

January 24, 2025

Via IZIS

Frederick L. Hill, Chairperson
District of Columbia Board of Zoning Adjustment
441 4th Street, NW, Suite 200-S
Washington, DC 20001

Re: Application for a Time Extension of BZA Order Nos. 20184 and 20184-A
(Square 4325, Lots 802 and 44, Parcel 0174/15) (“**Property**”)

Dear Chairperson Hill and Members of the Board:

Fort Lincoln-Eastern Avenue, LLC (the “**Applicant**”) hereby requests a one-year time extension of BZA Order Nos. 20184 and 20184-A (collectively, the “**Order**”), until April 20, 2026. The Applicant requests a one-year extension of the Order’s requirement that the Applicant file plans for the proposed structures with the Department of Buildings for the purpose of securing a building permit. Approval of this time extension request will provide the Applicant with the necessary time to proceed with the preparation and filing of building permit applications for the vertical construction of the new residential structures. This extension request is made pursuant to Subtitle Y, Section 705.2 of the 2016 Zoning Regulations. While this is the Applicant’s second time extension request, it is seeking a total time extension period of two years, as allowed pursuant to Subtitle Y, Section 705.3.

I. Background on the Order

The Applicant filed the application in BZA Case No. 20184 on October 22, 2019. The Applicant sought special exception approval to create a new residential development of 51 townhouse dwellings configured as eight buildings (the “**Project**”) in a theoretical lot subdivision in the RA-1 and RA-4 Zones. The Board of Zoning Adjustment (“**Board**”) issued the Order on April 20, 2022, and it became effective ten days later.

On March 29, 2024, the Applicant filed a time extension application requesting that the deadline to file plans for the proposed structures be extended to April 20, 2025. That request was approved pursuant to BZA Order No. 20184-A. Copies of BZA Order Nos. 20184 and 20184-A are attached as Exhibit A.

II. The Board Should Grant the Requested Time Extension

A. Standards of Review of Time Extension Request

The standards for a time extension are enumerated in Subtitle Y, Section 705.2 of the Zoning Regulations. The Board is authorized to extend the time periods enumerated in Subtitle Y, Section 702.1 provided that:

- (a) The extension request is served on all parties to the application by the applicant and all parties are allowed thirty (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; and
- (c) The applicant demonstrates that there is good cause for such extension, with substantial evidence, one (1) 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.

Subtitle Y, Section 705.3 of the Zoning Regulations states that a time extension granted by Subtitle Y, Section 705.1 shall not exceed two years. The total time extension period sought by this application and the previous time extension approval (BZA Order No. 20184-A) is two years.

B. Applicant's Satisfaction of the Standards for Granting a Time Extension

1. Service on Parties

This time extension request is being served on all parties to the original application (ANC 5C, the Pineview Association, and the Fort Lincoln Civic Association, Inc.) as shown in the attached Certificate of Service.

2. No Substantial Change of Material Facts

There has been no substantial change in any material facts that would undermine the basis for the Board's approval of the Project. No major new projects have been developed in the vicinity of the Property. While proposals for the potential redevelopment of the Theodore R. Hagans Cultural Center and the former Thurgood Marshall Elementary School site (which is located to the south of the Property, across Fort Lincoln Drive, NE) have been sought, no specific development proposals have been made and the redevelopment of those sites would not significantly impact the Project or the Board's approval of the Project.

In the OP report in Case No. 20184-A, dated May 30, 2024, OP concluded that there have been no changes to the Zoning Regulations that would impact the original approval and there have been no new substantial development projects in the vicinity of the Project that would impact the original OP analysis or the BZA's decision in Case No. 20184.

3. Inability to Secure all Required Governmental Agency Approvals Because of Delays that are Beyond the Applicant's Reasonable Control

As noted in the Applicant's statement in support of the previous time extension request, the Applicant and its development team were in active negotiations during the Spring and Summer of 2024 with representatives of the Deputy Mayor for Planning and Economic Development (DMPED) regarding the execution of an Assignment and Assumption Agreement for the Property. The Assignment and Assumption Agreement provides the Applicant with the District's written commitment to convey the land and approves the assignment of the development rights from the Fort Lincoln New Town Corporation to the Applicant.

The Applicant was finally able to execute the Assignment and Assumption Agreement with DMPED on September 18, 2024. On December 17, 2024, the Applicant acquired title to the Property from DMPED. Since December 17, 2024, the Applicant has been expeditiously moving forward with the development of the Project by paying all permit fees with the intention of commencing site work by mid-February, 2025. In addition, during the Fall of 2023 and all of 2024, the Applicant released its civil engineering team to prepare building permit applications for the site work (including all necessary grading, installation of utilities, and construction of internal roadways) to construct the new residential structures approved by the Order. To date, the Applicant has paid \$295,853 in fees for those permit applications.

The Applicant also continues to work with the contract purchaser of the townhouse sites in moving forward with the preparation of the building permit applications for the vertical construction on those sites. While the Applicant is hopeful that such applications can be filed prior to April 20, 2025, the Applicant and the contract purchaser have decided that it is necessary to seek this time extension request, until April 20, 2026, in order to make sure that there will be no issues with the timeliness of the building permit applications.

The Applicant relies on these facts as evidence of its satisfaction of the requirements of Subtitle Y, Section 705.2(c)(2), that it was not able to secure all required governmental agency approvals by the expiration date of BZA Order No. 20184-A because of delays that were beyond its control. The Applicant believes that it has satisfied the standards of Subtitle Y Section 705.2 of the Zoning Regulations, and the time extension request should be granted.

III. Exhibits

Attached are the following Exhibits:

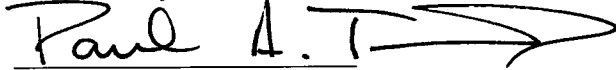
Exhibit A – BZA Order Nos. 20184 and 20184-A.

Exhibit B – Letter of Authorization from Fort Lincoln Eastern Avenue. LLC.

IV. Conclusion

For the foregoing reasons, the Applicant requests that the Board grant the requested time extension. Please feel free to contact the undersigned if you have any questions or comments regarding this application.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Paul A. Tummonds", with a large, stylized flourish extending to the right.

Paul A. Tummonds

Certificate of Service

I hereby certify that a copy of the foregoing document was sent to the following by email on January 24, 2025.

Jennifer Steingasser
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Paul Tummonds