

GOVERNMENT OF THE DISTRICT OF COLUMBIA
ZONING COMMISSION



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER 22-06B

Z.C. Case No. 22-06B

801 Maine Ave NBL Owner, LLC

(One-Year Time Extension for Approved Consolidated Planned Unit Development
and Related Map Amendment @ Square 390, Lot 53)
November 20, 2025

Pursuant to notice, at its public meeting on November 20, 2025, the Zoning Commission for the District of Columbia (the “Commission”) considered the application (“Application”) of 801 Maine Ave NBL Owner, LLC (the “Applicant”) for a one-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 53 in Square 390 (the “Property”) pursuant to Zoning Commission (Z.C.) Order No. 22-06, effective as of June 9, 2023 (the “Order”),¹ as modified by Z.C. Case No. 22-06A.²

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 Property

1. The Property is a triangular-shaped parcel located in the southwest quadrant of the District, with a total land area of approximately 53,363 square feet (±1.23 acres). The Property is located at the corner of the intersection of Maine Avenue and 9th Street, S.W. south of G Street, S.W.
2. The Property is currently improved with a four-story office building that was previously leased by the National Institute of Food and Agriculture, an agency of the U.S. Department of Agriculture, and is presently vacant.
3. The Property is generally surrounded by a mix of residential and non-residential uses. Its immediate surroundings include Benjamin Banneker Park to the west, the Thomas

¹ Because the Order was appealed to the District of Columbia Court of Appeals (No. 23-AA-815), the time limitations set forth in Subtitle Z §§ 702.2 and 702.3 run from March 5, 2024, which is the date of the Court’s dismissal, rather than the effective date of the Order. See Findings of Fact (“FF”) Nos. 8-9.

² The Commission approved final action in Z.C. Case No. 22-06A on July 10, 2025; however, the final order has not yet been issued. The final order for Z.C. Case No. 22-06A will be issued simultaneous with the final order for Z.C. Case No. 22-06B.

Jefferson Middle School Academy and Jefferson Field to the east, The Wharf D.C. to the south, and a moderate-density townhome community to the north, known as Capitol Square Place.

4. The Property is located within the boundaries of Ward 6 and Advisory Neighborhood Commission (“ANC”) 6D.

Prior Zoning Commission Approvals/The Project

5. Pursuant to the Order, dated February 9, 2023, and effective as of June 9, 2023, the Commission approved a consolidated PUD and a related Zoning Map amendment, rezoning the Property from the MU-12 zone to the MU-9A zone. The Commission’s approval authorizes a mixed-use development consisting of approximately 498 residential units and 24,169 square feet of non-residential use, with an overall density of 7.99 floor area ratio (“FAR”). The Commission’s approval also permits a maximum building height of approximately 130 feet along the southern portion of the building fronting Maine Avenue, and a maximum height of 90 feet along the northern portion fronting G Street, S.W. (the “Project”).
6. In Z.C. Case No. 22-06A,³ the Commission approved the Applicant’s request for a Modification Without Hearing to the approved PUD plans. The modification authorized revisions to the floor plans for the parking garage levels, ground floor, and first floor of the Project; granted additional flexibility to relocate the Project’s parking garage and loading entrances; and revised a condition to allow the Project’s residential units to be offered as either rental or for-sale.

Current Deadlines Under the Order

7. The Order was appealed to the District of Columbia Court of Appeals (No. 23-AA-815); however, the petition was dismissed by the Court on March 5, 2024. The time limitations set forth in Subtitle Z §§ 702.2 and 702.3 therefore run from March 5, 2024, the date of the Court’s dismissal, rather than the effective date of the Order (Subtitle Z § 705.8).
8. Accordingly, the Applicant must apply for a building permit no later than March 5, 2026, and must commence construction of the PUD no later than March 5, 2027.

Parties and Notice

9. In addition to the Applicant, the parties to Z.C. Case No. 22-06 included Advisory Neighborhood Commission (“ANC”) 6D, the “affected” ANC pursuant to Subtitle Z § 101.8, and the Capitol Square Homeowners Association (“Capitol Square HOA”), which the Commission granted party status in opposition (Z.C. Order No. 22-06, FF No. 7).
10. On September 23, 2025, the Applicant served the Application on ANC 6D and the Capitol Square HOA, 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

³ (*Id.*)

District Department of Transportation (“DDOT”), as attested by the Certificate of Service submitted with the Application (Exhibit [“Ex.”] 2).

II. THE APPLICATION

11. On September 23, 2025, the Applicant timely filed the Application requesting a one-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 March 5, 2027, and start construction no later than March 5, 2028 (Ex. 1-2C).
12. The Application asserted that it met the requirements of Subtitle Z § 705.2 for the proposed one-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 Southwest Neighborhood Plan (the applicable Small Area Plan), or other adopted policies and programs; and
 - Good cause exists under Subtitle Z § 705.2(c)(1) and (3) due to unusually difficult financing conditions for residential development in the District, compounded by delays outside the Applicant’s control, as follows:
 - The Federal Reserve’s maintenance of elevated borrowing costs has kept construction loan benchmarks and spreads high, reducing underwriting flexibility and limiting access to debt;
 - The District experienced its lowest level of new residential construction in roughly 15 years, with sharply reduced lender appetite due to high rates and cost inflation;
 - Construction costs continue to rise at 3-5% annually, with labor competition and material prices creating sustained pressure on development budgets;
 - Since the Order became final on June 9, 2023, capital market conditions have shifted materially, with equity partners increasingly unwilling to fund large-scale projects notwithstanding the Property’s premier location;
 - Despite efforts to pursue financing partners, reduce costs where feasible, and refine program elements, restrictive market conditions have prevented the Project from advancing to construction; and
 - The appeal of the Order introduced material uncertainty that caused lenders and equity partners to pause discussions until resolution, delaying progress beyond the Applicant’s control.
13. 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, as adjusted by the date of dismissal of the appeal in the District of Columbia Court of Appeals. (See Affidavit of Ruth U. Hoang, Vice President of Development at Jair Lynch Real Estate Partners, with which the Applicant is affiliated (the “Affidavit”)) (Ex. 2C).

14. Despite the setbacks described above and stated in the Application, the Affidavit indicated that the Project remains viable. The Affidavit further cited the Federal Reserve’s recent interest rate cut, as well as the prospect of additional reductions, as evidence that financing conditions appear more promising, and 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 (*Id.*).

III. RESPONSES TO THE APPLICATION

15. OP submitted a report dated November 7, 2025 (Ex. 5) (the “OP Report”), which recommended approval of the Application. The OP Report concluded that (i) the extension was properly served on ANC 6D,⁴ 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, and that the appeal delayed the PUD.
16. The Applicant’s Statement in Support (Ex. 2) indicated that the Applicant intended to engage with ANC 6D during the processing of the Application and, if necessary, would provide an update to the Commission prior to the public meeting scheduled for the Commission’s deliberations on the Application. ANC 6D did not issue a report for this case.

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 6D and the Capitol Square HOA—on September 23, 2025, and that the parties were given 30 days to respond from September 23, 2025.
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:

⁴ The OP Report states that ANC 6D was the only party to the Application, but Capitol Square HOA was also a party (FF 10).

- 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) and (3). 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. These challenges were compounded by the appeal of the Order, which created additional uncertainty and delayed financing discussions beyond the Applicant's control. Accordingly, the Commission finds that good cause exists to grant the requested one-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)).
9. As previously noted, ANC 6D did not file a response to the Application.

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 one-year extension of the deadline to file a building permit application and begin construction of the PUD approved in Z.C. Order No. 22-06, as modified in Z.C. Case No. 22-06A⁵, with the requirement that the Applicant:

- File a building permit application for the Project no later than **March 5, 2027**; and
- Begin construction of the Project no later than **March 5, 2028**.

Final Action

VOTE (November 20, 2025): 4-0-1

(Tammy Stidham, Anthony J. Hood, Gwen Wright, and Robert E. Miller to **APPROVE**; Joseph S. Imamura, not present, not voting.)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 22-06B shall become final and effective upon publication in the *District of Columbia Register*, that is, on December 26, 2025.

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.

⁵ The Commission approved final action in Z.C. Case No. 22-06A on July 10, 2025; however, the final order has not yet been issued. The final order for Z.C. Case No. 22-06A will be issued simultaneous with the final order for Z.C. Case No. 22-06B.