

MEMORANDUM

TO: District of Columbia Zoning Commission
FROM: *JL for* Jennifer Steingasser, Deputy Director, Development Review/Historic Preservation
DATE: November 14, 2016
SUBJECT: Hearing Report for Zoning Commission Case No. 16-13, Consolidated Planned Unit Development and Related Map Amendment for 1109 Congress Street, NE

I. OP RECOMMENDATION

Application 16-13, by JS Congress Holdings, LLC is for a consolidated PUD with a related map amendment from C-M-1 to C-2-B, to construct a mixed-use building at 1109 Congress Street, N.E. The application includes flexibility from the requirements for the minimum size of a PUD site, rear yard depth, open court width, parking, and loading; the proposal has been amended to eliminate formerly requested relief from penthouse setback and lot occupancy. This application was filed and set down prior to the adoption of ZR-16, so ZR-58 regulations apply.

The proposal is generally not inconsistent with the Comprehensive Plan. The Office of Planning (OP) is supportive of the redevelopment, but is not able to make a recommendation at this time, pending the receipt of the additional information and clarifications noted in this report and summarized below. However, OP would support the hearing being held as scheduled, to allow the applicant to address these issues.

- Provision of adequate, more refined and detailed renderings, including a perspective along the alley, renderings of the rooftop, a signage plan, and details of the large retaining wall along a portion of the east property line;
- Further articulation of the portion of the south elevation currently shown as a relatively blank brick wall;
- Submission of a site plan showing the location of Pepco vaults in the alley easement, and confirmation from Pepco that this is an acceptable location;
- Clarification of the affordable housing proffer, and consideration of an additional affordability proffer, given the level of flexibility gained through the PUD (use, height, density, and parking);
- Clarification of the proffer for PDR space, which is supported as being consistent with Comprehensive Plan direction, including how the space will be marketed and subsidized so that it qualifies as a benefit;
- Clarification of First Source Agreement or other job training / employment program;
- Provision of adequate justification for the relief from zoning regulations requested; and
- Clarification of parking access, loading / loading management plan, and trash removal as well as any other DDOT concerns.

II. ZONING COMMISSION / OP COMMENTS AND CONCERNS FROM SETDOWN

This application was set down for a public hearing by the Zoning Commission at its July 25, 2016 public meeting. The Applicant provided an initial response to the OP setdown report with revised drawings on July 25, 2016 (Exhibit 12); a Prehearing Statement with revised plans on August 12, 2016 (Exhibit 13), and a 20-day Supplemental Submission with revised plans on November 1, 2016 (Exhibit 23). The following chart is a summary of the comments made at setdown, with applicant response and OP comment:

Comments at Setdown	Source	Applicant Response	OP Comment
Bring the penthouse into compliance with regulations	ZC, OP	The penthouse is now fully compliant	OP supports this change
Provide additional views and renderings of the penthouse	ZC, OP	Additional renderings not provided as no penthouse relief is now requested	OP has advised the applicant that additional renderings of the penthouse should be provided for the public hearing
Clarify compliance with the habitable penthouse space affordable housing requirement	OP	This clarification has been provided in the submissions.	This issue appears to have been adequately clarified – the habitable portion of the penthouse would generate a requirement for about 207 sq.ft. of space at 50% AMI within the building.
Provide additional information on the alley closing, and the provision of access to the existing alley	ZC	Concerns with the previous proposed configuration were addressed by relocating the easement to the north of the proposed building, where it is open to the sky and has no security gate.	OP is supportive of this change. Comments from DDOT will be provided separately; concerns from adjacent neighbors who use the alley to access their lots have been raised in Exhibit 24.
Provide additional views from street level	ZC	Provided in the November 1, 2016 submission (Exhibit 23)	One additional street level rendering was provided (Sheet A2.02). OP has advised the applicant that, typically, additional, more detailed renderings of the street level view, particularly of the PDR/retail space and the building entry, are provided.
Reexamine signage at the top of the building which appears redundant	ZC	This signage has been eliminated.	The signage no longer shows on the most recent set of drawings.

Comments at Setdown	Source	Applicant Response	OP Comment
Consider a more robust affordable housing proffer	ZC, OP	The applicant will provide two units (1,400 sf) at 50% AMI, as well as three units at 80% AMI.	Additional clarification is needed. OP notes that a portion (about 207 sq.ft.) of the 50% AMI proffer is actually the penthouse habitable space requirement. Generally, OP has advised the applicant that a proffer of 12% of units with half at 50% AMI has been discussed as part of other recent PUDs in this area, particularly ones involving a rezoning from PRD to mixed use.
Provide more refined design drawings of the building, materials, landscape, and public space treatment	OP	Additional drawings were provided.	OP advised the applicant that the most recent drawings are not all particularly refined, and provided suggestions for additional renderings to be provided at the hearing.
Provide landscape and public space treatment plans	OP	Provided in the recent submissions.	A plan showing landscape and public space treatment is provided as Sheet L6.01. OP has requested additional detail, particularly regarding a retaining wall along the east property line.
More fully comply with the Production, Distribution and Repair (PDR) goals of the Comprehensive Plan	OP	Provided in the submissions.	OP has confirmed that the PDR use is part of the benefits proffer, and has provided the applicant with current wording for such proffers.
Continue working with ANC 6C to identify the public benefits of special value to the neighborhood that would be commensurate with the related map amendment and increases in height and density.	OP	The applicant has worked closely with ANC which requested a \$10K contribution to NoMa Dogs, a Capital Bikeshare station, and more articulation of the east façade. The applicant has agreed to all three.	The recent submissions provide additional detail on discussions with the ANC and the benefits and amenities package. The ANC has indicated support for the application.
Work with DDOT to address the traffic plan, TDM package	OP	The applicant has worked with DDOT to resolve issues.	DDOT has indicated to OP that they will provide comments on this application.

Comments at Setdown	Source	Applicant Response	OP Comment
Provide written commitment to First Source Agreement	OP	This was not proffered as part of the PUD.	OP has advised the applicant to address why there is not a commitment to a First Source Agreement, and what they intend to do in this regard.
Provide material samples	OP	A sheet noting materials is included in the recent submission; samples will be brought to the public hearing.	OP requested one clarification – whether the proposed brick would be actual brick, or brick veneer panels.

III. APPLICATION-IN-BRIEF

Property Location and Legal Address	1109 Congress Street, NE is located on the east side of Congress Street and the north side of L Street. The PUD site includes Lots 78 and 819 in Square 748, and a portion of an east west alley for which closing will be requested. The Square is bounded by 2 nd Street/Delaware Avenue, L, M, and 3 rd Streets, NE. Congress Street runs north-south and bisects the southern 40% of the Square. The Uline Arena occupies the north end of the Square.
Ward, ANC	Ward 6, ANC 6C
Property Size	10,041 square feet (note – this is a slight reduction from the site area at setdown, due to a smaller amount of alley closing now proposed)
Applicant	JS Congress Holdings, LLC
Current Zoning	C-M-1, Industrial / Commercial
Proposed Zoning	C-2-B, Medium Density Mixed Use
Existing Conditions	The irregularly shaped site is occupied by an unoccupied two-story warehouse devoted to industrial use, and a recently-constructed three story building with two floors of offices and one floor of parking. A portion of the property is vacant. There is a positive grade difference of 10 feet from south to north. A 9-foot wide alley, entered and exited only from Congress Street runs east-west from Congress Street and turns north-south on the east side of the applicant’s property.
Neighborhood Context	As shown in Figure 1, below, the site is surrounded by recently-developed or soon-to-be-developed properties, many of which are PUDs. A substantial number of the new developments are converting former industrial or light-industrial properties to residential and retail uses. All of the nearby PUDs involve a PUD-related C-3-C zone. Smaller-scale residential buildings predominate east of 3 rd Street. The southern entrance to the NoMA/NY Avenue/ Gallaudet Metro station is 1 ½ blocks northwest of the property on M Street, west of the rail tracks.

<p>Proposal:</p>	<p>Existing buildings would be demolished and replaced by a mixed use, primarily residential building with separate non-residential spaces. The east-west portion of the public alley would be closed, and a new alley easement on the north end of the property would be provided. Some surface parking at the back of the lot would be provided; the level of underground parking is no longer proposed.</p>
<p>Main Differences from By-Right Development</p>	<p>The building would be 50 feet taller and twice as dense as a by-right development. The residential uses to be provided could not be developed in the existing C-M-1 zone.</p>
<p>Requested Flexibility</p>	<ol style="list-style-type: none"> 1. PUD-related map amendment from C-M-1 to C-2-B 2. § 2401.2 -- minimum site size for a PUD 3. § 774.7 – rear yard depth 4. § 776 - open court width 5. § 2101– number of residential parking spaces 6. § 2202 –loading facilities 7. Flexibility to vary the location of all interior components, the exact number parking spaces within the minimum set by a PUD order, and final material selection and details, within range of colors, types and quality specified by PUD order



Figure 1. Site Location and Context (Green – Approved PUDs; Blue – In-process PUDs)

IV. COMPREHENSIVE PLAN AND OTHER PUBLIC POLICIES

As described more fully in the Office of Planning Setdown Report, dated July 15, 2016 (Exhibit 11), the proposal is generally not inconsistent with the Comprehensive Plan maps or text.

The Generalized Policy Map indicates that a change in land use is expected and encouraged for the site; the proposed project would introduce residential uses to a site where it is now prohibited, and its location would not intrude into the areas to the east that are designated for neighborhood conservation.

The Future Land Use Map (FLUM) indicates that the site is appropriate for medium density residential and production, distribution and repair uses. The proposed height and bulk are within the upper end of the medium density category and the proposed uses are not inconsistent with the FLUM.

The proposed project would generally be not inconsistent with written elements of the Comprehensive Plan, particularly the Land Use, Transportation, Housing, Environmental Protection, and Urban Design Citywide Elements, and Central Washington Area Element.

V. ZONING ANALYSIS

Table 1: Existing and Proposed Zoning, Development Potential, and Proposed Development. (Based on applicant’s most recent submissions).

Item	C-M-1 Zone - By Right	C-2-B PUD	Proposed	Compliance
Lot Size § 2401.1	15,000	15,000 min.	10, 041 sq.ft. ¹	Waiver requested for 4,959 sq.ft.
Height (ft.) § 770.6	50 ft.	90 ft.	90 ft.	Complies
Lot Occ. § 772	100%. Res. Not permitted	100% non-res. 80% res.	80%, 1 st floor 76% 2 nd -8 th flrs.	Revised from setdown, now complies
FAR §771	3.00	6.00 total (≤ 2.0 non-res.)	6.00	Complies.
Total SF	30,122	60,244 max.	60,244 sf	Complies
Non- Res. SF	30,122	20,081 sq.ft. max.	3,825 sq.ft.	Complies
Residential SF	residential prohibited	60,244 sq.ft. max.	56,419 sq.ft.	Complies
Res. Units	prohibited	Not limited	64	n/a
Penthouse Dimensions: Height:	12-15 ft.	20 ft. max.	18.5 ft. max.	complies
Stories:	1 (1 habitable)	2 (1 residential)	2 (1 residential)	complies
Setback:	1:1	1:1	1:1 min.	complies

¹ Lot area has decreased slightly from setdown, as the amount of alley proposed to be closed has been reduced

Item	C-M-1 Zone - By Right	C-2-B PUD	Proposed	Compliance
Size	0.4 FAR exempt from FAR	0.4 max exemption	0.24 FAR	complies
Penthouse Related Aff. Hsg. § 411.16	n/a	Non-communal habitable penthouse space subject to IZ, at 50% AMI	207.2 sq.ft. at 50% AMI	complies
Parking § 2101.1	1 / 1,000 sq.ft.	1/3 du's = 21 1/750 non-residential sq.ft. ≥ than 3,000 = 1	7 res. pkg. spaces	<i>Relief requested for 14 residential spaces and 1 non-residential space</i>
Bicycle Parking § 2119.1	n/a	1/3 du's = 21 min	22	complies
Loading §2201	Varies with the use	1 berth @ 55 ft., 1 platform @ 200 sf, 1 service space @20 ft.	<i>none</i>	<i>Relief requested for all loading</i>
Rear Yard (ft.) §774.7	below 20 ft. – 0 ft. above 20' - 12 ft. or 2.5 in. / ft. of bldg.	15 ft. measurable from alley centerline for 1st 20 feet of height; from property line thereafter	9'7" below 20' ht. 5'3" above 20'	<i>Relief requested (5'5" to 9'4")</i>
Side Yard (ft.) §775.5	Not required	Not required, 15 ft. if provided	15 ft.	Complies
Open Court (ft.) § 776	If provided, 2.5 in. width / ft. of height or 12 ft.	If provided, greater of 15 ft. or 4 in / ft. of ht. i.e., 30 ft.	5 ft.	<i>Relief requested</i>
GAR	0.3	0.3	0.3	Complies

The applicant requests the following flexibility. Previously requested relief for penthouses and for lot occupancy have been eliminated. In general, the applicant has provided limited justification for requested relief; OP has recommended to the applicant that this be provided at or prior to the public hearing.

1. PUD-related map amendment from C-M-1 to C-2-B

The proposed zone would be not inconsistent with the Comprehensive Plan.

2. § 2401.2 -- Minimum size of PUD-Site

The 10,041 square foot site is smaller than the 15,000 square foot minimum, about 67% of the required lot size. § 2401.2 permits the Commission to waive up to 50% of the minimum lot area subject to the provision of minimum residential requirements that the proposed PUD would provide. Specifically, “The Commission shall find after public hearing that the development is of exceptional merit and in the best interest of the city or country;” {§ 2401.2 (a)}

3. § 774.7 – Rear Yard Depth

A 15 foot rear yard is required. The rear yard would be 9’7” for the first 20 feet of building height and 5’4” above that. The applicant states in the original filing that the narrowness of the site and the building’s double-loaded corridor layout justify the requested flexibility. OP is not opposed to this relief in concept, but has requested that the applicant provide additional detail regarding the justification for this relief.

4. § 776– Open Court

The applicant originally proposes two 15 foot wide courts. The current proposal includes one court along the east property line. While a court is not required, if provided it is required to be 30 feet wide, while the proposed court is five feet in width. According to the applicant, there is an agreement with the adjacent landowner to also provide a five foot minimum width court along the same property line for any future building, resulting in a separation between the two buildings of ten feet. OP is not opposed to this relief.

5. § 2101 - Parking

Relief is requested to provide 7 parking spaces total, rather than the 21 residential spaces and 1 non-residential space that would be required. This is an increase in the flexibility requested from the original proposal to provide 16 spaces. The change is due to the elimination of the previously proposed underground level of parking, which resulted in accessibility issues. Without underground parking, or converting the ground level to parking from PDR space and residential lobby (which OP would not support), the provision of the required amount of parking would be practically difficult. OP is not opposed to this relief.

6. § 2201 –Loading

The applicant requests flexibility to provide no loading on the site, rather than the 55’ loading berth, a 200 square foot loading platform, or a 20 foot service delivery space, as required under the ZR-58 regulations. The previously proposed on-site 24 foot long loading berth has been eliminated with the redesigned alley access easement. The applicant has not provided justification, but it would appear that providing loading from the alley system, as would typically be recommended, would be practically difficult, given the widths of the alley, its configuration, and its use by other rowhouse owners. With the provision of adequate justification, a clarification of how loading would happen, the provision of a loading management plan, and DDOT acceptance, OP would not object to this relief.

7. Other Flexibility

Flexibility is requested to vary the location of all interior components, the exact number of parking spaces within the minimum set by a PUD order, and final material selection and details, within range of colors, types and quality specified by a PUD. Such flexibility is standard in PUDs; provided this is adequately defined in the Order and would not result in any new or expanded zoning relief or diminishment of proffered amenities, OP would not object.

VI. COMPLIANCE WITH PUD REGULATIONS

In its review of a PUD application, § 2403.8 states that “the Commission shall judge, balance, and reconcile the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case.” Section 2403.9 states that “Public benefits and project amenities of the proposed PUD may be exhibited and documented in any of the following categories.” The relevant categories for the subject PUD are analyzed below.

Main PUD Gains:

Standard	C-M-1 M-O-R	C2B PUD Proposal	Gains Over M-O-R
Uses	Industrial, Commercial	Residential; Retail/PDR	Residential use
Height ft./stories	40 ft./3 stories	90 ft. 8 stories	50 feet; 5 stories
FAR	3.0 30,122 sq.ft.	6.0 60,244 sq.ft.	3.0 FAR 30,122 sq.ft.
Penthouse	12-15’, non-residential	18.5 ft. 2,080 sq.ft. residential	3.5 - 6.5 ft. 2,080 sq.ft. residential
Parking	Approx.. 30	22	7

(a) Urban design, architecture, landscaping, or creation or preservation of open spaces;

The Applicant is proposing a transit-oriented, infill residential project that will include 64 residential apartments, as well as ground floor retail/PDR/community service space. The building is a primarily metal panel and brick building; the applicant has confirmed to OP that brick veneer panels will not be used. The L Street façade features extensive balconies facing south; some rooftop communal space is proposed.

OP has requested that the applicant provide, at the public hearing, additional refined drawings and renderings, including a perspective along the alley, renderings of the penthouse, a signage plan, and details of the large retaining wall along a portion of the east property line. OP has also requested that the applicant investigate further articulation of the portion of the south elevation currently shown as a relatively blank brick wall.

(b) Site planning, and efficient and economical land utilization;

The proposed layout makes efficient use of this relatively small lot. The revised design provides a more workable alley reconfiguration, for which a closure of the existing alley and the recordation of the necessary alley easements for the new private alley will be required.

The applicant has advised OP and DDOT that the Pepco vaults will be located in the alley easement; drawings to this effect along with confirmation that this is acceptable to Pepco are required.

- (c) *Effective and safe vehicular and pedestrian access, transportation management measures, connections to public transit service, and other measures to mitigate adverse traffic impacts;*

The site is within two blocks of the NoMa Gallaudet Metro station on the Red line. There are also numerous bus routes within easy walking distance, along Florida Avenue, K Street, and H Street. The site is within easy walking distance of the H Street commercial corridor, and the emerging Union Market area. Parking will be limited on the site; the applicant is proposing bike parking on the ground level with direct access to the alley easement, and the installation of a new bike share station as a PUD proffer. In preliminary discussions with DDOT, concerns over the accessibility of the proposed location of the seven parking spaces have been raised, which the applicant is addressing with DDOT. Internal building access from the retail / PDR spaces to the trash area should also be clarified, as it is not clear from the floor plans how this would efficiently or effectively happen. The applicant is also requesting loading relief; the applicant should provide an acceptable loading management plan.

- (d) *Historic preservation of private or public structures, places, or parks;*

The existing Property has no historic buildings on site, and is not within a historic district.

- (e) *Employment and training opportunities;*

OP is supportive of the provision of PDR space within the building, which can be an effective vehicle to encourage small business start-up and local employment. The applicant has not agreed to a First Source Agreement; the applicant has been advised by OP to re-assess this, and to provide additional information at the public hearing.

- (f) *Housing and affordable housing;*

The Project would provide 64 new residential units where none exist today, and are not permitted under current zoning.

The affordable housing proffer appears to have improved since setdown. However, OP has requested that the applicant clarify the IZ proffer as stated in the November 1, 2016 submission, since the calculations are based on residential square footage net of any non-unit space such as corridors and lobby. The proffered units are correspondingly also shown based on this net square footage.

Essentially, the applicant appears to be providing affordable units at 8% of net residential floor area consistent with the IZ requirement, but proffering that 2 of the units would be provided at 50% AMI. Of those two units, a portion of the square footage is required to be provided at 50% to meet the penthouse habitable space requirement, so the actual proffer is 1,212 sq.ft., not 1,419 sq.ft.

OP has encouraged the applicant to enhance its commitment to affordable housing, through the provision of more or larger units, and deepening the level of affordability for some or all units.

For this and similar applications involving a rezoning from low density industrial to medium/high density residential mixed use, OP has suggested 12% of residential GFA, half of which would be at 50% AMI (not including the 50% AMI square footage required through the provision of habitable penthouse space).

(g) *Social services/facilities;*

The Applicant proposes to potentially include an urgent case medical center, which OP would support. Additional clarification of this proffer is needed.

(h) *Environmental benefits;*

The project would be LEED-Gold eligible. The applicant should discuss whether actual certification is proposed. 5,051 square feet would be devoted to a green roof.

(i) *Uses of special value to the neighborhood or the District of Columbia as a whole*

(j) *Other public benefits and project amenities*

The Applicant has proposed the following public benefits and amenities (Exhibit 23, page 4).

- *Market-rate and affordable housing not otherwise achievable under existing zoning* – The introduction of housing is a benefit of the project.
- *Two units of affordable housing at 50% AMI* – OP notes that a portion of the 50% affordable units is actually required by the penthouse habitable space provisions. While details of the proffer are unclear, the additional 1,212 sq.ft. of space proffered at 50% AMI is a PUD benefit, although OP continues to recommend additional affordable housing, and more units at 50% AMI.
- *A LEED-Gold design* – This is a PUD benefit as it exceeds District requirements. The applicant should confirm whether LEED certification will be pursued.
- *Improved site circulation / A reconfigured and enhanced alley system* – Provided DDOT concurs, the new alley system appears to be an improvement over the existing system, both for the applicant and for adjacent residents. The reconfiguration has also resulted in the loss of underground parking, a considerable saving to the applicant, and a request for partial relief from parking which OP is not opposed to, provided DDOT finds the layout acceptable.
- *Introduction of landscaping at L Street* – The landscaping as shown does not appear to be beyond what would normally be expected for streetscape improvements for a new residential building. Without further documentation from the applicant, OP would consider this a normal requirement and not a PUD amenity.
- *\$10,000 contribution to Friends of NoMa Dogs, Inc.* – Provided this is adequately documented as resulting in a tangible benefit, this may be considered a project benefit. OP encourages this item to be required to be met prior to the issuance of a building permit for the subject site.
- *\$80,000 Capital Bikeshare Station* – OP accepts this as a project benefit, but agrees with DDOT that the dollar amount should be eliminated – the applicant should revise this to commit to providing the station without a dollar maximum.

In addition, the applicant has noted to OP the following additional PUD proffer, not included on their submission list:

- PDR space within the building – The applicant is proposing approximately 2,950 sq.ft. of PDR space, and 875 sq.ft. of PDR Retail space. The applicant notes that this could include Union Kitchen functions; an urgent care center; a small neighborhood hardware and/or paint store, or a package distribution center. OP is not opposed to these uses, although not all would typically be considered PDR or “maker space” uses. A condition for proffered maker space in other recent PUDs has read:

Maker uses are defined as:

- Production, distribution, or repair of goods, including accessory sale of related product;
- Uses encompassed within the Arts, Design, and Creation Use Category as currently defined in 11 DCMR Subtitle B § 200.2, including an Art Incubator, as currently defined in 11 DCMR Subtitle B § 100.2, but not including a museum, theatre, or gallery as a principal use;
- Production and/or distribution of food or beverages and the accessory sale or on-site consumption of the related food and beverage;
- Design related uses, including Media/Communications, Computer system and software design; Fashion design; Graphic design; or product and industrial design

OP would recommend this definition for any proffer of PDR space on this property as well, potentially augmented to permit other desirable non-PDR. OP has also advised the applicant to provide additional information on how this space will be marketed and subsidized, for it to be considered a project amenity. The proposed urgent care center could also be a benefit, but would not be considered a PDR use.

Overall, OP is not convinced that the applicant’s proffer is commensurate with the high level of density, height, and use flexibility gained through the PUD, but could be commensurate with the further augmentation of the package as noted in this report.

VII. AGENCY COMMENTS

- District Department of Energy and the Environment (DOEE) – indicated to OP no concerns with this proposal. Achieving LEED gold is supported.
- District Department of Transportation (DDOT) – indicated initial concerns to the applicant, and to OP. The applicant advises that they have continued to work with DDOT, resulting in changes to the proposal such as moving and improving the private alley. DDOT is expected to submit comments separately.
- No other District agency provided comments to OP.

VIII. COMMUNITY COMMENTS

As of the date of filing this report, the ANC had submitted a report in support of the proposed PUD, with conditions (Exhibit 19).

Adjacent neighbors under the name 3rd Street Homeowners have submitted a request for party status in opposition (Exhibit 24).