

MEMORANDUM

TO: District of Columbia Zoning Commission

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

DATE: September 2, 2016

SUBJECT: Extension Request – PUD Case 03-12T / 03-13T

Address:	Northern half of Square 769, at southeast corner of 2 nd and L Streets, SE
Applicant:	Capper Carrollsburg Venture, LLC and DC Housing Authority
Legal Description:	Square 769, Lot 22 (per case referral to OP)
Ward / ANC	Ward 6 / ANC 6B and 6D
Project Summary:	The second stage PUD would be a 110 foot high, 181,420 square foot, primarily market-rate residential building that would also include no less than 34 affordable dwelling units. The approval for an office building in Square 882, which was part of the original second stage order and previous extensions, expired in 2015.
Order Date:	Effective August 14, 2009
Previous Extensions:	Order 03-12L/03-13L (effective 09.26.11) and Order 03-12P/03-133P (effective 09.30.13)
Order Expiration Date:	August 14, 2015 deadline for filing Square 769 residential building permit (filed prior to required date); August 14, 2015 deadline for filing for Square 882 office building permit (not filed; that portion of PUD has expired); August 14, 2016 deadline for starting construction on residential building in northern portion of Square 769 (6 month extension requested).
OP Recommendation	Approve request for extension, with building construction to begin no later than February 14, 2017.



Figure 1. Site (outlined in red) with Canal Park to right

EVALUATION OF THE EXTENSION REQUEST

Subtitle Z, § 705.1

The extension of a PUD is allowed for “good cause” 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 submitted to the Zoning Commission is dated August 11, 2016 and has been in the public record since filing.

- (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 Regulations:

The second stage PUD was approved under the 1958 zoning regulations. The extension request is being reviewed under the 2016 Zoning Regulations. The criteria under which an extension request is reviewed are the same under both sets of regulations. However, the permitted number of time extensions requests has changed. Under Subtitle Z, § 705.5, no more than two extensions may be requested for a PUD and the second extension may be approved for no more than one year.

The applicant has requested a waiver from Subtitle Z, § 705.5.

Comprehensive Plan:

There has been no substantial change to the Comprehensive Plan since the project’s approval that would affect the material facts upon which the project was approved.

Surrounding Development:

There has been substantial new development near the site since the project was approved. This development was anticipated at the time of the PUD’s approval and does not affect the material facts upon which the project was approved.

The applicant demonstrates with substantial evidence that there is good cause for such extension, as provided in Subtitle Y, § 705.2 (c)

One or more of the following criteria must be met:

- (1) 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;*

The applicant demonstrates that a commitment to financing the project has been secured, but notes that closing on some of the financing is dependent on the issuance of the final building construction permit.

The applicant secured an MOA from Live in America on September 25, 2015 for \$14 million of EB=5 preferred equity, of which \$12.5 million had been placed in escrow prior to the filing of the application for a PUD extension. The applicant states it has secured a letter of commitment from DHCD for financing the affordable housing component.

The application states the applicant anticipated that Citibank would issue a letter of commitment for the affordable component's construction debt by August 15 and for the market rate component by August 16; and that The Richman Group would execute a letter of commitment for tax credit equity by August 16. OP has asked the applicant for to provide additional information about the status of these commitments.

- (2) *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;*

The applicate notes that the approved residential building would be the first project to participate in the Canal Parks best management practices for shared stormwater. The applicant states that the execution of the multiparty covenants and licenses among the private and public sectors are taking longer than expected, but anticipates their finalization within the next month. A building permit cannot be issued until all the agreements are signed.

- (3) *or 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.*

N/A.

Subtitle Z Section 705.5

The size and complexity of the 33-acre Capper Carrollsborg Hope VI project, as well as the changed market conditions since the project was first approved, has led to several extension requests for individual components of the PUD. However, the applicant has demonstrated that the construction of the residential building in Square 769 appears to be imminent – awaiting only the finalization of stormwater sharing agreements to enable the closing on the remaining financing commitments. Given the public commitment to the return of Capper Carrollsborg's former residents, the requested waiver of the two-extension limit, to give the project an additional six months to begin construction, appears to be reasonable.

JS/slc
Stephen Cochran, Case Manager: