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February 10, 2026

VIA IZIS

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

**Re: BZA Case No. 21377: 4730 and 4750 Benning Road, SE (Square 5344, Lots 1 and 2)
Applicant's Response to the Letter in Opposition From ANC 7E and Waiver
Request to Permit Filing Less Than 30 Days Before Public Hearing**

Dear Members of the Board:

On behalf of Hampton East Owner LLC (the "Applicant"), the owner of the property that comprises a portion of Lots 1 and 2 in Square 5344 (the "Property"), we hereby submit the enclosed response to the Letter in Opposition from ANC 7E (the "ANC's Letter") filed at Exhibit 41 of the case record. Given that the ANC's Letter was filed on February 5, 2026, six days prior to the public hearing, pursuant to Subtitle Y §§ 101.9 and 300.17, there is good cause to allow the Applicant to submit this response into the record fewer than 30 days before the public hearing scheduled for February 11, 2026. A completed Form 150 – Motion Form is attached at Exhibit A. As described below, the ANC's Letter is not entitled to "great weight" since it does not address any of the standards upon which this application is evaluated. Moreover, as detailed below, the Applicant has responded to each of the points outlined in the ANC's Letter.

I. The ANC's Letter is Not Entitled to "Great Weight"

Under Subtitle Y § 406.2, "the Board shall give 'great weight' to the issues and concerns included in the written report of the ANC" provided that the report contains each of the criteria outlined in Subtitle Y § 406.2(a)-(h). Pursuant to Subtitle Y § 406.2(e), to be given great weight, the ANC's written report must contain "the issues and concerns of the ANC about the application, *as related to the standards against which the application shall be judged.*" [emphasis added]. The ANC's Letter fails to meet this requirement.

In this case, the Applicant is seeking special exception relief pursuant to Subtitle U § 421 and Subtitle X § 901.2 to permit the construction of a new residential development in the RA-1 zone and an area variance pursuant to Subtitle X § 1000.1 from the lot frontage requirement of

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Subtitle C § 303.4. Nothing in the ANC’s Letter refers to any specific detail of the building for which relief is sought, and nothing in the ANC’s Letter relates to any of the standards for the requested special exception and area variance relief. The ANC’s Letter does not meet the requirements of Subtitle Y § 406.2(e)¹ and thus, the issues raised in the ANC’s Letter should not be given great weight.

The Board has long held that ANC submissions must comply with Subtitle Y § 406.2 to be afforded great weight. ANC reports that do not contain the information required in Subtitle Y § 406 have not been given great weight by the Board. Board decisions reaffirm the principle established in Subtitle Y § 406.2(e), which provides that an essential component of the basis for great weight to be given to an ANC submission is that it must contain “the issues and concerns of the ANC about the application, *as related to the standards against which the application shall be judged.*” [emphasis added]. In BZA Order No. 21220, the Board did not give great weight to the issues and concerns of the ANC because “[t]he ANC did not state any issues or concerns pertaining to the encroachment of the accessory building that were germane to the Board’s deliberations on the application.” See pg. 8. The Board further elaborated that “[t]he Board is required to accord “great weight” only to the issues and concerns of the affected ANC that are *legally relevant to the application at issue.*” [emphasis added]. *Id.* citing *Concerned Citizens of Brentwood v. District of Columbia Bd. of Zoning Adjustment*, 634 A.2d 1234, 1241 (D.C. 1993), citing *Bakers Local 118 v. District of Columbia Bd. of Zoning Adjustment*, 437 A.2d 176, 180 (D.C. 1981).

Here, the ANC’s Letter does not comply with the requirements of Subtitle Y § 406.2(c)-(e) and as such, should not be afforded great weight by the Board.

II. The Applicant’s Response to the ANC’s Letter

Although the ANC’s Letter should not be granted “great weight,” the Applicant responds as follows to each of the items included in the letter:

ANC 7E Issue/Concern Cited in Letter in Opposition	Applicant’s Response
<p>“First, the applicant has had the project underway for approximately eighteen months prior to meaningfully engaging with the full Commission. This prolonged period of project development without substantive consultation with ANC 7E undermines the intent of the District’s planning</p>	<p>The building that is the subject of the BZA application has not been underway for 18 months, nor has there been any site work or development for the proposed building.</p> <p>The Applicant filed the BZA application on August 19, 2025. The public hearing was initially scheduled for November 19, 2025,</p>

¹ The ANC’s Letter also is not entitled to great weight because it does not meet the requirements of: (1) Subtitle Y § 406.2(c) (requires a statement that proper notice of the public meeting was given by the ANC) and (2) Subtitle Y § 406.2(d) (requires the number of ANC members that constitute a quorum and the number of members present at the public meeting). The Board has denied “great weight” in similar circumstances. For example, in BZA Order No. 21186, the Board determined that because the ANC’s letter “did not contain the case name and number, meeting date, whether it was at a regularly scheduled, properly noticed public, and whether a quorum was present,” as required under Subtitle Y § 406.2(a)-(d), the ANC’s letter “could not be afforded ‘great weight’ under Subtitle Y § 406.2.” See pg. 1.

<p>framework, which relies on early and continuous engagement with affected communities.”</p> <p><u>Exhibit 41</u>, pg. 1</p>	<p>but moved to February 4, 2026, at the Applicant’s request, and then administratively rescheduled to February 11, 2026.</p> <p>The project has not, and will not, commence unless the BZA application is approved. Pursuant to Subtitle Y § 702.1, once the order is issued, the Applicant would then have two years to file a building permit to commence construction of the approved building.</p> <p>The Applicant notes that there are existing buildings on the property that are not included in this BZA application, and those buildings are being renovated pursuant to validly issued building permits.</p>
<p>“Second, the applicant has repeatedly failed to engage the community in a meaningful and sustained manner. Residents and Commissioners were encouraged to participate in public meetings; however, when those most affected showed up, the applicant was unable to provide clear or substantive responses to questions and concerns. This issue has persisted despite repeated attempts by ANC 7E to obtain clarity and collaboration.”</p> <p><u>Exhibit 41</u>, pg. 1</p>	<p>The Applicant has made substantial efforts to appraise the ANC and residents about the application.</p> <p>With respect to the ANC, since June 2025, the Applicant has consistently reached out to the ANC both via telephone and email to request to present the project and to answer any questions about the BZA application. Attached at <u>Exhibit B</u> is each email request sent by the Applicant to the ANC.</p> <p>As a result of these ongoing efforts, the Applicant presented at each of the following ANC 7E meetings:</p> <p><u>September 2, 2025</u> – ANC 7E Executive Committee</p> <p><u>September 9, 2025</u> – ANC 7E Monthly Meeting</p> <p><u>October 7, 2025</u> – ANC 7E Executive Committee</p> <p><u>October, 14, 2025</u> – ANC 7E Monthly Meeting</p>

	<p>February 3, 2026 – ANC 7E Monthly Meeting</p> <p>During each of these meetings, the Applicant presented the proposed project, an evaluation of how the project meets the applicable standards for relief, and responded to every question from commissioners and residents about the BZA application and about the existing buildings, which are not part of this BZA application.</p> <p>Additionally, as the Board is aware, the Applicant requested to postpone the public hearing from November 19, 2025 to February 4, 2026, to undertake additional community engagement. The case record reflects support for the project, as shown in the petition and letters in support filed at <u>Exhibits 17-24</u> of the case record.</p> <p>Thus, the record reflects that the Applicant has repeatedly and consistently engaged the community regarding the BZA application.</p>
<p>“Third, the applicant has not presented a clear or credible plan to mitigate the cumulative impacts anticipated from overlapping large-scale developments in the area. Of particular concern is the convergence of this proposed project with the forthcoming approved development at Fletcher-Johnson, as well as the JC Nalle Elementary School renovation. These concurrent projects raise serious concerns regarding construction spillage onto surrounding residential streets, traffic congestion, pedestrian safety, construction staging, and general neighborhood disruption. Residents and Commissioners have raised these concerns at every public meeting to date, yet they remain unaddressed.”</p> <p><u>Exhibit 41</u>, pg. 1</p>	<p>The Board has repeatedly and consistently held that construction issues are not within the Board’s jurisdiction or the scope of the Zoning Regulations. <i>See</i> BZA Order No. 19823, Decision 33 (“With regards to the Party Opponents’ concerns regarding construction impacts, the Board has consistently held that construction management issues are not within its purview and are governed by the Construction Codes and other District agencies.”). <i>See also</i> Z.C. Order No. 22-11, pg. 62 (“[N]either the Zoning Regulations, nor the PUD regulations specifically, are intended to address the impacts caused by the construction of buildings.” “Accordingly, the Commission believes that its review of impacts/adverse effects in this PUD does not include impacts caused by the construction of the Project.”)</p> <p>Although construction issues are beyond the scope of the Board’s review, the Applicant</p>

	<p>has committed that prior to commencement of construction of the project, the Applicant will coordinate to the greatest extent possible with the owner of the Fletcher-Johnson development to coordinate schedules to minimize impacts to the surrounding community.</p> <p>The J.C. Nalle Elementary School is located at 219 50th Street SE, i.e., approximately three blocks from the Property. Nonetheless, prior to commencement of construction of the project, the Applicant will reach out to the manager of any occurring construction at the J.C. Nalle Elementary School to coordinate schedules and minimize impacts near the Property.</p> <p>Additionally, the Applicant will abide by the construction management plan attached at Exhibit C.</p>
<p>“Additionally, the existing apartment complex has a well-documented history of poor property maintenance, including overgrown foliage and persistent illegal dumping of trash and abandoned or improperly stored vehicles. ANC 7E, in coordination with residents and multiple District government agencies, has organized numerous cleanups and site walk-throughs to address these issues. The property owners have not been collaborative participants in these efforts, further calling into question their willingness or ability to responsibly manage the impacts of an expanded or intensified development.”</p> <p><u>Exhibit 41</u>, pg. 2</p>	<p>The Applicant purchased the Property on January 31, 2024. Since the Applicant’s purchase of the Property, neither the ANC nor the government have conducted any cleanups or site walk-throughs at the Property. Indeed, since purchasing the Property, the Applicant has taken concrete steps to improve the site conditions and to renovate/upgrade the existing units. Thus, contrary to the ANC’s assertion, the Applicant’s track record is of improving the existing conditions at the Property, and any references to lack of involvement, engagement, or poor management by the prior owner is not relevant to the current BZA application and should not be attributable to the Applicant.</p>

The Applicant has actively engaged with the community regarding the BZA application, as shown in the letters in support filed in the case record, provided all information required to demonstrate that the Applicant meets the standards for approval of the requested zoning relief, and although not a part of this application, answered questions about the existing buildings. The case record, including the Applicant's Preliminary Statement of Compliance with Burden of Proof (Exhibit 3), the Applicant's Prehearing Statement (Exhibit 25A), the DDOT Report (Exhibit 37), and the Office

of Planning Report (Exhibit 38), demonstrate that the Applicant has met all of the applicable standards and requirements of the Zoning Regulations for approval of the application.

The Applicant respectfully requests that the Board exercise its waiver authority to allow this filing pursuant to Subtitle Y §§ 101.9 and 300.17, as there is good cause to allow this filing into the record fewer than 30 days before the public hearing because it is submitted in response to the ANC's Letter, which was filed six days prior to the public hearing.

As indicated in the Certificate of Service below, a copy of this response and attachments is being served on ANC 7E, the Office of Planning, and the District Department of Transportation. The Applicant looks forward to presenting the application to the Board at the public hearing on February 11, 2026, and appreciates the Board's consideration of this request.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By: 
Kyrus Lamont Freeman
Madeline Shay Williams

Enclosure

cc: Certificate of Service
Exhibit A: Form 150 – Motion Form
Exhibit B: Applicant's Email Communications with ANC 7E
Exhibit C: Draft Construction Management Plan

Certificate of Service

I hereby certify that on February 10, 2026, a copy of the foregoing Applicant’s Response to the Letter in Opposition From ANC 7E and attachments was served by electronic mail on the following at the addresses stated below.

DC Office of Planning

Maxine Brown-Roberts
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District Department of Transportation

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