



## **ADVISORY NEIGHBORHOOD COMMISSION 3E**

**TENLEYTOWN**

**AMERICAN UNIVERSITY PARK**

**FRIENDSHIP HEIGHTS**

**CHEVY CHASE**

**WAKEFIELD**

**FORT GAINES**

c/o Lisner-Louise-Dickson-Hurt Home 5425 Western Avenue, NW Washington, DC 20015

<https://anc3e.org>

### **RESOLUTION OF SUPPORT IN ZC #18-03, 4611-4615 41st Street, NW**

#### **WHEREAS:**

1. Dancing Crab Properties, LLC (“Applicant” or “the Applicant”), has sought since 2018 to build a seven story, 79-foot-high mixed-use development (“Project”) at 4611-4615 41st Street, NW (“Property”). The building would include approximately 41 residential units and restaurant/bar use on the ground floor and in penthouse habitable space. The Property does not immediately adjoin any residences.
2. The Applicant applied for a Planned Unit Development (PUD) and map amendment to enable it to build the Project. The proposed map amendment asks the Zoning Commission (“ZC”) to rezone the Property from MU-4 to MU-5B.
3. On October 11, 2018, at a properly noticed meeting at which a quorum was present, ANC3E voted 5-0-0 in support of the Dancing Crab Properties application.
4. On December 17, 2018, the Zoning Commission approved the development with an effective date of March 1, 2019. The Order was valid for a period of two years, requiring a building permit application to be filed no later than March 1, 2021, and construction was required to commence no later than March 1, 2022.
5. The Office of Zoning subsequently issued an administrative Covid-19 one-year extension of the original Order, requiring that construction begin by March 1, 2023.
6. In a February 17, 2023, letter to the Zoning Commission and shared with ANC3E, Dancing Crab Properties through its counsel, Holland & Knight LLP, requested a two-year extension of the time period to being construction of the approved building.
7. Counsel maintains that, “[t]he Applicant has taken many steps to move the project forward, including preparing and recording the required PUD covenant, working diligently to apply for and obtain raze permits to demolish the existing structures on the Property, and to apply for and respond to comments from District reviewing disciplines as part of the building permit process.” Those steps are set forth in detail in the letter and a supporting affidavit. However, despite those steps, the Applicant “has been unable to secure all required governmental agency approvals to pull the final building permit and begin construction.” Counsel stated in an email to ANC3E that, “[w]hile the owner is extremely close to obtaining all building permit approvals, it is very unlikely that such approvals will be granted and the permit issued prior to March 1, which will of course delay the construction start date as a result.”

8. The counsel's letter also states, "[a]s evidenced by the Applicant's recent activity working with [DC Department of Buildings], including most recently submitting a fifth round of comment responses for the full building permit, the Applicant is still committed to moving forward with construction of the Building. The Applicant has invested substantial resources in the Property over many years, including legal, architectural, engineering, permitting, and other consulting fees, such that there is no financial advantage for the Applicant not to move forward with construction of the Building, and has every incentive to do so as soon as feasible."
9. The letter and supporting affidavit appear to demonstrate that the Applicant has met the good cause standard for an extension of "[a]n 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."

**NOW BE IT THEREFORE RESOLVED:**

1. Based on the February 17, 2023, PUD extension filing and the representations in the affidavit attached to it, it appears Dancing Crab Properties has met the standards for extension of time to begin construction, and ANC3E does not oppose the application.
2. The project and amenities that will be delivered pursuant to the MOU the ANC negotiated with Dancing Crab Properties will provide significant benefit to the community, and, given that the site has been vacant for several years, the ANC hopes and expects construction will begin soon.

The resolution passed by a vote of X-X-X at a properly noticed meeting held on March 9, 2023, at which a quorum was present, with Commissioners Bender, Carney, Cohen, Denny, Ghosh, Gianinno, Hall, and Quinn in attendance.

ANC 3E

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by Jonathan Bender  
Chairperson