GOVERNMENT OF THE DISTRICT OF COLUMBIA
ZONING COMMISSION

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ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 23-19A
Z.C. Case No. 23-19A
The NHP Foundation and Elm Gardens Owner, LLC
(Two-Year Time Extension for Consolidated PUD and Zoning Map Amendment at 7050 Eastern Ave., N.W. (Square 3351, Lot 813))
October 8, 2026

Pursuant to notice, at its public meeting on October 8, 2026, the Zoning Commission for the District of Columbia ("Commission") considered the application ("Application") of the NHP Foundation and Elm Gardens Owner, LLC (together, the "Applicant") for a two-year extension of the time period to file a building permit application for the approved residential development project ("Project") to be located at 7050 Eastern Avenue, N.W. (Square 7050, Lot 813) (the "Property"). The Project was approved as part of a consolidated Planned Unit Development ("PUD") and related Zoning Map amendment pursuant to Z.C. Order No. 23-19, dated April 25, 2024, and effective as of November 29, 2024 (the "Order").

The Commission reviewed the Application pursuant to the Commission's Rules of Practice and Procedures, which are codified in Subtitle Z of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

Prior Approval and Existing PUD Deadlines

1. Pursuant to the Order, the Commission approved a consolidated PUD with a related Zoning Map amendment from the R-1 and MU-4 zones to the R-2 district. The Order approved development of the Project, which replaces the existing 36-unit Elm Gardens rental apartment buildings, constructed in 1966, with a new four-story, 80-unit all-affordable apartment building. The new building will include 36 replacement units for existing tenants and 44 new units. The 44 new units would be restricted to households earning no more than 50 percent of the median family income ("MFI") for the Washington, D.C., metropolitan area. The replacement units would be offered to the existing tenants and would be restricted to households at 30 to 80 percent of MFI, except in cases where returning residents have a household income exceeding the 80

ZONING COMMISSION
District of Columbia
CASE NO. 23-19A
EXHIBIT NO. 5A

percent cap.

2. Pursuant to Decision No. F.2. of the Order, the approval is valid for a period of two years from the effective date of the Order, within which time an application must be filed for a building permit, with construction required to commence within three years of the effective date of the Order. Accordingly, the Applicant would be required to file a building permit application for the Project no later than November 29, 2026, and to commence construction of the Project no later than November 29, 2027.

Parties and Notice

3. The parties to the Order were the Applicant, Elm Gardens Tenant Association, the Eastmont Cooperative, Inc., and Advisory Neighborhood Commission ("ANC") 4B.

4. On August 27, 2026, the Applicant served the Application on ANC 4B, Elm Gardens Tenant Association, the Eastmont Cooperative, Inc., as well on the Office of Planning ("OP"), as attested by the Certificate of Service submitted with the Application. (Exhibit ("Ex.") 2.)

The Application

5. On August 27, 2026, the Applicant timely filed the Application requesting a two-year time extension of the validity of the Order, such that if approved the Applicant would be required to file a building permit application for the Project no later than November 29, 2028, and begin construction no later than November 29, 2029.

6. The Application asserted that it met the requirements under Subtitle Z § 705.2 for the proposed two-year time extension because:

   a. There has been no substantial change in any of the material facts upon which the Commission based its approval in the Order, and that there were no changes that would undermine the Commission's justification for approving the Order;

   b. Good cause justifies the Commission's granting the time extension because the Applicant has been unable to obtain sufficient project financing following its diligent, good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the Applicant's reasonable control, including:
      - Worsening economic conditions and availability of financing for multi-family projects, particularly those devoted to all-affordable units;
      - Rising construction costs and interest rates;
      - Labor shortages; and
      - Limited financing sources that have become more competitive.

c. The Applicant stated that despite the weak economic conditions and lending market, it has diligently pursued financing for its all-affordable residential project through the various funding programs and application cycles of the District of Columbia Department of Housing and Community Development ("DHCD"). The Applicant applied for financing in 2023, but was unable to secure the required PUD approval order prior to the DHCD deadline and requirement to commit to closing within 12 months of an award, which made the Applicant ineligible for financing. In 2024 DHCD's Notice of Funding Availability ("NOFA") was only made available to existing projects in DHCD's development pipeline in need of stabilization, reflecting the worsening market conditions in the District. In 2025, DHCD did not release a NOFA. In 2026, the Applicant applied for financing in response to DHCD's 2026 Consolidated Request for Proposals. The Project has received a preliminary reservation of 4% and 9% federal Low Income Housing Tax Credits, and a letter of interest from the Housing Production Trust Fund. While nonbinding, these are essential steps toward securing DCHD approval for redevelopment funds.

Responses to the Application

7. OP submitted a report dated September 28, 2026 ("OP Report"), recommending approval of the Application and concluding that (i) the Application was served on all parties, which were given more than 30 days to respond; (ii) there have been no substantial changes in any material facts upon which the Commission based its original approval that would undermine its justification; and (iii) the Applicant demonstrated with substantial evidence its inability to obtain sufficient project financing following its diligent good faith efforts because of changes in economic and market conditions beyond the Applicant's reasonable control. (Ex. 4.)

8. Neither of the parties nor ANC 4B submitted any response to the Application.

CONCLUSIONS OF LAW

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

2. Subtitle Z § 705.2(a) requires that an Applicant serve the extension request on all parties and that parties are allowed 30 days to respond. The Commission concludes that the Applicant satisfied Subtitle Z § 705.2(a) by demonstrating that it served all parties on Augusts 27, 2026, and that the parties were given 30 days to respond from August 27, 2026.

3. Subtitle § 705.2(b) requires that the Commission find that no substantial change has occurred to 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.

4. The Commission concludes, based on the Application and the OP Report, that the Application satisfied Subtitle Z § 705.2(b) because there has been no substantial change to the material facts upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for that approval.

5. 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 government 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.

    The Commission concludes that the Application meets the standards of Subtitle Z § 705.2(c)(1) because the Project has been unable to obtain sufficient project financing, despite the Applicant's good faith efforts, due to changes in economic and market conditions beyond the Applicant's reasonable control. These worsening economic conditions include the limited availability of financing for multi-family projects, particularly those devoted to all-affordable units; rising construction costs and interest rates; labor shortages; and increased competition for the limited financing sources. The combination of these various factors resulted in the Applicant being unable to move forward with development of the Project within the Order's time limits, despite its good faith efforts to do so.

"Great Weight" to the Recommendation of OP

6. The Commission is required to give "great weight" to the recommendations of OP pursuant to section 5 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 (2018 Repl.) and Subtitle Z § 405; *see also Metropole Condo. Ass'n v. District of Columbia Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).

7. The Commission finds OP's recommendation to approve the Application persuasive and concurs in that judgment.

"Great Weight" to the Written Report of the ANC

8. The Commission must give "great weight" to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to section 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) (2012 Repl.) and Subtitle Z § 406.2.) To satisfy the "great weight" requirement, the Commission 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. District of Columbia 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 Bd. of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (D.C. 1978).

9. Here, ANC 4B did not submit a report and thus are no ANC views for the Commission to consider.

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 Applicant's request for a two-year extension of the time period to file a building permit application for the building to be located at 7050 Eastern Avenue, N.W. (Square 3351, Lot 813), with the requirement that the Applicant:

- File a building permit application to construct the Project no later than November 29, 2028; and
- Start construction of the Project no later than November 29, 2029.

FINAL ACTION
VOTE (October 8, 2026): 5-0-0 (Anthony J. Hood, Robert E. Miller, Gwen Wright, Josephe S. Imamura, and Christine Bruins)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 23-19A shall become final and effective upon publication in the *District of Columbia Register*; that is, on _____.

BY THE ORDER OF THE D.C. ZONING COMMISSION
A majority of the Commission members approved the issuance of this Order.

ANTHONY HOOD	**SARA A. BARDIN**
CHAIRMAN	**DIRECTOR**
ZONING COMMISSION	**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 RESIDENT 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.