

**MEMORANDUM**

**TO:** District of Columbia Zoning Commission

**FROM:** *JL for* Jennifer Steingasser, Deputy Director Development Review & Historic Preservation

**DATE:** May 22, 2017

**SUBJECT:** **ZC 14-12A** – Request to Extend for a Period of Two Years the Application of EAJ 1309 5<sup>th</sup> Street LLC for a Consolidated and First-Stage Planned Unit Development and Related Zoning Map Amendment

|                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Address:               | 1309-1329 5 <sup>th</sup> Street, N.E.                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Applicant:             | EAJ 1309 5 <sup>th</sup> Street LLC (Edens)                                                                                                                                                                                                                                                                                                                                                                                                              |
| Legal Description:     | Square 3591, Lot 800                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Ward/ANC               | Ward 5/ANC 5D                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Project Summary:       | Construct an addition above the existing Union Market (South Building) that will include the Angelika Film Center and four stories of office or residential uses (112,000 square feet), and demolish and reconstruct the North Building to accommodate ground floor retail (35,000 square feet) and residential or office uses (290,000 square feet). The maximum height of both buildings would be 120 feet, and the maximum overall FAR would be 6.30. |
| Order Date:            | Effective May 8, 2015; valid to May 8, 2017                                                                                                                                                                                                                                                                                                                                                                                                              |
| Previous Extensions:   | None                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Order Expiration Date: | May 8, 2017 deadline for filing Building Permit for South Building;<br>May 8, 2019 deadline for beginning construction on South Building; and<br>May 8, 2020 deadline for filing second-stage PUD approval for North Building.                                                                                                                                                                                                                           |
| OP Recommendation      | Approve request for extension of the PUD for the South Building; to be valid to May 8, 2019.                                                                                                                                                                                                                                                                                                                                                             |



**Figure 1. Union Market South Building (Consolidated PUD)**

## **EVALUATION OF THE EXTENSION REQUEST**

### **Subtitle Z, § 705.1**

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 May 5, 2017, 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.**

### **Zoning Regulations:**

The second stage PUD was approved under the 1958 Zoning Regulations, while the extension request is being reviewed under the 2016 Zoning Regulations. The criteria under which an extension request is reviewed are the same under both sets of regulations.

### **Comprehensive Plan:**

There has been no substantial change to the Comprehensive Plan since the project’s approval that would affect the material facts upon which the project was approved.

### **Surrounding Development:**

Since this project was approved, several PUDs have been reviewed and approved by the Zoning Commission in the Florida Avenue Market Area. Although most of these projects have not begun construction, the approved densities are consistent with what is anticipated in the Florida Avenue Market Small Area Plan, with most developments proposing a maximum height of between 110-120 feet, and a maximum FAR of 8.0. Please see attached PUD vicinity map at the end of this report.

**The applicant demonstrates with substantial evidence that there is good cause for such extension, as provided in Subtitle Y, § 705.2 (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 has identified the difficulties in proceeding with the project as originally approved. Primarily, the original partner, Angelika Film Center, has reconsidered its needs and will no longer be occupying the South Building. As a result, the design of the South Building requires significant modifications to move forward with a different tenant/use. In addition, negotiations with two other development partners have faltered, resulting in delays and financial setbacks.

The loss of the theatre tenant was beyond the control of the applicant, and the applicant has since cultivated a partnership with a different development partner that has necessitated the redesign of the previously-approved project, and renegotiation of transaction documents, creating a delay in moving forward with the project.

The application notes that a modification and Second-Stage PUD application will be submitted “in the coming days.” However, the entirety of the project is likely to be completed more quickly than originally contemplated under the Order.

- (2) *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;*

There have not been delays in governmental agency approvals that would result in delays for the project.

- (3) *or 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.*

There is not pending litigation or other circumstances or factors beyond the applicant’s control that renders the applicant unable to comply with the time limits of the Planned Unit Development order.

### PUD Vicinity Map

