

December 6, 2024

Via IZIS

Frederick L. Hill, Chairperson
D.C. Board of Zoning Adjustment
441 4th Street, N.W., Suite 200S
Washington, D.C. 20001

**Re: BZA Order No. 20825 (“Order”) for 2141 K Street, NW (Square 73, Lot 79)
 (“Property”) – Request for Two-Year Time Extension**

Dear Chairman Hill and Members of the Board:

On behalf of SNH Medical Office Properties Trust (the “**Applicant**”), the owner of the Property and the applicant in BZA Case No. 20825, we hereby submit this request for a two (2)-year extension of the Order, which granted special exception relief. The Applicant requests the extension pursuant to Subtitle Y § 705.2 for the good cause shown herein.

Attached are the following exhibits:

Exhibit A – Authorization letter from the Applicant;

Exhibit B – BZA Order No. 20825;

Exhibit C – An affidavit signed by Christopher Bilotto, the President & CEO for the Applicant; and

Exhibit D – News articles relating to construction costs.

Submitted concurrently with this letter is a check for the applicable filing fee of \$405.60, which represents 26% of the original filing fee. The Applicant requests that this application be placed on the Board’s public meeting calendar and reviewed in accordance with Subtitle Y § 705.2.

I. Background

The Property is located in the D-5 zone, midblock in the 2100 block of K Street, NW at the western end of Downtown, near the Foggy Bottom neighborhood. A 15-foot-wide public alley borders the east side of the Property and provides vehicular access to the interior of the block in which the Property is located. The Property measures approximately 14,456 square feet in land area and is currently improved with a 9-story medical office building (the “**Building**”). Surrounding the

Property are high rise commercial office and mixed-use buildings that are the same height as or taller than the Building.

In the Order the Board approved a special exception from the penthouse setback requirements of Subtitle C § 1504.1 to permit the modest expansion of the Building’s existing penthouse in order to meet the Green Area Ratio (“**GAR**”) and stormwater management requirements that will be triggered by the Building’s conversion to residential use (the “**Project**”). The Order approved zoning relief for the Project by granting special exception relief from the penthouse setback requirements for the Building’s east alley-facing side wall only. No residential uses are located in the Square to the east of the Property, so the approved zoning relief has no impact on residential neighbors.

The Project would contribute much-needed new housing to the Downtown area consistent with the Mayor’s and the District’s post-pandemic goals and economic development strategies.

In approving the requested relief, the Board concluded that the Applicant had satisfied the standards for special exception penthouse setback relief based on its harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and its tendency not to affect adversely the use of neighboring property. Pursuant to Subtitle X § 901.2(c), the Board concluded that the relief satisfied all applicable conditions for special exception relief.

Accordingly, the Board voted to approve the requested relief on December 14, 2022, and BZA Order No. 20825 was issued thereafter and became effective on December 21, 2022.

II. The Applicant Meets the Requirements for Approval of a Two-Year Time Extension Request Under Subtitle Y § 705.2.

The Board’s approval will expire on December 21, 2024. The Applicant requests that the Board extend the approval by a period of two (2) years, that is, until December 21, 2026, pursuant to Subtitle Y § 705.2.

While the Applicant has continued to pursue redevelopment of the Property for the office-to-residential conversion project that was approved by the Board, circumstances beyond the Applicant’s control have made it infeasible to file an application for a building permit for the Project prior to the Order’s expiration date. Factors contributing to the Applicant’s delayed implementation of the Project include a prolonged period of elevated interest rates and construction costs, both of which have slowed the Applicant’s ability to undertake the Project. Additionally, because of the Building’s medical office use, the Applicant has been careful about tenants’ moving schedules in order to accommodate patients’ continuity of care.

Subtitle Y § 705.2 sets forth clear standards against which the Board must evaluate extension requests. Upon receipt of this written request, the Board may extend the time period of the Order “for good cause shown.” The Board must determine that:

- (a) The extension request is served on all parties to the application;

- (b) There is no substantial change of any of the material facts upon which the Board based its original approval that would undermine the Board's justification for approving the original application; and
- (c) The applicant demonstrates good cause for the requested extension, with substantial evidence for any 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; or (3) The existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control.

For reasons set forth more fully below, the Applicant meets all of the requirements for the granting of an extension under Subtitle Y § 705.2. Specifically, the Board should find that good cause exists to grant this extension request because of economic and market conditions beyond the Applicant's reasonable control and such other conditions, circumstances, or factors beyond the Applicant's reasonable control.

A. The Extension Request Is Served on All Parties to the Application.

In the instant case, this extension request is being served simultaneously on Advisory Neighborhood Commission ("ANC") 2A, which was the only party to the original application for BZA Case No. 20825. The ANC will have ample time to respond to this request.

B. There Is No Substantial Change to Any of the Material Facts Underlying the Board's Approval of the Requested Relief.

The factors satisfying the special exception for the Property remain as they were at the time of the Board's approval of the requested relief. There has been no substantial change in any of the material facts relating to the case. The relief is still in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and does not affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. There have been no material changes in the conditions surrounding the Property or the Zoning Regulations applicable to the Property.

C. There Is Good Cause for the Extension.

The Applicant is able to demonstrate good cause to request this extension given the economic and market conditions beyond the Applicant's reasonable control and other conditions, circumstances, or factors beyond the Applicant's reasonable control. Although the Applicant has worked to advance the office-to-residential conversion of the Building, the Project faces an unfavorable climate for construction. In addition to persistent elevated construction costs, the prolonged period of increased interest rates has made securing the necessary capital for the Project difficult to obtain. Attached as Exhibit D is a small sample of the many industry news articles

covering the challenges faced by the construction industry. As a result, moving forward with the Project has not proceeded on the timeline originally anticipated when the Order was granted.

Further, the Project's proposed conversion of medical office use to residential use presents complications. The Building was tenanted for part or all of the two years since the Board's grant of the special exception relief. Given the nature of the medical office use, the Applicant has closely worked with its tenants and now-former tenants to develop moving schedules that accommodate patients' continuity of care. The Applicant has worked to accommodate its tenants and former tenants' relocation plans accordingly, which has contributed to the delay in the Applicant's original timeline.

III. CONCLUSION

For all of the above reasons, the Applicant respectfully requests a two (2) year extension of BZA Order No. 20825. Grant of the Applicant's extension request will aid the Applicant's efforts to successfully complete the Project. The Applicant respectfully requests that consideration of the requested extension be scheduled for the Board's public meeting calendar and reviewed pursuant to Subtitle Y § 705.2.

We would be happy to produce any other information or evidence in support of the above letter and greatly appreciate your consideration of this matter.

Respectfully submitted,

/s/ David Lewis

David Lewis

/s/ Cindy Vong

Cindy Vong

Certificate of Service

I certify that on December 6, 2024, I delivered a copy of the foregoing document and enclosures via email to the addresses listed below.

Jennifer Steingasser
Joel Lawson
Matt Jesick
Office of Planning
Jennifer.Steingasser@DC.gov
Joel.Lawson@DC.gov
Matthew.Jesick@DC.gov

ANC 2A
2A@anc.dc.gov

ANC 2A08
2A08@anc.dc.gov

/s/ Cindy Vong
As attorney for the Applicant