

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
ZONING COMMISSION**

[District of Columbia flag]

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER 15-27H
Z.C. Case No. 15-27H
350 MORSE CPK OWNER C2, LLC
(Two-Year Time Extension for Approved Modification of Significance to First- and
Second-Stage PUD @ Square 3587, Lot 834)
March 26, 2026**

Pursuant to notice, at its public meeting on March 26, 2026, the Zoning Commission for the District of Columbia (the "Commission") considered the application ("Application") of 350 MORSE CPK OWNER C2, LLC (the "Applicant") for a two-year extension of the time period to file a building permit application and begin construction of a planned unit development ("PUD") approved for certain property known as Lot 834 in Square 3587 (the "Property") pursuant to Zoning Commission (Z.C.) Order No. 15-27, effective as of July 21, 2017 (the "Order"), as modified by Z.C. Order No. 15-27G.

The Commission reviewed the Application pursuant to the Commission's Rules of Practice and Procedures, which are codified in Subtitle Z of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

The Overall PUD Site and the Property

1. Pursuant to Z.C. Order No. 15-27, dated March 27, 2017, and effective July 21, 2017 ("Original Order"), the Commission approved a consolidated PUD, a first-stage PUD, and a related Zoning Map amendment from the C-M-1 zone to the C-3-C zone (now MU-9) for Lots 805, 814, and 817 (part of Record Lot 6) in Square 3587 (the "Overall PUD Site").¹
2. The Overall PUD Site has a total land area of approximately 208,671 square feet and is bounded by New York Avenue, N.E. to the north, 4th Street, N.E. to the northeast, Morse Street, N.E. to the southeast, Florida Avenue to the southwest, and the Amtrak and

¹ Z.C. Order No. 15-27 was approved pursuant to the 1958 Zoning Regulations. Under the 2016 Zoning Regulations, which repealed and replaced the 1958 Zoning Regulations on September 6, 2016, the C-M-1 zone was re-designated to the PDR-1 zone and the C-3-C zone was re-designated to the MU-9 zone. Following approval of Z.C. Order No. 15-27, new Assessment & Taxation ("A&T") lots were established for the Overall PUD Site to correspond with the individual development parcels. Accordingly, the Overall PUD Site is now known as Lots 819, 833-835, and 838-840. Lots 833-835 and 838-840 represent the individual development sites, and Lot 819 represents District-owned property that operates as the private streets and alleys surrounding the development sites. Lot 819 is not included in the Overall PUD Site's land area.

Metrorail rail lines to the west. At the time that the Order was approved, the Overall PUD Site was improved with onestory industrial warehouse buildings previously used for wholesale distribution.

3. The Property is located on the east side of the Overall PUD Site and has approximately 21,290 square feet of land area. The Property is bounded by Neal Place to the north, a private alley to the east, and Union Street to the west. To the south of the Property is Lot 833, which is improved with “Building C1”. The Property is presently vacant.
4. The Property is located within the boundaries of Ward 5 and Advisory Neighborhood Commission (“ANC”) 5D.

Prior Zoning Commission Approvals / The Project

5. Pursuant to the Original Order, the Commission approved development of the Overall PUD Site with four buildings (“Building A,” “Building B,” “Building C,” and “Building D”) containing residential, retail, office, and optional hotel uses (the “Overall Project”). The Overall Project was approved to be constructed in two phases. Phase I was the consolidated PUD and included the southern portion of Building A (“Building A1”), Building B, and the southern portion of Building C (Building C1). Phase II was the first-stage PUD and included development of the northern portion of Building A (“Building A2”), the northern portion of Building C (Building C2, to be located on the Property), and Building D. *See* Z.C. Order No. 15-27G, FF No. 4.
6. Pursuant to the Original Order, the Overall Project was approved to have an aggregate density of approximately 7.1 floor area ratio (“FAR”) with approximately 1,091,201 square feet of gross floor area (“GFA”) devoted to residential use, approximately 52,968 square feet of GFA devoted to retail use, and approximately 217,558 square feet of GFA devoted to office use. (See Z.C. Order No. 15-27, Decision No. A(2).) The approved Overall Project included approximately 1,103 residential units and 682 parking spaces, with maximum building heights ranging from 78 to 130 feet. (Ex. 3.). *Id.* at FF No. 4.
7. To date, the following buildings have been delivered: (1) The Gantry, located at 300 Morse Street, N.E. and 325 Morse Street, N.E., which collectively include a total of 551 residential units and ground floor retail uses (Building A1 and Building B); (2) The Margerite, located at 1280 Union Street, N.E., which includes 260 residential units and ground floor retail uses (Building A2); (3) Theory, located at 300 Neal Place, N.E., which includes 159 residential units and ground floor retail uses (Building D); and (4) Signal House, located at 1255 Union Street, N.E., which includes office and ground floor retail uses (Building C1).
8. Pursuant to Z.C. Order No. 15-27B(2), dated July 27, 2020, effective October 22, 2021, the Commission approved an application to convert the primary use of Building C2 from residential to office use. The approval also included special exception relief pursuant to Subtitle C § 1500.3(c) to permit restaurant/bar uses within the penthouse.

9. Pursuant to Z.C. Order No. 15-27G, dated November 13, 2023, and effective May 10, 2024 (Exhibit A), the Commission approved an application for the Property to convert the approved use of Building C2 from an office building with ground floor retail to a residential building with ground floor retail.

Current Deadlines Under the Order

10. The Applicant must apply for a building permit no later than May 11, 2026, and must commence construction of the PUD no later than May 11, 2027.

Parties and Notice

11. In addition to the Applicant, the parties to Z.C. Case No. 15-27 included Advisory Neighborhood Commission (“ANC”) DD, the “affected” ANC pursuant to Subtitle Z § 101.8. The Commission received no other requests for party status.
12. On February 18, 2026, the Applicant served the Application on ANC 5D, thus providing all parties with sufficient time to respond, as required by Subtitle Z § 705.2(a). The Applicant also served the Office of Planning (“OP”) and the District Department of Transportation (“DDOT”), as attested by the Certificate of Service submitted with the Application. (Exhibit [“Ex.”] 2.)

II. THE APPLICATION

13. On February 18, 2026, the Applicant timely filed the Application requesting a two-year time extension of the validity of the Order, such that if approved the Applicant would be required to file a building permit application no later than May 11, 2028, and start construction no later than May 10, 2029. (Ex. 1-2D.)
14. The Application asserted that it met the requirements of Subtitle Z § 705.2 for the proposed two-year time extension because:
 - The Applicant served the extension request on all parties to the underlying application and all parties were allowed 30 days to respond;
 - There has been no substantial change in any material facts upon which the Commission based its original approval of the Order, including the public benefits and requested development incentives, the Project’s consistency with the Comprehensive Plan and the Florida Avenue Market Study (the applicable Small Area Plan), or other adopted policies and programs; and
 - Good cause exists under Subtitle Z § 705.2(c)(1) due to unusually difficult financing conditions for residential development in the District, compounded by delays outside the Applicant’s control, as follows:
 - Elevated interest rates, significantly more conservative lender underwriting, and uncertainty surrounding near-term economic conditions have collectively reduced appetite for ground-up construction equity and debt capitalization options across the multifamily sector;

- The multifamily market continues to adjust to post-pandemic fundamentals, including elevated vacancy levels, sustained use of leasing concessions, and slower absorption of new supply; and
 - These factors, combined with ongoing volatility in interest rates and capital markets, make underwriting new development particularly challenging at this time.
15. For the foregoing reasons, the Application stated that the Applicant has been unable to obtain financing for the Project and to file the building permit application by the deadline established by the Order. (*See* Affidavit of Ronnie Gibbons, Vice President at Carmel Partners, with which the Applicant is affiliated (the “Affidavit”).) (Ex. 2B.)
16. Despite the setbacks described above and stated in the Application, the Affidavit indicated that the Project remains viable. The Affidavit further cited the deteriorating market trends and economic uncertainty but expressed confidence that the Applicant would be able to proceed with and complete the Project in a timely manner and deliver all associated PUD benefits with additional time for the market to improve. (*Id.*)

III. RESPONSES TO THE APPLICATION

17. OP submitted a report dated March 16, 2026 (Ex. 4) (the “OP Report”), which recommended approval of the Application. The OP Report concluded that (i) the extension was properly served on ANC 5D, which was given 30 days to respond; (ii) there had been no substantial changes in any material facts upon which the Zoning Commission based its original approval that would undermine its justification; and (iii) the Applicant presented substantial evidence that it was unable to obtain sufficient project financing despite diligent, good faith efforts, due to economic and market conditions beyond its control.
18. ANC 5D submitted a report (the “ANC Report”), which indicated that at its regularly scheduled March 10, 2026, public meeting, at which quorum was present, the ANC voted to recommend approval of the Applicant’s requested two-year time extension application.

IV. CONCLUSIONS OF LAW

1. Subtitle Z § 705.2 authorizes the Commission to extend the time period of an order upon determining that the time extension request demonstrated satisfaction of the requirements of Subtitle Z § 705.2 and compliance with the limitations of Subtitle Z §§ 705.3, 705.5, and 705.6.
2. The Commission concludes that the Applicant satisfied Subtitle Z § 705.2(a) by demonstrating that it served all parties—in this case, ANC 5D—on February 18, 2026, and that the parties were given 30 days to respond from February 18, 2026.
3. The Commission concludes that the Application satisfies Subtitle Z § 705.2(b), and that no substantial change has occurred to 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.

4. Subtitle Z § 705.2(c) requires that an application demonstrate with substantial evidence one or more of the following criteria:
 - a. *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;*
 - b. *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*
 - c. *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.*

5. The Commission concludes, based on the Application, the OP Report, and the evidence in the record, that the Application meets the standards of Subtitle Z §§ 705.2(c)(1). The Project has been unable to advance due to unusually difficult financing conditions, including elevated borrowing costs, rising construction expenses, limited equity availability, and a significant decline in new residential construction in the District, all of which were beyond the Applicant's control. Accordingly, the Commission finds that good cause exists to grant the requested two-year extension to allow the Project to proceed and deliver its approved public benefits.

“Great Weight” to the Recommendation of OP

6. The Commission is required to give “great weight” to the recommendations of OP pursuant to § 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.)) and Subtitle Z § 405.9 (*Metropole Condo. Ass'n v. District of Columbia Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)

7. The Commission finds OP's recommendation to approve the Application persuasive and concurs in that judgment.

“Great Weight” to the Written Report of the ANC

8. The Commission must give “great weight” to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 13(d) of the Advisory Neighborhood Commission Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.)) and Subtitle Z § 406.2 To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole*, 141 A.3d 1087.) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Bd. of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (D.C. 1978) (citation omitted).)

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Applicant’s request for a two-year extension of the deadline to file a building permit application and begin construction of the Project, with the requirement that the Application:

- File a building permit for the Project no later than **May 11, 2028**; and
- Begin construction of the Project no later than **May 11, 2029**.

VOTE (March 26, 2026): 5-0-0

[insert roll call vote]

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 15-27H shall become final and effective upon publication in the *District of Columbia Register*, that is, on _____, 2026.

BY THE ORDER OF THE D.C. ZONING COMMISSION

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

ANTHONY 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 RESIDENT 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.