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February 5, 2013

VIA E-MAIL TRANSMISSION

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Lloyd Jordan, Esq., Chairman

District of Columbia Board of Zoning Adjustment

441 4th Street, N.W. - Room 210 South

Washington, D.C. 20001

Re: BZA Application No. 18449

Dear Mr. Jordan:

This firm represents Israel Baptist Church and Israel Manor, Inc. (the "Applicant"), the owner of the real property located at the above-referenced addresses (Lots 33, 34, 35 and 36, Square 3939). In the course of filing the Applicant's post-hearing submission, I discovered that Advisory Neighborhood Commission 5C had submitted a letter on February 1, 2013 to the Board requesting an extension of time to consider the application.¹ The Applicant strongly opposes the request for extension as further delay in this matter will seriously jeopardize the project financing and urges the Board to adhere to the previously-announced decision schedule.

ANC 5C is a ostensibly new participant in this proceeding, as a result of redistricting which shifted the political boundaries within Ward 5 effective January 1, 2013. Before that time, the subject property was within jurisdiction of ANC 5B. As the Applicant testified at the public hearing in this matter and more fully discussed in its post-hearing submission, the Applicant maintained a sustained engagement with ANC 5B and the local community. The Applicant briefed ANC 5B regarding the project on September 13, 2012, November 1, 2012 and December 13, 2012. At the first two of those sessions, which were prior to the public hearing on December 4, 2012, ANC 5B either declined, or lacked a quorum, to take any action on the application. As a result, the public hearing proceeded without any input from ANC 5B, a fact about which the Board expressed concern. Subsequent to the public hearing, the Applicant in its December 7, 2012 letter, appealed to ANC 5B to consider the application at its December 13, 2012 meeting. Not only was the application not placed on the meeting agenda, but ANC 5B once again lacked a quorum.

¹ It goes without saying that ANC 5C did not provide the Applicant with a copy of its filing, an omission in deliberate disregard of the Board's rule on service to parties which it seems is routine for many ANCs.

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18449

EXHIBIT NO. 43

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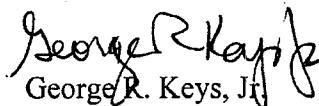
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In its post-hearing submission the Applicant documents its extensive outreach and dialogue with the local community at numerous sessions beginning in September 2012. This engagement resulted in modifications to the site plan taking into account the community's concerns. The site plan now before the Board is the culmination of this interactive process. ANC 5B was undoubtedly aware of all that was taking place as Regina James, the SMD Commissioner for ANC 5B05, and Jacqueline Manning, Chairman of ANC 5B05, were present at a number of these meetings, as Commissioner James was also present at the public hearing. It is likewise significant that Jacqueline Manning and Regina James are now members of ANC 5C, so it would be difficult for them to claim unfamiliarity with the project.

ANC 5B has had many opportunities to examine the application and has quite consciously failed to do so. Nonetheless, the Applicant initiated and sustained an extensive and effective community consultation. It should not now be penalized as a result of the dysfunctional status of ANC 5B, nor should ANC 5C be granted the power to engender more delay in the Board's decision process. Moreover, there is a serious potential for harm to the Applicant with further delay. The allocation of New Market Tax Credits ("NMTC") will occur in April 2013, by which time the Applicant should have an issued building permit in order to qualify for the allocation. The Applicant's construction documents are currently undergoing "third party review" in an effort to shorten the DCRA process and, if the Board grants the requested relief on February 12, 2013, there is a reasonable chance that a building permit will be issued in time to facilitate the NMTC financing.

For all of the foregoing reasons, the Applicant requests that the Board deny ANC 5C's request for an extension.

Respectfully submitted,


George R. Keys, Jr.

cc: Carrie L. Thornhill
Advisory Neighborhood Commission 5B
Advisory Neighborhood Commission 5C
Karen Thomas, D.C. Office of Planning