

DC Board of Zoning Adjustment  
441 4th Street NW, Suite 200  
South Washington, DC 20001  
bzsubmissions@dc.gov

DC for Reasonable Development  
Daniel Wolkoff, member Cynthia  
Carson, member Melissa Peffers,  
member  
Jerome Peloquin, member, James  
Fournier, member, Linwood  
Norman, member, Jimmie Boykin,  
member

**BZA Appeal No. 20191**

Appellants, v.  
DC Department of Consumer and  
and Regulatory Affairs,

Respondent.

**EMERGENCY MOTION TO REOPEN RECORD PURSUANT TO 11-Y DCMR 602.6  
AND CONSIDER APPELLANT'S PRIOR REQUESTS DATING BACK ALMOST THREE  
YEARS AGO THAT THE BZA PUBLISH A WRITTEN ORDER NOW OR CHOOSE TO  
WRONGLY DENY APPELLANT'S APA RIGHTS**

Per the BZA rules [11-Y DCMR 602.6, 11-Y DCMR 407.1, .2, et. seq., and 11-Y DCMR 408.1(b), 11-Y DCMR 506.1(b), (h)] jointly file this emergency motion to open the record and consider our prior request that has not seen the light of day. We are asking the BZA to write and publish the order in this case as soon as possible.

All parties have been served per 11-Y DCMR 205, *et seq.* Since this correspondence is being filed as an emergency and given the timing of submission, none of the opposition parties have actively granted consent to filing, and we presume they will oppose.

## **Appellant's Are Prejudiced Without A Written Decision Made Verbally More than Three Years Ago**

The underlying BZA appeal asked Commissioners to consider how the DC Zoning Administrator, Mr. Matthew LeGrant erred by not considering the existing PUD requirements for second stage-stage review of the McMillan Master Plan be completed prior to permit issuance. Moreover, we showed the fact that Mr. Legrant and other officials with the Respondent, DC Dept. of Consumer and Regulatory Affairs contravened zoning regulations by choosing not to ensure recordation of the existing, forever-bound McMillan preservation covenants that run with the McMillan land deed before approving the issuance of permits to demolish the entire 25-acre historic site.

The BZA issued a verbal decision denying our appeal on September 16, 2020. There has still yet to be a written decision published by the BZA thus prejudicing Appellants from acting on their rights to reconsideration per 11-Y DCMR 700, *et. seq.*, given errors in fact and law. The errors in fact and law are quite evident on the record and was especially prominent during the September 16, 2020, meeting when BZA Commissioners discussed and then moved to a verbal decision denying this appeal.

*See attached all prior submissions seeking remedy.*

### **Conclusion**

Pursuant to DC Zoning regulations, 11-Y DCMR 602.6, among others, Appellants ask the BZA staff to ensure this motion is put before the BZA as soon as possible and then for Commissioners to act quickly on this emergency motion.

Respectfully submitted by Appellants on this the 6<sup>th</sup> day of February, 2024.

CO  
2/6/24

Regards,  
/s /n  
Chris Otten, co-facilitator  
DC for Reasonable Development  
202-656-5874  
dc4reality@gmail.com

~~ prior submissions for the record~~

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Board of Zoning Adjustment



May 28, 2021

**BZA Memo to File:**

**Re: BZA Appeal No. 20191 of DC for Reasonable Development – Motion to Reopen Record**

The Office of Zoning has received the Appellant's "Emergency Motion to Reopen Record Pursuant to 11-Y DCMR 602.6 and Consider Appellant's Prior Request that the BZA Publish a Written Order Now More than Eight Months After Verbal Decision on September 16, 2021." The Board of Zoning Adjustment will consider a decision in the Motion at its **Virtual Public Meeting** scheduled for **WEDNESDAY, JUNE 16, 2021** through Webex, session to begin at 9:30 am.

Please see the Office of Zoning website for Webex access information:  
<https://dcoz.dc.gov/service/watch-live-virtual-zcbza-hearingsmeetings>. If you have questions, please contact the Office of Zoning at 202-727-6311.

Sincerely,

A handwritten signature in black ink that reads "Clifford W. Moy".

**CLIFFORD W. MOY**  
**Secretary, Board of Zoning Adjustment**  
**Office of Zoning**

**Fwd: Case No. 20191**

1 message

Tue, May 25, 2021 at 6:35 PM

d.c. forrd <dc4reality@gmail.com>

To: "Green, Hugh (DCRA)" <hugh.green@dc.gov>, "Heath, Brendan (OAG)" <Brendan.Heath@dc.gov>, "Amarillas, Fernando (OAG)" <fernando.amarillas@dc.gov>, "Saindon, Andy (OAG)" <andy.saindon@dc.gov>, "Barnes, Dianne (SMD 5E09)" <5E09@anc.dc.gov>, "McGraw, Esther (DCRA)" <Esther.McGraw2@dc.gov>, "LeGrant, Matt (DCRA)" <matthew.legrant@dc.gov>, "Konstantopoulos, Melanie (DCRA)" <melanie.konstantopoulos@dc.gov>, "Parsons, Keith (DCRA)" <keith.parsons@dc.gov>, Daniel Wolkoff <amglassart@yahoo.com>, Jerome Peloquin <aquaponikus@gmail.com>, Mel Peffers <mpeffs@gmail.com>, James Fournier <james.fournier@gmail.com>, Joanne Boykin <sapphire91264@gmail.com>, Yonna Pendleton <yonna1994@gmail.com>, Michael Werstein <michaelwerstein@gmail.com>, Linwood Norman <linwood.norman@gmail.com>, Cynthia Carson <cyncarson@gmail.com>, Christof Rotten <crotten2@gmail.com>, Ari Theresa <Atheresa@gmail.com>, "Aferster@railstotrails.org" <aferster@railstotrails.org>, Vining Kirby <>nulliparaacnestis@gmail.com>, Jim Schulman <regionalarchitect@gmail.com>, "Joel (OP)" <joel.lawson@dc.gov>, "Aaron (DDOT)" <aaron.zimmerman@dc.gov>, "Racine, Karl (OAG)" <karl.racine@dc.gov>, "DCOZ - BZA Submissions (DCOZ)" <DCOZ-BZASubmissions@dc.gov>, "Reid, Robert (DCOZ)" <robert.reid@dc.gov>, "Moy, Clifford (DCOZ)" <clifford.moy@dc.gov>, "Rose, Tracey (DCOZ)" <tracey.rose@dc.gov>

Dear parties and BZA staff in BZA Case No. 20191.

Appellants filed by IZIS the attached Motion that supercedes and replaces the prior motion submitted earlier this morning. The one filed earlier did not cite the exact rules by which we rely on for this submission asking the BZA to reopen the record. This attached filing, submitted through IZIS does. Thank you for your attention to this matter. Chris Otten, co facilitator DC for Reasonable Development on behalf of all Appellants

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

From: <system@dcoz.dc.gov>  
 Date: Tue, May 25, 2021 at 6:27 PM  
 Subject: Case No. 20191  
 To: <dc4reality@gmail.com>



Thank you for submitting the document(s) in Application No. 20191. DC Office of Zoning (DCOZ) will be titling this exhibit and reserves the right to modify the document type you selected.

This is an automatically generated e-mail. If you have questions, please contact DCOZ at (202) 727-6311 or BZASecretary@dc.gov.

DC for Reasonable Development  
 (202) 656-5874  
[www.dc4reason.org](http://www.dc4reason.org)  
[fb.me/dc4reality](https://fb.me/dc4reality)  
[twitter.com/dc4reality](https://twitter.com/dc4reality)

2021\_05\_25\_mcm\_FINAL\_BZA\_emergency\_motion\_w\_ATTACH.pdf  
 140K

DC Board of Zoning Adjustment  
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South Washington, DC 20001  
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DC for Reasonable Development  
Daniel Wolkoff, member  
Cynthia Carson, member  
Melissa Peffers, member  
Jerome Peloquin, member,  
James Fournier, member  
Linwood Norman, member,  
Jimmie Boykin, member

*Appellant,*

v.

DC Department of Consumer and  
and Regulatory Affairs,

*Respondent.*

**BZA Appeal No. 20191**

**EMERGENCY CORRESPONDENCE PURSUANT TO 11-Y DCMR 407.1, .2, et. seq., and 11-Y  
DCMR 408.1(b), 11-Y DCMR 506.1(b),(h) REQUESTING THE BZA TO ACT  
ON VERBAL DECISION AND ISSUE A WRITTEN ORDER**

Appellants come now with this correspondence as an emergency pursuant to BZA regulations, 11-Y DCMR 407.1, .2, et. seq., and 11-Y DCMR 408.1(b), 11-Y DCMR 506.1(b), (h). Appellants ask the BZA to act on their verbal decision in this case with good cause.

All parties have been served per 11-Y DCMR 205, et seq. Since this correspondence is being filed as an emergency and given the timing of submission, none of the opposition parties have actively granted consent to filing, and we presume they will oppose.

**Lack of written published order prejudices Appellants and harms our rights for reconsideration and review**

Next Tuesday, March 16, 2021, will mark exactly six months and more than 180 days from when the Board of Zoning Adjustment took an adverse position on our appeal in BZA Case 20191.

The lack of a written decision across this substantial timeframe of six months disenfranchises our right to file motions for reconsideration under BZA rules and from accessing administrative procedure rights for judicial review pursuant to DC Code § 2-510.

In other zoning matters, the regulations discuss written orders as being timely issued within forty-five days from the verbal decision. We are at four times that duration now with this case. We ask the BZA to ask their legal counsel to file with you an order in BZA Case No. 20191 for publication in the DC Register and to be delivered to all parties post-haste.

**Permanent harm is imminent**

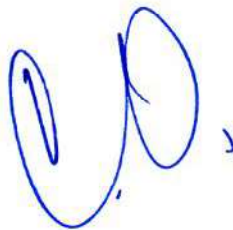
The Respondent in this appeal has asked in another forum for the stay of demolition be lifted so that permanently destructive activities can begin at McMillan Park. We have raised substantial zoning concerns for review by the BZA that still have not been answered in writing preventing our ability to challenge whether or not the Applicant needs second-stage zoning review on their 1<sup>st</sup> Stage PUD approval of the McMillan “Master Plan.” There is good cause to act on this motion given the imminent permanent harm to McMillan Park and Appellants interests therein.

We ask you act quickly on this correspondence.

Regards,

/s /n

**Chris Otten, co-facilitator**  
DC for Reasonable Development  
202-656-5874  
dc4reality@gmail.com





## CERTIFICATE OF SERVICE

I, Chris Otten, attest to serving the above **EMERGENCY MOTION TO REOPEN RECORD PURSUANT TO 11-Y DCMR 602.6 AND CONSIDER APPELLANT'S PRIOR REQUESTS DATING BACK ALMOST THREE YEARS AGO THAT THE BZA PUBLISH A WRITTEN ORDER NOW OR CHOOSE TO WRONGLY DENY APPELLANT'S APA RIGHTS** on February 6, 2024, as follows:

### RESPONDENT DCRA

Hugh.Green@dc.gov  
Brendan.Heath@dc.gov  
Matthew.Legrant@dc.gov  
Esther.McGraw2@dc.gov

### APPLICANT DMPED

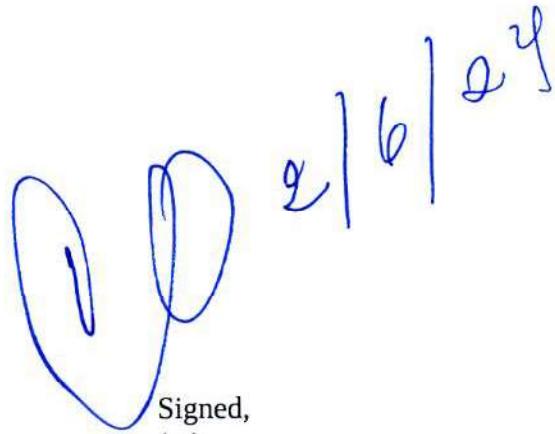
Fernando.Amarillas@dc.gov  
Andy.Saindon@dc.gov

**Mayor Muriel Bowser,**  
**By email: eom@dc.gov**

### Courtesy copies to all complainants:

Daniel Wolkoff <amglassart@yahoo.com>,  
Cynthia Carson <cyncarson@gmail.com>,  
Jerome Peloquin <aquaponikus@gmail.com>,  
Linwood Norman <Linwood.norman@gmail.com>,  
Melissa Peffers <mpeffs@gmail.com>,  
Christof Rotten <crotten2@gmail.com>,  
James Fournier  
<james.fournier@gmail.com>,

And by mail to:  
Jimmie Boykin  
2406 N Capitol St.  
WDC 20002

A handwritten signature in blue ink, appearing to be 'C. Otten', is written above the date '2/6/24'.

Signed,  
/s /n

Chris Otten, co-facilitator  
DC for Reasonable Development  
202-656-5874  
dc4reality@gmail.com