

**MEMORANDUM**

**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Crystal Myers, Development Review Specialist  
*JL* Joel Lawson, Associate Director Development Review  
**DATE:** October 29, 2021  
**SUBJECT:** BZA Case 20541 – to add habitable penthouse space at 1899 Pennsylvania Ave. NW

**I. BACKGROUND**

The following case is a request for relief from a provision of the regulations which restrict habitable penthouse space on the roof of a building proximate to the White House. Under the current regulations, variance relief from Subtitle C § 1500.3(d) is required; the Board has considered a number of such cases. However, on October 14, 2021, the Zoning Commission took final action on ZC 14-13E, a text amendment to the penthouse and rooftop structure provisions, which includes an amendment to C § 1500.3(d). Based on the Zoning Commission decision at Final Action, this section would be moved to Subtitle C § 1501.1(d) and amended such that this request would require special exception relief, rather than variance relief. Even though the Zoning Commission has approved these changes, they will only go into effect when the amendments are published in the DC Register.

This application was originally filed as a request for variance relief (Exhibit 3) but was amended on October 20, 2021 (Exhibit 28) to request special exception relief, in anticipation of this change. Having consulted with the legal division of the Office of Zoning regarding cases like this, the Office of Planning (OP) has evaluated this case pursuant to the amended application and the recently approved regulations. While this report makes recommendations based on the revised requests and revised penthouse regulations, OP has been advised that the Board cannot take action on the revised application until Order 14-13E has been published. All zoning regulation text numbers noted below are based on the Notice of Proposed Rulemaking for 14-13E; final numbering may change in the Final Order.

**II. OFFICE OF PLANNING RECOMMENDATION**

The Office of Planning (OP) recommends **Approval** of the following Special Exceptions pursuant to Subtitle X § 900:

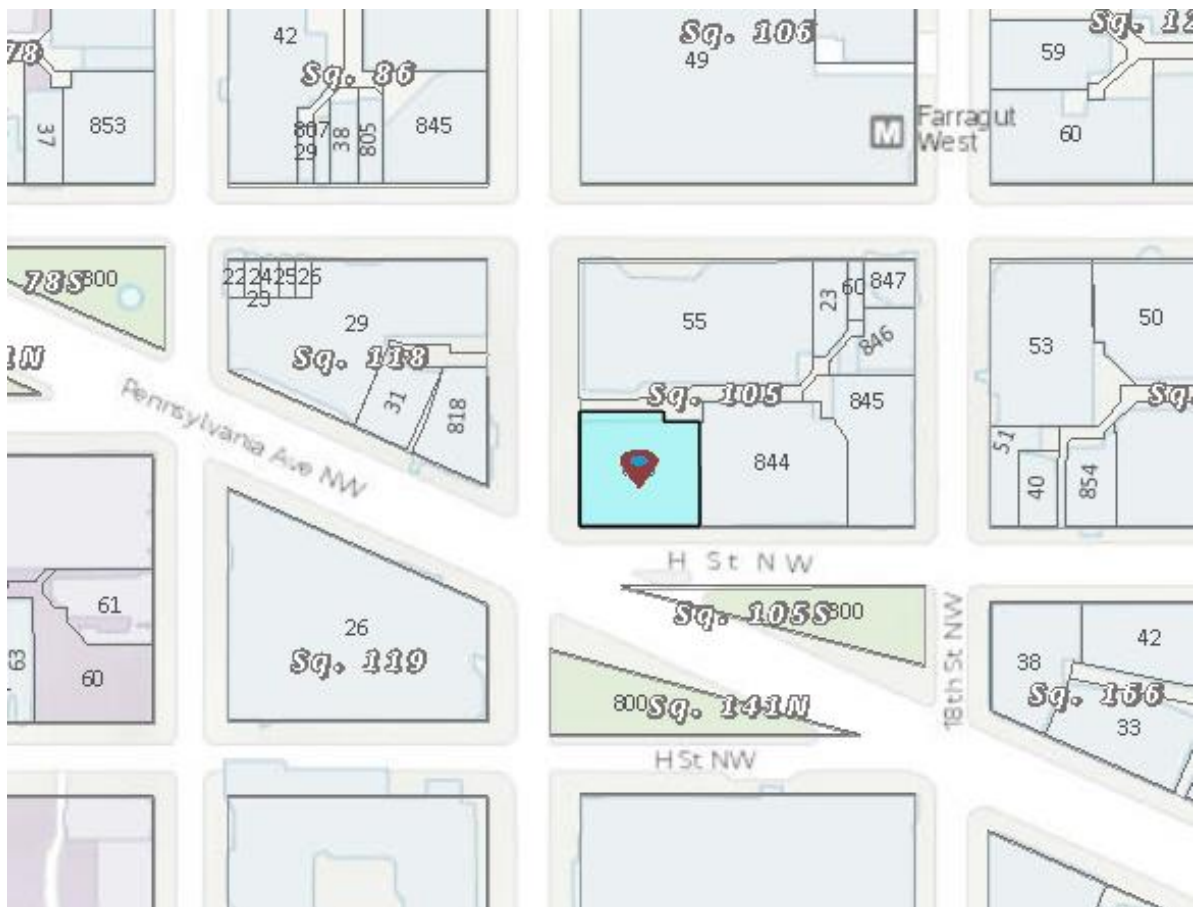
- Subtitle C § 1501.1 (d) (Penthouse habitable space on a building proximate to the White House and requiring US Secret Service review, pursuant to the revised C § 1501.1 and Subtitle X, Chapter 9.

**III. LOCATION AND SITE DESCRIPTION**

Address:	1899 Pennsylvania Ave. NW
Applicant	Carolyn Brown on behalf of 1899 Penn Property LLC

Legal Description:	Square 105 Lot 843
Ward / ANC:	Ward 2 / ANC 2B
Zone:	D-6
Historic District	N/A
Lot Characteristics:	19,806 sq.ft. lot at the corner of 19 <sup>th</sup> St. NW and H St. NW
Existing Development:	Commercial Office Building
Adjacent Properties:	The adjacent buildings to the east, to the north across an alley, and to the west across 19 <sup>th</sup> Street are all commercial office buildings
Surrounding Neighborhood Character:	Predominantly commercial Office Neighborhood
Proposal	The proposal would add habitable penthouse space to the roof of an existing office building.

**Location Map**



#### **IV. OP ANALYSIS**

##### **SPECIAL EXCEPTION FOR HABITABLE SPACE, SUBTITLE C § 1501.1(d)**

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

- (d) On any building within an area bound by I Street, N.W. to the north; Constitution Avenue, N.W. to the south; 19th Street, N.W. 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 US Secret Service to determine whether security concerns exist.*

The intent of the restrictions in Subtitle C § 1501.1 (d) is to ensure habitable penthouses do not compromise security in the White House Security Area. There is an email from US Secret Service (USSS) in the record stating they have no objection to the proposed habitable penthouse space, (Exhibit 28B).

##### **SUBTITLE X § 900 GENERAL SPECIAL EXCEPTION STANDARDS**

*Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;*

The proposed habitable penthouse space would be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. D-6 is a zone that allows for commercial office use development. The proposed habitable penthouse space would support and enhance the commercial office use of the site. The proposed habitable penthouse would comply with the height, bulk, and setback requirements and with the requirement for USSS review requirement.

The project is currently estimated to result in a \$530,000 contribution to the Housing Production Trust Fund, consistent with the zoning regulations.

*Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps;*

The proposed habitable penthouse space should not adversely impact the neighboring properties. It would not be out of character for the area. Many of the neighboring properties, which are also commercial office buildings, have usable amenity space on their rooftops.

The adjacent building to the east should not be significantly impacted because it has an architectural embellishment that screens it from the subject property's roof.

#### **V. COMMENTS OF OTHER DISTRICT AGENCIES**

As of the writing of this report, no other agencies have filed a report into the record.

#### **VI. ANC COMMENTS**

At Exhibit 29 is a memo from ANC 2B indicating support for the application.

#### **VII. COMMUNITY COMMENTS**

As of the writing of this report, no comments from the community have been submitted to the record.