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December 22, 2015

Via Hand Delivery

Anthony Hood, Chairperson
District of Columbia Zoning Commission
441 4th Street, NW, Suite 210-S
Washington, DC 20001

Re: **Zoning Commission Order Nos. 08-33 and 08-33A – 08-33D; Motion for Extension of Time of the First-Stage Planned Unit Development (“PUD”) Approval for the Property Located at the Corner of Irving Street, NE and Michigan Avenue, NE (Parcel 121/31) (the “Property”)**

Dear Chairperson Hood:

MIRV Holdings, LLC¹ (the “**Applicant**”) hereby requests a one year extension of the time period for approval of the First-Stage PUD project approved by Zoning Commission Order Nos. 08-33 and 08-33A – 08-33D. An application form and an agent authorization letter are attached as Exhibit A. This extension request is made pursuant to Sections 2407.11 and 2408.10 – 2408.12 of the Zoning Regulations.

A. Background of ZC Approvals

On November 9, 2015, the Zoning Commission granted approval of the modification of the plans for the consolidated PUD project approved in Order No. 08-33, pursuant to ZC Order No. 08-33C. The Applicant and its design team have already begun the preparation of building permit drawings for the hotel and conference center in order to satisfy the requirement that it file a building permit application for the consolidated PUD application by July 31, 2016 (as approved by ZC Order No. 08-33D).

This time extension request solely applies to the First-Stage PUD approval which was granted by the Zoning Commission in Order No. 08-33 and thereafter extended for a period of

¹ The Applicant in Zoning Commission Case Nos. 08-33 and 08-33A-08-33D was Conference Center Associates, LLC. On October 9, 2015, Conference Center Associates, LLC transferred its interest in the ground lease on the Property and all development plans and approvals to MIRV Holdings, LLC. The principals of Conference Center Associates, LLC are also principals in MIRV Holdings, LLC.

one year (copies of ZC Order Nos. 08-33 and 08-33B are attached as Exhibit B). The First-Stage PUD approval in this application included two nine story buildings with a measured building height of 94.5 feet (as measured from the curb at Irving Street) that will be no taller than 90 feet as measured from the finished grade at the building. The two buildings will be dedicated to either additional hotel and/or residential units and may include more space for conference center uses.

B. Background of Property Ownership and Non-Disturbance Agreement Between the District of Columbia and the General Services Administration

Jurisdiction of the Property was transferred from the General Services Administration (GSA) to the District of Columbia in 1959. In the late 1980's the District of Columbia sought a development partner to develop a conference center facility on the Property. In order to do this, the District of Columbia sought assurances from GSA that as long as the property was used for such a purpose, GSA would not seek to revoke the transfer of jurisdiction or take any other action to prohibit construction of the conference center facility.

On March 7, 1990, the District of Columbia and GSA entered into a Statement of Non-Disturbance which provided the District of Columbia with assurances that "as long as the aforementioned parcel is used as a conference, training and/or exhibit center, overnight accommodations facility and ancillary uses, such as a restaurant, recreational facilities and/or gift shop, and/or compatible use and such use is consented to by the District, GSA will not seek to revoke the transfer of jurisdiction of this parcel to the District, nor will it take other action to prohibit construction, development, maintenance, operation, restoration and/or repair of the facility." A copy of the Statement of Non-Disturbance is attached as Exhibit C.

During the review of ZC Case No. 08-33, the National Capitol Planning Commission concluded that the First-Stage PUD approval would have an adverse effect on an identified federal interest because the proposed inclusion of dwelling units is inconsistent with the acceptable uses stipulated in the Statement of Non-Disturbance. In its approval of ZC Order No. 08-33, the Commission noted that:

in deciding the first-stage PUD, its role is limited to deciding whether the Applicant has met its burden of proof under Chapter 24 of the Zoning Regulations, which does not include an evaluation of whether the proposed project, if constructed, would violate an agreement between the Applicant and third parties. The Commission noted that its approval of the PUD is limited to these criteria, and that the Applicant proceeds at its own risk with respect to the Non-Disturbance Agreement. In approving the application, the Commission takes no position as to whether the inclusion of dwelling units is inconsistent with the acceptable uses stipulated in the Statement of Non-Disturbance established on March 7, 1990 between the District of Columbia and the General Services Administration. (See ZC Order No. 08-33, Finding of Fact No. 7)

C. Summary of Requested Relief

The Applicant is requesting a one year time extension of the approval of the First-Stage PUD approval. The Applicant requests that the First-Stage PUD approval be extended until December 25, 2016. Prior to December 25, 2016, the Applicant will file a Second-Stage PUD application with the Zoning Commission.

D. Jurisdiction of the Zoning Commission

The Commission is authorized to extend a PUD provided that:

- “The extension request is served on all parties to the application by the applicant and all parties are allowed thirty (30) days to respond;
- There is no substantial change in any of the material facts upon which the Commission based its original approval of the PUD that would undermine the Commission’s justification for approving the original PUD; and
- The applicant demonstrates with substantial evidence that there is a good cause for such extension...”
(Section 2408.10 (a) – (c))

In order to demonstrate “good cause shown”, the applicant must demonstrate:

- “An inability to obtain sufficient project financing for the PUD, following an applicant’s diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the applicant’s reasonable control;
- An inability to secure all required governmental agency approvals for a PUD by the expiration date of the PUD order because of delays in the governmental agency approval process that are beyond the applicant’s reasonable control; or
- The existence of pending litigation or such other condition, circumstance or factor beyond the applicant’s reasonable control that renders the applicant unable to comply with the time limits of the PUD order.”
(Section 2408.11 (a) – (c))

E. Legal Tests for Extension Approval

1. Service on Parties

The only party in this case was Advisory Neighborhood Commission (“ANC”) 5C. Due to the redistricting of the ANCs in accordance with the results of the 2010 Census, the Property is now located in ANC 5A. The Single Member District ANC Commissioner for the Property is Mr. Ronnie Edwards. Commissioner Edwards was the SMD Commissioner for the Property during the Zoning Commission’s review of ZC Case Nos. 08-33 and 08-33A – 08-33D. As

shown in the attached Certificate of Service, ANC 5A is being served with this time extension request. The Applicant is also serving this request on ANC 5E, the boundaries of which are located within 200 feet of the Property.

2. No Substantial Change of Material Facts

There has been no substantial change of material facts since the Commission's approval of the First-Stage PUD application in 2009 that undermine the Commission's justification for approving the original First-Stage PUD application. As noted in the Office of Planning report in support of the time extension in Case No. 08-33D, there are no changes to the Zoning Regulations or the Comprehensive Plan that would impact the material facts upon which the Zoning Commission based its original approval. The new development that has occurred in the area near the Property, such as the construction and occupation of townhouses in the Chancellor's Row project, the construction of a number of the approved buildings in the Monroe Street Market project, and the approval of the PUD application for the mixed-use project at the McMillan Water Treatment facility, highlight the importance of the Applicant pursuing a mix of uses on the Property which reflect the current market demand for residential, hotel, conference center, and/or office uses.

3. Good Cause Shown

The Applicant satisfies the good cause standard of Section 2408.11(c), as it has: (i) diligently attempted to negotiate with the District of Columbia Government and the GSA in order to amend the Statement of Non-Disturbance to allow residential uses on the Property; and (ii) met with the major institutions in the neighborhood, including Catholic University, Trinity University, The Shrine of the Immaculate Conception, Washington Hospital Center, and Children's National Medical Center in order to assess each institution's hotel and conference needs as well as determine other needs and synergistic uses that could be included in the second phase of development on the Property.

The Applicant believes that having the appropriate mix of uses on the site is very important for both the Applicant and the community. Having clarity from GSA now on the ability to have residential uses on the Property is vital to determining what the ultimate mix of uses could be on the Property. Therefore, the Applicant has spent considerable effort in bringing the District (through DMPED) and GSA together to address the pertinent issues related to the revision of the Statement of Non-Disturbance. The Applicant is hopeful that all parties will be able to agree on a process that will allow for residential uses to occur on the Property. Unfortunately, that process will take some additional time to complete. It is the Applicant's belief that it will take 90 – 180 days to finalize the necessary revisions to the Statement of Non-Disturbance to allow residential uses.

The Applicant has received tremendous positive feedback from the community institutions on the modifications to the hotel and conference center that the Commission recently approved. The Applicant continues to explore and refine the right mix of uses in the second

phase of development of the Property, and the different configurations of the site that those uses will entail. Having additional time to incorporate community feedback into the uses and design of the second phase of development will help the Applicant's design team create a better overall project that continues to receive the support of the surrounding property owners and institutions.

This information, which is attested to by Bob Pinkard, Manager of the Applicant (see the attached affidavit in Exhibit D), is provided to show the Zoning Commission that the Applicant actively sought to address the ability to have residential uses on the Property and that the Applicant has sought input from neighborhood stakeholders as to the likely demand for additional hotel and conference center space, or medical office space. Granting the one year time extension will be sufficient to allow the Applicant to return to the Zoning Commission with a well-planned and fully vetted Second-Stage PUD application by December 25, 2016.

A letter in support of the time extension application, signed by the Deputy Mayor for Planning and Economic Development is also included in Exhibit D.

F. Conclusion

The Applicant believes that the information provided in this application satisfies the "good cause" requirements of Section 2408 regarding its inability to file a Second-Stage PUD application for the remainder of the property prior to December 25, 2015. The Applicant is available to provide additional information regarding this application at the request of the Zoning Commission.

Please feel free to contact the undersigned if you have any questions or comments regarding this application.

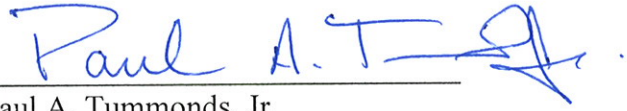
Respectfully Submitted,

A handwritten signature in blue ink that reads "Paul A. Tummonds, Jr." with a stylized flourish at the end.

Paul A. Tummonds, Jr.

Certificate of Service

I hereby certify that I sent the foregoing document to the addresses below on December 22, 2015 by first class mail.



Paul A. Tummonds, Jr.

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c/o Ronnie Edwards, SMD 5A05
122 Michigan Avenue, NE #L24
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