

**\*APPLICANT’S PROPOSED ORDER\***

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



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 16-02E  
Z.C. Case No. 16-02E  
H&A DCU JV, LLC  
(Two-Year Design Review Time Extension for Parcel B @ Square 665, Lot 27)  
June 12, 2025**

Pursuant to notice, at its June 12, 2025, public meeting, the Zoning Commission for the District of Columbia (the “**Commission**”) considered the application (the “**Application**”) of H&A DCU JV, LLC (the “**Applicant**”) for a two-year time extension of the design review (the “**Design Review**”) approved in Z.C. Order No. 16-02D. The property (Lot 27 in Square 665) that is the subject of the application is known as Parcel B (the “**Property**”). The Commission reviewed the Application pursuant to the Commission’s Rules of Practice and Procedure, 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**

**PRIOR APPROVALS**

1. The Property is located in the Buzzard Point neighborhood and is bounded by Half Street, SW to the east, S Street, SW to the south, First Street, SW to the west, and a park to the north that fronts on Potomac Avenue, SW.
2. Pursuant to Z.C. Order No. 16-02 (the “**Original Order**”), the Commission approved a Planned Unit Development (“**PUD**”) authorizing construction of Audi Field. Although the Property was located outside of the boundaries of the PUD, the Original Order required that development of the Property be approved through the design review process.
3. Pursuant to Z.C. Order No. 16-02D (the “**Order**”), the Commission approved design review for the Property. The Order approved a twelve-story, mixed-use building containing approximately 508,298 square feet of gross floor area, a maximum height of 130 feet, approximately 455 residential units of which 30% will be set aside as affordable at a mix of 30%, 50%, and 60% of the Median Family Income (“**MFI**”), approximately 41,043 square feet of office use, approximately 39,661 square feet of entertainment use, approximately 10,790 square feet of retail or restaurant use, and approximately 305 vehicle parking spaces and 178 long-term bicycle spaces in a below-grade garage (the “**Project**”).

4. On the same day, the Commission approved Z.C. Order No. 16-02C, a related modification to the PUD (“PUD Modification Order”), which (a) adjusted the boundary of Parcel B, (b) redesigned the First Street, SW and Potomac Avenue Park, (c) clarified the lot area of Parcel B for purposes of calculating floor area ratio, and (d) permitting the underground parking garage of Parcel B to extend under the PUD site.
5. The Order required a building permit to be filed by July 1, 2024, and construction to commence by July 1, 2025.

#### **PARTIES AND NOTICE**

6. The only party to the Order was Advisory Neighborhood Commission (“ANC”) 6D, which is the “affected” ANC pursuant to Subtitle Z §101.8.
7. On May 6, 2025, the Applicant served the Application on ANC 6D, as well as 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.)

#### **THE APPLICATION**

8. On May 6, 2025, the Applicant timely filed the Application requesting a two-year time extension of the Order, to extend the Design Review approval.<sup>1</sup> The Applicant requested that it be allowed until July 1, 2027 to commence construction for the Project.
9. The Application asserted that it met the requirements for a time extension enumerated in Subtitle Z §705.2 because:
  - There had been no substantial change in any material facts upon which the Commission based its approval of the Order; and
  - There was good cause to grant the requested extension because although the Applicant has advanced the Project toward development, including filing the permit application, securing a lease for the anchor entertainment space, and securing multiple public financing awards related to the all-affordable senior housing portion of the Project, additional time is required to secure the necessary private financing for the market-rate commercial and residential portions of the Project, which the Applicant has been unable to obtain due to the ongoing challenges affecting the financial markets that has led to hesitation from investors. In addition, as a result of these delays caused by an uncertain market, the awarded public financing for the all-affordable component of the Project has lapsed, requiring the Applicant to reapply for these funds.

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<sup>1</sup> The Application also referenced extension of the PUD Modification Order in its Application; however, the PUD Modification Order did not condition its effectiveness on the filing of a permit or commencement of construction by a date certain; therefore, no extension of the PUD Modification Order is required.

## RESPONSES TO THE APPLICATION

10. On June 4, 2025, OP submitted a report stating that OP believed the Application met the standards for the requested two-year extension and recommending approval of the Application. OP agreed with the Applicant that there has been no substantial change in any of the material facts upon which the Commission based its original approval and that the Applicant had demonstrated good cause for the extension. (Ex. 5.)
11. On June 11, 2025 ANC 6D submitted a report in support of the Application, which it issued after the Applicant committed that it would not support the use of any portion of the Property, temporarily or otherwise, for scooter parking. (Ex. 6.)

## CONCLUSIONS OF LAW

1. Subtitle Z § 705.2 authorizes the Commission to extend the period of an order upon determining that the time extension request demonstrates satisfaction of the requirements of Subtitle Z § 705.2 and compliance with the limitations of Subtitle Z §§ 705.3, 705.4, 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 all parties are allowed 30 days to respond.
4. The Commission concludes that the Applicant satisfied the requirement of Subtitle Z § 705.2(a) by demonstrating that it had served ANC 6D, the only other party to the Order, and that the ANC was given 30 days to respond from the May 6, 2025 date of service.
5. Subtitle Z § 705.2(b) requires that the Commission find that there is no substantial change in any of the material facts upon which the Commission based its original approval of the Design Review that would undermine the Commission's justification for approving the original application.
6. The Commission concludes that the Application satisfied Subtitle Z § 705.2(b) based on the Application and OP Report, which stated that no substantial change has occurred to the material facts upon which the Commission had relied in issuing the Order.
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 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 standards of Subtitle Z § 705.2(c)(1) due to an inability to secure the necessary financing, despite the Applicant's diligent efforts, in light of the current volatility of markets. The Commission agrees that these matters constitute good cause for the requested two-year extension of the Order.

#### **"Great Weight" to the Recommendations of OP**

9. The Commission is required to give "great weight" to the recommendations of OP stated in the OP Report 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 § 405.8. *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**

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. The Commission notes ANC 6D's Report in support of the Application, and acknowledges that the ANC's support was conditioned on the Applicant's commitment to the ANC that it would not support the use of any portion of the Property for scooter parking. (Ex. 6.)

### **DECISION**

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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. 16-02D, to extend the validity period and deadline to commence construction until July 1, 2027.

**VOTE (June 12, 2025):**                      **5-0-0** (Anthony J. Hood, Tammy Stidham, Robert E. Miller, Joseph S. Imamura, and Gwen Wright to **APPROVE**)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 16-02E shall become final and effective upon publication in the *DC Register*; that is, on [REDACTED], 2025.

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**ANTHONY J. HOOD**  
**CHAIRMAN**  
**ZONING COMMISSION**

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**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.