BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application of 15th & H Street Associates, LLP
1426 H Street, N.W.

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

I. Background

The Subject Property is located at 1426 H Street, N.W and consists of Lot 22 in Square 222. Square 222 is bounded on the north by H Street, on the south by New York Avenue, on the west by 15th Street, and on the east by 14th Street. The Subject Property is primarily rectangular in shape, approximately 24,567 square feet in area, and is located at the southeast corner of the intersection of 15th and H Streets, N.W. The Subject Property is located within a C-4 Zone District and the Fifteenth Street Financial Historic District. The Subject Property is occupied by the Woodward Building, an eleven-story office building of approximately 203,661 square feet.

The Applicant proposes to convert the existing building to multi-family residential dwellings. The development will include 108 parking spaces located in a below-grade garage.

The proposed use is consistent with the Subject Property's C-4 zoning designation. The project's restoration and conversion of an existing structure, however, creates the need for special exception relief under §§770.6 and 411 of the Zoning Regulations to permit more than one roof structure enclosure, to permit a mechanical equipment penthouse that does not meet the setback requirements, and to permit enclosing roof structure walls of unequal height.

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CASE No. 17390
EXHIBIT No. 6

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Pursuant to §3113.8 of the Zoning Regulations, the Applicant will file its Statement of the Applicant with the Board no fewer than 14 days prior to the public hearing for the present Application. In that Statement, and at the public hearing, the Applicant will provide testimony to meet its burden of proof to obtain the Board's approval of the requested special exception relief. Following herein, as required by the Board's application process, is a summary statement indicating how the Applicant will meet said burden of proof.

II. Burden of Proof

In order to accomplish the proposed development, the Applicant seeks special exception approval pursuant to §§770.6 and 411 of the Zoning Regulations regarding roof structure requirements in commercial zoning districts.

A. Section 770.6

Section 770.6 of the Zoning Regulations provides that, if housing for mechanical equipment or a stairway or elevator penthouse is provided on a building's roof, it must be erected or enlarged in compliance with the provisions of §770.6, as follows:

> (a) It shall meet the requirements of §411.
> (b) It shall be set back from all exterior walls a distance at least equal to its height above the roof upon which it is located;
> (c) [Applicable only to C-5 zoned properties]; and
> (d) It shall not exceed more than 18 feet 6 inches in height above the roof on which it is located, nor shall mechanical equipment extend above the permitted 18 feet 6 inch height of the housing.

The existing penthouse structure measures 19.52 inches in height and is therefore nonconforming with regard to §770.6(d). The proposed development includes an 18 foot, 6 inch addition to this penthouse in order to conform to current Zoning Regulations. The final roof structure will therefore include enclosing walls of unequal height – a condition that does not comply with the provisions of §770.6(a) (by reference to §411.5) and requires special exception approval by the Board pursuant to §411.11.

The existing penthouse structure is not set back from all exterior walls a sufficient distance. The proposed addition to the existing penthouse follows the building lines of the existing structure to provide both architectural continuity and a functional space for the pump room and additional mechanical equipment. The proposed addition therefore does not comply with the provisions of §770.6(a) (by reference to §411.2) or with §770.6(b), and thus also requires special exception approval by the Board pursuant to §411.11.

Additionally, a second penthouse structure is proposed that will enclose a stairway. This penthouse structure is 10 feet in height and thus complies with §770.6(d). It is also set back from all exterior walls a sufficient distance pursuant to §770.6(a) (by reference to §411.2) and §770.6(b). The addition of a second penthouse structure, however, does not comply with §770.6(a) (by reference to §411.3) and thus also requires special exception approval by the Board pursuant to §411.11.

B. Section 411

Section 411 establishes numerous criteria for roof structures in all districts. Section 411.11 provides the Board authority to approve as a special exception the location, design, and other aspects of roof structures, including setbacks that do not meet the standard matter-of-right requirements. In order to obtain such special

exception approval, an applicant must demonstrate that: (1) compliance with the roof structure regulations is impractical 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 and (2) the intent and purpose of Chapter 400 and the Zoning Regulations are not materially impaired by the structure and the light and air of adjacent buildings are not adversely affected.

In this case, special exception approval is required because the existing roof structure and its proposed extension do not meet the current setback requirements of the Zoning Regulations. The existing roof structure also exceeds the maximum height permitted by the current Zoning Regulations. Roof structures are permitted up to a maximum height of 18 feet, 6 inches above the roof upon which they are located, provided that they are set back from all exterior walls one foot for each foot of height above the roof. The existing roof structure is 19.52 feet in height and meets the 1:1 setback requirement on three sides of the building. It does not meet the setback requirement on the south of the building. As an addition to the existing roof structure cannot be constructed to the same height as the existing structure, the roof structure walls will be of unequal height. Additional relief is needed due to the establishment of a second penthouse structure that meets both the height and setback requirements of the Zoning Regulations.

1. Compliance with the roof structure regulations is impractical 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 penthouse structure is an existing condition on an existing building. It is nonconforming with regard to both height and setback on one side. The proposed

conversion of the building to residential use requires additional mechanical equipment, including a pump room and cooling tower. In order to maintain the architectural integrity of the building, this equipment will be enclosed in an extension of the existing penthouse that will adhere to the current maximum height requirement. An additional stairway penthouse is included in order to provide an additional means of egress from the newly established roof terrace as required by the Building Code.

2. The intent and purpose of Section 400.7 of the Zoning Regulations are not materially impaired and the light and air of adjacent buildings are not adversely affected

The new penthouse and penthouse addition will harmonize with the main structure and existing penthouse. Any impact of the structure on light and air to adjacent buildings will be minimal, as the addition to the existing penthouse is setback twenty-one feet from the eastern lot line. Although the penthouse addition does not meet the setback on the southern side, it is located primarily to the east of the adjacent 9-story building to the south. The new stairway penthouse, only ten feet in height, is set back more than thirty feet from the H Street frontage and approximately seventeen feet from the 15th Street frontage and will therefore be at most minimally visible from surrounding buildings.

For all these reasons, special exception relief for the roof structure provisions of §§770.6 and 411 is appropriate.