

# BZA Application No. 20603

**1709 17th Street, NW  
Abdollah Poozesh  
February 2, 2022**

Board of Zoning Adjustment

District of Columbia

CASE NO.20603

EXHIBIT NO.65

**Sullivan & Barros, LLP**



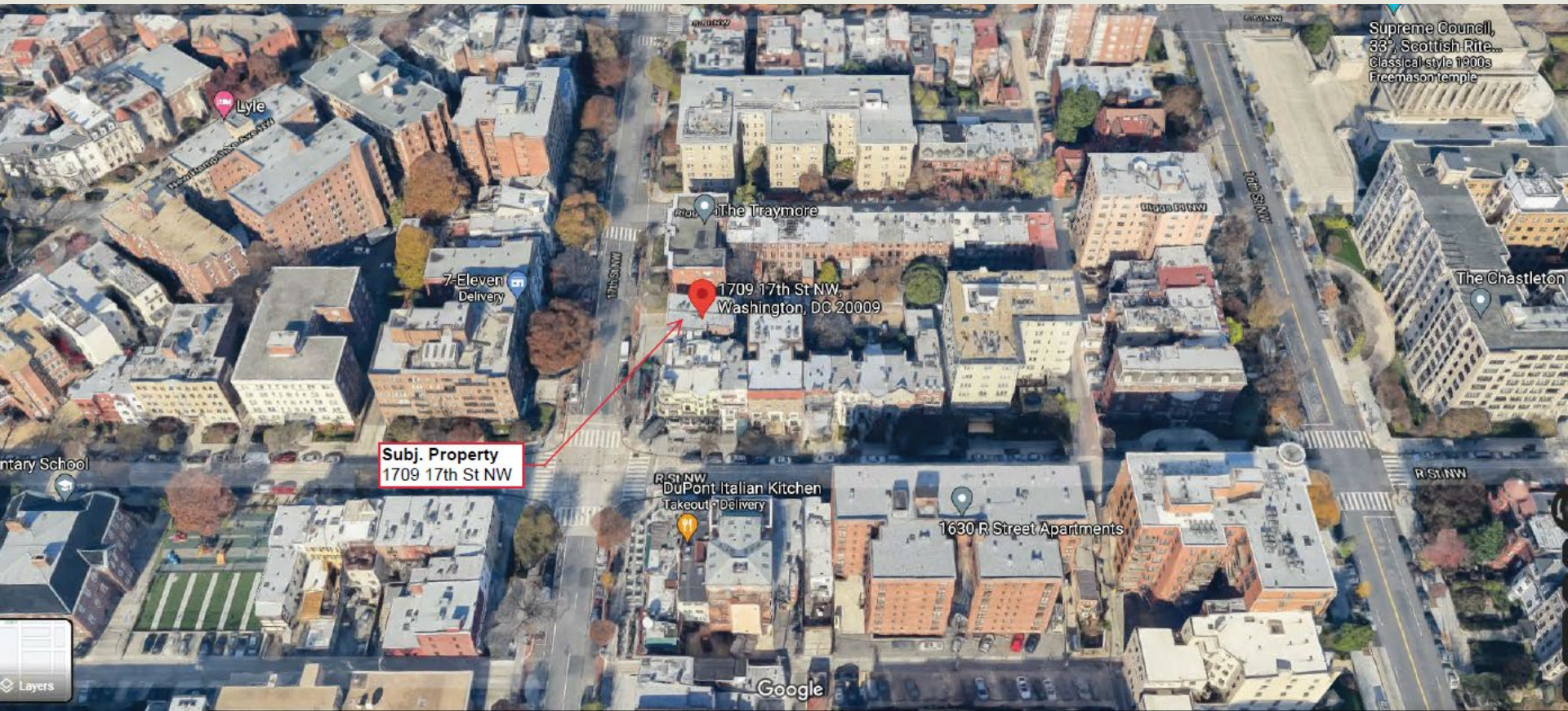
# Overview and Requested Relief

- The Subject Property is currently improved with a mixed-use building; The first floor is occupied by “Picasso Gallery Custom Framing” and the upper floors consist of residential use.
- The Applicant is proposing to construct a small addition over an existing paved area at the rear to be used solely for interior space for the framing shop - proposing to extend the Addition to the rear lot line and is not providing a rear yard.
- The area is characterized by commercial and residential uses which occupy large portions of their respective lots (1641 R for instance, is at max FAR (or possibly now beyond max), and 100% lot occupancy for all 4 levels, while 1709 17<sup>th</sup> is about 60% of the FAR of 1641 R).
- .

Item	Regulation	Existing	Proposed	Relief
Rear Yard	15 ft	11.25 ft.	0 ft. (below 25 ft.)	Special Exception

# Community Support

- The Applicant has obtained support from the adjacent owner at 1711 17th Street.
- The Applicant has also received additional support from the owners of 1618 Riggs Place, 1622 Riggs Place, 1626 Riggs Place, and 2222 12th Street.
- There are many form letters in opposition, but as noted by the Office of Planning, it is unclear whether the people who signed these form letters were basing their opinions on 1641's BZA/HPRB approved plans or on what 1641 had actually constructed beyond those approvals.



Supreme Council,  
33° Scottish Rite...  
Classical style 1900s  
Freemason temple

Lyle

The Traymore

7-Eleven  
Delivery

1709 17th St NW,  
Washington, DC 20009

The Chastleton

Primary School

Subj. Property  
1709 17th St NW

R St NW  
DUPont Italian Kitchen  
Takeout Delivery

1630 R Street Apartments

R St NW

Layers

Google

1709 17th St NW  
Washington, District of Columbia

Google

Street View

1717 17th St NW

1711 17th St NW

Subj. Property  
1709 17th St NW

1639-1641 R St NW



Map inset showing the location of 1709 17th St NW in Washington, DC.

R St NW

Washington, District of Columbia

Google

Street View

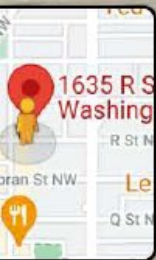
1639-1641 R St NW

1637 R St NW

1700 17th St NW

1637

Some Place Else  
BAR & GRILL  
1637 R ST NW



Google

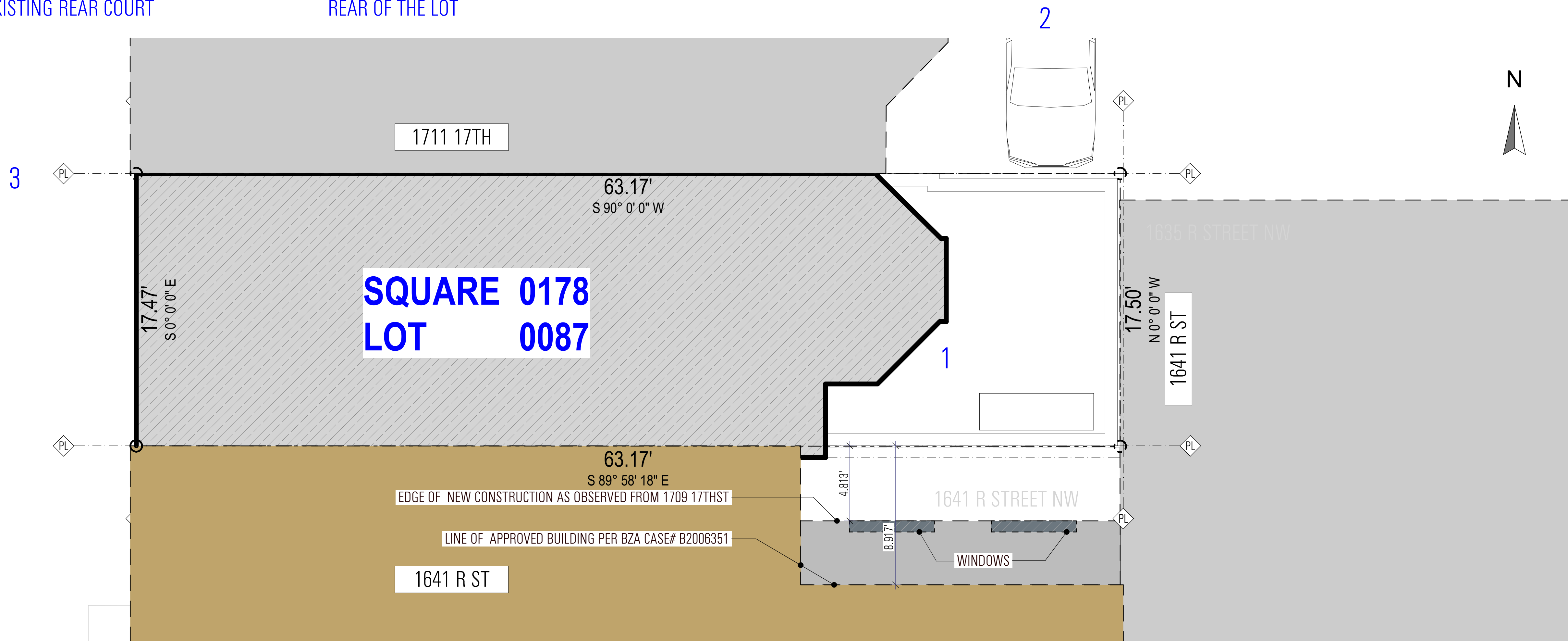


Development Standards								
	Floor Area Ratio (max.) <sup>1</sup>	Height (ft.)	Penthouse Height (ft.)/Stories	Lot Occupancy (percentage)	Rear Yard (ft.) <sup>2,3,4</sup>	Side Yard (ft.)	Green Area Ratio	Zoning Regulation Reference
MU-18	3.5	65	12 (1 story)	100	15 ft.	None required; however, if a side yard is provided it shall be at least 2 in. wide for each 1 ft. of height of building but no less than 5 ft.	0.30	Subtitle G, Chapter 6
	4.2 (IZ)	70 (IZ)	18 ft. 6 in. (Second story permitted for penthouse mechanical space)					
	1.5 (non-residential)							

1 - NORTH EAST VIEW FROM EXISTING REAR COURT

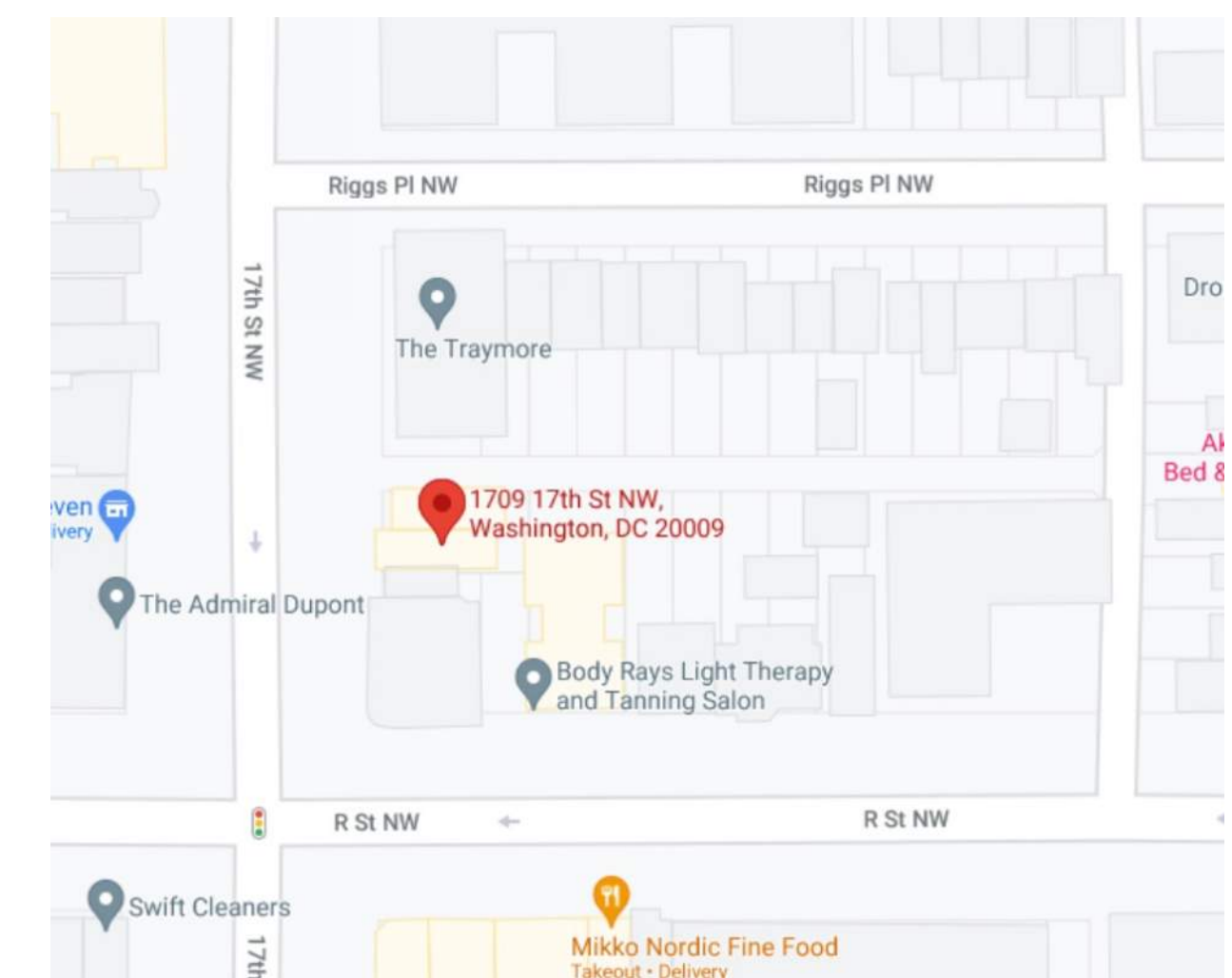
2 - SOUTH VIEW FROM ALLEY TOWARD REAR OF THE LOT

3 - STREET VIEW TOWARD ALLEY FROM 17TH STREET



PROJECT SITE AREAS

EXISTING BLDG FOOTPRINT	858.11
PARCEL / LOT	1,105.31
PROPOSED ADDITIONAL FOOTPRINT BELOW 25'	248.85

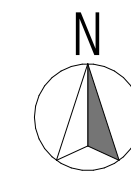


VICINITY MAP

SITE SCHEMATIC

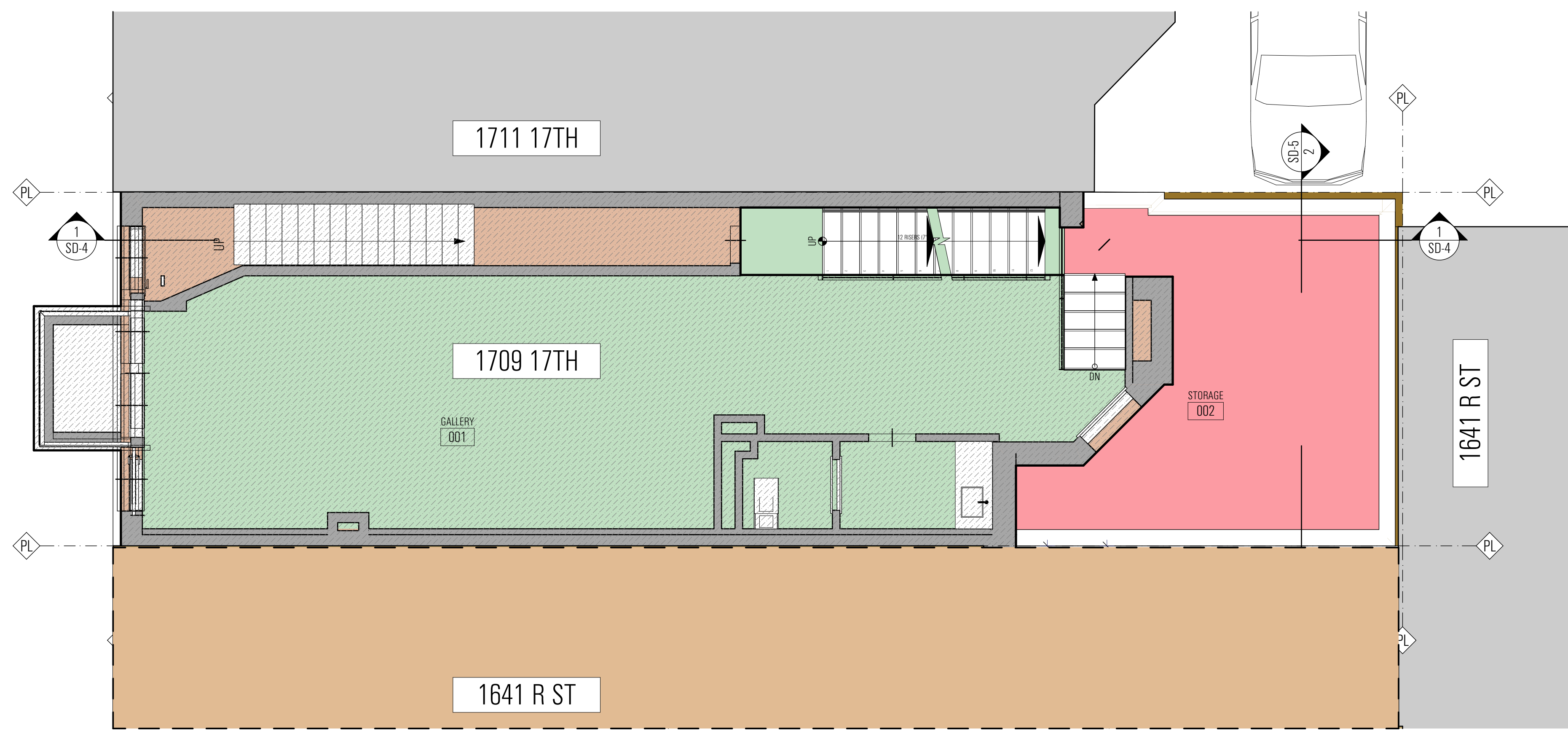
SD-1

1 ARCHITECTURAL SITE PLAN (PROPOSED NEW)  
SCALE: 1/4" = 1'-0"



EXISTING COMMERCIAL SPACE

PROPOSED NEW CONSTRUCTION



1 1st FLR / GROUND FLOOR  
SCALE: 1/4" = 1'-0"

FLOOR PLANS

SD-2

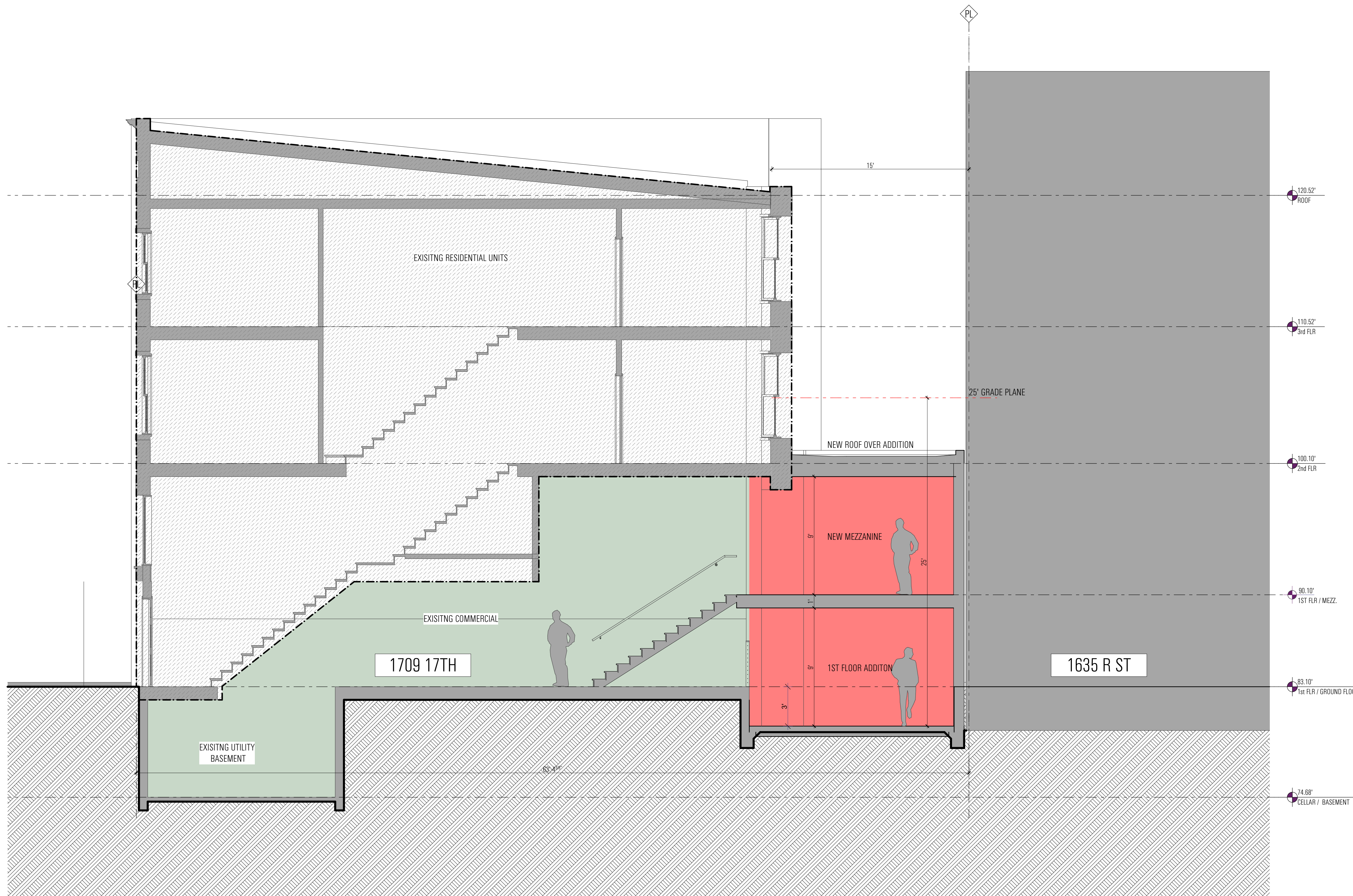
PICASSO GALLERY  
SCHEMATIC DESIGN - PRELIMINARY APPROVAL REVIEW

1/6/22









EXISTING COMMERCIAL SPACE

PROPOSED NEW CONSTRUCTION

120.52' ROOF  
 110.52' 3rd FLR  
 25' GRADE PLANE  
 100.10' 2nd FLR  
 90.10' 1ST FLR / MEZZ.  
 83.10' 1st FLR / GROUND FLOOR  
 74.68' CELLAR / BASEMENT

1709 17TH

1635 R ST

1 SECTION  
 SCALE: 1/4" = 1'-0"

BLDG SECTION

SD-4

PICASSO GALLERY  
 SCHEMATIC DESIGN - PRELIMINARY APPROVAL REVIEW

1/6/22



EXISTING COMMERCIAL SPACE

PROPOSED NEW CONSTRUCTION

1635 R ST NW

1709 17TH STREET NW  
17'-6"

1641 R STREET NW

EXISTING RESIDENTIAL UNITS

NO WINDOWS ON THIS WALL

LINE OF APPROVED BUILDING

OBSERVED NEW CONSTRUCTION

120.52'  
ROOF

110.52'  
3rd FLR

100.10'  
2nd FLR

90.10'  
1ST FLR / MEZZ.

83.10'  
1st FLR / GROUND FLOOR

74.68'  
CELLAR / BASEMENT

SKYLITE

ROOF

EXISTING ALLEY PARKING

NEW MEZZANINE

NEW MEZZANINE

1ST FLOOR ADDITON

1709 17TH

1ST FLOOR ADDITON

1635 R ST

1641 R ST

1709 17TH

EXISTING COMMERCIAL

EXISTING UTILITIES  
BASEMENT

BLDG. SECTION

SD-5

1 SECTION  
SCALE: 1/4" = 1'-0"

PICASSO GALLERY  
SCHEMATIC DESIGN - PRELIMINARY APPROVAL REVIEW

1/6/22





BORDERING WALL ROSEBUD LIQUOR TO THE NORTH



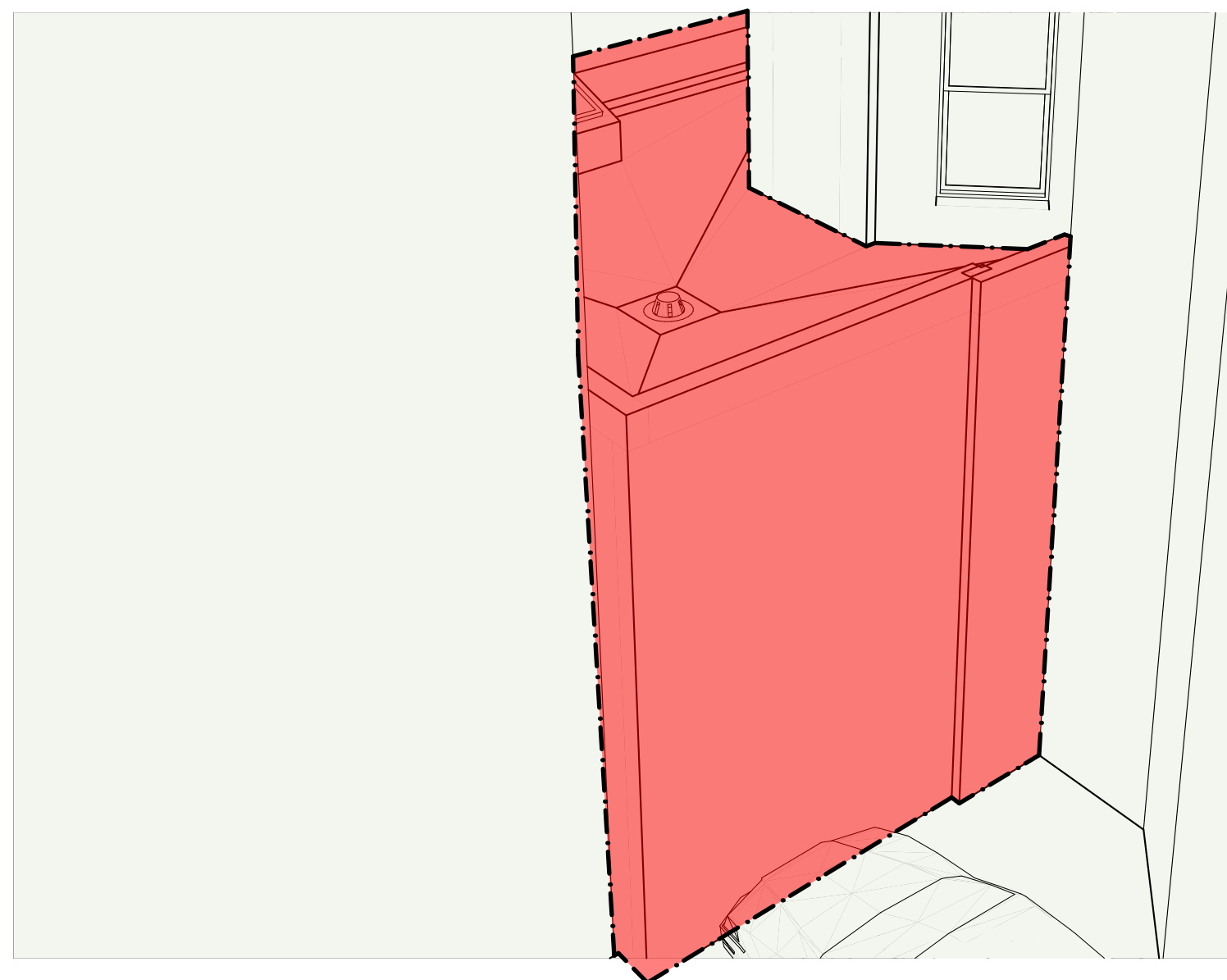
PICASSO GALLERY WALL AT THE REAR



SOUTH PROPERTY LINE  
(NEW DEVELOPMENT WITH 100% LOT OCCUPANCY)



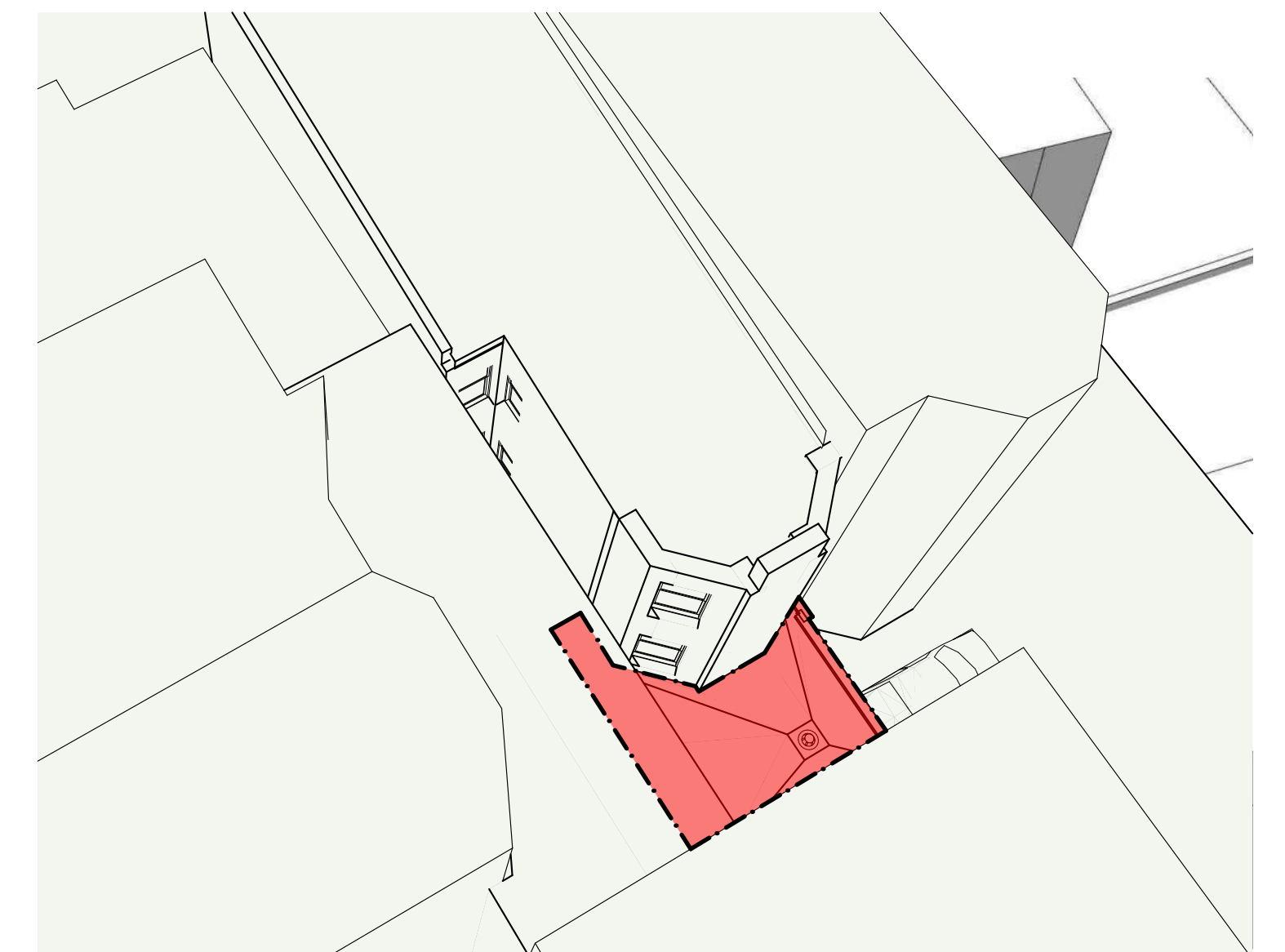
VIEW FROM ALLEY LOOKING  
TOWARD SOUTH PROPERTY LINE



NEIGHBORS WALL ON OUR EAST PROPERTY LINE



SOUTH PROPERTY LINE AT NEW DEVELOPMENT WALL



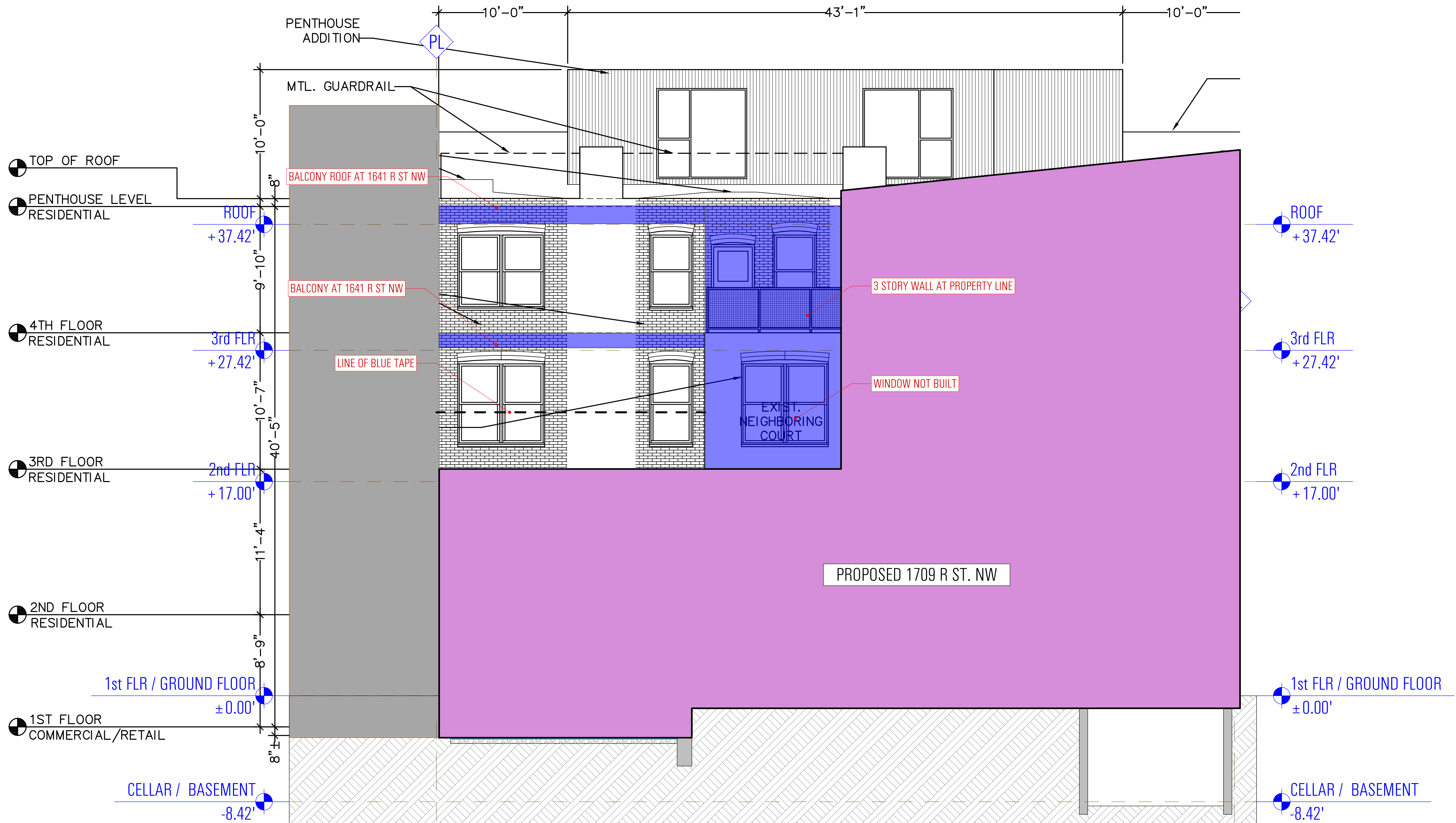
SITE MASSING / PHOTOGRAPHIC EXHIBITS

SD-6



PHOTOGRAPHIC EXHIBITS

SD-7



1 NORTH ELEVATION  
SCALE: 1/4" = 1'-0"

NORTH ELEVATION

SD-8

# Response to Party Status

- The plans presented by Mr. Grant, illustrate clearly that, when the Opponent eventually corrects its non-compliant construction, only two windows on the 1641 Building would face the side building wall of the Proposed Addition – and that wall would be nearly nine (9) feet away from those two windows. That wall is also due north of those two windows. At this direction and this distance, there will be no adverse effect at all on the use, light, or air, of that particular unit or any other unit within the 1641 R Building.
- As shown, even if you go by the Opponent’s elevations, the windows on the third and fourth levels of the 1641 Building would have wide-open views beyond the nine (9) feet. It is just misleading to claim that the Proposed Addition “eliminates the possibility” of a habitable unit behind those two windows. It is absurd to claim that the third level is potentially so affected, and the Opponent has submitted no evidence to support this claim.

# Response to Party Status

- Opponent makes the completely unsupported – and unbelievable - claim that the Proposed Addition’s wall, nearly nine (9) feet away from two north-facing windows, *“will eliminate the possibility of a north-facing apartment on the second floor, and potentially on the third floor as well, as the north facing windows provide 100% of the light and air to those apartments.”*
- Light: The Proposed Addition is to the north. The Board is well aware, and has found on numerous occasions, that structures do not cast shadows to the south; and that the sun, even in summer, does not project sunlight from the north to the south. In this case, Opponent seems to be claiming that the sun comes up over its 4-story building and then bends around to provide light to the two (2) second-story windows, but for the Proposed Addition nine (9) feet to the north then blocking that sunlight.
- Air: There is nearly nine (9) feet between the row of two windows and the Proposed Addition, and we are not aware of any decision where this Board would say that nine feet, in the mixed-use zone, does not provide sufficient “air” to apartment windows.



# Response to Party Status

## Views:

From BZA Order No. 18787:

In any event, this Board has found on a number of occasions that “it is well settled in the District of Columbia that a property owner is not entitled to a view across another person’s property without an express easement. *See* BZA Order No 18330 (*quoting Hefazi v. Stiglitz*, 862 A.2d 901, 911 (D.C. 2004)); *see also* Z.C. Order No. 12-02 (stating that “a property owner is not entitled to a view, light, or air across another person’s property without an express easement, and a property owner has no right to a view across another person’s property... The Commission finds that the view sheds and property values of [the opponents] are not protected by any restrictive covenants or by the Zoning Regulations”).

# Response to Party Status

## Views:

From BZA Order No. 18330

“...it is well-settled in the District of Columbia that a property owner is not entitled to a view across another person's property without an express easement. See *Hefazi v. Stiglitz*, 862 A.2d 901 (D.C. 2004). This Board and the Zoning Commission have consistently found that a property owner has no right to a view across another person's property. See, e.g., BZA Order No. 13518, BZA Order No. 13305, Z.C. Order No. 11-03.”

# General Requirements of Subtitle X

# § 901.2

Criteria	Project
1) “Granting relief will be in harmony with the general purpose and intent of the Zoning Regulations, and Zoning Maps.”	<ul style="list-style-type: none"><li>• The purpose and intent of the MU-18 Zone is to “Permit medium-density mixed-use development.</li><li>• Accordingly, the granting of the special exception is in harmony with the general purpose and intent of the MU-18 Zone, as it proposes a small addition for the existing commercial use and is not proposing to increase the intensity of the use.</li><li>• The Proposed Addition complies with the commercial lot occupancy requirements.</li><li>• 100% rear yard relief is not uncommon in the MU zones, including approvals allowing the blocking of at-risk windows.</li></ul>
2) “Granting relief will not tend to affect adversely, the Use of Neighboring Property in accordance with the Zoning Regulations and Zoning Maps.”	<ul style="list-style-type: none"><li>• As noted above – the Opponent has not, and can not, show that granting relief adversely affects the use of its property.</li></ul>

# Rear Yard Relief: Requirements of G § 1201

Criteria	Project
a) No apartment window shall be located within forty feet (40 ft.) directly in front of another building;	<ul style="list-style-type: none"><li>• The Applicant is not proposing residential use in the proposed addition.</li></ul>
b) No office window shall be located within thirty feet (30 ft.) directly in front of another office window, nor eighteen feet (18 ft.) in front of a blank wall;	<ul style="list-style-type: none"><li>• The Applicant is not proposing office use in the proposed addition.</li></ul>
c) In buildings that are not parallel to the adjacent buildings, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be considered in determining distances between windows and appropriate yards;	<ul style="list-style-type: none"><li>• The Applicant is not proposing any windows in the addition, on any wall.</li></ul>
d) Provision shall be included for service functions, including parking and loading access and adequate loading areas	<ul style="list-style-type: none"><li>• The Applicant is not required to provide any parking or loading.</li><li>• The trash is currently taken out through the front door and put in a trash bin around the corner (shared by Rosebud Liquors directly adjacent).</li><li>• The Gallery receives a weekly delivery for supplies, which is also taken directly to the front of the Building.</li></ul>

Questions?