

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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SPECIAL PUBLIC MEETING

+ + + + +

TUESDAY,

NOVEMBER 15, 2005

+ + + + +

The Special Public Meeting convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:53 a.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GEOFFREY H. GRIFFIS	Chairperson
RUTHANNE G. MILLER	Vice-Chairperson
CURTIS L. ETHERLY, JR.	Board Member
JOHN A. MANN, II	Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

JOHN G. PARSONS	Commissioner (NPS)
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OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY	Secretary (BZA)
BEVERLEY BAILEY	Zoning Specialist
TRACY ROSE	Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL:

JACOB RITTING, ESQ.

This transcript constitutes the minutes from the Special Public Meeting held on November 15, 2005.

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P-R-O-C-E-E-D-I-N-G-S

9:53 a.m.

CHAIRPERSON GRIFFIS: Good morning, ladies and gentlemen. Let me call to order our Special Public Meeting of the 15th of November 2005. My name is Geoff Griffis, Chairperson. Joining me today is the Vice Chair, Ms. Miller, and our other Member, Mr. Etherly will be joining us momentarily. Representing the National Capital Planning Commission is Mr. Mann and representing the Zoning Commission with us on our decision in our Special Public Meeting this morning is Mr. Parsons.

I'm going to be very brief in my opening for this Special Public Meeting, so we can get on to our regular scheduled hearing and we will be expeditious in doing that. However, I would ask that people, please, turn off cell phones and beepers at this time, so we don't disrupt the transmission of our recording. Of course, this is the time at which we will deliberate on a hearing or an appeal that has already been heard. No additional information is taken in to the record for deliberation and our decision will be forthcoming as we move ahead.

With that, I think I'm going to move right into our first decision and I will have a more lengthy

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1 opening for our hearing as I call that to order.
2 However, let me do say a very good morning to Ms.
3 Bailey on my very far left with the Office of Zoning,
4 Ms. Rose also with the Office of Zoning and Mr. Moy,
5 Mr. Nyarku is also assisting all of us and will be in
6 and out during our proceedings for the entire day.

7 Mr. Moy?

8 MR. MOY: Yes, sir. Good morning, Mr.
9 Chairman, Members of the Board. The first and only
10 case for the Special Public Meeting this morning is
11 Appeal No. 17335 of Kalorama Citizens Association,
12 pursuant to 11 DCMR 3100 and 3101, from the
13 administrative decision of the Zoning Administrator of
14 the Department of Consumer and Regulatory Affairs.

15 The appellant alleges that the Zoning
16 Administrator erred by issuing Building Permit No. B,
17 as in bravo, 46999, dated March 2, 2005, allowing the
18 erection of a roof deck. The appellant contends that
19 the roof deck violates the maximum building height
20 under subsection 2510.1 (Congressional Limitation on
21 Building Heights). The subject property is located in
22 the R-5-D District at premises 1819 Belmont Road,
23 N.W., and that's in Square 2551, Lot 45.

24 On October 18, 2005, the Board completed
25 public testimony on the appeal and scheduled its

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1 decision on November 15, 2005. The Board requested a
2 number of post-hearing documents. The staff is going
3 to be brief and say that filings have been submitted
4 from the appellee, which is DCRA, and the intervenor,
5 which is Montrose LLC, and they were filed timely and
6 they are identified in your case folders as Exhibits
7 27 and 26, respectively.

8 The record also has a joint response from
9 the appellant and the ANC-1C and that was filed on
10 November 8, 2005 and is identified as Exhibit 28. And
11 that's going to complete the staff's briefing, Mr.
12 Chairman.

13 CHAIRPERSON GRIFFIS: Thank you very much,
14 Mr. Moy. I appreciate your succinctness in reviewing
15 this. I may go a little bit further and state that,
16 of course, there is an entire other case that the
17 Board had heard on this and what we have in this
18 appeal is that there is a deck that is said to not be
19 permissible by the Height Act, therefore, the permit
20 should not have been submitted and that railing
21 attached to that deck also would be in violation. So
22 that's the two, let's say, specific elements that we
23 will be discussing today.

24 First of all, let me back up a little bit
25 and I think it is important to understand how we got

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1 here in looking at this and how we're actually getting
2 into, I think, a very surgical look at the height of
3 this building. It's pretty clear that the Zoning
4 Commission in setting up the zone district on this
5 block allowed for a 90 foot height of structures,
6 based on the zoning district.

7 It is, obviously, clear that one cannot
8 with our local regulations supersede or go against the
9 federal regulations. The 1910 Height Act indicates
10 that 70 feet is the permissible height. And it is
11 specifically laid out how that is to be measured.

12 I want to start with the first level
13 element, that is of the roof patio, and whether that
14 exceeds, would exceed or does exceed or whether there
15 was an error in issuing the permit of this. I think
16 I don't need to get into a lot of different levels
17 that I might have if this was in a different place on
18 the building, because the documents that have been
19 shown and submitted and it's, in fact, in the building
20 owner's Exhibit B, show the section of the building
21 and where they have measured the height of the
22 building, too, and then there is a second sheet noted
23 as A-2, a detail of the revised roof patio as titled.

24 And it shows very clearly in the graphic
25 documentation the height of the allowable height and

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1 that this area, this patio area is below it. So I do
2 not find any other evidence in the record that would
3 go to my conclusion that this was not correct, but
4 rather that it rose above that and, therefore, would
5 not need me to go into further deliberation on whether
6 if it did raise above that 70, would it be in
7 violation of the Height Act or not.

8 So what we are left with is a railing and
9 in that element there are several things that I think
10 we will discuss and perhaps succinctly. We have an
11 argument that has been brought forth that the safety
12 railing around this area has been approved under a
13 longstanding, under an interpretation that this is an
14 allowable aperture, one might say, or accessory to or
15 requirement of any sort of equipment or animation of
16 a roof level.

17 The other aspect I think that it will go
18 to is that the argument that has been brought forth of
19 this human occupancy and whether if you put a
20 guardrail around this, does that allow for human
21 occupancy? And let me set forth my deliberation on
22 the human occupancy issue. Then I would like to turn
23 it to others. And that is there is -- when we talk
24 about occupancy from a Building Code standard
25 perspective or even calculation of occupancy, it is

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1 different than what the Zoning Regulations look to and
2 define as occupancy.

3 And I think we are charged with looking at
4 the Zoning Regulations. And in order for the Zoning
5 Regulations in my deliberation and review of this, it
6 would mean an enclosed space that would go towards the
7 gross square foot or gross floor area, which would
8 then be calculated into FAR, which is a different
9 element than what we are talking about here in terms
10 of human occupancy. I think looking at, for instance,
11 maybe another, well, I don't know if that's a good
12 analogy or not.

13 But it seems to be pushing the level of
14 definition that I don't think it goes in terms of
15 zoning. And so let me let others provide their
16 deliberation and we'll continue from there if there is
17 any.

18 COMMISSIONER PARSONS: Mr. Chairman?

19 CHAIRPERSON GRIFFIS: Yes, Mr. Parsons?

20 COMMISSIONER PARSONS: This case is a
21 precedent setting case. I think we have discovered
22 through the hearing that the BZA nor the Zoning
23 Commission has really dealt with this issue
24 previously. And to me that makes it of a high degree
25 of significance. And to me, this is about human

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1 occupancy. And I would debate with you, if you will,
2 over that issue.

3 You have concluded that it means enclosed
4 space. To me, it is a large difference between a
5 safety railing for engineers or others, custodial
6 people who are trying to get access to a mechanical
7 structure to have a safety railing to get there. That
8 is the safety of those who need to maintain and
9 operate or repair mechanical structures, which is what
10 the Heights of Building Act had in mind to be placed
11 on the roofs of buildings.

12 It is quite another matter to build a
13 recreational facility on the roof, whatever it may be,
14 and then say well, now we need to enclose that in some
15 fashion with a railing. In this case, the railing
16 happens to be much more than a railing. It's opaque
17 in nature. And I don't mean if we took away its
18 opacity, if that's a word, that it would change my
19 mind. But this is for human use, human occupancy,
20 human enjoyment, human recreation on this rooftop.

21 And, therefore, to me, it was not
22 anticipated by the Heights of Buildings Act and we are
23 beginning to interpret that. That gets especially
24 troubling to me and I refer to the transcript. You
25 recall I had to leave early, but Mr. Etherly had a

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1 dialogue with Ms. Brown, which is right on point to a
2 question I wanted to ask, about an Exhibit C in her
3 petitioner/intervenor's statement or whatever it was
4 where we were looking at 400 Massachusetts Avenue,
5 which has not only a recreational aspect on the roof,
6 but a trellis.

7 And I know the trellis isn't before us,
8 but the dialogue was when does a railing get too high?
9 That is if we're sending a signal to the Zoning
10 Administrator that railings are okay to accommodate
11 recreational use, then why isn't a railing a little
12 taller okay? And as a matter of fact, if we just put
13 a trellis on it, it's still not human occupancy, but
14 it impacts the view of the building from the street,
15 which is what the Building Heights Act is all about.

16 And I think that's clearly evidenced in
17 that Exhibit C1 and Mr. Etherly's comment. So that,
18 to me, is the essence of the case. It's what is human
19 occupancy? And our past interpretation or as the
20 Chairman just articulated it as being enclosed space,
21 I think, is a very slippery slope. That this is
22 something not anticipated by the Heights of Buildings
23 Act and in my judgment the permit should be revoked.

24 CHAIRPERSON GRIFFIS: Good. Just for
25 clarification. I understand what you are indicating

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1 is that although we're not looking at that projection
2 of what you see as a concern of a trellis or a trellis
3 being called a rail and therefore would be allowable
4 if we found there was no error here. Going in the
5 different direction then, how is a building to comply
6 with other standards and Building Code standards even
7 for the enumerated aspects in the Height of Buildings
8 Act?

9 When I have to go up and paint my minaret,
10 does not OSHA or other Building Codes require a
11 guardrail around that area?

12 COMMISSIONER PARSONS: I have no problem
13 with that.

14 CHAIRPERSON GRIFFIS: So I guess then the
15 point is then how are we defining or how would we even
16 begin to define from a zoning perspective the
17 difference between that guardrail and the guardrail
18 around a patio space or for that matter stairs going
19 up to the fire sprinkler tanks or ladders up to
20 chimneys? Do we become so restrictive that nothing is
21 allowed up there?

22 COMMISSIONER PARSONS: No, I try to make
23 the delineation between human occupancy for
24 recreational purposes and OSHA standards in order to
25 allow maintenance workers to service something that is

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1 permitted.

2 CHAIRPERSON GRIFFIS: Okay. Okay. Mr.
3 Etherly?

4 BOARD MEMBER ETHERLY: Thank you very
5 much, Mr. Chair. If I could just follow-up, because
6 I agree with Mr. Parsons to the extent that he
7 highlighted an issue that I struggle with somewhat in
8 this particular case, but I am perhaps in the same
9 position as the Chair in trying to assess where kind
10 of the floor is. No pun intended here, but where the
11 floor is in terms of offering suitable direction or
12 guidance for future cases.

13 And perhaps the Chairman's question was
14 getting at the issue of what would bring this
15 particular instance into compliance for you, Mr.
16 Parsons, as you look at it? Because I agree with you.
17 I definitely was troubled somewhat by the Exhibit C
18 and all of the different illustrations of what we have
19 going on at these various levels. But I'm just trying
20 to get a sense of what's the maximum you would allow
21 here?

22 It sounds like if there is certain
23 embellishments in place on that roof beyond the basic
24 guardrail, would it for you take it automatically out
25 of that area of being simply for safety reasons?

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1 COMMISSIONER PARSONS: I'm sorry, I'm not
2 understanding your point.

3 BOARD MEMBER ETHERLY: Yes, I guess I'm
4 struggling with trying to articulate it. What I'm
5 trying to get at or what my concern is is I think
6 somewhere out there there definitely is a ceiling that
7 we want to try to set. What I'm trying to figure out
8 is well, what's the minimum that would be allowable
9 here? As you look at Exhibit C, for example, and you
10 look at some of the various photos, where would you
11 draw the line? Where does it stop becoming a safety
12 issue or safety rail and more of a human occupancy
13 area?

14 Is it the trellis that takes it out of
15 that category? What if it's, you know, some
16 decorative posting that is placed up there? So you
17 would have a railing, but you also have some nice
18 postings that perhaps have some hanging flower pots.
19 I'm not trying to make light of it.

20 COMMISSIONER PARSONS: Yes.

21 BOARD MEMBER ETHERLY: I'm just trying to
22 get a sense of what the ceiling would be in terms of
23 what changes it from safety compliance to something
24 else that invokes the Height Act?

25 COMMISSIONER PARSONS: The only way to

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1 resolve my concern is to eliminate the deck.

2 BOARD MEMBER ETHERLY: Okay.

3 COMMISSIONER PARSONS: Period. That there
4 would be no recreational use on this roof, because it
5 requires a violation of the Height Act to get there.

6 BOARD MEMBER ETHERLY: Okay.

7 COMMISSIONER PARSONS: Is that --

8 BOARD MEMBER ETHERLY: That answers my
9 question. Thank you.

10 COMMISSIONER PARSONS: But if a railing
11 was needed to get to this mechanical penthouse on the
12 other side to service the air conditioning, it's okay.

13 BOARD MEMBER ETHERLY: Okay.

14 CHAIRPERSON GRIFFIS: Understood. I think
15 the issue with that for me then is going to our
16 regulations and also going to the Height Act nowhere
17 was it ever established that we measure the buildings
18 to the top of a rail. I mean, there are other
19 elements, other standards for the measurement of
20 building height. So I'm not sure why this would then
21 touch off the differing point to measure a building.
22 But let's continue on down. Ms. Miller?

23 VICE CHAIR MILLER: Well, just to jump in
24 on the human occupancy question. To me, this case
25 doesn't really turn on human occupancy. I think that

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1 the previous case did, which dealt with the roof deck.
2 I think I heard Mr. Parsons say you look at the deck
3 as one of the last things he said, and I think that
4 that's true in that when we look at the case before
5 us, it really deals with the question of the railings.
6 And do we look at that separate from the deck, which
7 I believe we do.

8 But even backing up from that, I think
9 that this is a case of statutory construction that
10 we're looking at the Height Act, in particular 6-
11 601.05H, and that enumerates specific structures that
12 can be erected above the height limitations in the Act
13 and it doesn't list railings, it lists spires,
14 minarets, domes and penthouses, etcetera.

15 And then we get to the question well, can
16 we construe that as including any other type of
17 structure that's not included in that specific list?
18 And we have spent a long time, I certainly have,
19 looking at the legislative history, everything that
20 has been written on this Height Act. And well,
21 initially, I was of the view and I am just at the
22 position of the appellants that well, this certainly
23 goes above the height limits and, therefore, it
24 violates the Height Act. I have come to a different
25 conclusion.

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1 I have looked at past history. We
2 referenced in footnote 3 of our previous order an
3 interpretation of a Corporation Counsel opinion that
4 penthouses over elevator shafts may be construed to
5 include penthouses over stairways. So that was the
6 first instance that I see, and that was in 1953, where
7 the Act was interpreted to construe something that was
8 not specifically listed within the provision, but the
9 Corporation Counsel was of the opinion that it was in
10 the spirit and intent of the Act.

11 And so that's where I'm coming from on
12 this. And we explored that at the hearing. Is this
13 within the intent and spirit and how would an
14 interpretation including this be different? I don't
15 think it goes to human occupancy. I think that it's
16 more in the nature of safety or an embellishment. And
17 in searching legislative history, I was surprised to
18 find that the Office of Planning, who usually weighs
19 in on our special exception and variances cases, but
20 not appeal cases, actually had taken a position on
21 safety railings.

22 And that was in Zoning Commission Order
23 No. 476, the Penthouse Text Amendment in 1986, in
24 which the Office of Planning actually noted in its
25 recommendations to the Zoning Commission that, and I

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1 quote, "Necessary railing would be permitted in
2 exception to the height limit and it could be designed
3 to act as an embellishment in helping to provide a
4 visual cap for the building."

5 So even though this is precedent here that
6 we are looking at for the first time in this context,
7 Office of Planning has weighed in on it in the Zoning
8 Commission case. And even looking at it even
9 separately from Office of Planning's position, it
10 looks to me that we're talking about safety, which is
11 one of the primary concerns of the Height Act. A
12 secondary concern is the vision from the street. And
13 third was ventilation and air. And I think that a
14 safety railing does not violate the intent of the
15 Height Act in any way and would be consistent.

16 Then the other thing Mr. Parsons said was
17 the framers of the Act didn't anticipate this, but I
18 don't think that in 1910 they could anticipate
19 everything. And I think our job is to see whether
20 this is precluded by the language that they used or
21 inconsistent with the intent of the Act, and I don't
22 see that it is.

23 And I also would say that we can deal with
24 these structures as they come and just because a
25 trellis may be inconsistent, I don't think that has

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1 anything to do with whether or not a safety railing
2 is.

3 CHAIRPERSON GRIFFIS: Excellent. Thank
4 you very much. And I appreciate you bringing up the
5 Vernon West 1957 letter from Corporation Counsel that
6 indicated, in fact, that the Act is not a static
7 document, that it has, in fact, had interpretations
8 given to it and I think that is an important aspect as
9 we look at this particular piece and I agree with you.

10 Well, to that point, I do find it
11 reasonable that the Zoning Administrator would
12 interpret the permitting of a guardrail on a compliant
13 building as appropriate. Yes?

14 VICE CHAIR MILLER: The other point just
15 in response to Mr. Parsons' concern, I don't see how
16 a Zoning Administrator would be able to distinguish
17 when the permits are before him whether or not or
18 whether you should be distinguishing what was going to
19 be happening on the top of a building, whether the
20 railings were just a service, mechanical equipment, or
21 whether or not people could go up on the building for
22 recreation.

23 CHAIRPERSON GRIFFIS: Okay. Others? Mr.
24 Mann?

25 BOARD MEMBER MANN: I do actually think

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1 that this case turns on the interpretation of several
2 items including human occupancy and safety rail, and
3 I do agree with Mr. Parsons that, if I understand his
4 position correctly, that we may be in danger of
5 crossing the sort of line that allows unacceptable
6 structures to be built on rooftops in violation of the
7 Height Act, but in this particular case I don't think
8 that we have crossed that line.

9 I agree that the safety rail does not
10 violate the intent of the Act in this particular case,
11 but I do think that that conclusion, my conclusion,
12 does turn on the interpretation of both human
13 occupancy and safety rail.

14 COMMISSIONER PARSONS: Mr. Chairman, could
15 I offer some rebuttal?

16 CHAIRPERSON GRIFFIS: Of course.

17 COMMISSIONER PARSONS: Thank you. The
18 trouble with being around so long is people say but
19 you voted for this before. Going back to Order No.
20 476, I don't have it in front of me, but I suspect my
21 name may be attached to it.

22 That case, of course, was dealing with
23 setbacks for penthouses and so forth and while the
24 Office of Planning may have recommended or said that
25 safety railings could actually be designed as an

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1 embellishment to the building, I don't think the
2 resulting regulations concluded the same thing.

3 The fact that the Act is not static, I
4 would agree. Certainly antennas and dish antennas and
5 whip antennas and other things have been done,
6 including the regulations that you just referred to
7 for penthouses, but in all cases prior to this they
8 have been dealing with the spirit of the law of
9 mechanical devices out of necessity being put on the
10 roof.

11 You know, we used to put furnaces in the
12 basement but we don't anymore. You know, the basement
13 is too valuable, I guess. But in response to Ms.
14 Miller's point that how could a Zoning Administrator
15 understand whether this railing was for human
16 occupancy or maintenance, I think it would be quite
17 obvious and evident to the Zoning Administrator.

18 If there was a catwalk going along the
19 roof with railings on either side, it was for one
20 purpose and if there was a deck with a railing around
21 it, it would be for a much different purpose. Thank
22 you for the time. I will yield my time back to the
23 Chairman.

24 CHAIRPERSON GRIFFIS: Indeed. Thank you
25 very much.

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1 COMMISSIONER PARSONS: Not that I had any
2 time.

3 CHAIRPERSON GRIFFIS: Right. Indeed.
4 It's a fascinating discussion. I know we have all
5 spent a great deal of time looking at what we use
6 different vernaculars for, but talking about the
7 spirit, what was the actual intent of this and there
8 is discussion of that the intent was a life safety
9 issue, a fire issue.

10 Then there was of course -- there's that
11 errant testimony on the Hill talking about making this
12 a horizontal city, so it became a design element of
13 this. There is all sorts of pieces, I guess as most
14 legislation, that are chucked onto differing aspects.

15 But I didn't find anything persuasive in
16 looking at it that the intent or the spirit of this
17 was to stop people from being on the roof, but rather
18 what I saw more persuasive is that the Height Act was
19 to make sure that actual levels, stories from a zoning
20 perspective, wouldn't be allowed to be put on without
21 counting towards the building, but is in reality
22 allowing those which are required for the functioning.

23 So what does all that mean? It means that
24 I don't think this even rises to the level of what was
25 anticipated in the spirit or not. And as I say, and

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1 I absolutely agree with Ms. Miller, this appeal does
2 not turn on the occupancy and perhaps we have a little
3 bit of a different understanding of why that is, but
4 we agree that it is because I don't find that what is
5 being proposed here with a railing is actually that
6 which would count towards or calculate as an
7 occupiable space with our Zoning Regulations or under
8 the Height Act.

9 Very well. Is there others that would
10 like to speak to any of the other issues that have
11 been brought up of which we have numerous that we
12 haven't specifically gotten into? We may not need to,
13 at this point, but I will open it up for anything
14 further. Ms. Miller?

15 VICE CHAIR MILLER: Well, I just want to
16 note, and Mr. Parsons was there, I wasn't citing the
17 text amendment case as that being actually the issue
18 of the railing being actually what was voted on, but
19 it was discussed in those proceedings. And I do think
20 it's relevant that Office of Planning didn't discuss
21 it in the context of human occupancy, that they, in
22 fact, treated railings as an embellishment or even in
23 the nature of mechanical equipment.

24 Mr. Chairman, I guess at this point then
25 I will offer a motion and then, if there is further

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1 discussion, we could discuss it under a motion.

2 And that would be to deny Appeal No. 17335
3 of Kalorama Citizens Association, pursuant to 11 DCMR
4 section 3100 and 3101, from the administrative
5 decision of the Zoning Administrator of the Department
6 of Consumer and Regulatory Affairs. That being that
7 the roof deck violates the maximum building height
8 under subsection 2510.1. The subject property is
9 located in the R-5-D District at premises 1819 Belmont
10 Road, N.W., Square 2551, Lot 45.

11 CHAIRPERSON GRIFFIS: I will second the
12 motion. Deliberation? Additional comments, Ms.
13 Miller? Anything else you would like to speak to?

14 VICE CHAIR MILLER: No. I would just like
15 to recognize the extreme hard work of all the parties
16 in this case and the thorough briefing on the issues.

17 CHAIRPERSON GRIFFIS: I absolutely agree.
18 I think it did. I would add to that. I think it lent
19 to an awful lot of hours of reading and thought
20 processes and I know that we have had an opportunity,
21 I can say, in Executive Sessions to discuss all those
22 and to get them all out and really flesh it out, I
23 believe, with great adequacy.

24 Very well. We have a motion before us
25 that has been seconded. Are there other deliberation

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1 discussions, comments on that? If not, then I would
2 ask for all those in favor of the motion to signify by
3 saying aye.

4 ALL: Aye.

5 CHAIRPERSON GRIFFIS: And opposed?

6 COMMISSIONER PARSONS: No.

7 CHAIRPERSON GRIFFIS: Any abstaining?

8 Very well. Mr. Moy, if you wouldn't mind?

9 MR. MOY: Yes, sir. Staff would record
10 the vote as 4-1-0. This is on the motion of the Vice
11 Chairperson, Ms. Miller, to deny the appeal, seconded
12 by Mr. Griffis, the Chair. Also in support of the
13 motion, Mr. Mann and Mr. Etherly. Opposed to the
14 motion, Mr. Parsons.

15 CHAIRPERSON GRIFFIS: Good. Thank you all
16 very much. Mr. Parsons, I thank you very much. Is
17 there any other business, Mr. Moy, for the Board in
18 this Special Public Meeting?

19 MR. MOY: No, sir.

20 CHAIRPERSON GRIFFIS: Very well. Not
21 noting any other additional business, let's adjourn
22 the morning session.

23 (Whereupon, the Special Public Meeting was
24 concluded at 10:24 a.m.)

25

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