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MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: Jennifer Steingasser, Deputy Director Development Review & Historic Preservation

DATE: November 13, 2009

SUBJECT: Minor Modification and Extension Request – PUD Case 06-45A

Applicant:	DCHA+CEMI-NMI Highlands, LLC
Address:	N/A
Ward / ANC	Ward 8; ANC 8E
Project Summary:	Request for a time extension of two years and a minor modification to alter the mix of owner occupied and rental units to allow DHCD to apply for HOPE VI financing for an approved PUD for a housing development of 138 dwellings on the site of a demolished housing complex in Squares 6123, 6125 and 6126.
Date of Order Issuance:	December 28, 2007
Previous Extension:	N/A
Date of Order Expiration:	December 28, 2009

PHOTOS OF SITE:

2007 Aerial



2009 Aerial

EVALUATION OF THE REQUEST

Section 2408.10 allows for the extension of a PUD for “good case” shown upon the filing of a written request by the applicant before the expiration of the approval; provided that the Zoning Commission determines that the following requirements are met:

ZONING COMMISSION
District of Columbia

CASE NO. 06-45A
EXHIBIT NO. 7



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- (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 Certificate of Service, contained within the application and dated November 2, 2009, indicates that it was served on ANC 8E, the only party to the original application.

- (b) There is no substantial change in any of the material facts upon which the Zoning Commission based its original approval of the planned unit development that would undermine the commission's justification for approving the original PUD.**

The majority of the zoning of the subject property continues to be R-5-A, and the PUD related map amendment to R-5-B continues to permit a variety of housing types, including single-family detached, single-family semi-attached, row dwellings and apartments. One lot, Square 6126, Lot 65, was rezoned in 2008 to the R-3 district as a part of the Ward 8 rezoning from R-5-A, ZC Order 08-12. This one lot, located at the terminus of Foxhall Place, SE and containing 4,122 square feet in area, is insignificant in comparison to the more than seven acres of land contained within the original PUD, and would be more appropriately developed pursuant to the provisions of the R-3 district, should this PUD never be constructed. The 2006 Comprehensive Plan, which was adopted after the Commission's approval of the PUD application, supports infill housing on vacant sites, including mixed income housing where deteriorated apartments have been removed and new construction of owner-occupied single-family housing, consistent with the original application. Development of the surrounding area remains generally the same.

The subject application does include a minor modification request to increase the rental units affordable to households earning 60 percent or less of the Area Median Income (AMI) from 30 to 46, and to decrease the number of market rate homeownership units from 108 to 92. The total number of units would not be affected, and the change would allow the applicant to qualify for HOPE VI financing. Eligibility to receive this financing would allow the applicant to move forward on the construction of these units, with only a minor change to the housing mix. Therefore, there is no substantial change in any of the material facts upon which the Commission based its original approval.

- (c) The applicant demonstrates with substantial evidence that there is good cause for such extension, with substantial evidence of one or more of the following criteria:**
- (a) An inability to obtain sufficient project financing for the planned unit 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;**
 - (b) An inability to secure all required governmental agency approvals for a planned unit development by the expiration date of the planned unit development order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or**
 - (c) The existence of pending litigation or such other condition, circumstance or factor beyond the applicant's reasonable control which renders the applicant unable to comply with the time limits of the planned unit development order.**

The applicant has been unable to obtain sufficient financing as a result of the economic downturn and because of difficult topographical site conditions that have increased the costs for infrastructure improvements beyond the original site development estimates. The granting of this extension, together with the approval of the minor modification request to alter the rental/homeowner mix, would allow the applicant to pursue HOPE VI financing, and the time necessary to obtain such financing.

JS/sjm^{AICP}

Case Manager: Stephen J. Mordfin, AICP