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VIA IZIS

July 8, 2016

Marnique Heath, Chairperson
Board of Zoning Adjustment
441 4th Street, NW
Suite 210S
Washington, DC 20001

**Re: Application No. 19312 — 1714–1716 N Street NW (Square 159, Lots 829 and 830)
Applicant's Post-Hearing Submission**

Chairperson Heath and Honorable Members of the Board:

On behalf of Allegro II, LLC, (the “Applicant”), we provide this Post-Hearing Submission in response to the Board’s request at the July 6, 2016 hearing on this application for additional information demonstrating satisfaction of the special exception standard for penthouse rear setback requirements.¹ Attached at **Tab A** is an email from Kim Elliott of the D.C. Historic Preservation Office (“HPO”) indicating that a three-foot rear setback will satisfy historic preservation requirements. Attached at **Tab B** are architectural plans for the penthouse showing the three-foot setback required by HPO and conceptual typical, interior floor plans. While the Applicant has not fully developed the final interior office layouts, the attached plans conceptually demonstrate the existence of operating difficulties without the requested relief for penthouse rear setback.

As outlined in the Applicant’s prior submissions, relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided specific requirements for the relief are met. Relief from the penthouse rear setback requirement (§ 411.18(b)) may be granted pursuant to 11 DCMR § 411.11 upon a showing that: (a) operating difficulties and other conditions relating to the building make full compliance with the rear penthouse setback requirements unduly restrictive and unreasonable; (b) the intent

¹ No post-hearing submissions were requested regarding the Applicant’s request for area variance relief from 11 DCMR § 531.1 or 11 DCMR § 2001.3. Accordingly, the Applicant understands that the record is complete regarding those areas of relief.

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and purpose of the Zoning Regulations will not be materially impaired; and (c) the light and air of adjacent buildings will not be adversely affected.

In this case, due to the significant, 21'-6" front penthouse setback, the Applicant faces unduly restrictive and unreasonable operating difficulties without the requested penthouse rear setback relief.² As shown on the "Impact of Rear Setback on Penthouse" plan at **Tab B**, page 4, due to the significant front penthouse setback, without the requested rear setback relief approximately 55% of the proposed penthouse will be devoted to the central core/ stair and landing area. Accordingly, especially now that the Applicant proposes a 3-foot rear setback, without the relief for the remaining 9 feet, the penthouse will have a core factor that exceeds 50%, which unreasonably impacts the functionality of that space for most uses, much less the penthouse conference/break room space that is proposed.

Accordingly, if the penthouse relief requested is not granted, then the resulting penthouse space would not be functional for a conference room of this size. Under those circumstances, the Applicant's only option would be to locate that conference room space within the building. However, for the reasons discussed below and shown on the typical floor plans at pages 8-9 of **Tab B**, due to its dimensions, the proposed penthouse conference/break room space could not be accommodated within the interior of the building. According, building operating difficulties and other conditions relating to the building would make full compliance with the penthouse rear roof setback requirement unduly restrictive and unreasonable because it would result in the building not having a functionally-sized, separate conference/ break room that could be used for secure, confidential work meetings and/or staff/employee gatherings.

First, the majority of the interior of the building must be used for office, secure space,³ circulation, central core and structural columns. While certain, smaller interior workroom space is proposed, most of those areas are open (meaning not walled), such as the open reception area in the front of the typical ground/entry level and the open area in the rear of the typical 3rd and 4th floors. These open workspace areas would not be appropriate for secure, private conversations and/or meetings. Further, these areas would not be effective as staff gathering places because, due to the lack of walls, sounds from these areas could travel throughout the building, potentially disrupting other employees and staff working in the open offices.

² As the Applicant is now providing a 3' setback from the rear roof at the request of the HPO, the amount of rear setback relief has been reduced by 25% to 9'.

³ Due to the high-security nature of some of the Applicant's contracts, the building proposes a "SCIF" room on the typical ground/entry level plan at page 8. A SCIF is a U.S. Government accredited facility where Sensitive Compartmented Information (SCI) can be stored, discussed or electronically processed. The minimum requirements for SCIFs are defined in Intelligence Community Directive (ICD) 705/ IC Technical Specification. The directive describes many specialized construction requirements with the intention to ensure that high security features are built into the facility beyond those achieved by typical commercial construction. For example, all perimeter surfaces (walls, ceilings and floor) are to be constructed so that they will reveal evidence of unauthorized entry or tampering. Furthermore, additional materials may be required for construction, such as radiant barrier foil, physical perimeter hardening by use of expanded metal with heavier gauge metal studs, as well as additional protective acoustical features to prevent eavesdropping and collection of audio intelligence emanating from the room. SCIFs must also have telephone, electrical power, security systems, data and emergency systems equipment must be dedicated to and contained within the SCIF. Furthermore, there are very specific requirements for ductwork contained in a SCIF.

Second, the footprint of the penthouse conference/break room could not be accommodated elsewhere in the building without drastically impacting the circulation and core areas of the floors. As shown, the dimensions of the penthouse conference/break room are 16'-5" in width by 25'-5" in length. This space could not be accommodated in the existing rear addition on the ground and entry floors because that space is only 12'-75" feet wide and 19' long, as shown on page 8.

Furthermore, the typical ground/entry level plan on page 8 illustrates that the penthouse conference/break room could not be located on that floor because it would require the relocation of the proposed SCIF room, which has specific, federally mandated, building and design requirements, and it would extend into the necessary circulation space in front of the central core staircase and elevator area. Also, although not pictured, the penthouse conference/break room could not be pushed towards the front of the building without completely impeding access to the front door, and it could not be pushed to the rear without severely restricting access to rear addition from the central core and front of the building. Moreover, the penthouse conference/break room could not be located on the other (east) side of the building because it would extend into the central core and through necessary supporting walls.

The typical 3rd and 4th floors on page 9 demonstrate that the penthouse conference/break room could not be located on those floors without consequences to the floor layout. As shown, if the penthouse conference/break room were located on the west side of the building, it would impact the circulation area and significantly decrease the space available for open offices. Furthermore, if it were located on the east side of the building, it would overlap with the central core, which would create structural inefficiencies, due to the existing elevator location that would be prohibitively costly and unduly restrictive to relocate.

Based on the above, operating difficulties, both associated with the more than 50% core factor of a matter of right penthouse making the area non-functional, as well as the inability to accommodate the penthouse conference/break room within the interior of the building make full compliance with the rear roof setback requirements of 11 DCMR § 411.18(b) unduly restrictive and unreasonable, and the Applicant satisfies the first prong for a special exception under 11 DCMR § 411.11(a).

Next, as discussed in prior submissions, the intent and purpose of the Zoning Regulations will not be impaired by granting the relief because the penthouse will be setback significantly from N Street, minimizing its visibility from the street. Furthermore, visibility from the rear would also be limited because there is an approximately 50' separation between the rear of the penthouse and the side wall of 1701 Rhode Island Avenue, which is already 81 ft. in height and has been approved for a renovation, including a 18'-6" penthouse. Additionally, the light and air of adjacent buildings will not be adversely affected because the shadows cast by the proposed penthouse will be limited to the subject property and will not impact adjacent properties, as demonstrated by the sun and shadow studies at BZA Exhibit 31H and included here for the revised penthouse with the 3-foot rear setback at pages 1-3 of **Tab B**. Accordingly, the Applicant satisfies the requirements of 11 DCMR §§ 411.11(b) and 411.11(c) for a special exception from the rear setback relief.

In closing, the Applicant reiterates that the Application has the unanimous support of Advisory Neighborhood Commission 2B (see BZA Exhibit 32), a recommendation of approval from the Office of Planning (BZA Exhibit 35), a letter of no objection from the District Department of Transportation (BZA Exhibit 36), indication of staff-level review at HPO and of a successful Flag Test (BZA Exhibits 31A and 31D) and support from an adjacent neighbor and neighbors across N Street (BZA Exhibit 26A). The neighboring property owner who testified at the July 6 hearing raised construction-related concerns that the Applicant has begun coordinating with the neighbor to address.

For all of these reasons, as well as those articulated in the prior filings and during the July 6th hearing, the Applicant respectfully requests that the Board grant the requested relief.

Thank you for your attention to this matter.

Sincerely,

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS, LLP

A handwritten signature in blue ink, appearing to read 'Samantha Mazo', is written over a horizontal line.

By: Samantha Mazo

CC (via email): Matt Jesick, OP
 Abigail Nichols, SMD 2B05
 Daniel Warwick, Chair, ANC 2B Zoning, Preservation & Development
 Committee