

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

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 13-05F**

Z.C. Case No. 13-05F

FC Ballpark LLC

**(Two-Year Time Extension of the Second-Stage PUD Approval for the G1 Parcel @ Square
744-S, Lot 807 (“G1 Parcel”))**

April 24, 2025

Pursuant to notice, at its April 24, 2025, public meeting, the Zoning Commission for the District of Columbia (the “Commission”) considered the application (the “Application”) of FC Ballpark LLC (the “Applicant”) for a two-year time extension of the second-stage planned unit development (the “Second-Stage PUD”) approved in Z.C. Order No. 13-05E. The property (Lot 807 in Square 744-S) that is the subject of the application has a street address of 1402 1st Street SE and is known as the G1 Parcel (the “Property”). 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.

I. FINDINGS OF FACT

PRIOR APPROVALS

1. Pursuant to Z.C. Order No. 13-05E (the “Order”), the Commission approved the Second-Stage PUD, which authorized construction of a new mixed-use building with ground-floor retail uses and below-grade parking on the G1 Parcel (the “Project” or “Second-Stage PUD”).
2. Condition D.4(a) of the Order required the Applicant to file for a building permit by March 31, 2025.

PARTIES AND NOTICE

4. The only party to the Order was Advisory Neighborhood Commission (“ANC”) 8F, which is the “affected” ANC.¹ (*See* Subtitle Z § 101.8, 403.5).

¹ ANC 6D was the original “affected ANC,” but, due to a redistricting, the affected ANC is now ANC 8F. Therefore, ANC 8F, as the ANC for the property that was the subject of the original PUD, is now the “party” pursuant to Subtitle B, Section 100.2 (definition of “Party”).

5. On March 24, 2025, the Applicant served the Application on ANC 8F, as well as the Office of Planning (“OP”) and the District Department of Transportation, as attested by the Certificate of Service submitted with the Application (Exhibit [“Ex.”] 2).

THE APPLICATION

6. On March 24, 2025, the Applicant timely filed the Application requesting a two-year extension of the Second-Stage PUD, to extend the time to file a building permit application for the Project to March 31, 2027.
7. The Application asserted that it met the requirements for a time extension enumerated in Subtitle Z § 705.2 because:
 - The extension request was served on all parties and parties were allowed 30 days to respond;
 - There has been no substantial change in any material facts upon which the Commission based its approval of the Order; and
 - The Applicant has been unable to obtain Project financing, despite diligent good faith efforts to permit the Project and explore alternative financing approaches, because, due to unique features of the Project, including the proposed public street and park infrastructure as well as the outsized affordable housing commitment, the use of specific public financing tools is required in conjunction with conventional financing and those public financing tools have not yet been secured due to reasons beyond the Applicant’s control (Ex. 2, 2D).

RESPONSES TO THE APPLICATION

8. On April 9, 2025, OP submitted a report, recommending approval of the Application and concluding there were no substantial changes to the material facts upon which the Commission had based its approval of the Order (Ex. 3.)
9. ANC 8F did not file a response to the Application.

CONCLUSIONS OF LAW

1. Subtitle Z § 705.2 authorizes the Commission to extend the time period of an order approving a PUD 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. The Commission concludes that the Applicant timely filed the Application prior to its expiration.
3. 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.

4. The Commission concludes that the Applicant has satisfied Subtitle Z § 705.2(a) by demonstrating that it served ANC 8F, the only party to the Application, on March 24, 2025 and that ANC 8F was given 30 days to respond from March 24, 2025.
5. 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 of the PUD that would undermine the Commission's justification for approving the PUD.
6. The Commission concludes that the Application satisfied Subtitle Z § 705.2(b), based upon the Application and the OP Report, which each stated no substantial changes had occurred to the material facts upon which the Commission based its prior approval that would undermine the Commission's justification for approving the Project.
7. Subtitle Z § 705.2(c) requires that an application 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 governmental 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.*
8. The Commission concludes that the Application met the standard of Subtitle Z § 705.2(c)(1) due to an inability to obtain sufficient project financing for the Project following an applicant's diligent good faith efforts to obtain such financing because of circumstances beyond the applicant's reasonable control. For this reason, the Commission agrees that these conditions constitute good cause for the requested two-year extension of the Second-Stage PUD.

“GREAT WEIGHT” TO THE RECOMMENDATIONS 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 that judgment.

"GREAT WEIGHT" TO THE WRITTEN REPORT OF THE ANC(S)

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 (*Spring Valley-Wesley Heights Citizens Ass'n v. District of Columbia Zoning Comm'n*, 856 A.2d 1174, 1180 (D.C. 2004)). 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. ANC 8F did not file a response to the Application; therefore, there is nothing to which the Commission can give great weight.

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 Application's request for a two-year time extension of Z.C. Order No. 13-05E, with the requirement that the Applicant:

- File a building permit application to construct the Second-Stage PUD approved by Z.C. Order No. 13-05E by March 31, 2027.

VOTE (April 24, 2025): **4-0-1** (Gwen Wright, Tammy Stidham, Anthony J. Hood, and Robert E. Miller to approve; Joseph S. Imamura not present and not voting)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 13-05F shall become final and effective upon publication in the *District of Columbia Register*; that is, on _____, 2025.

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 RESIDENCE 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.