

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 11-09
Z.C. Case No. 11-09
Duball Petworth, LLC
(Consolidated PUD and Related Map Amendment at Square 2905)
October 17, 2011

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on September 15, 2011, in order to consider an application from Duball Petworth, LLC ("Applicant"), on behalf of Safeway Inc., the owner of Lots 808 and 809 in Square 2905, including a public alley to be closed, for the approval of a consolidated planned unit development ("PUD") and related map amendment. The subject property is located at 3830 Georgia Avenue, N.W. The Commission considered the application pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application.

FINDINGS OF FACT

A. The Application, Parties, and Hearing

1. On April 4, 2011, the Applicant filed an application with the Commission for the review and consolidated approval of a PUD on Lots 808 and 809 in Square 2905, including a public alley to be closed ("Property"), and a related map amendment to rezone a portion of the Property (Lot 808) from R-4 to the GA/C-3-A District ("Application"). The Application is marked as Exhibits 4-7 of the record.
2. The Property has a land area of approximately 68,118 square feet. It is situated on the west side of Georgia Avenue, N.W., between Quincy and Randolph Streets, and is currently improved with a 21,716-square foot grocery store and surface parking lot. Lot 808 is designated Moderate-Density Residential on the District of Columbia Comprehensive Plan Future Land Use Map ("Land Use Map") and is presently zoned R-4. Lot 809 is designated Mixed-Use, Medium-Density Residential and Moderate-Density Commercial on the Land Use Map and is presently zoned GA/C-3-A. Lot 809 is also designated in a Main Street Mixed-Use Corridor area on the District of Columbia Comprehensive Plan Generalized Policy Map.

3. At its meeting of May 23, 2011, the Commission voted unanimously to set down the Application for public hearing. However, in its discussion on the Application, the Commission had comments related to the truck movements in and out of the loading area; the building architecture and design; the loading dock management plan; and the PUD benefits and amenities package. The Commission also requested a shadow study to see how the shadows from the proposed development impact the adjacent properties.
4. On June 1, 2011, the Applicant submitted a Prehearing Statement. (Exhibit 18.) The Prehearing Statement addressed the issues and comments raised by the Commission and the Office of Planning (“OP”), and included as exhibits revised drawings; a traffic impact study, dated May 18, 2011, prepared by Gorove/Slade; and the Draft Loading Area Management Plan.
5. On August 26, 2011, the Applicant submitted a Supplemental Filing, which included an updated set of architectural plans and elevations, with a cover sheet dated August 26, 2011, reflecting the feedback on the project from the Commission, OP, and neighboring residents. (Exhibits 27-30.) The Supplemental Filing also included the following: (i) discussions on the building roofs, the shadow study, and the Applicant's community outreach efforts; (ii) a letter from Advisory Neighborhood Commission (“ANC”) 4C, dated May 10, 2011, expressing support for the PUD; (iii) a memorandum from Gorove/Slade relating to the vehicular traffic in the alley network in Square 2905; (iii) a copy of the First Source Agreement entered into by Duball Petworth, LLC; (iv) a copy of the First Source Agreement entered into by Safeway, Inc.; (v) an updated traffic impact study by Gorove/Slade, dated August 1, 2011; and (vi) a letter from Miller, Beam & Paganelli, Inc., dated August 19, 2011, concerning the Rooftop HVAC Equipment.
6. A description of the proposed development and the notice of the public hearing in this matter were published in the *D.C. Register* on June 24, 2011. The notice of public hearing was mailed to all property owners within 200 feet of the Property, as well as to ANC 4C. On September 15, 2011, the Commission held a public hearing on the Application. The parties to the case were the Applicant and ANC 4C.
7. At the September 15, 2011 hearing, the Applicant submitted four items into the public record: (i) a summary of the PUD benefits and amenities; (ii) a letter from Bohler Engineering, dated September 15, 2011, relating to the reduction in stormwater runoff; (iii) the Outline of Testimony for Steven E. Sher; and (iv) a sheet titled “Affordable Housing Diagrams,” dated September 15, 2011. (Exhibits 36-38, 40.) Reduced copies of the Applicant’s PowerPoint presentation were also provided to the Commission. (Exhibit 39.)

8. A letter in support of the PUD application, from Councilmember Muriel E. Bowser, dated September 15, 2011, was submitted at the hearing. (Exhibit 35).
9. Five witnesses testified at the public hearing on behalf of the Applicant: Avis Black, Area Real Estate Manager for Safeway, Inc.; Marc Dubick, president of Duball, LLC, the managing member of Duball Petworth, LLC; Brian O'Looney, AIA, LEED AP, Principal with Tori Gallas; Steven E. Sher, Director of Zoning and Land Use Services at Holland & Knight LLP; and Erwin N. Andres, Principal, Gorove/Slade. Based upon professional experience and qualifications, Mr. O'Looney was accepted by the Commission as an expert in architecture; Mr. Sher was accepted as an expert in land use, zoning, and planning; and Mr. Andres was accepted as an expert in traffic engineering and transportation planning.
10. OP testified at the hearing in support of the project, stating that it is consistent with the PUD standards and with the Georgia Avenue Great Streets Plan, and is not inconsistent with the Comprehensive Plan.
11. Commissioner David Tumblin, the single member district representative for ANC 4C06, testified in support of the project at the public hearing.
12. Mr. Adav Noti, who resides at 3821 10th Street, N.W., immediately west of the Property, testified in support of the project at the public hearing.
13. No persons or parties testified in opposition to the Application.
14. At the conclusion of the public hearing, the Commission took proposed action to approve the Application. The Commission requested that, prior to final action, OP provide information on how the parking for the PUD compares to the proposed new zoning regulations, and the status of the public space improvements along Georgia Avenue undertaken by the District. The Commission also requested that the Applicant provide revised drawings showing the continuation of the building cornice line through the rooftop penthouses, and a darker color of brick for the penthouses; additional bicycle parking/storage; removal of the grills on the south elevation that look to the loading area; and a revised diagram of the location of the affordable dwelling units, showing a more equitable distribution of same.
15. On September 19, 2011, the Commission issued a Procedural Order establishing deadlines for the final proffer of the project benefits and amenities and conditions for the approval of the PUD. (Exhibit 45.)
16. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") on September 15, 2011, under the terms of the District of Columbia Home Rule Act. Pursuant to the report dated September 29,

2011, NCPC found that the proposed PUD will not affect the federal interests. (Exhibit 51.)

17. The Commission took final action to approve the Application on October 17, 2011.

B. The PUD Project

1. The Applicant intends to raze the existing grocery store on the Property, and redevelop the Property with a mixed-used project that includes a new, state-of-the-art, urban, "lifestyle" grocery store that contains approximately 63,125 square feet of floor area, and a residential building above. The residential building will have a gross floor area of approximately 211,540 square feet and contain 198 to 242 dwelling units. The unit mix consists of approximately 14% studios, 64% one bedroom and one bedroom with dens, and 22% two bedrooms. Eight percent of the residential gross floor area, less the residential square footage not devoted to units, such as lobbies, hallways, elevator shafts, stairwells, mechanical rooms, community rooms, etc., will be reserved for persons whose income does not exceed 80% of the Area Median Income. The project will have an overall density of 4.5 floor area ratio ("FAR") and a maximum building height of 85 feet.
2. The PUD includes two levels of below-grade parking. The first level of the parking garage will provide approximately 84 parking spaces for the grocery store; the second level of the parking garage will provide parking spaces for the residential building at a ratio of approximately 0.6 per dwelling unit.

C. Development Under Existing R-4 Zoning

1. The R-4 Zone District is designed to include those areas in the District currently developed primarily with row dwellings, but within which there have been a substantial number of conversions of the dwellings into dwellings for two or more families. (11 DCMR § 330.1.) Very little vacant land shall be included within the R-4 Zone District since its primary purpose shall be the stabilization of remaining one-family dwellings. (11 DCMR § 330.2.) The maximum height permitted in the R-4 Zone District is 40 feet and three stories. (11 DCMR § 400.1.) There is no prescribed maximum density. (11 DCMR § 402.4.) The maximum percentage of lot occupancy for a newly constructed row dwelling, flat, church, or public school is 60%; and 40% for all other structures. (11 DCMR § 403.2.)

D. Development Under Proposed GA/C-3-A Zoning

1. The Georgia Avenue Commercial ("GA") Overlay District applies to all properties zoned C-2-A and/or C-3-A along both sides of Georgia Avenue, N.W., from the north side of the intersection of Georgia Avenue and Kenyon Street to

the south side of the intersection of Georgia Avenue and Varnum Street. (11 DCMR § 1327.1.) The purpose of the GA Overlay District includes encouraging additional residential uses along the Georgia Avenue corridor, improved commercial uses, and vertically-mixed uses (ground-floor commercial and residential above) within a quarter mile of the Georgia Avenue-Petworth Metrorail Station along Georgia Avenue, from Park Road to Shepherd Street.

2. The design requirements of the GA Overlay applicable to the PUD are as follows:
 - Buildings shall be designed and built so that not less than 75% of the street wall at the street level shall be constructed to the property line abutting the street right-of-way. Buildings on corner lots shall be constructed to all property lines abutting streets; (§ 1328.2.)
 - Each building on a lot that fronts on Georgia Avenue shall devote not less than 50% of the surface area of the street wall at ground level to entrances to commercial uses or to the building's main lobby, and to display windows that have clear or clear/low emissivity glass. Decorative or architectural accents do not count toward the 50% requirement; (§ 1328.5.)
 - Each commercial use with frontage on Georgia Avenue shall have an individual public entrance directly accessible from the public sidewalk; (§ 1328.7.)
 - Buildings shall be designed so as not to preclude an entrance every 40 feet on average for the linear frontage of the building, excluding vehicular entrances, but including entrances to ground-floor uses and the main lobby; and (§ 1328.8.)
 - The ground-floor level of each building or building addition shall have a uniform, minimum clear floor-to-ceiling height of 14 feet. (§ 1328.9.)
3. A PUD in the GA Overlay District shall be subject to the following provisions, in addition to those of Chapter 24 of the Zoning Regulations:
 - Any additional height and floor area above that permitted as a matter-of-right in the underlying zone shall be for residential use only; and
 - The minimum area included within the proposed PUD, including the area of public streets or alleys proposed to be closed, shall be a total of 10,000 square feet.

(11 DCMR § 1331.1.)

4. The C-3-A Zone District shall permit medium-density development with a density incentive for residential development within a general pattern of mixed-use development. (11 DCMR § 740.4.) The C-3-A Zone District shall be compact in area and located on arterial streets, in uptown centers, and at rapid transit stops.
5. The C-3-A Zone District includes the following development requirements:
 - A maximum matter-of-right height of 65 feet with no limit on the number of stories; (§ 770.1.)
 - A maximum matter-of right density of 4.0 FAR, all of which may be devoted to residential use, but not more than 2.5 of which may be devoted to non-residential uses; (§ 771.2.)
 - A maximum lot occupancy of 75%; (§ 772.1.)
 - A minimum rear yard depth of 12 feet; (§ 774.1.)
 - If provided, a side yard shall be at least three inches wide per foot of building height, but not less than eight feet; (§ 775.5.)
 - Where a court is provided for a building or a portion of a building devoted to non-residential uses, at any elevation in the court, the width of the court shall be a minimum of three inches per foot of height, measured from the lowest level of the court to that elevation; provided that in no case shall the width of the court be less than 12 feet; (§ 776.1.)
 - In the case of a closed court for a building or portion of building devoted to non-residential uses, the minimum area shall be at least twice the square of the width of court based upon the height of court, but not less than 250 square feet; (§ 776.2.)
 - Where a court is provided for a building or portion of building devoted to residential uses, at any elevation in the court, the width of court must be a minimum of four inches per foot of height, measured from the lowest level of the court to that elevation, but not less than 15 feet; (§ 776.3.)
 - In the case of a closed court for a building or portion of a building devoted to residential uses, the minimum area must be at least twice the square of the width of court based upon the height of court, but not less than 350 square feet; (§ 776.4.)

- For a grocery store in excess of 3,000 square feet, one off-street parking space is required for each additional 300 square feet of gross floor area and cellar floor area; (§ 2101.1.)
- For an apartment house or multiple dwelling with 50 or more units, one off-street parking space shall be provided for each two dwelling units; (§ 2101.1.)
- For a grocery store with 20,000 to 100,000 square feet of gross floor area, the loading requirement is one loading berth at 30 feet deep, one loading platform at 100 square feet, one loading platform at 200 square feet, and one service/delivery space at 20 feet deep; and (§ 2201.1)
- For an apartment house or multiple dwelling with 50 or more dwelling units, the loading requirement is one loading berth at 55 feet deep, one loading platform at 200 square feet, and one service/delivery loading space at 20 feet deep are required. (§ 2201.1)

E. Development Flexibility

1. *Flexibility from GA Overlay District Requirements.* The PUD requires flexibility from §1328.8 of the Zoning Regulations, which requires that buildings in the GA Overlay District to be designed so as not to preclude an entrance every 40 feet on the average of the linear frontage of the building. The building was designed to have only limited points of entrance on Randolph Street and Georgia Avenue, typical of the operation and design for the respective grocery store and residential building uses. The project also requires flexibility from § 1328.9 of the Zoning Regulations, which requires a uniform minimum clear floor-to-ceiling height of 14 feet, 11 inches in GA Overlay District. The "back of house" operations for the grocery store will not meet the minimum floor-to-ceiling height requirement, but those operations are not visible from Georgia Avenue and, therefore, will not disturb the intent of the GA Overlay District design standards.
2. *Flexibility to Permit Multiple Roof Structures and Walls of Unequal Height.* The project requires flexibility from § 411.3 of the Zoning Regulations requiring that all penthouses and mechanical equipment be placed in one enclosure and from § 411.5 of the Zoning Regulations, which requires that all enclosing walls from roof level shall be of equal height. There are two penthouse structures on the main roof of the building and two penthouse structures on the west wing of the building. They were separated into shorter structures with smaller footprints in order to minimize the visual and aesthetic impact of the project design.
3. *Flexibility From Roof Structure Setback.* The project requires flexibility to permit roof structures that are not set back from the exterior building walls at a distance

that are less than equal to its height above the roof in accordance with § 770.6(b). This condition occurs on the west side of the roof of the main building to the building, and is critical to the building design because it allows the residential entrances to be equally distributed at the opposite corners of the building and allows the open floorplate necessary for the grocery store. The reduced setback also occurs on the south side of the roof on the west wing of the building. In that case, the penthouse has been pushed toward the building's edge in order to accommodate a rooftop terrace. The terrace is situated in a manner that provides more privacy to residences on the south side of the Property.

4. *Flexibility From Parking Requirements for Grocery Store.* The project requires flexibility from Chapter 21 of the Zoning Regulations in order to provide approximately 84 parking spaces for the grocery store use where a minimum of 200 parking spaces are required. Based on the traffic impact study for the project the amount of parking is sufficient, given the Property's proximity to the Georgia Avenue-Petworth Metrorail Station and the nearby availability of other alternative modes that include seven bus routes and future streetcar service. Also, a high non-driving population is anticipated to be attracted to the site for employees and patrons of the Safeway store and for the residents of the proposed residential building.
5. *Flexibility From Requirements for Courts.* Two of the courts for the PUD require flexibility from the minimum width requirements in § 776 of the Zoning Regulations. The open court on the south side of the Property has a width of 11 feet where 19 feet is required; and the open court above the drive aisle has a width of 23 feet where 31 feet is required. In both cases, a wider court is not feasible because of the site constraints and the design of the residential building. However, the open court proposed on the south side of the building abuts a 15-foot-wide open court that is currently provided by the residential building to the south of the Property. Therefore, the configuration effectively meets the intent of the open court requirements.
6. No other type of flexibility from the Zoning Regulations was requested or granted.
7. In addition, the Applicant seeks flexibility for the PUD as follows:
 - Flexibility to provide a range in the number of residential units, from 198 to 242;
 - Flexibility to vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways,

and mechanical rooms, provided that the variations do not change the exterior configuration of the building;

- Flexibility to be able to provide a range of 80 to 90 parking spaces for the grocery store use, and to vary the location and arrangement of parking spaces;
- Flexibility to vary the number, location and arrangement of parking spaces for the residential use, provided that the total parking is not reduced below a ratio of 0.6 parking spaces per dwelling unit; and
- Flexibility to vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinements to exterior details and dimensions, including curtainwall mullions and spandrels, window frames, glass types, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit.

F. Public Benefits and Amenities

1. The PUD will have the following benefits and amenities in the areas of urban design, landscaping, and the creation or preservation of open spaces: (§ 2403.9(a).)
 - a. The PUD will result in the redevelopment of a currently underutilized site with a mixed-use project that includes ground-floor retail and residential uses above within one block of the Georgia Avenue-Petworth Metrorail Station;
 - b. The proposed redevelopment of the site advances many objectives of the Comprehensive Plan, including mixed-use, transit-oriented development along Georgia Avenue, contributing to the development of Georgia Avenue as one of the "Great Streets" of the District;
 - c. The project advances the purposes for the Georgia Avenue Commercial Overlay District, which are to: (a) implement the objectives of the Georgia Avenue-Petworth Metro Station Area and Corridor Plan; (b) implement the goals of the Great Streets Framework Plan for 7th Street - Georgia Avenue; (c) encourage additional residential uses along the Georgia Avenue corridor; (d) encourage improved commercial uses; (e) provide uniform building design standards; (f) set guidelines for development

review through PUD and special exception proceedings; and (g) encourage vertically-mixed uses (ground-floor commercial and residential above) within a quarter mile of the Georgia Avenue-Petworth Metrorail Station, along Georgia Avenue, from Park Road to Shepherd Street; (11 DCMR § 1327.3.)

- d. The proposed project includes an outdoor seating area on Randolph Street. This section of the street will be transformed into a park-like setting through the installation of pavers within the sidewalk and seating area, a stone-clad retaining wall, steel railings, and a planting bed. The outdoor seating area is subject to review and approval by the District Department of Transportation's ("DDOT") Public Space Committee; and
 - e. The Applicant will install pavers and a new granite curblin along Georgia Avenue, in furtherance of the District's Great Streets Program.
2. The PUD will have the following benefits and amenities in the areas of site planning and efficient and economical land utilization: (§ 2403.9(b).)
- a. The proposed mix of uses will bring a greater density of use to the neighborhood while using the same amount of developed land;
 - b. The PUD design facilitates all users to the project, including pedestrians, bicyclists, and those arriving via mass transit; and
 - c. Vehicular parking and loading for the project will be below grade. Aesthetically, this is a substantial improvement to the existing store, which has two surface parking lots and loading on the side of the store along Randolph Street. Also, the enclosed loading area will minimize the noise from the store loading operations.
3. The PUD will have the following benefits and amenities in the areas of effective and safe vehicular and pedestrian access, transportation management measures, connections to public transit service, and other measures to mitigate adverse traffic impacts: (§ 2403.9(c).)
- a. The project is just one block north of the Georgia Avenue-Petworth Metrorail Station, which is serviced by the Green and Yellow lines. The Property is also served by numerous Metrobus lines;
 - b. The project shall provide a minimum of 31 bicycle parking/storage spaces on the site in connection with the grocery store use, where § 2119 of the Zoning Regulations requires 11 bicycle parking/storage spaces.

Additionally, 18 bicycle parking/storage spaces will be provided in the residential parking garage;

- c. Two parking spaces within the project will be available for the ZipCar car-sharing program;
 - d. The garage entrance for the residential building will be located at the west end of the project, and the garage entrance for the grocery store customers will be from the curb cut on Randolph Street. This arrangement is intended to limit the use of the alley system, to the extent possible, to the residents of the project and adjacent residences;
 - e. Vehicular access to the grocery store will be through a single, existing curb cut off Randolph Street, reducing the number of curb cuts serving the Property from four to one;
 - f. The residential building will have an on-site coordinator to implement and manage transportation demand management strategies, including the development and distribution of informational and promotional brochures to visitors, patrons, and employees regarding transit facilities and services, walk and bicycle facilities and linkages, ridesharing (carpool and vanpool), and car sharing;
 - g. An electronic informational kiosk providing various walking, bicycle, and transit related information will be displayed in the lobby of the residential building;
 - h. SmarTrip card machines will be installed in the new grocery store;
 - i. The first resident of each unit will be given a \$50 voucher toward a SmarTrip card, Capital Bikeshare membership, or a ZipCar membership; and
 - j. Employees of the grocery store will be provided information on an employee ride-matching/ride sharing program.
4. The PUD will have the following benefits in the area of employment and training opportunities: (§ 2403.9(e).)
- a. The opening of the new grocery store will generate an estimated 70 new employees;
 - b. The redevelopment of the site will create new construction jobs for District residents;

- c. Duball Petworth, LLC, has entered into a First Source Agreement with the District Department of Employment Services (“DOES”), committing to a goal of hiring District residents for at least 51% of the newly created jobs; and
 - d. Safeway, Inc. has entered into a First Source Agreement with DOES, committing to a goal of hiring District residents for at least 51% of the newly created jobs.
5. The PUD has the following benefits and amenities in the areas of housing and affordable housing: (§ 2403.9(f).)
 - a. The PUD will generate creation of approximately 198 to 242 new dwelling units on a site that is not required to have any housing.
6. The PUD will have the following environmental benefits and amenities (§ 2403.9(f)):
 - a. The PUD will have a minimum of 50 LEED points, equivalent to LEED Silver;
 - b. The residential parking garage will have two electric car charging stations;
 - c. The grocery store redevelopment in the same location does not remove additional green and/or open space from the community;
 - d. Placement of the grocery store entrance on Georgia Avenue facilitates the access of all users to the store, including pedestrians, bicyclists, and those arriving via mass transit;
 - e. The larger-format grocery store located on street level, activating the pedestrian environment, and residential units above the store, bring a greater density of use to the neighborhood while using the same amount of developed land;
 - f. All parking provided is located under cover, thus eliminating the urban heat island effect and noise that is typically generated from surface parking lots;
 - g. Façade materials selected are both locally-sourced and durable materials; and
 - h. Light-emitting diodes (“LEDs”) will be used for lighting all exterior building signage.

7. The PUD will have the following benefits and amenities that are of special value to the Petworth neighborhood: (§ 2403.9(f).)
 - a. The PUD will replace a 1960s era, free-standing Safeway grocery store with a contemporary, large-format grocery store that will have a gross floor area of approximately 63,125 square feet;
 - b. During the construction of the new grocery store, Safeway will operate a temporary pharmacy within a two-mile radius of the PUD site; and
 - c. During the construction of the new grocery store, Safeway will coordinate shuttle service for Petworth residents between the PUD site and the Safeway Piney Branch Store.

G. Compliance with Guiding Principles of the Comprehensive Plan Amendment Act of 2006 (D.C. Law 16-300, effective March 8, 2007)

1. The taller portion of the proposed development in the existing GA/C-3-A Zone District is consistent with the District of Columbia Comprehensive Plan Future Land Use Map, which shows the Property as being appropriate for Medium-Density Residential and Moderate-Density Commercial uses. The Medium-Density Residential designation is used to define neighborhoods or areas where mid-rise residential buildings (four to seven stories) are the predominant use. Pockets of low- and moderate-density housing may exist within these areas. The Medium-Density Residential designation also may apply to taller residential buildings surrounded by large areas of permanent open space. The R-5-B and R-5-C Zone Districts are generally consistent with the Medium-Density Residential designation, although other zones may apply in some locations. (§ 225.5.) The Moderate-Density Commercial designation is used to define shopping and service areas that are somewhat more intense in scale and character than the low-density commercial areas. Retail, office, and service businesses are the predominant uses. Areas with this designation range from small business districts that draw primarily from the surrounding neighborhoods to larger business districts uses that draw from a broader market area. Buildings are larger and/or taller than those in low density commercial areas but generally do not exceed five stories in height. The corresponding zone districts are generally C-2-A, C-2-B, and C-3-A, although other districts may apply. (§ 225.9)
2. The west wing of the building, in the existing R-4 Zone District is designated Moderate-Density Residential on the Future Land Use Map. The Moderate-Density Residential designation is used to define the District's row house neighborhoods, as well as its low-rise garden apartment complexes. The designation also applies to areas characterized by a mix of single family homes, two-to-four unit buildings, row houses, and low-rise residential buildings. In some

of the older inner-city neighborhoods with this designation, there may also be existing multi-story apartments. (§ 225.4)

3. That portion of the Property along Georgia Avenue is designated a Main Street Mixed-Use Corridor on the District of Columbia Comprehensive Plan Generalized Policy Map. Main Street Mixed-Use Corridors are traditional commercial business corridors with a concentration of older storefronts along the street. The service area for Main Streets can vary from one neighborhood (e.g., 14th Street Heights or Barracks Row) to multiple neighborhoods (e.g., Dupont Circle, H Street, or Adams Morgan). Their common feature is that they have a pedestrian-oriented environment with traditional storefronts. Many have upper story residential or office uses. Conservation and enhancement of these corridors is desired to foster economic and housing opportunities and serve neighborhood needs. Any development or redevelopment that occurs should support transit use and enhance the pedestrian environment.
4. Land Use Element (Chapter 3). The underlying goal of the Land Use Element is to “[e]nsure the efficient use of land resources to meet the long-term neighborhood, citywide, and regional needs; to help foster other District goals; to protect the health, safety, and welfare of District residents and businesses; to sustain, restore, or improve the character and stability of neighborhoods in all parts of the city; and to effectively balance the competing demands for land to support the many activities that take place within District boundaries.” (§ 302.1.)
5. The PUD redevelops a significantly underutilized site with a well-designed, efficiently planned, mixed-used project that brings new commercial and residential uses to a site that is well served by Metrobus lines and within a block of a Metrorail Station. Also, the District's Transit Future System Plan includes the re-establishment of streetcar service in the District and the implementation of limited-stop bus service along major corridors in the vicinity of the PUD site. Further, the project is located on Georgia Avenue, which the District has targeted as a revitalization area in need of increased density and neighborhood retail and services; and Georgia Avenue is designated as one of the District's “Great Streets,” which are intended to help spur economic development, transportation, and urban design benefits on the corridor. The PUD includes retail and residential uses, as well as great design, all of which will help to increase the vitality of this portion of Georgia Avenue.
6. The PUD is consistent with the following policies of the Land Use Element of the Comprehensive Plan:
 - a. Policy LU-1.3's Transit-Oriented and Corridor Development. The following principles should be applied in the management of land around the District's neighborhood Metrorail Station:

- *A preference for mixed residential and commercial uses rather than single purpose uses, particularly a preference for housing above ground floor retail uses;*
 - *A preference for diverse housing types, including affordable units; and*
 - *A priority on attractive, pedestrian-friendly design and a de-emphasis on auto-oriented uses and surface parking;*
- b. *Policy LU-1.3.3: Housing Around Metrorail Stations.* Recognize the opportunity to build housing adjacent to Metrorail stations, given the reduced necessity of auto ownership (and related reduction in household expenses);
- c. *Policy LU-1.4.1: Infill Development.* Encourage infill development on vacant land within the City, particularly in areas where there are vacant lots that create “gaps” in the urban fabric and detract from the character of a commercial or residential street. Such development should complement the established character of the area and should not create sharp changes in the physical development pattern;
- d. *Policy LU-2.1.10: Multi-Family Neighborhoods.* Maintain the multi-family residential character of the District’s Medium- and High-Density residential areas. Limit the encroachment of large scale, incompatible commercial uses into these areas, and make these areas more attractive, pedestrian-friendly, and transit accessible;
- e. *Policy LU-2.1.11: Residential Parking Requirements.* Ensure that parking requirements for residential buildings are responsive to the varying levels of demand associated with different unit types, unit sizes, and unit locations, including proximity to transit. Parking should be accommodated in a manner that maintains an attractive environment at the street level and minimizes interference with traffic flow; and
- f. *Policy LU-2.2.4: Neighborhood Beautification.* Encourage projects that improve the visual quality of the District’s neighborhoods, including landscaping and tree planting, façade improvement or removal of abandoned buildings, street and sidewalk repair, and park improvements.
7. The PUD is consistent with the following policies of the *Housing Element* of the Comprehensive Plan:

- a. Policy H-1.1.1: Private Sector Support. Encourage the private sector to provide new housing to meet the needs of present and future District residents at locations consistent with the District land use policies and objectives;
 - b. Policy H-1.1.4: Mixed Use Development. Promote mixed-use development, including housing, on commercially zoned land, particularly in neighborhood commercial centers, along main street mixed-use corridors, and around appropriate Metrorail Stations; and
 - c. Policy H-1.1.5: Housing Quality. Require the design of affordable housing to meet the same high quality architectural standards required of market-rate housing. Regardless of its affordability level, new or renovated housing should be indistinguishable from its exterior appearance, and should address the need for open space and recreational amenities, and respect the design integrity of adjacent properties and the surrounding neighborhood.
8. The PUD is consistent with the following policies of the Urban Design Element of the Comprehensive Plan:
- a. Policy UD-2.2.1: Neighborhood Character and Identity. Strengthen the defining visual qualities of Washington’s neighborhoods. This should be achieved in part by relating the scale of infill development, alterations, renovations, and additions to existing neighborhood context;
 - b. Policy UD-2.2.5: Creating Attractive Facades. Create visual interest through well-designed building facades, storefront windows, and attractive signage and lighting. Avoid monolithic or box-like building forms, or long blank walls which detract from the human quality of the street;
 - c. Policy UD-2.2.7: Infill Development. Regardless of neighborhood identity, avoid overpowering contrasts of scale, height, and density as infill development occurs;
 - d. Policy UD-3.1.1: Improving Streetscape Design. Improve the appearance and identity of the District’s streets through the design of street lights, paved surfaces, landscaped areas, bus shelters, street “furniture,” and adjacent building façades;
 - e. Policy UD-3.1.6: Enhanced Streetwalls. Promote a higher standard of storefront design and architectural detail along the District’s commercial streets. Along walkable shopping streets, create street walls with relatively

continuous facades built to the front lot line in order to provide a sense of enclosure and improve pedestrian comfort;

- f. Policy UD-3.1.7: Improving the Street Environment. Create attractive and interesting commercial streetscapes by promoting ground level retail and desirable street activities, making walking more comfortable and convenient, ensuring that sidewalks are wide enough to accommodate pedestrian traffic, minimizing curb cuts and driveways, and avoiding windowless facades and gaps in the street walls; and
 - g. Policy UD-3.2.5: Reducing Crime Through Design. Ensure that the design of the built environment minimizes the potential for criminal activity. Examples of preventive measures include adequate lighting, maintaining clear lines of sight and visual access, and avoiding dead-end streets.
9. The PUD is consistent with the following policies of the Economic Development Element of the Comprehensive Plan:
- a. Policy ED-2.2.3: Neighborhood Shopping. Create additional shopping opportunities in Washington's neighborhood commercial districts to better meet the demand for basic goods and services. Reuse of vacant buildings in these districts should be encouraged, along with appropriately-scaled retail infill development on vacant and underutilized sites; and.
 - b. Policy ED-3.1: Neighborhood Commercial Vitality: Promote the vitality and diversity of Washington's neighborhood commercial areas by retaining existing businesses, attracting new businesses, and improving the mix of goods and services available to residents.
10. The PUD is consistent with the following policies of the Rock Creek Area Element of the Comprehensive Plan:
- a. Policy RCE-1.1.3: Directing Growth. Concentrate economic development activity and employment growth in Rock Creek East around the Georgia Avenue/Petworth Metrorail and Takoma station areas, along the Georgia Avenue corridor, along Kennedy Street, and on 14th Street, N.W., between Allison and Decatur Streets. Provide improved pedestrian, transit, and bicycle access to these areas, and improve their visual and urban design qualities in order to create a unique destination for the local community to enjoy;
 - b. Policy RCE-1.1.4: Neighborhood Shopping Areas. Maintain and encourage the development of multi-use neighborhood shopping and

services in those areas designated for commercial or mixed uses on the Future Land Use Map;

- c. Policy RCE-1.1.6: Development of New Housing. Encourage the retention of existing subsidized housing units within the Rock Creek East Planning Area, along with other measures to increase housing choices and improve housing affordability for area residents. The PUD should include the production of new mixed income housing along Georgia Avenue, and the encouragement of mixed income housing in the industrially zoned area west of Georgia Avenue, between Upshur and Shepherd, and on District-owned land along Spring Road near the Petworth Metro Station;
- d. Policy RCE-2.2.1: Development Character. Encourage development in the Georgia Avenue/Petworth area to respect the area's pedestrian-oriented, moderate density character. A variety of project scales should be encouraged, ranging from small adaptive reuse and rehabilitation projects to mixed use projects combining housing and commercial uses. Mixed income housing with a variety of housing types is particularly encouraged. Any development of larger-scale buildings shall require architecturally sensitive scale transitions to adjacent, less dense development; and
- e. Policy RCE-2.2.2: Strategic Public and Private Investment in Petworth. Target capital improvements toward the locations that are best equipped to leverage new private development, particularly the 3600-4100 blocks of Georgia Avenue. These capital improvements should include façade improvements, streetscape amenities, pedestrian safety measures, parking management improvements, and public art.

H. Office of Planning Reports

1. By report dated May 13, 2011, OP stated that the project would complement developments recently completed or underway in the 3600 - 4200 block of Georgia Avenue, provide additional residential density in support of improved Commercial opportunities, and generally become a positive addition to Georgia Avenue in the revitalizing Petworth neighborhood. OP recommended that the Commission set down the Application for public hearing. (Exhibit 14.)
2. By report dated September 2, 2011, as amended by a supplemental report, also dated September 2, 2011, OP recommended the approval of the Application subject to the condition that the planters on the edge of the western wing shall be equipped with an automatic watering system to help maintain the proposed landscaping facing existing residences adjacent to the rear alley system. (Exhibits 32, 33.)

I. DDOT Report

1. By report dated September 1, 2011, DDOT indicated that it supports the PUD with the condition that the Applicant evaluate the study area within one year of opening, or as deemed appropriate by DDOT, in order to review the northbound left-turn movements from Georgia Avenue onto Randolph Street and Quincy Street. (Exhibit 31.)

J. Post-Hearing Submissions

1. On September 29, 2011, the Applicant submitted a consolidated set of plans. (Exhibit 49.) The plans included revised drawings and a revised diagram of the distribution of the affordable dwelling units as requested by the Commission.
2. A letter was received from the Chairperson of ANC 4C, dated October 2, 2011, authorizing Commissioner David Tumblin to testify on behalf of the ANC at the hearing on the Application. (Exhibit 50.)

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2.)
2. A comprehensive public review by the Commission of the specific development proposal is required in order to evaluate the public benefits offered in proportion to the flexibility or incentives requested, and in order to establish a basis for long-term public control over the specific use and development of the Property. (11 DCMR § 2400.3.)
3. The Commission may approve a PUD application, with or without modifications. In carrying out the purposes of the Zoning Regulations, the Commission may establish general standards and, in individual cases, set standards and conditions for height and bulk lesser or greater than the standards established for the affected districts under the Zoning Regulations or elsewhere in the Zoning Regulations. (11 DCMR § 2400.5.)
4. Development of the property included in this Application carries out the purposes of Chapter 24 of the Zoning Regulations, which is to encourage the development of well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.

5. The PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations. The PUD, as approved by the Commission, complies with the applicable height, bulk, and density standards of the Zoning Regulations. The uses for this project are appropriate for the Property. The impact of the project on the surrounding area and the operation of city services is acceptable given the quality of the public benefits in the project.
6. The Commission finds that the Applicant's proposal to rezone a portion of the Property from R-4 to GA/C-3-A and to construct a mixed-use development on the Property is consistent with the Property's designation on the Future Land Use Map and the Generalized Policy Map.
7. The Applicant's request for flexibility from the Zoning Regulations is consistent with the Comprehensive Plan. Moreover, the project benefits and amenities are in proportion to the requested development flexibility.
8. Approval of this PUD is appropriate because the proposed development is consistent with the present character of the area, and is not inconsistent with the Comprehensive Plan. In addition, the proposed development will promote the orderly development of the Property in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
9. The Commission is required under § 3 of the Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000, effective June 27, 2000 (D.C. Law 13-135; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and conditions expressed in the written report of an affected ANC. In this case, ANC 4C voted to support the Application and recommended that the Commission approve the Application. (Exhibit 15.) The Commission has given ANC 4C's recommendation great weight in approving the modification application.
10. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to OP recommendations. For the reasons stated above, the Commission concurs with OP's recommendation for approval and has given the OP recommendation the great weight it is entitled.
11. The Application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the Application for the planned unit development on at Lots 808 and 809 in Square 2905, and a PUD-related map amendment to rezone Lot 808 in Square 2905, from the R-4 Zone District to the GA/C-3-A Zone

District subject to the following guidelines, conditions, and standards. For the purposes of these conditions, the term "Applicant" shall mean the person or entity then holding title to the Property. If there is more than one owner, the obligations under this Order shall be joint and several. If a person or entity no longer holds title to the Property, that party shall have no further obligations under this Order; however, that party remains liable for any violation of these conditions that occurred while an Owner. "During the operation of the building" means a period of time that begins when the building is first occupied, and ending when it is last occupied.

A. Project Development

1. The PUD shall be developed in accordance with the plans prepared by Torti Gallas, dated September 29, 2011, marked as Exhibit 49 of the record (the "Plans").
2. In accordance with the Plans, the PUD shall be a mixed-use project with a grocery store consisting of approximately 63,125 square feet, and a residential building above. The residential building shall have a gross floor area of approximately 211,540 square feet and contain 198 to 242 dwelling units. The maximum density for the project shall be 4.5 FAR, and the maximum building height shall be 80 feet.
3. Residential parking shall be provided for the PUD at a ratio of 0.6 space per dwelling unit for the residential use; approximately 84 parking spaces shall be provided for the grocery store. All of the required parking spaces for the project will be contained in a below-grade parking garage, as depicted in the Plans.
4. Two parking spaces within the project shall be available for a ZipCar car-sharing program.
5. The planters on the edge of the western wing of the building shall be equipped with an automatic watering system to help maintain the proposed landscaping facing existing residences adjacent to the rear alley system.
6. Through-wall air conditioner and/or heating units are prohibited in the residential building.
7. Within one year of the issuance of a certificate of occupancy for the grocery store, or as deemed appropriate by DDOT, whichever occurs first, the Applicant shall evaluate the study area to review the northbound left-turn movements from Georgia Avenue onto Randolph Street and Quincy Street.
8. The Applicant shall install and, during the operation of the project shall maintain, security cameras along the alley on the south side of the Property.

9. LEDs shall be used for lighting all exterior building signage.
10. The Applicant has flexibility from § 1328.8 of the Zoning Regulations in order to design the grocery store with a limited number of entrances, as depicted in the Plans.
11. The Applicant has flexibility from § 1328.9 of the Zoning Regulations such that the "back of house function areas," as depicted in the Plans, may have ceiling heights of less than 14 feet.
12. The Applicant has flexibility from §§ 411 and 770.6 of the Zoning Regulations to have roof structures that do not meet the setback and are not enclosed within walls of equal height, to the extent depicted in the Plans.
13. The Applicant has flexibility to provide 80 to 90 parking spaces for the grocery store use, where Chapter 21 of the Zoning Regulations requires a minimum of 200 parking spaces.
14. The Applicant has flexibility from § 776 of the Zoning Regulations to have two open courts that do not meet the minimum width requirements, to the extent depicted in the Plans.
15. The Applicant has flexibility to provide a range in the number of residential units, from 198 to 242.
16. The Applicant has flexibility to vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the building.
17. The Applicant has flexibility to make refinements to the garage configuration, including layout, number of parking spaces, and/or other elements, as long as the number of parking spaces for the residential building is not reduced below a ratio of 0.6 parking space per unit, and the grocery store parking is not reduced below 80 parking spaces.
18. The Applicant has flexibility to vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinements to exterior details and dimensions, including curtainwall mullions and spandrels, window frames, glass types, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit.

B. Public Benefits

1. Subject to the review and approval by the DDOT Public Space Committee, the project shall include an outdoor seating area on Randolph Street. The seating area shall include the installation of pavers within the sidewalk and seating area, a stone-clad retaining wall, steel railings, and a planting bed.
2. Prior to the issuance of a certificate of occupancy for the shell of the building, the Applicant shall install or cause the installation of pavers and a new granite curbline along Georgia Avenue in furtherance of the Great Streets Program, at no cost to the District. The Applicant shall coordinate the installation of said improvements with DDOT.
3. The project shall provide a minimum of 31 bicycle parking/storage spaces on the PUD site in connection with the grocery store use. Additionally, a minimum of 18 bicycle parking/storage spaces shall be provided in the residential parking garage.
4. During the operation of the grocery store and the residential building, the Applicant shall implement the following Transportation Demand Management measures:
 - a. The residential building for the PUD shall have an on-site coordinator for the development and distribution of informational and promotional brochures to visitors, patrons, and employees regarding transit facilities and services, walk and bicycle facilities and linkages, ridesharing (carpool and vanpool), and car sharing;
 - b. Maintain an electronic informational kiosk providing various walking bicycle and transit related information shall be displayed in the lobby of the residential building;
 - c. A minimum of two SmarTrip card machines shall be installed and maintained in the new grocery store; and
 - d. The first resident of each unit in the PUD shall be given a \$50 voucher toward a SmarTrip card, Capital Bikeshare membership, or the ZipCar car-sharing program.
5. The PUD shall have a minimum of 50 LEED points, equivalent to LEED Silver.
6. During the operation of the residential building, the residential parking garage shall have a minimum of two electric car charging stations.

7. During the construction of the new grocery store, Safeway shall operate a temporary pharmacy within a two-mile radius of the PUD site.
8. During the construction of the new grocery store, Safeway shall coordinate shuttle service for Petworth residents between the PUD site and the Safeway Piney Branch Store.
9. During the operation of the grocery store, the grocery store windows along the Georgia Avenue façade shall remain unobstructed, with the exception of necessary sun shading during the morning hours.
10. The Applicant shall drill the piles for the building construction, instead of using a pile driver.
11. Prior to the issuance of a raze permit for the demolition of the existing grocery store, the Applicant shall have the Property and the existing grocery store treated for rodent extermination no later than 30 days prior to filing an application for a raze permit, and then again no later than 30 days prior to the issuance of the raze permit.
12. During the construction of the PUD, the Applicant shall maintain ingress/egress to the alley system from Quincy Street and/or Randolph Street at all times.
13. The Applicant shall limit the hours of construction for the project to 7:00 a.m. to 7:00 p.m., Monday through Saturday, exclusive of legal holidays.

C. Miscellaneous

1. No building permit shall be issued for this PUD until the Applicant has recorded a PUD covenant in the land records of the District of Columbia, between the owners and the District of Columbia that is satisfactory to the Office of the Attorney General. Such covenant shall bind the Applicant and all successors in title to construct on and use the Property in accordance with this Order or amendment thereof by the Commission.
2. The PUD shall be valid for a period of two years from the effective date of this Order. Within such time, an application must be filed for a building permit as specified in 11 DCMR § 2409.1. Construction shall begin within three years of the effective date of this Order. Failure to take these actions will result in the expiration of the PUD approval as of the applicable date.

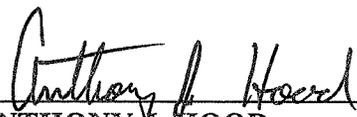
In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §§ 2-1401.01 et seq. (“Act”), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal

appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On September 15, 2011, upon the motion of Commissioner May, as seconded by Vice Chairman Schlater, the Zoning Commission **APPROVED** the Application at the conclusion of its public hearing by a vote of 4-0-1 (Anthony J. Hood, Konrad W. Schlater, Peter G. May, and Greg M. Selfridge to approve; Michael G. Turnbull not present, not voting).

On October 17, 2011, upon the motion of Chairman Hood, as seconded by Commissioner Turnbull, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of 4-0-1 (Anthony J. Hood, Konrad W. Schlater, Peter G. May, and Michael G. Turnbull to adopt; Marcie I. Cohen, not having participated, not voting).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on November 11, 2011.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



RICHARD S. NERO, JR
ACTING DIRECTOR
OFFICE OF ZONING

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



Z.C. CASE NO.: 11-09

As Secretary to the Commission, I hereby certify that on **NOV 14 2011** copies of this Z.C. Order No. 11-09 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

- | | | | |
|----|---|----|--|
| 1. | <i>D.C. Register</i> | 5. | Gottlieb Simon
ANC
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004 |
| 2. | Norman Glasgow, Jr., Esq.
Leila Jackson Batties, Esq.
Holland & Knight
2099 Pennsylvania Ave., N.W. #100
Washington, D.C. 20006 | 6. | Councilmember Muriel Bowser |
| 3. | ANC 4C
P.O. Box 60847
Washington, DC 20039-0847 | 7. | DDOT (Martin Parker) |
| 4. | Commissioner David Tumblin
ANC/SMD 4C06
3801 13 th Street, N.W.
Washington, DC 20011 | 8. | Melinda Bolling, Acting General Counsel
DCRA
1100 4 th Street, S.W.
Washington, DC 20024 |
| | | 9. | Office of the Attorney General (Alan Bergstein) |

ATTESTED BY: Sharon S. Schellin
Sharon S. Schellin
Secretary to the Zoning Commission
Office of Zoning