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Board of Zoning Adjustment
Washington, DC Office of Zoning

Re: Special Exception for 906 11th Street, NE

To Whom It May Concern:

Burden of Proof Statement:

The owners of this property, David and Grace Kelly, are applying for the following:

1. A special exception pursuant to C-1500.4 (X-901.2) to permit a penthouse.
2. A special exception pursuant to C-1502.1 (c)(1)(A) and C-1502.1 (c)(5)(X-901.2) to permit a penthouse that does not conform with the side building wall and open court setbacks.
3. A special exception pursuant to C-1502.1 (c)(1)(A)(C-1504.1 and X-901.2) to permit a guardrail that does not conform with the side building wall setbacks.

It is our understanding that for the Special Exception, it must comply with requirements found in Section X901 and C1504.1. It is my understanding that we must address 3 points of a "burden of proof"

1. Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps
2. Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps
3. Will meet such special conditions as may be specified in this title.

Penthouse Related:

A Special Exception for a Penthouse (C1500.4) may be approved provided the penthouse:

1. Is no more than 10 feet in height and contains no more than one story
2. Contains only stair or elevator access to the roof and a maximum of 30 square feet of storage space ancillary to a rooftop deck.

The proposed special exception for a penthouse, and one that does not conform with the side building wall and open court setbacks is consistent with the Zoning Regulations and the map for this area. There are already examples of roof decks and penthouses within the immediate area. Photos have been included of the end rowhouse at this block, number 900 11th Street NE, that show a roof deck on top of a third story addition with a penthouse on the side wall that provides access to the roof with this submission.

The penthouse would not create any adverse effects for the use of the neighboring property with access to air and light. The roof deck and penthouse condition would not be substantially different from the

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current conditions. This would work not affect the traffic or noise associated with this property. In addition, should the penthouse be permitted, the tall and unsightly spiral staircase at the rear would be removed, which would improve the backyard views of all of the neighboring properties along the pedestrian walkway.

The design of the interior staircase from the third floor to the proposed penthouse is proposed to be stacked upon the proposed staircase from the existing second floor to the proposed third floor. The staircase was placed here in order to allow for a wider bedroom at the front of the house. It should be noted that if the staircase was proposed to be stacked on the existing, it would still result in the same condition for both penthouse and penthouse setback relief, though on the opposite side of the house. The location of the penthouse is set back from the front of the house so as to not be visible from the front of the house at the street. While the penthouse may be viewed from oblique views, it would not be substantially different from the existing penthouse view at 900 11th St and is substantially less visually intrusive than the existing metal spiral staircase and catwalk.

It would be impossible for the penthouse to comply with the side yard setbacks within section C1502.1c: Setback a distance equal to its height from the side building wall of the roof upon which it is located. The proposed ceiling height of the penthouse minimum is approximately 7'-2". The minimum ceiling height per IBC is 7'-0". The proposed slope of the third story roof is to be similar in slope to the existing second story roof. With the proposed slope of the third story roof, this makes the penthouse approximately 9'-4". The property and house is 18' wide. It is impossible to provide a side setback equal to the height of the penthouse from both of the side building wall and still provide the minimum 3'-0" clear width required per IBC for a residential staircase due to the width of the existing rowhouse and property.

The proposed penthouse would result in a safer access point to the roof deck for the owners than the current situation. The existing condition is a narrow spiral staircase from grade to a catwalk that connects the staircase to the roof deck. To extend this staircase an additional approximately 8' would be more visually obtrusive than the penthouse proposed, which has been setback from the front wall of the house and main rear line of the house. Though the penthouse is close to the rear wall of the open court, this area is only visible from the directly adjacent backyards and is not substantially different from the existing roof deck/guard rail condition at this area.

C-1500.3 permits a penthouse to house mechanical equipment on a rowhouse. Section C-1500.4 permits to Board of Zoning Adjustment to approve a penthouse as a special exception if the proposed Penthouse is no more than 10' in height and contains no more than 1 story, contains only stair access to the roof, and a maximum of thirty feet of storage space ancillary to a rooftop deck. The proposed penthouse is approximately 9'-4" at maximum height with only one story, with stair access to roof, 29 sf of ancillary space and mechanical space.

Guardrail Related:

Roof decks are allowed within this zone and there is evidence of roof decks, rear decks and balconies within the nearby area. The existing house and property is only 18' wide. A side yard setback equal to a distance of the guardrail height from the side building wall of the roof upon which it is located would result in a roof deck of less than 10' wide. The existing deck is the width of the existing building. Relief of this section does not affect the view from the street, as the roof deck is beyond the sight lines from

the street and the pedestrian walkway. In fact, the proposed roof deck is proposed to be set back from the rear of the house so as to mitigate some of these views from Eye Street.

The proposed roof deck would be no different from the existing side conditions of the roof deck and would have no adverse effect on the neighboring property.

Within the neighborhood, just a few doors down, 900 11th Street NE has both a roof deck and a penthouse for access to the roof. The penthouse wall appears to be on the side setback, similar to what has been proposed for 906. Additionally, 1107 Eye Street NE has both a third floor addition and a roof deck. The roof deck also appears to be on the side yard setback. Photos have been included of these roof decks with this submission.