

**DC Office of Zoning  
c/o Chair Lloyd Jordan, Board of Zoning Adjustment  
441 4th Street, NW, Suite 200S, WDC 20001**

*Re: BZA Case No. 18506; Correction to AMFRD's Reply to Applicant dated November 14, 2014*

November 17, 2014

Dear Mr. Jordan,

On Friday, November 14, 2014, I filed a document on behalf of Adams Morgan for Reasonable Development ("AMFRD") with DC Office of Zoning staff.

This filing was served to all parties to BZA Case No. 18506, and it can be found for download at the following URL:

**[http://www.districtdynamics.org/ontario1700/bza\\_nov\\_14/2014\\_11\\_14\\_ontario\\_bza\\_reply\\_to\\_applicants\\_response.pdf](http://www.districtdynamics.org/ontario1700/bza_nov_14/2014_11_14_ontario_bza_reply_to_applicants_response.pdf)**

I understand that Mr. Varga has today docketed on the BZA record for this case, AMFRD's November 14, 2014, filing.

The filing is currently titled, "REPLY TO APPLICANT'S NOVEMBER 10, 2014 RESPONSE TO AMFRD'S SEPTEMBER 24, 2014 REQUEST FOR IMMEDIATE HEARING" as labeled just under the caption.

Upon re-review, AMFRD would like to note for BZA Commissioners that all references to a September 24, 2014 submission of AMFRD's Request for an Immediate Hearing is wrong.

AMFRD's Request for Immediate hearing was submitted to OZ, and all parties to BZA Case No. 18506, actually on *September 29, 2014*.

Therefore, the title of the November 14, 2014 AMFRD filing should be, "REPLY TO APPLICANT'S NOVEMBER 10, 2014 RESPONSE TO AMFRD'S SEPTEMBER 29, 2014 REQUEST FOR IMMEDIATE HEARING" as labeled

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just under the caption.

The 2nd paragraph on the first page should read as, "AMFRD filed a Request for Immediate Hearing in this matter on **September 29, 2014**. This filing was docketed on October 1, 2014 by the Secretary of the BZA. (See Attachment #1)."

And, the 3rd paragraph on the second page should be read as, "On **September 29, 2014**, Adams Morgan for Reasonable Development ("AMFRD") filed and served a Request for an Immediate Hearing to all parties associated with BZA Case No. 18506, so that the BZA could contend directly with the Court-ordered remand and reversal of the zoning relief granted (See Attachment #1)."

And finally, on page 5 paragraph 8, this should read, "Further, it would now also appear that the enclosed spaces on the roof, including the enclosed multiple private rooftop patios, far exceed the rooftop area requirements found in the DC Zoning Regulations. **See 11-DCMR-411.8 & 11-DCMR-411.14**. This new information was not available to the BZA under initial review back in February 2013."

We hope these corrections can be accounted for during the Court-ordered re-review of this important zoning issue.

Respectfully,

*/s/n/ Chris Otten*

Chris Otten Co-convener  
Adams Morgan for Reasonable Development (AMFRD)  
202-670-2366, [admo4rd@gmail.com](mailto:admo4rd@gmail.com)

Cc: Mr. Paul Tummonds, Counsel for Applicant  
[ptummonds@ghoulstonstorr.com](mailto:ptummonds@ghoulstonstorr.com)

Mr. Billy Simpson, ANC Commissioner and Chair of 1C  
[1c06@anc.dc.gov](mailto:1c06@anc.dc.gov)

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**Before the Board of Zoning Adjustment  
of the District of Columbia**

APPLICATION OF ONTARIO )  
RESIDENTIAL, LLC )  
ANC-1C06 )  
 ) BZA CASE NO. 18506  
 )  
 )

**REPLY TO APPLICANT'S NOVEMBER 10, 2014 RESPONSE  
TO AMFRD'S SEPTEMBER 24, 2014 REQUEST FOR IMMEDIATE HEARING**

Adams Morgan for Reasonable Development ("AMFRD") is a party to Board of Zoning Adjustment ("BZA") Case No. 18506.

AMFRD filed a Request for Immediate Hearing in this matter on September 24, 2014. This filing was docketed on October 1, 2014 by the Secretary of the BZA (See Attachment #1).

Nearly forty days later, on November 10, 2014, the Applicant in BZA Case No 18506 filed a Response to AMFRD's Request for an Immediate Hearing. This filing has yet to be docketed and assigned an Exhibit number.

AMFRD understands that a public meeting has been scheduled by the Secretary of the BZA for November 18, 2014, so that BZA Commissioners may deliberate and decide on AMFRD's Request for an Immediate Hearing.

This submission, along with its incorporated attachments, is AMFRD's Reply to Applicant's November 10, 2014 Response to AMFRD's Request for an Immediate Hearing

**I. Background Facts**

On September 27, 2013, the Board of Zoning Adjustment ("BZA") issued a written order granting zoning relief from DC Zoning Regulations 11-DCMR-411.3 and 411.5, so that the Applicant, Ontario Residential LLC, could build multiple rooftop structures at non-uniform rooftop heights on top of a new 70 foot high mixed-use building at 1700 Columbia Road, NW (See Attachment #2).<sup>1</sup>

On June 5, 2014, the DC Court of Appeals remanded the decision to grant the rooftop zoning relief for this project back to the Board of Zoning Adjustment ("BZA") for "further proceedings"

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<sup>1</sup> 11-DCMR-411.3 All penthouses and mechanical equipment shall be placed in one (1) enclosure , 11-DCMR-411.5 Enclosing walls from roof level shall be of equal height, and shall rise vertically to a roof

to determine if constructing a single rooftop enclosure standing at a height with uniform vertical walls is otherwise "impracticable" for this site (See Attachment #3).

On July 24, 2014, DCRA issued a building permit approving construction of 1700 Columbia Road, NW. (See Attachment #4).<sup>2 3</sup>

AMFRD attempted to seek clarification from City agencies associated with this project to inform the public as to how a building permit could be issued despite the Court of Appeals vacating the BZA decision on June 5, 2014 (See Attachment # 6)

On September 24, 2014, Adams Morgan for Reasonable Development ("AMFRD") filed and served a Request for an Immediate Hearing to all parties associated with BZA Case No. 18506, so that the BZA could contend directly with the Court-ordered remand and reversal of the zoning relief granted (See Attachment #1)

Also on September 24, 2014, AMFRD filed BZA Appeal #18888, solely contending with the rear yard relief for this project (See Attachment #7).

A hearing regarding BZA Appeal #18888 has been scheduled to be heard by the BZA on January 13, 2015. (See Attachment #8).

On October 1, 2014, Secretary of the BZA, Mr. Clifford Moy, docketed AMFRD's Request for Immediate Hearing, and he notified all parties of a BZA meeting on November 18, 2014, when the BZA will deliberate on AMFRD's Request for Immediate Hearing (See Attachment #9).

On November 10, 2014, the Applicant filed with the BZA a Response to AMFRD's Request for Immediate Hearing arguing that DCRA's Zoning Administrator approved the Applicant's rooftop design revisions. This filing has not yet been docketed by the BZA Secretary (See Attachment #10).

The Applicant has provided the BZA a printout from the DCRA "PIVS" website showing a discrete list of approvals for the building permit to construct this project. (See Attachment #11) <sup>4</sup>

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2 See Attachment #5 incorporated herein which is a true and correct photograph of the construction site at 1700 Ontario Road taken by Chris Otten on July 23, 2014. The photo demonstrates that vertical construction of the project was underway long before the building permit was issued by DCRA on July 24, 2014

3 Referencing Attachment #10 incorporated herein, and looking at page 2, first paragraph, first sentence of this document, the November 10, 2014 Applicant's Response to AMFRD's Request for Immediate Hearing states, "At the same time that the Court proceedings were underway, Ontario had started construction on its project in accordance with the plans approved by the Board."

4 In their November 10, 2014 Response filed with the BZA, the Applicant provided a screenshot of the DCRA website (PIVS.DCRA DC GOV) showing data under the address of the project, 1700 Columbia Road, NW. The DCRA PIVS website lists comments from various DCRA disciplines as they processed the building permit, including rows of data labeled "Zoning Review." The Applicant points the BZA to a "Zoning Review" entry dated 7/14/2014 which says "Zoning Review Approved." This data entry references the Revised Roof Plan as "the modified plans to address court of appeals remand of rooftop structure issue."

The aforementioned DCRA website printout briefly references a "Zoning Review" approval dated July 14, 2014, stating that the "modified plans" address the "court of appeals remand of the rooftop structure issue " (See Attachment #11).

There are no submissions on the BZA record by either the Applicant or DCRA's Zoning Administrator demonstrating a formal written compliance letter about the zoning approval and rooftop relief in question.

Further, there is no archived document about this project found on the DCRA website specifically showing ZA compliance letters.<sup>5</sup>

On October 28, 2014, there was a hearing at the Office of Administrative Hearings ("OAH") discussing the rooftop revisions to this project in the context of the DC Construction Codes. (See Attachment #12).

At the October 28, 2014 OAH hearing, the Applicant's architect presented two renderings of the proposed building's rooftop. The first rooftop design rendering is labeled, "Initial Roof Plan" and the second rendering is labeled "Revised Roof Plan." (See Attachment #13)

The rooftop structures of the "Initial Roof Plan" are described by the BZA Order dated September 27, 2013, which granted rooftop zoning relief for a proposed building consisting of 10 rooftop structures standing at two different heights. (See Attachment #2).<sup>6</sup>

In comparison, the Applicant's architect presented that the "Revised Roof Plan" plans consist of 9 enclosed rooftop structures – eight (8) stairwell structures, and one (1) elevator override structure. (See Attachments #13 & #14).<sup>7</sup>

Both the "Initial Roof Plan" rendering and "Revised Roof Plan" rendering show a curtain wall with partitions that connect each stairwell penthouse, and from which extend privacy walls standing six-feet (6') high and perpendicular to the curtain wall partitions. (See Attachment #13 & #14)

The privacy walls extending from the curtain wall partitions act to screen in the private rooftop patio areas which are accessed by the rooftop stairwells ascending from the penthouse dwelling

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5 Online webpage showing DCRA's Zoning Administrator compliance letters; <http://tinyurl.com/dcra-za-letters>

6 From Page 7 of the BZA Order dated September 27, 2013. "21 The Project requires roof structure relief for multiple roof structures of varying heights, one of which is not set back from the exterior wall the requisite distance (§§ 411.2, 411.3, and 411.5) 22. The Project provides 11 stair structures that provide direct access to the roof from private units and one elevator override and mechanical penthouse. The configuration of these roof structures results in a total of 10 roof structures 23. The stair structures are approximately 10 feet in height while the elevator override is approximately 18 feet tall. Each of the stair structures is set back from the exterior walls at least one foot for every foot of height "

7 Attachment #14, incorporated with this filing, shows a series of design sheets from "The Permit Set." The Permit Set consists all of the design plan sheets for this project as found on file at DCRA. The cover page of the The Permit Set is timestamped several times including one dated July 14, 2014 by DCRA's Zoning Administrator, and another by DCRA's Structural Engineer as stamped on July 24, 2014

units located on the top floor of the building just below the rooftop. (See Attachment #13 & Attachment #14).

The Applicant's architect testified that the eight (8) stairwell penthouses in the Revised Roof Plan are all twelve (12') feet tall and the elevator override penthouse is fourteen feet, six inches (14' 6") tall (See Attachment #13 & Attachment #14).

The Applicant's architect also presented a revision to the height of the curtain wall partitions, which are now slightly taller in the Revised Roof Plan and set at the same height as the stairwell penthouses. (See Attachment #13)

The Applicant's architect testified that both the "Initial Roof Plan" and the "Revised Roof Plan" have a "decorative trellis" that sits atop all of the curtain wall partitions, as well as on stairwell penthouses. (See Attachment #13) <sup>8</sup>

In both the Initial Roof Plan and Revised Roof Plan renderings, the curtain wall partitions are not as tall as the elevator override enclosure. (See Attachment #13).

The Applicant submitted a letter to DCRA on June 25, 2014, referencing all of the revised design plan sheets <sup>9</sup> This June 25, 2014 letter from the Applicant to DCRA includes a section on the second page entitled "Structural" which outlines a list of revised design sheets including, the "Level 06 Framing Plan, "Rooftop Framing Plan" and a "Penthouse Framing Plan," with the letter further noting that the aforementioned design sheets show changes to the "rooftop structures." (See Attachment #15).

## II. Conclusion

In the November 10, 2014 Applicant's Response to AMFRD's Request or Immediate Hearing, the Applicant states they amended their design, "to include a roof plan with a *single structure of a uniform height* " (See Attachment #10, page 2, line 12)

It is clear by the evidence incorporated with this filing, as well as found on the OAH record, the Applicant's "Revised Rooftop Plan" still consists of multiple enclosed rooftop structures -- 8 stairwells and 1 elevator override. Further, the elevator override is still taller than the stairwell structures. (See Attachments #13 & #14).

The rooftop zoning relief granted by the BZA back in September 2013 for multiple rooftop structures set at varying heights has been vacated by the DC Court of Appeals, and this

<sup>8</sup> On page 2 of the DC Office of Planning report dated February 19, 2013, seen as Exhibit #26 on the record in BZA Case No 18506, under the section entitled "III Application in Brief", OP officials describe a "decorative trellis" connecting all of the stairwell structures

<sup>9</sup> Attachment #15 incorporated herein consists of a sample of the documents on file with DCRA regarding the construction project in this case. These documents are part of a letter dated June 25, 2014 from the Applicant to DCRA showing revisions to the design plan sheets, "in response to the reversal by the District of Columbia Court of Appeals Case 13-AA-1356 "

Order still holds

Further, the June 5, 2014, Court of Appeals Order does not remand this zoning case back to DCRA's Zoning Administrator ("ZA"), it remands it directly to the BZA. (See Attachment #3)

There is no expressed authority for the ZA to be able to contend directly with a remand from DC's highest Court.<sup>10</sup>

For argument sake, even if the ZA had the authority to contend with the DCCA remand, or even if the DCCA Order remanded this case directly to the ZA, that would propel a formal showing of the ZA's determinations in writing so that the public could see formal judicial closure of this case on the record.

However, there is no formal letter penned by the ZA found on the record presenting findings and conclusions in writing regarding the rooftop revisions and any compliance with DC's Zoning Regulations.

The Applicant provided the only document alleging the ZA's review of the revised plan – a printout from DCRA's PIVS website which gives little information with regard to the rooftop revisions and alleged zoning compliance of the revised rooftop design (See Attachment #11).

As the Applicant states in their November 10, 2014 Response, "Section 3129.6 [of the Zoning Regulations] would apply if *Ontario modified its roof plan but still needed roof structure relief.*" (See Attachment #10)

In spite of the Applicant's rooftop plan revisions, the Applicant's "Revised Rooftop Plan" clearly depicts multiple rooftop structures at varying heights and therefore rooftop zoning relief is indeed still needed for this project. (See Attachments #13 & #14).

Further, it would now also appear that the enclosed spaces on the roof, including the enclosed multiple private rooftop patios, far exceed the rooftop area requirements found in the DC Zoning Regulations. *See 11-DCMR-411.8 & 11-DCMR-411.14.* This new information was not available to the BZA under initial review back in February 2013.

Consequently, there is overwhelmingly *prima facie* evidence indicating that at least one more public hearing be held in front of the BZA so that all parties can contest and conclude on these outstanding zoning issues, as well as to fulfill the Order of the highest Court in the District of Columbia.

Based on the above facts and new evidence, AMFRD continues to emphatically request that BZA Commissioners schedule an immediate hearing regarding BZA Case No. 18506 per DC Zoning

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<sup>10</sup> DCRA's Zoning Administrator is authorized to grant "Minor Flexibility" pursuant to 11-DCMR-2522, and is authorized to charge fees for writing "compliance letters" pursuant to DC Code § 6-1406.02. There is no statute giving the ZA authority to respond directly to an Order of remand from the DC Court of Appeals

Regulations, 11-DCMR-3129, as well as to perform the legal due diligence required in conjunction with the DC Court of Appeals remand back to the BZA.

AMFRD simply seeks that this project comply with DC Law, as enacted through DC's Zoning Regulations.

AMFRD has availability in early December, and then again in January, to attend a public hearing on this matter.

Respectfully submitted,

*/s/n/ Chris Otten*

Chris Otten, Co-Convenor  
Adams Morgan for Reasonable Development  
202-670-2366  
[admno4rd@gmail.com](mailto:admno4rd@gmail.com)

#### **ATTESTATION OF SERVICE**

I, Chris Otten, attest that I served the incorporated Reply to Applicant's Response to AMFRD's Request for Immediate Hearing to parties to BZA Case No 18506 by electronic mail on this the 14th day of November, 2014, as follows

Paul Tummonds, Esquire  
Goulston & Storrs  
1999 K Street, NW Suite 500  
Washington, DC 20006  
[PTummonds@goulstonstorrs.com](mailto:PTummonds@goulstonstorrs.com)

Billy Simpson, Chair  
Advisory Neighborhood Commission ANC-1C  
[1C06@anc.dc.gov](mailto:1C06@anc.dc.gov)

As signed,

*/s/n/ Chris Otten*

Chris Otten,  
Adams Morgan for Reasonable Development  
202-670-2366

**Adams Morgan For Reasonable Development  
BZA Case No. 18506**

# **ATTACHMENT 1**

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U. S. OFFICE OF ZONING  
BEFORE THE BOARD OF ZONING ADJUSTMENT  
OF THE DISTRICT OF COLUMBIA

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APPLICATION OF ONTARIO  
RESIDENTIAL LLC.  
ANC 1C06

BZA Application Number: 18506

**REQUEST FOR AN IMMEDIATE HEARING**

Adams Morgan for Reasonable Development, a party to Board of Zoning Adjustment ("BZA") Application Number 18506, hereby requests that the BZA schedule a hearing on BZA Application Number 18506 as required by the D.C. Court of Appeals' order of June 5, 2014 and the Board's own rules of practice and procedure. Court Order Attached as Exhibit A.

**STATEMENT OF FACTS**

1. On November 26, 2012, 1700 Columbia Road, LLC filed Board of Zoning Adjustment Application No. 18506 seeking special exceptions and variances in order to facilitate the construction of a proposed mixed-use residential building.
2. Subsequent to the application, Ontario Residential LLC took over the project from Columbia Road, LLC and continued to pursue the requests for special exceptions and variances.
3. On February 26, 2013, the BZA held a hearing and voted to grant all of Ontario's requested variances and special exceptions. D.C. Board of Zoning

BOARD OF ZONING ADJUSTMENT  
District of Columbia  
CASE NO. 18506  
EXHIBIT NO. 45

*Adjustment, Decision and Order on Application No. 18506, 1 (February 26, 2013) ("Order.")*

4. At the hearing, Adams Morgan for Reasonable Development ("AMRD") was granted party status. Order at 2. The Board issued the Order on September 27, 2013.
5. On October 9, 2013, Appellant filed a Motion for Reconsideration, which was denied by the Board via oral order on October 29, 2013.
6. On November 29, 2013, AMRD filed a timely petition for review in the D.C. Court of Appeals seeking review of the Order. Exhibit B.
7. AMRD filed a Motion for Summary Disposition with regards to the special exceptions for roof structures. Exhibit C.
8. AMRD in no way gave up its challenges to the other special exceptions and variances.
9. On June 5, 2014, the D.C. Court of Appeals granted AMRD's motion, vacated part of the Order and remanded the case to the BZA for "further proceedings consistent with this judgment."
10. No further proceedings have been held.
11. On July 25, 2014, Ontario filed a letter with the Board "retracting its request for special exception relief for the number of rooftop structures and the uniform height of the structures." Exhibit D.
12. That letter was not served on AMRD and AMRD has neither seen the letter or the modified plans that went with it.

**ARGUMENT**

The Board previously approved Ontario's plans. Ontario's letter was a request to modify the plans the BZA had approved. Exhibit D ("The Applicant has since revised its roof plan.") DCMR 11-3129, governs an Applicant's requests to modify an approved plan. Under DCMR 11-3129, there are two different types of modifications, minor and non-minor. Under either provision, Ontario and the Board have not followed the required procedure to approve a modification.

**I. ONTARIO'S LETTER WAS A REQUEST TO MODIFY AN ORDER OF THE BOARD AND REQUIRES A HEARING**

DCMR 3129.6 defined what modifications are minor. It states that "[a]pproval of requests for modification of approved plans shall be limited to minor modifications that do not change the material facts upon which the Board based its original approval of the application." Ontario's letter changes the material facts because it claims that its rooftop structures are now "compliant with the Zoning Regulations." Under DCMR 3129.7, "[a] request to modify other aspects of a Board order may be made at anytime, but shall require a hearing." Ontario is requesting that the Board simply eliminate a large part of its Order, while leaving other portions intact. The BZA's own rules of procedure clearly require a hearing.

**II. IF THE MODIFICATIONS ARE MINOR, ONTARIO HAS STILL FAILED TO FOLLOW THE BZA RULES OF PROCEDURE AND PRACTICE FOR MODIFYING AN APPROVED PLAN**

DCMR 11-3129.4 requires that "[a]ll requests for minor modifications of plans shall be served on all other parties to the original application at the same

time as the request is filed with the Board. A party shall have ten (10) days within which to submit written comments that such party may have concerning the requested modification."

a. Ontario failed to serve AMRD

AMRD was a party to the original application and was not served with, or aware of, this letter. AMRD has suffered extreme prejudice in that Ontario's ex parte communication has deprived AMRD of its statutory right to appeal the BZA's decision, not only on this modification, but with regards to the other variances and special exceptions previously granted. Ontario's letter states that it served AMRD representative Chris Otten, but Mr. Otten did not receive the letter. *See Attached Affidavit.*

b. Ontario failed to include modified plans with its letter.

DCMR 31292 requires that requests for minor modifications include "the plans for which approval is now requested." The letter from Ontario does not include the modified plans it references.

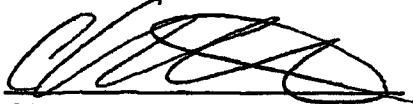
III. THE BZA WAS REQUIRED TO HOLD "PROCEEDINGS" PRIOR TO ALLOWING ONTARIO TO MOVE FORWARD UNDER THE ORDER

The plain language of the Court of Appeals ruling is completely clear. The case "remanded for further proceedings consistent with this judgment." If the BZA wished to accept Ontario's modified application, it was required to hold a proceeding to do so and none has been held. A proceeding in this case is equally important because a proceeding, even one that simply withdrew the

special exceptions invalidated by the Court of Appeals and left the rest of the Order intact, would allow AMRD to continue pursuing its appellate rights, which the current ex parte action has taken away.

WHEREFORE, Adams Morgan for Reasonable Development hereby requests that the Board schedule a hearing on Application 18506 to determine which portions of the Order are still valid.

Respectfully submitted,



Chris Otten  
Representative  
Adams Morgan for Reasonable Development  
1830 Belmont Rd. NW,  
Washington, D.C. 20009

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

APPLICATION OF ONTARIO  
RESIDENTIAL LLC.  
ANC 1C06

BZA Application Number: 18506

**AFFIDAVIT**

My name is Chris Otten and I am the President of Adams Morgan for Reasonable Development ("AMFRD"). In that capacity I have appeared before the Board of Zoning Adjustments in the above-captioned application case.

I never received a copy of Ontario Residential LLC.'s July 25, 2014 letter to the Board. I saw that letter for the first time in September of 2014.

I solemnly declare and affirm under the penalties of perjury that the contents of the preceding affidavit are true and based on my personal knowledge.



Chris Otten  
Representative/Coordinator  
Adams Morgan for Reasonable Development

9/16/14

Date

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

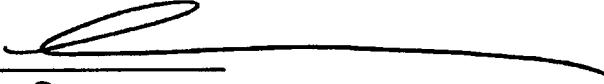
APPLICATION OF ONTARIO  
RESIDENTIAL LLC.  
ANC 1C06

BZA Application Number: 18506

**CERTIFICATE OF SERVICE**

I hereby certify that on September 29, 2014, I mailed a copy of the foregoing request to:

Christine A. Roddy  
Paul A. Tummonds Jr.  
Goulston & Storrs  
1999 K St., NW, Suite 500  
Washington D.C. 20006

  
\_\_\_\_\_  
Sean Canavan

**Adams Morgan For Reasonable Development  
BZA Case No 18506**

# **ATTACHMENT 2**

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Board of Zoning Adjustment**



**Application No. 18506 of Ontario Residential LLC**, as amended,\* pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a special exception from the roof structure provisions under subsection 777.1 (subsections 411.2, 411.3 and 411.5), for the number, location, and varying height of the roof structures on the proposed building, a special exception from the requirement that all **compact spaces** be placed in groups of at least five contiguous spaces with access from the same aisle under § 2115.4,\* a variance from the off-street parking requirements under subsection 2101.1, and a variance from the loading berth and delivery space provisions under subsection 2201.1, to allow a mixed-use residential building with ground floor retail in the C-2-B District at premises 1700 Columbia Road, N.W. (Square 2565, Lot 52).

**HEARING DATE.** February 26, 2013  
**DECISION DATE** February 26, 2013

**DECISION AND ORDER**

The applicant in this case is Ontario Residential LLC (“Applicant”). The application was filed by 1700 Columbia Road, LLC on November 26, 2012. The Property was subsequently sold to Ontario Residential LLC, which filed a pre-hearing application, complete with an updated agent authorization letter, on February 12, 2013 (Exhibits 1-9.) The caption has been revised to reflect the change in the Applicant’s identity.

The application sought a variance under 11 DCMR § 3103.1 from the parking requirements for retail uses and the loading requirements for the residential and retail uses in the C-2-B Zone District. At the hearing, the Applicant amended\* its request to add variance relief from the requirement that all compact spaces be placed in groups of at least five contiguous spaces with access from the same aisle.

The Applicant also requested special exception relief for the proposed roof structures, which exceed the permitted number, are of varying heights, and do not meet the setback requirement at one point.

The Board of Zoning Adjustment (“Board”) held a public hearing on February 26, 2013. Following the hearing, the Board closed the record and deliberated on the application. The Board voted 5-0 to grant the application for the variance and special exception relief, subject to conditions.

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ZONING COMMISSION

District of Columbia

CASE NO. 18506-1851-  
XHIB. NO.

**PRELIMINARY MATTERS**

Application. The application requested special exception relief pursuant to § 3104.1 of the Zoning Regulations (Title 11 DCMR) from the roof structure requirements of §§ 777, 411.2, 411.3, and 411.5; variance relief pursuant to § 3103.2 from the number and amount of required loading facilities (§ 2201.1); variance relief from the number of required parking spaces (§ 2101.1), and the requirement that all compact spaces be placed in groups of at least five contiguous spaces with access from the same aisle (§ 2115.4). (Exhibits 1, 3.)

Notice of Application and Notice of Public Hearing. By memoranda dated November 27, 2012, the Office of Zoning ("OZ") advised the D.C. Office of Planning ("OP"), the Zoning Administrator, the District of Columbia Department of Transportation ("DDOT"), the Councilmember for Ward 1, Advisory Neighborhood Commission ("ANC") 1C, the ANC within which the Property is situated, and the Single Member District Commissioner, ANC 1C06, of the application. (Exhibits 12-16)

Pursuant to 11 DCMR § 3113.13, OZ mailed the Applicant, the owners of all property within 200 feet of the Property, and ANC 4A, notice of the February 26, 2013, hearing. Notice was also published in the *D.C. Register*. The Applicant's affidavits of posting and maintenance indicate that three zoning posters were posted beginning on February 7, 2013, in plain view of the public. (Exhibits 17-20)

Requests for Party Status. ANC 1C was automatically a party in this proceeding. The Board granted party status to Adams Morgan for Reasonable Development ("AMFRD"), an unincorporated nonprofit association. (Exhibit 22.)

Motion for Postponement. On February 25, 2013, AMFRD filed a motion for postponement of the February 26, 2013 public hearing. (Exhibit 27.) AMFRD cited two reasons for the postponement: (i) the lack of a report from the Department of Housing and Community Development ("DHCD") in the record; and (ii) the need for additional time to review the proposed rear yard, including time for OP to coordinate and confer with the DC Department of Fire and Emergency Services ("FEMS") regarding the proposed driveway in the rear yard. At the public hearing on February 26, 2013, the Board denied the Motion for Postponement. In regard to the first issue, the need for a DHCD report, the Board notes that AMFRD cited § 725 as the basis for the requirement that it was necessary for OP to seek DHCD's input in this case. However, § 725 is only applicable when an application is made for certain special exception uses in the C-2 Zone District. The Applicant is not seeking such special exception use. Therefore, § 725 is not applicable in this case. In regard to the second issue, regarding the proposed rear yard, the Board determined that it was entirely appropriate to move forward with the case at the public hearing, it was not necessary to seek FEMS review of a standard zoning issue such as a required rear yard, and that AMFRD could present relevant information on this issue during the public hearing process (Exhibit 27)

**FINDINGS OF FACT**

1. **Applicant's Case** The Applicant presented testimony and evidence from Jeffrey Parana, representative of the Applicant; Steven Fotiu, an expert in architecture, and Michael Workosky, an expert in traffic engineering. Their relevant testimony is reflected in the Findings of Fact that follow
2. **ANC 1C** In a letter dated February 7, 2013, the Chair of ANC 1C informed the Board that at a properly noticed public meeting held on February 6, 2013, and with a quorum present, the ANC passed a resolution supporting the granting of the special exception and variance relief requested. (Exhibit 23, Tab E.) The resolution concluded that the requested relief would be in harmony with the Zoning Regulations and would not adversely affect neighboring properties. It further found that the unique features of the property, including its shape and context, created practical difficulties in providing parking and loading. Finally, the resolution stated that the Applicant had agreed to propose a traffic demand management plan, a loading management plan, and additional conditions of approval to the Board. The Applicant in fact offered these conditions in Tab F of Exhibit 23 and confirmed at the hearing its agreement with those requirements (Hearing Transcript of February 26, 2013 ("Transcript") at p. 222.)
3. **Parties and Persons in Support of Application**. Jessica Racine-White submitted a request for party status in support of the application on January 31, 2013. Ms. White owns several properties in the vicinity of the Property and supports the effect the Project will have on property values. Ms. White did not attend the public hearing, accordingly, the Board did not grant her party status but accepted her filing as a submission in support of the application. (Exhibit 21.)
4. **Parties and Persons in Opposition to the Application**. AMFRD filed a request for party status in opposition to the application on February 11, 2013. In written materials and in testimony at the public hearing, AMFRD representatives stated that the proposed project will adversely affect the light, air, land values, noise, and traffic of neighboring properties (Exhibits 22, 27, 30; Transcript, pp 223-23.)

**The Subject Property and the Surrounding Area**

5. The Property is located in the C-2-B Zone District in the Adams Morgan neighborhood of Ward 1 in Northwest D.C. The Property is irregularly shaped and has frontage along Columbia Road, NW and 17<sup>th</sup> Street, N.W. The Property does not have any alley access.
6. The Property is located among a number of retail uses that line Columbia Road and across the street from residential buildings that vary from three to seven stories in height. The properties located to the south of the Property in Square 2565 are comprised primarily of medium density apartment houses and row dwellings. H.D. Cooke Elementary School is also located to the south of the Property, at 2525 17<sup>th</sup> Street, N.W. (Exhibit 3 )

**The Applicant's Proposed Project**

7. The Applicant is proposing to redevelop the site with a six story mixed-use building. The building will include up to 9,500 square feet of retail space and approximately 65-85 residential units ("Project") (Exhibits 3, 23, 31.)

8. The Project will provide 29 parking spaces. All of the parking spaces will be dedicated to residential use; accordingly, the Applicant only sought variance relief from the retail parking requirements. The Applicant proposed a Transportation Demand Management plan ("TDM") that included the following elements:

- The Applicant will provide to each initial residential lessee or purchaser, either:  
(i) a SmarTrip card with a value of \$75; or (ii) a first year membership to Capital Bikeshare or a car sharing service (valued at \$75).<sup>1</sup>
- The Applicant will coordinate with a car sharing service to determine the feasibility of locating car sharing vehicles in the adjacent public space. The final determination on whether and how many car sharing vehicles will be located in the adjacent public space will be made by the car sharing service and DDOT.
- Significant bicycle parking will be provided on-site for both retail employees and residents. Bicycle parking for the retail employees will be provided on the ground floor. Bicycle parking for the residents will be provided on the ground floor or in the garage. New bike racks are also proposed along Columbia Road.
- The Applicant will unbundle all costs related to the parking spaces from the sales price or lease amount of each residential unit.

(Exhibits 23, 31.)

The Applicant also proposed a loading management plan that included the following elements:

- All loading associated with the building will be from Columbia Road in public space. The Applicant and DDOT will establish a 55-foot loading zone on Columbia Road. The Applicant will agree to a limitation on deliveries in the public space along Columbia Road between the hours of 7:00 a.m to 4:00 p.m., Monday-Saturday.
- The Applicant shall designate a Loading Coordinator for the site to coordinate residential move-in/move-out. All residents shall be required to notify the Loading Coordinator of move-in/move-out dates

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<sup>1</sup> At the public hearing, the Applicant agreed to modify this element of the TDM to require that each new residential lessee or purchaser will be provided a SmarTrip card or a one year membership to Capital Bikeshare or a car sharing service

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- No truck idling shall be permitted.

(Exhibit 23, Tab C)

9. The proposed building will be 70 feet tall with a floor area ratio ("FAR") of 4.2, a lot occupancy of 74%, and a 15 foot rear yard. (Exhibits 23, 31.)
10. The Project does not include any loading facilities on-site, but intends to use a 55-foot loading space in public space on Columbia Road, NW, adjacent to the site, to meet the expected loading demand for the project. (Exhibits 23, 31) The Applicant therefore needs a variance from the applicable loading requirements set forth in § 2201.1.
11. The Project includes 10 roof structures with heights between 10 feet and 18 feet, six inches. There is a minimum set back of 14 feet, eight inches for the 18 foot penthouse. The remaining penthouses are set back the requisite distance from the exterior walls of the building. (Exhibits 23, 31)

**Office of Planning Report**

12. By a report dated February 19, 2013, supplemented by testimony at the public hearing, OP recommended approval of the special exception and variance relief requested in the application, subject to four conditions:
  - No retail parking spaces shall be provided.
  - All loading associated with the building shall be in Columbia Road public space, with delivery between the hours of 7:00 a.m. and 4:00 p.m., Monday through Saturday only
  - The Applicant shall designate a Loading Coordinator to coordinate residential move-in/move-out, and residents shall be required to notify the Loading Coordinator of residential moves
  - No truck idling shall be permitted. (Exhibit 26.)
13. The Applicant has agreed to OP's proposed conditions of approval.
14. OP noted that the triangular shape of the property and its lack of alley access was an exceptional condition that created a practical difficulty in complying with the parking requirements of the Zoning Regulations as the ramp would occupy almost the entire length of the property along the south side of the lot, reducing the size of the triangularly shaped garage. The OP report noted that the shape of the garage does not lend itself to an efficient utilization of space and results in an inefficient parking layout, areas that cannot be devoted to parking, and compact parking in groups of less than five contiguous spaces. The OP report noted that:

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The required number of parking spaces for the residential portion of the building would be provided. Provision of bicycle parking within the building and within the public space of Columbia Road for the retail users of the building, in combination with the other transportation options available within the neighborhood, including Metrobus, Metrorail and car sharing, make the building easily accessible by means other than private automobile. (Exhibit 26, p. 4.)

15. Thus, the OP report concluded that relief from the parking requirements would not result in a detriment to the public good and that no substantial harm to the Zoning Regulations would result from the reduction in parking. (*Id.*)
16. In regard to the request for loading relief, OP noted the narrow roadway width of 17<sup>th</sup> Street (30 feet), the desire of DDOT to not have vehicular access to the building from Columbia Road (a busy commercial corridor), and the existence of on-street parking on both sides of 17<sup>th</sup> Street as unique attributes that created a practical difficulty in complying with the loading requirements of the Zoning Regulations. OP concluded that there would be no substantial detriment to the public good in granting the loading relief with the adoption of the proposed conditions regarding the loading space on Columbia Road, the hours the loading space could be used, the establishment of the Loading Coordinator, and the prohibition on truck idling. (*Id.*)
17. OP also concluded that granting the roof structure special exception relief would be consistent with the Zoning Regulations and Zoning Maps and that the proposal would not tend to adversely affect the use of neighboring properties. Specifically, it found that a matter-of-right roof structure could exceed the proposed structures in both height and density; accordingly, the proposed roof structures minimized the impact on neighboring property owners since their size was minimized. (*Id.*)

**Department of Transportation Report**

18. DDOT, by its report dated February 19, 2013, supported the application subject to three conditions:
  - Provide one bicycle parking space for every two units;
  - Reduce the width of the curb cut along 17<sup>th</sup> Street from 24 feet to 20 feet; and
  - Install 16 bike spaces (eight inverted U-racks) on the street for public use. (Exhibit 25.)
19. The Applicant has agreed to DDOT's proposed conditions of approval.

***Special Exception Relief – Roof Structures***

20. In this case, the Applicant seeks relief pursuant to § 411.11, from § 777.1, which applies the

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roof structure requirements of § 411 to Commercial Zones. The Applicant seeks specific relief from §§ 411.2, 411.3, and 411.5. Subsection 411.2 requires that all penthouses are subject to the provisions of § 770.6 (which requires a 1:1 setback from all exterior walls). Subsection 411.3 requires that all penthouses and mechanical equipment be placed in a single enclosure. Subsection 411.5 requires penthouses to consist of a uniform height (Exhibits 3, 23.)

21. The Project requires roof structure relief for multiple roof structures of varying heights, one of which is not set back from the exterior wall the requisite distance (§§ 411.2, 411.3, and 411.5).
22. The Project provides 11 stair structures that provide direct access to the roof from private units and one elevator override and mechanical penthouse. The configuration of these roof structures results in a total of 10 roof structures (Exhibit 23.)
23. The stair structures are approximately 10 feet in height while the elevator override is approximately 18 feet tall. Each of the stair structures is set back from the exterior walls at least one foot for every foot of height. The elevator override, however, is set back approximately 14 feet, eight inches, which does not satisfy the roof structure set back requirement. (Exhibits 23, 31.)
24. The reduced setback is at the rear of the building, which is set back an additional depth of 15 feet from the rear lot line. The combined effect of the set back of the building at grade and the set back of the roof structure on the roof, reduces the visual impact of the proposed elevator overrun from neighboring properties. (*Id.*)
25. The Project also provides the stair structures at a lower height than the elevator overrun in an effort to minimize any impact the stairs may have on neighboring properties. Though the Zoning Regulations require a penthouse to be of uniform height, the intent of the Zoning Regulations is to reduce impacts of development on neighboring property. In this instance, the desired result is better achieved by providing varying heights for the rooftop structures. Reducing the height of the stairs ensures that they will have less of an impact on neighboring property owners than if they were the same height as the elevator overrun, as otherwise required by the Zoning Regulations (Exhibits 3, 23, 31.)
26. Finally, providing multiple roof structures enables private access to the roof, creating a distinct space that will contribute to the vibrancy of the building and create a new plane of passive activity along Columbia Road. (*Id.*)
27. Due to the siting of the building on the Property and the location and treatment of the proposed penthouse structures, these structures will have a minimal effect, if any, on the light and air of neighboring properties. (*Id.*)

***Variance – Parking and Loading***

28. The property is a landlocked parcel that does not have alley access, requiring all loading and parking to be accessed from one of the Property's two street frontages. (Exhibits 3, 26.)
29. The Property is a triangular lot, which limits the location of the required loading and the efficiency of the below-grade parking level. (*Id.*)
30. Due to pedestrian traffic, DDOT did not support a curb cut along Columbia Road to access loading. A curb cut along Columbia Road would break up the flow of pedestrian traffic, disrupt the flow of the retail, and it would create potential vehicular and pedestrian conflicts. Seventeenth Street, however, is only 50 feet wide, has two-way traffic, and has parallel parking on both sides of the roadway. The street has a functional width of 30 feet, making the roadway too narrow for trucks to access the loading dock. There is an existing loading space along Columbia Road that DDOT agreed to lengthen to 55 feet to accommodate the loading needs of the Project. (Exhibits 23, 25.)
31. The Applicant agreed to work with DDOT to provide all loading from the loading zone on Columbia Road. Although the required loading will not be provided on-site, it will be provided adjacent to the Project, minimizing any impacts resulting from the request for relief. (*Id.*)
32. The Applicant is providing 29 parking spaces in the project, fulfilling the residential parking requirement and is requesting relief from the required parking spaces for the retail uses, as well as relief from providing contiguous compact spaces. Due to the irregularly shaped lot and the space that is lost for ramps and aisle widths, the one below-grade parking level is very inefficient. In order to satisfy the Zoning Regulations' requirement to provide 37 parking spaces for this project, it would necessary to add a second level of below-grade parking. Providing this second level of parking would be inefficient, extremely expensive (putting the financial viability of the Project in question), and would also result in "over-parking" the Project, which is not supported by DDOT. (*Id.*)
33. The irregular shape of the lot and the resulting shape of the garage also make it challenging to provide the compact spaces in contiguous groups of five. In an effort to maximize the amount of parking provided in the garage, the Applicant is providing as many compact spaces as possible despite the fact they do not satisfy Section 2115.4. Granting a waiver from this requirement will not have an adverse impact on the community; on the contrary, it allows the Applicant to provide more on-site parking than it could otherwise accommodate in the garage. (*Id.*)
34. The request for parking relief will not have an adverse effect on neighboring properties. The Project is providing all of the required residential parking and seeks relief only for the retail parking requirement. The Property is ideally served by public transportation with

significant Metrobus service along Columbia Road and nearby 16<sup>th</sup> Street. The proximity to two Metro Stations (the red line station of Woodley Park-Zoo/Adams Morgan, and the green/yellow line station of Columbia Heights) is also likely to discourage vehicular traffic to the site. The Applicant is providing bicycle racks in public space for use by the public. Finally, the retail is located along a popular pedestrian strip. Each of these factors increases the likelihood that the patrons of the stores will either walk to the Property, take public transportation, or bike, rather than arriving by motor vehicle (*Id.*)

## **CONCLUSIONS OF LAW AND OPINION**

### **Special Exception Relief**

The Applicant has requested special exception relief for the proposed roof structures, which exceed the permitted number, are of varying heights, and do not meet the setback requirement at one point. The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) (2008) to grant special exceptions, as provided in the Zoning Regulations, where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, subject to specific conditions. (*See* 11 DCMR § 3104 1.)

As noted, § 777.1 applies the roof structure requirement of § 411 to Commercial Zones. The Applicant seeks specific relief from § 411.2 which requires that all penthouses are subject to the provisions of § 770.6 (which requires a 1:1 setback from all exterior walls). The Applicant also seeks relief from § 411.3, which requires that all penthouses and mechanical equipment be placed in a single enclosure and § 411.5, which requires penthouses to consist of a uniform height.

Subsection 411.11 of the Zoning Regulations provides in part that

Where impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable, the Board of Zoning Adjustment shall be empowered to approve, as a special exception under Section 3104, the location, design, number, and all other aspects of such structure, even if such structures do not meet the normal setback requirements ; provided, that the intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely. 11 DCMR § 411.11.

The Board finds that the requested roof structure relief will not adversely affect, or be objectionable to, the surrounding properties. The elevator penthouse is located such that there is a sufficient setback between the roof structure and the adjacent property line even if the structure is not set back the requisite distance from the exterior wall on the southern edge of the building.

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As noted in the OP report, “Although set back a distance less than its height from the edge of the south side of the building, its visibility would be minimized by the building’s set back of approximately fifty feet from the property in the vicinity of the elevator override.” To further mitigate the effects of the roof structures, the Applicant is reducing the height of the stairways in order to minimize their effect. Finally, the Applicant is providing multiple enclosures rather than a single enclosure in order to minimize the overall bulk of the roof structure, which, in turns minimizes their effect on neighboring properties. The roof plan minimizes both the height and bulk of the roof structures which serves as a positive feature for neighboring properties

**Variance Relief**

The Applicant also seeks variance under 11 DCMR § 3103 1 from the parking requirement for retail uses and the loading requirements for residential and retail uses in the C-2-B Zone District as well as relief from the requirement that all compact spaces be placed in groups of at least five contiguous spaces with access from the same aisle. The Board is authorized to grant variances from the strict application of the Zoning Regulations where “by reason of exceptional narrowness, shallowness, or shape of a specific piece of property … or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition” of the property, the strict application of the Zoning Regulations would “result in particular and exceptional practical difficulties to or exceptional or undue hardship upon the owner of the property....” D.C. Official Code § 6-641.07(g) (3) (2001, 11 DCMR § 3103.2. The “exceptional situation or condition” of a property need not arise from the land and/or structures thereon, but can also arise from “subsequent events extraneous to the land.” *De Azcarate v Bd. of Zoning Adjustment*, 388 A.2d 1233, 1237 (D.C. 1978). Relief can be granted only “without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.” D.C. Official Code § 6-641.07(g)(3) (2001), 11 DCMR § 3103.2.

A showing of “practical difficulties” must be made for an area variance, while the more difficult showing of “undue hardship,” must be made for a use variance *Palmer v. D.C. Board of Zoning Adjustment*, 287 A.2d 535, 541 (D.C. 1972). Since area variances are sought by the Applicant, the Applicant must comply with the three prong test: (1) that an exceptional situation results in a “practical difficulty” in complying with the Zoning Regulations; (2) the granting of the relief will not be substantial detriment to the public good, and (3) the granting of the variances will not substantially harm the Zone Plan

The application has satisfied all three elements. As to the first prong the property is subject to an exceptional situation because it is triangular in shape, does not have alley access and has frontage on only two roadways, one of which is only 50 feet wide and the other being a pedestrian corridor. The shape of the lot creates challenges in designing an efficient floor plan complete with both loading and a below-grade garage. Since the Property does not have alley access, all loading and parking maneuvers would need to be accessed from a curb cut along one of the building’s two street frontages. DDOT does not support a curb cut on Columbia Road, thus, the curb cut would have to be provided on 17<sup>th</sup> Street. Seventeenth Street has an effective street

width of 30 feet, which makes it impossible for trucks to undertake the maneuvers necessary to access a loading dock. Accordingly, all loading will take place from a public loading zone on Columbia Road. This loading zone already exists and will be lengthened in order to accommodate the loading needs of the building. Providing loading in public space along Columbia Road is the least disruptive and most effective way to provide loading for the Project.

Given the sensitivity to providing a curb cut on Columbia Road, the parking garage will be accessed via a curb cut along 17<sup>th</sup> Street. The Board finds that the Applicant is faced with a practical difficulty in providing the required number of parking spaces due to the triangular shaped, land-locked property, which creates an inefficient parking layout and areas that cannot be devoted to parking. If another garage level were provided, the Project would provide too much parking, which DDOT discourages. In an effort to maximize the amount of parking provided in the garage, the Applicant is providing as many compact spaces as possible despite the fact they do not satisfy § 2115.4. The Applicant has proffered a TDM and loading management plan which will help mitigate any potential adverse impacts that may arise as a result of granting the requested parking and loading relief. Accordingly, the Board finds that the Applicant is providing enough parking for its residents and it will encourage those patronizing the retail stores to walk, bike, or take public transportation to the stores. For all of these reasons, the Board concludes that the Applicant has satisfied the enumerated standards for variance relief and that granting this variance relief will not impair the intent, purpose, and integrity of the zone plan.

**Issues Raised by the Party in Opposition**

The Board notes the various issues raised by AMFRD and finds that a majority of those issues are not relevant to the Board's scope of review in granting the relief requested by the Applicant. As discussed previously, the Board notes that AMFRD was incorrect in its assertion that § 725 of the Zoning Regulations required OP to seek input and analysis from other District agencies, including DHCD, FEMS, and the Department of the Environment ("DDOE"). Subsection 725 is only applicable when an applicant is seeking special exception approval (pursuant to §§ 726-734) for certain uses in the C-2 Zone District that are not permitted as a matter of right. The Applicant in this case is not requesting such special exception relief.

AMFRD also argued that § 774.4 of the Zoning Regulations required the Applicant to provide additional information to the Board. However, § 774.4 only applies when an applicant is seeking relief from the rear yard requirements. Since the Applicant is not seeking such relief, § 774.4 is not applicable in this case.

Finally, AMFRD cited numerous provisions of the Comprehensive Plan that they claimed this project was not consistent with. The Board noted that the proposed uses in the Project, the building height, and building mass were all permitted in the C-2-B Zone District as a matter of right. Therefore, it was not necessary for the Board to conduct further review of the Project's consistency with the Comprehensive Plan.

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In regard to the relevant issues that AMFRD raised regarding this application, the Board believes that the approved roof structures are in fact smaller in size than what would be permitted as a matter of right, and thus, do not have an adverse impact on neighboring properties. The Board also notes that the elevator overrun is set back from the property line to such an extent that any impact it may have on neighboring properties is mitigated. In making its decision, the Board considered those factors that pertain to zoning issues including noise, light and air, and traffic. The Board notes that AMFRD did not put forth any evidence to suggest that the requested relief would have a negative impact on any of the above factors, nor did it provide any evidence that it would result in a decrease in land values.

**Great Weight**

The Board is required to give "great weight" to issues and concerns raised by the affected ANC and to the recommendations of OP. (D C. Official Code §§ 1- 309 10(d) and 6-623 04 (2001).) Great weight means acknowledgement of the issues and concerns of these two entities and an explanation of why the Board did or did not find their views persuasive

ANC 1C recommended approval of the Applicant's special exception and variance requests subject to conditions. The Board agrees with the ANC's recommendation of approval. The Board is aware that the ANC's recommendation was based in part upon the Applicant's promise to propose the conditions attached to the ANC's resolution and in fact the Applicant did so. However, the Board concludes that some of these conditions are not aimed at mitigating potential adverse impacts of the zoning relief sought, but address issues that are not germane to the Board's consideration of this application. Accordingly, the Board only incorporates those conditions that pertain to the zoning relief requested by the Applicant, as noted below.

OP recommended conditional approval of the special exception and variance requests. OP recommended a list of four conditions, which the Board accepts as conditions of its approval. The Board concludes that all of OP's concerns are adequately recognized, addressed, and dealt with in the conditions to this Order.

For the reasons stated above, the Board concludes that the Applicant has met its burden of proof with respect to an application for variance and special exception relief pursuant to §§ 3103, 411.11 and 3104, from the provisions of §§ 411 (§§ 411.2, 411.3, 411.5), 777, 2101 (§§ 2101.1 and 2115.4), and 2201 (§ 2201.1) to construct a residential building with ground floor retail in the Adams Morgan neighborhood. **THEREFORE**, it is hereby **ORDERED** that the application is **GRANTED, SUBJECT** to the plans at Exhibit 23B, and subject to the following **CONDITIONS, NUMBERED 1 THROUGH 10**. For the purposes of these conditions the term "Applicant" shall mean the person or entity then holding title to the Subject Property. If there is more than one owner, the obligations under the order shall be joint and several. If a person or entity no longer holds title to the Subject Property, that party shall have no further obligations under the order, however, that party remains liable for any violation of any condition that occurred while an owner.

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1. At least 29 parking spaces shall be dedicated to the residential tenants/unit owners and their guests No retail parking spaces will be provided
2. Each residential lessee or purchaser shall be provided either: (i) a SmarTrip card with a value of \$75; or (ii) a first year membership to Capital Bikeshare or a car sharing service (valued at \$75). The Applicant shall work with DDOT and the car sharing company to determine the feasibility of locating the vehicles in public space, with the final determination being made by DDOT and the car sharing company.
3. All costs related to the parking spaces will be unbundled from the sales price or lease amount of each residential unit.
4. All loading associated with the building shall be located in the Columbia Road public space, with deliveries limited to between 7:00 a.m. and 4:00 p.m., Monday through Saturday only.
5. A Loading Coordinator shall be designated to coordinate residential move-in/move-out, and residents shall be required to notify the Loading Coordinator of upcoming residential moves.
6. No truck idling shall be permitted when using the loading zone on Columbia Road.
7. One bicycle parking space shall be provided for every two residential units.
8. The Applicant shall work with DDOT in determining the width of the curb cut on 17<sup>th</sup> Street.
9. Subject to Public Space approval, the Applicant shall install 16 bike spaces (eight inverted U-racks) on the street for public use
10. Subject to Public Space approval, the Applicant shall maintain the landscaping along Columbia Road adjacent to the Project.

**VOTE: 5-0-0 (Lloyd J Jordan, Nicole C Sorg, S. Kathryn Allen, Jeffrey L. Hinkle and Peter G. May to Approve; one Board seat vacant )**

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

The majority of the Board members approved the issuance of this order.

**ATTESTED BY:**

  
SARA A. HARDIN  
Director, Office of Zoning

**FINAL DATE OF ORDER: September 27, 2013**

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**PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6**

**PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.**

**PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT**

**PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.**

**IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS**

**BZA APPLICATION NO. 18506**

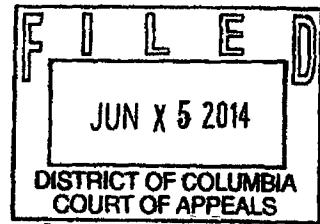
**PAGE NO. 15**

**PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.**

**Adams Morgan For Reasonable Development  
BZA Case No. 18506**

# **ATTACHMENT 3**

District of Columbia  
Court of Appeals



No. 13-AA-1356

ADAMS MORGAN FOR REASONABLE DEVELOPMENT,  
Petitioner,

BZA 18506

v.

DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT,  
Respondent,

and

ONTARIO RESIDENTIAL, LLC,  
Intervenor.

BEFORE Glickman and Easterly, Associate Judges, and Nebeker, Senior Judge

**JUDGMENT**

On consideration of petitioner's motion for summary reversal or remand titled as a motion for summary disposition and the opposition thereto, petitioner's reply, the petition for review, and the record on appeal, and it further appearing that petitioner's motion only challenges the grant of the special exceptions granted for the roof structures, it is

ORDERED that the motion for summary reversal is granted to the extent that the Board of Zoning Adjustment failed to make any specific findings as to impracticability prior to granting the special exceptions to 11 DCMR § 411.3 and .5 permitting multiple roof enclosures at two separate heights. *See Oliver T Carr Mgmt, Inc. v Nat'l Delicatessen, Inc*, 397 A.2d 914, 915 (D.C. 1979). Under 11 DCMR § 411.11, the Board of Zoning Adjustment was required to find that compliance with the single enclosure and height requirements under 11 DCMR §§ 411.3 and 5 is impracticable before granting special exceptions. Accordingly, we remand this case for further findings on these issues. *See generally Nat'l Cathedral Neighborhood Ass'n v District of Columbia Bd of Zoning Adjustment*, 753 A.2d 984, 986 n.2 (D.C. 2000) (explaining that this court "must uphold

No. 13-AA-1356

decision made by the Board *if* they rationally flow from findings of fact supported by substantial evidence in the record as a whole") (emphasis added). However, the Board of Zoning Adjustment was not required to find the proposed set-back, *see* 11 DCMR § 411.2 (§ 770.6), impracticable before granting a special exception. *See* 11 DCMR § 411.11 (requiring a finding of impracticability only for §§ 411.3-6 before empowering the Board of Zoning Adjustment to grant a special exception) Because the Board of Zoning Adjustment properly considered the requirement of 11 DCMR § 3104, it need not make additional findings in this respect. It is

FURTHER ORDERED and ADJUDGED that the order on appeal is vacated in part and remanded for further proceedings consistent with this judgment

ENTERED BY DIRECTION OF THE COURT:

  
JULIO A. CASTILLO  
Clerk of the Court

Copies to:

Loren AliKhan, Esquire  
Deputy Solicitor General, D.C.

Jeffrey L. Light, Esquire  
1712 Eye St., NW, Ste 915  
Washington, DC 20006

Paul A. Tummonds, Jr., Esquire  
Christine A. Roddy  
Goulston & Storrs  
1999 K St., NW, Ste 500  
Washington, DC 20006

lenc

**Adams Morgan For Reasonable Development  
BZA Case No. 18506**

# **ATTACHMENT 4**



DEPARTMENT OF CONSUMER &amp; REGULATORY AFFAIRS

## Department of Consumer and Regulatory Affairs

Permit Operations Division

1100 4th Street SW

Washington DC 20024

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



B

## BUILDING PERMIT

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

Issue Date: 07/24/2014

PERMIT NO. B1309151

Expiration Date: 07/24/2015

Address of Project: 1700 COLUMBIA RD NW		Zone:	Ward:	Square:	Suffix:	Lot:
Description Of Work: NEW SIX STORY 80 UNIT RESIDENTIAL BUILDING, WITH RETAIL ON FIRST FLOOR, AND ONE LEVEL OF BELOW GRADE PARKING.						
Permission Is Herby Granted To: Ontario Residential Llc		Owner Address: THE PETERSON COMPANIES LC 12600 FAIR LAKES CIR STE 400			PERMIT FEE: \$47,411.41	
Permit Type: New Building	Existing Use: Other (Specify)	Proposed Use: Mixed Use (provide description)			Plans:	
Agent Name: Kim Mitchell Cdkm Consulting	Agent Address: 1250 24th St Nw 20037	Existing Dwell Units:	Proposed Dwell Units: 80	No. of Stories: 6	Floor(s) Involved: All	
Conditions/ Restrictions:						
<p>This Permit Expires If no Construction is Started Within 1 Year or if the inspection is Over 1 Year.</p> <p>All Construction Done According To The Current Building Codes And Zoning Regulations;</p> <p>As a condition precedent to the issuance of this permit, the owner agrees to conform with all conditions set forth herein, and to perform the work authorized hereby in accordance with the approved application and plans on file with the District Government and in accordance with all applicable laws and regulations of the District of Columbia. The District of Columbia has the right to enter upon the property and to inspect all work authorized by this permit and to require any change in construction which may be necessary to ensure compliance with the permit and with all the applicable regulations of the District of Columbia. Work authorized under this Permit must start within one(1) year of the date appearing on this permit or the permit is automatically void. If work is started, any application for partial refund must be made within six months of the date appearing on this permit.</p> <p><b>Lead Paint Abatement</b></p> <p>Whenever any such work related to this Permit could result in the disturbance of lead based paint, the permit holder shall abide by all applicable paint activities provisions of the 'Lead Hazard Prevention and Elimination Act of 2009' and the EPA 'Lead Renovation, Repair and Painting rule' regarding lead-based include adherence to lead-safe work practices. For more information, go to <a href="http://ddce.dc.gov">http://ddce.dc.gov</a>, Lead and Healthy Housing.</p>						
Director: Rabbiah A. Sabbaghan		Permit Clerk James Rudisill				
TO REPORT WASTE, FRAUD OR ABUSE BY ANY DC GOVERNMENT OFFICIAL, 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.						

**Adams Morgan For Reasonable Development  
BZA Case No. 18506**

# **ATTACHMENT 5**





**Adams Morgan For Reasonable Development  
BZA Case No. 18506**

# **ATTACHMENT 6**

**OAH Case No. 2014-DCRA-00050**

**Re: Ontario 1700 Construction; Communication between Chris Otten and DC Agencies**

**COMMUNICATION TIMELINE (reverse chronological order)**

Oct. 17, 2014 -- Otten writes to DCRA & counsel for developer about getting clarity on rooftop structures; No Answer.

Oct. 16, 2014 -- Otten responds to Moy (BZA); Otten attempts to clarify what administrative process has happened since the Court of Appeals June 2014 Order remanding the rooftop structure exception.

Oct. 16, 2014 -- Moy (BZA) responds to Otten; Moy says he is waiting for the OAG to return from vacation before acting on the Court remand regarding the rooftop structures.

Oct. 15, 2014 -- Otten responds to Postulka (DCRA) discussing costs of printing out the schematic plans; No costs for plans were ever mentioned before.

Oct. 15, 2014 -- Postulka (DCRA) responds to Otten saying that the schematic plans are ready for printing but at a cost.

Oct. 14, 2014 -- Otten writes to DCRA and counsel for developer inquiring about disparities in the schematic plans delivered by the counsel for the developer and the rooftop structures.

Oct. 14, 2014 -- Chris Otten writes to Clifford Moy, BZA Secretary about the BZA taking up the Court remand of the rooftop structures for this project.

Sep. 24, 2014 -- Otten responds to Mr. Jones at OAH to acknowledge receipt of the Order granting a continuance; Otten also discusses the fact that a large set of printed plans were delivered to the offices of the counsel for Adams Morgan for Reasonable Development on September 17, but that these plans show multiple rooftop structures and therefore could not be the latest plans because the multiple rooftop structures were ruled as not meeting the variance standards by the Court of Appeals in June 2014. No response by Intervenor.

Sep. 22, 2014 -- Mr. Ricky Jones at OAH sends a courtesy email with the OAH order attached granting the continuance of the case until October 28, 2014.

Aug. 29, 2014 to Sep. 19, 2014 :: Chain of emails -- Counsel for DCRA, John Postulka begins to inquire with the DCRA records office about the schematic plans; Counsel for AMFRD goes back and forth with Postulka, and Ms. Debra Hedgeman in the DCRA records office about the location of the plans. Eventually this conversation shifts away from the location of the plans without any resolution; Postulka (DCRA) asks the counsel for AMFRD to give consent for a

continuance of the OAH hearing which had been scheduled to be held September 26, 2014.

August 28, 2014 -- OAH Status Hearing is held and a contested case hearing is set for September 26, 2014.

August 7, 2014 -- AMFRD submits appeal of DCRA's issuance of the building permit to OAH.

August 4, 2014 – Chris Otten visits DCRA Records Office; Otten cannot get design plans but examines public documents folder; Otten orders design plans to be delivered to DCRA records office; DCRA never delivers design plans for review and doesn't contact Otten.

July 30, 2014 -- Counsel for the developers met with AMFRD to discuss remedy. Ultimately there is no resolution.

July 25, 2014 -- Counsel for the developers send by mail the building permit issued by DCRA on July 24, 2014. The permit is mailed to Otten as well as to counsel for Adams Morgan for Reasonable Development (AMFRD).

July 24, 2014 -- Otten informs DCRA officials again, and includes BZA officials, expressing serious concerns about the illegal vertical construction happening at 1700 Columbia Road.

July 22, 2014 – Otten calls DCRA Illegal Construction Line; Mr. Polk states that he would check in on permit and send illegal construction inspector.

July 21, 2014 -- Chris Otten, representative for Adams Morgan for Reasonable Development, writes to DCRA officials about the illegal construction happening at 1700 Columbia Road.

July 21, 2014 -- Chris Otten, representative for Adams Morgan for Reasonable Development, writes to BZA officials inquiring about when the BZA would take up the DC Court of Appeals June 5, 2014 – DC Court of Appeals Orders a Remands of the BZA decision regarding the rooftop structures at 1700 Columbia Road.

April 25 to March 5 – Otten notices no work on-site; Stop Work Order was issued regarding premature tower crane erection.

April 24, 2014 – Otten contact DCRA's illegal construction line speaks with Sara who give him Ruben Legaspi's cell phone number; Otten calls Mr. Legaspi at 4:45pm; Mr. Legaspi informs Otten that there is no Tower Crane permit issued, and there was never a raze permit issued calling that a "big issue."

**RE: 2014-DCRA-00050 Re: Order Granting Continuance**

Friday, October 17, 2014 1:20 PM

From: "Chris Version II.O" <chrisotten2@yahoo.com>  
To: "croddy@goulstonstevens.com" <croddy@goulstonstevens.com>, "Ricky (OAH)Jones" <ricky.jones@dc.gov>, "John (DCRA)Postulka" <john.postulka@dc.gov>  
Cc: "ann1.wilcox@gmail.com" <ann1.wilcox@gmail.com>

I will try again – Can anyone please inform if there are multiple rooftop structures in the latest plans for the Ontario 1700 project? And how soon is the construction team acting to build those structures?

Chris O.

---

On Wed, 10/15/14, Chris Version II O <chrisotten2@yahoo.com> wrote:

Subject: RE: 2014-DCRA-00050 Re: Order Granting Continuance  
To: "croddy@goulstonstevens.com" <croddy@goulstonstevens.com>, "Ricky (OAH)Jones" <ricky.jones@dc.gov>, "John (DCRA)Postulka" <john.postulka@dc.gov>  
Cc: "ann1.wilcox@gmail.com" <ann1.wilcox@gmail.com>  
Date: Wednesday, October 15, 2014, 11:18 AM

Hi John,

I have been asking about the  
1700 Ontario plans since early August.

Why wasn't costs brought up at any time  
since then?

But my  
intention has always been to visit DCRA's offices to  
take pictures of the plans which then would cost nothing.  
This is why I had in August asked the records office to have  
the plans delivered to that office and then I would come in  
and take pictures. That never happened. This is a denial  
of public documents and shows a serious lack of transparency  
in your agency.

I am  
looking for the latest rooftop plans and associated rooftop  
structures. And I am simply asking, are there multiple  
rooftop structures in the latest plans?

I am also looking for the latest mechanical  
plans showing where the garage vent is located in the rear  
yard.

Thank you.  
Chris O.

---

On Wed, 10/15/14, Postulka, John (DCRA) <john.postulka@dc.gov>  
wrote:

Subject: RE:  
2014-DCRA-00050 Re: Order Granting Continuance  
To: "Chris Version II O" <chrisotten2@yahoo.com>,  
"croddy@goulstonstevens.com" <croddy@goulstonstevens.com>,  
"Jones, Ricky (OAH)" <ricky.jones@dc.gov>  
Cc: "ann1.wilcox@gmail.com" <ann1.wilcox@gmail.com>  
Date: Wednesday, October 15, 2014, 8:18 AM

Chris

My understanding was that the documents  
provided by the developer took care of your  
request to  
DCRA. But I believe the  
documents are ready for  
printing.

However, I do not know what the cost will be  
I will find out and get back to you.

John  
Postulka  
Assistant General Counsel

Office of General Counsel - DCRA  
1100 4th  
Street, SW  
Washington,  
DC  
20024  
(202) 442-6403  
[John.Postulka@DC.gov](mailto:John.Postulka@DC.gov)

ProjectDox

is  
DCRA's new paperless, electronic  
plan submission/review  
program and is now  
required for 75,000+ square foot  
projects.

Click here <<http://dcra.dc.gov/page/dcra%20%93-electronic-plans-submittal-permit-processing-made-easier-projectdox>>

for more information.

October is National Disability Employment  
Awareness Month. To learn what you can do to  
foster a more  
inclusive workforce, visit  
[www.dol.gov/odep](http://www.dol.gov/odep) and  
[www.dds.dc.gov](http://www.dds.dc.gov)

—Original

Message—

From: Chris  
Version II.O  
[mailto:[chrisotten2@yahoo.com](mailto:chrisotten2@yahoo.com)]  
Sent: Tuesday, October 14, 2014 6:37 PM  
To: Postulka, John (DCRA), [creddy@goulstonstevens.com](mailto:creddy@goulstonstevens.com);  
Jones, Ricky (OAH)  
Cc: [ann1.wilcox@gmail.com](mailto:ann1.wilcox@gmail.com)  
Subject: 2014-DCRA-00050 Re: Order Granting  
Continuance

Dear all,

It's been  
nearly three  
weeks since I wrote my last  
note about the 1700 Ontario Road  
project,  
and more than 8 weeks since I personally went down  
to DCRA's records office to find the plans  
for this  
project (never got them at  
DCRA's records office)

I have not received a response  
from DCRA or the developer's counsel in  
this matter at

all.

On September 19, I saw  
the  
schematic designs of the project. They were delivered  
to Mr. Canavan's office, our lawyer at the  
time who has  
now been replaced by Ms  
Wilcox cc'd here

I  
reviewed these plans dated  
July 24, 2014,  
date stamped one day before the building  
permit was issued.

Here  
are  
a few photos of these plans >>  
<http://districtdynamos.org/ontario1700/>

What I see in these July  
24  
plans which is disturbing, is  
1) There are  
still numerous  
rooftop structures despite the zoning code

allowing only one.  
2) That construction  
of  
these multiple rooftop structures seems  
imminent.

So what I would  
like to know  
is if the plans I have  
examined as delivered to Mr. Canavan  
by Ms.  
Roddy, counsel for the developer, are actually the  
latest plans?

And, how what  
is the timing  
of the construction team for this project to  
construct the multiple rooftop structures

It is plainly ridiculous  
at  
this late date that we cannot still get  
clear information,  
representing the latest  
plans, which should be accessible  
to the  
public from DCRA or the developer, especially in  
light of an ongoing OAH review and a hearing  
is set for  
October 28th.

Can someone  
please  
respond as soon as possible.

Thank you,  
Chris Otten  
Adams Morgan for Reasonable Development  
202-670-2366

---

On Wed, 9/24/14, Chris Version II.O <[chrisotten2@yahoo.com](mailto:chrisotten2@yahoo.com)>

wrote:

Subject: Re: Order  
Granting Continuance  
To: "John  
(DCRA)Postulka" <[john.postulka@dc.gov](mailto:john.postulka@dc.gov)>,  
<[seanmcavanagh@gmail.com](mailto:seanmcavanagh@gmail.com)>,  
<[seanmcavanagh@gmail.com](mailto:seanmcavanagh@gmail.com)>,  
<[croddy@coulstonstorms.com](mailto:croddy@coulstonstorms.com)>,  
<[croddy@coulstonstorms.com](mailto:croddy@coulstonstorms.com)>,  
"Ricky (OAH) Jones" <[ricky.jones@dc.gov](mailto:ricky.jones@dc.gov)>  
Date: Wednesday, September 24, 2014, 3:26  
PM

This  
is to affirm that  
I  
have  
received this Order.

The merits of the continuance  
is partly  
because we have not been able to get the latest  
and full extent of the plans for the Ontario  
Theatre  
project from DCRA despite  
repeated attempts.

I  
visited  
DCRA on August 4,  
2014. The Records Dept. told me to  
expect  
a call for when the full schematic plans were  
delivered to their record office. I never  
got a call  
I brought this delay is  
releasing the plans to the  
attention of  
Mr Postulka after the status hearing was  
held at the OAH on August 28, 2014.

Mr.  
Postulka told me  
DCRA  
needs to get better about responding  
to requests to review  
what are public  
documents and would put an inquiry in  
about the plans.

I  
understand that Ms. Roddy delivered a set of  
schematic  
plans to Mr. Canavan's  
offices last week. I reviewed  
these  
plans and they:

1)  
Show that a lowered vent off gassing fumes  
from the  
subterranean garage is directly on  
the property line  
abutting nearby  
residential units in the southwest corner  
of the property.

2)  
Do not show any updated schematics or  
designs  
showing the latest iteration of  
the rooftop penthouse  
structures, if

there are any at all?

The  
rooftop design schematics  
as well as the rear yard schematics with the  
garage vent  
both are dated to 2013,  
however, there is a new  
additional stamp  
on each page by the code official dated

July 24, 2014

This  
stamp  
appears to have

been placed on each page  
one day before the  
Building Permit  
#1308151

was issued, and months after Peterson Companies had  
started vertical construction on the site.

We are still seeking  
the  
latest rooftop schematics showing how  
the  
rooftop structures have been changed  
so that the  
construction does not require  
rooftop variance/special  
exception  
relief.

Can  
anyone help us see  
that?

Chris O.

202-810-2768

---

On Mon, 9/22/14, Jones, Ricky (OAH) <[ricky.jones@dc.gov](mailto:ricky.jones@dc.gov)>  
wrote

Subject: Order Granting  
Continuance  
To:  
"Postulka, John

(DCRA)" <[john.postulka@dc.gov](mailto:john.postulka@dc.gov)>,  
"[seanpcanavanpal@gmail.com](mailto:seanpcanavanpal@gmail.com)"  
"[seanpcanavanpal@gmail.com](mailto:seanpcanavanpal@gmail.com)"  
"[croddy@goulstonstevens.com](mailto:croddy@goulstonstevens.com)"  
"[croddy@goulstonstevens.com](mailto:croddy@goulstonstevens.com)"  
"[chrisotter2@yahoo.com](mailto:chrisotter2@yahoo.com)"  
"[chrisotter2@yahoo.com](mailto:chrisotter2@yahoo.com)"  
Date: Monday, September 22, 2014, 4:23  
PM

**Re: Any Update: BZA Case #18506**

Thursday, October 16, 2014 10:08 PM

**From:** "AdMo Reasonable" <admo4rd@gmail.com>  
**To:** "Moy Clifford (DCOZ)" <clifford.moy@dc.gov>  
**Cc:** "chrisotten2@yahoo.com" <chrisotten2@yahoo.com>

I'm confused Cliff.  
I've submitted a Motion, should you schedule the BZA to hear that motion?  
Please clarify the role of the OAG in this  
Thanks,  
Chris O.

On 10/16/14, Moy, Clifford (DCOZ) <[clifford.moy@dc.gov](mailto:clifford.moy@dc.gov)> wrote.  
> Dear Chris Otten,  
>  
> I am sorry for the delay in replying to you. But there has not been any  
> news for me to tell you yet.  
>  
> I've asked for legal advice from my counsel. But he has been on vacation.  
> Once he returns, then I'll be able to respond to you as to our next course  
> of action.  
>  
> Thanks and trust all is well with you,  
>  
> Cliff Moy  
>  
>  
>  
>  
>  
> October is National Disability Employment Awareness Month. To learn what you  
> can do to foster a more inclusive workforce, visit [www.dol.gov/odep](http://www.dol.gov/odep) and  
> [www.dds.dc.gov](http://www.dds.dc.gov).  
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> —Original Message—  
> From: AdMo Reasonable [mailto:[admo4rd@gmail.com](mailto:admo4rd@gmail.com)]  
> Sent: Tuesday, October 14, 2014 6:07 PM  
> To: Moy, Clifford (DCOZ)  
> Co: [chrisotten2@yahoo.com](mailto:chrisotten2@yahoo.com)  
> Subject: Any Update. BZA Case #18506  
>  
> Hi Cliff  
>  
> Hope all is well and you had a nice weekend  
>  
> I wanted to let you know that after two weeks, I am quite disheartened to  
> not have heard of any update from the BZA since I put a motion on the record  
> on October 1, 2014, for the BZA to have a public hearing per the Order of  
> the Court of Appeals.  
>  
> There has been no response by the Applicant to my Motion for a hearing  
> attached as Exhibit 45 on the record for BZA Case No 18506 the Ontario  
> 1700 development in Adams Morgan.  
>  
> This project required a variance for multiple rooftop structures.  
> This variance request was apparently withdrawn after the Applicant saw the  
> highest court in the District remand it back to the BZA for further review.  
>  
> On September 19, 2014, I personally examined schematic drawings on file at  
> DCRA showing the subject site and building at 1700 Columbia Road. There are  
> still multiple rooftop structures in the latest plans dated July 24, 2014

>  
> The construction of these rooftop structures seems quite imminent  
>  
> I would like a status update of my Motion given the Court's remand of this  
> case.  
>  
> With regards,  
> Chris Otten  
> 202-670-2366  
>

**RE: 2014-DCRA-00050 Re: Order Granting Continuance**

Wednesday, October 15, 2014 11:18 AM

From: "Chris Version II.O" <chrisotten2@yahoo.com>  
To: "croddy@goulstonstevens.com" <croddy@goulstonstevens.com> "Ricky (OAH)Jones" <ricky.jones@dc.gov>  
"John (DCRA)Postulka" <john.postulka@dc.gov>  
Cc: "ann1.wilcox@gmail.com" <ann1.wilcox@gmail.com>

Hi John,

I have been asking about the 1700 Ontario plans since early August.

Why wasn't costs brought up at any time since then?

But my intention has always been to visit DCRA's offices to take pictures of the plans which then would cost nothing. This is why I had in August asked the records office to have the plans delivered to that office and then I could come in and take pictures. That never happened. This is a denial of public documents and shows a serious lack of transparency in your agency

I am looking for the latest rooftop plans and associated rooftop structures. And I am simply asking, are there multiple rooftop structures in the latest plans?

I am also looking for the latest mechanical plans showing where the garage vent is located in the rear yard.

Thank you  
Chris O.

---

On Wed, 10/15/14, Postulka, John (DCRA) <john.postulka@dc.gov> wrote

Subject: RE: 2014-DCRA-00050 Re: Order Granting Continuance  
To: "Chris Version II. O" <chrisotten2@yahoo.com>, "croddy@goulstonstevens.com" <croddy@goulstonstevens.com>, "Jones, Ricky (OAH)" <ricky.jones@dc.gov>  
Cc: "ann1.wilcox@gmail.com" <ann1.wilcox@gmail.com>  
Date: Wednesday, October 15, 2014, 8:18 AM

Chris

My understanding was that the documents provided by the developer took care of your request to DCRA. But I believe the documents are ready for printing. However, I do not know what the cost will be. I will find out and get back to you

John  
Postulka  
Assistant General Counsel  
Office of General Counsel - DCRA  
1100 4th Street, SW  
Washington,  
DC 20024  
(202) 442-8403  
[John.Postulka@DC.gov](mailto:John.Postulka@DC.gov)

ProjectDox is  
DCRA's new paperless, electronic plan submission/review  
program and is now required for 75,000+ square foot  
projects. Click here <<http://dcra.dc.gov/page/dcra%20%99s-electronic-plans-submittal-permit-processing-made-easier-projectdox>>  
for more information.

October is National Disability Employment  
Awareness Month. To learn what you can do to foster a more  
inclusive workforce, visit [www.dol.gov/odep](http://www.dol.gov/odep) and  
[www.dss.dc.gov](http://www.dss.dc.gov).

—Original

Message—

From: Chris Version II.O  
[mailto:[chrisotten2@yahoo.com](mailto:chrisotten2@yahoo.com)]  
Sent: Tuesday, October 14, 2014 6:37 PM  
To: Postulke, John (DCRA), [crroddy@gaultonstoms.com](mailto:crroddy@gaultonstoms.com),  
Jones, Ricky (OAH)  
Cc: [ann1.wilcox@gmail.com](mailto:ann1.wilcox@gmail.com)  
Subject: 2014-DCRA-00050 Re: Order Granting  
Continuance

Dear all,

It's been nearly three weeks since I wrote my last note about the 1700 Ontario Road project, and more than 8 weeks since I personally went down to DCRA's records office to find the plans for this project (never got them at DCRA's records office).

I have not received a response from DCRA or the developer's counsel in this matter at all.

On September 19, I saw the schematic designs of the project. They were delivered to Mr. Canavan's office, our lawyer at the time who has now been replaced by Ms. Wilcox cc'd here.

I reviewed these plans dated July 24, 2014, date stamped one day before the building permit was issued

Here are a few photos of these plans >>  
<http://districtdynamics.org/ontario1700/>

What I see in these July 24 plans which is disturbing, is:

- 1) There are still numerous rooftop structures despite the zoning code allowing only one.
- 2) That construction of these multiple rooftop structures seems imminent.

So what I would like to know is if the plans I have examined as delivered to Mr. Canavan by Ms. Roddy, counsel for the developer, are actually the latest plans?

And, how what is the timing of the construction team for this project to construct the multiple rooftop structures.

It is plainly ridiculous at this late date that we cannot still get clear information, representing the latest plans, which should be accessible to the public from DCRA or the developer, especially in light of an ongoing OAH review and a hearing is set for October 28th.

Can someone please respond as soon as possible.

Thank you,  
Chris Otten  
Adams Morgan for Reasonable Development  
202-670-2366

On Wed, 9/24/14, Chris Version II.O <[chrisotten2@yahoo.com](mailto:chrisotten2@yahoo.com)>  
wrote

Subject: Re: Order  
Granting Continuance  
To: "John  
(DCRA)Postulka" <[john.postulka@dc.gov](mailto:john.postulka@dc.gov)>,  
[seanpcanavanpal@gmail.com](mailto:seanpcanavanpal@gmail.com)<  
[seanpcanavanpal@gmail.com](mailto:seanpcanavanpal@gmail.com)>,  
[crndiv@oahilstonstoms.com](mailto:crndiv@oahilstonstoms.com)<  
[crndiv@oahilstonstoms.com](mailto:crndiv@oahilstonstoms.com)>,  
"Ricky (OAH)Jones" <[ricky.jones@dc.gov](mailto:ricky.jones@dc.gov)>  
Date: Wednesday, September 24, 2014, 3:26  
PM

This is to affirm that

I have received this Order

The merits of the continuance  
is partly because we have not been able to get the latest  
and full extent of the plans for the Ontario Theatre  
project from DCRA despite repeated attempts.

I visited  
DCRA on August 4, 2014. The Records Dept. told me to  
expect a call for when the full schematic plans were  
delivered to their record office. I never got a call.  
I brought this delay in releasing the plans to the  
attention of Mr Postulka after the status hearing was  
held at the OAH on August 28, 2014

Mr.  
Postulka told me DCRA  
needs to get better about responding to requests to review  
what are public documents and would put an inquiry in  
about the plans.

I  
understand that Ms. Roddy delivered a set of schematic  
plans to Mr. Canavan's offices last week. I reviewed  
these plans and they

1)  
Show that a lowered vent off gassing fumes from the  
subterranean garage is directly on the property line  
abutting nearby residential units in the southwest corner  
of the property

2)  
Do not show any updated schematics or designs  
showing the latest iteration of the rooftop penthouse  
structures, if there are any at all?

The  
rooftop design schematics  
as well as the rear yard schematics with the garage vent  
both are dated to 2013, however, there is a new  
additional stamp on each page by the code official dated  
July 24, 2014

This stamp  
appears to have  
been placed on each page  
one day before the Building Permit  
#1309151  
was issued, and months after Peterson Companies had  
started vertical construction on the site

We are still seeking the  
latest rooftop schematics showing how the  
rooftop structures have been changed so that the  
construction does not require rooftop variance/special  
exception relief.

Can  
anyone help us see  
that?

Chris O.

202-610-2768

---

On Mon, 9/22/14, Jones, Ricky (OAH) <[ricky.jones@dc.gov](mailto:ricky.jones@dc.gov)>  
wrote.

Subject: Order Granting  
Continuance  
To: "Postulka, John

(DCRA)" <[john.postulka@dc.gov](mailto:john.postulka@dc.gov)>,  
"[seancanavamal@gmail.com](mailto:seancanavamal@gmail.com)"  
,<[seancanavamal@gmail.com](mailto:seancanavamal@gmail.com)>,  
"[croddy@coulstonstors.com](mailto:croddy@coulstonstors.com)"  
,<[croddy@coulstonstors.com](mailto:croddy@coulstonstors.com)>,  
"[chrisotter2@yahoo.com](mailto:chrisotter2@yahoo.com)"  
,<[chrisotter2@yahoo.com](mailto:chrisotter2@yahoo.com)>  
Date: Monday, September 22, 2014, 4:23 PM

**Order Granting Continuance**

Monday, September 22, 2014 4:23 PM

From: "Jones Ricky (OAH)" <ricky.jones@dc.gov>

To: "Postulka John (DCRA)" <john.postulka@dc.gov> "seanpcanavarpal@gmail.com" <seanpcanavarpal@gmail.com>

"croddy@goulstonstorra.com" <croddy@goulstonstorra.com> "chrisotten2@yahoo.com" <chrisotten2@yahoo.com>

1 Files 52KB Download All

PDF 52KB

Adams

Morgan

for

Save

**Fwd: 2014-DCRA-00050**

Friday, September 19, 2014 11:43 AM

**From:** "Sean Canavan" <[seanpcanavanpal@gmail.com](mailto:seanpcanavanpal@gmail.com)>  
**To:** "Chris Otten" <[chrisotten2@yahoo.com](mailto:chrisotten2@yahoo.com)>

----- Forwarded message -----

**From:** Postulka, John (DCRA) <[john.postulka@dc.gov](mailto:john.postulka@dc.gov)>  
**Date:** Fri, Sep 19, 2014 at 9:21 AM  
**Subject:** Re: 2014-DCRA-00050  
**To:** Sean Canavan <[seanpcanavanpal@gmail.com](mailto:seanpcanavanpal@gmail.com)>

Sean

I was just informed that next Friday is the DC Green Symposium I know the Zoning Administrator must attend and assume the Building Official as well. As a result, I think I need to move for a short delay in the hearing. First, do you oppose the request? Second, are you available at all the following week?

John

Sent from my iPhone

On Sep 12, 2014, at 7:41 AM, "Sean Canavan" <[seanpcanavanpal@gmail.com](mailto:seanpcanavanpal@gmail.com)> wrote:

Please see attached.

On Thu, Sep 11, 2014 at 9:05 AM, Postulka, John (DCRA) <[john.postulka@dc.gov](mailto:john.postulka@dc.gov)> wrote:  
Ok. Thanks for the update

John Postulka  
Assistant Attorney General  
Office of General Counsel - DCRA  
1100 4th Street, SW  
Washington, DC 20024  
(202) 442-8403  
[John.Postulka@DC.gov](mailto:John.Postulka@DC.gov)

**From:** Sean Canavan [mailto:[seanpcanavanpal@gmail.com](mailto:seanpcanavanpal@gmail.com)]  
**Sent:** Thursday, September 11, 2014 8:58 AM  
**To:** Postulka, John (DCRA)

**Cc:** Roddy, Christine  
**Subject:** Re: FW: 2014-DCRA-00050

Wanted to let you know I will be sending the code citations this evening. Sorry about that, but I need to check something with my client before I send them

Regards,  
Sean

On Wed, Sep 10, 2014 at 1:49 PM, Postulka, John (DCRA) <[john.postulka@dc.gov](mailto:john.postulka@dc.gov)> wrote.  
Thanks

John Postulka  
Assistant Attorney General  
Office of General Counsel - DCRA  
1100 4th Street, SW  
Washington, DC 20024  
(202) 442-8403  
[John.Postulka@DC.gov](mailto:John.Postulka@DC.gov)

**From:** Sean Canavan [mailto:[seanpcanavanpal@gmail.com](mailto:seanpcanavanpal@gmail.com)]  
**Sent:** Wednesday, September 10, 2014 1:44 PM  
**To:** Postulka, John (DCRA)  
**Cc:** Roddy, Christine  
**Subject:** Re: FW: 2014-DCRA-00050

Hey John,

Should have that to you both later today, or tomorrow morning at the latest.

On Wed, Sep 10, 2014 at 1:31 PM, Postulka, John (DCRA) <[john.postulka@dc.gov](mailto:john.postulka@dc.gov)> wrote

Sean

I am just checking on the status of the more detailed statement regarding the alleged construction code violations that you said you would be providing us a few weeks before the hearing?

John Postulka  
Assistant Attorney General  
Office of General Counsel - DCRA  
1100 4th Street, SW  
Washington DC 20024  
(202) 442-8403  
[John.Postulka@DC.gov](mailto:John.Postulka@DC.gov)

**From:** Sean Canavan [mailto:[seancanavanpal@gmail.com](mailto:seancanavanpal@gmail.com)]  
**Sent:** Monday, September 08, 2014 3:40 PM

**To:** Postulka, John (DCRA)  
**Subject:** Re FW 2014-DCRA-00050

From November 26, 2012 to the present please

Sean

On Mon, Sep 8, 2014 at 3:35 PM, Postulka, John (DCRA) <[john.postulka@dc.gov](mailto:john.postulka@dc.gov)> wrote  
Sean

I think what she was asking was what years would that cover (i.e. when was the application filed)?

John Postulka  
Assistant Attorney General  
Office of General Counsel - DCRA  
1100 4th Street, SW  
Washington, DC 20024  
(202) 442-8403  
[John.Postulka@DC.gov](mailto:John.Postulka@DC.gov)

---

**From:** Sean Canavan [mailto:[seancanavanpal@gmail.com](mailto:seancanavanpal@gmail.com)]  
**Sent:** Monday, September 08, 2014 1:00 PM  
**To:** Postulka, John (DCRA)  
**Subject:** Re FW 2014-DCRA-00050

Hey John,

Just the records since the application for the building permit was filed.

Sean

On Thu, Sep 4, 2014 at 9:50 AM, Postulka, John (DCRA) <[john.postulka@dc.gov](mailto:john.postulka@dc.gov)> wrote  
Sean

Please see the below response I have received regarding Mr. Otten's records request and let me know how I should respond

John Postulka  
Assistant Attorney General  
Office of General Counsel - DCRA  
1100 4th Street, SW  
Washington, DC 20024  
(202) 442-8403  
[John.Postulka@DC.gov](mailto:John.Postulka@DC.gov)

Give your kids a smart start. Come to the MLK Library for the STAR Family Festival on Sept. 13 at 11 a.m. and see how easy and fun early learning can be. For more information, visit <http://dcilibrary.org/starfestival>

**From:** Hedgeman, Debra (DCRA)  
**Sent:** Thursday, September 04, 2014 9:48 AM  
**To:** Postulka, John (DCRA)  
**Subject:** RE 2014-DCRA-00050

Hi, Mr. Postulka, what years are you all interested in please let me know. Thanks Debra

**From:** Postulka, John (DCRA)  
**Sent:** Thursday, September 04, 2014 7:59 AM  
**To:** Hedgeman, Debra (DCRA)  
**Subject:** RE 2014-DCRA-00050

Debra

It is 1700 Columbia Rd, NW

Thanks

John Postulka  
Assistant Attorney General  
Office of General Counsel - DCRA  
1100 4th Street, SW  
Washington, DC 20024  
(202) 442-8403  
[John.Postulka@DC.gov](mailto:John.Postulka@DC.gov)

---

**From:** Hedgeman, Debra (DCRA)  
**Sent:** Wednesday, September 03, 2014 9:44 AM  
**To:** Postulka, John (DCRA)  
**Subject:** RE 2014-DCRA-00050

Hi, Mr Postulka, Can you provide me with the address of the project that you need Thanks Debra

**From:** Postulka, John (DCRA)  
**Sent:** Tuesday, September 02, 2014 11:38 AM  
**To:** Hedgeman, Debra (DCRA)  
**Subject:** FW 2014-DCRA-00050

Debra

Mr Otten is involved in an Office of Administrative Hearings case with DCRA and in the course of the case, his attorney asked me to follow up on a records request he made with you. Do you know the status of his request?

John Postulka  
Assistant Attorney General  
Office of General Counsel - DCRA  
1100 4th Street, SW  
Washington, DC 20024  
(202) 442-8403  
[John.Postulka@DC.gov](mailto:John.Postulka@DC.gov)

ProjectDox is DCRA's new paperless, electronic plan submission/review program and is now required for 100,000+ square foot projects. Click [here](#) for more information

Get involved! [Give input](#) on the draft [Age-Friendly DC](#) goals and objectives at community meetings in August and September

---

**From:** Sean Canavan [mailto:[seanpcanavanpal@gmail.com](mailto:seanpcanavanpal@gmail.com)]  
**Sent:** Saturday, August 30, 2014 9:02 PM  
**To:** Postulka, John (DCRA)  
**Subject:** Re 2014-DCRA-00050

Hey John

It was submitted on 8/4/14 under the name Chris Otten and it was done with Mrs. Debra at the Records Office on the second floor. Ms. Debra took info down and said she would call Chris when it was ready

Sean

On Fri, Aug 29, 2014 at 9:48 AM, Postulka, John (DCRA) <[John.Postulka@DC.gov](mailto:John.Postulka@DC.gov)> wrote  
Sean

I checked on the record request made by Mr Otten. They were unable to locate it based on the info I had. What name was it submitted under and on what date?

John

ProjectDox is DCRA's new paperless, electronic plan submission/review program and is now required for 100,000+ square foot

projects. Click here <<http://dcra.dc.gov/page/dcra%20%99s-electronic-plans-submittal-permit-processing-made-easier-project>> for more information.

Get involved! Give input <<http://agefriendly.dc.gov/page/draft-age-friendly-dc-goals-and-objectives>> on the draft Age-Friendly DC <<http://agefriendly.dc.gov/>> goals and objectives at community meetings in August and September

From Roddy, Christine [CRoddy@goulstonstevens.com]  
Sent: Wednesday, August 27, 2014 2:46 PM  
To: 'Sean Canavan', Postulka, John (DCRA)  
Subject: 2014-DCRA-00050

Please see attached

\*\*\*\*\*  
Christine A. Roddy  
Director  
Direct (202) 721-1116  
Direct Fax (202) 263-0516  
goulston&stevens  
1999 K Street, NW, 5th Floor \* Washington, DC 20006-1020  
(202) 721-0011 \* Fax (202) 263-0516 \* [www.goulstonstevens.com](http://www.goulstonstevens.com) <<http://www.goulstonstevens.com>>

\*\*\*\*\*  
This communication may contain information which is privileged and/or confidential under applicable law. Any dissemination, copy or disclosure, other than by the intended recipient, is strictly prohibited. If you have received this communication in error, please immediately notify us via return e-mail to [croddy@goulstonstevens.com](mailto:croddy@goulstonstevens.com) <<mailto:croddy@goulstonstevens.com>> and delete this communication without making any copies. Thank you for your cooperation.

—  
Sean P. Canavan  
LAW OFFICE OF SEAN CANAVAN  
1712 Eye St., NW  
Suite 915  
Washington, DC 20006

—  
Sean P. Canavan  
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Washington, DC 20006

[\[<Code Violations.docx>\]](#)

—  
Sean P. Canavan  
LAW OFFICE OF SEAN CANAVAN  
1712 Eye St., NW  
Suite 915  
Washington, DC 20006

**Fwd: 1700 Columbia Road NW Permit Application #B1309151**

Friday July 25, 2014 2:10 AM

From: "AdMo Reasonable" <[admo4rd@gmail.com](mailto:admo4rd@gmail.com)>  
To: "Chris Version II O" <[chrisotten2@yahoo.com](mailto:chrisotten2@yahoo.com)>

1 Files 58KB Download All  
PDF 58KB

AM4RD  
reversal p  
d'  
Save

----- Forwarded message -----

From: AdMo Reasonable <[admo4rd@gmail.com](mailto:admo4rd@gmail.com)>  
Date: Thu, Jul 24, 2014 at 5:31 PM  
Subject: 1700 Columbia Road NW Permit Application #B1309151  
To: [matthew.legrant@dc.gov](mailto:matthew.legrant@dc.gov), [clifford.moy@dc.gov](mailto:clifford.moy@dc.gov), [ruben.legaspi@dc.gov](mailto:ruben.legaspi@dc.gov), [benjaminf.johnson@dc.gov](mailto:benjaminf.johnson@dc.gov), [ruben.legaspi@dc.gov](mailto:ruben.legaspi@dc.gov)

Mr Legrant, Mr Moy, Mr Benjamin, and Mr Legaspi,

I have either spoken to you or written to you about the illegal construction underway at 1700 Columbia Road NW. It would seem that the developers are proceeding to build without the required building permit at this location.

This follows from when the owner/applicant razed the building without a raze permit, and started to build a tower crane without a tower crane permit. Now the applicant/owner is proceeding to construct a building without a posted Building Permit, and without DCRA approval.

I am writing on behalf of Adams Morgan for Reasonable Development, who represent residents of Adams Morgan who live and work nearby this project slated for 1700 Columbia Road NW.

We have checked the PIVS webpage at the DCRA website for information and we see that Building Permit #B1309151 has not yet been approved, as it is still under review by some DCRA disciplines. Mind you, the owner/applicant has started vertical construction at this point.

Further, as seen by the attached Order, the decision by the BZA to grant rooftop variances so that this project could proceed to construction have been summarily reversed by DC's highest court, the DC Court of Appeals.

I received a phone call from Mr Moy, Secretary of the Board of Zoning Adjustment, on Tuesday, July 22 about this matter. He explained that he has not yet received word about the attached Court Order from the OAG, and thus is missing the administrative direction he needs to schedule upcoming hearings.

We understand that the additional hearings need to be scheduled to ameliorate the court-requested remand for the BZA to re-approve the rooftop variances correctly. Adams Morgan for Reasonable Development is a party to these BZA proceedings.

We are asking you, as key District agencies and central participants in this review and approval process, to quickly coordinate a Stop Work Order to be delivered to the developer and construction managers at 1700 Columbia Road, NW as soon as possible.

This Stop Work Order should remain in effect until such time that zoning variances are no longer under BZA and Court review, and subsequently a Building Permit is legally issued by DCRA following evaluation of all applicable ADA and other construction codes.

Please affirm receipt and inform

Regards,  
Chris Otten, Volunteer Coordinator  
Adams Morgan for Reasonable Development  
202-670-2366



AdMo Reasonable &lt;admo4rd@gmail.com&gt;

**Fw: decision in Ontario/AM4RD case**

AdMo Reasonable &lt;admo4rd@gmail.com&gt;

Mon, Jul 21, 2014 at 12:49 PM

To: benjaminf.johnson@dc.gov  
Cc: ruben.legapsi@dc.gov

Mr. Johnson,

Adams Morgan for Reasonable Development is a community group consisting of affected neighbors living around 1700 Columbia Road NW

The owner/developers of the Ontario 17 are currently constructing the building at this location (1700 Columbia Road, NW) despite not having a building permit. These same owners razed the building despite not having a raze permit. And the same developers who were putting up a huge tower crane without a crane permit.

You are being asked to grant this permit, however, the zoning issues around the project remain quite up in the air as on June 5, 2014, the highest Court in DC, the DC Court of Appeals summarily reversed the Board of Zoning Adjustment's approval of the variances and exceptions for the project and hence there will be further administrative proceedings on this matter.

I write all of this to say that any granting of the permit is way premature as the structural designs may change significantly by the time the re-review at the BZA occurs.

This all seems besides the point for these developers as they have already started constructing their building despite this ruling and despite the law which says you need a construction permit to start building.

We would ask you not grant any permits until the administrative matters are addressed at the BZA, and that illegal construction specialists are sent to the site to stop current construction work

Regards,  
Chris Otten, Volunteer  
Adams Morgan for Reasonable Development  
202-670-2366

— On Mon, 6/9/14, Jeff Light <jeffrey.light@yahoo.com> wrote

> From: Jeff Light <jeffrey.light@yahoo.com>  
> Subject: decision in Ontario/AM4RD case  
> To: "AdMo Reasonable" <admo4rd@gmail.com>  
> Date: Monday, June 9, 2014, 6:27 PM  
> See attached reversal from Court of Appeals.  
> Jeffrey Light

>  
> LAW OFFICE OF JEFFREY L. LIGHT  
>  
> 1712 Eye St., NW Suite 915  
>  
> Washington, DC 20006  
>  
> 202.277.6213  
>  
> Jeffrey.Light@yahoo.com

---

 **AM4RD reversal.pdf**  
59K



AdMo Reasonable <admo4rd@gmail.com>

---

## Fw: decision in Ontario/AM4RD case

---

AdMo Reasonable <admo4rd@gmail.com>

Mon, Jul 21, 2014 at 3:26 PM

To. clifford.moy@dc.gov, "Nero, Richard (DCOZ)" <richard.nero@dc.gov>

Dear Mr. Moy and Mr. Nero,

This is Chris Otten with Adams Morgan for Reasonable Development. I left a voice message for you last week asking about BZA Case No 18506.

The DC Court of Appeals has Summarily Reversed the BZA decision, nullifying approval of the variances and special exceptions granted in this case.

I am inquiring on behalf of Adams Morgan for Reasonable Development when proceedings will be heard by the BZA on the remand by the Court.

Has this been scheduled yet?

Thank you for any insights into this process.

Regards,  
Chris Otten, Co-Coordinator  
Adams Morgan for Reasonable Development

> See attached reversal from Court of  
> Appeals. Jeffrey Light  
>  
> LAW OFFICE OF JEFFREY L LIGHT  
>  
> 1712 Eye St., NW Suite 915  
>  
> Washington, DC 20006  
>  
> 202 277.6213  
>  
> [jeffrey.Light@yahoo.com](mailto:jeffrey.Light@yahoo.com)



AM4RD reversal.pdf

59K

**Adams Morgan For Reasonable Development  
BZA Case No 18506**

# **ATTACHMENT 7**

BEFORE THE BOARD OF ZONING ADJUSTMENT  
OF THE DISTRICT OF COLUMBIA

FORM 125 - APPEAL

Before completing this form, please review the instructions on the reverse side.  
Print or type all information unless otherwise indicated.

Pursuant to §§ 3100 and 3101 of the Zoning Regulations of the District of Columbia, an appeal is hereby taken from the

administrative decision of *Building Permit No. 1309151*

made on *7/24/14*

that states

*\* See attached*

Address(es) of Affected Premises	Square(s)	Lot(s)	Zone Districts
<i>1700 Columbia Rd NW</i>	<i>2565</i>	<i>0052</i>	

Present use of Property: *Theatre/commercial*

Proposed use of Property: *Mixed Residential/Commercial*

Name of Owner of Property: *Peterson Companies*

Address: *12500 Fair Lakes Circle, Suite 400 Fairfax, VA 22033*

Phone No(s): \_\_\_\_\_ Fax No.: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Name of Lessee: \_\_\_\_\_

Address: \_\_\_\_\_

Phone No(s): \_\_\_\_\_ Fax No.: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Name of Appellant, if other than Owner: *Adams Morgan for Reasonable Development*

Address: *c/o Chris Otten, 1830 Belmont Rd NW*

Phone No(s): *202-670-2366* Fax No.: \_\_\_\_\_ E-Mail: *adma4rd@gmail.com*

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 appeal 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: *9/24/14* Signature of Appellant: *[Signature]*

Waiver of Fee - Status of Appellant

ANC  DC Government Agency  NCPC  Citizens' Association/Association created for civic purposes that is not for profit

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

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone No(s): \_\_\_\_\_ Fax No.: \_\_\_\_\_ E-Mail: \_\_\_\_\_

\* If an appeal is filed by the agent of the Appellant, Form 125 - Appeal shall be accompanied by a letter signed by the Appellant authorizing the agent to act on its behalf in this appeal.

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

## **DC Board of Zoning Adjustment**

***RE: Appeal of the Building Permit # 1309151***

***September 24, 2014***

I, Chris Otten, serving on behalf of Adams Morgan for Reasonable Development, submit this appeal filing on BZA Form #125, requesting a hearing before the Board regarding the Ontario Theatre Project, located at 1700 Columbia Road, NW, WDC 20009 per DCMR 11-3100.2 & 11-3112.2

Adams Morgan for Reasonable Development is an unincorporated non-profit citizens association created for the civic purpose of understanding development projects in Adams Morgan and acting on any public interest concerns regarding these developments. This civic organization has been operating in a variety of capacities since 2010.

We believe Building Permit #130951 was issued in error, contravening DC Zoning Regulations. Of particular concern is the impairment of the rear yard which is partially occupied by a garage structure connected to and located underneath the building being constructed

Adams Morgan for Reasonable Development was given party status regarding other variance matters for this project, as seen in BZA Case #18506. We raised concerns to the BZA about the rear yard at that time but were told that the "self-certification" aspects of the process prevented Commissioners from evaluating it because the developer didn't believe it was an issue requiring zoning relief.

We disagree

By occupying the rear yard, the developer constricts an emergency access point to the building being constructed as well as the surrounding properties, properties whereby live those who seek redress from the BZA as participating through Adams Morgan for Reasonable Development.

Besides obvious future fire safety concerns, all emergency safety concerns are at issue here and if some catastrophic event were to take place which limits emergency access to this building and surrounding properties, the future stability and value of the surrounding neighborhood is also at risk

The issuance of this Building Permit therefore was in error and contravenes the basic definitions of a rear yard and the rear yard requirements as found in DCMR 11. See Attachment 1.

Per DCMR 11-3112.2 (a), this appeal is timely filed as Building Permit #1309151 was delivered by certified mail and received by Adams Morgan for Reasonable Development on July 26, 2014. See Attachment 2.

Adams Morgan for Reasonable Development submits this appeal sans fees as per DCMR 11-3180.1 (e) (3)

We intend to prove our case by showing the BZA the latest iteration of the design plans on file at DCRA, pointing out all structures located in the rear yard, and referring to zoning citations directly to show how the black letter of the law is not being followed therefore jeopardizing the affected

community

There has been an incorrect cascade of decisions ultimately ending with a determination by the Zoning Administrator to ignore the zoning regulations without any analysis vis-a-vis the DC Comprehensive Plan to transparently determine how impairing the rear yard in such a manner will not adversely impact the property and surrounding neighborhood.

Our presentation will evaluate adverse impacts and quality of life impacts, especially in context of a catastrophic emergency scenarios. We may choose to use expert witnesses to reflect this point of concern

Please contact us with any questions and to inform us when this case has been docketed

Regards,



Chris Otten, Facilitator  
Adams Morgan for Reasonable Development  
202-670-2366

*Attestation of Service*

I, Chris Otten, attest that on this the 24th day of September, 2014, delivered by regular post mail the above BZA Appeal of Building Permit #1309151 and associated attachments to the following parties:

Christine Roddy, Esq.  
Ghoulston & Storrs  
1999 K Street NW, Suite 500  
Washington, DC 20006-1101  
(counsel for Ontario Residential, LLC)

Stuart Prince, Esquire  
The Peterson Companies  
12500 Fair Lakes Circle, Suite 400  
Fairfax, VA 22033

Advisory Neighborhood Commission 1-C  
P O Box 21009  
Kalorama Station  
Washington, D C. 20009

**BZA Appeal of Building Permit #1309151**

**ATTACHMENT 1:: COMPLAINT CITATIONS**

There has been no relief requested by the developer or granted by the BZA to allow a reduction or blockage in the required rear yard. Despite this, the Ontario project impedes onto the rear yard requirements as shown on the record, and noted by the Office of Planning, that half of the rear yard is taken up by the ramp structure leading down to subterranean garage

**11 DCMR 199 Definitions.**

*Yard, rear* - a yard between the rear line of a building or other structure and the rear lot line, except as provided elsewhere in this title. *The rear yard shall be for the full width of the lot and shall be unoccupied, except as specifically authorized in this title.*

*Garage, parking* - a building or other structure, or part of a building or structure, over nine hundred square feet (900 ft<sup>2</sup>) in area, used for the parking of motor vehicles without repair or service facilities. The term parking garage may include a parking garage accessory to the principal use, but shall not include a mechanical parking garage

*Structure* - anything constructed, including a building, the use of which requires permanent location on the ground, or anything attached to something having a permanent location on the ground...

**11 DCMR 774 REAR YARDS (C)**

774.1 Except as provided in this section, a rear yard shall be provided for each structure located in a Commercial District, the minimum depth of which shall be as prescribed in the following table

C-2-B, All structures -- 15 feet

774.2 The Board of Zoning Adjustment may waive the rear yard requirements of this section pertaining to C-3-A, C-3-B, C-3-C, and C-4 Districts in accordance with the requirements of § 3104 for special exceptions, provided, that the standards in §§ 774.3 through 774.6 shall be met

774.3 Apartment and office windows shall be separated from other buildings that contain facing windows a distance sufficient to provide light and air and to protect the privacy of building occupants.

774.4 In determining distances between windows in buildings facing each other, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be sufficient to provide adequate light and privacy to the rooms

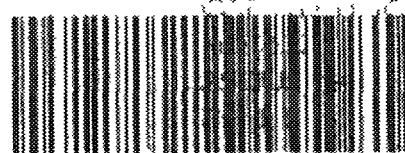
BZA Appeal of Building Permit #1309151

**ATTACHMENT 2:; *Date of notice or knowledge of the decision complained of***

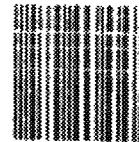
- *Envelope of Certified Mail containing Building Permit #1309151*
- *Printout from USPS website of the delivery of the certified letter*
- *Contents of the letter*

*goulston&storts*  
think results

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7001 1140 0003 7722 6360



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**\$6.49**

Adams Morgan for Reasonable Development  
c/o Chris Otten  
1830 Belmont Road NW  
Washington DC 20009

1830 Belmont Road NW

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VERIFIED

Last updated: Saturday, July 26, 2014

## Product &amp; Tracking Information

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Priority Mail®Features:  
Priority Mail®

Return Receipt

Return Receipt Item Number:



July 26, 2014 11:30 am	Delivered	WASHINGTON, DC 20009
------------------------	-----------	----------------------

Your item was delivered at 11:30 am on July 26, 2014 in WASHINGTON, DC 20009.

July 26, 2014, 8:01 am	A package, 11.5 lbs	WASHINGTON, DC 20010
July 26, 2014, 7:51 am	Priority Mail®	WASHINGTON, DC 20010
July 26, 2014, 7:50 am	A package	WASHINGTON, DC 20010
July 26, 2014, 7:29 am	Priority Mail®	WASHINGTON, DC 20009
July 26, 2014, 7:22 am	A media (MP3) file	WASHINGTON, DC 20009
July 26, 2014, 7:04 am	Priority Mail®	WASHINGTON, DC 20009
July 26, 2014, 7:01 am	Priority Mail®	GAITHERSBURG, MD 20878
July 26, 2014, 6:58 am	Priority Mail®	GAITHERSBURG, MD 20878
July 26, 2014, 6:25 am	Reported as lost	WASHINGTON, DC 20009
July 26, 2014, 6:18 pm	Reported as lost	WASHINGTON, DC 20009

## Available Actions

Return Receipt Item Number:



## Track Another Package

Tracking (or receipt) number:

7001114000017228360

Track It

## LEGAL

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goullstrom

Christine A. Roddy  
w/cc: 307  
Adams Morgan for Reasonable Development  
202-721-1116 (o)

July 25, 2014

VIA CERTIFIED MAIL  
Jeffrey Light, Esq.  
1712 Eye St., NW Suite 915  
Washington, DC 20006

Re: Permit No. 1309151, Construction of Mixed-Use Residential Building at 1700 Columbia Road, NW

Dear Mr. Light:

Enclosed for your records, please find a copy of Permit No. 1309151, allowing the construction of a six-story residential building with ground floor retail and below grade parking at 1700 Columbia Road, NW. We look forward to working with Adams Morgan for Reasonable Development as we move forward with construction.

Sincerely,



Christine A. Roddy

cc: Sean Canavan, Esq. (via certified mail)  
Adams Morgan for Reasonable Development, c/o Chris Otten (via certified mail)  
Rick Nero, Office of Zoning (via regular mail)  
Alan Bergstein, Office of the Attorney General (via regular mail)



Department of Consumer and Regulatory Affairs

Permit Operations Division

1100 4th Street SW

Washington DC 20024

Tel (202) 442 - 4588 Fax (202) 442 - 4862



**B**

**BUILDING PERMIT**

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

Issue Date 07/24/2014

Expiration Date 07/24/2016

PERMIT NO. B1309151

Address of Project 1700 COLUMBIA RD NW		Zone	Ward	Square	Suffix	Lot1
Description Of Work NEW SIX STORY 88 UNIT RESIDENTIAL BUILDING, WITH RETAIL ON FIRST FLOOR, AND ONE LEVEL OF BELOW GRADE PARKING.						
Permittee is Herby Granted To Ontario Residential Llc		Owner Address THE PETERSON COMPANIES LC 12500 FAIR LAKES CIR STE 400			PERMIT FEE \$47,411.41	
Permit Type New Building	Existing Use Other (Specify)	Proposed Use Mixed Use (provide description)			Plans	
Agent Name Kim Mitchell Cdkm Consulting	Agent Address 1250 24th St NW 20037	Existing Dwelling Units	Proposed Dwelling Units	No. of Stories	Floor(s) Inhabited All	
Conditions/ Restrictions						
<p>This Permit Expires If No Construction Is Started Within 1 Year or If the Inspector Is Over 1 Year</p> <p>All Construction Done According To The Current Building Codes And Zoning Regulations.</p> <p>As a condition precedent to the issuance of this permit, the owner agrees to conform with all conditions set forth herein, and to perform the work authorized herby in accordance with the approved application and plans on file with the District Government and in accordance with all applicable laws and regulations of the District of Columbia. The District of Columbia has the right to enter upon the property and to inspect all work authorized by this permit and to require any change in construction which may be necessary to ensure compliance with the permit and with all the applicable regulations of the District of Columbia. Work authorized under this Permit must start within one(1) year of the date appearing on this permit or the permit is automatically void. If work is started any application for partial refund must be made within six months of the date appearing on this permit.</p> <p><b>Lead Paint Awareness:</b> Whenever any such work related to this Permit could result in the disturbance of lead based paint, the permit holder shall abide by all applicable paint activities provisions of the "Lead Hazard Prevention and Elimination Act of 2008" and the EPA "Lead Renovation, Repair and Painting rule" regarding lead-based include adherence to lead-safe work practices. For more information, go to <a href="http://dc.gov/leadandhealthyhousing">http://dc.gov/leadandhealthyhousing</a></p>						
Director Rasheed A. Sabokhan	<i>Rasheed A. Sabokhan</i>	Permit Clerk James Rudisill				
<p>TO REPORT WASTE, FRAUD OR ABUSE BY ANY DC GOVERNMENT OFFICIAL, CALL THE DC INSPECTOR GENERAL AT 1-800-521-1838</p> <p>FOR CONSTRUCTION INSPECTION INQUIRIES CALL (202) 442-8657</p> <p>TO SCHEDULE INSPECTIONS PLEASE CALL (202) 442-8657</p>						

**Adams Morgan For Reasonable Development  
BZA Case No. 18506**

# **ATTACHMENT 8**

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Board of Zoning Adjustment



October 6, 2014

Adams Morgan For Reasonable Development  
c/o Chris Otten, 1830 Belmont Road, NW  
Washington, D C 20009

Re BZA Appeal No 18888

Dear Mr Otten

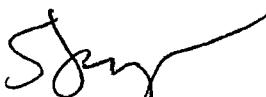
Your appeal has been accepted as complete. You are hereby notified to appear before the Board of Zoning Adjustment on Tuesday, January 13, 2015, at 441 4<sup>th</sup> Street, N W., Suite 220-S, Washington, D C , 20001, concerning the following appeal

**Appeal of Adams Morgan For Reasonable Development**, pursuant to 11 DCMR §§ 3100 and 3101, from a July 24, 2014 decision by the Zoning Administrator, Department of Consumer and Regulatory Affairs, to issue Building Permit No B1309151 to allow a mixed-use residential building with ground floor retail, in the C-2-B District at premises 1700 Columbia Road, N.W (Square 2565, Lot 52)

**NOTE: This case was filed electronically through the Interactive Zoning Information System ("IZIS") and all submission must be made via IZIS. You can access and file documents for this case through IZIS at <http://app.dcoz.dc.gov>.**

This case is located in Advisory Neighborhood Commission 1C. The case will be heard at 9 30 AM. If you have any questions or require any additional information, feel free to call me at (202) 727-6311.

SINCERELY,

A handwritten signature in black ink, appearing to read "Stephen Varga".

STEPHEN VARGA, AICP, LEED Green Assoc.  
Senior Zoning Specialist  
Office of Zoning

**Adams Morgan For Reasonable Development  
BZA Case No. 18506**

# **ATTACHMENT 9**



AdMo Reasonable <admo4rd@gmail.com>

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## Any Update: BZA Case #18506

12 messages

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AdMo Reasonable <admo4rd@gmail.com>  
To: "clifford.moy" <clifford.moy@dc.gov>  
Cc: chrisotten2@yahoo.com

Tue, Oct 14, 2014 at 6:07 PM

Hi Cliff

Hope all is well and you had a nice weekend

I wanted to let you know that after two weeks, I am quite disheartened to not have heard of any update from the BZA since I put a motion on the record on October 1, 2014, for the BZA to have a public hearing per the Order of the Court of Appeals

There has been no response by the Applicant to my Motion for a hearing attached as Exhibit 45 on the record for BZA Case No 18506 the Ontario 1700 development in Adams Morgan.

This project required a variance for multiple rooftop structures This variance request was apparently withdrawn after the Applicant saw the highest court in the District remand it back to the BZA for further review

On September 19, 2014, I personally examined schematic drawings on file at DCRA showing the subject site and building at 1700 Columbia Road. There are still multiple rooftop structures in the latest plans dated July 24, 2014.

The construction of these rooftop structures seems quite imminent.

I would like a status update of my Motion given the Court's remand of this case.

With regards,  
Chris Otten  
202-670-2366



**EXHIBIT\_45\_MOTION FOR IMMEDIATE HEARING otten October 1 2014.pdf**

202K

---

Moy, Clifford (DCOZ) <clifford.moy@dc.gov>  
To: AdMo Reasonable <admo4rd@gmail.com>  
Cc: "chrisotten2@yahoo.com" <chrisotten2@yahoo.com>, "Moy, Clifford (DCOZ)" <clifford.moy@dc.gov>

Thu, Oct 16, 2014 at 12:36 PM

Dear Chris Otten,

I am sorry for the delay in replying to you. But there has not been any news for me to tell you yet.

I've asked for legal advice from my counsel. But he has been on vacation. Once he returns, then I'll be able to respond to you as to our next course of action.

Thanks and trust all is well with you,

Cliff Moy

October is National Disability Employment Awareness Month. To learn what you can do to foster a more inclusive workforce, visit [www.dol.gov/odep](http://www.dol.gov/odep) and [www.dds.dc.gov](http://www.dds.dc.gov).

[Quoted text hidden]

---

**AdMo Reasonable** <[admo4rd@gmail.com](mailto:admo4rd@gmail.com)>  
To: "Moy, Clifford (DCOZ)" <[clifford.moy@dc.gov](mailto:clifford.moy@dc.gov)>  
Cc: "chrisotten2@yahoo.com" <[chrisotten2@yahoo.com](mailto:chrisotten2@yahoo.com)>

Thu, Oct 16, 2014 at 10:06 PM

I'm confused Cliff.

I've submitted a Motion, should you schedule the BZA to hear that motion?

Please clarify the role of the OAG in this.

Thanks,

Chris O.

[Quoted text hidden]

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**Moy, Clifford (DCOZ)** <[clifford.moy@dc.gov](mailto:clifford.moy@dc.gov)>  
To: AdMo Reasonable <[admo4rd@gmail.com](mailto:admo4rd@gmail.com)>

Fri, Oct 17, 2014 at 9:49 AM

Chris,

Hello. OAG provides me legal counsel.

Thanks,

Cliff

-----Original Message-----

From: AdMo Reasonable [mailto:[admo4rd@gmail.com](mailto:admo4rd@gmail.com)]  
Sent: Thursday, October 16, 2014 10:07 PM  
To: Moy, Clifford (DCOZ)  
Cc: [chrisotten2@yahoo.com](mailto:chrisotten2@yahoo.com)  
[Quoted text hidden]

---

**AdMo Reasonable** <[admo4rd@gmail.com](mailto:admo4rd@gmail.com)>

Fri, Oct 17, 2014 at 1:42 PM

**To: "Moy, Clifford (DCOZ)" <clifford.moy@dc.gov>**

Cliff,

I am totally confused.

**What about neighbors legal rights to be heard by the BZA?**

I wrote to you back in July about this. You said you were waiting for OAG assistance then.

This is patently untimely and unfair Cliff, especially since the highest Court in the District agreed with our position.

Please inform, what assistance have you been waiting for in the past three months from the OAG.

Respectfully attempting to get answers, thank you

Chris

[Quoted text hidden]

---

**Moy, Clifford (DCOZ) <clifford.moy@dc.gov>**  
**To: AdMo Reasonable <admo4rd@gmail.com>**  
**Cc: "Moy, Clifford (DCOZ)" <clifford.moy@dc.gov>**

Mon, Oct 20, 2014 at 6:27 PM

Dear Chris Otten,

I expect the OAG counsel to return from vacation in another week. Then I hope to have an answer for you.  
I'm sorry that you are unhappy

Thanks,  
Cliff Moy

-----Original Message-----

**From: AdMo Reasonable [mailto:admo4rd@gmail.com]**  
**Sent: Friday, October 17, 2014 1:42 PM**  
**To: Moy, Clifford (DCOZ)**  
**[Quoted text hidden]**

---

**AdMo Reasonable <admo4rd@gmail.com>**  
**To: "Moy, Clifford (DCOZ)" <clifford.moy@dc.gov>**

Mon, Oct 20, 2014 at 10:13 PM

I am only unhappy because I asked about this back in July.  
The Court remanded this in June.

What direction and why does the OAG have a role in this.  
The BZA should deal with this directly.  
Just confused and dismayed that this has taken so long  
Chris  
[Quoted text hidden]

---

**AdMo Reasonable** <[admo4rd@gmail.com](mailto:admo4rd@gmail.com)>  
To: "Moy, Clifford (DCOZ)" <[clifford.moy@dc.gov](mailto:clifford.moy@dc.gov)>

Fri, Oct 24, 2014 at 1.48 PM

Cliff,  
Any update at all?  
Thanks,  
Chris  
[Quoted text hidden]

---

**AdMo Reasonable** <[admo4rd@gmail.com](mailto:admo4rd@gmail.com)>  
To: "clifford moy" <[clifford.moy@dc.gov](mailto:clifford.moy@dc.gov)>  
Cc: [chrisotten2@yahoo.com](mailto:chrisotten2@yahoo.com)

Wed, Oct 29, 2014 at 3:52 PM

Cliff,  
I understand you may have finally scheduled a hearing on the remand  
from the highest Court regarding this case.  
Please inform me of the date and time as soon as possible so I can prepare.  
Thank you,  
Chris  
[Quoted text hidden]

---

**Moy, Clifford (DCOZ)** <[clifford.moy@dc.gov](mailto:clifford.moy@dc.gov)>  
To: AdMo Reasonable <[admo4rd@gmail.com](mailto:admo4rd@gmail.com)>  
Cc: "chrisotten2@yahoo.com" <[chrisotten2@yahoo.com](mailto:chrisotten2@yahoo.com)>, "Moy, Clifford (DCOZ)" <[clifford.moy@dc.gov](mailto:clifford.moy@dc.gov)>

Fri, Oct 31, 2014 at 5:13 PM

Dear Chris Otten,

Your motion has been scheduled for Public Meeting on Tuesday, November 18, 2014 starting at 9:30 in the morning.

Thank you,  
Cliff Moy

Save the date for EdFEST <<https://ms-dc.s3.amazonaws.com/docs/EdFest-flyer-8.5x11-ENGLISH.pdf>>, DC's citywide education fair, on Saturday, November 22 from 11:00am to 3:00pm at the DC Armory. Explore more than 150 DCPS & public charter school options (PK3-12) for your child, and learn about My School DC <<http://www.myschooldc.org/>> - the city's common lottery. Admission is free.

—Original Message—

**From** AdMo Reasonable [mailto:[admo4rd@gmail.com](mailto:admo4rd@gmail.com)]  
**Sent**: Wednesday, October 29, 2014 3:53 PM  
**To**: Moy, Clifford (DCOZ)  
**Cc**: [chrisotten2@yahoo.com](mailto:chrisotten2@yahoo.com)  
**Subject** Re Any Update BZA Case #18506

[Quoted text hidden]

---

**Chris Version II.O** <[chrisotten2@yahoo.com](mailto:chrisotten2@yahoo.com)>

Fri, Oct 31, 2014 at 5:20 PM

To: AdMo Reasonable <[admo4rd@gmail.com](mailto:admo4rd@gmail.com)>, "Clifford (DCOZ)Moy" <[clifford.moy@dc.gov](mailto:clifford.moy@dc.gov)>  
Cc: "Clifford (DCOZ)Moy" <[clifford.moy@dc.gov](mailto:clifford.moy@dc.gov)>

Thank you for the update, Cliff

I presume you have received guidance now from the OAH.

I am wondering what legal citations or precedence you can alert me to help understand the process of remand to the BZA from the Court of Appeals.

Thank you,  
Chris O.  
202-810-2768

---

On Fri, 10/31/14, Moy, Clifford (DCOZ) <[clifford.moy@dc.gov](mailto:clifford.moy@dc.gov)> wrote:

**Subject**. RE. Any Update. BZA Case #18506  
**To**: "AdMo Reasonable" <[admo4rd@gmail.com](mailto:admo4rd@gmail.com)>  
**Cc** "chrisotten2@yahoo.com" <[chrisotten2@yahoo.com](mailto:chrisotten2@yahoo.com)>, "Moy, Clifford (DCOZ)" <[clifford.moy@dc.gov](mailto:clifford.moy@dc.gov)>  
**Date**: Friday, October 31, 2014, 5:13 PM

[Quoted text hidden]

---

**AdMo Reasonable** <admo4rd@gmail.com>  
To: "Chris Version II.O" <chrisotten2@yahoo.com>

Mon, Nov 3, 2014 at 12:28 PM

----- Forwarded message -----

From: "Moy, Clifford (DCOZ)" <clifford.moy@dc.gov>  
Date: Fri, 31 Oct 2014 17:13:10 -0400  
Subject: RE: Any Update: BZA Case #18506  
To: AdMo Reasonable <admo4rd@gmail.com>  
Cc: "chrisotten2@yahoo.com" <chrisotten2@yahoo.com>, "Moy, Clifford (DCOZ)" <clifford.moy@dc.gov>

[Quoted text hidden]

**Adams Morgan For Reasonable Development  
BZA Case No 18506**

# **ATTACHMENT 10**

November 10, 2014

**ELECTRONIC DELIVERY**

Lloyd Jordan, Chairperson  
D.C. Board of Zoning Adjustment  
441 4<sup>th</sup> Street, NW, Suite 200 South  
Washington, DC 20001

Re Case No. 18506 – Response to Request for Immediate Hearing

Dear Chairperson Jordan

Adams Morgan for Reasonable Development (“AMFRD”) filed a request for an immediate hearing in Case No. 18506 on October 1, 2014. On behalf of the Applicant, Ontario Residential LLC (“Ontario”), we submit that further proceedings are neither necessary nor required. AMFRD argues additional review of the roof structures is required, however, Ontario withdrew its request for roof structure relief. Ontario is constructing a roof plan that is fully compliant with the Zoning Regulations, thus, there are no pending matters before the Board for review.

**I. Background**

At the center of this request is a mixed-use project located in Adams Morgan at 1700 Columbia Road, NW. An application was filed with the Board on November 26, 2012, requesting relief from the parking requirements, loading requirements and roof structure requirements. Specifically, the application sought relief from the roof structure requirements on three bases (1) roof structure setback, (2) uniform height of the roof structures and (3) provision of more than one roof structure. The Board conducted a public hearing on this matter on February 26, 2013, at which time AMFRD was granted party status in opposition to the application. The Board voted unanimously to approve the application at the close of the hearing. The final BZA Order was issued in September 2013 and AMFRD filed a motion for reconsideration. The Board denied AMFRD’s motion (Order No. 18506A). Upon denial of the motion for reconsideration, AMFRD appealed the BZA order to the Court of Appeals.

Once before the Court of Appeals, AMFRD filed a motion for summary disposition arguing that BZA Order No. 18506 did not sufficiently support Ontario’s request for roof structure relief. AMFRD did not take issue with the relief granted from either the parking or

loading requirements. The Court issued an order on June 5, 2014, a copy of which is attached as Exhibit A. The Court vacated two components of the roof structure relief: the number of structures and the varying height of the structures. The Court remanded those two requests for relief to the Board for further proceedings. The Court upheld the request for relief from the setback requirements.

At the same time that the Court proceedings were underway, Ontario had started construction on its project in accordance with the plans approved by the Board. Upon issuance of the Court's order, Ontario took a step back, reviewed its options, and decided that in light of the work that had already been undertaken, the most conservative and expeditious approach would be to proceed with a fully compliant roof structure. Such an approach would obviate the need for further proceedings and would seemingly satisfy AMFRD's complaints against the project. Accordingly, Ontario amended its building permit application to include a roof plan with a single structure of a uniform height. The roof plan was reviewed and deemed zoning-compliant by the Department of Consumer and Regulatory Affairs during the processing of the building permit application. As the attached notes demonstrate, the zoning reviewer was well aware of the Court order and took its effect into consideration when it approved the roof structure. See zoning reviewer comments on the roof plan attached as Exhibit B.

## II AMFRD's Basis for Additional Hearing is Erroneous

AMFRD bases its argument that additional proceedings are required on 11 DCMR Section 3129.6. Section 3129.6 deals with minor modifications of approved plans, however, AMFRD ignores the very first subsection of Section 3129. Section 3129.1 states that Section 3129 only applies to applications filed with the Board requesting relief. Because Ontario withdrew its request for roof structure relief, it no longer had an application for roof structure relief before the Board and thus no longer required proceedings. Section 3129.6 would apply if Ontario modified its roof plan but still needed roof structure relief. Section 3129.6 no longer applies if the request for relief is withdrawn, leaving nothing before the Board for review.

For the sake of AMFRD's argument, if further proceedings were scheduled, what precisely would the BZA be reviewing? The Court remanded the application for further proceedings to substantiate the Board's granting of approval. If Ontario is no longer requesting roof structure relief, there is nothing for the Board to review. AMFRD is essentially requesting a hearing on the compliance of the roof structure with the Zoning Regulations. Whether a zoning reviewer erred in determining that the approved roof plan is compliant with the Zoning Regulations is a wholly separate question. AMFRD has in fact filed a separate appeal of the building permit and a hearing has already been scheduled before the BZA for January 13, 2015, on that very issue. AMFRD is now requesting another hearing to address the very same issue.

## III Conclusion

It is apparent that AMFRD is making every effort to halt construction of 1700 Columbia Road. It opposed the initial BZA application, it filed a motion for reconsideration of the BZA

Lloyd Jordan  
November 10, 2014  
Page 3

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Order, it appealed the BZA Order to the Court of Appeals, it appealed the issuance of the building permit to the Office of Administrative Hearings, it is requesting an immediate hearing on the redesigned roof structure and it has filed a separate appeal of the building permit to the BZA. Nonetheless, the approved project is well underway despite AMFRD's baseless claims Ontario has proceeded in full compliance with the loading and parking relief granted in Order No 18506 and with a roof structure that fully complies with Zoning Regulations. Further proceedings on the roof structure are not necessary and granting AMFRD's request would be duplicative of the hearing that has already been scheduled for January 13, 2015. Ontario asks that the Board deny AMFRD's request for immediate hearing.

Sincerely,



Paul Tummonds



Christine Roddy

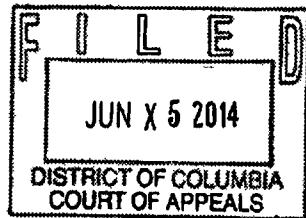
Encl

cc: Alan Bergstein, Office of the Attorney General  
Clifford Moy, Office of Zoning  
Adams Morgan for Reasonable Development, c/o Chris Otten

gsdocs\8130318.1

**Exhibit A**

**District of Columbia  
Court of Appeals**



**No. 13-AA-1356**

**ADAMS MORGAN FOR REASONABLE DEVELOPMENT,  
Petitioner,**

**BZA 18506**

**v.**

**DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT,  
Respondent,**

**and**

**ONTARIO RESIDENTIAL, LLC,  
Intervenor.**

**BEFORE. Glickman and Easterly, Associate Judges, and Nebeker, Senior Judge**

**JUDGMENT**

On consideration of petitioner's motion for summary reversal or remand titled as a motion for summary disposition and the opposition thereto, petitioner's reply, the petition for review, and the record on appeal, and it further appearing that petitioner's motion only challenges the grant of the special exceptions granted for the roof structures, it is

ORDERED that the motion for summary reversal is granted to the extent that the Board of Zoning Adjustment failed to make any specific findings as to impracticability prior to granting the special exceptions to 11 DCMR § 411.3 and .5 permitting multiple roof enclosures at two separate heights. *See Oliver T Carr Mgmt, Inc v Nat'l Delicatessen, Inc*, 397 A 2d 914, 915 (D.C. 1979) Under 11 DCMR § 411.11, the Board of Zoning Adjustment was required to find that compliance with the single enclosure and height requirements under 11 DCMR §§ 411.3 and .5 is impracticable before granting special exceptions. Accordingly, we remand this case for further findings on these issues. *See generally Nat'l Cathedral Neighborhood Ass'n v District of Columbia Bd of Zoning Adjustment*, 753 A 2d 984, 986 n 2 (D.C. 2000) (explaining that this court "must uphold

No. 13-AA-1356

decision made by the Board if they rationally flow from findings of fact supported by substantial evidence in the record as a whole") (emphasis added). However, the Board of Zoning Adjustment was not required to find the proposed set-back, *see 11 DCMR § 411.2, (§ 770.6), impracticable before granting a special exception. See 11 DCMR § 411.11 (requiring a finding of impracticability only for §§ 411.3-6 before empowering the Board of Zoning Adjustment to grant a special exception).* Because the Board of Zoning Adjustment properly considered the requirement of 11 DCMR § 3104, it need not make additional findings in this respect. It is

FURTHER ORDERED and ADJUDGED that the order on appeal is vacated in part and remanded for further proceedings consistent with this judgment.

ENTERED BY DIRECTION OF THE COURT

  
JULIO A. CASTILLO  
Clerk of the Court

Copies to:

Loren AliKhan, Esquire  
Deputy Solicitor General, D C

Jeffrey L. Light, Esquire  
1712 Eye St., NW, Ste. 915  
Washington, DC 20006

Paul A. Tummonds, Jr., Esquire  
Christine A. Roddy  
Goulston & Storrs  
1999 K St., NW, Ste. 500  
Washington, DC 20006

lenc

**Exhibit B**

## Enter the Property Address to review Application Status

St. No.*	St. Name*	St. Suffix*	Quad*
1700	columbia	Road	NW

Find

## Application Status by Property Address

Please see the table below for review statuses. The table is not shown if the reviews have not been identified. A blank Status date means that the initial review has not been completed.

ApplicationID	Review Date	Review Status	Review Date	Review Status	Agent	Phone
FS1402779	8/12/2014	1700 COLUMBIA RD NW			ADVANCED FIRE PROT. SYS LLC	443-557-0321
TN1400124	5/12/2014	1700 COLUMBIA RD NW				
AH1400430	4/23/2014	1700 COLUMBIA RD NW			CHRISTINE LONG	443-848-1333
TC1400016	4/22/2014	1700 COLUMBIA RD NW			ERIKA CARROLL	240-595-7306
AH1400336	3/18/2014	1700 COLUMBIA RD NW			CHRISTINE LONG	443-848-1333
BI309151	7/23/2013	1700 COLUMBIA RD NW			KIM MITCHELL CDKM CONSULTING	202-420-0091
Discipline						
Zoning Review		Zoning Review Approved	07/14/2014		approved six story 80 unit apartment [with 9 lo units all at 80% amti] building with ground floor retail, and one level underground parking garage for 32 parking spaces and 40 bikes. approved as per bza#18506 [including variance from loading requirements], and the modified plans to address court of appeals remand of rooftop structure issue	
Mechanical Review		Mechanical Review Approved	01/14/2014			
Electrical Review		Electrical Review Approved	01/02/2014			
Fire Review		Fire Review Approved	01/09/2014		issues addressed	
Elevator Review		Elevator Review Approved	01/09/2014		ok.	
Structural Review		Structural Review Approved	07/24/2014		structurally approved, but hold for eisf, ddot & wasa. all comments of ben johnson addressed	
DDOE Review		DDOE Review Approved	11/12/2013		plans approved at first st. ne	
DDOT Review		DDOT Review Approved	07/24/2014		ddot permits issued	
WASA Review		WASA Review Approved	07/24/2014			
EISF Review		EISF Review Approved	07/24/2014			
Plumbing Review		Plumbing Review Approved	01/14/2014			
Issue Permit		Permit Issued	07/24/2014			
FD1300081	8/14/2013	1700 COLUMBIA RD NW			KIM MITCHELL CDKM CONSULTING, LLC	202-420-0091
Discipline						
Zoning Review		Zoning Review Approved	07/08/2013		(c-2-b) foundation to grade only.	
Structural Review		Structural Review Approved	01/08/2014			
DDOE Review		DDOE Review Approved	11/04/2013		plans approved at first st. ne	
DDOT Review		DDOT Review Approved	01/17/2014		pa83640	
Plumbing Review		Plumbing Review Approved	07/01/2013			
Issue Permit		Permit Issued	01/22/2014			
SH1300052	5/30/2013	1700 COLUMBIA RD NW			KIM MITCHELL CDKM CONSULTING LLC	202-420-0091
Discipline						
Zoning Review		Zoning Review Approved	06/10/2013		app for sheeting and shoring only.	
Structural Review		Structural Review Approved	01/08/2014			
DDOE Review		DDOE Review Approved	11/04/2013		plans approved at first st. ne	
DDOT Review		DDOT Review Approved	01/17/2014		pa83640	
WASA Review		WASA Review Approved	01/22/2014			
Issue Permit		Permit Issued	01/22/2014			
F1300366	5/14/2013	1700 COLUMBIA RD NW			KIM MITCHELL CDKM CONSULTING, LLC	202-420-0091
Discipline						
Structural Review		Structural Review Approved	05/15/2013			
DDOT Review		DDOT Review Approved	05/14/2013		per:mm(tracking#10088333)	
Issue Permit		Permit Issued	05/15/2013			
D1300245	1/22/2013	1700 COLUMBIA RD NW			KIM MITCHELL CDKM CONSULTING LLC	202-420-0091
Discipline						
Issue Permit		Permit Issued	01/22/2013			
R1300023	12/12/2012	1700 COLUMBIA RD NW			CDKM CONSULTING KIM MITCHELL	
Discipline						
Application Review		Application Accepted	12/12/2012			
D1200938	8/9/2012	1700 COLUMBIA RD NW			KIM MITCHELL	
Discipline						
Structural Review		Structural Review Approved	08/10/2012			
HPRB Review		HPRB Review Approved	08/09/2012			
Issue Permit		Permit Issued	08/23/2012			
R1200136	8/28/2012	1700 COLUMBIA RD NW			KIM MITCHELL	202-973-0713
Discipline						
Application Review		Application Accepted	08/28/2012			
SB1200276	4/24/2012	1700 COLUMBIA RD NW			ECS MID-ATLANTIC, LLC	703-471-8400
Discipline						
Structural Review		Structural Review Approved	04/24/2012			

EXHIBIT

3/4

**Adams Morgan For Reasonable Development  
BZA Case No. 18506**

# **ATTACHMENT 11**

Enter the Property Address to review Application Status

St No.*	St Name*	St Suffix*	Quad*
1700	columbia	Road	NW

Find

## Application Status by Property Address:

Please see the table below for review statuses. The table is not shown if the reviews have not been identified. A blank **5** in a column means that the initial review has not been completed.

Application ID	Date Filed	Full Address	Agent Name	Phone Number
RF1402776	8/12/2014	1700 COLUMBIA RD NW	ADVANCED FIRE PROT. SYS. LLC	443-657-0321
RT1400124	8/12/2014	1700 COLUMBIA RD NW		
AH1400430	4/23/2014	1700 COLUMBIA RD NW	CHRISTINE LONG	443-548-1333
TG1400018	4/22/2014	1700 COLUMBIA RD NW	ERIKA CARROLL	240-585-7308
AM1400336	3/18/2014	1700 COLUMBIA RD NW	CHRISTINE LONG	443-848-1333
BT1309151	7/23/2013	1700 COLUMBIA RD NW	KIM MITCHELL CDKM CONSULTING	202-420-0091
Discipline	Review Status	Status Date	Review Comment	
Zoning Review	Zoning Review Approved	07/14/2014	approved site story 80 unit apartment [with 9 ft units all at 80% amj building with ground floor retail, and one level underground parking garage for 32 parking spaces and 40 bikes approved as per bldg#18508 (including variance from loading requirements), and the modified plans to address court of appeals remand of rooftop structure issue	
Mechanical Review	Mechanical Review Approved	01/14/2014		
Electrical Review	Electrical Review Approved	01/02/2014		
Fire Review	Fire Review Approved	01/08/2014	issues addressed.	
Elevator Review	Elevator Review Approved	01/09/2014	ok.	
Structural Review	Structural Review Approved	07/24/2014	structurally approved, but held for seaf, ddot & wasa all comments of ben johnson addressed	
DDOE Review	DDOE Review Approved	11/12/2013	plans approved at first at se	
DDOT Review	DDOT Review Approved	07/24/2014	ddot permits issued	
WASA Review	WASA Review Approved	07/24/2014		
EISF Review	EISF Review Approved	07/24/2014		
Plumbing Review	Plumbing Review Approved	01/14/2014		
Issue Permit	Permit Issued	07/24/2014		
RF1300091	6/14/2013	1700 COLUMBIA RD NW	KIM MITCHELL CDKM CONSULTING, LLC	202-420-0091
Discipline	Review Status	Status Date	Review Comment	
Zoning Review	Zoning Review Approved	07/08/2013	(c-2-b) foundation to grade only	
Structural Review	Structural Review Approved	01/08/2014		
DDOE Review	DDOE Review Approved	11/04/2013	plans approved at first at se	
DDOT Review	DDOT Review Approved	01/17/2014	pa83640	
Plumbing Review	Plumbing Review Approved	07/01/2013		
Issue Permit	Permit Issued	01/23/2014		
SH1300082	5/30/2013	1700 COLUMBIA RD NW	KIM MITCHELL CDKM CONSULTING LLC	202-420-0091
Discipline	Review Status	Status Date	Review Comment	
Zoning Review	Zoning Review Approved	08/18/2013	app for sheeting and shoring only	
Structural Review	Structural Review Approved	01/08/2014		
DDOE Review	DDOE Review Approved	11/04/2013	plans approved at first at se	
DDOT Review	DDOT Review Approved	01/17/2014	pa83640	
WASA Review	WASA Review Approved	01/22/2014		
Issue Permit	Permit Issued	01/23/2014		
FI100386	6/14/2013	1700 COLUMBIA RD NW	KIM MITCHELL CDKM CONSULTING, LLC	202-420-0091
Discipline	Review Status	Status Date	Review Comment	
Structural Review	Structural Review Approved	09/15/2013		
DDOT Review	DDOT Review Approved	09/14/2013	per_mm(tracking#10068333)	
Issue Permit	Permit Issued	09/15/2013		
DT1300245	10/22/2013	1700 COLUMBIA RD NW	KIM MITCHELL CDKM CONSULTING LLC	202-420-0091
Discipline	Review Status	Status Date	Review Comment	
Issue Permit	Permit Issued	01/22/2013		
RT1300023	1/23/2013	1700 COLUMBIA RD NW	CDKM CONSULTING KIM MITCHELL	
Discipline	Review Status	Status Date	Review Comment	
Application Review	Application Accepted	1/22/2012		
DI2000038	6/20/2012	1700 COLUMBIA RD NW	KIM MITCHELL	
Discipline	Review Status	Status Date	Review Comment	
Structural Review	Structural Review Approved	08/19/2012		
HPRB Review	HPRB Review Approved	08/09/2012		
Issue Permit	Permit Issued	08/23/2012		
RT1300136	6/26/2012	1700 COLUMBIA RD NW	KIM MITCHELL	202-872-9712
Discipline	Review Status	Status Date	Review Comment	
Application Review	Application Accepted	08/28/2012		
SB1200078	4/24/2012	1700 COLUMBIA RD NW	ECS MID-ATLANTIC, LLC	703-471-8480
Discipline	Review Status	Status Date	Review Comment	
Structural Review	Structural Review Approved	10/22/2012		

EXHIBIT  
3/1

**Adams Morgan For Reasonable Development  
BZA Case No 18506**

# **ATTACHMENT 12**

**DISTRICT OF COLUMBIA  
OFFICE OF ADMINISTRATIVE HEARINGS**  
One Judiciary Square  
441 Fourth Street, NW  
Washington, DC 20001-2714  
TEL. (202) 442-9094 FAX. (202) 442-4789

DISTRICT OF COLUMBIA  
OFFICE OF  
ADMINISTRATIVE HEARINGS  
2014 SEP 22 PM 3:52

ADAMS MORGAN FOR REASONABLE  
DEVELOPMENT  
Petitioner

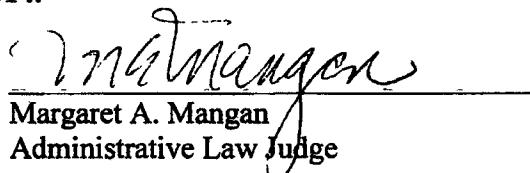
v  
RABBIAH SABBAKAN, CODE OFFICIAL  
and  
DEPARTMENT OF CONSUMER AND  
REGULATORY AFFAIRS  
and  
ONTARIO RESIDENTIAL, LLC  
Respondents

Case No 2014-DCRA-00050  
Permit Number B1309151

**ORDER GRANTING CONTINUANCE**

For good cause shown, the consent motion to continue the evidentiary hearing scheduled for September 26, 2014, is **GRANTED**, and matter rescheduled for October 28, 2014, at 9:30 a.m. at the Office of Administrative Hearings, 441 4<sup>th</sup> Street, NW, Suite 450 North. You will need photo identification to enter the building. All other aspects of the August 29, 2014, Order Scheduling a Hearing remain in effect.

**SO ORDERED**, this 22<sup>nd</sup> day of August 2014.

  
\_\_\_\_\_  
Margaret A. Mangan  
Administrative Law Judge

**Certificate of Service:**

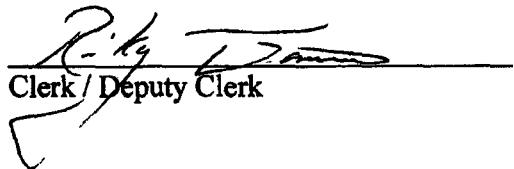
**By First Class Mail (Postage Paid) and by email:**

Chris Otten  
1830 Belmont Road, NW  
Washington, DC 20009  
chrisotten2@yahoo.com

Sean P. Canavan, Esquire  
1712 I (Eye) Street, NW  
Washington, DC 20006  
seanpcavanpal@gmail.com  
(counsel for Petitioner)

Christine Roddy, Esquire  
Goulston & Storrs  
1999 K Street, NW, Suite 500  
Washington, DC 20006  
CRoddy@goulstonstoors.com  
(Counsel for Intervenor Ontario Residential,  
LLC)

I hereby certify that on 9-22,  
2014, this document was served upon the  
parties named on this page at the address(es)  
and by the means stated.

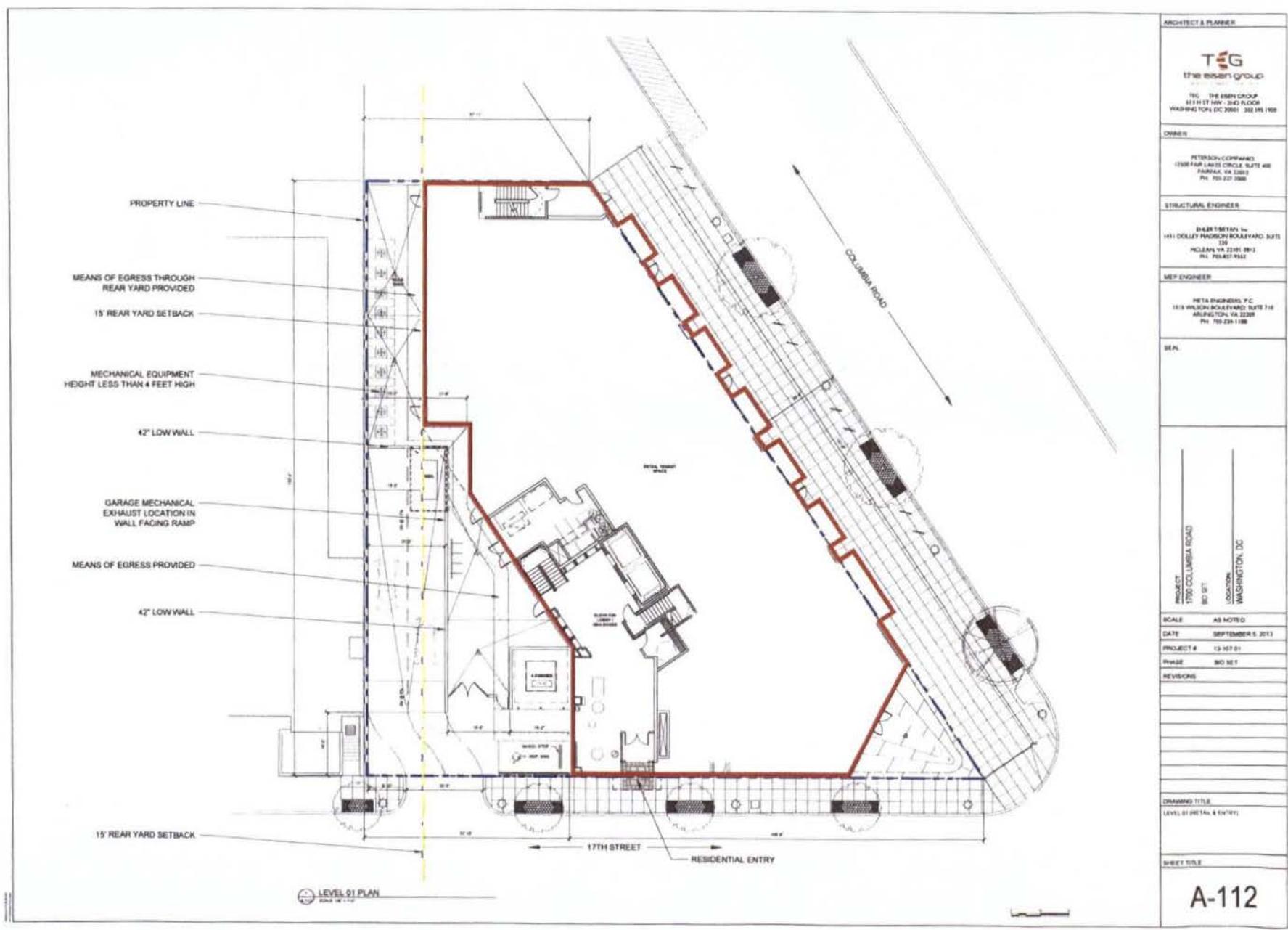
  
\_\_\_\_\_  
Clerk / Deputy Clerk

**By Inter-Agency Mail and by email:**

John Postulka, Assistant Attorney General  
Department of Consumer and Regulatory  
Affairs  
Dep't of Consumer and Regulatory Affairs  
1100 4th Street, SW – 5th Floor  
Washington, DC 20024  
john.postulka@dc.gov

**Adams Morgan For Reasonable Development  
BZA Case No. 18506**

# **ATTACHMENT 13**





## INITIAL ROOF PLAN



## REVISED ROOF PLAN

PROJECT & PLANNER	
<b>TEG</b> the green group	
1001 19TH STREET, NW 611 WEST HOP. 4TH FLOOR WASHINGTON, DC 20004 (202) 333-1982	
CARRIER	
ALLEGHENY SYSTEMS 1200 FAIR LANE, CLEVELAND, OH 44115 216-781-5300 FAX: 216-781-3899	
STRUCTURAL ENGINEER	
ENERTEK SYSTEMS INC. 1051 BOLTON PARKWAY, BOLTON, MICHIGAN 48013 313-229-3811 FAX: 313-229-3812	
MEP ENGINEER	
RITA BURGESS, P.C. 1015 19TH STREET, NW, SUITE 200 ALEXANDRIA, VA 22314 703-549-1988	
REAL	
ADDRESS	1700 COLUMBIA ROAD
INC	SEC
LOCATION	WADSWORTH, OH
PHONE	434-950-5367
DATE	SEPTEMBER 1, 2011
PROJECT #	TS-107-51
PHASE	003 SEC
REVISIONS	
DRAWING TITLE REVISIONS (1.00)	
SHEET TITLE	
A-116	

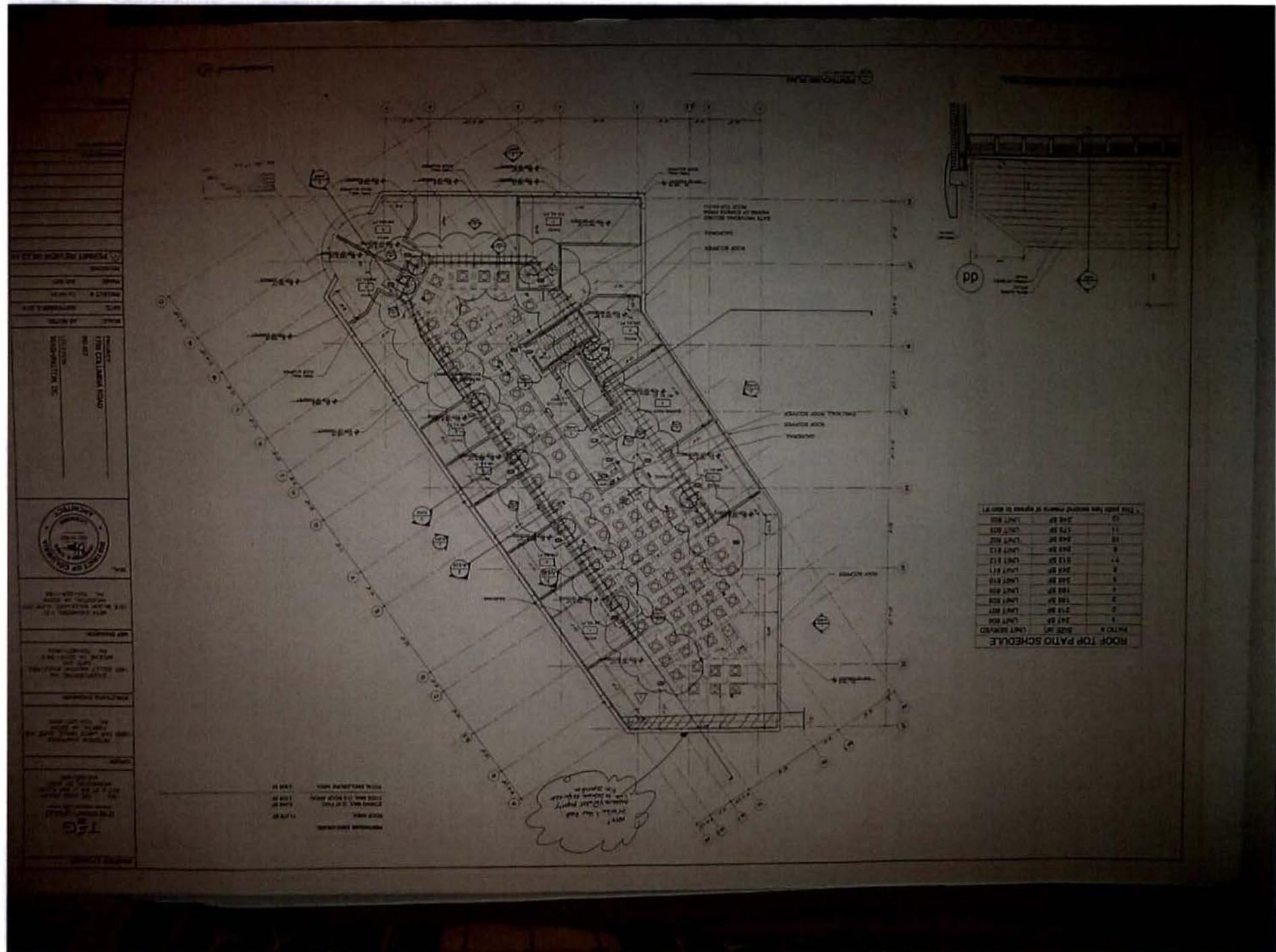
A-116



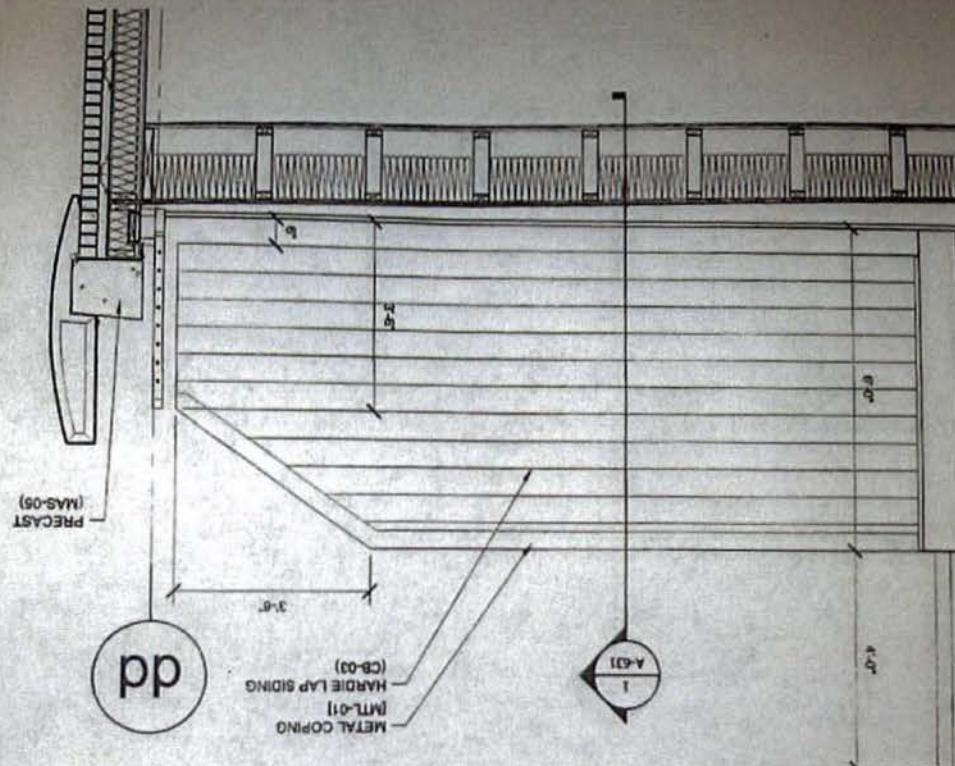
ARCHITECT & PLANNER	
<b>TEG</b> the telen group	100 - THE BELL GROUP 4201 12th Street, NW - SUITE 2000 WASHINGTON, DC 20004-3200 (202) 222-2800
OWNER	PETROSKI CONSOLIDATED 1000 RIVERFRONT DRIVE, SUITE 2000 FARMLAND, VA 22631-8012 (703) 726-4000
STRUCTURAL ENGINEER	STRUCTURELL INC. 1001 BANCROFT PLACE, SUITE 200 MCLEAN, VA 22101-3112 (703) 726-4000
MECHANICAL	ROTH ENGINEERS INC. 1001 BANCROFT PLACE, SUITE 200 MCLEAN, VA 22101-3112 (703) 726-4000
REAL	
PROJECT	1700 COLUMBIA ROAD
LOCATION	WASHINGTON, DC
SCALES	AS NOTED
DATE	REVISIONS 8, 2015
PROJECT #	13-102-01
PHASE	100 SET
REVISIONS	
DRAWING TITLE	
ROOF ELEVATION	
SHEET TITLE	

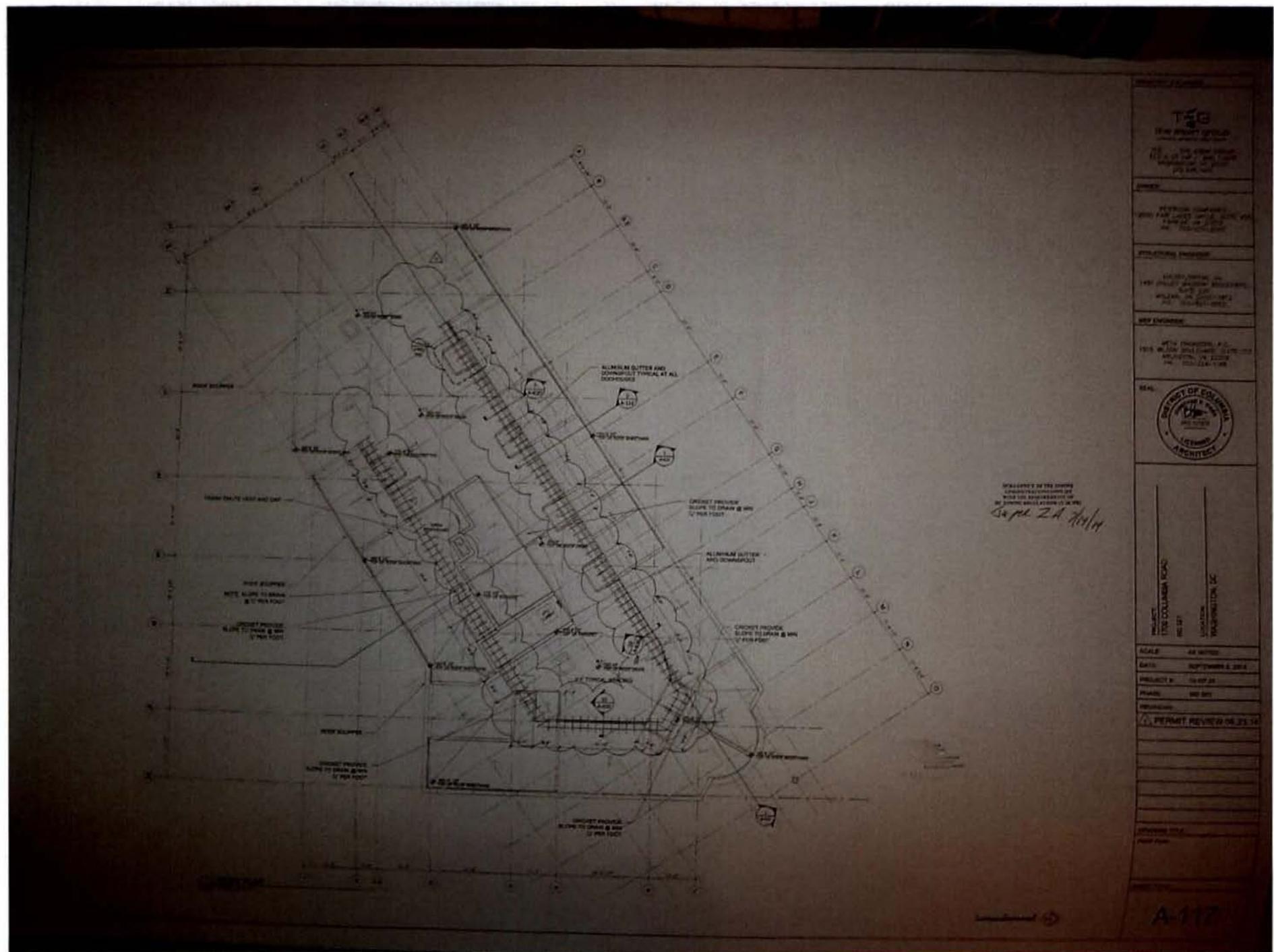
**Adams Morgan For Reasonable Development  
BZA Case No. 18506**

# **ATTACHMENT 14**



1 PENTHOUSE PL  
2 TYPICAL ELEVATION OF SEPARATION WALL







**TEG**  
THE ENTHUSIASTIC GROUP  
1010 19TH STREET, N.W.  
WASH. 20006, D.C.  
TELEGRAMS: TEG  
TELEPHONE: 222-1222

PERMIT NUMBER  
ONE PARKING LOT  
FIELD AND STADIUM  
TAKOMA PARK, MD.  
DATE OF ISSUE  
MAY 10, 1964

STRUCTURE NUMBER  
EXTERIOR NUMBER  
OF THE STADIUM  
AND FIELD  
TAKOMA PARK, MD.  
DATE OF ISSUE  
MAY 10, 1964

ARCHITECT  
MITS ENGINEERS, INC.  
1012 19TH STREET, N.W.  
WASH. 20006, D.C.  
TELEPHONE: 222-1222

PERMIT  
DISTRICT OF COLUMBIA  
ARCHITECTURE  
ARCHITECT



MANUFACTURE OF THE STADIUM  
AND FIELD ACCORDING TO  
WITH THE REQUIREMENTS OF  
THE BOARD OF ARCHITECTURE

*In Plk 24 10/64*

PROJECT  
THE COLUMBIA STADIUM  
NO. 10  
LOCATION  
WASHINGTON, D.C.

SCALE  
NO NOTES  
DATE  
SEPTEMBER 1964  
PROJECT  
THE COLUMBIA STADIUM  
PHASE  
NO. 1  
REVISION  
1

PERMIT REVIEW DEPT.

REVIEWED  
APRIL 1964  
BY  
THE BOARD OF  
ARCHITECTURE  
FOR THE  
DISTRICT OF COLUMBIA

APRIL 1964  
BY  
THE BOARD OF  
ARCHITECTURE  
FOR THE  
DISTRICT OF COLUMBIA

APRIL 1964  
BY  
THE BOARD OF  
ARCHITECTURE  
FOR THE  
DISTRICT OF COLUMBIA

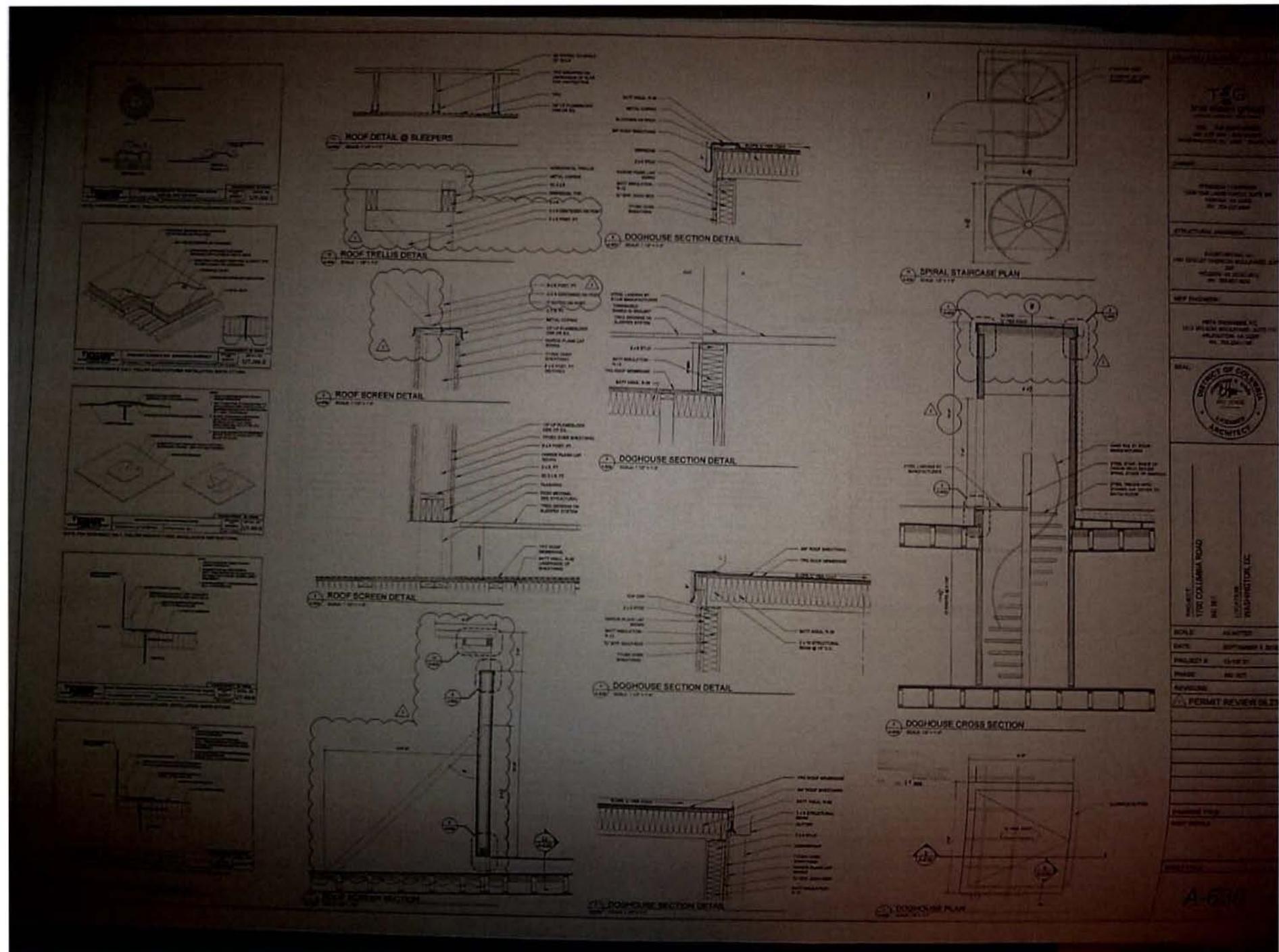
APRIL 1964  
BY  
THE BOARD OF  
ARCHITECTURE  
FOR THE  
DISTRICT OF COLUMBIA

APRIL 1964  
BY  
THE BOARD OF  
ARCHITECTURE  
FOR THE  
DISTRICT OF COLUMBIA

A-136







Adams Morgan For Reasonable Development  
BZA Case No. 18506

# ATTACHMENT 15

June 25, 2014

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

1100 4<sup>th</sup> Street, SW 3<sup>rd</sup> Floor  
Washington, DC 20024

RE: Project no. B1309151-B

Dear Mr. Ben Johnson

Please see sheet list below of revised sheets; the revised sheets below are in response to the reversal by the District of Columbia Court of Appeals case number 13-AA-1356 on BZA 18506. Thank you for your time, if you have questions please don't hesitate to call.

Sincerely,

Paul D. Zook

PH: 202-706-7164

ARCHITECTURAL	
sheet #	Title
A022	LIFE SAFETY - Updated to reflect roof top changes
A060	DOOR SCHEDULE – Removed doors associated with deleted doghouses
A115	LEVEL 06 PLAN – Removed spiral stair cases and updated backgrounds
A116	PENTHOUSE PLAN – revised roof top plan to conform with required changes, removed 2 doghouses and added required roof top bracing.
A117	ROOF PLAN – revised roof top plan and trellis to reflect required changes.
A124	LEVEL 06 & 07 RCP – removed all lighting associated with changes.
A135	LEVEL 06 FINISH PLAN – revised finishes as required with plan changes
A136	PENTHOUSE FINISH PLAN – revised finishes as required with plan changes
A202	TYPICAL UNIT PLANS – revised backgrounds to show removal of spiral staircase
A205	TYPICAL UNIT RCP - revised backgrounds to show removal of spiral staircase
A208	TYPICAL UNIT FINISH PLAN 2 - revised backgrounds to show removal of spiral staircase
A301	BUILDING ELEVATIONS – revised roof top elevations to show raised roof screen and trellis conforming with requirements.
A302	BUILDING ELEVATIONS - revised roof top elevations to show raised roof screen and trellis conforming with

A310	BUILDING ELEVATIONS - revised roof top requirements.	and roof screen and trellis conforming with requirements.
A410	BUILDING SECTIONS - revised roof top sections to show raised roof screen and trellis conforming with requirements.	
A520	STAIR 1 SECTION - revised section to show revised roof elevation	
A530	ELEVATOR SECTION - revised section to show revised roof elevation	
A535	TRASH CHUTE SECTION - revised section to show revised roof elevation	
A630	ROOF DETAILS - Revised roof details showing changes to roof structure.	
<b>STRUCTURAL</b>		
sheet #	Title	
S105	LEVEL OF FRAMING PLAN - revised framing plan showing changes to roof top structures	
S106	ROOF FRAMING PLAN - revised framing plan showing changes to roof top structures	
S107	PENTHOUSE ROOF FRAMING PLAN - revised framing plan showing changes to roof top structures	
S405	SECTIONS - revised details reflecting changes to roof top structures	
S406	SECTIONS - revised details reflecting changes to roof top structures	
<b>MEP</b>		
sheet #	Title	
M1.5	PENTHOUSE FLOOR PLAN - We removed the spiral stair case to roof and updated background. No changes to Mechanical systems in units	
M1.6	ROOF PLAN - Revised locations of some mech units on roof due to roof top bracing and dog house removal.	
P1.5	PENTHOUSE FLOOR PLAN - We removed the spiral stair case to roof and updated background. No changes to plumbing systems in units	
P1.6	ROOF PLAN - Revised locations of some mech units on roof due to roof top bracing and dog house removal.	
P2.5	PENTHOUSE FLOOR PLAN WEST UNIT PLUMBING - We removed the spiral stair case to roof and updated background. No changes to plumbing systems in units	
P2.6	PENTHOUSE FLOOR PLAN EAST UNIT PLUMBING - We removed the spiral stair case to roof and updated background. No changes to plumbing systems in units	
E1.5	PENTHOUSE FLOOR LIGHTING AND POWER - We removed the spiral stair case to roof and updated background. No changes to lighting systems in units	
E2.5	PENTHOUSE UNITS PART PLANS - ELECTRICAL - We removed the spiral stair case to roof and updated background. Deleted switch and light for removed dog house.	
E2.6	PENTHOUSE UNITS PART PLANS - ELECTRICAL - We removed the spiral stair case to roof and updated background. Deleted switch and light for removed dog house.	
E3.1	POWER AND LIGHTING ROOF PLAN - We removed the spiral stair case to roof and updated background. Deleted power and lighting for removed dog houses.	
<b>FIRE ALARM</b>		