

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 13-08E

Z.C. Case No. 13-08E

Congress Heights Metro Owner, LLC and New Congress Heights Partners, LLC
(Two Year Time Extension for Consolidated Planned Unit Development and Zoning Map
Amendment Located at Square 5914, Lots 807 and 808)

January 15, 2026

Pursuant to notice, at its January 15, 2026 public meeting, the Zoning Commission for the District of Columbia (the “Commission”) considered the application (the “Application”) of Congress Heights Metro Owner, LLC and New Congress Heights Partners, LLC (collectively, the “Applicant”) for a two-year Time Extension of Z.C. Order No. 13-08 (the “Original Order”), as modified by Z.C. Order Nos. 13-08A, 13-08A(1), 13-08B, 13-08C, and 13-08D for Parcels 229/103, 229/151, 229/160, 229/153, 229/161, and Lots 6 and 7 in Square 5914¹ (the “Property”). The Commission reviewed the Application pursuant to the Commission’s Rules of Practice and Procedures, which are codified in Subtitle Z of Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016, the “Zoning 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

1. The Original Order, effective June 5, 2015, approved a Consolidated PUD and Related Map Amendment from the R-5-A Zone to the C-3-B Zone (now the MU-8 Zone) for the creation of a significant transit-oriented development at the Congress Heights Metro Station, including a mix of residential, retail, and office uses to be constructed in two phases. The Original Order required the filing of the building permit application for the construction of the first building by June 5, 2018, and construction to start by June 5, 2019; and the filing of the building permit application for the construction of the second building by June 5, 2020, and construction to start by June 5, 2021. On June 1, 2018, a Foundation-to-Grade Building permit application for the construction of the first building was filed with the Department of Consumer and Regulatory Affairs (“DCRA”) (FD#1800081).
2. On May 31, 2019, a time extension application was filed which requested the Commission extend the deadline two years to start construction by June 5, 2021. The Zoning

¹ The properties identified in Z.C. Order No. 13-08 have been combined to create two new lots in Square 5914, Lots 807 and 808. The residential lot, Lot 807, is owned by New Congress Heights Partners, LLC. The office building lot, Lot 808, is owned by Congress Heights Metro Owner, LLC.

Commission granted a one-year extension to June 5, 2020, pursuant to Z.C. Order No. 13-08A. The Original Order's validity was automatically extended by six months per Subtitle Z §§ 702.1-702.2, to expire on December 5, 2020. Thereafter, as noted in Z.C. Order No. 13-08A(1), pursuant to Subtitle Z § 705.9, the Office of Zoning extended the Original Order's validity for one year requiring the start of construction of the first building and the filing of a building permit application for the second building to occur by December 5, 2021.

3. On September 13, 2021, an application was filed for a two-year extension of the December 5, 2021, deadline. In Z.C. Order No. 13-08B, effective December 31, 2021, the Commission extended the deadline to December 5, 2023, to file modification application(s) with the Commission for a modified PUD project, to file a building permit application with DCRA for the modified PUD project, and to start construction of the first building of the modified PUD project.
4. On December 1, 2023, prior to the expiration of the time extension granted in Z.C. Order No. 13-08B, an application was filed for a two-year extension of the December 5, 2023, deadline. In Z.C. Order No. 13-08C, effective April 5, 2024, the Commission extended the deadline to December 5, 2025, to complete the processing of any modification of consequence applications for the residential portion and the office portion of the PUD project, to file building permit applications and obtain building permits for both portions of the PUD project, and to start construction of the residential building approved in the PUD project.
5. In Z.C. Order No. 13-08D, effective April 12, 2024, the Commission approved a modification of consequence to the residential portion of the approved PUD, including architectural element changes, and reduction in number of parking spaces and number of residential units. The revised residential portion of the PUD reserves all units at 30% to 80% Median Family Income and ten (10) units for permanent supportive housing.

Parties

6. The parties to the Original Order were:
 - a. The previous owners of the Property²;
 - b. Advisory Neighborhood Commission ("ANC") 8E³; and
 - c. The Alabama Avenue/13th Street Tenant's Coalition⁴.

II. THE APPLICATION

7. On December 2, 2025, prior to the expiration of the time extension granted in Z.C. Order No. 13-08C, the Applicant filed this application requesting a two-year extension until December 5, 2027 to start construction of the residential portion of the PUD as approved

² The Applicant is the current owner of Lots 807 and 808 in Square 5914.

³ The Property is now located within the boundaries of ANC 8C. ANC 8E is no longer an "affected" ANC as described in Subtitle Z § 101.8.

⁴ The Alabama Avenue/13th Street Tenant's Coalition is now known as the Congress Heights S.E. Tenants Association ("CHSETA").

in Z.C. Order No. 13-08D, and to file and complete processing of a modification application with the Commission (as necessary) and file a building permit application for the retail/office portion of the PUD. The Application also requested a waiver from Subtitle Z § 705.5⁵ to allow a fourth time extension and an approval for more than one year (Exhibit [“Ex.”] 2).

8. The Application stated that it satisfied the requirements of Subtitle Z § 705.2 for a time extension.
9. The Applicant provided evidence that on December 2, 2025, it served the Application on ANC 8C, CHSETA, and the Office of Planning (“OP”) as attested by the Certificate of Service submitted with the Application (Ex. 2 at 8).
10. The Applicant stated that it has taken significant steps to move the PUD project forward since the last time extension was approved by the Commission and the Commission approved the Modification of Consequence for the residential PUD portion of the project in 2024. Actions have been taken by both the residential developer (New Congress Heights Partners, LLC, “NCHP”) and the developer of the office building component (Congress Heights Metro Owner, LLC, “CHMO”) of the PUD project to move this mixed-use project closer to completion (Ex. 2).
11. NCHP noted that the development of the residential portion of the PUD project has progressed significantly since the Commission issued Z.C. Order No. 13-08D. However, NCHP’s ability to close on financing has been slowed by procedural changes at the DC Housing Finance Agency (DCHFA) and slowing demand from investment partners. In 2023, DCHFA implemented a new process to prioritize issuance of its tax-exempt housing bonds, which were the primary funding mechanism for the residential PUD project. Previously, DCHFA had enough annual bond issuance cap room to meet all demand for the tax-exempt bonds on a rolling basis. However, the influx of new deals in 2022 and 2023 resulted in DCHFA creating a new tax-exempt bond volume cap allocation process. The residential PUD project was delayed from the original 2024 timeline until 2025 (Ex. 2 at 3, Ex. 2C).
12. NCHP also stated that the deteriorating state of operations at affordable housing properties across the District of Columbia became more obvious to owners, lawmakers, financiers and the public in 2024 and 2025. Rent collections dropped dramatically during the Covid-19 pandemic and have not yet fully recovered. Affordable housing owners have struggled to keep properties afloat as operations costs, especially insurance and utilities costs, have gone up dramatically since 2020. Lenders and tax credit investors have seen losses across their portfolios and have pulled back from new investments. The recent passage and 2026

⁵ Subtitle Z §705.5 limits applicants with an approved PUD to no more than two requests for a time extension and limits the second time extension approval to no more than one year. In addition, pursuant to Subtitle Z § 705.5, a time extension granted due to the COVID-19 pandemic under Subtitle Z §§ 702.1-702.3 or 705.9 does not count towards the two requests for a time extension allowed thereunder. Accordingly, the time extension granted in Z.C. Case No. 13-08A(1) does not count as a request for time extension under Subtitle Z § 705.5.

enactment of the RENTAL Act by the D.C. Council is expected to improve operations and portfolio performance across the District of Columbia (Ex. 2 at 3).

13. In late 2024 NCHP's planned tax credit investor pulled out of all new deals in the District of Columbia. Over the course of 2025, NCHP worked diligently to secure a new tax credit investor, but the market is very slow because of the operational issues of existing properties noted above. As of November 2025, NCHP has contacted 15 potential tax credit investors, and only two have shown interest in this project. However, NCHP hopes to sign a commitment with one of these tax credit investors in December 2025 or January 2026, which would allow for a summer 2026 closing (Ex. 2 at 3).
14. Despite these financing headwinds, NCHP has moved forward with the significant costs of preparing 100% complete construction drawings for the residential PUD project. Building Permit Application No. C232059 was filed with the Department of Buildings Third Party Reviewer, CORE, on November 7, 2023, and this application has completed two rounds of comment. (Ex. 2 at 3).
15. CHMO noted that the property and capital markets continue to be challenging, particularly with respect to the development of commercial office uses in the District of Columbia. However, CHMO is actively engaged with potential capital partners and end users of the office/retail building. In order to expedite the development of this portion of the site, CHMO is also exploring partnerships across other uses including: multifamily (both market-rate and affordable); for-sale town homes; education; and healthcare. While feedback regarding the site has been positive, particularly the adjacency to Metro, developers and investors continue to take a cautious approach to development in the District of Columbia. The consensus that CHMO heard was that this is a quality site, but difficult to execute on in the immediate future (Ex. 2 at 3-4).
16. The Application asserted that while some changes have occurred to the Comprehensive Plan (including the D.C. Council's adoption of the Congress Heights Small Area Plan (CHSAP) on November 15, 2022), none of these changes undermine the Commission's previous approval of the PUD project nor are they an impediment to the Commission's approval of this time extension request. The Application noted that the CHSAP includes the following elements that are applicable to the PUD Project:
 - Recommendation 1.2 – Maximize the amount of affordable housing, especially family housing, multigenerational housing and senior housing, through the Planned Unit Development (PUD) process and the development of District-owned land (p. 22); and
 - Building Frontage Design Guidelines – Provide frequent entryways, windows, and operable walls where possible to encourage visual and physical connections between the ground floor and the sidewalk. Avoid long blank walls along the sidewalk (pp. 42).
17. The Application concluded that the entirety of the PUD project will not be inconsistent with any elements, policies, or goals of the CHSAP (Ex. 2 at 5).
18. The Application asserted that good cause justifies the Commission's granting the time extension because the Applicant was unable to obtain all of the necessary financing for the

PUD project for the reasons described in detail above in Findings of Fact Nos. 10-15. NCHP noted that it was able to obtain approval of a Modification of Consequence application with the Commission and file a building permit application for the updated residential portion of the PUD project, but it was not able to start construction by the December 5, 2025, deadline. CHMO was not able to file a Modification application and a building permit application for the office/retail portion of the PUD project by December 5, 2025, deadline. NCHP and CHMO both identified significant adverse economic and market conditions that were outside of their reasonable control, which prevented adhering to the December 5, 2025 deadline (Ex. 2 at 6).

19. In regard to the request for a waiver from Subtitle Z § 705.5, the Applicant stated that it will need more time to satisfy the remaining financial hurdles to start construction of the residential portion of the PUD project and to appropriately market and/or revise the office/retail building component of the approved PUD. The Commission is able to grant a waiver from Subtitle Z § 705.5, pursuant to Subtitle Z § 101.9⁶, as granting the waiver will not prejudice the rights of CHSETA and ANC 8C and the Commission is not otherwise prohibited from granting this fourth time extension and approval for more than one year (Ex. 2 at 6).

III. Responses to the Application

Office of Planning

20. OP submitted a report dated January 5, 2026 (“OP Report”) (Ex. 5). The OP Report recommended that the Commission approve the requested two-year extension to December 5, 2027, and the waiver to allow a fourth extension for more than one year. OP’s Report concluded that the Application met the requirements of Subtitle Z § 705.2 for the time extension and the requirements of Subtitle Z § 101.9 for the waiver from Subtitle Z § 705.5.

ANC 8C

21. ANC 8C did not submit a written report to the case record.

CHSETA

22. CHSETA, through its legal counsel, Arnold & Porter Kaye Scholer, LLP, submitted a letter dated December 1, 2025, stating that CHSETA has been and remains fully supportive of the extension of the PUD (Ex. 2D).

CONCLUSIONS OF LAW

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

⁶ Subtitle Z § 101.9 states: “*The Commission may, for good cause shown, waive any of the provisions of this subtitle if, in the judgment of the Commission, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.*”

2. The Commission concludes that the Applicant timely filed the Application on December 2, 2025, prior to the December 5, 2025, deadline granted in Z.C. Order No. 13-08C.
3. Subtitle Z § 705.2 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 satisfied the requirement of Subtitle Z § 705.2(a) by demonstrating that it had served all parties—8C and CHSETA- and that all were given 30 days to respond from the December 2, 2025, date of service. The Commission notes that CHSETA provided a letter in support of the time extension application.
5. Subtitle Z § 705.2(b) requires that the Commission find that there is no substantial change in any of the material facts upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for approving the PUD.
6. The Commission concludes that the Application satisfied Subtitle Z § 705.2(b) based on the Application and the OP Report, which stated that no substantial change has occurred to the material facts upon which the Commission had relied in issuing Z.C. Order No. 13-08.
7. Subtitle Z § 705.2(c) requires that an application demonstrate with substantial evidence one 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 PUD 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.*
8. The Commission concludes that the Application met the standard of Subtitle Z § 705.2(c)(1) because the Applicant was unable to obtain all of the necessary financing for the PUD project, despite diligent good faith efforts. The Commission finds that the changes to DCHFA's process for allocation of tax-exempt housing bonds was a significant factor in the inability to move forward with the start of construction of the residential portion the PUD. Similarly, the pull-back of tax credit investors from the DC marketplace was another factor that was outside of NCHP's control. The Commission also agrees that CHMO's request for a time extension reflected the continued difficult development climate that currently exists in the District of Columbia and has existed for the past few years.
9. The Commission concludes that the Application demonstrated good cause to waive Subtitle Z § 705.5's requirements to allow a fourth time extension to be approved for more than one year. The Commission determined that, pursuant to Subtitle Z § 101.9, granting the waiver

will not prejudice the rights of any party nor is it otherwise prohibited by law. As noted above, CHSETA supports the time extension request.

“Great Weight” to the Recommendations of OP

10. Pursuant to §13(d) 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 (2001)) and Subtitle Z § 405.9, the Commission must give “great weight” to the recommendations of OP (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A. 3d 1079, 1087 (D.C. 2016)).
11. The Commission finds OP’s recommendation that the Commission approve the Application persuasive and therefore concurs in that judgement.

“Great Weight” to the Recommendations of the ANC

12. 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)) and Subtitle Z § 406.2, the Commission must give “great weight” to the issues and concerns raised in the written report of the affected ANC. To satisfy this great weight requirement, District agencies 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. District of Columbia Board of Zoning Adjustment*, 395 A. 2d 85, 91 n.10 (1978)).
13. ANC 8C did not submit a written report to the case record; therefore, the Commission has nothing to which it can give “great weight”.

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 Application’s request for a two-year Time Extension of Z.C. Order No.13-08, as modified by Z.C. Order Nos. 13-08A, 13-08A(1), 13-08B, 13-08C, and 13-08D to extend the deadline to December 5, 2027, to start construction of the residential portion of the PUD project as approved in Z.C. Order No. 13-08D, and to file and complete processing of a modification application with the Commission (as necessary) and file a building permit application for the retail/office portion of the PUD project.

FINAL ACTION

January 15, 2026, VOTE: 5-0-0

(Joseph S. Imamura, Tammy Stidham, Anthony J. Hood, Robert Miller, and Gwen Wright to approve).

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 13-08E shall become final and effective upon publication in the *District of Columbia Register*; that is on May 15, 2026.



ANTHONY J. 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 RESIDENCE 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.