



MEMORANDUM

TO: District of Columbia Zoning Commission
FROM: *JL for* Jennifer Steingasser, Deputy Director Development Review & Historic Preservation
DATE: June 01, 2018
SUBJECT: Time Extension Request – PUD 06-04G – 1600 North Capitol Street, N.W.

Applicant:	Florida and Q Street LLC
Address:	1600 North Capitol Street, N.W.
Ward / ANC:	Ward 5, ANC 5E
Project Summary:	As modified under Orders 06-04C and -04E, construction of a mixed-use development consisting of 85 to 95 residential units and 5,000 sf ground-floor retail use in the cellar, below-grade parking for about 41 vehicles; at 4.5 FAR and maximum building height of 72 feet 4ins.
Order Effective Date:	June 15, 2007
Previous Extensions:	4
Order Expiration Date:	June 15, 2018
OP Recommendation	The applicant originally requested a two-year extension. It is OP’s understanding that the applicant has since agreed to a one-year extension. OP therefore recommends approval of a one-year extension request.

PHOTOS OF SITE:



Aerial Photo (2015)



Existing Site Condition (2018)

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 April 30, 2018 and has been in the public record since filing. The Certificate of Service is attached to the request and identifies that the party, ANC 5E was also served electronically on April 30, 2018.

- (a) **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.**

1) Zoning Regulations: Since the approval of the original application under the 1958 Zoning Regulations, amendments (ZR 16) were made, effective September 6, 2016. Previous extension requests for this site were made under the former, ZR-58 regulations. The current extension request is being reviewed under the procedural requirements of the 2016 Zoning Regulations. The criteria under which an extension request is reviewed are the same under both sets of regulations, but 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.

2) Comprehensive Plan: No new plans have been adopted affecting the subject property since the original approval of the PUD in June 2007, and the 2010 Comprehensive Plan update did not change policies for this site. Proposed revisions to the Comprehensive Plan are currently under review.

3) Surrounding Development: New development projects have been proposed in the immediate vicinity and are under construction, including along Florida Avenue to the east of the project (50 Florida Avenue, N.E. (PUD 12-02)), and 10 Florida Avenue, N.W. (across from the subject site) has been renovated as a multifamily-mixed-use building. Further, adjacent to that project, across the alley at 4 Q Street, the District property is proposed for housing development in the near future. The surrounding neighborhood is undergoing change with respect to new development and re-use of renovated structures.

- (b) **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;*

- (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; or*
- (3) 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.*

Subtitle Z Section 705.5

The initial project's financing, as well as changed market conditions since the project was first approved, led to several prior extension requests for this PUD. At this time, the permitting of the project has been stalled due to the site's environmental conditions based on its former gas station use. The applicant contends that agreements with the former owner of the site to clean up of site did not proceed as anticipated, creating a circumstance whereby the applicant was unable to meet the previous time limits of development set by the order.

The applicant is now working directly with DOEE (as indicated by the applicant's submission – page 4, 5) to ensure full compliance of the current remediation plan. It is anticipated that the process including field work and DOEE's approval of the work would require approximately six months.

Given the time commitment required for the site's environmental remediation, providing the project with additional time to satisfy all environmental requirements prior to construction is reasonable.

Therefore, OP recommends the requested extension for one year, with construction to start no later than June 15, 2019.

JS/kt