Second Revised Pre-Hearing Statement of Advisory Neighborhood Commission 6C

District of Columbia Board of Zoning Adjustment Appeal No. 19550

Advisory Neighborhood Commission 6C ("ANC 6C") submits this second revised pre-hearing statement[1] in support of its appeal from the issuance of permit B1805207 ("the Revised Permit"). For the reasons set forth below, we respectfully urge the Board to order the revocation of the Revised Permit.

STATEMENT OF FACTS

This appeal relates to 1125 7th St. NE, also known as square 886, lot 35 ("the Property") in the RF-1 zone. The Property's owner of record is Atlas Squared, LLC, 7926 Jones Branch Drive, Ste. 600, McLean, VA 22102-3373. The Property lies entirely within the boundaries of ANC 6C.

The owner of the Property applied for permit B1706219 ("the Original Permit") on March 23, 2017. Materials submitted by the owner included an unsigned application form BLRA-33 and a Zoning Data Summary sheet. (Copies attached at Tab I.) The latter form, also unsigned,

- failed to specify the zone district of the Property
- failed to specify the number of existing and proposed dwelling units
- failed to specify the number of existing and proposed parking spaces
- failed to specify the existing and proposed rear and side setbacks
- failed to specify the existing and proposed building height, and
- failed to specify the existing and proposed lot area; floor area; floor area ratio; building area; and percentage of lot occupancy.

As discussed in ANC 6C's earlier pre-hearing statements (Case Exhibits 20 & 35), the Zoning Data Summary form likewise failed to specify the proposed pervious-surface percentage of the Property's lot area.

DCRA accepted the application as complete on March 29, 2017 and issued the Original Permit two days later, on March 31, 2017. (Copy attached at Tab C.) It purports to be a "[r]evision to building permit B1606543 and building permit B1512853 reflecting underpinning" and for "[r]enovation of an existing single family dwelling unit to a 2-unit

[1] This statement replaces ANC 6C's April 18, 2018 first revised pre-hearing statement in its entirety. Because ANC 6C's earlier vote to appeal permit B1706219 did not extend to permit B1805207, we recently took a second vote, in an abundance of caution, to authorize the appeal arguments made here concerning the revised permit. That vote took place at our regularly scheduled and duly noticed May 9, 2018 meeting open to (and attended by) the public. With all six commissioners present, the motion carried 6-0.

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separate townhouse" [*sic*]. In fact, however, neither of those two earlier applications ever resulted in a final permit.[2]

As shown on the application drawings (Tab D), the scope of the Original Permit included

- the total removal of the front façade and construction of a reconfigured façade with new projecting bay;
- the construction of a rooftop addition increasing the height of the existing rowhouse dwelling by several feet; and
- the construction of a new structure in the rear yard, equal in size to the newly expanded original dwelling, connected to the latter by a subterranean corridor.

ANC 6C filed this appeal on May 30, 2017. After several postponements of the hearing, the owner of the Property applied for revisions to the Original Permit on February 16, 2018. Submitted materials included a new electronic application form (Tab J) and plat/plans/drawings (Tab B). These drawings made extensive changes to the original application, including alterations to the proposed floor plan on every level of the front structure; material changes to the roof structures; significant modifications to the "breezeway" connecting the front and rear structures; changes to the materials of the front façade and to the height of its projecting bay; and elimination of features in the front and rear cellars that would have created additional illegal units.

In his April 5, 2018 comments on the application, the first DCRA zoning reviewer—Mamadou Ndaw—noted numerous non-compliant aspects of the project. These included

- a rear addition projecting more than 10' past the rear wall of an adjacent dwelling;
- multiple buildings joined by a connector not in compliance with the requirements for creating a single structure;
- the improper removal of a rooftop architectural element;
- failure to provide for required rooftop structure setbacks; and
- height exceeding the allowable maximum.

See Tab E at p.2.

On April 18, Deputy Zoning Administrator Kathleen Beeton reassigned the application to reviewer Shawn Gibbs, *id.* at p.4, who approved it that same day. Among other things, Gibbs's notes stated that "PER REVIEW WITH THE ZONING

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[2] This error and the unsigned, almost entirely blank Zoning Data Summary sheet are only two of the many irregularities associated with the conspicuously hasty and cursory review of the application for the Original Permit. For example, the face of the Original Permit indicates that the fee for this extensive work—more than doubling the floor area and volume of the existing rowhouse dwelling—was $36.30. See Tab C. In addition, the field on the Original Permit for specifying the Property's zone is blank. *Id.*

ADMINISTRATOR ON 18 APR 2018 REMOVAL OF THE CORNICE IS PERMITTED AS THE ORIGINAL APPLICATION PREDATED ZC 14 11." *Id.* DCRA issued the Revised Permit (copy at Tab A) on April 18, 2018.

ANALYSIS

As explained below, the Board should revoke the Revised Permit because its issuance violated at least five separate major provisions of the zoning regulations.

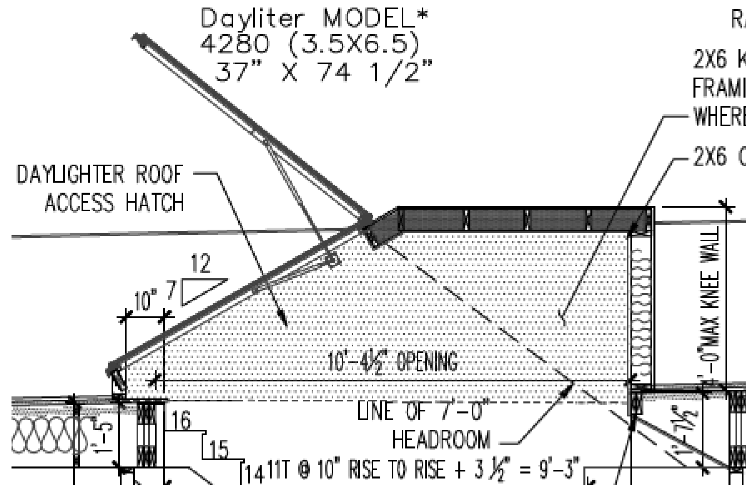
A. The Permit Allows Construction of Two Illegal Penthouses

The zoning regulations generally prohibit construction of a penthouse[3] on the roof of a rowhouse or flat. Specifically, 11 DCMR C § 1500.4 states that

> a penthouse, other than screening for rooftop mechanical equipment or a guard-rail required by [the] Construction Code for a roof deck, shall not be permitted on the roof of a detached dwelling, semi-detached dwelling, rowhouse or flat in any zone ….

As the remainder of that subsection makes clear, in such cases the regulations allow a penthouse—such as one providing stair access to the roof—only pursuant to a special exception. The Board has granted no special exception authorizing construction of penthouses at the Property.

Sheet A5.2 of the approved drawings (Tab B) for the Revised Permit nevertheless shows two penthouses: one on the front structure and one on the rear.



Detail from Sheet A5.2 (Tab B)

[3] The regulations define "penthouse" in relevant part to mean "[a] structure on or above the roof of any part of a building. The term includes all structures previously regulated as 'roof structures' prior to January 8, 2016 by § 411 of the 1958 Regulations." 11 DCMR B § 100.

Photographs and descriptions of the Dayliter 4280 taken from the manufacturer's website (www.dayliter.com) may be found at Tab K.

In addition to violating section 1500.4, the proposed penthouses are inconsistent with two other provisions of section 1500. First, the enclosing walls of penthouses must be of "equal, uniform height" except for those enclosing habitable space or elevator overrides. *See* § 1500.9. As seen clearly on sheet A5.2, the walls enclosing the penthouses here are not of uniform height.

Second, because these penthouses are—as discussed above—not "in accordance with the conditions specified" in section 1500 overall, § 1500.1, they are not exempted from the height restriction of the applicable zone. As seen on sheet A5.2, the proposed building is 34'11" tall as measured to the top of the roof, and both penthouses project well above the 35' height limit for the RF-1 zone. *See* 11 DCMR E § 303.1.

For all these reasons, the Zoning Administrator issued the Revised Permit in error, and the Board should order its revocation.

B. The Permit Fails to Require 1:1 Penthouse Setbacks

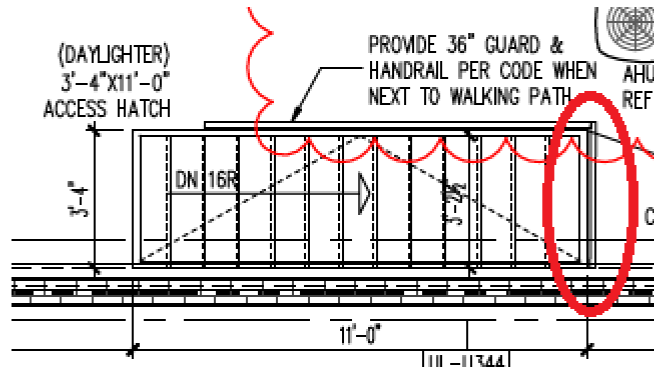
The penthouses here are impermissible for an independent reason: they lack the setbacks required by section C 1502.1.

The Property, proposed to be used as a flat, directly abuts two other RF-1 lots (1123 and 1127 7th St. NE) that have an equal permitted matter-of-right building height. As a result, all "[p]enthouses … and any guard rail on a roof shall be setback from the edge of the roof [a] distance equal to its height from the side building wall of the roof upon which it is located…." § C 1502.1(c).

Sheet A3.1 shows the penthouses directly abutting the north side building wall. See Tab B. The configuration shown on sheet A5.2—with 4' tall stair enclosures—plainly lacks the required 1:1 setback. *Id.*

We note that the Revised Permit drawings at Tab B contain conflicting information about the stair access to the roof. Sheets A3.1 (roof plan) and A5.1 (section) do not show the 4' stair enclosures, but instead irreconcilably depict a low hatch, perhaps 1.5' tall, hinged on one edge.

These inexplicable conflicts in the drawings, while troubling, make no difference here. Sheets A3.1 and A5.1 show a 36" tall guard rail subject to the same setback requirements. A portion of that guard rail directly abuts the north side building wall and therefore violates section C 1502.1(c). So does the hatch itself.



Detail from Sheet A3.1 (Tab B)

C. The Permit Allows Illegal Removal of a Rooftop Architectural Element

The zoning regulations for RF zones require that "[a] roof top architectural element original to the building such as cornices, porch roofs, a turret, tower, or dormers, shall not be removed or significantly altered…." 11 DCMR E § 206.1(a). The Revised Permit nevertheless authorizes the wholesale removal of the cornice on the front façade of 1125 7th St. NE.

1. Removing the Cornice Violates the Current Regulations

Sheet A4.1 of the revised drawings (Tab B) depicts removal of most of the front façade, including the cornice. Although the Property owner attempts to gloss over the infraction by labeling the cornice "façade trim," the Board should reject this gambit for several reasons.

First, the rooftop architectural element at issue falls squarely within the definition of a cornice: "1. *Arch.* The horizontal member (typically molded and projecting) which crowns a composition, as a façade …." *Webster's New International Dictionary of the English Language* (2d ed., unabridged).[4] As seen in the photos below, the feature at issue in this case appears to be molded; it clearly projects outward; and it "crowns the composition" as a prominent feature (above a less-ostentatious decorative brick course) on the front parapet wall.

The cornice in question is original to the Property, not a later-added detail that can be dismissed as mere "trim." Numerous historic rowhouses on this same block have identical cornices at the same height; these cornices not only define and enhance the top of the front façades, but also connect and unify adjacent façades. Although that continuity is interrupted in some places, this unifying function can be seen clearly at 1111-1115, 1123-1125, and 1133-1137 7th St. NE in the photographs below, taken on June 23, 2018.

[4] The zoning regulations do not expressly define the term "cornice." Where a term is otherwise undefined, 11 DCMR B § 100.1(g) directs that it be given the meaning found in "Webster's Unabridged Dictionary."

1125 7th St. NE (the Property)

1125 (left) and 1123 (center) 7th St. NE

1115-1111 7th St. NE (left to right)

1137-1133 7th St. NE (left to right)

1137-1133 7th St. NE (left to right)

Even if the Board were to find that the feature at issue is not a "cornice" per se, section E 206.1(a) would still apply. The regulation protects not only cornices and other features, but also other similar elements. The phrase "such as" makes clear that the enumerated list of features is not exclusive, but rather illustrative of the section's overall intent. However, the Board need not reach this alternative question, and can instead rely on the determination made by DCRA itself in this case.

In his April 5 notes, the first DCRA zoning reviewer, Mamadou Ndaw, flagged this same issue, noting in his objections that "**a rooftop architectural element** (**cornice**, porch roof) shall not be removed or significantly altered without BZA approval." *See* Tab E at p.2 (emphasis added). The owner of the Property later disputed this characterization, arguing in a letter submitted to DCRA that "[t]his is not a rooftop element and is an applied trim piece." *See* Tab F at p. 1.

DCRA considered this claim and expressly rejected it. The second zoning reviewer, Shawn Gibbs, acknowledged the argument in an April 18 email to Deputy Zoning Administrator Kathleen Beeton. *See* Tab G (email bearing subject line "1125 7th St. NE – Rooftop Architectural Element (Cornice?)"). In that email, Gibbs noted the first reviewer's objection; summarized the owner's argument that "the feature was not a cornice but just trim"; and confirmed that "[a] number of the homes on that side of the street have a similar cornice/trim." *Id.* Gibbs copied Zoning Administrator Matt LeGrant on the same email.

Gibbs's permit review notes from later that same day (*see* Tab E at p. 4) make clear that "PER REVIEW WITH THE ZONING ADMINISTRATOR ON 18 APR 2018," DCRA concluded that the feature in question is a "CORNICE."

2. Nothing in the Zoning Regulations Exempts the Revised Permit from the Protections for Rooftop Architectural Elements

Unfortunately, Gibbs and DCRA went on to conclude that "REMOVAL OF THE CORNICE IS PERMITTED AS THE ORIGINAL APPLICATION PREDATED ZC 14 11 [*sic*]." *See* Tab E at p. 4. This conclusion cannot be squared with the text of the regulations.

It is true that the original application was filed on March 23, 2017, and the Original Permit issued March 31. The Zoning Commission inserted "cornice," among other terms, into Section E 206.1(a) in Order ZC 14-11B, which became final on April 28, 2017.[5]

However, the dates of the Original Permit and its underlying application are irrelevant. Section A 301.4 of the regulations requires that "[a]ny amendment of [a] permit shall comply with the provisions of this title **in effect on the date the permit is amended**" (emphasis added). Because DCRA issued the Revised Permit on April 18, 2018—nearly a full year after the cornice-protection language came into effect—the Revised Permit should have complied with that requirement.

Section A 301.4 has exceptions, but none of them apply here. The section refers explicitly to "Subtitle A §§ 301.9 through 301.13," but none of them is relevant. (Among other things, all of them require the permit application in question to have been filed by one of various dates in 2015; that did not happen here.)

One additional vesting rule—not cross-referenced in section A 301.4, presumably in error—resides at section A 301.14. Created by ZC Order 14-11D, this provision came into effect on November 24, 2017. However, **it has no relevance to the requirements of section E 206.1**. Section A 301.14 relates exclusively to an entirely different set of requirements, also adopted in ZC Order 14-11B, limiting "pop-backs" in certain zones to no more than 10' past the rear wall of an adjacent dwelling.[6] Nothing in the text of section A 301.14 or ZC Order 14-11D mentions cornices or section E 206.1, let alone creates (or even hints at) a vesting exception to the latter.

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[5] Prior to that order, the regulation declared that rooftop elements "such as a turret, tower, or dormers shall not be removed or significantly altered." *See* Office of Planning Setdown Report, Apr. 29 2016 at p. 4 (ZC 14-11B Case Exhibit 1).

[6] We discuss this "pop-back" restriction, as well as the exception allowing for vesting of certain applications, in detail in Part E below.

To summarize,

- the Property has a cornice;
- the owner argued to DCRA—and presumably will argue to the Board as well—that the cornice is mere "trim";
- DCRA's zoning staff, including the Zoning Administrator himself, considered and rejected this argument;
- DCRA nevertheless approved the removal of the cornice, which it referred to as such, on the theory that the Original Permit application predated "ZC 14 11" [*sic*] and thus supposedly exempted the Revised Permit application from the amended terms of section E 206.1;
- DCRA's theory finds no support in the text of the zoning regulations or ZC Order 14-11D; and
- the owner has not obtained a special exception under section E 206.2 granting permission to remove the cornice.

For these reasons, DCRA issued the Revised Permit in violation of the protections for rooftop architectural elements at section E 206.1. The Board should therefore order its revocation.

D. The Permit Allows Construction of an Illegal Second Principal Building

The Permit allows the construction in the rear yard of a new second structure equal in size to the expanded existing rowhouse dwelling. Because this structure is a separate building (as defined in the zoning regulations) and because it does not qualify as an accessory building, it constitutes an illegal second principal building.

1. The Two Structures are Separate Buildings

Prior to the adoption of the 2016 zoning regulations, much uncertainty and controversy surrounded the question of when a new addition qualified as a separate building. As the Office of Planning noted in 2008 at the start of the comprehensive zoning rewrite,

> [o]ver the past few years the determination of what constitutes a single building for zoning purposes has hinged on the concept of a "meaningful connection." This has generally been interpreted to mean that some above ground interrelatedness is required, but often only in token fashion. In some instances, a covered walkway has served to combine two structures into one building for zoning purposes. Often two buildings are combined into one building by a single locked doorway.

Memorandum from Deputy Director Jennifer Steingasser to the Zoning Commission, Sept. 15, 2008 (ZC 08-06-1, Case Exhibit 12).

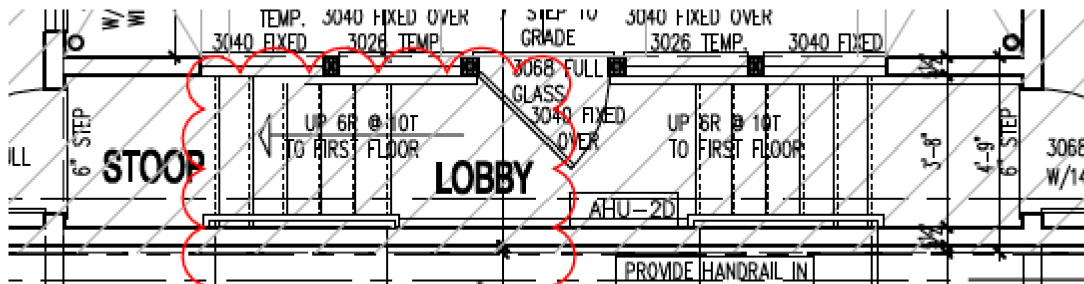
Addressing the problem of such "fig leaf" connections remained a continuing concern for the Zoning Commission through the many years of the zoning rewrite, and

the draft language evolved repeatedly from the initial proposal laid out in Deputy Director Steingasser's original memo. *See* Memorandum from Travis Parker, Office of Planning, Dec. 1, 2008 (ZC 08-06-1, Case Exhibit 46) (summarizing public comment and offering revised definitional language); Setdown Report for Portions of ZC 08-06, Aug. 12, 2010 (ZC 08-06, Case Exhibit 4) (proposing further modifications to definition).

These efforts resulted in current Subtitle B, section 309.1. In relevant part, that regulation states that two structures qualify as a single building only if the connection between them satisfies each of the four criteria set out in subsection B 309.1(a)-(d). The structures authorized under the Revised Permit fail this test

Section B 309.1(d) mandates that in order for two structures to qualify as a "single building," the connector must be either (1) space for common use, such as lobby, recreation room, loading dock, or service bay or (2) "space that is designed and used to provide free and unrestricted passage between separate portions of the building."

Sheet A1.1 of the Revised Permit drawings (at Tab B) shows the so-called "lobby":



Self-evidently, this narrow (3'8") connecting corridor is not a lobby, recreation room, or other qualifying area. It serves not as a "common space" intended for shared functional use, but instead strictly as a means of passage[7] between different portions of the Property, and thus it fails to satisfy the first alternative prong of subsection (d).

Subsection (d)(2) is equally unavailing. That test requires a qualifying connector to provide "free and unrestricted passage between separate portions of the building, such as an unrestricted doorway or walkway." But as the first-floor plan (sheet A1.1 at Tab B) shows, the corridor starts at the rear door—obviously locked—of Unit #1's kitchen and ends at the entrance—also obviously locked—of Unit #2's living room.

The Office of Planning and the Zoning Commission were concerned from the outset of the ZR16 zoning rewrite about the past practice of allowing such restricted passageways to masquerade as legitimate unifying connectors. *See* Steingasser Memo of Sept. 15, 2008 ("Often two buildings are combined into one building by a single locked doorway"). In this case, the locked dwelling-unit entrances at either end of the corridor

[7] Tellingly, the drawings for the Original Permit labeled this corridor a "breezeway." *See* Sheets A1.1 & A5.2 at Tab D. Only in response to this appeal has the owner suddenly recharacterized this space in the drawings for the Revised Permit as a "lobby".

disqualify it from providing "free and unrestricted passage between separate portions of the building." 11 DCMR B § 309.1(d)(2).

The initial DCRA zoning reviewer, Mamadou Ndaw, noted this deficiency in his April 5, 2018 comments. *See* Tab E at p.2 ("The proposed structure does not have the characteristics of a single building as per DCMR 11 B - Section 309"). After the case was reassigned on April 18 to the second reviewer, Shawn Gibbs, DCRA abruptly reversed course and issued the Revised Permit without any explanation in the reviewer comments. *Id.* at p. 4.

The April 16, 2018 letter submitted by the Property owner to DCRA in between these two reviews makes two unconvincing arguments for approval. First, it claims that the "common space" requirement is met because a) "[t]here is a common grass space in the court" and b) there is a "lobby space." Tab F at p. 1. But the grassy court lies outside the connector and thus forms no part of it. And as noted above, the "lobby space" claim is a self-serving label inconsistent with the actual layout and dimensions of the corridor.

The owner's letter also claims that "[t]here is an unrestricted lobby passage into the interior common space of the buildings." *Id.* This is patently false: as explained above, the connector starts and ends at the entrances to two **private** dwelling units. The owner cannot seriously claim that these entrances—into a kitchen and living room of two different units—will have no locks and be mutually open to occupants of the companion unit.

Instead, the Board should see the "breezeway" for what it is: a fig-leaf connection between two functionally separate buildings that house entirely separate dwelling units.

2. The Separate Rear Building is Not an Accessory Building

Because the regulations do not allow a second principal building on the Property, the new separate rear building would be legal only if it qualified as an accessory building. It does not, and the Board should therefore revoke the Revised Permit.

Most obviously, an accessory building in an RF zone may be no taller than 20' and two stories. As sheet A5.2 of the Revised Permit drawings shows, *see* Tab B, the proposed rear building exceeds both of these limits.

More generally, an accessory building in an RF zone must be "subordinate to" the principal building and "secondary in size" to it. *See* 11 DCMR E §§ 5000.1(a) & 5000.2. Numerous drawings submitted in support of the application for the Revised Permit—including the plat and sheets A4.2 and A5.2 (all at Tab B)—demonstrate that the new rear building would equal the size of the existing front building even after the expansion of the latter.

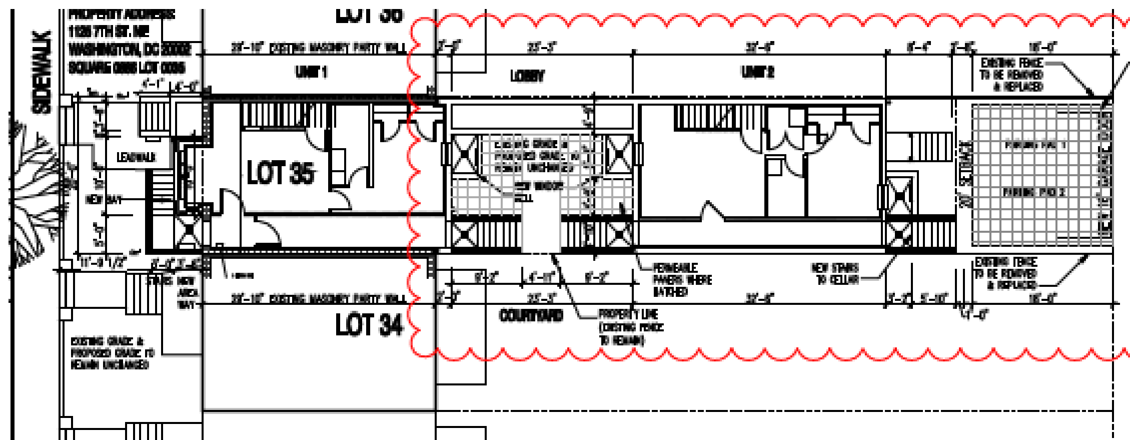
E. The Permit Allows Construction of an Illegally Deep Rear Addition

As discussed in Part C.2 above, the current zoning regulations prohibit the construction of a rear addition extending more than 10’ past the rear wall of any adjacent dwelling. Because it authorizes a rear addition well in excess of this limit, and because no vesting provision exempts it from this restriction, the Revised Permit should be revoked.

1. The Approved Rear Addition Exceeds the Maximum Allowable Depth

Section 205.4 of Subtitle E states that in an RF zone,

> a rear wall of an attached or semi-detached building shall not be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any adjoining principal residential building on any adjacent property.



Detail from Sheet SP.01 (Tab B)

As shown on drawings A1.1, A4.2, and SP.01 (*see* Tab B), the Revised Permit authorizes the construction of a rear addition at the Property extending 57’9” past the rear wall of the adjoining principal residential building at 1123 7th St. NE.

2. No Provision of the Zoning Regulations Exempts the Revised Permit from the Rear-Addition Limit Imposed by Section E 205.4

Section A 301.4 of the regulations requires that “[a]ny amendment of [a] permit shall comply with the provisions of this title in effect on the date the permit is amended.” Because DCRA issued the Revised Permit on April 18, 2018—well after the current text of section E 205.4 came into effect on August 25, 2017—the Revised Permit should have complied with that requirement absent a relevant exception.

No exception applies. Although the Property’s owner will likely argue that section A 301.14 exempts the Revised Permit, this claim is wrong because the Revised Permit fails to meet the standards in that section.

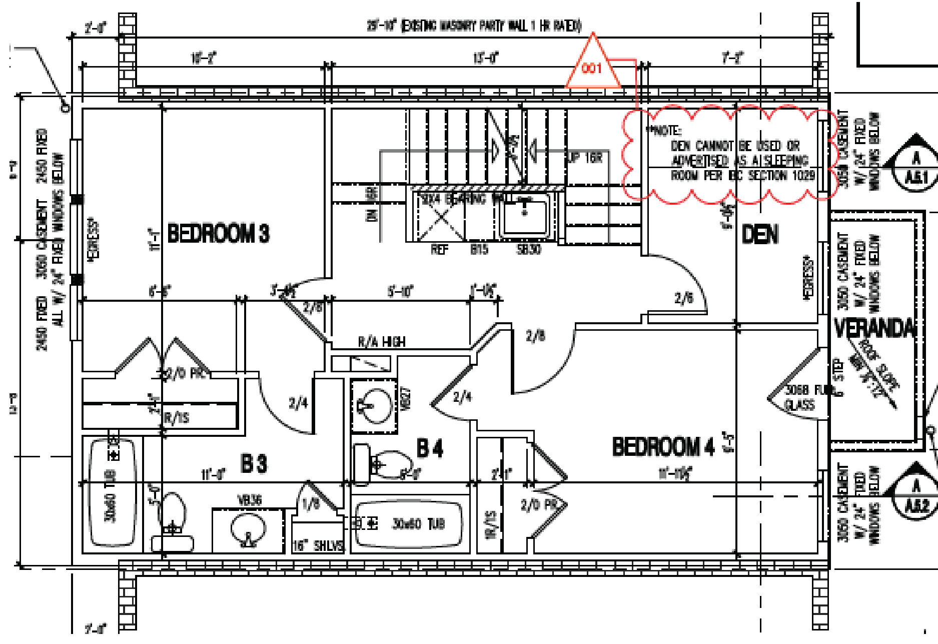
The vesting provision in section A 301.14 allows for construction of a rear addition more than 10' past the rear wall of an adjacent dwelling, notwithstanding the restriction in section E 205.4, only if two conditions are met: "the building permit application for such construction was filed and accepted as complete by the Department of Consumer and Regulatory Affairs on or before March 27, 2017 and not substantially changed after filing." The permits here fail not just one condition—that alone would be fatal—but instead fail both.

To begin with, the Original Permit was not "accepted as complete by [DCRA] on or before March 27, 2017." In a September 12, 2017 email to others at DCRA (including Zoning Administrator Matt LeGrant), Maximilian Tondro admitted that "B1706219 [the Original Permit] was submitted by applicant on March 24, **but was not accepted as completed until March 29**." Tab H (email bearing subject line "RE: 14-11D Vesting Filings") (emphasis added).

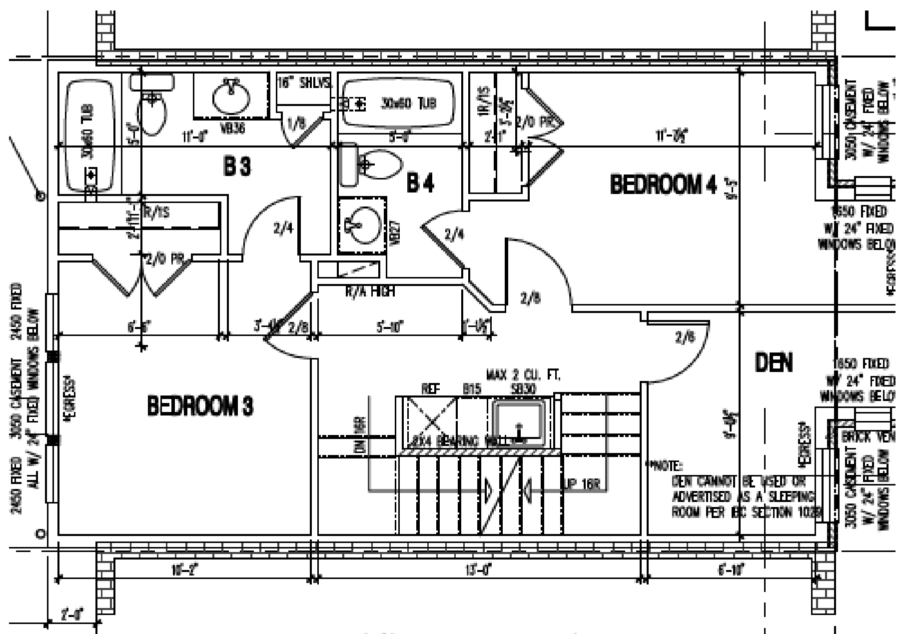
Mr. Tondro's email goes on to assert that "there were no changes required by DCRA, so that the application as submitted was deemed to be complete." *Id.* This statement is of no moment, and the Board should accord it no weight. DCRA may not simply "deem" inconvenient facts out of existence; the reality, as Mr. Tondro acknowledges, is that DCRA accepted the application for the Original Permit as complete on March 29, 2017. It was therefore two days too late to meet the first requirement under section A 301.14, rendering the application—and the ensuing Original and Revised Permits—ineligible for coverage under that vesting provision.

The Revised Permit fails to meet the standards of the vesting provision for a second, entirely independent, reason. Section A 301.14 applies only where the application is "not substantially changed after filing." Compared to the Original Permit application, the Revised Permit application changed substantially by any rational measure.

The Revised Permit flips the proposed internal configuration of every level in the front building, as illustrated in the sample detail below.

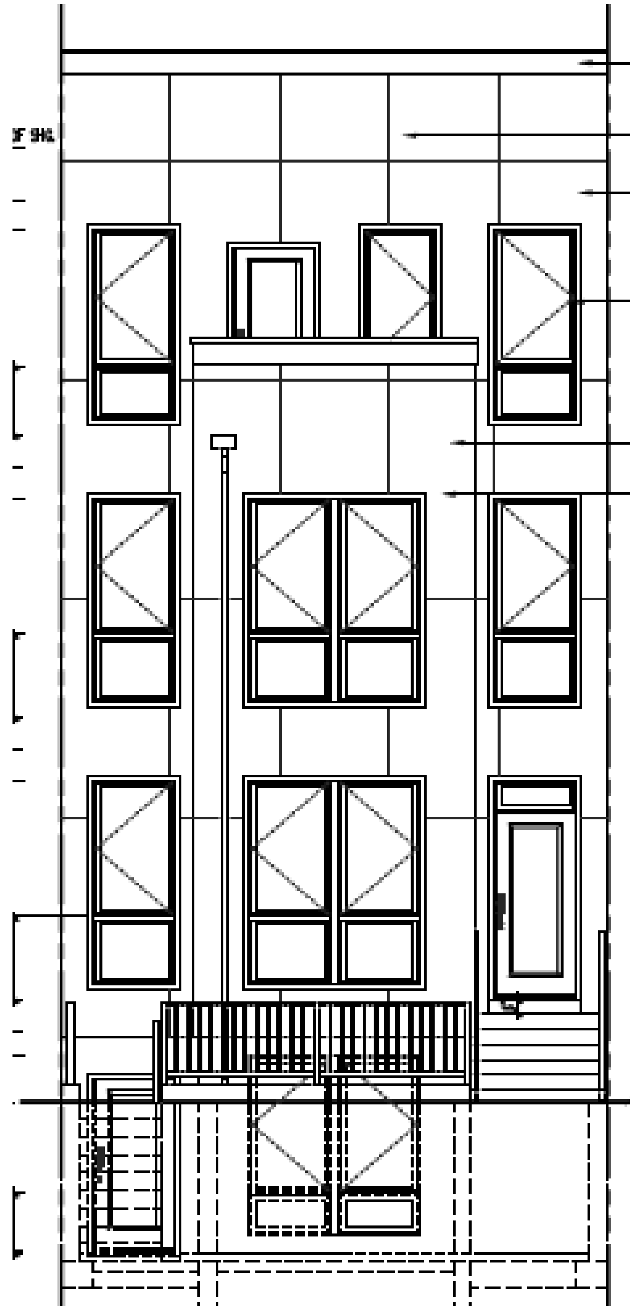


Unit #1 Third-Floor Plan (Detail, Original Permit drawing A2.1, Tab D)

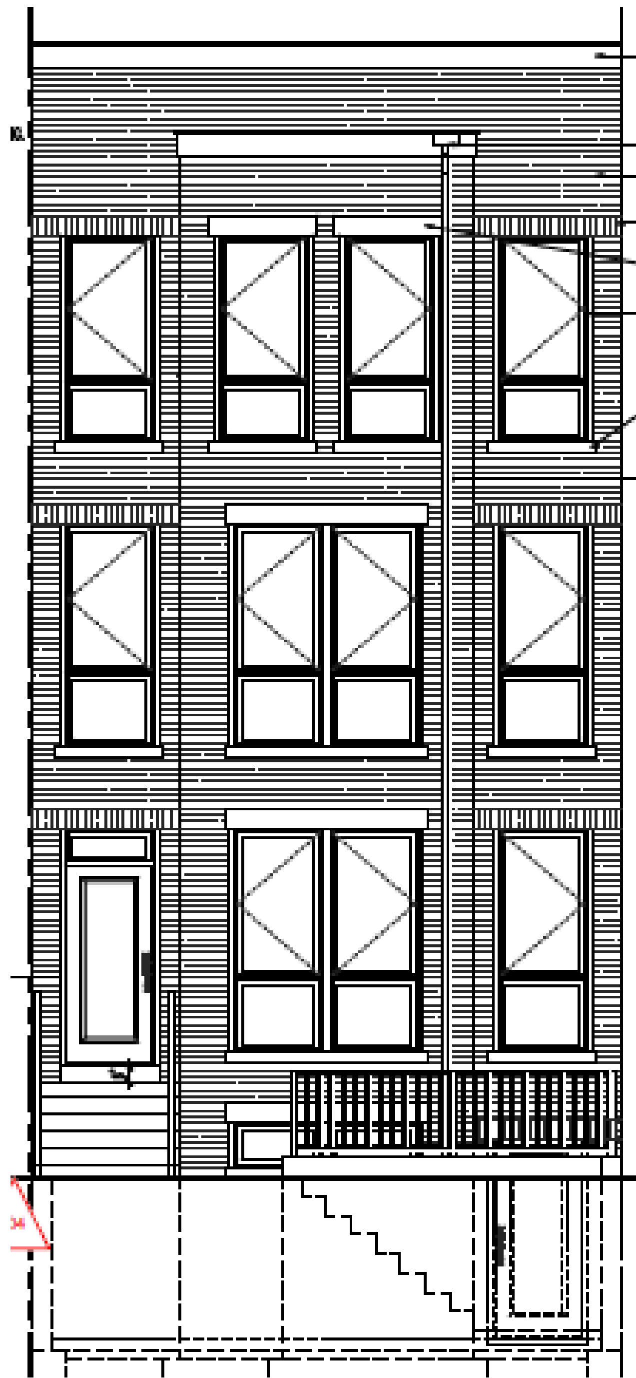


Unit #1 Third-Floor Plan (Detail, Revised Permit drawing A2.1, Tab B)

The Revised Permit radically alters the proposed front façade, indicating entirely different materials, increasing the projecting bay height from two stories to three, and flipping the front entrances to opposite sides.

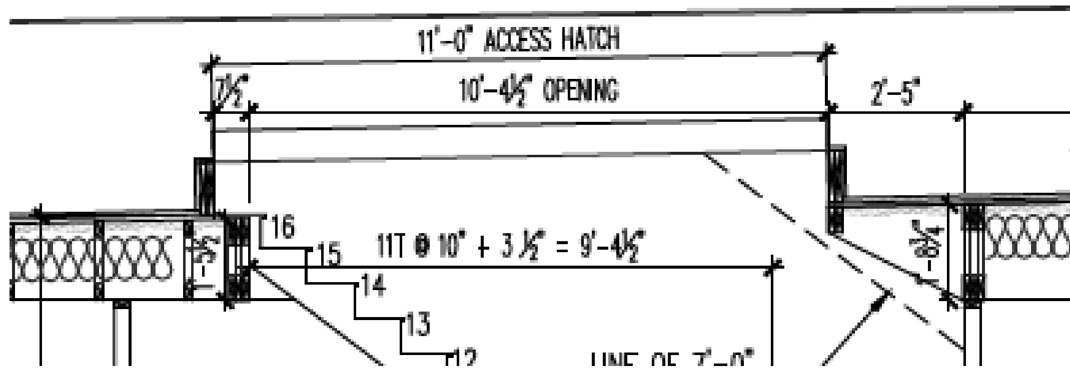


Front Elevation (Detail, Original Permit Drawing A4.1, Tab D)

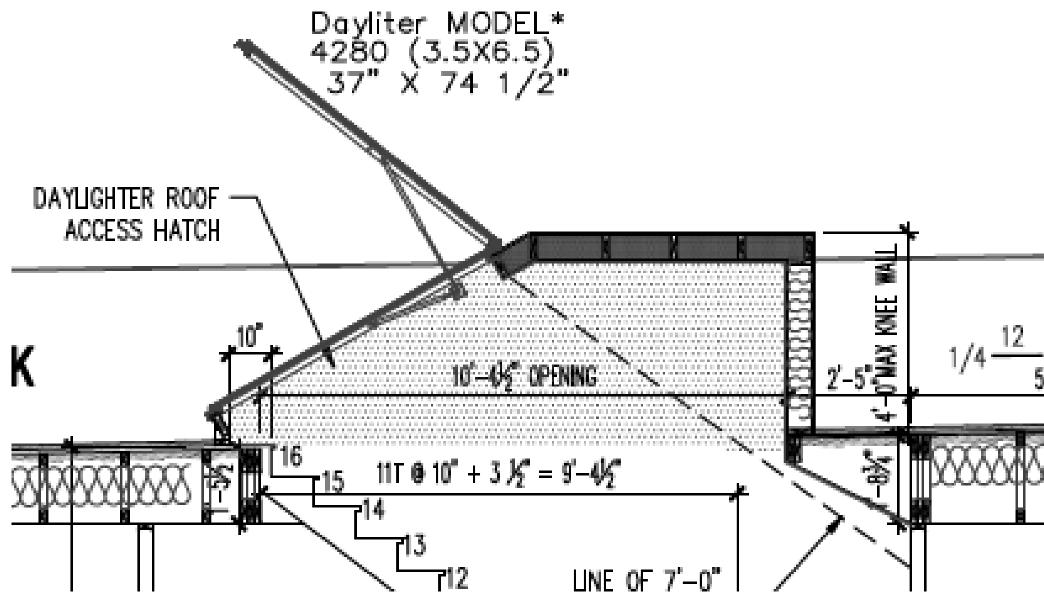


Front Elevation (Detail, Revised Permit Drawing A4.1, Tab B)

The Revised Permit shows a markedly different set of proposed roof structures (discussed above in Parts A and B).

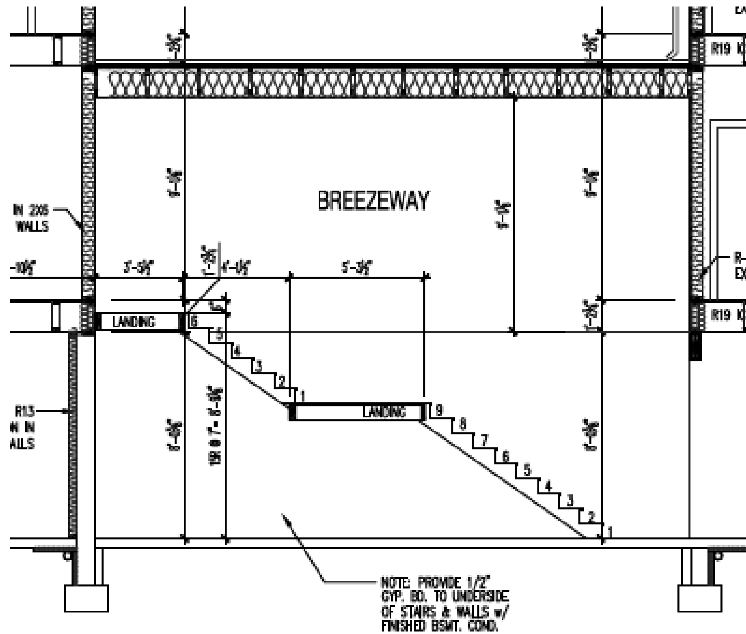


Rear Structure Roof Section (Detail, Original Permit Drawing A5.2, Tab D)

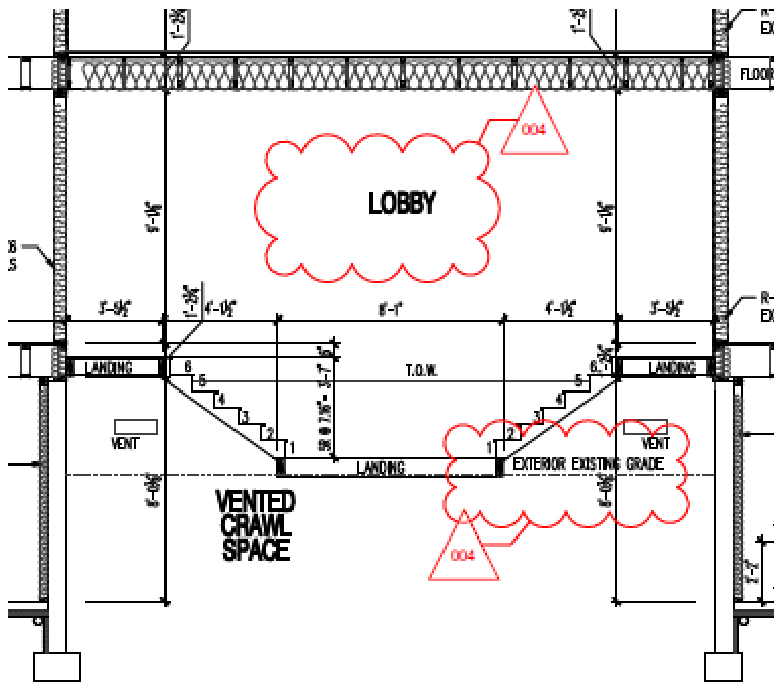


Rear Structure Roof Section (Detail, Revised Permit Drawing A5.2, Tab B)

The Revised Permit significantly alters the proposed "breezeway" to bring it above grade, obviously responding to the zoning defect noted in ANC 6C's initial appeal and previous pre-hearing statements.

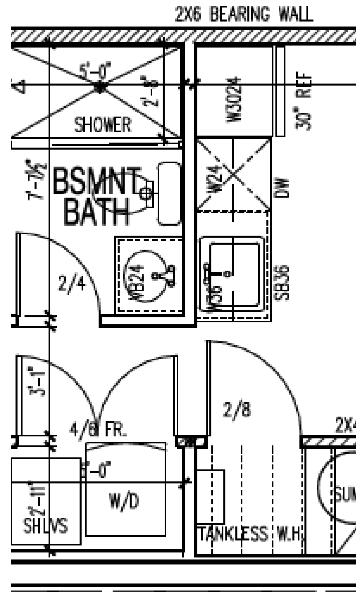


"Breezeway" Section (Detail, Original Permit Drawing A5.2, Tab D)

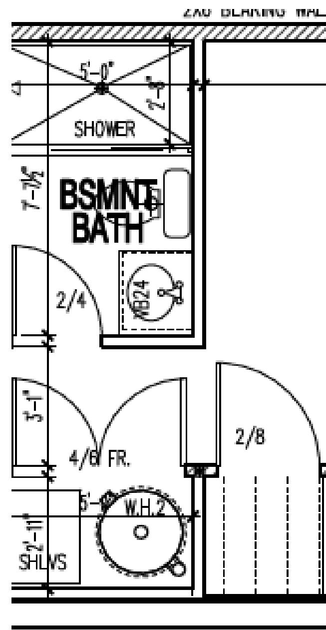


"Breezeway" Section (Detail, Revised Permit Drawing A5.2, Tab B)

The Revised Permit removes the proposed separate kitchen facilities in both the front and rear cellars, once again responding to the valid objection in this appeal's initial filing that the Original Permit allowed two illegal units beyond the maximum.[8]



Rear Structure Cellar Plan (Detail, Original Permit Drawing A1.1, Tab D)



Rear Structure Cellar Plan (Detail, Revised Permit Drawing A1.1, Tab B)

[8] The Revised Permit also eliminates laundry facilities from the front cellar. However, the revised drawings at Tab B conflict as to whether there would be laundry facilities in the rear cellar. *Compare* Sheet A5.2 (clearly labeled "LAUNDRY" in rear cellar) *with* Sheet.A1.1 (depicting shelves and water heater in the corresponding location).

This is by no means an exhaustive list of the extensive changes.[9] Taken together, however, the differences shown above—some of which go directly to material zoning violations—reflect changes from the Original Permit application so substantial as to disentitle the Revised Permit application from section A 301.14's vesting rule.

As a result, the rear addition approved under the Revised Permit—far exceeding the 10' maximum imposed by section E 205.4—violates the zoning regulations.

CONCLUSION

For all the reasons stated above, DCRA and the Zoning Administrator violated the zoning regulations in issuing the Revised Permit. Accordingly, ANC 6C urges the Board to reverse the decision of the Zoning Administrator and to order the Revised Permit's immediate revocation.

Respectfully submitted,

Mark Eckenwiler
Commissioner, ANC 6C04
(as authorized representative
for ANC 6C)

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[9] For example, the application form for the Original Permit showed a markedly different proposed gross square footage for the project (4800sf) from the corresponding figure (5012sf) on the Accela application form for the Revised Permit. *Compare* Tab I at p. 2, box 16 (original) *with* Tab J at p. 2 (2/3 of the way down the page).

TABLE OF ATTACHMENTS

A. Revised Permit (B1805207)

B. Plat, Plans, and Drawings Submitted in Support of Application for Revised Permit

C. Original Permit (B1706219)

D. Plat, Plans, and Drawings Submitted in Support of Application for Original Permit

E. DCRA Reviewer Comments on Application for Revised Permit (B1805207)

F. April 16, 2018 Letter Submitted to DCRA by Property Owner

G. April 18, 2018 Email from DCRA Zoning Reviewer Shawn Gibbs to Kathleen Beeton and Matt LeGrant

H. September 12, 2017 Email from DCRA's Maximilian Tondro Concerning ZC 14-11D Vesting

I. Application Forms for Original Permit (B1706219)

J. Application Forms for Revised Permit (B1805207)

K. Manufacturer Materials on Dayliter 4280 Roof Hatch

CERTIFICATE OF SERVICE

I hereby certify that on June 25, 2018, I served a copy of ANC 6C's Second Revised Pre-Hearing Statement in Appeal No. 19550, along with attachments, on the following persons by electronic mail:

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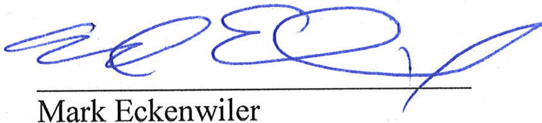

Mark Eckenwiler