

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

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 22-11A**

**Z.C. Case No. 22-11A**

**Disabled American Veterans**

**(Two-Year Time Extension for Approved PUD @ Square 439S, Lot 15  
[807 Maine Avenue, SW])**

**[INSERT DATE]**

Pursuant to notice, at its public meeting on April 24, 2025, the Zoning Commission for the District of Columbia (“Commission” or “Z.C.”) considered the application of Disabled American Veterans (“Applicant”) for a two-year time extension of the deadline by which to file a building permit application and to begin construction of the consolidated planned unit development (“PUD”) approved pursuant to Z.C. Order No. 22-11 (the “Application”). The property subject to the Application is 807 Maine Avenue, SW (Square 439S, Lot 15) (the “Property”).

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, Zoning Regulations of 2016, to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

**FINDINGS OF FACT**

**I. BACKGROUND**

**PRIOR APPROVALS**

1. Development of the Property was originally approved pursuant to Z.C. Order No. 22-11, which granted a consolidated PUD and a related Zoning Map Amendment from the MU-12 zone to the MU-10 zone to redevelop the Property with a new residential building consisting of (i) 194,839 square feet of gross floor area, (ii) approximately 195 total residential units, and (iii) approximately 27 Inclusionary Zoning (“IZ”) units.
2. Z.C. Order No. 22-11 was approved on January 26, 2023, with an effective date of July 28, 2023. Pursuant to Z.C. Order No. 22-11, Decision No. G.2, the order is valid for a period of two years, such that a building permit application is required to be filed no later than July 28, 2025, and construction of the approved PUD is required to commence no later than July 28, 2026.

## **PARTIES**

3. The parties to Z.C. Case No. 22-11 were the Applicant and Advisory Neighborhood Commission (“ANC”) 6D.

## **II. THE APPLICATION**

4. On March 17, 2025, prior to the July 28, 2025, deadline to submit a building permit application and prior to the July 28, 2026, deadline to commence construction of the approved PUD, the Applicant filed the Application requesting a two-year time extension of the aforementioned deadlines. (Exhibit (“Ex.”) 1–2D2.)
5. The Application asserted that it satisfied the requirement of Subtitle Z § 705.2(a) to serve all parties and attested by Certificate of Service, included with the Application, that the Applicant served the Application on ANC 6D, ANC Single Member District Commissioner 6D02, ANC Single Member District Commissioner 6D01, the Office of Planning (“OP”), and the District Department of Transportation (“DDOT”). (Ex. 2.)
6. The Application asserted that it satisfied the requirements of Subtitle Z § 705.2(b) because no substantial change had occurred in any of the material facts on which the Commission had relied upon in approving Z.C. Order No. 22-11 (Ex. 2.)
7. The Application asserted that it satisfied the requirements of Subtitle Z § 705.2(c)(1) for a time extension due to the Applicant’s inability to obtain sufficient project financing for the development of the approved PUD, despite the Applicant’s diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the Applicant’s reasonable control. (Ex. 2.)

## **III. RESPONSES TO THE APPLICATION**

### **OP REPORT**

8. OP submitted a report dated April 8, 2025 (the “OP Report”), which recommended approval of the Application based on OP’s conclusion that the Applicant had satisfied the relevant standards of Subtitle Z § 705.2. (Ex. 3.)

### **ANC REPORT**

9. ANC 6D did not submit a written report regarding the Application.

## **CONCLUSIONS OF LAW**

1. Subtitle Z § 705.2 authorizes the Commission to extend the time period of an order approving a PUD upon determining that the time extension request demonstrated satisfaction of the requirements of Subtitle Z § 705.2 and upon a determination that the limitations of Subtitle Z §§ 705.3, 705.5, and 705.6 have been adhered to.

2. The Commission concludes that the Applicant timely filed the Application on March 17, 2025, prior to the July 28, 2025, deadline to submit a building permit application and prior to the July 28, 2026, deadline to commence construction of the approved PUD.
3. Subtitle Z § 705.2(a) requires that an Applicant serve the extension request on all parties and that all parties are allowed 30 days to respond.
4. The Commission concludes that the Applicant has satisfied the requirement of Subtitle Z § 705.2(a) to serve all parties by the Applicant's demonstration that the Applicant served the Application on ANC 6D, ANC Single Member District Commissioner 6D02, ANC Single Member District Commissioner 6D01, OP, and DDOT, and that all parties were given more than 30 days to respond.
5. The Commission concludes, based on the Application and the OP Report, that the Application satisfied the requirement of Subtitle Z § 705.2(b) that no substantial change in any of the material facts upon which the Commission based its original approval of Z.C. Case No. 22-11 occurred that would undermine the Commission's justification for that approval.
6. The Commission concludes that the Application met the standard of review of Subtitle Z § 705.2(c)(1) because the Application demonstrated that the Applicant had been unable to obtain sufficient project financing for the development of the approved PUD, despite the Applicant's diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the Applicant's reasonable control. Specifically, the Commission concludes that the rise in interest rates, the general market instability, the Applicant's original development partner exiting the development deal, and the Applicant's inability to locate a new development partner have prevented the Applicant from obtaining sufficient project financing for the development of the approved PUD.

#### **"GREAT WEIGHT" TO THE RECOMMENDATIONS OF OP**

7. The Commission must 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. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)).
8. The Commission found OP's recommendation that the Commission approve the Application persuasive and concurs in that judgment.

#### **"GREAT WEIGHT" TO THE RECOMMENDATIONS OF THE ANC**

9. The Commission must give "great weight" to the issues and concerns raised in a written report of the affected ANC that was approved by the full ANC at a properly noticed meeting that was open to the public pursuant to § 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.)), 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 Condo. Ass'n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)). The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. D.C. Bd. of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted)).

10. ANC 6D did not submit a written report regarding the Application.

### **DECISION**

In consideration of the case record, the Findings of Fact, and the Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application’s request for a two year time extension of the July 28, 2025, deadline by which to file a building permit application and of the July 28, 2026, deadline to commence construction of the PUD approved pursuant to Z.C. Order No. 22-11, such that a building permit application must be filed by July 28, 2027, and construction of the approved PUD must commence no later than July 28, 2028.

### **VOTE (April 24, 2025):**

**4-0-1** – Anthony J. Hood, Robert E. Miller, Tammy Stidham, and Gwen Wright to **APPROVE**; Joseph S. Imamura having not participated, not voting.

In accordance with the provisions of Subtitle Z § 604.9, Order No. 22-11A shall become final and effective upon publication in the *District of Columbia Register*; that is, on \_\_\_\_\_.