



June 14, 2022

VIA EMAIL/ IZIS

Chairman Anthony Hood
D.C. Zoning Commission
441 4th Street, N.W., Suite 200S
Washington, DC 20001

Re: Z.C. Case 21-18/ Dance Loft Ventures LLC – Consolidated PUD & ZMA
Party in Opposition’s Post-hearing Statement

Chairman Hood:

Through undersigned counsel, the Party in Opposition, Friends of 14th Street (“FOFS”) submits this Post-hearing Statement in response to the Zoning Commission’s direction and the Applicant’s Post-hearing Statement. The following documents are attached:

1. FOFS’ response to Applicant’s statements regarding massing, alternative designs, impacts and financial viability.
2. Photographs showing impact of project as requested by Chair Hood. The photographs submitted by the Applicant are deficient in their failure to depict critical perspectives.
3. Rebuttal of Dance Loft benefits.

Additionally, the Applicant submitted a second Post-hearing Statement concerning the attempts at negotiation with FOFS. The Applicant suggests to the Zoning Commission there is no point in further discussion between the parties. This statement is apparently a response to the words of encouragement offered by the Commissioners at the close of the hearing to the Parties to attempt to work out differences. We disagree with the Applicant’s unilateral decision to terminate talks. FOFS has made sincere and sustained efforts to communicate its concerns about the proposed development project and to explore the potential of a reasonable compromise between the parties. The Applicant’s false assertion, that FOFS has been unwilling to meet to discuss compromise, however, is simply contrary to the facts.

On April 20, 2022, counsel first contacted undersigned counsel to discuss the application. Presumably, counsel understands that FOFS is comprised of a group of many concerned members of the 14th Street community. Accordingly, the logistics, timing and ability to confer with our clients is more complicated than that of DLV and its counsel. Nonetheless, I promptly contacted my client and responded to Jeff Utz, by email just four days later, on April 24, and indicated FOFS’s willingness to engage in the proposed discussion. Six days later, on April 30, 2022, counsel for both Parties spoke by

telephone to discuss the application. Subsequent to the May 12th Zoning Commission hearing, and while FOFS was in the process of preparing its response to DLV's post-hearing submission, the Applicant emailed undersigned counsel at 4:30 pm on a Friday afternoon requesting another meeting. I immediately circulated that email to the committee comprising FOFS for necessary authorization as to how to respond. However, just 3 business days later – and before FOFS could even respond - Applicant's counsel filed a letter with Zoning Commission disingenuously asserting that FOFS was uninterested in meeting. The record shows this self-serving assertion is false. FOFS has always been willing and remains willing to meet with the Applicant DLV to engage in reasonable discussions.

We appreciate the Commission's consideration.

Sincerely,



Edward L. Donohue

Enclosures

DISTRICT OF COLUMBIA ZONING COMMISSION

POST-HEARING STATEMENT
Z.C. Case 21-18

CERTIFICATE OF SERVICE

I certify that on the 14th day of June, 2022 I emailed a true copy of the foregoing Post-hearing Statement to Advisory Neighborhood Commissions 4C (4c03@anc.dc.gov) and counsel for the Applicant, David Lewis and Jeffrey Utz, at (david.lewis@goulstonstorrs.com; jutz@goulstonstorrs.com).

/s/ Edward L. Donohue
Edward L. Donohue (Bar No. 412301)
ATTORNEY FOR
FRIENDS OF 14TH STREET

Dated: June 14, 2022

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ORONOCO STREET
ALEXANDRIA, VIRGINIA 22314
TELEPHONE: (703) 549-1123

Post Hearing Testimony Dana Baughns – June 14, 2022

DC Zoning Case 21-18 Dance Loft Ventures

The Applicant attempts to pad the record with laudatory statements about compromise and good faith when its actions have been and continue to be the complete opposite. In the Applicant's Post Hearing Statement, it goes to questionable lengths to paint a picture of conciliation, compromise and good faith on their end and unreasonableness by the FOFS. I submit again to this Commission; this is patently false and disingenuous. First, the last and remaining offer from FOFS in compromise was and has remained primarily to scale the mass of the building on 14th Street. This FOFS proposal accepts the number of units proposed, despite all the other concerns regarding parking and infrastructure—that is compromise. There has been no counter to the FOFS proposal—again it is a “shall be because it is, and it is because it shall be” conclusion from the Applicant as to why it can change nothing related to scaling the building differently on 14th Street.

The Applicant's Post Hearing Statement (Construction, Pricing, and Information) does a few things of note:

First, it attempts to course correct this Commission by stating: “Although the Commission is not required as part of the PUD process to evaluate alternative massing scenarios, the Applicant has in good faith studie[d] ways to modify the Project to satisfy neighbors' concerns. The Applicant's study of alternatives goes above and beyond the typical PUD process and is in the spirit of community engagement and responsiveness that has been the hallmark of the Applicant's approach to its relationship with nearby residents.” I'd like to believe the oath taken by the Commissioners is more than Zoning by the numbers and as the Chair has stated the goal is to find a compromise. Simply restating no, is not a compromise and that is all the Applicant has done again in its Post Hearing Statement.

Second, the Applicant submits that it conducted a study on massing on 14th Street, which the Applicant has not provided, but on information and belief want's the Commission and FOFS to accept that the phantom study found that the Applicant needed to keep its originally proposed design. The Commission should recall in the record of the first hearing, when the Applicant also stated that the alternate proposals were provided to abutting property owners in June 2021, pre application. There was no mention of a study at the hearing, it's not in the record, and importantly should not form the basis for any statement from the Applicant that it has attempted to address this massing concern in good faith.

Third, the alleged resulted in the currently-proposed design—which was also the first proposed design in 2021 pre application and pre 14th Street massing proposal from residents at June 2021 meeting. As stated in testimony from Dana Baughns, all attendees were told that the Project has enough support that it did not need to spend money working up other designs for us to consider. The Applicant's Post Hearing Statement also states that the current proposed building “balances minimizing impacts on neighbors and providing an extraordinary affordable housing

commitment. That balancing act is the purpose of the PUD process. “ How? How does the proposed structure not massed on 14th Street actually balance any part of the FOFS concerns on height and scale? This Commission must require more than the conclusory statements of the Applicant.

Fourth, the Applicant’s statement that “[a]ny potential adverse impact on nearby properties, whether commercial or residential, is more than justified by the Project’s affordable housing, arts, and other public benefits, particularly when considered in light of the Project’s mitigation of potential impacts.” What is the mitigation from the Applicant in regard to height and scale? None. This statement from the Applicant in its Applicant’s Exhibit K and again in the Post Hearing Statement as the “why” the Applicant has endeavored to do absolutely nothing to mitigate, compromise or collaborate on the central issue of scale and height. This is the Applicant’s position – to be clear it is not about meeting with FOFS or even offering a counter proposal. It’s simply, the Applicant’s way and if it impacts FOFS, that just comes with all public benefit the Applicant is bringing as if FOFS are not tax paying public citizens and property owners themselves.

Post-Hearing Testimony Friends of Fourteenth Street (FOFS) – June 14, 2022

DC Zoning Case 21-18 Dance Loft Ventures

In Exhibit 795 the Applicant, explains that the financial viability of the project is predicated on DHCD funding. In the first paragraph, Dance Loft asserts, without support, that evaluating alternative options for the proposed project are simply unworthy of exploration. DLV falsely claims, however, that they have, "in good faith, studied ways to modify the Project to satisfy the neighbor’s concerns." In fact, the conversation regarding changing the massing of the project was only undertaken, in earnest, during the Zoning Commission Hearing held on Thursday, May 5, 2022. Since March 2021, at meetings between the Applicant and neighbors, any conversations

about massing and/or reduction in the size of the Project were simply dismissed by DLV out of hand. Rather, Applicant simply insisted that they had achieved the right balance with respect to all the elements of the Project: unit count, size, construction

type, cost, and ability to secure funding. The ANC initially sided with the applicant and refused to sponsor or support neighborhood concerns about the Project's height, density, and bulk. Consequently, FOFS and the neighbors most directly impacted by this project remain opposed to the project. See Exhibit 525E (The ANC4C letter of support).

Furthermore, the Applicant’s financial data is flawed in several respects. The Applicant asserts that the "expected construction cost for this Project is \$338/SF, while DHCD's construction cost subsidy for a wood frame or light gauge steel construction building in excess of five stories is \$351/sf." The Applicant goes further to explain that a "seven or eight-story plus penthouse design exceeds the DHCD construction cost limit by a substantial margin even if only a portion

of the Project is seven or eight stories." Regardless of the subsidies offered by DHCD or the proposed construction type utilized for this Project, the purview of the Zoning Commission is primarily concerned with matters related to land-use and design embodied in the PUD process. Accordingly, FOFS has largely confined its opposition to matters of height, bulk and density overshadowing our homes. Nonetheless, while the cost of the Project is of little concern to us - except that to the extent that the Applicant has made an issue of it - the careless and incorrect data submitted by DLV belies the credibility of their representations.

The \$338/SF cost of construction for the Project seems exceedingly high for a 4-5 story brick skinned light gauge or wood framed building when one considers that high-rise construction (typically 12-story concrete construction) for apartment buildings currently ranges from \$250 - \$295/SF in the DMV region. Why is this project so expensive to begin with (roughly 25% higher than more complex construction)? and why is Dance Loft so resistant to accommodate FOFS's reasonable request to remass or reduce the size of the building? If that is the case, it appears to us that the \$351/SF DHCD subsidy could accommodate some remassing of the building - even if it does approach 20-30% in additional costs. By bringing the financial considerations of the Project into the mix of issues that Dance Loft proffers as part of its application, the entire Project proforma should be included in the testimony or offered as an exhibit. Balancing the design and budgetary considerations are the sole responsibility of the Applicant. However, such considerations are of great concern to FOFS to the extent that this Project will dominate and overwhelm our neighborhood. Why then should this Project be accorded any other special consideration from the DC Government by way of subsidies when it is so detrimental to our neighborhood? Given that the subsidies to DLV at issue are funded by local tax dollars, DLV's economic interests must not be advanced at the expense of the devastating negative impact to our neighborhood.

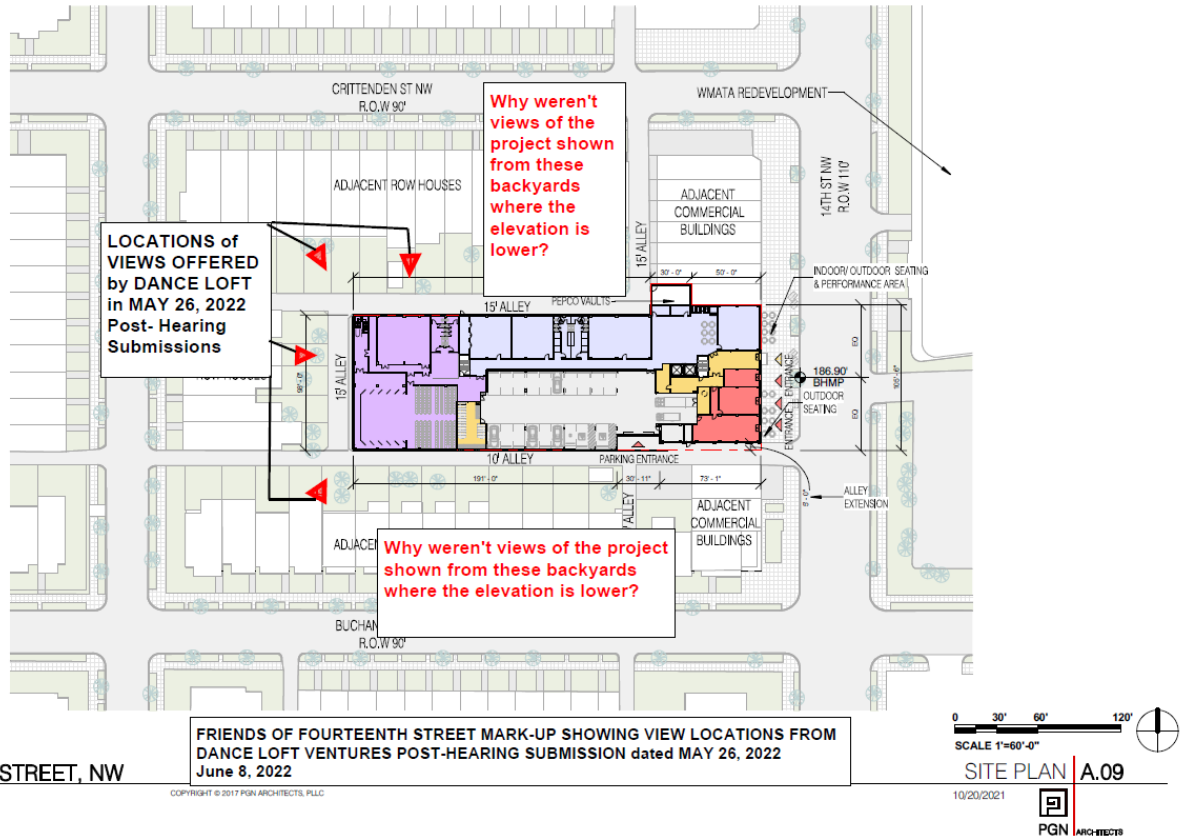
The Applicant self-servingly asserts that

"[Its] study of alternatives goes above and beyond the typical PUD process and is in the spirit of community engagement and responsiveness that has been the hallmark of the Applicant's approach to its relationship with nearby residents."

As is evident in recent hearings, FOFS members could not possibly characterize their interaction with the Applicant over the past 15 months or so as "going above or beyond," in any way other than for the number of meetings at which it has done nothing more than refuse any reasonable consideration of FOFS's concerns.

Photographs Requested by Chair Hood from Rear of Properties Showing Impact of Project

Introductory Graphic – This shows the vantage points that the Applicant chose and call into question why they were selected and not perspectives that show the views from the neighboring residences.



4618 14TH STREET, NW

FRIENDS OF FOURTEENTH STREET MARK-UP SHOWING VIEW LOCATIONS FROM DANCE LOFT VENTURES POST-HEARING SUBMISSION dated MAY 26, 2022 June 8, 2022

SCALE 1"=60'-0"
SITE PLAN | A.09
10/20/2021
PGN ARCHITECTS

The Applicant chose a small sample of views from the western portion of the property, which works to its advantage. The topography changes and the project appears to be smaller and less imposing on the neighborhood. Our actual photos emphasize the proximity of the project and the visual impact it will have if approved.

1. Views from the rear of 1414 Crittenden









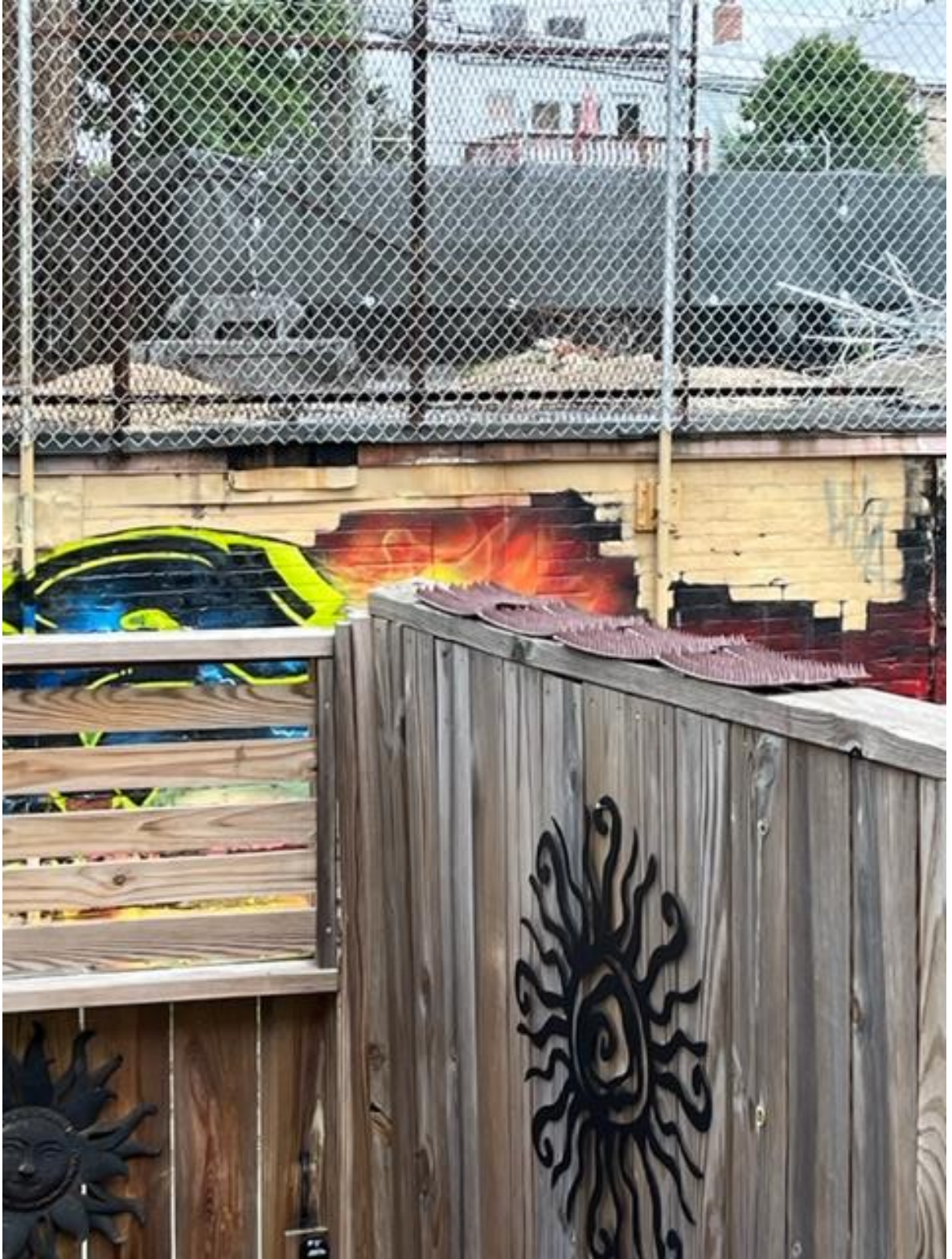






2. Views from the rear of 1417 Crittenden





3. Views from the rear of 4609 15th Street











4. Views from the rear of 1411 Buchanan Street

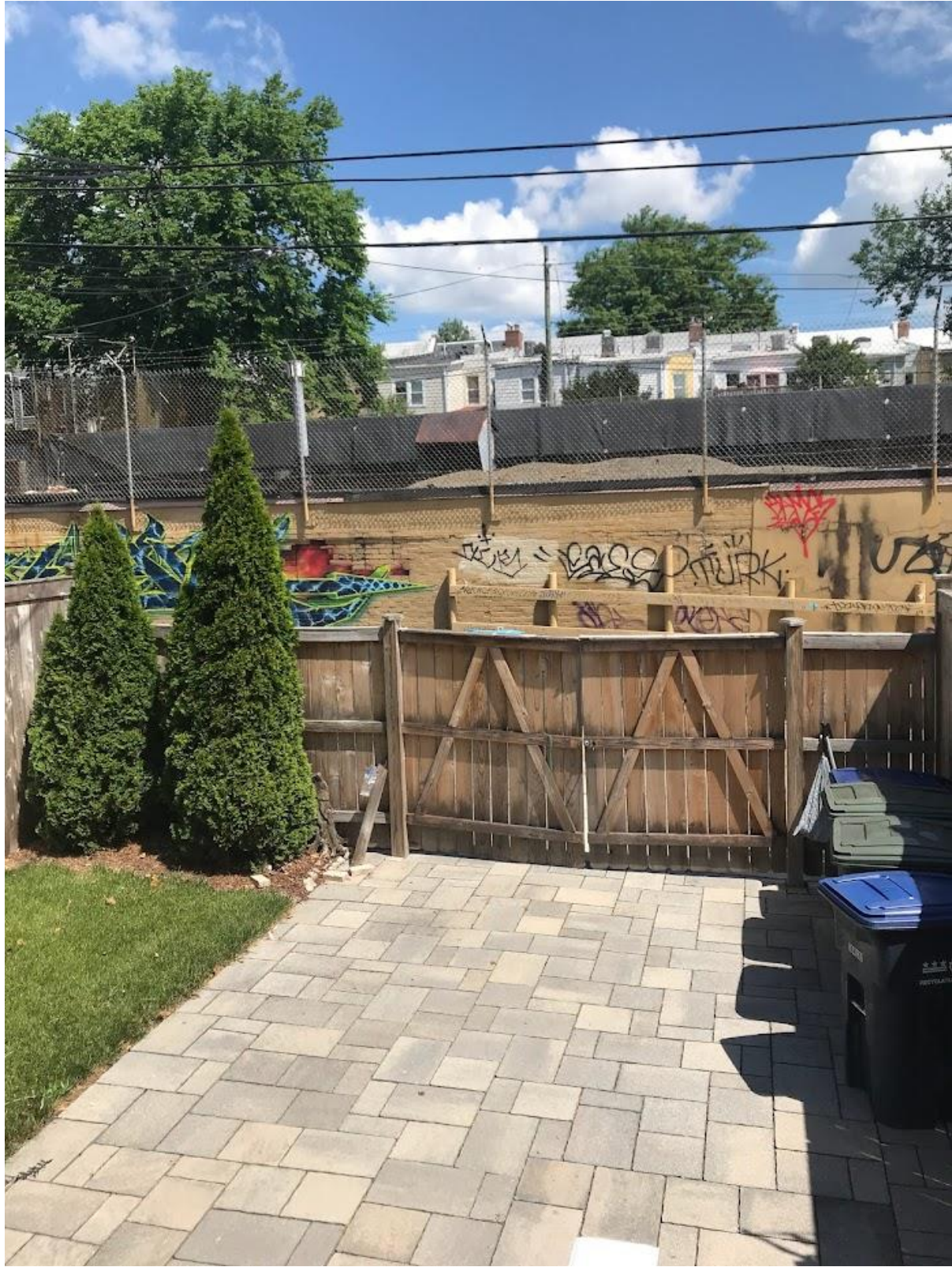


















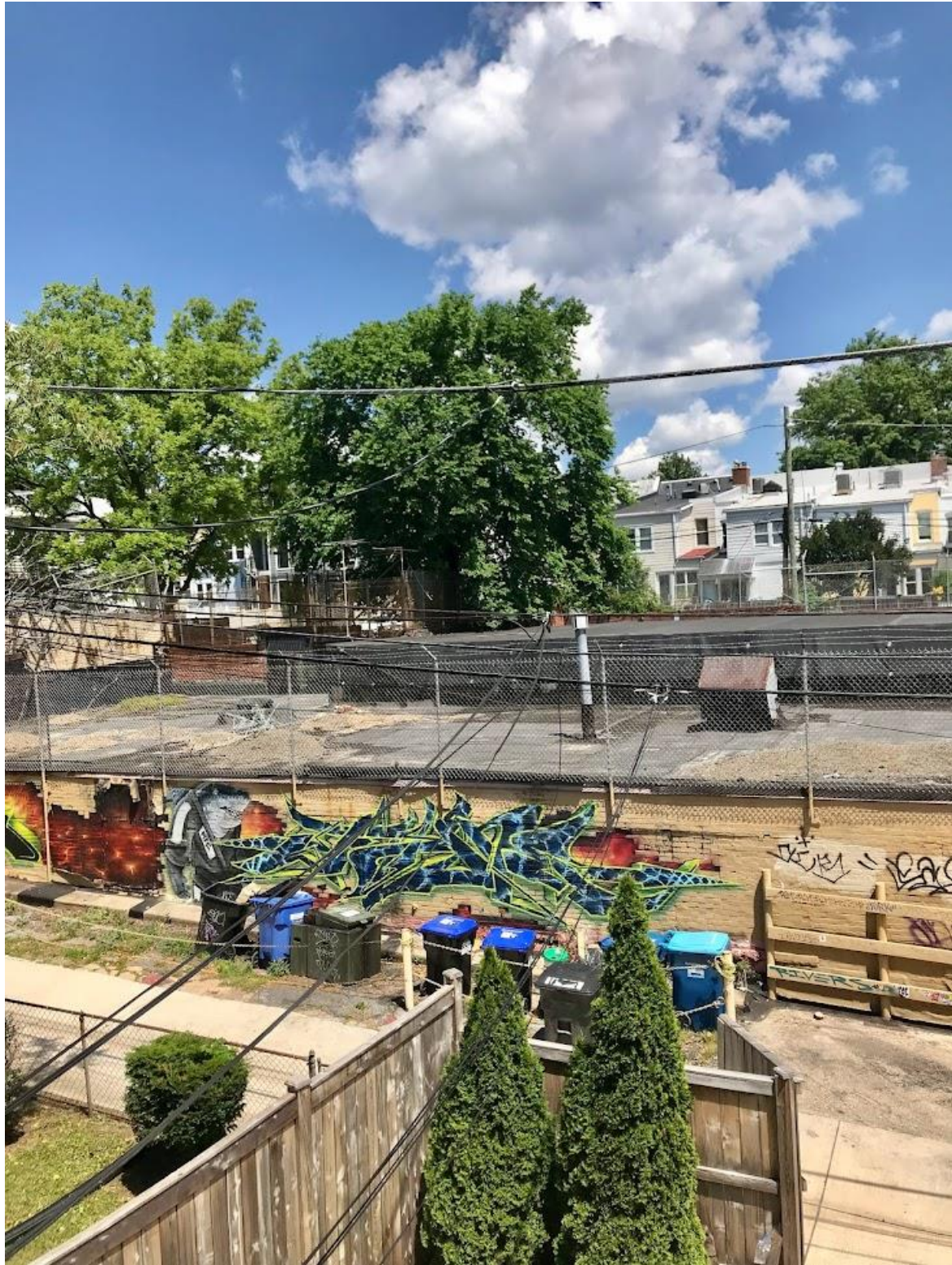














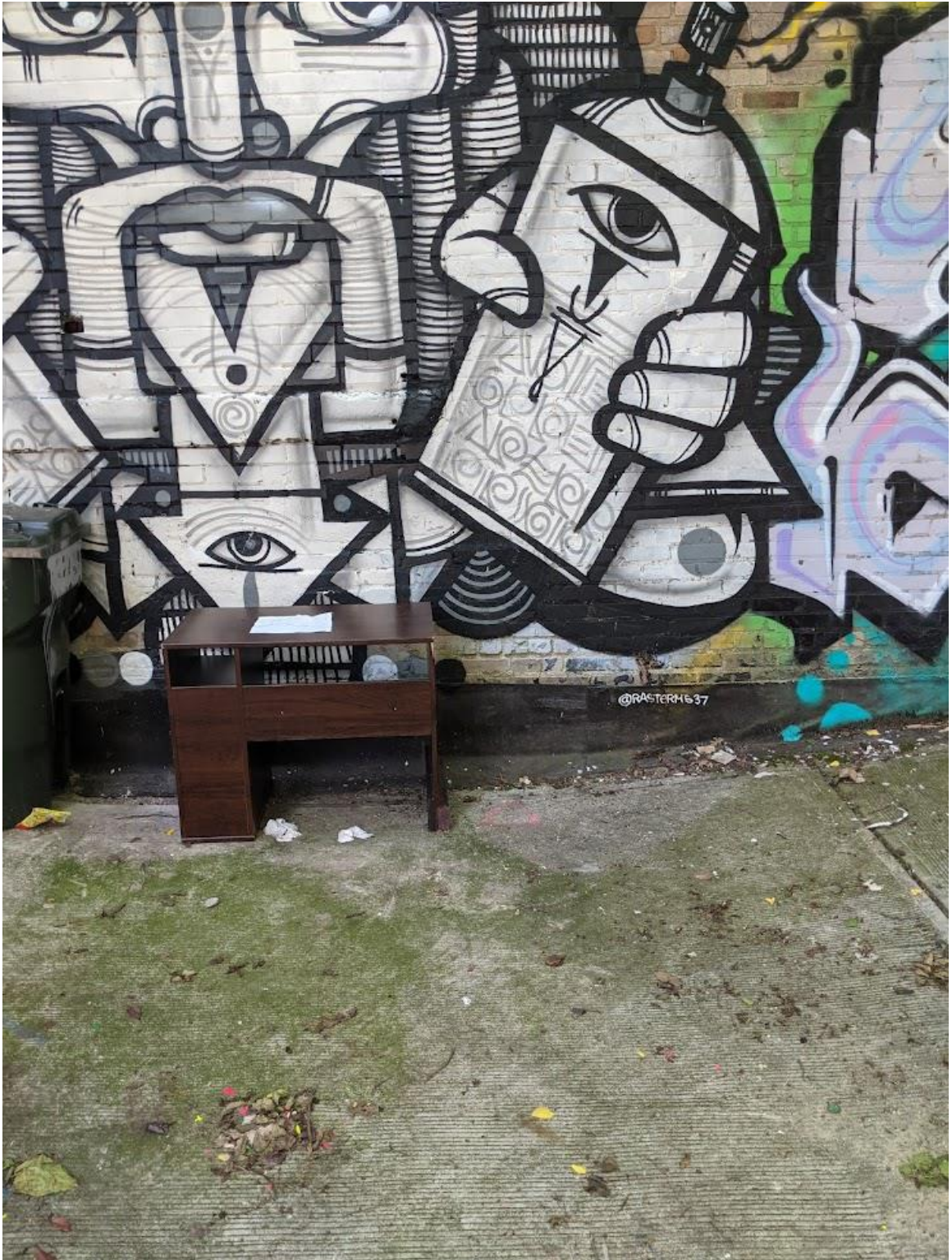




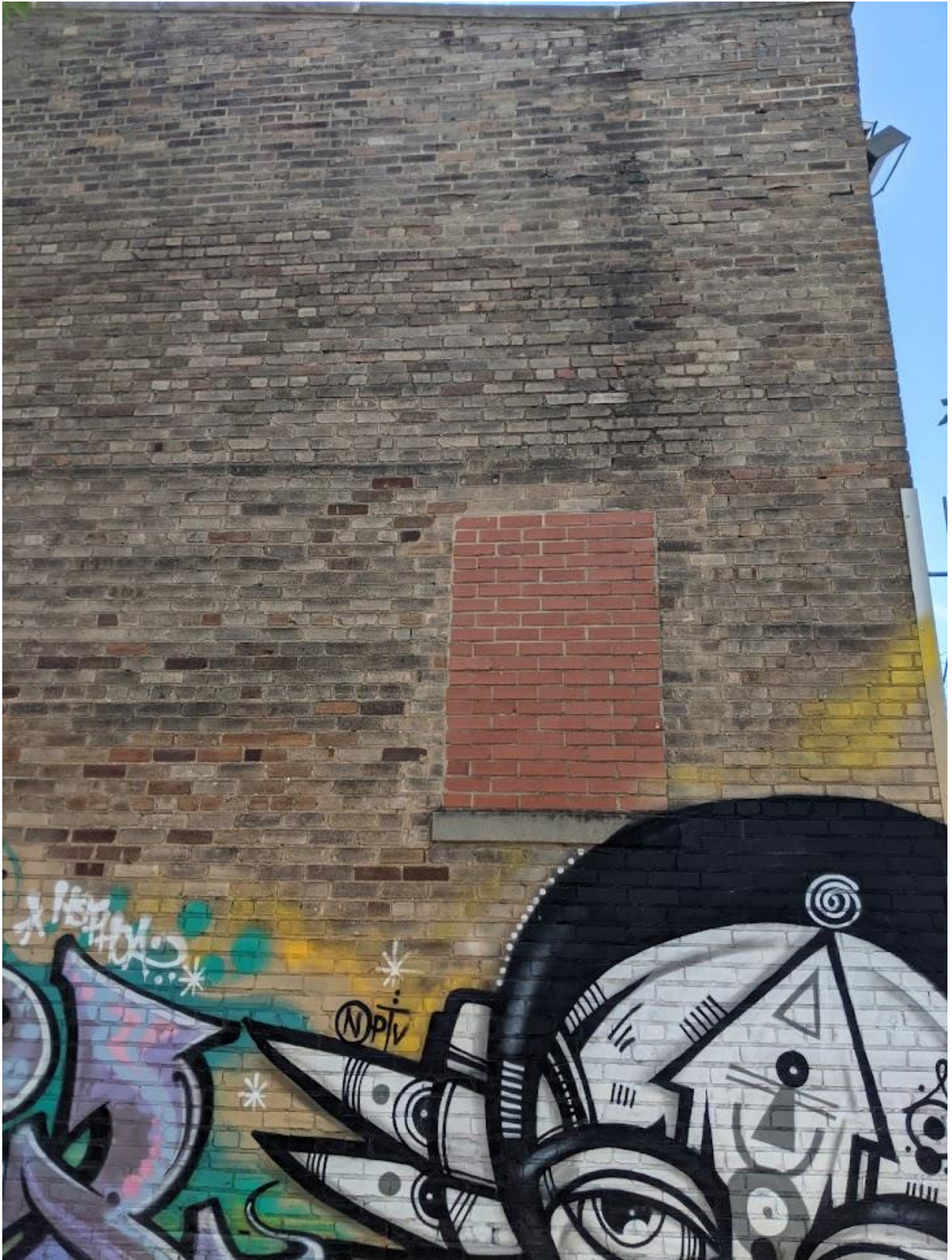


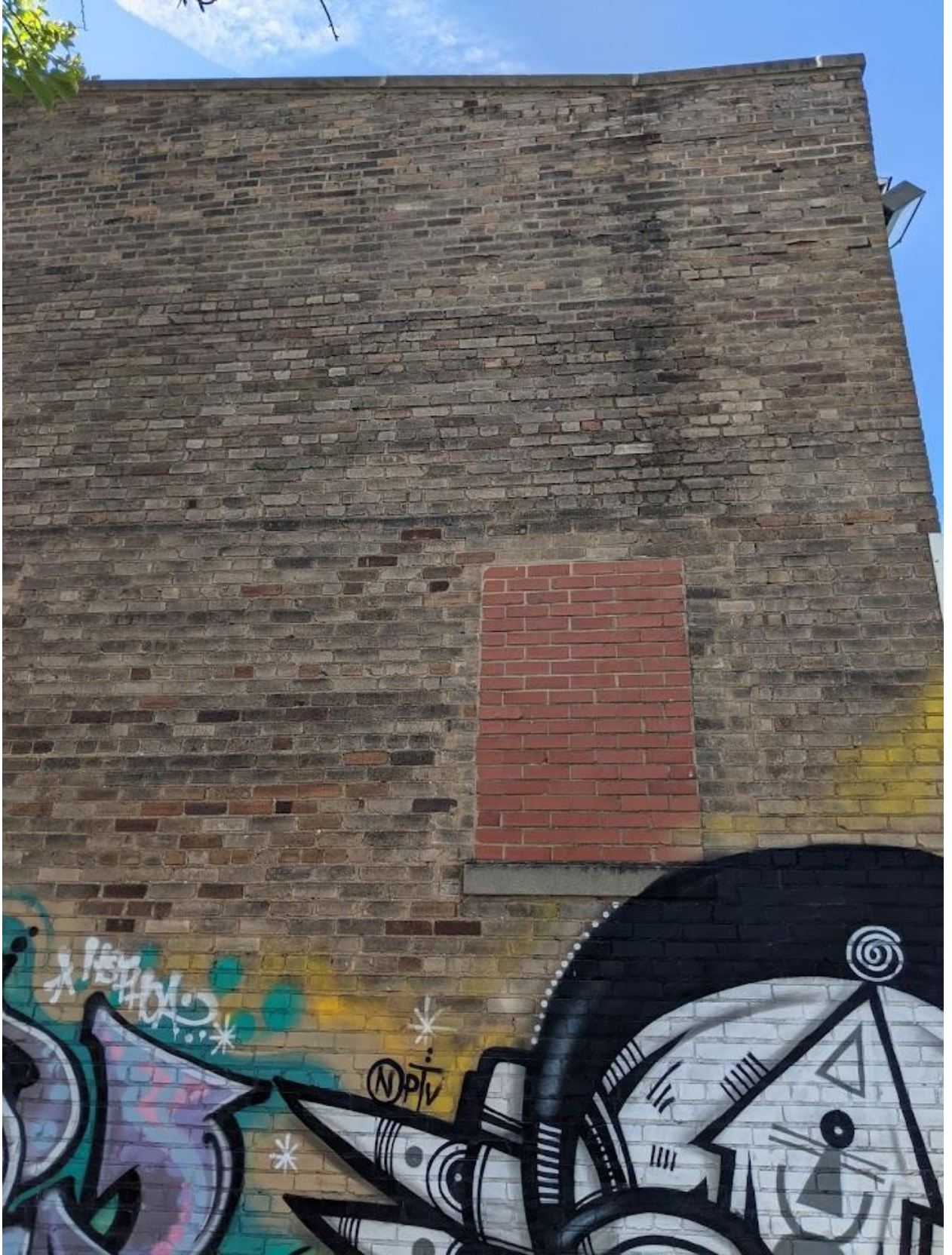


- Views from alley parallel to Crittenden (15' from property) after trash pick-up– showing shadowing and imposition of current building – shows tightness of building and shadows.

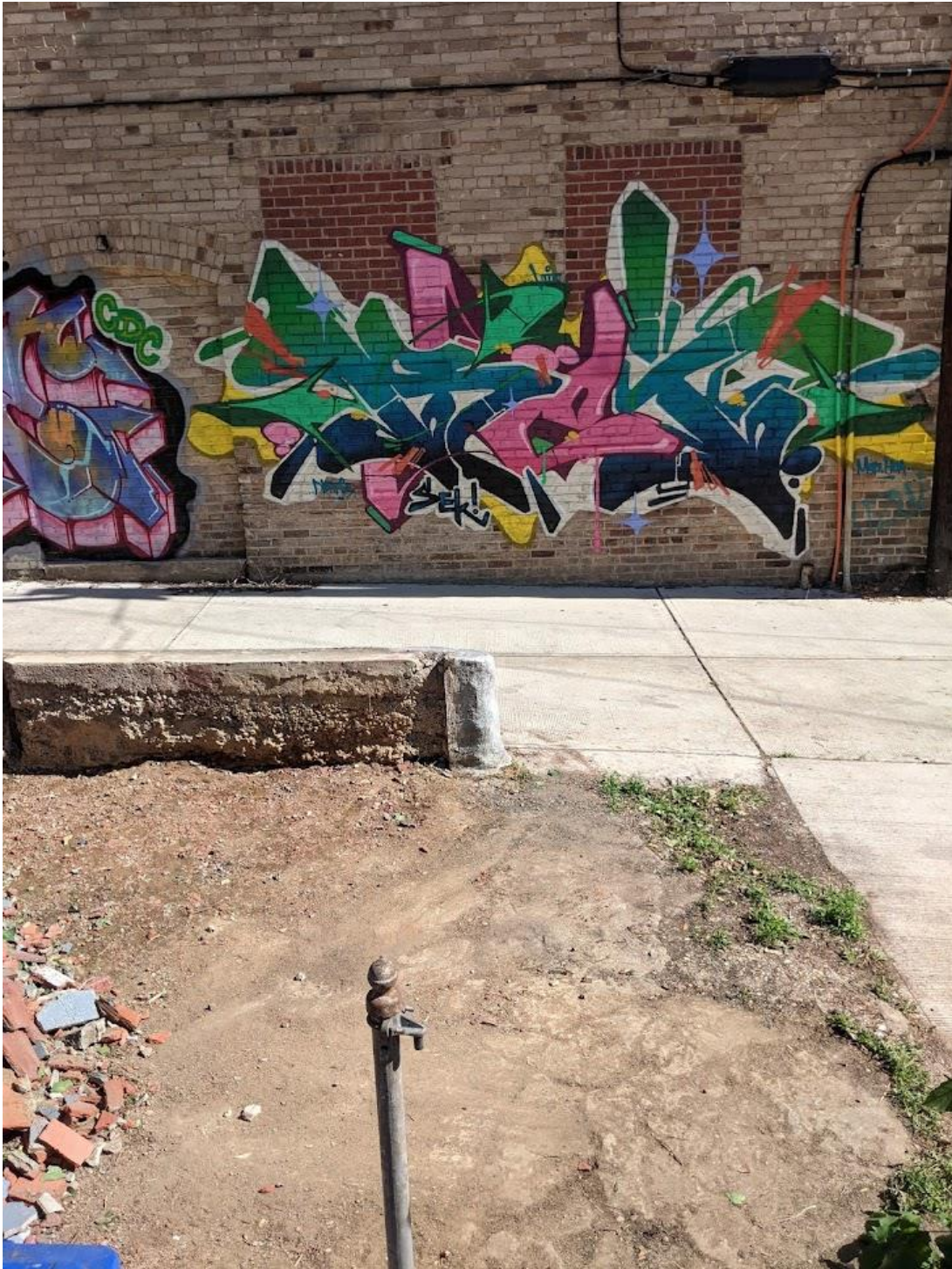


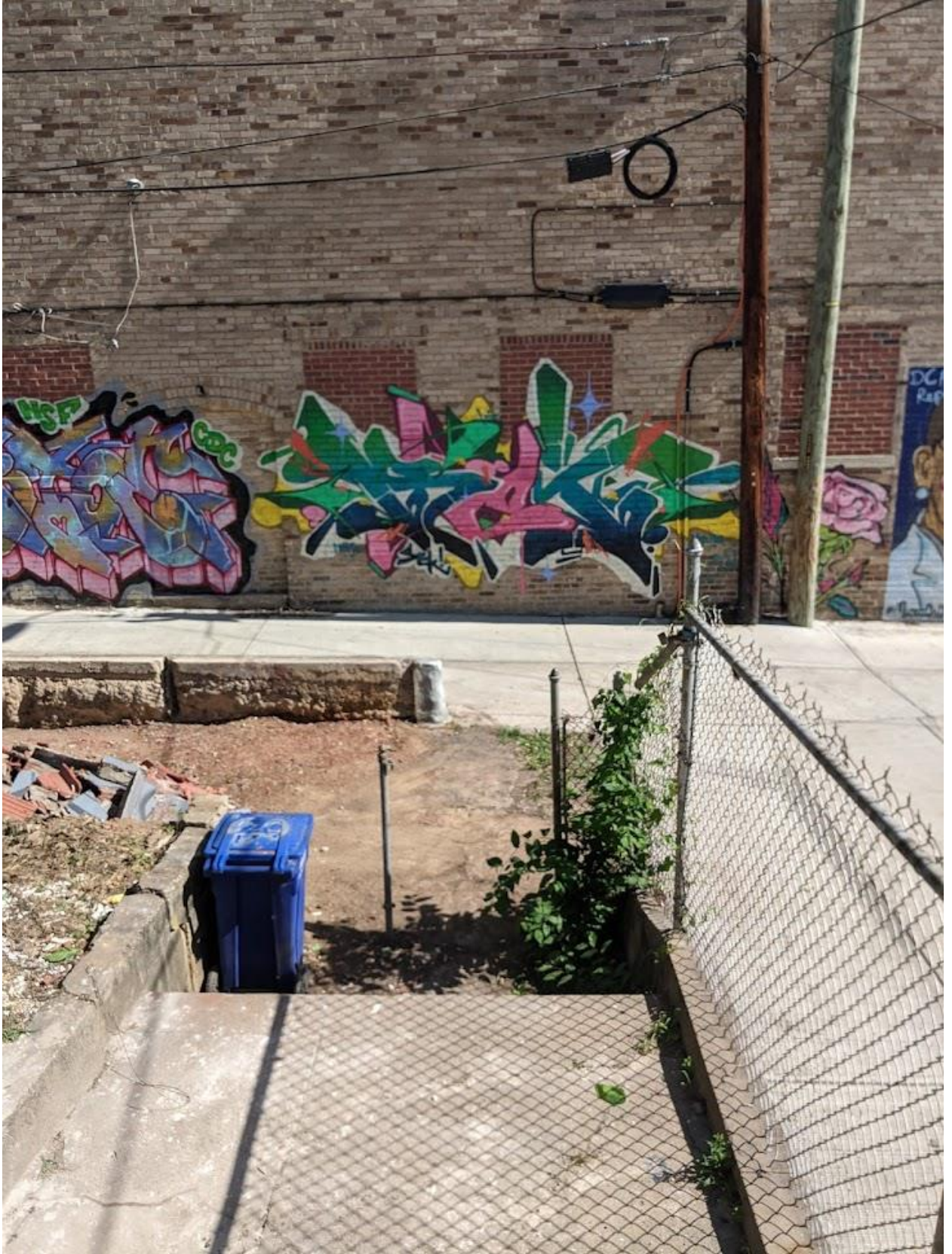


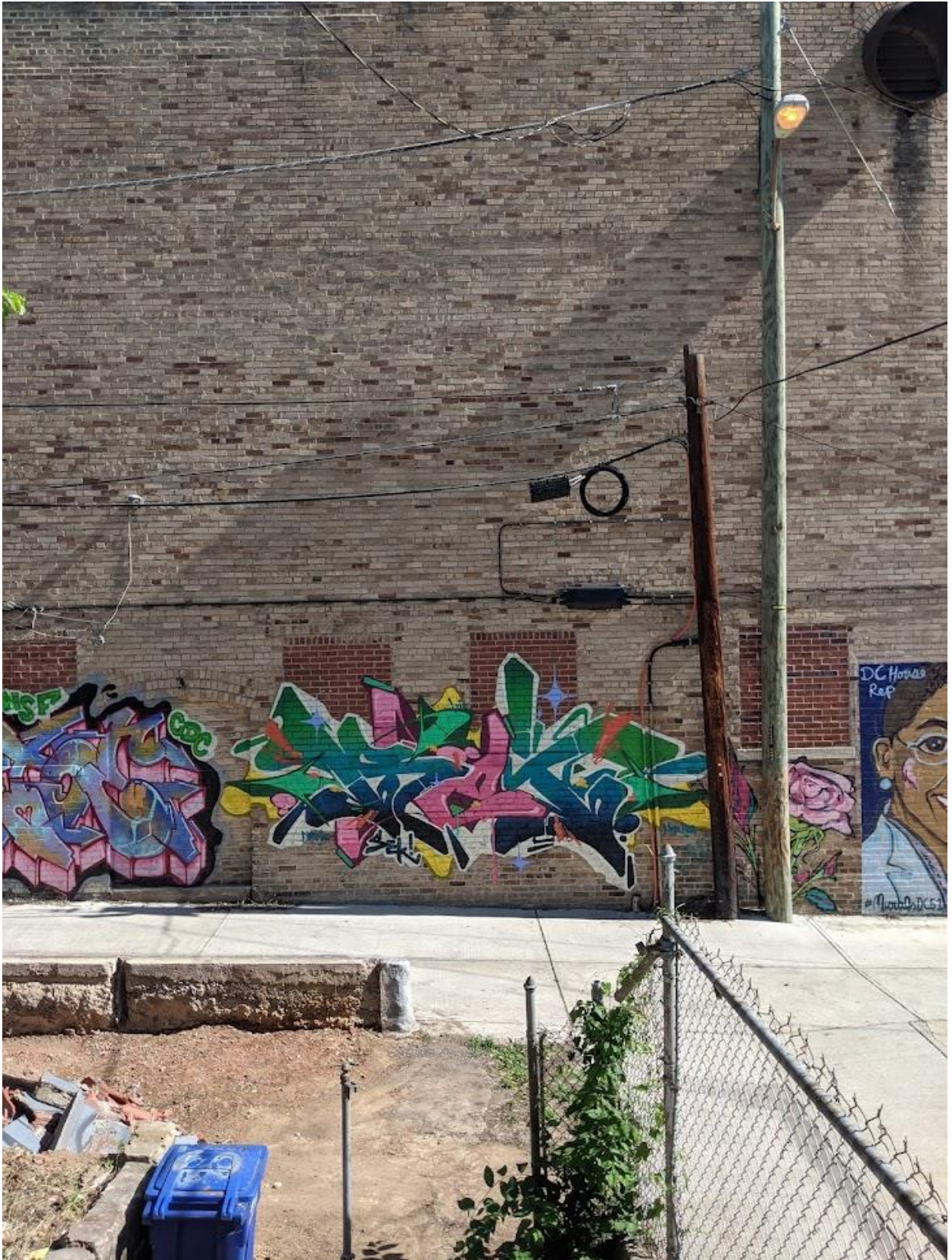


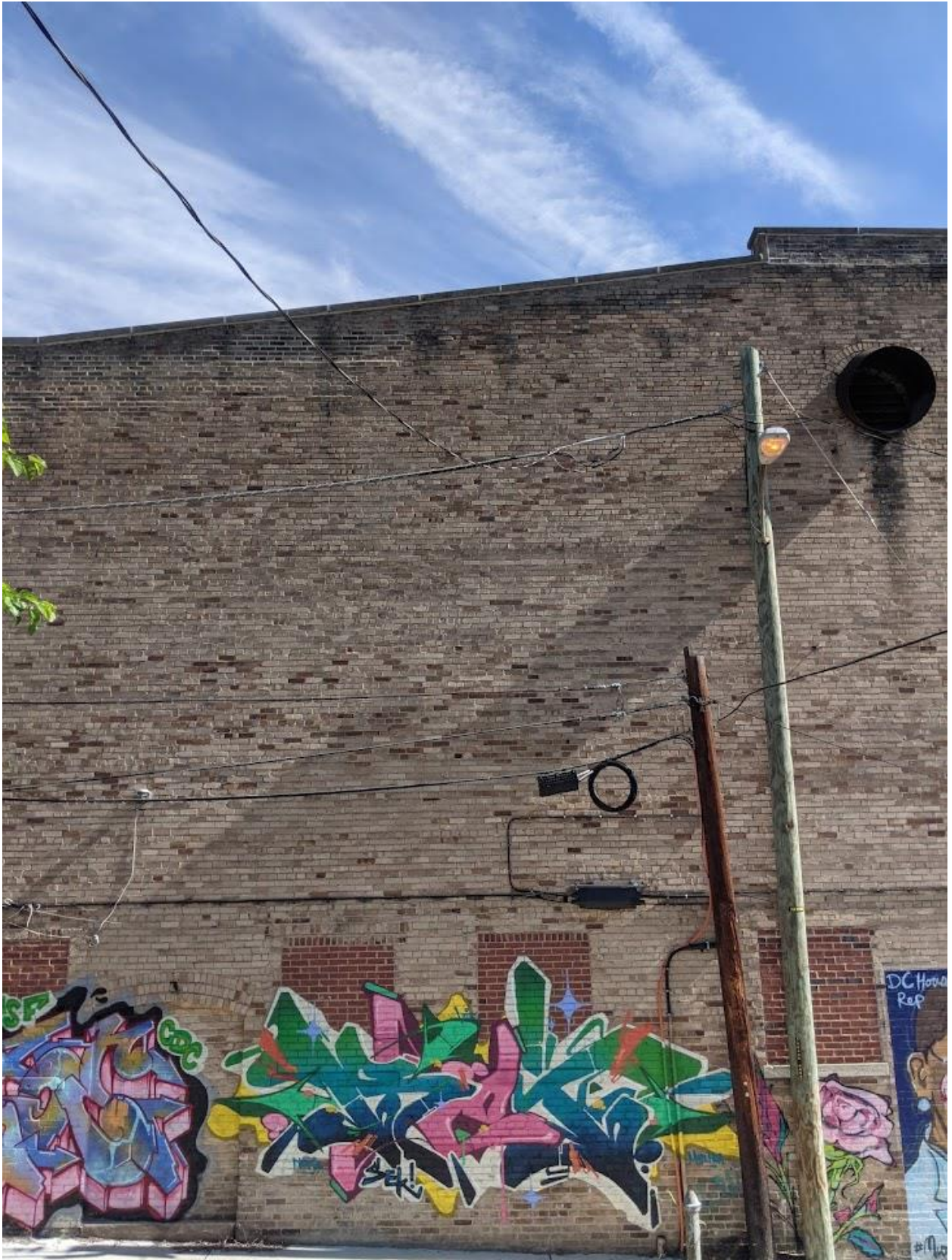


6. View from house being converted into pop-up (from alley next to the north/ south alley that runs the length of one home - with back to porch).









7. Buchanan Alley after morning trash collection – tightness of alignment of building.









Dance Programs in the public school system in Washington DC:

In 2021, Dance Loft began to offer pre-K and K movement classes at nearby schools in order to bring more viability to the PUD process. There are no certified early childhood development dance instructors on DL's teacher roster. Much is made of giving the children an opportunity to explore their creativity at an early age in the DL program. Although a wonderful idea, the reality is that there are a significant number of schools, conservatories and dance studios already in this space and for much longer. There are 10 organizations within a 3-mile radius of DL that have been in this market for years. They are no doubt doing a service to the community, but DL doesn't represent anything intrinsically different from the other organizations. In fact, they are mining the standard business model of offering programs to the community in order to get subsidies from the local government, to develop a revenue stream and in this case, to increase the viability of a PUD for DLV.

Vertical marketing and Dance Loft:

Much like Starbucks, Diana Movius, discusses developing a vertical marketing strategy in her desire to catalyze arts awareness in pre-k and kindergarten children which will then lead to becoming audiences in the future. If you attend most dance offerings in the DC area you will find that audiences are made up of mostly people over the age of 50. The odds of a 3–4-year-old holding onto the memory of a beginning movement class are remote. If this supposed process yielded new audiences, our cultural landscape would be different. Many dance schools have been using this approach for years, and the "get" rate is incredibly low. DL and Movius arrange for young students to attend performances in their space. The criteria for deciding whether Diana's choreography is appropriate for young audiences has never been vetted. Do kids that age really understand global warming? Or are these topics increasing levels of anxiety in our young children as discussed in numerous articles on childhood education. At the pre-K and K level, most children respond to familiar story tropes, not social activism.

Movius and dancer compensation:

Diana has made multiple references to her "paid" dancers. Sadly, they are paid by performance and rehearsal time and possibly with reduced or free studio rental space. If you were to derive an actual hourly wage from this compensation, you would find out that they are making much less than \$15.00/hour, DC's minimum wage. Again, there are numerous dance companies within a 3-mile radius with the same or better compensation. Diana receives a significant amount of DC money for her organization, yet most seems to go developing DLV and the PUD instead of making an impact on dancers, musicians and actors in the community. How do we trust that she will ever shift her focus?

Resources:

Michael Pastreich, past executive director, TWB Anne Stewart, M.Ed. early childhood education

Cathy Parker: former head of pre-K and K movement at NCRC and dance kinesiologist