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June 1, 2016

VIA IZIS AND HAND DELIVERY

Zoning Commission of the
District of Columbia
441 4th Street, N.W., Suite 210-S
Washington, DC 20001

Re: Request for an Extension of Time to Start Construction
Z.C. Case No. 06-04D

Dear Members of the Zoning Commission:

On behalf Florida & Q Street, LLC (the "Applicant"), the owner of Lot 48 in Square 3100 (the "Property"), this letter serves as a request for a two-year extension of the time period in which to begin construction of the approved planned unit development ("PUD") on the Property. This request, if approved, would require construction of the PUD to begin no later than June 15, 2018.

This extension request is filed pursuant to Section 2408.10 of the Zoning Regulations for good cause shown herein. A completed application form for the extension is attached hereto as Exhibit A, and a check in the amount of \$520.00 made payable to the DC Treasurer for the requisite filing fees pursuant to 11 DCMR § 3040.5 is also enclosed.

A. Factual Background

The Property has a land area of approximately 18,984 square feet and is located in the northwest quadrant of the District at the intersection Q Street, Florida Avenue, and North Capitol Street. The Property extends approximately 150 feet north along North Capitol Street and is currently unimproved. Pursuant to Z.C. Order No. 06-04, dated January 8, 2007, effective June 15, 2007 (Exhibit B), the Zoning Commission approved a consolidated PUD and a related Zoning Map amendment for the Property to enable the development of a new mixed-use building. Pursuant to Z.C. Order No. 06-04C (Exhibit C), the Zoning Commission approved modifications to the PUD, and pursuant to Z.C. Order Nos. 06-04A, 06-04B, and 06-04D (Exhibits D, E and F, respectively), the Zoning Commission approved extensions to the PUD, such that construction is required to begin no later than June 15, 2016.

The approved PUD, as modified by Z.C. Order No. 06-04C, involves construction of a mixed-use development having a total gross floor area of approximately 85,428 square feet. Approximately 84,306 square feet will be devoted to residential use, providing between 85 and 95 dwelling units, and approximately 4,998 square feet of floor area will be devoted to retail use in the

cellar. The PUD will have a maximum density of 4.5 floor area ratio ("FAR") and a maximum building height of 72'-4 1/2" (not including penthouses). The PUD will include 41 parking spaces located on one level of underground parking accessed from Florida Avenue.

The Applicant filed a building permit application for the PUD on June 10, 2015, in order to vest the most recent PUD extension approval. However, due to the lengthy process associated with procuring building permits, the Applicant is unable to begin construction of the PUD by June 15, 2016. Thus, the Applicant requests a two-year time extension such that construction of the PUD must begin no later than June 15, 2018. In addition, concurrent with its request for a time extension, the Applicant has submitted a request for a minor modification to add penthouse habitable space to the approved PUD. Thus, the requested time extension is necessary, in part, to allow the Applicant to update the construction drawings in order to move forward with the project, as modified, if/once approved by the Commission.

B. Jurisdiction of the Zoning Commission

Section 2408.10 of the Zoning Regulations authorizes the Zoning Commission to extend the time periods set forth in Section 2408.8 (two year requirement to file a building permit application) and Section 2408.9 (three year requirement to begin construction), provided the following conditions 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 Zoning Commission based its original approval of the PUD that would undermine the Commission's justification for approving the original PUD; and
- (c) The applicant demonstrates with substantial evidence that there is good cause for such extension, as provided in Section 2408.11.

The sole substantive criterion for determining whether a PUD should be extended is whether there is "good cause shown." The Zoning Regulations define "good cause shown" in Section 2408.11, as evidence of one or more of the following:

- (a) An inability to obtain sufficient project financing for the PUD, following an applicant's diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the applicant's reasonable control;
- (b) An inability to secure all required governmental agency approvals for a PUD by the expiration date of the PUD order because of delays in the

governmental agency approval process that are beyond the applicant's reasonable control; or

- (c) The existence of pending litigation or such other condition or factor beyond the applicant's reasonable control which renders the applicant unable to comply with the time limits of the planned unit development order.

C. This Extension Request Was Served On All Parties

Other than the Applicant, the only party to this case was Advisory Neighborhood Commission ("ANC") 5E. As indicated on the Certificate of Service attached hereto, the Applicant has served this request for an extension of time on ANC 5E.

D. There Is Good Cause for the Extension of the PUD Validity

1. The Project Has Experienced Delay Beyond Applicant's Control

Section 2408.11(c) authorizes the grant of an extension of PUD validity for projects where a condition or factor beyond the Applicant's reasonable control renders the Applicant unable to comply with the time limits of the PUD order. In this case, the Applicant is unable to begin construction by June 15, 2016, due to the extensive and lengthy processes involved in obtaining the required building permits. However, as indicated in the affidavit of Eyob Mamo, attached hereto as Exhibit G, since receiving the most recent extension approval, the Applicant has worked diligently to move forward with the project as follows:

- Submitted a sheeting and shoring permit application to DCRA on June 10, 2015 (Permit No. SH1500050), which was approved by Zoning on July 13, 2015;
- Submitted a foundation permit application to DCRA on June 10, 2015 (Permit No. FD1500099, which received comments from Green Review on July 2, 2015, Zoning Review on July 13, 2015, and DDOE SE-SW Review on September 8, 2015;
- Submitted a Zoning Data summary sheet to DCRA on June 12, 2015;
- Solicited and obtained proposals for the following services:
 - Construction management (KCM);
 - Civil engineering and surveying (AMT);
 - Subsurface exploration and geotechnical engineering (ECS);
 - Structural engineering for foundation (Structural);
 - Mechanical, electrical, and plumbing (Capitol Engineering Group);

- Architecture (early foundation to grade permit set, schematic design, design development, construction documentation, and construction administrative services) (Bonstra);
 - LEED consulting (GreenShape);
 - Preparation of engineered shop drawings for sheeting and underpinning (Steele Foundation);
 - Dry utility consulting (AMT);
 - Permit package submission and tracking (MSC);
 - Lighting design (Gilmore Lighting);
 - Landscape architecture (AMT and Bradley Site Design, Inc.); and
 - Elevator consulting (Michael Blades & Associates);
- Issued an RFP for a general contractor, received a number of bids, and selected McCullough Construction as its general contractor.
 - Retained J Street as development manager. Since being selected, J Street has undertaken the following initiatives at the Property:
 - Developed a project schedule and a refined project budget;
 - Reviewed on-site utility requirements;
 - Completed and filed an Environmental Impact Screening Form (“EISF”) and ordered an expedited Phase I environmental testing;
 - Identified surrounding neighbors and prepared letters for issuance to those neighbors regarding sheeting and shoring and the use of tie backs and underpinning; identified the need to redesign the sheeting and shoring system due to soils; and identified an additional need for soil borings given the nature of soil variations at the Property;
 - Evaluated several issues related to stormwater management design and green roof features in light of a preference for stick-built construction; reviewed alternative solutions for green roof systems; communicated with DOEE regarding stormwater management submissions;
 - Worked with WC Smith to obtain market data on unit mix and design;
 - Identified a need to engage a wall test inspector/surveyor;
 - Evaluated the positioning of rooftop condensers;
 - Identified a need for an emergency generator, reviewed flow test results, and determined the best system for treating exhaust fumes;
 - Obtained proposals for test pits;
 - Identified issues related to Pepco transmitters and how to best relocate existing vaults;
 - Reevaluated foundation systems in light of geotechnical information; and
 - Obtained a load letter from MEP;

- Undertaken extensive environmental analysis of the Property, including contracting with consultants to produce the following reports:
 - ECS issued a Preliminary Report of Geotechnical Design Recommendations, dated May 8, 2015;
 - ECS issued a Subsurface Exploration and Geotechnical Engineering Analysis Report, dated June 10, 2015;
 - EBI Consulting issued a Phase II Environmental Site Assessment Report, dated July 14, 2015; and
 - ECS issued a Phase I Environmental Site Assessment Report, dated November 4, 2015;
- Submitted an EISF to DCRA on November 4, 2015; and
- Prepared a Notification Form for Safeguards During Construction, which will be issued to seven adjoining property owners as identified by the Office of Tax and Revenue, as required pursuant to sections 3307.2 and 3307.3 of the 2013 District of Columbia Building Code (12 DCMR), which requires notification to adjoining property owners for certain types of construction activities.

Despite the Applicant's diligent, good faith efforts to move forward with the project, the final building permit has yet to be issued for the project and thus construction of the approved PUD cannot move forward by June 15, 2016, as required under Order No. 06-04D. To date, the Applicant has invested over \$1.15 million in the Property for legal, architectural, engineering, and other consulting fees, such that there is no financial incentive to not redevelop the Property.

As a result of the lengthy process that is outside of the Applicant's reasonable control, the Applicant is unable to comply with the time limits set forth in Z.C. Order No. 06-04D. Accordingly, this request for a time extension satisfies the sole criterion for good cause shown as set forth in Section 2408.11(c) of the Zoning Regulations.

2. No Substantial Changes to Approved PUD

In addition to requiring the demonstration of "good cause," Section 2408.10 of the Zoning Regulations requires the following:

- (b) There is no substantial change in any of the material facts upon which the Zoning Commission based its original approval of the PUD that would undermine the Commission's justification for approving the original PUD.

As described above, the Applicant is simultaneously submitting an application for a minor modification pursuant to 11 DCMR §3030. The modification requested does not affect the essential elements of the approval given by the Zoning Commission for this project and are proposed simply to provide habitable space in the penthouse as permitted pursuant to Section 411.4

of the Zoning Regulations. The modification is consistent with the intent of the Zoning Commission in approving the original PUD order, and will not substantially impair the intent, purpose, or integrity of the Zone Plan. Moreover, no additional zoning flexibility is needed as a result of the modification.

3. No Hearing is Necessary

Section 2408.12 of the Zoning Regulations provides:

The Zoning Commission shall hold a public hearing on a request for an extension of the validity of a PUD only if, in the determination of the Commission, there is a material factual conflict that has been generated by the parties to the PUD concerning any of the criteria set forth in §2408.11. The hearing shall be limited to the specific and relevant evidentiary issues in dispute.

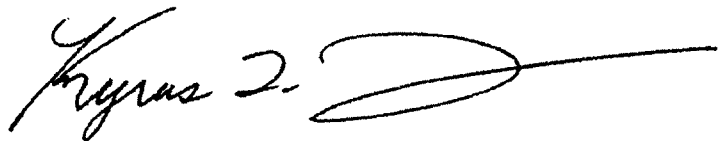
A hearing is not necessary for this request since there are no material factual conflicts generated concerning any of the criteria set forth in Section 2408.11. The only other party to this application was ANC 5E, and the Applicant has served a copy of this request on ANC 5E. There is no dispute that the Applicant is unable to obtain the required building permit to begin construction by June 15, 2016. Thus, there cannot be any material factual conflicts generated concerning any of the criteria by which the Zoning Commission is required to consider this request.

E. Conclusion

For the reasons stated herein, the Applicant respectfully requests that the Commission approve the requested two-year extension of time to begin construction of the PUD, such that construction must start no later than June 15, 2018. Finally, no hearing is necessary as there are no material factual issues in question.

Respectfully submitted,

HOLLAND & KNIGHT LLP

A handwritten signature in black ink, appearing to read "Kyrus L. Freeman", with a long horizontal flourish extending to the right.

Kyrus L. Freeman
Shane L. Dettman, AICP

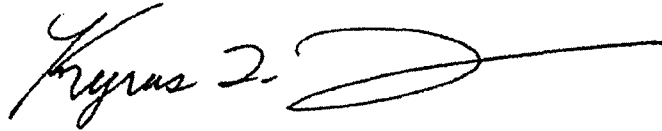
Attachments

CERTIFICATE OF SERVICE

I hereby certify that on June 1, 2016, a copy of the foregoing Applicant's Request for an Extension of Time was served by electronic mail on the following at the address stated below:

Teri Janine Quinn
Chairperson, Advisory Neighborhood Commission 5E
Single Member District 5E06
5E06@anc.dc.gov

Karen Thomas
D.C. Office of Planning
karen.thomas@dc.gov

A handwritten signature in black ink, appearing to read "Kyrus L. Freeman", with a long horizontal stroke extending to the right.

Kyrus L. Freeman