

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

**1401 New York Avenue, NW  
Square 222, Lot 24**

**Preliminary Statement of Compliance with Burden of Proof**

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This statement is submitted by BIG 1401 NY OWNER LLC (the “**Applicant**”), the owner of property located at 1401 New York Avenue, NW (Square 222, Lot 24) (the “**Property**”), in support of its application for special exception relief pursuant to Subtitle X § 901.2 and Subtitle C § 1501.1(e) of the Zoning Regulations of the District of Columbia (Title 11 of the District of Columbia Municipal Regulations (“DCMR”)) (the “Zoning Regulations”) to permit the renovation and expansion of existing habitable penthouse at the Property in the area near the White House.

Pursuant to Subtitle Y § 300.15, the Applicant will file its Prehearing Statement with the Board of Zoning Adjustment (the “**BZA**” or “**Board**”) no fewer than 30 days prior to the public hearing for the application. In this statement and at the public hearing, the Applicant will provide testimony and evidence to satisfy its burden of proof to obtain the Board’s approval of the requested relief. The following is a preliminary statement demonstrating how the Applicant meets the burden of proof.

**I. BACKGROUND**

**A. The Property and Surrounding Area**

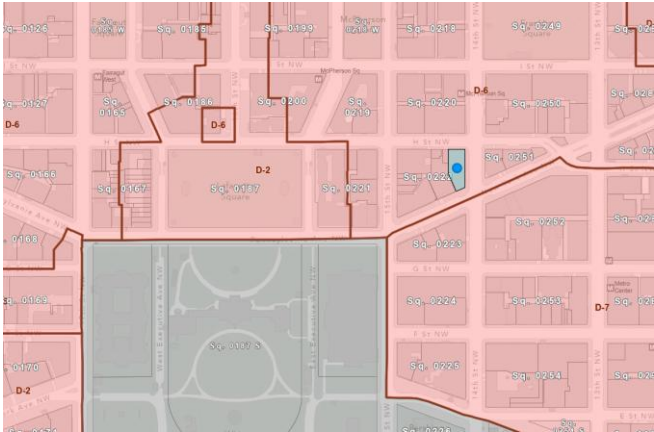
The Property is an irregularly-shaped corner lot located at 1401 New York Avenue, NW (Square 222, Lot 24). The Property has approximately 18,443 square feet of land area and is bounded by H Street, NW to the north, 14th Street, NW to the east, New York Avenue, NW to the south, and private property to the west. The Property is located in the D-6 zone; it is not located within a downtown sub-area and is not located along a downtown designated street segment. *See* 11-I DCMR § 606.4 and Figures I §§ 601(a), 601(b), 603.1, and 606. The Property is not a designated historic structure and is not located within an historic district.

The Property is presently improved with an existing 12 story office building with ground floor retail and four levels of below-grade parking, constructed circa 1982 (the “Existing Building”). A copy of the existing Certificate of Occupancy for the overall building, dated December 7, 2022, is attached hereto. The Existing Building was renovated in 2015 to replace the building façade on its three exposed street frontages, enclose the ground floor arcade, renovate the building lobby, create new fitness and conference areas, upgrade mechanical systems, and install new elevator cab interiors. The Existing Building has a total gross floor area (“GFA”) of approximately 188,860 square feet and a maximum building height of 130 feet.

The Existing Building includes a penthouse with interior space that is limited to an elevator lobby, vestibule, restrooms, and mechanical space. The roof also has an exterior roof deck and exterior uncovered mechanical equipment. The existing penthouse has a height of approximately

18.25 feet and is setback from the north, south, and east building walls. The penthouse is not setback from the west building wall, and such setback is not required.

The Property is in a mixed-use, high density, and transit-rich downtown area. The Property is located to the northeast of the White House, approximately two blocks from Lafayette Square. It is surrounded by similar 130-foot tall buildings also in the D-6 zone, including the abutting building located directly to the west. The overall area includes office buildings, federal government buildings, residential apartments, and hotels, as well as a variety of ground floor retail establishments that serve the residents, employees, and visitors to the area.



The Property is well served by public transportation, with the McPherson Square Metrorail station located one block to the north, the Metro Center Metrorail station located three blocks to the southeast, and multiple Metrobus lines running near the Property.

**B. Proposed Penthouse Renovations and Expansion**

As shown on the architectural drawings attached hereto (the “Plans”) the Applicant proposes interior renovations to the existing penthouse and an expansion of the penthouse footprint to the south and southwest. The expansion would add approximately 2,700 square feet of new interior penthouse floor area, which would be devoted to a tenant lounge and multi-purpose room. Additional rooftop improvements, including a bar, lounge space, and an upgraded rooftop terrace would be provided to enhance the rooftop experience for office tenants.

The proposed renovations will meet all penthouse height, setback, and massing requirements of Subtitle C, Chapter 15 of the Zoning Regulations. However, because the Property is located within the boundary specified in Subtitle C § 1501.1(e), expansion of the penthouse habitable space is permitted only if approved by the BZA as a special exception and after consultation with the U.S. Secret Service (“USSS”).

Pursuant to Subtitle C §§ 1507.6 through 1507.10, construction of the proposed penthouse habitable space will trigger a requirement to contribute funds to the Housing Production Trust Fund (“HPTF”). The Applicant will comply with all applicable HPTF contribution requirements, with the exact contribution amount to be calculated at the time of submission of the building permit application.

**II. SPECIAL EXCEPTION RELIEF REQUESTED**

The Applicant requests special exception relief to allow a habitable penthouse within the area near the White House pursuant to Subtitle C § 1501.1(e). Penthouse habitable space is permitted in the area bounded by I Street, NW to the north, Constitution Avenue, NW to the south, 19th Street, NW to the west, and 13th Street, NW to the east, only if approved by the BZA as a

special exception under Subtitle X, Chapter 9, and after consultation with the USSS due to the proximity to the White House. The Property is located within this security area and therefore the Applicant requests special exception relief to provide the expanded penthouse habitable space. The Applicant meets the legal standards of review, as described below.

1. Special Exception Standard of Review

Pursuant to D.C. Code § 6-641.07(g)(2) and Subtitle X § 901.2, the Board is authorized to grant a special exception where it finds the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property, subject in each case to the special conditions specified. Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the requested relief are met. In reviewing an application for special exception relief, “[t]he Board’s discretion... is limited to a determination of whether the exception sought meets the requirements of the regulation.” *First Baptist Church of Washington v. District of Columbia Bd. of Zoning Adjustment*, 423 A.2d 695, 706 (D.C. 1981) (quoting *Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

2. Compliance with Special Exception Standard of Review

The proposed penthouse renovation and expansion will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The purposes of the Zoning Regulations are set forth in D.C. Code § 6-641.02 as follows:

Zoning maps and regulations, and amendments thereto, shall not be inconsistent with the comprehensive plan for the national capital, and zoning regulations shall be designed to lessen congestion in the street, to secure safety from fire, panic, and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the undue concentration of population and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein.

The proposed penthouse habitable space is in harmony with these general purposes, as it has been designed to ensure the provision of adequate light and air and create conditions favorable to health, safety, civic activity, and recreational opportunities. The project will meet all penthouse requirements of the D-6 zone with respect to height, bulk, massing, and setbacks. The Existing Building’s current uses will be maintained, while an upgraded amenity space for office tenants

will be provided at the roof level. As noted above, the Applicant will make the required contribution to the HPTF.

The penthouse habitable space is also consistent with the purpose of restricting penthouse habitable space within the secured area around the White House. The purpose of this restriction is to ensure the protection of White House officials, visitors, and other federal staff within the surrounding area. The Applicant met with the USSS at the Property to tour the penthouse and present its proposal for the expansion and use of the penthouse. The USSS subsequently confirmed via email that “[a]fter completing our assessment, the agency has reviewed the final stages of the project and has no objections to the plans as they were presented to agency personnel for the location at 1401 New York Avenue, NW.” A copy of email correspondence between the Applicant and the USSS is attached hereto. The Applicant is committed to ensuring that proper safety considerations are in place and will continue to engage with the USSS as necessary.

In addition, the proposed penthouse will not tend to adversely affect neighboring property. The Property is surrounded on three sides by public streets and on one side by private property that is also improved with a high-density 130-foot tall mixed-use building. The proposed location, height, setbacks, and design of the penthouse minimize its visibility and will not negatively affect the adjacent buildings’ access to light and air. Further, the habitable use of the penthouse space will not negatively impact adjacent properties because of its limited size, limited access, and the fact that penthouse habitable space is now a common feature of office buildings in the downtown core. Thus, habitable activity in the penthouse is appropriate given the character of the area. Accordingly, the proposed penthouse meets the requirements for special exception relief under the Zoning Regulations

### **III. COMMUNITY ENGAGEMENT AND OUTREACH**

The Property is located within the boundaries of Advisory Neighborhood Commission (“ANC”) 2C. Prior to filing the Application, the Applicant presented the proposal to ANC 2C at its regularly scheduled and duly noticed public meeting on April 14, 2026. At that meeting, the ANC voted unanimously to support the proposed penthouse expansion and associated special exception relief.

As described above, the Applicant also met with the USSS to tour the Existing Building and review plans for the proposed penthouse renovations and expansion. Following that meeting, the USSS confirmed to the Applicant via email that it had “no objections to the plans as they were presented to agency personnel.” The Applicant will continue to coordinate with the USSS as appropriate during the processing of this application and permitting with DOB.

### **IV. CONCLUSION**

For all of the reasons set forth above, the Applicant is entitled to the special exception relief requested in this case and respectfully requests that the Board approve the application.