



# 4457 MacArthur Blvd., NW

**BZA APPLICATION NO. 20380**

**POLYGON HOLDINGS, LLC**

**APRIL 28, 2021**

# Overview and Requested Relief

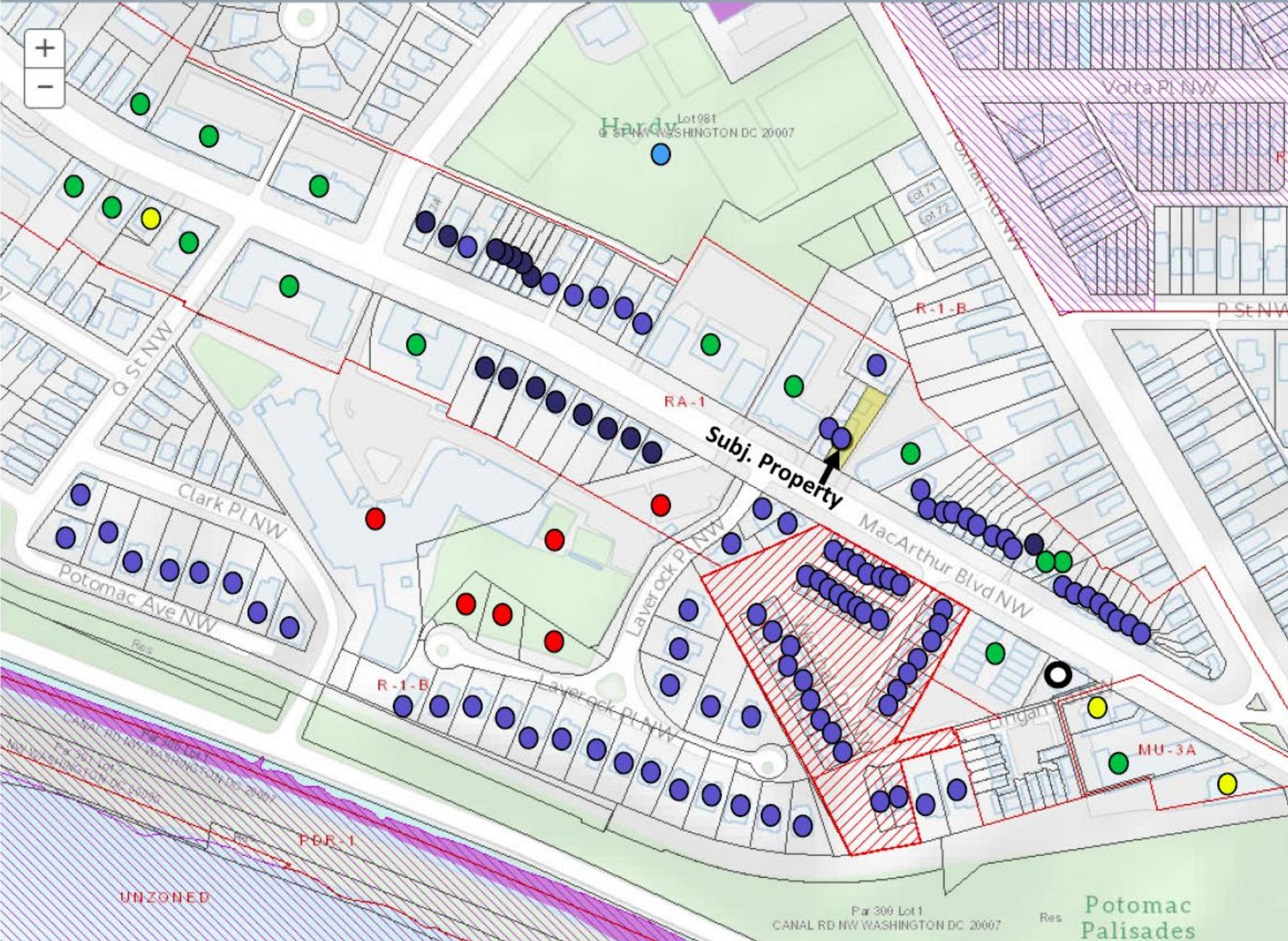
- RA-1 Zone
- Existing 2-story semi-detached single-family dwelling
- Applicant is proposing to construct a matter of right 3<sup>rd</sup> floor and a 3-story rear addition that will maintain the existing 8 ft. side yard, resulting in the need for side yard relief.
- Also proposing to use the property 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>8 ft. (maintaining the existing side yard)</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>

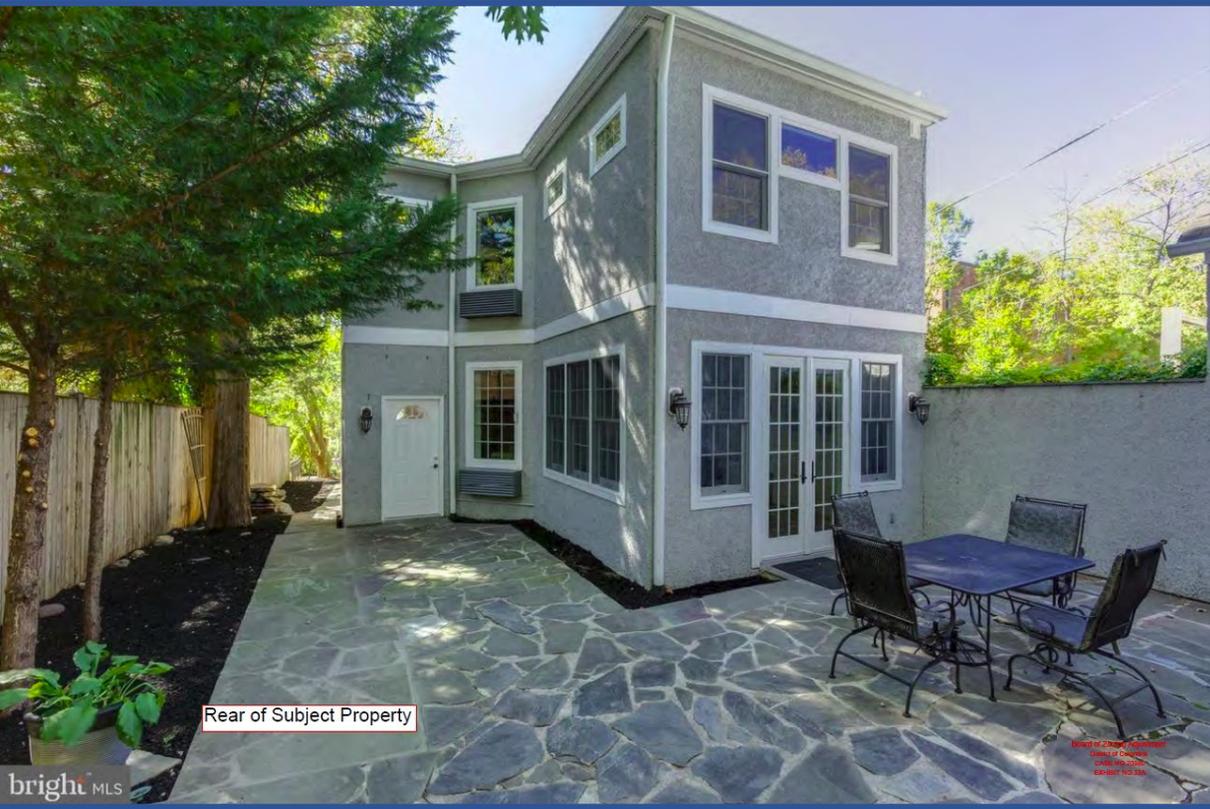


# Map of Surrounding Uses

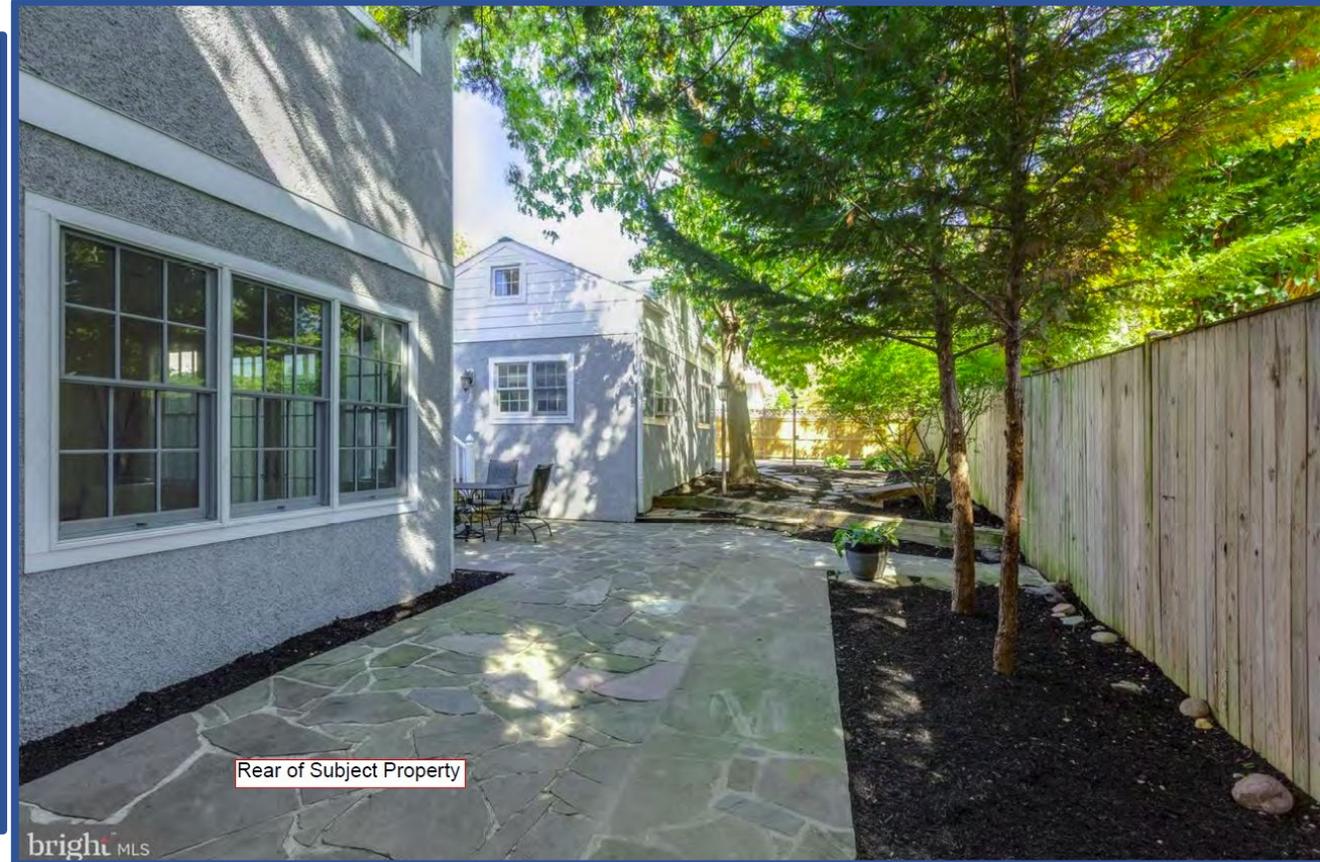
- Single Family
- Multi-Family; 5+ Units
- Multi-Family; 2-5 Units
- Commercial
- School
- Recreation Center
- Medical



# Existing Property



# Existing Property



# Surrounding Properties

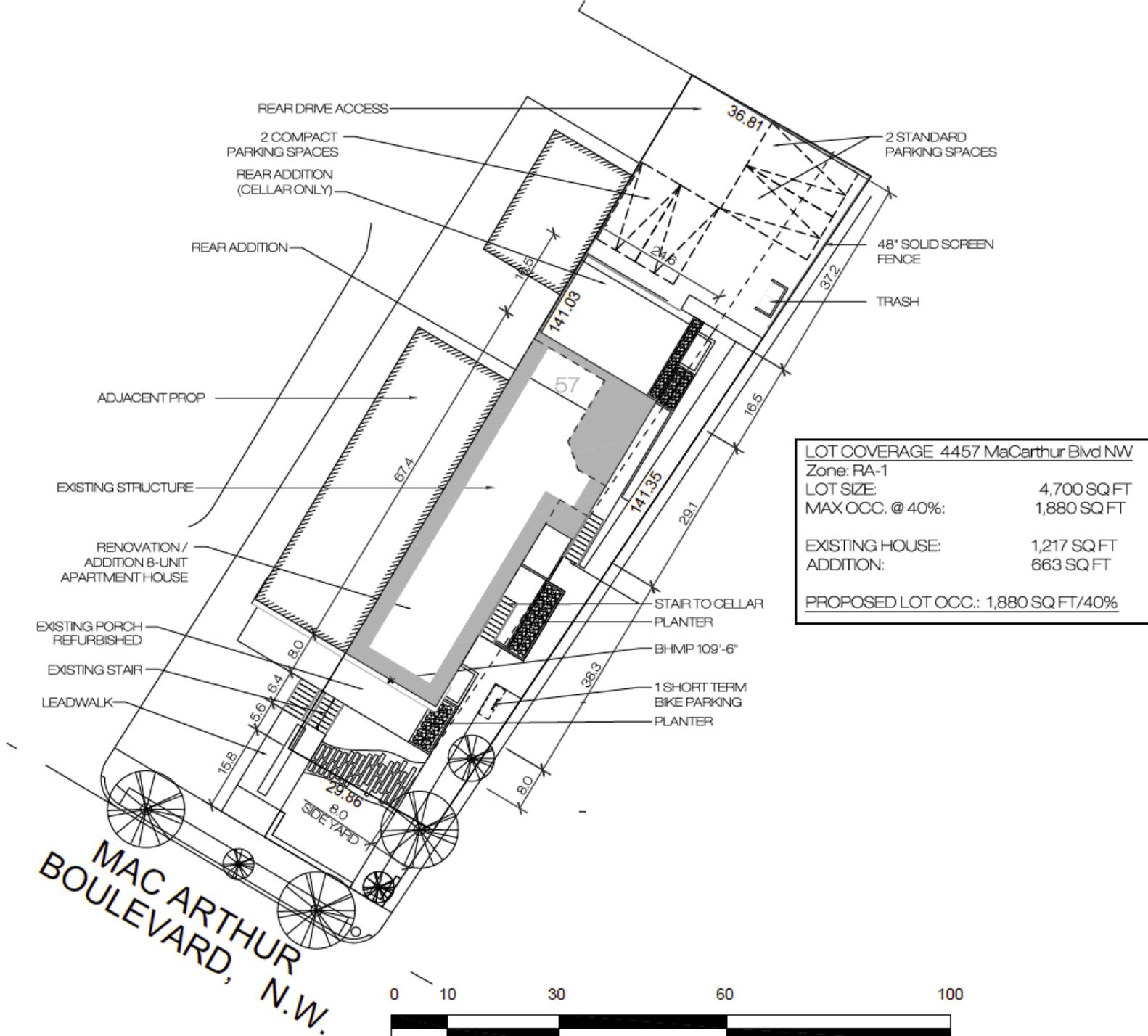


# Surrounding Properties



# Surrounding Properties





LOT COVERAGE 4457 MacArthur Blvd NW	
Zone: RA-1	
LOT SIZE:	4,700 SQ FT
MAX OCC. @ 40%:	1,880 SQ FT
EXISTING HOUSE:	1,217 SQ FT
ADDITION:	663 SQ FT
PROPOSED LOT OCC.: 1,880 SQ FT/40%	

Plat

MAC ARTHUR  
BOULEVARD, N.W.

0 10 30 60 100



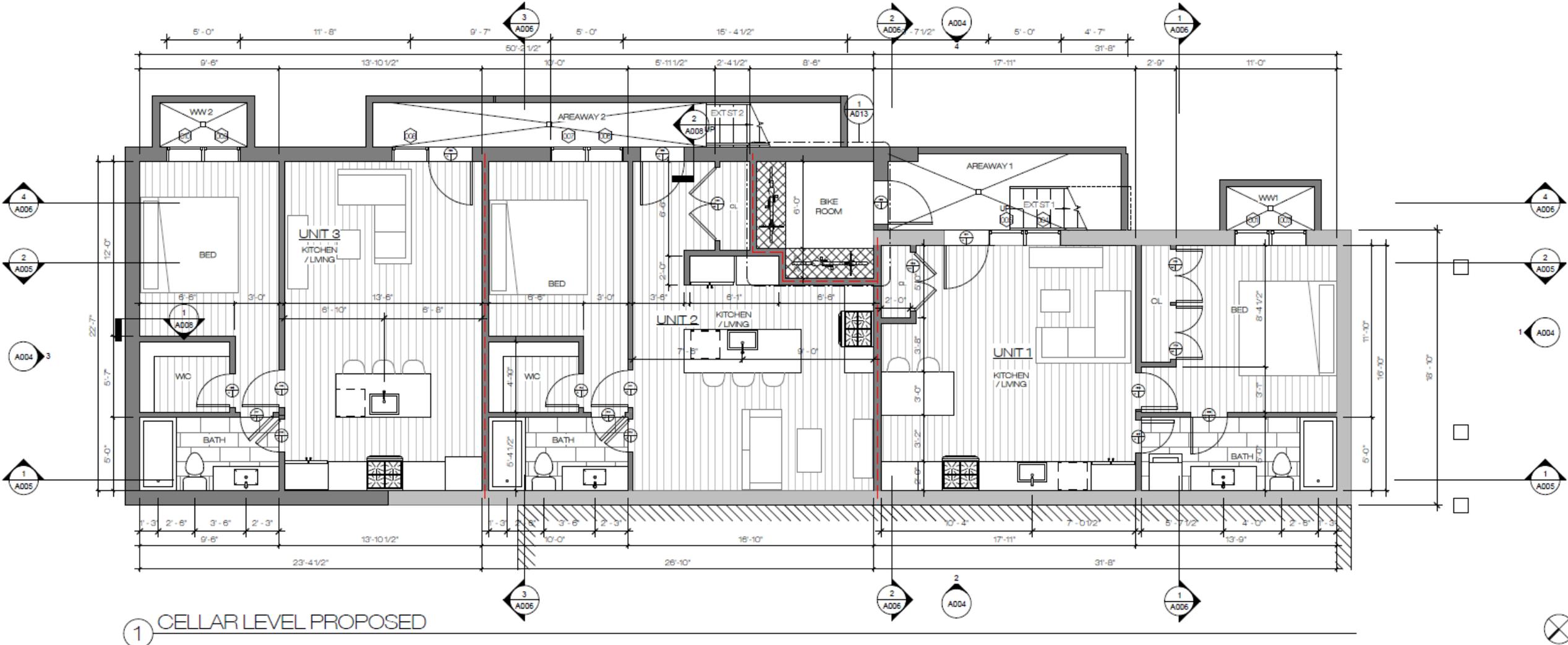


② FRONT PERSPECTIVE

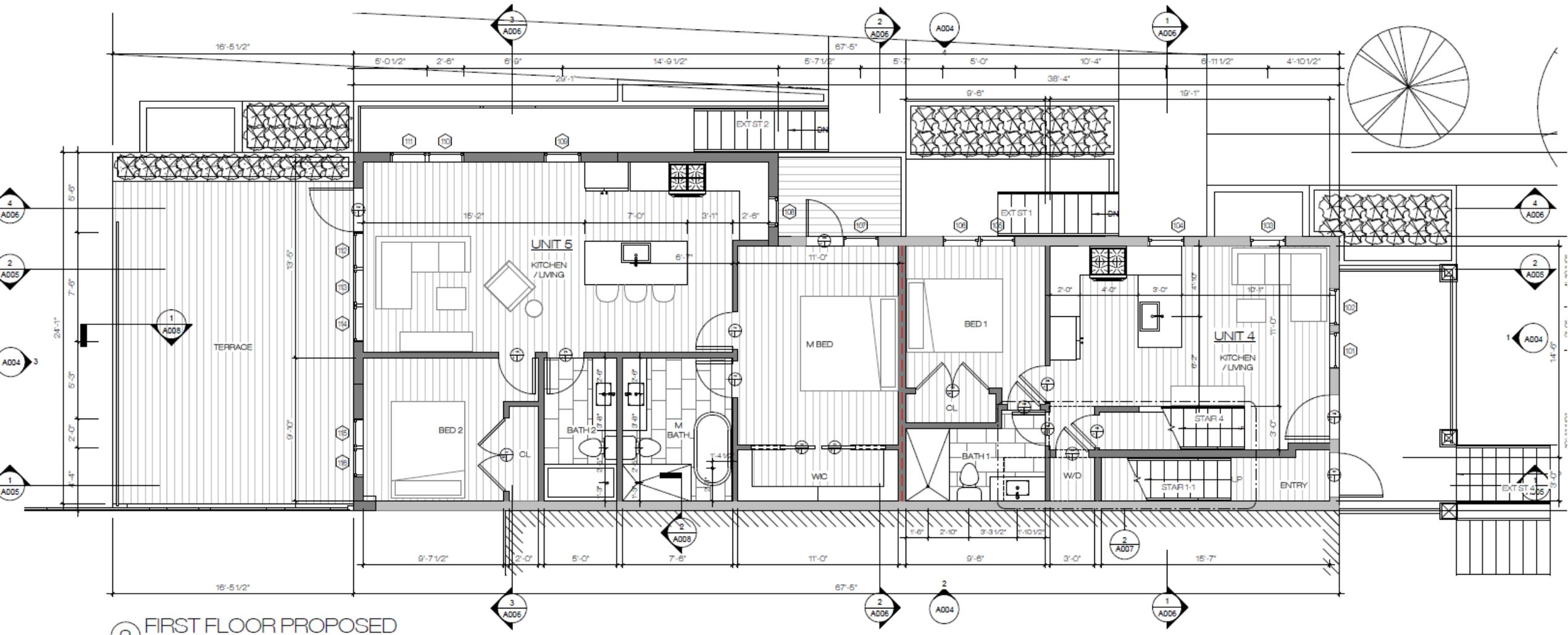


① REAR PERSPECTIVE

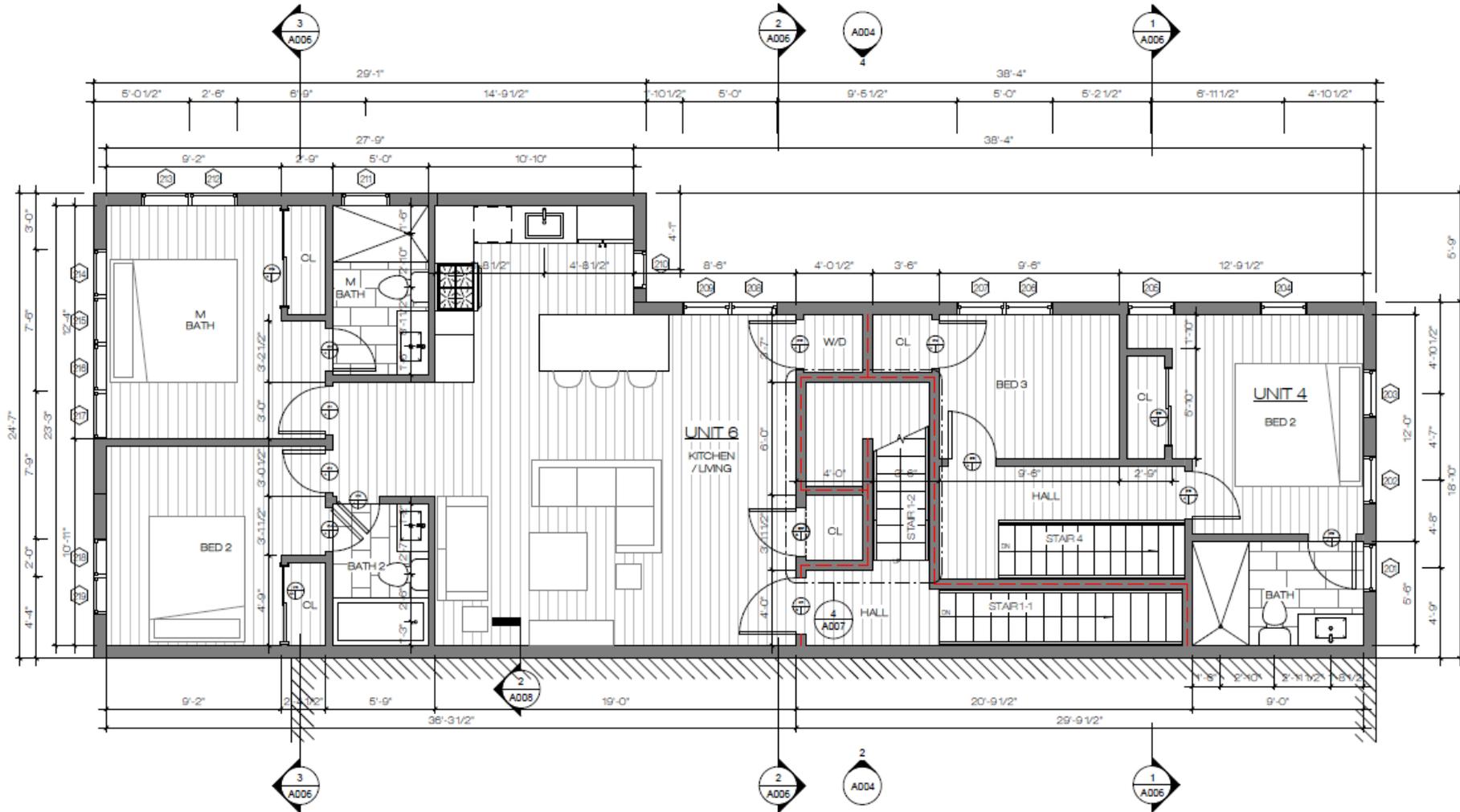




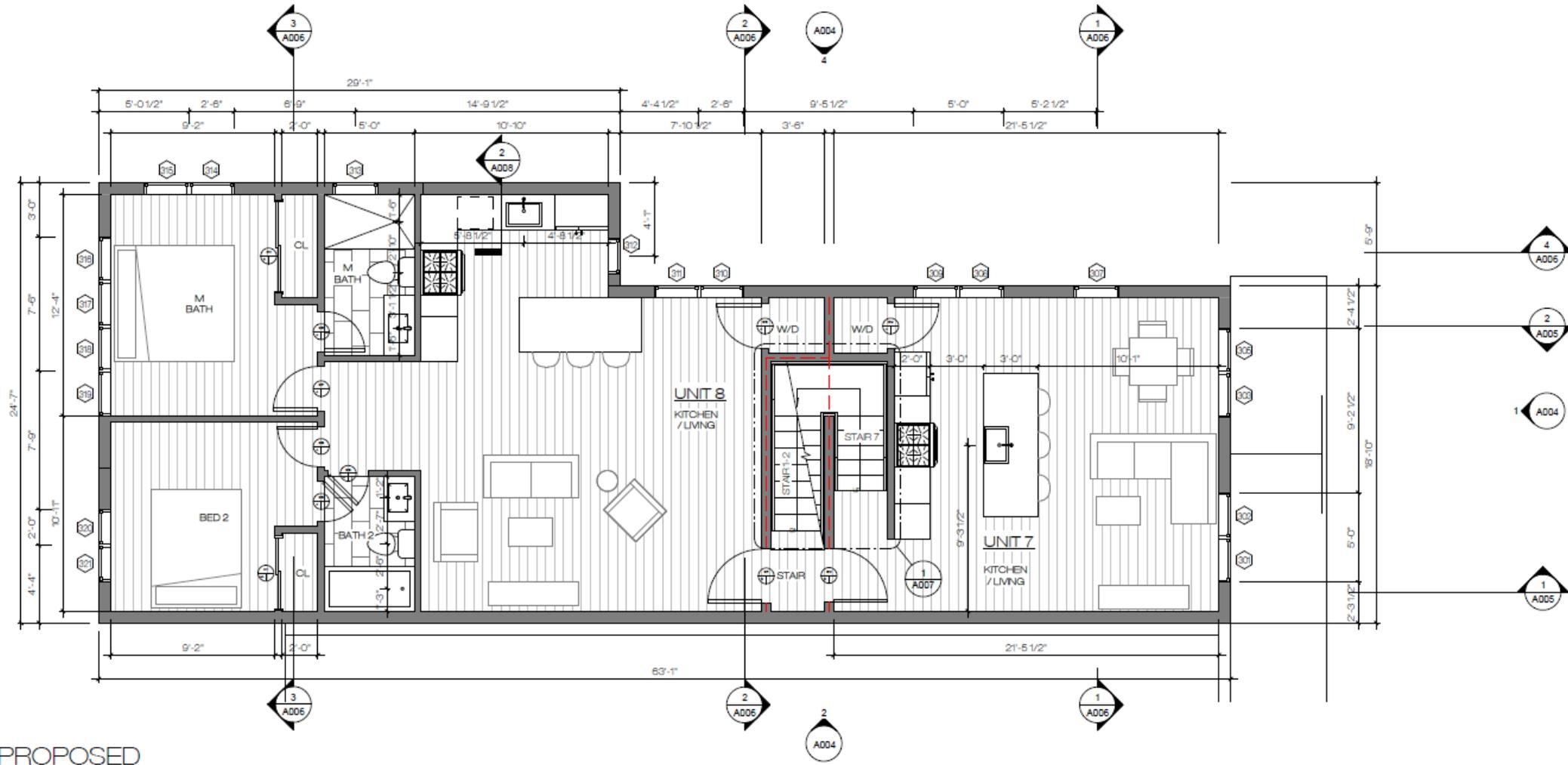
1 CELLAR LEVEL PROPOSED



② FIRST FLOOR PROPOSED



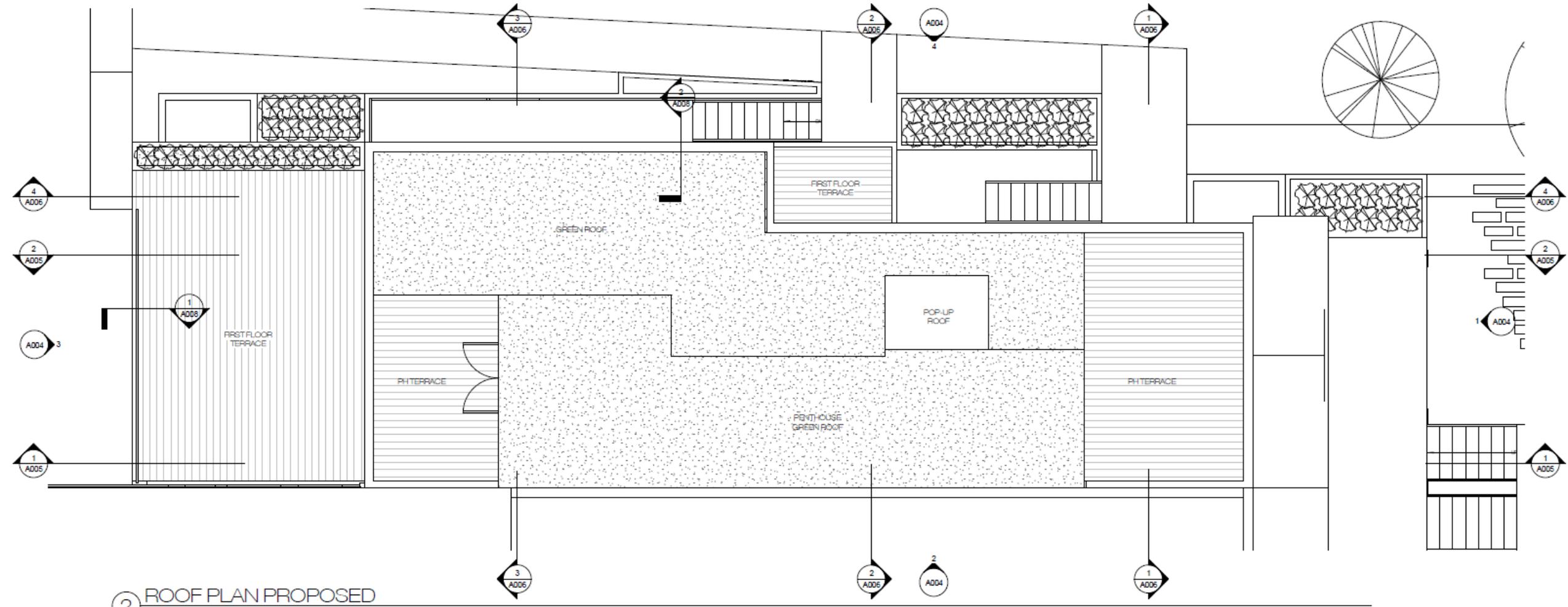
1 SECOND FLOOR PROPOSED



② THIRD FLOOR PROPOSED

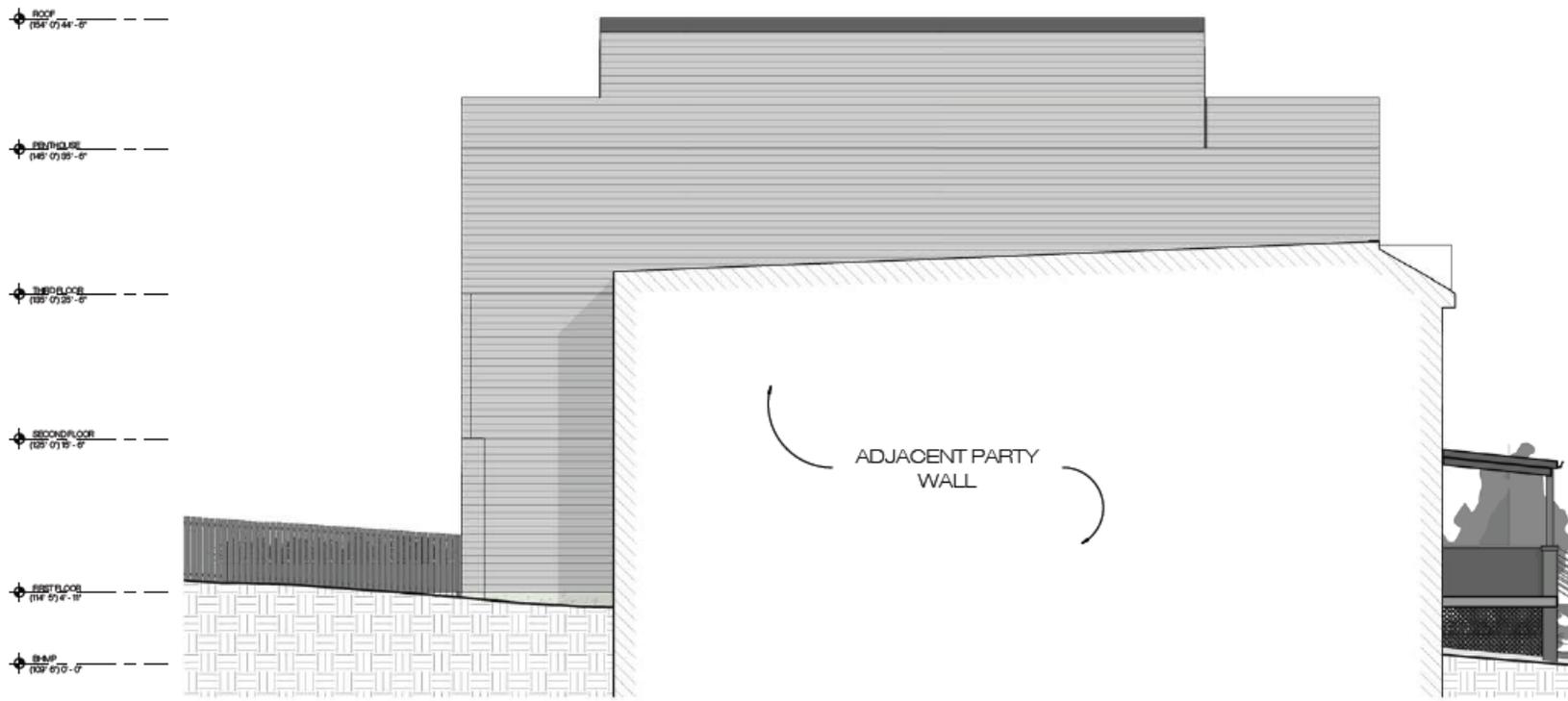






② ROOF PLAN PROPOSED

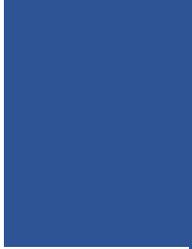




② NORTHWEST (PARTY WALL) ELEVATION

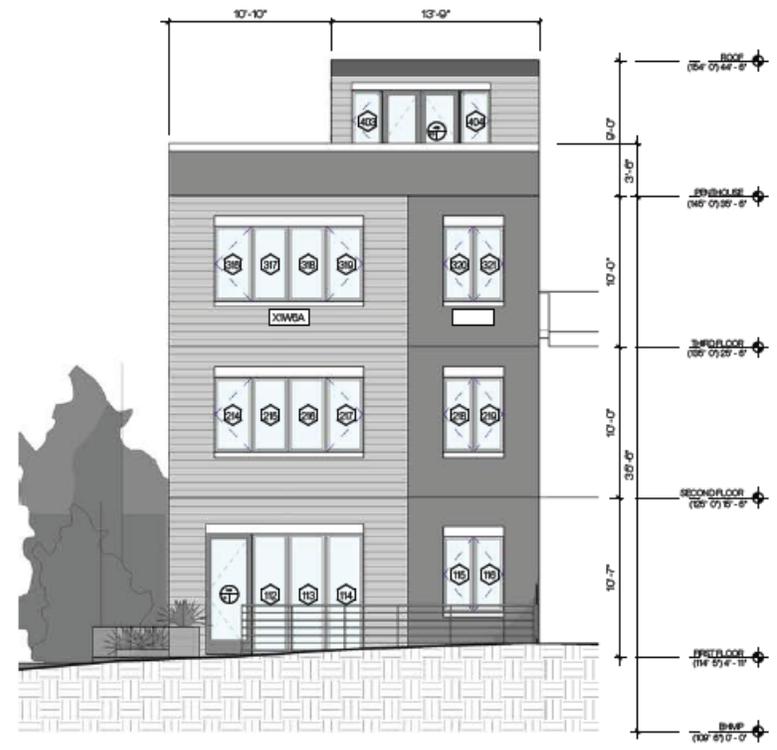


① SOUTHWEST (STREET) ELEVATION





④ SOUTHEAST (SIDE) ELEVATION



③ NORTHEAST (REAR) ELEVATION

# 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 the existing 8 ft. side yard, and the neighboring property to the east 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 the existing eastern 8 ft. side yard; 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></ul>

# Special Exception Requirements of U § 421

Criteria	Project
<p><b><u>U-421.1(a)</u></b>: Existing and planned area schools to accommodate the numbers of students that can be expected to reside in the project; and</p>	<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>
<p><b><u>U-421.1(b)</u></b>: Public streets, recreation, and other services to accommodate the residents that can be expected to reside in the project.</p>	<ul style="list-style-type: none"><li>• DDOT has no objection and Applicant agrees to all conditions</li><li>• Applicant is providing 4 parking spaces, 3 more than what is required</li><li>• 140 ft. from the D6 bus route</li><li>• 1,000 ft. from a Capital Bikeshare station</li></ul>
<p><b><u>U-421.3</u></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.</p>	<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></ul>

## Response to Opposition – Foxhall Terrace

- Late opposition from the 36-unit building (Foxhall Terrace) is apparently based on claims about parking access to the Subject Property.
- Foxhall Terrace makes unsupported claims about the nature of the existing easement benefitting the 4457 MacArthur and allowing parking access. They have submitted no evidence that the easement is limited to single-family use, or that the 12-foot easement in the rear is “reciprocal”.
- However, the Board need not consider this, since this is an aspect of the Application which is self-certified.
- Regarding the actual use of the existing easement, the use of the easement by 4459 is not novel. It will merely increase from one or two cars, to four. A small increase compared to the estimated thirty (30) parking spaces on the Foxhall Terrace property.
- The possibility of illegal parking on Foxhall Terrace is not related to the requested relief, and anticipatory violations are not a valid argument against the Application.
- Any disputes about the validity or use of the easements is a civil matter not before the BZA. Any dispute about whether or not it provides legal access under zoning is a self-certified matter.

## Response to Opposition – 4459 MacArthur

- Owner of 4459 claims Applicant made no “direct” contact with her; not disclosing that 4459 owner had legal counsel with whom the Applicant’s counsel interacted with several times.
- The argument is based primarily on (understandable) construction-related concerns, which DCRA will oversee; and Applicant will endeavor to work with the 4459 owner, including CMA’s or other agreements if 4459 Owner so desires.
- The stated concerns of the 4459 Owner, through counsel, did not appear to leave room for any reasonable compromises, and Applicant’s position is that the proposed number of units, for a building limited to 0.9 FAR in an apartment zone, would not adversely affect the use of the 4459 Property, in an area where the predominate use is multifamily dwelling.
- It is not uncommon for an RA-1 application building to be attached via party wall to an adjacent building. In fact, this Application is more compatible in its location than the large majority of RA-1 applications, as it is located in a very dense area, with several surrounding large apartment buildings, on a major bus route close to Georgetown.

## Response to ANC 3D

- The Applicant disagrees with the ANC's characterization of the Applicant as "combative". That first meeting focused entirely on the Applicant's corporate administrative obligations (quickly corrected) and a Fair Housing allegation unrelated to the BZA application; making productive discussion difficult.
- The Applicant has however, attempted to improve the Application in ways which it had hoped would be productive for its interaction with the ANC, including reducing the number of units, retaining the front porch and entry stairs, setting back the third story, and providing extra parking spaces, and making other improvements involving trash collection and the appearance of the building. The ANC did not acknowledge any of these changes in its analysis. Further, the Applicant's counsel disputes the ANC's claim that the Applicant was "dismissive and disdainful" or "chastising".
- ANC 3D uses the example of a structural "snow-load" report that it provided to the Applicant. The Applicant has not yet hired its engineer, and such issues will be addressed at the permitting stage. Applicant's counsel explained this to the SMD, who had sent the report. Applicant can assure the BZA that DCRA takes this information very seriously, as it is involved with numerous projects where resolution of such issues are required.

## Response to ANC 3D

- ANC 3D notes its primary concern is construction-related impacts on the 4459 owner's building. Perfectly understandable. But not before the Board in its consideration of the Application.
- The only comment in the ANC report related to the BZA criteria involved the concern about noise. The Applicant will be happy to work with the 4459 owner and can provide effective noise-mitigation structural materials between the two buildings, but also notes that the number of units does not necessarily predict noise level; and also notes that there is a 36-unit apartment building facing the other side of the 4459 property.
- **Findings**. The ANC concludes that the Applicant does not meet the special exception criteria for the side yard relief because of its impact on the 4459 owner's property, which is clearly not affected by the less than one foot of side yard relief on the opposite side from the 4459 building.

**Questions?**