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April 29, 2016

VIA IZIS & HAND DELIVERY

Board of Zoning Adjustment
of the District of Columbia
441 4th Street, N.W., Suite 200S
Washington, DC 20001

Re: Request for Extension of Order No. 18723
2105 10th Street, N.W. (Square 358, Lots 5, 6, and 802)

Dear Members of the Board:

This letter is submitted on behalf of 2101 Morning Bright LLC (the "Applicant") in order to request a two-year extension of the effectiveness of Board of Zoning Adjustment ("BZA" or "Board") Order No. 18723, which became final on May 23, 2014 and effective on June 2, 2014. A copy of Order No. 18723 is attached hereto as Exhibit A. Pursuant to the Order, the BZA granted approval of a mixed-use residential building with ground floor retail in the Arts/C-2-B District at 2105 10th Street, N.W. (Square 358, Lots 5, 6, and 802) (the "Site").

Included with these materials is a check made payable to the D.C. Treasurer in the amount of \$540.80, 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 two-year extension request. Moreover, the Applicant is not proposing to change the exterior of the approved building and no new areas of relief are requested.

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.18723A
EXHIBIT NO.1

- (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 Advisory Neighborhood Commission 1B, the other only party to the application. By the time the Board takes up this matter, ANC 1B 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 is not proposing to change the exterior of the building approved by the Board pursuant to Order No. 18723. In addition, no new areas of relief are requested and the plans are consistent with the relief approved by the previous BZA Order. There also 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 Order.

- (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 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, on December 5, 2013 the Applicant filed its initial application for a Foundation Permit. DCRA notified the Applicant that a revised application was needed and the application was subsequently revised and resubmitted on December 20, 2013. DCRA then notified the Applicant that an Environmental Impact Screening Form ("EISF") was required for the project and the required form was submitted on April 21, 2014. On December 12, 2014 the EISF review was completed.

Since the permit application was submitted after October 1, 2013 the project was required to comply with the newly adopted Green Area Ratio ("GAR") requirements. An exemption application was filed on March 20, 2015, but the application was denied and the GAR documents were submitted on April 6, 2015.

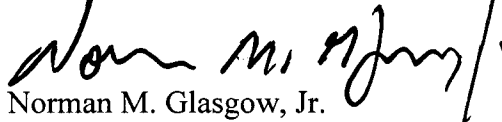
The Foundation permit was finally approved on October 28, 2015, nearly two years after initial filing. Subsequent to receiving the Foundation to Grade permit, on January 7, 2016 the Applicant responded to a District of Columbia Request for Proposals ("RFP") for properties. The RFP response was selected and the Applicant worked diligently with the District Department of General Services ("DGS") to negotiate a LOI for the Site, but a LOI was not executed until February 4, 2016. Now that the LOI is executed, the Applicant cannot not secure financing or move forward with construction of the project until a lease for the Site has been negotiated with the District. The Applicant has, however, quickly moved forward with developing detailed construction plans for the project, but the Applicant is awaiting approval from the DC Council before a lease can be executed and the Applicant can proceed with the proposed development.

As a result, 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. The requested extension is for a period of two years, 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,

HOLLAND & KNIGHT LLP



Norman M. Glasgow, Jr.
Joseph O. Gaon

Attachments

Cc: Jennifer Steingasser, D.C. Office of Planning (w/ attachments via Hand Delivery)
Advisory Neighborhood Commission 1B (w/ attachments via U.S. Mail)