



DONOHUE & STEARNS, PLC

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Via IZIS

D.C. Zoning Commission
441 4th Street, N.W., Suite 200S
Washington, D.C. 20001

Re: Z.C. Case No. 16-13 – JS Congress Holdings LLC
Applicant’s Second Supplemental Submission

Dear Commissioners:

On behalf of JS Congress Holdings, LLC, the applicant (“Applicant”) in the above-referenced case, please accept this second supplemental submission in support of the planned unit development (“PUD”) and related map amendment at 1109-1115 Congress Street, N.E. and 220 L Street, N.E. (Square 748, Lots 78 and 819). This submission responds to issues raised by the Zoning Commission at the hearing on November 21, 2016, and the Office of Planning (“OP”) and the District’s Department of Transportation (“DDOT”) in their respective hearing reports.

A. Response Chart to OP Issues

Attached as Exhibit A to this letter is a chart summarizing the Applicant’s responses to the issues raised by OP in its hearing report dated November 14, 2016. The most pertinent issues are summarized below.

1. Additional Renderings and Drawings

Submitted with this letter as Exhibit B are additional drawings and renderings of the project. They include views of the penthouse (with handrails, materials and lighting details), the alley elevation as seen from the Third Street neighbors’ property, additional street views, and streetscape improvements. The supplemental drawings also include turning diagrams for the six parking spaces provided as part of the project.

2. Increased Affordable Housing Proffer

The Applicant has enhanced its affordable housing proffer by (i) increasing the square footage devoted to affordable housing from eight percent (3,712 net square feet) to ten percent, for a total of approximately 4,533 net square feet; and (ii) introducing the only three-bedroom unit into the project to be set aside for a household earning no more than 80 percent of the area mean income

("AMI"). The Applicant was able to offer the largest unit in the building as an inclusionary zoning unit by eliminating one of the smaller 50% AMI units in the previous proffer, and reducing the overall unit count from 64 units to 63 units. The current affordable housing commitment is as follows:

Unit No.	Size	Net Square Feet	Affordability Level
201+202	3 BR	1,537 sf	80% AMI
207	1 BR	703 sf	50% AMI
302	2 BR	900 sf	80% AMI
308	1 BR	703 sf	80% AMI
407	1 BR	690 sf	80% AMI

B. Project Amenities and Public Benefits Chart

The Applicant has prepared a chart, attached as Exhibit C, listing the project amenities and public benefits value that result from this new development over what would be achieved under a matter-of-right project. The total value of these benefits and amenities is approximately \$ 3.5 million. This is commensurate with the additional height and density achieved under the PUD process and is consistent with other PUDs recently approved by the Commission, including the Central Armature site (Z.C. Case No. 16-09) and 301 Florida Avenue, N.E. (Z.C. 15-22). Both sites have the same FLUM designation of medium-density residential and PDR uses; both sites were rezoned to C-3-C, which is a higher density zone district; and both were approved with a greater height and density than is requested in the instant application.

As noted in the chart, the benefits package of this proposed PUD includes, among others, the following elements:

- A high-quality development with an attractive, contextual design
- Market-rate and affordable housing not otherwise achievable under existing zoning
- An increased affordable housing proffer of 10% of the residential square footage, including a three-bedroom unit
- A LEED-Gold design
- Improved site circulation and public space improvements
- A reconfigured and enhanced alley system
- Introduction of landscaping at L Street
- \$10,000 contribution to Friends of NoMa Dogs, Inc.
- \$80,000 Capital Bikeshare Station
- First Source Employment Agreement

C. Consistency with the Comprehensive Plan (Height/Density)

The proposed C-2-B zoning of the property, and the proposed height and density of the PUD (90 feet and 6.0 FAR), are not inconsistent with the Comprehensive Plan. The Future Land Use Map ("FLUM") of the Comprehensive Plan designates the site for medium-density residential and production, distribution and repair ("PDR") uses. The medium-density residential designation is used to "define neighborhoods or areas where mid-rise (4-7 stories) apartment buildings are the predominant use. Pockets of low and moderate density housing may exist within these areas. The Medium Density Residential designation also may apply to taller residential buildings surrounded

by large areas of permanent open space. The R-5-B and R-5-C Zone districts are generally consistent with the Medium Density designation, although other zones may apply.” 10-A DCMR § 225.5.

The PDR category is used to define areas characterized by manufacturing, warehousing, wholesale and distribution centers, transportation services, food services, printers and publishers, tourism support services, and commercial, municipal, and utility activities which may require substantial buffering from noise-, air pollution- and light-sensitive uses such as housing. The corresponding Zone districts are generally CM-1, CM-2, CM-3, and M, although other districts may apply. 10-A DCMR § 225.12. The M District permits a building height of up to 90 feet and a density of 6.0 FAR. 11 DCMR §§ 840 and 841 (1958).

Although the proposed C-2-B District is not specifically listed among the corresponding land use categories for the PUD site’s listed designations, the C-2-B District is not inconsistent with the FLUM. Through the PUD process, the C-2-B zoning will allow the same height and density permitted as a matter-of-right under the M District, one of the specifically listed categories. The M District, however, would not allow any housing and would potentially create significant adverse impacts to adjacent residential properties. Here, however, rezoning the property to the C-2-B District through the PUD process will allow compatible residential uses while also allowing greater height and density in exchange for a commendable number or quality of public benefits. 11 DCMR§ 2400.2.

Moreover, as the Commission recently noted earlier this year in Z.C. Order No. 15-22 (June 17, 2016), the Framework Element of the Comprehensive Plan specifically provides that the FLUM is not a zoning map. 10-A DCMR § 226.1(a); *see also* Z.C. Order Nos. 15-22, 14-08, 11-13, and 10-28. Whereas zoning maps are parcel-specific and establish detailed requirements for setback, height, use, parking, and other attributes, the Future Land Use Map does not follow parcel boundaries and its categories do not specify allowable uses or dimensional standards. (10A DCMR § 226.1(a).) By definition, the Map is to be interpreted broadly. (*Id.*) Furthermore, the land use category definitions describe the general character of development in each area, citing typical building heights (in stories) as appropriate. The granting of density bonuses (for example, through PUDs) may result in heights that exceed the typical ranges cited here. (*Id.* at § 226.1(c).) The zoning of any given area should be guided by the Future Land Use Map, interpreted in conjunction with the text of the Comprehensive Plan, including the citywide elements and the area elements, as well as approved Small Area Plans. (*Id.* at § 266.1(d).) Thus, applying this analysis to the Applicant’s project, the proposed map amendment to the C-2-B District is not inconsistent with the Future Land Use Map.

Because the FLUM is not site-specific zoning, the proposed PUD and related map amendment should be viewed in the context of the surrounding neighborhood, which is part of a rapidly changing area that is expanding and growing taller with new development. To the south and north are new residential buildings 90 to 120 feet in height. Across the railroad tracks to the west are new commercial and residential buildings up to 130 feet in height. The proposed 6.0 FAR and 90-foot height is consistent with the amount of density permitted in medium density commercial

zones. For example, the C-2-C District permits 6.0 FAR and up to 7.2 FAR with IZ. Significantly, residential uses are not permitted in the CM and M Districts, rendering the houses in the adjacent C-M-1 District non-conforming uses.

D. Discussions with Third Street Neighbor

After the conclusion of the November 21 Zoning Commission hearing, the Applicant reached out to continue its discussions with Mr. Fred Irby, as the representative of the Third Street Neighbors. Mr. Irby had raised concerns about the height of the building and its impact of his solar panels. Mr. Irby provided the Applicant information on his solar savings after installation; the Applicant shared with Mr. Irby shadow studies (included as part of Exhibit B), indicating that the PUD would not have an appreciable effect on those solar energy savings or solar credits. The Applicant and Mr. Irby are continuing their discussions and are hopeful resolution can be reached prior to the hearing on January 4, 2017.

E. Support Letters


The Applicant has received letters of support from Union Kitchen, the Washington Center for Internships and Seminars, A&W 301 L Street, LLC, the owner of a nearby apartment building, and the NoMA Business Improvement District. Copies of the letters are attached as Exhibit D.

C. Conclusion

The Applicant looks forward to presenting its case to the Zoning Commission in support of the PUD and related map amendment application at the hearing on January 4, 2017.

Respectfully submitted,

DONOHUE & STEARNS, PLC

By: 
Mary Carolyn Brown

Enclosures

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Applicant's Second Supplemental Submission was served by email or first-class mail this 16th day of December, 2016, on the following:

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By: 
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