

**BEFORE THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**BZA Order No. 20915(1)  
Square 3359, Lot 52**

**STATEMENT IN SUPPORT OF BZA EXTENSION REQUEST**

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This statement is submitted on behalf of Takoma Lot 5 LLC (the “Applicant”) in support of an application for a two-year extension of BZA Order No. 20915(1) (the “Application”) regarding the development of the property located at 6905 Willow Street, NW (Square 3359, Lot 52) (the “Property”). The Application is submitted pursuant to Subtitle Y § 705.2 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (the “Zoning Regulations” or “11 DCMR”).

**I. Background**

Pursuant to Board of Zoning Adjustment (“Board” or “BZA”) Order No. 20915(1) (the “Order”), the Board granted special exception relief to construct a nine unit apartment house in the RA-1 zone at the Property pursuant to Subtitle U § 421 and Subtitle X § 901.2 (the “Project”). The Board held a public hearing and rendered a decision on the application on June 14, 2023. The Order has a final date of June 21, 2023.

Pursuant to Subtitle Y § 702.1 of the Zoning Regulations, the deadline to file a building permit application for the approved Project is June 21, 2025. The Applicant met this deadline by filing a building permit application on October 5, 2023, which was accepted as complete by the Department of Buildings (“DOB”) on October 20, 2023, and distributed to various disciplines for review on October 25, 2023. *See Exhibit D*, Affidavit in Support of BZA Extension Request. Accordingly, the Order is vested. However, the building permit application is still pending with DOB and may expire before the Applicant is able to move forward with responding to agency comments and starting construction. Therefore, although the Order is currently vested, an extension is being requested to ensure that the Applicant has another two years to continue to process the current building permit application or file a new building permit application if necessary.

The Application is filed pursuant to Subtitle Y § 705.2, which allows the Board to extend the time periods set forth in Subtitle Y § 702.1 for good cause shown. Due to economic and market conditions beyond the Applicant’s reasonable control, **the Applicant is seeking to extend the validity of BZA Order No. 20915(1) by two years, such that a building permit application for the approved Project would have to be filed no later than June 21, 2027.** As set forth below, the Applicant has demonstrated good cause to justify this extension request.

## **II. Compliance with Subtitle Y § 705.2**

Pursuant to Subtitle Y § 705.2, the Board may extend the time periods of Subtitle Y § 702.1 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:

- 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 of 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.*

For the reasons set forth below, the Application meets the standards of Subtitle Y § 705.2 to extend the validity period established by the Order.

### **A. The Extension Request Has Been Served on All Parties**

The Property is located within the boundaries of Advisory Neighborhood Commission ("ANC") 4B. Other than the Applicant, the only party to the original application was ANC 4B. As indicated in the Certificate of Service included with this filing, the Applicant served a copy of the Application on ANC 4B, therefore providing ANC 4B the required time period to respond.

### **B. There is No Substantial Change in Material Facts**

There have been no substantial changes in any of the material facts upon which the Board based its approval of the original application that would undermine the Board's justification for approving the original application. The Board previously found that the underlying application met the burden of proof under Subtitle X, Chapter 9, that the requested relief could be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map, that granting the relief would not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map, and that all other specified conditions for special exception

relief had been met. There have been no changes in any of the facts upon which the Board based its original approval of the special exception relief granted.

**C. There is Substantial Evidence of Good Cause for the Extension**

As described in the affidavit signed by Norman Jemal, Principal of Douglas Development Corporation, an entity related to the Applicant, a copy of which is attached hereto as Exhibit D (the “Affidavit”), the Applicant submitted a building permit application for the approved Project on October 5, 2023. Preparing and filing the building permit application was a significant endeavor. The Applicant worked with its team of consultants to develop a complete set of construction documents during the summer of 2023, which included coordination with the District Department of Transportation, District Department of Energy and Environment, D.C. Water, and other District agencies and utilities. During the initial permit review phase, the Applicant priced the Project and engaged potential lenders in the financing process. However, not long after the building permit application was filed, it became clear to the Applicant that the Project could not move forward given the extraordinarily high construction costs and interest rates. Therefore, while in the process of responding to DOB comments in early 2024, the Applicant decided to temporarily pause work on the Project.

Based on the foregoing, and for the reasons described herein, including economic and market conditions beyond the Applicant’s reasonable control, the Applicant has been unable to obtain financing for the approved Project, and as a result, the Applicant is unable to move forward with the pending building permit application. For the past several years, the commercial real estate market has been plagued with high construction costs, insufficient labor, and supply chain issues. Inflation has hit record highs throughout the country, which has led to tightened credit, increased borrowing costs, heightened market insecurity, and a weak lending market. These conditions have collectively created an inhospitable market for multi-family residential development in the District, and have resulted in the Applicant’s inability to obtain project financing despite its diligent good faith efforts to do so. For example:

- a. Interest rates have been a particular concern. By the end of 2023, the federal funds effective rate was over 5%, which was the highest level seen since the 2007–2008 financial crisis. *See* Federal Funds Effective Rate, available at: <https://fred.stlouisfed.org/series/FEDFUNDS>; *see also* “The Fed Reduced the Short-Term Rate Again, but Interest Costs Remain High” *Peter G. Peterson Foundation*, Dec. 18, 2024, available at: <https://www.pgpf.org/article/higher-interest-rates-will-raise-interest-costs-on-the-national-debt/>.
- b. As a consequence of high interest rates, multifamily construction slowed significantly throughout the country, including in the District of Columbia where new development fell sharply throughout 2023. According to Delta Associates’ Class-A multifamily report, by the third quarter of 2023, multi-family construction starts in the D.C. area were at their slowest pace since 2010. In the District specifically, only one project (112 units) started construction in the second half of 2023. *See* “D.C. Area Sees Slowest Quarter of New Apartment Construction Since 2010” *Bisnow*, Nov. 6, 2023, available at: <https://www.bisnow.com/washington->

dc/news/multifamily/dc-metro-seeing-full-effects-of-interest-rates-with-multifamily-construction-in-deep-freeze-121505. Similarly, new construction starts dropped by 53% nationally in 2023, as rent growth slowed and interest rates remained elevated. See “U.S. Multifamily Market Report” Avison Young, Q3 2024, available at: <https://www.avisonyoung.us/documents/d/us/2024-q3-us-multifamily-market-report-from-avison-young>.

- c. Financing concerns lingered throughout 2024 as favorable capital was difficult to obtain due to continued record high interest rates. See “Why New D.C. Multifamily Buildings Are Falling Into Financial Distress” *Bisnow*, Aug. 6, 2024, available at: <https://www.bisnow.com/washington-dc/news/multifamily/how-a-rapid-swing-in-market-conditions-put-new-multifamily-properties-at-increased-risk-125404>. The Lending Momentum Index issued by CBRE Group, Inc. (“CBRE”) demonstrated that lending momentum in Q1 2024 was down 32.7% from the year prior. See CBRE Figures | U.S. Lending | Q1 2024, available at: <https://www.cbre.com/press-releases/commercial-real-estate-lending-market-slows-in-first-quarter-showed-signs-of-stabilizing>. This trend remained consistent throughout 2024 as the commercial real estate industry continued to experience high construction costs, insufficient labor, supply chain issues, and difficult capital markets. See “D.C. Sees Spike in Project Delays Amid ‘Dark Cloud’ Hanging Over Development” *Bisnow*, Jan. 9, 2024, available at: <https://www.bisnow.com/washington-dc/news/construction-development/dc-sees-spike-in-project-delays-amid-dark-cloud-hanging-over-development-business-122338>.
- d. Optimism for 2025 remains uncertain as Federal Reserve officials project weak economic growth, elevated unemployment rates, and higher inflation than they had anticipated in December, 2024. See “Fed Projections See an Economy Dramatically Reset by Trump’s Election” *The Wall Street Journal*, March 19, 2025, available at: <https://www.wsj.com/economy/central-banking/fed-forecast-inflation-tariffs-trump-economy-5a5098a1>. Due to these market conditions, lenders have been more cautious, with fewer lenders willing to finance construction projects, and those that are active in the market are lending less money and at higher interest rates.

Despite the foregoing, the Applicant has continued to work diligently to secure project financing and is confident in the progress they are making. The Applicant is currently exploring potential capital sources and anticipates that closing on the construction loan and other capital sources required to fully capitalize the Project will occur in the near-term as economic market conditions hopefully improve access to capital throughout the coming months. Despite the challenges described herein, the Applicant strongly believes that the Project is still viable and looks forward to moving forward as soon as possible. The Applicant anticipates that it will be able to continue to process the building permit application and receive permit approval within the next 18 to 24 months.

Based on the economic and market conditions described above, which are outside of the Applicant’s reasonable control, it is clear that the Applicant has been unable to obtain sufficient project financing to allow the Applicant to move forward with the approved Project. Nonetheless,

the Applicant has proceeded diligently and in good faith to move the Project forward. There are no changes to any of the material facts upon which the BZA based its original approval of the application that would undermine its justification for approval. Furthermore, there will be no adverse impact if the validity of the Order is extended. In fact, if the Order is not extended, it would adversely impact the ability for the Project to move forward at all.

The Applicant is fully prepared to proceed with the development of the approved Project once capital markets and construction costs improve. The Applicant has already invested substantial resources in the Project, including legal, architectural, engineering, permitting, construction, and other consulting fees, such that there is no financial advantage for the Applicant not to move forward with development, and the Applicant has every incentive to do so as soon as feasible. Therefore, the Applicant requests a two-year extension of the deadline to file a building permit application for construction of the approved Project.

### **III. Compliance with Subtitle Y § 705.3**

Pursuant to Subtitle Y § 705.3, a time extension granted pursuant to Subtitle Y §§ 705.1–705.2 shall not exceed two years. As requested herein, the Applicant is seeking a time extension for two years.

### **IV. Community Engagement**

The Property is located within ANC 4B04, which Single Member District position is currently vacant. The Applicant reached out to the chair of ANC 4B prior to filing the Application and will continue to engage with ANC 4B as the Application is processed.

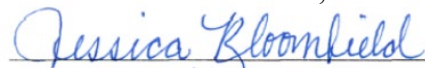
Based on the foregoing, the Applicant respectfully requests that the BZA consider the Application at its public meeting on May 14, 2025, which will provide all parties – in this case, only ANC 4B – more than 30 days to respond in accordance with Subtitle Y § 702.1(c).

### **V. Conclusion**

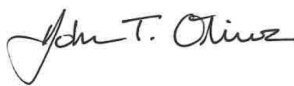
For the foregoing reasons, the Applicant believes there is good cause, pursuant to Subtitle Y § 705.2, for the Board to grant a two-year extension of BZA Order No. 20915(1) and respectfully requests that the Board do so.

Sincerely,

HOLLAND & KNIGHT, LLP



Jessica R. Bloomfield



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John T. Oliver