District of Columbia
Office of Planning

MEMORANDUM

TO: **District of Columbia Zoning Commission**

FROM: Jennifer Steingasser, Deputy Director JS

Historic Preservation and Development Review

DATE: December 29, 2014

SUBJECT: **ZC 14-12 – Final Report for a Consolidated and First Stage Planned Unit Development and Related Zoning Map Amendment from the C-M-1 District to the C-3-C District: 1309-1329 5th Street N.E. in the Florida Avenue Market (Square 3591, Lot 800)**

I. SUMMARY RECOMMENDATION

The Office of Planning (OP) remains excited by this proposal and continues to support Zoning Commission Case No. 14-12, a Consolidated and First Stage PUD and Zoning Map Amendment for Union Market in the Florida Avenue Market. OP supports the overall project design, massing, height and density. However, OP is not able to make a recommendation at this time, as additional information is needed to complete an appropriate level of analysis. OP has discussed with the applicant the need for the following information:

1. A response to comments provided by DDOE in a memo dated October 29, 2014, and attached to this report as Exhibit A;
2. Confirmation that the use of Neal Place from 5th to 6th streets as a non-vehicular plaza would not be in conflict with the Easement Agreement with the adjoining property owner;
3. Additional information concerning the Streetscape Design Guidelines, including the scope, deliverables and draft cross sections;
4. The temporary locations and quantity of bicycle parking spaces;
5. LED sign datasheet and other details to include the purpose of the sign, its frequency of use and what will be shown on it;
6. Perspectives of the LED sign from public ways;
7. Perspective of Union Market Park;
8. Clarification concerning the need for retail façade flexibility;
9. Identification of the hardscape and landscape materials in the park and plaza;
10. Clarification concerning the parking calculations provided for retail and event space uses;
11. Site plans for temporary parking lots that demonstrate compliance with the Zoning Regulations;
12. Confirmation that the infrastructure is sufficient for the development;

13. Additional information concerning the residential option of the South Building proposal, including number of units, unit types (number of bedrooms) and number of affordable units; and
14. Consideration of participation in the One City-One Hire program or a First Source Employment Agreement.

In addition, DDOT has raised a number of questions regarding the Comprehensive Transportation Review and is working with the applicant to address them. See DDOT's report for more detailed information on the project's transportation impacts.

II. APPLICATION IN BRIEF

Location: 1309-1329 5th Street, N.E.; Square 3591, Lot 800; Ward 5, ANC 5D

Applicant: EAJ 1309 5th Street LLC (Edens)

Current Zoning: C-M-1

Property Size: 85,820 square feet

Proposal: 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.

Relief and Zoning: Pursuant to 11 DCMR Chapter 24, the applicant is seeking:

1. PUD-related map amendments from C-M-1 to C-3-C
2. Flexibility from rooftop structure requirements with varied heights (§ 411)
3. Flexibility from court area and width requirements (§ 776)
4. Temporary flexibility to provide the required on-site parking spaces off-site (§ 2101)
5. Temporary flexibility from bicycle parking for the South Building (§ 2119)
6. Flexibility from loading requirements (§ 2201)
7. Flexibility of use (residential or office) in a portion of the South Building
8. Flexibility of use (residential or office) in a portion of the North Building

III. SITE AND AREA DESCRIPTION

The project site is located at the northwest corner of 6th Street and Neal Place in the Florida Avenue Market Area. Developed in 1929, the Florida Avenue Market consisted of warehouse buildings used for wholesale operations and retail functions, and played an important role in the area until the mid-1960s, when the market was dismantled and sold to various owners. The market is considered a historically and architecturally significant place and continues to thrive under current occupants, including Union Market, which would serve as the ground floor of the proposed South Building. Union Market opened in September of 2012, and has been a catalyst for the Florida Avenue Market Area, bringing attention to the market through regular community events and facilitating the growth of local businesses. The subject site is currently zoned C-M-1, as are all surrounding properties. Most of the warehouses continue to operate as production, distribution and warehouse uses. The property located north of the site, owned by Gallaudet University, consists of metal roof structures that appear to be used for limited outdoor storage. The property located south of the subject site is also owned by Gallaudet University, and currently accommodates parking predominantly for Union Market. To the east, across 6th Street, is Gallaudet University, and the west, across 5th Street, are existing warehouses with various owners. The project is located approximately one half mile from the NoMa-Gallaudet Metro Station and is in close proximity to several bus lines along Florida Avenue.

The area has been the focus of many long range planning efforts, including the recent Ward 5 Industrial Land Transformation Study, the NoMA Vision Plan and Development Strategy, and the Florida Avenue Market Small Area Plan.

IV. PROJECT DESCRIPTION

The Consolidated and First Stage PUD and related map amendment, from C-M-1 to C-3-C for Lot 800 in Square 3591 is requested to enable a vertical addition to Union Market, resulting in a total area of 216,423 square feet for the South Building, as well as the demolition and new construction of the North Building. The South Building, for which consolidated PUD review is requested, will continue to house Union Market on the ground floor, which will remain open during construction, and will include Angelika Film Center and four floors of either office or residential uses. The North

Building, for which Stage 1 PUD review is requested, will have 325,000 square feet of area and will accommodate ground floor retail and either residential or office uses. Both buildings would have a height of 120 feet, and a combined maximum FAR of 6.30.

Since this case was setdown on July 28, 2014, OP has continued to work with the applicant in concert with other agencies, including District Department of Transportation (DDOT) and District Department of Energy (DDOE), to obtain additional information about this project as requested by the Zoning Commission and noted in the setdown report. OP hosted an Interagency Meeting that was held December 11, 2014 at which various agencies were present along with the applicant, and DDOT and OP have met with the development team on a weekly basis since the beginning of November.

A. INFRASTRUCTURE

OP's setdown report, dated July 18, 2014, identifies the creation of an Interagency Group tasked with coordinating development in the Florida Avenue Market Area, which includes representation from multiple District Agencies. The primary goal of this Group was to encourage greater coordination among the developers in the area, and to ensure that the proffered benefits and amenities were commensurate with the degree of development that is anticipated in the Small Area Plan. The Plan expects that there is eight million gross square feet of development encapsulated in the area; at least 3.3 million are under the scope of this development company that has brought forward the subject PUD, the pending PUD at 1250 4th Street (case ZC 14-07) and owns the Gateway Market and Residences PUD.

On December 10, 2014, OP hosted a meeting between the primary developers and landowners in the Florida Avenue Market, which was intended to generate discussion concerning the infrastructure needs of the Market Area and encourage coordination among developers. The attendees of this meeting decided that the developers would require additional coordination to identify the infrastructure needs of the Market area, and would provide updates to OP on the next steps. OP requested an update regarding this effort and did not receive a response.

The setdown report identified a district energy system as a potential benefit and amenity that would serve the broader Florida Avenue Market area. It was requested that the applicant address the Interagency Group's recommendation, providing research, cost, discussions with other developers and landowners, and feasibility. The applicant's response to this request for information in the pre-hearing statement dated December 16, 2014 indicates that they will continue to work with the District, the community, and other landowners and developers to facilitate the implementation and planning of a system. The applicant has led an effort to identify the infrastructure improvements that will be needed for the Florida Avenue Market.

OP and DDOE continue to support the concept of a district energy system for the Market area and encourage the applicant to continue to work with other developers on the system, as a shared benefit and amenity to each potential PUD. Documentation should be provided as part of this PUD that there is currently sufficient infrastructure for the proposed PUD development.

B. PUBLIC REALM

OP and DDOT have been meeting with the applicant regularly to work through issues related to the public realm. While progress has been made in this area, the design of much of the public realm remains undefined.

The applicant has proffered the development of Streetscape Design Guidelines as a benefit and amenity, which will create a consistent streetscape design across the 45-acre Market area. DDOT is currently developing a scope and deliverables for the Guidelines, and will oversee their development, which is subject to the approval of the Public Space Committee. However, there are no renderings or cross sections for the Zoning Commission to review at this time to determine that the final result will be of a higher value than minimum requirements and to what extent this might be a benefit and amenity.

The applicant has also provided loading management and curbside management plans that will continue to evolve as the project is reviewed by the Public Space Committee. Given that the loading will occur in the Union Market Plaza, located between the North and South Buildings, there is concern about how the loading area will function and how its impact on the users of that space will be minimized. The applicant should continue to work DDOT to ensure that the loading management plan addresses this issue.

Due to the late submission of materials to DDOT, comments related to the Comprehensive Transportation Review are forthcoming, and should be complete by the date of the hearing.

C. PARKING

The required parking for this development depends on which use is ultimately incorporated into the North and South Buildings. The applicant has requested flexibility to provide the required parking off-site for the South Building, until the North Building and its below-grade parking structure have been completed.

The following calculations for the South Building were provided in the pre-hearing statement:

South Building Parking Requirements		
Use	**Requirement**	**Proposed**
Retail (62,423 square feet)	1/750 sf. above 3,000 GSF = 79 spaces	10
Event space	1/10 seats = 34 spaces (based on Dinner & Stage arrangement)	0
Theater (1,250 seats)	1/10 seats = 125 spaces	125
Residential	1/4 dwellings = 36 spaces OR	36
Office	1/1800 sf. above 2,000 GSF = 63 spaces	63

The applicant has indicated that a residential use in the South Building would require a total of **171** parking spaces. Should the use be office, then a total of **198** spaces would be required. The applicant should clarify the parking calculations, as the retail use appears to require 79 spaces, where only 10 have been proposed, and the event space would require 34 additional spaces, where zero have been proposed. The calculation for the event space is based on the Dinner & Stage diagram provided in

Exhibit D of the August 29, 2014 pre-hearing statement, which has the greatest number of seats of all proposed arrangements. This would increase the number of total required spaces to **274** parking spaces for a residential use and **301** parking spaces for an office use.

The lot that is located south of Neal Place is owned by Gallaudet and is currently leased by the developer to provide parking for Union Market. This lot contains 225 parking spaces and is leased by the developer until October 2016. The developer is under contract to deliver Angelika Film Center by September 1, 2016, and it is anticipated that the north portion of the property would be cleared by that time. Once construction on the Union Market expansion is completed, temporary parking consisting of 112 spaces would be provided on the future site of the North Building. Supplemental parking would be located at the southwest corner of Penn Street and 5th Street, consisting of 56 spaces, as well as on 5th Street at the termination of Neal Place, consisting of 49 spaces. In total, 217 spaces would be provided.

While this meets the parking need for the Union Market expansion, the applicant has not indicated whether or not the lots are shared with other merchants, as requested by OP and DDOT. In addition, the PUD for 1250 4th Street NE (reference 14-07, scheduled for February 19, 2015 public hearing) is undergoing revisions that would provide for the extension of Neal Place, which could impact the parking lot provided on 5th Street that provides 49 spaces. OP has requested additional details for the temporary parking areas demonstrating compliance with the zoning regulations in regard to aisle widths, landscaping, and parking space dimensions.

Temporary relief has been requested for bicycle parking for the South Building, although the applicant has not identified the number of parking spaces that would be required for this development. The current regulations require that the number of bicycle parking spaces be equal to at least five percent of the number of automobile parking spaces required. Under the proposed Zoning Regulations, the following would be required:

Use	Long-Term Spaces	Short-Term Spaces
Retail	1 for each 10,000 sq. ft.	1 space for each 3,500 sq. ft.
Residential	1 space for each dwelling unit	1 space for each 20 dwelling units
Office	1 for each 2,500 sq. ft.	1 space for each 40,000 sq. ft.

The applicant should identify the quantity and location of bicycle parking on the site, and provide additional short-term spaces to compensate for the lack of spaces until the North Building is complete.

D. SUSTAINABILITY

By memo dated October 29, 2014, DDOE provided comments to the applicant regarding the Union Market development (see attached Exhibit A). At the Interagency Meeting that occurred December 11, 2014, it was reiterated that a response to the memo was required; however, one has to date not been provided. Furthermore, the applicant has not followed up with DDOE to discuss the details of stormwater management and green building strategies for this development.

The Zoning Commission specified that the LEED rating for this development needs to be higher than Certified, which is what was originally proffered. The applicant has since modified the application to provide a rating of Silver, and has offered as a benefit and amenity that the theater and residential/office components will be certified. The attached memo from DDOE, dated December 22, 2014 provides several methods by which points toward a higher certification could be obtained, many of which are simply required in order to comply with DDOT standards and the DC Energy Code and would not incur additional costs to the applicant (see attached Exhibit B). DDOE continues to encourage the applicant to seek a higher level of certification than what has been proposed.

DDOE has not received any information that the applicant has investigated district energy systems, but welcomes any details the applicant is able to provide.

E. OPEN SPACE

As requested by the Zoning Commission, the applicant has provided programming information for Union Market Park, located south of the South Building, and Union Market Plaza, located between the North and South Buildings. Exhibit D of the August 29, 2014 pre-hearing statement provides floor plans demonstrating various ways in which these spaces can be arranged for events.

Neal Place from 5th to 6th Street NE, is private property covered by an easement agreement between the applicant and the landowner to the south, which is Gallaudet University. The easement agreement requires a "right-of-way" for "ingress and egress" through the area. Through this PUD the applicant has proposed that the 25 feet on their property be used as a non-vehicular space referred to as Union Market Park. OP recognizes the value of the Union Market Park to the proposed ground floor uses of the South Building and because of the relationship between the ground floor design and the Union Market Park, has requested confirmation or documentation that the park space is not in conflict with the easement.

The greatest success of the park space appears to be contingent on the property owner to the south also using its property for significant open space. The applicant has been asked to discuss its proposal with the owner of the property to the south (which is also anticipated to require a PUD for its development) to ensure a coordinated solution, and to address how its space would be impacted if a green space is not provided.

As requested by OP, perspectives of Union Market Plaza have been provided, but not for Union Market Park. In addition, OP had requested additional information concerning the hardscape and landscape materials that would be implemented.

The Small Area Plan indicates that Deaf Space Principles are to be incorporated into future developments in the Market area. OP strongly supports this initiate, and the applicant has identified how these principles are being incorporated into the site, including wide

sidewalks, clear pedestrian paths, and improved, even lighting. Should they be approved by DDOT, curbless streets would add to these principles, as there would be fewer obstacles for the hearing impaired to navigate.

F. AFFORDABLE HOUSING

The applicant's original submission, dated July 10, 2014, indicates that 49% of the census tract in which the Florida Avenue Market is located is at or below the poverty line, which is significantly higher than the District's average of 18%. At setdown, the Zoning Commission strongly urged the applicant to consider providing more affordable housing than the minimum required to comply with the Inclusionary Zoning (IZ) provisions. The pre-hearing statement, dated December 16, 2014, notes that, should residential be provided, the applicant will provide no less than 8% of the gross square footage as affordable space at 80% area median income (AMI), which complies with IZ.

G. BUILDING DESIGN

The applicant has provided building sections, as requested by the Zoning Commission, although, additional dimensions would provide a more complete picture of the proposal. The Angelika Film Center would project into Union Market Park, but the depth of the projection is unclear.

The Zoning Commission requested additional information concerning the LED sign that was initially proposed on the south building elevation of the South Building. While the most recent submission does not address the LED sign, the applicant verbally verified that the LED sign would no longer be located on the south elevation, but would be placed on the north elevation of the South Building, where it would be visible from Union Market Plaza. OP specifically requested the datasheet for the sign that identifies its size and light intensity, as well as information concerning its operation, such as the purpose of the sign, how often it would be in use, and the types of images that would be projected (sporting events, movies, commercials, etc.). Perspectives illustrating the visibility of the sign from roadways were also requested.

At setdown, the Zoning Commission requested clarification regarding the need for flexibility for the retail façade, and OP further requested elevations or perspectives to illustrate the potential changes that could occur. The applicant has not yet provided these.

The applicant has provided two penthouse proposals: one that is consistent with the current Zoning Regulations where the penthouse would be used exclusively for the screening of mechanical equipment; and one that is consistent with the maximum potential advertised in Zoning Case 14-13, which proposes occupiable space on the South Building. The use of the penthouse on the North Building in the latter instance has not been specified.

H. PHASING PLAN

Upon OP's request, the following phasing plan has been provided for projects that are currently underway by this applicant:

Project	Current Status	Projected Completion
Union Market/Angelika Film Center, 1309 5th Street NE (14-12)	Scheduled for Public Hearing January 5, 2015	September 1, 2016
1270 4th Street NE (14-07)	Scheduled for Public Hearing February 19, 2015	July – September 2016
Gateway Market Center, 340 Florida Avenue NE (06-40C)	Permit Review, construction to begin January-March 2015	April – June 2017

I. USE FLEXIBILITY

The applicant has requested flexibility related to the use of each structure. The original application had requested relief for the North Building to allow either residential or office uses. In the pre-hearing statement dated December 16, 2014, the applicant has requested additional flexibility to permit residential or office uses in the South Building, above Angelika Film Center. The top four affected floors account for 104,000 to 120,000 square feet. Should residential use be provided, it would comply with IZ.

The information provided by the applicant suggests that the office use would have greater impact on the development than residential use. The parking calculations are greater for office use, and the Traffic Impact Study provided to DDOT indicates that the office use would have a larger impact than the residential use. The court relief would, however, be greater for the residential use.

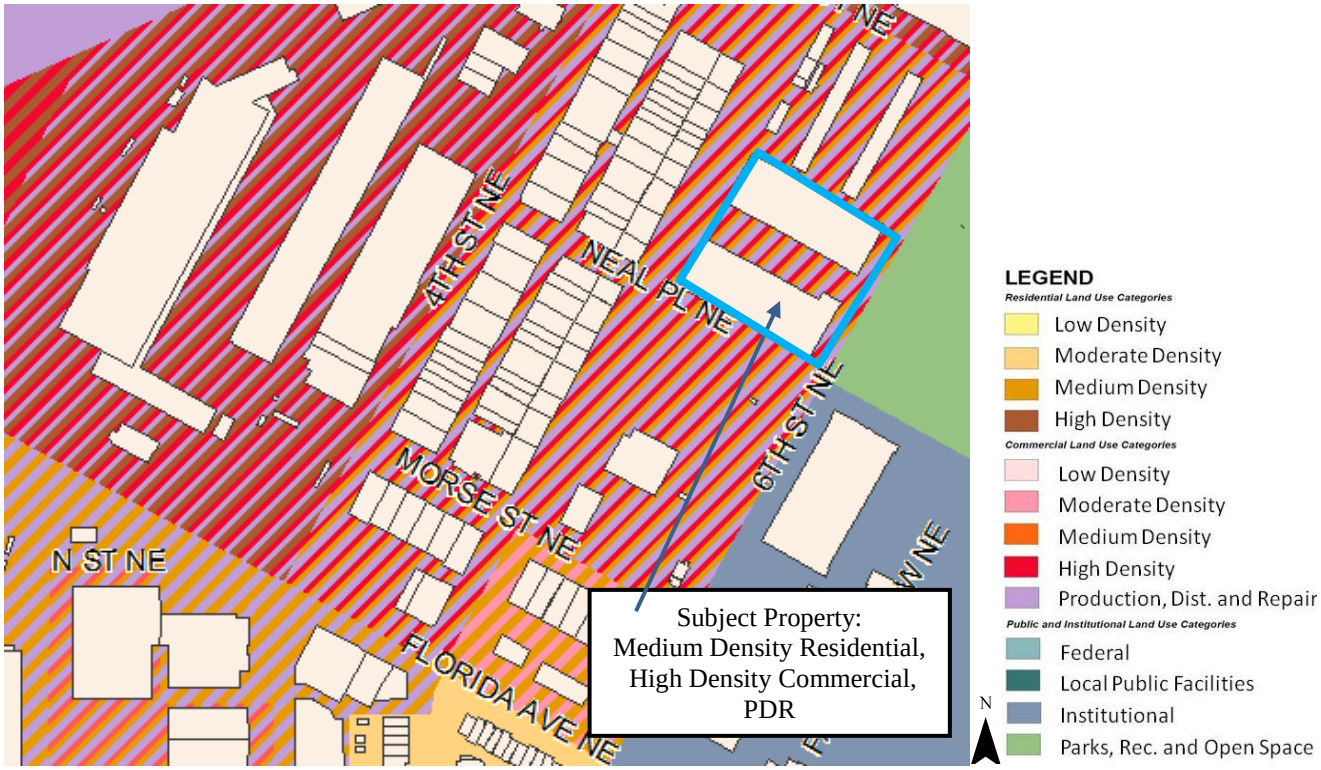
The applicant has indicated that the flexibility to allow either use would result in a more expeditious delivery of the project. The exterior appearance of the development would remain the same regardless of the use, and the floor plans can be converted between the two uses. Only the demising walls interior to the structure would require reconfiguration. The applicant should provide additional information that includes the number of potential residential units, as well as a breakdown of the type of unit (number of bedrooms) and the number of affordable units.

J. COMMUNITY ENGAGEMENT

OP has encouraged, and has helped to facilitate, discussions between the applicant and the surrounding land owners within the Florida Avenue Market, to ensure coordination of developments, particularly in relation to the upgrading of infrastructure and the provision of public space consistent with the Small Area Plan. OP has also encouraged the applicant to coordinate with the community to ensure that the development has minimal impact on the surrounding neighborhood, while meeting the needs of the community. While the applicant has made an effort to speak with the ANC and meet one-on-one with ANC members, the list of meetings provided does not provide a summary of the discussions had at these meetings. Therefore, it is difficult to assess if the applicant has addressed the concerns of the community.

V. COMPREHENSIVE PLAN

The **Future Land Use Map (FLUM)** shows this site as suitable for a mix of Production, Distribution and Repair (PDR), High Density Commercial and Medium Density Residential uses. PDR areas are those characterized by manufacturing, warehousing, wholesale and distribution centers, transportation services and food services, among other uses. High Density Commercial areas are characterized by office and mixed office/retail buildings greater than eight stories in height.



Future Land Use Map

The **Comprehensive Plan Generalized Policy Map** describes the entire Florida Avenue Market area, including the subject site, as a Multi-Neighborhood Center. Multi-Neighborhood Centers serve the day-to-day needs of residents and workers, but with a greater depth and variety than Neighborhood Centers. They have a service area of up to three miles and are generally found at major intersections or along transit routes. While their primary function is retail trade, Multi-Neighborhood Centers can include some office and mixed-use infill is encouraged.

The proposal is not inconsistent with these designations.

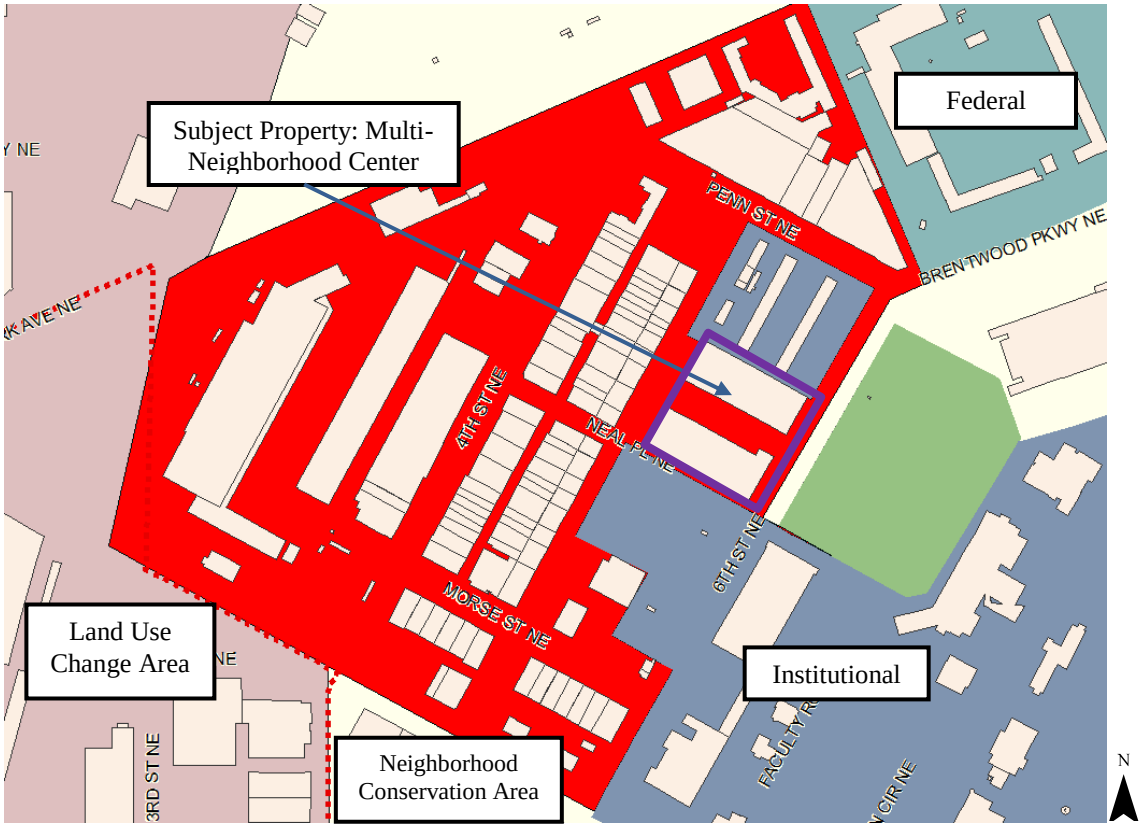
A. Ward 5 Industrial Land Transformation Study

The Ward 5 Works Industrial Land Study, completed this past summer, aims to preserve and achieve the best use for industrial properties, including the protection of the well-paying jobs associated with these uses, while reducing the negative impacts they have on surrounding properties. Understanding that they are a limited resource, the study aims to make industrially-zoned properties a positive resource that increases employment and higher wage earning jobs, preserves industrial uses

with performance measures, and provides affordable locations for maker uses. OP requested that the applicant identify how this development pays tribute to the study.

In the pre-hearing statement, the applicant states that the proposed development will achieve the goals of the study. It is a small business incubator that supports a multitude of businesses, including those owned by minorities and women, and offers alternative rental arrangements while providing business plan consultation, marketing assistance and human resource support. The applicant indicates that the remaining floors of the project will be operated similarly.

This site is identified as one of the major centers for retention and reinforcement of the existing industrial fabric. This study encourages: the preservation of production uses; environmental stewardship and performance; workforce development; nuisance uses and buffering; long-term affordability of industrial space; development of new multi-tenant space; providing space for arts uses and makers; and the development of additional community amenities. The study is not Council-adopted; rather, it was requested by the Mayor and the Ward 5 Councilmember, and provides guidance on how industrially-zoned lands should be developed.



Comprehensive Plan Generalized Policy Map

B. NOMA Vision Plan and Development Strategy

The Florida Avenue Market, while technically outside the boundaries of the NOMA Vision Plan, was nevertheless addressed in that document. It recognizes the Market as a place whose function and character should be preserved. The NOMA Plan, however, goes on to state that the

Market can be enhanced over time through the addition of complementary new uses. The NOMA Plan is not a Council-adopted policy document, but rather a guide for potential development in that vicinity.

C. Florida Avenue Market Small Area Plan

The Project is generally in accordance with the Small Area Plan, adopted by Council on October 6, 2009. The Small Area Plan envisions Fifth Street as the pedestrian heart of the Florida Avenue Market, including narrow streets with parking on each side to limit traffic volume and speeds, and 16 foot wide sidewalks that would promote pedestrian circulation and provide space for café tables or retail displays. Neal Place is described as a pedestrian gateway with wide sidewalks and landscaping, where ground floors will be filled with a variety of small, neighborhood-scaled retail shops and restaurants. The Small Area Plan calls for the area to include a variety of building heights. The proposed project would provide taller and larger scale structures and uses of the Florida Avenue Market area while respecting the mutual public spaces shared with the lower scale market.

VI. ZONING

The site is currently zoned C-M-1. The purpose of the C-M-1 zone is "to provide sites for heavy commercial and light manufacturing activities employing large numbers of people and requiring some heavy machinery…" (§800.1). Furthermore, C-M zones characteristically have "heavy truck traffic and loading and unloading operations…" (§800.2). The existing C-M zone does not allow for residential development and limits height to 40 feet as a matter-of-right and 60 feet through a PUD, so is considered not consistent with current Comprehensive Plan direction.

The Applicant is requesting a PUD-related map amendment to change the zoning to C-3-C, considered a high-density mixed-use zone, and not inconsistent with the Comprehensive Plan. Project parameters as provided with the application, are listed below.

Item	C-M-1 MOR	C-3-C MOR	C-3-C PUD	C-3-C PUD Proposed	Relief
Minimum lot area	N/A	N/A	15,000 sf	85,820 sf	Conforming
FAR	3.0	6.5	8.0	South Building (Option 1) – 2.38-2.52 Retail – 0.73 Theatre – 0.49 Office – 1.30 South Building (Option 2) – 2.38-2.52 Retail – 0.73 Theatre – 0.49 Residential – 1.30 North Building (Option 1) – 3.38-3.78 Retail – 0.29-0.40 Office – 3.09-3.38 North Building (Option 2) – 3.32-3.78 Retail – 0.29-0.40 Residential – 3.03-3.38 Total – 5.70-6.30	Conforming

Height	40'	90'	120' maximum	120'	Conforming
Number of Units			N/A	South Building (Option 2) – not specified North Building (Option 2) - TBD	Conforming
Square Footage	257,460 sf	557,830 sf	686,560 sf maximum	489,423-541,423 sf South Building (Option 1) retail-62,423 sf theatre-38,000-42,000 sf office-104,000-112,000 sf South Building (Option 2) retail-62,423 sf theatre-104,000-112,000 sf residential-290,000-325,000 sf North Building (Option 1) retail-25,000-35,000 sf office-265,000-290,000 sf North Building (Option 2) retail-25,000-35,000 sf residential-260,000-290,000 sf	Conforming
Affordable Housing			8% of residential FAR minimum	8% of residential FAR (Option 2)	Conforming
Parking		retail: 1/750 sf event space: 1/10 seats theatre: 1/10 seats office: 1/1800 sf above 2,000 sf residential: 1/4 units	South Building (Option 1) 10 retail 0 event 125 theatre 63 office 198 total South Building (Option 2) 10 retail 0 event 125 theatre 36 residential 171 total North Building 47 retail 161 office 92 residential 139-208 total Total 337-406 spaces	South Building 0 until Phase II 217 off-site temporary spaces North Building 300-475 spaces	**Requested**
Bike Parking			Approx.. 12	Provided upon completion of North Building (Phase II)	**Requested**
Rooftop Structures		1 per core 18'-6" height 1:1 setback	1 per core 18'-6" height 1:1 setback	1 per core (2 total) 18'-6" max (variable height) 1:1 setback (variable)	**Requested** (for variable heights)
Lot Occupancy		100%	100%	South Building (Option 1) – 90% South Building (Option 2) – 90% North Building (Option 1) – 77% North Building (Option 2) Commercial – 77% Residential – 68% Total – 84%	Conforming
Rear Yard	2.5"/ft. 12 ft. min.	2.5"/ft. 12 ft. min.	27 ft.	27 ft. – measured from 5th Street	Conforming

Closed Court		commercial: 2(width^2) (250 sf min.) residential: 2(width^2) (350 sf min.)	Option 1: CC-1 (office): 33.5 ft./2245 sf CC-1 (residential): 40 ft/2245 sf Option 2 CC-1 (office): 33.5 ft/2245 sf CC-1 (residential): 40 ft/2245 sf	Option 1: CC-1 (office): 17 ft./1800 sf CC-1 (residential): 17 ft./1800 sf Option 2 CC-1(office): 17 ft/2245 sf CC-1 (residential): 17 ft/2245 sf	**Requested**
Open Court		commercial: 3"/ft. (12 ft. min.) residential: 4"/ft. (15 ft. min.)	Option 1 OC-1A: 12 ft. OC-1B: 12.5 ft OC-2: 30 ft. OC-3: 26.42 ft. Option 2 OC-1A: 12 ft. OC-1B: 12.5 ft OC-2: 30 ft. OC-3: 26.5 ft.	Option 1 OC-1A: 13 ft. OC-1B: 30 ft OC-2: 26 ft. OC-3: 10 ft. Option 2 OC-1A: 13 ft. OC-1B: 30 ft OC-2: 26 ft. OC-3: 10 ft.	**Requested**
Loading	Retail: 1-55 ft berth 1-30 ft berth 1-20 ft space 1-100 sf platform 1-200 sf platform Event space: None Theatre: 1-30 ft berth 1-20 ft space 1-100 sf platform Office: 2-30 ft berths 1-20 ft space 2-100 sf platforms Residential: 1-55 ft berth 1-20 ft space 1-200 sf platform	Retail: 1-55 ft berth 1-30 ft berth 1-20 ft space 1-100 sf platform 1-200 sf platform Event space: None Theatre: 1-30 ft berth 1-20 ft space 1-100 sf platform Office: 2-30 ft berths 1-20 ft space 2-100 sf platforms Residential: 1-55 ft berth 1-20 ft space 1-200 sf platform	Retail: 1-55 ft berth 1-30 ft berth 1-20 ft space 1-100 sf platform 1-200 sf platform Event space: None Theatre: 1-30 ft berth 1-20 ft space 1-100 sf platform Office: 2-30 ft berths 1-20 ft space 2-100 sf platforms Residential: 1-55 ft berth 1-20 ft space 1-200 sf platform	South Building Retail: 1-30 ft berth 1-100 sf platform Office: 1-30 ft berth 1-100 sf platform Residential: 1-30 ft berth 1-100 sf platform North Building TBD in Phase II Application	**Requested**

VII. FLEXBILITY

The proposal requires flexibility from the zoning regulations provided below.

A. ON-SITE PARKING (§ 2101)

The applicant has requested flexibility from providing on-site parking for the South Building until the North Building and associated below-grade parking garage have been completed. While the lot located south of Neal Place is currently used for Union Market patrons, the developer's lease on the parcel ends September 2016. The applicant would provide 112 temporary parking spaces on the site of the North Building, 56 spaces on the parcel located at the southwest corner of Penn Street and 5th Street, and 49 spaces on a parcel located on 4th Street where Neal Place terminates. In total, 217 parking spaces would be provided, where a maximum of 198 would be required for the South Building. The North Building, once complete, would provide adequate parking to serve both uses.

OP requested additional information including dimensioned site plans that identify drive aisle widths and parking space dimensions, and confirmation that the parking lots are not shared with other merchants in the Florida Avenue Market Area. The applicant should also provide additional information concerning the parking calculations, as noted in this report. Provided there are no conflicts with the requested information, OP would be supportive of the flexibility.

B. BICYCLE PARKING (§ 2119)

The applicant has requested flexibility from providing bicycle parking spaces for the South Building. Upon its completion, the North Building would provide enough bicycle parking spaces to accommodate both structures. OP has requested additional information concerning the location and quantity of bicycle parking spaces on the site and in adjacent public space. Provided that the number of spaces provided is commensurate with what is required, OP would support this flexibility.

C. ROOFTOP STRUCTURES (§ 411)

The applicant has requested flexibility from rooftop structures, as they are of varying height. However, the need for relief is unclear, as sheets Z3 and Z4, provided with the pre-hearing statement, indicate that the rooftop structures would all be 14 feet in height. The applicant should clarify the need for flexibility.

D. CLOSED AND OPEN COURTS (§ 776)

The applicant has requested flexibility from closed and open courts, as they do not meet width and area requirements. Although the courts in Union Market Plaza require relief for area, the overall width is considerably more than required by the regulations. In addition, the open court located along the north property line in the North Building Office Option would be adjacent to an undeveloped property that consists of shade structures. Given that the building elevations use a significant amount of glass, the north elevation of this building will still receive adequate light and air. As a result, OP supports the relief that has been requested for closed and open courts.

E. LOADING (§ 2201)

The applicant has requested flexibility from loading requirements, as less loading than required would be provided for the South Building. The applicant has provided a loading management plan that limits loading times and the size of trucks. The applicant should continue to work with DDOT to refine this plan.

F. USES

The applicant has requested use flexibility for both the North and South Buildings, where either residential or office uses would occupy the top four floors of the South Building and the entirety of the North Building. Floor plans have been provided in the pre-hearing submission dated December 16, 2014, that provide potential floor plans for either use. The applicant has also addressed the transportation implications through the Transportation Impact Study submitted to DDOT. Further, the exterior elevations of the South Building would remain the same regardless of the use that occupies the top four floors. OP is supportive of this flexibility; however, the applicant should provide a breakdown of the number of residential units that would be provided, as well as type and number of affordable units.

VIII. PUBLIC BENEFITS AND AMENITIES

In its review of a PUD application, §2403.8 states that "the Commission shall judge, balance, and reconcile the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case." Section 2403.9 outlines "Public benefits and project amenities of the proposed PUD may be exhibited and documented in any of the following categories; relevant categories are analyzed below:

(a) Urban design, architecture, landscaping, or creation or preservation of open space;

1. **Public open space (Union Market Park) -** Public open space, identified as Union Market Park in the pre-hearing statement, would be provided along the south property line, and would consist of hardscape and landscape areas. The 7,000 square foot area would be maintained by the applicant and programmed with events as detailed in the pre-hearing statement. The applicant has valued the construction and maintenance of this amenity at $194,899. The applicant should provide additional information about the public open space, including hardscape and landscape details, and the results of any discussions regarding the coordination of the design with the adjacent owner to the south.

2. **Urban public plaza (Union Market Plaza)** – An urban public plaza, identified as Union Market Plaza in the pre-hearing statement, would be provided between the North and South Buildings. The area is approximately 12,500 square feet in area, and would be maintained as an open, public urban plaza. The applicant would also organize ticketed or invited events that would occur in the space. The plaza will be completed in two phases, where it will initially be in an interim condition, and then completed with all the final finishes upon completion of the North Building. The applicant estimates the value of this benefit, including maintenance for a period of five years, to be $303,389. The applicant should provide additional information about the urban public plaza, including hardscape and landscape details and the extent to which the space would be available to the public.

3. **Preservation and retention of Union Market and maintaining operations during construction** – The applicant has committed to keeping Union Market operational during construction by constructing a separate foundation over the

Market, which increases design and construction costs. Keeping the Market open will increase construction costs, as substantial night work and additional public safety measures will have to be taken. The applicant estimates the cost of this benefit to be $750,000.

4. **Exemplary architecture** – The proposed project would enhance Florida Avenue Market by upgrading the aesthetic of the site while maintaining the industrial character of the area. The project will reuse bricks from the demolished North Building in components of the new site.

(b) Housing and affordable housing;

1. **Potential creation of new housing near Metro** – Housing would be potentially created should the option to provide housing above the Angelika Film Center or in the North Building be pursued. The applicant should provide more definitive information indicating that residential will be incorporated into this development.

2. **Affordable Housing** – The applicant has indicated that any housing provided in this development would comply with IZ, providing 8% of the units at 80% AMI. However, the applicant should demonstrate that housing will be provided in this development.

(c) Environmental benefits;

1. **Sustainable Design** – The applicant will design the development to a LEED Silver rating and will obtain certification for the theater and office components of the project. The applicant will also continue to investigate the feasibility of a district energy system. In response to comments provided by DDOE, the applicant should strongly consider designing the project to a Gold rating.

(d) Uses of special value to the neighborhood or the District of Columbia as a whole;

1. **Enhanced security commitment** – The applicant has committed to provide enhanced security for all the public space in the Florida Avenue Market area (45 acres) for a period of five years. Following the five year term, the applicant believes that the Market area will not require enhanced security due to anticipated future development. The applicant should provide additional information that defines the proposed security, including number of patrol cars, hours of patrol, and whether additional features, such as better lighting, are included with this amenity. The applicant estimates the cost of this amenity to be $902,273.

2. **Donation of event space to community** – The applicant will provide event space or related services in the South Building event space to the community or non-profits for a period of five years. The estimated value of this benefit is $79,479.

3. **Angelika Theater** – Angelika Theater will be the first new theater in Ward 5 and the first Angelika Theater in the District.

4. **Engaging retail offerings** – The applicant will provide 62,000 gross square feet of retail at Union Market, along with 25,000-35,000 gross square feet of retail in the North Building. It is anticipated that the retail will continue to attract food focused "makers," similar to those already at Union Market.

5. **Educational partnership with local schools** – The applicant will create and continue a partnership with a local school, providing monthly educational programs and tours to students.

6. **Community events and programming** – The applicant will continue to host community events and maintain its community-focused programming at the property, and will commit to hosting no less than three community events for a period of five years.

7. **District Adopt-A-Block Program** – The applicant will participate in the District's Adopt-a-Block program in the Florida Avenue Market, and will regularly clean trash and remove graffiti in the area along 5th and 6th Streets NE.

(e) Effective and safe vehicular and pedestrian access, transportation management measures, connections to public transit service, and other measures to mitigate adverse traffic impacts;

1. **5th Street Interim Condition Parking and Loading Management** – The applicant will continue to work with DDOT to design and install an interim parking management program for 5th Street NE. The program will include designing and installing striping and signage. The applicant estimates the cost of this amenity as $22,500.

2. **Neal Place upgrade** – The applicant will upgrade the Neal Place sidewalks between 4th and 5th Streets to ADA-compliant standards, subject to DDOT approval. These improvements will improve pedestrian circulation between Union Market and the proposed PUD by the same applicant at 5th Street and termination of Neal Place. The applicant estimates the cost of this upgrade is $27,500.

3. **Streetscape Design Guidelines** – The applicant will work with DDOT to establish Streetscape Design Guidelines for the overall Florida Avenue Market area to establish a consistent streetscape design across the 45 acre area. The estimated value of this study is $100,000. The applicant should provide the scope, deliverables, and draft designs to the Zoning Commission for further review.

(f) Employment and training opportunities.

1. **Retention and enhancement of small businesses and long-time businesses of the prior market** – The applicant will continue to locate and incubate small businesses at Union Market, along with retaining long-time businesses. The applicant will continue to provide services to these businesses, including business plan advisement, business process review, and providing financial support.

Amenity package evaluation is partially based on an assessment of the additional development gained through the PUD application process. In this case, the PUD-related map amendment to C-3-C would realize a gain in height of 80 feet, from 40 feet to 120 feet, and an increase in FAR of 3.3, from 3.0 to 6.3.

The development of this site would bolster an already-popular area with additional entertainment uses, such as a movie theater and the regular events hosted by Union Market. The applicant has committed to providing resources to small business, and to continue to incubate maker businesses as recommended by the Ward 5 Works industrial Land Study. The benefits and amenities offered by the applicant are particularly strong in the area of adding special value to a neighborhood. OP requests that the applicant provide more details and additional analysis of the proposed benefits, amenities and mitigation.

IX. AGENCY REFERRALS AND COMMENTS

Comments were requested from District agencies, including:

- Department of Transportation (DDOT);
- Department of the Environment (DDOE);
- Fire and Emergency Medical Services Department (FEMS);
- DC Water; and
- Department of Housing and Community Development (DHCD);

The applicant has been working with DDOT, which has been reviewing the applicant's Traffic Impact Study. DDOT's report will be submitted under separate cover. Comments were also received by DDOE, attached to this report as Exhibits A and B. No other comments were received to date from the contacted agencies.

X. COMMISSION REQUESTS

At the July 28, 2014 setdown meeting, the Zoning Commission requested a response to several items. OP has provided the list of items and the applicant's response in the following table:

Zoning Commission Comments	Applicant's Response
1. Provide an updated benefits and amenities package.	The applicant has provided an itemized list of benefits and amenities for the development, as noted in this report. However, additional information should be provided to clarify several of the proffers.

2. Provide clarification regarding the bicycle parking spaces and phasing.	In the pre-hearing submission dated August 29, 2014, the applicant provided a site plan identifying potential locations of bicycle parking, but not the quantity. A phasing plan addressing bicycle parking was not provided.
3. Provide dimensioned building sections that identify projections and overhangs.	Building sections have been provided in the December 16, 2014 pre-hearing statement beginning on sheet A-9.
4. Provide clarification on the need for retail façade flexibility. Will the character be maintained?	This comment has not been addressed.
5. Provide additional information about the LED movie sign. Is it continuously moving?	This comment has not been addressed.
6. Provide additional information concerning the event space.	Exhibit D of the pre-hearing submission dated August 29, 2014 provides several potential floor plans for different types of events.
7. Provide additional information concerning the parking and phasing of buildings.	In the pre-hearing submission dated December 16, 2014, the applicant has identified where the parking will be provided and the number of spaces. There has also been some clarification concerning the phasing, including when the lease expires on the current parking lot, and when the new temporary lot will be painted on the North Building site. The applicant should provide additional information to include dimensioned site plans and identify whether or not the temporary lots are shared with other merchants.
8. Identify how Deaf Space Principles have been incorporated into the site design.	Sheet A1.1 in the pre-hearing statement dated December 16, 2014 identifies how Deaf Space Principles have been incorporated into the site.
9. Provide an explanation of the demolition plan on sheet C-2.	The pre-hearing statement dated August 29, 2014 indicates that the North Building on the property will be demolished during the construction phase of the South Building. The North Building will be constructed in a second phase.
10. The dusty pink color in the legend is not labelled on page A-9.	The pre-hearing statement dated August 29, 2014 provides updated plan pages under exhibits G-1 and G-2.
11. Provide additional information concerning the loading for the South Building. What is the worst case scenario?	Exhibit H of the pre-hearing statement dated August 29, 2014 provides the interim loading condition.

12. The housing needs to address the needs of the area.	This comment has not been addressed.
13. The LEED rating needs to be higher.	The checklist provided by the applicant indicates that LEED Silver will be achieved. As a benefit and amenity, the applicant has agreed to obtain certification for the theater and residential/office components.
14. Address the loss of industrial uses.	This comment has not been addressed.
15. Verify that the FAR calculations are correct.	The pre-hearing statement dated August 29, 2014 provides clarification concerning the FAR.
16. Explain why balconies have been incorporated into the design for an office use.	Since the application was setdown, the applicant has requested flexibility to permit either office or residential uses in the upper floors of Union Market. The pre-hearing statement dated December 16, 2014 provides floor plans demonstrating how either use can be accommodated in the same floor space. Additionally, the applicant has noted that the industrial aesthetic of the upper floors of the South Building is able to be utilized for either a residential or office use.
17. Provide rooftop details.	The pre-hearing statement dated December 16, 2014 provides two rooftop options. On page A6, an occupied penthouse, as proposed in the penthouse regulations (14-13), has been provided. Page A5 shows a non-occupied penthouse that complies with current regulations.
18. Clarify that the Maurice Electric storage lot is not included in the project.	A revised site plan was provided in the pre-hearing submission dated August 29, 2014.

XI. CONCLUSION

While OP continues to be very supportive of this project, a final and full recommendation cannot be made at this time due to the amount of outstanding information. The project will certainly be a benefit to the Florida Avenue Market, as it continues to act as a catalyst for future development, but a greater explanation and understanding of several components of the project that have been outlined in this report are needed. The proposed PUD, when viewed against the maps and policy statements, is not inconsistent with the elements of the Comprehensive Plan. OP will continue to work with the Applicant to supplement the proposal as noted in this report, and to respond to any requests for additional information by the Commission.

JS/be
Case Manager, Brandice Elliott

GOVERNMENT OF THE DISTRICT OF COLUMBIA **Exhibit A**

District Department of the Environment

MEMORANDUM

TO: Brandice Elliott, OP
FROM: Jay Wilson, DDOE
CC: Brendan Shane, DDOE
Bill Updike, DDOE
DATE: 10/27/14
SUBJECT: **Z.C. CASE NO. 14-12**
EAJ 1309 5th Street, LLC – First-Stage and Consolidated PUD & Related Map Amendment @ Square 3591, Lot 800 - 1309-1329 5th Street, N.E.

DDOE reviews planned unit development applications for environmental issues that the applicant should be aware of during early stages of planning, as well as to identify opportunities for increasing environmental and urban sustainability benefits during development.

DDOE does not have comments to the applicant's height or setback requests. Rather, the comments contained herein address issues that the applicant should be made aware of in the early stages of design and entitlement. The items mentioned below are by no means comprehensive, but are a summary of specific items related to the site in question and some common issues that come up with many development projects. DDOE is always interested in meeting with developers and construction companies early in the development process in order to identify opportunities and to help avoid future regulatory problems. Some areas of interest for DDOE are as follows:

1) Green Building
   - *General Guidance:* Starting January 2012 (per the Green Building Act of 2006, D.C. Official Code §§ 6-1451.01 et seq.), all private commercial, non-residential projects 50,000 square feet and larger are required to attain, at a minimum, LEED certification at the "Certified" level. In addition, on March 28, 2014, all projects 10,000 square feet and above, and residential projects both 10,000 square feet and 4-stories and higher are required to comply with the DC Green Construction Code (per the 2013 District of Columbia Construction Code).

   - *Recommendations:* In addition to the base requirements, DDOE recommends that building owners consider future-proofing their buildings by 1) making building

systems as energy efficient as possible; 2) maximizing the efficiency potential of the building envelope; and 3) either installing renewable energy or making the building renewable-ready. Sustainable strategies for accomplishing these tasks are also incorporated into the LEED rating system. These efforts also support several Sustainable DC Plan targets including to reduction of greenhouse gas emissions 50 percent by 2032 and increasing use of renewable energy to 50 percent by the same date.

- *Actions:* The recommendations can be accomplished through a series of smart building and design choices. DDOE is available to meet with the developer and construction companies to consult.

  i) Overall green building strategy – The project should define and express an overall green building strategy. Integrated design techniques (LEED IP Credits) should be used from the earliest stages of the design process as they have been found to decrease cost and increase performance.
  ii) Green Building Certification – As mentioned above, this project is required to either meet the DC Green Building Code prescriptive and elective point requirements or pursue one of the alternative compliance paths, which include LEED Certification, ASHRAE 189.1 and the National Green Building Standard. Given the opportunity that a project of this scale has to contribute to a more sustainable city, DDOE recommends that this project exceed the baseline requirements, and pursue a LEED v4 Certification at the Gold level or higher. Given that 66 percent of the square footage of LEED projects in the District is either Gold or Platinum, this higher level of certification is commonplace in the marketplace.
  iii) Building systems – Establish specific and measurable energy reduction goals. DDOE recommends that buildings improve energy efficiency by 20 percent over ASHRAE 90.1-2010 to meet the Sustainable DC and Better Building Challenge goals.
  iv) Maximize the efficiency of the building envelope – Limit glazing to 40 percent of the envelope surface and install continuous insulation on the exterior side of the building framing. Include details in the plans and specifications to ensure proper air-sealing and compartmentalization of residential units.
  v) Solar ready – Design for maximizing of solar potential by locating roof structures on the north side of the roof surface, and minimizing other obstructions.
  vi) Renewable or alternative energy systems – Include on-site renewable energy to meet 3 percent or more of the building's total energy need, using solar photovoltaic or hot water, fuel cells, ground source heat pumps, or combined cooling, heating and power (CCHP) systems. The District has some of the strongest financials for solar installations in the country at this moment, and

analysis shows short payback times and high returns on investment.

- *Site Specific Issues:* Connection points and thermal breaks at overhangs pose unique design challenges with regard to air sealing and continuity of thermal barrier. Specific details should be developed during design and reviewed prior to building permitting to ensure air sealing and insulation best practices are being met.

2) Green Area Ratio
   - *General Guidance:* The Green Area Ratio (GAR) is an environmental sustainability zoning regulation that sets standards for landscape and site design to help reduce stormwater runoff, improve air quality, and keep the city cooler. All new buildings that require a certificate of occupancy must comply with GAR. Additions and interior renovations to existing buildings must comply with GAR when the cost to construct exceeds 100 percent of the assessed building value within any twelve-month period. Additional information may be found in the Green Area Ratio Guidebook and on the DDOE website.

   - *Actions:* Submit GAR plans for new buildings during the Foundation-to-grade (FD) or Civil (BCIV) permit to allow coordination with stormwater plan review. Submit GAR plans for additions or interior renovations during the Building Permit (B). If a project will take place in multiple zones, we request that it meet the zone requirement with the highest minimum GAR score.

3) Stormwater Management
   - *General Guidance:* The updated District stormwater regulations have an on-site retention requirement of 1.2 inches per storm event. The regulations offer an off-site Stormwater Retention Trading Program and in-lieu fee options for projects with retention deficits. The technical Stormwater Guidebook and accompanying compliance spreadsheets provide engineers with detailed guidance on how to comply using individual stormwater management practices. Visit http://ddoe.dc.gov/swregs to view and download the regulation, transition guidelines, and the supporting guidance documents.

   - *Recommendation:* In addition to the base requirement of 1.2 inches of stormwater retention, DDOE recommends that this project be a leader for this neighborhood and design on-site retention systems or participate in the Stormwater Retention Trading Program for increased retention of 1.7 inches or the 95th percentile storms. Volumes managed over and above the 1.2 inch regulatory requirement can generate income for the project through credit trading.

   - *Actions:* The recommendations can be accomplished through a series of smart design choices. DDOE is available to meet with the developer and construction companies to consult.

i) Consult the DDOE Stormwater Management Guidebook (2013) for strategies and guidance for stormwater management design.
ii) The project team, including professional Landscape Architect and Civil Engineer is encouraged to schedule an early PDRM at the 65% design stage with DDOE Watershed staff and DDOT public space reviewers to ensure the design maximizes pervious and green surfaces as well as minimizing long-term maintenance costs. Refer to DDOT's Green Infrastructure Standards for more information.
iii) Integrate low impact development strategies for stormwater management throughout the site, including bioretention areas, green roofs, permeable pavement, curbless streetscape with vegetated swales, and natural filtration areas. Engineering teams are encouraged to participate in one of the regularly scheduled training programs on the 2013 stormwater regulations and compliance tools.

- *Site Specific Issues:*
  i) Due to the scale of the construction and proposed development, this project has a unique opportunity to greatly improve stormwater management in the Florida Avenue Market Area, and set the context for green and sustainable future development. The existing area is composed almost exclusively of impervious building, sidewalk and street surfaces. The current development plans do not highlight any specific areas for stormwater retention, community greenspace, or run-off control. Integration of greenspace, low impact development (LID) strategies, such as bioretention areas, green roofs, and capture of stormwater adjacent to the "curbless streetscape" can contribute to overall stormwater management, community connectivity, and walkable streetscapes, and should be incorporated into the plans. Strategies should be further investigated with DDOE and DDOT staff during the PDRM meeting.
  ii) Similar to the Anacostia Waterfront Development Zone legislation, design public spaces to ensure sufficient tree planting. Provide canopy coverage within 20 years of project occupancy of 30% of non-roof impervious surfaces and 40% of overall-non-roof surfaces within the project area.

4) Water Quality, Use, and Connection
   - *General Guidance:* If the owner of a project will or plans to discharge stormwater and groundwater to District of Columbia municipal separate stormwater sewer system (MS4), the owner must apply for a discharge (Section 402 of CWA) permit from U.S. Environmental Protection Agency (U.S. EPA) and a Section 401 of CWA water quality certification from DDOE Water Quality Division.

     Furthermore, as demand on public infrastructure increases, it is vital that new development continue to minimize impact and flow to the MS4. Per the Sustainable DC Plan, the city-wide goal is to reduce potable water demand 40 percent by 2032. Conserving water can help protect the environment, decrease

demand on public infrastructure, and provide short- and long-term utility savings for property owners and management. The development narrative and plans do not address water efficiency except to say that they will use "low-flow plumbing fixtures." Exterior water use should also be considered during construction and for maintenance after construction.

- *Recommendations:* The applicant is encouraged to establish more specific measurable goals for water efficiency. DDOE recommends that the applicant demonstrate through modeling and fixture calculations, a 20 percent potable water use reduction beyond the code requirements. In addition to efficiency measures, initial investment in infrastructure for water reuse; for landscaping, cooling tower make-up, and gray water systems, will save long term utility and maintenance costs. Additionally, use of harvested rainwater for non-potable uses will count toward the project stormwater GAR obligations.

- *Actions*: The recommendations can be accomplished through a series of smart building and design choices. DDOE is available to meet with the developer and construction companies to consult.
  i) Follow all regulations related to wastewater and stormwater discharge into public infrastructure to minimize quantities and therefore minimize overall impact.
  ii) Plants should be native and adaptive species in order to reduce potable water demand for irrigation.
  iii) Rainwater should be captured in cisterns and reused to meet site irrigation needs or for other purposes. Water used for irrigation should be separately metered and have moisture sensors installed.
  iv) Residential plumbing fixtures should exceed the minimum code requirements, including 1.0 gallon per minute bathroom faucets, 1.5 gallon per minute shower heads, and 1.1 gallon per flush toilets.
  v) Commercial plumbing fixtures should include dual flush water closets, automatic, metered faucets, and waterless urinals.

5) <u>Waste</u>
   - *General Guidance:*
     i) Hazardous waste – Prior to any development activities and excavation of soil, a comprehensive environmental assessment is required to verify the presence/absence of contamination at the subject property. All businesses must comply with the RCRA C regulations and law. All businesses that generate a RCRA C regulated waste in the District must have an EPA ID number before work begins. An EPA ID number can be obtained from the hazardous waste program at DDOE. Generally speaking, most businesses will generate at least one regulated waste as fluorescent lamps, mercury-based switches, and abandoned chemical or oil-based paints (among other things) qualify. Based on many inspections and compliance assistance visits, facilities

often do not have sufficient space within the facility for storage of fluorescent lamp waste. Facilities will help to avoid future regulatory violations if they allocate space during the design phase. If a backup generator is planned, space should be allocated during the design phase for proper storage of used motor oil, though non-combustion back-up generation through fuel cells or battery storage is preferable.

ii) Construction waste – Per the DC Green Construction Code, all construction projects are required to document that greater than 50 percent of construction waste, including demolition waste, has been diverted from the landfill. In addition, LEED points are awarded for projects that divert 75 percent of waste or greater.

iii) Recycling – Per DCMR Title 21, Chapter 20, commercial recycling is required for all properties in the District. Additional information may be found on the Department of Public Works website, http://dpw.dc.gov/node/418932.

- *Recommendations:* DDOE recommends establishment of waste management plans applicable both during construction and for long-term property maintenance. Hauling costs per load of recycling waste are typically less than hauling costs of trash waste going to landfill. Regular occupant training can assist to reduce waste and save operational costs.

- *Actions:* The recommendations can be accomplished through a series of smart building and design choices. DDOE is available to meet with the developer and construction companies to consult.

  i) Hazardous waste – As a former industrial site, provide documentation of existing hazardous materials through a Phase 1 Environmental Assessment. Establish operational guidelines for all regulated waste. Note the followingand follow-up with DDOE for guidance on additional actions and remediation:

     (1) If the subject property is listed under the Brownfields listing

     (2) If there is a pending Leaking Underground Storage Tank (LUST) case or existing underground storage tank (UST) and other environmental enforcement proceedings

     (3) If there is Recognized Environmental Conditions (REC) at the subject property

  ii) Construction waste – In order to decrease the demand on area landfills, it is recommended that the developer and contractor exceed the minimum requirements for construction waste and divert a minimum of 75 percent of construction and demolition waste.

  iii) Recycling – Provide documentation of trash collection rooms with dedicated space for recycling and separation of waste streams. If trash chutes will be installed, include operation guidelines for diverters or separate chutes for recycling.

6) Air Quality/ Environment

- *General Guidance:* Per the DC Construction Code and DCMR Title 20, or to meet optional credits under the LEED standard, building projects shall comply with volatile organic compound (VOC) emission limits for paint, coatings, adhesives, flooring, ceiling, and wall systems. In addition, HVAC systems are required to install MERV 11 filters or better. These guidelines contribute to overall indoor air quality and occupant health.

- *Recommendation:* During the design phase, a designer, builder, developer, etc., should review all of the equipment that will be installed in a building and determine whether any of them will emit an air pollutant. Any equipment that burns fossil fuel (gas, oil, coal), applies a coating, uses a solvent, or creates or has the potential to emit dust or other air pollutants should be limited to minimize exposure and emissions during construction and occupancy. Some of this equipment may need to be permitted by the Air Quality Division of DDOE before construction or installation of the equipment can begin.

  Note that this requirement includes some temporary equipment associated with the construction, as well as more permanent equipment. Other air quality regulations that must be complied with during the construction phase (as well as during occupancy) include limits on engine idling for a maximum of three minutes (e.g., delivery trucks, dump trucks, semis), limits on fugitive dust (e.g., dust from by vehicles on dirt surfaces, equipment moving dirt around, pile drivers), and limits on odors (e.g., generators exhausting near the street or windows, painting, solvent cleaning, tarring, etc.).

- *Actions:* The recommendations can be accomplished through a series of smart building and design choices. DDOE is available to meet with the developer and construction companies to consult.
  i) Erosion and sediment control guidelines should stress dust-free construction activity and the contractor should appoint personnel to enforce regulations.
  ii) The architect should specify zero-VOC paints, adhesives, and sealants to the greatest extent possible. Most products can be specified as a cost neutral substitution for more regularly specified materials.
  iii) HVAC and ventilation equipment should be specified to ensure proper air exchange and balanced interior air pressure which will limit odors, eliminate moisture, and guarantee healthy air quality.
  iv) Anti-idling signs should be posted during construction as well as permanently at the loading dock(s) and anywhere else at the site where it is likely that commercial vehicles would idle. Engine idling signs posted on public streets would need to be posted in coordination with the District Department of Transportation (DDOT).

v) Air quality monitoring of the surrounding neighborhood as required by the EISF should include impacts on the major intersections at New York and Florida Avenues NE.
vi) Existing structures to be renovated or razed are required to perform an assessment of the presence of asbestos-containing materials and conduct the appropriate abatement if such materials are determined to be present prior to the renovation process, if such materials may be disturbed. Any abatement plan must be approved by the DDOE Air Quality Division and all abatement must be performed in accordance with the requirements of 20 DCMR § 800, Control of Asbestos.
vii) A backup/emergency generator cannot be used in a reimbursed demand response program (i.e., they are paid to switch from the electricity grid to the generator when requested) unless the generator has had best available control technology (BACT) installed according to DDOE requirements.

GOVERNMENT OF THE DISTRICT OF COLUMBIA **Exhibit B**

District Department of the Environment

MEMORANDUM

TO: Brandice Elliott, OP
FROM: Jay Wilson, DDOE
CC: Brendan Shane, DDOE
Bill Updike, DDOE
DATE: 12/22/14
SUBJECT: **Z.C. CASE NO. 14-12**
EAJ 1309 5th Street, LLC – First-Stage and Consolidated PUD & Related Map Amendment @ Square 3591, Lot 800 - 1309-1329 5th Street, N.E.

To date, DDOE has not received any specific response to the memorandum dated October, 27, 2014 (Memo), sent to the Office of Planning on October 29, 2014, other than what was included in the 20 day pre-hearing statement filed by Goulston Storrs on December 16th, 2014. DDOE is in receipt of and has reviewed the applicant's Pre-Hearing Statement, received on December 16, 2014. We find that several of the comments in the DDOE memorandum have not been addressed. Also, despite many suggestions for the applicant to schedule a meeting with the DDOE staff, specifically to address stormwater management and green building strategies, no meeting has been scheduled. Please find a list of items below where we suggest additional explanation or exploration by the applicant is necessary.

- **Green Building -**
  As stated in the Memo, it is recommended that the applicant pursue LEED v4 Certification at the Gold level. At present the Pre-Hearing statement includes inconsistent statements about certification and green building features that will be pursued. Being as there is only one building in DC currently certified under LEED v4, LEED v2009 may be pursued. However, certification at the Silver level is achievable for any new construction buildings without imposition of significant additional cost to the applicant. In fact, of the LEED certified buildings in DC, 58% are certified LEED Gold or Platinum. Therefore, LEED v2009 Silver Certification is not considered a significant benefit or amenity and LEED Gold is recommended.

The applicant included a LEED Checklist in the Pre-Hearing Statement. There are several items worth additional exploration.

- The checklist makes note that if residential usage is incorporated rather than office as initially planned, LEED Certification will not be pursued. LEED Certification should be pursued for either building usage.
- LEED Certification is not being pursued for the existing Union Market or event space. Certification should be pursued for the building as a whole, qualifying the project for an additional 5 LEED credits.
- The applicant did not include credits for bicycle storage and there was no mention of it in the narrative. Per DDOT standards, bicycle storage is required for private development, either retail or office use.
- The building is required to comply with the DC Energy Code. By simply meeting the 2012 IECC, the project would qualify for at least 9 credits under EAc1. Additional energy efficiency measures are recommended to "future proof" the building pursuant to the Sustainable DC Plan and Better Buildings Challenge goals.
- The applicant includes credits for on-site renewable energy, but did not include renewable energy on the GAR checklist. Incorporation of on-site renewable energy is recommended and would be considered a public benefit. It would also provide one additional Regional Priority Credit. Provisions for renewable energy are not included elsewhere in the statement. The applicant should expand on their strategy and include this in their Benefit and Amenity package.
- The project should pursue all 5 Innovation in Design credits.
- As an example, the above recommendations would qualify the project for a minimum of 14 additional zero-cost LEED credits, qualifying the project for LEED Gold Certification.

- **GAR & Stormwater Management -**
  As requested in the Memo and interagency meetings with the applicant, they have included additional information regarding GAR and stormwater management. Although these calculations are at a very high level, DDOE applauds the applicants statement on C-200 that the stormwater captured in the cistern will be reused internal to the building. This is also reflected on the LEED Checklist.

  The applicant should provide additional clarification as to the design and layout of the tree boxes on both 5th and 6th streets. As both streets are planned for parallel parking, provisions should be made for pass through from the street. In addition, the applicant has been asked to look at First Street NE as a precedent for how incorporating LID infrastructure can not only become a stormwater benefit, but also activate the public space. The current stormwater management plans and renderings detail average tree boxes that appear to miss this opportunity.

- **Sustainable Design Benefits**
  As stated above, given that LEED Certification at a Silver level is common for commercial buildings within the District, and that LEED Certification could be pursued as an alternative compliance path under the DC Green Construction Code, it is not considered a significant benefit or amenity. However, several strategies included in the LEED Checklist, if pursued, including significant reduction in potable water use through reclaimed rainwater, on-site renewable energy for at least 3% of the building's energy use, and redesign of the public space to include innovative use of LIDs for stormwater capture or retention and activated public space, would be considered benefits to the public.

  With regard to district energy, DDOE has not received any information that the applicant has investigated district energy systems but if they could share that information, we would be glad to facilitate any conversations or investigations for this development project or the greater Florida Avenue Market area.