

Memorandum

TO: District of Columbia Zoning Commission

FROM: Karen Thomas, Development Review Specialist
JL for Jennifer Steingasser, Deputy Director Development Review & Historic Preservation

DATE: May 14, 2025

SUBJECT: ZC 04-14I: 10-Year Time Extension to Order 04-14D (Approved Design Review of Marina) (Square 708, Lot 15)

OP RECOMMENDATION

The Office of Planning (“OP”) recommends **approval** of the 10-Year Time Extension of the approved Marina Design Review under Order 04-14D.

BACKGROUND

A first-stage PUD was approved in 1998 in Z.C. Order No. 850. A related second-stage approval was granted in 1999 in Z.C. Order No. 910, subsequently modified and extended by Z.C. Order Nos. 910-A and 910-B. Thereafter, the following orders were granted:

Order	Description
Order No. 04-14 Effective June 27, 2008	Second-stage PUD approval and a related map amendment for the 253,500 square foot site located in Squares 707 (Lots 800, 801, and 802); 708 (Lot 809); 708E (Lots 807 and 808); and 708S (Lot 806) (the “PUD Site”). The PUD Site included four different developments – Phases I and III for office buildings, Phase II for a residential building (the subject of the Application), and Phase IV for a hotel.
04-14A	Time extension – 2 years for the Approved PUD. Extended until June 27, 2012
04-14B Effective April 5, 2013	Modification - Second-stage approval modified to consist only of Phase One, which would consist of a residential building rather than the office building originally approved. Modifications to the site plan, circulation, and building design Phases Two, Three, and Four reverted to First-Stage Approval.
04-14C Effective April 5, 2013.	Time Extension - Extend for one- year through June 27, 2013.
04-14D Effective Oct. 10, 2017	2nd Stage PUD approval for Phase II as a 130 ft. tall residential building with ground-floor retail. The marina was approved under this Order.
04-14E Effective Feb.16, 2018	Modification of Consequence to Order 04-14D to the second-stage PUD approval for Phase II - redesign and relocation of architectural elements, and signage.
04-14F Effective Nov. 8, 2019	Modification of Consequence - changes to residential signage for Phase II.
04-14G Effective	Two-Year PUD Time Extension of Phases III & IV , 100 block of Potomac Ave. SE (Sq. 708, Lot 16) for <u>First Stage PUD approved under 04-14B</u>
04-14H Effective June 2025	Modification with Hearing - to 1st-Stage PUD to change office to residential use & 2nd-Stage PUD, Potomac Ave. SE (Sq. 708, Lot 16) (Phases III & IV)
04-14I Current Request	10-Year Time Extension to Order 04-14D to file building permit for the marina (design review portion of project), Potomac Ave. SE (Sq. 708, Lot 15)

SITE SUMMARY

Address	Bounded by Potomac Avenue to the north, Anacostia River to the south, Phase I of the PUD to the east and Phases III and IV to the west.
Applicant	Florida Rock Properties, Inc.
Legal Description	Square 708 Lot 15
Ward/ANC	Ward 8/ ANC 8F02
Zoning:	PUD Zone – C-3-C Approved (2012); Now CG-5
Comprehensive Plan Maps	Future Land Use Map – Mixed Medium Density Residential & Medium Density Commercial Generalized Policy Map – Land Use Change Area
Order/ Exp. Dates	ZC Order 04-14D , ZC Draft Order 04-14H
Previous Extensions	Time Extensions granted for overall PUD. No extensions for Stage I PUD, Phases III & IV. No previous extension of marina approval.
Request	<p>The current request is for a time extension to Order 04-14D, including modification of the condition E.2:</p> <ul style="list-style-type: none"> - the building permit for the marina was to be filed no later than two years after the completion of the Bridge and Oval project by the District (Completed on May 26, 2023); or - Acquisition of the certificate of occupancy for Phase II (Maren in 2020); and - In no circumstance later than 10 years after the effective date of the Order. <p>The Applicant states that the expiration date of the marina's approval is May 26, 2025, which cannot be met for the reasons discussed.</p>

Figure 1. Site Plan



EVALUATION OF THE EXTENSION REQUEST

Subtitle Z, § 705.2

The extension of a PUD is allowed for “good cause” shown upon the filing of a written request by the applicant before the expiration of the approval; provided that the Zoning Commission 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;*

The request was served within the required timeframe.

- (b) There is no substantial change in any of the material facts upon which the Zoning Commission based its original approval of the application that would undermine the Commission’s justification for approving the original application;*

Comprehensive Plan

Since this project was initiated and Phases I and II developed, there have been changes to the Comprehensive Plan in 2021, but none that would substantively impact the decision for a time extension in this case. In particular, the site is now shown on the Generalized Policy Map as being within a Resilience Focus Area, “areas within the 100- and 500-year floodplain (where) future planning efforts are intended to guide resilience to flooding for new and existing development and infrastructure projects, including public capital projects such as the Frederick Douglass Bridge and the Oval. As a waterfront site, floodplain issues have been discussed through the PUD process and have continued as part of discussions for Phases III and IV, approved under **ZC 04-14H** in March 2025. They will continue to be addressed through the Department of Building permitting processes.

Zoning Regulations

The Regulations were revised under ZR 2016 and the zone name for the site changed from C-3-C to CG-5. This would not affect the development parameters under which the PUD was originally approved. The final phases of the PUD are approved to be developed under CG-5 standards.

Surrounding Development

Since this PUD’s approval and the development of Phases I and II under Order 04-14B, several structures including other multifamily and mixed-use buildings have emerged in what is now commonly referred to as the Ballpark Area, as well as adjacent buildings across South Capitol Street in the vicinity of Audi Field. The boundaries of the ANC have also changed, resulting in this site changing from ANC 6D to ANC 8F.

- (c) The applicant demonstrates with substantial evidence one (1) or more of the following criteria:*

(1) ...N/A

- (2) An inability to secure all required governmental agency approvals for a development by the expiration date of the order because of delays in the governmental agency approval process 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 that renders the applicant unable to comply with the time limits of the order.

The Applicant, in negotiations with DDOT, finalized the western boundaries of its property (in the vicinity of Phase III and IV) and the public space for the South Capitol Street Bridge and Oval projects. The land transfers and finalization of those property boundaries were not completed until January 6, 2023, and the transfer became effective on May 26, 2023.

Since the property boundaries have been recently refined and timing of completion of DDOT's project coincided with the expiration of the subject Order in April 2023, along with a modification hearing under ZC 04-14H in summer 2024 for the final Phases III and IV, a time extension is reasonable due to delays beyond the Applicant's reasonable control.

This is the first request for this extension, and is appropriate and aligned with the timeline outlined in the Applicant's statement for Phase IV and Phase III development, which will be completed in 2035. ([Exhibit 2, page 5 para.1](#)). During the construction of Phases III and IV, the Applicant intends to seek all required approvals for the marina.

Therefore, OP supports the 10-year extension request to complete the approved marina for this long-standing development project at a prominent location on the District's waterfront.