



IN REPLY REFER TO:
NCPC File No. Z.C. 06-14

JAN 11 2007

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Zoning Commission for the
District of Columbia
2nd Floor, Suite 210 South
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Members of the Commission:

The National Capital Planning Commission, at its meeting on January 4, 2007 approved the enclosed action on the Planned Unit Development (PUD) for Washington Gateway at New York and Florida Avenues, Square 3584, Lots 23 and 811-813. Also enclosed, for your information, is a copy of the Staff Recommendation for the project.

Sincerely,

Patricia E. Gallagher, AICP
Executive Director

Enclosure

ZONING COMMISSION
District of Columbia

CASE NO. 06-14

EXHIBIT NO. 42

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DC OFFICE OF PLANNING
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COMMISSION ACTION

NCPC File No. Z.C. 06-14



**CONSOLIDATED PLANNED UNIT DEVELOPMENT FOR WASHINGTON
GATEWAY AT NEW YORK AND FLORIDA AVENUES,
LOTS 23 AND 811-813 IN SQUARE 3584
NORTHEAST WASHINGTON, DC**

Submitted by the Zoning Commission for the District of Columbia

January 4, 2007

Commission Action Requested by Applicant

Approval of report to the Zoning Commission for the District of Columbia pursuant to 40 U.S.C. § 8724(a) and D.C. Code § 2-1006(a).

Commission Action

The Commission:

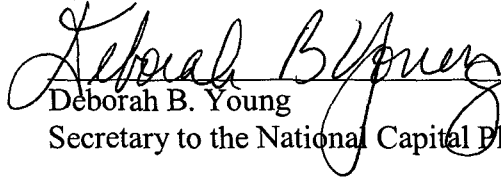
Concludes that:

- By using measuring points along the elevated approach to the New York Avenue Viaduct over the Metrorail tracks, the project is inconsistent with the Height of Buildings Act of 1910.
- The height of residential/hotel building raises security concerns for the Bureau of Alcohol, Tobacco, Firearms and Explosives Headquarters Building.
- By locating entrances to the parking garage and loading docks immediately adjacent to the intersection of New York and Florida Avenues, the proposed design of the hotel/residential building would adversely affect this significant gateway to the city and diminish opportunities for locating a significant commemorative work in this area.

Recommends that the Zoning Commission, pursuant to its procedures, reconsider its approval of this project in light of its application of the Height Act in other cases and of the Commission's concerns about how the Height Act was applied here, and require the applicant to

- Consult with the General Services Administration and the Bureau of Alcohol, Tobacco Firearms and Explosives to resolve security concerns

- Modify the building design of the residential/hotel building at the intersection of New York and Florida Avenues to improve the character of this important gateway and potential commemorative works site.


Deborah B. Young
Secretary to the National Capital Planning Commission

STAFF RECOMMENDATION

NCPC File No. Z.C. 06-14



CONSOLIDATED PLANNED UNIT DEVELOPMENT FOR WASHINGTON GATEWAY AT NEW YORK AND FLORIDA AVENUES, LOTS 23 AND 811-813 IN SQUARE 3584 NORTHEAST WASHINGTON, DC

Submitted By the Zoning Commission of the District of Columbia

December 28, 2006

Abstract

The Zoning Commission has referred to NCPC for review and comment a proposed action for a Consolidated Planned Unit Development (PUD) for a mixed-use project known as Washington Gateway on a 3.1 acre triangular site bounded by New York Avenue NE on the North, Florida Avenue NE on the South, and the right-of-way for Metrorail's Red Line on the east, just outside the northern boundary of the original L'Enfant City. The topography is generally flat through the center but slopes up sharply along the northeast edge where New York Avenue is elevated to cross the Metrorail tracks, and slopes down at the southeast edge where Florida Avenue is depressed to run under the Metrorail tracks. The site is zoned C-3-C. The project includes a building housing 351,698 GSF of residential and hotel space on the western portion of the site, a building housing 591,897 GSF of office space on the eastern portion of the site, and 7,000 GSF of retail along Florida Avenue. Entry to both buildings will be from a landscaped plaza in the center of the site.

Federal Interests

The identified federal interests relevant to this project include the intersection of New York and Florida Avenues, identified as a Prime Site in NCPC's Memorials and Museums Master Plan; Florida Avenue, the northern boundary of the original L'Enfant City; the Height of Buildings Act of 1910, the Headquarters of the Bureau of Alcohol, Tobacco, Firearms and Explosives, the New York Avenue Metrorail station, and the Metrorail right-of-way.

Commission Action Requested by Applicant

Approval of comments to the District of Columbia Zoning Commission pursuant to 40 U.S.C. § 8724(a) and D.C. Code § 2-1006(a).

Executive Director's Recommendation

The Commission:

Concludes that:

- By using measuring points along the elevated approach to the New York Avenue Viaduct over the Metrorail tracks, the project is inconsistent with the Height of Buildings Act of 1910.
- The height of residential/hotel building raises security concerns for the Bureau of Alcohol, Tobacco, Firearms and Explosives Headquarters Building.
- By locating entrances to the parking garage and loading docks immediately adjacent to the intersection of New York and Florida Avenues, the proposed design of the hotel/residential building would adversely affect this significant gateway to the city and diminish opportunities for locating a significant commemorative work in this area.

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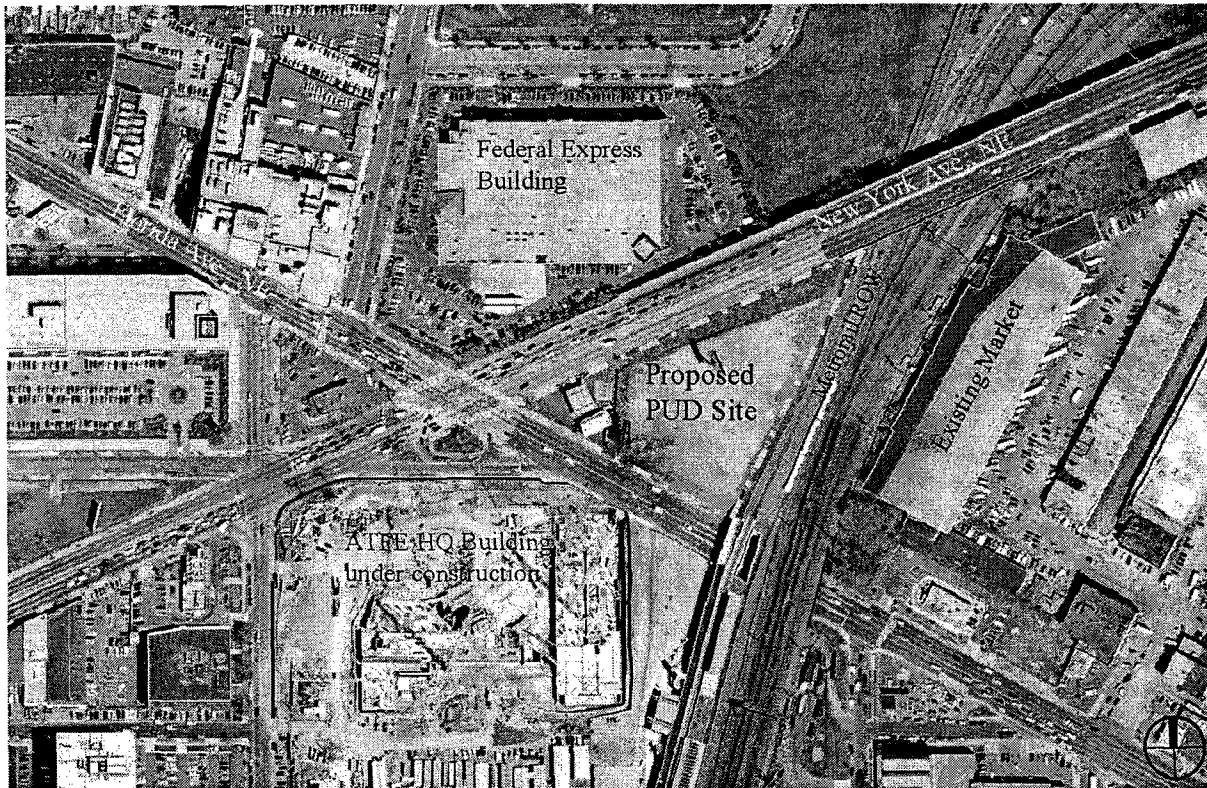
- Consult with the General Services Administration and the Bureau of Alcohol, Tobacco Firearms and Explosives to resolve security concerns
- Modify the building design of the residential/hotel building at the intersection of New York and Florida Avenues to improve the character of this important gateway and potential commemorative works site

* * *

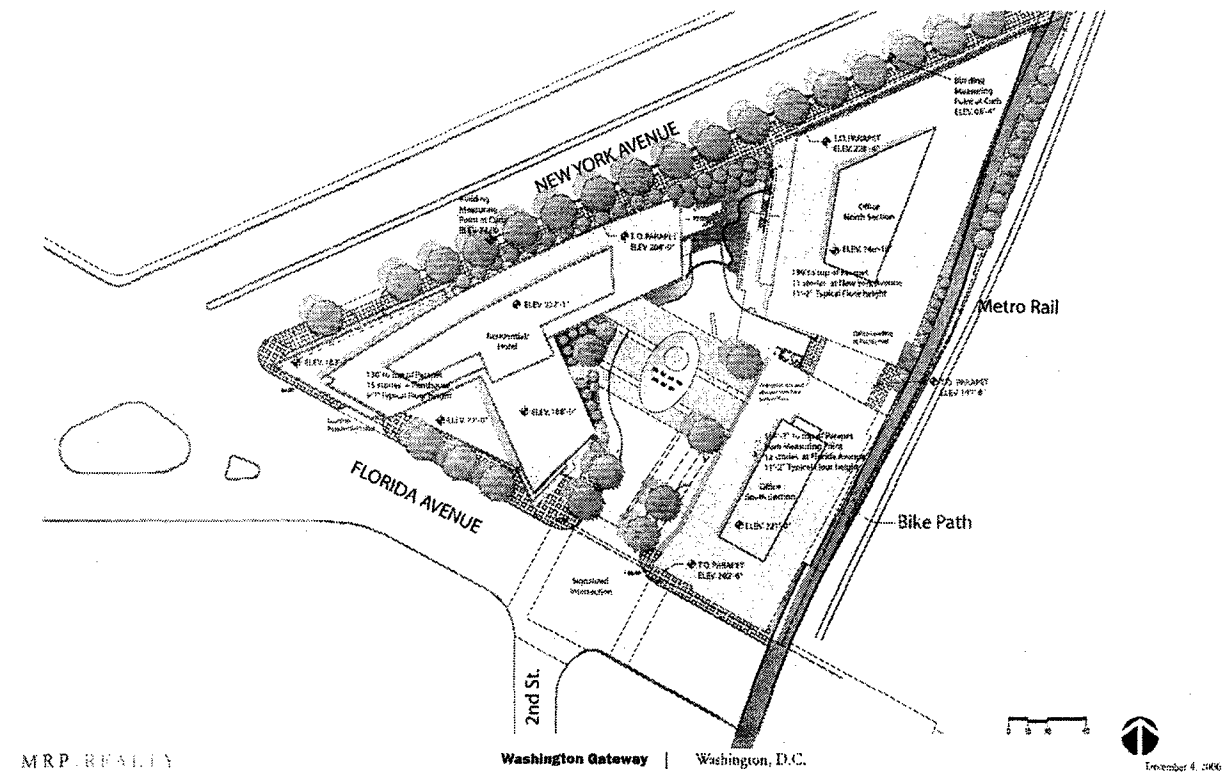
PROJECT DESCRIPTION

Site

The 3.1 acre triangular site abuts a manmade elevated approach to the New York Avenue Viaduct on the North, and is bounded by Florida Avenue NE on the South and the right-of-way for Metrorail's Red Line on the east, just outside the northern boundary of the original L'Enfant City. The topography is generally flat through the center but slopes up sharply along the northeast edge where the manmade approach (earthberm/embankment) to the New York Avenue Viaduct crossing over the Metrorail tracks is elevated, and slopes down at the southeast edge

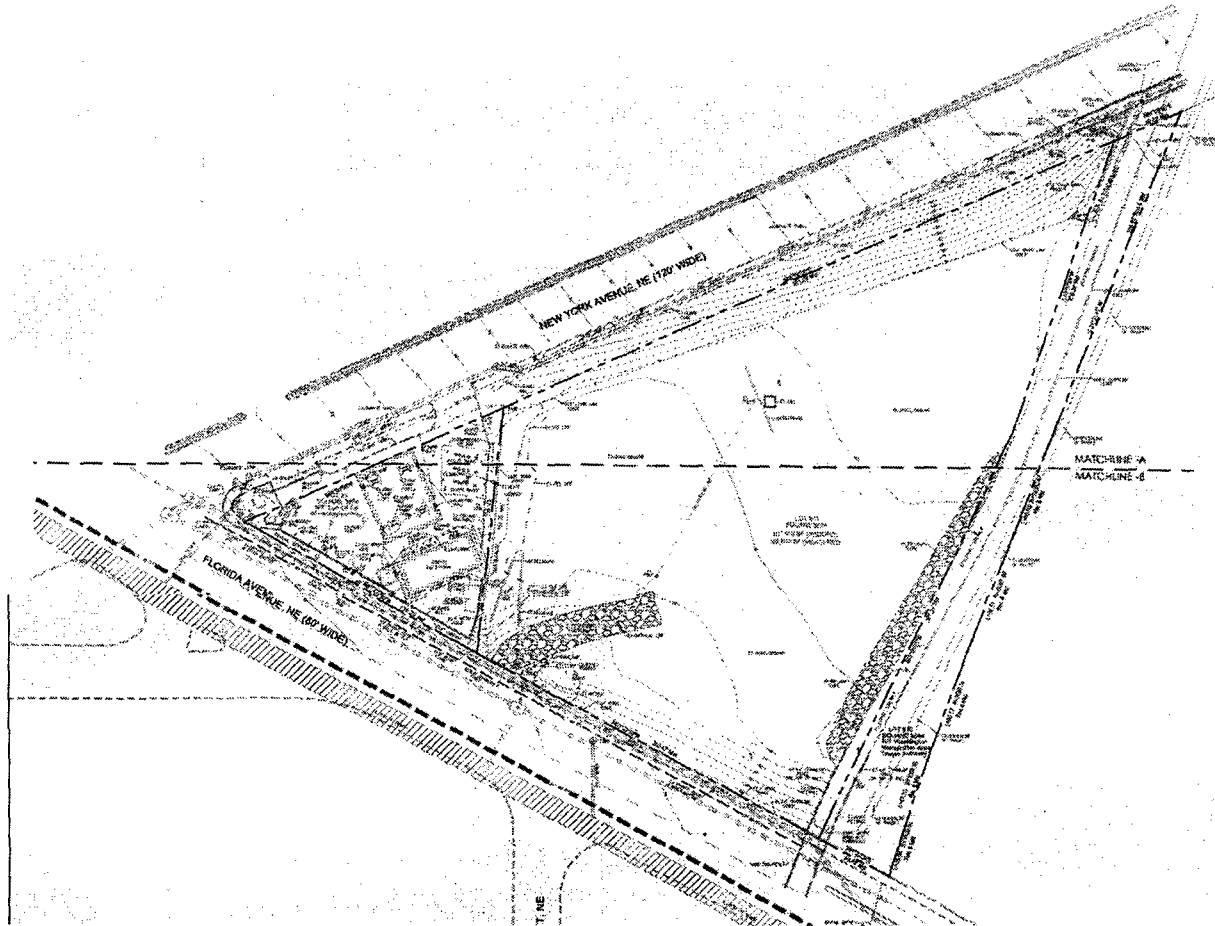


Site Context



Proposed Site Plan

where Florida Avenue is depressed to run under the Metrorail tracks. The site is zoned C-3-C and is currently occupied by a gas station and two “jumbotron” billboards. The site is one block north of the New York Avenue Metro Station, and is one of four intersecting parcels that form the Gateway to the L’Enfant City, within the North of Massachusetts Avenue (NoMA) redevelopment area. To the north are the FedEx distribution center and Pepco substation under construction. To the southwest the ATF HQ Building is under construction.



Existing Site Topography



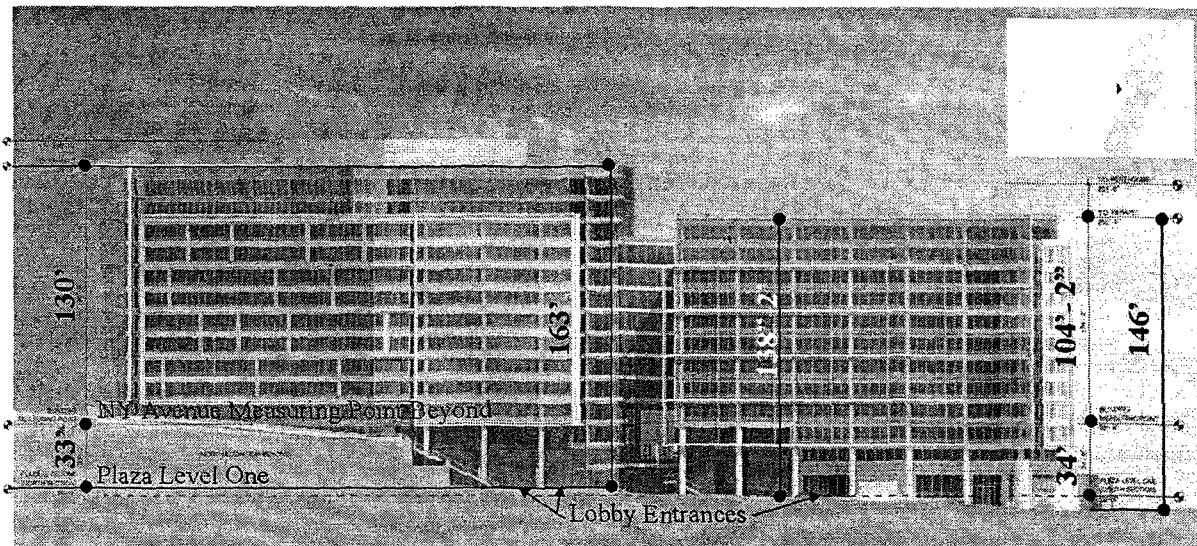
Existing Site Topography Looking North to Viaduct

Proposal

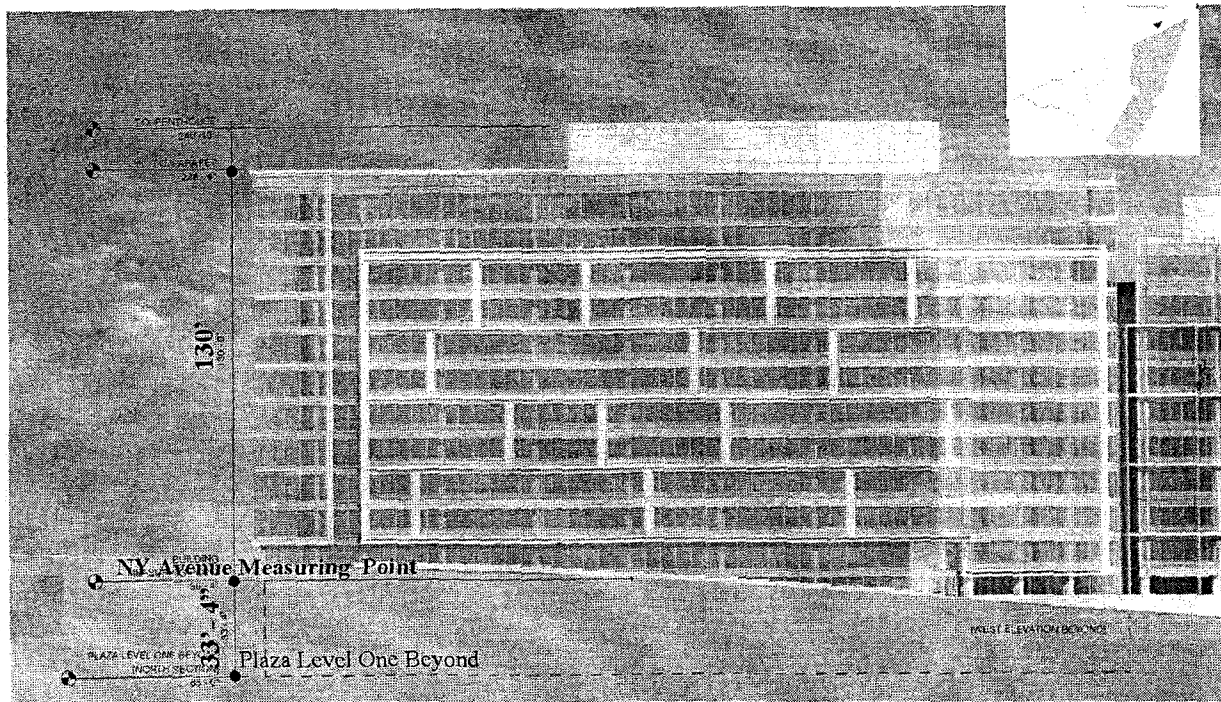
The applicant, MidAtlantic Realty Partners, (MRP) proposes mixed use development containing 231,255 GSF with 230 to 250 residential units and 120,443 GSF with 140 to 195 hotel rooms in a residential/hotel building adjacent to the intersecting avenues. The 591,897 GSF of office space would be contained in north and south wings of a structure stretching from New York to Florida Avenue. North and south wings would be connected by an inset mid-section containing a three-story enclosed atrium with office space above and an open truck loading area below. The 7,000 SF of two-story retail would face the central plaza (containing building lobbies and entrances), and Florida Avenue at the 2nd Street extended entrance to the plaza. Descriptions of building facades, heights, grade changes, and circulation between levels follow:

Office Building - faces the central plaza with north and south lobby entrances at grades approaching Florida Avenue, and backs to the elevated embankment to New York Avenue.

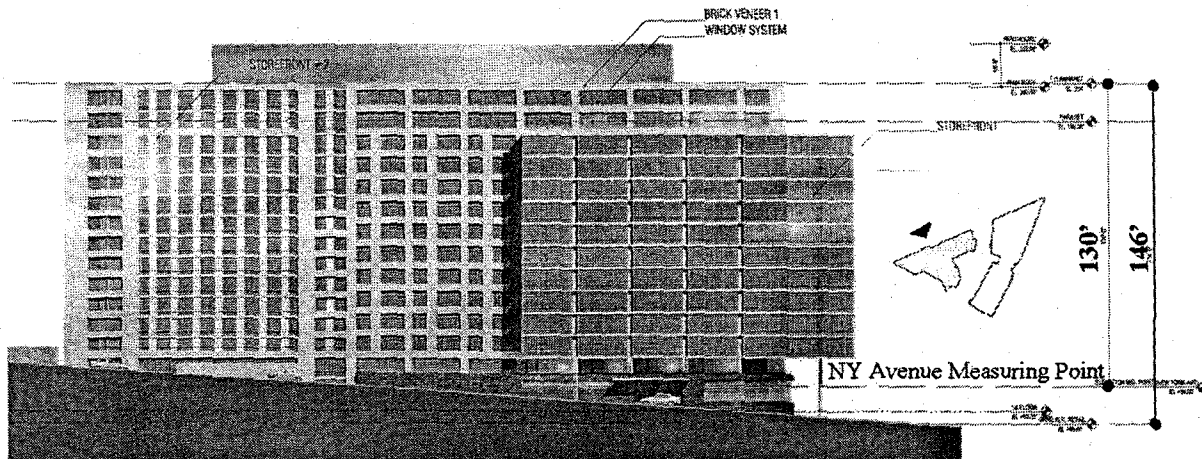
The north wing height would rise 130 feet above its measuring point on the elevated embankment approaching the New York Avenue viaduct. Once the site drops slopes down sharply and flattens out, the north wing would measure 163 feet above the grade at plaza level 1, where its lobby would be accessed. Access to loading and parking would occur as the plaza slopes further towards Florida Avenue. The south wing would measure 138 feet above grade at the plaza and 146 feet above grade at Florida Avenue. One level above at level 2, the MBT atrium would connect to the bike path. At the next level up, level 3, stairs from the plaza would approach the elevated sidewalk at New York Avenue, with no storefronts or entrances from the avenue. Along the New York Avenue street wall, linear elements would overlay the glazed curtain wall façade to create a vertical and horizontal pattern above the pedestrian level. The same patterned facade elements would occur on all other facades, but “rhythms at the scale of a single story”, which “occur near pedestrian activity”, occur only interior to the site.



Office Building West Facade @ Plaza



Office Building North Facade @ New York Avenue



Residential Hotel Building North Facade @ New York Avenue

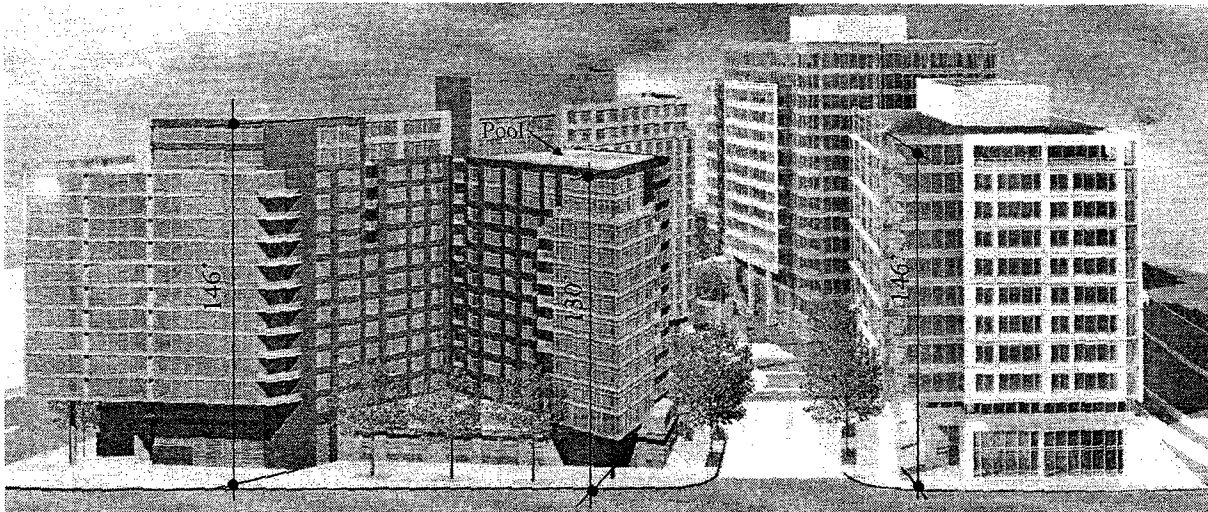
Residential/Hotel Building - faces the central plaza with lobby entrances at grades approaching Florida Avenue, and backs to the elevated embankment to New York Avenue.

Building height would measure 130 feet above grade from a measuring point on New York Avenue's elevated embankment and would step down to 130 feet above grade at Florida Avenue ground floor retail, and 146 feet from Florida Avenue to the rooftop on New York Avenue. The New York Avenue facade would curve away from the avenue towards the intersection. This facade would have linear elements similar to the office building on areas of curtain wall facade, and would introduce an earth-toned brick veneer on other areas. Drawings show a vertical hotel

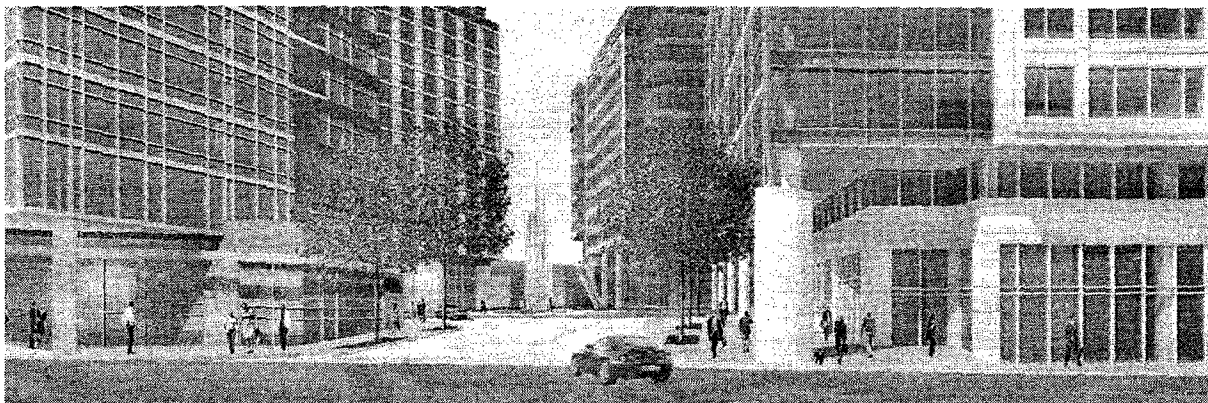
sign on the east facade perpendicular to New York Avenue, visible when approaching the District, where a brighter color brick veneer will wrap the building within the plaza. A double-height retail podium would angle away from Florida Avenue, wrapping the building at the plaza.

Pedestrian Access to Plaza - The primary plaza entrance, 2nd Street extended, will be from Florida Avenue. The plaza's interior street will provide space for pedestrian drop off and pick up at the office building and residential/hotel building lobby entrances.

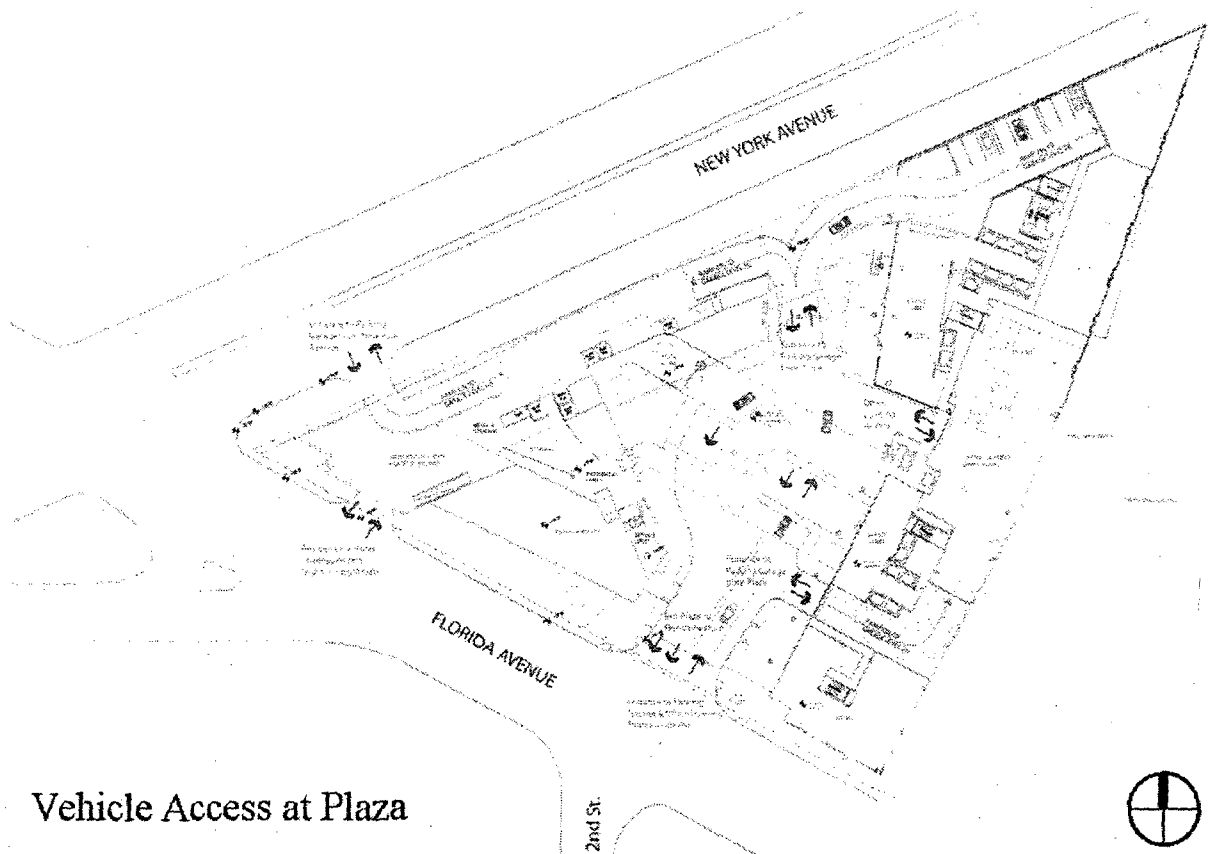
While special pavements for vehicular and pedestrian zones will surround a central water feature, sidewalks for pedestrians only will flank the special paving. At the northernmost end of the space a serpentine wall will screen parking garage access and define the edge of an intermediate terrace level accessed from the hotel's 2nd floor which will address the 24 feet of grade change between the plaza and New York Avenue. From there, a 24-foot high stair will connect to New York Avenue, where a wall will run between the two buildings to block access from the avenue above to the intermediate terrace and plaza below.



Florida Avenue Entrance to Plaza Viewed from Above



Florida Avenue Entrance to Plaza at Pedestrian Level



Vehicle Access at Plaza

Vehicle Access

Loading access would be from Florida Avenue and from the plaza. Access to residential/hotel loading would be directly from Florida Avenue near the intersecting avenues. Access to office loading would be through the plaza's pedestrian entrance. The loading entrance for the offices will be off the central plaza, under a terrace at the MBT level.

Entrances to underground parking garages will be from New York Avenue and from two separate entrances on opposite sides of the plaza. Additional access to residence parking would be from New York Avenue near the intersection. Of the 598 parking spaces provided, 159 would be for residences, 377 for offices, 59 for hotel, 9 for retail, and 23 for bikes.

The District Department of Transportation (DDOT) plans to reconfigure the geometry of the existing intersection to function as a "virtual circle", with Florida Avenue traffic changed to a one-way northbound operation between Second Street and New York Avenue. The applicant has agreed to install a traffic signal at the Florida Avenue Second Street intersection.

Amenities

Principal public benefits and project amenities would include:

- MBT improvements and Bike Trail/Pedestrian Atrium connection, including atrium, terrace, stairs, bike channel elevator
- Widening and enhancing sidewalks along Florida and New York Avenues
- Upgrades to central plaza paving and landscaping
- Stair connection between plaza and New York Avenue
- Green roof on residential/hotel building
- Bicycle locking station
- Reservation of approximately 6% of the residential space for housing affordable to households earning up to 80% of Area Median income (AMI), and

Relief Requested

- Residential recreation space relief, because the project would provide 6.2% for the total residential GFA in a zone where 10%? is required.
- Roof structure setback relief in two locations.

Relevant Conditions (Applicant) Proposed and (DDOT/DCOP/DCZC) Required

DCOP recommends the Zoning Commission approve this application, subject to the provision of information noted in their report, and subject to certain conditions, including the following:

- Applicant designed, funded and installed traffic signal at the intersection of Florida Avenue and 2nd Street, NE, in accordance with DDOT standards.
- Applicant designed and implemented transportation management plan including transportation demand management strategies proposed in the November 9, 2006 Transportation Impact Study.

PROJECT ANALYSIS

Both office and residential/hotel buildings have heights greater than appropriate for the context, and greater than allowed by the Height of Buildings Act of 1910. In addition, certain aspects of the design of the residential/hotel building would adversely affect this gateway to the city.

Measuring Points on New York Avenue

DCOP states in its report that “it is permissible to measure buildings fronting on this section of New York Avenue from the elevation of the Avenue’s earthen berm.”.

Staff does not agree that it is permissible to measure building heights from the New York Avenue side, believing that those building facades cannot be counted as building fronts because there are no entrances on those facades. The Cyril M. Harris’ “Dictionary of Architecture and Construction, Second Edition” defines “front” as “the most prominent face of a building and/or that face which contains the main entrance.” In fact, all building entrances and lobbies are located at the central plaza. The primary plaza entrance for pedestrians and vehicles will be where 2nd Street will be extended from Florida Avenue, not from New York Avenue. Retail storefronts at grade on 2nd Street extended will wrap onto Florida Avenue.

By using measuring points along the elevated embankment/approach to the New York Avenue Viaduct crossing the Metrorail tracks, the applicant has acted inconsistently with the intent of the Height of Buildings Act of 1910. In written testimony to the Zoning Commission regarding the Station Place PUD on H Street, J. Carter Brown said "I think it would be a very dangerous precedent for us to sit still for a developer using an additional 30 feet of highway overpass as a kind of credible ground plane from which the maximum allowable height of a building should be measured." In view of NCPC's endorsement of measuring building height at the lower of the natural or finished grade, staff has determined that using a measuring point at the top of the earthen berm is inconsistent with the intent of the Height of Buildings Act of 1910.

Both the DC Zoning Commission (DCZC) and NCPC have approved actions relating to the definitions of "natural grade". In its October 23, 2003 Final Rulemaking, the DCZC amended the definition "Building, height of" in § 199 of the Zoning Regulations of the District of Columbia, Title 11 DCMR by inserting "The term curb shall refer to a curb at grade. In the case of a property fronting a bridge or a viaduct, the height of the building shall be measured from the lower of the natural grade or the finished grade at the middle of the front of the building to the highest point of the roof or parapet."

Further, agreeing with an August 20, 2003 DC Office of Planning (DCOP) report, the DCZC defined "natural grade" as "the undisturbed level formed without human intervention or, where the undisturbed ground level cannot be determined because of an existing building or structure, the undisturbed existing grade." In a delegated action approved August 6, 2003, NCPC's Executive Director concluded that the proposed text amendment strengthens the intent of the height act and will provide a clear measure of buildings to ensure their compliance with the Zoning Regulations and the and Height Act of 1910. Therefore, staff believes that the buildings should be redesigned to an appropriate height from an appropriate measuring point.

Gateway to the City at New York and Florida Avenues

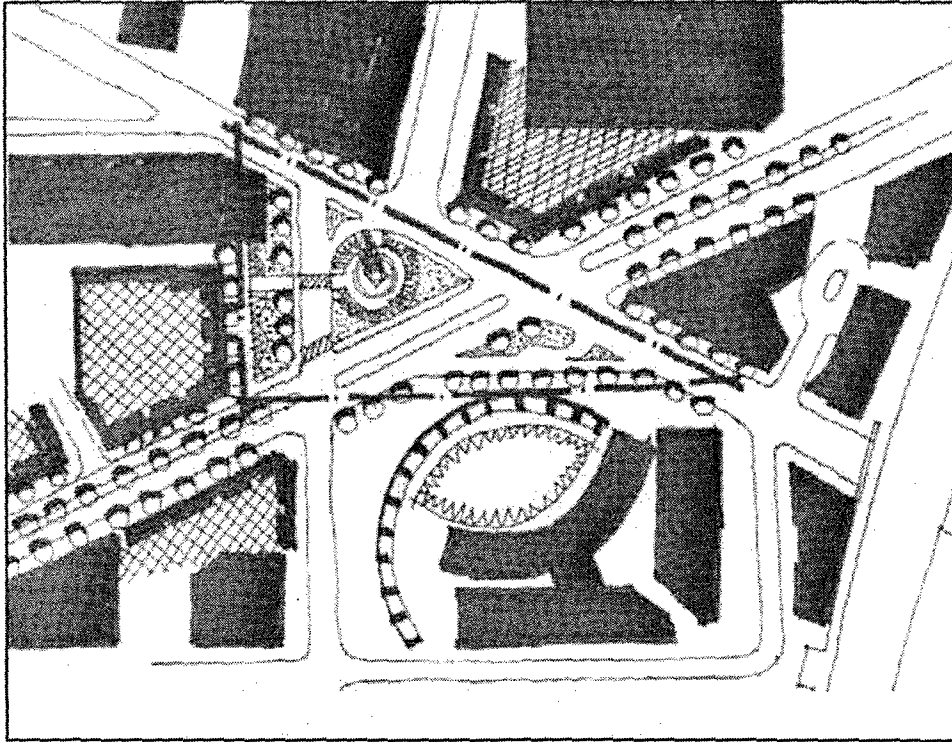
By locating entrances to the parking garage and loading docks immediately adjacent to the intersection of New York and Florida Avenues, the proposed design of the residential/hotel building would adversely affect this significant gateway to the city and diminish opportunities for locating a significant commemorative work in this area.

NCPC's Memorials and Museums Master Plan (2M Plan) identified this intersection as a Prime Site for a commemorative work and the New York Avenue/Florida Avenue Charrette sponsored jointly by NCPC and DDOT recommended that the intersection should be transformed into an attractive local destination and a gateway into the core city, and specifically

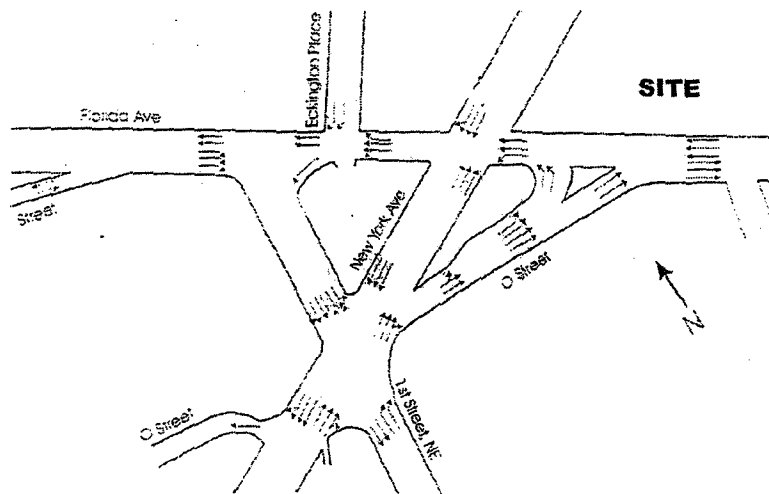
- Use street walls to create an urban place,
- Discourage drive-through auto-oriented uses at the intersection, and
- Make traffic movements less intrusive and less problematic for the area.

Concept diagrams accompany the Charrette showing variations on configuration for placemaking by using various parcels at the intersection. Although the "Rectangular place-making configuration", most closely aligns with the 2M Plan encouraging more than one secondary

memorial opportunity at the intersection, the other two diagrams (Concept B shown as example) illustrate the current PUD proposal configuration. Staff believes that locating a parking garage entrance and a loading dock entrance in the locations shown in the current proposal is inconsistent with the goal of having a significant commemorative works site at the intersection.



Charrette Concept B Diagram for Transforming the Intersection



DDOT's Near Term Plan: Virtual Traffic Circle for the Intersection

The DCOP staff report further notes that the proposed design is now consistent with the DDOT recommendations for intersection changes as shown in the final Draft New York Avenue Corridor Study. While the PUD design, and even the two curb cuts near the intersection, have been coordinated with DDOT's near term plan to reconfigure the intersection to function as a

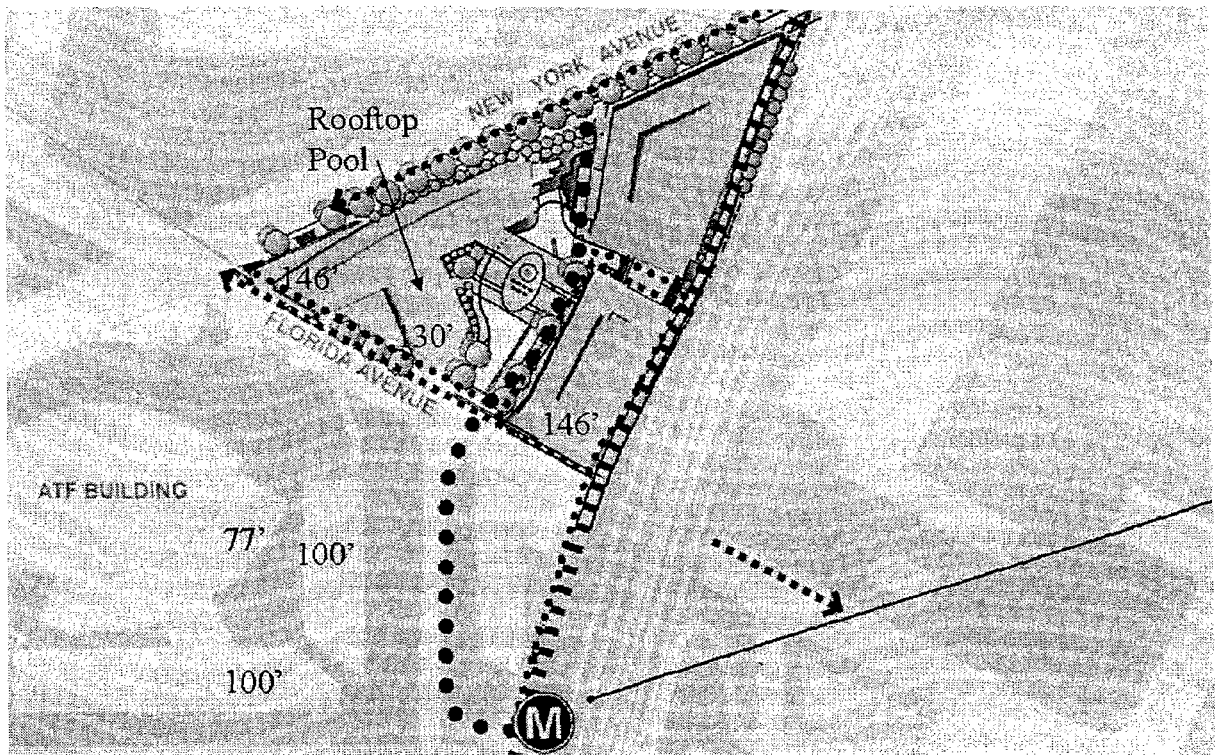
virtual circle, the Corridor Study also includes comprehensive urban design recommendations for knitting the city together. The Study calls for special identity focal points to create active pedestrian spaces and help to tie Florida, North Capitol and New York Avenues together, with open space reserved for creation of pedestrian activity at intersection corners. Although as submitted the PUD design for the residential/hotel building notches back slightly at the corner to reveal a covered area, no activity will be programmed. More importantly, the two vehicle entrances in such close proximity to the intersection would diminish opportunities for locating a significant commemorative work in this area.

In addition, the Federal Elements of the Comprehensive Plan call for the federal government to “enhance and develop the boundary streets... as defining features of Washington” under the Preservation and Historic Features Element, (Page 168, Policy #18). The new District Elements (July 2006 Mayor’s Draft approved by City Council this week) identify this intersection as a Gateway and include a recommendation to “Create more distinctive and memorable gateways at points of entry to the city... Gateways should provide a sense of transition and arrival, and should be designed to make a strong and positive visual impact.” in UD Policy 1.4.2, page 9-11. Locating entrances to the parking garage and loading dock in this location so close to the intersection would be inconsistent with policies relating to reinforcing boulevards and gateways.

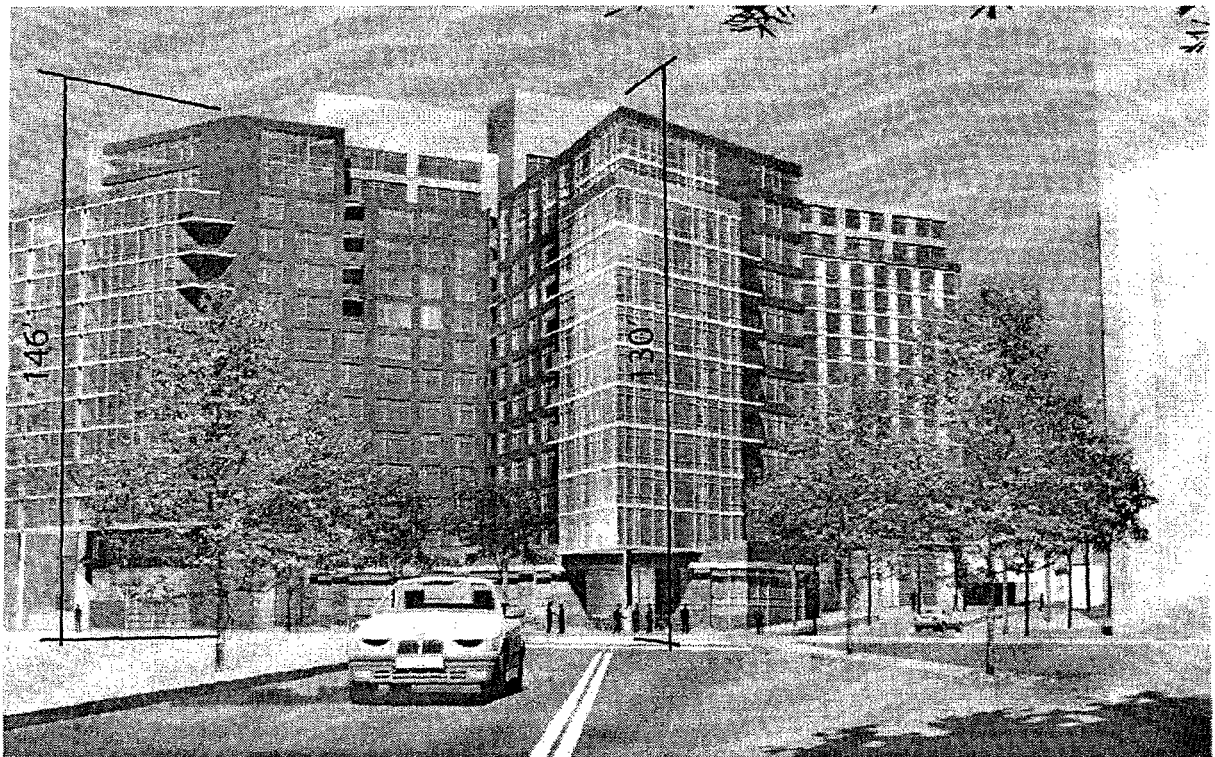
Although the PUD responds to certain aspects of these policies and recommendations, it ignores other aspects relating to pedestrian activity on the New York Avenue street wall by turning its back on New York Avenue and focusing pedestrian activity, scale, interest, amenities, (ground floor retail and lobby entrances) inward to the plaza and interior street. At the same time, “rhythms at the scale of a single story”, which “occur near pedestrian activity”, occur only interior to the site and at its main (Florida Avenue) entrance where “the double height retail podium angles away from Florida Avenue to open up views of the interior of the plaza.”

Although the PUD design attempts to animate and break down the scale of the New York Avenue street wall by using patterned facade elements, its intent was to be seen “relative to the motion of the vehicular traffic along New York Avenue”, since the street wall has not been designed for pedestrian use. The stair connecting the plaza to New York Avenue attempts to address pedestrians, but only by creating a cut through. With no ground floor retail activity or lobby entrances to buildings, the New York Avenue facade would not be a pedestrian oriented place. The wall between the office building and hotel will block access from the street (it serves as a safety railing) except at the stair opening. Although the avenue’s facades intend visual interest, it is staff’s view that as currently proposed, the New York Avenue street wall pattern alone would not attract pedestrians without retail storefronts or building entrances.

As DCOP’s final report notes, the proposed PUD has been incorporated into the NoMA Draft Plan’s recommended development framework. However, the NoMA Plan notes that “New York Avenue.... presents a major pedestrian barrier between areas of northern and southern NoMA.” Although the PUD’s connecting stairs would link the plaza to New York Avenue, the NoMA Plan envisions a stronger connection and literally a wider swath for this use.



Relative Roof Heights Above Florida Avenue



View North From Florida Avenue

Proximity and Impact on ATFE HQ Building

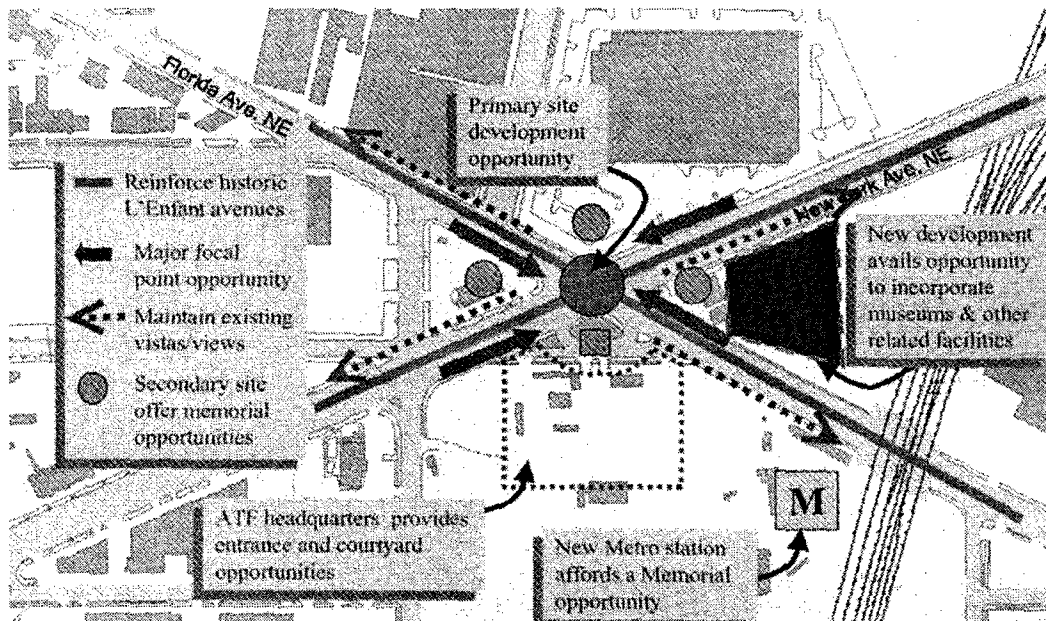
At approximately 146 feet high along Florida Avenue, the height of the residential/hotel building is inappropriate and could create security issues for the Bureau of Alcohol, Tobacco, Firearms and Explosives Headquarters Building (ATF&E HQ). Because the measuring point used is on New York Avenue where it rises to cross the Metrorail tracks, the building height as measured along Florida Avenue across from the Bureau of ATF&E HQ Building is over 130'. The two highest building wings both reach 146 feet above grade at Florida Avenue. The residential wing closest to the Bureau of ATF&E HQ Building is 130 feet above grade with a pool on the roof of the wing closest to 2nd Street. The General Services Administration (GSA) has notified staff that they have security concerns that should be evaluated regarding the height of the project relative to the ATF&E HQ Building through consultation and referral between the applicant and GSA.

CONFORMANCE

Comprehensive Plan

The Comprehensive Plan for the National Capital Federal Elements notes that both the federal and the District of Columbia governments should adhere to the principles of the L'Enfant Plan by protecting and enhancing the elements and views in any improvements or alterations to the historic framework. The Preservation and Historic Features element includes policies stating that the federal government should

- "Preserve the horizontal character of the national capital through enforcement of the 1910 Height of Buildings Act" (Page 161, Policy #3), and
- "Enhance and develop the boundary streets of the District of Columbia as defining features of Washington" (Page 168, Policy #18).



Candidate Site 14; Memorials and Museums Master Plan

Memorials and Museums Master Plan

NCPC's Memorials and Museums Master Plan (2M Plan) designates the New York Avenue/Florida Avenue intersection as a primary location for a future monument or memorial to celebrate and mark the entrance to the historic L'Enfant City. The 2M Plan envisioned an opportunity to create a prominent civic feature at the cross axis of the avenues. This location is linked symbolically to major focal points within the city. The L'Enfant Plan recognized the importance of providing reciprocal views along major avenues for symbolic connection, access, and visual orientation. The PUD has not followed up on this opportunity to create pedestrian space at this prominent location and cross axis.

CONSULTATION

Advisory Neighborhood Commissions

No organization to which the project was presented ever took action to object to or oppose the proposed development. The applicant met with Advisory Neighborhood Commission (ANC) 5C on three occasions, and met once with each of four civic associations including Eckington.

D.C. Office of Planning

In its Final Report dated November 20, 2006, DCOP strongly recommended that the DCZC approve the application, subject to the applicant resolving the details of eleven issues prior to final action. The applicant submitted a supplemental filing dated December 4, 2006 to address the issues. The following issues still appear to be outstanding:

1. Justification for the residential roof structure setback request.
3. Coordination with DDOT regarding traffic mitigation and TDM measures stipulated.

The applicant has submitted a travel demand management (TDM) program for the project and has agreed to develop and implement a transportation management plan (TMP) in lieu of measures stipulated by DDOT. However, coordination with DDOT regarding tracking loading zone use and queuing for parking garage access for the TMP appears incomplete.