



June 12, 2025

VIA IZIS

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Anthony J. Hood, Chairperson
District of Columbia Zoning Commission
441 4th Street NW, Suite 210-S
Washington, DC 20001

**Re: Request for Two Year Time Extension of an Approved Design Review Application
4401-4435 Benning Rd. NE (Sq. 5085, Lots 40 & 61)
Z.C. Order No 22-08**

Dear Chairperson Hood and Members of the Zoning Commission:

NRP Properties LLC (the “**Applicant**”), hereby requests a two-year time extension of the order granting design review approval to construct a new apartment building (the “**Project**”) with 109 all-affordable residential units, which was approved pursuant to Z.C. Order No. 22-08 (the “**Order**”). The Applicant’s signature form and letters of authorization are included as **Tab A** and **Tab B**, respectively and copy of the order is attached as **Tab C**. As noted below, the Applicant respectfully requests that this application be considered by the Zoning Commission at its July 31, 2025 public meeting.

The subject application is filed pursuant to Subtitle Z § 705 of the Zoning Regulations. This is the first time extension request for the Project. The Applicant has satisfied the permit vesting deadline but requests a two-year extension of the construction commencement date extend to August 26, 2027. The Project requires a significant amount of private and public financing for the Project, and the applicant has been unable to finalize financing as financing is tied to permit issuance. And, the property is burdened by unique encumbrances which have created considerable administrative and permitting challenges. The extension will give the Applicant additional time to finalize construction financing and proper permitting so that it may proceed with construction of the Project.

Background

The Project is located at 4401-4435 Benning Rd. NE (Sq. 5085, Lots 40 & 61) (the “**Property**”). The Property is located to the north of East Capitol Street and is approximately one mile to the east of the Anacostia River. The Benning Road Metrorail Station is one-half block from the Property. Directly across Benning Road from the Property is the Conway Center, a new residential building providing housing to the homeless and low-income residents. Although the Property is part of a small swath of MU-zoned property, much of the surrounding area is residential in nature, with lower-density apartment buildings and single-family homes. The nearby

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commercial lots are primarily improved with one-story buildings, including several gas stations. Fort Mahan Park and Fort Chaplin Park are both within two blocks of the Property.

The Property is comprised of two lots totaling 25,925 sq. ft. of land area. The Property is an interior lot with frontage on Benning Road NE and a 20-foot-wide unimproved alley to the rear. The buildable area on the Property is restricted by several encumbrances, including a building restriction line along Benning Road. There are two WMATA vent shafts associated with the nearby Benning Road station that are located on the northwestern side of the Property. WMATA also holds an underground tunnel easement along the front of the Property and a utility easement cutting through the center of the Property (the building restriction line, WMATA vent shafts, tunnel easement and utility easement shall be collectively referenced as the “Encumbrances”). Due to the Encumbrances, the Project will be sited on the southwestern half of the Property, leaving a large amount of open green space on the Property’s frontage.

The Applicant proposes to subdivide the two existing lots, raze the office building and construct a new, 9-story plus penthouse, all residential building at the Property. The Project will have 109 dwelling units, all of which will be affordable to income levels at or below 80% AMI. The Applicant proposes to make 22 units available at 30% AMI, 65 units available at 50% AMI and 22 units available at 80% AMI. The Project features a range of unit types from studio to three-bedrooms. There are a substantial number of “family-sized” units to include 27 two-bedroom units and 22 three-bedroom units.

The Commission Should Grant the Requested Time Extension

A. Standard of Review of Time Extension Request

Pursuant to 11-Z DCMR § 705.2, the Zoning Commission is authorized to extend the time period for an approved design review application for good cause, provided the following conditions are met:

1. The extension request is served on all parties to the application by the applicant, and all parties are allowed thirty (30) days to respond;
2. There is no substantial change in 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; and
3. The applicant demonstrates with substantial evidence that there is good cause for such extension, as provided in 11-Z DCMR § 705.2(c).

The sole substantive criterion for determining whether a design review application should be extended is whether there exists “good cause shown.” The Zoning Regulations define “good cause shown” in Subtitle Z § 705.2(c) as evidence of one or more of the following:

1. 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;

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2. 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
 3. 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.

B. Applicant's Satisfaction of the Standards for Granting Time Extension

The Applicant requests that the Commission extend the Applicant's deadline to commence construction for the Project by two years, To August 26, 2027. As outlined below, the Applicant meets the standards for the requested extension.

1. Service on Parties

The parties to the original application were the Applicant and ANC 7D. On January 1, 2023, the boundaries of the ANC's were modified, such that the Property is now located in ANC 7F. This request is being served on ANC 7F, as an "affected ANC" pursuant to Subtitle B § 100.2 on the same day it is filed with the Zoning Commission. The Applicant requests that the Commission not place this request on its meeting agenda until the 30-day period has lapsed.

2. No Substantial Change of Material Facts

There has been no substantial change in any material facts that would undermine the basis for the Commission's approval of the design review application. There are no changes to the Zoning Regulations or the Comprehensive Plan that would adversely impact the material facts upon which the Zoning Commission based its original approval. The Commission's review of the Project pursuant to the design review guidelines of the CG Zones remains intact.

3. Good Cause Shown

The Applicant satisfies the good cause standard of Subtitle Z § 705.2 because, despite diligent efforts to secure financing, changing economic and market conditions have made it difficult to obtain the necessary capital for the Project. In addition, the Applicant has encountered regulatory delays resulting from the Property's unique Encumbrances, which have required extended coordination with multiple government agencies. Together, these financial and regulatory hurdles have prevented the Applicant from moving forward within the original approval period, despite sustained good faith efforts.

As set forth in the affidavit of the Applicant (the "Affidavit") (**Tab D**), this application satisfies the criteria of Subtitle Z § 705.2(c)(1) and (2), and therefore meets the requirements for extending the deadline to file a building permit application for the Building.

Since the approval the Order in August 2022, the Applicant has taken the following steps to diligently pursue development of the Project:

- The Applicant has advanced the design of the project to 100% construction drawings

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- The Applicant prepared and filed an application for a building permit in February, 2024, prior to the deadline in the Approval.
 - The Applicant has utilized the Accelerated Plan Review (APR) program at the Department of Buildings and anticipates the building permit will be issued in Q3 2025.
 - The Applicant secured \$45,000,000 in tax-exempt bond financing from the District of Columbia Housing Finance Agency. NRP is in the Department of Housing and Community Development underwriting pipeline for an anticipated Housing Production Trust Fund loan. In November 2024, DC Council approved the Local Rent Supplement Program allocation to this project, which will provide ongoing rental subsidies to the 21 apartments reserved for households earning no more than 30% of Median Family Income.
 - The Applicant has engaged in regular conversations with the Deputy Mayor for Planning and Economic Development and other District officials regarding the status of the Project, financing and construction.
 - In total the Applicant has spent over \$3,000,000 on the design, permitting, financing and other efforts related to the Project

Despite these efforts, the Applicant was ultimately unable to finalize the project's public financing due to circumstances beyond its reasonable control. In the aftermath of the Covid-19 pandemic, the real estate market continued to experience significant instability, including high construction costs, labor shortages, and ongoing supply chain disruptions. At the same time, nationwide inflation led to increased borrowing costs, tighter credit conditions, and broader market uncertainty, all of which contributed to a weakened lending environment. These market conditions were particularly challenging for affordable housing developments, which often rely on complex financing structures and limited public funding sources that have become increasingly competitive and constrained.

Separately, as noted above, the Property is burdened by the Encumbrances, which have created considerable administrative and permitting challenges. These constraints have necessitated ongoing coordination with multiple agencies and triggered additional layers of review. As a result, the approval process has been more complex and time-intensive than would typically be expected for a project of this scale. These delays have been outside the Applicant's control and have further contributed to the inability to meet the original permitting deadline.

Based on the foregoing, it is clear that the Applicant has made consistent and good faith efforts to advance the approved Project. Despite facing both financial and regulatory challenges beyond its control, the Applicant remains fully committed to moving the Project forward. Granting the requested extension will allow the Applicant the necessary time to complete the permitting process and proceed toward implementation of the Project in accordance with the Commission's original approval.

Conclusion

In light of this demonstration of good cause and for the reasons stated herein, the Applicant respectfully requests that the Zoning Commission approve a two-year extension of the deadline to file a building permit application and begin construction such that construction must begin no later than August 26, 2027. Thus, the Applicant respectfully requests that this application be considered by the Zoning Commission at its July 31, 2025, public meeting.

Sincerely,

COZEN O'CONNOR

A handwritten signature in blue ink, appearing to read 'M. Moldenhauer', is written over a light blue horizontal line.

Meridith Moldenhauer

Certificate of Service

I hereby certify that on the 12th day of June, 2025, a copy of the application with attachments was served, via email, as follows:

District of Columbia Office of Planning
1100 4th Street SW, Ste. E650
Washington, DC 20024
Planning@anc.dc.gov

Advisory Neighborhood Commission 7F
Tyrell M Holcomb, Chair
Kimory Kso Orendoff SMD Commissioner
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