BROWN LAW

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Via IZIS

Zoning Commission for the
District of Columbia
441 4th Street, N.W., Suite 210S
Washington, D.C. 20001

RE: Z.C. Order No. 23-19 – PUD Time Extension Request
The NHP Foundation and Elm Gardens Owner, LLC
Consolidated PUD and Related Map Amendment to the RA-2 District at
7050 Eastern Ave., N.W. (Square 3351, Lot 813)

Dear Commissioners:

The NHP Foundation and Elm Gardens Owner, LLC (collectively, the "Applicant"), through undersigned counsel, hereby request a two-year extension of the validity of Zoning Commission Order No. 23-19 ("**Order**") granting approval of a planned unit development ("PUD") and related map amendment to the RA-2 District for the property located at 7050 Eastern Avenue, N.W. (Square 3351, Lot 813) ("**Property**"). The Order became effective on November 29, 2024, and is scheduled to expire on November 29, 2026 (see copy attached as Exhibit A). The Applicant requests an extension of time until November 29, 2028, to allow the Applicant sufficient time to complete the financing for the planned development. This request is submitted in compliance with time extension requirements of Zoning Commission's regulations at 11-Z DCMR § 705, as set forth in greater detail below. This is the Applicant's first request to extend the validity of the Order.

The Approved Project

The Order authorizes the Applicant to replace the existing 36-unit Elm Gardens rental apartment buildings, constructed in 1966, with a with new a four-story, 80-unit all-affordable apartment building ("**Project**"). 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 percent cap.

ZONING COMMISSION
District of Columbia
CASE NO. 23-19A
EXHIBIT NO. 2

Standard of Review

Pursuant to 11-Z DCMR § 705.2, the Zoning Commission may extend the validity of an approved order provided the Applicant demonstrates compliance with the standards in that section and as set forth below.

1. The extension request [must be] served on all parties to the application by the applicant, and all parties are allowed thirty (30) days to respond. (11-Z DCMR §705.2(a)).

As shown on the attached certificate of service, the Applicant is serving all parties to the proceedings in Z.C. Case No. 23-19 simultaneously with this submission, and such parties are allowed 30 days to respond to the Applicant's time extension request.

2. 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. (11-Z DCMR §705.2(b)).

There has not been any substantial change in any of the material facts upon which the Commission based its original approval of the application, and specifically no changes that would undermine the Commission's justification for approving the original application.

3. The Applicant has not been able to obtain sufficient project financing for the development, following its diligent good faith efforts to obtain such financing because of changes in economic and market conditions beyond the Applicant's reasonable control. (11-Z DCMR §705.2(c)(1)).[1]

The Applicant has been pursuing financing for this all-affordable housing development through numerous programs available through the D.C. Department of Housing and Community Development ("**DHCD**"). The Applicant purchased the Property through DHCD funding and a DHCD Affordable Housing Covenant was recorded against the property to ensure that units in the Project are reserved for households earning no more than 80 percent of the MFI for the Washington Metropolitan Area. Since the issuance of the PUD Order, economic conditions have worsened for multi-family projects, particularly those devoted to all-affordable units. Construction costs and interest rates have continued to rise, labor shortages have persisted, and limited financing sources have become more competitive.[2] These market conditions are beyond the reasonable control of

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[1] Subsection 705.2(c)(2) regarding inability to secure required governmental agency approvals by the expiration date, and Subsection 704.2(c)(3) regarding pending litigation, are inapplicable to this time extension request.

[2] *See, for example,* Emilia Alma, Nicholas Finio, and Tracy Hadden Loh, "A Housing Market on the Precipice: New Insights from the DMV Monitor," The Brookings Institution, June 4, 2026, *2025-26-Dev-Report-Web-Publication.pdf; see also* Emerging Trends in Real Estate 2026, *https://www.pwc.com/us/en/industries/financial-services/asset-wealth-management/real-estate/emerging-trends-in-real-estate-pwc-uli/trends.html;* "Barren Equity Markets for D.C. Development Keeping

the Applicant. Nevertheless, the Applicant has diligently pursued financing for its all-affordable residential project through DHCD's various funding programs and application cycles. The Applicant applied for financing in 2023, but was unable to secure the required PUD approval order prior to the DHCD deadline and commit to closing within 12 months of an award, which made them 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 ("LIHTCs"), and a letter of interest from the Housing Production Trust Fund. While nonbinding, these are an essential step towards securing DHCD approval for redevelopment funds. The Applicant is hopeful that all funding will be in place to secure a building permit within the next 12 months and begin construction no later than Fall 2027. Out of an abundance of caution, however, the Applicant requests a two-year extension of the PUD validity.

Conclusion

Based on the foregoing, the Applicant has demonstrated compliance with the time extension provisions of 11-Z DCMR § 705.2. Despite its diligent, good faith efforts, the Applicant has been unable to obtain financing due to volatility in market conditions beyond its control. The time extension will allow the Applicant to continue to pursue the development of this all-affordable housing project, which the Commission found to serve the city's priority for high-quality affordable housing adjacent to the Takoma Park Metro Station. Accordingly, the Applicant respectfully requests the Commission to grant the two-year time extension such that the validity of the PUD is extended to November 29, 2028, by which time the Applicant must obtain a building , and the time to initiate construction would be extended to November 29, 2029.

Respectfully submitted,

The Brown Law Firm PLLC

By: Mary Carolyn Brown
Mary Carolyn Brown

cc: The NHP Foundation
Certificate of Service (attached)

Attachment (Z.C. Order No. 23-19)

Projects on Ice," Bisnow, April 23, 2026, https://www.bisnow.com/washington-dc/news/capital-markets/dc-developers-face-barren-equity-market-134262; J.P. Morgan, "Addressing Washington, D.C.'s Housing Crisis," September 29, 2025, Affordable Housing Crisis in Washington, D.C.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on **August 27, 2026,** copies of the foregoing time extension request for Z.C. Order No. 23-19 and attachment were served upon the following by the means indicated:

Via Email
D.C. Office of Planning
1100 4th Street, S.W., Suite 650E
Washington, D.C. 20024
Attn: Radhika Mohan (Radhika.Mohan@dc.gov)
Attn: Crystal Myers (Crystal.Myers@dc.gov)

Via Email
D.C. Department of Transportation
250 M Street, S.W.
Washington, D.C. 20003
Attn: Erkin Ozberk (erkin.ozberk@dc.gov)

Via Email
Advisory Neighborhood Commission 4B
5806 3rd Place, N.W.
Washington, DC 20011
Attn: Mr. Charlie Mayer, SMD 4B04 (4B04@anc.dc.gov)
Attn: Ms. Shamira Christian, Chair, SMD 4B02 (4B02@anc.dc.gov)

Via Email
Elm Gardens Tenants Association, *Party in Support*
7050 Eastern Ave., N.W.
Washington, D.C. 20012
elmgardenstenants@gmail.com

Via Email
Eastmont Cooperative, *Party in Opposition*
7056 Eastern Ave., N.W.
Washington, D.C. 20012
Attn: Jeremi Jones (jdjones@jurmee.com)

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