

**BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

SUPPLEMENTAL PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

This Statement is submitted by Ditto Residential, LLC, the Applicant and contract purchaser of the property located at 1326 Florida Avenue, N.E., Square 4068, Lot 835 (the "Site"). This Supplemental Preliminary Statement addresses the special exception under Section 411.11 to allow a roof structure which does not meet the normal setback requirement of Section 770.6 of the Zoning Regulations.

I. Background

The architectural plans submitted as Exhibit No. 12 indicate a building height of 50 feet, measured from the level of the curb at the middle of the front of the building, to the top of parapet. The parapet is a solid wall, as shown on those plans, and appears as a continuation of the exterior wall of the building that extends approximately 4 feet above the level of the roof. The roof structure is set back from the exterior walls a distance at least equal to its height above the roof on the north and south sides of the building. The roof structure is set back from the exterior walls a distance at least equal to its height above the parapet on the east and west sides of the building. Therefore, special exception relief is required to allow portions of the roof structure on the east and west sides of the building which do not meet the normal set back requirements of Section 770.6.

II. The Applicant meets the Burden of Proof for the Requested Special Exception

Section 411.11 of the Zoning Regulations states as follows:

Where impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or

unreasonable, the Board of Zoning Adjustment shall be empowered to approve, as a special exception under § 3104, the location, design, number, and all other aspects of such structure regulated under §§ 411.3 through 411.6, even if such structures do not meet the normal setback requirements of §§ 400.7, 530.4, 630.4, 770.6, 840.3, or 930.3, when applicable...; provided, that the intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.

Full compliance with the normal setback requirement of Section 770.6 would be impracticable because of operating difficulties and the size of the building lot, and would tend to make full compliance unduly restrictive and unreasonable. As set forth more fully in the Preliminary Statement of Compliance, Exhibit No. 11, the narrow building dimension is dictated by the dimensions of the site and the location of the garage ramp along the east side of the building.

Full compliance with the normal setback requirement on the east side of the roof structure would require the elevator and stairs to be shifted approximately four feet to the west. However, this would adversely impact the interior layout of the building at all levels. It would shift the stairways, elevator and elevator lobby four feet into the central corridor, which in turn would shift the corridor four feet to the west, causing a significant reduction in the size and efficiency of the units along the west side of the building. In addition, moving the elevator and stairways to the same extent in the garage would narrow the width of the center drive aisle to less than the minimum required dimension. Alternatively, it would require the shift of a portion of the drive aisle to the west side of the garage, thus resulting in a further reduction in the number of parking spaces, and a further reduction in the efficiency of the garage layout.

Full compliance with the roof structure setback requirement on the west side would require the west wall of the penthouse to shift approximately 3.25 feet to the east, thus reducing

the enclosed area where the individual rooftop mechanical units will be located. Due to the minimum required spacing between those units for ventilation purposes, as dictated by the Building Code, this would impose an operating difficulty on the building.

The intent and purpose of the roof structure setback requirements will be met in this Application. The roof structure height is well below the maximum permitted height. The intent of the setback requirement is to provide at least a one for one setback of the roof structure from the exterior walls of the building, which will also be met in this case. The parapet above the roof is merely a continuation of the exterior wall of the building, as shown on the plans submitted as Exhibit No. 12. Strict compliance with the roof structure setback requirement could be met by artificially raising the height of the roof approximately four feet, to match the height of the parapet wall, on those portions of the roof where the strict setback requirement is not met. However, this would be unnecessary and unreasonable. Although this would reduce the dimension between the roof of the building and the top of the roof structure, it would otherwise have no effect on the height elevation of the roof structure, or the setback of the roof structure from the exterior walls.

As viewed from the street, at the one for one set back vantage point, the level of the roof relative to the level of the top of the exterior wall will be imperceptible to the public. Therefore, because the one for one setback requirement from the exterior wall is met, the intent and purpose of the regulations will not be materially impaired. Likewise, the light and air of adjacent buildings will not be adversely affected.