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September 23, 2025

## **VIA IZIS**

Zoning Commission  
for the District of Columbia  
441 4th Street, NW, Suite 210S  
Washington, DC 20001

**Re: Time Extension Request – Z.C. Case Nos. 22-06 et seq.  
Approved Consolidated Planned Unit Development and Related Zoning Map  
Amendment @ 800 9th Street, S.W. (Lot 53, Square 390)**

Dear Members of the Commission:

On behalf of 801 MAINE AVE NBL OWNER LLC (the “Applicant”), owner of the property located at 800 9th Street, S.W. (Lot 53 in Square 390) (the “Property”), we hereby submit this application requesting a one-year extension of the consolidated planned unit development (“PUD”) and related Zoning Map amendment approved under Z.C. Order No. 22-06, as modified by Z.C. Order No. 22-06A (collectively, the “PUD Order”).

As explained below, due to an appeal before the District of Columbia Court of Appeals (“DCCA”), the effective date of the PUD Order is March 5, 2026. **The Commission’s approval of this time extension would extend the deadline to file a building permit application to March 5, 2027, and require construction to begin no later than March 5, 2028.**

This application is submitted to the Commission pursuant to Subtitle Z § 705 of the District of Columbia Zoning Regulations (Title 11 DCMR). The required Application Form 106 is being filed concurrently via IZIS. A check in the amount of \$3,146.40, made payable to the D.C. Treasurer for the requisite filing fee (calculated pursuant to Subtitle Z § 1600.10(c)), will also be provided to the Office of Zoning at the time of filing.<sup>1</sup>

The following sections provide background information and the Applicant’s justification for the requested time extension.

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<sup>1</sup> Pursuant to Subtitle Z § 1600.10(c), the filing fee is the greater of ten percent (10%) of the original hearing fee—which in Z.C. Case No. 22-06 was \$33,164.00 (see Ex. 16)—or \$1,500, up to a maximum of \$5,000. Ten percent of the original fee equals \$3,316.40, which is the applicable fee

**A. Background**

**1. Property and Surrounding Area**

The Property comprises an approximately 1.23-acre triangular parcel located at the intersection of Maine Avenue and 9th Street in the southwest quadrant of the District. The PUD site is currently improved with a vacant four-story office building. Surrounding the PUD Site is a mix of residential and non-residential uses, including The Wharf mixed-use development to the south, Benjamin Banneker Park to the west, and the Capitol Square Place townhome community to the north. The Property benefits from excellent transit access, with two Metrorail stations—L’Enfant Plaza and Waterfront—within a 10-minute walk, along with multiple Metrobus routes in the immediate vicinity.

**2. Prior Approvals and Project Overview**

Pursuant to Z.C. Order No. 22-06, dated February 9, 2023, and effective June 9, 2023 (Exhibit A), the Commission approved a consolidated PUD and related Zoning Map amendment to rezone the Property from MU-12 to MU-9A.<sup>2</sup> The approval authorizes a mixed-use development with residential and retail components and an overall density of 7.99 FAR (the “Project”), as further described below.

As the Commission noted in approving the PUD, the Project’s design is responsive to its surroundings. The southern portion, fronting Maine Avenue, will rise to approximately 130 feet, while the northern wing, facing the Capitol Square townhome community along G Street, SW, will be limited to a maximum of 90 feet. In total, the Project will deliver approximately 498 residential units, including 75 Inclusionary Zoning (IZ) units for households earning no more than 50% or 60% of MFI. Eight of these IZ units will be three-bedroom apartments to support family-oriented housing. At the ground level, the Project will provide about 24,168 square feet of non-residential space, with roughly 3,000 square feet reserved for a neighborhood-serving use such as a grocer, market, bodega, or prepared food shop, and another portion for a bank branch, consistent with the Applicant’s obligations under the PUD Order. See Z.C. Order No. 22-06, Decision No. E.2.

The Commission further found that the public benefits of the PUD, including a LEED Platinum-level sustainable design, transportation improvements beyond mitigation such as the reconfiguration and redesign of 9th Street, S.W., and enhancements to the public realm and surrounding streetscape, were “commendable.” See Z.C. Order No. 22-06, Conclusion of Law No. 40.

In Z.C. Case No. [22-06A](#), the Commission approved a Modification Without Hearing allowing (i) revisions to the parking garage, ground floor, and first-floor plans; (ii) flexibility to relocate garage and loading entrances; and (iii) an amendment to Decision No. E.3.b of Z.C. Order No. 22-06 to permit residential units as either rental or for-sale, with IZ affordability levels set at

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<sup>2</sup> At its public meeting on July 13, 2023, the Commission considered two post-hearing motions filed by the Capitol Square Homeowners Association and Advisory Neighborhood Commission (“ANC”) 6D, but denied both. See Z.C. Order No. 22-06(1), effective September 1, 2023 (Exhibit B).

up to 60% MFI for rentals and 80% MFI for ownership, consistent with Subtitle C § 1003.7. These changes were largely driven by a southward shift in building components, eliminating the interim level and requiring redistribution of loading, lobby, and bicycle storage areas. The Commission took Final Action on June 26, 2025, and the final order is pending publication.

### **3. DCCA Appeal and Effect on PUD Validity Period**

A group of residents of the Capitol Square townhome community appealed Z.C. Order No. 22-06 to the DCCA (No. 23- AA-815); however, the petition was ultimately dismissed. 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 Z.C. Order No. 22-06. See 11-Z DCMR § 705.8. Accordingly, the Applicant must apply for a building permit by March 5, 2026, and must commence construction of the PUD by March 5, 2027.

#### **B. Request for Time Extension**

Under Subtitle Z § 705.5, an applicant with an approved PUD may request no more than two time extensions, excluding any granted as a result of the COVID-19 pandemic. The regulation further provides that a second extension may be approved for no more than one year. This is the Applicant’s first request for an extension of the approved PUD. Specifically, the Applicant respectfully requests a one-year extension, which would adjust the applicable deadlines as follows:

- **March 5, 2027 – Extended deadline to file a building permit application**
- **March 5, 2028 – Extended deadline to start construction**

#### **C. Eligibility Under and Compliance with Criteria Under Subtitle Z § 705**

Pursuant to Subtitle Z § 705.6, a time extension request may not be filed more than six (6) months prior to the expiration date of the order. This request is timely filed within six (6) months of the expiration date of the PUD Order which, as explained above, is March 5, 2026.

Under Subtitle Z § 705.2, an applicant may request an extension of the time periods established by a PUD order “**for good cause** upon the filing of a written request, before the expiration of the approval,” upon documenting certain conditions. (Emphasis added.) The Commission may, in its discretion, grant such a request upon determining that the applicant “has sufficiently evidenced compliance” with the criteria set forth in Subtitle Z § 705.2. 11-Z DCMR § 705.3(a). As discussed below, this application satisfies all applicable criteria:

- Subtitle Z § 705.2(a): *The extension request is served on all parties to the application by the applicant, and all parties are allowed thirty (30) days to respond;*

Zoning Commission for the District of Columbia  
Time Extension Request for ZC Order No. 22-06 *et seq.*

In addition to the Applicant,<sup>3</sup> the other automatic party to the original PUD case was ANC 6D pursuant to Subtitle Z § 403.5. The Commission also granted party status to Capitol Square Homeowners Association, Inc (the “Capitol Square HOA”). See Z.C. Order No. 22-06, Finding of Fact No. 6. As indicated by the Certificate of Service submitted herewith, the Applicant served a copy of this time extension request on both ANC 6D and the Capitol Square HOA at the time of filing. Moreover, the Applicant acknowledges that both parties are permitted thirty (30) days to respond before the Commission considers this application.

- Subtitle Z § 705.2(b): *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*

There has been no substantial change to the material facts underlying the Commission’s approval of the consolidated PUD, including the public benefits and requested development incentives, or to its consistency with the Comprehensive Plan, the Southwest Neighborhood Plan (the applicable Small Area Plan), and other adopted policies and programs. The PUD was reviewed under the Comprehensive Plan last updated in 2021, with no subsequent amendments to maps or policies. Likewise, no changes to the Zoning Regulations materially affect the approval; the recent reorganization and renaming of various zones did not alter the substance of the regulations as applied to the Property (see Z.C. Order No. 22-25).

- Subtitle Z § 705.2(c): *The Applicant demonstrates with substantial evidence one (1) or more of the following criteria:*
  - (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;***
  - (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.***

Good cause exists under Subtitle Z § 705.2(c)(1) because financing conditions for residential development in the District remain unusually difficult. The challenges stem from broader macroeconomic trends and local market conditions. Borrowing costs are still elevated after the Federal Reserve maintained the federal funds rate at 4.25%–4.50% on July 30, 2025,<sup>4</sup> which

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<sup>3</sup> The Applicant in this case (801 Maine Avenue NBL Owner LLC ) and in the original PUD case (801 Maine Ave SW PJV, LLC) are affiliated entities of Jair Lynch Real Estate Partners, a real estate firm headquartered in Washington, D.C.

<sup>4</sup> See [Federal Reserve Board - Federal Reserve issues FOMC statement](#).

keeps construction-loan benchmarks and spreads high. These financing conditions directly affect developers in the District, where higher debt costs have reduced underwriting flexibility and made it significantly harder to advance new projects. Locally, Washington, D.C. saw only 932 rental units begin construction in 2024, a 79% year-over-year decline and the lowest level in roughly 15 years—evidence that high rates and cost inflation have inhibited lender appetite and slowed closings on feasible terms.<sup>5</sup> Rising costs have compounded the problem, with even high-profile projects experiencing significant budget pressures.<sup>6</sup> Market sources report construction costs are increasing at a steady 3%–5% annually, with little relief expected as labor competition and material prices persist, and further note that these conditions are expected to constrain development in the District, especially in the office and residential sectors, in the coming years.<sup>7</sup>

Since the Applicant acquired the Property, and with more than two years having passed since the PUD Order became final and effective on June 9, 2023, capital-market conditions have shifted significantly. They have added pressure on a project that already faced financial challenges from high carrying costs and other upfront expenses when it was first conceived for entitlement. The current financing environment is markedly different from the one in place when the Project was initially designed, and potential equity partners have become increasingly reluctant to fund development of this scale, even at a premier site such as 800 9th Street, SW. The Applicant has pursued financing partners, reduced construction costs where feasible, and refined program elements to enhance tenant appeal. Despite these efforts, market conditions remain unusually restrictive and continue to block the Project from advancing to construction.

Good cause also exists under Subtitle Z § 705.2(c)(3) because the appeal of the PUD Order materially impeded the Applicant's progress. Although the Commission's approval was ultimately affirmed, the pending litigation injected significant uncertainty and the Project's ability to proceed on schedule, prompting lenders and equity partners to pause financing discussions until the appeal was resolved. This delay was beyond the Applicant's control and directly undermined its ability to keep the Project on its original timeline.

As detailed in the Affidavit of Ruth U. Hoang, Senior Vice President of Development at Jair Lynch Real Estate Partners (Exhibit C), elevated borrowing costs, constrained equity availability, rising construction expenses, and delays stemming from the appeal have materially affected the Applicant. These factors, all beyond the Applicant's control, meet the good-cause standard under Subtitle Z § 705.2(c) and have prevented the timely filing of a building-permit application, while also likely postponing a realistic construction start date, thereby necessitating additional time to deliver the Project.

The Applicant therefore respectfully requests a one-year extension of the PUD Order. This additional time is needed to account for current market conditions and the period lost to litigation, while preserving the Commission's approval and public benefits. The Applicant continues to advance construction drawings and remains prepared to proceed with permitting and construction as market conditions improve.

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<sup>5</sup> See [D.C. Housing Starts Drop 79% As Investors 'Move Their Money Elsewhere'](#).

<sup>6</sup> See [The White House is attacking the Fed over its renovations](#) : NPR.

<sup>7</sup> See [Rising Construction Costs Fueling Record Tenant Build-Out Allowances In DC Cresa](#).

**D. No Public Hearing Necessary**

Pursuant to Subtitle Z § 705.7, the Commission must hold a hearing on an extension request only if a material factual conflict arises concerning the criteria in Subtitle Z § 705.2. No such conflict exists here. The Applicant does not anticipate that either the ANC or the Capitol Square HOA will raise a material objection to the “good cause” justifications, and it is widely acknowledged that current market conditions have adversely affected the pace of new residential development in the District. Accordingly, the Applicant submits that a public hearing is not necessary for the Commission to evaluate this request.

**E. Community Outreach**


The Property is located within ANC 6D and Single-Member District (“SMD”) 6D01, which is represented by Commissioner Marquell Washington. As reflected in the attached Certificate of Service, the Applicant has served this request on ANC 6D, its chair, and the SMD representative, and intends to engage the ANC in the course of processing this application, as appropriate. The Applicant will provide any necessary update to the Commission before the request is considered at a public meeting.

**F. Conclusion**

For the reasons set forth above, the Applicant’s request for a time extension meets the criteria in Subtitle Z § 705.2. Accordingly, the Applicant respectfully requests a one-year extension of the building permit application and construction deadlines established in Z.C. Order No. 22-06.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By:   
Leila M. Jackson Batties  
Christopher S. Cohen

Attachments

cc: Certificate of Service

## **CERTIFICATE OF SERVICE**

We hereby certify that on September 23, 2025, a copy of the foregoing correspondence requesting a one-year time extension of the validity periods established in Z.C. Order No. 22-06 was served by electronic mail on the following at the addresses listed below.

**D.C. Office of Planning**

Jennifer Steingasser

[jennifer.steingasser@dc.gov](mailto:jennifer.steingasser@dc.gov)

Joel Lawson

[joel.lawson@dc.gov](mailto:joel.lawson@dc.gov)

Maxine Brown-Roberts

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**District Department of Transportation**

Erkin Ozberk

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**Advisory Neighborhood Commission (“ANC”) 6D**

[6D@anc.dc.gov](mailto:6D@anc.dc.gov)

**Commissioner Gottlieb Simon**

Chair, ANC 6D

[6D02@anc.dc.gov](mailto:6D02@anc.dc.gov)

**Commissioner Marquell Washington**

SMD 6D-01

[6D01@anc.dc.gov](mailto:6D01@anc.dc.gov)

**Capitol Square Homeowners Association**

c/o Erin Berg, President

[eringberg@gmail.com](mailto:eringberg@gmail.com)

*Party in Opposition to Z.C. Case No. 22-06*



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