

March 24, 2025

VIA IZIS

Anthony J. Hood, Chairperson
District of Columbia Zoning Commission
441 4th Street, NW, Suite 200-S
Washington, DC 20001

**Re: Z.C. Case No. 13-05E – DC Water Sites PUD
Application for Two-Year Time Extension of the Second-Stage PUD
Approval for the G1 Parcel (Square 744-S, Lot 807) (“G1 Parcel”)**

Dear Chairperson Hood:

FC Ballpark LLC (the “**Applicant**”¹) hereby requests a two-year time extension of the order granting second-stage PUD approval to construct a new mixed-use residential building with ground-floor retail uses and below-grade parking on the G1 Parcel (“**Project**”), which was approved pursuant to Z.C. Order No. 13-05E (“**Order**”). A copy of the Order is attached as Exhibit C. This extension request is made pursuant to Subtitle Z, Section 705.2 of the Zoning Regulations.

This is the first time extension request for the Project.² The extension will give the Applicant additional time to negotiate modifications to the land disposition and secure construction financing so that it may proceed with construction of the Project.

Background on the PUD

The PUD that is the subject of this extension is for property that is owned by the District of Columbia. Prior to 2023, the Property was occupied and used by the District of Columbia Water and Sewer Authority (“**DC Water**”) for water utility operations. The PUD and related Zoning Map Amendment, which was initially approved in 2014, called for the extension of the street grid through the property to create four parcels that would be developed with a movie theatre on the F1 Parcel, a mix of residential and retail uses on the G1 and G2 Parcels, and an extension of the Diamond Teague waterfront park on the G3 Parcel. The Commission granted consolidated PUD

¹ The Applicant is an affiliate of Brookfield Properties, an operator and developer of real estate investments with over 80 million square feet across all sectors in active development around the globe.

² Prior extensions were granted in Z.C. Order Nos. 13-05A, 13-05C, and 13-05D for the consolidated PUD approval for the F1 Parcel that was granted in Z.C. Order No. 13-05. Such approval was further extended through administrative extensions approved in Z.C. Order Nos. 13-05D(1) and 13-05D(2). The Order then extended the approval of the F1 Parcel for a period of ten years, to allow for the Applicant to seek a revision to the approved PUD after the other phases of the PUD are completed. See Condition D.5. of Z.C. Order No. 13-05E.

approval for the movie theatre, which was then proposed to be the first phase of the PUD, and the Commission granted first-stage approval for the balance of the PUD.

Concurrent with the PUD, the Applicant negotiated and executed a Land Disposition Agreement with the District of Columbia, and following approval of the PUD, the Applicant and the District negotiated an Omnibus Agreement with DC Water to govern the relocation of DC Water as well as coordination of the PUD with DC Water operations that would remain on adjacent parcels. The Applicant also negotiated and executed a lease with a theatre operator and prepared advanced design drawings for the theatre building. As set forth in prior affidavits, the Applicant expended nearly \$ 4,000,000 between 2014 and 2019 to implement the PUD. (Copies of prior affidavits included with prior PUD extensions are attached as Exhibit E.)

In 2022, the Applicant applied for a modification of the first-stage approval—including re-phasing the Parcels—and second-stage approval for the development of the G1, G2, and G3 Parcels. The G1 Parcel, a residential building with approximately 433 units and approximately 23,204 square feet of retail space, was approved as the first phase of the PUD. The G2 Parcel, a residential building with approximately 248 units and approximately 24,750 square feet of retail space, was approved as the second phase of the PUD. Designs for the Park on the G3 Parcel and the road network on the street parcels were also approved.

The Commission heard and approved the first-stage modification and second-stage PUD application for the G Parcels on December 8, 2022, and the Order became effective on March 31, 2023. Pursuant to Condition D.4(a) of the Order, the Applicant must file an application for a building permit for the G1 Parcel within two years of the effective date of the Order (i.e. by March 31, 2025).³

Affirmative Actions to Implement the Project

Since the approval of the Project, the Applicant diligently pursued financing of the Project, with its initial focus on the public financing tools necessary to implement the Project’s infrastructure and affordable housing components. While the Applicant and its consultants have worked diligently through its consultants to identify and secure such financing, efforts remain underway as the Applicant and its public partners work together to secure the necessary approvals.

The Applicant has also proceeded to advance the design of the Project and public infrastructure as well as further the design of the G2 Parcel and explore the feasibility of other uses for the F1 Parcel. However, such efforts have been put on pause while the Applicant works collaboratively with the Office of the Deputy Mayor for Planning and Economic Development (“DMPED”) on the threshold financing issues that must be resolved before design efforts can continue.

³ The permit submission deadlines for Parcels G2 and G3 are tied to the permit issuance for Parcel G1 per Conditions D.4(b)–(d). As noted above, the first-stage approval for Parcel F1 is valid for ten years per Condition 5 of the Order.

The Commission Should Grant the Requested Time Extensions

A. Standards of Review of Time Extension Request

The standards for a time extension are enumerated in Subtitle Z, Section 705.2 of the Zoning Regulations. The Commission is authorized to extend a PUD provided that:

- “The extension request is served on all parties to the application by the applicant, and all parties are allowed thirty (30) days to respond;
- There is no substantial change in 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; and
- The applicant demonstrates with substantial evidence one (1) or more of the following criteria:
 - 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;
 - 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
 - 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.”

B. Applicant’s Satisfaction of the Standards for Granting Time Extension

The Applicant requests that the Commission extend the Applicant’s deadline for filing a building permit for the Project by two years, to March 31, 2027. As outlined below, the Applicant meets the standards for the requested extension.

1. Service on Parties

This request is being served on ANC 8F, as an “affected ANC” and the only party to the Application, on the same day it is filed with the Zoning Commission.⁴ The Applicant requests that the Commission not place this request on its meeting agenda until the 30-day period has lapsed.

⁴ 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”).

2. No Substantial Change of Material Facts

There has been no substantial change in any material facts that would undermine the basis for the Commission's approval of the PUD application. There are no changes to the Zoning Regulations or the Comprehensive Plan that would adversely impact the material facts upon which the Zoning Commission based its original approval. Indeed, the recent delivery a residential apartment building on Parcel I and the forthcoming residential building on Parcel H—each immediately north of the PUD site—provides additional residential context and retail to support the further buildout of the PUD.

3. Good Cause Shown

The Applicant satisfies the good cause standard of Subtitle Z, Section 705.2 because the Applicant has been unable to obtain financing for the Project, despite diligent good faith efforts to permit the Project and explore alternative financing approaches, because of changes in economic and market conditions beyond the Applicant's reasonable control. As detailed on the affidavit attached as Exhibit D ("**Affidavit**"), the Applicant has expended approximately \$2,500,000 on the advanced design, permitting, and other efforts to implement the PUD since its approval in December 2022. (This is on top of the \$4,000,000 expended since original approval in 2014.)

Financing Efforts

Since approval of the Project, the Applicant has worked diligently to secure financing for the Project. The unique features of the Project, including the proposed public street and park infrastructure as well as the outsized affordable housing commitment, require the use of specific public financing tools in conjunction with conventional financing: without the former, the latter will not be obtainable. As set forth in the Affidavit and detailed below, the Applicant has advanced efforts to secure public financing but efforts remain ongoing:

- To finance the infrastructure costs associated with the buildout of the street grid and the park extension, the Applicant is pursuing approval of a Payment in Lieu of Taxes ("**PILOT**"), pursuant to which financeable notes will be issued to generate funding sources for the construction of the public infrastructure and then repaid through payments in lieu of the real property taxes that would otherwise be due. Financing tools such as PILOTs are often used to assist in the financing of public infrastructure on formerly District or federal land; the street network and Yards Park within the former Southeast Federal Center was funded through a similar PILOT. Since the approval of the PUD, the Applicant has engaged a consultant to advise and assist in the application process, submitted the application, and engaged directly with staff at the Office of the Chief Financial Officer of the District of Columbia ("**OCFO**") regarding the application. The Applicant, OCFO, and DMPED are currently negotiating the term sheet for the PILOT, which will ultimately require approval by the D.C. Council.
- To finance the Project's 30% affordable housing set-aside (with half of the units reserved at 30% MFI), the Applicant has engaged an affordable housing consultant and pursued a variety of financial programs intended to help deliver affordable housing, including low-income housing tax credits and bonds. District officials have informed the Applicant that

such tools are temporarily unavailable because the District has reached its volume cap, but the Applicant will resume pursuit of these options once the backlog is clear.⁵

Once these critical pieces are in place, the Applicant will proceed to work with its Capital Markets team to arrange for conventional financing and continue its collaboration with DMPED to otherwise advance the construction of the Project.

Design Efforts

Following the approval of the Project, the Applicant also commenced further design of the PUD. At the time the Order was issued in early 2023, the Applicant was advancing its plans to complete the buildout of Yards West as the “downtown core” of the Capital Riverfront neighborhood. The Vela apartment building on Parcel I was about to deliver in a few months, the Urby apartment building on Parcel H was well under construction, and the Project was anticipated as the next residential building that would continue the buildout of The Yards.⁶

Therefore, as set forth in the Affidavit, following the approval of the Project, the Applicant pushed forward with design on not only the Project but also the street infrastructure and park design. The Applicant also advanced building design on the G2 Building and undertook a feasibility study evaluating an alternative use for the F1 Parcel. After significant design milestones were reached, further efforts were paused while the Applicant focused on the public financing measures necessary to advance the Project, after which such efforts will resume.

Exhibits

Attached hereto are the following exhibits:

Exhibit A	Application Signature Form
Exhibit B	Letter of Authorization
Exhibit C	Z.C. Order No. 13-05E
Exhibit D	Affidavit in Support of Time Extension
Exhibit E	Prior Affidavits

Conclusion

For the foregoing reasons, the Applicant requests that the Commission grant the requested time extension. Please feel free to contact the undersigned if you have any questions or comments regarding this application.

⁵ See, e.g. “How Federal Stimulus Accidentally Bottlenecked Affordable Housing in DC,” *Greater Greater Washington* (March 28, 2024) available at <https://ggwash.org/view/93101/how-federal-stimulus-accidentally-bottlenecked-affordable-housing-in-dc>.

⁶ “Yards developer tweaks D.C. riverfront project with business incubator, work pods and ‘hygge’,” *Washington Business Journal* (February 14, 2023), available at <https://www.bizjournals.com/washington/news/2023/02/14/brookfield-yards-dc-apartments-incubator.html>

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Respectfully Submitted,

/s/ David Avitabile
David Avitabile

Enclosures

Certificate of Service

I hereby certify that a copy of the foregoing document was sent to the following by email by no later than March 24, 2025.

Jennifer Steingasser
Joel Lawson
Karen Thomas
D.C. Office of Planning
jennifer.steingasser@dc.gov
joel.lawson@dc.gov
karen.thomas@dc.gov

Erkin Ozberk
District Department of Transportation
erkin.ozberk@dc.gov

Advisory Neighborhood Commission 8F
8F@anc.dc.gov

Markita Bryant, SMD ANC 8F02
8F02@anc.dc.gov

Brian Strege, Chair, ANC 8F
8F03@anc.dc.gov

/s/ David Avitabile
David Avitabile