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October 12, 2023

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VIA E-MAIL AND OVERNIGHT

Alicia K. Losonczy, Land Use Administrator
City of Bayonne, City Hall
630 Avenue C
Bayonne, New Jersey 07002

**RE: Request for Extension of Approvals
26 North Avenue, Block 297, Lot 3 ("Property")
P-15-0019**

Dear Ms. Losonczy,

This firm represents 26 North Avenue Urban Renewal, LLC ("Applicant") with respect to the above-described Property. Please accept this letter in further support of Applicant's request for an extension of its previously granted preliminary and final major site plan approval to December 1, 2025. By way of correspondence dated May 19, 2023, Applicant submitted this extension request and a check in the amount of \$1,000.00 for the application fee.

By way of brief background, the Planning Board ("Board") granted Applicant preliminary and final major site plan approval to construct a 170-unit mixed-use development on the Property by resolution memorialized September 15, 2015 (the "2015 Approval"). The 2015 Approval contained a condition that Applicant commence construction within 12 months.

After the 2015 Approval, on December 1, 2016, the Applicant entered into a Redevelopment Agreement with the City of Bayonne ("City") (the "RDA"), which provided a schedule that Applicant commence construction within sixty (60) months of the effect date of the RDA. As such, Applicant was required to commence construction by December 1, 2021.

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Thereafter, in response to Applicant's request, the Board memorialized a Resolution on December 13, 2016 extending Applicant's time to commence construction and zoning protection period to December 1, 2021 in order to align with the RDA.

However, the RDA contains an automatic extension period of two years, which would extend Applicant's time to commence construction to December 1, 2023. Additionally, the RDA provides for a further two (2) year extension pursuant to a Force Majeure clause, which would extend Applicant's time to commence construction to December 1, 2025. Applicant has an agreement in principle with the City, which was approved by the City Council for an Amendment to RDA that provides for an extension to December 1, 2025 to commence construction, which Applicant expects to finalize and execute in the imminent future. Additionally, the proposed Amendment to RDA provides that while the City and its agencies and Boards will cooperate in extending the approvals for this project, Applicant will work with the City to pursue a potential alternative form of the project with a reduced building height, from 22 stories to 14 stories.

As such, Applicant respectfully requests from the Board an extension to extend its deadline to commence construction and zoning protection period through to December 1, 2025 to align with the Amendment to RDA. Applicant requests this extension for the reasons enumerated below.

First, the COVID-19 pandemic and associated economic conditions, market uncertainties and supply chain shortages has stymied Applicant's timeline to commence construction in this market. As the Board may be aware, due to the delays and uncertainties caused by the COVID-19 pandemic, in September 2020, Legislature enacted the Permit Extension Act of 2020 ("PEA"). The PEA tolled governmental approvals from the period of March 9, 2020, when the COVID-19 pandemic began, for as long as the public health emergency declared by Governor Murphy, pursuant to the Emergency Health Powers Act, N.J.S.A. 26:13-1 et seq., was in effect. The public health emergency declared by Governor Murphy was lifted on July 4, 2021. Accordingly, the State found the COVID-19 pandemic a reason to suspend the clock on approvals for approximately sixteen (16) months.

In enacting the PEA, Legislature found that the COVID-19 pandemic "adversely impacted real estate developers and redevelopers, including homebuilders and commercial, office, and industrial developers, whose projects may be held in abeyance as a result of the COVID-19 pandemic." N.J.S.A. 40:55D-136.8(e). Accordingly, there is no question that the COVID-19 pandemic has adversely impacted Applicant's ability to commence construction by the December 1, 2021 deadline.

Applicant also makes this request pursuant to N.J.S.A. 40:55D-52(e), which permits boards to extend site plan approval periods beyond two years for developments of at least 100 residential units, "for such additional period of time as shall be determined by the planning board to be reasonable taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under final

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approval, (2) the number of dwelling units and nonresidential floor area remaining to be developed, (3) economic conditions, and (4) the comprehensiveness of the development.” In light of the number of dwelling units, area remaining to be developed, and economic conditions, Applicant submits that a basis exists for the Board to grant its requested extension to December 1, 2025.

We thank you for your time and attention to this matter and kindly request that this matter be placed on the Board’s November 6, 2023 agenda. Should the Board require any further information, please do not hesitate to contact us.

Very truly yours,

Michael Miceli

Michael Miceli, Esq.
Attorney for Applicant

cc: Richard N. Campisano, Esq. (via e-mail)
26 North Avenue Urban Renewal, LLC (via e-mail)