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January 28, 2020

VIA IZIS AND HAND DELIVERY

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

**Re: Request for a One-Year Time Extension of BZA Order No. 19695
1315 16th Street, NW (Square 195, Lot 846)**

Dear Members of the Board:

This letter is submitted on behalf of KWHP DC LLC¹ (the “Applicant”), the owner of property located at 1315 16th Street, NW (Square 195, Lot 846) (the “Site”) in support of a one-year extension of BZA Order No. 19695, which authorized construction of a new penthouse restaurant in the existing hotel building in the MU-15 zone at the Site. Included with this application is a check made payable to the DC Treasurer in the amount of \$811.20, which is 26% of the original filing fee, as required by 11-Y DCMR § 1600.1(e). Attached is an authorization letter from the Applicant (Exhibit A).

Pursuant to BZA Order No. 19695 (Exhibit B), the Board of Zoning Adjustment (the “Board” or “BZA”) granted special exception relief from the use permissions of 11-U DCMR § 504.1(f) and from the penthouse requirements of 11-C DCMR § 1500.3(c) to construct a new penthouse restaurant in the existing hotel at the Site. The Board held a hearing and voted unanimously to approve the application on February 21, 2018. The order was issued and became final on February 28, 2018. With this letter, we respectfully request that the Board extend the effective date of BZA Order No. 19695 for a period of one year, or until February 28, 2021.

This extension is requested pursuant to 11-Y DCMR § 705.1, which allows the Board to extend the time periods set forth in 11-Y DCMR § 702.1 for good cause shown. As set forth below, there is good cause shown for this extension request.

I. Compliance with 11-Y DCMR § 705.1 et seq.

Pursuant to 11-Y DCMR § 705.1, the Board may extend the time periods of 11-Y DCMR § 702.1 for good cause shown upon the filing of a written request by the applicant before the

¹ The Applicant in BZA Order No. 19695 was LHO Washington Hotel Three, LLC. Since then the Site has been sold to KWHP DC LLC, which is the current owner of the Site and the Applicant in the subject BZA extension application.

expiration of the approval; provided that the Board determines that the following requirements 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 Board based its original approval of the application that would undermine the Board's justification for approving the original application; and
- c. The applicant demonstrates that there is good cause for such extension, with substantial evidence of one (1) 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 the reasons set forth below, this application meets the standards of 11-Y DCMR § 705.1 to extend the time period of BZA Order No. 19695.

A. Service on All Parties to the Application

The Applicant served a copy of this extension request on Advisory Neighborhood Commission ("ANC") 2B, the ANC in which the Site is located. ANC 2B was the only party to the application in BZA Case No. 19695 and voted unanimously to support the request (*see* Exhibit 37 in BZA Case No. 19695). The Applicant will work with ANC 2B to present the subject BZA extension request and obtain a formal vote on the application prior to the Board's decision.

B. No Substantial Change in Any Material Facts

The Applicant's plans for the project are unchanged from the plans approved in BZA Order No. 19695. The plans are consistent with the relief approved in BZA Order No. 19695 and the Applicant is not requesting any new areas of relief.

C. Substantial Evidence of Good Cause for the Extension

As detailed in the affidavit signed by Peter Robinson, the Global Development Director of Valor Hospitality, the management company for the Site (Exhibit C) (the "Affidavit"), the Applicant has been unable to submit final building permit application plans for the project despite its good faith efforts to do so.

The delay is the result of the Applicant purchasing the property on September 12, 2019, which only allowed for approximately five months for the Applicant to finalize plans and submit a building permit application for the approved penthouse. Following the BZA approval, the prior owner placed the hotel on the market and in doing so suspended all development work on the penthouse and focused its efforts on marketing and selling the Site. The prior owner was a REIT that was purchased by another REIT. In an effort to downsize its DC portfolio, the REIT decided to put all new investment on hold and sell these properties.

Given the short timeframe between the Applicant purchasing the Site and the expiration of the BZA approval, the Applicant immediately engaged with and reappointed a design team to finalize and file the permit application. Once the design work began, the Applicant also began to develop schemes to refurbish the interior of the entire building, which had previously only received a soft renovation, completed in 2013. This additional design work caused delay in finalizing the construction drawings for the penthouse, since a more detailed analysis of the existing building was required.

The Applicant's design team is now well underway with plans to both renovate the interior of the building and construct the penthouse as originally approved by the BZA. In light of this movement, the Applicant anticipates being able to finalize and submit the building permit plans for the penthouse this year. The Applicant notes that although the Zoning Regulations permit BZA extension requests for up to two years, the Applicant believes that it only needs one year to finalize plans and submit them for construction of the approved penthouse.

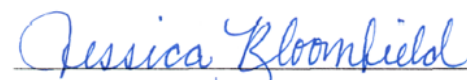
The Applicant is fully committed to moving forward with construction of the penthouse as previously approved by the BZA. As the new owner, the Applicant has recently invested substantially in the Site and has every incentive to complete the plans, file the building permit application, and construct the penthouse as quickly as possible.

II. Conclusion

The Zoning Regulations provide in 11-Y DCMR § 705.2 that a time extension granted pursuant to 11-Y DCMR § 705.1 shall not exceed two years. The requested extension is for a period of one year, and thus complies with 11-Y DCMR § 705.2.

We believe that the facts recited above provide a sufficient basis under 11-Y DCMR § 705.1 *et seq.* for the Board to grant the requested extension, and we respectfully request that the Board do so.

Sincerely,
HOLLAND & KNIGHT, LLP



Norman M. Glasgow, Jr.
Jessica R. Bloomfield

Enclosures

cc: Certificate of Service
Anna Chamberlin, DDOT (w/ enclosures, via email)
Commissioner Randy Downs, ANC 2B05 (w/ enclosures via email at 2B05@anc.dc.gov)

CERTIFICATE OF SERVICE

I hereby certify that on January 28, 2020, a copy of the foregoing application to the Board of Zoning Adjustment was served by electronic mail on the following at the addresses stated below, with hard copies served on the following business day.

Mr. Joel Lawson
D.C. Office of Planning
1100 4th Street, SW, Suite 650E
Washington, DC 20024
joel.lawson@dc.gov

VIA EMAIL

Advisory Neighborhood Commission 2B
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Washington, DC 20036
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VIA EMAIL & U.S. MAIL


Jessica R. Bloomfield