

AGENDA

ANC 6A Economic Development & Zoning Committee
Tuesday October 23, 2012, 7-9:00 PM (Special Meeting)
Sherwood Recreation Center (640 10th St, NE)
2nd Floor Community Room

7:00 pm **Call to order**

7:01 **Community Comments**

7:05 **New Business**

1. RL Christian Site Development (1300 H St NE). The ED&Z committee will formulate recommendations to the ANC regarding which projects to recommend to DMPED. The presentations and Q&A's are available at <http://dcbiz.dc.gov/DC/DMPED/Opportunities/Development+Opportunities+and+Solicitations#4>: (40 minutes)
2. HPA #12-XX (901 D St NE). (continued from last meeting). The Developer is seeking HPO approval for the redevelopment of the site of the current DC Teachers Federal Credit union to a multi-unit residential building and the addition of 4 rowhouses. (10 minutes)
3. BZA #18463 (901 D St NE). The Developer is seeking variances from the lot area (section 401), rear yard (section 404) and court (section 406) requirements to allow the conversion of and addition to an existing building into an apartment house in the R-4 District at premises 901 D Street, N.E. (Square 938, Lot 809). (30 minutes).
4. BZA #18451 (409 15th St NE). The owner is seeking a use variance to operate a deli in a residential (R-5-B) zone. (15 minutes)
5. B1207040 (607 14th Place NE). A resident has raised the concern that DCRA issues a permit for this property in errors because it doesn't meet minimum lot width and lot area. (10 minutes)

8:45 **Additional Community Comment (time permitting)**

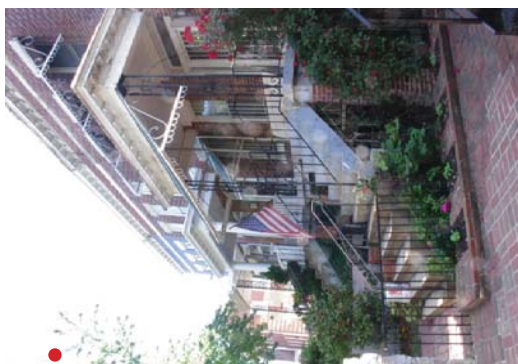
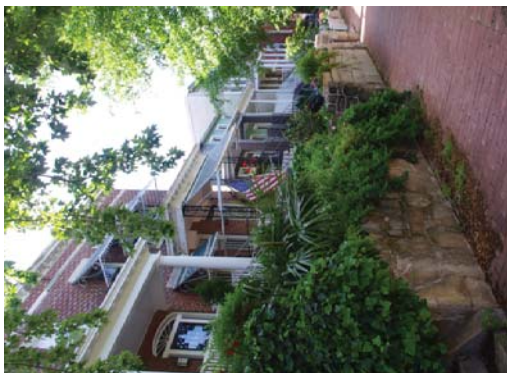
Everyone is welcome! Call Drew Ronneberg with questions at 202 431-4305.

Visit our website at <http://www.anc6a.org/>

Edmonds School

2012.8.31

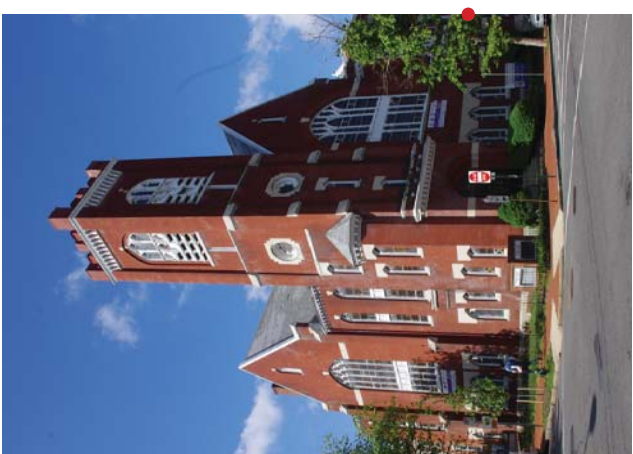
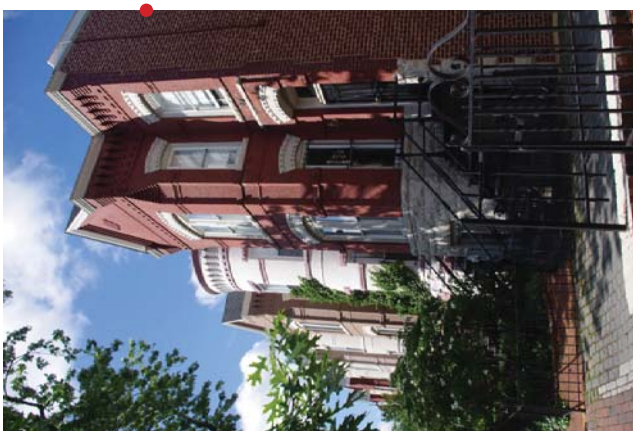




D Street NE



9th Street NE

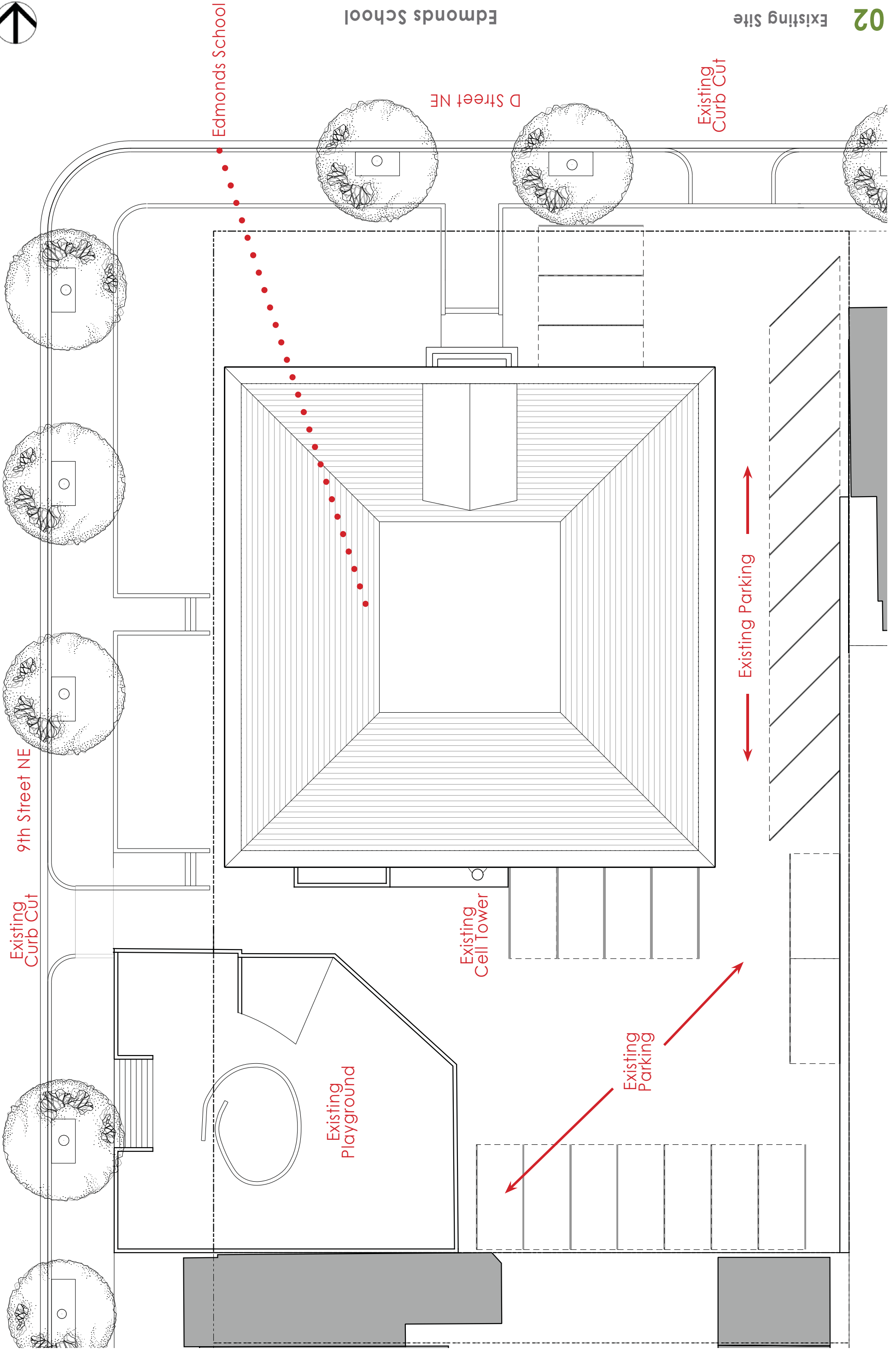


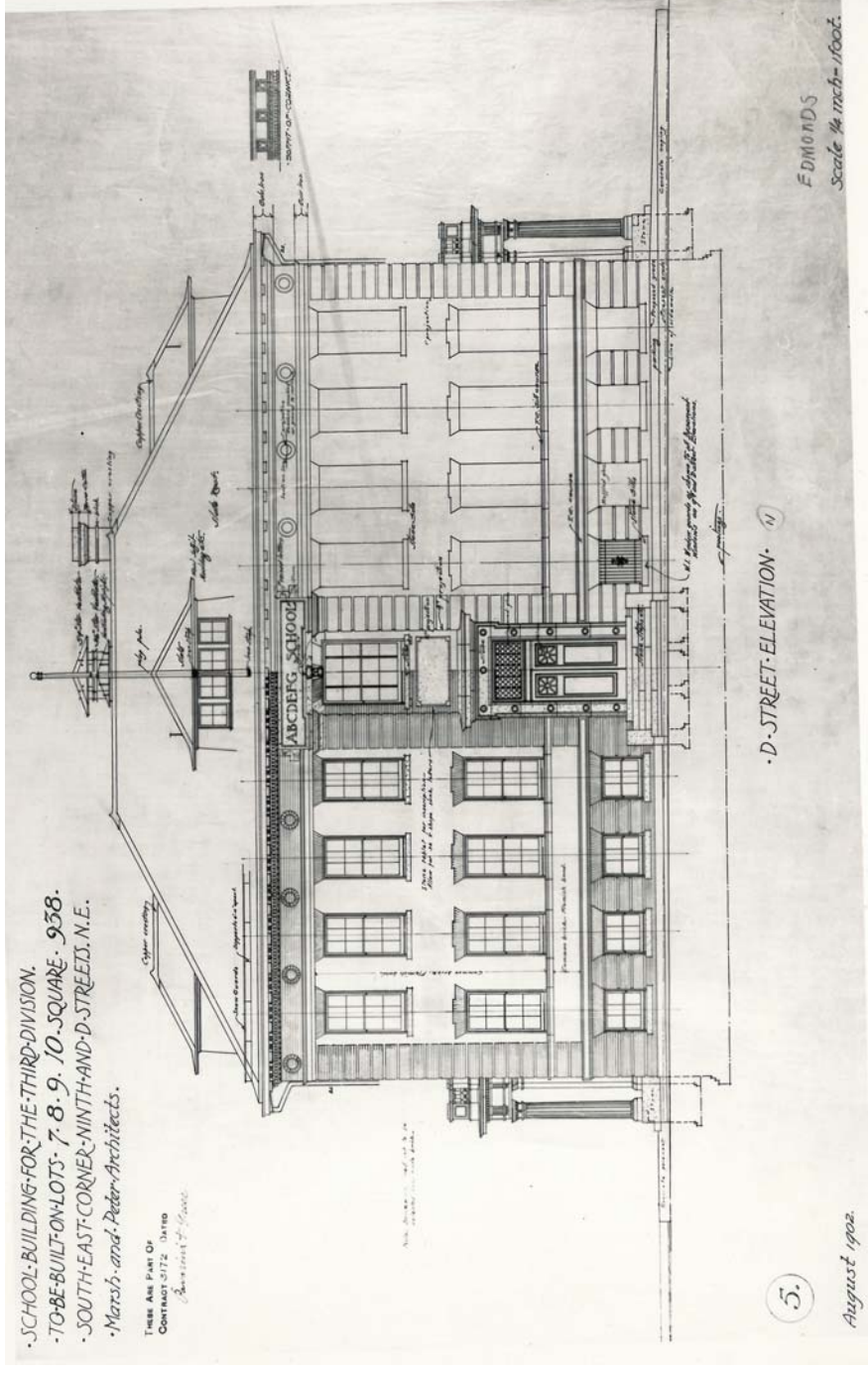


Edmonds School

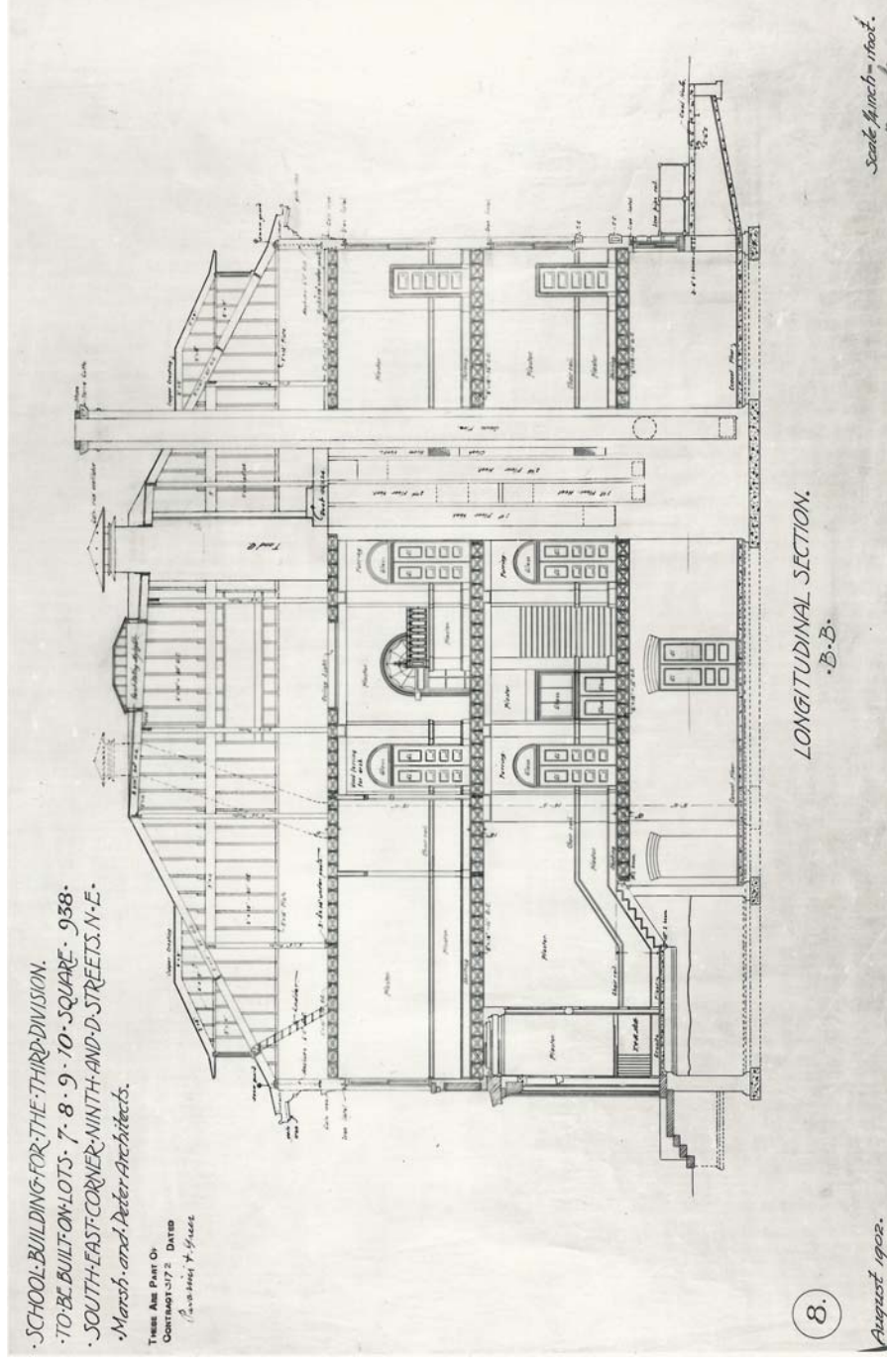
Existing Site

02

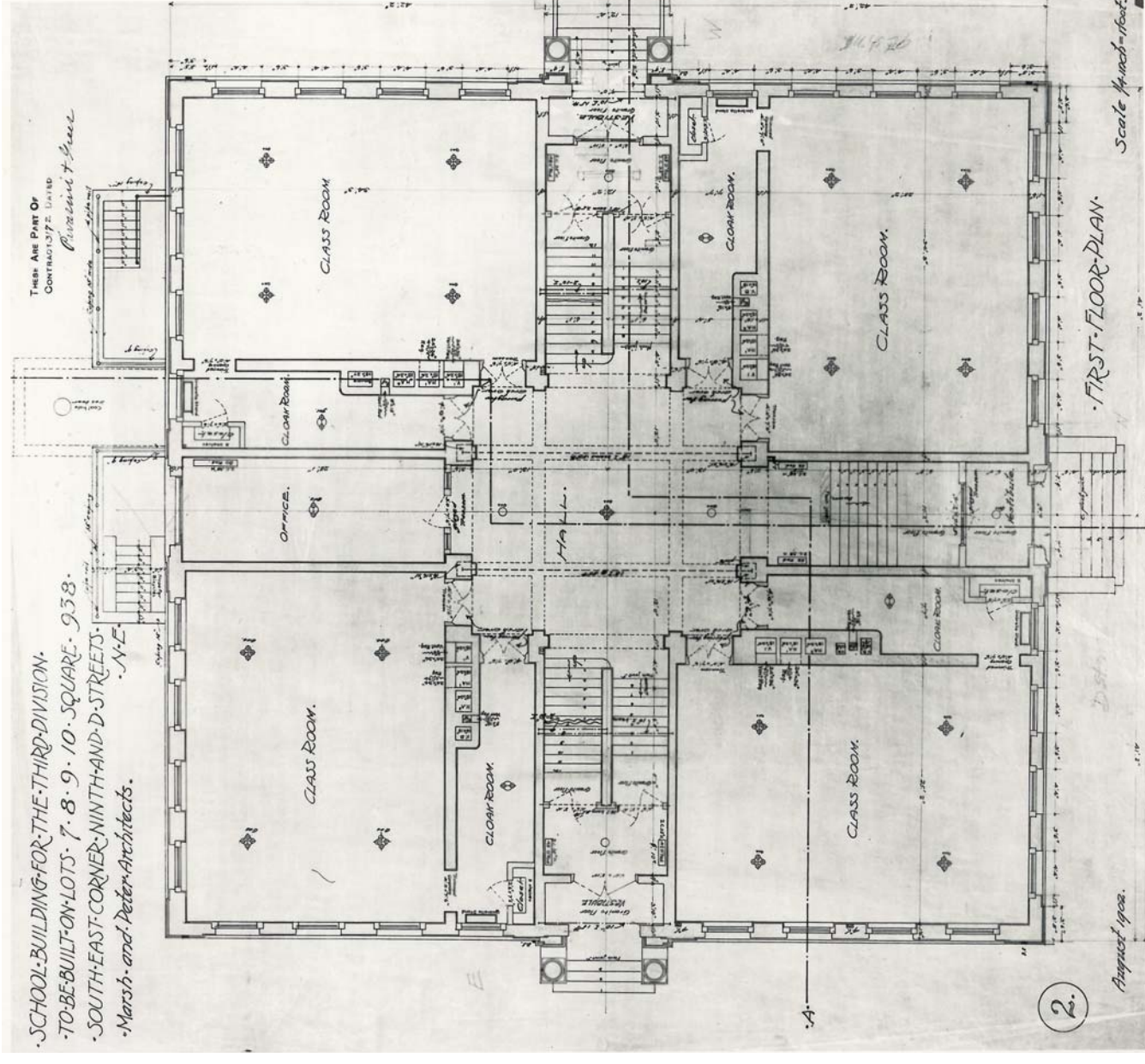




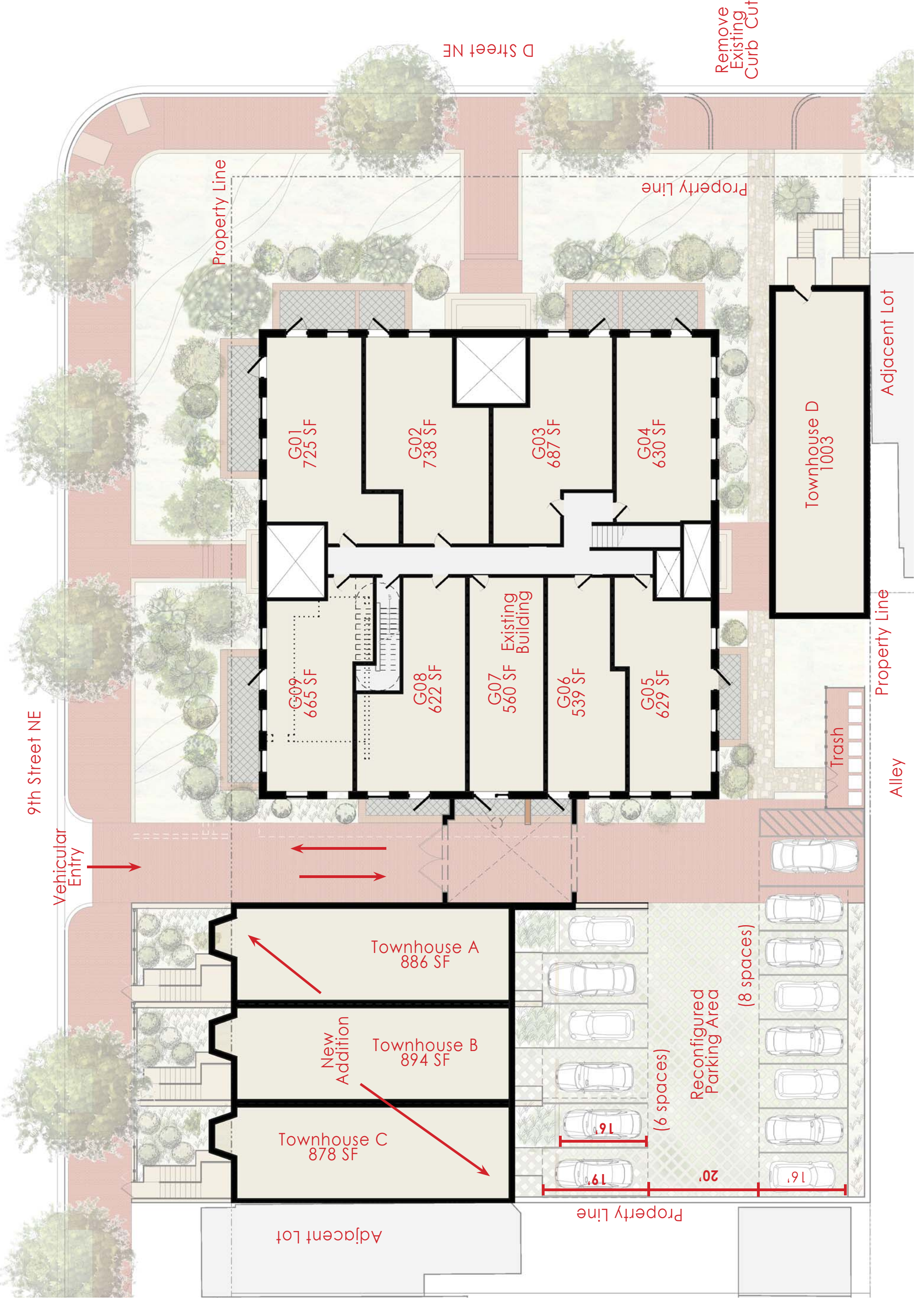
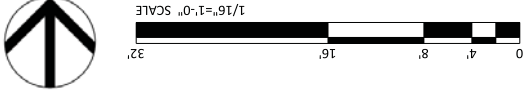
Historic Elevation



Historic Section



Historic Plan



9th Street NE

Vehicular Entry

Property Line

D Street NE

Remove Existing Curb Cut

Adjacent Lot

Townhouse D 1003

Property Line

Trash

Alley

Adjacent Lot

Property Line

Townhouse A 886 SF

New Addition
Townhouse B 894 SF

Townhouse C 878 SF

Reconfigured Parking Area (8 spaces)

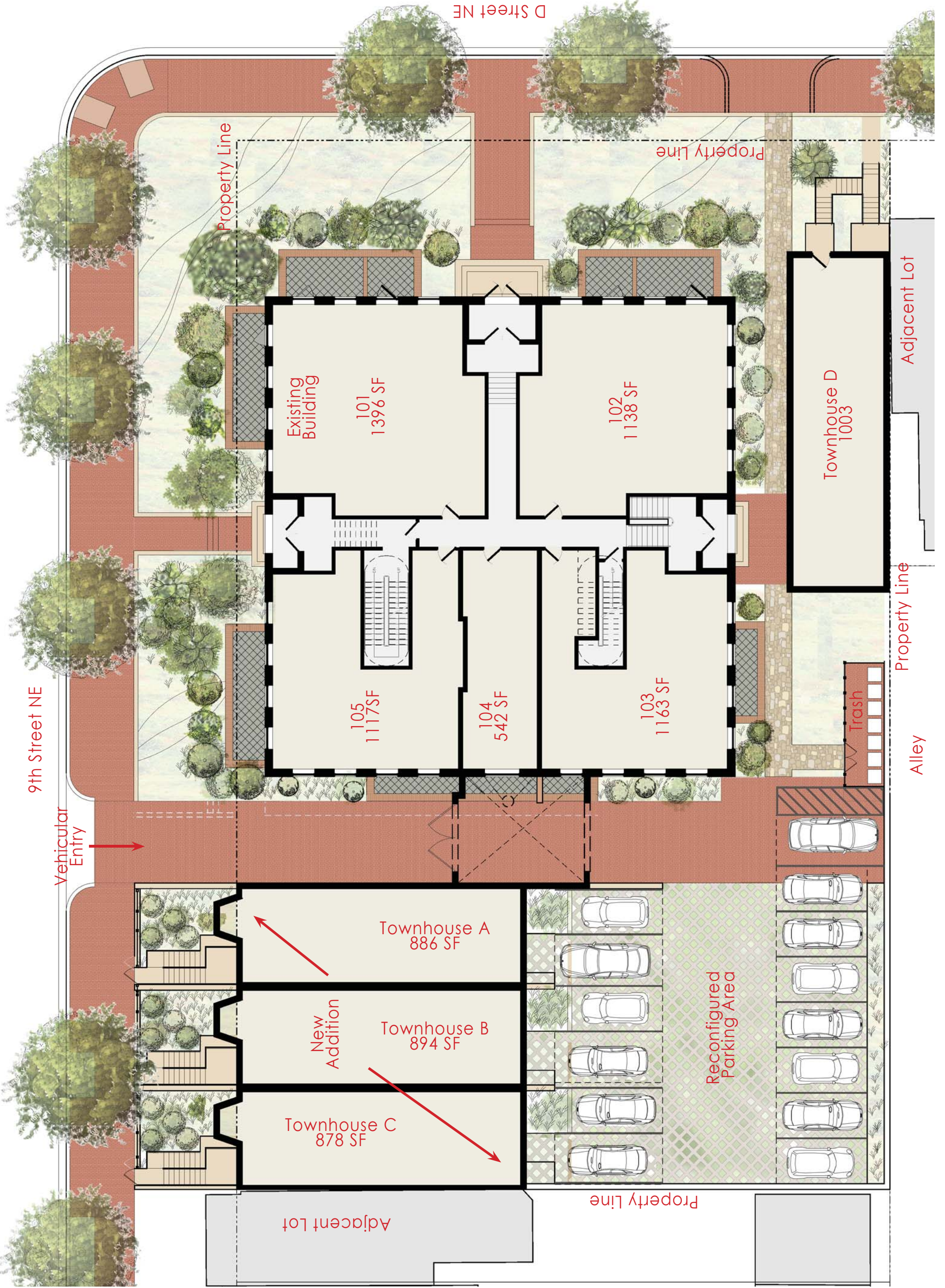
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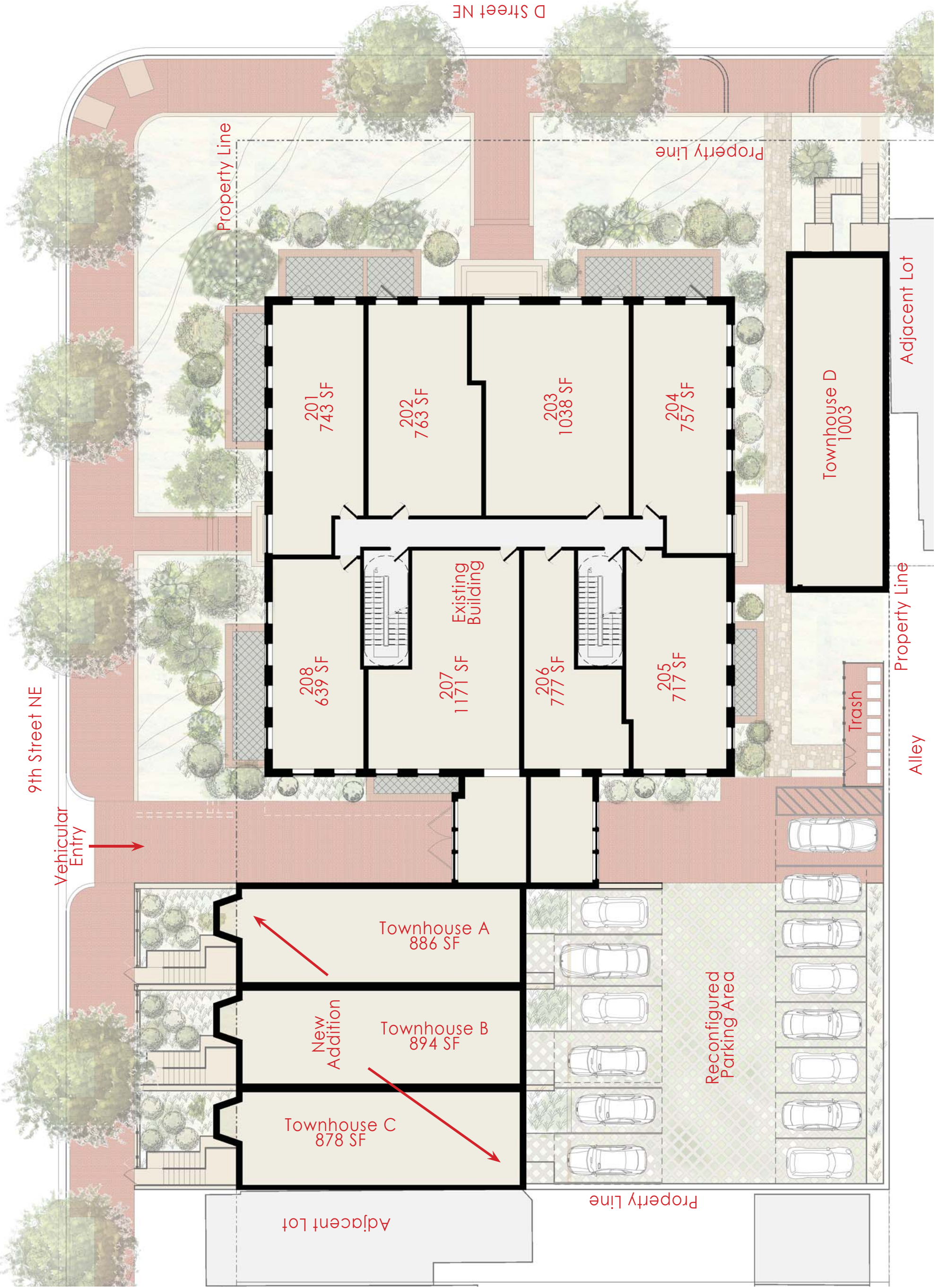
20'

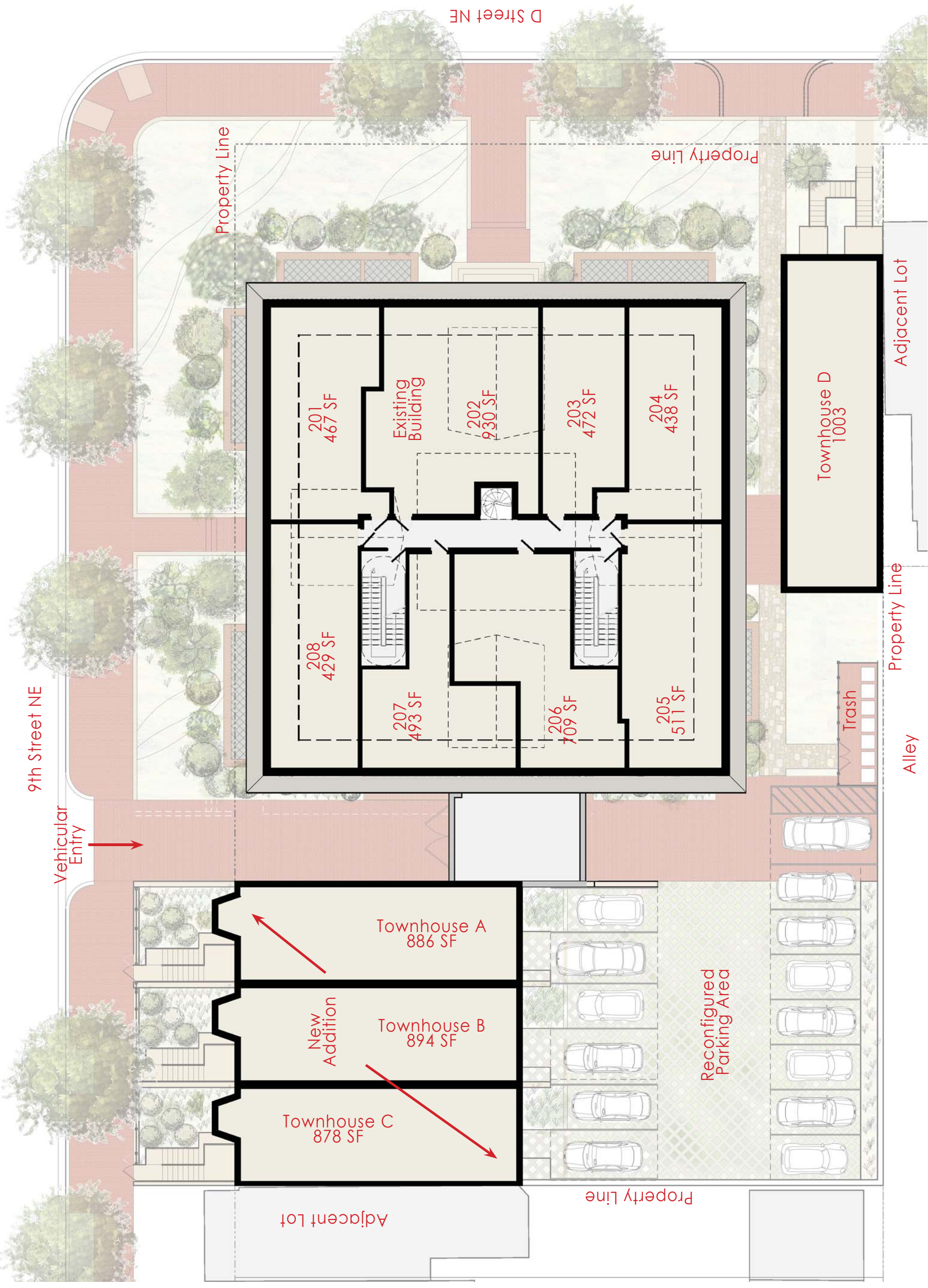
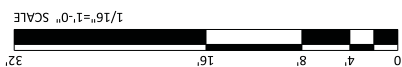
19'

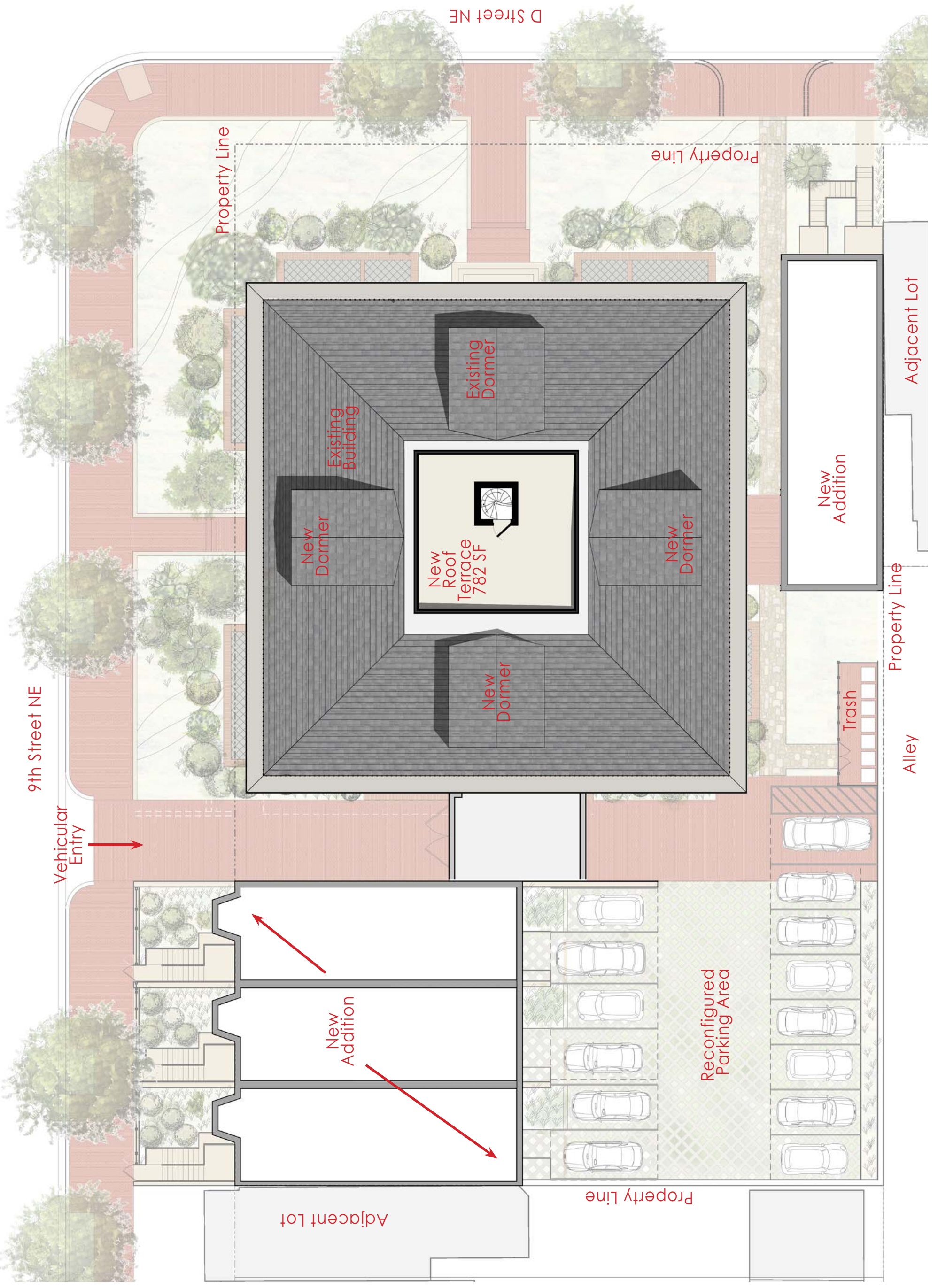
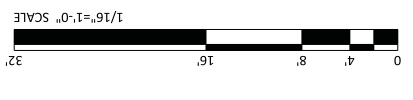
16'

(8 spaces)











Existing Building

New Addition

Adjacent Property

Property Line





North Elevation Before



North Elevation and Addition After

Perspective View

Edmonds School

901 D Street NE

R2L:ARCHITECTS



Side Lot with Addition After



Side Lot Before



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



FORM 120 - APPLICATION FOR VARIANCE/SPECIAL EXCEPTION

Before completing this form, please review the instructions on the reverse side.
Print or type all information unless otherwise indicated. All information must be completely filled out.

Pursuant to §3103.2 – Area/Use Variance and/or §3104.1 - Special Exception of Title 11 DCMR- Zoning Regulations,
an application is hereby made, the details of which are as follows:

Address(es)	Square	Lot No(s).	Zone District(s)	Type of Relief Being Sought	
				Area Variance Use Variance Special Exception	Section(s) of Title 11 DCMR - Zoning Regulations from which relief is being sought
901 D Street NE	938	809	R-4	Area Variance	401, 404, 406

Present use(s) of Property: credit union

Proposed use(s) of Property: multifamily residential

Owner of Property: DC Teachers Federal Credit Union Telephone No: 202-547-4800

Address of Owner: 901 D Street NE, Washington, DC 20002

Single-Member Advisory Neighborhood Commission District(s): 6A03

Written paragraph specifically stating the "who, what, and where of the proposed action(s)". This will serve as the Public Hearing Notice:

Pursuant to 11 DCMR § 3103.2, for a variance from the lot area requirements under section 401, a variance from the rear yard requirements under section 404, and a variance from the open court requirements under section 406, to allow the conversion of and addition to an existing building in the R-4 District at premises 901 D Street, N.E. (Square 938, Lot 809).

EXPEDITED REVIEW REQUEST (If interested, please select the appropriate category)

I waive my right to a hearing, agree to the terms in Form 128 - Waiver of Hearing for Expedited Review, and hereby request that this case be placed on the Expedited Review Calendar, pursuant to §3118.2 (CHOOSE ONE):

- A park, playground, swimming pool, or athletic field pursuant to §209.1, or
- An addition to a one-family dwelling or flat or new or enlarged accessory structures pursuant to §223

I/We certify that the above information is true and correct to the best of my/our knowledge, information and belief. Any person(s) using a fictitious name or address and/or knowingly making any false statement on this application/petition is in violation of D.C. Law and subject to a fine of not more than \$1,000 or 180 days imprisonment or both. (D.C. Official Code § 22 2405)

Date: 8/13/12 Signature*:

To be notified of hearing and decision (Owner or Authorized Agent*):

Name: John Epting & Cary Kadlecek E-Mail: jepting@goulstonstorrs.com

Address: Goulston & Storrs, 1999 K Street NW, Suite 500, Washington, DC 20006

Phone No(s): 202-721-0011 Fax No.:

** To be signed by the Owner of the Property for which this application is filed or his/her authorized agent. In the event an authorized agent files this application on behalf of the Owner, a letter signed by the Owner authorizing the agent to act on his/her behalf shall accompany this application.*

ANY APPLICATION THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE BACK OF THIS FORM WILL NOT BE ACCEPTED.

FOR OFFICIAL USE ONLY

Exhibit No. 1

Case No. _____



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



FORM 135 – ZONING SELF-CERTIFICATION

Project Address(es)	Square	Lot(s)	Zone District(s)
901 D Street NE	938	809	R-4

Single-Member Advisory Neighborhood Commission District(s): 6A03

CERTIFICATION

The undersigned agent hereby certifies that the following zoning relief is requested from the Board of Zoning Adjustment in this matter pursuant to:

Relief Sought	<input type="checkbox"/> §3103.2 - Use Variance	<input checked="" type="checkbox"/> §3103.2 - Area Variance	<input type="checkbox"/> §3104.1-Special Exception
Pursuant to Subsections	401, 404, 406		

Pursuant to 11 DCMR §3113.2, the undersigned agent certifies that:

- (1) the agent is duly licensed to practice law or architecture in the District of Columbia;
- (2) the agent is currently in good standing and otherwise entitled to practice law or architecture in the District of Columbia; and
- (3) the applicant is entitled to apply for the variance or special exception sought for the reasons stated in the application.

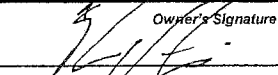
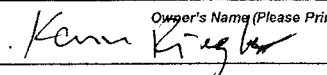
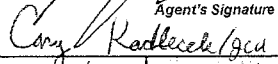
The undersigned agent and owner acknowledge that they are assuming the risk that the owner may require additional or different zoning relief from that which is self certified in order to obtain, for the above referenced project, any building permit, certificate of occupancy, or other administrative determination based upon the Zoning Regulations and Map. Any approval of the application by the Board of Zoning Adjustment (BZA) does not constitute a Board finding that the relief sought is the relief required to obtain such permit, certification, or determination.

The undersigned agent and owner further acknowledge that any person aggrieved by the issuance of any permit, certificate, or determination for which the requested zoning relief is a prerequisite may appeal that permit, certificate, or determination on the grounds that additional or different zoning relief is required.

The undersigned agent and owner hereby hold the District of Columbia Office of Zoning and Department of Consumer and Regulatory Affairs harmless from any liability for failure of the undersigned to seek complete and proper zoning relief from the BZA.

The undersigned owner hereby authorizes the undersigned agent to act on the owner's behalf in this matter.

**I/We certify that the above information is true and correct to the best of my/our knowledge, information and belief. Any person(s) using a fictitious name or address and/or knowingly making any false statement on this form is in violation of D.C. Law and subject to a fine of not more than \$1,000 or 180 days imprisonment or both.
(D.C. Official Code § 22 2405)**

 Owner's Signature		 Owner's Name (Please Print)	
 Agent's Signature		Cary Kadlecek Agent's Name (Please Print)	
Date	8/13/12	D.C. Bar No.	982861
		or	Architect Registration No.

FOR OFFICIAL USE ONLY

Based upon review of the application and self-certification, the Office of Zoning determines, pursuant to 11 DCMR §3113.2, this application is

<input type="checkbox"/>	Accepted for filing.
<input type="checkbox"/>	Referred to the Office of the Zoning Administrator within DCRA, for determination of proper zoning relief required.
<input type="checkbox"/>	Rejected for failure to comply with the provisions of <input type="checkbox"/> 11 DCMR §3113.2; or <input type="checkbox"/> 11 DCMR - Zoning Regulations. Explanation _____

Signature		Date	
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ANY APPLICATION THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE BACK OF THIS FORM WILL NOT BE ACCEPTED.

Case No. _____

INSTRUCTIONS

Any request for self-certification that is not completed in accordance with the following instructions shall not be accepted.

1. All self-certification applications shall be made on this form. All certification forms must be completely filled out (front and back) and be typewritten or printed legibly. All information shall be furnished by the applicant. If additional space is necessary, use separate sheets of 8½" x 11" paper to complete the form.
2. Complete one self-certification form for each application filed. Present this form with the Form 120 - Application for Variance/Special - Exception to the Office of Zoning, 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001. (All applications must be submitted before 3:00 p.m.)

ITEM	EXISTING CONDITIONS	MINIMUM REQUIRED	MAXIMUM ALLOWED	PROVIDED BY PROPOSED CONSTRUCTION	VARIANCE Deviation/Percent
Lot Area (sq. ft.)	21,254	900 sf/unit	-	708 sf/unit	192 sf/unit
Lot Width (ft. to the tenth)	-	-	-	-	-
Lot Occupancy (building area/lot area)	33%	-	60%	39%	-
Floor Area Ratio (FAR) (floor area/lot area)	-	-	-	-	-
Parking Spaces (number)	26	10	-	14	-
Loading Berths (number and size in ft.)	-	-	-	-	-
Front Yard (ft. to the tenth)	-	-	-	-	-
Rear Yard (ft. to the tenth)	27'	20'	-	26' (but not full lot width)	partial lot width
Side Yard (ft. to the tenth)	-	-	-	-	-
Court, Open (width by depth in ft.)	-	12'	-	8'	4'
Court, Closed (width by depth in ft.)	-	-	-	-	-
Height (ft. to the tenth)	35'	-	40'	35'	-



If you need a reasonable accommodation for a disability under the Americans with Disabilities Act (ADA) or Fair Housing Act, please complete Form 155 - Request for Reasonable Accommodation.

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

Application of CAS Riegler Real Estate Development
ANC 6A

BZA Application No.
Hearing Date:

APPLICANT'S STATEMENT

This is the application of CAS Riegler Real Estate Development (collectively, the "**Applicant**") for variance relief to allow the conversion of a building into an apartment house. The property that is the subject of this application is 901 D Street, NE (Square 938, Lot 809) (the "**Property**"). A Surveyor's plat is included in Exhibit C. The Property is included in the R-4 Zone District. An excerpt of the Zoning Map is included in Exhibit D.

I. NATURE OF RELIEF SOUGHT

The Applicant requests that the Board of Zoning Adjustment ("**BZA**" or "**Board**") approve variances from the following section of the Zoning Regulations:

1. Section 401 (minimum lot dimensions): The Property's lot area permits 23 residential units. The proposed project provides 30 residential units.
2. Section 404 (rear yard): The minimum required rear yard is 20 feet for the width of the lot. The proposed rear yard does not extend the width of the lot.
3. Section 406 (open court): The minimum required open court width is 12 feet. A portion of one proposed open court has a width of eight feet.

II. JURISDICTION OF THE BOARD

The Board has jurisdiction to grant the relief requested pursuant to Section 3103.2 of the Zoning Regulations (11 DCMR § 3103.2).

III. DESCRIPTION OF PROPERTY AND SURROUNDING AREA

The Property is located in the Stanton Park neighborhood of Ward 6 and contains approximately 21,254 square feet of land area, which is considerably larger than nearly all other properties in the surrounding area. The Property is a corner lot bounded by D Street to the north, a row dwelling to the south, 9th Street to the west, and a row dwelling and a public alley to the east.

The Property is improved with a square, three-story brick building constructed as a school (Edmunds School) in 1903. The building is located at the northwestern corner of the Property and is set back from adjacent property lines. The Property also contains a playground to the south of the building and surface parking to the east and southeast of the building. The building was used as a school until 1979, and it is now used by the DC Teachers Credit Union as a working credit union. The Property is included in the Capitol Hill Historic District, and the building is contributing to that historic district.

The surrounding area is almost exclusively residential. To the west, the neighborhood is primarily moderate density residential with two- and three-story rowhouses and flats, with a church directly across 9th Street. To the north, south, and east, the neighborhood is characterized by moderate density two and three-story row dwellings and flats. Other nearby blocks have similar characteristics.

IV. THE PROPOSED PROJECT

The proposed project will convert and add to the existing historic building to construct a multifamily residential building, thereby returning the block to entirely residential use. Architectural plans and photos of the Property are included in Exhibit E. The project will include

additions to both the south and east of the existing building to where there are now large gaps in the streetscape between the existing building and the adjacent row dwellings. These additions will allow the Applicant to close gaps in the streetscape and to recreate the feeling of a complete residential block. Completing gaps in the streetscape is an important design policy for both historic districts and pedestrian-oriented planning. The project will attain a maximum height of 35.3 feet and will provide 14 parking spaces in a surface lot in the rear yard.

In total, the project will include 30 units: 22 units will be in the historic building, and eight units will be in the additions. The addition to south of the historic building (on the site of the existing playground), facing 9th Street, will appear as three three-story row dwellings that will contain a total of four units. The two “row dwellings” closest to the historic building, Townhouses A and B, will contain one unit each, and the “row dwelling” furthest from the historic building, Townhouse C, will be a “flat” containing two units. The addition to the east, facing D Street, (Townhouse D) will also appear as a three-story row dwelling but will contain four units. The additions will connect to the historic building so that the project is all one building for zoning purposes.

The project will not have a fully conforming rear yard since Townhouse D will occupy some of the area of the between the rear of the existing building and the rear property line. Using 9th Street as the front of the building, the rear yard will be the area behind the historic building and the area behind the addition along 9th Street (Townhouses A-C). The rear yard will range in depth from 26 to 52 feet, but it will not extend the full width of the lot.

In addition, the project will create an open court between Townhouse D and the existing building. The court will be 12 feet wide from the ground up to the top of the existing building. There, the existing building has a roof overhang that will narrow the open court to a nonconforming width of eight feet.

The additions have been designed to integrate the project into the historic district and to provide a continuation of the rowhouses for the length of the 9th Street and D Street blocks. But for a few changes to accommodate its conversion into a residential use, the building's exterior will remain virtually unchanged so that it preserves its historic character. This important historic consideration resulted in the necessity of separating the additions and creating the perception that the "row dwelling" additions are separate and distinct from the historic structure.

V. THE APPLICATION MEETS THE REQUIREMENTS FOR VARIANCE RELIEF

The burden of proof for area variance relief is well established. The Applicant must demonstrate that (1) the property is affected by an exceptional or extraordinary situation or condition, that (2) the strict application of the Zoning Regulations will result in a practical difficulty to the Applicant, and that (3) the granting of the variance will not cause substantial detriment to the public good nor substantially impair the intent, purpose or integrity of the zone plan. Palmer v. D.C. Bd. of Zoning Adj., 287 A.2d 535, 541 (D.C. 1972). As outlined below, this application demonstrates that the proposed project meets the three-part test for area variance relief.

A. The Property is Affected by an Exceptional Condition

The Court of Appeals held in Clerics of St. Viator v. D.C. Bd. of Zoning Adj., 320 A. 2d. 291 (D.C. 1974) that the exceptional situation or condition standard goes to the property, not just the land. The Court in Monaco v. D.C. Bd. of Zoning Adj., 407 A.2d 1091 (D.C. 1979) went even further and noted that the exceptional situation or condition is not limited to the land or the physical improvements on the land, but applies also to the history of the property. Furthermore, the Court of Appeals held in Gilmartin v. D.C. Board of Zoning Adjustment, 579 A.2d 1164, 1167 (D.C. 1990), that it is not necessary that the exceptional situation or condition arise from a single situation or condition on the property. Rather, it may arise from a "confluence of factors." Id. Finally, it is not necessary that the Property be unreservedly unique. Rather, applicants must prove that a property is

affected by a condition that is unique to the property and not related to general conditions in the neighborhood.

The Property's exceptional condition arises from the confluence of its size, building setback, and presence of a historic structure designed and used for a school. The Property is considerably larger than most other lots in its vicinity, and it is surrounded by open gaps in the streetscape on both its 9th and D Street frontages because the building is set back from all adjacent property lines. As discussed previously, this neighborhood, especially west of 9th Street, is predominantly characterized by two and three story row dwellings and flats on small lots. Most buildings also adjoin their property lines. The Property contains more land area than almost any other property in its vicinity and the open space along its two street frontages, because of the building setbacks, is equally unusual for the neighborhood.

Finally, and most importantly, the presence and preservation of the large contributing historic building creates a unique condition. The building will be retained in its entirety, except for a few minor changes to the exterior. The building was designed to accommodate classrooms and pedagogical functions, so it is not well suited in its current state to accommodate apartments. The core of the building contains 12 concrete columns, and the windows are spaced to accommodate classrooms. This structural configuration creates a unique and challenging situation for converting the building into residential use. Thus, the Property's exceptional condition arises from its uniquely large size, the building's setbacks from adjacent property lines, its improvement with a large contributing historic structure that was designed and used as a school.

B. Strict Application of the Zoning Regulations would Result in a Practical Difficulty

The appropriate test is whether the strict application of the zoning regulations results in a "practical difficulty." In reviewing the standard for practical difficulty, the D.C. Court of Appeals stated in Palmer v. Board of Zoning Adjustment, 287 A.2d 535, 542 (D.C. App. 1972), that

“[g]enerally it must be shown that compliance with the area restriction would be unnecessarily burdensome. [Footnote omitted.] The nature and extent of the burden which will warrant an area variance is best left to the facts and circumstances of each particular case.” In area variances, applicants are not required to show “undue hardship” but must satisfy only “the lower ‘practical difficulty’ standards.” Tyler v. D.C. Bd. of Zoning Adj., 606 A.2d 1362, 1365 (D.C. 1992) (citing Gilmartin v. Bd. of Zoning Adj., 579 A.2d 1164, 1167 (D.C. 1990)). Finally, it is well settled that the BZA may consider “a wide range of factors in determining whether there is an ‘unnecessary burden’ or ‘practical difficulty’ . . . Increased expense and inconvenience to applicant for a variance are among the factors for BZA's consideration.” Gilmartin, 579 A.2d at 1171 (citing Barbour v. D.C. Bd. of Zoning Adj., 358 A.2d 326, 327 (D.C. 1976)); see also Tyler v. D.C. Bd. of Zoning Adj., 606 A.2d 1362, 1367 (D.C. 1992). Other factors to be considered by the BZA include: “the severity of the variance(s) requested”; “the weight of the burden of strict compliance”; and “the effect the proposed variance(s) would have on the overall zone plan.” Gilmartin, 579 A.2d at 1171. Thus, to demonstrate practical difficulty, an applicant must show that strict compliance with the regulations is burdensome, not impossible.

The Applicant would be faced with a practical difficulty arising from the presence of the historic building, location of the building, and lot size if it were to fully comply with the Zoning Regulations with respect to lot area, rear yard, and open court.

Without the ability to maximize the number of matter-of-right units, the project would not be feasible. The land value is based on what is permitted as a matter-of-right, so the project would not be financially viable if the land were acquired at a value based on 23 units but only able to provide 22 units. The 12 columns in the center of the historic building create an extraordinary design challenge for residential units. In addition to working around the columns, aligning the units to have windows creates a situation where no more than 22 units work well for the existing

building. Because of the challenges presented by the existing structure, it is very difficult to create a layout for 23 units that would be desirable to residents. With a scheme for 23 units, the Applicant would face considerable design challenges creating units that are efficient and that have sufficient air and light. In fact, a 23-unit scheme results in deep and dark units that would be very difficult to market. Thus, the only way to achieve the full 23 matter-of-right units for the site is to construct an addition. This is where the historic limitations contribute to the practical difficulty.

Historic considerations would not allow for just one addition that partially completed the streetscape gap on either D or 9th Streets. Rather, the entirety of both gaps must be closed to accommodate historic concerns. However, the gaps along both 9th and D Street are so large that only one unit in either location would be so large that it would not be a marketable unit in this neighborhood. Effectively, it would create one large single family dwelling that would be much larger than anything in the neighborhood and not marketable as such a giant house. Therefore, multiple units are necessary in the additions that will fill the gaps in the streetscape. In creating units that are optimal in size for this location and market, the plan resulted in eight units in the additions, which is seven more than permitted as a matter-of-right. The project would not be financially feasible without the proposed number of units.

Similarly, the Applicant would be faced with a considerable burden if it were to provide a rear yard that extends the full width of the site. As discussed above, the building is set back from adjacent property lines that create gaps in the streetscape. If the building were adjacent to one of its property lines, as is typical for this neighborhood, then providing a rear yard would be more consistent with the historic development pattern. However, by constructing an addition, the gap in the D Street streetscape must be closed to accommodate historic concerns. This historic accommodation makes it necessary for another addition along D Street (Townhouse D).

Accommodating historic concerns to close both streetscape gaps cannot be accomplished while also

providing a conforming rear yard. The result is that the project will not have a fully conforming rear yard even though the area of the rear yard will exceed what is required.

Further, the Applicant would face a considerable difficulty resulting from the presence of the historic building if it were to provide an open court with a conforming width. Because of historic considerations, the overhang from the existing building cannot be eliminated. Also, the width of Townhouse D cannot be narrowed to accommodate the open court. If the townhouse were narrowed by eight feet, then it would be too narrow to be marketable and would render the project infeasible because of the Applicant's inability to construct a marketable unit.

C. Relief can be Granted without Substantial Detriment to the Public Good and without Impairing the Intent, Purpose, and Integrity of the Zone Plan

The requested variance relief would not be detrimental to the public good or the Zone Plan. The proposed additions are compatible with the neighboring buildings and will actually improve the streetscape. The thoughtful design will integrate well with the neighborhood and will satisfy planning and historic considerations for infill development. The level of density proposed – effectively a small apartment house with four flats – is equally compatible with the surrounding neighborhood. With 30 units proposed for the Property, the project's density is not much greater than is otherwise permitted as a matter-of-right.

More importantly, the proposed project will not have a noticeable adverse impact on neighboring properties. The project will provide more parking than is required, so neighbors will not be confronted with adverse parking or traffic impacts. This is particularly true when the current use is considered: as a credit union, the existing use generates large amounts of traffic throughout the day. The proposed residential use will eliminate most of that traffic and will provide enough off-street parking to accommodate the demand. Also, the additions will not adversely impact light or air to neighboring buildings. Because the additions have been designed to mimic row dwellings,

they will be no different than what could be constructed as a matter-of-right elsewhere in the neighborhood. Further, the project will maintain a large amount of open space at its rear, so many of the adjacent properties will not experience disruptions in their available light and air.

The proposed rear yard may not extend the full width of the site, but the proposed rear yard will range from 26 to 52 feet deep. Thus, it will provide a separation to allow for adequate light and air to adjacent properties. In addition, the area of the proposed rear yard (4,838 square feet) will exceed the area of the required rear yard of 26 feet deep for its entire width (4,159 square feet). Only the row dwelling directly to the east and adjacent to Townhouse D will be impacted, but if Townhouse D were on a separate lot it could be constructed as matter-of-right. Further, most of the Property's eastern property line borders a public alley, which will further buffer residences to the east. Thus, the impact of the proposed addition would be the same or less than if another conforming row dwelling were constructed in the same location.

Finally, the proposed open court will not adversely impact light or air available to either the existing building or Townhouse D. As described above, the court will be wider than required for most of its height; it is only because of the overhang that it is narrower than required. That the court has a nonconforming width is merely a technicality: this narrower width only occurs with the overhang, so it would be imperceptible to anyone in Townhouse D or the existing building that it is anything less than 12 feet wide. Surrounding properties would be unaffected by this proposed open court width. Because the proposed project will not have an adverse impact on surrounding properties, it will not be detrimental to the public good or the Zone Plan.

VI. EXHIBITS

- EXHIBIT A Application Form, Self-Certification Form, and Authorization Letters
- EXHIBIT B Statement in Support
- EXHIBIT C Surveyor's Plat
- EXHIBIT D Excerpt of Zoning Map
- EXHIBIT E Architectural Plans and Drawings, including Photos of Property
- EXHIBIT F Names and Addresses of all Property Owners within 200 Feet of the Property

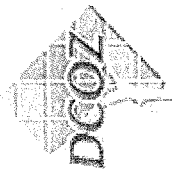
VII. CONCLUSION

Because of the foregoing reasons, this application satisfies the criteria for area variance relief. The Applicant respectfully requests that the Board approve this application.

Respectfully submitted,
GOULSTON & STORRS, P.C.

John T. Epting
John Epting

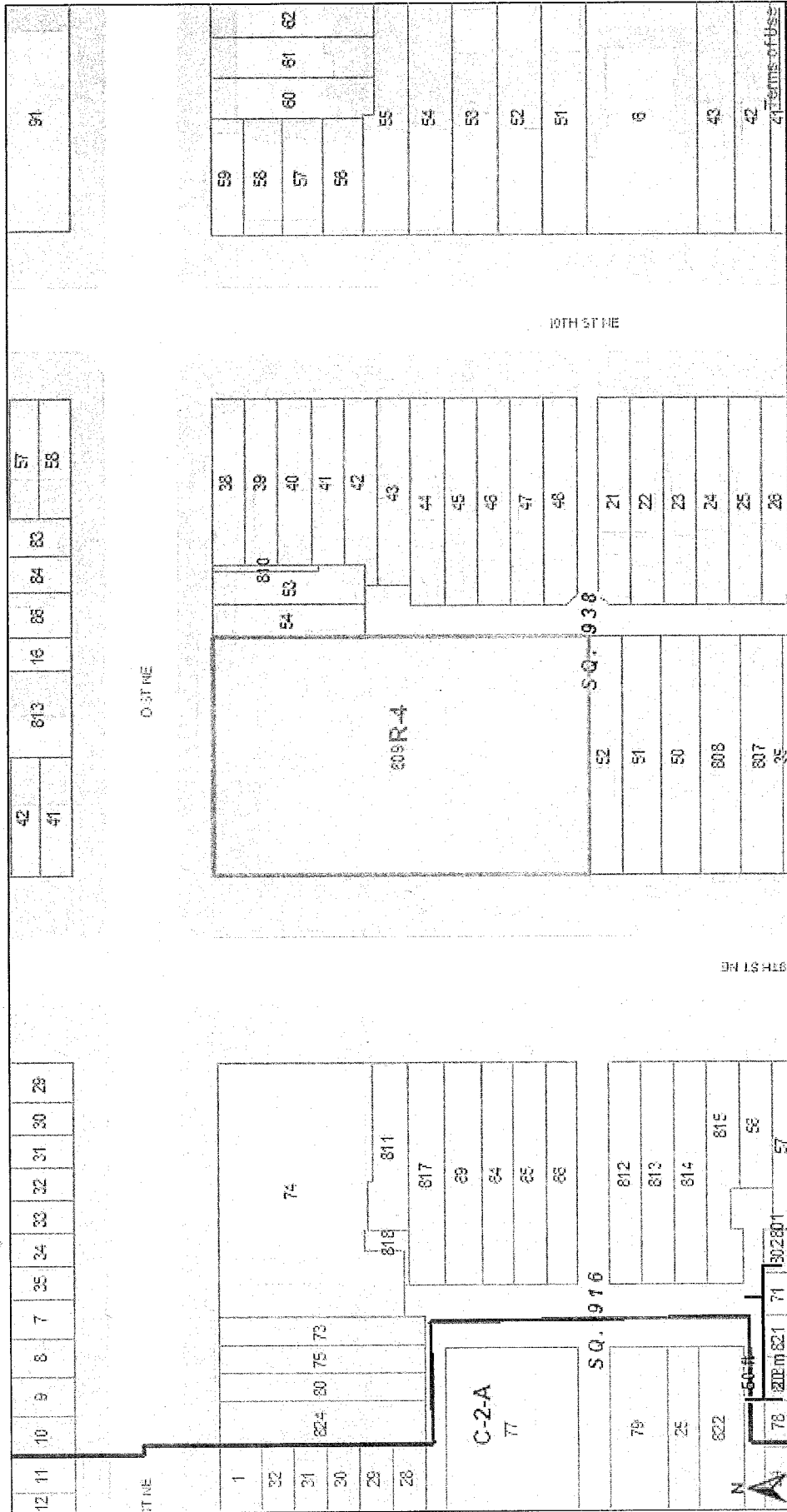
Cary Kadlecek
Cary Kadlecek



District of Columbia Office of Zoning

EXTRACT OF THE DISTRICT OF COLUMBIA ZONING MAP

August 9, 2012



Zoning Layers

- Zone Districts
- Historic Districts
- Overlays Districts
- CEA
- Campus Plans
- TDRs
- Pending FUDs
- FUDs
- Air Rights Zone

To certify zoning on any property in order to satisfy a legal requirement, contact the Office of Zoning at (202) 727-6311.



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



FORM 120 - APPLICATION FOR VARIANCE/SPECIAL EXCEPTION

Before completing this form, please review the instructions on the reverse side.
Print or type all information unless otherwise indicated. All information must be completely filled out.

Pursuant to §3103.2 – Area/Use Variance and/or §3104.1 - Special Exception of Title 11 DCMR- Zoning Regulations,
an application is hereby made, the details of which are as follows:

Address(es)	Square	Lot No(s).	Zone District(s)	Type of Relief Being Sought	
				Area Variance Use Variance Special Exception	Section(s) of Title 11 DCMR - Zoning Regulations from which relief is being sought
409 15th ST N.E WASHINGTON DC. 20002	4544	0174	R5B	Use Variance	350.4

Present use(s) of Property:	DELI		
Proposed use(s) of Property:	DELI		
Owner of Property:	IN SOOK LEE	Telephone No:	571-425-0622, 301-595-4422
Address of Owner:	14002 FERNIE FIELD CT LAUREL, MD 20707		
Single-Member Advisory Neighborhood Commission District(s):	6A5		

RECEIVED
 D.C. OFFICE OF
 ZONING
 2013 JUL 26 AM 9:36

Written paragraph specifically stating the "who, what, and where of the proposed action(s)". This will serve as the Public Hearing Notice:

Owner is seeking a variance to allow the continued use of the subject property as a deli.

EXPEDITED REVIEW REQUEST (if interested, please select the appropriate category)

I waive my right to a hearing, agree to the terms in Form 128 - Waiver of Hearing for Expedited Review, and hereby request that this case be placed on the Expedited Review Calendar, pursuant to §3118.2 (CHOOSE ONE):

- A park, playground, swimming pool, or athletic field pursuant to §209.1, or
- An addition to a one-family dwelling or flat or new or enlarged accessory structures pursuant to §223

I/We certify that the above information is true and correct to the best of my/our knowledge, information and belief. Any person(s) using a fictitious name or address and/or knowingly making any false statement on this application/petition is in violation of D.C. Law and subject to a fine of not more than \$1,000 or 180 days imprisonment or both. (D.C. Official Code § 22-2405)

Date:	07/26/2012	Signature*:	
To be notified of hearing and decision (Owner or Authorized Agent*):			
Name:	JENNY HONG-LEE CHO & HAE (JUSTIN) LEE	E-Mail:	justin.lee@unitedcentralbank.com
Address:	7420 Cedar Grove Ln Elkridge, Md 21075 & 7140 Little River Tnpk Annandale, Va 22003		
Phone No(s):	571-230-3303 & 571-425-0622	Fax No.:	703-354-2288

* To be signed by the Owner of the Property for which this application is filed or his/her authorized agent. In the event an authorized agent files this application on behalf of the Owner, a letter signed by the Owner authorizing the agent to act on his/her behalf shall accompany this application.

ANY APPLICATION THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE BACK OF THIS FORM WILL NOT BE ACCEPTED.

FOR OFFICIAL USE ONLY

Exhibit No. 1

Case No. 18451

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR



July 3, 2012

Justin Lee
7140 Little River Turnpike
Annandale, Virginia 22003

Re: Lot 0174 in Square 4544
409-A 15th Street NE
Washington, District of Columbia 20002
Zoned R-5-B


Dear Mr. Lee:

Your certificate of occupancy application #1202333 filed to use the subject premises as a "deli/restaurant" is disapproved due to the need for Board of Zoning Adjustment approval. The property, for purposes of zoning, is classified as **R-5-B** which does not allow your proposed use. The operation of a restaurant in the R-5-B zone requires variance relief from Section 350.4.

The Board of Zoning Adjustment has authority to grant a variance under provisions of DCMR Title 11, Section 3103.

This letter must be presented to the Office of the Board of Zoning Adjustment, Room 210, 441 4th Street, N.W., when requesting special approval. If your request is granted, a new certificate of occupancy application must be filed.

Best regards,


Matt LeGrant
Zoning Administrator

RE: OLD COUNTRY DELI

Dear Sir or Madam:

I am requesting a special exception use for our property located in **409 15TH ST NE** . When this property was purchased 6 years ago, we were told the zoning was commercial. In 2008, one of the space was rented to a tenant for a deli use. At the time, without any problem, tenant was able to receive C of O and all required license to operate a deli. Not until recently when trying to change ownership of the deli was I informed the property is zoned residential, and zoning change took place back in 1988. This came as a big surprise because the property was purchased as a commercial property.

We understand a mistake was made by the government in issuing the C of O back in 2008; however, we ask for your understanding in allowing the premise to be operated continuously as a deli. Trying to convert the space to residential will cause undue hardship. We don't have the financial means at this time, and current rental income is needed to maintain the bank mortgage payment. Since operating the business from 2008, we did not have one complaint from the neighborhood. We were warmly welcomed and appreciated by the neighborhood. We ask for your careful consideration in maintaining the use as a deli.

Thank you for your attention and assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'In Sook Lee', with a long horizontal flourish extending to the right.

IN SOOK LEE



VIEW FROM 15TH ST NE



VIEW OF DELI UNIT



VIEW FROM ISHERWOOD ST NE



VIEW FORM D ST NE



VIEW OF LIQUOR STORE

Department of Consumer and Regulatory Affairs

Permit Operations Division

941 North Capitol Street NE Room 2100

Washington DC 20002

Tel. (202) 442 - 4589 Fax (202) 442 - 4862



CERTIFICATE OF OCCUPANCY

THIS PERMIT MUST ALWAYS BE CONSPICUOUSLY DISPLAYED AT THE ADDRESS OF WORK UNTIL WORK IS COMPLETED AND APPROVED

PERMIT NO. CO0800423

Date: 09/30/2008

Address of Use: 409 15TH ST NE		Zipcode:	Zone: R-5-B	Ward: 6	Square: 4544	Suffix:	Lot: 0174
Description of Occupancy: RESTAURANT SEATING 10							
Permission Is Hereby Granted To: Yeon Kim		Trading As: OLD COUNTRY DELI		Floor(s) Occupied 1ST		PERMIT FEE: \$76.00	
Previous Use(s): Restaurants - A-2		Approved Use(1): Restaurants - A-2		Approved Use(2):			
Type of Occupancy: Ownership Change	BZA Number:		Occupied Sq. Footage: 1200		Occupant Load: 10		
Conditions/ Restrictions: THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, VALID ONLY for the premise at the above address or part thereof, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHNAGE in the type of business, ownership of business, or part of premises used therefore, will render this Certificate VOID and a new Certificate must be obtained.							
Director: Linda K. Argo		Permit Clerk: Anthony Merritt		Expiration Date:			
TO REPORT WASTE, FRAUD OR ABUSE BY ANY DC GOVERNMENT OFFICAL, CALL THE DC INSPECTOR GENERAL AT 1-800-521-1639 FOR CONSTRUCTION INSPECTION INQUIRIES CALL (202) 442-9557 TO SCHEDULE INSPECTIONS PLEASE CALL (202) 442-9557.							



The Government of the Distr. of Columbia
Department of Health
Food Safety & Hygiene Inspection Services Division accepts that:

Hana Cho

has presented certification of passing a nationally recognized
Food Safety Manager's Examination.

This ID card is valid for a period of (3) three years.

Exam Date: 09/26/2010
Expiration Date: 09/26/2013
Issue Date: 04/07/2011
Certified Number: FS-46802

Robert L. Sudler Jr., Program Manager

You must post in a conspicuous location within establishment.

Kathleen Beck

@ DC

202-4642-4557

