

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Board of Zoning Adjustment**



**Application No. 19695-A of KWHP DC LLC**, pursuant to 11 DCMR Subtitle Y § 705 for a one-year time extension of BZA Order No. 19695, approving special exceptions from the use permissions under Subtitle U § 504.1(f) and from the penthouse requirements of Subtitle C § 1500.3(c) to construct a new penthouse restaurant in an existing hotel in the MU-15 Zone at premises 1315 16th Street, N.W. (Square 195, Lot 846).

<b>HEARING DATE</b> (19695):	February 21, 2018
<b>DECISION DATE</b> (19695):	February 21, 2018
<b>ORDER ISSUANCE DATE</b> (19695):	February 28, 2018
<b>TIME EXTENSION DECISION DATE:</b>	February 26, 2020

**SUMMARY ORDER ON REQUEST FOR ONE-YEAR TIME EXTENSION**

Original Application. In Application No. 19695, the Board of Zoning Adjustment (“Board” or “BZA”) approved the request by LHO Washington Hotel Three, LLC for special exceptions to establish a new penthouse restaurant in an existing hotel on the Property. The Board issued Order No. 19695 on February 28, 2018. (Exhibit 3.) Pursuant to Subtitle Y § 604.11, the Order became effective ten days after issuance. Pursuant to Subtitle Y § 702.1, the Order was valid for two years from the time it became effective.

Request for One-Year Time Extension. On January 28, 2020, the current owner of the Property, KWHP DC LLC (the “Applicant”), submitted a request that the Board grant a one-year extension of Order No. 19695. (Exhibits 1-5.)

Notice of the Request. Pursuant to Subtitle Y §§ 705.1(a), the Applicant served the only other party to the underlying case, ANC 2B, with notice of the request on January 28, 2020. (Exhibit 4.) The Applicant requested that the Board waive the requirement that parties have 30 days to respond in order to allow instead a 29-day response period. (Exhibit 6.) The Board granted this request for waiver and scheduled the time extension for decision on February 26, 2020.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission (“ANC”) 2B.

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ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on February 12, 2020, at which a quorum was present, the ANC voted 7-0-1 to support the request. (Exhibit 9.)

OP Report. Office of Planning submitted a report recommending approval of the time extension. (Exhibit 7.)

**Request to Extend the Validity of the Order**

This request for extension is pursuant to Subtitle Y § 705 of the Zoning Regulations, which permits the Board to extend the time periods in Subtitle Y § 702.1 for good cause shown upon the filing of a written request by the applicant before the expiration of the approval.

Pursuant to Subtitle Y § 705.1(a), the Applicant shall serve on all parties to the application and all parties shall be allowed 30 days to respond. Pursuant to Subtitle Y § 705.1(b), the Applicant shall demonstrate that there is no substantial change in any of the material facts upon which the Board based its original approval of the application. Finally, under Subtitle Y § 705.1(c), good cause for the extension must be demonstrated with substantial evidence of one 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.

Based upon the record before the Board and having given great weight to the appropriate recommendations and reports filed in this case, and based on the waiver granted to the 30-day requirement of Subtitle Y § 705.1(a), the Board finds that the Applicant has met the criteria of Subtitle Y § 705.1 to extend the validity of the underlying order.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that request for one-year time extension to the validity of the Board's approval in Order No. 19695 is hereby **GRANTED**, and the Order shall be valid until **February 28, 2021**.

**VOTE: 3-0-2** (Frederick L. Hill, Carlton E. Hart, and Peter A. Shapiro to APPROVE; no other Board members participating.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

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**ATTESTED BY:**



**SARA A. BARDIN**  
**Director, Office of Zoning**

**FINAL DATE OF ORDER:** March 2, 2020

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.