

January 5, 2022

Via IZIS

Frederick L. Hill, Chairperson
D.C. Board of Zoning Adjustment
441 4th Street, N.W., Second Floor
Washington, D.C. 20001

Re: Board of Zoning Adjustment Order No. 20086 – Request for Time Extension

Dear Chairman Hill and Members of the Board:

On behalf of Solid Properties LLC (the “**Applicant**”), we hereby submit this application to request a time extension pursuant to Subtitle Y § 705.1 for the Board of Zoning Adjustment’s (the “**Board**”) approval in the above-referenced case for the property located at 130-134 Ivanhoe Street SW (Square 6271, Lot 32) (the “**Property**”). The Applicant also requests that the Board grant a waiver pursuant to Subtitle Y § 101.9 in order to permit this extension request to be filed after expiration of the Board’s Order.

A copy of the Order is attached hereto as Exhibit A. This request is made pursuant to Subtitle Y § 705.1 of the Zoning Regulations. Submitted concurrently with this letter is a check for the applicable filing fee of \$4,212.00, which represents 26% of the original filing fee. The Applicant requests that this application be placed on the Board’s public meeting calendar and reviewed in accordance with Subtitle Y § 705.1.

I. BACKGROUND

The Property is located in the Fort Drum neighborhood in Ward 8 and is currently improved with a dormant swimming pool. The Order approved redevelopment of the Property with a multifamily residential development with approximately 30 units (the “**Project**”). The Project will be all-affordable. The Project, as approved, meets all applicable development requirements and the only relief granted by the Order was special exception relief to permit new residential development in the RA-1 zone pursuant to Subtitle U § 421.

II. APPLICANT’S REQUEST

The Board’s Order expired on August 15, 2021. With this letter, the Applicant requests, pursuant to Subtitle Y § 705.1, that the Board extend the approval by a period of two (2) years until August 15, 2023. The Applicant also requests that the Board grant a waiver pursuant to Subtitle Y § 101.9 in order to permit this extension request to be filed after expiration of the

Board's Order. As described more fully below, good cause exists for the Board to grant this extension request and the requested waiver for late filing.

III. THE APPLICANT MEETS THE REQUIREMENTS FOR APPROVAL OF AN EXTENSION REQUEST UNDER SUBTITLE Y § 705.1.

Subtitle Y § 705.1 sets forth clear standards against which the Board must evaluate extension requests. Upon receipt of this written request, the Board may extend the time period of the Order "for good cause shown." The Board must determine that:

- (a) The extension request is served on all parties to the application;
- (b) There is no substantial change of any of the material facts upon which the Board based its original approval that would undermine the Board's justification for approving the original application; and
- (c) The applicant demonstrates good cause for the requested extension, with substantial evidence for any 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.

For reasons set forth more fully below, Applicant meets all of the requirements for the granting of an extension under Subtitle Y § 705.1. Specifically, the Board should find that good cause exists to grant this extension request because of circumstances beyond the Applicant's reasonable control and, specifically, related to ongoing adverse impacts of the COVID-19 pandemic.

A. The Extension Request Is Served on All Parties to the Application.

In the instant case, this extension request is being served simultaneously on Advisory Neighborhood Commission ("ANC") 8D, which was the only party to the original application. The ANC will be allowed thirty (30) days to respond to this request. The Applicant has also notified the Single Member District ("SMD") Representative for the Property of the extension request prior to filing, and the SMD Representative has not raised any objection to the request.

B. There Is No Substantial Change to Any of the Material Facts.

The factors satisfying the special exception relief for the Property remain as they were for the Board's approval of the requested relief. The Project is not being modified, and there has been no substantial change in any of the material facts relating to the case. The relief is still in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and does not affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps.

C. There Is Good Cause for the Extension.

The Applicant has good cause to request an extension due to circumstances beyond the Applicant's reasonable control — specifically, the negative impacts that the COVID-19 pandemic has placed on development of the Project. For the same reasons that the Project has been delayed so too have the Applicant's overall operations been critically stalled causing the delay in filing this request for extension, necessitating the requested waiver to permit late filing. The Applicant owns and manages the larger Oak Park Apartments complex, of which the Property is a part and which serves primarily low-income households. The COVID-19 pandemic has placed and continues to place a tremendous burden on and poses myriad challenges to the community the Applicant serves. The Applicant has throughout the pandemic striven to navigate unprecedented operational difficulties — as all businesses have — with these challenges being further compounded by the significant impacts the Applicant's tenants have experienced across the pandemic. The hardship experienced by the resident community has also presented ongoing revenue and financing challenges for the Applicant in balancing the needs of the existing apartment complex with plans for moving forward with development of the Project. Accordingly, the Project has been significantly delayed due to the pandemic, necessitating this request. The Applicant is now excited to move forward with development of the proposed 30 new all-affordable residential units, as approved, and requests this extension in order to do so.¹

IV. CONCLUSION

As noted above, given the ongoing challenges of the COVID-19 pandemic beyond the Applicant's control, there is good cause for this two (2) year time extension. Accordingly, the Applicant respectfully requests that the consideration of the requested extension be scheduled for the Board's public meeting calendar and reviewed pursuant to Subtitle Y § 705.1.

We would be happy to produce any other information or evidence in support of the above letter and greatly appreciate your consideration of this matter.

¹ The Applicant notes that, in acknowledgement of the ongoing challenges presented by the pandemic, the Zoning Commission extended the expiration period for which a COVID-19 administrative extension may be requested in Z.C. Case No 20-26A. The Applicant submitted a request for such an administrative extension on November 19, 2021. However, the Office of Zoning determined that it lacks the authority to grant the requested waiver for late filing. Accordingly, the Applicant submits the instant request with the Board for the requested extension and waiver.

Certificate of Service

I certify that on January 5, 2022, I delivered a copy of the foregoing document and enclosures via email to the addresses listed below.

Karen Thomas
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Monique Diop, ANC 8D04 and Chairperson
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/s/ Lawrence Ferris _____