

November 12, 2015

VIA HAND DELIVERY

Mr. Anthony J. Hood
Chairperson
District of Columbia Zoning Commission
441 4th Street, NW
Suite 210-S
Washington, DC 20001

Re: ZC Case No. 11-08 and 11-08A: Request to Extend Period to Start Construction
for Consolidated PUD (Square 2578, Lot 26) ("Property")

Dear Chairperson Hood and Members of the Commission:

MCREF Embassy LLC ("Applicant"), owner of the above-referenced Property, hereby requests a one-year extension of the period in which the Applicant must start construction on the Planned Unit Development ("PUD"). The PUD was initially approved pursuant to Zoning Commission Order No. 11-08 and a one-year extension was granted pursuant to Order No. 11-08A (orders attached as Exhibit A), allowing the Applicant additional time to file for its building permit. The Decision in Order No. 11-08A requires that construction start on the PUD by March 9, 2016. Since the approval of Case No. 11-08A, the Property has been sold to the Applicant and the Applicant requires additional time to start construction. Accordingly, it seeks an extension of this condition through March 9, 2017.

A. Authority

The Commission has the authority to extend the period by which construction must start under Section 2408.10 of the Zoning Regulations for good cause shown. Section 2408.10 delineates the standard by which the Commission should evaluate an extension request: (1) the request must be served on all parties to the application; (2) the Applicant must demonstrate that there is no substantial change in any of the material facts upon which the Commission based its original approval of the PUD that would undermine the justification of the original approval; and (3) the Applicant can demonstrate, with substantial evidence, that there is good cause for such extension.

B. Initial Approval

The Zoning Commission approved the Il Palazzo PUD after a public meeting on October 27, 2011. The approved project provided for the renovation and conversion of the former Italian Embassy building into a residential building and the construction of a residential addition. The overall project included 110-135 residential units, 60-90 parking spaces, a gross floor area of 125,397 square feet, and a maximum height of 90 feet. The Zoning Commission granted a one-year extension, through March 9, 2015, to file an application for a building permit in Case No. 11-08A. A building permit application was filed on April 30, 2014, well within the time period granted in Case No. 11-08A. The Property was subsequently sold to MCREF on June 23, 2015. Since purchasing the Property, MCREF has been working closely with its architects and its construction team to begin work under the building permit; however, it needs additional time before it can start construction.

C. Satisfaction of Standard

As noted above, there is a three-pronged standard that the Applicant must satisfy in order to justify an extension of the PUD approval. The Applicant satisfies this standard and the requested one-year extension is well justified by the facts.

1. The extension request is served on all parties to the application by the applicant and all parties are allowed thirty days to respond.

This request is being served on the ANC, the only party to the PUD application, on the same day as it is filed with the Zoning Commission. The Applicant asks that the Commission not place this request on its meeting agenda until the thirty day period has lapsed.

2. There is no substantial change in any of the material facts upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for approving the original PUD.

There has been no change in the material facts upon which the Zoning Commission based its approval of this PUD. The Commission concluded that the project and the PUD-related map amendment promoted the orderly development of the Property in conformity with the zone plan. Specifically, it noted that the Applicant was "not seeking a significant increase in density but seeks the flexibility to redistribute density on the site. Given the significant amount and quality of the project amenities and public benefits included in this PUD and related Zoning Map amendment application, the Commission finds that the development incentives to be granted for the project and the related rezoning are appropriate."

These facts remain the same – the Property did not gain a significant amount of density with the approved PUD, particularly in light of the amenities and benefits proffered. The PUD-related Map Amendment rezones only the western half of the Property to the R-5-D Zone

District, as the eastern half of the Property is already located in the R-5-D Zone District. A PUD in the R-5-D Zone District allows a 3.5 FAR; however, the project has a FAR of 2.88. The primary rationale for the PUD was to redistribute the height and density permitted on the eastern parcel, where the historic resource is located, to the western parcel, where development can be better accommodated. The basis upon which the PUD was initially approved remains unchanged – the PUD still encourages the adaptive reuse of a historic resource and reflects the appropriate apportionment of density along a major corridor in the District.

The approved height and density remain consistent with the community; there has not been a change in the character of the community since the Zoning Commission approval in 2011. More specifically, there have neither been any significant zoning changes in the area nor have there been changes to the Comprehensive Plan designation for the Property or those properties in the vicinity of the project.

3. The applicant demonstrates with substantial evidence that there is good cause for such extension.

The Applicant has owned the Property for approximately four months. Since the initial time extension approval, the Property was sold to MCREF Embassy LLC, an affiliated company of Mill Creek Development and completely independent of all previous ownership entities. Since purchasing the Property four months ago, the Applicant has worked diligently to put a project team in place and to refine the project plans to ensure the interior spaces optimize both the residents' living environments and preservation of the historic resource. To that end, the Applicant has retained the project architects, Davis Carter Scott, and has been working with them to reconfigure the unit layouts to improve the overall residential experience through more efficient and effective floorplans. This work began well before the Applicant closed on the Property but it only finalized the schematic design approximately two months ago. The team is now coordinating its construction documents to amend the building permit to in early 2016.

Another key member of the project team is the general contractor ("GC"). The Applicant is introducing a new GC, which has caused some delay in the construction of the project. The Applicant will be using Mill Creek Construction as the GC, a subsidiary entity of MCR. This change will provide numerous benefits to the development and construction of this community due to increased efficiencies between the developer and construction team. This switch has required additional time to allow for MCR and the GC to familiarize themselves with the project, including coordination with the design team, soliciting feedback from the subcontractor community and establishing a project budget. MCR has also undertaken its own surveys of the site to better inform its construction methods and ensure proper preservation of the historic resource. It expects that the first steps to starting construction will begin early next year when the Applicant will start the interior alteration of the landmark and prepare for abatement of the site. Despite the headway the Applicant has made in effectuating construction during the four months it has owned the Property, the Applicant will miss the deadline for beginning construction under its building permit by about six months.

Nevertheless, the Applicant has taken the following steps to get the project ready to start construction in a timely manner:

1. Retained Davis Carter Scott to refine the plans to accommodate more livable interior spaces. Davis Carter Scott has finalized its schematic design and is coordinating construction documents in order to amend the building permit in early 2016. The Applicant has also retained or hired additional members of the design team to finish the engineering and design of the property.
2. Hired MCR as the general contractor. MCR has undertaken surveys to determine its preferred construction plan, including a comprehensive laser scan of the Property, an environmental and geotechnical survey of the Property, a survey of the existing landscaping and retaining wall, as well as an inspection of the roof of the historic resource.
3. MCR has secured raze and demolition permits to begin interior alteration and hazardous material abatement on-site. Permit No. B1510743 was issued on July 29, 2015, and Permit No. B1510933 was issued on August 3, 2015, just one month after the Applicant closed on the Property. Work under these permits will begin in early 2016. See Exhibit B.
4. Met with representatives of the Festival Kitchen to coordinate construction of their kitchen space with construction of the project, using MCR as general contractor.

The new owner has made significant progress in moving this project forward in the short time that it has owned the Property. It has undertaken specific and costly actions in order to effectuate the PUD approval and has expended approximately \$750,000 between consultants and fees in preparing for the construction of the approved project. Affidavit of Sean Caldwell is attached as Exhibit C. It has made more than a good faith effort to meet the PUD deadline; in fact, it anticipates that it will only miss the deadline for starting construction by approximately six months. Despite the efforts that the Applicant has undertaken to move construction forward within the required period, the Applicant has not been able to secure all requisite government approvals to do so, namely the sheeting and shoring permits, public space permits, and amended building permits.

A. Conclusion

The Applicant has been diligent in its efforts to pursue the construction of the PUD; however, it will miss the imposed deadline by approximately six months. Nevertheless, it will begin work under the raze and demolition permits in early 2016. In the short time that it has owned the Property, it has made significant investments in the Property and in moving the project forward. Its investments in the development of the project attest to its commitment to

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effectuating PUD Order No. 11-08. Accordingly, we would ask that the Commission approve the one year extension request.

Sincerely,



Allison C. Prince



Christine A. Roddy

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was sent to the following by first-class mail or by hand delivery on November 12, 2015:

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