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**MEMORANDUM**

**TO:** District Board of Zoning Adjustment  
**FROM:** Paul Goldstein, Case Manager  
Joel Lawson, Associate Director Development Review  
**DATE:** January 8, 2013

**BOARD OF ZONING ADJUSTMENT**  
District of Columbia  
CASE NO. 18489  
EXHIBIT NO. 26

**SUBJECT:** BZA No. 18489 - Request for special exception relief pursuant to §§ 774.2, 411, and 1328.2, and variance relief from § 2101.1, to accommodate a residential project with ground floor retail at 3357-3359 Georgia Avenue NW.

**I. OFFICE OF PLANNING RECOMMENDATION**

While the Office of Planning (OP) is **supportive in concept** of the proposed six-story residential building with ground floor retail at 3357-3359 Georgia Avenue NW (Square 3033, Lot 89), OP **cannot make a recommendation** at this time. OP believes that the Applicant likely can satisfy the relief standards by providing additional supportive information and addressing OP concerns. The application requires the following relief:

**Special exceptions:**

- § 774.2: minimum rear yard (proposed rear yards are 1'9" and 6'9" below the minimum required)
- § 411: single structure with enclosing walls of equal height (2 structures proposed)

**Area variance:**

- § 2101.1: minimum number of parking spaces (10 spaces required, zero proposed)

The Applicant's pre-hearing submission, dated December 28, 2012 (hereinafter, "pre-hearing submission"), amended the original application to add a special exception relief request from § 1328.2 (which requires that corner lots be constructed to all property lines abutting streets). OP also notes that the Applicant's original application requested area variance relief from the minimum rear yard, but was subsequently revised to a special exception request.

OP urges the Applicant to provide additional information regarding the issues below, and to adopt any related commitments as conditions of approval:

1. Provide a more robust explanation concerning how the light and air of neighboring properties would not be adversely impacted due to the substandard rear yard, including a broader description of the Applicant's shadow study and its results and an indication of what discussions have taken place with neighboring property owners;
2. Address why a parking design which provides fewer than the required 10 parking spaces could not be effective for the project;
3. Adopt any additional transportation demand management measures recommended by DDOT to mitigate the lack of on-site parking; and
4. Address how the garbage pick-up would be managed, clarify the functionality of the delivery space, and commit to no permanent placement of garbage dumpsters in the project's rear yard.



## II. AREA AND SITE DESCRIPTION

Address:	3357-3359 Georgia Avenue NW
Legal Description:	Square 3033, Lot 89 (hereinafter, the "Property")
Ward/ANC:	1/1A
Lot Characteristics:	The Property is generally rectangular in shape, with approximately 58' of frontage along Georgia Avenue and 86' of frontage along Otis Place NW. The Property measures 4,986 square feet in size. The site is subject to existing building restriction lines along both Georgia Avenue and Otis Place. A 10' wide public alley abuts the site to the east, and the Property slopes downward from east to west.
Zoning:	GA/C-3-A GA: Georgia Avenue Commercial Overlay District C-3-A: medium density development, with a density incentive for residential development within a general pattern of mixed-use development
Existing Development:	The Property is vacant.
Historic District:	N/A
Adjacent Properties:	To the south, the Property abuts a two-story commercial building. To the east, across a 10' wide public alley, is the side façade of a two-story row dwelling. To the north, across Otis Street, is a two-story mixed-use building. To the west, across Georgia Avenue, is a 5-story school building.
Surrounding Neighborhood Character:	The subject Square generally is comprised of low-scale commercial uses zoned GA/C-3-A fronting Georgia Avenue and row dwellings zoned R-4 in the remainder of the Square. The Property is approximately 4 blocks south from the Georgia Avenue/Petworth Metro Station.

## III. PROJECT DESCRIPTION IN BRIEF

Applicant:	GA Views Management, LLC (the "Applicant")
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Proposal:	<p>The application proposes a 6-story, 70' tall building with ground floor retail use and 5-stories of residential use above. The building would include approximately 20 dwelling units and 2,138 square feet of retail space. Residential and retail entrances would front on Georgia Avenue. The building would incorporate setbacks on three sides. An existing building restriction line pushes the developable area back 7.5' from the Georgia Avenue property line and 12.5' from the Otis Street property line. The proposed building also would be set back 7' from the alley's edge.</p> <p>The Applicant indicates that the project generally complies with the Georgia Avenue Commercial Overlay (GA Overlay) design guidelines detailed in § 1328. Such guidelines include minimum ground floor-to-ceiling heights of 14' and display windows of clear or clear/low emissivity glass. However, the building restriction lines prevent the building from being constructed to the property lines of each abutting public street (§ 1328.2). On the building's south side, the building includes "at risk" windows. Two separate roof structures also are proposed.</p> <p>Although no loading space is required, the building would provide one delivery/loading space accessible from the alley. A roll-down gate would shield views of the delivery space. While the zoning regulations require 10 parking spaces for the project, the Applicant is proposing zero on-site parking spaces. Ten bicycle parking spaces would be included in the building's basement.</p> <p>The application does not indicate where electrical vaults will be located on the site. OP encourages their placement in private rear yard space. The project will be required to comply with all applicable Inclusionary Zoning regulations.</p>
Relief Sought:	<p>§ 774.2: minimum rear yard (special exception) § 411: single enclosure with enclosing walls of equal height (special exception) § 2101.1: minimum parking spaces (area variance) § 1328.2: street wall requirement (special exception)</p>

#### IV. IMAGES AND MAPS



Aerial view of the subject site (highlighted and identified with arrow)





Geographic context of the Property as it relates to the Georgia Avenue/Petworth Metro Station (Property identified)



View of the site looking northeast from 9<sup>th</sup> Street. (Google Image 2009).

## V. ZONING REQUIREMENTS

The following table, which reflects information supplied by the Applicant, summarizes relevant zoning requirements for the project and the relief requested.

<b>GA/C-3-A Zoning</b>	<b>Restriction</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief</b>
Lot area (sq. ft.)	N/A	4,986	4,986	Conforms
Floor area ratio (gross floor area/lot area) § 771	4.0 FAR (2.5 non-residential max)	-	3.8 (.4 non-residential)	Conforms
Height (ft.) §§ 770 & 1328.10	70' building max	-	70'	Conforms
Lot occupancy (building area/lot area) § 772	75% (residential) max	-	63%	Conforms
Rear Yard (ft.) § 774	<p>2½ inches/ft. of height, but no less than 12'</p> <p>The project must provide a min. rear yard of 13'9"</p> <p>How the rear yard is measured: (a) For that portion of the structure below a horizontal plane twenty feet (20 ft.) above the mean finished grade at the middle of the rear of the structure from the center line of the alley to the rear wall of the portion; and (b) For that portion of the structure above the horizontal plane described in § 774.7(a), the depth of rear yard shall be measured from the rear lot line to the rear wall of that portion immediately above the plane.</p>	-	<p>The project would have a uniform 7' setback from the rear lot line. Based on the measurement specifications:</p> <p>Under 20' plane: 12' rear yard provided</p> <p>Over 20' plane: 7' rear yard provided</p>	<i>Deficient:</i> The project would be 1'9" and 6'9" deficient
Parking (number) § 2101.1	1 for each 2 dwelling units; the project is required to provide a min. of 10 parking spaces	-	0	<i>Deficient:</i> the project requests 100% parking relief

## VI. RELIEF REQUESTED & OP ANALYSIS

### Special Exception Relief (§§ 774.2, 411, and 1328.2)

- § 774.2 (Minimum Rear Yard)

The project is required to provide a minimum rear yard of 13'9". The regulations provide a specific rule of measurement for rear yards above and below a horizontal plane twenty feet (20 ft.) above the mean finished grade. Consequently, for the measurement under a horizontal plane of twenty feet 20', the project proposes to provide a rear yard of 12'. The rear yard would be deficient by 1'9". Above 20', the project would provide a 7' rear yard and be 6'9" deficient. Section § 774.2 provides special exception criteria to analyze the substandard rear yard request:

*774.3 Apartment and office windows shall be separated from other buildings that contain facing windows a distance sufficient to provide light and air and to protect the privacy of building occupants.*

In the pre-hearing submission, the Applicant provided a diagram (page 12) which illustrates the project's distance from the nearest row dwelling to the east. The row dwelling has at least four windows facing the rear of the proposed building, and the dwelling would be separated by approximately 17' from the project (which includes the existing 10' wide alley and a proposed 7' rear yard setback). The application asserts that the proposed separation "is sufficient to provide light and air and to protect the privacy of the row dwelling occupants and the occupants of the proposed project."<sup>1</sup> While the amount of rear yard relief requested is generally minor in scope (especially for the rear yard measurement below the 20' plane), OP encourages the Applicant to further demonstrate how the proposed project does not unduly impact neighboring row dwellings. Such a showing could include a more robust explanation of the shadow study included on page 20 in the pre-hearing submission and the tenor of any discussions with neighboring property owners.

*774.4 In determining distances between windows in buildings facing each other, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be sufficient to provide adequate light and privacy to the rooms.*

The Applicant provides diagrams on pages 10-12 of the pre-hearing submission which show the estimated sight lines between the proposed building and neighboring dwellings. OP encourages the Applicant to further address the impacts of the building on the proximate row dwellings.

*774.5 The building plan shall include provisions for adequate off-street service functions, including parking and loading areas and access points.*

While the Applicant's parking relief request is addressed on pages 7-8 of this OP report, the project does include a delivery space accessed from the rear alley. Loading space is not required under the zoning regulations for the project. OP is supportive of the inclusion of loading space yet remains concerned about the proposed design. In earlier discussions with the Applicant, OP strongly encouraged the Applicant to locate trash dumpsters internal to the building. However, the Applicant's latest design appears to constrain the delivery space's usefulness by directing too many activities (deliveries and trash dumpsters) in too narrow a space. OP encourages the Applicant to explore whether the dumpsters can be accommodated elsewhere within the building or if the delivery space can be designed differently or enlarged to accommodate multiple uses. OP would not be supportive of the rear yard becoming a de facto permanent location for trash receptacles or the preferred delivery parking location.

*774.6 Upon receiving an application for an approval under § 774.2, the Board shall submit the application to the D.C. Office of Planning for coordination review, report, and impact assessment, along with reviews in writing of all relevant District of Columbia departments and agencies including the Departments of Transportation and Housing and Community Development and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.*

To date, OP has not received any submissions from other relevant District agencies.

- § 411 (Roof Structures)

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<sup>1</sup> See pre-hearing submission, page 7.

The project would include two independent roof structures of 8'3" in height corresponding to the location of the elevator overrun and the stair tower. Combining the roof structures into a single enclosure could produce a more conspicuous structure for little apparent benefit. OP does not anticipate that the roof structure design will have an adverse impact due to their restrained height and setbacks.

- § 1328.2 (Build-to Property Lines)

The GA Overlay requires that buildings on corner lots “shall be constructed to all property lines abutting public streets” (§1328.2). Due to existing building restriction lines on the Property’s Georgia Avenue and Otis Street sides, the building footprint is not able to strictly comply with the GA Overlay requirement. The building instead would be constructed up to the building restriction lines. Special exception relief may be granted to GA Overlay design requirements based on the following criteria:

*1330.2 Exceptions from the design requirements of the Georgia Avenue Commercial Overlay District, as set forth in § 1328, shall be permitted as a special exception if approved by the Board of Zoning Adjustment in accordance §§ 1304 and 3104 and subject to the criteria below*

*(a) The architectural design of the project shall enhance the urban design features of the immediate vicinity in which it is located,*

*(b) Vehicular access and egress shall be located and designed so as to encourage safe and efficient pedestrian movement, minimize conflict with principal pedestrian ways, function efficiently, and create no dangerous or otherwise objectionable traffic conditions,*

*(c) Parking and traffic conditions associated with the operation of a proposed use shall not significantly affect adjacent or nearby residences; and*

*(d) Noise associated with the operation of a proposed use shall not significantly affect adjacent or nearby residences.*

Although technically inconsistent with the GA Overlay standard, the building’s proposed setback along existing building restriction lines would allow the building’s placement to complement the pattern of adjacent buildings to the south and east and enhance the project’s overall urban design.

**Area Variance Relief (§ 401.3)**

- **Does the property exhibit specific uniqueness with respect to exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situations or conditions, and does the extraordinary or exceptional situation impose a practical difficulty which is unnecessarily burdensome to the applicant?**

The project exhibits a confluence of factors which create a practical difficulty to the provision of the required number of on-site parking spaces. The site has several development constraints. The existing building restriction lines on the site reduce the developable area by approximately 30%. The Property slopes downward from the alley toward Georgia Avenue. The higher elevation of the alley, together with the relatively shallow depth and width of the Property and the inclusion of necessary underground utilities, create a constrained condition for ramps leading to underground parking and available space for cars to maneuver. The diagram on page 14 of the pre-hearing submission illustrates the challenge of accommodating a parking ramp. The Applicant indicates that two underground levels, and great financial expense, would be required to accommodate the minimum number of spaces required (10).



While the Applicant has demonstrated that an exceptional situation has created a practical difficulty for providing the required 10 spaces, the Applicant has not yet shown that fewer than 10 spaces cannot be reasonably accommodated on-site. The Applicant's diagram on page 13 of the pre-hearing statement appears to suggest that 3 parking spaces could be provided, but that the spaces would have adverse impacts on neighbors and the success of adjacent retail space. Concerning the retail, the Applicant has informed OP that the size of the retail space would be reduced by approximately 770 square feet to 1,368 square feet with the addition of 3 on-site spaces. According to the Applicant, such a reduction would be contrary to the goals of the GA Overlay (which generally encourage ground floor retail) and would make the economics of the project more difficult. OP encourages the Applicant to provide a fuller explanation as to why a more conforming parking offering could not reasonably be provided as part of the project.

- **Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?**

Should the Applicant demonstrate that an exceptional condition imposes a practical difficulty to providing the minimum number of required parking spaces, OP finds that the relief should not cause substantial detriment to the public good. The site is approximately 4 blocks south of a Metro station and is located along an intensive Metrobus route, meaning that it is highly transit accessible. The Applicant has offered the following TDM measures in order to mitigate the parking impact:

1. A member of the property management team will be designated as the Transportation Management Coordinator (TMC). The TMC will be responsible for ensuring that information is disseminated to tenants of the building;
2. The TMC will prepare a package of information identifying programs and incentives for encouraging retail and residential tenants to use alternative modes of transportation. Packages will include information regarding Capital Bikeshare, ZipCar, Commuter Connections Ridershare Program, Commuter Connections Guaranteed Ride Home and Commuter Connections Pools Program.
3. Links to CommuterConnections.com and goDCgo.com will be provided on the property management websites.
4. Convenient and covered secure bike parking facilities for 10 bicycles will be provided at the cellar level of the building.

OP anticipates that DDOT will submit a memorandum to the record that assesses the Applicant's TDM strategy, and OP recommends that the Applicant adopt any additional measures suggested by DDOT as a condition of approval.

OP does not anticipate that granting relief would impair the intent, purpose and integrity of the Zoning Regulations and Map. The infill development would create additional housing and retail opportunities in a highly transit accessible location which is generally consistent with goals of the GA Overlay.

## **VII. ANC/COMMUNITY COMMENTS**

To date, OP has not received any submissions from ANC 1A or neighbors of the site.

## **VIII. OTHER DISTRICT AGENCIES**

To date, OP has not received any submissions from other District agencies. OP anticipates that DDOT will submit a memorandum under separate cover.