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MEMORANDUM

TO: District of Columbia Zoning Commission
FROM: *JL for* Jennifer Steingasser, Deputy Director Development Review & Historic Preservation
DATE: March 2, 2015
SUBJECT: Extension Request – PUD Case 02-38F

Applicant	District of Columbia, Office of the Deputy Mayor for Planning and Economic Development
Address	1000 4th Street, S.W. (Square 542 Lot 822)
Ward / ANC	Ward 6, ANC 6D
Project Summary	The PUD includes eight buildings. Four have been completed and a fifth is under construction. A first-stage approval was granted February 23, 2015 for two of the remaining buildings (ZC 02-38E). The subject application is a first-stage extension request for the last and eighth building.
Original Order Effective Date	January 25, 2008 (02-38A)
Original 1 st Order Expiration	January 25, 2008 (02-38A)
Previous Extension	March 8, 2013 (02-38C)
Order Expiration Date	April 15, 2015 (02-38C)
Requested Order Expiration Date	April 15, 2017

EVALUATION OF THE EXTENSION REQUEST

Section 2407 11 of the Zoning Regulations states that “*The rights granted under such an approval are conditional, and shall be exercised within the specified time limit. Unexercised rights shall lapse at the end of the specified time periods, and the zoning shall revert to pre-existing conditions, unless a request to extend the validity of the approval is granted by the Commission in accordance with the standard and process for second-stage PUD extensions set forth in §§ 2408 10 through 2408 12.*”

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.

- (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 indicates that copies of the request were served on all parties to the PUD providing them with at least thirty days to respond.

- (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.

ZONING COMMISSION
District of Columbia

CASE NO. *02-38F*

EXHIBIT NO. *4*

Zoning Regulations and Comprehensive Plan

There have been no substantial changes to the material facts of the Zoning Regulations or the Comprehensive plan material facts since the adoption of the original first-stage approval. The ongoing Southwest Small Area Plan includes this site within its boundaries, but does not include any specific recommendations for this development.

Surrounding Development

A property to the southeast of the subject property, currently developed as a surface parking lot for apartments on 3rd Street, S W, is now proposed to be replaced with a 110-foot high mixed-use building with 174 apartment units, ground floor retail and below-grade parking. That building was approved as a part of a PUD (ZC 12-14/12-14A) with the knowledge that the Northeast Building was proposed and would complement the redevelopment that is currently taking place within the Waterfront PUD around the Waterfront Metrorail station, including the building that is the subject of this application, and would not undermine the Commission's justification for approving the original PUD.

(c) The applicant demonstrates with substantial evidence that there is good cause for such extension, as provided in § 2408.11.

Section 2408.11 sets out the conditions of good cause as

- (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, the Department of Planning and Economic Development (DMPED), is a District government agency and therefore obligated to engage the community in its proposals, which can result in delays different from those experienced by the private sector. DMPED spent the better part of the last two years attempting to create a development proposal that would have incorporated the new Southwest Library into the Northeast Building. However, as the community was not supportive of the idea DMPED then proceeded to propose to develop the site as approved in the first-stage PUD, and spent the next year working with the community on that proposal.

District government agencies must also engage in a competitive solicitation process, including public review and approval by the Mayor and City Council, something not required of the private sector. As a result additional time is necessary for the applicant to complete the process of filing for second-stage review.

OP recommends the Commission grant the requested two-year time extension.

JS/sjm^{AICP}
Case Manager Stephen J Mordfin, AICP

PHOTO OF SITE

