

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
ZONING COMMISSION**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 12-14F**

Z.C. Case No. 12-14F

3rd and K, LLC

(Two-Year Time Extension for Approved PUD

@ Square 542, Lots 816, 817, 821, 883, and 2124-2251)

May 14, 2026

Pursuant to notice, at its public meeting on May 14, 2026, the Zoning Commission for the District of Columbia (the “Commission”) considered the application (the “Application”) of 3rd and K, LLC (the “Applicant”) for a two-year time extension for the consolidated Planned Unit Development (“PUD”) and related map amendment approved under Z.C. Order No. 12-14/12-14A, as modified by Z.C. Order Nos. 12-14C and 12-14D and extended by Z.C. Order Nos. 12-14B, 12-14(1), and 12-14E (together, the “Orders”) for development of the property at Lots 816, 817, 821, 883, and 2124-2251 in Square 542 (the “Property”). The Orders approved development of two new residential buildings in two phases, Phase One, a new residential building on the south parcel of the Property (the “South Building”); and Phase Two, a new residential building on the north parcel of the Property (the “North Building”) (together, the “Project”).

The Commission reviewed the Application pursuant to the Commission’s Rules of Practice and Procedures, which are codified in Subtitle Z of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

PRIOR APPROVALS

1. Pursuant to Z.C. Order No. 12-14/12-14A (“Original Order”), effective March 14, 2014, the Commission approved a consolidated PUD and related map amendment to construct two new residential buildings, in two phases, underground parking, and associated site improvements at the Property, with Phase One, the South Building and Phase Two, the North Building. The Order required the Applicant to file a building permit application for Phase Two, the North Building, within two years of the issuance of the Certificate of Occupancy for Phase One, the South Building. The South Building was constructed and received its Certificate of Occupancy on April 27, 2018, which required a building permit application for the North Building to be filed by April 27, 2020.
2. Pursuant to Z.C. Order No. 12-14B, effective January 31, 2020, the Commission approved a two-year time extension to file a building permit application for the North Building until April 27, 2022.

3. Pursuant to Z.C. Order Nos. 12-14C and 12-14D, effective July 3, 2020, and December 9, 2022, respectively, the Commission approved Modifications of Consequence to the conditions and approved plans for the North Building.
4. Pursuant to Z.C. Order No. 12-14(1), effective May 6, 2022, a one-year administrative extension due to the COVID-19 pandemic was granted, under Subtitle Z § 705.9, to extend the time to file a building permit application for the North Building until April 27, 2023;¹ therefore, the Applicant was required to start construction on the North Building by April 27, 2024. The Applicant timely filed a building permit application for the North Building on April 6, 2023.
5. Pursuant to Z.C. Order No. 12-14E, effective August 23, 2024, the Commission approved a two-year time extension of the deadline to file a building permit application for the North Building until April 27, 2026, and to start construction by April 27, 2028. As noted, the Applicant timely filed a building permit application for the North Building before requesting the time extension in Z.C. Case 12-14E; however, the building permit application lapsed due to the Applicant's inability to secure financing and start construction as described in Z.C. Order No. 12-14E.

PARTIES AND NOTICE

6. In addition to the Applicant, the other parties to the Original Order were Advisory Neighborhood Commission ("ANC") 6D, the "affected" ANC pursuant to Subtitle Z § 101.8, as well as Carrollsburg A Condominium, and Waterfront Tower Condominium.
7. On March 31, 2026, the Applicant served the Application on ANC 6D, Carrollsburg A Condominium, Waterfront Tower Condominium, the Office of Planning ("OP"), and the District Department of Transportation ("DDOT"), as attested by the Certificate of Service submitted with the Application (Exhibit ["Ex."] 2).

II. THE APPLICATION

8. On March 31, 2026, the Applicant filed the Application requesting a two-year extension of the validity of the Orders, until April 27, 2028, to file a new building permit application and, until April 27, 2029, to start construction on the North Building. As noted above, the Applicant timely filed a building permit application for the North Building on April 6, 2023, but the application lapsed and the Applicant has been unable to secure financing to move forward with the North Building. In addition, the Application requested a waiver from the requirements of Subtitle Z § 705.5, which limits an applicant to two extension requests for an approved PUD and a second extension request to no more than one year, to allow a third time extension for two years (Ex. 2).

¹ Pursuant to Subtitle Z § 705.5, an administrative extension granted under Subtitle Z § 705.9 does not count as a time extension request for an approved PUD; therefore, the administrative extension granted in Z.C. Order No. 12-14(1) does not count as a time extension request.

9. The Application asserted that it met the requirements, under Subtitle Z § 705.2, for the proposed two-year time extension because:
- The Applicant served the extension request on all parties to the application and all parties were allowed 30 days to respond;
 - There has been no substantial change in any material facts upon which the Commission based its original approval; and
 - Good cause justifies the Commission's granting the time extension because, despite diligent efforts, the Applicant has been unable to secure financing for the North Building primarily due to adverse market conditions beyond its reasonable control, including unfavorable economic conditions for new multifamily residential development, which will prevent the Applicant from filing a building permit application by the current deadline of April 27, 2026.
- (Ex. 2).
10. The Application asserted that it met the criteria, under Subtitle Z § 101.9, for a waiver from Subtitle Z § 705.5 requirements. Pursuant to Subtitle Z § 101.9, the Commission may, for good cause shown, waive any of the provisions of Subtitle Z if, in the judgment of the Commission, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law. The Applicant stated that there is good cause for granting the waiver to preserve the Applicant's substantial investment in the Project by allowing completion of the North Building. The Applicant noted that it completed construction of the South Building and timely filed a building permit application for the North Building. However, despite the Applicant's diligent efforts pursuing the necessary financing, unfavorable economic and real estate market conditions have not materially improved since the Commission's granting the extension in Z.C. Order No. 12-14E. The Application stated that granting the waiver will allow development of the North Building to occur when financing becomes available, fulfilling the commitment of the two-phase development envisioned for this PUD; and will not prejudice the rights of any party and is not otherwise prohibited by law (Ex. 2).

III. RESPONSES TO THE APPLICATION

11. On April 16, 2026, OP submitted a report (the "OP Report") recommending approval of the requested two-year extension, both to file a building permit application and start construction, and the waiver from the limitations of Subtitle Z § 705.5 to allow a third extension of a PUD approval for two years. The OP Report concluded that the Application met the requirements of Subtitle Z § 705.2, for the two-year extension, and Subtitle Z § 101.9, for the waiver because there have been no substantial changes in any material facts upon which the Commission based its original approval; and the Applicant has demonstrated good cause as current unfavorable market conditions beyond its reasonable control necessitate additional time to secure financing for the North Building (Ex. 5).
12. ANC 6D submitted a report stating that at its properly noticed public meeting on April 20, 2026, with a quorum present, the ANC voted unanimously to support the Application (Ex. 6).

13. Neither Carrollsburg A Condominium nor Waterfront Tower Condominium submitted a response to the Application.

CONCLUSIONS OF LAW

1. Subtitle Z § 705.2 authorizes the Commission to extend the time period of an order upon determining that the time extension request demonstrated satisfaction of the requirements of Subtitle Z § 705.2 and compliance with the limitations of Subtitle Z § 705.3, 705.5, and 705.6.
2. Subtitle Z § 705.2(a) requires that an Applicant serve the extension request on all parties and that parties are allowed 30 days to respond.
3. The Commission concludes that the Applicant has satisfied Subtitle Z § 705.2(a) by demonstrating that it served all parties, which in this case are ANC 6D, Carrollsburg A Condominium, and Waterfront Tower Condominium, and that all three parties were given 30 days to respond.
4. Subtitle Z § 705.2(b) requires that the Commission find that no substantial change has occurred to any of the material facts upon which the Commission based its original approval that would undermine the Commission's justification for that approval.
5. The Commission concludes that the Application satisfied Subtitle Z § 705.2(b) based on the Application and the OP Report, which stated there has been no substantial change to the material facts upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for that approval.
6. Subtitle Z § 705.2(c) requires that an application requesting extension of the time period(s) of an order demonstrate with substantial evidence one or more of the following criteria:
 - (1) *An inability to obtain sufficient project financing for the development, 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;*
 - (2) *An inability to secure all required government agency approvals for a development 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*
 - (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.*
7. The Commission concludes that the Application meets the standards of Subtitle Z § 705.2(c)(1) because, despite diligent efforts, the Applicant has been unable to secure the necessary financing for the North Building, due to unfavorable economic and real estate development market circumstances beyond its reasonable control. Accordingly, the Applicant was unable to file a new building permit application and start construction within

the deadlines set by Z.C. Order No. 12-14E. The Commission concludes there is good cause to extend the time limits for two more years to enable delivery of the North Building, which will allow the completion of Phase Two of the Project as envisioned.

8. Subtitle Z § 101.9 authorizes the Commission to waive, for good cause shown, any of the provisions of Subtitle Z, if the waiver will not prejudice the rights of any party and is not otherwise prohibited by law. The Commission concludes that the Applicant has satisfied Subtitle Z § 101.9 by demonstrating good cause for waiver of Subtitle Z § 705.5's requirements, to allow for a third extension of a PUD approval for two years. The Commission agrees that additional time to file a new building permit application and start construction is necessary, given that current unfavorable economic and real estate market conditions have made it difficult for the Applicant to secure the necessary financing. Further, the waiver will not prejudice the rights of any party, as all parties were allowed an opportunity to respond to the Application; and is not otherwise prohibited by law.

“GREAT WIGHT” TO THE RECOMMENDATION OF OP

9. The Commission is required to give “great weight” to the recommendations of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.)) and Subtitle Z § 405.9 (*Metropole Condo. Ass’n v. District of Columbia Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)).
10. The Commission finds OP’s recommendation to approve the Application persuasive and concurs in the judgment.

“GREAT WIGHT” TO THE RECOMMENDATION OF OP

11. The Commission must give “great weight” to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.)) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)). The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Bd. of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (D.C. 1978) (citation omitted)).
12. The Commission finds ANC 6D’s support of the Application persuasive and concurs in that judgment.

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Applicant’s request for:

- Waiver from Subtitle Z § 705.5's requirement, which limits an applicant to two extension requests for an approved PUD and a second extension request to no more than one year; and
- A two-year time extension of the validity of the Orders, with the requirement that the Applicant file a new building permit application no later than April 27, 2028, and start construction no later than April 27, 2029, for the North Building.

FINAL ACTION

VOTE (May 14, 2026): (5-0-0)

(Tammy Stidham, Gwen Wright, Anthony Hood, Robert Miller, and Joseph Imamura to approve).

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 12-14F shall become final and effective upon publication in the *District of Columbia Register*, that is, on August 7, 2026.

BY THE ORDER OF THE D.C. ZONING COMMISSION

A majority of the Commission members approved the issuance of this Order.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENT OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.