



May 13, 2019

**Meridith Moldenhauer**

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Frederick L. Hill, Chairperson  
Board of Zoning Adjustment  
441 4th Street, NW, Suite 200S  
Washington, DC 20010

**RE: BZA Application for Oxbridge Development  
2637 4<sup>th</sup> Street NE (Lot 803, Square 3634) – Application for Special Exception Relief**

Chairperson Hill and Honorable Members of the Board:

Please accept for filing the enclosed application of Oxbridge Development QOZB at Fourth Street NE LLC (the “Applicant”). The Applicant requests special exception relief under the requirements for lot width (Subtitle E § 201.1) and tiered retaining wall (Subtitle C § 1401.7).

The application package includes the following materials:

1. Application Form;
2. Fee Calculator Form;
3. Statement of the Applicant;
4. D.C. Zoning Map;
5. Architectural Plans & Elevations;
6. Authorization Letter(s);
7. Form 135 – Zoning Self-Certification;
8. Statement of Existing and Intended Use;
9. Certification of Proficiency;
10. List of Names and Mailing Addresses of Owners within 200 Feet;
11. Surveyor’s Plat;
12. Statement of Community Outreach;
13. Summary of Witness Testimony with Resumes;
14. Photographs of the Property; and
15. Certificate of Service for the Office of Planning and ANC.

We believe that the application is complete and acceptable for filing, and request that the Board schedule a public hearing for the application as soon as possible. If you have any questions, please do not hesitate to contact me on behalf of the Applicant.

LEGAL\40696291\1

Thank you for your attention to this application.

SINCERELY,

COZEN O'CONNOR



Meridith Moldenhauer

**Certificate of Service**

I hereby certify that on this 13<sup>th</sup> day of May, 2019, a copy of this Application with attachments was served, via email, as follows:

District of Columbia Office of Planning  
1100 4<sup>th</sup> Street SW, Suite E650  
Washington, DC 20024  
[planning@dc.gov](mailto:planning@dc.gov)

Advisory Neighborhood Commission 5E  
c/o Bradley Thomas, Chairperson  
[5E05@anc.dc.gov](mailto:5E05@anc.dc.gov)

Advisory Neighborhood Commission 5E  
c/o Patricia Williams, SMD Commissioner  
[5E02@anc.dc.gov](mailto:5E02@anc.dc.gov)



Meridith Moldenhauer

**BEFORE THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**APPLICATION OF  
OXBRIDGE DEVELOPMENT QOZB AT FOURTH STREET NE LLC**

**ANC 5E**

**STATEMENT OF THE APPLICANT**

**I. NATURE OF RELIEF SOUGHT**

This statement is submitted on behalf of the Applicant, Oxbridge Development QOZB at Fourth Street NE LLC (the “Applicant”), the owner of the property located at 2637 4<sup>th</sup> Street NE (Square 3634, Lot 803) (the “Property”), in support of its application for special exception relief, pursuant to 11 DCMR Subtitle X § 901.2, from the requirements for lot width (Subtitle E § 201.1) and terraced retaining walls (Subtitle C § 1401.7) in order to subdivide and create three lots and construct three flats in the RF-1 zone.

**II. JURISDICTION OF THE BOARD**

The Board of Zoning Adjustment (the “Board”) has jurisdiction to grant the special exception relief requested herein pursuant to Subtitle X § 901.2 of the Zoning Regulations.

**III. BACKGROUND**

**A. The Property and the Surrounding Neighborhood**

The Property is in the RF-1 Zone District and has a lot area of 5,750 sq. ft. A copy of the zoning map is attached at **Tab A** and a copy of the Baist Map is attached at **Tab B**. The Property is improved with an underutilized detached, single-family home. The Property is fronts on 4<sup>th</sup> Street NE and abuts a 15-foot-wide alley along its rear lot line. The Property directly abuts two, three-story apartment buildings to the north and south. There is a significant downward slope toward the Property’s frontage, with an existing retaining wall adjacent to 4<sup>th</sup> Street NE to account for the change in grade.

The Property is located in the Edgewood neighborhood. The surrounding area is generally residential in nature, and includes detached homes, row dwellings and moderate-density apartment buildings. The Edgewood Recreation Center is two blocks to the east of the Property. Two blocks to the north of the Property is the campus of Trinity Washington University. The Rhode Island Avenue corridor is approximately five blocks to the south. The Property is not in a historic district.

### **B. Traffic Conditions and Mass Transit**

The Property is well-serviced by public transportation. The Property is approximately 0.3 miles from the Rhode Island Avenue Metrorail Station and less than  $\frac{3}{4}$  of a mile from the Brookland-CUA Metrorail Station. There are several bus stops within one to two blocks of the Property that provide access to the D8 and G8 lines. There is a Capital Bikeshare station at the Rhode Island Avenue Metro station. There are also two zipcar stations within five blocks of the Property. The Property is classified as “very walkable” per walkscore.com.

### **C. The Project**

The Applicant proposes to raze the existing single-family home, subdivide the Property into three lots and construct three two-family flats (the “Project”). A copy of the architectural plan set is attached at **Tab C**. Each flat will feature one cellar unit and a second unit from the ground floor to the third floor. The three new lots will be approximately 16.67 feet in width and 1,916 sq. ft. in area. *See **Tab C**, Sheet 8.* As part of the Project, the Applicant will provide one Inclusionary Zoning (“IZ”) zoning unit. The Applicant proposes for the IZ unit to be located in the cellar of one of the three flats.

The proposed flats will be attached rowhomes. The northern-most flat will abut the shared lot line with Lot 80. Notably, Lot 80 is improved with an apartment building that has a 10-foot-

wide side yard abutting the Property. The southern-most flat will be built to the shared property line with an apartment building on Lot 81.

The proposed flats will be no greater than 35 feet in height, with three stories plus a cellar. See **Tab C**, Sheet 9. Each flat will have an “open well” stairwell on the third floor that leads to a roof deck. See **Tab C**, Sheet 9. The flats will have a rear yard with one parking space that is accessed from the alley. Each flat will have an approximate lot occupancy of 46%. See **Tab C**, Sheet 8. As attached rowhomes, no side yards are required for the Project. The Project will have a front setback within the range of existing structures on the eastern side of 4<sup>th</sup> Street NE.

In sum, the Project will meet all the by-right development standards in the RF-1 zone, with the exception of lot width and tiered retaining wall area.

#### **IV. NATURE OF SPECIAL EXCEPTION RELIEF SOUGHT AND STANDARD OF REVIEW**

The Applicant seeks special exception relief for the reduced lot width of 16 feet in the RF-1 zone. The Project will exceed the by-right lot area requirements in the RF-1 zone of 1,800 sq. ft., but does not meet the 18-foot lot width. Under Subtitle E § 201.1, flats are permitted by special exception to have a lot width of 16 feet and a lot area of 1,500 sq. ft. provided the Project complies with IZ.<sup>1</sup>

Additionally, the Applicant seeks special exception relief from the requirements for terraced retaining walls. Pursuant to Subtitle C § 1401.7, “retaining walls may be tiered or terraced provided that the width of the area between each retaining wall is at least twice the height of the lower retaining wall.” Here, the area between each retaining wall is less than twice the height of the lower retaining wall. See **Tab C**, Sheets 8-9, 15.

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<sup>1</sup> Under the IZ regulations in Subtitle C § 1000, an owner of a flat may voluntarily agree to comply with IZ set asides, but the use of bonus density in the RF-1 zone is only permitted by special exception. See Subtitle C § 1001.2(e)(3).

Under D.C. Code § 6-641.07(g)(2) and 11 DCMR X § 901.2, the Board is authorized to grant a special exception where it finds the special exception:

- (1) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;
- (2) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and
- (3) Subject in specific cases to special conditions specified in the Zoning Regulations. 11 DCMR Subtitle X § 901.2.

Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific requirements for the relief are met. In reviewing an application for special exception relief, “[t]he Board’s discretion . . . is limited to a determination of whether the exception sought meets the requirements of the regulation.” *First Baptist Church of Wash. v. District of Columbia Bd. of Zoning Adjustment*, 432 A.2d 695, 701 (D.C. 1981) (quoting *Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

**V. APPLICANT MEETS BURDEN FOR SPECIAL EXCEPTION RELIEF**

**A. The Relief is Harmonious with the General Purpose and Intent of the Zoning Regulations and Maps**

i. Lot Width

The lot width relief will be in harmony with the purpose and intent of the Zoning Regulations and related maps. The Project will improve an underutilized lot with five additional housing units, including an affordable unit. As such, the Project will further the purpose of the RF-1 zone to “provide for areas predominantly developed with row houses on small lots.” *See* Subtitle E § 300.1. The surrounding neighborhood features several attached and semi-detached

rowhomes on narrow lots. *See* **Tab C**, Sheet 2. Therefore, the Project's proposed three lots will be in harmony with similar nearby properties.

Further, the special exception for a reduced lot width in the RF-1 zone requires the Applicant to provide an IZ unit. Whereas, IZ would otherwise not apply to the Project because it proposes less than 10 units. *See* Subtitle C § 1001.2. To meet the IZ requirement, the Applicant proposes an IZ unit to be located in the cellar of one of the three flats.

The provision of an IZ unit in the cellar is in harmony with this limitation because the Project is only providing 6 units and, accordingly, the proposed layout is restricted in comparison to a building with 10 or more units. To that end, the pending text amendment in Zoning Commission Case 04-33I is only applicable to buildings that qualify for IZ under the requirements of Subtitle C § 1001.2.<sup>2</sup> The Zoning Regulations contemplate limiting the inclusion of IZ units in cellar space for buildings that are proposing 10 or more units.

ii. Retaining Walls

The height of each retaining wall is fully compliant with the Zoning Regulations. However, the area between the first and second retaining wall is approximately 4'10", and the area between the second and third retaining wall is approximately 5'10". The terraced walls will allow access to each flat from the existing sidewalk while maintain the requisite front setback for the RF-1. As such, relief from the retaining wall area requirement permits the Property to be developed with rowhomes in line with the intent and purposes of the zone by facilitating access to each dwelling unit. *See* **Tab C**, Sheets 8-9, 15. It follows that the retaining wall relief is in harmony with the Zoning Regulations.

**B. The Relief will not tend to Adversely Affect the Use of Neighboring Property**

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<sup>2</sup> There is a proposed text amendment currently pending before the Zoning Commission as part of ZC Case 04-33I. In this proposed rulemaking, the IZ regulations would restrict IZ units from being located in cellar space. The Office of Planning had originally proposed that IZ units not be located in cellar space of apartment buildings only.

i. Lot Width

The reduced lot width for the three proposed lots will not adversely affect the use of neighboring property. The Property is directly adjacent to two, non-conforming apartment buildings that are larger in stature than the proposed flats. The apartment house to the south does not have windows on the side facing the Property. Whereas, the apartment house to the north has a 10-foot yard between the building and the Property.

ii. Retaining Walls

Relief from the width requirements for the area between terraced retaining walls will not adversely affect the use of neighboring property. Given the significant change in grade at the front of the Property, the tiered retaining walls will allow for a visually appealing Project that is sensitive to neighboring properties. Each individual retaining wall will be no taller than 4 feet above the adjacent grade. There is an existing retaining wall that will remain, but would not be a change from current conditions at the Property. Further, the proposed retaining wall closest to each flat will be partially obscured by the front stairway. Existing access to adjacent properties will not be impacted by the retaining wall relief requested.

**C. The Project Satisfies the Special Conditions for Retaining Wall Relief**

In addition to the general special exception standard, pursuant to Subtitle C § 1402.1, special exception relief from the retaining wall requirements under requires that the applicant “demonstrate that conditions relating to the building, terrain, or surrounding area would to make full compliance unduly restrictive, prohibitively costly, or unreasonable.”

The Project satisfies the special conditions for retaining wall relief pursuant to Subtitle C § 1402.1 because full compliance with the tiered area requirements would be unduly restrictive and unreasonable. Due to the steep slope at the front of the Property, the Applicant cannot provide



sufficient access to the Project without terracing the retaining walls between the public space on 4<sup>th</sup> Street and the entries to each dwelling unit. To that end, residential dwellings in the RF-1 zone must provide a front setback “within the range of existing front setbacks” on the same side of the street. Thus, the Project can be pushed back from 4<sup>th</sup> Street only so far while remaining compliant with the front setback requirements. There is insufficient land area between the sidewalk on 4<sup>th</sup> Street and the front set back line to provide for an area between each retaining wall that is twice as much as the lower retaining wall. Accordingly, requiring full compliance with Subtitle C § 1401.7 would be unduly restrictive and unreasonable

**VI. COMMUNITY OUTREACH**

The Applicant has contacted ANC 5E and will be placed on the ANC’s agenda for its May 21<sup>st</sup> meeting. The Applicant will present the Project to ANC 5E at the May meeting and will continue to engage with the ANC and community thereafter.

**VI. CONCLUSION**

For the reasons stated above, the Project meets the applicable standards for special exception relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests the Board grant the application.

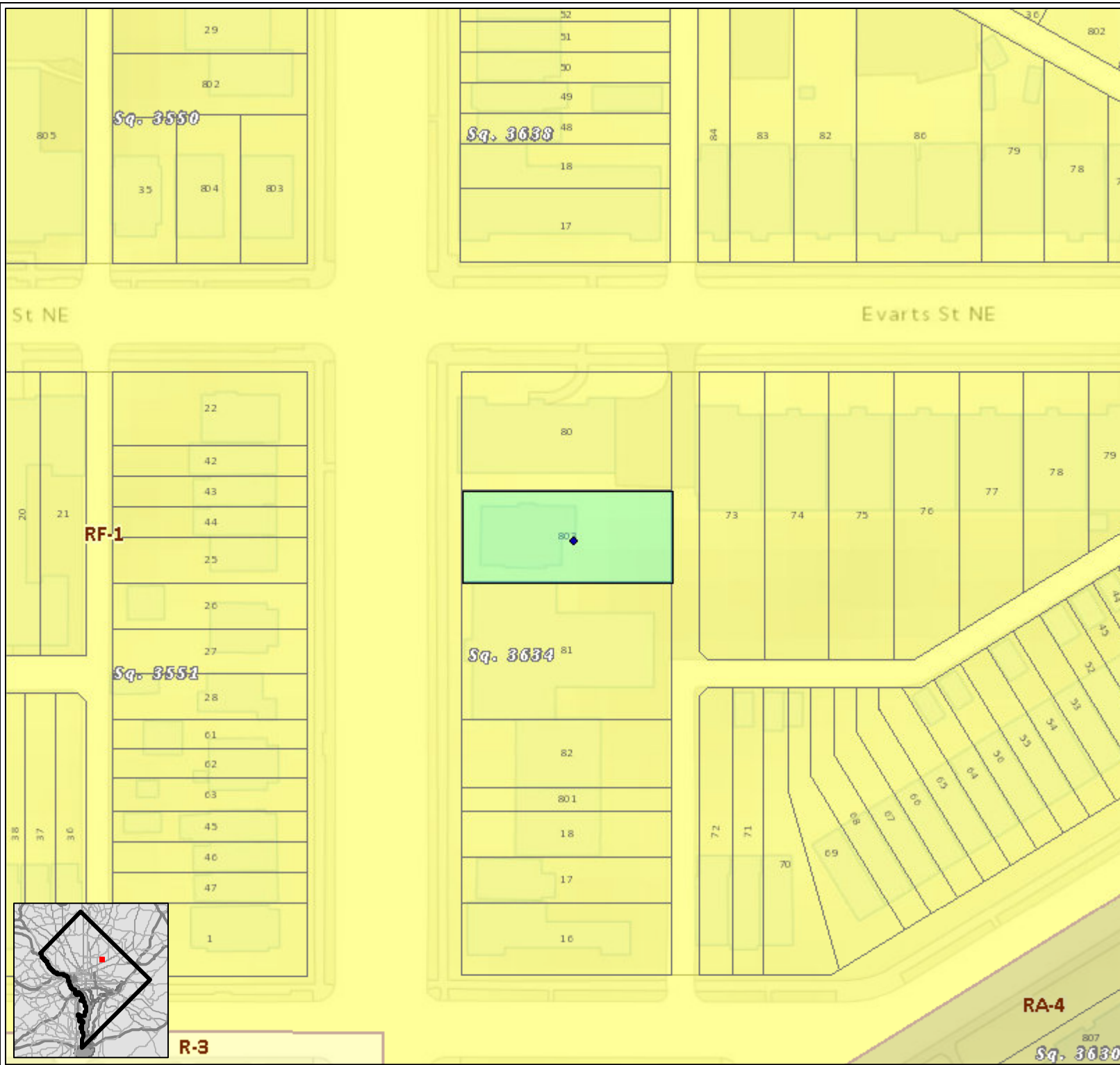
Respectfully Submitted,

COZEN O'CONNOR

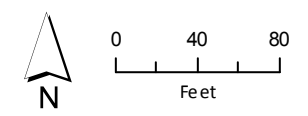


Meridith Moldenhauer  
Eric J. DeBear  
1200 19<sup>th</sup> Street NW  
Washington, DC 20036

Tab A



## Zoning Map of the District of Columbia



Extracted from Online Zoning Information published by the District of Columbia Office of Zoning, DCGIS, and Office of the Chief Technology Officer (OCTO). Exported on: 5/13/2019

To certify zoning on any property in order to satisfy a legal requirement, contact the office of Zoning at the address listed below.

District of Columbia Office of Zoning,  
 441 4th St NW, Suite 200 South, Washington, DC 20001  
 202-727-6311 | dcoz@d.c.gov

Tab B

26	27	28	29	30	31	32
3550						
2666	5	4	3	2		
4265.6	25	"	"	25		
10667						

23	22	21	20	19	18	17
3638						
2875						
4600	16	15	14	13	12	11
116	25	"	"	"	"	"

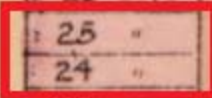
8	7	6	5	4	3	2	1

EVARTS

ST.

7	6	5	4	3	2	1
3551						
2666	5	4	3	2		
4265.6	25	"	"	25		
10667						

27	26	25	24	23	22	21	20	19	18	17	16
3634											
4600											
2875											
4600	15	14	13	12	11	10	9	8	7	6	5
116	25	"	"	"	"	"	"	"	"	"	"



AVE

16	15	14	13	12	11	10
3554						
2666	5	4	3	2		
4265.6	25	"	"	25		
10667						

85

CENTRAL

90

3633

ST. VINCENT

OR



Tab C

existing conditions   aerial photo	2
existing conditions   birds eye views	3
existing conditions   survey	5
zoning map	6
existing site plan	7
proposed site plan	8
proposed building section	9
proposed cellar plan	10
proposed ground floor plan	11
proposed second floor plan	12
proposed third floor plan	13
proposed roof plan	14



# 2637 4th - New Rowhomes

Board of Zoning Adjustment Submission

9 May 2019

Prepared for:

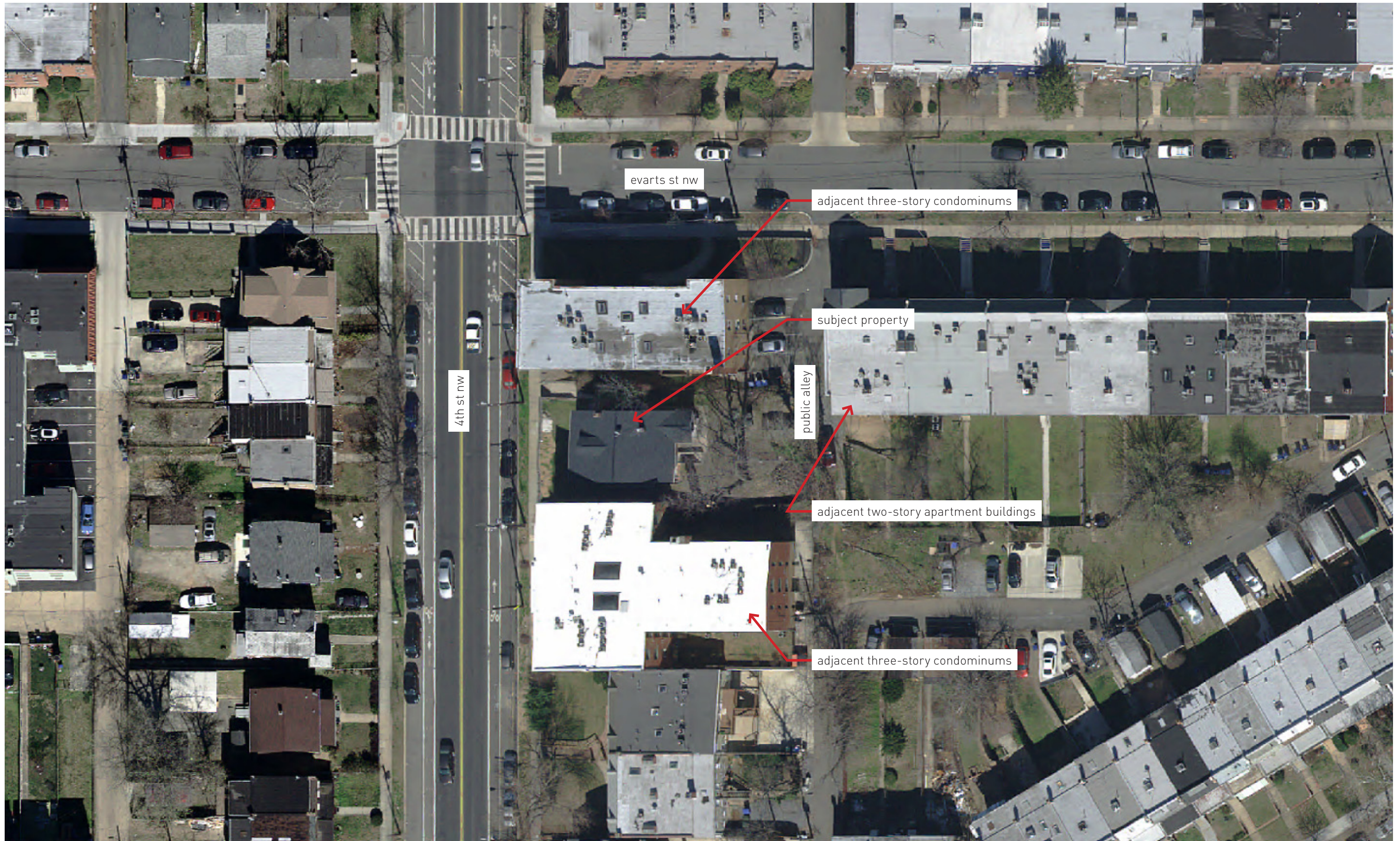
**The Oxbridge Group**  
Elliot Totah

1717 K Street NW, Suite 1110  
Washington, DC 20006  
(301) 294-4150  
etotah @ oxbridgedev.com

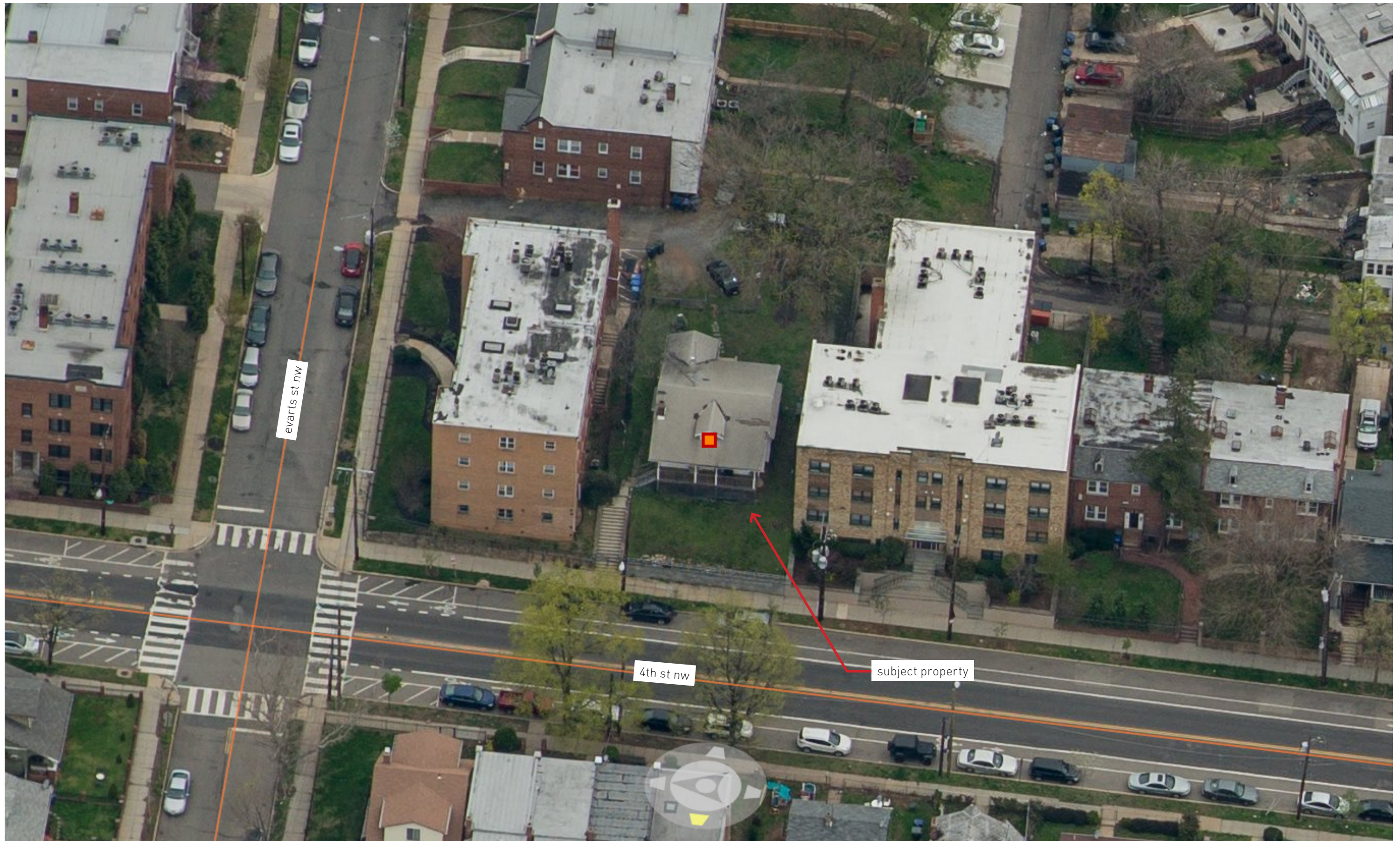
Prepared by:

**Teass \ Warren Architects**  
Will Teass, AIA LEED AP

515 M St SE, Suite 200  
Washington, DC 20003  
202 683 6260  
will @ teass-warren.com









**GENERAL NOTES**

1. SSL: 3634 0803 ZONE: RF-1
2. OWNER: DAVID & JUSTINE NJAFUH  
8020 EASTERN AVENUE, NW  
WASHINGTON, DC 20012
3. TOPOGRAPHIC SURVEY WAS FIELD RUN BY THIS FIRM. VERTICAL DATUM = DC DPW '29 PER FIELD GPS STATIC DATA POST-PROCESSED THROUGH NGS OPUS PROGRAM. BEARINGS ARE REFERENCED TO DISTRICT OF COLUMBIA NORTH, AND COORDINATES ARE REFERENCED TO MARYLAND STATE PLANE (MSP) 1983 PER GPS STATIC DATA ALSO POST-PROCESSED THROUGH NGS OPUS PROGRAM.
4. TOTAL SITE AREA: 5,750 SQ. FT. OR 0.1320 ACRES (RECORD)
5. TITLE REPORT NOT FURNISHED. THIS EASEMENTS AND OTHER TITLE RESTRICTIONS MAY NOT BE SHOWN HEREON.
6. PLAT SUBJECT TO RESTRICTIONS OF RECORD.
7. UTILITIES HEREON ARE SHOWN PER FIELD OBSERVATIONS, AVAILABLE RECORDS AND PER MISS UTILITY DELINEATION. ALL UNDERGROUND UTILITY LOCATIONS ARE APPROXIMATE AND A THIRD-PARTY UTILITY MARKOUT AND/OR TEST HOLES MAY BE REQUIRED TO ASCERTAIN ACCURATE LOCATIONS/DEPTHS.
8. TREE SPECIES/SIZES ARE APPROXIMATE AND A THIRD-PARTY ARBORIST REPORT MAY BE REQUIRED TO OBTAIN ACCURATE TREE DATA.
9. THE PROPERTY SHOWN HEREON IS LOCATED IN FLOOD ZONE "X" (AREAS OF MINIMAL FLOOD HAZARD) PER FIRM MAP PANEL 1100010017 C, REVISED 9/27/2010.

**COMBINED SEWER STRUCTURES**

- (A) TOP=133.04  
INV.IN=126.64 FROM 1  
INV.IN=122.79 FROM E  
INV.IN=121.89 FROM B  
INV.OUT=121.79 TO WEST
- (B) TOP=133.74  
INV.IN=128.49 FROM 2  
INV.IN=124.29 FROM C  
INV.IN=123.89 FROM EAST  
INV.OUT=123.79 TO A
- (C) TOP=148.82  
INV.IN=144.22 FROM 3  
INV.IN=139.37 FROM NORTH  
INV.IN=138.72 FROM EAST  
INV.OUT=138.62 TO D
- (D) TOP=148.09  
INV.IN=137.34 FROM C  
INV.OUT=137.24 TO WEST
- (E) TOP=146.64  
INV.OUT=135.14 TO A

**STORM SEWER STRUCTURES**

- (1) TOP=134.45  
INV.OUT=130.2 TO A  
PIPES NOT VISIBLE
  - (2) TOP=134.28  
INV.OUT=129.6 TO B  
PIPES NOT VISIBLE
  - (3) TOP=149.17  
INV.OUT=143.6 TO C  
PIPES NOT VISIBLE
- \* DENOTES DATA TAKEN FROM DC WATER MAPPING

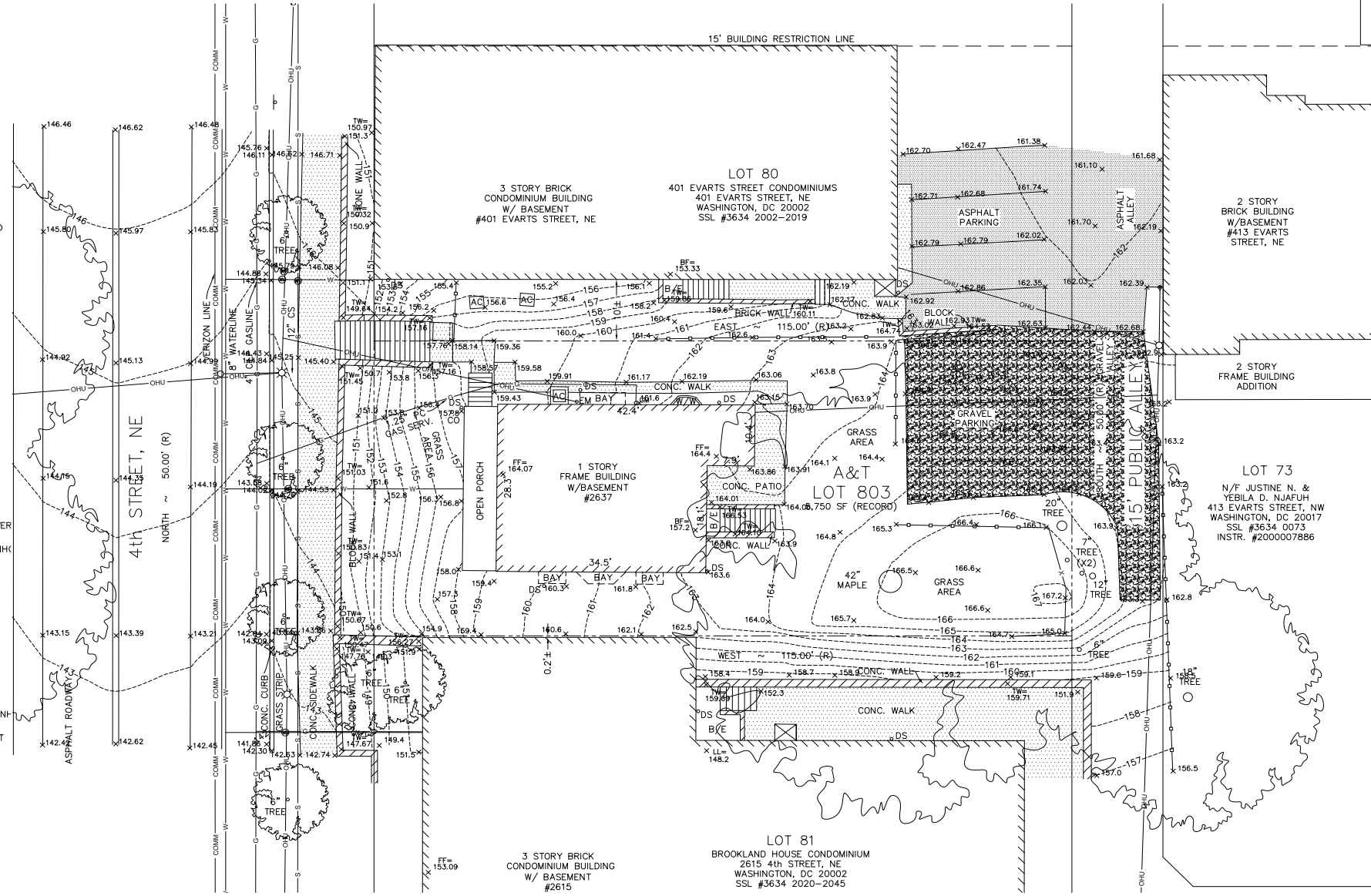
**EXISTING CONDITIONS PLAN LEGEND**

---	PROPERTY LINE	—G—	GAS LINE
▬▬▬▬▬▬	BUILDING FACE	o GM	GAS METER
▬▬▬▬▬▬	DOOR	⊙	GAS VALVE
▬▬▬▬▬▬	WALL	—OHU—	OVERHEAD UTILITY
▬▬▬▬▬▬	WOOD FENCE	12" CS	COMBINED/SANITARY SEWER
▬▬▬▬▬▬	IRON FENCE	⊙ S	COMBINED/SANITARY MANHOLE
▬▬▬▬▬▬	HANDRAIL	12" STM	STORM SEWER
▬▬▬▬▬▬	CURB AND GUTTER	⊙ D	STORM SEWER MANHOLE
•	BOLLARD	⊙ OR	STORM DRAIN
▬▬▬▬▬▬	ASPHALT PAVEMENT	o CO	CLEANOUT
▬▬▬▬▬▬	BRICK PAVEMENT	o DS	DOWNSPOUT
▬▬▬▬▬▬	CONCRETE PAVEMENT	—COMM—	TELECOMMUNICATIONS
▬▬▬▬▬▬	WOOD/LUMBER DECK	⊙ T	TELECOMMUNICATIONS MANHOLE
x 314.1	SPOT ELEVATION	⊙ L	LIGHT POLE/STREET LIGHT
---	5' CONTOUR	⊙ U	UTILITY POLE
---	1' CONTOUR	•	GUY WIRE
⊙	TREE	8" DIP	WATER LINE
⊙	SHRUBBERY/LANDSCAPING	⊙ H	FIRE HYDRANT
⊙	TRAFFIC SIGN	⊙ rec	FIRE DEPT. CONN.
—E—	ELECTRIC LINE	⊙	WATER METER
⊙	ELECTRIC MANHOLE	⊙	WATER VALVE
⊙ EM	ELECTRIC METER	⊙ W	WATER MANHOLE
⊙ EV	ELECTRIC VAULT	⊙	SURVEY TRAVERSE
		⊙	BOUNDARY MONUMENT

**DC BOUNDARY NOTE**  
THIS IS NOT A BOUNDARY SURVEY AND SHOULD NOT BE USED FOR CONSTRUCTION LAYOUT OR FOR PROPERTY LINE DETERMINATION/STAKING.

BOUNDARY INFORMATION SHOWN HEREON WAS OBTAINED FROM THE DISTRICT OF COLUMBIA SURVEYOR'S OFFICE. PROPERTY LINE DIMENSIONS FROM OFFICIAL RECORDS (R) MAY NOT NECESSARILY AGREE WITH ACTUAL MEASURED (M) DIMENSIONS, AND A "SURVEY TO MARK" PREPARED BY A DISTRICT OF COLUMBIA REGISTERED LAND SURVEYOR AND VERIFIED BY THE OFFICE OF THE SURVEYOR MAY BE REQUIRED TO ESTABLISH THE FINAL BOUNDARY LOCATION OF THIS PROPERTY.

RECORD BOUNDARY DATA FOR RECORD LOTS IS TAKEN FROM RECORDED SUBDIVISION PLATS. RECORD BOUNDARY DATA FOR ASSESSMENT & TAXATION (A&T) LOTS IS TAKEN FROM OFFICE OF TAXATION AND REVENUE RECORDS.

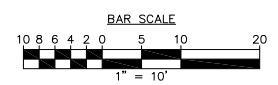


1 STORY BUILDING  
2637 4th STREET, NE  
WASHINGTON, DC 20002  
SQUARE 3634 LOT 803

CIVIL ENGINEER  
HUSKA CONSULTING, LLC  
CHRISTOPHER HUSKA  
718 7TH STREET, NW  
WASHINGTON, DC 20001  
703.425.3862

LAND SURVEYOR  
SUSTAINABLE LAND SURVEYS, LLC  
TIM GREENWOOD  
PO BOX 15450  
WASHINGTON, DC 20003  
571.339.9201

TOPOGRAPHIC SURVEY  
A&T LOT 803  
**SQUARE 3634**  
2637 4th STREET, NE  
DISTRICT OF COLUMBIA



SUBMITTAL DESCRIPTION  
MM/DD/YYYY

DRAWING TITLE  
DRAWING NO.

Location

Square, Suffix, Lot  
**3634 0803**

[Tax Record](#)

Premises Address  
**2637 4TH ST NE**

Owner Name  
**OXBRIDGE DEVELOPMENT QOZB AT  
 FOURTH STREET NE LLC**

Owner Address  
**1717 K ST NW STE 1110  
 WASHINGTON DC 20006-5345**

Imagery



[View Perspective Imagery](#)  
[Google Maps](#)  
[Bing Maps](#)

Zoning

Planned Unit Development  
**None**

Zone District  
**RF-1**

Campus Plan  
**None**

Historical Landmark  
**None**

Historical District  
**None**



