

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 20-06A
Z.C. Case No. 20-06A
Felice Development Group
(Technical Correction to Z.C. Order No. 20-06 -
First-Stage and Consolidated Planned Unit Development @
Squares 1025E and 1048S [1333 M St. S.E.]
September 8, 2022

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (“Commission”) was held on September 8, 2022. At the meeting, the Commission approved an application (“Application”) of Felice Development Group (“Applicant”) for a technical correction to Z.C. Order No. 20-06 (“Original Order”). Because the modification to the Original Order was technical in nature, a public hearing was not conducted. The Commission determined that the Application was properly before it under the provisions of Subtitle Z § 703 of Title 11 of the District of Columbia Municipal Regulations (“DCMR”) (Zoning Regulations of 2016 [the “Zoning Regulations”] to which all references are made unless otherwise specified).

FINDINGS OF FACT

1. Pursuant to Z.C. Order No. 20-06, effective April 23, 2021, the Commission approved a First-Stage Planned Unit Development (“PUD”) on Lot 802 in Square 1025E, Lots 1, 801, and 802 in Square 1048S, and Reservation 129-299 (collectively, the “PUD Site”); a Consolidated PUD for “Building 1B” on the PUD Site; and a PUD-related amendment of the Zoning Map for the PUD Site from the PDR-4 zone to the MU-9 zone.
2. Under Z.C. Order No. 20-06, the Applicant proposed a mixed-use development on the PUD Site to be constructed in three phases:
 - Phase 1 will involve the construction of Building 1B (the “East Tower”);
 - Phase 2 will involve the construction of Building 1A (the “West Tower”); and
 - Phase 3 will involve the construction of Building 2 (collectively, the “Project”).
3. By letter dated August 8, 2022 (Exhibit [“Ex.”] 3), the Applicant applied for a technical correction to the Original Order pursuant to Subtitle Z § 703 of the Zoning Regulations. The purpose of the technical correction was to correct the Gross Floor Area (“GFA”), Floor Area Ratio (“FAR”), loading requirements, and uses for the East Tower (Consolidated PUD) and the West Tower (First Stage PUD), which are listed in the development table provided in Finding of Fact No. 31 of the Original Order, as more particularly described below.
4. The Application stated that the proposed corrections are consistent with the final approved plans for the Consolidated PUD for the portion of Building 1 known as the “East Tower”,

which are marked as Ex. 79A1 through 79C of the case record in Z.C. Case No. 20-06 (the “Consolidated PUD Plans”), and with the final approved plans for the First-Stage PUD for the portion of Building 1 known as the “West Tower” and Building 2, which are marked as Ex. 80A1 through 80C of the case record in Z.C. Case No. 20-06 (the “First Stage PUD Plans”). (Ex. 3.)

5. The Application provided the following justifications for why the proposed technical corrections are consistent with the Consolidated PUD Plans and First Stage PUD Plans:
 - The correct GFA for the East Tower is reflected on Sheet A-5 of the Consolidated PUD Plans at Ex. 79A1 of the case record in Z.C. Case No. 20-06. The correct GFA is also reflected in the square footage calculations at the top of Sheet A-6 of First Stage PUD Plans at Ex. 80A1 of the case record in Z.C. Case No. 20-06;
 - The East Tower will be constructed on a portion of Theoretical Lot 1 of the PUD Site. As shown on Sheet A-5 of the First Stage PUD Plans, Theoretical Lot 1 has a land area of 118,633 square feet. The approved GFA for the East Tower is 475,671 square feet, which is equal to approximately 4.01 FAR. This density for the East Tower is correctly reflected on Sheet A-5 of the Consolidated PUD Plans;
 - The West Tower will be constructed on the remainder of Theoretical Lot 1 of the PUD Site. As noted above, Theoretical Lot 1 has a land area of 118,633 square feet. The approved GFA for the West Tower is 237,516 square feet, which is equal to a lot density of approximately 2.0 FAR;
 - The densities for the East Tower and West Tower are incorrectly inversed in the Zoning Tabulations on Sheet A-6 of the First Stage PUD Plans;
 - The correct loading for the East Tower is reflected on Sheet A-5 of the Consolidated PUD Plans. The loadings for the East Tower and the West Tower are incorrectly inversed in the Zoning Tabulations on Sheet A-6 of the First Stage PUD Plans; and
 - The approved number of residential units to be provided within the East Tower (496) is properly reflected on Sheet A-5 of Consolidated PUD Plans; and the approved number of residential units to be provided within the West Tower (307) is correctly noted in the square footage calculations at the top of Sheet A-6 of the First Stage PUD Plans.(Ex. 3.)
6. Pursuant Subtitle Z § 703.13, the Applicant was required to formally serve a copy of the Application on all parties to the original proceeding while it filed the Application with the Office of Zoning. Other than Advisory Neighborhood Commissions (“ANC”) 6B, there were no other parties to the original proceeding. As noted in the Certificate of Service attached to the Application, the subject Application was served on ANC 6B and the Office of Planning (“OP”) on August 8, 2022. (Ex. 3.)
7. OP reviewed the request for a technical correction. By report dated August 29, 2022, OP recommended approval of the technical correction. (Ex. 5.)
8. On September 8, 2022, at its regular public meeting, the Commission reviewed the Application and granted approval of the requested technical corrections.

CONCLUSIONS OF LAW

1. Pursuant to Subtitle Z § 703, the Commission is authorized to approve technical corrections to approved final orders through a consent calendar procedure without a public hearing. The Commission concludes that the modifications described herein are technical in nature, and the request falls within the scope of a technical correction made pursuant to Subtitle Z § 703.
2. The Commission is required by § 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.)) to give great weight to the recommendations of OP. OP recommended approval of the Application as a technical correction, and the Commission concurs in this recommendation.
3. The Commission is required under § 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.)) to give great weight to the issues and concerns raised in the written report of the affected ANC. The affected ANC 6B did not submit a written report to the record. Because the ANC expressed no issues or concerns, there is nothing for the Commission to give great weight to. (*See Metropole Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the Application for a technical correction to Z.C. Order No. 20-06 to correct the development table provided in Finding of Fact No. 31 of Z.C. Order No. 20-06 as follows (text to be deleted is marked in **~~bold and strikethrough~~** text; new text is shown in **bold and underline** text):

Development Standard	Phase 1: East Tower (Consolidated PUD First & Second Stage))	Phase 2: West Tower (First Stage PUD)	Phase 3: Building 2 (First Stage PUD)
GFA	237,516 sf (9,971 sf. of non-residential uses) <u>475,671 sf. (32,217 sf. of non-residential uses)</u>	475,671 sf. (32,217 sf. of non-residential uses) <u>237,517 sf. (9,971 sf. of non-residential uses)</u>	72,973 sf. (1,904 sf. of non-residential uses)
FAR	2.00 <u>4.01</u>	4.01 <u>2.0</u>	8.23
	6.01 total		
Height	130 ft.		92 ft.
Penthouse	15 ft.		15 ft.
Lot Occupancy	61.3%		87.5%
Vehicle Parking	174 spaces		None


Development Standard	Phase 1: East Tower (Consolidated PUD First & Second Stage))	Phase 2: West Tower (First Stage PUD)	Phase 3: Building 2 (First Stage PUD)
Loading ¹	One 30-ft. loading berth One service space One 55-ft. loading berth One 30-ft. loading berth One service space	One 55-ft. loading berth One 30-ft. loading berth One service space One 30-ft. loading berth One service space	None
Uses	Residential (307 <u>496</u> units) Retail	Residential (496 <u>307</u> units) Retail	Residential (97 units) Retail


On September 8, 2022, upon the motion of Chairman Hood, as seconded by Vice Chair Miller, the Zoning Commission took **FINAL ACTION** to **APPROVE** the Application at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Joseph S. Imamura to approve; 3rd Mayoral appointee seat vacant, not voting).

In accordance with the provisions of Subtitle Z § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is on October 7, 2022.

BY THE ORDER OF THE D.C. ZONING COMMISSION

A majority of the Commission members approved the issuance of this Order.


ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION


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.

¹ As one building for zoning purposes, the East And West Towers will have a single 55-foot berth, two 30-foot berths, and two service spaces.