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October 20, 2021

Via IZIS

Board of Zoning Adjustment for the
District of Columbia
441 4th Street, N.W., Suite 200S
Washington, D.C. 20001

Re: BZA Application No. 20541 – 1899 Penn Property LLC
Prehearing Submission

Dear Chairman Hill and Members of the Board:

On behalf of 1899 Penn Property LLC (“Applicant”), we submit herewith the following supplemental information in support of its request for special exception relief for habitable penthouse space within the White House security zone. The property is located at 1899 Pennsylvania Avenue, N.W., Washington, D.C. (Square 105, Lot 843).

I. Clarification of Zoning Relief Requested

On October 14, 2021, the Zoning Commission took final action in Zoning Commission Case No. 14-13E, which clarifies that relief from the habitable space provisions for buildings within the White House security area shall be processed as a special exception. Accordingly, the Applicant has updated its self-certification form to reflect special exception relief under the recently adopted provisions, as shown on **Exhibit A**. New section 1501.1(d) provides as follows:

1501.1 A penthouse or rooftop structure may house mechanical equipment or any use permitted within the zone, subject to the following:

* * *

- (d) On any building within an area bounded by I Street, N.W., to the north; Constitution Avenue, N.W., to the south; 19th Street to the west; and 13th Street, N.W., to the east, penthouse habitable space or publicly accessible rooftop deck on the highest roof of the building, shall be permitted only if approved by the Board of Zoning Adjustment as a *special exception* under Subtitle X, Chapter 9, after consultation with the U.S. Secret Service to determine whether security concerns exist.

See Exhibit 23 in Z.C. Case No. 14-13E (Second OP Supplemental Report, October 1, 2021) (emphasis added); see also video recording of Zoning Commission final action in Z.C. Case No. 14-13E at <https://play.champds.com/dczoning/event/274/s/2378> (1:05:50 - 1:06:12).

While the new regulations will not become effective until publication in the *D.C. Register*, the Applicant has confirmed with the Office of Zoning Legal Division that the Board of Zoning Adjustment (“Board”) may hear the case under the newly adopted provisions but may not decide the case until they are effective. This is consistent with past actions of the Board. See, for example, Transcript in BZA Case No. 19124, December 8, 2015, at 104. The Applicant anticipates, however, that the new regulations will be effective by the time the Board hears this case on November 10, 2021.

II. The Applicant Meets the Special Exception Standards

In order for the Board to grant special exception relief, an applicant must demonstrate that the special exception:

- will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;
- will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map; and
- Will meet such special conditions as may be specified in the Zoning Regulations.

11-X DCMR § 901.2; see also D.C. Official Code § 6-641.07(g)(2). As described below, the Applicant meets the standard for special exception relief from the restriction on habitable penthouse space in the White House security zone under adopted Subtitle C § 1501.1(d), as described below.

A. *The special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.*

The penthouse expansion will conform to the requirements of the D-6 zone district with respect to height, bulk, and setback requirements. It will provide accessory space for commercial office uses, as permitted in the D-6 District, without compromising the security interests of the White House area. As noted below, the U.S. Secret Service has no objection to the application. Thus, the proposed habitable penthouse space at the Property will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps “to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity, and recreational, educational, and cultural opportunities,” among other purposes.

D.C. Official Code §6-641.02 (2018 Repl.).

B. *The special exception will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps.*

The proposed special exception will not tend to affect adversely the use of neighboring properties. The area is characterized by similar commercial office buildings, many of which have usable rooftop amenity spaces. The immediate building to the east features an architectural embellishment that screens the Property from the adjacent roof and does not affect adversely the commercial office uses within the structure.

C. *The special exception will meet such special conditions as may be specified by this title [the Zoning Regulations].*

Adopted Subtitle C § 1501.1(d) requires the Applicant to consult with the U.S. Secret Service regarding any security concerns regarding the proposed habitable penthouse space. The Applicant and the Secret Service conducted a site visit on the roof the property on July 8, 2021. As a result of that visit, the Secret Service determined that it had no objection to the proposed habitable penthouse space, as confirmed by the email attached as **Exhibit B** to this submission.

III. Updated Architectural Drawings

The architectural drawings have been updated to reflect modest adjustments to the dimensions of the expanded penthouse, as shown on **Exhibit C** to this submission. The overall height of the expanded penthouse is now 15 feet, three inches, and the area of the penthouse addition is 1,932 square feet.

IV. ANC Support

By unanimous vote on October 13, 2021, Advisory Neighborhood Commission (“ANC”) 2B recommended approval of this habitable penthouse application. The Applicant anticipates the ANC will submit its resolution to the Board in advance of the hearing on November 10, 2021.

Respectfully submitted,

The Brown Law Firm PLLC

By: 
Mary Carolyn Brown

Attachments:

Exhibit A	Updated Form 135 Self-Certification
Exhibit B	U.S. Secret Service “No Objection” Email
Exhibit C	Revised Architectural Drawings
Exhibit D	Outlines of Witness Testimony

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on **October 21, 2021**, a copy of the foregoing letter with attachments was served on the following as indicated:

D.C. Office of Planning – Via Email

Ms. Crystal Myers
crystal.myers@dc.gov

D.C. Department of Transportation – Via Email

Mr. Aaron Zimmerman
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Advisory Neighborhood Commission – Via Email

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By: 
Mary Carolyn Brown