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VIA IZIS

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

Re: ZC Case No. 04-14I: Application for the Extension of Time of the Approved Design Review (Square 708, Lot 15) (“Property”)

Dear Chairperson Hood and Members of the Commission:

Florida Rock Properties Inc. (“**Applicant**”) hereby requests a ten-year time extension of the design review approval for a marina to be located on the Anacostia River abutting the “Riverfront PUD,” as was approved in Order No. 04-14D (“**Order**”)¹. This is the Applicant’s first request to extend the design review approval.

I. BACKGROUND

A. Entitlement History

The marina is located adjacent to the Riverfront PUD. While the marina was approved as a design review case, the Zoning Commission heard the case as part of the Riverfront PUD. The PUD itself has an extensive entitlement history, dating back to 1998. The Property is located along Potomac Avenue, SE with Nationals Park to the north, the Anacostia River to the south, and the Frederick Douglass Bridge and South Capitol Oval to the west. Recently, the Commission approved a Modification to the First-Stage PUD and a Second-Stage PUD to complete the final two phases in Z.C. Case No. 04-14H (“**Modification**”). These final two phases include two mixed-use residential and retail buildings and a significant amount of open space intended to encourage public interaction with the waterfront.

¹ Order No. 04-14D also approved the second stage PUD for phase 2 of the Riverfront PUD, now known as Maren. Maren is a multi-family development with ground floor retail that was completed in 2020.

The first two phases of the Riverfront PUD were completed in 2016 and 2020, respectively, and include Dock 79, a mixed-use building with 305 units and approximately 18,364 square feet of retail, and Maren, a mixed-use building with 264 units and approximately 8,178 square feet of retail. The marina was approved in connection with the approval for Maren.

B. Design Review Approval for the Marina

Phase Two of the PUD envisioned a marina, consisting of both a fixed pier and floating piers with public and private slips and event space intended to further activate the waterfront. As part of the Order, the Commission approved flexibility from the record lot requirements of 11 DCMR § 3203.3(b) for the marina which is to be located on a riparian area consisting of approximately 108,190 square feet between the bulkhead and pierhead line and for which no record lot exists. The Commission approved design review for the marina because the marina is located in the CG/W-2 Zone District and is therefore subject to the requirements of the Capital Gateway Overlay District of § 1610.

C. Marina Approval Timeline

Pursuant to Condition E.2 of the Order, a building permit for the marina is required to be filed no later than two years after the later of the completion of the reconstruction of the Frederick Douglass Bridge (“**Bridge**”), the completion of the South Capitol Street Oval (“**Oval**”), or the certificate of occupancy for Phase II, and in no circumstances, later than 10 years after the effective date of the Order. Phase II was completed in 2020. The Applicant received notice from the District Department of Transportation (“**DDOT**”) on May 26, 2023 that the Bridge and Oval had reached substantial completion, thus setting the expiration date of the marina approval as May 26, 2025.

Accordingly, for the reasons stated below, this application seeks to extend the design review approval of the marina for an additional ten years with a waiver of the two-year limit.

II. THE APPLICANT MEETS THE REQUIREMENTS FOR APPROVAL FOR AN EXTENSION REQUEST UNDER SUBTITLE Z § 705.2

The Commission is authorized to approve an extension of the time periods of an order, provided:

- (a) The extension request is served on all parties to the application by the applicant, and all parties are allowed thirty (30) days to respond;
- (b) 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

- (c) The applicant demonstrates with substantial evidence one (1) 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 approval 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.

Subtitle Z, Section 705.2.

Only one extension may be requested for a design review approval. 11-Z DCMR § 705.4. This is the first extension request made by the Applicant for the marina approval. In addition, pursuant to Subtitle Z § 705.3(a), the typical time limit on extensions is two years, provided the applicant meets the standards listed above. Pursuant to Subtitle Z § 101.9, the Commission may, for good cause shown, waive this provision so long as the waiver will not prejudice the rights of any party and is not otherwise prohibited by law. The Applicant requests a waiver of the two-year time limit to permit an extension of ten years to file a building permit and eleven years to commence construction of the marina. As described below, good cause exists to grant such waiver due to the pending construction of Phases Three and Four of the PUD and the waiver will not prejudice the rights of any party nor is it otherwise prohibited by law.

The Applicant requests that the design review approval for the marina granted in Order No. 04-14D be extended for ten years until May 26, 2035, for the filing of a building permit and until May 26, 2036, for commencement of construction.

A. Service on Parties

This application is being served on ANC 8F and ANC 6D on the same day as it is filed with the Zoning Commission. The Applicant requests that the Commission not place this request on its meeting agenda until the thirty-day period has lapsed.

B. No Substantial Change of Material Facts

While there have been substantial changes to the area since the initial approval of the marina, each of the changes support the inclusion of the marina and do not undermine the basis

for the Commission’s approval of it. Since that approval, Phase One and Two of the PUD have been constructed, accommodating new residents and a vibrant retail waterfront that complements the nearby Nationals Park and would support the provision of a marina. The adjacent Bridge and Oval have reached completion, reinforcing the importance of the Property’s location and enhancing the already scenic view of the Anacostia River. Additional nearby developments, including Audi Field and the Verge multifamily building now exist to the west of the Property and upcoming developments nearby at The Yards will further support the growing riverfront community. Each of these developments, either through residents or visitors, will bring the population needed to support the success of the marina.

The Commission’s review of the marina pursuant to the design review guidelines of the Capitol Gateway Overlay in § 1610 remains intact; however, how the marina relates to the Riverfront PUD is important as the PUD facilitates and encourages access to the waterfront. The Modification includes a thoughtfully designed landscape plan that promotes public interaction with the waterfront and incorporates pedestrian and bicycle pathways that will continue and connect with the pathways that have already been constructed as part of Dock 79 and Maren. The existing circulation patterns of the Riverfront PUD will provide easy access to the marina and will help guide residents and visitors alike to its location. The marina will likewise accommodate even closer and more tangible interaction with the water. Finally, as described in the Order, the marina will not affect the waterfront views and vistas toward the Capitol or other monumental buildings, given the marina’s short scale and massing. Accordingly, there has been no substantial change in material facts upon which the Commission based its original approval of the marina.

C. Good Cause Shown

The Applicant has good cause to request the time extension due to conditions beyond the Applicant’s reasonable control. The Commission approved an initial extended timeline to allow for the construction of both the Frederick Douglass Bridge and South Capitol Oval to proceed prior to the construction of the marina. Otherwise, it would be challenging for the construction of the marina to move forward simultaneously with construction of the Bridge, given their proximity. Construction of both the Bridge and Oval completed in 2023, coinciding with the deadline for proceeding with approvals for the final two phases of the PUD.

Figure 1



Post-construction of the Bridge and Oval but prior to the filing of a second-stage application for Phases Three and Four, the Applicant and the District had to finalize the parameters of a land transfer, which would impact the boundaries of the PUD. The land transfer was finalized in 2023, and the Applicant proceeded with the Second-Stage application for Phases Three and Four in the summer of 2024. Given the current housing demand in the District and the Mayor’s goal to provide 36,000 new units by 2025, the supply of hundreds of new housing units, both affordable and

market rate, is being prioritized over construction of the marina. Accordingly, the Applicant plans to construct the two proposed multifamily buildings on Phases Three and Four prior to pursuing the marina. Moreover, pursuing the marina at the same time would be logistically challenging, given the marina's proximity to Phases Three and Four. As shown in Figure 1, the marina's location directly abuts the Phase Four building and, as such, pursuing construction for both simultaneously would prove difficult.

As approved in the Modification, the phasing for the Phase Three and Phase Four buildings is as follows: the Phase Four building will commence construction within three years of issuance of the order and a building permit must be filed for Phase Three within two years of the issuance of a Certificate of Occupancy for Phase Four. The Applicant hopes to break ground on Phase Four by Fall 2028 and anticipates that it will take approximately two years to construct. If construction of Phase Four is completed by the end of 2030, the Applicant would hope to submit for permits of Phase Three by 2032, with construction commencing in 2033. It anticipates that construction of Phase Three will be completed in 2035, aligning with the approval timeline sought here. The Applicant will pursue all required federal and local permits for the marina during construction of Phases Three and Four.

D. The Time Extension Does Not Prejudice Any Party and Is Not Prohibited

The requested waiver for a ten-year time extension will not prejudice the rights of any party. Although a ten-year time extension is unusual, the approval itself is unusual. Unlike a building that provides housing, retail, lodging, or office uses, a marina is unique in that it is built on water, not land. There is no other development-related use for that water other than a marina. Further, the marina, in and of itself, is a supporting building and is secondary in focus to the primary buildings approved in the PUD. In light of the present and critical need for new housing, the Applicant will proceed with construction of Phases Three and Four first, which will deliver approximately 590 units. Since construction of those buildings cannot occur simultaneously with construction of the marina, the marina's approval should be extended.

Accordingly, the Applicant's request for a waiver to allow an extension of the marina approval for ten years has good cause, does not prejudice any party, and is not otherwise prohibited.

III. EXHIBITS

Attached are the following exhibits:

- Exhibit A – Extension Application Form (completed online);
- Exhibit B – Authorization Letter from Applicant;
- Exhibit C – Z.C. Order No. 04-14D; and
- Exhibit D – DDOT Correspondence re. Completion of Bridge and Oval.

The requisite filing fee in the amount of \$1,500 will be delivered to the Office of Zoning simultaneously upon filing of this application.

IV. CONCLUSION

For the foregoing reasons, the Applicant requests that the Commission grant the requested time extension and waiver of its rules with respect to the length of time. Please feel free to contact the undersigned if you have any questions or comments regarding this application.

Respectfully Submitted,

/s/ Christine A. Roddy
Christine A. Roddy

/s/ Lee S. Templin
Lee S. Templin

Certificate of Service

I hereby certify that a copy of the foregoing document was sent to the following addresses by electronic mail no later than April 24, 2025.

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