

## MEMORANDUM

**TO:** District of Columbia Zoning Commission

**FROM:**  Joel Lawson, Associate Director Development Review

**DATE:** December 2, 2024

**SUBJECT:** ZC 14-12H – Request for a Fourth Extension, for a Period of Two Years, for a Consolidated Planned Unit Development and Related Zoning Map Amendment (South Building) at 1309 5th Street, NE

## **RECOMMENDATION**

The Office of Planning has no objection to the requested extension and recommends **approval** of the extension of the PUD for the South Building; to be valid to November 9, 2024.

Address:	1309 5 <sup>th</sup> Street, N.E.
Applicant:	EAJ 1309 5 <sup>th</sup> Street LLC (Edens)
Legal Description:	Square 3591, Lot 801, 802, 7004, 7005, 7011, 7012, 7013, 7034, 7036, 7037, and 7038
Ward/ANC	Ward 5/ANC 5D
Project Summary:	Construct an addition above the existing Union Market (South Building) that will include a movie theater and four stories of either office or residential uses.
Order Date:	ZC Order No. 14-12, valid to May 8, 2017
Previous Approvals – Modifications and Extensions:	14-12A: South Building – Two year time extension to May 9, 2019 14-12C: South Building - Modification of Consequence 14-12D: South Building – One year time extension to May 9, 2020, administratively extended to November 9, 2022 14-12E: North Building – Second Stage PUD Approved 14-12G: South Building – Two Year extension to November 9, 2024
Request	Two Year Time Extension of the Consolidated PUD for the South Building; to November 9, 2026. The application requests a waiver from the requirement that extensions be limited to 2, with the second extension limited to one year.



2014 google image



2022 google image

## **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 November 8, 2024 and has been in the public record since filing. The application contains a statement that it was served on ANC 5D.

- (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.**

### **Comprehensive Plan:**

There have been no substantial changes to the Comprehensive Plan Future Land Use Map or the Generalized Policy Map for the Florida Avenue Market area. The 2021 update to the Comp Plan includes new language about the importance of PDR land, but also notes that land designated for other uses on the FLUM, as is the case for this site, are anticipated to change use accordingly.

### **Zoning Regulations:**

The Consolidated PUD was approved under the 1958 Zoning Regulations, while previous extension requests have been reviewed under the current, 2016 Zoning Regulations. The criteria under which an extension request is reviewed have not changed. Amendments to the text, including new names for many of the zones, do not constitute substantive changes that would impact the original PUD approval.

### **Surrounding Development:**

Since this project was approved, several PUDs have been reviewed and approved by the Zoning Commission in the Florida Avenue Market Area with densities and heights consistent with what is anticipated in the Florida Avenue Market Small Area Plan.

- (c) The applicant demonstrates with substantial evidence that there is good cause for such extension, as provided in Subtitle Y, § 705.1 (c).**

One or more of the following criteria must be met:

- (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;*

The applicant cites post-pandemic challenges to the office market and difficulties in obtaining office financing and an equally challenging market for movie theatres; as well as the high cost of construction making the economics of the building infeasible at this time, despite good faith efforts to overcome these challenges.

The applicant further notes that many of the Benefits and Amenities proffered through the original PUD approval have already been delivered or are in the process of being delivered.