

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Megan C. Rappolt, AICP, Case Manager
 JL Joel Lawson, Associate Director Development Review
DATE: March 8, 2016

SUBJECT: BZA Case #19215 - request for special exception relief pursuant to §3104/§411.11 to construct a penthouse addition as part of a by right renovation of a historic building located at 470 and 476 K Street NW

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following special exception pursuant to §411.11:

- § 411.18 (c) (4) Roof Structure Setback of 1':1' from adjacent contributing structures within an historic district that is built to a lower height than by right zoning permits (11.19' and 15.71' penthouse height required from south and east sides of the building, 0' proposed); and
- § 411.10, Enclosing walls of a penthouse shall rise vertically with a slope not exceeding 20% from vertical ($\leq 20\%$ permitted, 51 % proposed for an enclosed stairway within the penthouse).

The Applicant filed this application on December 9, 2015, prior to the adoption and subsequent immediate implementation of the new penthouse regulations, which became effective on December 30, 2015. Because the new penthouse regulations do not include vesting provisions, OP reviewed the request under the new penthouse regulations, which include the setback requirements referenced above. The original application under the prior penthouse regulations did not include such setback relief; however the prior penthouse regulations did require relief for penthouses of more than one height, which was originally requested by the Applicant. On March 1, 2016, the Applicant filed an amended request reflecting the current penthouse regulations and relief as stated above.

II. LOCATION AND SITE DESCRIPTION:

Address:	470 and 476 K Street NW (the "Property")
Legal Description:	Square 516, Lot 65 (Formerly Lot 64 and 44)
Ward/ANC:	6/6E
Lot Characteristics:	The rectangular-shaped Property is 4,638 sf and is approximately 84 ft. wide along K St. NW and 57' in length along 5 th St. NW. An historic building of several stories sits on the Property. The property does not have alley access.

Zoning:	DD/MVT/HP-A/C-2-C, which generally permits medium and high-density, mixed use development within or nearby the Central Employment Area.
Existing Development:	An historic structure exists on the Property and will remain as part of the renovation.
Historic District:	Mount Vernon Triangle
Adjacent Properties:	A contributing historic row house structure exists to the east located at 468 K St. NW. To the south on three lots (931, 925 and 923 5 th St. NW), there exists low-scale contributing historic structures, also currently being renovated.
Surrounding Neighborhood Character:	A mix of existing historic structures and 100-130-foot tall, high density residential or office buildings with ground floor retail.

III. PROJECT DESCRIPTION IN BRIEF

Applicant:	K Street Development Company, LLC, Middlebrook, Inc. and 10009 Field Road, Inc. represented by Jeff Utz
Proposal:	The request is for the construction of a penthouse addition to an in-process by-right renovation of historic buildings
Relief Sought:	§3104/§411.11 – Special Exception

V. ZONING REQUIREMENTS

DD/MVT/HPA-A/C-2-C Zone	Regulation	Existing	Proposed ¹	Relief:
Height (ft.) § 770 & 1742	90' (C-2-C) /50' max. (DD/MVT)	38.5 ft.	38.5 ft.	None required
Lot Width (ft.)	N/A	83.6' and 56'	83.6' and 56'	None required
Lot Area (sq.ft.)	N/A	4,683 sf	4,683 sf	None required
Floor Area Ratio § 771.2	6.0	2.7 FAR	2.81 FAR	None required
Lot Occupancy § 772	100% retail	100%	100%	None required
Rear Yard (ft.) § 774.1	15' min. (C-2-C)	0'	0'	None required, existing nonconformity

¹ Information provided by applicant.

VI. BACKGROUND

As background, during 2015, the proposed roof deck uses and penthouse were reviewed by OP's Historic Preservation Staff. It is OP Historic Preservation Staff's general policy to lessen the visual impact of roof structures from both historic structures and from prominent streets within a historic district, and thus advised the Applicant to locate the proposed penthouse and roof deck guard wall towards the rear of the building, as far as possible from pedestrian view from K and 5th Streets. Historic Preservation Staff also recommend the least amount of height for enclosing penthouse structures and thus recommended the Application seek relief from the prior penthouse regulations that required all penthouse structures be enclosed in one structure of the same height (§411.5 of prior roof structure/penthouse regulations).

Since the Applicant filed for relief from the prior penthouse regulations from the requirement of uniform height for penthouse structures, the penthouse regulations have changed and became effective. OP discussed this with the Applicant and the Applicant amended its request to reflect necessary relief under the special exception provisions of the new penthouse regulations. Per §411.11, relief from the roof structure/penthouse setback requirements can be pursued via special exception request.

VII. OP ANALYSIS:

Per §411.11, the Board of Zoning Adjustment may grant special exceptions under §3104 from §§411.6 through 411.10 and 411.18 upon showing that:

- (a) Operating difficulties such as meeting Building Code requirements for roof access and stairwell separation or elevator stack location to achieve reasonable efficiencies in lower floors; size of building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly, or unreasonable;*

The Applicant states that the property is within a historic district and that it is a small site, which OP acknowledges as factors that contribute to the difficulty in meeting the penthouse setback regulations in this specific case. The Applicant worked with Historic Preservation staff who directed them to move the penthouse as far away from view from K Street and 5th Streets as possible. Additionally, the fact that the Property is relatively small (less than 5,000 sf) and developed with a historic building limits the location of a penthouse.

The contributing structure to the south (931 5th Street NW) consists of solely an historic façade. The roof of the prior structure collapsed. As such, it is anticipated that the façade will be preserved, but a new building potentially to the maximum permitted building height will be constructed behind it. Thus, the requirement of a 1:1 setback to the south for the purposes of stepping back from a contributing historic building, likely will not apply, depending on the design of the future 931 5th Street NW.

- (b) The intent and purpose of this chapter and this title will not be materially impaired by the structure; and*

Relief from the new penthouse setback regulations for 0' setback from two sides of the building likely will not impair the intent and purpose of the regulations that require a setback from adjacent contributing historic structures. The purpose of the setback from contributing structures is to

support general policies of maintaining views of historic structures without looming adjacent structures; however in this case, given the size of the sight and prominence of K Street, historic preservation staff prefer the location of the penthouse towards the very rear of the building, away from K and 5th Streets. Given the Historic Preservation direction to locate the penthouse at this location on the roof, and the likelihood of a new building to the south, and for the aforementioned reasons, it does not appear the intent or the purpose of these setback regulations will be materially impaired.

(c) The light and air of adjacent buildings will not be affected adversely.

The light and air of adjacent buildings will likely not be adversely affected. The property to the south is expected to be rebuilt to a height of at least 50' plus penthouse, since it is in the same zone as the Applicant's property. Additionally, the property to the east (468 K Street NW) is slightly lower in overall building height than the Applicant's proposal; however the proposed penthouse only extends about 23' in width at the very rear of the properties. As such, the majority of the front of 468 K Street NW will not be impacted as much as the very rear of the property by the penthouse. OP notes the proposed penthouse is of two lower heights (11.15' and 15.71') than permitted by right (20').

VIII. COMMUNITY COMMENTS

Adjacent neighbors: At the time of the writing of this report, no letters of support or opposition have been entered into the record.

Ward/ANC: The property is within ANC-6E. At the time of the writing of this report, ANC-6E has not entered a letter stating their position on this matter.

Attachment: Location Map

