

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

Application of BXP Project 11 LLC

ANC 2C

BZA Case No. _____

STATEMENT OF THE APPLICANT

This application (“**Application**”) is by BXP Project 11 LLC (the “**Applicant**”) for special exception relief from the setback requirements for rooftop structures for a proposed 11-story commercial office building (“**Project**”) at 725 12th Street NW (Square 319, Lot 864) (the “**Property**”). The Applicant proposes a canopy structure (“**Canopy**”) over a portion of the Project’s 5th floor outdoor terrace. To accommodate the shade, privacy, and architectural design needs of the Project and its tenants, the Canopy must extend to the southern edge of the terrace, which abuts an open court. Accordingly, the Applicant requests relief from the setback requirements of Subtitle C § 1504.1(d) to construct the Canopy.

I. NATURE OF RELIEF SOUGHT

The Applicant requests that the Board approve special exception relief pursuant to Subtitle C § 1506.1 of Title 11 of the District of Columbia Municipal Regulations (the “**Zoning Regulations**”).

II. JURISDICTION OF THE BOARD

The Board has jurisdiction to grant the relief requested pursuant to Subtitle X § 900.2 and Subtitle C §§ 1506.1 of the Zoning Regulations.

III. DESCRIPTION OF THE PROPERTY AND SURROUNDING AREA

The Property is currently improved with a 12-story commercial office building. The Property is bounded by G Street to the south and 11th Street to the east. The Property is part of a

single record lot with other properties within Square 319, including a hotel located to the north of the Property and an entrance to the Metro Center Metrorail station located to the west of the Property, which runs along 12th Street. The Property is largely surrounded by commercial office and retail uses. The Property is located in the D-7 Zone District.

IV. THE PROJECT AND THE CANOPY

The Project is an 11-story trophy-class commercial office building with ground-floor retail and office support uses. The Applicant proposes to demolish the above-grade portions of the existing building and construct the Project over the existing parking garage, which contains approximately 354 parking spaces that will be retained. The Project will be constructed to a height of 130 feet and a floor area ratio of approximately 8.17, plus a habitable penthouse. The Project is being constructed to accommodate two primary office tenants. One tenant will lease the lower portions of the Project and the other tenant will lease the upper portions of the Project.

The existing building on the Property is oriented along the eastern edge of the Property, creating a plaza on the western portion of the Property adjacent to the Metro entrance. The Project will generally follow the footprint of the existing building, though a new four-story “jewel box” will be constructed at the northwest portion of the Property, projecting out from the primary office tower. The jewel box, along with ground-floor retail within the Project, will frame and activate the plaza.

The roof of the jewel box also serves as an outdoor roof terrace for the office tenant in the lower portion of the Project. This roof terrace is an important amenity, creating a unique and distinct space for the tenant and its employees. The Project also features upper-story terraces for the office tenant in the upper portion of the Project, as well as roof terraces on the main roof of the

Project that include both an exclusive space for the upper-story tenant and a shared space for all building tenants. Such outdoor spaces have been an important design feature and amenity for new state-of-the-art office towers, particularly in recent years following the pandemic and efforts to bring employees back to the office.¹

To support the 5th floor terrace on the jewel box, the Applicant has designed the Canopy as shown on the Plans attached as Exhibit D. The Canopy, which projects from the building and is supported by posts, is composed of a mix of a solid and louvered roof that will provide users of the terrace with shade, especially from midday and afternoon sun on the west-facing terrace. The Canopy also creates a sense of privacy over the 5th floor terrace, which is important to both the lower-story tenant who uses the outdoor space and the upper-story tenants utilizing the terraces on the floors above.

The form of the Canopy extends from the building over the terrace and then tapers to and ends at the southeast corner of the terrace. The bulk of the Canopy complies with the required 1:1 setback from the edge of the 5th floor terrace, but the tapered end of the Canopy that extends to meet the building facade, which is required to “complete the thought” of the architectural expression, extends into the required setback area, as shown on the Plans. Accordingly, the Applicant requests relief from the rooftop structure setback requirements to allow the construction of the Canopy.

¹ See, e.g., “Businesses Lease Trophy Space to Stoke Return to the Office,” Wall Street Journal, Nov. 2, 2021, available at <https://www.wsj.com/real-estate/commercial/businesses-lease-trophy-space-to-stoke-return-to-the-office-11635854401>.

V. THE APPLICATION SATISFIES THE CRITERIA FOR THE REQUESTED RELIEF

The Applicant requests special exception relief from the requirements of Subtitle C § 1504.1(d) to allow for the construction of a roof structure that is not set back from building walls that border an open court. To obtain the requested relief under Subtitle C § 1506.1:

- (a) The special exception must be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and must not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps;
- (b) The Applicant must demonstrate that reasonable efforts were made for the housing for mechanical equipment, stairway, and elevator penthouses to be in compliance with the required setback; and
- (c) The Applicant must demonstrate at least one of the following:
 - (1) 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;
 - (2) the relief requested would result in a better design of the penthouse or rooftop structure without appearing to be an extension of the building wall;
 - (3) the relief requested would result in a penthouse or rooftop structure that is visually less intrusive; or
 - (4) operating difficulties such as meeting D.C. Construction 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.

Here, the Applicant meets the burden of proof because the strict application of the setback requirement creates an unreasonable burden on the Applicant's efforts to construct a roof structure on a lower-story terrace that harmonizes with the architectural expression of the Project and provides its tenants with shade and privacy.

A. The Requested Relief is in Harmony with the General Purpose and Intent of the Zoning Regulations and Zoning Maps

The general purpose and intent of the Zoning Regulations and Zoning Maps is to promote the public health, safety, morals, convenience, order, prosperity, and general welfare. Subtitle A § 101.1. The relevant sections of the Zoning Regulations provide guidelines by which the Board may evaluate whether a special exception should be granted.

The requested relief to allow a small portion of the Canopy to project into the setback area is consistent with the purpose and intent of the Zoning Regulations for the following reasons.

1. The Canopy is on a Lower-Story Roof Terrace, Where Enclosed Space Could be Constructed without any Setback Requirement.

As a general rule, the roof structure limitations of Subtitle C, Chapter 15 were designed to limit roof structures “in excess of the building height authorized by the zone district” and were not devised with lower-story roof structures in mind. Subtitle C § 1500.1. The setback requirements, however, have been interpreted to apply to all building roofs, resulting in the application of the setback requirements even on lower-story roof terraces. This leads to an incongruous limitation on such lower-story roof structures, since fully-enclosed building area can be constructed in the same space with no setback requirement.

Therefore, allowing relief from the setback requirements for the Canopy is consistent with the intent of the Regulations, which is focused on the “main” roof of buildings. Here, the Project is well below the matter-of-right density limitations for the D-7 Zone, and so the Applicant could build a fully-enclosed, occupiable extension of the 5th floor within the same space as the Canopy with no setback requirement, even though the open-air Canopy has less visual impact. This reading of the setback requirements is supported by Subtitle C § 1504.2(g), which exempts guardrails on decks located below the highest roof of a building from the setback requirements and thus encourages the outdoor use of the full extent of lower-story roof terraces.

2. The Canopy is, In Part, an Architectural Embellishment.

The Zoning Regulations generally allow for architectural embellishments as an exception to the setback requirements. Subtitle B § 306.5. When located in height transition areas, such embellishments include pergolas and similar architectural embellishments. Subtitle B § 327 & Table § 329.1. Here, the portion of the Canopy that extends into the setback area is as much an architectural embellishment as it is a roof structure; its form and purpose is to taper the Canopy to meet the building, similar to other horizontal projections on other portions of the Project.² Allowing setback relief for the Canopy is consistent with the intent of the Regulations, which allow for such embellishments, including on “stepped” forms in height transition areas.

B. The Requested Relief Will Not Adversely Affect the Use of Neighboring Property

The relief is minor and will not adversely affect the use of neighboring properties. For one, the use of the 5th floor roof terrace is permitted by right, and the Applicant is simply seeking approval to extend the Canopy over a greater portion of the terrace. For another, the portion of the Canopy that projects into the setback area is located toward the center of the Property, away from surrounding property owners.

C. The Applicant Made Reasonable Efforts for Mechanical Equipment, Stairway, and Elevator Penthouses to be in Compliance with Setback Requirements

Because this application does not involve the mechanical equipment, stairway, and elevator penthouse, Subtitle C § 1506.1(b) is not applicable here.

D. Strict Application of the Setback Requirements of Subtitle C, Chapter 15 Is Unreasonable and Relief from the Requirements Result in A Better Design of the Canopy

² Some of those horizontal projections are located in public space, where the Building Code allows for a 5-foot projection of roof overhangs and cornices. 12-A DCMR § 3202.10.9.

The Applicant requests special exception relief from Subtitle C § 1504.1(d) because strict compliance is unreasonably restrictive and relief results in a better design. Strict application of the setback requirements would require the Applicant to limit the Canopy to a form that would project out from the building at right angles, which is inconsistent with subtle curves that are used for other architectural accents to the building and would take away from the unique low-profile form of the jewelbox. Further, strict application of the requirements would preclude adding a visual cover at the corner that is closest to the upper-story terraces, which is the point at which there is the greatest need for a visual buffer for privacy reasons. The proposed relief allows for the Canopy to taper itself down towards the building wall, which is a better architectural expression. Note that the tapering means that the Canopy does not extend fully into the area that is allowed under the setback regulations; in fact, the area of the Canopy within the setback area (approximately 72 sq. ft.) is smaller than the unused area within the setback allowance (approximately 81 sq. ft.). Finally, since the Canopy is largely a horizontal element and its columns are located entirely behind the setback line, the proposed relief does not appear to be an extension of the building wall.

VI. COMMUNITY OUTREACH

The Applicant expects to reach out to representatives of Advisory Neighborhood Commission 2C (“ANC 2C”) regarding the relief contemporaneously with the filing of this Application. (The Applicant previously appeared before ANC 2C regarding public space design elements of the Project.) The Applicant will also continue to communicate with the Project’s neighbors. The Applicant will provide an update on these efforts prior to the public hearing.

VII. CONCLUSION

For the reasons set forth above, the Applicant respectfully requests that the Board approve special exception relief for the Canopy from the open court setback requirements pursuant to Subtitle C § 1506.1.

Respectfully submitted,

____/s/_____
David Avitabile

____/s/_____
Lee Templin

Date: September 15, 2025