

MEMORANDUM

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TO: District of Columbia Zoning Commission

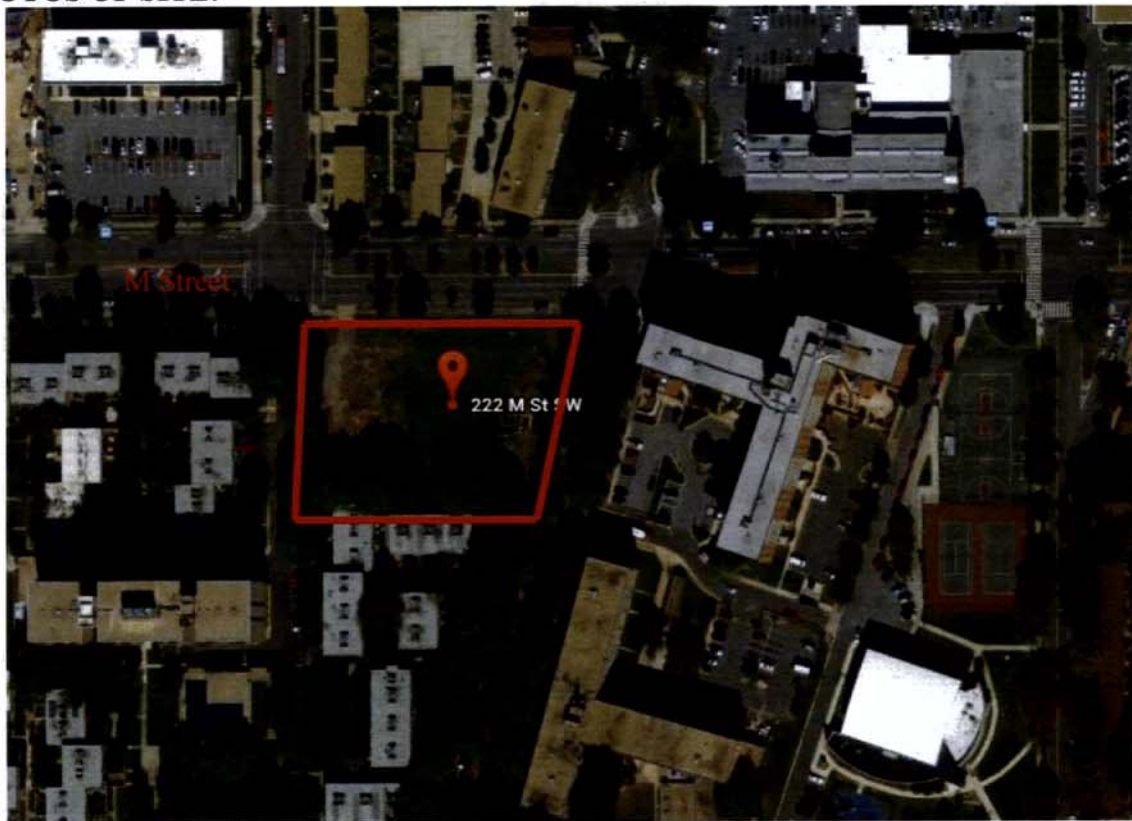
FROM: *JL for* Jennifer Steingasser, Deputy Director Development Review & Historic Preservation

DATE: January 2, 2015

SUBJECT: Extension Request – PUD Case # 11-13A, Time Extension, First Request

Applicant:	Trammel Crow Company
Address:	222 M Street SW
Ward / ANC	Ward 6, ANC 6D
Project Summary:	Consolidated PUD for a 110-foot mixed-use building with 217 residential apartments, a new sanctuary for St. Matthew's Church, a community center and underground parking and loading.
Order Effective Date:	January 15, 2013
Previous Extension:	None
Order Expiration Date:	January 14, 2015

PHOTOS OF SITE:



Current Aerial of the Property, Google 2014.



Aerial from OP's Feb. 24, 2012 Final Report

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 November 20, 2014 and as shown on the Certificate of Service provided by the Applicant, affected parties have been served.

- (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 development of the Southwest Neighborhood Plan (“Plan”) has been underway since mid-2013. A “Draft” version of the Plan is available (dated November 21, 2014) and is currently under public review, with a Mayoral Hearing currently scheduled for the end of January 2015. The Plan highlights the core concepts of Southwest, which include its Modernist character; greenery and green spaces (“green oasis”); arts and culture; a Town Center along 4th Street SW;

optimization of the District's properties; and a focus on strengthening connections. The Property is within the "secondary area" of focus, and there is no site specific guidance for the Property. It appears the project does not preclude the guidance of the Plan, as it is outside the Town Center along 4th Street S.W.; includes a substantial (~14,000 sf), publically-accessible courtyard, greenery and trees off of Delaware Avenue, as well as a landscaped setback along M Street; and is in keeping with the Modernist character of the area, which includes a mix of low-scale and tall buildings. Also of note, the Plan recommends the future land use map categories for the adjacent properties to the north and east (Greenleaf and Greenleaf Senior Center) be changed from moderate density and medium density residential to Mixed High Density Residential and Low Density Commercial. Other than the Plan, there has been no other substantial change in material facts since the Zoning Commission approved the PUD and Map Amendment.

(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 states the good cause standard of Section 2408.11 (b) is satisfied since the Applicant has been unable to secure all necessary governmental approvals due to delays in governmental approval processes related to the confluence of two factors: 1) The appeal of the Order by Michael Kruse; and 2) Delays in the completion of the 17th Street levee (flood barrier), which affect the flood zone categorization for the Property.

The Applicant states that work in pursuit of the building permit associated with Order No 11-13 issued on July 6, 2012 could not proceed during the 6-month appeal of Order No 11-13 from July 2012 to January 15, 2013, when the appeal was dismissed. The time delay caused by the appeal process relates to good cause Section 2408.11(c), the existence of pending litigation, which rendered the Applicant unable to act on ZC Order No. 11-13.

The Applicant also states there have been delays in the 17th Street levee (the "levee") project. The levee project is important as it affects the FEMA designation of the Property. Currently, post-Hurricane Katrina, the Property is designated as "Zone A" which requires a certain elevation of residential units above the flood plain, flooding fortification measures, as well as flood insurance. With the construction of the levee, the "Zone A" designation will be removed from the Property.

The PUD was designed without the "Zone A" designation flood measures, as the Applicant reasonably anticipated the completion of the levee and FEMA map be changed prior to the

building permit process. Levee project delays out of the Applicant's control are evidenced by the materials provided by the Applicant which cite the following: The levee was to be completed in the summer of 2011, the U S Army Corp of Engineers release of a contractor hired to perform the work in April 2013, at which time the levee work was 75%-80% completed; completion of the levee construction by late October 2014, and pending testing and certification that may not reasonably occur prior to the Spring 2016

In consideration of the above evidence, OP recommends approval of the PUD time extension for ZC Order #11-13A from January 14, 2015 to January 14, 2017

JS/mcr
Megan Rappolt, Case Manager