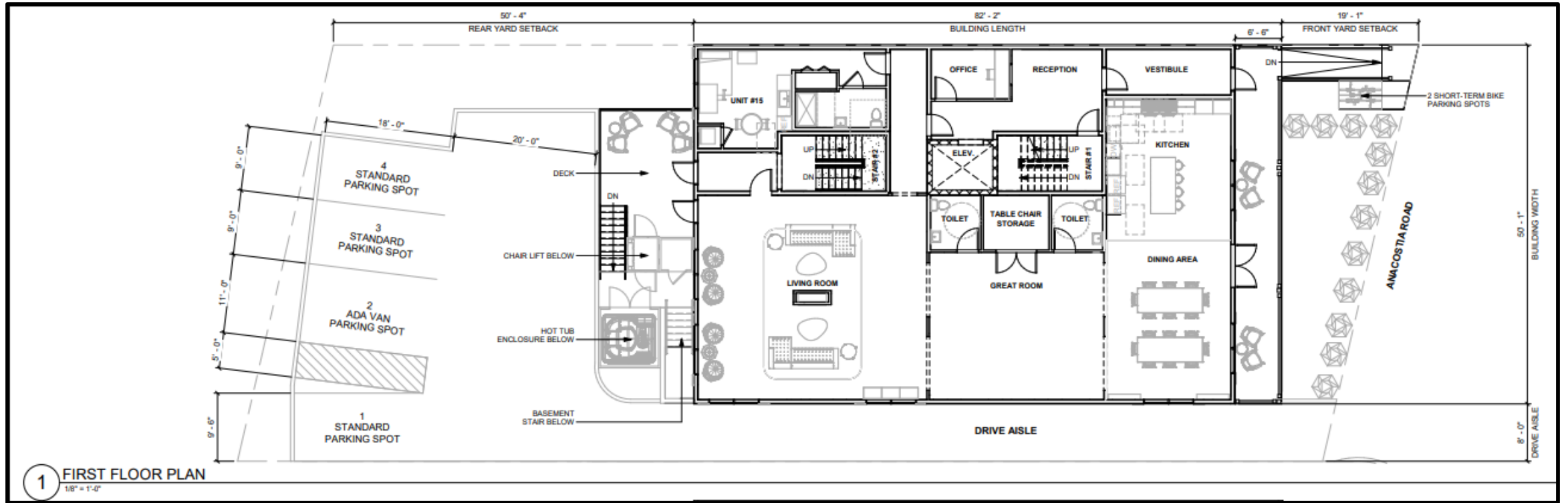
Community Outreach, Public Support, & Priority(cont'd)

- *“Mayor Bowser Announces 1,000 Affordable Housing Units Created or Preserved Through FY20 Housing Trust Fund Investment”*
 - <https://mayor.dc.gov/release/mayor-bowser-announces-1000-affordable-housing-units-created-or-preserved-through-fy20>
 - “Our **commitment** to producing and preserving affordable housing in Washington, DC **has not waived** during the public health emergency,’ said Mayor Bowser. ‘The pandemic has reinforced how important it is that we continue to **invest in projects** in all eight wards that provide residences with **safe and affordable places** to live.’”

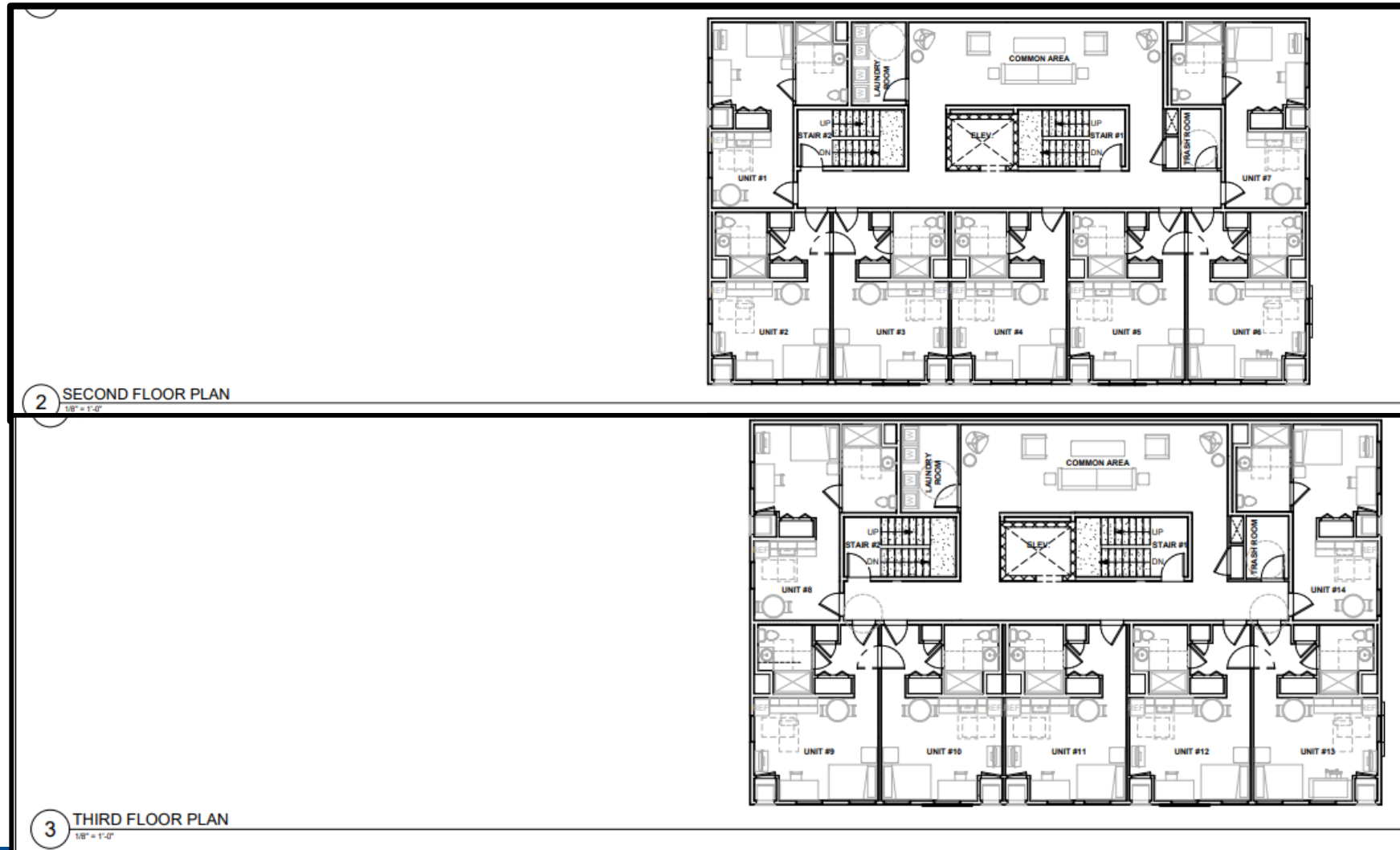
CCRC Design



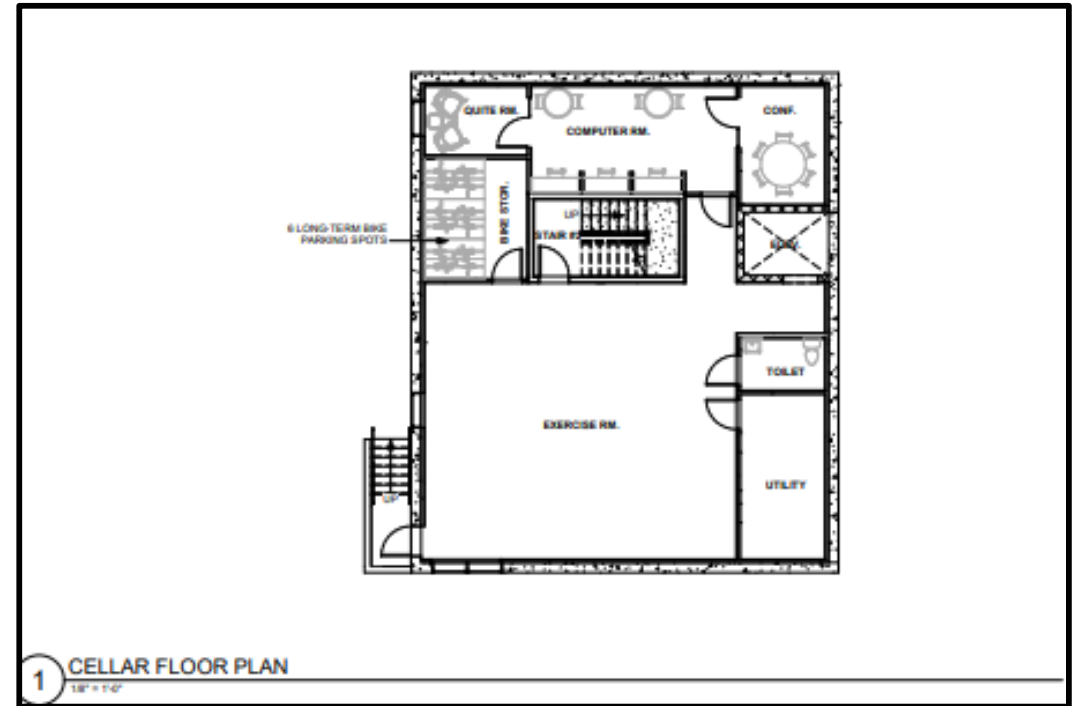
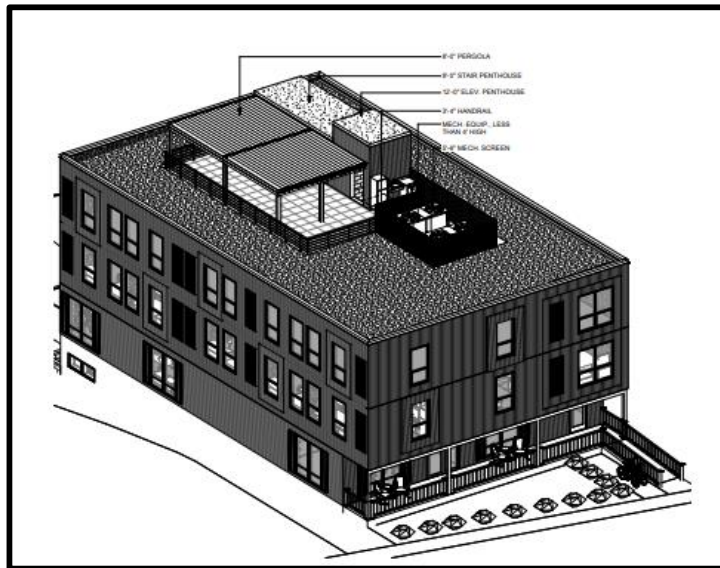
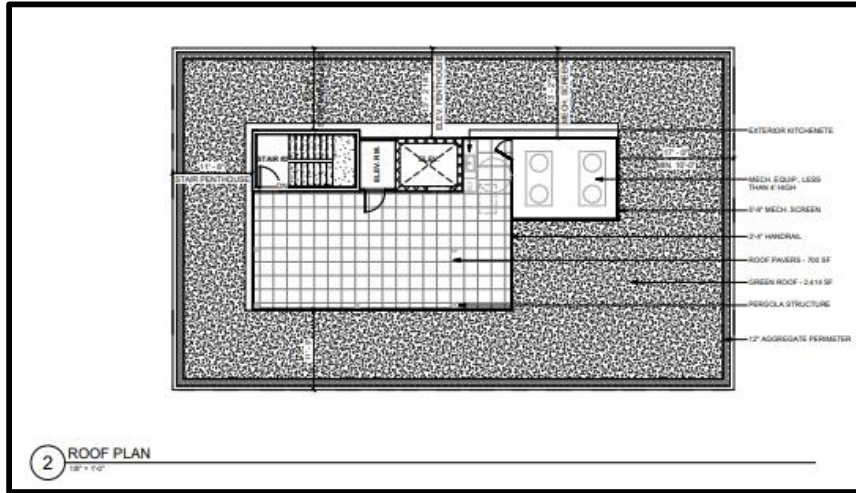
Programmatic Elements / Floor Plans



Programmatic Elements / Floor Plans



Roof Plan & Cellar Floor Plan



Flexible Standard of Review for Non-Profit Organizations

- “More flexible standard for determining hardship when a **‘public service’**, or **nonprofit entity**, is the applicant.” *Monaco v. District Bd. of Zoning Adjustment*, 407 A.2d 1091 (1979)
- Non-profit organization may be granted an area variance **to meet a public need to serve the public interest**. *Neighbors for Responsive Gov’t v. D.C. Bd. of Zoning Adjustment*, 195 A.3d 45 (2018)
- **Relevant BZA Case Precedents (variances granted)**
 - No. 18272: First Baptist Church of the City of Washington
 - No. 17973: District of Columbia Public Library
 - No. 16916: Friends Committee of National Legislation (non-profit office space)
 - No. 17609: First Baptist Church, Inc.
 - No. 17316: Anacostia Econ. Dev. Corp. (See Order at p. 8: Board can “weigh more fully the equities in an individual case”.)

BZA History of Granting Use Variances

- **BZA Application No. 19315** (Associated Catholic Charities; R-4 zone)
 - Use variance from the flats on alley lot requirements under § 2507.1 (ZR58)
 - Applicant’s **financials were “critical evidence** and important in evaluating the application. The Board further noted that the financials, “in conjunction with the other evidence presented in the record, demonstrated that complying with the lot area regulation presented a practical difficulty and that **complying with the use requirements presented an undue hardship.**” (See BZA Order No. 19315 at p. 2)
- **BZA Application No. 16859** (Government of the District of Columbia; R-4 zone)
 - Use variance to allow youth detention center having 80 youth beds and 80 staff
 - See BZA Order No. 16859 at p. 7:

7. Based on the Findings of Fact and evidence of record, the Board concludes that the Applicant is seeking a use variance to allow a youth detention facility in an R-4 District. Under D.C. Code § 5-424(g)(3) and 11 DCMR 3103.2, the Board is authorized to grant an use variance where it finds that three (3) conditions exist:

(1) the property is unique because, *inter alia*, of its size, shape or topography; (2) the owner would encounter undue hardship if the zoning regulations were strictly applied; (3) the variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zoning plan.

BZA History of Granting Use Variances (cont'd)

- **BZA Application No. 20218** (Gwendolyn Keita; R-3 zone)
 - use variance **from the use permissions** for accessory apartments of Subtitle U § 235.5, to permit an accessory apartment within an existing, semi-detached principal dwelling unit
- **BZA Application No. 16583** (East of the River Community Dev. Corp; R-5-A zone)
 - use variance from § 3103.2 under § 350.1 (ZR58) for the construction of a three-story general and administrative office building to accommodate **non-profit** office use
 - Granted by summary order
- **BZA Application No. 13883** (Nat'l Black Child Development Inst., Inc.; R-5-D zone)
 - use variance from use provisions of § 3105.3 to use all floors and basement as office for **non-profit** corporation
 - “The characterization of the use as a public service is extremely significant.” See BZA Order No. 13883 at p. 9.
 - “The benefits for the District of Columbia and its residents are clear. . . . The Board is further convinced that the applicant would suffer an undue hardship if it were forced to leave the subject premises and seek office space elsewhere.” See *id.*, at p. 10.

Zoning Relief: Summary

Relief Requested	Pursuant to	Justifications
<p>SPECIAL EXCEPTION: CCRC use in the R-3 Zone</p>	<p>Sub. U § 203.1(g); Sub. X § 901.2</p>	<ul style="list-style-type: none"> • R zones intended for “housing affordability, aging in place” • Compatible with surrounding residential uses
<p>USE VARIANCE: from 8-resident limitation under Sub. U § 203.1(g)(2) to permit 15 residents</p>	<p>Sub. X §§ 100.1, 1001.4(a)</p>	<ul style="list-style-type: none"> • Exceptional Situation -> prior zoning approval + new SE/CCRC use criteria + financing (confluence) • Undue hardship -> inability to deliver project w/ public purpose • <i>“Housing this population of 15 persons would be a public good as it would be the first of its type of much needed housing the District.”</i> (OP Report at p. 6, Ex. 46.)
<p>AREA VARIANCES:</p> <ul style="list-style-type: none"> • Driveway width requirement (20 ft. required; 8 ft. proposed) • Lot occupancy (40% max. allowed; 47% proposed) • Side yard (8 ft. required, 0 ft. proposed on north side) 	<p>Sub. X §§ 100.1, 1001.2</p>	<ul style="list-style-type: none"> • Exceptional condition -> lot constraints (e.g., narrow lot width) + programmatic needs of the CCRC • Practical difficulty -> institutional necessity; design features needed to construct CCRC as proposed/serve public interest • <i>“If the Applicant were required to meet the [requirements], the CCRC building would have to be significantly reduced in size, making it practically difficult for the project to adequately serve the needs of the residents.”</i> (OP Report at p. 7, Ex. 46.)

Questions?

