

**MEMORANDUM**

**TO:** District of Columbia Zoning Commission

**FROM:** Brandice Elliott, Project Manager  
*JLS.*  
 Jennifer Steingasser, Deputy Director, Historic Preservation and Development Review

**DATE:** June 22, 2020

**SUBJECT:** **ZC 15-27B** – Final Report for a Second Stage Planned Unit Development (PUD) and Modification of the First Stage PUD for Building C2 and a Modification of Significance of the Consolidated PUD for Building C1 at 300 and 350 Morse Street, N.E. in Florida Avenue Market

**I. SUMMARY**

Carr Properties OC, LLC (the Applicant) has submitted an application for a second stage Planned Unit Development (PUD) and Modification of a first stage PUD to construct a mixed-use building at 350 Morse Street, N.E. in the Florida Avenue Market. The 11-story, 130-foot high mixed-use building would include retail uses and maker space on the ground floor and 10 stories of office use above. Three levels of below-grade parking providing 132 parking spaces are proposed. The penthouse would include building amenities, including a nightclub, bar, cocktail lounge or restaurant use, a mechanical area and green roof.

The applicant has also requested a Modification of Significance to the Consolidated PUD to introduce a use (nightclub, bar, cocktail lounge, or restaurant) in the penthouse of Building C1 that requires a special exception.

**II. RECOMMENDATION**

The Office of Planning (OP) recommends the Commission **approve** this application for:

- Modification of the first stage PUD and the second stage PUD for Building C2;
- Modification of Significance of the Consolidated PUD for Building C1; and
- Special exception to allow a nightclub, bar, cocktail lounge, or restaurant use in the habitable penthouses for Building C1 and Building C2.

**III. APPLICATION IN BRIEF**

<b>Location</b>	350 Morse Street, N.E. Square 3587, Lot 833 and 834	Ward 5, ANC 5D
<b>Property Size</b>	21,280 square feet (0.49 acres)	
<b>Applicant</b>	Carr Properties OC, LLC	

<b>Current Zoning</b>	C-3-C PUD (vested under the 1958 Zoning Regulations)
<b>Site Characteristics</b>	The site is bounded by New York Avenue to the north, 4 <sup>th</sup> Street to the northeast, Morse Street to the southeast, Florida Avenue to the southwest, and the Amtrak and Metrorail lines to the west. The site is generally flat, but the north end of the site slopes up toward New York Avenue and the west side of the property slopes up toward the railroad tracks. The site is located approximately ½ mile from the NoMa-Gallaudet University Metro Station.
<b>Existing Use of Property</b>	The PUD site is presently improved with one-story industrial buildings used for wholesale distribution.
<b>Proposed Use of Property</b>	The applicant proposes to develop Building C2, approved in the First stage and Consolidated PUD approved in March 2017. The proposal consists of an 11-story mixed-use building with ground floor retail and maker space, and ten stories of office use.
<b>Background</b>	<p>The original First stage approval (ZC Case 15-27) was approved March 27, 2017. That approval established the PUD-related zoning for the property, the site plan, the general use mix, the general massing of buildings, the maximum heights for buildings and the maximum FAR for the entire development. At the time, the Commission determined that the PUD would be not inconsistent with the Comprehensive Plan maps and text and would further the objectives of the Florida Avenue Market Small Area Plan and the Ward 5 Industrial Land Transformation Study.</p> <p>The Zoning Regulations define the second stage of a two stage PUD review as: <i>“a detailed site plan review to determine transportation management and mitigation, final building and landscape materials and compliance with the intent and purposes of the first-stage approval, and this title”</i>. (Subtitle X § 302.2 (b))</p> <p>To date, Buildings A1, A2, B1 and C in the PUD have been approved, and the applicant has provided photographs on sheet 103 of the plan set demonstrating that several buildings in the PUD are under construction, including Buildings A2, B and C1 (Exhibit 19A).</p>

#### IV. PLAN CHANGES SINCE SETDOWN

In response to comments and requests made by OP and the Zoning Commission identified in the setdown reports dated November 27, 2019, and January 3, 2020, and at the public meetings held December 9, 2019, and January 13, 2020, the applicant filed revised plans and a Prehearing Statement on February 7, 2020 (Exhibits 15-15H). A 20-day Prehearing Statement providing a statement and revised plans was filed June 16, 2020 (Exhibits 26-26C).

OP solicited comments from the Department of Housing and Community Development (DHCD) and the Department of Energy and Environment (DOEE). The applicant met separately with District Department of Transportation (DDOT) to address transportation concerns.

The applicant has provided written responses at **Exhibits 15 and 26** of the record. The following table summarizes the comments and responses from the Public Meeting and from other District Agencies.

Zoning Commission / OP Comment	Response Analysis
<p>1. The applicant should demonstrate that the \$1.5 million contribution to the Housing Production Trust Fund would be sufficient for subsidizing the affordable housing that would have been provided in a residential building (13 units set aside for households earning 50% MFI and 13 units set aside for households earning 80% MFI).</p>	<p>The applicant has demonstrated that the housing obligation for the PUD would be met. The upper range of housing approved for the overall PUD is 1,091,201 square feet, and the lower range is 720,394 square feet. Buildings A2 and D were approved with flexibility to have residential or nonresidential uses, which has resulted in the range of square footage for residential uses. This particular condition of the PUD would be met since both buildings A2 and D would be developed as residential, resulting in a total of <b>896,313</b> square feet of residential use.</p> <p>The overall PUD was required to set aside a total of 11% of the gross floor area for Inclusionary Zoning units, to be allocated evenly between households earning 50% MFI and households earning 80% MFI. The upper range of affordable housing approved for the overall PUD is 120,036 square feet, and the lower range is 79,246 square feet. The development of Building C2 as an office use would result in a total of <b>98,594</b> square feet of affordable housing, which is consistent with the Order.</p> <p>The applicant has clarified that housing requirements for the overall PUD would be met, and that the \$1.5 million contribution to the Housing Production Trust Fund would be an additional benefit to the PUD. The contribution relates to the 23,296 square feet of affordable housing that would no longer be provided in Building C2.</p> <p>OP supports the proposal to develop Building C2 as an office use since the housing and affordable housing requirement for the overall PUD would continue to be satisfied. In addition, the contribution to the Housing Production Trust Fund would generate additional affordable housing, which is consistent with Mayoral and OP policies and priorities.</p>

<p>2. The applicant should confirm that the maker space would be constructed to industrial specifications, as provided in Attachment III, and provide the specifications on the plans.</p>	<p>The applicant has indicated that the maker space would be constructed to industrial specifications except for maintaining a clear ceiling height of 18-feet. Due to the topography of the site, which slopes up from the south to the north, a ceiling height of 17-feet would be provided. The maker space would be located at the portion of the building that would have the tallest ground floor ceiling height.</p> <p>The maker space would be located adjacent to the lobby and may open directly into the space, creating a fluid space between the two uses. Noise attenuation measures may not be incorporated into the design if the spaces remain open to one another but would be incorporated if the maker space is designed as a separate space.</p> <p>OP supports the applicant’s commitment to incorporate industrial specifications into the design of the maker space to the highest degree possible.</p>
<p>3. The location of the Maker Space should be identified on the ground floor plan.</p>	<p>The maker space, consisting of 1,125 square feet of area, would be located at the southwest corner of the building, adjacent to 3<sup>rd</sup> Street. OP supports the proposed location of the maker space, as it would be in a prominent location adjacent to the office lobby.</p>
<p>4. The applicant should demonstrate that the aggregate FAR for the entirety of the PUD does not exceed 7.1, consistent with the Order.</p>	<p>The applicant has provided a table on sheet 201 of the plans at Exhibit 26A. The table shows that the FAR for the entirety of the PUD would not exceed 7.1. The table demonstrates that while Building C2 would have a slightly higher FAR than what was approved in the first stage PUD, the FAR for other buildings have not been maximized.</p>
<p>5. The approximate contribution to the Housing Production Trust Fund for the habitable penthouse in Building C2 should be provided.</p>	<p>The applicant has provided that the approximate contribution to the Housing Production Trust Fund for the habitable penthouse space in Building C2 would be <b>\$171,620</b>. The actual amount will be calculated and submitted no earlier than 30 days prior to the date of the building permit application. OP supports this contribution to the Housing Production Trust Fund as it is consistent with Agency and Mayoral policies intended to create more affordable housing.</p> <p>The applicant has indicated that the contribution to the Housing Production Trust Fund for the proposed habitable penthouse in Building C1 would be approximately <b>\$202,606</b>.</p>
<p>6. The applicant should address the necessity of providing additional parking beyond what was approved in the Stage 1 PUD and the impact it will have on the TDM.</p>	<p>The first stage PUD for Building C2 approved a total of 82 parking spaces for the proposed residential and retail uses. In modifying the uses to office and residential, the parking requirement is increased from one space per three dwelling units to 0.5 spaces per 1,000 square feet to meet the demand of the new proposed uses.</p> <p>The applicant has indicated that it will continue to work with DDOT to study the impacts of increased parking and to determine if additional transportation demand management (TDM) measures are necessary. OP supports the applicant’s effort to reduce parking within the PUD where possible.</p>

<p>7. Provide additional information regarding the types of materials to be used, including material type, color, and samples, demonstrating that the proposed building materials will be of a high-quality.</p>	<p>An exterior material palette has been provided on sheet C-2_315 of the architectural drawings at Exhibit 26A3.</p>
<p>8. Additional window details should be provided, illustrating window mullions and depth from the façade.</p>	<p>Additional window details have been provided on sheet C-2_314 of plans, demonstrating that the windows will be set back one-foot from the façade, adding depth and dimension to the building design (Exhibit 26A3).</p>
<p>9. The applicant should provide detailed streetscape plans in coordination with DDOT and OP regarding the design and use of public space and its compliance with the Union Market Streetscape Guidelines.</p>	<p>A streetscape plan has been provided on sheets C-2_502-505 of the architectural drawings at Exhibit 26A4. The proposed streetscape is consistent with the Union Market Streetscape Guidelines.</p> <p>Neal Place, along the north property line of Building C2, is designated as an art opportunity area. Neal Place is the focus of a coordinated effort to create a sense of place through public art. It's narrow width and role as the central east-west connection through Union Market offers opportunities for a series of linear art installations with a focus on lighting, creating a unique character for this pedestrian-focused area. <b>OP strongly encourages the applicant to consider putting an art installation on Neal Place.</b></p>
<p>10. The applicant should provide planting and maintenance details regarding the greenery accents on the ground floor of the building.</p>	<p>The applicant has indicated that fast-growing clinging vines with tendrils would be installed on the exterior columns at the ground floor. More than one species would need to be used at each column due to varying availability of light. Adequate soil volume would be provided at grade or below the pavement to support vine health. OP supports efforts to maintain the greenery, as it is an integral part of the design.</p>
<p>11. The applicant should provide details on the locations of signs on the building.</p>	<p>A revised sign plan has been provided on sheet C-2_401-405 of the architectural drawings. The drawings indicate that signage could be placed along the top building band, just below the penthouse. Signage could also be located at the ground floor level above tenant spaces.</p>
<p>12. Perspectives of the roof and proposed habitable penthouse should be provided.</p>	<p>Perspectives of the habitable penthouse have been provided on the cover sheet of the architectural drawings provided at Exhibits 15F-2 and 26A2.</p>
<p>13. The applicant should provide a draft revised Order for ZC Case No. 15-27 identifying the sections that would be amended to facilitate this project.</p>	<p>A draft revised Order has been provided at Exhibit 15H. The most significant change to the Order would be to B.1, which indicates the aggregate square foot area for housing and affordable housing would be reduced within the overall PUD. In addition, the applicant would be requesting additional design relief to allow flexibility in the location of the maker space and to allow flexibility on the location, design and materials of the exterior penthouse terrace.</p> <p>OP supports the additional requested flexibility provided that the maker space and penthouse are compliant with the Order and Zoning Regulations.</p>

<p>14. In discussions with the applicant, they have stated they will contribute \$1.5 million to the Housing Production Trust Fund as a proffered benefit of the project. The commitment to this proffer should be included in the prehearing statement.</p>	<p>The applicant has committed to providing \$1.5 million to the Housing Production Trust Fund on page six of the prehearing statement at Exhibit 15. In addition, the following language has been proposed for inclusion in the Order: <b><u>“Prior to the issuance of the first certificate of occupancy for above grade space in C2, the Applicant shall demonstrate to the Zoning Administrator that it has contributed \$1,500,000 to the Housing Production Trust Fund.”</u></b></p> <p>OP strongly supports this commitment to affordable housing, which is encouraged through Mayoral and OP priorities and policies.</p>
<p><b>DOEE Comment</b></p>	<p><b>Response Analysis</b></p>
<p>15. B.3 - The original PUD required LEED v2009 Gold. An updated version has been released and DOEE would encourage the project to consider using LEED v4 or v4.1 for the project’s certification. If the project has not registered yet, the project may have no choice but to pursue one of the updated versions.</p>	<p>The applicant has provided that the building would be registered with the USGBC under LEED v4 for Building Design and Construction, as shown on sheet C-2_601 in Exhibit 26A4.</p>
<p>16. B.4 – Requires that each building submit their application for LEED certification prior to receiving a CofO. DOEE encourages OP to require proof of the actual LEED certification rather than simply proof of application. The Green Building Act requires certification and could serve as a model for enforcement options if needed.</p>	<p>The applicant has indicated that proof of LEED certification cannot be provided until after the building has been constructed, is operational and is tested. As a result, they can only provide proof of the certification application that will be submitted to the USGBC under the LEED level approved by the PUD. The Green Building Act requires certification, so there is an existing enforcement mechanism through DCRA that will ensure that the building is certified.</p>
<p>17. DOEE encourages the project to maximize solar to the maximum extent possible and make any additional space solar-ready, meaning consolidate condenser units and penetrations, limit shadows, etc wherever possible. If possible, consider installing integrated racking systems along with the green roof should the owner choose to expand the solar system in the</p>	<p>The applicant has indicated that the amount of solar on top of the building has been maximized at 600 square feet of area. Solar panels would be located on top of the green roof in areas where they would benefit from full sun exposure. They would not be located on areas of the green roof that would be partially or fully shaded, or in locations where the panels would exceed the maximum building height.</p> <p><b>OP encourages the applicant to continue working with DOEE to ensure that the solar design is maximized on the building.</b></p>

<p>future without need to disrupt the growing media.</p>	
<p>18. Encourage EV-readiness in 20% of parking spaces by providing electrical panel space and empty conduit to spaces. This can dramatically reduce the cost of providing EV charging later by avoiding the need for additional construction work.</p>	
<p><b>DHCD Comment</b></p>	
<p>19. Due to the District’s goal of adding 36,000 new housing units by 2025, the applicant should justify why they are converting Building C2 from residential to office.</p>	<p>The applicant has provided justification that has been discussed elsewhere in this report. See OP Comments for #1 above.</p>

**V. SITE AND AREA DESCRIPTION**

The project site is located in the Florida Avenue Market, which is an approximately 40-acre area located north of Florida Avenue, south of New York Avenue, and east of Sixth Street. Specifically, the project site is at the north end of Florida Avenue Market, at the terminus of Third Street and Neal Place, on the north side of Third Street. North of the site is self-storage facility, a bank and New York Avenue. To the west, are Metro and Amtrak railroad tracks. To the east are existing warehouses. The Union Market Historic District is located east of the site, generally consisting of two-story warehouses located between 4<sup>th</sup> and 5<sup>th</sup> Streets. The site is generally flat, but the north end of the site slopes up toward the railroad tracks. The site is located approximately ½ mile from the NoMa-Gallaudet University Metro Station.



Several properties in the Market Area have received PUD approvals. Many of the sites from the subject PUD are currently under construction, including Building A1, Building B and Building C1.

## VI. PROJECT DESCRIPTION AND ANALYSIS

Building C2 would consist of a 130-foot high office building with ground floor retail. Three levels of below grade parking would be provided to include a total of 132 spaces, which is an increase from the first stage PUD. Parking and loading would be accessed from the alley to the east, and loading would be consistent with flexibility provided during the first stage PUD. The applicant has requested a modification to the proposal to include a habitable penthouse that would be used as a nightclub, bar, cocktail lounge, or restaurant use, generating a financial contribution to the Housing Production Trust Fund of approximately \$171,620. Solar panels would be located on top of the penthouse.

The ground floor would consist of maker space, the office lobby and retail entrances along 3<sup>rd</sup> Street, and additional retail entrances along Neal Place. The base of the building would be highlighted by a 30-foot long canopy that projects 14-feet from the façade. The building design would feature layers of floor-to-ceiling glass and brick spandrel. The ground floor would be accentuated by V-shaped concrete columns that would be covered with greenery. Streetscape would be provided along 3<sup>rd</sup> Street and Neal Place, including landscape areas and trees.



The roof would include habitable penthouse space that would primarily function as amenity space for employees in the building but would have the option of functioning as a nightclub, bar, cocktail lounge, or restaurant use during off-hours, should the requested flexibility be approved. The penthouse would comply with all setback requirements.

The first stage PUD approved Building C2 as a residential building. The first stage and consolidated PUD for the overall site included a range of residential square footage to be provided within the development. Buildings A2 and D, in particular, were approved with flexibility to have residential or nonresidential uses but have ultimately been approved for residential (Building A2) or are proposing to provide residential (Building D). The approved residential square footage was between 720,394 square feet and 1,091,201 square feet. With Building C2 proposed for an office use, the total amount of residential use to be provided within the PUD would be 896,313 square feet, which is 175,919 square feet more than the minimum required for the overall PUD.

Regarding affordable housing, the overall PUD is required to set aside 11% of the gross floor area for Inclusionary Zoning, which would result in between 79,246 and 120,036 square feet of affordable housing. A total of 98,594 square feet of affordable housing would be required for approved and proposed buildings, which is 19,348 square feet more than the minimum required. In addition, the applicant has proffered a contribution of \$1.5 million to the Housing Production Trust Fund as an additional benefit of the PUD.

As further justification for the development of Building C2 as an office use rather than the approved residential use, the applicant has provided a market study at Exhibit 26B. The study shows that the area has more than seven times the square footage of multifamily compared to office: 4,860,000 existing square feet of multifamily; 1,500,000 existing square feet of retail; and 662,000 existing square feet of office. Most of the projects that are currently under construction are multifamily: 1,500,000 square feet of multifamily; and 262,000 square feet of office. The additional 232,000 square feet of office use proposed for Building C2 would diversify the Market area, allowing more people to work close to housing, retail and public transportation.

## **VII. COMPREHENSIVE PLAN AND PUBLIC POLICIES**

The Commission found during its review of the first stage PUD that the project is not inconsistent with the Comprehensive Plan. OP finds that the current second stage PUD application is generally consistent with the first stage as approved and does not detract from the project's correlation with the tenets of the Plan.

The proposal would further a number of the Plan's Guiding Principles and major policies from Plan elements, including: Land Use; Transportation; Economic Development; Housing; Urban Design; and Upper Northeast Area Element. The application is also not inconsistent with the Plan's Generalized Land Use Map or the Future Land Use Map. The proposal is also consistent with the Florida Avenue Small Area Plan and the Ward 5 Industrial Land Transformation Study. For a complete analysis of the project against relevant planning policies, please refer to the Office of Planning Setdown Report for Zoning Commission Case No. 15-27, dated April 18, 2016 at Exhibit 15 in the record for that case.

### VIII. ZONING

ZC Order 15-27 approved the First stage PUD and PUD related map amendment for the C-3-C zone on the property and specified that the project and subsequent Second stage applications be in accordance with the First stage PUD. Subsequent to the First stage PUD approval, the applicant has refined the details for Building D, which has resulted in changes to what was approved in the First stage PUD. As a result, the applicant has requested modification to the Order to accommodate these changes. The proposed changes would remain within the parameters of the C-3-C zone.

The table below shows a comparison of the development parameters approved for Building D at First stage, the proposed modifications and the standards of the C-3-C/PUD.

Building C2	C-3-C/PUD Standards	Approved Stage 1	Proposed Stage 2
<b>Lot Area</b>	15,000 sq.ft. min.	21,280 sq.ft.	21,280 sq. ft.
<b>Height (ft.)</b>	130 ft. max.	130 ft.	130 ft.
<b>Penthouse Height</b>	20 ft. max.	Details not provided	20 ft.
<b>Penthouse Setbacks</b>	Distance equal to its height from front, rear and side building walls.	Details not provided	20 ft.
<b>Penthouse Enclosing Walls</b>	Shall rise vertically to a roof, with a slope not exceeding 20% from vertical	Details not provided	18% slope
<b>Habitable Penthouse</b>	--	Building C2: 4,800 sq. ft.	Building C2: 7,269 sq. ft. <b>(proposed modification)</b>
<b>Habitable Penthouse Contribution to HPTF</b>	--	--	\$171,620 (approximate)
<b>Penthouse Use</b>	--	Residential amenity	Building C2: nightclub, bar, cocktail lounge, or restaurant use <b>(new flexibility requested)</b>
<b>Residential Units</b>	--	232 units	None
<b>FAR</b>	8.71	10.75 (Building C2 only)	10.9 (Building C2 only)
<b>Office:</b>	170,240 sq. ft. max. or	--	226,103 sq. ft. <b>(proposed modification for additional sq. ft. and office use)</b>
<b>Residential:</b>	170,240 sq. ft. max or	211,784 sq. ft.	--
<b>Non-Residential:</b>	170,240 sq. ft. max.	9,200 sq. ft.	4,702 sq. ft.
<b>Maker Space</b>		1,125 sq. ft.	1,125 sq. ft.

Building C2	C-3-C/PUD Standards	Approved Stage 1	Proposed Stage 2
<b>Inclusionary Zoning</b>	16,943 sq. ft. @ 80% AMI (based on 211,784 sq. ft. of residential)	10,590 sq. ft. @ 80% AMI; 10,590 sq. ft. @ 50% AMI (based on 211,784 sq. ft. of residential)	None; Housing Production Trust Fund contribution required for habitable penthouse
<b>Lot Occupancy</b>	100 % max.	--	100% (Building C2 only)
<b>Rear Yard</b>	27.08 ft. min.	24 ft. (approved flexibility)	24 ft. (no new flexibility required)
<b>Side Yard</b>	None required	0 ft.	0 ft.
<b>Parking</b>	66 spaces min.	90 spaces	132 spaces (proposed modification)
<b>Bicycle Parking</b>	Residential: 77 spaces	80 spaces	77 long term spaces 16 short term spaces
<b>Loading</b>	1 berth @ 55 ft. 1 berth @ 30 ft. 2 delivery spaces @ 20 ft. 2 platforms @ 100 ft.	2 berths @ 30 ft. 2 delivery spaces @ 20 ft. 2 platforms @ 100 ft. (approved flexibility)	1 berth @ 30 ft. 1 delivery space @ 20 ft. *Loading shared between all uses and with Building C1 (no new flexibility required)
<b>Green Area Ratio</b>	0.2 min.	Details not provided	0.2
<b>Green Building</b>	--	LEED Gold	LEED Gold
<b>Solar Panels</b>	--	--	<b>Square foot area to be provided</b>
<b>Neal Place Park</b>	--	<u>Decision No. B.14</u> : 75% completion prior to COO for Building A2, and 100% completion within 120 days after issuance of COO for Building A2.  <u>Decision No. B.15</u> : 100% completion prior to issuance of COO for Building C2 or D.	90% complete prior to COO for Building A2, and 100% completion within 120 days after issuance of COO for Building A2.  <b>(proposed modification to remove Decision No. B.15 so that COO for Buildings C2 and D is not tied to completion of park)</b>

## **IX. FLEXIBILITY**

In the First stage PUD, the Commission approved PUD-related zoning of C-3-C for the entirety of the PUD. Also in the First stage PUD, the Commission granted zoning flexibility for the exact mix of uses, within certain ranges. The current proposal is consistent with the approved zoning as well as the uses approved in the First stage PUD.

The current second stage application requests flexibility from the specific zoning regulations listed below, some of which were not approved during the first stage PUD. A summary of each area of relief is given below.

### **1. Penthouse Use; New Flexibility**

The applicant has requested new flexibility to establish a habitable use in the penthouse that would allow a nightclub, bar, cocktail lounge, or restaurant use. The habitable space would result in a contribution to the Housing Production Trust Fund, which is consistent with the requirements of the Zoning Regulations and with District policies intended to increase housing and especially affordable housing. As a result, OP supports the requested flexibility.

### **2. Rear Yard; Approved in First stage PUD**

The applicant requested flexibility to provide a reduced rear yard in the First stage PUD. A rear yard of 27.08 feet is required for Building D, and the Zoning Commission approved flexibility to allow a rear yard of 0 feet. The applicant continues to propose a 0-foot rear setback.

### **3. Loading; Approved in First stage PUD**

The applicant requested flexibility to provide one 30-foot loading berth in the Stage 1 PUD, where one 55-foot berth is required. The Zoning Commission approved the requested flexibility. In the current application, one 30-foot berth is proposed, consistent with the Stage 1 PUD. No additional flexibility is requested.

## **X. PURPOSE AND EVALUATION STANDARDS OF A PUD**

The purpose and standards for Planned Unit Developments are outlined in 11 DCMR, Subtitle X Section 300 which states, *“The purpose of the planned unit development (PUD) process is to provide for higher quality development through flexibility in building controls, including building height and density, provided that the project offers a commendable number or quality of meaningful public benefits and that it protects and advances the public health, safety, welfare, and convenience, and is not inconsistent with the Comprehensive Plan.”*

The applicant is requesting approval of a second stage PUD. The PUD standards state that the project should not result in unacceptable “impacts on the surrounding area or on the operation of city services and facilities but instead shall be found to be either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the project” (X § 304.4). The impacts of the proposed design of Building A2 would be acceptable with the fulfillment of the proffered amenities in the first stage PUD,

including the construction of Neal Place Park. The design in total would create additional housing and affordable housing in a Metro-accessible location and create green space in an area that presently has very little.

## **XI. PUBLIC BENEFITS AND AMENITIES**

Subtitle X § 305.5 f the Zoning Regulations discuss the definition and evaluation of public benefits and amenities. A project may qualify for approval by being particularly strong in only one (1) or a few of the categories..., but must be acceptable in all proffered categories and superior in many (Subtitle X § 305.12).

The First stage PUD included a number of benefits, including housing and affordable housing, social services/facilities, environmental benefits, open space, maker space, transportation benefits, and employment benefits. OP has requested that the applicant provide a benefits implementation chart demonstrating the status of their completion.

### **1. Housing and Affordable Housing**

The proposal consists of an office use and would not provide affordable housing. However, as provided by the applicant, a total of 98,594 square feet would be set aside for inclusionary zoning units, consistent with the PUD. In addition, the applicant has proffered a contribution of \$1.5 million to the Housing Production Trust Fund. The habitable penthouse would generate an additional contribution of \$171,620 to the Housing Production Trust Fund, which would result in additional IZ units as required by the Zoning Regulations.

### **2. Environmental Benefits**

The project would be certified at the LEED Gold level. Points would be gained for developing on a site with access to public transportation, water efficiency, optimizing energy performance, and indoor environmental quality.

### **3. Open Space**

Although Building C2 would not provide open space as part of the development, the overall PUD would provide open space at the Plaza, adjacent to Buildings A1 and B, and at Neal Place Park, located on the west side of 3<sup>rd</sup> Street adjacent to Building A2. Overall, a total of 26,520 square feet of open space would be provided with the PUD and would be accessible to all residents, employees and visitors of Florida Avenue Market.

### **4. Maker Space**

The overall PUD is required to provide a total of 4,500 square feet of maker space within other buildings. Building C2 would provide 1,125 square feet of maker space on the ground floor, consistent with the first stage PUD approval.

### **5. Transportation Benefits**

The overall PUD includes elements designed to promote effective and safe vehicular and pedestrian movement, including reconnecting the street grid by extending Morse Street, adding a new section

of 3<sup>rd</sup> Street, connecting Neal Place into 3<sup>rd</sup> Street, and allowing for two-way vehicular circulation connecting Morse Street to 3<sup>rd</sup> Street to Neal Place. Streetscape along these streets will include paving, curbs, gutters, sidewalks, landscaping, lighting, and other pedestrian amenities, all in accordance with DDOT standards and the Union Market Streetscape Design Guidelines. Indoor bicycle parking will be located in each building and a bicycle connection to the New York Avenue Rails to Trails bicycle path will be completed. A Capital Bikeshare station will be installed at Morse Street, south of Building C1.

A new traffic signal will be installed at the intersection of 4<sup>th</sup> Street and Morse Street and traffic cameras will be installed at the intersections of New York Avenue and 4<sup>th</sup> Street and Florida Avenue and 5<sup>th</sup> Street.

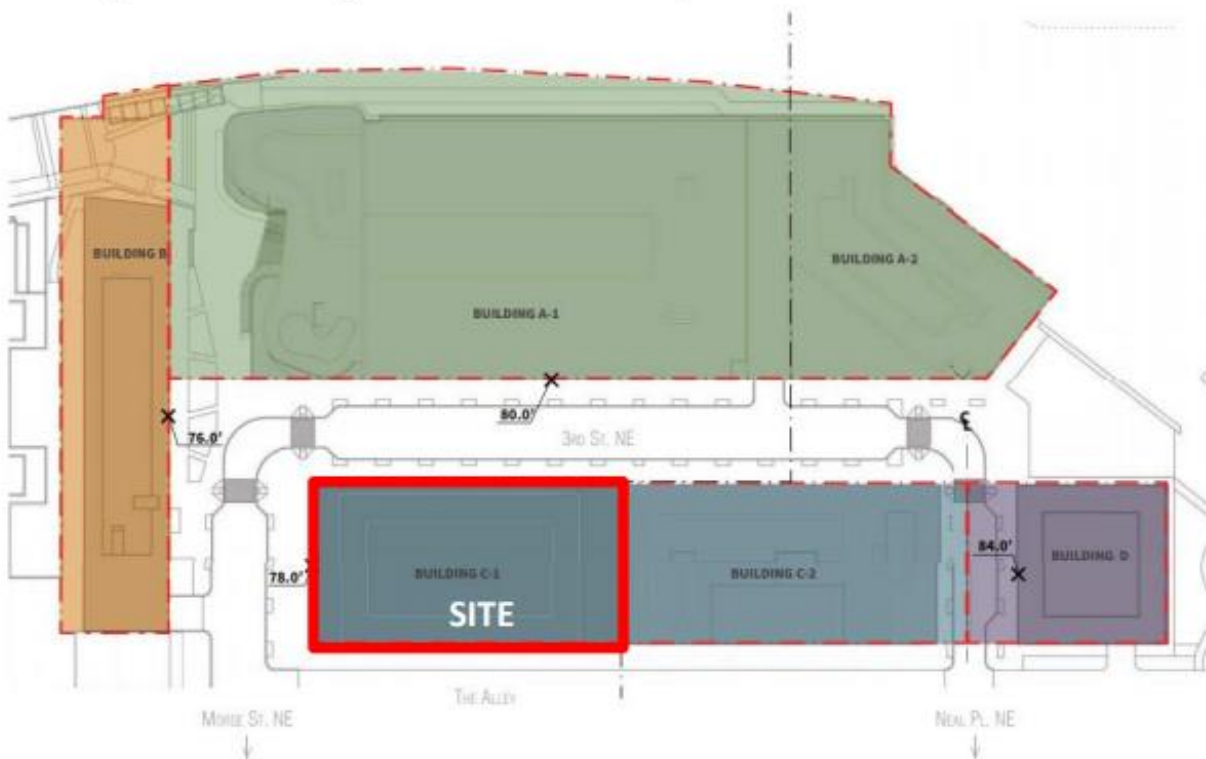
## 6. First Source Employment Agreement

The applicant is required to submit a First Source Employment Agreement for each building to the Department of Consumer and Regulatory Affairs (DCRA). The applicant should provide an update to the Zoning Commission regarding this benefit.

## XII. MODIFICATION OF CONSOLIDATED PUD (BUILDING C1)

The applicant has requested to modify the consolidated PUD for Building C1 to allow penthouse habitable space, which requires the approval of a special exception. A previous modification of the penthouse for this building was approved by the Zoning Commission on November 18, 2019. The *modification of consequence* permitted revisions to the design and massing of Building C1s penthouse, including: 1) expanding a small portion of the existing 20-foot-tall screen wall; 2) expand a small portion of the existing 20-foot-tall enclosed mechanical penthouse; 3) add louvers for equipment ventilation; 4) add solar panels to the top of the 15-foot-tall portion of the penthouse; and 5) add new doors to provide additional egress between the roof deck and the interior habitable and mechanical penthouse spaces.

Building C1 is located south of Building C2, at the southeast corner of 3<sup>rd</sup> Street and Morse Street.



As part of the subject application, the applicant has requested a *modification of significance* to allow habitable space in the penthouse that would consist of a nightclub, bar, cocktail lounge, or restaurant use. No further design modifications are proposed. The penthouse would primarily be used as office amenity space during the week, providing co-working spaces, communal work rooms and informal gathering spaces for building employees, as originally envisioned in the consolidated PUD. The applicant now requests flexibility to have the option to rent out the penthouse space to third parties for events not associated with the office use, which could include uses that fall within the “nightclub, bar, cocktail lounge or restaurant” use category. A total of 5,646 square feet would be used for this option.

### **XIII. SPECIAL EXCEPTION FOR HABITABLE PENTHOUSE (BUILDING C1 AND BUILDING C2)**

A nightclub, bar, cocktail lounge, or restaurant use is permitted as a special exception subject to the criteria of Subtitle X § 900.

#### **X § 901.2(a) The special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;**

The proposed habitable penthouses for Buildings C1 and C2 would be in harmony with the intent of the approved PUD to create an active, mixed use development that would attract residents and tourists and bring greater vitality to Florida Avenue Market. The proposed uses are permitted in the C-3-C zone and would generate an affordable housing contribution. The approximate contribution for Building C1 would be \$202,606 to the Housing Production Trust Fund for 6,299 square feet of penthouse habitable space,

and the approximate contribution for Building C2 would be \$171,620 to the Housing Production Trust Fund for 7,269 square feet of penthouse habitable space.

**X § 901.2(b) The special exception will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and**

The proposed habitable penthouses should not adversely affect the use of neighboring property. Both penthouses would be located at the top of a 130-foot high office building and would be separated from residential buildings to the west by 3rd Street (and from residential buildings to the east by a public alley. As a result, the proposed use should not adversely impact neighboring properties.

**X § 901.2(c) The special exception will meet such special conditions as may be specified in this title.**

The Zoning Regulations contain no special conditions for the proposed use.

The Office of Planning recommends approval of special exception use of the habitable penthouse space for Building C1 and Building C2 with flexibility to rent out the penthouse space to third parties for events not associated with the office use, which could include uses that fall within the “nightclub, bar, cocktail lounge or restaurant” use category.

#### **XIV. AGENCY REFERRALS**

OP requested comments from DHCD and DOEE regarding the Stage 2 PUD for Building C2. Both agencies provided comments that have been provided in the table at the beginning of this report, to which the applicant has responded.

#### **XV. COMMUNITY COMMENTS**

At its regularly scheduled meeting on June 11, 2019, ANC 5D voted unanimously to recommend approval of the Second stage PUD for Building C2 and the Modification to allow penthouse habitable space for Building C1. A letter has submitted to the record at Exhibit 18.

JS/be  
Case Manager, Brandice Elliott

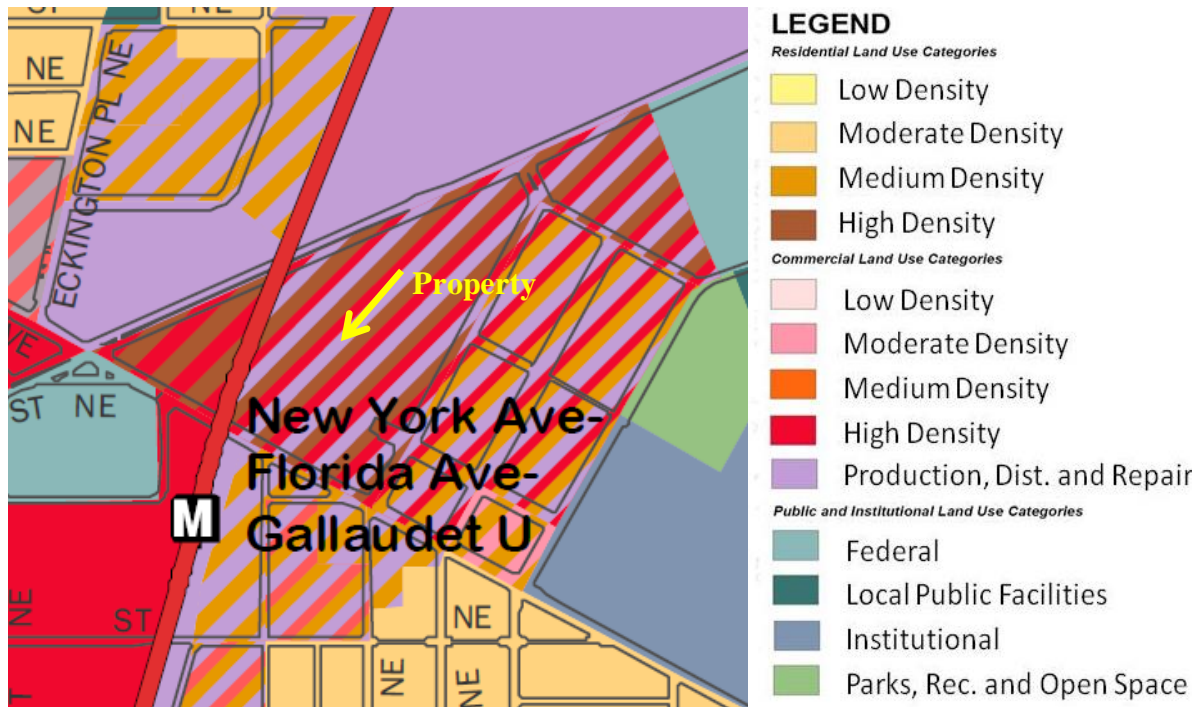


## APPENDIX 1: COMPREHENSIVE PLAN ANALYSIS

The proposed PUD must be determined by the Zoning Commission to be not inconsistent with the Comprehensive Plan and with other adopted public policies (§ 2403.4). The map amendment also should not be inconsistent with the Comprehensive Plan and other adopted policies.

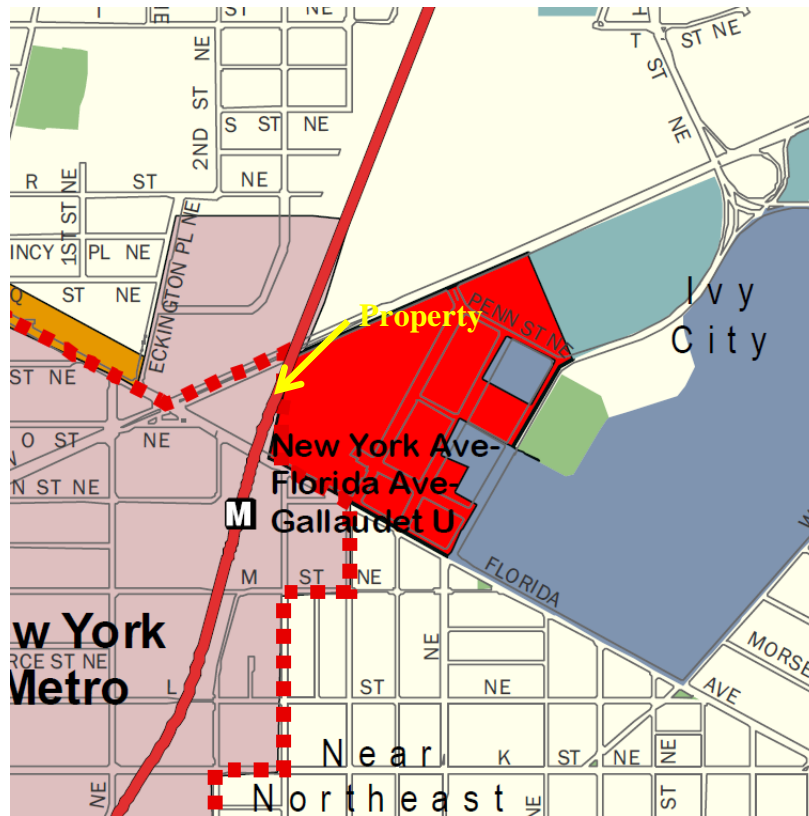
### A. Future Land Use Map

The Future Land Use Map designation for the Property is striped for mixed use High-Density Commercial, High-Density Residential and Production, Distribution and Repair.



### B. General Policy Map

The Generalized Policy Map designates the Property as part of a “Multi-Neighborhood Center” which is to meet the day-to-day needs of residents and workers in the adjacent neighborhoods in terms of both depth and variety. The service areas of Multi-Neighborhood Centers are typically one (1) to three (3) miles. These centers are generally found at major intersections and along key transit routes. These centers might include supermarkets, general merchandise stores, drug stores, restaurants, specialty shops, apparel stores, and a variety of service-oriented businesses. These centers also may include office space for small businesses, although their primary function remains retail trade. Mixed-use infill development at these centers should be encouraged to provide new retail and service uses, and additional housing and job opportunities. Transit improvements to these centers are also desirable. (Comprehensive Plan, §§ 223.4 and 223.5)



### C. Comprehensive Plan Policies

The Property is located in the Upper Northeast Area of the Comprehensive Plan. There are several policies within the Upper Northeast Area Element, as well as policies in the Citywide Framework (primarily the Land Use Element), which encourage a mix of uses in the Florida Avenue Market/Capital City Market Area, high-density development and well-designed open space and public realm.

More specifically, the Property is located within the Florida Avenue Market Area Study (2009), a small area plan adopted by City Council, which includes general guidance for the immediate area, as well as site-specific guidance.

Finally, the area is included in the “Ward 5 Works: Ward Five Industrial Land Transformation Study” area. The ways in which this study is applicable to the Property is detailed below.

Ultimately, a map amendment-related PUD development facilitated by the regulations of the C-3-C zone would help achieve the applicable policies. Please note bold text was added for emphasis.

### **Upper Northeast Area Element (“UNE”):**

- **Planning and Development Priority e.:** “Retail choices in Upper Northeast need to be expanded... Many of the commercial areas in Upper Northeast are dominated by used car lots, carry-outs, liquor stores, automotive uses and other activities that are not conducive to neighborhood shopping...**Florida Avenue and the areas around the Metro stations have the potential to become pedestrian-oriented**”

**shopping districts. The Florida Avenue Market also has the potential to become a more vital shopping district, serving not only as a wholesale venue but also as a retail center for Ivy City, Trinidad, Eckington and nearby neighborhoods. (§2407.2)**

- **Planning and Development Priority h:** “Upper Northeast did not experience the kind of large-scale development experienced elsewhere in the city between 2000 and 2005, but that is likely to change in the next few years. **Proposals to redevelop the Capital City Market as ‘new town’ are being discussed...Growth and development must be carefully managed to avoid negative impacts, and should be leveraged to provide benefits for the community wherever possible. (§2407.2)**
- **UNE-1.1.8: Untapped Economic Development Potential:** Recognize the **significant potential** of the area’s commercially and industrially-zoned lands, particularly along the New York Avenue corridor...and **around the Capital City Market, to generate jobs, provide new shopping opportunities, enhance existing businesses, create new business ownership opportunities, and promote the economic well-being of the Upper Northeast community.** The uses, height and bulk permitted under the existing M and C-M-1 zones are expected to remain for the foreseeable future. (§2408.9 )
- **UNE-1.2.1: Streetscape Improvements:** “**Improve the visual quality of streets** in Upper Northeast, especially along...Florida Avenue...Landscaping, street tree planting, street lighting, and other improvements should **make these streets more attractive community gateways.**” (§2409.1)
- **UNE-2.1.2: Capital City Market:** “**Redevelop the Capital City Market into a regional destination that may include residential, dining, entertainment, office, hotel and wholesale food uses...**” (§2411.6)
- **UNE-2.1.4: Northeast Gateway Urban Design Improvements:** “**Improve the image and appearance of the Northeast Gateway area by creating landscaped gateways into the community, creating new parks and open spaces, upgrading key streets as specified in the Northeast Gateway Revitalization Strategy, and improving conditions for pedestrians along Florida Avenue and other neighborhood streets.**” (§2411.8)
- **Action UNE-2.1.A: Capital City Market:** “**Develop and implement plans for the revitalization and development of the Capital City Market into a mixed use residential and commercial destination.** Redevelopment plans for the site shall be achieved through a collaborative process that involves the landowners and tenants, the project developers, the District government, and the community.” (§2411.9)

### Citywide Guiding Principles:

- **Land Use (“LU”)-1.3.2: Development Around Metrorail Stations:** **Concentrate redevelopment efforts on those Metrorail station areas which offer the greatest opportunities for infill development and growth,** particularly station in areas...with large amounts of vacant or poorly utilized land in the vicinity of the station entrance...(§306.11)
- **LU-1.3.3: Design To Encourage Transit Use:** “**Require architectural and site planning improvements around Metrorail stations that support pedestrian and bicycle access to the stations** and enhance the safety, comfort and convenience of passengers walking to the station or transferring to and from local buses. **These improvements should include lighting, signage, landscaping and security measures...**”(§306.13)
- **LU-3.1.4 Rezoning of Industrial Areas:** “**Allow the rezoning of industrial land for non-industrial purposes only when the land can no longer viably support industrial or PDS activities or is located**

such that industry cannot co-exist adequately with adjacent existing uses. Examples **include land in the immediate vicinity of Metrorail stations...** (§314.10)

- **Housing-1.1.4: Mixed Use Development: Promote mixed use development, including housing, on commercially zoned land**, particularly in neighborhood commercial centers, along Mains Street mixed use corridors, and **around appropriate Metrorail stations.** (§503.5)
- **PROS-4.3.2: Plazas in Commercial Districts: Encourage the development of outdoor plazas** around Metro station entrances, in neighborhood business districts, around civic buildings, and **in other areas with high volumes of pedestrian activity. Use the planned unit development process to promote such spaces for public benefit and to encourage tree planting, public art, sculpture, seating areas, and other amenities within such spaces.** (§819.4)
- **Urban Design-1.4.1: Avenues/Boulevards and Urban Form: Use Washington’s major avenues/boulevards as a way to reinforce the form and identity of the city, connect its neighborhoods, and improve its aesthetic and visual character. Focus improvement efforts on avenues/boulevards in emerging neighborhoods**, particularly those that provide important gateways or view corridors within the city. (§906.4)
- **UD-2.3.4: Design Context for Planning Large Sites: Ensure that urban design plans for large sites consider not only the site itself, but the broader context presented by surrounding neighborhoods.** Recognize that the development of large sites has ripple effects that extend beyond their borders, including effects on the design or transportation systems and public facilities nearby. (§911.6)

#### **D. Florida Avenue Market Study**

The Florida Avenue Market Study (“FAMS”) was completed by the Office of Planning in March 2009 as a result of several catalysts which included development pressure within and around the NOMA-Gallaudet (New York Avenue) Metro Station, guidance from the Comprehensive Plan, the New Town at Capital City Market Revitalization Development and Public/Private Partnership Emergency Act of 2006, the Northeast Gateway Revitalization Strategy, and the Gallaudet University Campus Plan. It was adopted by City Council and is a small-area plan. Within the FAMS, is a “Development Framework.” The purpose of the FAMS “Development Framework” is to provide opportunities, guidance and direction for developers and property owners as they propose redevelopment solutions of the ~40 acre area (p.6). It defines a redevelopment vision which includes a recognition of the “grittiness” of the wholesale, ethnic market retail niche in its current state, as well as its turn-of-the-century historic Capital Market past; future development as a mixed-use neighborhood with a focus on retail and food-related retail; inclusion of historic market structures that are to remain; new bustling and alluring ground floor uses; pedestrian and bicycle connections to the NOMA-Gallaudet (New York Avenue) Metro station and to the Metropolitan Branch Trail; and finally an improved public realm of streets, sidewalks, open spaces, plazas and gathering places. The following includes general guidance for the redevelopment Property, which is primarily taken from the Development Framework section of FAMS (p.49-76):

- Zoning and Intensity Plan (Figure 6.01) p. 57: Designated as “High Density,” which corresponds to development of 90’ in height and an FAR of 6.5 as a matter-of-right; or 130’ in height and an 8.0 FAR in a PUD/TDR scenario.

- “To fulfill the public real and sense of place vision for the Study Area, it is essential that **street-activating or pedestrian-enlivening activities are featured in the ground floors** of development or **within public space of key streets such as...Morse Street...and Neal Place...**” (p.54)
- “Sense of Place: **Utilize design techniques in new construction to enhance the sense of place and pedestrian character of the FAMS.**” (p.58)
- “Open Space: Include **amenities in open space** for users, such as benches, water fountains, etc...**Create defensible open space that is well-lit, with clear sightlines from multiple points in and near the market...Ensure accessibility for a wide range of users**—both physically accessibility and obvious visual cues will ensure people know the space is public....Utilize and enhanced streetscape as part of the open space system.” (p.58)
- “Public Realm: **Create a pedestrian-friendly environment with clear pathways throughout the market...**Improve sidewalk conditions...**encourage active ground-floor uses** (such as restaurants and retail) along expected pedestrian routes...” (p. 59)
- “Transportation: **Increase pedestrian connectivity to/from the New York Avenue Metro Station...**Reestablish a more complete street grid in the study area...” (p.59)

#### **E. “Ward 5 Works: Ward 5 Industrial Land Transformation Study”**

Through mayoral executive order in 2013, a task force was established to create a strategy for the modernization and adaptive use of industrial land in Ward 5. The resultant study strives to do the following: guide the development of existing industrial land into cutting-edge and sustainable production, distribution and repair industry that diversifies the District economy; recommend the preservation of industrial lands; serve as a hub for low-barrier employment and job-training; allow for cheaper land costs; complement and enhance the integrity of neighborhoods; and provide opportunities for arts, recreation and other community amenities, as well as creative start-up maker businesses.

The Property is within the 1,030 acre “Ward 5 Works” study area, and is specifically within the area named the ‘New York Avenue South’ area. While the proposed map amendment-related PUD would preclude future light industrial uses on the Property, the “Ward 5 Works” study acknowledges the FAMS and the market’s revived food distribution and production role, the fast-growth rate of the District, and market pressures for development by Metro that have resulted in zoning map changes that allow for residential uses and a mix of uses that do not otherwise allow for industrial uses (p.20-22). It also states: “In some ways, this area [FAM] is already sustaining PDR growth—particularly among food industries based in the FAM, though this zone also features several blighted and underperforming properties as well...sites in this zone feature somewhat better vehicular pedestrian connectivity as...Florida Avenue connect[s] to the broader city. This area still requires improved pedestrian and transit access to meet its potential as a PDR hub.” (p.49). In terms of request and its acknowledgement of the Ward 5 Works study, the proposed ground-floor retail uses provide an opportunity for certain creative, start-up maker uses that complement the food-focused retail of Union Market.