Applicant's Proposed Findings of Fact and Conclusions of Law

GOVERNMENT OF THE DISTRICT OF COLUMBIA
ZONING COMMISSION

[placeholder for District of Columbia flag]

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER 23-28A
Z.C. Case No. 23-28A
Blue Skye Construction, LLC d/b/a Blue Skye Construction and Development DC
(Two-Year Time Extension for Approved Hill East District Design Review @
Square 1112E, Lots 809 and 815
[Parcel B-1 and Parcel B-2])
October 8, 2026

Pursuant to notice, at its October 8, 2026, public meeting, the Zoning Commission for the District of Columbia (the "Commission") considered the application (the "Application") of Blue Skye Construction, LLC d/b/a Blue Skye Construction and Development DC (the "Applicant") requesting an extension of the validity periods for the design review approval (the "DR Approval") for new development on property located in Square 1112E, Lots 809 and 815, otherwise known as Parcels B-1 and B-2 in the Hill East Zone District (collectively, the "Property").

The Project (defined below) required design review pursuant to Subtitle K § 409.1, which applies to new construction in the Hill East Zone District, and Subtitle X, Chapter 6, which governs mandatory design review. The Commission granted the DR Approval in Z.C. Order No. 23-28, effective November 29, 2024 (the "Order"). The Application sought to extend the deadlines established by the Order by two years.

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

I. BACKGROUND

The Property

1. The Property consists of two parcels in the Hill East neighborhood that total approximately 2.6 acres (approximately 113,755 square feet) and are located in the southeast quadrant of the District. The Property is generally bounded by Independence Avenue, S.E. to the north, Burke Street, S.E. to the south, 20th Street, S.E. to the west, and 21st Street, S.E. to the east.[1] A portion of the Property is currently used as a parking lot for the St. Coletta of Greater Washington ("St. Coletta") charter school, and the remainder is undeveloped.

[1] Burke Street, 20th Street, and 21st Street, S.E. are planned to be constructed by the District Department of General Services in coordination with the Applicant and the District Department of Transportation pursuant to development agreements separate from the DR Approval. *See* Z.C. Order No. 23-28, n.2.

ZONING COMMISSION
District of Columbia
CASE NO. 23-28A
EXHIBIT NO. 6

2. The Property is located in the HE-2 Zone District, which includes properties with frontage on 20th Street, S.E. (Subtitle K § 400.7).

3. The Property is part of the former Reservation 13 site, which is planned for mixed-use redevelopment under the *Master Plan for Reservation 13: Hill East Waterfront* (the "Hill East Master Plan"), approved by the D.C. Council in 2003. Park Kennedy and The Ethel, two of the first developments under the Hill East Master Plan, are located southeast of the Property on Parcels F-1 and G-1. The surrounding area includes St. Coletta to the west, undeveloped Hill East parcels to the east and south, and the Stadium-Armory Metrorail station and planned Washington Commanders stadium and entertainment district to the north.

DR Approval / The Project

4. Pursuant to the Order, the Commission granted the DR Approval for new construction on the Property consisting of two buildings: a residential apartment building on Parcel B-1 ("Building B1") and a mixed-use building on Parcel B-2 ("Building B2" and together with Building B1, the "Project").

5. Under the Order, Building B1 was approved with approximately 373,157 square feet of gross floor area ("GFA"), approximately 350 residential units, a maximum density of 4.8 floor area ratio ("FAR"), and a maximum building height of 80 feet and seven stories plus a penthouse.

6. Building B2 was approved with approximately 172,867 square feet of GFA, approximately 144 residential units, approximately 14,044 square feet of ground-floor retail, a maximum density of 4.8 FAR, and a maximum building height of 80 feet and seven stories plus a penthouse.

7. Overall, the Project was approved with approximately 494 residential units, including approximately 165 units reserved for households earning up to 50% of the Median Family Income ("MFI") and approximately 164 units reserved for households earning between 60% and 120% MFI. The Project's affordable housing requirements are governed by the National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008 (D.C. Official Code § 2-1226.01 *et seq.*) and D.C. Official Code § 10-801 *et seq.*, governing District land dispositions.

8. The Project also includes an underground parking garage consisting of approximately 238 vehicle parking spaces, 100 of which will be designated for St. Coletta, as well as approximately 233 long-term and 30 short-term bicycle parking spaces.

9. In connection with the DR Approval, the Commission also approved waivers from certain Hill East design standards, an area variance from the building siting requirements of Subtitle K § 420.2 for Building B1, and design flexibility for specified elements of the Project.

DRAFT

Current Deadlines Under the Order

10. Under the Order and pursuant to Subtitle Z §§ 702.2 and 702.3, the DR Approval is valid for two years from the Order's effective date of November 29, 2024. Accordingly, the Applicant must file a building permit application by November 29, 2026, and commence construction by November 29, 2027.

Parties and Notice

11. The parties to the original proceeding were the Applicant, Advisory Neighborhood Commission ("ANC") 7F, within which the Property is located, and ANC 7D, whose jurisdictional boundary runs along Independence Avenue, S.E., directly north of the Property. Accordingly, ANCs 7F and 7D were both "affected" ANCs pursuant to Subtitle Z § 101.8.

12. On August 12, 2026, the Applicant served the Application on ANCs 7F and 7D, thus providing the ANCs with sufficient time to respond, as required by Subtitle Z § 705.2(a). The Applicant also served the Office of Planning ("OP"), as evidenced by the Certificate of Service submitted with the Application. (Exhibit ["Ex."] 2.)

II. THE APPLICATION

13. On August 12, 2026, the Applicant timely filed the Application requesting a two-year extension of the validity periods established by the Order, such that the Applicant would be required to file a building permit application by November 29, 2028, and commence construction by November 29, 2029. (Ex. 1-2C.)

14. The Application asserted that it satisfied the requirements of Subtitle Z § 705.2 for the requested two-year time extension because:
    - The Applicant served the extension request on all parties to the underlying application and all parties were allowed 30 days to respond;
    - There has been no substantial change in any material fact upon which the Commission based the DR Approval that would undermine the Commission's justification for the approval; and
    - Good cause exists because the Applicant has been unable to obtain sufficient financing for the Project, despite diligent, good-faith efforts to obtain such financing, due to changes in economic and market conditions beyond the Applicant's reasonable control.

    (Ex. 2.)

15. In support of its assertion of good cause under Subtitle Z § 705.2(c)(1), the Applicant identified the following financing challenges affecting the Project:
    - A shrinking pool of tax credit investors;
    - Limited gap financing;
    - Broader instability in the capital stack; and
    - Public resources typically being earmarked for the preservation of existing affordable housing rather than new construction, further limiting near-term financing options.

    (*Id.*)

16. The Application included a supporting affidavit from Bryan "Scottie" Irving describing the financing challenges affecting the Project, the Applicant's efforts to secure financing, and its ongoing efforts to refine the Project to improve its feasibility and attractiveness to potential investors. (Ex. 2A.)

17. Despite the foregoing financial challenges, the Applicant has continued its efforts to secure financing for the Project by exploring a number of financing options and meeting with the District Department of Housing and Community Development, the District of Columbia Housing Finance Agency, and other potential funding partners regarding the Project. (Ex. 2; Ex. 2A.)

18. The Applicant has also continued to work with its design team to improve the Project and make it more attractive to potential investors. The Applicant stated that changes under consideration include reducing the size of the buildings and adjusting the unit mix, including potentially adding more three-bedroom units. (*Id.*)

III. RESPONSES TO THE APPLICATION

19. OP submitted a report dated September 28, 2026 (Ex. 5) (the "OP Report") recommending approval of the Application. The OP Report concluded that:
    - The Application was filed prior to expiration of the DR Approval and was served on ANCs 7F and 7D, the only other parties to the original proceeding;
    - There had been no substantial change in any material facts upon which the Commission based the DR Approval, including changes to the Comprehensive Plan, the applicable Hill East zoning regulations, or surrounding development, that would undermine the Commission's justification for the approval; and
    - The Applicant demonstrated good cause for the requested extension based on its inability to obtain sufficient Project financing despite good-faith efforts to do so, including pursuing alternative financing through District agencies, due to economic and market conditions beyond its reasonable control.

    (Ex. 5.)

20. The OP Report indicated that, as of September 28, 2026, neither ANC 7F nor ANC 7D had submitted comments to the case record. However, both ANCs received notice of the Application in accordance with Subtitle Z § 705.2(a). (Ex. 2; Ex. 5.)

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. The Commission concludes that the Applicant has satisfied Subtitle Z § 705.2(a) by demonstrating that it served the Application on ANCs 7F and 7D, the only other parties to the underlying proceeding, and afforded both ANCs the required 30-day period to respond.

3. The Commission concludes that the Application satisfies Subtitle Z § 705.2(b), and that no substantial change has occurred to any of the material facts upon which the Commission based its original approval of the DR Approval that would undermine the Commission's justification for that approval.

4. 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.

5. The Commission finds that the Application satisfies Subtitle Z § 705.2(c)(1). Good cause exists because the Applicant has been unable to obtain sufficient financing for the Project due to economic and market conditions beyond its reasonable control, including reduced tax credit investment, limited gap financing, and instability in the capital stack. The Commission also acknowledges the Applicant's continued efforts to advance the Project, including pursuing alternative financing and working with its design team to reevaluate and refine the Project to improve its feasibility and attractiveness to investors. Given these ongoing efforts, the Commission finds that the requested two-year extension will provide the Applicant appropriate additional time to secure financing and advance the Project.

"Great Weight" to the Recommendation of OP

6. 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)).

7. 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

8. 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 Commission 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*, 141 A.3d at 1087). 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)).

9. As previously noted, neither ANC 7F nor ANC 7D submitted a response to the Application.

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 a two-year extension of the validity periods established by Z.C. Order No. 23-28, with the requirement that the Applicant:

- File a building permit application for the Project no later than **November 29, 2028**; and
- Begin construction of the Project no later than **November 29, 2029**.

Final Action
VOTE (October 8, 2026): **5-0-0** (Gwen Wright, Joseph Imamura, Anthony J. Hood, Robert Miller, and Christine Bruins to **APPROVE**)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 23-28A shall become final and effective upon publication in the District of Columbia Register, that is, on _____, 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	**SARA A. BARDIN**
CHAIRMAN	**DIRECTOR**
ZONING COMMISSION	**OFFICE OF ZONING**

DRAFT

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.

DRAFT