

November 10, 2025

Via IZIS

Anthony Hood, Chairperson
District of Columbia Zoning Commission
441 4th Street, NW, Suite 200-S
Washington, DC 20001

Re: Zoning Commission (“**Commission**”) Case No. 22-21 – Application for a Two-Year Time Extension of the Approved Consolidated Planned Unit Development (“**PUD**”) and Zoning Map Amendment for Lot 40¹ in Square 4465 (the “**Property**”)

Dear Chairperson Hood and Commissioners:

2229 M Street NE Owner LLC (the “**Applicant**”), the new owner of the Property and the successor-in-interest to Z.C. Case No. 22-21, hereby submits this request for a two-year extension of Z.C. Order Nos. 22-21 (the “**Order**”), which approved a seven-story building with approximately 92 dwelling units (the “**Building**”) that are entirely dedicated as affordable senior housing (the “**Project**” or “**Approved PUD**”). Pursuant to Subtitle Z § 705.2, the Applicant requests a two-year time extension for the good cause shown herein.

The Order became effective on November 10, 2023, and is set to expire on November 10, 2025. On June 6, 2025, the Applicant’s predecessor, 2229 M Street NE, LLC (the “**Original Applicant**,” together with Applicant, the “**Owner**”), applied for a Modification without Hearing to the Approved PUD to make changes to exterior materials, balconies, entryway landscaping, internal window arrangements, and miscellaneous design refinements of the Project (the “**Modification Application**”). The Commission approved the Modification Application (the “**Approved Modifications**”) as Z.C. Order No. 22-21A, which became final and effective on October 17, 2025 (“**Order 22-21A**”).

¹ The Property previously comprised two record lots—Lots 36 and 39—that were subsequently combined to form Lot 40.

Since the initial approval of the Order, the Original Applicant and the Applicant have invested substantial resources and devoted significant efforts to move the development of the Project forward, as discussed in detail below, including engaging architectural and consulting services, working to obtain financing for the Project, preparing a set of construction drawings for permit submission and filing for permit, and obtaining modification approval, among other actions. Despite its diligent efforts, the Owner faced the continued challenges predominating the commercial real estate market for new development, including severe difficulties in securing financing for new construction, necessitating this extension request.

More specifically, since the initial approval of the Project, the Original Applicant and Applicant have actively sought funding. The Applicant is now set to close on Low-Income Housing Tax Credits (“**LIHTC**”) financing in the first quarter of 2026. Prior to this time, despite the best efforts of Owner, financing was simply not available due to wider market conditions.

Similarly, as it worked to deliver the originally approved project, the Original Applicant discovered changes that were necessary due to the market reception and construction realities of the Project and therefore modified the design of the Project, ultimately filing the modification package, as reflected in Z.C. Case No. 22-21A.

The Owner has invested significant resources towards moving forward with the Project, including incurring the costs for preparing the construction drawing set and submitting for a building permit for the original Project scheme. Although the Original Applicant timely filed a building permit application on May 6, 2025 (Permit No. B2505855) within the two-year period provided under the Order, that building permit application reflected the design originally approved in the Order. The Applicant is now revising the original drawings to incorporate the Approved Modifications.

In addition, due to the state of the market and circumstances necessitating the Original Applicant’s divestment from the project, the Applicant was invited to purchase the Original Applicant’s share in the project. The Original Applicant and the Applicant negotiated the necessary documentation to consummate the transaction, which ultimately closed on September 19, 2025.

Despite the efforts described above, due to the current economic and market conditions for development, approval of this time extension is necessary to secure the necessary financing to continue its substantial investment in this site and in this community. As a result of the above, the Applicant requests a two-year extension of the period to file for a building permit until **November 10, 2027**, to allow the Applicant time to finalize the modified design approved in Order 22-21A, obtain financing, and re-submit a building permit application with the Approved Modifications, since the approval of Z.C. Order No. 22-21A would not automatically extend an Order’s validity period. As discussed further below, the Applicant meets all the applicable standards for the extension request.

I. Background and Project Overview

The Property is bound by the Arboretum Condominium complex to the west, M Street, NE to the north, a federally owned triangular lot to the east, and a public alley to the south. Pursuant to the map amendment approved in the Order, the Property's zoning changed from RA-2 to RA-4. The Property consists of approximately 15,068 square feet of land area and is improved with a three-and-a-half-story building formerly used as a child development center and a two-story building formerly used as residential housing.

The Project's 92 residential units will be entirely affordable for seniors aged 55 and older earning between 30-80% of Median Family Income ("MFI"). For the first 40 years of operation, 80% of the units will be affordable for households at or below 60% MFI, and 20% of the units will be affordable for households at or below 80% MFI. The Project will fulfill the Enterprise Green Communities Plus certification. The Building will be approximately 73 feet in height, with approximately 67,961 square feet of gross floor area ("GFA") and a floor area ratio ("FAR") of approximately 4.51.

By approving the original application, the Commission concluded that the Original Applicant had satisfied the standards for a consolidated PUD based upon its consistency with the Comprehensive Plan, that the Project's adverse impacts were acceptable or sufficiently mitigated, that the PUD's public benefits were commensurate with the flexibility requested, and that the PUD's public benefits and amenities were not inconsistent with the Comprehensive Plan or other policies relevant to the PUD site. Pursuant to Chapter 3 of Subtitle X and Subtitle Z § 300, the Commission concluded that the Original Applicant satisfied all applicable conditions for a consolidated PUD. Accordingly, the Commission voted to approve the application on March 30, 2023, and the Order was issued thereafter and became effective on November 10, 2023.

On June 6, 2025, the Original Applicant filed the Modification Application to modify four (4) design components as the result of refining its plans in preparing construction drawings for a building permit and seeking Passive House certification. The modifications were to the exterior materials, Juliet balconies, entryway, and window arrangement. Although within the permitted parameters for a PUD in the RA-4 Zone, the Application also detailed minor updates to the Approved PUD's architectural plans. The Commission found that the Modification Application was consistent with the Approved PUD because the proposed modifications did not result in any change in use nor require any additional relief from the District's zoning regulations. Thus, the Commission approved the Modification Application as Z.C. Order No. 22-21A, which became final and effective on October 17, 2025.

II. The Applicant Meets the Requirements for Approval of a Two-Year Time Extension Request Under Subtitle Z § 705.2

The Commission's approval will expire on November 10, 2025. The Applicant requests that the Commission extend its approval by a period of two (2) years until **November 10, 2027**, pursuant to Subtitle Z § 705.2.

A. Standards of Review For Time Extension Requests.

Subtitle Z § 705.2 sets forth the standards against which the Commission must evaluate time extension requests. Upon receipt of this written request, the Commission may extend the time period of the Order "for good cause" shown. The Commission must determine that:

- (i) The extension request is served on all parties to the application by the applicant, and all parties are allowed thirty (30) days to respond;
- (ii) 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
- (iii) 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.

B. The Applicant Satisfies the Standards for Granting a Two-Year Time Extension.

For the reasons set forth more fully below, the Applicant meets all the requirements for the granting of an extension under Subtitle Z § 705.2. In particular, the Commission should find that good cause exists because of financing conditions beyond the Applicant's reasonable control and other conditions, circumstances, or factors beyond Applicant's reasonable control.

(i) The Extension Request is Served on All Parties to the Application.

This time extension request is being served simultaneously on Advisory Neighborhood Commissions (“ANC”) 5D and 5C, Kara and Justin Rollins, and Ryun Lee, the only parties to application for ZC Case No. 22-21. The parties will have ample time to respond to this request. The Applicant asks that the Commission not place this request on its meeting agenda until after the 30-day notice period has lapsed.

(ii) There is No Substantial Change to Any of the Material Facts Underlying the Commission’s Approval of the Requested Relief.

There has been no substantial change in any of the material facts underlying the case. The Project remains consistent with the design and program approved by the Commission in Order 22-21 and Order 22-21A, and the Project will continue to provide the proposed 92 affordable units for seniors aged 55 and older earning between 30-80% of MFI. The factors satisfying the conditions for PUD application remain as they were at the time of the Commission’s approval. The consolidated PUD is still consistent with the Comprehensive Plan, the Project’s adverse impacts are still acceptable or sufficiently mitigated, the PUD’s public benefits are still commensurate with the flexibility requested, and the PUD’s public benefits and amenities are still not inconsistent with the Comprehensive Plan or other policies relevant to the PUD site. There have been no material changes in the conditions surrounding the Property or the District’s zoning regulations applicable to the Property.

(iii) There Is Good Cause for the Time Extension.

Here, the Commission has good cause to grant the requested two-year extension due to economic and market conditions beyond the Applicant’s reasonable control. Granting the request will enable the Applicant to continue pursuing the development of 92 residential unit that will be entirely affordable for seniors, thereby contributing much needed affordable and senior housing consistent with the Mayor’s and the District’s housing goals.

The larger, well-known macro-issues, such as high interest rates, suppressed financing market environment, and significant construction costs continue to chill the ability to attract and deploy capital into commercial real estate investment. These issues have combined with recent Federal government actions focused on downsizing the Federal footprint in the Washington, DC area to further strain investment in the local real estate economy. As a result, a very tight equity and lending environment, high interest rates, and elevated construction costs have continued to impact the ability to secure financing for the Project. As a result, the financing required to advance this Project has not yet been possible to complete.

Despite these significant and fundamental challenges in market conditions that have impeded the Applicant’s ability to finalize financing for the Project, the Applicant has continued

to devote substantial resources towards moving development of the Property forward. Since issuance of the Order, the Original Applicant and Applicant invested significantly in architectural design, landscape architectural design, legal services, civil engineering, and other consulting services to advance development of the Project.

As noted above, the Original Applicant and Applicant worked diligently since Order 22-21 was issued to move the Project forward towards construction by pursuing financing, preparing construction drawings and filing a building permit application, and seeking modifications to the original drawings to incorporate more stringent sustainability design principles related to Passive House certification, among other actions, as outlined in detail above and below. The Applicant has made substantial progress towards beginning construction but needs additional time to secure LIHTC funding early next year, which will then enable the Applicant to finish revising the original plans to reflect the Approved Modifications and re-submit a building permit application with the new design.

The Department of Housing and Community Development (“**DHCD**”) has since issued its Letter of Commitment to the project, issued by DHCD on September 29, 2025, demonstrating its commitment of 9% LIHTC and state DC LIHTC, along with \$30,989,003 of gap financing to the project – assuring the Applicant that financing is now available to successfully close on construction financing and begin construction within a year.

As mentioned, the Applicant and Original Applicant sought financing for the Project, since the initial approval of the Project. Ultimately, the Applicant is now set to close on LIHTC financing in the first quarter of 2026. Prior to this time, despite the best efforts of Owner, financing was simply not available due to wider market conditions.

In addition, the Original Applicant also sought partners or purchasers for the Project, ultimately finding the Applicant. The Applicant closed on the ownership of the Property on September 22, 2025.

The Original Owner also worked to prepare the construction drawing set and submit for a building permit for the original Project scheme. The Applicant is now revising the original drawings to incorporate the Approved Modifications. Despite this, the Owner has solicited and selected a general contractor to construct the Project.

In summary, the Applicant remains committed to developing the Project, as demonstrated by the substantial financial investment and significant efforts detailed above. Given the severe challenges in the current financing market in the District of Columbia, additional time is needed for the Applicant to continue to seek financing and study adjustments to the proposed development to realize the Project’s completion. Accordingly, there is good cause for extension of the Design Review approval.

III. Exhibits

Attached with this request are the following exhibits.

Exhibit A – Authorization letter from the Applicant

Exhibit B – Z.C. Order No. 22-21 and Z.C. Order No. 22-21A

IV. Conclusion

For all of the above reasons, the Applicant respectfully requests a two (2) year extension of the Order. Grant of the Applicant's extension request will aid the Applicant's efforts to successfully complete the Project and deliver 92 affordable residential units to serve the District's seniors. The Applicant respectfully requests that consideration of the requested extension be scheduled for the Commission's public meeting calendar and reviewed pursuant to Subtitle Z § 705.2.

Please feel free to contact the undersigned if you have any questions or comments regarding this application. We would be happy to produce any other information or evidence in support of the above request and appreciate your consideration of this matter.

Respectfully submitted,

/s/

Jeffrey Utz

/s/

Cindy Vong*

*(*Admitted in Massachusetts only. Application submitted for admission to the D.C. Bar. Supervised by members of the D.C. Bar.)*

Certificate of Service

The undersigned hereby certifies that the foregoing document was delivered by electronic mail to the following address on November 10, 2025.

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(*Admitted in Massachusetts only. Application submitted for admission to the D.C. Bar. Supervised by members of the D.C. Bar.)