

### **Exhibit D- Party Opponent Settlement and Additional Flexibility in the Order**

The Applicant anticipates that the Party Opponents will withdraw or communicate their intention to withdraw party status prior to or during the hearing on October 3, 2022.

Unbeknownst to the Applicant, the Party Opponents and the owners of 1319 S Capitol have been negotiating a new easement, to which the Applicant is still a party. The respective neighbors have settled on a final draft of a revised easement agreement. Applicant and its counsel became aware of the renegotiated easement on September 9, 2022. The agreement would ultimately terminate the previous easement which burdened the Subject Property and would be a benefit to the Applicant.

Counsel for the Party Opponents presented the renegotiated easement to Applicant's counsel on September 12, 2022, and the Applicant immediately agreed to sign. Once the 1319 S Capitol owners and the Party Opponents sign, the Party Opponents have indicated that they are willing to withdraw Party Status in Opposition, as detailed in a forthcoming settlement agreement. Updated agreement notwithstanding, the Applicant continues to agree to the three proposed conditions of the Order on page 12 of Exhibit 34C that would effectively limit the use of the existing easement.

In the event that the existing 3-foot easement strip on the Applicant's property is terminated, the party opponents will withdraw party status, per the settlement agreement. In the proposed new easement agreement, 1319 S Capitol is no longer responsible for the maintenance of the easement area and the Applicant would be responsible for that piece of land. Accordingly, the Applicant seeks flexibility in the Zoning Commission Order to extend the first floor of the building to cover the existing 3 ft. x 13 ft. 11 in. closed court on the south side of the Building. This would eliminate the need for closed court relief on the first floor only— relief is still required on the floors above. This would also result in minor internal floor plan changes which are ordinarily permitted and have already been requested.

The Applicant has added this request for relief to the proposed Conditions and Flexibility to the Order submitted with this Prehearing package. The Applicant anticipates the signed settlement agreement will be submitted to the record within 1 week of this filing.