



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: *adm04rd@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: ** See attached*

Address: ** See attached*

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.

District of Columbia
CASE NO.18888
EXHIBIT NO.2

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

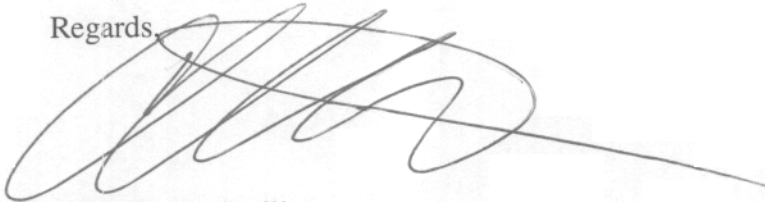
community.

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,

A handwritten signature in black ink, appearing to be "Chris Otten", written over a horizontal line.

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 Defintions.

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.2) 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.

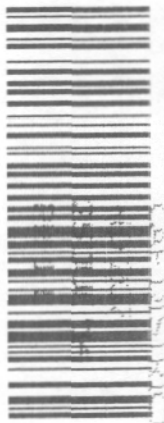
BZA Appeal of Building Permit #1309151

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&storr*s
thinkresults

CERTIFIED MAIL



7001 1140 0001 7722 8360



UNITED STATES
POSTAL SERVICE

1000



U.S. POSTAGE
PAID
WASHINGTON, DC
20036-14
PMO:UNT

\$6.49

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

260938182 0330





Search USPS.com or Track Packages



Quick Tools

Ship a Package

Send Mail

Manage Your Mail

Shop

Business Solutions

USPS Tracking™



Customer Service ›

Have questions? We're here to help.

Tracking Number: 70011140000177228360



DELIVERED

Updated Delivery Day: Saturday, July 26, 2014

Product & Tracking Information

Postal Product:
First-Class Mail®

Features:
Certified Mail™

Return Receipt

DATE & TIME	STATUS OF ITEM	LOCATION
July 26, 2014 , 11:20 am	Delivered	WASHINGTON, DC 20009

Your item was delivered at 11:20 am on July 26, 2014 in WASHINGTON, DC 20009.

Available Actions

Return Receipt After Mailing

July 26, 2014 , 8:03 am	Available at PO Box	WASHINGTON, DC 20010
July 26, 2014 , 7:53 am	Sorting Complete	WASHINGTON, DC 20010
July 26, 2014 , 7:52 am	Arrived at Unit	WASHINGTON, DC 20010
July 26, 2014 , 6:28 am	Departed USPS Facility	WASHINGTON, DC 20066
July 26, 2014 , 3:22 am	Arrived at USPS Facility	WASHINGTON, DC 20066
July 26, 2014 , 2:44 am	Departed USPS Facility	GAITHERSBURG, MD 20898
July 25, 2014 , 10:15 pm	Arrived at USPS Facility	GAITHERSBURG, MD 20898
July 25, 2014 , 5:25 pm	Departed Post Office	WASHINGTON, DC 20036
July 25, 2014 , 4:38 pm	Acceptance	WASHINGTON, DC 20036

Track Another Package

Tracking (or receipt) number

Track It

LEGAL

Privacy Policy
Terms of Use
FOIA

No POSTNET or ZIP+4 Data

ON USPS.COM

Government Services
Buy Stamps & Shop
Print a Label with Postage
Customer Service

ON ABOUT.USPS.COM

About USPS Home
Newsroom
USPS Service Alerts
Forms & Publications

OTHER USPS SITES

Business Customer Gateway
Postal Inspectors
Inspector General
DataLink Explorer

Christine A. Roddy
Director
croddy@goulstonstorr.com
202-721-1116 (tel)

July 25, 2014

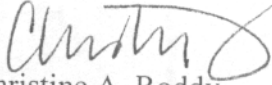
VIA CERTIFIED MAIL
Jeffrey Light, Esq.
1712 Eye St., NW Suite 915
Washington, DC 20006

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 - 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 1	Square: 2565	Suffix:	Lot 0052
Description Of Work NEW SIX STORY 80 UNIT RESIDENTIAL BUILDING, WITH RETAIL ON FIRST FLOOR, AND ONE LEVEL OF BELOW GRADE PARKING.						
Permission Is Hereby 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 Dwell Units	Proposed Dwell Units 80	No. of Stories: 6	Floor(s) Involved All	
Conditions/ Restrictions: This Permit Expires If no Construction is Started Within 1 Year or If the Inspection is Over 1 Year. All Construction Done According To The Current Building Codes And Zoning Regulations; 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. Lead Paint Abatement 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 http://ddoe.dc.gov , Lead and Healthy Housing						
Director: Rabbiah A. Sabbakhan		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.						