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June 6, 2014

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Hand Delivery

Board of Zoning Adjustment
441 4th Street, NW
Suite 210S
Washington, DC 20001

Re Request for Extension of Order Nos. 18372 and 18372-A
2321 4th Street, N E (Square 3629, Lot 808)

Dear Members of the Board

This letter is submitted on behalf of 2321 4th Street, LLC and H Street Community Development Corporation (the "Applicant") in order to request a one-year extension of the effectiveness of Board of Zoning Adjustment ("BZA" or "Board") Order No 18372, which became final and effective on July 3, 2012, and BZA Order No 18372-A, which modified the plans approved in the original order, and became final and effective on June 24, 2013. Copies of Order Nos 18372 and 18372-A (the "Orders") are attached hereto as Exhibit A. Pursuant to the Orders, the BZA granted approval of construction of a new residential apartment building with ground floor retail and service uses in the C-3-A District at 2321 4th Street, N E (Square 3629, Lot 808) (the "Site")

Included with these materials is a check made payable to the D C Treasurer in the amount of \$1,081.60, which is 26 percent of the original filing fee, as required by 11 DCMR § 3180.1(f).

This extension is requested pursuant to 11 DCMR § 3130.6, which allows the Board to grant an extension of the time periods set forth in 11 DCMR §3130.1 for good cause shown. As set forth below, there is good cause shown for this one year extension request. Moreover, the Applicant is not proposing to change the Board-approved plans

Compliance with Section 3130.6, et seq.

Pursuant to 11 DCMR § 3130.6, the Board may grant one extension of the time periods in § 3130.1 for good cause shown upon the filing of a written request by the applicant before the expiration of the approval, provided, that the Board determines that the following requirements are met.

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18372-A
EXHIBIT NO. 37

Board of Zoning Adjustment
District of Columbia
CASE NO.18372
EXHIBIT NO.37

- (a) "The extension request is served on all parties to the application by the applicant and all parties are allowed 30 days to respond,"

In this case, a copy of the extension request was served on the Office of Planning and the Advisory Neighborhood Commission 5E, the only party to the application. By the time of the public hearing on the matter, ANC 5E will have had at least 30 days to respond.

- (b) "There is no substantial change in any of the material facts upon which the Board based its original approval of the application that would undermine the Board's justification for approving the original application,"

The Applicant's plans for development of the Site will be unchanged from those approved by the Board in the Orders. There have been no changes to the zone district classification applicable to the Site or to the Comprehensive Plan affecting the Site since the issuance of the Orders.

- (c) "The applicant demonstrates that there is good cause for such extension with substantial evidence of one or more of the following criteria:

(1) An inability to obtain sufficient project financing due to economic and market conditions beyond the applicant's reasonable control,

(2) An inability to secure all required governmental agency approvals by the expiration date of the Board's order because of delays that are beyond the applicant's reasonable control,

(3) The existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control."

As detailed in the affidavit signed by the Applicant, attached hereto as Exhibit B, the Applicant worked diligently over the past two years to secure all required funding and government agency approvals to move forward with development of the Site. The Applicant met with various District agencies and utilities as part of predevelopment activities, and is currently in the process of finalizing construction plans to submit a building permit application to the Department of Consumer and Regulatory Affairs ("DCRA").

Specifically, the Applicant has worked with the District Department of Housing and Community Development ("DHCD") to obtain project financing. By letter dated December 3, 2013, DHCD informed the Applicant that DHCD would reserve funds for the Applicant's proposed development project (see Exhibit A of affidavit). Since receiving the letter, the Applicant quickly moved forward with developing detailed construction plans for the project and is in the process of advancing the plans for filing a building permit with DCRA. Furthermore, the Applicant is in the process of responding to comments from the Institute for Building Technology and Safety ("IBTS"), which the Applicant hired as a third-party plans reviewer. IBTS transmitted its comments to the

Applicant on May 16, 2014, and the Applicant expects to submit a written response to IBTS within the coming weeks (*see Exhibit C* of affidavit)

Moreover, on March 13, 2014, the District of Columbia Housing Finance Agency ("DCHFA") passed a resolution to provide financing for the project in an amount not to exceed \$18,500,000 . This financing is available through an offering of DCHFA's Tax-Exempt and/or Taxable Multifamily Housing Mortgage Revenue Bonds, and can be used by the Applicant for construction costs (*see Exhibit B*) of affidavit)

Finally, on May 30, 2014, the Applicant submitted plans and paid all of the required fees to D C Water for preliminary plan review of the project (*see Exhibit D*) of affidavit)

Thus, the Applicant has taken substantial efforts to move forward with securing financing and permits for the approved Project, and approval of the requested extension will enable the Applicant to continue such efforts

The Zoning Regulations further provide in § 3130.7 that a time extension granted pursuant to § 3130.6 shall not exceed two years, or one year for an Electronic Equipment Facility The requested extension is for a period of one year, and thus complies with § 3130.7

We believe that the facts recited above provide sufficient basis under 11 DCMR § 3130.6, et seq., for the Board to grant the requested extension and we respectfully request that the Board do so

Very truly yours,

A handwritten signature in black ink, appearing to read 'Kyrus L. Freeman', with a long horizontal flourish extending to the right.

Kyrus L. Freeman
Jessica R. Bloomfield

cc: Jennifer Steingasser, D.C. Office of Planning
Advisory Neighborhood Commission 5E

DO NOT ACCEPT THIS CHECK UNLESS YOU CAN SEE A TRUE WATERMARK THAT APPEARS IN DIAMOND WEAVE PATTERN WHEN HELD TO THE LIGHT. VERIFY AUTHENTICITY BY RUBBING RED "LS" LOGO BELOW.

2321 4TH ST- C/O E&G GROUP
1651 OLD MEADOW RD STE 305
MCLEAN, VA 22102

Eagle Bank
Bethesda, MD 20814

1069

DATE

06/06/2014

AMOUNT

\$\$\$1,081.60

PAY

**** ONE THOUSAND EIGHTY ONE AND 60/100 DOLLARS

TO THE
ORDER OF

DC Treasurer



AUTHORIZED SIGNATURE

Rub Here
Ink Disappears

18372