

“Great Weight” to the Recommendations of OP

3. Pursuant to § 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 (2001).) and Subtitle Z § 405.8, 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).)
4. The Commission finds OP’s recommendation persuasive that the Commission approve the Application and therefore concurs in that judgement.

“Great Weight” to the Recommendations of the ANC

5. 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).)
6. 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

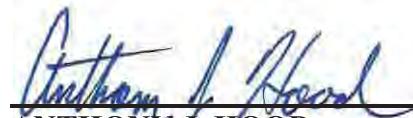
In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and, therefore, **APPROVES** the Application’s request for a two-year time extension of Z.C. Order No.13-08, as modified by Z.C. Order Nos. 13-08A, 13-08A(1), and 13-08B, to extend 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 with DOB and obtain building permits for both portions of the PUD project as updated by any Modifications, and to start construction for the residential (first) building in the updated PUD Project.

On January 11, 2024, upon the motion of Chairman Hood, as seconded by Commissioner Stidham, the Zoning Commission took **FINAL ACTION** to **APPROVE** the application at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Tammy Stidham, Robert E. Miller and Joseph S. Imamura; 3rd Mayoral Appointee seat vacant, not voting)

In accordance with the provisions of Subtitle Z § 604.9, this Z.C. Order No. 13-08C shall become final and effective upon publication in the *District of Columbia Register*; that is on April 5, 2024.

BY THE ORDER OF THE D.C. ZONING COMMISSION

A majority of the Commission members approved the issuance of this Order.



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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 13-08D
Z.C. Case No. 13-08D**

**New Congress Heights Partners, LLC
(Modification of Consequence of Second-Stage PUD
@ Square 5914, Lot 807 (3200 13th Street, S.E.))
February 29, 2024**

Pursuant to notice, at its February 29, 2024 public meeting, the Zoning Commission for the District of Columbia (the “Commission”) considered the application (the “Application”) of New Congress Heights Partners, LLC (the “Applicant”) for a Modification of Consequence of the consolidated PUD and Zoning Map Amendment approved in Zoning Commission Order No. 13-08 (the “Original Order”), as modified by Zoning Commission Order Nos. 13-08A, 13-08A(1), and 13-08B for Lot 807 in Square 5914 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. Pursuant to the Original Order, the Commission granted approval for a Consolidated PUD and Related Map Amendment (the “Approved PUD”). The Approved PUD authorized construction of a mixed-use transit-oriented development consisting of two buildings including residential, retail, and office uses along Alabama Avenue, S.E. and 13th Street, S.E. and adjacent to the Congress Heights Metro Station. More specifically, a nine-story building would primarily be residential with 205-215 affordable and market rate units along with ground floor retail and office uses (the “Residential PUD Project”); and an eight-story building would primarily be office with ground floor retail.
2. The Original Order became effective on June 5, 2015, and 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

¹ The properties identified in 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.

the construction of the second building by June 5, 2020, and construction to start by June 5, 2021.

3. 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.) On May 31, 2019, prior to the expiration of the Original Order, an Application was filed for a two-year time extension of the June 5, 2019 deadline to start construction of the Approved PUD by June 5, 2021.
4. On April 17, 2020, in Zoning Commission Order No. 13-08A (the “First Time Extension”), the Commission extended the Original Order’s June 5, 2019 deadline to start construction of the Approved PUD for one-year² to June 5, 2020. The Original Order’s validity was automatically extended by six months per Subtitle Z §§ 702.1-702.2, to expire on December 5, 2020. Pursuant to Subtitle Z § 705.9, as adopted by the Commission’s emergency action in Z.C. Case No. 20-26, an application to extend the Original Order’s validity for one year was approved. On December 7, 2020, in Z.C. Order No. 13-08A(1),³ the Director of the Office of Zoning extended the Original Order’s validity from December 5, 2020 to December 5, 2021 for the start of construction on the first building and the filing of a building permit application for the second building.
5. On September 13, 2021, an application was filed for a two-year time extension of the December 5, 2021, deadline. That application, Z.C. Case No. 13-08B, (the “Second Time Extension”) requested flexibility to file a building permit application for a modified PUD Project and to start construction of the first building of the modified PUD by December 5, 2023. Within that time, the Applicant intended to file modification of consequence applications with the Commission for approval of minor changes to both the residential and office portions of the approved PUD Project. The application also requested a waiver from Subtitle Z §705.5 to allow a second request for a time extension to be approved for more than one year. In the Second Time Extension (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.
6. On December 1, 2023, prior to the expiration of the time extension granted in Zoning Commission Order No. 13-08B, the Applicant filed an application, Z.C. Case No. 13-08C, (the “Third Time Extension”) for a two-year time extension of the December 5, 2023, deadline. The Applicant proposed that by December 5, 2025, it will complete the processing of the Modification of Consequence applications for the residential portion and

² The application in Z.C. Case No. 13-08A requested a two-year time extension; however, the Commission decided that the time extension approval should be limited to one year.

³ 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.

the office portion of the PUD project, it will file a building permit application with the Department of Buildings (DOB) and obtain building permits for the PUD project as updated by any Modifications, and it will start construction for the residential (first) building in the updated PUD project. The Commission approved Z.C. Case No. 13-08C on January 11, 2024.

PARTIES

7. The parties to the Original Order were:
 - The previous owners of the Property;⁴
 - Advisory Neighborhood Commission (“ANC”) 8E. 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; and
 - The Alabama Avenue/13th Street Tenant’s Coalition, which is now known as the Congress Heights S.E. Tenants Association (“CHSETA”).

II. THE APPLICATION

8. On December 19, 2023, the Applicant filed the Application (pursuant to Subtitle Z §703.1) seeking modifications to architectural elements of the Residential PUD Project, which include some internal reconfiguration of space and a minor reduction in the number of parking spaces provided (86-58). The most significant change to the Residential PUD Project is that it will now include approximately 179 units (a reduction from the 205-215 residential units that were initially approved in Zoning Commission Order No. 13-08) that will be entirely reserved for residents at MFI levels that range from 30% to 80% MFI. The Approved PUD required the provision of 15,665 sf of affordable housing (10,877 sf at 80% MFI and 4,778 sf at 50% MFI). The Residential PUD Project will now include approximately 85% of the units set-aside for residents at 50% MFI or below and approximately 30-35% of the units will be two-bedroom or three-bedroom units. The Residential PUD Project will now include 16 three-bedroom units, nine percent of the total number of units. In addition, 10 of the units will be reserved as permanent supportive housing (PSH) units. The changes to the approved unit mix are noted below. (Ex. 2 at pp. 2, 3, 5.)

	Approved Residential PUD	Proposed Residential PUD
Studio	39 (19%)	14 (8%)
1 Bedroom	137 (67%)	104 (58%)
2 Bedrooms	30 (14%)	45 (25%)
3 Bedrooms	0	16 (9%)
Total Units	206	179

9. Specific revisions to the Residential PUD Project include:

⁴ The Applicant is the current owner of Lot 807 in Square 5914.

- Updating window size and appearance on all elevations;
- Adding solar panels to the roof, adding green roof area, and minor revisions to the penthouse;
- Removal of the extended retail storefront glazing above the first floor;
- Revisions to the south façade, including the addition of balconies;
- Revisions to the courtyard design, including the addition of balconies;
- Revisions to the 13th Street, S.E. Streetscape (in response to comments from the Office of Planning and the Department of Transportation);
- Achieving EGC 2020 Plus certification, rather than the previous LEED-Silver⁵ (as defined in 2015) certification; and
- Reduction in the number of vehicular parking spaces (86 to 58). (Ex. 2 at pp. 4.)

10. The Applicant noted that the architectural treatment and quality of the proposed Residential PUD Project is entirely consistent with the original residential building that was approved by the Commission in Z.C. Case No. 13-08. None of the proposed changes require any additional or extended flexibility from the Zoning Regulations. The proposed architectural changes to the project are necessary to create the significant amount of affordable housing provided within the building, the larger unit sizes located within the building, and to achieve a higher level of sustainability. In addition, the minor reduction in the number of proposed parking spaces is appropriate given the adjacency of the Congress Heights Metro Station entrance and the reduction in the overall number of residential units that are included in the building. (Ex. 2 at pp. 4.)

11. Architecturally, the design team has maintained the character, and coloring, of the original design, but has updated the following items to assist with the energy efficiency and performance of the building, something that will be required to achieve EGC 2020 Plus certification:

- By regularizing and updating the typical window design to show slightly larger mullions, along with a very slight overall typical opening size reduction, the building will be able to attain better U-values, and SHGC (Solar Heat Gain Coefficient) values, that reflect a more realistic and appropriate cast-polymer window system that could be used on the building;
- The modified design extends the typical apartment unit bay language down to the second floor (typical residential floor), along the Alabama Avenue frontage. The prior design included very expansive storefront elements that extended upwards from the residential lobby and retail bays, into the second and third residential floors. This extended storefront window design approach would be very challenging to meet the current energy codes for residential occupancies and may not allow the design team to meet the more stringent energy efficiency calculations required by the newer EGC 2020 Plus certification program goals. This approach would create problems dealing with

⁵ The EGC 2020 Plus certification is required by DHCD for all projects that are seeking an allocation from the HPTF and is more stringent than the LEED-Silver requirements of 2015. The EGC 2020 Plus Certification was filed as part of the Applicant's Statement in Support, Tab D.

slab-edge thermal break detailing required and create a very harsh in-unit temperature-fluctuating environment that would be hard to shade;

- Similarly, the original design, along the Alabama Avenue frontage, at the eastern end of the front façade, incorporated a store-front styled tower element extending up the full façade within a residential unit. Due to the sustainable program goals and energy efficiency related needs noted above, the design team proposes to replace this storefront tower element with the more typical residential bay masonry and cast-polymer window language present throughout the rest of the façade; and
- The revised design approaches will reduce the energy loss through the façade, reduce tenant electricity bills from excessive HVAC heating and cooling loads, and will help the project achieve the EGC 2020 Plus certification. (Ex. 2 at pp. 4-5.)

12. The Applicant noted that in reviewing a PUD application, the Commission must find that the project is not inconsistent with the Comprehensive Plan. Subtitle X § 304.4(a). The District of Columbia Court of Appeals has held that when reviewing a PUD application, the Commission should consider the Comprehensive Plan “as a whole” even if an application presents inconsistencies with individual objectives or elements of the Comprehensive Plan.⁶ The Applicant prepared and submitted a detailed analysis of the Residential PUD Project as evaluated against the policies of the Comprehensive Plan, and a detailed analysis of the Residential PUD Project’s advancement of the racial equity goals of the Comprehensive Plan, i.e., a Racial Equity analysis. The Applicant concluded that the Residential PUD Project is not inconsistent with the Comprehensive Plan when reviewed as a whole, is not inconsistent with other adopted policies, and also promotes the racial equity goals of the Comprehensive Plan. (Ex. 2 at pp. 5-6.)

13. On November 15, 2022, the DC Council adopted the Congress Heights Small Area Plan (CHSAP). The CHSAP includes the following elements that are applicable to the Residential 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; and (pp. 22).
- 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).

14. The Applicant stated that the Residential PUD Project furthers Recommendation 1.2 of the CHSAP and the Building Frontage Design Guidelines noted above. The Applicant also noted that the entirety of the Approved PUD will not be inconsistent with any elements, policies, or goals of the CHSAP. (Ex. 2 at pp. 6.)

⁶ *Friends of McMillan Park v. District of Columbia Zoning Comm'n.*, 211 A.3d 139, 144 (D.C. 2019).

15. The Applicant provided evidence that on December 19, 2023, it served the Application on ANC 8C, CHSETA, the Office of Planning, and the District Department of Transportation as attested by the Certificate of Service submitted with the Application. (Ex. 2 at pp. 8.)

III. Responses to the Application

Office of Planning (“OP”)

16. OP submitted a report dated February 19, 2024 (“OP Report”). The OP Report stated that OP is not opposed to the Application being considered a Modification of Consequence and should the Zoning Commission concur that it can be reviewed as such, OP recommends approval of the Application. The OP report noted the following:

While the proposed modifications are many, the proposed changes provide significant improvements above the approved project and request no additional or expanded relief from the Zoning Regulations. The main party in opposition at the time of the original proposal are now in support of the proposed changes which now include more affordable units, family size units, many former residents returning to new housing, and more resident amenities. The building would be generally within the approved footprint, and some of the architectural changes requested are only significant in that they make the building more energy efficient and functional. The proposal would not compromise the programmatic intent of the approved Consolidated PUD or the C-3-B (now MU-8B) zone.

(Ex. 6 at pp. 1-2.)

19. The OP Report addressed: (i) the reduction in the number of units, change in unit sizes, and changes in affordability levels; (ii) changes to the roof and penthouse; (iii) architectural changes to the façade; (iv) revisions to the courtyard; (v) reduction in parking; (vi) change from the LEED Silver Certification (2015 standards) to EGC+; and (vii) appearance of the 13th Street streetscape. (Ex. 6 at pp. 4-6.)
19. In regard to consistency with the Comprehensive Plan the OP Report noted the following:

The PUD would continue to meet many of the issues on which the original determination that the PUD is not inconsistent with the Comprehensive Plan was made. However, regarding the new requirement to evaluate the development through an equity lens, the Applicant has proffered that they have worked with the former residents of the property, CHSETA, confirmed at Ex. 2C, to address the issues of equity through the provision of 179 units specifically for the former residents, with affordability at 30% to 80% MFI, with 85% of the units at 50% MFI or below and 30 of the units being two-or three-bedroom units. To implement these changes to the development plan

requires a modification to the PUD. The Applicant has provided an equity analysis at Ex. 2G. (Ex. 6 at pp. 6-7.)

20. The OP Report also noted that the CHSAP identified this development as the WMATA Joint Development and quoted the following language from the CHSAP:

WMATA recently entered into a joint-development agreement for its site at the southern entrance of the Congress Heights Metro Station. As one of a number of similar efforts around the District, this project will align Metro and jurisdictional interests, such as increased ridership and housing options, respectively, and attract investment to the community. This project also reflects WMATA's commitment to equity and will serve to support access to critical services and amenities. This mixed-use development will include both residential and office uses.

21. The OP report stated that "the proposed modification would allow for the provision of housing options for Congress Heights residents and affordability as envisioned in the Congress Heights SAP". (Ex. 6 at pp. 7.)

ANC 8C

22. On February 27, 2024, ANC 8C submitted a resolution in support of the Application. The resolution noted that a regularly scheduled public meeting on February 14, 2024, with a quorum present, ANC 8C adopted a resolution in support of the application by a vote of 7-0. The resolution noted that ANC 8C concluded that the proposed modifications are all improvements to the original PUD project, especially the commitment to providing truly affordable housing at this location with larger unit sizes. (Ex. 7.)

CHSETA

23. On December 19, 2023, the Applicant submitted a letter from CHSETA, through its legal counsel, Arnold & Porter, dated December 1, 2023, in support of the Application. The letter explained that CHSETA members are long-time tenants of the residential buildings on the PUD site, and they opposed the Approved PUD because it did not provide sufficient assurance to current residents of their ability to return to the property and because it did not provide the amount and type of affordable housing to meet the needs of the existing community. The letter also noted that the proposed modifications to the residential portion of the Approved PUD will provide affordable housing that meets the needs of the CHSETA members, as well as the wider Congress Heights Community. Finally, the letter stated that CHSETA has negotiated a right to return to the newly built residential building for its members at their current rents, providing stability to individual residents. (Ex. 2E.)

CONCLUSIONS OF LAW

1. Subtitle Z § 703.1 authorizes the Commission, in the interest of efficiency, to make Modifications of Consequence to final orders and plans without a public hearing.

2. Subtitle Z § 703.3 defines a Modification of Consequence as “a modification to a contested case order or the approved plans that is neither a minor modification nor a modification of significance”.
3. Subtitle Z § 703.4 includes “a redesign or relocation of architectural elements and open spaces from the final design approved by the Commission” as an example of a Modification of Consequence.
4. The Commission concludes that the Applicant satisfied the requirement of Subtitle Z § 703.13 to serve the Application on all parties to the original proceeding, in this case ANC 8C and the CHSETA.
5. The Commission concludes that the Application qualifies as a Modification of Consequence within the meaning of Subtitle Z §§ 703.3 and 703.4, as a request to redesign or relocate architectural elements of the Approved PUD, and therefore can be granted without a public hearing, pursuant to Subtitle Z § 703.1.
6. The Commission concludes that because ANC 8C and CHSETA filed responses to the Application on February 27, 2024, and December 19, 2023, respectively, the Commission could consider the merits of the Application at its February 29, 2024 public meeting without first establishing a timeframe for party responses in accordance with Subtitle Z § 703.17(c)(2).
7. The Commission finds that the Application is consistent with the Approved PUD as to the general size, height, and massing of the residential building. The Commission also finds that the proposed architectural changes to the Residential PUD Project are all improvements to the Approved PUD. In particular, the Commission notes its support of the inclusion of 16 three-bedroom units in the Residential PUD Project. The Commission also notes that the Application included a Racial Equity analysis and an analysis of the Residential PUD Project’s consistency with the CHSAP and the updated Comprehensive Plan.
8. The Residential PUD Project has been selected to receive HPTF funding. Therefore, the Residential PUD Project will be exempt from Inclusionary Zoning requirements pursuant to Subtitle C § 1001.6(a). The initial affordability period for the Residential PUD Project is forty (40) years, after the expiration of the initial affordability period, or any extension of the affordability period, the Residential PUD Project will revert to IZ requirements, consistent with the standards of Subtitle C § 1001.6(a).

“Great Weight” to the Recommendations of OP

9. Pursuant to §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 (2001).) and Subtitle Z § 405.8, 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).)

10. The Commission notes OP’s lack of objection to the Application being considered as a Modification of Consequence and finds OP’s recommendation persuasive that the Commission approve the Application and therefore concurs in that judgement.

“Great Weight” to the Recommendations of the ANC

11. 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).)

12. The Commission finds ANC 8C’s support for the Application persuasive and concurs in that judgment.

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 Modification of Consequence to modify Condition Nos. A.1., B.1, and B.2 of Zoning Commission Order No. 13-08 and the plans it approved, to read as follows (deletions shown in **bold and strikethrough** text; additions in **bold and underlined** text). All other conditions in Zoning Commission Order No. 13-08, as modified by Zoning Commission Order Nos. 13-08A, 13-08A(1), 13-08B, and 13-08C remain unchanged and in effect.

Condition No. A and Condition No. B of Zoning Commission Order No. 13-08 are revised as follows:

A. **Project Development**

1. The PUD Project shall be developed in accordance with the plans prepared by Maurice Walters Architects marked as Exhibits 15A1-15A7, as modified by Exhibits 52D1-52D2 of the record, **as amended, modified, and supplemented by the plans dated December 1, 2023, prepared by Grimm and Parker Architecture, Inc. at Exhibit 2C in Z.C. Case No. 13-08D** (“Approved Plans”), as modified by guidelines, conditions, and standards herein. The final total gross

floor area included in the proposed PUD is approximately ~~447,588~~ 446,602 sf for a total floor area ratio (“FAR”) of approximately ~~5.06~~ 5.05. The proposed office building will include approximately 226,695 sf of office use, 9,138 sf of retail use and will have a measured building height of 90 feet. The proposed residential building will include approximately ~~205-215~~ 179 residential units, ~~195,684~~ 192,714 sf of residential use, ~~16,071~~ 6,151 sf of retail use, and will have a measured building height of approximately 90 feet.

B. Public Benefits

1. The residential building shall include ~~a range of 205-215 approximately 179 residential units, and approximately 15,655 sf of workforce affordable housing, with 10,877 sf reserved for making up to 80% of area median income (“AMI”) and 4,778 sf reserved for households earning up to 50% of AMI. The affordable housing units will be distributed throughout the residential building (except for the upper two stories of the building.) All of the residential units will be reserved for residents at MFI levels that range from 30% to 80% MFI. Ten units will be reserved at 30% MFI, 150 units will be reserved at 50% AMI, and 19 units will be reserved at 80% MFI. The unit mix shall include approximately 14 studios, 104 one-bedroom, 45 two-bedroom, and 16 three-bedroom units. Ten of the units will be reserved as permanent supportive (PSH) units.~~

(i) The above condition assumes the Residential PUD Project will be exempt from Inclusionary Zoning (“IZ”) requirements pursuant to Subtitle C § 1001.6(a). However, the Commission takes no position as to whether an exemption from the IZ Regulations should be granted. The initial affordability period for the Residential PUD Project is 40 years, after the expiration of the initial affordability period, or any extension of the affordability period, the Residential PUD Project will revert to IZ requirements consistent with the standards of Subtitle C § 1001.6(a), unless the IZ regulations impose more restrictive standards.
2. ~~Prior to applying for a Certificate of Occupancy for the residential building, the Applicant will provide evidence to the Zoning Administrator that the residential building has achieved EGC 2020 Plus certification, gone through the LEED certification process and has achieved a LEED-Silver certification. Prior to applying for a Certificate of Occupancy for the office building, the Applicant will provide evidence that the office building has gone through the LEED certification process and has achieved a LEED-Gold certification.~~

On February 29, 2024, upon the motion of Chairman Hood, as seconded by Commissioner Stidham, the Zoning Commission took **FINAL ACTION** to **approve** the application at its public

meeting by a vote of **4-0-1** (Joseph S. Imamura, Tammy Stidham, Anthony J. Hood and Robert E. Miller, 3rd Mayoral Appointee seat vacant, not voting).

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 13-08D shall become final and effective upon publication in the *District of Columbia Register*; that is on April 12, 2024.



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.