Nebraska Avenue Neighborhood Association
5126 Nebraska Avenue
Washington, DC 20008

December 3, 2001

Carol J. Mitten
Chairperson, Zoning Commission
441 4th St. NW, Room 210 S.
Washington, DC 20001

Re Sua Sponte, #0126

Dear Chair Mitten and Commissioners:

The following is the Nebraska Avenue Neighborhood Association response to the Zoning Commission November 19, 2001 meeting regarding zoning compliance of the building permit for 5111 Connecticut Avenue, NW (Permit No. 435464). On review of the roof structure plans, we find that the plans do not meet all zoning requirements for roof structures as follows:

(A) The newly designed elevator penthouse (the enclosure over the elevator shafts, mechanical equipment, and the area providing access):

(1) includes a short stump over the elevator shaft, said stump being housed under a taller roof. This roof becomes part of the elevator penthouse. This roof, and thus the penthouse, is not setback from exterior walls by a distance at least equal to its height above the roof upon which it is located (§400.7(b)).

(2) The new elevator penthouse design does not meet code requiring a 7 ½ foot height* for the entire elevator penthouse, thus wouldn't work. (*expert testimony)

(B) A second penthouse, the mechanical equipment/stairwell penthouse, which has not been modified, *is not setback from exterior walls*;

(C) The structure connecting (1) the elevator penthouse and (2) the mechanical equipment/ stairwell penthouse to meet the single enclosure requirement (§411.3) is not set back from exterior walls. If the two penthouses are to be considered a single enclosure, their connecting structure must also be setback from exterior walls.

We conclude that the new building plans supplied to the Commission do not bring the building into compliance with zoning regulations (documentation of points A-C attached below). We believe the Commission would set an unfortunate precedence by allowing noncompliant roof structure set backs as a "matter-of-right."

BZA
Case No. 01-26/16716
Exhibit No. 14

ZONING COMMISSION
District of Columbia
CASE NO.01-26
EXHIBIT NO.14

We respectfully request that the Commission support the appeal of the current building permit based on the fact that the approved plans do not fully comply with Zoning Code of the District of Columbia Municipal Regulations.

Yours truly,

Page Chiapella

Page Chiapella,
Pres., Nebraska Ave. Neighborhood Assn.

Martha Thompson

Martha Thompson,
Vice Pres., Nebraska Ave. Neighborhood Assn.

Attachments

Cc: Maureen Dwyer
Toye Bello
William Bennett

Nebraska Avenue Neighborhood Association
5126 Nebraska Avenue, N. W.
Washington, D.C. 20008

Certificate of Service

I hereby certify that a copy of the foregoing letter from the Nebraska Avenue Neighborhood Association to the Zoning Commission, dated December 3, 2001 was mailed first class on December 3, 2001 to:

Maureen E. Dwyer, Esq
Shaw Pittman LLP
2300 N Street, NW
Washington, DC 20037-1128

William Bennett, Esq.
Office of the Corporation Counsel
441 4th Street, NW
Washington, DC 20001

Toye Bello
Acting Zoning Administrator
941 North Capital Street, NE, Second Floor
Washington, DC 200

I received official notice of the opportunity to make the above response on November 28, 2001 (by Email, none by mail). That notice presented November 30, 2001 as the due date. However, from my notes taken at the Zoning Commission meeting on November 19, 2001 and from an article in the Northwest Current, I believed the due date was December 3, 2001. I believe I am responding in a timely fashion. I certify that I have not read and am not responding to any submission by any other party submitted to this case on or after November 30, 2001.

Page Chiapella 12/3/01

Page Chiapella Date

ZC #0126

LIST OF ATTACHMENTS: DESCRIPTIONS AND SIGNIFICANCE

ATTACHMENT A

1. Sunrise's revised "Elevator Design Criteria" sketch, dated 19 October, 2001 on which is shown the lack of required setback of the elevator penthouse.

2. Testimony by expert witness architect Chris Fromboluti that the elevator penthouse height required by code is 7.5 feet (transcript from August 3, 2001 BZA hearing). The new plans do not meet this height requirement over part of the elevator shaft.

3. Copy (from DCRA files) of 11-6-00 Plan Correction List prepared by DCRA; copy of 11/14/00 response by architects, Beery, Rio and Assoc. These lists deal with requirements of elevator penthouse plans. The revised plans do not and cannot meet all the stated requirements.

ATTACHMENT B

1. Copy of the original approved plan (from official DCRA files) for utility room and stairwell penthouse–showing no setback of these penthouses from exterior walls of the building.

2. Sunrise's revised "Roof Plan Comparison" sketch, dated October 24, 2001, showing no change in the location of the utility room and (hidden under a roof) stairwell penthouse. There is no setback from exterior walls of the building.

3. Longitudinal section showing stairwell penthouse location

ATTACHMENT C

1. ANC 3G Commissioner testifies as to two penthouses.

2-3. Testimony by (2) Zoning official Toye Bello and (3) expert witness Armando Laurenco that a connecting structure is used to connect the two penthouses (elevator penthouse and stairwell/utility room penthouse) in order to consider the entire roof as a single penthouse.

4. Comment by Commissioner Mitten regarding this structure needing to meet the setback requirements. (Transcript from August 3, 2001 BZA hearing)

Conclusion: The "Elevator Design Criteria" (A-1), Roof Plan (B-1), "Roof Plan Comparison" (B-2) show that the roof penthouse structure(s), whether considered one or two, does not meet the setback requirement. The connecting structure, is not setback and, in many places, extends outside the exterior wall of the building. It does not meet the setback requirement.

ZC #0126

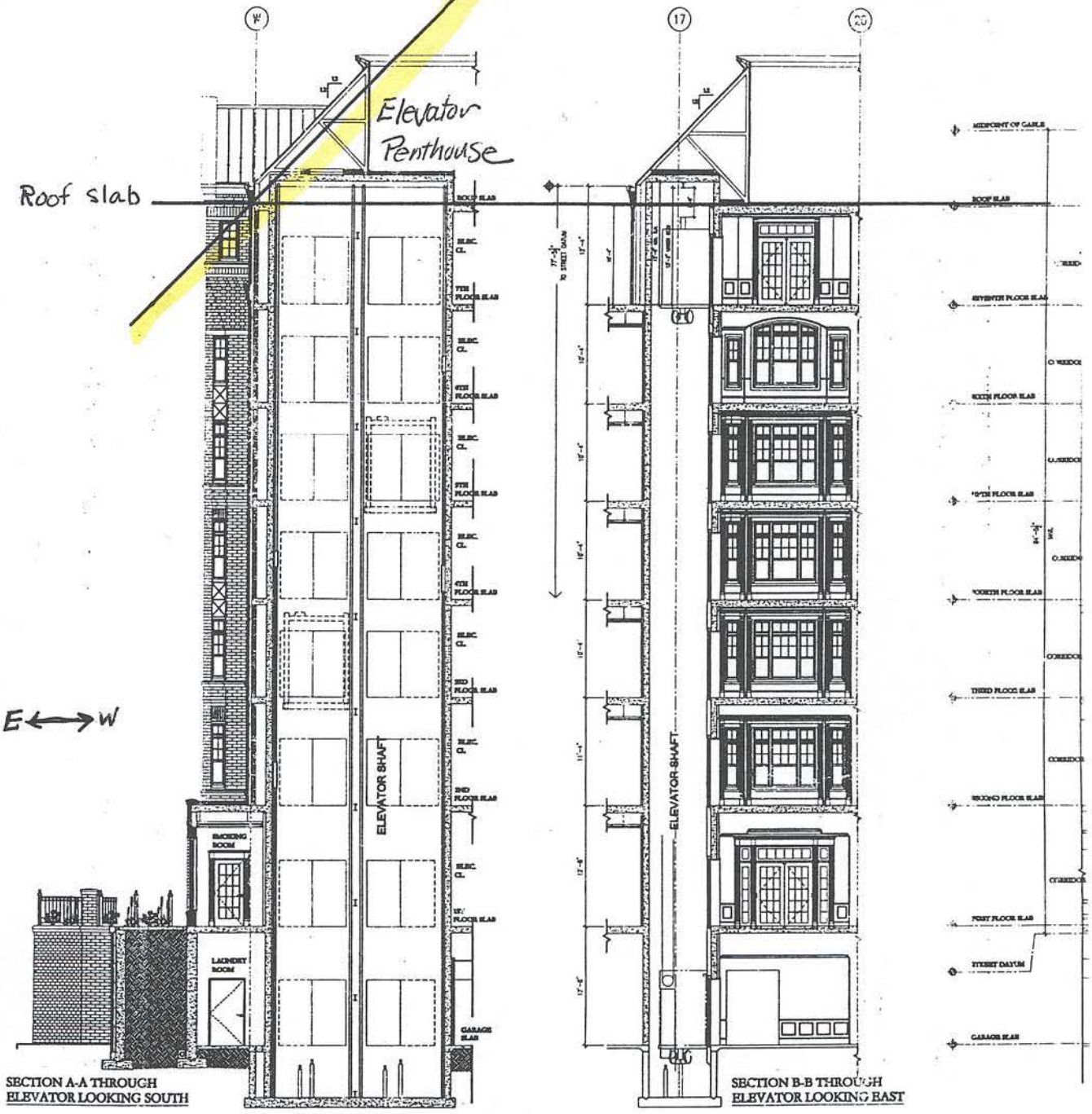
A-1

exterior wall

minimum penthouse setback line

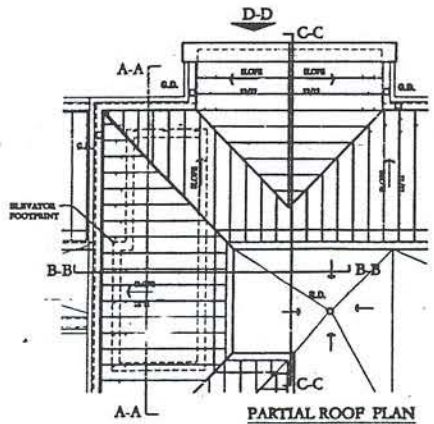
Elevator Penthouse

Roof slab

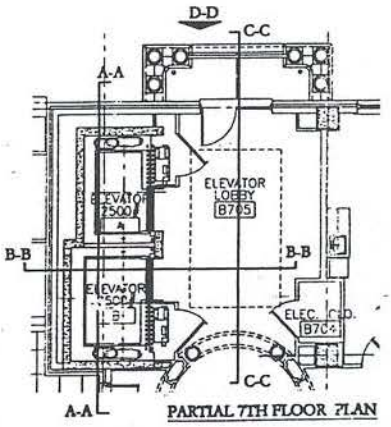


SECTION A-A THROUGH ELEVATOR LOOKING SOUTH

SECTION B-B THROUGH ELEVATOR LOOKING EAST



PARTIAL ROOF PLAN



PARTIAL 7TH FLOOR PLAN

of

A-2

these diagrams before but the overhead is 15 feet 4 inches and then the machine room is another 7 foot 6, so if you add in the two structural slabs and I'm going a minimum of 6 inches each we're up to 23 feet 10 inches. I think this is --

Okay, so here it is, 23 feet 10, it comes up to that orange line here. That's where the roof of the elevator machine room needs to be here.

MEMBER LEVY: With your clearance across the full --

MR. FROMBOLUTI: To get -- right. Now, so, you know, that's where the top of the box is going to be. Now, you can see, you know, to keep the point of that roof -- actually it needs to drop down two feet, that's going to be almost a flat roof. Now, it's doable, it's done all the time but you can't have that big pointed roof.

Now, can I have the back elevation?

MEMBER LEVY: You're basing that on a clearance above the top of the cab and then plus the elevator machines themselves?

MR. FROMBOLUTI: Right, which the elevator machine room has to be seven foot 6 inches by Code but yeah, they can make it work but this thing is going to be a big box. It's not going to have this pointed

A-3

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION
ELEVATOR PLANS REVIEW

PLAN CORRECTION LIST

Job Number	*Address*	*Review Engineer*	*Date*
590 AA	5111 Connecticut Ave. NW	SW	11-6-00

1.	Show hoistway ventilation.
2	Show machine room overhead sheave access.
3	Show machine room door location with fire rating.
4	Show machine equipment (Gov.) etc.
	Show sump / drain in pit with interceptor.
6	Show main line located an lock-side of machine room door jamb

A-3

BEERY RIO &
ASSOCIATES
ARCHITECTS
8001 BRADDOCK ROAD, 4th FLOOR
SPRINGFIELD, VIRGINIA 22151
(p) 703.426.9057 (f) 703.426.9280
www.beery.rio.com

Government of the District of Columbia
Attn: Steve Weaver
Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration
Elevator Plans Review

DATE: 11/14/00

PROJECT NAME: 5111 CONNECTICUT AVENUE, NW

RE: Job Number: 590AA

The following is in response to your code letter dated 11/6/00 for Job Number 590AA.

1. Show hoistway ventilation.

   Response: Hositway ventilation is now shown on elevator section on revised sheet A402.

2. Show machine room overhead sheave access.

   Response: Top of elevator is open to allow access to overhead sheave. Access doors to the governors have been added. See revised sheet A402.

3. Show machine room door location with fire rating.

   Response: Door shown as B label, 90 minute door. See revised sheet A402.

4. Show machine equipment (Gov.) etc.

   Response: See revised equipment plan sheet A402.

5. Show sump/drain in pit with interceptor.

   Response: See revised attached revision showing the drain in the elevator sump connected to the interceptor shown on P-100.

6. Show main line located an lock-side of machine room door jamb.

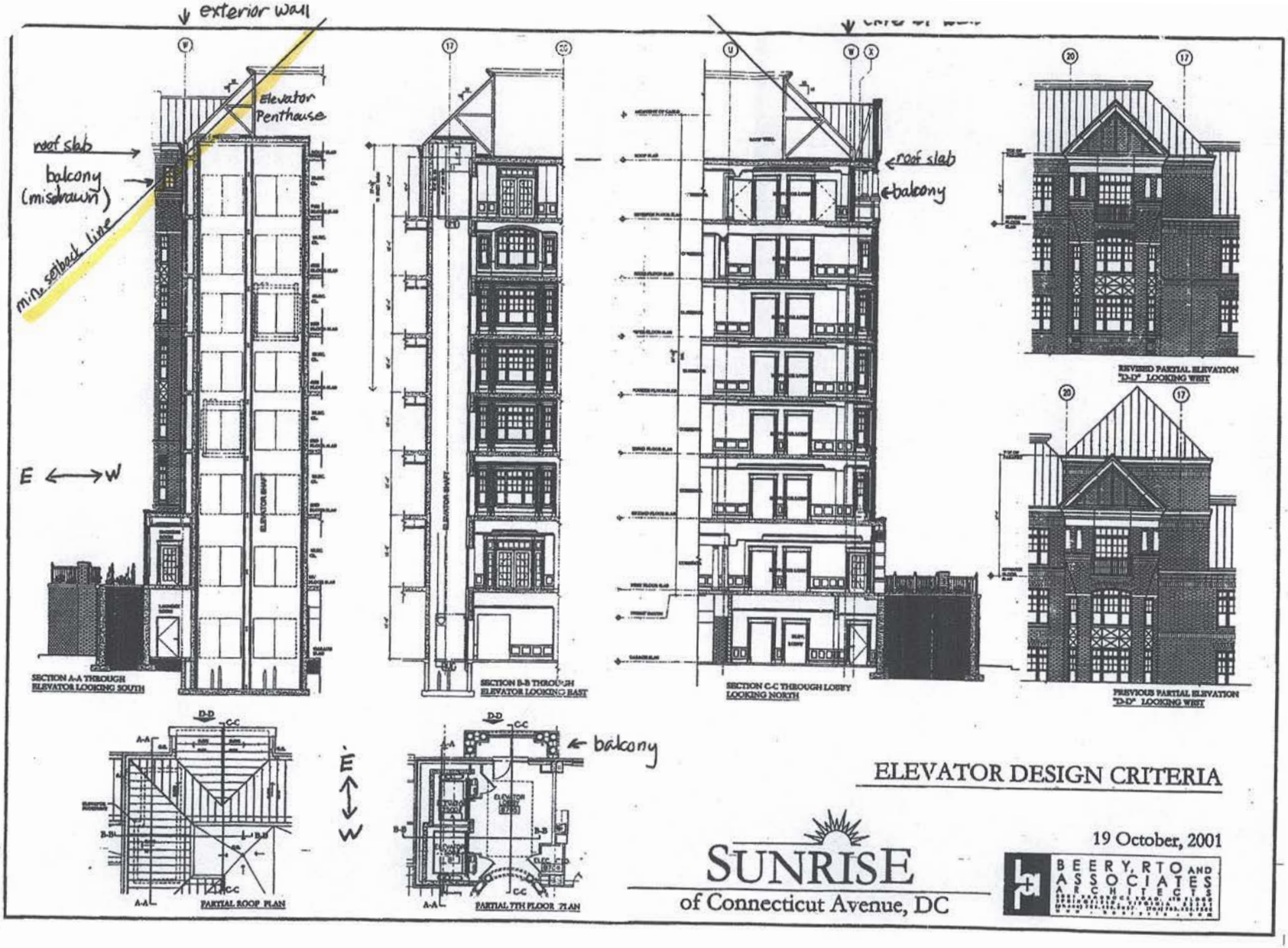
   Response: Mainlines switch now shown on lockside of access door.

Sincerely,

Steven H. Ruiz, AIA
Partner

SR C:\WINDOWS\Temporary Internet Files\OLKFIE\...

A-1

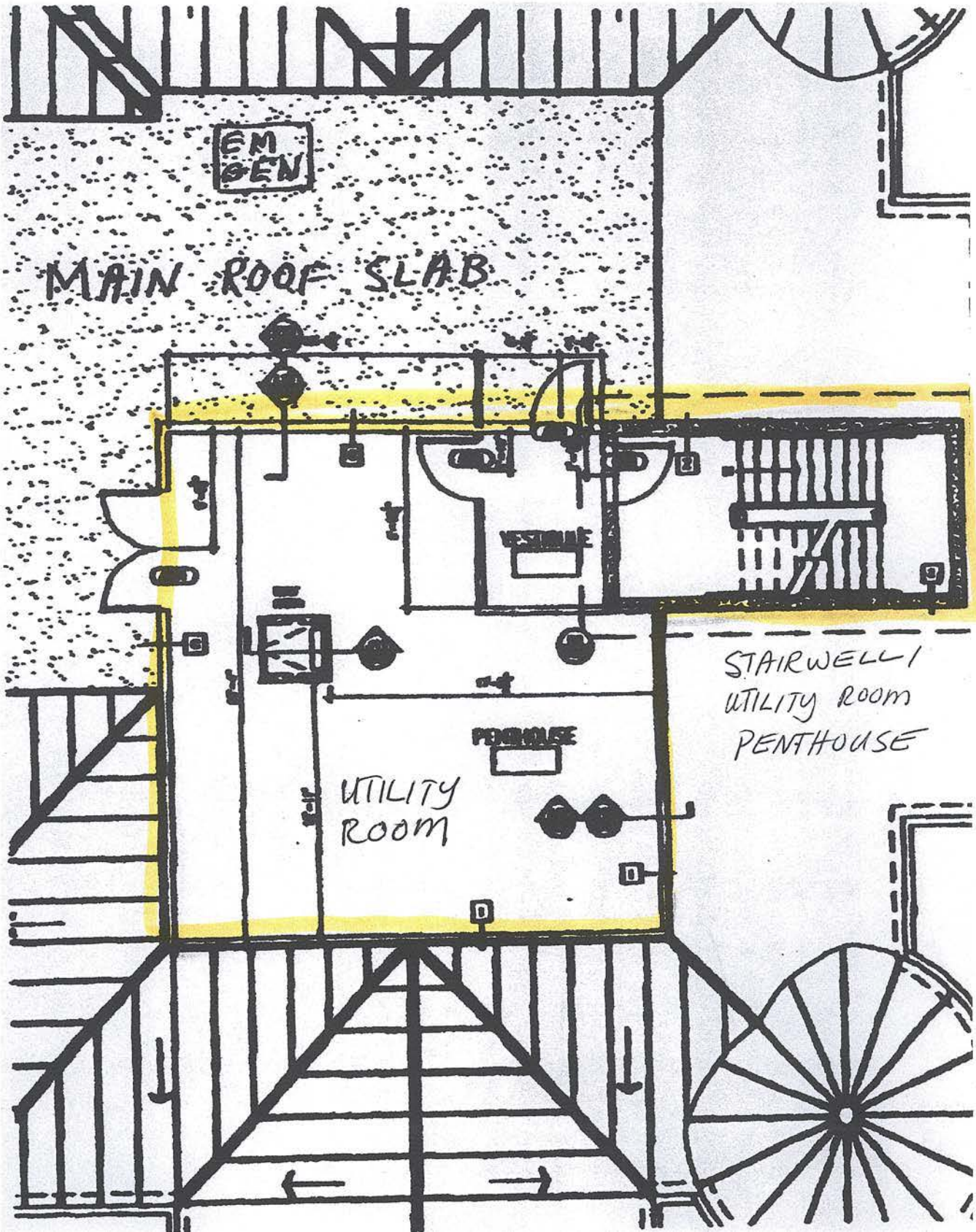


ELEVATOR DESIGN CRITERIA

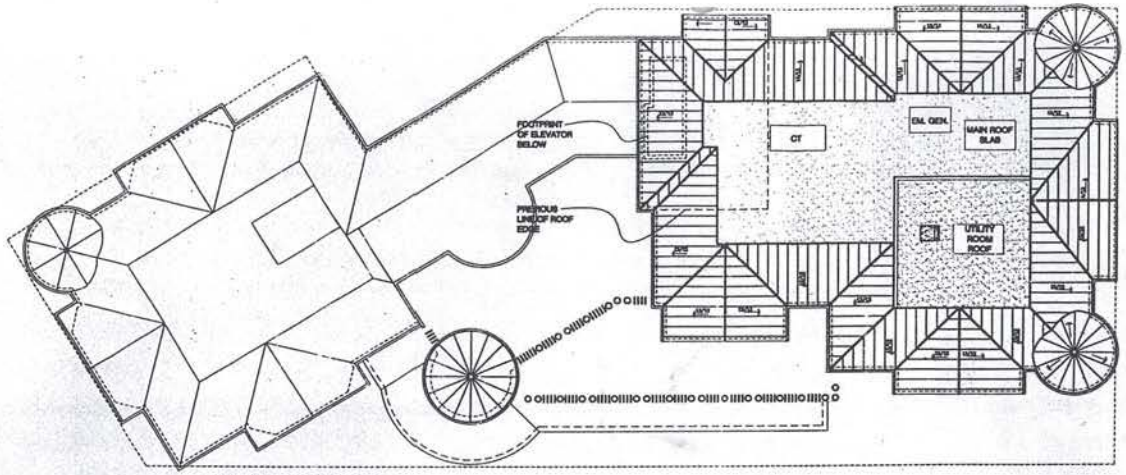
SUNRISE
of Connecticut Avenue, DC

19 October, 2001

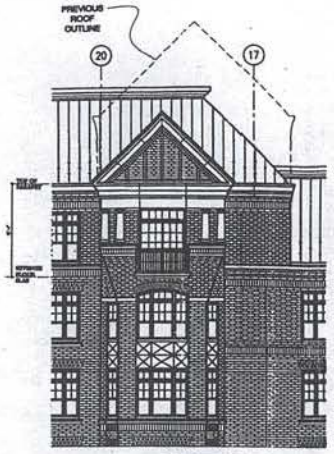
BEERY, RTO AND ASSOCIATES ARCHITECTS


EM GEN
MAIN ROOF SLAB
STAIRWELL / UTILITY ROOM PENTHOUSE
UTILITY ROOM

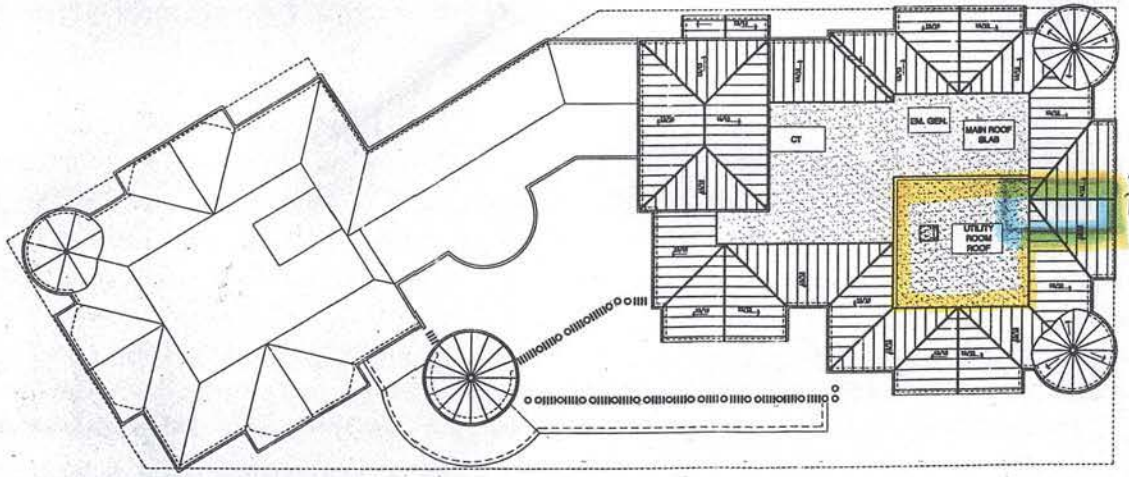
B-2



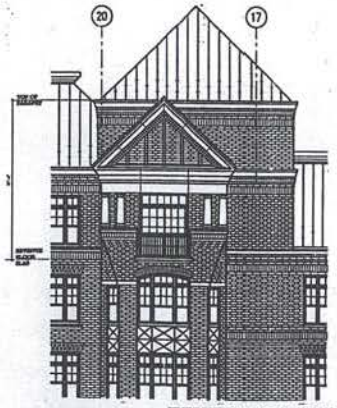
REVISED ROOF PLAN



REVISED PARTIAL ELEVATION
LOOKING WEST



PREVIOUS ROOF PLAN



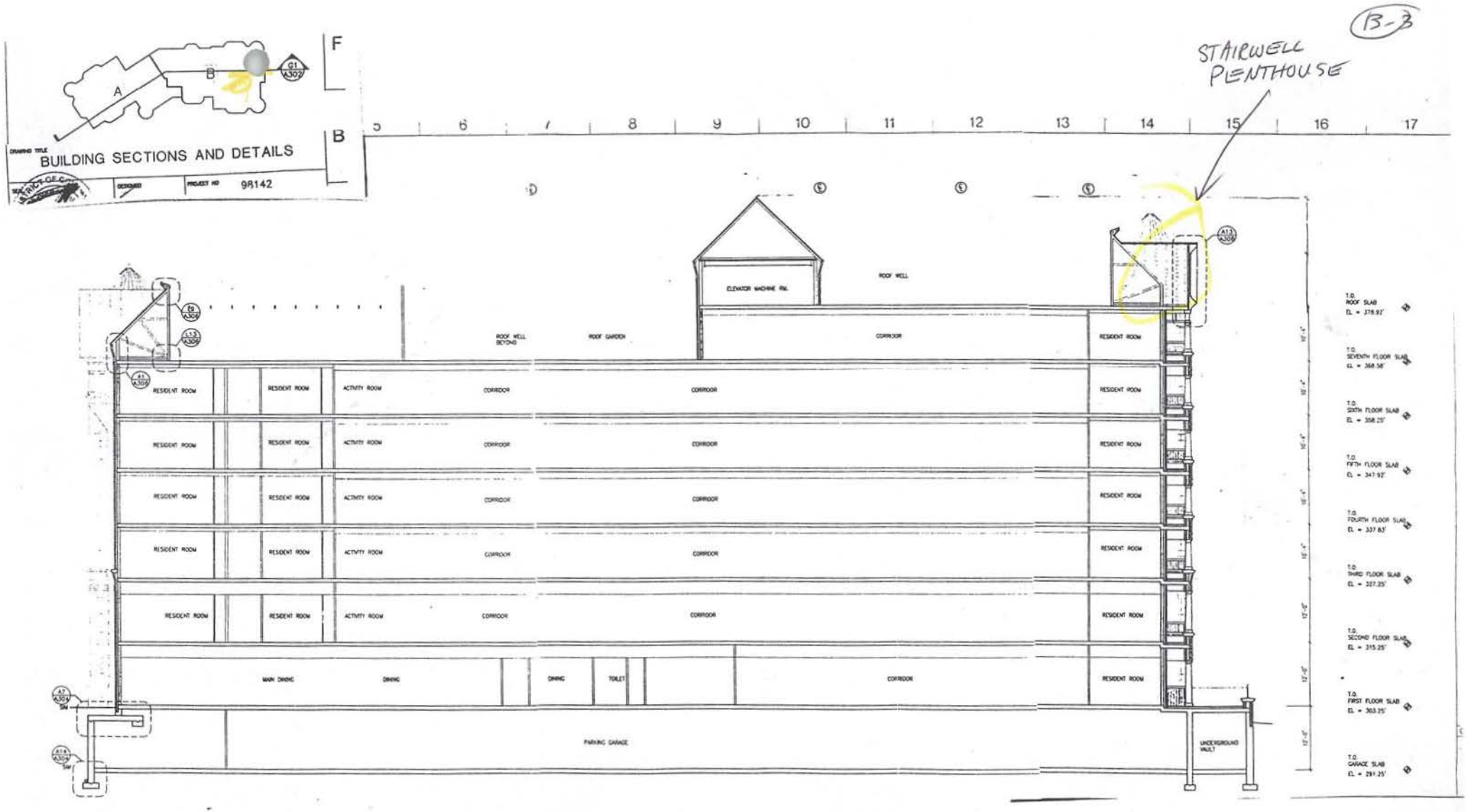
PREVIOUS PARTIAL ELEVATION
LOOKING WEST

ROOF PLAN COMPARISON

SUNRISE
of Connecticut Avenue, DC

24 October, 2001

BEERY, RIO AND ASSOCIATES
ARCHITECTS



B-3
STAIRWELL PENTHOUSE
BUILDING SECTIONS AND DETAILS
98142
ROOF WELL
ELEVATOR MACHINE RM.
ROOF WELL BEYOND
ROOF GARDEN
CORRIDOR
RESIDENT ROOM
ACTIVITY ROOM
MAIN DINING
DINING
TOILET
PARKING GARAGE
UNDERGROUND VAULT
T.O. ROOF SLAB EL = 378.92'
T.O. SEVENTH FLOOR SLAB EL = 368.58'
T.O. SIXTH FLOOR SLAB EL = 358.25'
T.O. FIFTH FLOOR SLAB EL = 347.92'
T.O. FOURTH FLOOR SLAB EL = 337.83'
T.O. THIRD FLOOR SLAB EL = 327.25'
T.O. SECOND FLOOR SLAB EL = 315.25'
T.O. FIRST FLOOR SLAB EL = 303.25'
T.O. GARAGE SLAB EL = 291.25'

didn't count because they thought they'd fit within this .37 increment, are not uses that are in compliance with this section. In order for a penthouse to be able to take advantage of that increment and not be counted -- not be counted as part of the main FAR calculation instead enjoy this additional quantity of FAR, it has to qualify as a penthouse within the meaning of Section 411. For the three reasons I mentioned previously, this doesn't qualify.

It's two structures, two penthouse structures not one. It is not set back. Neither structure is set back from the edge of the building. They have to be set back at least the distance of their height and they're not set back at all. And then third, the elevator machine room, as we've demonstrated earlier, is too high. So for those reasons, the .37 increment does not apply.

Now, the city, when we met with them and pointed this out, did assert that they didn't bother to measure that because of this .37. That obviously, is erroneous. These areas should be counted. We've calculated them and as you can see -- let me pull out my other materials here -- our calculations show for the eighth floor the utility room of an additional 828

C-2

that the applicant had shown us earlier, you know, the applicant has an expert that has helped them to understand about an elevator machine room that is, I think probably located in one corner of the roof and then there's another penthouse on the roof called utility room. How do you view those two structures from the perspective of the definition of penthouse?

MR. BELLOW: The determination for what constitutes a penthouse is the function to which that space is devoted. Clearly the zoning codes indicate that if your enclosure serves no other purpose other than for a elevator or a machine room, mechanical equipment or stairway enclosure, that, in fact, that is a penthouse. So I have no problems with that interpretation.

COMMISSIONER MITTEN: Okay. So if that's true, then what the appellants have said is their view is that there's two penthouses on this structure. Is that your view?

MR. BELLOW: No, ma'am.

COMMISSIONER MITTEN: Okay, then connect those two thoughts for me.

MR. BELLOW: The issue is one of enclosure. And as a practice, where there's a necessity for having more than one enclosure which may

not be contiguous to each other, we have applied the interpretation that a connection between those two structures with a structure which a mansard roof qualifies for would actually reflect one penthouse --

COMMISSIONER MITTEN: So --

MR. BELLOW: -- because of the physical connection.

COMMISSIONER MITTEN: So let me just be clear. The mansard goes around the perimeter of the roof.

MR. BELLOW: That is correct.

COMMISSIONER MITTEN: And even though they are totally different parts of the roof, that because they're connected by this perimeter mansard, that is -- your interpretation is that those constitute one structure.

MR. BELLOW: That is correct. And, in fact, I think that a review of the plans would indicate that a portion of the stairway enclosure is actually hidden under the mansard roof.

COMMISSIONER MITTEN: Okay, the issue about the referral to the Office of Planning, I want to be clear on what you said and then what's required. I believe that what you said when Mr. Bennett was asking you was that the Office of Planning had access

this roof starts sloping back. Even on the architectural embellishment of this corner turret, he went as far as measuring it today, which happens to be just because of alignment of lines on the facade, happens to be also the parapet of this wall here.

So this is where we're measuring out 84-1/2 height of the building. The architectural embellishments around the building include turrets, include these cables, include the mansard looking architectural embellishments, include the continuation of this wall going up and replicating this element at the top of the parapet and then one floor down, the same thing occurs just reducing the scale of the building going to the north. All of this, all of this are architectural embellishments around the building.

Now, as Mr. Bellow stated earlier, of course, you certainly remember the time when because of the way the building was designed you ended up with one penthouse here, one penthouse there and then you had to have this huge wall connecting them with little -- a little covered walk behind just so that when you look at it you can make the determination that this is a single penthouse. So in the process of trying to avoid a proliferation of both structures, you ended up with this huge structure where with a little bit of

C-4

CHAIRPERSON REID: Mr. Bellow, do you understand the question or do you need clarification?

MR. BELLOW: I'm not clear on --

MEMBER LEVY: You know, perhaps I'm not being clear --

MR. BELLOW: -- the question.

MEMBER LEVY: -- and if other Board members, you know, could help me clarify it but it seems to me that a portion of that penthouse or one of the two penthouses, however you label those, is actually flush with the face of the exterior wall of the building and outside of the mansard roof that Mr. Bellow was describing. And that's the portion where it's called elevator machine room.

MR. BELLOW: Which is on top of the seventh floor.

COMMISSIONER MITTEN: Let me maybe rephrase your question as I understand it and then we'll see, you know, where that goes.

MEMBER LEVY: Thank you.

COMMISSIONER MITTEN: As I understand the question is if you're going to characterize the penthouses as a single structure then the setback requirements are not -- they're -- it does not absolve the setback requirements. So then let's focus on the