



# 4457 MacArthur Blvd., NW

**BZA APPLICATION NO. 20380**

**POLYGON HOLDINGS, LLC**

**JULY 14, 2021**

# Overview and Requested Relief

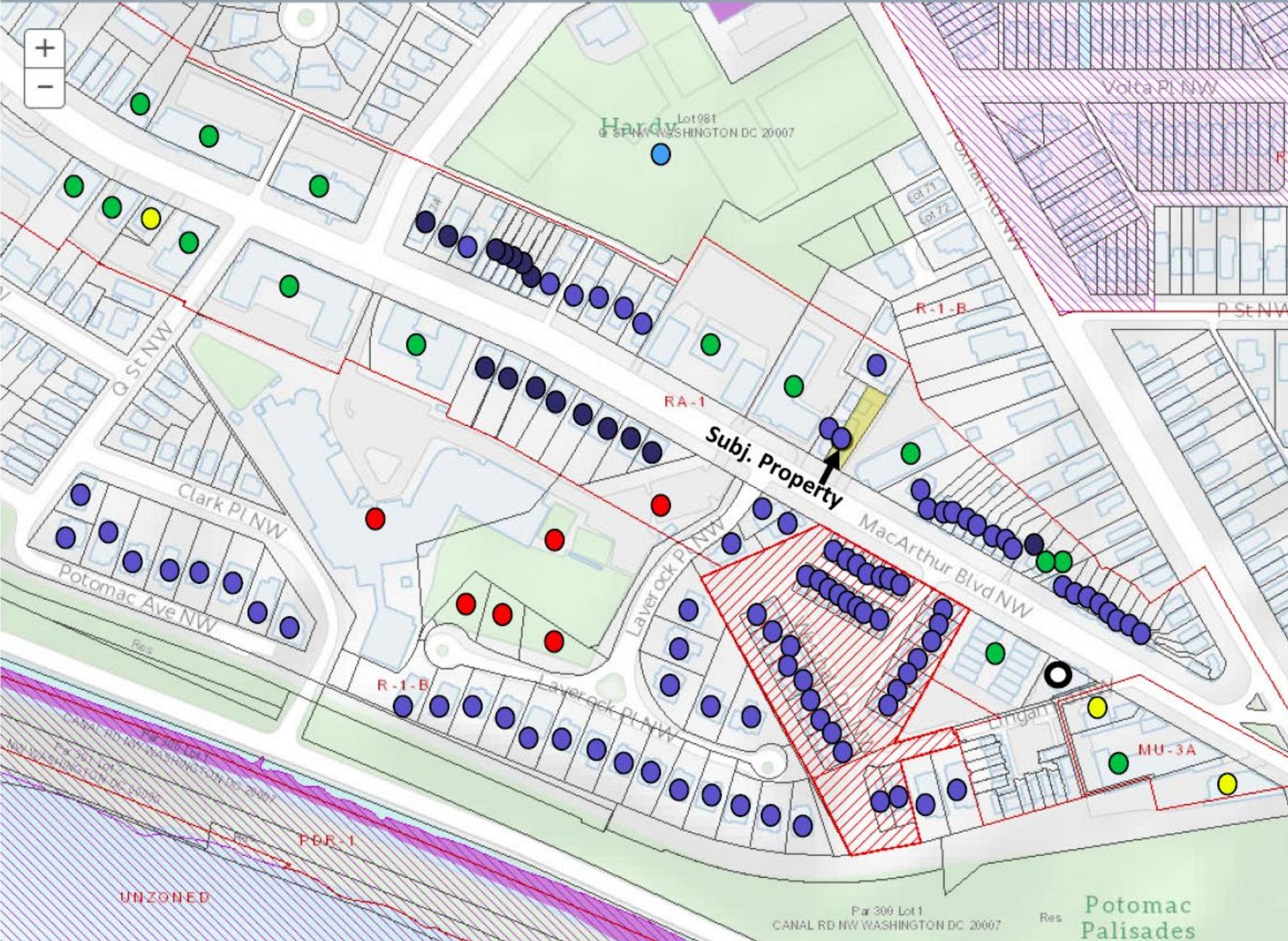
- RA-1 Zone
- Existing 2-story semi-detached single-family dwelling
- Applicant is proposing to construct a matter of right 3<sup>rd</sup> floor and a 3-story rear addition. The Applicant is also proposing to use the property as an 8-unit building.
- Office of Planning approves and Applicant agrees to all conditions
- DDOT approves and Applicant agrees to all conditions

Special Exception Relief	Regulation	Existing	Proposed
Side Yard (F-306)	1 side yard @ 8 ft. 10.5 in.	1 side yard @ 8 ft.	<b>6.4 ft.</b>
New Residential Development (U-421.1)	Adding new units so BZA relief is required	1 unit	<b>Adding 7 new units; 8 units total</b>

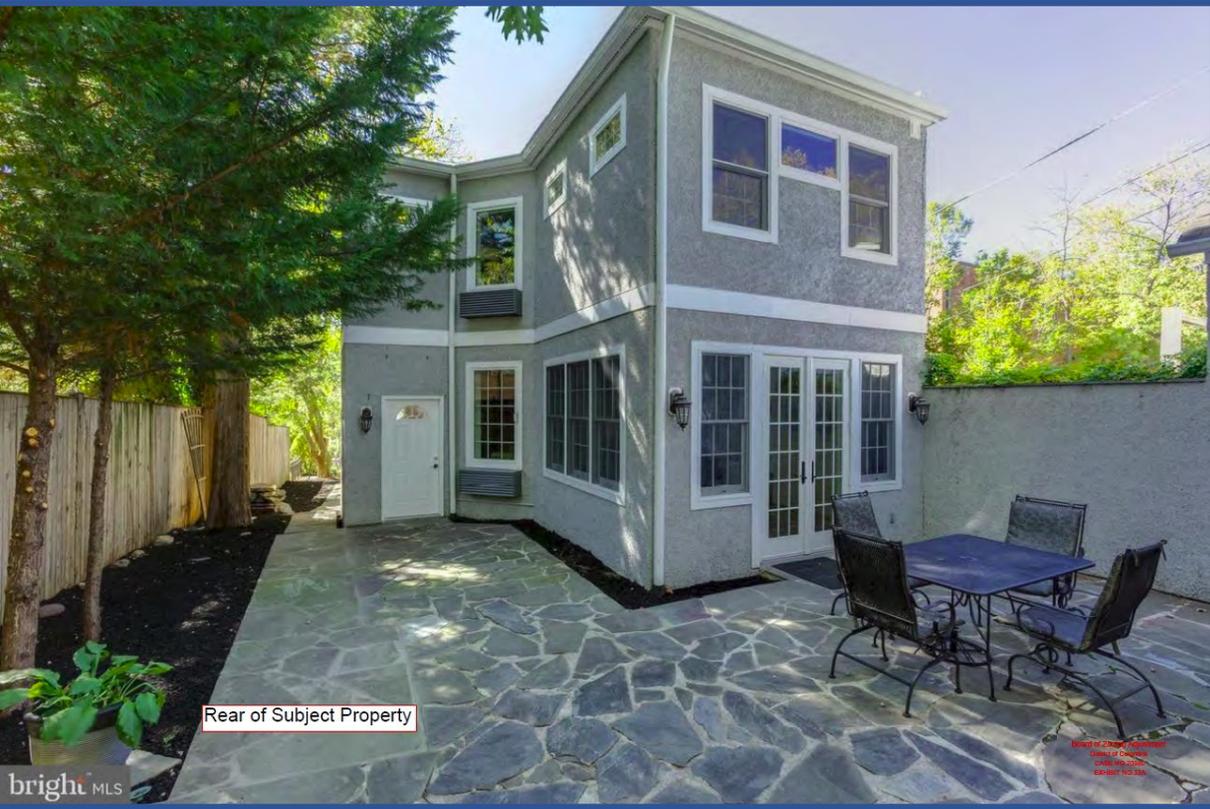


# Map of Surrounding Uses

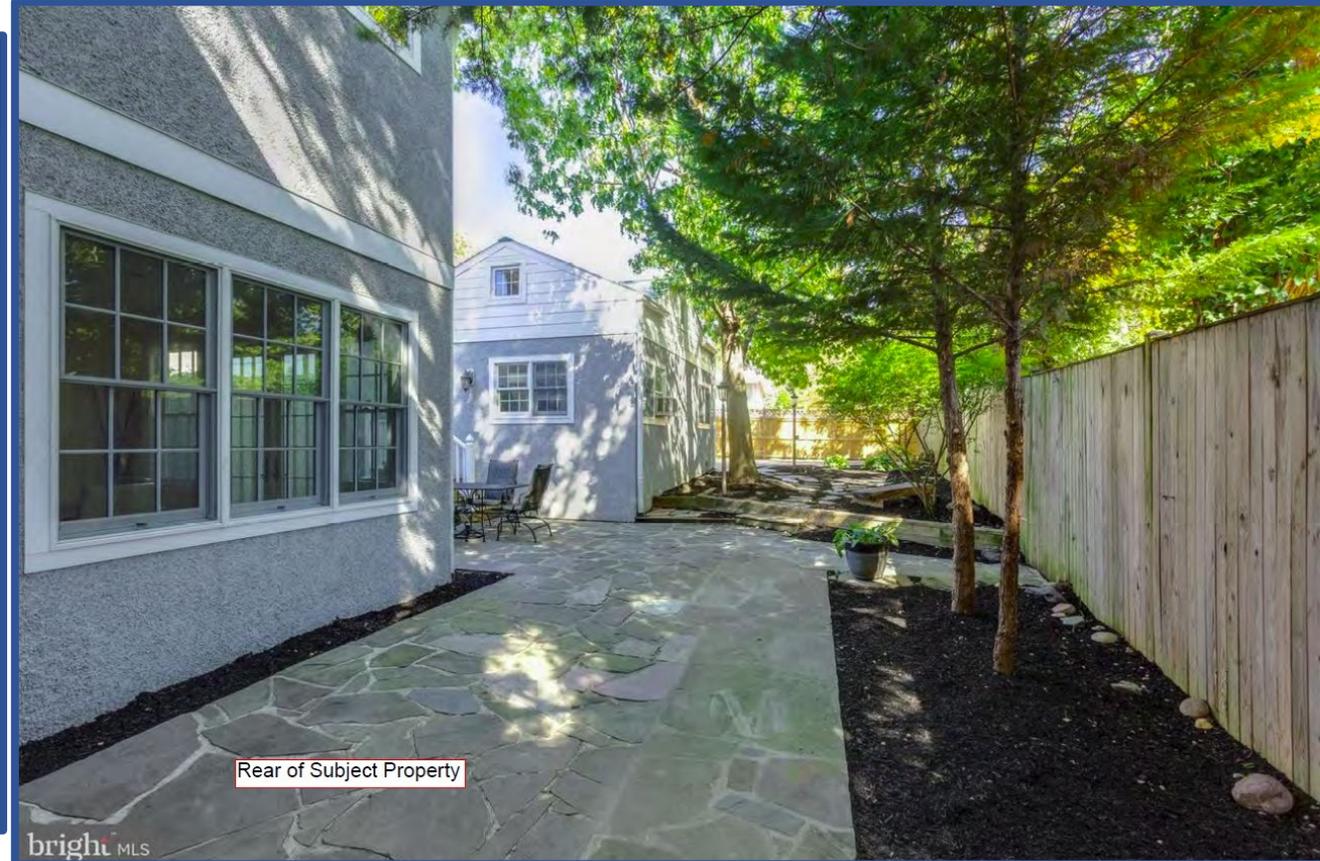
- Single Family
- Multi-Family; 5+ Units
- Multi-Family; 2-5 Units
- Commercial
- School
- Recreation Center
- Medical



# Existing Property



# Existing Property



# Surrounding Properties



# Surrounding Properties



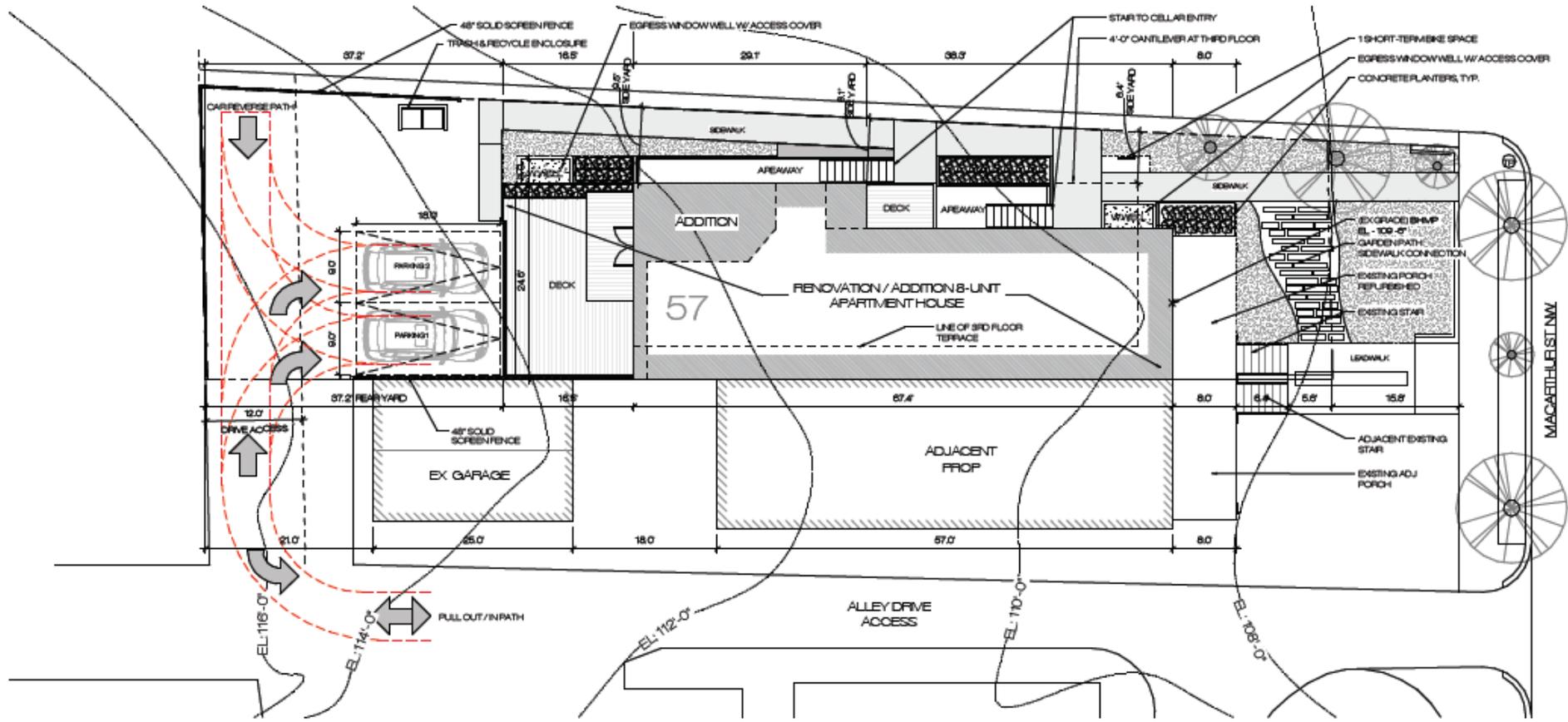




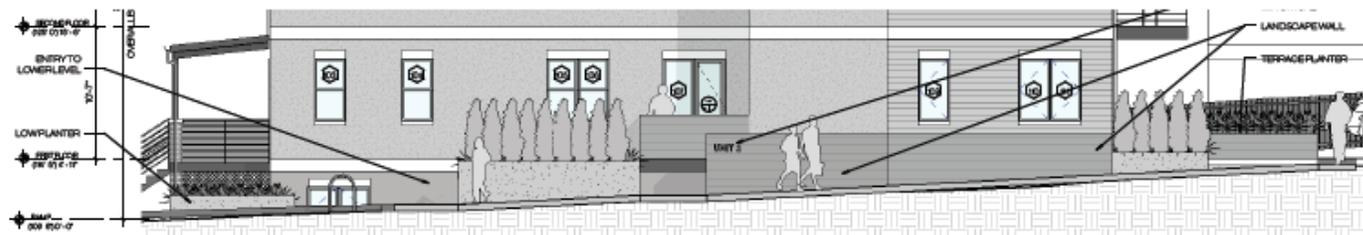
② FRONT PERSPECTIVE



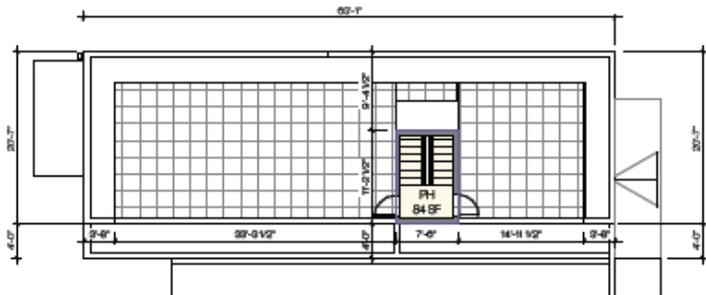
① REAR PERSPECTIVE



1 SITE PLAN



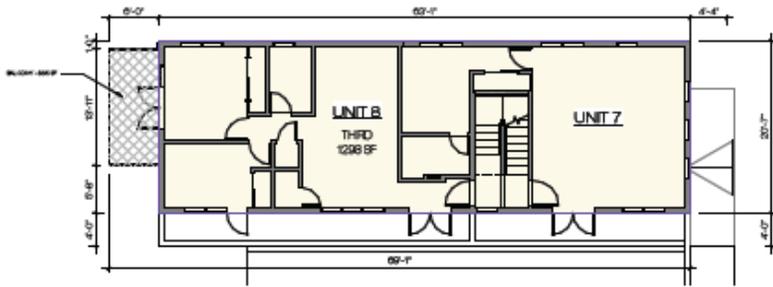
Site Plan



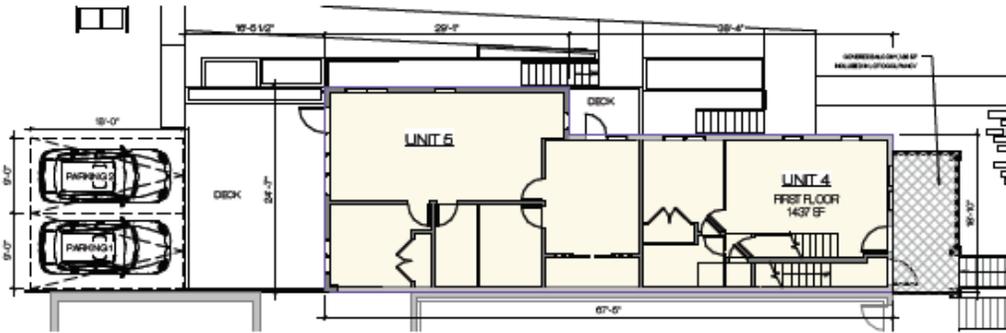
⑤ ROOF - ZONING

### ZONING INFORMATION

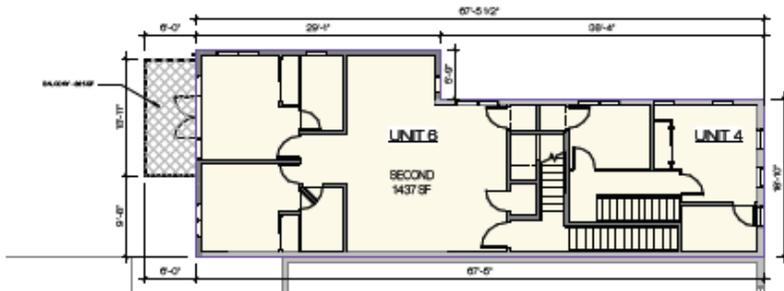
ZONING CLASSIFICATION	RA-1	MCO
<b>USE OCCUPANCY</b>		
EXISTING LOT AREA	4,700 SF	
MAX OCC. 40%	1,880 SF	
EXISTING BLDG FOOTPRINT	1,217 SF	
PROPOSED ADDITION	220 SF	
EXISTING COVERED BALCONY	135 SF	
EXTERNAL BALCONY	84 SF	
TOTAL LOT OCCUPANCY	1,656 // 35%	
<b>AREA CALCULATION</b>		
MAX FAR - 0.5	4,230 SF	
ZONING BONUS - 10%	5,076 SF	
<b>AREAS</b>		
LEVEL 1	1,437 SF	
LEVEL 2	1,437 SF	
LEVEL 3	1,298 SF	
<b>GROSS SF</b>	4,172 SF // FAR - 0.89	
CELLAR	1,660 SF (NOT INCLUDED 40% LOT OCCUPANCY, 1,880 SF)	
PH	84 SF	
TOTAL SF W/ CELLAR + PH	6,135 SF ← DOES NOT REQUIRE GREEN CODE COMPLIANCE	
<b>MSO</b>		
BUILDING HEIGHT ALLOWABLE:		40' MAX UNLESS TABLE B.001.1 MAX UNPERMITTED BUILDING HEIGHT
BUILDING HEIGHT PROVIDED:		35'-0" MEASURED FROM CENTER OF FRONT GRACE (B + F)
STORIES:		ALLOWABLE: 3 PROVIDED: 3 (PLUS CELLAR)
MIN REQUIRED SIDE YARD:		5'-0" REQUIRED // VARIES FROM 4.5 TO 5'-4"
MIN REQUIRED REAR YARD:		20'-0" REQUIRED // 37'-2" PROVIDED
CELLAR:		THE CELLAR LEVEL WILL HAVE A CEILING HEIGHT AT LEAST 7'-1" AT THE FRONT MEASURED FROM THE EXISTING GRADE AT THE CENTER
GREEN AREA RATIO:	REQUIRED: 0.4	PROVIDED: 0.4
		SEE GREEN AREA RATIO SHEETS
PARKING:	REQUIRED: 1 PER DWELLING UNIT IN EXCESS OF 4 // 2 MIN REQ'D	PROVIDED: 2 STANDARD PARKING SPACES



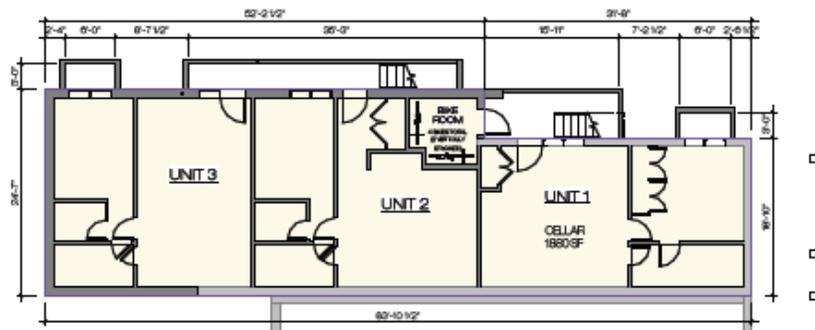
④ THIRD FLOOR - ZONING



② FIRST FLOOR - ZONING

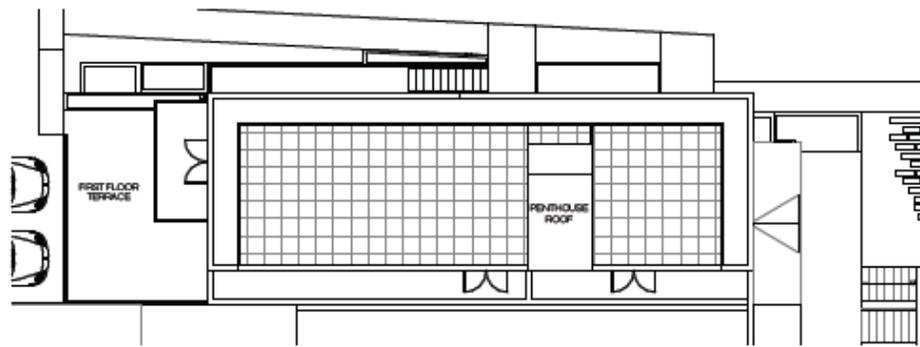


③ SECOND FLOOR - ZONING

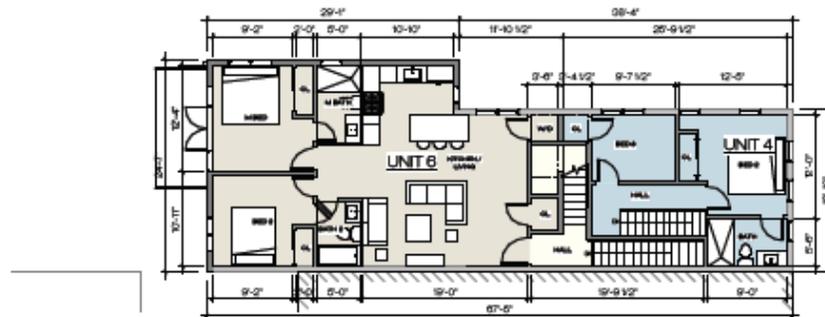


① CELLAR - ZONING

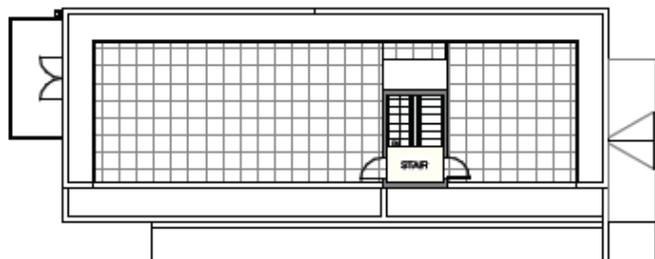
\*CELLAR NOT INCLUDED IN FAR



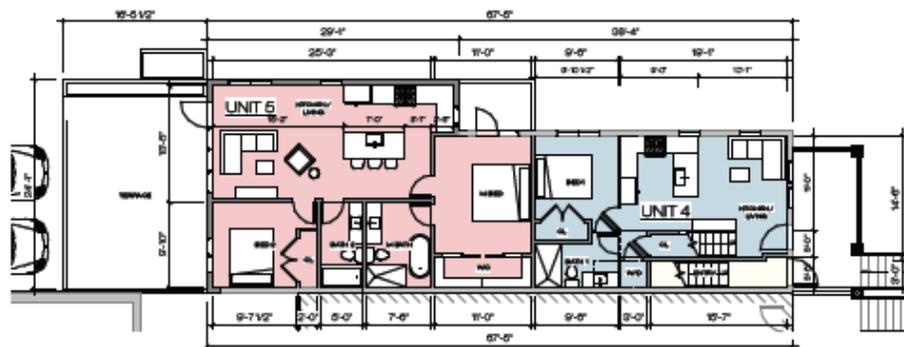
6 ROOF PLAN



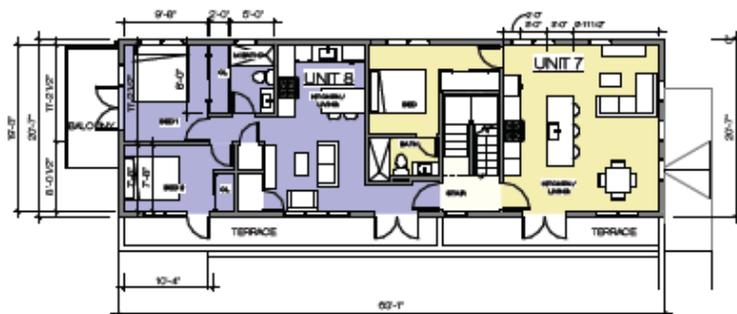
3 SECOND FLOOR



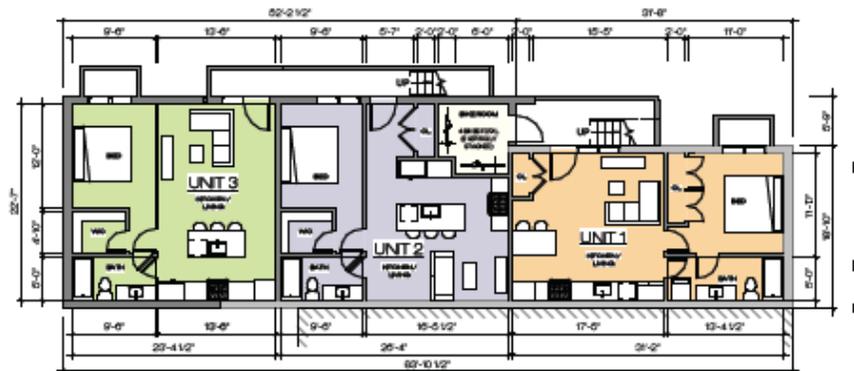
5 PENTHOUSE



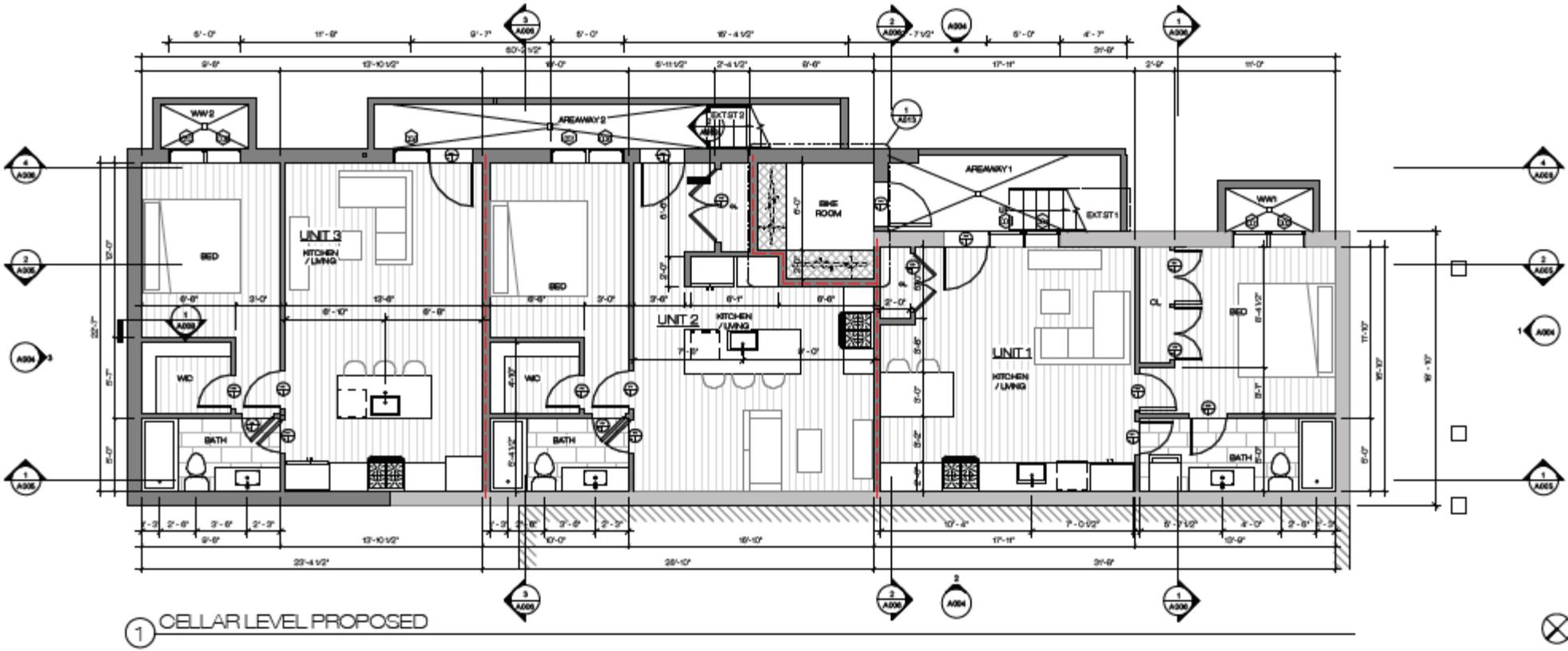
2 FIRST FLOOR



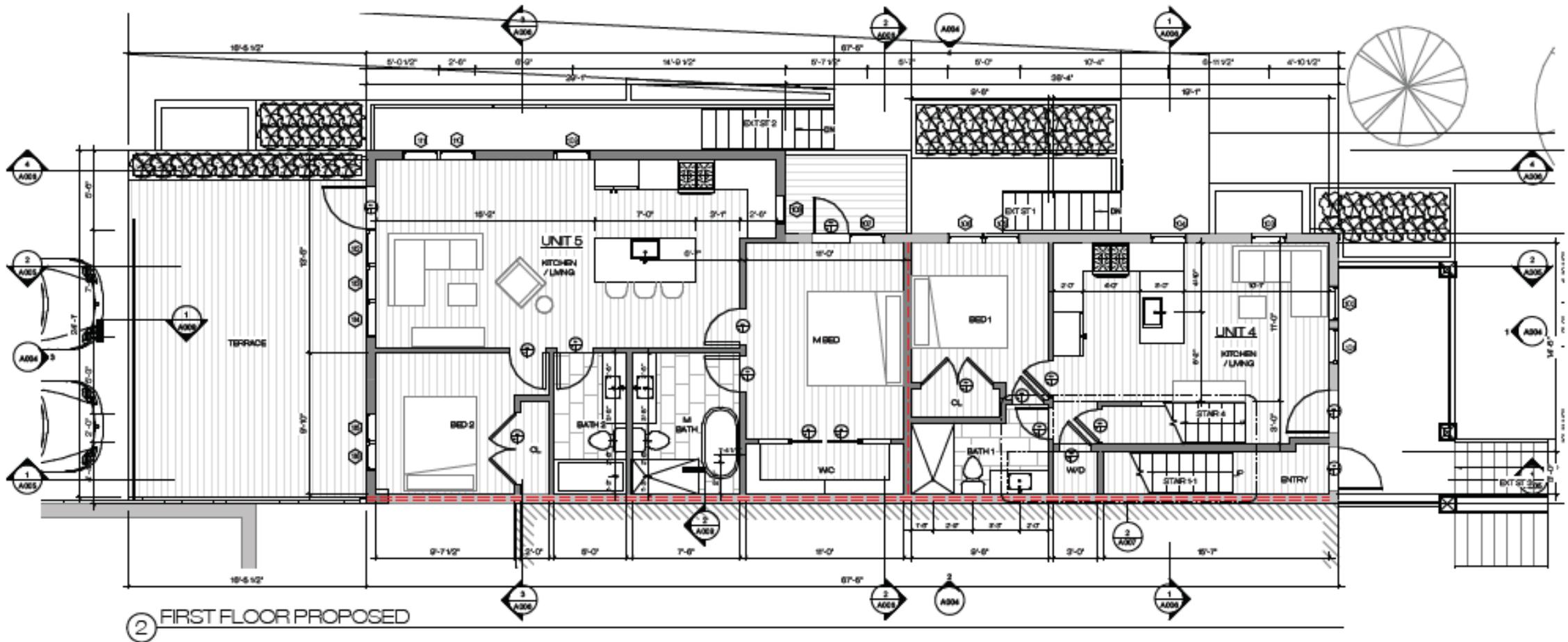
4 THIRD FLOOR

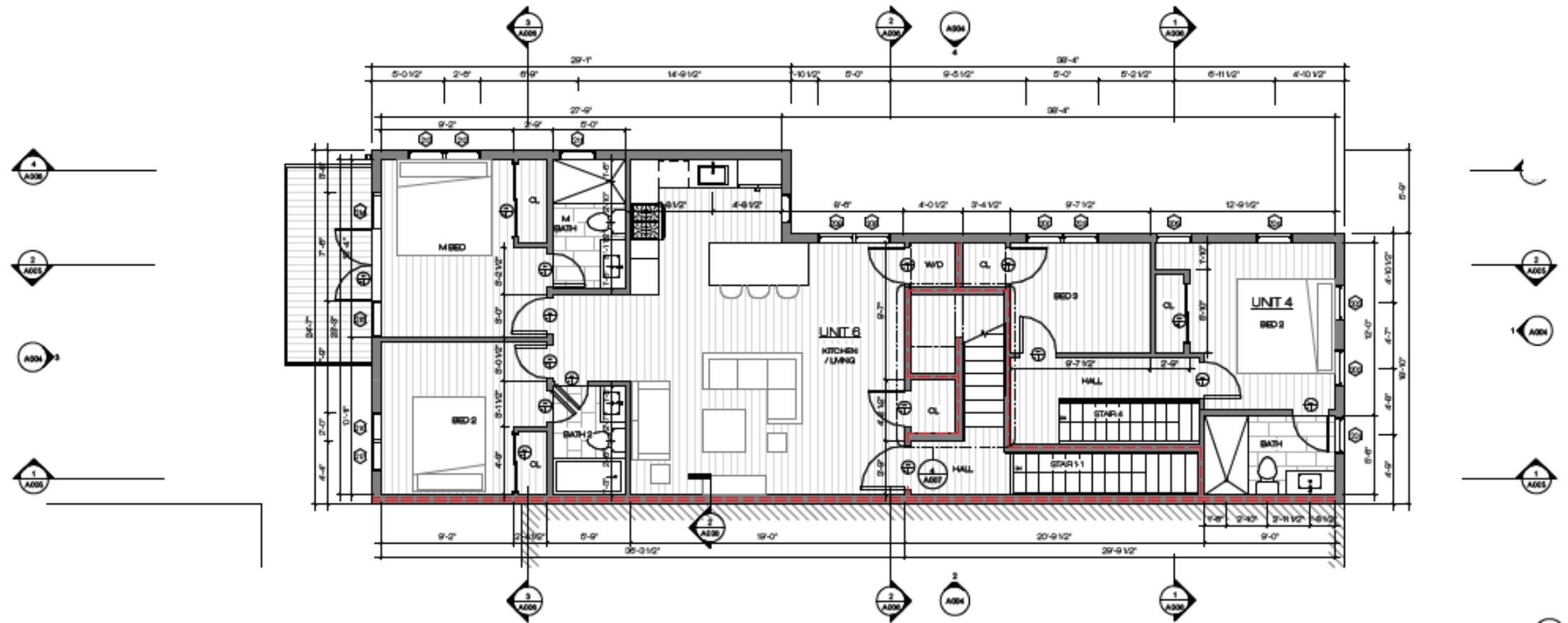


1 CELLAR

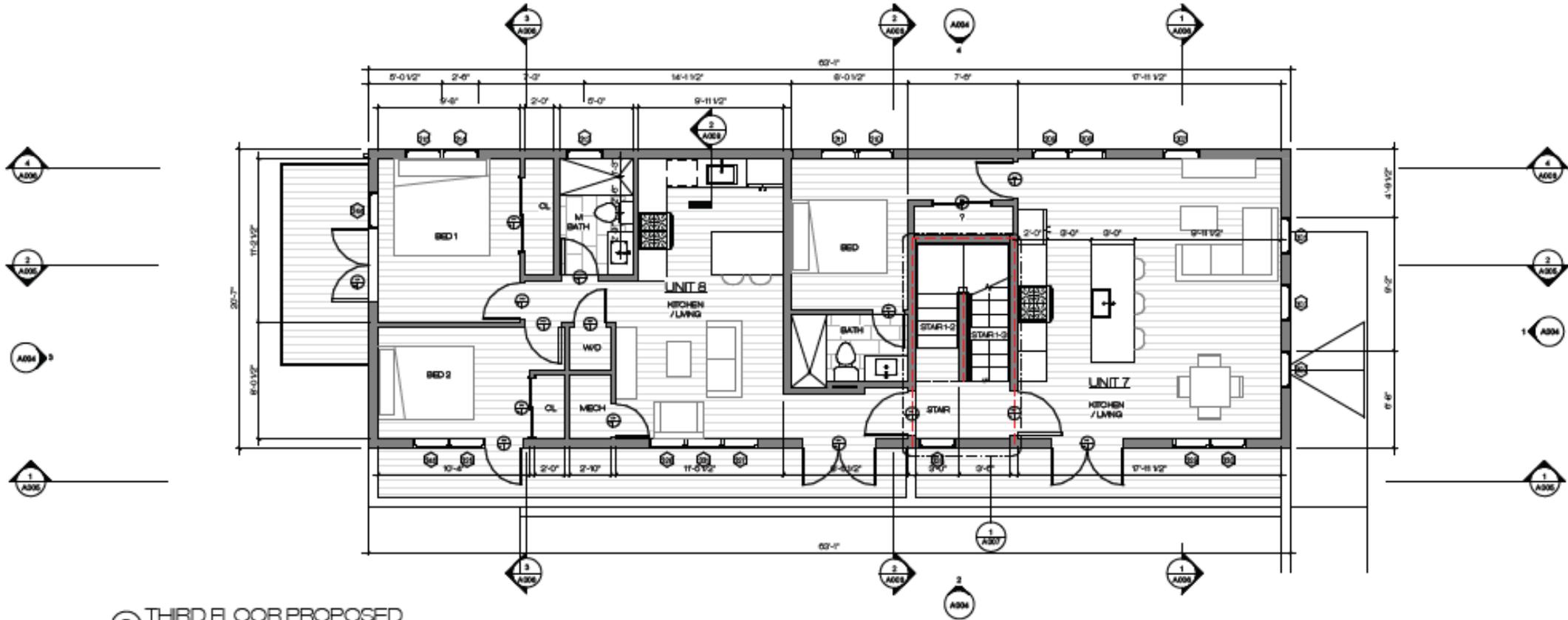


1 CELLAR LEVEL PROPOSED

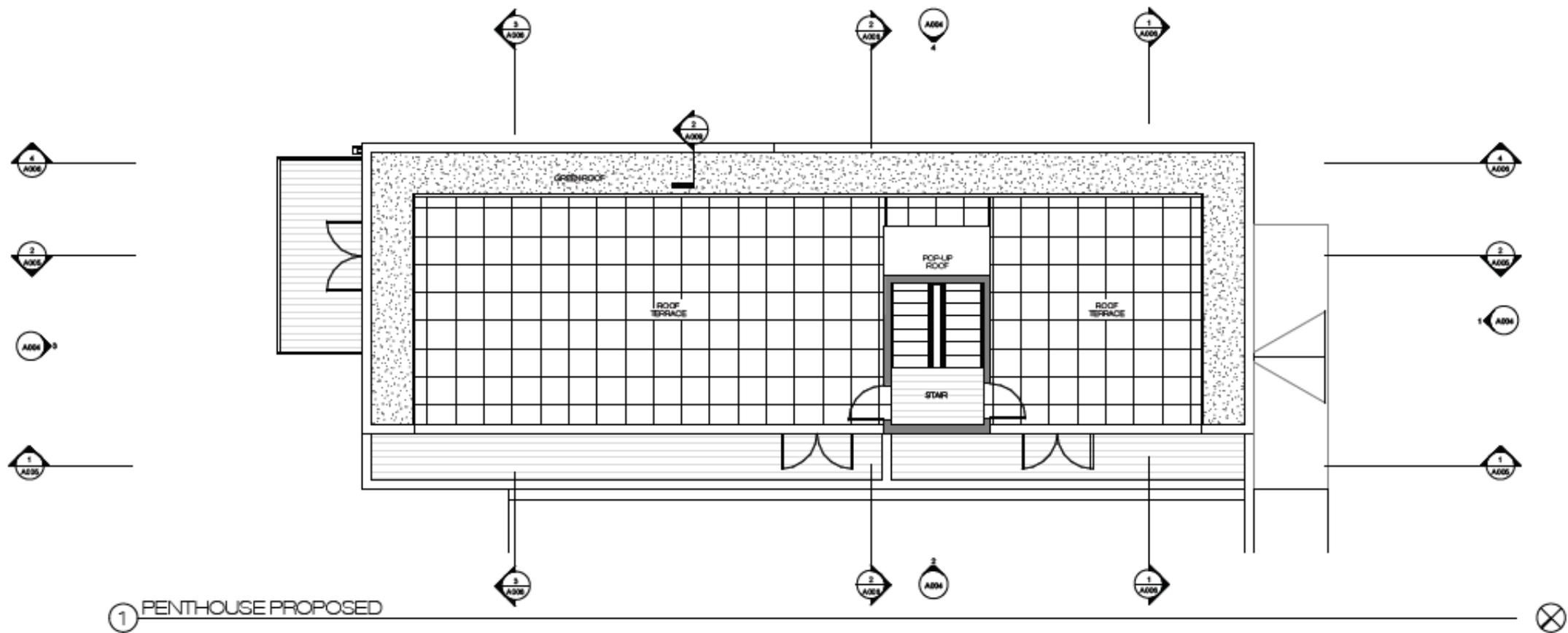


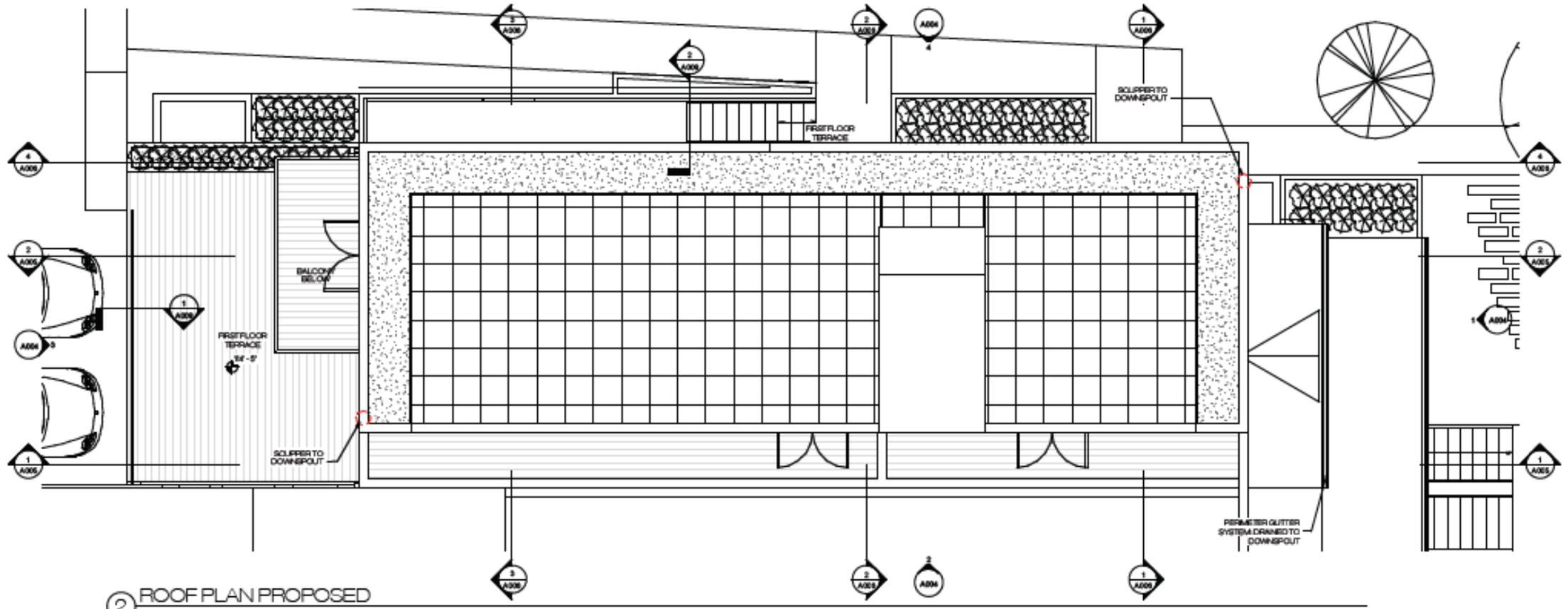


1 SECOND FLOOR PROPOSED

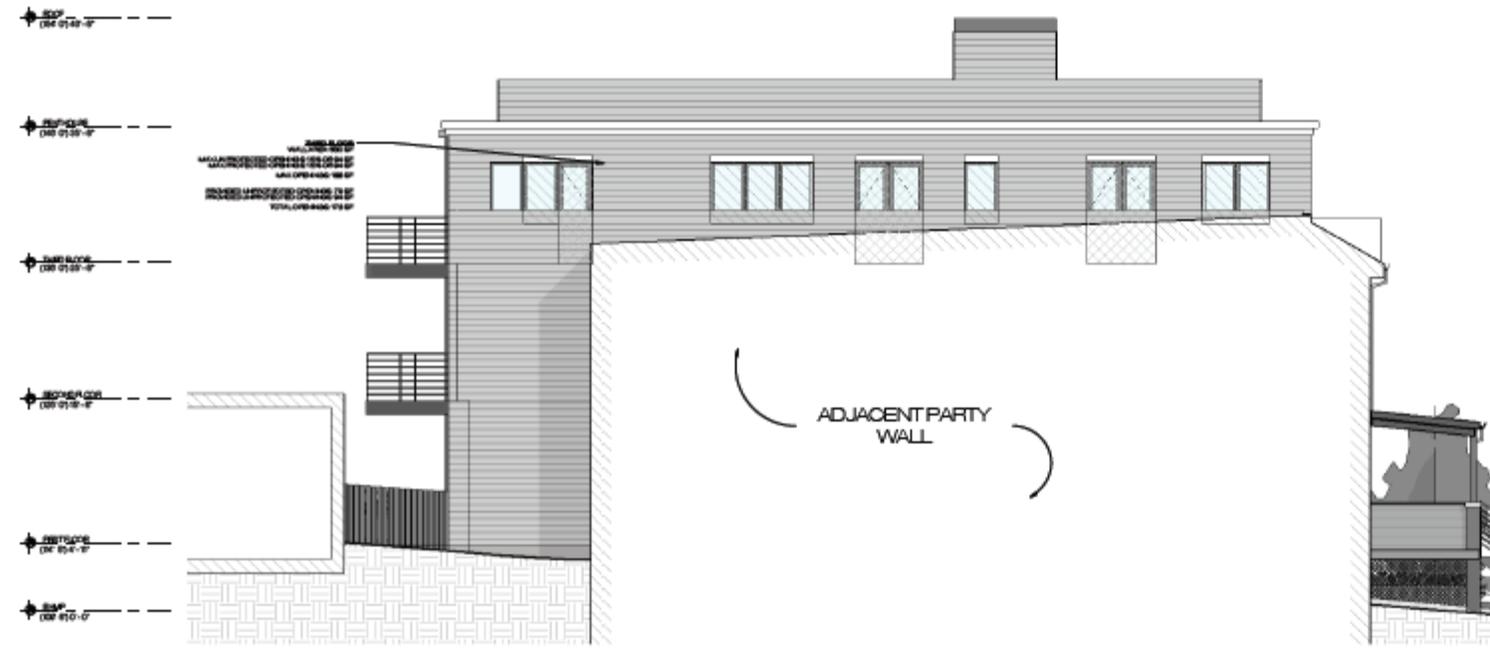


② THIRD FLOOR PROPOSED





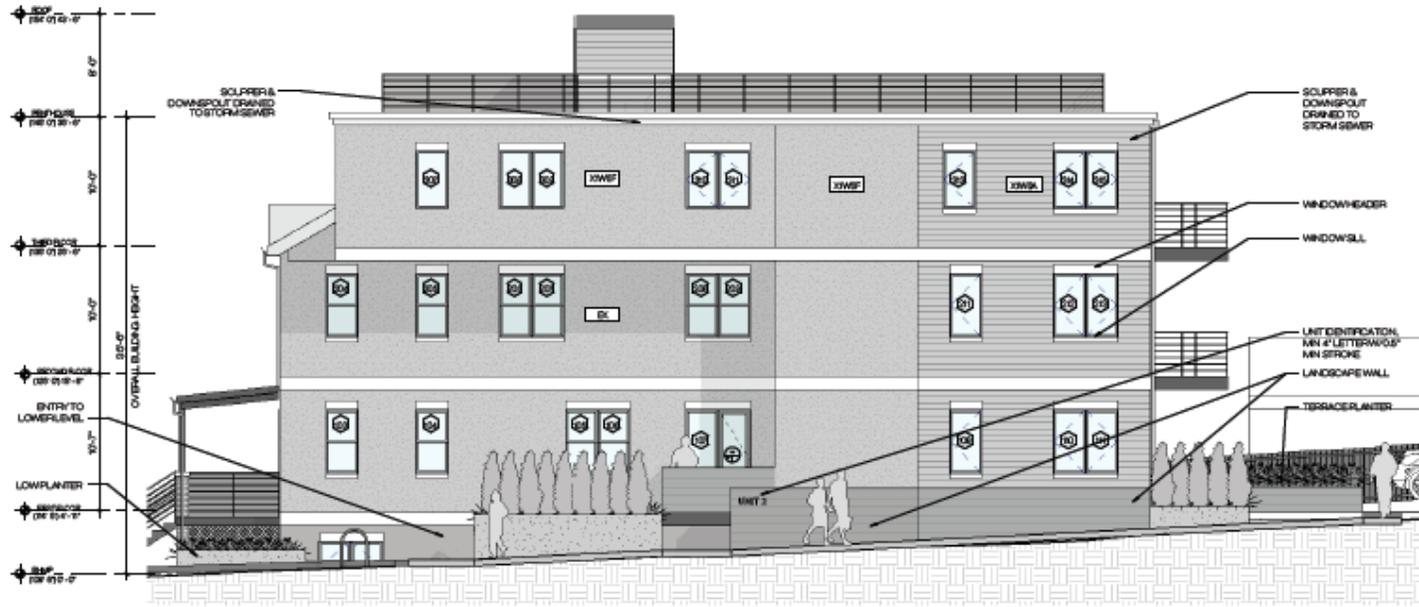
2 ROOF PLAN PROPOSED



② NORTHWEST (PARTY WALL) ELEVATION



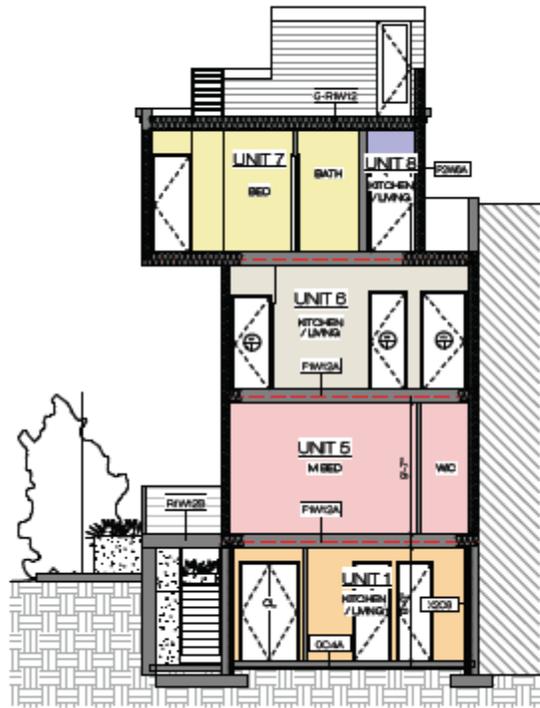
① SOUTHWEST (STREET) ELEVATION



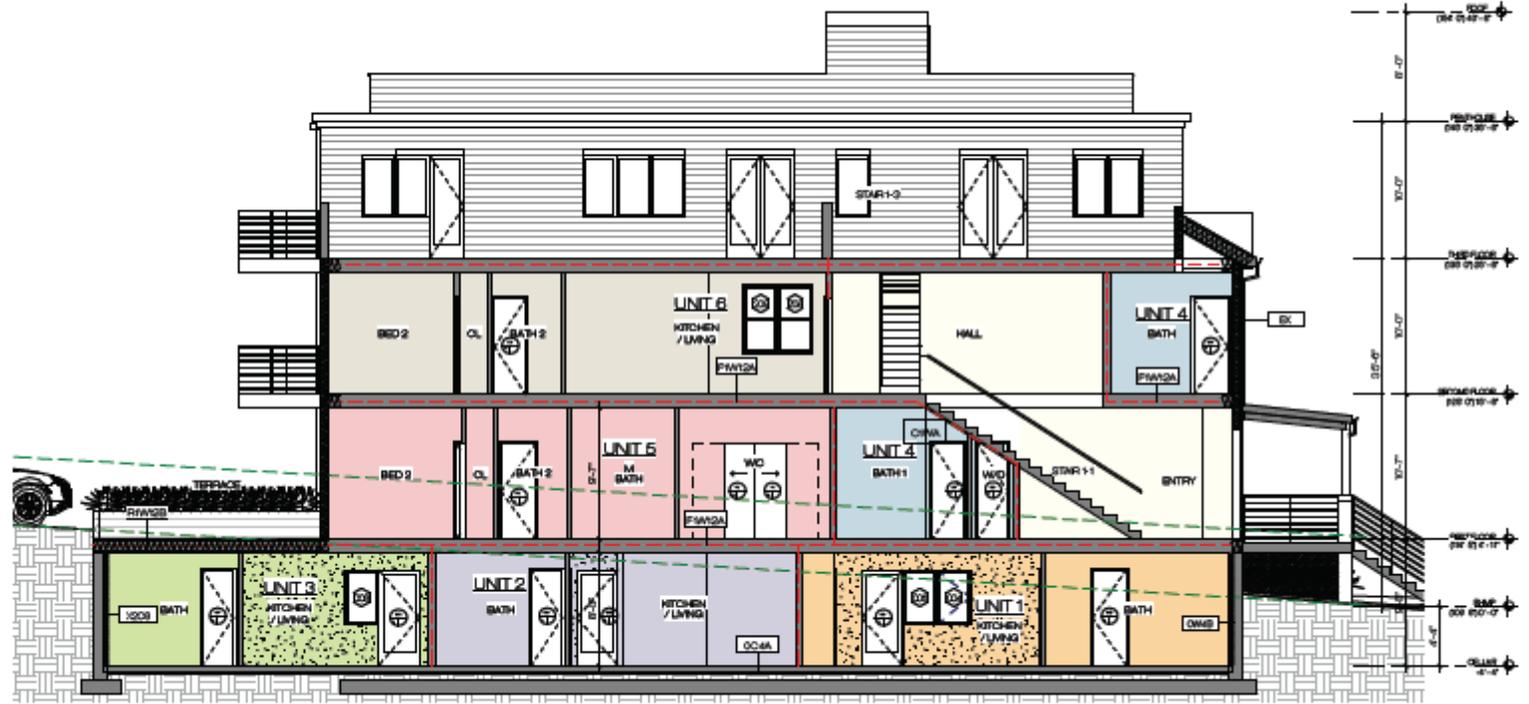
④ SOUTHEAST (SIDE) ELEVATION



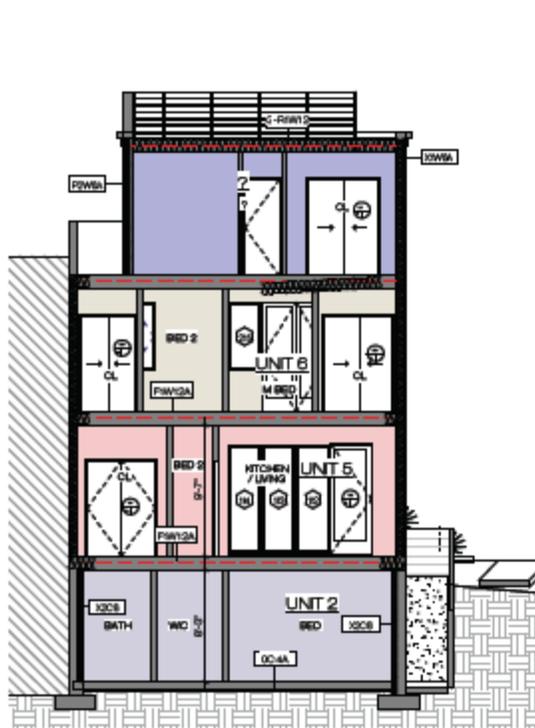
③ NORTHEAST (REAR) ELEVATION



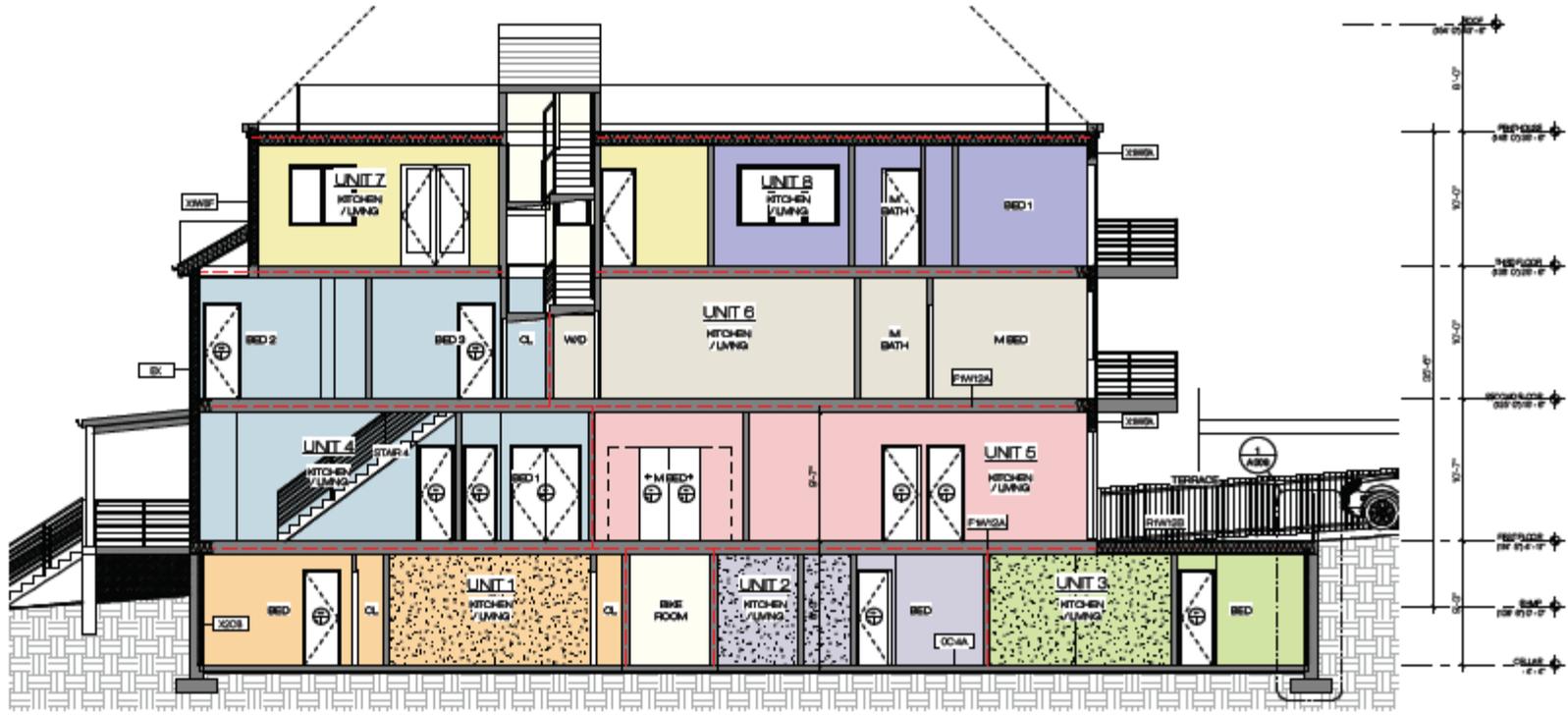
② CROSS SECTION 2



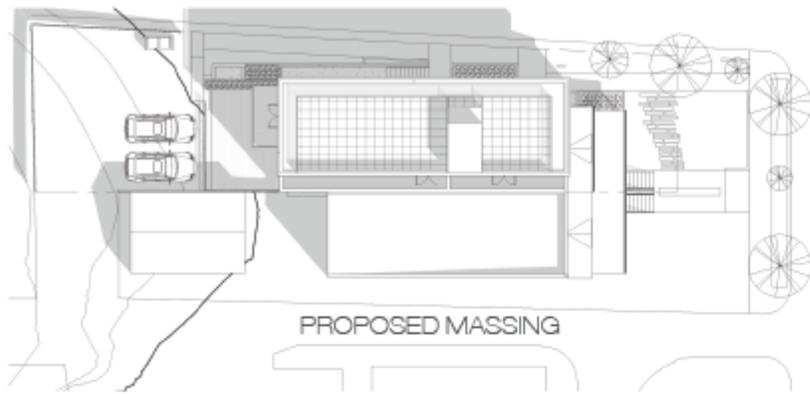
① LONGITUDINAL SECTION 1



③ CROSS SECTION 3

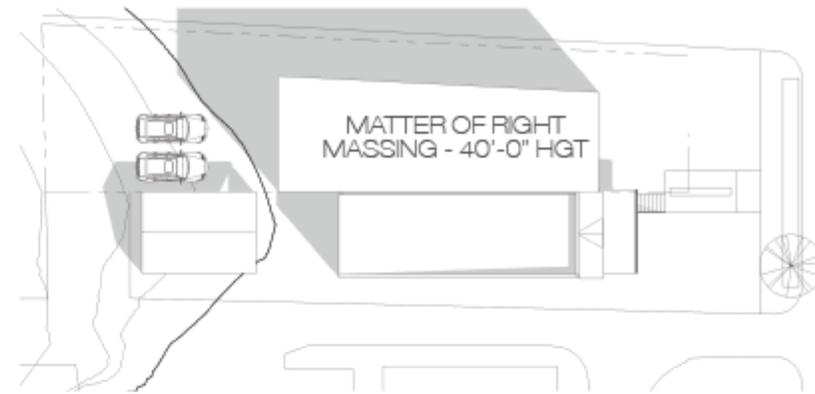


② LONGITUDINAL SECTION 2



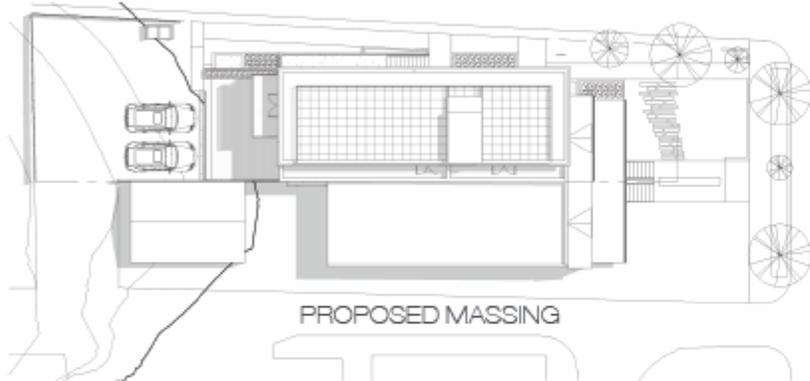
PROPOSED MASSING

③ SHADOW STUDY - 3PM SUMMER SOLSTICE



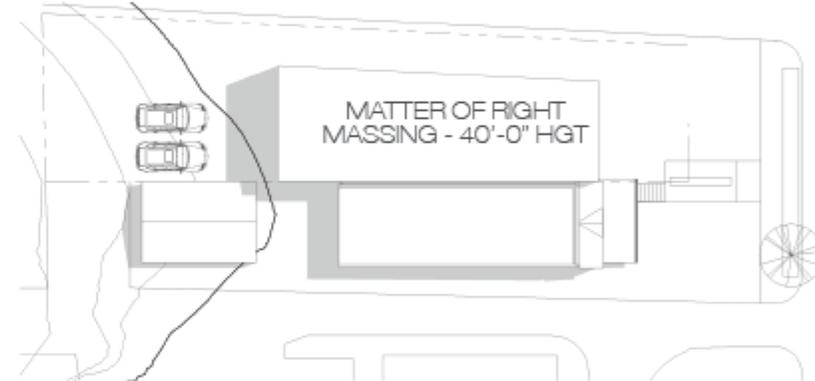
MATTER OF RIGHT  
MASSING - 40'-0" HGT

③ SHADOW STUDY - 3PM SUMMER SOLSTICE



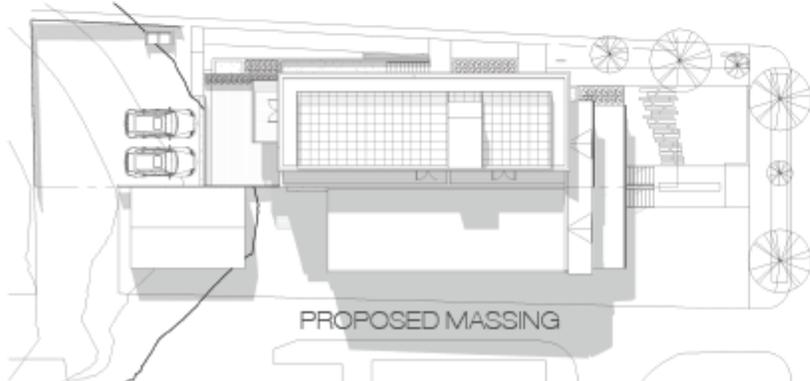
PROPOSED MASSING

② SHADOW STUDY - 12 PM SUMMER SOLSTICE



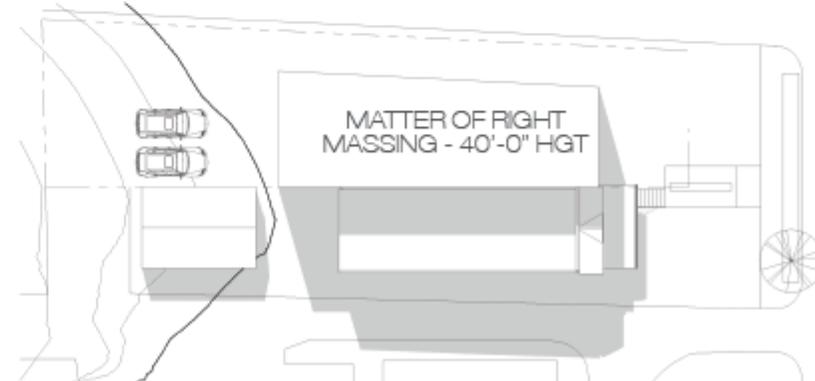
MATTER OF RIGHT  
MASSING - 40'-0" HGT

② SHADOW STUDY - 12 PM SUMMER SOLSTICE



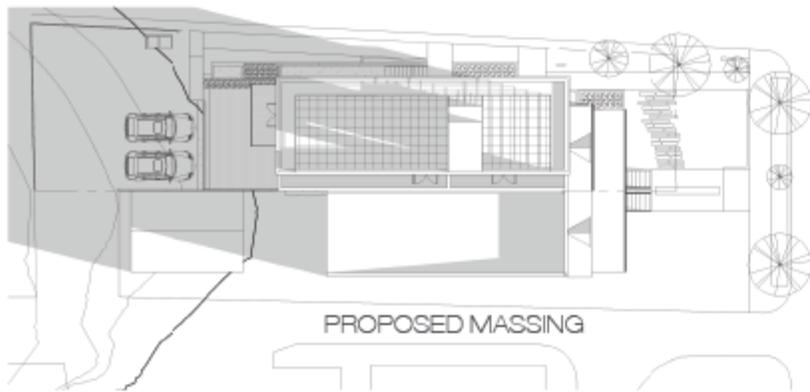
PROPOSED MASSING

① SHADOW STUDY - 9AM SUMMER SOLSTICE



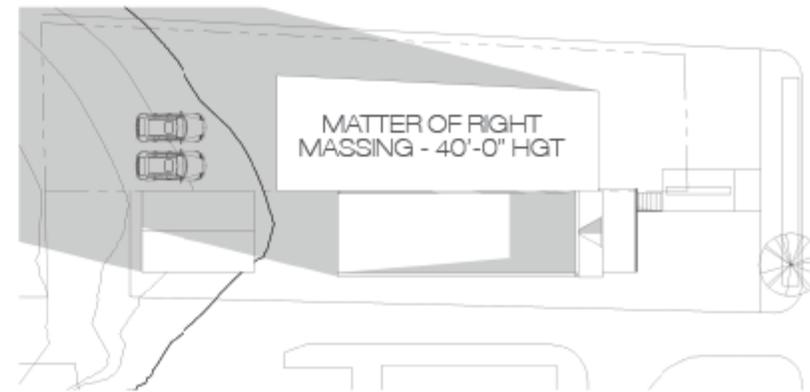
MATTER OF RIGHT  
MASSING - 40'-0" HGT

① SHADOW STUDY - 9AM SUMMER SOLSTICE



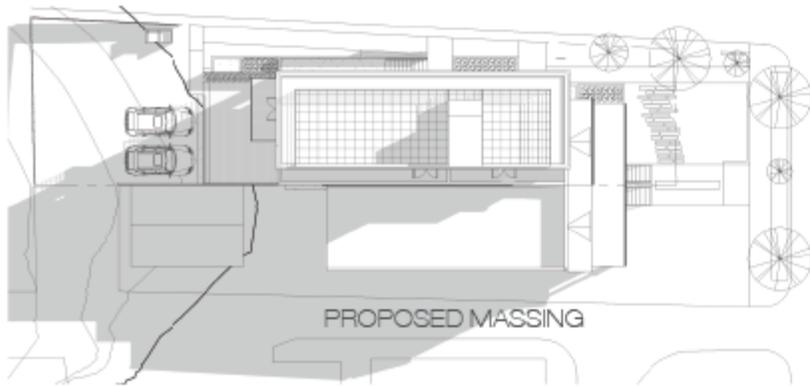
PROPOSED MASSING

6 SHADOW STUDY - 3PM WINTER SOLSTICE



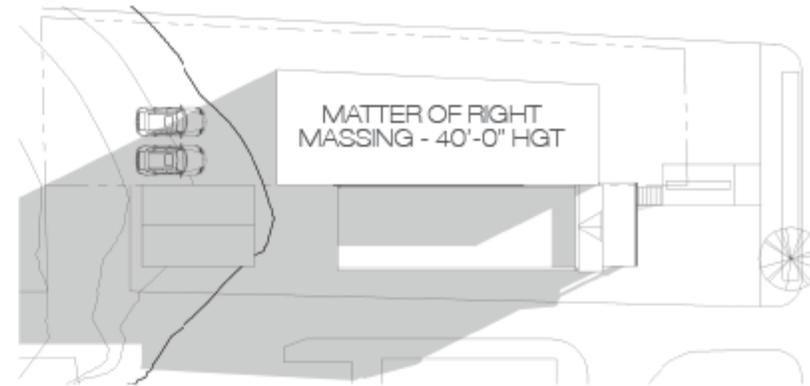
MATTER OF RIGHT  
MASSING - 40'-0" HGT

6 SHADOW STUDY - 3PM WINTER SOLSTICE



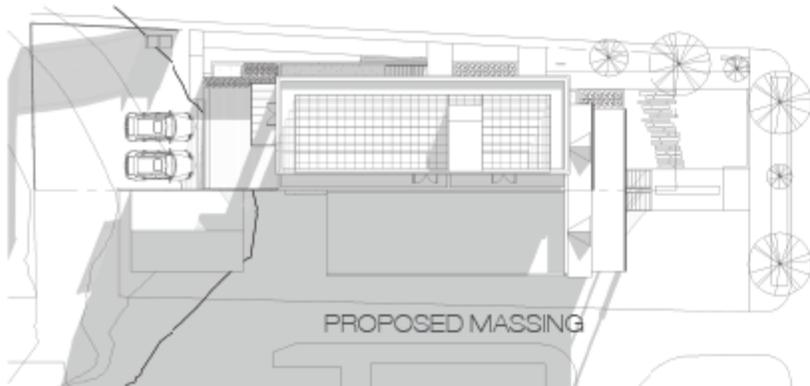
PROPOSED MASSING

5 SHADOW STUDY - 12 PM WINTER SOLSTICE



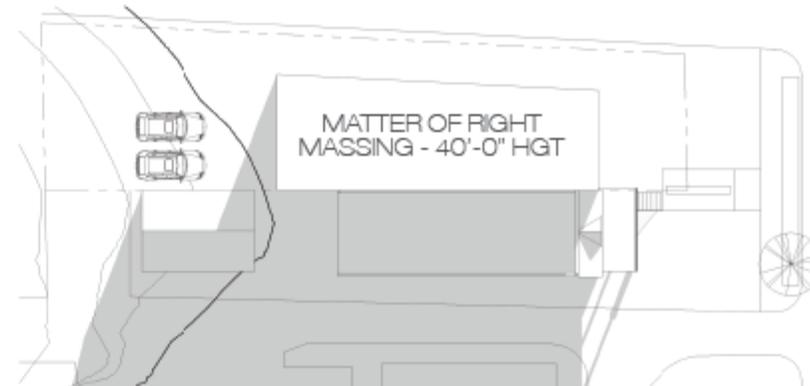
MATTER OF RIGHT  
MASSING - 40'-0" HGT

5 SHADOW STUDY - 12 PM WINTER SOLSTICE



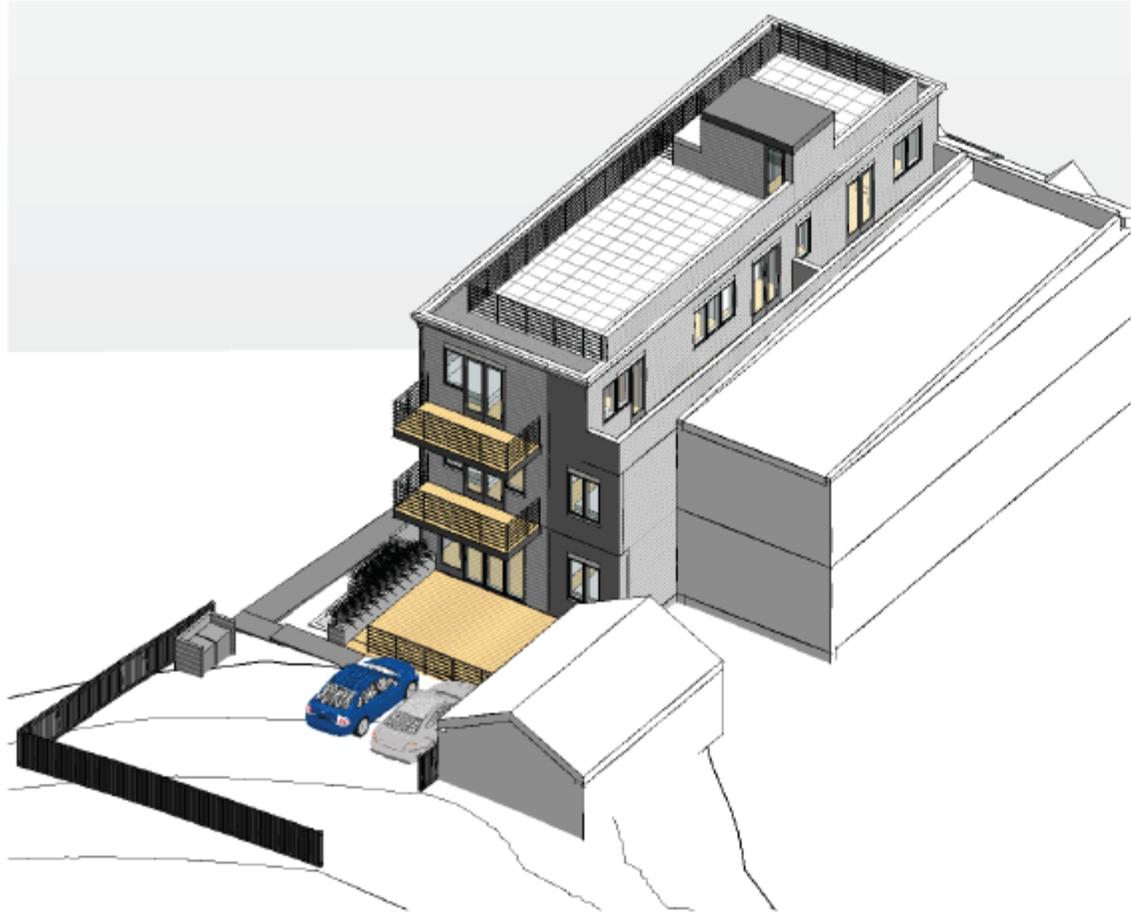
PROPOSED MASSING

4 SHADOW STUDY - 9AM WINTER SOLSTICE



MATTER OF RIGHT  
MASSING - 40'-0" HGT

4 SHADOW STUDY - 9AM WINTER SOLSTICE



② REAR PARKING AXON



① REAR PARKING PERSPECTIVE

# General Requirements of Subtitle 11-X DCMR § 901.2

Criteria	Project
<p>1. “Granting relief will be in harmony with the general purpose and intent of the RA-1 zone, the Zoning Regulations, and Zoning Maps.”</p> <p>2. “Granting relief will not tend to affect adversely, the Use of Neighboring Property in accordance with the Zoning Regulations and Zoning Maps.”</p>	<ul style="list-style-type: none"><li>• The Project is in harmony with the general purpose and intent of the Zoning Regulations, as the proposal is for a moderate-density multi-residential building.</li><li>• Per 2020 U.S. Census Apportionment Results, the District has added 87,822 people since 2010, a 14% increase and the 9<sup>th</sup> highest among states/territories; sparking a need for more housing supply, encouraged more in the apartment zones such as RA-1.</li><li>• The area is made up of a mix of larger residential developments and single-family dwellings.</li><li>• Regarding the side yard, the Applicant is requesting relief to maintain a portion of the existing setback but decreasing a portion to 6.4 ft. based on the shift of the upper story; the neighboring property to the west will still be separated by a minimum of 30 ft.</li></ul>

# Special Exception Requirements of F § 5202

Criteria	Project (Side Yard Relief)
<p>a) The light and air available to neighboring properties shall not be unduly affected by granting less than one foot of side yard relief.</p>	<ul style="list-style-type: none"><li>• Applicant is proposing to maintain a portion of the existing setback but decreasing a portion to 6.4 ft; nonconforming extension per F-306.6 is not available here because an 8-foot side yard is <i>not</i> nonconforming for the current single-family use.</li><li>• No impact on the attached property to the east; no side yard requirement for this side</li><li>• No undue impact on the neighbor to the east (lot 865, a small apartment building) because this property and the Subject Property would be separated by adjoining side yards that are at a minimum of 30 feet.</li><li>• Eastern neighbor is angled away from the Property and has its parking area between the building and the Subject Property, thus the separation between both buildings increases further back on the lots.</li></ul>
<p>b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised.</p>	<ul style="list-style-type: none"><li>• No windows facing the property to the west (lot 961)</li><li>• Windows that are proposed to face the property to the east (lot 865) would be separated by at least 30 ft. and the adjacent building's parking area.</li></ul>

# Special Exception Requirements of F § 5202

Criteria	Project (Side Yard Relief)
<p>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;</p>	<ul style="list-style-type: none"><li>• The proposed 3<sup>rd</sup> floor would be set back ~ 5 ft. from the existing mansard roof, which matches the mansard roof on the property to the west and would be retained, although the regulations for this zone do not require them to do so.</li><li>• Along the street frontage there are a variety of building uses and typologies such as apartment houses, semi-detached and detached houses, and row houses, including 3-story buildings.</li><li>• The subject square does not have an improved public alley system and the addition would be in the rear. The proposal would maintain both the existing side yard and the existing semi-detached building typology.</li><li>• Upon the request of the Office of Planning, the Applicant revised the plans to retain the front porch, maintain the existence of the front entry stairs, and retain the mansard, and reducing the size of the penthouse.</li><li>• In a preemptive attempt to address Ms. Lea’s stated DCRA-level concerns about snow load, the Applicant is presenting a creative solution of moving the third story away from Ms. Lea’s property.</li></ul>

# Special Exception Requirements of U § 421

Criteria	Project
<b>U-421.1(a):</b> Existing and planned area schools to accommodate the numbers of students that can be expected to reside in the project; and	<ul style="list-style-type: none"><li>• Key Elementary School – 75%</li><li>• Hardy Middle School – 93%</li><li>• Wilson High School – 98%</li></ul>
<b>U-421.1(b):</b> Public streets, recreation, and other services to accommodate the residents that can be expected to reside in the project.	<ul style="list-style-type: none"><li>• DDOT has no objection and Applicant agrees to all conditions</li><li>• Applicant is providing 2 parking spaces</li><li>• 140 ft. from the D6 bus route</li><li>• 1,000 ft. from a Capital Bikeshare station</li></ul>
<b>U-421.3:</b> The Board of Zoning Adjustment shall refer the application to the Office of Planning for comment and recommendation on the site plan, arrangement of buildings and structures, and provisions of light, air, parking, recreation, landscaping, and grading as they relate to the surrounding neighborhood, and the relationship of the proposed project to public plans and projects.	<ul style="list-style-type: none"><li>• Office of Planning has reviewed the proposed Project and is recommending approval</li><li>• Applicant has made several significant revisions recommended by the Office of Planning</li><li>• Subject Building will remain attached to the 4459 MacArthur, which OP notes is an anticipated typology for the RA-1 Zone</li><li>• Proposal includes removal of a relatively tall accessory building close to the north property line</li><li>• The revised proposal eliminates an entire floor (penthouse) and one unit, along with two parking spaces.</li></ul>

# Response to July 7 Submission of Ms. Dawn Lea – 4459 MacArthur

Claim	Response
New construction may cause a collapse like 916 Kennedy because this is a semi-detached building.	There is nothing in theory, in practice, or in the Zoning Regulations that prohibits, or even discourages approval of U-421 projects in attached or semi-detached structures. Leading with a reference to the Kennedy collapse exposes the complete lack of any legitimate zoning concerns from 4459.
Lack of response to scheduling mediation and lack of engagement.	An absolutely false statement. The Applicant bears zero responsibility for the mediation being scheduled so late. In fact, the Applicant was not resting on the promise of third-party and emailed Ms. Lea this request on May 11: “would you be amenable to having a discussion with me about your concerns to see if we have any common ground or can find a way to resolve concerns, or just to otherwise start a conversation between us about this application and project.” We did not receive a response.
Trash collection concerns	Tenleytown Trash collects trash through 10-foot wide alleys for multiple unit dwellings all over the City, and they can do so here.

Claim	Response
Balconies and Privacy	<p>There is nothing inherently harmful with a property owner providing outdoor space for a building’s occupants. These are 8-foot decks which are behind the rear wall of 4459. Reference to the U-421 Regulations does not provide that an applicant must avoid project amenities beneficial to the ultimate residents. But most importantly, the balconies do not run the full width of the Building, and the western edge of these balconies have significant separation from the 4459 property, so that someone on the balcony may not even be able to see the 4459 building.</p>
<p>More non-zoning structural issues raised. Including this statement: “This [a building collapse like 916 Kennedy, will indeed happen again if the development at 4457 MacArthur is allowed to proceed...” “this type of situation will be in the media again, and this time, rather than 916 Kennedy ST NW&lt; the mediate will be reporting on a collapse at 4459 MacArthur Blvd NW.</p>	<p>Not properly before the Board of Zoning Adjustment. Ms. Lea wastes the Board’s time and disregards this entire process by making outlandish predictions about a certain building collapse, capitalizing on a recent unfortunate building collapse.</p> <p>It goes without saying that a building collapse somewhere else does not have any relevance whatsoever to this or any other zoning case before the BZA, and to repeatedly attempt to distract from the lack of legitimate zoning issues is a disservice to the Board and the integrity of this process.</p>
<p>Extensive discussion about the physical structural characteristics of these two properties.</p>	<p>All properly to be considered by and resolved by engineers and DCRA reviewers, as part of the non-zoning building permit process.</p>

# Response to July 7 Submission of Ms. Dawn Lea – 4459 MacArthur

Claim	Response
<p>Previous residents and tenants of 4457 have had the property filled with vehicles.</p>	<p>Perhaps this fact will ease the concerns of Foxhall Terrace, as it appears that use of the easement across Foxhall Terrace property has had significant use to date and is just as likely to now have a reduced usage level, with the change in character of ownership from a large rental building with students to eight higher-end condominiums, with two assigned spaces sold to individual units, rather than what sounds like was previously free-for-all parking.</p>
<p>Smears and personal attacks against this housing provider based on unfounded claims of housing discrimination and what amounts to routine administrative corporate requirements, since fulfilled as a matter of course. Including this statement: “There is NO evidence for regard of the safety or life of the owners at the 4459 property, nor the community at large.”</p>	<p>Every such attack highlights the dearth of legitimate zoning issues with this Application under the standards for approval under U-421. Ms. Lea bought and owns a property in an apartment zone. She recently had her property listed with the description that it could be converted to multiple family dwelling, just like 4457. She has vowed to the applicant that she will do whatever it takes to stop the production of these 8 housing units, in order to protect her interests, while also offering to sell her property to the applicant at an inflated price. She is not protecting the interests of the community at large. And she is not faced with any likelihood of substantial detriment as a result of any zoning-related concerns.</p>

# Response to July 7 Submission of Foxhall Terrace

Claim	Response
<p>Foxhall Terrace Counsel states: "...resolution of this dispute is ultimately a civil litigation matter and beyond the scope of the Board's authority...".</p>	<p>Applicant agrees entirely. And at any rate, even by Ms. Lea's testimony, the previous use of 4457 included many cars at the rear of the property, something which we assume Foxhall Terrace never formally objected to until they had this opportunity to ask the Board to intervene on this issue; which even Foxhall cannot avoid admitting is beyond the scope of the Board's authority.</p>

**Questions?**