

GOVERNMENT OF THE DISTRICT OF COLUMBIA
ZONING COMMISSION



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 15-18D

Z.C. Case No. 15-18D

Initio, LP

(One-Year Time Extension for Approved PUD @ Square 1194, Lot 15
[2715 Pennsylvania Avenue, N.W.])

March 27, 2025

Pursuant to notice, at its public meeting on March 27, 2025, the Zoning Commission for the District of Columbia (“Commission” or “Z.C.”) considered the application of Initio, LP (the “Applicant”) for a one-year time extension of the deadline to commence construction of the consolidated planned unit development approved pursuant to Z.C. Order No. 15-18 (the “Original Order”), as modified by Z.C. Order No. 15-18A and Z.C. Order No. 15-18B, and as extended by Z.C. Order No. 15-18(1), Z.C. Order No. 15-18(2), and Z.C. Order No. 15-18C (the “Application”)¹. The property subject to the Application is 2715 Pennsylvania Avenue, N.W. (Square 1194, Lot 15) (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, Zoning Regulations of 2016, to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the request for the one-year time extension.

FINDINGS OF FACT

I. BACKGROUND

PRIOR APPROVALS

1. The planned unit development (“PUD”) was originally approved under the Original Order, effective March 10, 2017, which also included a related Zoning Map amendment to allow construction of a mixed-use building with a restaurant on the ground floor and a four-story apartment house with seven residential units above. Because the Original Order was approved under the Zoning Regulations of 1958, the Commission granted a 50% waiver from the PUD minimum land area requirements and an additional waiver as the Property still could not satisfy the minimum land area threshold requirements under the Zoning Regulations of 1958.

¹ The Application also requested a waiver from the Commission’s two-year limit on time extensions under Subtitle Z § 705.3; however, the Commission determined this waiver was unnecessary because the Application only requests a one-year time extension.

2. Pursuant to Z.C. Order No. 15-18A, effective February 2, 2018, the Commission approved a minor modification to apply the minimum land area requirements of the Zoning Regulations of 2016, under Subtitle X § 301.1, to the approved PUD and granted a waiver of minimum land area requirements under Subtitle X § 301.3.
3. The Original Order was effective on March 10, 2017, and was appealed to the District of Columbia Court of Appeals on April 3, 2017. The District of Columbia Court of Appeals granted a motion to dismiss the appeal on March 9, 2018. Accordingly, under Subtitle Z § 705.8, the Original Order was then effective as of March 9, 2018, and a building permit for the approved PUD was required to be filed by March 9, 2020. Such building permit was timely filed.
4. Pursuant to Z.C. Order No. 15-18B, effective December 28, 2018, the Commission approved a modification of consequence to reduce the size of the Property and granted flexibility for additional lot occupancy, to increase the height of the elevator overrun, and to modify the brick color of the building from red to mid-tone gray.
5. Pursuant to Z.C. Order Nos. 15-18(1) and 15-18(2), the approved PUD was granted administrative Covid-19 time extensions, which extended the construction commencement date to March 9, 2022 and March 9, 2023, respectively.
6. Pursuant to Z.C. Order No. 15-18C, effective April 7, 2023, the construction commencement date for the approved PUD was extended by the Commission from March 9, 2023 to March 9, 2025.

PARTIES

7. The parties to the Original Order were the Applicant and Advisory Neighborhood Commission (“ANC”) 2E.

II. THE APPLICATION

8. On February 18, 2025, prior to the March 9, 2025 deadline to commence construction of the approved PUD, the Applicant filed the Application requesting a one-year extension of the aforementioned deadline on the basis that the Applicant had sufficiently evidenced compliance with the criteria of Subtitle Z §§ 705.2(a)–(c) (Ex. 1–2F).
9. The Application asserted that it satisfied the requirement of Subtitle Z § 705.2(a) to serve all parties to the original application. Specifically, the Applicant attested by Certificate of Service that the Applicant served the Application on ANC 2E, ANC Single Member District Commissioner 2E06, and the Office of Planning (“OP”) (Ex. 2).
10. The Application asserted that it satisfied the requirements of Subtitle Z § 705.2(b) because no substantial change had occurred in any of the material facts on which the Commission had relied upon in approving the Original Order (Ex. 2).
11. The Application asserted that it satisfied one or more of the criteria of Subtitle Z § 705.2(c). First, the Applicant was unable to obtain sufficient project financing for the development

of the approved PUD until September 2024 because of (i) the large increase in construction costs over the past few years due to inflationary pressure on construction wages and materials and (ii) the high interest rates for higher-risk development projects; this delayed the Applicant's filing of plans with the Department of Buildings ("DOB"). Second, due to changes with the Department of Energy and Environment's ("DOEE") Voluntary Remediation Action Program ("VRAP") application process, the Applicant's VRAP application package had to be redone in order to comply with current DOEE requirements, which triggered the redesign of drawings related to the approved PUD's Excavation Permit and to the approved PUD's Foundation to Grade Permit. Also, last year, without notice to the development industry, Washington Gas changed its meter location requirements, which necessitated a redesign of the drawings for the utility connection. For these reasons, the Applicant was unable to meet the required timeline to commence construction (Ex. 2).

III. RESPONSES TO THE APPLICATION

OP REPORT

12. OP submitted a report dated March 21, 2025 (the "OP Report"), which recommended approval of the Application based on OP's conclusion that the Applicant had satisfied the relevant standards of Subtitle Z § 705.2 (Ex. 6).

ANC REPORT

13. ANC 2E submitted a resolution dated March 12, 2025 (the "ANC Resolution"), stating that at its regularly scheduled, properly noticed public meeting on March 3, 2025, with a quorum present, the ANC voted unanimously to adopt a resolution in support of the Application (Ex. 5). The ANC resolution cited no issues and concerns.

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 upon a determination that the limitations of Subtitle Z §§ 705.3, 705.5, and 705.6 have been adhered to.
2. The Commission concludes that the Applicant timely filed the Application on February 18, 2025, prior to the March 9, 2025, deadline to commence construction of the approved PUD.
3. Subtitle Z § 705.2(a) requires that an Applicant serve the extension request on all parties and that all parties are allowed 30 days to respond.
4. The Commission concludes that the Applicant has satisfied the requirement of Subtitle Z § 705.2(a) to serve all parties by the Applicant's demonstration that the Applicant served the only other party to the Original Order—ANC 2E—and that ANC 2E was given at least 30 days to respond.
5. Subtitle Z § 705.2(b) requires that the Commission finds that no substantial change has occurred to any of the material facts upon which the Commission based its original

approval of the application that would undermine the Commission's justification for approving the original application.

6. The Commission concludes, based on the Application and the OP Report, that the Application satisfied the requirement of Subtitle Z § 705.2(b) that no substantial change in any of the material facts upon which the Commission based its approval of the Original Order has occurred that would undermine the Commission's justification for that approval.
7. Subtitle Z § 705.2(c) requires that an application demonstrate with substantial evidence one or more of the following criteria:
 - a. *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;*
 - b. *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*
 - c. *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 review of Subtitle Z § 705.2(c)(1) and (c)(2) for a time extension because of the Applicant's inability to obtain sufficient project financing and delays resulting from changes to DOEE's VRAP requirements and Washington Gas' meter location requirements.

“GREAT WEIGHT” TO THE RECOMMENDATIONS OF OP

9. The Commission must 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. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)).
10. The Commission found OP's recommendation that the Commission approve the Application persuasive and concurs in that judgment.

“GREAT WEIGHT” TO THE RECOMMENDATIONS OF THE ANC

11. The Commission must give “great weight” to the issues and concerns raised in a written report of the affected ANC that was approved by the full ANC at a properly noticed meeting that was open to the public 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. D.C. Bd. of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted)).

12. The Commission found ANC 2E's resolution in support of the Application persuasive and concurs in that judgment.

DECISION

In consideration of the case record, the Findings of Fact, and the 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 one-year time extension of the March 9, 2025, deadline to commence construction of the approved PUD pursuant to Z.C. Order No. 15-18, as extended by Z.C. Order Nos. 15-18(1), 15-18(2), and 15-18(C), such that construction of the approved PUD must commence no later than March 9, 2026.

Final Action

VOTE (March 27, 2025): 5-0-0

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

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 15-18D shall become final and effective upon publication in the *District of Columbia Register*; that is, on July 11, 2025.

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 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.