

May 7, 2018



Meridith H. Moldenhauer
Alyssa L. Bigley

Direct Phone 202-747-0767
Direct Fax 202-683-9389
mmoldenhauer@cozen.com
abigley@cozen.com

VIA IZIS

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

**Re: BZA Application 19722 - 923-927 5th Street NW
Applicant's Supplemental Filing**

Dear Chairperson Hill and Members of the Board:

On behalf of Kline Operations, LLC (the "Applicant"), please find enclosed the Applicant's Supplemental Filing. This filing addresses the issues raised at the Board of Zoning Adjustment hearing on April 4, 2018.

The continued hearing has been scheduled for May 16, 2018. As a result of the Board's discussion at the initial hearing, the Applicant has worked closely with the Office of Planning and substantially revised the penthouse plans to produce a more significant side setback. The Applicant has also supplemented the record in connection with the loading relief. In addition, in response to concerns raised regarding light and air, the Applicant produced a sun study showing no undue impact to neighboring buildings, including the windows at 450 K Street NW.

As such, the Applicant includes herein the following exhibits:

Exhibit A: Updated penthouse plans ("Updated Plans") showing a reduced size penthouse with greater setback from the sides of the building;

Exhibit B: Loading/turn diagram ("Turn Diagram") to demonstrate accuracy of the Applicant's proposed loading plan;

Exhibit C: Gorove Slade Technical Response Memorandum ("Response Memorandum") to the report filed by opposition witness Joe Mehra of MCV Associates;

Exhibit D: Diagram identifying proposed at-risk windows¹;

Exhibit E: Sun studies ("Sun Studies");

Exhibit F: Alley layout diagram ("Alley Diagram"); and

Exhibit G: All-mechanical penthouse illustrative plan ("All-Mechanical Plan").

¹ The Board requested a diagram of the proposed at-risk windows on the Property. Although these windows may be deemed at-risk under the building code, the Applicant will work with DCRA during any future permitting process in order to record any necessary covenants or obtain a code modification if necessary.

Finally, the Applicant respectfully requests that the Board accept this late filing of the Supplemental Statement pursuant to its authority found at 11 DCMR Subtitle Y § 101.9. The Applicant was unable to incorporate all revised plans and Exhibits by the requested Friday May 4, 2018 filing date. However, no parties to the case will be prejudiced by this request because the parties and the Office of Planning have more than one week to file a reply to this Supplemental Statement before the continued hearing on May 16, 2018.

Thank you for your attention to this matter.

Sincerely,

COZEN O'CONNOR

A handwritten signature in blue ink, appearing to read 'M. Moldenhauer', written over a horizontal line.

Meridith H. Moldenhauer
Alyssa L. Bigley
1200 19th Street NW
Washington, DC 20036

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

**APPLICATION OF
KLINE OPERATIONS, LLC**

**923-927 5TH STREET NW
HEARING DATE: MAY 16, 2018**

APPLICANT’S SUPPLEMENTAL STATEMENT

I. INTRODUCTION

This supplemental statement (“Supplemental Statement”) is submitted on behalf of Kline Operations, LLC (the “Applicant”), the contract purchaser of the property located at 923-927 5th Street NW, (Square 0516; Lots 0827, 0828, 0829 and 0833) (the “Property”). The Supplemental Statement responds to the issues raised by the parties in opposition and the requests from the Board of Zoning Adjustment (“Board” or “BZA”) at the public hearing on April 4, 2018. The statement and exhibits herein further the Applicant’s previous arguments in support of their application for special exception and variance relief.²

II. BZA HEARING AND REQUESTED ADDITIONAL INFORMATION

The Applicant presented their case to the Board on April 4, 2018, at which they requested relief for proposed construction of a hotel at the Property (the “Project”). Brad Kline, owner of Kline Operations, LLC, testified as the Applicant. In addition, Erwin Andres of Gorove Slade Associates testified as an expert in transportation engineering and Stephen Varga testified as an expert in planning and land use in support of the Project.

At the hearing, the Board granted party status in opposition to two parties (collectively, the “Opposition Parties”): Aubrey Stephenson, owner of 460-462 K Street NW³, and 450 K CAP LLC, owner of 450 K Street NW (“450 K”), through its agent John McDermot.⁴ A transportation engineer, Mr. Mehra

² The Applicant requested special exception relief from the Zoning Regulations for Penthouse Setback, C § 1502.1(c)(4) pursuant to C § 1504; Penthouse Use as a Restaurant or Cocktail Lounge: C § 1500.3; and Rear Yard: I § 205.1 pursuant to I § 205.5. In addition, the Applicant requested area variance relief for Loading Berth: C § 901.1; Loading Access: C § 909.13; Closed Court Dimensions: I § 207.1; and Floor-to-Ceiling Clearance in the Mount Vernon Triangle Principal Intersection Area Sub-Area: I § 612.4.

³ Mr. Stephenson and the Applicant are in the process of finalizing an agreement whereby Mr. Stephenson will be withdrawing his request for party status, outlined more fully below.

⁴ The Board did not grant party status to Michael D. Smith who filed a request for party status in the record, but did not attend the BZA hearing. In accordance with Subtitle Y § 404.10, the party status request is thereby deemed withdrawn. See BZA Trans. at p. 103.

of MCV Associates, Inc., testified on behalf of 450 K. Mr. Mehra testified in response to the transportation study prepared by Gorove Slade at BZA Ex. No. 39B, as well as the report filed by District Department of Transportation (“DDOT”) at BZA Ex. No. 45, both finding the Application will have no negative impact on the surrounding street network. Finally, Steve Cochran testified on behalf of the Office of Planning (“OP”).

The following sections respond to the issues raised by the opposition parties, as well as additional information requested by the Board pertaining to 1) Updates to Plans; 2) Outreach to Neighbors; and 3) Transportation Clarification.

III. UPDATES TO ARCHITECTURAL PLANS

A. Reduced Penthouse Structure

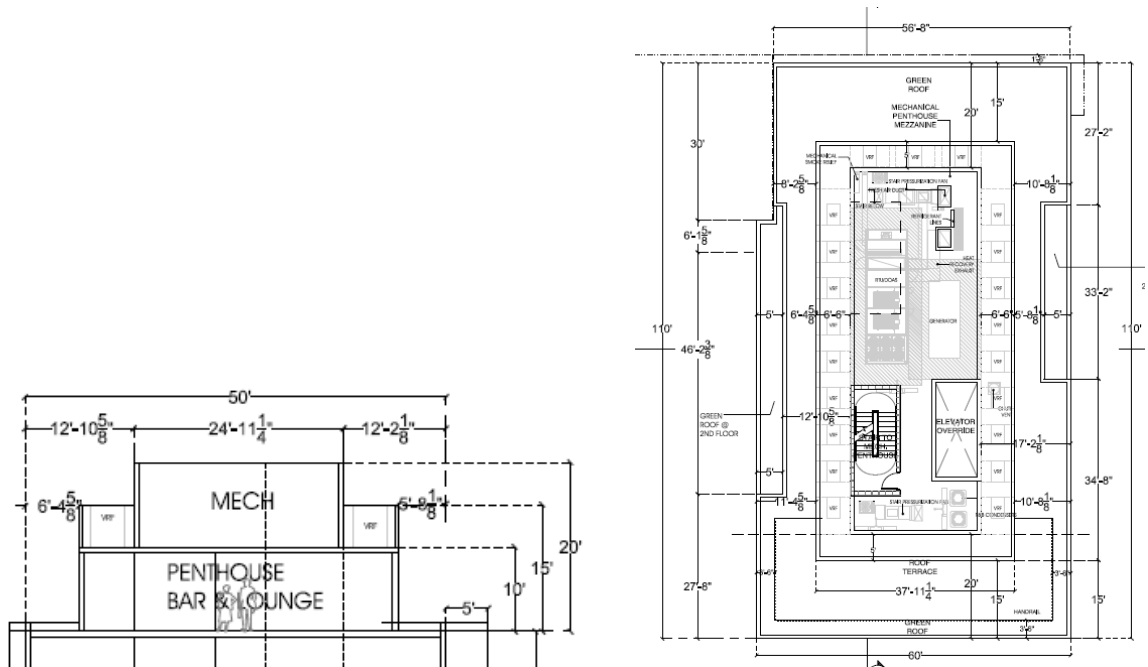
As indicated in their report at BZA Ex. No. 52, OP recommended support of all areas of requested relief except for one special exception from the penthouse side setback provision of Subtitle C § 1502.1. According to that provision, due to the adjacency of two contributing historic structures, the proposed penthouse structure must be setback by a distance of 1:1 from the front, rear, and side walls of the building. It should be noted that if the Property was not adjacent to two buildings identified as contributing to the Mount Vernon Triangle Historic District (“Historic District”), then there would be no side setback required.⁵ *Id.* at § 1502.1(c)(4).

The design presented to the Board at the hearing showed a 20-foot tall penthouse that conformed to the setback requirement on the front and rear of the Property, but which did not meet the 1:1 setback from the sides of the narrow building. See BZA Ex. No. 53. Pursuant to the OP’s testimony at the hearing, as well as the Board’s recommendations, the Applicant has made concerted efforts to work diligently with OP, including Applicant’s architect talking with OP and participating in a meeting at OP on April 26, 2018, to revise the penthouse design.

⁵ According to Subtitle C § 1502.1, there is no penthouse setback required from the side walls of closed courts. However, due to the contributing historic buildings, penthouse setback is required.

As a result of these efforts, the Applicant amended the architectural plans to reduce the size of the proposed penthouse to bring it closer to compliance with the setback requirement. In addition, the Applicant modified the proposed building materials for the penthouse. Now, the proposed structure is redesigned with a stepped, two-story penthouse. See Plans at **Exhibit A**.

The amended first story is 15 feet tall. It houses a 10-foot tall area to house the hotel's penthouse bar, and a 5-foot tall parapet wall to screen the VRF components ("Variable Refrigerant Flow" for the HVAC system). See **Exhibit A**. The first story is set back from the front and rear by 15 feet, and thus complies with the 1:1 setback requirement.



At their narrowest, in the area adjacent to the closed courts, the sides of the 15-foot tall first level are now set back approximately 6'-4" from the structure's north side wall and 5'-8" from the south side wall (both open to the closed court areas below). However, at their furthest point, the first story of the penthouse is now setback approximately 11'-4" from the north side roof and 10'-8" from the south side roof. Notably, as revised, the first-story setback is approximately 10 feet or greater from the northwest, southwest, and southeast corners of the building. Due to the irregular north property line that jogs south, the northeast corner is set back approximately 8 feet.

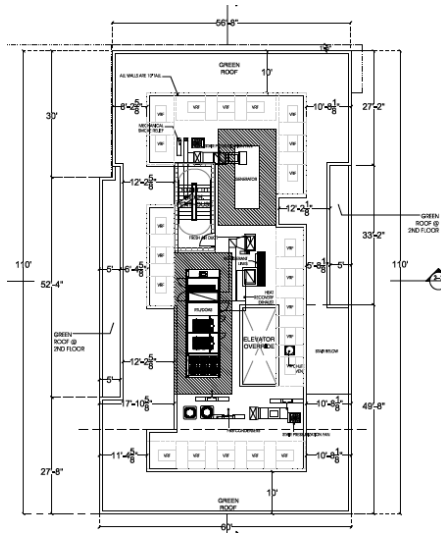
This change greatly reduces the degree of relief requested from the original design, and creates a nearly 1:0.5 setback from the sides (at its narrowest, near the courts), which would be compliant if the building were detached.⁶ Indeed, it should be noted that the Updated Plans exceed the 1:0.5 setback for approximately 58% of the south penthouse side wall, and 35% of the north penthouse side wall.

The penthouse's second story, which houses the majority of the mechanical space and reaches a total height of 20 feet, meets the 20-foot set back requirement from the front and rear of the building walls. It is also set back 6'-6" from the north and south sides of the first level of the penthouse below. See **Exhibit A**. The total setback for the 20-foot tall second level penthouse at its narrowest is approximately 12.9 feet from the north side wall of the Property and about 12.2 feet from the south side wall of the Property. Further, taking into account the 5-foot wide closed courts, the 20-foot tall second level of the penthouse is set back a distance of 17.9 feet from the north Property line and 17.2 feet from the south Property line. Accordingly, excluding the areas around the courts, as designed, the penthouse is setback at approximately a 1:0.9 from the adjacent property lines, nearly satisfying the 1:1 requirement. See **Exhibit A**.

B. Even an All-Mechanical Penthouse Plan Still Requires Zoning Relief

In response to inquiries by the Board and the Office of Planning, the Applicant prepared an illustrative All-Mechanical Plan, attached at **Exhibit G**. It depicts a configuration of a one-story, 10-foot tall penthouse to house and screen the mechanical equipment only. The All-Mechanical Plan has an irregular shape to provide maximum setbacks where possible. As depicted below, this design is "squeezed" and pushes the penthouse footprint toward the front and rear of the Property. However, even with mechanical equipment configured as efficiently as possible, the elevator and stairs overruns direct that the structure **does not** meet the 1:1 setback requirement from the sides of the building wall.

⁶ Indeed, if the Project were constructed only one block away (outside the Historic District), the penthouse side setbacks proposed here would be fully compliant.



Further, the VRF components must have ample circulation space, and cannot be regrouped due to the hydraulic system that feeds into them. With these constraints, the approximate 6'-4" and 5'-8" distances from the side building walls are the maximum possible setbacks for the All Mechanical Penthouse. Therefore, due to the Property's narrowness, even a 10-foot tall one-story mechanical penthouse would not meet the 1:1 side setback, and such a design would still require special exception relief from C § 1502.1.

C. Habitable Penthouse Design is Preferable to All-Mechanical

As outlined in the Applicant's previous filings, both the ANC and the Office of Planning support the proposed habitable penthouse use.⁷ The Updated Plans, including the habitable penthouse design, are highly preferable to the All Mechanical Penthouse for the following reasons. First, the All-Mechanical Plan described above would result in a mechanical penthouse that is only 10 feet from the front and rear of the Property. The noise potentially generated by the mechanical equipment in this location would therefore be closer to the residential buildings behind the Property. In addition, the All-Mechanical Plan results in a penthouse pushed closer to 5th Street, and more visible from that vantage point. Further, the two-story Updated Plans, which is a regular square in shape and would include windows visibly set back from the building wall, is a more pleasing design than an irregularly-shaped, monolithic mechanical penthouse

⁷ The Office of Planning is supportive of the relief for habitable penthouse use, and testimony of Mr. Varga confirms that the relief is consistent with the Comprehensive Plan for the area. The proposed habitable space is not driving the requested relief and should be permitted given the special exception standard has been met for penthouse setback relief as further articulated below.

without fenestration. Moreover, as depicted on the Updated Plans at **Exhibit A**, the first story of the proposed penthouse would total 2,447 square feet of habitable space, plus 643 square feet of mechanical and circulation, for a total of 3,090 square feet. Whereas, the proposed mechanical second story would total 3,035 square feet. Therefore, the proposed square footage for the habitable penthouse is approximately the same as the minimum feasible mechanical penthouse area.⁸

Finally, the Applicant is not able to reduce the size of the penthouse any further than what is shown here without running afoul of the building code, mechanical, and construction requirements for the hotel (explained fully in Section D.3. below). As such, particularly because both plans require penthouse setback relief and cannot provide more than the side setbacks ranging from approximately 5'-8" to 6'-4" as shown, the Updated Plans are preferable for the Project. As such, the following sections address how the habitable penthouse design proposed in the Updated Plans satisfies the side setback special exception standard.

D. Penthouse Plan Meets Special Exception Standard

1. The Relief is Harmonious with the General Purpose and Intent of the Zoning Regulations and Maps

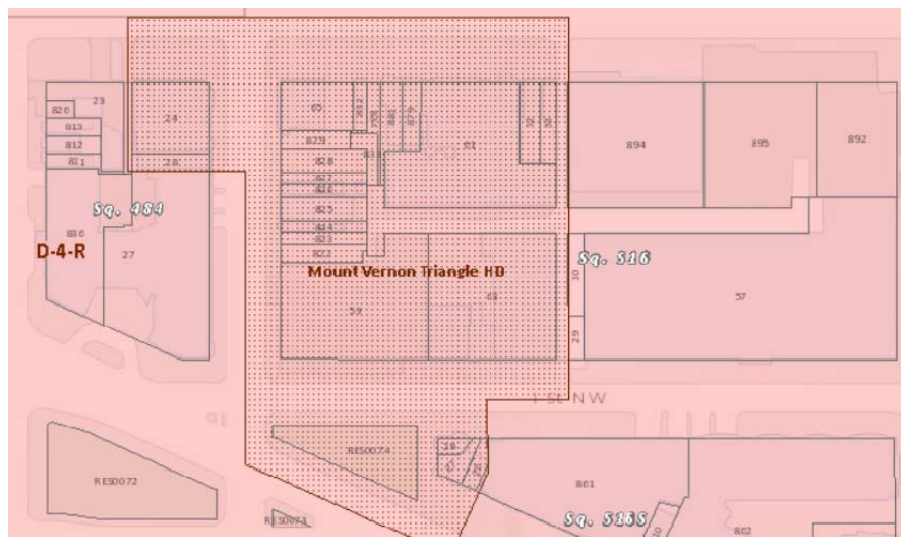
The Applicant has demonstrated in their previous filings and at the hearing that the Project meets the special exception standard for penthouse setback relief. The relief requested is consistent with the stated intent of the Zoning Regulations because in addition to the arguments made previously, the penthouse will meet the 1:1 setback from the front and rear, and nearly 1:0.5 from the sides. Also, as revised, the penthouse side setback relief will not tend to adversely affect the light and air to neighboring properties.

Implementation of the penthouse setback regulations must be assessed in the context of a building's location. This is established because different penthouse setback distances are required for certain street locations. See Subtitle C § 1502.1. Many historic districts cover many streets and have historic structures ranging between 1-4 stories tall adjacent to properties with a matter of right maximum permitted height of 35 to 50 feet. Therefore, when setback relief for a matter of right building in one of these areas is reviewed

⁸ The necessary square footage dedicated to mechanical equipment shown in the Updated Plans is consistent with the approximately 3,127 square footage of mechanical space shown in the All-Mechanical Plan.

in relation to existing contributing buildings, penthouse setback relief would be more critical due to the fact that a new matter of right building would not be much taller than the adjacent historical building. Under these typical conditions, the line of site from the street would potentially make a penthouse appear more like an additional story and be closer physically to the abutting conforming buildings. Consequently, the setback requirements are more restrictive in those locations.

In contrast, the Mount Vernon Triangle Historic District consists of a portion of the blocks surrounding two consecutive intersections and is exceptionally small as shown below.



Importantly, within this microcosm, 1-3 story contributing buildings remain, but the zone permits 11-story (or taller) development as a matter-of-right on non-contributing sites and behind existing historic buildings. Given that substantial height difference (often 50-60 feet) between existing contributing buildings and proposed matter of right development, a penthouse (even if it complies with required side setback) will almost always be visible. But, the Updated Plans, now with the additional setbacks, will not present as an additional story.⁹

For example, OP recommended approval of special exception relief for the 1:1 penthouse side setback requirement in the BZA application for Square 0516 Lot 0065, which is directly adjacent to north

⁹ Further, a matter-of-right structure of up to 110 feet in height will appear more in keeping with most D zones that allow zero side setback or 1:0.5 setback.

of the Property. See BZA Case No. 19215, Ex. No. 36. The OP report states, “the purpose of the setback from contributing structures is to support general policies of maintaining views of historic structures without looming adjacent structures.” But, OP reasoned, given the probability of a much larger, adjacent, by-right development (the current proposed Project), the Office of Planning found that, due to that site’s location, “it does not appear the intent or the purpose of these setback regulations will be materially impaired.” *Id.*

Accordingly, given the unique factors within the Mount Vernon Triangle Historic District, relief from the penthouse side setback requirement in this case is harmonious with the general purpose and intent of the Zoning Regulations because of the unique situation of the Property.

2. The Relief Will not Tend to Adversely Affect Use of Neighboring Property

Second, granting the requested penthouse side setback relief will not tend to impact the use of neighboring buildings. As indicated above, the buildings to the north and south, from which the penthouse does not meet the setback requirement, are significantly lower in height than the Property, and therefore will not be impacted by the relief.

To most efficiently demonstrate the Project’s potential impact to the surrounding properties, including 450 K, the Applicant commissioned the Sun Studies, attached at **Exhibit D**. The Sun Studies confirm that neither the matter-of-right penthouse design nor the proposed penthouse create a shadow that impacts any surrounding properties. In fact, the Sun Studies demonstrate that the proposed penthouse would create a shadow that would only fall on the roof of the Project.

Also, the proposed penthouse is comparable in massing and height to the existing penthouses on other large buildings on the square, and its height will not exceed that which is permitted in the zone. Specifically, 450 K will not be impacted by the setback relief because it is constructed to a taller height than the proposed Project. In addition, the proposed penthouse meets the setback requirement at the rear, which is closest to 450 K. Accordingly, the record establishes that the proposed penthouse, as compared to a matter-of-right design, would cause no undue impact to the light and air available to 450 K.

3. The Project Satisfies the Special Conditions for Penthouse Setback Relief

Finally, the requested relief meets the special conditions for penthouse setback relief pursuant to Subtitle C § 1504.1:

(a) The strict application of the requirements of this chapter would result in construction that is unduly restrictive, prohibitively costly, or unreasonable, or is inconsistent with building codes;

The strict application of the side setback requirements would be unduly restrictive on the construction of the penthouse and result in a design that would not meet the Building Codes for fire access, as discussed below. Although the Updated Plans design comes closer to meeting the side setback requirement, this design is only possible because of extensive reworking of the mechanical equipment and circulation layout. Any further reduction would be unreasonable because of the necessary size of the mechanical equipment, and would not allow for standard circulation and function as discussed in section (d) below. A 1:1 setback on both sides would create unduly restrictive impacts necessitating alignment of the access stair and elevator that would be inconsistent with the Building Codes. Further, as discussed above, the All-Mechanical Penthouse cannot meet even the 1:0.5 side setback because of the physical space the mechanical equipment occupies, as well as the required configuration.¹⁰

(b) The relief requested would result in a better design of the roof structure without appearing to be an extension of the building wall;

The Updated Plans design increases the set back on both sides an additional 6'-4" and 5'-8" from the walls of the closed courts, which themselves are 5' from the side lot lines. Accordingly, the penthouse in those areas would be greater than 12' from the lot line. The design has also been reworked with different proposed materials for the penthouse such that it will not appear to be an extension of the building wall. See **Exhibit A**.

(c) The relief requested would result in a roof structure that is visually less intrusive;

Without the requested relief, the penthouse design would not be large enough to house the mechanical equipment, as described above. A design that satisfies the side-setback requirements would create a roof structure that is uncharacteristically long and narrow, pushing the mechanical equipment

¹⁰ For example, the VRF components cannot be rotated due to the required space for ventilation and maintenance.

toward the building's front and rear. The resulting penthouse would not meet the front or rear setback requirements, triggering the need for additional relief, and the footprint of the penthouse would be irregular and jagged along the roof of the Property. This would result in a design that would be visually more intrusive, since it would be more visible from 5th Street NW. Instead, the Updated Plans mimic the design of other penthouses on the Square, particularly those on the rooves of the large apartment buildings to the east which are of similar massing to the proposed Project. In addition, the All-Mechanical penthouse discussed above would still require penthouse side setback relief and, as depicted at **Exhibit G**, would be irregularly shaped. Thus, the proposed penthouse is visually less intrusive than a compliant penthouse.

(d) Operating difficulties such as meeting D.C. Construction Code, Title 12 DCMR 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;

Given the narrowness of the lot, the lower floor layouts and the stairwells create a challenge to comply with the penthouse setback requirements. Furthermore, a compliant penthouse would not permit the design to meet the building code pertaining to roof access and stairwell separation. The elevator shaft and both stairwells would be located in the required setback area. Therefore, if the penthouse were to comply with required setback, no elevator access could be provided. Without elevator access, the penthouse would no longer be ADA compliant and the elevator shaft would still remain within the required setback area. Therefore, a penthouse that meets the setback requirements would violate the Construction Code and would result in an impractical design for lower floors.

(e) Every effort has been made for the housing for mechanical equipment, stairway, and elevator penthouses to be in compliance with the required setbacks; and

As described above, the Applicant has made every effort to create compliant mechanical and elevator housing, and many different layouts were considered. However, if the penthouse were required to meet the side setback requirement, and even if the habitable penthouse space were removed, the mechanical equipment necessary for operation of the hotel would not fit in the resulting design with compliant sides setbacks. Therefore, side setback relief would be required even if the proposed penthouse use was solely for screening mechanical equipment, as shown in **Exhibit G**.

(f) 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.

The penthouse regulations are intended, in part, to minimize the visibility from the street and to control impact to the light and air of adjacent buildings. As outlined above, the Sun Studies show that the side setback relief will not tend to unduly affect the light and air available to adjacent buildings.

IV. APPLICANT'S OUTREACH TO NEIGHBORS

In addition to the extensive community outreach detailed in the Applicant's Prehearing Statement, See BZA Ex. No. 39, the Applicant has continued to work with both parties in opposition to the case since the BZA hearing.

First, the Applicant did not learn of Mr. Stephenson's questions until the BZA hearing on April 4, 2018, because no details were provided in Mr. Stephenson's party status request filed in the record.¹¹ Promptly after the hearing, the Applicant commenced communications with Mr. Stephenson. As conveyed to the Applicant and stated on the record, the main issues of interest to Mr. Stephenson were potential damage to his property, 460-462 K Street NW, during construction as well as his maintained access to the alley. In response to these concerns, the Applicant is in the process of finalizing an agreement with Mr. Stephenson to ensure that Mr. Stephenson's concerns regarding loading and damage to his property were addressed.

Second, at the hearing on April 4th, Mr. McDermot, the agent for 450 K, and Mr. Mehra, 450 K's transportation engineer, testified as to their reasons for requesting party status and concerns about the proposed Project. The transportation issues raised by Mr. Mehra are addressed separately in a memorandum by Gorove Slade Associates (the "Response Memorandum"), detailed in Section VI.B., below, attached hereto as **Exhibit C**. Mr. McDermot testified to his concerns pertaining to the Project's potential impact on 450 K, addressed as follows.

The Applicant had been in contact with another agent of 450 K, Mr. Lester Schwalb (who also attended and testified briefly at the hearing), since February, 2018. Communications with Mr. Schwalb

¹¹ The Applicant notes that Mr. Stephenson filed an updated party status request at BZA Exhibit No. 67-67A.

centered on the Project's requested rear yard setback relief,¹² which he claimed would impact the light and air available to the western-facing at-risk windows at the rear of 450 K, as well as impact on the existing courtyard at 450 K. The Sun Studies at **Exhibit E** clearly demonstrate that the 450 K building itself causes its own courtyard to be nearly completely shaded in both summer and winter. Further, there is little if any discernable difference between the shadow created by a matter-of-right development (110 feet in height, 20-foot rear yard setback at a 25-foot high plane from the rear lot line) and the proposed Project (109 feet tall, 1.5-foot rear yard). Consequently, the Applicant has demonstrated through the Sun Studies that neither 450 K's at-risk windows nor its courtyard will be unduly impacted by the requested relief.

Although the Applicant has worked with 450 K's agents to address their concerns through numerous phone conversations and via email, unfortunately 450 K has not withdrawn their request for party status in opposition to the Project.

V. TRANSPORTATION

Based on the testimony of Mr. Mehra and the Board's questions regarding the transportation study and proposed loading management plan for the Project, the Applicant provides the following additional information.

A. Updated Loading Diagram

Gorove Slade prepared a revised AutoTurn Analysis Diagram portraying a 30-foot truck entering and exiting the alley from both K and Eye Streets for the purposes of accessing the proposed loading dock. See Turn Diagram at **Exhibit B**. This diagram confirms that the proposed loading design is feasible and will meet the requirements of the hotel without negatively impacting the existing use of the alley.

B. Response to MCV Memorandum

The Response Memorandum prepared by Gorove Slade Associates is attached at **Exhibit C**. The Response Memorandum details the methods used to prepare the data contained in Gorove Slade's initial

¹² As stated in the OP Report at BZA Ex. No. 52, rear yard relief is properly being processed as a special exception from C § 205.1 pursuant to I § 205.5. As noted in the OP Report, the Zoning Administrator determined in a meeting with the Applicant and the Office of Planning that the special exception is appropriate, and, accordingly, the 40-foot distance requirement of Subtitle I § 205.5(a) is not required because the hotel use is not "residential" in nature.

Report.¹³ Further, the Response Memorandum confirms that the Comprehensive Transportation Report (“CTR”) was prepared in accordance with DDOT guidelines.

Based on Gorove Slade’s coordination with DDOT, they completed a CTR without a Traffic Impact Analysis (“TIA”) component consistent with the DDOT Design and Engineering Manual. An analysis of traffic capacity impacts was not required because the requested relief for one loading berth did not warrant the need to perform a capacity analysis because the proposed density on-site, which is what drives traffic demand, would not be impacted by the requested relief.

Additionally, the MCV memorandum overstates the anticipated number of vehicular trips because all of the DDOT-surveyed hotels have on-site parking, as opposed to the proposed hotel, which does not. Additionally, the proposed hotel is located in the Downtown District, where the parking requirement is zero spaces because of the convenient transit and transportation amenities in the neighborhood. In conclusion, the transportation study and proposed loading management plan demonstrate that the Project meets the requirements imposed by the Zoning Regulations and the DDOT standards, and that Gorove Slade used appropriate data standards in its analysis of a hotel use of this type and size on the Property. The Applicant has requested that DDOT attend the continued hearing to testify that they maintain the findings in their report (BZA Ex. No. 45) any to provide any additional clarification if necessary.

VI. CONCLUSION

For the reasons stated above, in previous filings, and at the BZA hearing, the application meets the standard for special exception and variance relief. Accordingly, the Applicant respectfully requests that the Board grant the requested relief at the continued hearing on May 16, 2018.

Respectfully Submitted,

COZEN O'CONNOR

¹³ As noted during the hearing, there was a typographical error in the initial Report. That error has been corrected and the Applicant is filing the re-issued Report under separate cover into the BZA case record.

A handwritten signature in blue ink, appearing to be 'MMD', written over a horizontal line.

Meridith H. Moldenhauer
Alyssa L. Bigley
1200 19th Street NW
Washington, DC 20036

CERTIFICATE OF SERVICE

I certify that on May 7, 2018, a copy of this Supplemental Statement was served via email as follows:

District of Columbia Office of Planning
c/o Stephen Cochran
1100 4th Street SW, Suite E650
Washington, DC 20024
Stephen.cochran@dc.gov

Advisory Neighborhood Commission 5E
Alex Marriot, SMD 6E05 and Chair
6E05@anc.dc.gov
Anthony Brown, Chair of Zoning Subcommittee
brownanc6e@gmail.com

450 K CAP
c/o Ogden CAP Properties
Stephen Nahley, General Counsel
545 Madison Ave, Suite 500
New York, NY 10023
snahley@ogdencap.com

Aubrey Stephenson
c/o Jeanett P. Henry
8403 Colesville Road, Suite 1100
Silver Spring, MD 20910
Jhenry2085@aol.com

COZEN O'CONNOR



Meridith H. Moldenhauer
Alyssa L. Bigley
1200 19th Street NW
Washington, DC 20036