

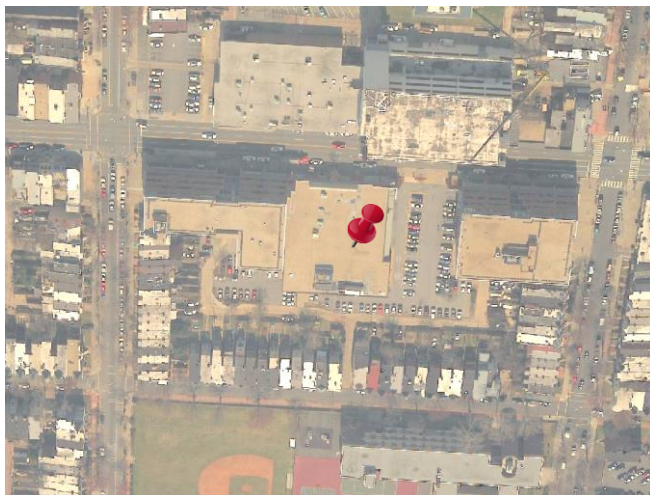


**MEMORANDUM**

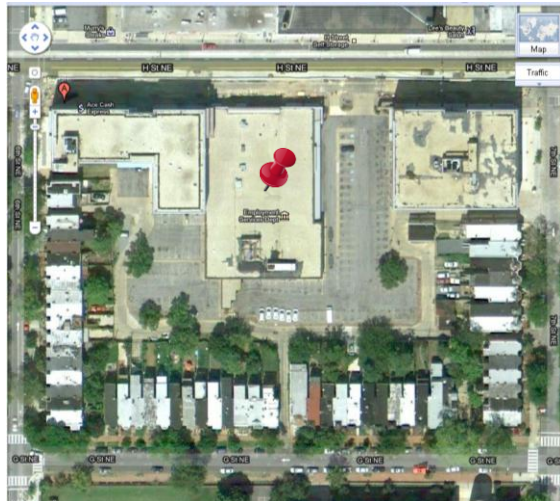
**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Jennifer Steingasser, Deputy Director Development Review & Historic Preservation  
**DATE:** May 10, 2011  
**SUBJECT:** Extension Request – BZA Case 17521-B, 601-645 H Street NE

Applicant:	601-645 H Street Ventures LLC
Address:	601-645 H Street NE
Ward / ANC	Ward 6; ANC 6
Project Summary:	The applicant has proposed to build a nine story mixed-use building on the site. The building will replace the existing one story building and parking lot in the center of the site, connecting the existing office buildings on each side. Board approval of several special exceptions and variance requests are included in the original order and included as information in this request.
Date of Order Issuance:	August 21, 2007
Previous Extension:	April 8, 2009 (Granted prior to §3130.6 that limits the extension to 1.)
Date of Order Expiration:	August 21, 2011

**PHOTO(S) OF SITE:**



**Aerial - Condition at original approval - 2007**



**Aerial - Existing Condition (Map data © 2011 Google)**

**EVALUATION OF THE EXTENSION REQUEST**

Section 3130.6 of the Zoning Regulations allows for the extension of a BZA approval for “good cause” shown upon the filing of a written request by the applicant before the expiration of the approval; provided that the BZA 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 BZA is dated March 29, 2011 and has been in the public record since filing. The record indicates that the request was served to all parties including the ANC 6C, ANC 6A, H Street Main Street, the 6<sup>th</sup> & H Street N.E. Neighborhood Association and the Stanton Park Neighborhood Association.

- (b) **There is no substantial change in any of the material facts upon which the Board based its original approval of the application that would undermine the Board's justification for approving the original application.**

**Zoning Regulations:**

The Zoning Regulations were amended to delete §773, the provision to require residential recreation space, subsequent to the relief granted in the original application. No **other substantial** change in zoning has occurred that would impact the material facts upon which the BZA based its original approval.

**Surrounding Development:**

There has been no change in circumstances and no new development nearby, that were not anticipated at the time the BZA approved the project, nor have there been any changes in circumstances that would impact the material facts upon which the BZA based its original approval of the project. The H Street, NE Development and Design Guidelines plan dated April, 2003 show Type I Sites along the H Street corridor designed or planned prior to the Board's initial approval of this project, including the subject site. The H Street NE corridor's current reconstruction between 3<sup>rd</sup> and 14<sup>th</sup> Street NE, in preparation for the streetcar, and other public space upgrades were planned in 2005 and thus considered at the time the approved project was being reviewed by the Board and other District agencies.

Other projects along the H Street corridor are in the entitlement or pre-construction stage, including the PUD projects at 3<sup>rd</sup> and H Street and the H Street Connection site (Zoning Commission Case No. 10-03). These projects, along with the applicant's BZA-approved project, were approved to be developed with uses, heights, and massing consistent with the H Street NE Development and Design Guidelines. The Board also considered these guidelines when this project was initially approved. None of these development impact the evidence presented and relied upon when the BZA determined that the applicant met its legal burden of proof for the zoning relief approved as part of the initial application.

Therefore, approval of the extension request would not adversely affect or materially change the basis of the Board's previous approval, as the original application was filed subsequent to the District's planning for the streetcar, additional density and uses, and on-going development and improvement of the H Street corridor.

**Proposed Development:**

The application indicates that no changes to the approved development are proposed as part of this extension request.

- (c) **The applicant demonstrates that there is good cause for such extension, with substantial evidence of one or more of the following criteria.**
- (a) **An inability to obtain sufficient project financing due to 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's sworn affidavit of March 25, 2011, is provided as Exhibit B of this request. The applicant has cited the impacts of the current economic climate, including an inability to obtain funding from lenders and investors. The affidavit also attests to the financiers and private equity groups which have been approached as potential funding sources over the past two years. A copy of the marketing package is also included with the request.

The affidavit's statements are consistent with explanations in other extension requests during the recent economic slowdown and do not seem unreasonable.

**CONCLUSION**

The Applicant's inability to secure financing and the weak economic conditions in the District constitutes the "good cause" required under § 3100.5. There have been no changes to the zone district classification applicable to the property affecting this site since the issuance of the Board's Order. The only change to the requirements of the Regulations from which relief was sought is that the provisions requiring residential recreation space have been deleted and relief from §773 is no longer required. Therefore, OP recommends an extension of the validity of the underlying Order until **August 21, 2013**.