

ATTACHMENT B

Exceptions To The Administrative Decision

1. Under the Zoning Regulations of the District of Columbia (“Zoning Regulations”), as illustrated on the Attached Extract of the District of Columbia Zoning Map, the existing structure and use at 2505 Wisconsin Avenue (the “Property”) are non-conforming: the Property is located in a District zoned R-1-B and is subject to the Naval Observatory Precinct (NO) Overlay. The Decision (Building Permit B1404954 (ATTACHMENT B1) is unlawful because it purports to authorize one or more change in or expansion of the existing structure or use which is prohibited by the Zoning Regulations, if not absolutely, then, at a minimum without the granting of a variance or special exception, and the owners of the Property have neither sought nor received such a variance or exception. See, e.g., DCRM sections 11-201, 11-401, 11-1531, and 11-2001-4.
2. The Decision is arbitrary, and capricious, and unlawful, because it mischaracterizes the use to which Property Owners intend to put the roof for which renovation was permitted. On information and belief, the renovated roof will be used to offer food, beverage, entertainment and Special Events services, not “passive recreation.”
3. The Decision is arbitrary, capricious, and an unlawful because it was reviewed and granted as if the Property were located in Ward 2, Square 0072, Lot 0858 (in a District zoned R-5-E) when it is located in Ward 3, Square 1935, Lot 0045 (in a District zoned R-1-B and subject to the NO Overlay).

Methods of Proof.

We intend to prove the merits of our appeal by submission of documentary evidence and legal argument. Should a hearing be required, and the opportunity for witness testimony provided, we shall offer testimony on the nature of the current non-conforming structures and uses of the Property and the Property owners’ plans to change and expand both.