

4136 GEORGIA AVENUE, NW



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PETWORTH HOLDINGS, L.L.C.

PRE-HEARING STATEMENT
ZONING COMMISSION CASE NO. 06-02

July 12, 2006

ZONING COMMISSION
District of Columbia

CASE NO. 06-02
ZONING COMMISSION
District of Columbia
EXHIBIT NO. 18
CASE NO. 06-02
EXHIBIT NO. 18

DEVELOPMENT TEAM

APPLICANT:

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PREFACE

This statement is submitted by Petworth Holdings, L.L.C., in support of an application for the consolidated review and approval of a Planned Unit Development and a corresponding amendment to the Zoning Map of the District of Columbia for the property known as 4136 Georgia Avenue, NW (Lot 40 in Square 2910, and the portion of the alley to be closed that will revert to Lot 40) before the District of Columbia Zoning Commission. The property that is the subject of this application is presently the site of a Shell gas station. It is located along the south side of Upshur Street, NW, between Georgia Avenue, NW, and Kansas Avenue, NW. This PUD application is before the District of Columbia Zoning Commission in conformity with Chapter 24 and Section 102 of the District of Columbia Zoning Regulations. The total land area of the subject property consists of approximately 13,648 square feet (which includes the portion of the closed alley that will revert to Lot 40).

The Applicant is requesting the consolidated review and approval of a PUD and related Zoning Map amendment in order to create an exciting residential and retail project on the site that will contribute significantly to the Petworth neighborhood. In total, approximately 57 residential condominium units, including four affordable units, and ground level retail space will be created as a result of this project. The proposed project will include direct residential pedestrian access to Kansas Avenue, NW, and direct retail pedestrian access to Georgia Avenue, NW. It has been thoughtfully designed to complement the existing structures and properties near the site and enhance and rejuvenate its surroundings.

Submitted in support of this application statement are an updated set of architectural drawings, a traffic and parking report prepared by the traffic consultant to the Applicant, and outlines of witness testimony. This statement and the attached documents meet the pre-hearing

statement filing requirements for a PUD application under Chapter 24 of the District of Columbia Zoning Regulations.

LIST OF EXHIBITS

DESCRIPTION	EXHIBIT
Architectural Drawings and Elevations, including Tabulation of Development Data, and Photographs of the Subject Property and Surrounding Area	A
Traffic and Parking Report	B
Outlines of Witness Testimony	C

**LIST OF WITNESSES AND ESTIMATE OF TIME
REQUIRED TO PRESENT CASE**

WITNESSES:

1. John C. Formant, Representative of Petworth Holdings, L.L.C.
2. Sas Gharaj, Representative of Project Architect, SGA Architects, Inc. To be proffered as an expert witness in the field of architecture.
3. Chris Kabatt, Representative of Transportation Consultant, Wells & Associates. To be proffered as an expert witness in the field of traffic and parking.

Outlines of the proposed testimony for the above-listed witnesses are attached as Exhibit C.

ESTIMATED TIME REQUIRED TO PRESENT CASE:

1.0 hour

I. INTRODUCTION

A. Summary of Requested Action

This document supports the application of Petworth Holdings, L.L.C. ("**Applicant**"), to the Zoning Commission of the District of Columbia ("**Commission**") for the consolidated review and one-step approval of a Planned Unit Development ("**PUD**") and a corresponding amendment to the Zoning Map for the site. The project site consists of Lot 40, in Square 2910, and the portion of the alley that is to be closed that will revert to Lot 40 (the "**Property**"). The Property is located in the Petworth neighborhood of Ward 4 and consists of approximately 13,648 square feet of land area.

The Property is currently located in the C-2-A Zone District. The Applicant requests a Zoning Map amendment from the C-2-A Zone District to the C-3-A Zone District for the Property to accommodate the proposed development. The proposed height and lot occupancy of the project are significantly less than allowed by the PUD guidelines in the C-3-A Zone District, and the proposed density does not exceed those guidelines. Rezoning the site to the C-3-A Zone District is consistent with the overarching goals and policies of the Comprehensive Plan of the District of Columbia, D.C. Law 12-275, 10 DCMR (Planning and Development) § 100 et seq. (1998) ("**Comprehensive Plan**"), as discussed in detail herein.

The Applicant proposes to develop a signature residential project with a significant retail component on the Property that will help to enhance and revitalize the surrounding neighborhood. In total, the project will include approximately 57 new residential condominiums comprising approximately 42,715 square feet, including four affordable units, a ground floor retail space comprising approximately 4,884 square feet, and common spaces comprising

approximately 10,396 square feet (the “**Project**”). The total gross floor area included in the proposed PUD will be approximately 57,995 square feet.

Due to the size of the Property of 13,648 square feet, the Applicant requests a waiver from 11 DCMR Section 2401.2. Under 11 DCMR Section 2401.1(c), the Commission may waive up to fifty percent (50%) of the 15,000 square foot lot size required for a PUD application, if the project is of exceptional merit and in the best interest of the City and if at least eight percent (80%) of the project is devoted to dwelling units and uses accessory thereto. The Project achieves all of these criteria. The Project is of exceptional merit, represents a significant investment in an as-yet neglected portion of the City, and is devoted solely to residential use, with limited, neighborhood-serving retail.

B. The Applicant

Petworth Holdings, L.L.C., is a subsidiary of John C. Formant Real Estate, Inc. (the “**Formant Company**”), a full-service real estate company based in Washington, D.C. In addition to offering brokerage services, John C. Formant also acts as a developer of both commercial and residential properties in the District of Columbia.

The principal for the Formant Company is John C. Formant, a third generation Washingtonian. He attended Gonzaga High School and Georgetown University and has lived in the District his entire life. Mr. Formant has exhibited exceptional commitment to the District and has been active in encouraging its revitalization, particularly in areas in need of such investment. Mr. Formant was instrumental in the rejuvenation of the H Street Corridor in Northeast Washington, D.C. and has done much work in that area.

The Formant Company has made a commitment to the Petworth area and presently has eleven condominium projects underway in that neighborhood. Mr. Formant believes that this

area can and should accommodate those that have been priced out of other portions of the District, such as the Dupont Circle and Logan Circle areas. Most recently, in early 2006, the Formant Company brought The Angelina, a fifteen unit condominium at 712 Marrietta Place, NW in Brightwood, onto the market. That project came onto the market in early 2006. The Formant Company also has one condominium project in progress in Brookland and two more in Eckington.

The architect for the project is SGA Architects, Inc. ("SGA"). SGA is a well-respected architecture firm based in Bethesda, Maryland that has designed several projects of note in the District of Columbia. SGA designed the Butterfield House at 1022 Pennsylvania Avenue, SE, on Capitol Hill, which is presently under construction. This project will be a 54,000 square foot, 28-unit residential condominium project in a six-story building with underground parking. SGA also designed the 235 Carroll Street Condominiums at 235 Carroll Street, NW, in historic Takoma Park. This project will be a 150,000 square foot, five-story building and contain 85 residential condominium units, three retail condominiums and underground parking. Another example of SGA's work is the Stanton House at 326 8th Street, NE in Capitol Hill. This building was completed in the Fall of 2003 and contains 6,200 square feet and eight residential condominiums.

C. Project Goals and Objectives and Benefits of Using the PUD Process

The PUD process provides a means for creating a "well-planned development." The objectives of the PUD process are to promote "sound project planning, efficient and economical land utilization, attractive urban design and the provision of desired public spaces and other amenities." The notice and hearing requirements of the PUD regulations ensure that adjacent property owners and area residents will have the opportunity to express their views about the

application. The use of the PUD process gives the community and District agencies an opportunity to work together with the Applicant to ensure a well-planned development. The PUD process will also provide the Commission with an opportunity to review the design of the Project in connection with its consideration of the request to rezone the site to the C-3-A Zone District.

The Applicant has met with ANC 4C. In addition, the Applicant coordinated with the ANC to arrange a meeting of the most immediate neighbors. The Applicant will return to the ANC in September. The project amenities are being shaped by these community discussions. The Applicant looks forward to continuing to work with the community throughout the PUD and construction process.

D. Development Timetable

If the PUD is approved, the Applicant plans to start construction as soon as the PUD covenant is recorded and expects that the total construction period will last approximately twelve to eighteen months.

II. THE PROPOSED PUD PROJECT

A. Site Location

The Property consists of approximately 13,648 square feet of land area and includes the northern portion of the block between Kansas Avenue, Georgia Avenue, Taylor Street, and Upshur Street, NW. It is commercially-zoned and has been used as a gas station for a number of decades. The square to the west of the Property includes a self-storage facility, an office building, and an auto repair shop. Directly to the south, and adjacent to, the Property along the west side of Georgia Avenue, NW, is a building housing an internet café and a carry-out restaurant. South of, and adjacent to, the Property along the east side of Kansas Avenue, NW, is

a commercial storage structure. Along the entire southern portion of Square 2910 is a parking lot that is the former site of Yabba Motors. The Yabba Motors site is presently the subject of Zoning Commission Case No. 05-19, an application for a PUD by The Neighborhood Development Company, LLC. That case was approved by the Zoning Commission by final action on April 20, 2006.

The current state of underdevelopment extends to the south of Taylor Street, NW, to a used car lot and parcels of vacant land, lining the whole of the south side of Taylor Street, NW, between Georgia Avenue and Kansas Avenue, NW. Directly to the east of the Property, across Georgia Avenue, NW, is a park. Further still, along the east side of 9th Street, NW, are two churches, a vacant lot, and several other structures. North of the Property is the intersection of Georgia Avenue, Kansas Avenue, and Upshur Street, NW, and a small triangular park. To the northeast of the Property, along the west side of Georgia Avenue, NW, between Upshur Street and Kansas Avenue, NW, are retail buildings. To the northwest of the Property, along the east side of Georgia Avenue between Upshur Street and Georgia Avenue, NW, is the Petworth Branch Library and behind that, Roosevelt High School.

Immediately to the west of Square 2910, Square 2911 is zoned C-M-1, which is the Commercial and Light Industrial Zone District. To the northwest of the site, Square 2915 is zoned R-4; however, as mentioned, it is utilized by local public facilities. In all other directions, the Property is ringed by C-2-A properties.

The Property is .3 miles (approximately a five-minute walk) to the Georgia Avenue-Petworth Metro Station. Several new developments, either proposed or approved, are or will be located along Georgia Avenue, NW, between the Property and the Metro station, including 3910 Georgia Avenue (a proposed mixed-use or retail-only project on 31,000 square feet of land area),

3646 Georgia Avenue (a proposed development of sit-down restaurants and quick eateries), 4100 Georgia Avenue (the proposed affordable housing development and retail project mentioned above), and a large \$40 million mixed-use project at the Petworth Metro station that will include 148 condominiums, 17,000 square feet of retail space, and underground parking.

The City's planning objectives call for more residential use in the area of the Property. The site is located in the Low Density Commercial/Moderate Density Residential land use category as shown on the District of Columbia Generalized Land Use Map. The properties to the south of the Property lining Georgia Avenue, NW, are in the Moderate Density Commercial/Medium Density Residential land use category. Given its location and prominence on the Georgia Avenue corridor, the Property shares many of the same characteristics of the properties in this higher intensity land use category. The properties immediately to the north, south, east and west of the Property are also in the Low Density Commercial/Moderate Density Residential land use categories. The property to the northwest of the Property is in the Local Public Facilities land use category. The other properties further outside the ring of Low Density Commercial/Moderate Density Residential surrounding the property are in the Moderate Density Residential land use category.

B. Project Description

As stated in Section I, the Applicant proposes to develop a signature residential project with a significant retail component on the Property that will help to enhance and revitalize the surrounding neighborhood. The Project will include approximately 57 new residential condominiums comprising approximately 42,715 square feet, including four affordable units, a ground floor retail space comprising approximately 4,884 square feet, and common spaces

comprising approximately 10,396 square feet. The total gross floor area included in the proposed PUD will be approximately 57,995 square feet.

The plans, elevations and drawings of the proposed Project are attached as Exhibit A. The Applicant will create an inviting residential building with approximately 57 residential condominium units. The proposed building height is 75 feet, below the maximum height of 90 feet permitted under the PUD guidelines for the requested C-3-A zoning. The building will serve as a gateway to the Petworth neighborhood and will also provide impetus and direction for the development of the Petworth community. The Project is a significant investment in a neighborhood that will greatly benefit from the stimulus.

The building will be primarily comprised of brick. The Applicant revised the color of the Project in response to comments received from the Zoning Commission at the April 20, 2006 setdown meeting. A great deal of care has been taken to adorn the façade with a high level of finish and detail. The massing of the building, decorative metal panels, embellishments such as steel and glass entrance canopies and aluminum storefronts, alternating projecting bays from the face of building, and liberal use of large windows with aluminum framing will create a design and expression appropriate to this neighborhood. In addition, the building's design is focused on a central tower element that acts as the foundation for a gateway into a significant part of the Georgia Avenue corridor. The design will bring new visual interest to Petworth, while incorporating a pattern that blends traditional and modern elements and capitalizes on the unique features of the Property. Additional renderings of the proposed building have been added to Exhibit A – one a daytime rendering, one a night-time rendering - to allow for further visualization of the Project.

The roof of the new building will serve as a recreation terrace that will allow a lively visual ending to the building that, combined with the tower detailing, will create a memorable skyline. Such an attractive space will bring residents outdoors and become an active and celebrated spot to enjoy the outdoors with beautiful vistas of the City.

Ingress and egress to the below-grade parking garage of approximately 35 parking spaces will be from Kansas Avenue, NW, at the southern edge of the Property (approximately a third of the way down the block between Taylor Street, NW, and Upshur Street, NW). Residents of the Project can proceed directly from their parking spaces in the below-grade garage to their units. Four spaces in the underground garage, and two additional spaces in the “rear” courtyard of the building are available to the retail spaces. The total parking on the site, both above and below ground, is 37 parking spaces.

The main lobby for the residential portion of the building will be accessed from the Kansas Avenue entrance to the building via a glass entranceway and lobby which creates a visual connection to Kansas Avenue. A pedestrian-only entrance will be provided for each of the three retail “units” in the Project. Two of these pedestrian entrances will be located on Georgia Avenue, NW. The third such entrance will be located at the building on the corner of the Property – at the intersection of Kansas Avenue, Upshur Street, and Georgia Avenue, NW. Clearly, the Project will enliven the streetscape with its pedestrian access and ground-floor retail.

The proposed Project will include hardscape and landscape improvements on the Property. There will be two landscaped areas on the Property. One will be on the northwest corner of the building and the other will be created along Kansas Avenue, NW. The result of the landscaping and the exemplary finish on the building will be that the surrounding neighborhood

and the streetscape are energized – the property now discourages such an active pedestrian street life.

The total gross floor area included in the proposed PUD is approximately 57,995 square feet, for a total Floor Area Ratio ("**FAR**") of approximately 4.25. The building will have a height of approximately 75 feet, as measured from Georgia Avenue, NW. The proposed Project will have a lot occupancy of approximately 63%. The proposed Project is equal to or smaller than the building envelope permitted under the C-3-A District PUD Guidelines (maximum FAR of 4.5 and a maximum building height of 90 feet). It is necessary to rezone the Property to the C-3-A Zone District in order to allow the proposed 75 foot height and FAR of 4.25. The proposed height and FAR on the Property is critical to allow for both the quality of the development the Applicant intends to build on the Property and to maintain a price of the condominium units that is comparable to the market at this location.

The Project will have approximately 7,972 square feet of residential recreational space (15% of the residential space) and therefore provide the amount of residential recreational space required in the C-3-A Zone District. It will be comprised of space on the roof terrace, a tenant meeting room, lobby space, and a fitness room.

No side yard is required under Section 775 of the Zoning Regulations. The rear yard requirement under Section 774.1 is 2.5 inches per foot of building height. Since the building is 75 feet high, the rear yard required would be 12 feet, 5 inches. Under Section 774.11, since the building is on a corner lot abutting three streets, the rear yard may be measured from the center line of the street abutting the lot at the rear of the building. Beginning at the middle of Kansas Avenue, NW, the Project offers a rear yard of 60 feet.

A loading berth, loading platform and a loading space are provided at the rear of the building and will be accessed from the entrance on Kansas Avenue, NW, as shown on Exhibit A. Based on input from the Zoning Commission at the setdown meeting and the Office of Planning, the Applicant redesigned the loading facilities. As further described in Section II D to this Pre-hearing Statement, a 30 foot truck could utilize the loading berth for “front in/front out” loading. The loading space and loading platform are of sufficient size under the Zoning Regulations. The trash and recycling areas will be enclosed within the building and located at the rear of the building.

The abutting alley is proposed to be closed pending the City Council’s approval of closure of the entire alley in Square 2910. The Applicant plans on entering into an easement agreement over the closed portions of the alley with the neighboring property owner for access purposes.

C. Development Parameters Under Existing and Proposed Zoning

The PUD guidelines for the C-2-A Zone District allow a height of 65 feet and a maximum FAR of 3.0, with a limit of 2.0 of non-residential FAR. The C-2-A Zone District, as a matter-of-right, permits a maximum height of 50 feet, a maximum lot occupancy of 60% for solely residential uses, and a maximum FAR of 2.5, with a limit of 1.5 of non-residential FAR.

The PUD guidelines for the C-3-A Zone District allow a height of 90 feet and a maximum FAR of 4.5, with a limit of 3.0 of non-residential FAR. The C-3-A Zone District, as a matter-of-right, permits a maximum height of 65 feet, a maximum lot occupancy of 75% for solely residential uses, and a maximum FAR of 4.0, with a limit of 2.5 of non-residential FAR.

As stated, the Project satisfies the C-3-A Zone District’s PUD guidelines at a height of 75 feet, an FAR of 4.25, and a lot occupancy of 63%.

D. Flexibility under the PUD Guidelines

The PUD Process was created to allow greater flexibility in planning and design than is possible under conventional zoning procedures. The PUD regulations specifically allow the Zoning Commission to approve any zoning relief that would otherwise require the approval of the Board of Zoning Adjustment ("**BZA**").

The proposed development complies with the broad parameters of the PUD guidelines in the C-3-A Zone District. However, the design scheme proposed for the PUD has created a configuration that does not meet all of the exact requirements of this Zone District. Specifically, the Applicant requires relief from Section 400.7 of the Zoning Regulations regarding setback of roof structures. The Applicant seeks to construct a roof structure that is not set back an amount equal to its height above the roof. Instead, the proposed roof structure extends from the exterior wall in the rear of the building and creates two courts. Such a roof structure is necessary to allow an adequate ingress/egress for residents of the building to reach the roof deck. This configuration allows for a more efficient floor plan, with a more appealing interior flow to the building, yet allows handicapped access to the roof deck. In addition, this allows the Applicant to slide the roof structure back to feature the tower element at the front of the building and minimize the view of the roof structure from the street. This roof structure is located far away from the Property's lot line and does not negatively affect neighboring property owners.

The Applicant also requires relief from Section 411.5 of the Zoning Regulations. The Project has a roof structure of slightly varying heights. It would be impractical to make the roof structure of uniform height and unnecessarily add to the appearance of the building's height and mass. The current design of the roof structure is intended to minimize its visual impact from the street and completely hide it from many vantage points, as shown on the pictures of the model on

page 29 of Exhibit A. Further, such a space would require greater maintenance and heating and cooling.

The Applicant also requires relief from Section 2201.1 of the Zoning Regulations. While the Project offers a loading platform of 231 square feet and a loading space of 20 feet, the loading berth is only intended to handle a 30 foot truck rather than the 55 foot truck loading berth required by Section 2201.1. The Applicant believes that ample space is provided for loading and unloading with the proposed facilities. The Applicant's traffic consultant agrees that these loading provisions are sufficient, as shown on Exhibit B. The Applicant's design includes open space in the rear of the building that will facilitate the servicing of the building.

The Applicant met with the District Department of Transportation ("**DDOT**") on June 12, 2006 to review the proposed loading plan. DDOT indicated its support of the Project's loading provisions. To demonstrate how this area would work, in Exhibit A, the Applicant's traffic engineer enclosed a truck turn diagram showing how a 30 foot truck would maneuver on the Property. As shown, it is possible to have a 30 foot truck employ a "front in/front out" loading maneuver. Also, on the rare occasions the residents would require a delivery from a 55 foot truck, DDOT suggested that the Applicant apply for temporary "No Parking" signs for the spaces that abut the proposed building on Kansas Avenue, NW. The Applicant believes this would be a more efficient use of the Property than to have a full seldom-used 55 foot berth provided on site. Further, the 55 foot loading berth requirement is triggered only when a building contains 50 or more units. In this case, the 57 unit building only slightly exceeds that threshold. Also, the proposed 57 residential units are condominiums and not so there is likely to be minimal turnover in the units.

In addition, the Applicant requests relief from Section 2115.4 of the Zoning Regulations. The Applicant proposes a parking garage that contains one section of three contiguous compact parking spaces and a rear parking area of two contiguous compact parking spaces rather than the required five contiguous compact parking spaces. Since it is an oddly configured lot, the arrangement of such parking spaces maximizes open areas in the most efficient manner. For the same reason, the parking garage also requires two other areas of relief: (i) relief from Section 2117.8(a) of the Zoning Regulations since the Applicant proposes to begin the vertical grade of the driveway to the parking garage at the edge of the sidewalk nearest the Property rather than at the edge of the property line; and (ii) relief from Section 2117.6 of the Zoning Regulations since the Applicant proposes to provide drive aisles in one section of the parking garage of 15 feet, 2.5 inches in between the parking garage columns (as shown on page 15 of Exhibit A), which are less than the 20 feet of drive aisle width required in areas of 90 degree angle parking.

The Applicant requests relief from the requirements regarding the minimum width of courts in buildings under Section 776.5 of the Zoning Regulations. The configuration of the building creates two courts – one on both sides of the stairwell extending into the rear courtyard. The courts were created since the stairwell and elevator shaft have been pushed away from the front of the building and its tower element as discussed above. One court is 85 feet high (when calculated to the top of the adjacent wall of the roof structure), 15 feet of which is attributable to commercial space, and therefore should be 27 feet and 1 inch wide. That court is approximately 17 feet 5 inches wide. The other court is 73 feet high (when calculated to the top of the adjacent wall of the roof structure), 3 feet of which are attributable to commercial space, and therefore should be 24 feet and 1 inch wide. That court is approximately 14 feet 5 inches wide. This relief will not violate the intention of the Zoning Regulations and will allow for greater flexibility in

design of the building. The design of the Project allows for a large open area accessible to all of the residents of the building that achieves the access to air and light sought by the Zoning Regulations.

Finally, the Applicant requests relief from Section 2116.1 of the Zoning Regulations, which requires that the parking spaces furnished by the Project are located on Lot 40. However, fifteen parking spaces are provided in the vault space of the lot. Section 2101.1 requires one parking space for every two residential units and one space for each 300 square feet of residential space over 3,000 square feet. Based on this, the Project is required to have 35 parking spaces. The Applicant is furnishing 37 parking spaces at the Property, including the row of parking spaces that are in vault space. Therefore, the Applicant requests that the fifteen parking spaces in vault space are considered legitimate parking spaces under the Zoning Regulations.

III. PLANNING ANALYSIS

A. Introduction

Through the PUD process, the Applicant will implement numerous goals of the District of Columbia in revitalizing the Georgia Avenue Corridor and the Petworth neighborhood.

B. Land Use Impact

The proposed PUD Project will create a significant residential development along the important Georgia Avenue Corridor and will improve dramatically the appearance of the site. The proposed height and massing of the Project is consistent with the buildings in the area and with the District's planning goals for the future of this area of the City. In fact, the Applicant did not fully use the 90 foot height allowance of the PUD guidelines in the C-3-A Zone District. In order to create a more compatible building with the surrounding neighborhood, the Applicant designed the Project to a height of 75 feet.

C. Zoning Impact

The proposed Zoning Map Amendment application can be granted without adversely affecting nearby and adjacent Zone Districts. The proposed C-3-A Zone District is consistent with the Moderate Density Residential/Low Density Commercial Land Use Category designation for the Property and the surrounding Generalized Land Use Map designations. It is particularly consistent with the Medium Density Residential/Moderate Density Commercial Land Use Category designation for the properties on the Georgia Avenue Corridor. Those properties are zoned C-3-A. The development will extend the rejuvenation of the Georgia Avenue Corridor further north into Petworth. As such, it will act as a tendril of investment and energy further into an area that has not benefited from the D.C. development boom.

Further, the requested rezoning does not constitute spot zoning. The rezoning of the Property comports with the District's planning initiatives in the vicinity of the Property. The recent Small Area Plan study recommends an increase in density for the area (and other areas similarly close to Metro stations). Although it has not yet been adopted, that Small Area Plan study is expected to be presented to the D.C. City Council in the near future. According to the Office of Planning ("OP"), it is likely that within a year after the new Comprehensive Plan is adopted, the Commission will need to consider rezoning the Property and the surrounding area as a result of the new Comprehensive Plan recommendations. In addition, the D.C. Court of Appeals has held that PUDs do not constitute spot zoning. Daro Realty, Inc. v. District of Columbia Zoning Commission, 581 A. 2d 295, 299.

D. Environmental Impact

No adverse environmental impact will result from the construction of this Project. In addition, the increased use of water and sanitary services that will occur as a result of the Project

will have an inconsequential effect on the District's delivery systems. The site is currently served by all major utilities. The Project's proposed stormwater management and erosion control plans will minimize impact on the adjacent property and existing stormwater systems. The requisite erosion control procedures stipulated by the District will be implemented during construction of the Project.

Once the Project is completed, it will have the beneficial impact of urban infill. With the Property changed from a gas station lot to housing and retail, the Property would be much more efficiently utilized. The Project would bring residents into the City, enabling them both to quickly access the Metro and provide an array of services and business in its retail spaces. As a result, the Project would have the effect of keeping more cars off the roads and assisting in curbing sprawl.

E. Facilities Impact

The proposed Project will not have an adverse impact on the public facilities that it will rely on for service. As previously mentioned, the Property is located within easy walking distance of the Georgia Avenue-Petworth Metro Station. In addition, Metrobus lines utilize Georgia Avenue, NW, such that the Project is well-served by public transportation.

IV. EVALUATION STANDARDS

Section 2403 of the Zoning Regulations provides the standards for evaluating a PUD application.

A. Public Benefits and Project Amenities

Section 2403.9 provides categories of public benefits and project amenities for review by the Zoning Commission. The objective of the PUD process is to encourage high quality development that provides public benefits and project amenities by allowing applicants greater

flexibility in planning and design than may be possible under matter-of-right zoning. The instant consolidated application will achieve the goals of the PUD process by creating a high quality housing and retail building on the Property which will help to enliven and revitalize the Georgia Avenue Corridor and the Petworth neighborhood of Ward 4.

In addition, the Applicant has entered into discussions with the surrounding neighborhood and ANC 4C to determine the benefits and amenities most desired by the community.

Preliminarily, the Applicant has stated that the amenities of the Project will include: public access to the tenant meeting/party room in the building, the significant affordable component, and the reservation of two of the three retail spaces on the ground floor for neighborhood “mom and pop” stores. Other potential amenities discussed include donations to the Petworth Library or a local school such as Roosevelt High School, upgrades and maintenance of local parks, and other similar community involvement. Further, local residents have been conveying their suggestions for retail offerings and amenities to the Applicant and the Applicant is considering all suggestions as he finalizes the project amenities.

1. Housing and Affordable Housing

Pursuant to Section 2403.9(f) of the Zoning Regulations, the PUD guidelines state that the production of housing is a public benefit that the PUD process is designed to encourage. This Project will create approximately 57 new condominiums in the Petworth neighborhood. As a whole, the Project will result in the creation of approximately 42,715 square feet of housing, including 3,877 square feet of affordable housing. Given the current strong interest in the production of affordable housing in the District of Columbia, this is a significant amenity.

2. Urban Design and Architecture

Section 2403.9(a) lists urban design and architecture as categories of public benefits and project amenities for a PUD. As shown in the detailed plans, elevations, and renderings included in Exhibit A, the proposed Project exhibits all of the characteristics of exemplary urban design and architecture. The high level of building finish, central tower element, angled contours of the building following the unique lot shape, and alternating composition of projecting bays combine to create an exemplary development. In addition, the Applicant is providing enhanced landscaping on the Property, as will be detailed by a forthcoming landscaping plan. The Applicant met with a representative of OP, and has incorporated OP's suggested revisions to the Project plan.

3. Site Planning

Pursuant to Section 2403.9(b) of the Zoning Regulations, "site planning, and efficient and economical land utilization" are public benefits and project amenities to be evaluated by the Zoning Commission. The proposed Project has been designed to provide residents and their guests with all of the amenities they could want while minimizing the zoning impact. For example, the Project offers open and inviting spaces for residents and guests, including the roof terrace, a landscaped courtyard and a fitness room. In addition, the Project would bring much needed retail space to the area and a great deal of housing close to the Metro. The Project would be an efficient use of the Property and take advantage of its many positive characteristics to the benefit of its residents, its neighbors and the District. The result would be a vibrant gateway to the Georgia Avenue Corridor.

4. Effective and Safe Vehicular and Pedestrian Access

The Zoning Regulations, pursuant to Section 2403.9(c), state that "effective and safe vehicular and pedestrian access" can be considered public benefits and project amenities of a project. The proposed Project will provide approximately 37 parking spaces, primarily in an underground parking garage. The entrance and exit to this garage will be on Kansas Avenue, NW. Residents of the Project will be able to proceed directly from their parking space in the garage to their units, and patrons of the retail space will be able to park in designated retail parking spaces. Separate and buffered from the vehicular entrance, the pedestrian entrances are distributed throughout the site. The main residential entrance is on Kansas Avenue, NW. Each retail space has its own entrance and one retail space has two entrances. These separate and distinct entrances/exits will mitigate any potential pedestrian and vehicular conflicts. Further, clearly such an arrangement will contribute to an active streetscape. Loading will occur in a separate area at the "rear" of the building to minimize conflicts between vehicles and pedestrians.

5. Revenue for the District

According to Section 2403.9(i), "uses of special value to the neighborhood or the District of Columbia as a whole" are deemed to be public benefits and project amenities. The addition of a new building with approximately 57 households and three stores will result in the generation of significant additional tax revenues in the form of income, sales, use and employment taxes for the District. Further, the provision of new affordable living space will mean that a segment of the District workforce presently being pushed out of the District by increasing housing costs will remain, thereby supporting the businesses where they work. The provision of three new retail locations will provide numerous business opportunities and jobs, likely for residents of the surrounding neighborhoods.

6. First Source Employment Program

According to Section 2403.9(e), "employment and training opportunities" are representative public benefits and project amenities. Therefore, the Applicant will voluntarily enter into an agreement to participate in the Department of Employment Services ("**DOES**") First Source Employment Program to promote and encourage the hiring of District of Columbia residents.

7. Local Business Opportunity Program

Pursuant to Section 2403.9(e), the use of local firms in the development and construction of the Project is a representative public benefit and project amenity. Therefore, the Applicant will enter into a Memorandum of Understanding ("**MOU**") with the Local Business Opportunity Commission ("**LBOC**") to use the resources of the LBOC to utilize LSDBEs in the development of this Project.

8. Comprehensive Plan

According to Section 2403.9(j), public benefits and project amenities include "other ways in which the proposed planned unit development substantially advances the major themes and other policies and objectives of any of the elements of the Comprehensive Plan." As described in greater detail in Section V, the PUD is consistent with and furthers many elements and goals of the Comprehensive Plan.

9. Public Benefits of the Project

Sections 2403.12 and 2403.13 require the Applicant to show how the public benefits offered are superior in quality and quantity to typical development of the type proposed. The Applicant has addressed this issue in the text of the Pre-hearing Statement. It is only as a result of the additional density and height provided through the PUD process that the Applicant is able

to construct such a well-designed project and provide new housing. The building will be integrated into its surroundings and equipped with all modern safety amenities as well as parking and recreational space. As a substantial investment, the Project will be a valuable addition to the urban fabric of the Petworth neighborhood. The architectural detailing of the proposed building, landscaping, and the inclusion of quality affordable housing provided in this Project set it apart from a matter-of-right residential project. The approval of this PUD application will result in the creation of approximately 3,877 square feet of high-quality affordable housing. In addition, the surrounding neighborhoods will greatly benefit from the first floor retail spaces. The Project is likely to have a highly desirable catalytic effect on the immediately surrounding area.

In addition, the Applicant is committed to adding other amenities to the Project's amenities package. The Applicant has been in contact with ANC 4C representatives and has had two meetings with ANC 4C representatives and members. The Applicant has solicited and received ideas for amenities from the community, primarily suggesting the retail options that they would like to see at the Property. Local residents have been conveying their suggestions for retail offerings and amenities to the Applicant. Other amenities discussed and potentially a part of the amenities package include: donations to the Petworth Library, upgrades and maintenance of local parks, donations to local schools, and other similar community involvement.

V. COMPLIANCE WITH THE COMPREHENSIVE PLAN

The proposed PUD is consistent with and fosters the goals and policies enumerated in the Comprehensive Plan.

The purposes of the District of Columbia Comprehensive Plan Act are to:

- (1) Define the requirements and aspirations of District residents, and accordingly influence social, economic and physical development;
- (2) Guide executive and legislative decisions and

matters affecting the District and its citizens; (3) Promote economic growth in jobs for District residents; (4) Guide private and public development in order to achieve District and community goals; (5) Maintain and enhance the natural and architectural assets of the District; and (6) Assist in conservation, stabilization and improvement of each neighborhood and community in the District.

(D.C. Code § 1-245(b) (1994 Supp.).)

The proposed Project significantly advances these purposes by furthering the social and economic development of the District through the creation of approximately 57 new residential units and active ground level retail spaces on a site that is critically important to the development of the Georgia Avenue Corridor. The realization of such a well-designed and vibrant multi-use project representing such a significant investment in this area is the embodiment of the Comprehensive Plan.

A. Compliance with Major Themes

Three major themes that are applicable to this Project were adopted as part of the Comprehensive Plan. The Applicant's proposal is consistent with these themes as follows:

1. Stabilizing the District's Neighborhoods

The creation of approximately 57 new residential units will help stabilize the Petworth neighborhood by providing an opportunity for District residents to live in desirable housing in this area of the District. This area has not benefited from the same development that has touched so many other areas of the City. However, the creation of such a significant retail and residential development on the Property is also likely to help stimulate additional residential development and further stabilize the neighborhood. The influx of new residents in the neighborhood will help provide the critical mass of customers needed to patronize existing, and hopefully new, commercial uses along Georgia Avenue, NW. In addition, the first floor retail spaces will bring

much-needed goods and services to the area and begin the active streetscape that the District seeks.

2. Respecting and Improving the Physical Character of the District

The proposed Project has been designed to improve the site's integration with the surrounding neighborhood and put it to a more beneficial use than the current gas station. By increasing the density and maximizing the lot usage, the Project will contribute to the streetscape along Georgia Avenue, Kansas Avenue and Upshur Street, NW. Although the building will be taller than some of its immediate neighbors, the Project's architects have used materials, projecting bays, layering of textures, and other design elements to unite the building with its surroundings and scale. Thus, the Project will not overwhelm the neighborhood and will fit in well with the surrounding buildings. The facade, landscaped areas, modern quality materials, sweeping tower element, and alternating composition of projecting bays, all combine to create a sense of scale, visual interest, and aesthetic richness.

3. Preserving and Ensuring Community Input

Throughout the PUD process and development of the Project, the Applicant has worked with representatives of ANC 4C and held several meetings with the community. The Applicant is committed to working with the ANC, as well as the immediate surrounding neighborhood, to continue to create a new residential community that is a benefit to the neighborhood and the District of Columbia. As stated, the Applicant will continue to collaborate with community members and ANC 4C to finalize its amenities package and explore ways in which the Project can be enhanced while benefiting the community.

B. Compliance with Major Elements.

The Comprehensive Plan also contains 11 major elements. The proposed Project furthers the objectives and policies of several of these elements as follows:

1. Housing Element

The Comprehensive Plan includes the following goals with regard to the production of new housing:

Encourage the private sector to provide **new housing** to meet the needs of present and future District residents at locations consistent with District land-use policies and objectives (10 DCMR § 302.2(a));

Review and recommend **suitable regulatory zoning**, tax and financing incentives under appropriate controls to meet housing production goals, particularly for low-income, **moderate income** and elderly households (10 DCMR § 302.2(b)); and

Encourage housing on suitably located public or private properties that are **vacant**, surplus, **underutilized**, or **unused** . . . (10 DCMR § 302.2(e)); and

Encourage the private sector to meet housing needs through the development of **infill housing** (10 DCMR § 302.2(f)) (Emphasis added.).

The Comprehensive Plan includes the following goal of the District with regard to the production of low and moderate-income housing:

Provide **zoning incentives**, as appropriate to developers prepared to build low-and moderate-income housing, **such as permitting additional densities in exchange for incorporating low-and moderate-income housing in development projects....** (10 DCMR § 303.2(d)) (Emphasis added.).

The creation of approximately 57 rental residential units on this currently underutilized property fully satisfies all of the above-noted provisions of the Housing Element of the Comprehensive Plan. As previously stated, the Project will provide approximately 42,715 square

feet of residential space, including approximately 3,877 square feet of affordable housing. The inclusion of the affordable units in the Project is entirely consistent with the provisions of the Comprehensive Plan noted above.

2. Urban Design Element

It is the goal of the District to:

Encourage **in-fill development** to be complementary to the established character of the area. In-fill development in stable areas shall not create sharp changes in physical pattern which might lead to deterioration. (10 DCMR § 711.2(a)).

As shown in the detailed plans, elevations, and renderings included in Exhibit A, the proposed Project exhibits all of the characteristics of exemplary urban design and architecture. The construction of a prominent residential and retail building will complement and enhance the neighborhood that surrounds the site. The integration of the site design into a prominent lot at the corner of Georgia Avenue, Kansas Avenue, and Upshur Street, NW, and the offering of street level retail will tie the Project into the neighborhood. The Applicant has met with OP on the proposed Project. As a result of OP's input, the design has been enhanced. The result is an exemplary design that utilizes modern materials for a fresh and inspiring appearance.

3. Generalized Land Use Map

As previously mentioned, the Generalized Land Use Map includes the Property in the Moderate Density Residential/Low Density Commercial Land Use Category. It should be noted that, while the Generalized Land Use Map typically is helpful in determining appropriate uses and density in areas of the city, it is not intended to serve as a "general" zoning map, nor does it mandate a parcel-by-parcel limitation on permitted development.

The proposed Project and C-3-A Zone District are consistent with the flexibility that the Moderate Density Residential/Low Density Commercial Land Use category provides for the Property. Such a designation supports the construction of a high-quality housing project with a retail component on the site of an underutilized lot.

In addition, the Georgia Avenue corridor adjacent to the property is a long stretch designated as Medium Density Residential/Moderate Density Commercial. Therefore, the Project would fit well in the plan for the establishment of Georgia Avenue as a rejuvenated vibrant corridor.

4. Ward 4 Goals and Policies

The Ward 4 Element of the Comprehensive Plan seeks to “capitalize on Metrorail station areas as focal points for retail services...and community activities” (10 DCMR § 1501.1(d)), “create and expand retail activity” (10 DCMR § 1505.1(a)), expand development on vacant commercial properties (10 DCMR § 1506.1(a)), maintain, conserve, and expanding the housing stock, particularly of affordable housing, (10 DCMR § 1507.1(a)), provide affordable housing in particular near the Georgia Avenue-Petworth Metro Station (10 DCMR § 1507.3)), provide for the housing needs of moderate-income households (10 DCMR § 1508.1(a)), encourage the private sector to provide new housing (10 DCMR § 1508.1(c)), and support the construction of rental housing (10 DCMR § 1508.1(d)). Furthermore, the Ward 4 Land Use Plan calls for the implementation and upgrading of local neighborhood centers in a small area that includes the Property (10 DCMR § 1530.1 (h)(2)(C)(ii)). The proposed PUD is consistent with these provisions of the Ward 4 Elements of the Comprehensive Plan. It is difficult to imagine a project that better satisfies the goals and objectives of the Ward 4 Element of the Comprehensive Plan.

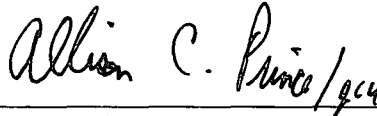
IV. CONCLUSION

For the foregoing reasons, the Applicant submits that the consolidated PUD and Zoning Map amendment application meets the standards of Chapter 24 of the Zoning Regulations; is consistent with the purposes and intent of the Zoning Regulations and Map; will enhance the health, welfare, safety and convenience of the citizens of the District of Columbia; satisfies the requirements for approval of a consolidated PUD and Zoning Map Amendment; provides significant public benefits; and advances important goals and policies of the District of Columbia.

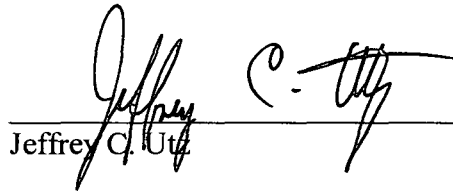
Accordingly, the Applicant respectfully requests the Zoning Commission approve and adopt the PUD and accompanying Zoning Map Amendment applications.

Respectfully submitted,

PILLSBURY WINTHROP SHAW PITTMAN, LLP

Handwritten signature of Allison C. Prince in cursive script, followed by a horizontal line.

Allison C. Prince

Handwritten signature of Jeffrey C. Utz in cursive script, followed by a horizontal line.

Jeffrey C. Utz

Date: July 13, 2006