

District of Columbia Office of Planning

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Stephen Cochran, AICP, Case Manager *SC*
 Joel Lawson, Associate Director, Development Review
DATE: March 6, 2014
SUBJECT: Supplemental Report on Extension Request – BZA Case 18289A, 455 I Street, NW

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OP REVISED RECOMMENDATION:

Based on the information supplied in the original EQR-EYE Street, LLC and the applicant's Board-requested submission dated March 4, 2014, the Office of Planning (OP) **recommends approval** of the requested two-year extension of Order 18289, pursuant to § 3130. This would be the applicant's first extension.

SUMMARY OF APPROVED PROJECT AND PREVIOUS BZA ORDERS

BOARD OF ZONING ADJUSTMENT
 District of Columbia

CASE NO.

18289-A

EXHIBIT NO.

49

Applicant: EQR-EYE Street, LLC	Property Address: 455 I Street, NW	Legal Address: Square 516, Lot 36	Ward 6; ANC 6E
Project Summary:	Preserve four contributing historic structures, converting them to retail and residential uses, and construct a 110- foot high L-shaped primarily residential addition to the west of and behind the historic structures. There will be 162,112 gross square feet of residential space; 2,800 square feet of retail space; one 55-foot loading berth; one 200 square foot loading platform; 78 parking spaces on four underground levels, and unenclosed community recreation areas on the roof.		
Date of Order Issuance:	January 20, 2012		
Date of Order Expiration:	January 20, 2014; Extension request filed January 8, 2014		
BZA Relief Granted	§§ 772.1(lot occ.) , 771.11 and 411.5(roof structure height), 776.4 (closed and open courts) , 1707.4 (FAR on lots with historic structures)		

455 I Street, NW



EVALUATION OF THE EXTENSION REQUEST

Section 3031.6 of the Zoning Regulations allows for one two-year extension of a BZA approval for "good cause" shown upon the filing of a written request by the applicant before the expiration of the approval; provided that the BZA determines that the following requirements are met:

- (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.

The application submitted to the BZA is dated January 8, 2014 and has been in the public record since the filing. The applicant has certified that the extension request also was served to the Office of Planning, the P.O. Box for ANC 6E and home of the ANC's single member district representative on the same date.

§3130.9 provides that a time extension filed at least 30 days prior to the expiration date shall toll the expiration date to allow the BZA to consider the request. The extension application was filed 12 days prior to the Order's expiration.

- (b) There is no substantial change in any of the material facts upon which the Board based its original approval of the application that would undermine the Board's justification for approving the original application.**

The relief was originally granted because of the exception circumstances confronting the historic properties on the site which led to practical difficulties with respect to building configuration. Neither market conditions nor the construction of nearby buildings were factors in the original application or decision. The material facts affecting the granted relief have not changed.

- (c) The applicant demonstrates that there is good cause for such extension, with substantial evidence of one or more of the following criteria.**

- (1) An inability to obtain sufficient project financing due to economic and market conditions beyond the applicant's reasonable control;**
- (2) An inability to secure all required governmental agency approvals by the expiration date of the Board's order because of delays 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.**

The applicant's request is based on the first criterion, particularly the following circumstances and conditions.

- *The self-funding of the project was complicated by the procedures involved with corporate expansion, and slowed down the applicant's ability to proceed with construction,*

The applicant has explained the implications of the purchase of another company by the applicant's parent company, and the incorporation of a larger stock of existing and under-construction housing

- *Market conditions, particularly an oversupply of rental housing in the neighborhood, have made it difficult to secure financing;*

The affidavit of the Senior Vice President of Equity Residential explains that the project is part of a REIT and why a REIT's structure creates financing conditions unlike those of a typical LLC development. A REIT is an investment entity that self-finances its members' and member companies' developments. The affidavit attests to the applicant's weekly attempts to secure financing from the REIT's members and states that the requests were regularly rejected because the members determined that financing the project in what they considered to be an over-supplied market would not serve the members' investment objectives. The letter further states that because the requests and negative determinations were part of an internal financing approval process of the REIT's affiliated companies, the applicant is unable to file documentation of these actions

- *The applicant's preference to finalize its plans after the future has been determined for the adjacent District-owned property at 5th and I Streets, NW.*

The applicant has since clarified that while it would prefer to wait until the future of that District-owned parcel has been determined, the applicant would also be prepared to begin construction of the 455 I Street project immediately after it gets financing permission from its parent REIT.

COMMUNITY COMMENTS

ANC 6E voted to support the extension on February 4, 2014, but had not filed a letter at the time this OP report was filed