

# Holland & Knight

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March 4, 2021

## **VIA IZIS**

Board of Zoning Adjustment  
of the District of Columbia  
441 4<sup>th</sup> Street, NW, Suite 210S  
Washington, DC 20001

**Re: Request for an Administrative Approval of a One Year Time Extension  
BZA Order No. 18723  
2105 – 2107 10<sup>th</sup> Street, NW (Square 358, Lots 831)**

Dear Members of the Board:

This letter is submitted on behalf of 2101 Morning Bright LLC (the “Applicant”) for administrative approval of a one-year time extension of BZA Order No. 18723, as extended pursuant to BZA Order Nos. 18723-A, 18723-B, and Z.C. Order No. 20-07, regarding property located at 2105 – 2107 10<sup>th</sup> Street, NW (Square 358, Lots 831 and 832)<sup>1</sup> (the “Property”).

### **I. Prior Approvals and Expiration Dates**

Development of the Property was originally approved pursuant to BZA Order No. 18723 (effective date June 2, 2014), which granted variances from the lot occupancy, rear yard, and off-street parking location requirements, and a special exception from the rooftop structure requirements of the 1958 Zoning Regulations (“ZR58”)<sup>2</sup> to allow the construction of a mixed-use residential building with ground floor retail in the ARTS/C-2-B zone<sup>3</sup> at the Property.

Pursuant to BZA Order No. 18723-A, the Board granted a two-year extension of the validity of the original order, such that a building permit application was required to be filed no later than June 2, 2018.

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<sup>1</sup> At the time of the original application the Property included Lots 5, 6, and 802. Subsequent to the BZA’s approval of the original application, the Applicant completed two division of lots with the D.C. Office of Tax and Revenue that ultimately established current lot 831 on the Property.

<sup>2</sup> ZR58 was in effect when BZA Case No. 18723 was heard and decided by the Board. ZR58 was repealed and replaced in its entirety by the 2016 Zoning Regulations (“ZR16”) on May 20, 2014. Pursuant to Subtitle A §§ 102.3(a) and 102.6 of ZR16, the construction authorized by BZA Order No. 18723 is vested and is subject only to the provisions of ZR58.

<sup>3</sup> Under ZR16, the zoning for the Property was converted from ARTS/C-2-B to ARTS-2.

Pursuant to BZA Order No. 18723-B, the Board granted a second two-year extension of the validity of the original order, such that a building permit application was required to be filed no later than June 2, 2020.

The only parties to BZA Case No. 18723 were the Applicant and Advisory Neighborhood Commission (“ANC”) 1B. The list of parties to be served with the [one-year] extension order is attached as Exhibit A.

Pursuant to Z.C. Order No. 20-07, the Zoning Commission extended the validity of Zoning Commission and BZA orders scheduled to expire between April 27 and December 31, 2020, by six months on account of the COVID-19 pandemic and resulting modifications of the District government operations. Accordingly, BZA Order No. 18723 was automatically extended by six months such that a building permit application was required to be filed no later than December 2, 2020.

On September 3, 2020, the Applicant filed a building permit application to construct a portion of the structure approved under the original order, which entailed the full interior renovation of the existing historic church located on the Property. The building permit was issued on December 3, 2020 (Permit No. B2011492). Work authorized by the building permit is currently underway.

Shortly after submission of the aforementioned building permit application, the Applicant began preparing an application for a second building permit for the project, which entailed construction of the remainder of the mixed-use building approved under the original order. The application for this second building permit was on schedule to be submitted to DCRA prior to the December 3, 2020, expiration date of the original order. However, despite having a fully prepared set of construction drawings, the Applicant is unable to advance construction of the remaining portion of the project due to complications in the development market caused by the ongoing COVID-19 pandemic.

## **II. Request for Administrative Approval of One-Year Extension**

On November 19, 2020, the Zoning Commission took emergency action to approve text amendments proposed in Z.C. Case No. 20-26 that would provide for administrative extensions of the validity of Zoning Commission and BZA orders scheduled to expire between November 27, 2020 and April 27, 2021, due to complications of the COVID-19 pandemic. On January 15, 2021, notice of the final rulemaking for Z.C. Case No. 20-26 was published in the *D.C. Register*.

As described above, the expiration date for BZA Order No. 18723, as extended, falls within the timeframe contemplated in Z.C. Case No. 20-26. Accordingly, the Applicant requests a one-year extension pursuant to Subtitle Y § 705.7, which states as follows:

*“For an order scheduled to expire between October 27, 2020 and April 27, 2021, an applicant may request an extension due to the complications from the COVID-19 pandemic by filing an application with the Director prior to the expiration of the order sought to be extended, which shall be extended administratively by the*

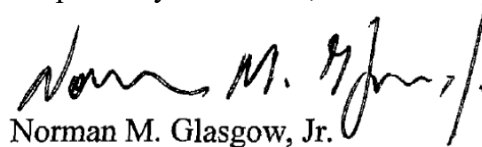
*Director upon payment of the fee specified in Subtitle Y § 1600.1 and Table Y § 1600.”*

The Applicant requests the extension due to the COVID-19 pandemic which has had major impacts on the real estate financing and development markets throughout the country, including in the District of Columbia. As a result of these uncertain and unprecedented market conditions, which are preventing the Applicant from moving forward with construction of the remaining portion of the approved mixed-use building, the Applicant seeks a one-year extension of the approval, with the goal of filing a building permit application to complete the approved project by December 2, 2021.

As required by Subtitle Y § 1600.1(e)(2), a filing fee of \$1,000 is included with this application. In addition, an authorization letter from the Applicant is attached as Exhibit B

Based on the foregoing information, we respectfully request administrative approval of this request for a one-year time extension of BZA Order No. 18723, which if approved would require a building permit application to be filed no later than December 2, 2021.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Norm M. Glasgow, Jr.", with a stylized flourish at the end.

Norman M. Glasgow, Jr.