



MEMORANDUM

TO: District of Columbia Zoning Commission
FROM: Jennifer Steingasser, Deputy Director Development Review & Historic Preservation
DATE: December 9, 2011
SUBJECT: Extension Request – ZC 05-30B – 6000 New Hampshire Avenue NE

Applicant:	Holland and Knight on behalf of Stan Voudrie
Address:	6000 New Hampshire Avenue, NE
Ward / ANC	Ward 4, ANC 4B
Project Summary:	The approved PUD includes construction of 169 residential units, including 38 single-family detached dwellings; 73 townhomes and 58 condominium apartments. The approved FAR is 0.73 FAR, within an overall lot occupancy of 26.6%.
Order Effective Date:	Order 05-30 became effective January 19, 2007.
Previous Extension:	Yes. Order 05-30 A
Order Expiration Date:	Order 05-30 A became effective on March 13, 2009, with building permit to be filed no later than January 19, 2011, and construction to begin no later than January 19, 2012.

PHOTOS OF SITE:



Condition of Site 2007



Current Condition of Site 2011

EVALUATION OF THE EXTENSION REQUEST

Section 2408.10 allows for the extension of a PUD 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 12/02/2011 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 and its requested extension in 05-30A.**

Zoning Regulations:

No changes to the Zoning Regulations have occurred since the PUD's approval and subsequent extension approval in 2009 (05-30A).

Comprehensive Plan:

No changes to the Comprehensive Plan were made which would have an effect on the subject proposal.

Surrounding Development:

No near-by significant development project has been proposed or implemented that would in a substantive way impact the site.

- (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 submitted request cites that the project's delay has been beyond the applicant's reasonable control. The applicant has provided sufficient information to the record detailing the factors contributing to the delay, including:

- Cessation of work on the site in mid-2010 by a third party purchaser after permits were issued due to that party's inability to secure financing to move forward with the project. This party had total control of the site.
- Subsequent to the execution of a termination of agreement, the applicant regained control of the site in 2011 and began site engineering and planning, and meetings with the community, DCRA, DDOT and DDOE. Several of the required permit applications have since been filed to permit construction on its first phase, including for Square 3714, Lots 125, 126 and 127.

The applicant has demonstrated through the details provided of its permit applications that they are committed to the project's completion as planned. In addition, large sums have been invested in the permit applications in order to vest the approved PUD.

As explained by the applicant in a meeting with OP, the request for a one year extension would continue the permit process for Phases 2 and 3. In addition, the requested extension would ensure that during the permit review process there would be no ambiguity or concerns for DCRA due to the pending expiration of the approved extension (05-30A - January 19, 2012) and the permitting for the other phases of the project, which are anticipated subsequent to that date.

Therefore, **OP recommends approval of the one (1) year extension** request to ensure continuation of the permit process, based on the applicant's documented permit applications for the project's first phase, and on the fact that there have been no changes to the material facts upon which the original approval was granted.

JS/kt