

December 2, 2025

Via IZIS

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

Re: Application for the Extension of Time of the Approved Consolidated Planned Unit Development (“PUD”) and Zoning Map Amendment Application Approved in ZC Order Nos. 13-08, 13-08A/13-08A(1), 13-08B, 13-08C, and 13-08D

Dear Chairperson Hood:

Congress Heights Metro Owner LLC and New Congress Heights Partners, LLC (collectively, the “**Applicant**”)¹ hereby request a two-year extension of the time period for approval of the project approved by Zoning Commission Order Nos. 13-08, 13-08A, 13-08A(1), 13-08B, 13-08C, and 13-08D (the “**PUD Project**”). Approval of this time extension request will allow the Applicant sufficient time to start construction of the residential portion of the PUD Project and refine the office/retail building above the Congress Heights Metro Station entrance to meet the current and expected demand for office, retail or market-rate multifamily space in the Congress Heights neighborhood.

An application form and applicable agent authorization letters are attached as Exhibit A. A copy of Order Nos. 13-08, 13-08A, 13-08A(1), 13-08B, 13-08C, and 13-08D are attached hereto as Exhibit B. This extension request is made pursuant to Subtitle Z §705 of the Zoning Regulations.

A. Previous ZC Approvals for the PUD Project

ZC Order No. 13-08 approved the creation of a significant transit-oriented development at the Congress Heights Metro Station. The PUD Project, approved for two phases of construction, will include a mix of residential, retail, and office uses that will serve as a hub for people to live, work and shop in their neighborhood. ZC Order No. 13-08 also approved a Zoning Map Amendment from the R-5-A Zone to the C-3-B Zone (now the MU-8 Zone).

On May 31, 2019, a time extension application was filed which requested the Zoning Commission extend the deadline for construction activity to start to June 5, 2021. The Zoning Commission granted such an extension to June 5, 2020 pursuant to ZC Order No. 13-08A. Thereafter, as noted in ZC Order

¹ The properties identified in Order No. 13-08 that were subject to the PUD and Zoning Map amendment approval were: Square 5914 - Parcels 229/161, 229/160, 229/153, 229/151, and 229/103; and Square 5914, Lots 6 and 7. Those properties have been combined to create two new lots in Square 5914, Lots 807 and 808 (the “**Property**”). 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.

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No. 13-08A(1), the deadline for construction activity was extended to December 5, 2020, per Subtitle Z §§ 702.1 – 702.2. Pursuant to Subtitle Z § 705.9, the Office of Zoning extended the validity of the PUD Project and required the start of construction of the first building and the filing of a building permit application for the second building must occur prior to December 5, 2021. (See ZC Order No. 13-08A(1).)

On September 13, 2021, an application was filed for a two-year extension of the December 5, 2021, deadline. That application (ZC Case No. 13-08B) 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 ZC 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.

On December 1, 2023, prior to the expiration of the time extension granted in Z.C. Order No. 13-08B, the Applicant filed a third time extension (ZC Case No. 13-08C). In ZC Case No. 13-08C the Applicant proposed that by December 5, 2025, it will complete the processing of any Modification of Consequence applications for the residential portion and the office portion of the PUD Project, it will file building permit applications and obtain building permits for both portions of the PUD Project and it will start construction of the residential building approved in the PUD Project. The Zoning Commission issued ZC Order No. 13-08C on April 5, 2024.

On December 19, 2023, New Congress Heights Partners, LLC filed an application seeking modifications to architectural elements of the residential PUD project which included some internal reconfiguration of space and a minor reduction in the number of parking spaces provided (from 86-58 spaces). The most significant change to the residential PUD project is that will now include 179 units (a reduction from 205-215 residential units that were initially approved in ZC Order No. 13-08) that will be entirely 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% MFI, and 19 units will be reserved at 80% MFI. The unit mix shall include approximately 14 studios, 107 one-bedroom, 45 two-bedroom, and 16 three-bedroom units. Ten of the units will be reserved as permanent supportive housing (PSH) units. The Zoning Commission issued ZC Order No. 13-08D on April 12, 2024.

B. Actions Taken by the Applicant Since Approval of ZC Case No. 13-08C and 13-08D

The Applicant has taken significant steps to move the PUD Project forward since the last time extension was approved by the Zoning Commission and the Zoning 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

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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.

Residential Portion of the PUD Project

The development of the residential portion of the PUD project has progressed significantly since the Zoning Commission issued ZC 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. (See Exhibit C - DCHFA letters dated September 6, 2024, and March 27, 2025.)

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 enactment of the RENTAL Act by the DC Council is expected to improve operations and portfolio performance across the District of Columbia.

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.

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.

Office/Retail Building Portion of the PUD Project

CHMO notes 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

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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.

C. Standards for Time Extension Request Approval

The standards for a time extension are enumerated in Subtitle Z §705.2 of the Zoning Regulations. The Commission is authorized to extend a PUD provided that:

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

Subtitle Z §705.5 of the Zoning Regulations states: "An applicant with an approved PUD may request no more than two (2) extensions, not including any granted due to the COVID-19 pandemic under Subtitle Z §§ 702.1 – 702.3 or 705.9. The second request for an extension may be approved for no more than one (1) year."

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D. Time Extension Request, Applicant's Satisfaction of the Standards for Granting Time Extension, and Request for Flexibility for an Additional Two-Year Time Extension

NCHP requests that it be allowed until December 5, 2027, to start construction of the residential PUD project, as approved in ZC Order No. 13-08D. For the retail/office portion of the PUD project, CHMO requests that it be allowed until December 5, 2027, to file a Modification application with the Zoning Commission (as necessary) and a building permit application for the retail/office portion of the PUD project.

1. Service on Parties

The parties in the original case were the Alabama Avenue/13th Street Tenants Coalition (“**Coalition**”) and Advisory Neighborhood Commission (“**ANC**”) 8E. The Coalition is now known as the Congress Heights SE Tenants Association (“**CHSETA**”). CHSETA supported the time extension requests approved in ZC Order Nos. 13-08B and 13-08C as well as the modifications to the residential portion of the PUD project in ZC Order No. 13-08D. CHSETA supports this time extension application, as noted in the letter attached as Exhibit D.

The Property is now located within the boundaries of ANC 8C. As shown in the attached Certificate of Service, this application is being served on CHSETA and ANC 8C.

2. No Substantial Change of Material Facts that Undermine the Commission's Justification for Approving the Original PUD

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 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).

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. (p. 42).

The entirety of the PUD Project will not be inconsistent with any elements, policies, or goals of the CHSAP.

While some changes have occurred to the Comprehensive Plan (including the approval of the CHSAP) that impact the Zoning Commission's review of the PUD Project, none of these changes undermine the Commission's previous approval of the PUD Project and they are not an impediment to the

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Commission's ability to approve this time extension request. The Commission's review of the retail/office portion of the PUD project will allow for the proper analysis of the PUD Project's consistency with the Comprehensive Plan, including a review of the PUD Project through a lens of racial equity.

3. Good Cause Shown

As discussed in detail above, NCHP and CHMO have taken numerous actions and steps to move the development of the PUD Project at the Congress Heights Metro Station forward as expeditiously as possible. NCHP was able to obtain approval of a Modification of Consequence application with the Zoning 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 the December 5, 2025, deadline.

The changes to DCHFA's process for allocation of tax-exempt housing bonds created economic and market conditions that were outside of NCHP's control. Similarly, the pull back of tax credit investors from the DC marketplace were also outside of the NCHP's control. CHMO's request for a two-year time extension reflects the continued difficult development climate that currently exists in the District of Columbia and has existed for the past few years. The significant adverse economic and market conditions CHMO faces include: high interest rates; elevated construction costs (due in part to actual or threatened tariffs); and limited access to capital. In recognition of the well-established adverse economic and market conditions that the Applicant is facing, it is imperative that the Zoning Commission be flexible in granting time extension requests for developers, like NCHP and CHMO, that are still intent on creating new housing and economic development opportunities in the District of Columbia. For these reasons, NCHP and CHMO have satisfied the standards of Subtitle Z §705.2(c)(1).

The Applicant requests flexibility from Subtitle Z § 705.5 (which limits the number of time extensions to two, with the second extension only for one year), as 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 building component of the approved PUD. The Commission is able to grant a waiver from Subtitle Z § 705.5, pursuant to Subtitle Z § 101.9² as granting the waiver will not prejudice the rights of CHSETA and ANC 8C and the Commission is not otherwise prohibited from granting a fourth time extension for this important project.

² 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*".

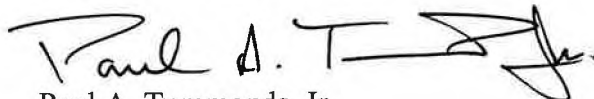
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E. Conclusion

The Applicant believes that the information provided in this application satisfies the “good cause” requirements of Subtitle Z §705 and the requested flexibility from §705.5. Moreover, this time extension will allow all relevant parties (the Applicant, CHSETA, ANC 8C, residents of Congress Heights, and the District) to finally receive the full benefits and amenities that this PUD Project will provide.

Please feel free to contact the undersigned if you have any questions or comments regarding this application.

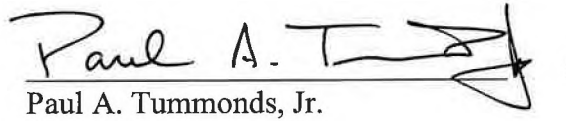
Respectfully Submitted,



Paul A. Tummonds, Jr.

Certificate of Service

I hereby certify that I sent the foregoing document to the addresses below on December 2, 2025, by e-mail.


Paul A. Tummonds, Jr.

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