

July 1, 2026

**VIA IZIS ONLY**

Anthony J. Hood, Chairman  
Zoning Commission for the District of Columbia  
441 Fourth Street, N.W., Suite 200-S  
Washington, D.C. 20001

**Re: Z.C. Case No. 22-35B - Application of UM 500 Penn Street NE, LLC (“Applicant”) for a Time Extension for the Consolidated Planned Unit Development, Related Zoning Map Amendment, and Airspace Development (“Approved PUD”) for 1345 4th Street, N.E. (Square 3592, Lots 19-23 and 802 and Parcel 129/45) (collectively the “Property”)**

Dear Chairman Hood and Members of the Commission:

The Applicant hereby respectfully requests, pursuant to Subtitle Z §§ 101.9 and 705 of the District of Columbia Zoning Regulations, a time extension for the Approved PUD. The Applicant seeks this relief in connection with the Applicant’s companion application to permit interim improvements to the existing motel building (“**Existing Motel**”) on a portion of the Property. The requested modification will allow the Applicant to modernize and enhance the Existing Motel for lodging uses and to renovate and re-lease existing street-level commercial and retail spaces on the west side of the Property (“**Pascal Structures**”). Together, the companion filings preserve the Commission-approved redevelopment framework while allowing the Property to remain active and productive until market conditions support implementation of the Approved PUD.

As approved, the Order provides that the Approved PUD shall remain valid for a period of two (2) years from the effective date of the Order, within which time an application must be filed for a building permit, and that construction must commence within three (3) years of the effective date of the Order. The Order became final and effective on September 27, 2024. Accordingly, under the existing terms of the Order, the deadline to file a building permit application is September 27, 2026 and the deadline to commence construction is September 27, 2027. This Application is the first time extension request for the Approved PUD.

Through this application, the Applicant requests that the Commission extend the above-described deadlines so that the Approved PUD shall be valid for ten (10) years from the effective date of this time extension and companion modification (within such time, a building permit must be filed) with construction required to commence within eleven (11) years. Although longer than typical PUD time extensions, this requested extended period is necessary to allow the Applicant to make meaningful interim investments in both the Existing Motel building and associated site improvements, as well as Pascal Structures, while preserving the full public benefits and long-term redevelopment obligations contained in the Order.

## **I. BACKGROUND REGARDING THE APPROVED PUD AND THE APPROVED PROJECT**

The Property is located at the northern entrance to the Union Market District in Ward 5 and consists of multiple lots improved with several existing commercial buildings, a surface parking lot, and the

Existing Motel building bounded by 4th Street, N.E. and Penn Street, N.E. In Z.C. Order No. 22-35, the Commission approved a consolidated Planned Unit Development, a PUD-related Zoning Map amendment from the PDR-1 zone to the MU-9A zone, and airspace development for the Property.

The Approved PUD authorizes redevelopment of the Property with two mixed-use buildings separated by a public alley at grade and connected below grade by a shared parking garage, together with related public realm improvements (the “**Approved Project**”). The Approved Project includes up to approximately 415,242 square feet of gross floor area and a mix of residential, lodging, retail, commercial, and PDR/Maker space, together with approximately 162 parking spaces and substantial streetscape and open-space improvements. The Commission approved the project based on a robust package of public benefits, including a fifteen percent (15%) affordable housing proffer, family-sized units, PDR/Maker commitments, LEED Gold design, solar panels, and transportation demand management measures.

## **II. JURISDICTION AND APPLICABLE STANDARD OF REVIEW**

This application is filed pursuant to Subtitle Z §§ 101.9 and 705 for a time extension of an approved PUD and a waiver of the Commission’s ordinary time extension rules to allow a time extension in excess of two (2) years.

### **A. Time Extension**

The Commission has jurisdiction to grant the requested extension pursuant to Subtitle Z § 705. Under Subtitle Z § 705.2, the Commission may extend the validity of an approved PUD for good cause shown, provided that (i) the extension request is served on all parties, (ii) there has been no substantial change in the material facts upon which the Commission based its original approval that would undermine the justification for that approval, and (iii) the applicant demonstrates with substantial evidence one or more qualifying circumstances set forth in the regulation. Those qualifying circumstances include an inability to obtain sufficient project financing following diligent good-faith efforts because of changes in economic and market conditions beyond the applicant’s reasonable control, delays in securing governmental approvals beyond the applicant’s reasonable control, or the existence of other conditions, circumstances, or factors beyond the applicant’s reasonable control that render the applicant unable to comply with the time limits in the order.

### **B. Waiver of Rules to Allow a Time Extension in Excess of Two Years**

The requested relief also may be considered in conjunction with Subtitle Z § 101.9 to the extent the Commission determines that good cause justifies a waiver of the Commission’s rules, provided the waiver does not prejudice the rights of any party and is not otherwise prohibited by law.

## **III. THIS APPLICATION SATISFIES THE STANDARDS FOR A 10-YEAR TIME EXTENSION**

The Commission should grant the requested ten (10)-year time extension request because it satisfies the relevant standards.

### **A. Service On and No Prejudice To Any Parties**

The only parties to the Approved PUD are the Applicant and ANC 5D. The Applicant has reached out to the ANC regarding its plans for the Property, will continue its ongoing dialogue with the community, and will serve the ANC with a copy of this filing along with a copy to the relevant District agencies. In addition, the requested extension does not prejudice the rights of ANC 5D. No party will be disadvantaged by the Commission’s approval of this application because (i) the request preserves the existing approval

rather than expanding it, and (ii) the public benefits and commitments approved by the Commission remain intact.

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

There have been no substantial changes in any material fact relevant to the Commission's original approval of the Approved PUD. The Property remains appropriate for the mixed-use redevelopment approved by the Commission. The approved planning rationale continues to apply: the Property occupies a prominent gateway location in the Union Market District, the site remains appropriate for substantial mixed-use density, and the Approved PUD continues to advance the same land use, housing, urban design, transportation, sustainability, and economic development objectives relied upon by the Commission in issuing the Order.

Likewise, the requested extension does not alter any of the core elements of the Approved PUD. The Applicant does not seek to increase height or density, modify the approved mix of uses, reduce the approved affordable housing commitment, diminish the approved PDR/Maker obligations, or eliminate any transportation, streetscape, or sustainability commitment. All plans, proffers, conditions, and public benefits remain in full force and effect, except that the timing provisions in Condition D.2 would be extended to reflect the requested new schedule.

### **C. No Prohibition by Law**

This Application is not otherwise prohibited by law.

### **D. Good Cause Exists for the Requested Time Extension**

Finally, this Application satisfies the good cause requirements of Subtitle Z §§ 101.9 and 705.2 for the following reasons:

1. Market Conditions and Financing Constraints Beyond the Applicant's Reasonable Control Prevent the Construction of the Approved Project: The Approved Project is confronting the same adverse economic environment that has stalled numerous major projects throughout the District. Persistently elevated interest rates, higher financing costs, tightened lender underwriting standards, construction cost escalation, and general uncertainty in the capital markets have materially affected the feasibility and timing of large mixed-use projects. These conditions are well beyond the Applicant's reasonable control and have made it impossible to move forward with full-scale construction of the Approved PUD on the timetable originally contemplated in the Order. Those conditions have particular significance here. The Approved PUD is a large, design-forward, mixed-use project with significant public benefits, including substantial affordable housing obligations, a meaningful PDR/Maker program, and extensive public realm and sustainability commitments. Projects with that combination of uses and obligations require carefully assembled capital stacks, disciplined timing, and market conditions that can support both construction financing and long-term operations. The current market has not provided that environment.

2. The Companion Interim-Improvement Strategy Is a Reasonable and Productive Response to Those Conditions: Rather than allowing the Property to sit idle while awaiting the market to find a more stable footing, the Applicant is simultaneously requesting approval of a companion modification to the Approved PUD to permit interim improvements to the Existing Motel building and Pascal Structures. That interim-improvement strategy will allow the Property to remain active and productive, will improve the existing condition and surrounding public realm, and will bring near-term activation to a highly-visible, central portion of the Union Market District while preserving the Approved PUD as the Property's long-term redevelopment framework. The requested extension is therefore directly tied to the Applicant's effort

to respond responsibly to present market conditions. The Applicant expects to invest meaningful resources towards both rehabilitating and modernizing the Existing Motel for lodging uses as well as renovating and re-leasing existing street-level the Pascal Structures. Without an extended period in which those interim improvements can operate, the Applicant and its partners, investors, and tenants would not have a realistic opportunity to obtain a return on that investment before the Approved PUD must proceed. The Applicant and its partners, investors, and tenants require the certainty of such extended validity timeframe in order to allow for the size of the investment necessary at the Property. The requested extension allows the Applicant to pursue an orderly interim use, avoid blight or vacancy, and preserve the Commission-approved redevelopment for the time when full construction again becomes economically justified.

3. The Applicant Has Continued to Advance the Property and Remains Committed to the Approved PUD: The Applicant and its affiliates have a long history of investment in the Union Market District and remain committed to the redevelopment vision reflected in the Order. The Applicant seeks this relief because it wishes to preserve the Approved PUD, maintain the Commission-approved public benefits package, and position the project to proceed when market conditions permit. The requested extension is a mechanism to protect and implement, not dilute or stall, the Commission's prior approval. Good cause therefore exists under Subtitle Z §§ 101.9 and 705.2(c) because changes in economic and market conditions beyond the Applicant's reasonable control have affected the Applicant's ability to proceed on the original schedule, and because other circumstances beyond the Applicant's reasonable control render compliance with the existing time limits impracticable. The requested extension is a measured and logical response to those conditions.

4. The Time Extension Preserves the Approved PUD's Many Benefits: Granting the requested extension will preserve all of the substantial public benefits secured through the PUD process. The Approved PUD includes affordable housing, family-sized units, PDR/Maker space, LEED Gold design, solar panel commitments, streetscape improvements, and transportation demand management measures. If the approval were permitted to lapse because the Applicant cannot prudently proceed in the current market, the District and the surrounding neighborhood would risk losing the package of public benefits that the Commission approved in the Order. By contrast, extending the approval will keep those benefits in place and will allow the Applicant to continue stewarding the Property productively until the market can support full build-out of the Approved PUD. The requested relief therefore serves the public interest by preserving long-term housing production, retaining the approved affordable housing and PDR/Maker commitments, and supporting the continued evolution of the Union Market District in a manner consistent with the Commission's prior findings and conclusions.

5. A Ten Year Extension Is Necessary: The Applicant cannot make a meaningful investment in interim improvements without certainty that it can rely on a prolonged period of use for those improvements without the PUD lapsing. Therefore, it requires a longer than usual timeline for the Approved PUD to be extended. The Applicant recognizes that ten years is longer than many other validity terms for PUD approvals, but a ten year term is necessary to provide a sufficient duration for the Applicant and its partners to commit the significant capital investment required to provide interim uses and related improvements on the Property.

#### **IV. PROPOSED REVISION TO CONDITION D.2 OF THE ORDER**

To implement the requested time extension, the Applicant requests that Condition D.2 of Z.C. Order No. 22-35 be revised as follows:

The PUD shall be valid for a period of ~~two~~ ten years from the effective date of this Order, as modified. Within such time an application shall be

filed for a building permit, with construction to commence within ~~three~~  
eleven years of the effective date of this Order.

## **V. EXHIBITS**

Exhibit A – Z.C. Order No. 22-35

Exhibit B – Authorization Letters from the Applicant and Property Owners and Signature Page

## **VI. CONCLUSION**

For the foregoing reasons, the Applicant respectfully requests that the Commission approve this application and extend the validity and commencement deadlines in Condition D.2 of the Approved PUD. Approval of this request will preserve the Commission-approved redevelopment framework, maintain the full package of public benefits approved in the Order, avoid prejudice to any party, and allow the Applicant to continue activating and improving the Property while market conditions improve.

Thank you for your consideration of this request.

Respectfully submitted,

Jeff C. Utz

David A. Lewis

Counsel for the Applicant

### **Certificate of Service**

The undersigned hereby certifies that a copy of the foregoing document was sent by first-class mail or email by no later than July 1, 2026 to the following:

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