

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Matt Jesick, Case Manager
Joel Lawson, Associate Director Development Review

DATE: October 16, 2012

SUBJECT: Extension Request – BZA Case 17809-B, Uline Arena, 1130-1150 3rd Street, NE

Office of Planning (OP) Recommendation	Approval
Applicant	Jemal’s Uline, LLC
Address	1130-1150 3 rd Street, NE
Ward / ANC	Ward 6; ANC 6C
Project Summary	Convert and add to the existing buildings for office uses; Relief granted for parking and rooftop structures.
Date of Original Order Issuance	October 2, 2008
Date of Original Order Expiration	October 2, 2010
Date of 1 st Extension Expiration	October 2, 2012

AERIAL PHOTO



2011 Aerial Photo

EVALUATION OF THE EXTENSION REQUEST

Section 3130.6 of the Zoning Regulations allows for one 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. This application requests that a second extension be granted. Approval of a second extension is up to the discretion of the Board. OP does not object to a second extension in this case because the original approval and the first extension were both granted before the text of § 3130.6 became effective in 2010.

In order to grant an extension, the BZA must determine 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 August 31, 2012 and has been in the public record since filing. According to the applicant it has been served on all parties to the original application. §3130.9 further provides that a time extension filed at least 30 days prior to the expiration date shall toll the expiration date to allow the BZA to consider the request

- (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;**

Since the original application there have been no changes to the Zoning Regulations, Comprehensive Plan or surrounding neighborhood that would impact the Board’s justification for the approval.

- (c) **The applicant demonstrates that there is good cause for such extension, with substantial evidence of one or more of the following criteria.**
- (1) **An inability to obtain sufficient project financing due to economic and market conditions beyond the applicant’s reasonable control;**
 - (2) **An inability to secure all required governmental agency approvals by the expiration date of the Board’s order because of delays that are beyond the applicant’s reasonable control; or**
 - (3) **The existence of pending litigation or such other condition, circumstance, or factor beyond the applicant’s reasonable control.**

The application indicates that the original approval occurred just as the office real estate market entered into a downturn. Despite the problems with the market, submitted materials state that attempts were made to finance the project. According to the application, various banks did not approve financing that would have made the project viable. These conditions were beyond the applicant’s reasonable control, and OP therefore recommends approval of the two-year extension request.