

Zoning Commission Order No. 08-07 *et. seq*
Request for Extension of Time to Begin Construction
Square 5785, Lot 839 and part of Lot 906 (“Building 1”)

Affidavit of Applicant in Support of Two-Year Extension of Time

I, Keith Turner, being duly sworn, depose and state as follows:

1. I am Keith Turner, Senior Vice President of Four Points Development, LLC, which has the right to develop Lot 839 and part of Lot 906 in Square 5785 (the “Property”) with a residential building known as “Building 1.”
2. Building 1 was originally approved in Z.C. Order No. 08-07, effective as of October 25, 2013, as part of a first stage PUD and related Zoning Map amendment from the C-2-A and C-M-1 Districts to the C-3-A District¹ for Square 5772, Lots 827, 829, 831, 880, 984, 1017, and 1019; Square 5783, Lots 829 and 1018; Square 5784, Lots 898, 899, and 900; and Square 5785, Lots 839 and 906 (collectively, the “PUD Site”).
3. Pursuant to Z.C. Order No. 08-07A, effective as of May 22, 2015, the Zoning Commission approved a second-stage PUD and modifications to the approved first-stage PUD to develop Building 1 as a residential building with approximately 71 residential units, approximately 80% of which would be reserved for households earning up to 60% of the area medium income.
4. Pursuant to Z.C. Order No. 08-07A, Decision No. C.1, we were required to file a building permit application for Building 1 no later than May 22, 2017, and start construction no later than May 22, 2018. In accordance with this timeline, we filed a building permit application for Building 1 on June 15, 2015, thus vesting the second-stage PUD approval and meeting the first condition of Decision No. C.1.
5. Despite our good faith efforts to start construction after filing the building permit for Building 1, we were unable to do so due to unforeseen litigation which resulted in the suspension of all development work on Building 1 for almost a year. On May 1, 2018, we filed an application for a two-year extension of the time period to begin construction of Building 1, which was approved by the Zoning Commission in Z.C. Order No. 08-07D, effective as of October 12, 2018, and required us to begin construction by May 22, 2020.
6. Following approval of Z.C. Order No. 08-07D, on October 23, 2018, the Current Area Residents East of the River (“CARE”) filed a motion for reconsideration of Z.C. Order No. 08-07D. On October 29, 2018, we filed a response opposing CARE’s motion, and on November 19, 2018, the Zoning Commission denied CARE’s motion and issued Z.C. Order No. 08-07D(1), effective as of December 28, 2018.

¹ The original PUD was approved under the 1958 Zoning Regulations. On September 6, 2016, the provisions of the 1958 Zoning Regulations were repealed and replaced with the 2016 Zoning Regulations. Under the 2016 Zoning Regulations, the approved C-3-C District converts to the MU-9 District.

7. Pursuant to Z.C. Order No. 20-07, the Zoning Commission extended the validity of orders scheduled to expire between April 27 and December 31, 2020, by six months due to the COVID-19 pandemic and resulting modifications of District government operations. Thus, the May 22, 2020, deadline to begin construction of Building 1 was extended by six months (i.e. to November 22, 2020).
8. On November 2, 2020, we filed a second two-year extension for the time period to begin construction of Building 1, which was approved by the Zoning Commission in Z.C. Order No. 08-07F, effective as of July 30, 2021, such that we must now begin construction of Building 1 no later than November 22, 2022. The subject application requests approval of another two-year extension of that time period, such that we would be required to begin construction of Building 1 no later than November 22, 2024.
9. Around the same time that we filed the first PUD extension for Building 1, we also filed a second-stage PUD application for Building 4, which was approved by Z.C. Order No. 08-07C, effective as of November 9, 2018. On November 14, 2018, CARE filed a motion for reconsideration of Z.C. Order No. 08-07C, which we opposed. On December 17, 2018, the Zoning Commission denied CARE's motion and issued Z.C. Order No. 08-07C(1), effective as of February 1, 2019.
10. On November 29, 2018, CARE filed an appeal of the Building 4 second-stage PUD approval (Z.C. Case No. 08-07C) in the D.C. Court of Appeals ("DCCA"), to which we filed a notice to intervene. On February 21, 2019, CARE also filed an appeal of the Zoning Commission's denial of its request for reconsideration (Z.C. Case No. 08-07C(1)) with DCCA, to which we also filed a notice to intervene. DCCA ultimately consolidated the two cases and issued a final determination in our favor on August 21, 2019, which extended the deadline to file a building permit application for Building 4 to August 21, 2021. We subsequently timely filed a building permit application for Building 4.
11. On March 1, 2021, we filed a Modification of Consequence to the approved second-stage PUD for Building 4, which was approved by the Commission in Z.C. Case No. 08-07G, effective as of June 4, 2021. The approved building contains approximately 224,610 square feet of office use and approximately 7,000 square feet of ground floor retail and will be leased by the District of Columbia's DC Health and DCBIA.
12. The Applicant received a building permit on February 2, 2022 (B1904273) and a revised building permit on October 4, 2022 (B2208985), as modified by Z.C. Order No. 08-07G, and has since started construction. Excavation of the project site began in Q1 2022. Concrete is now being poured to complete the third floor above-grade. Completion of construction of the base building and tenant improvements will be completed in Q1 2024.
13. The development and construction of Building 4 has been our major focus over the past several years, particularly given the District's priority of establishing commercial development in Wards 7 and 8. However, concentrating efforts on the development of Building 4 has made us unable to also move forward with the construction of Building 1 within the current required timeframe.

14. Throughout this time we also worked closely with the Office of the Chief Financial Officer (“OFCO”) on the establishment of a TIF district applicable to Buildings 4, 5 and 8 within the overall PUD, which was formally submitted to the OFCO on March 28, 2017. The project proposed under the TIF included approximately 560,000 square feet of density comprised of residential, office, hotel, retail, and cultural arts/community uses. We engaged in extensive work with OFCO and the D.C. Council for many years regarding several iterations of the TIF, which lead to its final approval in April, 2021. Approval of the TIF was complicated and delayed by a variety of factors, including the COVID-19 pandemic, changing development programs, and ongoing negotiations with the District, and required us to focus our development efforts on project financing through the TIF at the expense of starting construction of Building 1. Although the TIF does not apply to Building 1 specifically, we needed the TIF financing in place in order to move the entire PUD forward, including the construction of Building 1.
15. As stated above, we have most recently focused our efforts on the development of Building 4, with the second-stage PUD modification processed in 2021 and the building permit application filed and processed in 2021/2022, with receipt of the building permit and building permit revision in Q1 and Q4, 2022, respectively. As shown on the photographs included as Exhibit E to the application, construction is currently ongoing for Building 4, with delivery expected by Q1 2024. Building 4 will be occupied by the District of Columbia’s DC Health and DCIA. Following construction of Building 4, we will be able to refocus our efforts on the development of other buildings within the PUD Site, including construction of Building 1.
16. In addition to the project delays described above, the Covid-19 pandemic has had a major impact on the District’s overall development climate, creating uncertain and unprecedented market conditions that have further prevented us from moving forward with the construction of Building 1, particularly given that we were moving forward with other buildings within the overall PUD Site during the uncertain times.
17. Considering our many efforts to move forward with the project despite the significant setbacks and delays caused by litigation, TIF legislation, unpredictable market conditions, and other conditions beyond our reasonable control, we are still committed to moving forward with development of the remaining buildings within the overall PUD, including the construction of Building 1. We have invested substantial resources in the PUD Site over many years, including legal, architectural, engineering, permitting, and other consulting fees, such that there is no financial advantage for us not to move forward with the construction of Building 1, and we have every incentive to do so as soon as feasible.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

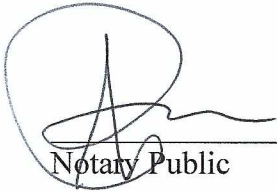
I solemnly affirm under the penalty of perjury that the contents of this Affidavit are true and correct to the best of my personal knowledge.

Four Points Development LLC

Keith S Turner

By: Keith S. Turner
Senior Vice President

Sworn and subscribed to me this 13 day of October, 2022.


Notary Public

