

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Zoning Commission**



**ZONING COMMISSION ORDER NO. 06-29B**  
**CASE NO. 06-29B**  
**Washington Value Added I, LLC**  
**(Two-Year PUD Time Extension @ Square 72, Lot 74)**  
**May 23, 2011**

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (the “Commission”) was held on May 23, 2011. At the meeting, the Commission approved a request from Washington Value Added I LLC (“Applicant”) for a second time extension for an approved planned unit development (“PUD”) for property consisting of Lot 74 in Square 72 (the “Subject Property”) pursuant to Chapters 1 and 24 of the District of Columbia Zoning Regulations. (11 DCMR.)

**FINDINGS OF FACT**

1. By Z.C. Order No. 06-29, the Commission approved a PUD for the Subject Property and an application for a related amendment to the Zoning Map from the R-5-E Zone District to the CR Zone District for the Subject Property. The Subject Property consists of approximately 31,244 square feet of land area. The approved PUD includes plans to renovate and reconfigure the existing hotel and to extend the height of the building from 90 feet to 110 feet with a two-story addition. This expansion will increase the gross floor area to contain approximately 217,684 square feet and will have a density of 6.97 floor area ratio (“FAR”).
2. The order became effective on July 13, 2007, and pursuant to 11 DCMR § 2408.8, was to expire on July 13, 2009, unless an application for a building permit was filed before that date.
3. By Z.C. Order No. 06-29A, the Commission approved a request from the Applicant to extend the validity of the PUD approval for a period of two years such that an application must be filed for a building permit for the PUD no later than July 12, 2011, and construction must be started no later than July 12, 2012.
4. By letter dated and received by the Commission on April 18, 2011, the Applicant filed a second request to extend the validity of the PUD approval for a period of two years, such that an application must be filed for a building permit for the PUD no later than July 12, 2013, and construction must commence no later than July 12, 2014. The letter indicates that the project continues to experience delays beyond the Applicant’s control,

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specifically the lack of construction financing for the hospitality industry as a result of the persistent effects of the global economic recession.

5. Based on the Applicant's letter, supported by a sworn affidavit, the Commission finds that the debt and equity market over the past two years, coupled with poor hotel valuations, presented no opportunity to secure either debt or equity to finance the hotel expansion. The hotel asset was down nearly 40% from the original projections, seriously impacting overall asset value. Additionally, given the market uncertainty, interest in development projects such as this one was extremely low. Moreover, the Applicant's parent company, Carey Value Added, S.L. ("CVA"), also experienced its own share of decline during the recession. With investments in 14 hotels in the United States and Europe, the past two years were extremely difficult for the company. Since purchasing the hotel in 2008, CVA restructured the owning company and spent much of the past two years attempting to source capital to preserve the company's owned assets. In December 2010, the company was successful in recapitalizing and restructuring its debt. However, the hotel market in the District has still not fully recovered and thus the Applicant needs additional time in which to pursue the PUD.
6. Based on the information presented by the Applicant, the Commission finds that there have been no material changes to the application that would undermine the Commission's justification for approving the original PUD.
7. By report dated May 13, 2011, the Office of Planning ("OP") recommended that the Applicant's request for a second extension of the PUD validity period be granted. OP stated that the Applicant has been unable to obtain sufficient project funding for the proposed addition as a result of its inability to secure either debt or equity financing for the project, in addition to the hotel market's slow recovery as a result of the recent financial crisis. OP noted that these factors are beyond the Applicant's reasonable control. Based on the sworn affidavit provided by the Applicant, and the absence of any substantial change in the material facts upon which the Commission granted the original PUD application, OP concluded that there is substantial evidence demonstrating good cause for the requested extension.
8. The only parties to this application are Advisory Neighborhood Commission ("ANC") 2A, the West End Citizens Association ("WECA"), and the Foggy Bottom Association ("FBA"). The Applicant served a copy of its request on the parties. By letter dated May 20, 2011, ANC 2A submitted a letter to the record in support of the extension request, provided there are no material changes as presented in the original zoning case and order. WECA and FBA did not file responses to the record.

### **CONCLUSIONS OF LAW**

Pursuant to § 2408.10 of the Zoning Regulations, the Commission may extend the validity of a PUD approval for good cause shown upon a request made before the expiration of the approval. Section 2408.11 provides that an extension of the validity of a PUD may be granted by the Commission for good cause shown if an applicant has demonstrated with substantial evidence one or more of the following criteria: (a) an inability to obtain sufficient project financing for the PUD, 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 PUD by the expiration date of the PUD 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 or factor beyond the applicant's reasonable control which renders the applicant unable to comply with the time limits of the PUD order.

The Commission concludes the application complied with the notice requirements of 11 DCMR § 2408.10(a) by serving all parties with a copy of the application and allowing them 30 days to respond.

The Commission concludes there has been no substantial change in any material facts that would undermine the Commission's justification for approving the original PUD.

The Commission concludes the Applicant presented substantial evidence of good cause for the extension based on the criteria established by 11 DCMR § 2408.11(a), the Applicant's inability to obtain sufficient project financing for the PUD, following its diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond its control. The Commission concludes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations.

The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2001)), to give great weight to the affected ANC's recommendations. ANC 2A submitted a resolution in support of the requested extension. (Exhibit 6.) The Commission has given ANC 2A's recommendation great weight in approving this application.

The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to OP recommendations. OP submitted a report indicating that the Applicant meets the standards of § 2408.10 and 2408.11(a) of the Zoning Regulations, and therefore recommended that the Commission approve the requested extension. The Commission has given OP's recommendation great weight in approving this application.

Subsection 2408.12 of the Zoning Regulations provides that the Commission must hold a public hearing on a request for an extension of the validity of a PUD only if, in the determination of the Commission, there is a material factual conflict that has been generated by the parties to the PUD concerning any of the criteria set forth in § 2408.11. The Commission concludes a hearing is not necessary for this request since there are not any material factual conflicts generated by the parties concerning any of the criteria set forth in § 2408.11 of the Zoning Regulations.

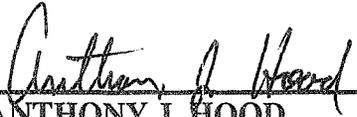
**DECISION**

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the application for a two-year time extension of the consolidated PUD and a related Zoning Map amendment from the R-5-E to the CR Zone District for Lot 74 in Square 72 approved in Zoning Commission Case No. 06-29, the validity of which was extended by Zoning Commission Order 06-29A. The project approved by the Commission shall be valid until July 12, 2013, within which time an application shall be filed for a building permit, as specified in § 2409.1 of the Zoning Regulations. Construction must commence no later than July 12, 2014.

In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §§ 2-1401.01 et seq. (Act), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On May 23, 2011, upon the motion of Chairman Hood, as seconded by Commissioner May, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Konrad W. Schlater, Peter G. May, Greg M. Selfridge, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028.8, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on July 22, 2011.

  
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ANTHONY J. HOOD  
CHAIRMAN  
ZONING COMMISSION

  
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JAMISON L. WEINBAUM  
DIRECTOR  
OFFICE OF ZONING

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of Zoning



Z.C. CASE NO.: 06-29B

JUL 20 2011

As Secretary to the Commission, I hereby certify that on \_\_\_\_\_ copies of this Z.C. Order No. 06-29B were mailed first class, postage prepaid or sent by inter-office government mail to the following:

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|---|---|
| 1. D.C. Register  | 6. Councilmember Jack Evans   |
| 2. Carolyn Brown, Esq.<br>Holland & Knight<br>2099 Pennsylvania Ave., N.W. #100<br>Washington, D.C. 20006 | 7. DDOT (Martin Parker)   |
| 3. ANC 2A<br>West End Branch Library<br>1101 24 <sup>th</sup> Street, N.W.<br>Washington, DC 20037        | 8. Melinda Bolling, Acting General Counsel<br>DCRA<br>1100 4 <sup>th</sup> Street, S.W.<br>Washington, DC 20024             |
| 4. Commissioner Rebecca Coder<br>ANC/SMD 2A02<br>2501 M Street, N.W.<br>Washington, DC 20037              | 9. Office of the Attorney General (Alan Bergstein)  |
| 5. Gottlieb Simon<br>ANC<br>1350 Pennsylvania Avenue, N.W.<br>Washington, D.C. 20004                      | 10. Foggy Bottom Association<br>P.O. Box 58087<br>Washington, DC 20037-8087   |
|   | 11. West End Citizens Association<br>c/o Barbara Kahlow<br>800 25 <sup>th</sup> Street, N.W. #704<br>Washington, D.C. 20037 |

ATTESTED BY:

A handwritten signature in cursive script, appearing to read "S. S. Schellin", is written over a horizontal line.

Sharon S. Schellin  
Secretary to the Zoning Commission  
Office of Zoning