

**MEMORANDUM****TO:** District of Columbia Zoning Commission

2009 OCT 30 PM 3: 57

FROM: Jennifer Steingasser, Deputy Director Development Review & Historic Preservation**DATE:** October 30, 2009**SUBJECT:** Extension Request – PUD Case 04-14, Florida Rock Property, 100 Potomac Ave. SE. COMMISSION

District of Columbia

Applicant:	Florida Rock Properties Inc.	CASE NO. 04-14
Address:	100 Potomac Ave. SE., Squares 707, 708, 708E, 708S	EXHIBIT NO. 5
Ward / ANC	Ward 6; ANC 6A	
Project Summary:	The 5.8 acre site is located on the Anacostia River. The Commission gave Second Stage approval of a mixed use (residential, office, hotel, and retail) development with just over 1,100,000 sq.ft. (4.4 FAR), in buildings ranging in height from 92 – 130 feet, as well as significant open space including as a wide waterfront walkway. No change to the project is proposed in this application.	
Date of Order Issuance:	June 27, 2008	
Date of Order Expiration:	June 27, 2010	

PHOTOS OF SITE:

2005 aerial photos of site



2008 / 09 aerial photos of site



The photos compare the site in 2005 (shortly after the current application was filed) and 2008/9. They indicate that the use of the site has not altered significantly, and the site continues to be used as a concrete mixing operation. Recent development (notably the baseball stadium) has altered the character of the surrounding area; these changes were anticipated in the review of the FRP application

EVALUATION OF THE EXTENSION 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:

- (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 September 25, 2009 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:

There have been no changes to the zoning relevant to the Florida Rock Properties (FRP) site since the original approval. The underlying zoning of CG/W-2 remains in place, although the Zoning Commission approved PUD-related map amendment to C-3-C for this proposal

Comprehensive Plan:

This project was approved subsequent to Council adoption of the current, 2006 Comprehensive Plan. The Zoning Commission determined that the proposal was not inconsistent with the 2006 Plan, and there have been no amendments to the Plan which would impact that determination.

Surrounding Development:

Some development in the general area has proceeded, principally the construction of Diamond Teague Park directly to the east of the FRP site and portions of new mixed use developments to the north and east of the baseball stadium. Current market conditions have delayed some other previously anticipated projects in this neighborhood

District Department of Transportation (DDOT) work related to South Capitol Street continues, and the off-ramp from the Frederick Douglas Bridge to South Capitol Street, which had somewhat isolated this site, has been removed. A new at-grade, signalized intersection is in place at South Capitol Street and Potomac Avenue SE. Work on the replacement of the bridge, which will include its relocation further from the FRP site, is still in the design and approval stage

- (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 notes that it is their intention to proceed forward with development of this property - it is on the market for sale. The applicant further notes they are pursuing development partners, but that, due to the downturn in the market, no potential development partner could commit to a time frame mandated by the original PUD approval. The applicant includes in their submission an outline of their efforts to finance the site. The PUD extension is expected to facilitate the securing of financing and a development partner for this important waterfront project. DDOT has also indicated to OP their support for this request as it will assist in their South Capitol Street project. They have been working collaboratively with the applicant, who has designed their site to accommodate our new South Capitol Street right-of-way and easement requirements.

JS/jl Joel Lawson, Case Manager