

## MEMORANDUM

**TO:** District of Columbia Zoning Commission

**FROM:** *JL for* Jennifer Steingasser, Deputy Director

**DATE:** April 14, 2017

**SUBJECT:** ZC #02-38G – Extension Request for a First Stage PUD and Related Map Amendment

### **I. BACKGROUND**

Address	375 M Street, SW and 425 M Street, SW	
Applicant	FC Waterfront Member, LLC (Forest City)	
Legal Description	Square 542, Lots 825 and 826	
Ward / ANC	Ward 6 / ANC 6D	
Project Summary	The Commission approved a mixed use development including the two subject office buildings and six other buildings with a mix of office, residential and retail (02-38A). The subject sites were granted first stage PUD approval, and the rest of the project a mix of first stage and consolidated approval. The total approved floor area in the subject buildings is 661,700 square feet. The PUD-related zone is C-3-C.	
Original Order Date	November 19, 2007	
	425 M Street, SW	375 M Street, SW
Original Deadline for Submission of a Second Stage PUD	January 25, 2013	April 15, 2015
Previous Extensions	April 15, 2015 (02-38C) April 15, 2017 (02-38E)	April 15, 2017 (02-38E)
OP Recommendation	Approval of a two year time extension for both 425 M Street, SW and 375 M Street, SW, such that second stage PUD applications must be submitted by April 15, 2019.	



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**Existing Site Condition – October 2016**

## II. EVALUATION OF THE EXTENSION REQUEST

### **Subtitle Z, § 705.2**

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 March 6, 2017 and has been in the public record since filing. The application contains a statement that it was served on all parties to the original proceedings.

- (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 consolidated 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. In this case the applicant requests a waiver to the two-extension limit. The applicant notes that a first stage modification and second stage PUD application is forthcoming for the two buildings.

### **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.

The Southwest Small Area Plan (SAP), adopted by Council on June 2, 2015, includes this site within its boundaries, and recommends that the developer have the flexibility to seek a PUD modification to change the primary use from office to residential (SAP, p. 52). The applicant has recently submitted an application (ZC #02-38I), which requests that change.

### **Surrounding Development**

Development in the neighborhood has continued since the original approval. Two apartment buildings are under construction immediately to the west and immediately to the east of the subject site. Within the Waterfront project, the northwest building received second stage PUD approval (02-38D), and its construction is now nearly complete. Additional development continues elsewhere in the neighborhood, including to the east on M Street and to the west at the Wharf. The development in the area was non unanticipated at the time of the original approval and does not impact the Commission’s original justifications for approval.

**(c) The applicant demonstrates with substantial evidence one (1) or more of the following criteria:**

- (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;**

In spite of diligent efforts, the applicant has not been successful to date in acquiring project financing. According to the applicant, financing would only be available if the building were to be 50% pre-leased. To date, no lead tenants have been located for the building. Please refer to Exhibit 1F. An affidavit has been submitted documenting the applicant's attempts to finance and market the project. The applicant also includes an office market study documenting the lack of demand for office space in the District and specifically the Southwest sub-market. Efforts are being continued to secure project financing and an additional two years are requested to successfully attain such financing for eventual development of the subject site. The owner has also now submitted a Stage 2 PUD application - Zoning Commission Case 02-38I. That application includes a request to amend the Stage 1 PUD to modify the primary use from office to residential for both buildings.

- (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;**

N/A

- (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.**

N/A

**Subtitle Z, § 705.5**

This section normally limits projects to two extensions, and limits the second extension to one year. The applicant requests a waiver to this provision to allow a two-year extension, the third extension for 425 M Street and the second for 375 M Street. Given the continued inability to obtain project financing and the current application to modify the existing Stage 1 approval and seek Stage 2 approval for both sites, OP has no objection to the waiver.