

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Zoning Commission**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 11-13(1)**  
**Order Denying Reconsideration and Stay Motions**  
**Z.C. Case No. 11-13**  
**TC/CSG St. Matthews, LLC**  
**(Consolidated Approval for a Planned Unit Development and Zoning Map**  
**Amendment for Square 546, Lot 301)**  
**July 30, 2012**

By Z.C. Order No. 11-13 in Z.C. Case No. 11-13, the District of Columbia Zoning Commission (“Commission”) granted the application from TC/CSG St. Matthews, LLC (“Applicant”) requesting consolidated review and approval of a planned unit development (“PUD”) and a related amendment to the Zoning Map of the District of Columbia, pursuant to Chapters 24 and 30 of the District of Columbia Municipal Regulations (“DCMR”), Title 11, Zoning.

The application, filed on June 13, 2011, requested a consolidated review and approval of a PUD and related Zoning Map amendment to CR for the property located at 222 M Street, S.W. (“Property”). After proper notice, the Commission held public hearings on March 5, 2012 and March 19, 2012. Parties in this case, in addition to the Applicant, were Advisory Neighborhood Commission (“ANC”) 6D, the Carrollsburg Square Condominium Association, Catherine Herridge/Michael Krause, and Robert Weller.

On July 6, 2012, Z.C. Order No. 11-13 (“Order”), approving the application, was published in the *D.C. Register*. The Order became effective on July 6, 2012.

On July 16, 2012, pursuant to 11 DCMR § 3029.5, Michael Krause filed a motion for reconsideration of the Order. This motion requested that the Commission mandate meetings between the Applicant and nearby elderly residents to put into place precautionary measures for their health.

On July 16, 2012, Catherine Herridge filed a motion for a stay of the Order. The motion requested a stay pending an appeal that Ms. Herridge planned to file. The motion also requested that the Commission ask the Applicant to continue discussions for precautionary measures for her son.

On July 20, 2012, the Applicant filed a response to Mr. Krause’s motion, in accordance with 11 DCMR § 3029.7. The Applicant’s response stated that the motion failed to satisfy the standard for reconsideration set forth in 11 DCMR § 3029.6. The Applicant’s response stated that the motion failed to make any new claims and did not offer any evidentiary support about how the Order contained incorrect findings of fact or legal conclusions. The Applicant also stated that the Commission already considered Mr. Krause’s concerns about the health of neighbors near the project and that this consideration was incorporated into the Order. Further, the Applicant noted that Mr. Krause incorrectly stated that the Commission recognized the need for precautionary and protective measures.

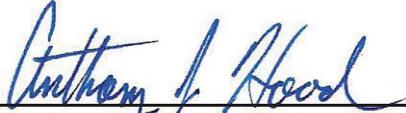
On July 20, 2012, the Applicant filed a response to Ms. Herridge's motion, in accordance with 11 DCMR § 3029.7. The Applicant's response stated that the motion failed to satisfy the standards for a stay. First, the Applicant stated that Ms. Herridge is not likely to prevail on her appeal because she made the same arguments already considered by the Commission in the public hearings and Order. Second, the Applicant stated that Ms. Herridge was not in danger of suffering irreparable harm if the Order remained effective because the Commission did not find any factual basis supporting any increased likelihood of health problems resulting from the project and that the harms that she alleged were already considered by the Commission. Third, the Applicant stated that the harm to the Applicant would be greater than to Ms. Herridge if the Commission issued a stay because the project's financing and viability would be jeopardized and that the project included significant community benefits that would be lost. Fourth, the Applicant stated that public would not be served by the issuance of a stay because the Commission made its decision in consideration of the various interests balanced against each other, and the legitimacy of the public hearing process would be damaged by a stay. Furthermore, the Applicant stated that Ms. Herridge grossly mischaracterized the Applicant and its actions by stating that the Applicant had disengaged from discussions. The Applicant noted that it had continued discussions with her and made two proposals to Ms. Herridge's attorney since the Commission voted to approve the case in final action on June 11, 2012.

On July 30, 2012, at its regularly scheduled meeting, the Commission considered Mr. Krause's motion for reconsideration and Ms. Herridge's motion for a stay and the Applicant's responses thereto. The Commission agreed with the Applicant's responses and concluded that the motions did not satisfy their respective standards for being granted.

For the reasons stated above, it is ordered (i) that Michael Krause's motion for reconsideration is **DENIED**, and (ii) Catherine Herridge's motion for a stay is **DENIED**.

Vote: **4-0-1** (Anthony H. Hood, Marcie I. Cohen, Peter G. May, and Michael G. Turnbull to deny; third Mayoral appointee position vacant, not voting).

In accordance with the provisions of 11 DCMR § 2038, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on November 30, 2012.

  
\_\_\_\_\_  
ANTHONY J. HOOD  
CHAIRMAN  
ZONING COMMISSION

  
\_\_\_\_\_  
SARA A. BARDIN  
DIRECTOR  
OFFICE OF ZONING