

**BEFORE THE
DISTRICT OF COLUMBIA ZONING COMMISSION**

**APPLICATION NO. ZC 06-26
OF
ROCKY GORGE DEVELOPMENT, LLC**

**FOR CONSOLIDATED REVIEW AND APPROVAL OF A
PLANNED UNIT DEVELOPMENT AND
ZONING MAP AMENDMENT**

APPLICANT'S SUPPLEMENTAL STATEMENT

August 14, 2006

**ZONING COMMISSION
District of Columbia**

CASE NO.

06-26

EXHIBIT NO.

14

ZONING COMMISSION
District of Columbia
CASE NO.06-26
EXHIBIT NO.14

PREFACE

Pursuant to Chapter 24 of the District of Columbia Zoning Regulations (11 DCMR), this Supplemental Statement is submitted to the District of Columbia Zoning Commission by Rocky Gorge Development, LLC, a Maryland limited liability company, (the "Applicant") in further support of Application No. ZC 06-26, for the consolidated review and approval of a planned unit development ("PUD") and a related amendment to the Zoning Map for a portion of the Thos. Somerville Co. property located at Lot 814 in Square 3788 (the "Property"). The Applicant is seeking PUD approval and rezoning of the Property to the R-4 District in order to construct the second phase of a neo-traditional residential development consisting of thirty-five (35) single family townhouses. The Property is bounded to the north by Phase I of the Emerson Park townhouse development, to the east by a strip of residential properties fronting on 7th Street, NE, to the south by detached dwellings fronting on 6th Place, NE, and to the west by another portion of the Thos. Somerville Co. site. The Property is currently split-zoned R-2 and Fort Totten ("FT")/C-M-1. The property is located in Ward 5 and within the boundaries of Advisory Neighborhood Commission ("ANC") 5A.

DEVELOPMENT TEAM

Applicant:	Rocky Gorge Development, LLC Suite A320 7900 Westpark Drive McLean, VA 22102
Architect:	Cubellis DCA 8618 Westwood Center Drive Suite 305 Vienna, VA 22182
Engineering and Landscape Architecture:	Bowman Consulting Group, Ltd. Suite 302 2121 Eisenhower Avenue Alexandria VA 22314
Land Use Counsel:	Holland & Knight LLP 2099 Pennsylvania Avenue, NW Suite 100 Washington, DC 20006
Traffic Consultant:	Wells and Associates LLC Suite 600 1420 Spring Hill Road McLean, VA 22102

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LIST OF WITNESSES THAT MAY BE CALLED

John W. Anderson, Representative of Rocky Gorge Development, LLC

Gregory Long, or other Representative of Bowman Consulting Group, Ltd.

Smita Anand, or other Representative of Cubellis DCA

Martin J. Wells, or other Representative of Wells & Associates, LLC

Steven E. Sher, Director of Zoning and Land Use Services, Holland & Knight LLP

Estimated time required for presentation of Applicant's Case: 1.0 Hour

I. INTRODUCTION

This Supplemental Statement and the attached documents support Application No. ZC 06-26 to the Zoning Commission for the consolidated review and approval of a PUD and a related amendment to the Zoning Map for Lot 814 in Square 3788 (the "Property" or the "Site"). The Applicant is seeking PUD approval and rezoning of the Site to the R-4 District in order to construct thirty-five (35) single family townhouses, each with garage parking, as provided in the plans and drawings submitted with the application at Exhibit B and as supplemented and revised by the plans submitted herein at Exhibit A (the "Project"). The Project is consistent with the District of Columbia Comprehensive Plan, 10 DCMR, (the "Comprehensive Plan"), including its Land Use Element and the Generalized Land Use Map and Generalized Land Use Policies Map, which, among other things, designate the Property as being within the Fort Totten Housing Opportunity Area and the Fort Totten Metrorail Development Opportunity Area.

Application No. ZC 06-26 was filed with the Zoning Commission on May 26, 2006. At its July 24, 2006 special public meeting, the Zoning Commission voted to set-down the Application for public hearing. With the filing of this Supplemental Statement, the Applicant: (1) responds to specific issues raised at the Zoning Commission's set-down meeting; (2) provides further information regarding the proposed package of community benefits; (3) identifies and addresses the flexibility requested by the Application under the Zoning Regulations; (4) satisfies the administrative requirements of Chapter 24 of the Zoning Regulations; and (5) requests that the Zoning Commission set Application No. ZC 06-26 for public hearing at its earliest available date.

II. NATURE OF APPLICATION

As an incentive for the development of high-quality projects and public benefits, the PUD process was created to allow greater flexibility in planning and design than may be possible under

conventional zoning procedures. In deciding a PUD application, the Zoning Commission is directed by §2403.8 of the Zoning Regulations "to judge, balance, and reconcile the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case."

The Application is exceptional among those considered by the Zoning Commission in that it contains no request for additional building density, height, or lot occupancy. In fact, the density, height and lot occupancy proposed for the Project is significantly less than otherwise could be developed as a matter of right under the existing mixed FT/C-M-1 and R-2 zoning for the Site. This unusual scenario is evidenced in the comparative table below:

	Matter of Right (Existing)	Proposed Zoning (R-4)	PUD Guidelines (R-4)	Project	Flexibility Requested
Total FAR	R-2 = No Limit* FT/C-M-1 = 3.0 FAR	No Limit Prescribed	1.0 FAR	Approx. 0.44 FAR	None
Gross Floor Area	R-2 = 131,596 sf* FT/C-M-1 = 218,796 sf Total = 350,392 sf		182,595 sf	Approx. 81,703 sf	None**
Height	R-2 = 40 ft. FT/C-M-1 = 40 ft.	40 ft.	60 ft.	Approx. 30 ft.***	None
Lot Occupancy	R-2 = 40 % FT/C-M-1 = N/A	60 %	60 %	Approx. 49 %	None

*Note – R-2 permitted density estimated at 1.2 FAR based upon 40% permitted lot occupancy.

**Note – While the FT/C-M-1 district does not permit Residential Use as a matter of right, the chart above demonstrates that aside from the use, the amount of density proposed for the Project is slight compared to the matter of right density under existing zoning.

***Note – Building height may vary slightly depending upon final grade. Height of buildings from the finished grade directly in front of the townhouse unit to the top of ceiling of 3rd floor shall not exceed approximately 30 feet.

The nature of the Applicant's PUD is not related to density, height or other quantitative measure, but rather only to permitted use. As the Commission is aware, residential use is not a matter of right use in the C-M-1 Districts. Thus, without the Zoning Map amendment requested in the Application, residential use currently is only permitted on a portion of the unusually-configured Site. The rezoning to R-4 use is requested solely to permit residential use across the entire Site. As the table above demonstrates, the Project seeks no flexibility from the permitted building density or height on the Site. In fact, the Project proposes only approximately 23 percent of the building density and 75 percent of the building height currently permitted under existing zoning. The Applicant has selected the R-4 District in order to provide the most restrictive residential zoning for the Site while at the same time allowing for row house development to better cluster the Project. The proposed density is in keeping with surrounding long-established residential development, including the residential development to be constructed immediately north of the Site, which was approved as a PUD by the Zoning Commission.

In coordination with the Zoning Map amendment request, the Applicant is pursuing the PUD approval to provide the Zoning Commission, ANC 5A and the neighbors to the Site an increased sense of security, comfort, and input into the future development of the Site, both through informal discussions in the neighborhood and through the public hearing process. To that end, the Applicant has met with community stakeholders, including members of ANC 5A and the North Michigan Park Civic Association ("NMPCA"), on numerous occasions over the past several months and will continue to do so in coming months, including formalizing the proposed community benefits package. The community has been very receptive to the Applicant's proposal to convert the Property to residential use and to create the private road connection between Emerson Street, NE, to the north of the Site and 6th Street, NE, to the south.

The Applicant has also met on a number of occasions with the Office of Planning to discuss that office's priorities and suggestions regarding the application and the Applicant's

package of proposed project amenities and community benefits. The Applicant's traffic expert has also consulted extensively with the District's Department of Transportation ("DCDOT") to determine that office's scope of review as well as any concerns that office might have with the proposed Project.

In sum, the Application here presented is for the conversion of a largely vacant and unimproved industrial site into a thoughtfully-designed, pedestrian-focused, moderate density residential use within walking distance of the Fort Totten Metrorail Station which is consistent with the Comprehensive Plan, supported by the surrounding community, and which entails significant physical improvement to the Site and to the surrounding neighborhood. The Project contemplates approximately 82,000 square feet of residential development, whereas matter of right development would permit more than 360,000 square feet of development. Nonetheless, given the industrial zoning of a portion of the Site, the Zoning Commission's approval is required to make this important and well-received residential project a reality.

III. RESPONSES TO ISSUES RAISED AT SET-DOWN

In the discussion leading up to the Commission's decision to set down the Application for public hearing, members of the Commission raised a small variety of questions and comments for the Applicant's consideration in proceeding with the Application. The Commission requested further clarification of the plans and additional information regarding the following items:

- Nature, extent and potential impacts of private road connection between 6th Street, NE, to the south and Emerson Street, NE, to the north; and
- Relationship of Project to neighboring properties, including buffering efforts.

A. Private Road Connection:

As part of the circulation plan for the Project, the Applicant has proposed the construction and maintenance of a private road to connect 6th Street, NE, which currently

terminates at the southern property line of the Site, with Emerson Street, NE, to the north. The nature and extent of this private road connection is clarified in revised Sheets C-3 and C-14 in Exhibit A herein. The private connection, which will be paved in compliance with DCDOT requirements regarding pavement design and travel lane widths, will extend north along the western property line of the Site from the terminus of 6th Street, NE, and connect to the private drive extending south from Emerson Street, NE, that was approved as part of the Emerson Park Phase I PUD. With respect to that portion of the road which will be located on Lot 813, perpetual non-exclusive easements have been placed on the property to provide for maintenance and access regarding the road. Likewise, the Applicant is coordinating with K. Hovnanian Homes with regard to constructing the road and landscaping adjoining areas, to provide for a consistency of appearance and quality of construction. Landscaping and sidewalks will be provided on the Site along the course of the road, generally as shown at Sheet C-14 in Exhibit A herein.

The 1968 District of Columbia Permanent Plan of Highways identifies a "proposed highway" to extend in a linear fashion from roughly the existing terminus of 6th Street, NE, north, intersecting with the western terminus of Emerson Street, NE, and ultimately terminating at its intersection with Gallatin Street, NE. While such a proposed orthogonal alignment is not currently feasible given the history of development in the area and the location of current improvements, the proposed private road nonetheless follows in the spirit of such a contemplated connection. The proposed private road will instead follow the contour of the land, which contains a significant change of grade to the north of the Site.

Questions were raised at the set-down meeting as to the impact such a connection may have upon neighboring properties in terms of volume and nature of traffic. As discussed in Section 5 of the Applicant's Traffic Impact Study (Exhibit B), only a negligible increase is expected in the volume of traffic utilizing Emerson Street to access the connection as a cut-through from South Dakota Avenue. Those primarily expected to utilize the private road as a cut-

through are residents located north of Emerson Street and west of South Dakota. Nonetheless, even given this additional cut-through traffic, the average daily traffic volume (bi-directional) for the connection is estimated at only approximately 650 vehicles per day. Of this amount, the percentage of truck traffic utilizing the connection would be limited to those few trucks servicing the Somerville warehouse site, delivery trucks (e.g. UPS, FedEx) and moving trucks traveling to and from Emerson Park townhouses. Further limiting the volume of truck traffic, access from the north would be minimized by weight limit restrictions posted along Emerson Street, 6th Place and 8th Street. Likewise, from the south, the principal access for traffic servicing the Somerville warehouse site is a separate entrance located further down 6th Street from the Property and the proposed private road.

B. Relationship of Project to Neighboring Properties:

Members of the Zoning Commission also expressed interest in efforts by the Applicant to buffer the Project from residential development under construction along 7th Street, NE, to the immediate east of the Site, as well as from the land to the immediate west of the Site that would remain industrially-zoned. In response to these questions, the Applicant has revised and supplemented a number of its site and landscape plans to better reflect the buffering efforts to be taken. Please see particularly revised Sheets C-14, C-15, and C-16 at Exhibit A herein. As these drawings demonstrate, the Applicant is utilizing a mix of landscaping features, including the planting of shade, ornamental and evergreen trees in coordination with the changing grades of the Site, to minimize the visual impacts of the Project, while at the same time buffering the Project to the extent possible from the neighboring non-residential uses.

Along its eastern edge, the Property contains a significant drop in grade, approximately 30 feet, from its more formally-landscaped resident seating area to the property line. As demonstrated in the site section on revised Sheet C-13, this slope will be the subject of a

reforestation effort after construction, employing a mix of non-invasive ground cover, deciduous and evergreen trees and shrubs. Once mature, this reforestation area will serve to visually buffer the PUD project from properties to the east as well as to assist in the containment of any storm water runoff from the Site.

Finally, a question was raised regarding efforts to buffer the Project, particularly Building #1, from industrial uses that continue to be permitted on land to the immediate West. As shown on Sheets C-13 (in section) and C-16, the Applicant is employing extensive visual buffering for that portion of the Project. Likewise, the construction and provision by perpetual easement of the access drive ensures at least a 60-foot buffer from industrial uses. Furthermore, any future industrial use of the land to the west is subject to the FT overlay, which at Sections 1562-1564 of the Zoning Regulations, establishes significant constraints on industrial development adjacent to residential uses, including buffering requirements.

The urban context of the District is such that virtually all uses in most neighborhoods have some degree of proximity and interaction with surrounding uses. For instance, the railroad tracks to the west of the Site are bordered by residential uses up and down the line. In the instant case, the current FT/C-M-1 zoning for the western portion of the Site permits industrial uses to abut (subject to the FT Overlay) those existing residential properties located immediately south of the Site fronting on 6th Street and 6th Place. Through approval of the requested map amendment and PUD, these neighboring residential uses will actually be protected and enhanced by providing a buffer between these longstanding residential uses to the south and industrial use to the west.

IV. EXAMINATION OF BENEFITS PACKAGE

In addition to the issues raised at the set-down meeting regarding the proposed private road connection and the buffering of the Site from neighboring uses, the Applicant has met with the Office of Planning and has initiated discussions with members of ANC 5A and interested

neighbors, including representatives of the NMPCA, regarding the Project and one or more suitable community enhancements within the immediate area of the Property. Given the very positive results of the Applicant's discussions with, and contributions to, the Friends of NMPCA as part of the PUD approval of Emerson Park Phase I, the Applicant proposes to build upon that goodwill with an additional financial contribution to the Friends of NMPCA in the amount of \$75,000.00, to be used toward a defined list of community-directed programs. As before, these programs will include: (1) Backus Fund, (2) Summer Job program, (3) beautification fund (to address landscaping issues and maintenance), (4) assistant to elderly (small repairs, snow shoveling, grass cuts, etc. – this also would provide work for the summer job program), (5) scholarship fund for college students, (6) back to school fund (provide notebooks, backpacks, lunchboxes, etc.), (7) Family Day event, (8) Mother's Day event, (9) Father's Day event, and (10) North Michigan Park Awards Dinner. The Applicant will endeavor to work with ANC 5A and NMPCA to finalize the community benefits proffer prior to the public hearing.

In sum, the Applicant offers the following updated summary of the Project amenities and public benefits consistent with the standards established in §2403 of the Zoning Regulations.

A. §2403.9(a) Urban Design, Architecture, Landscaping, Creation/Preservation of Open Spaces

The Project has been carefully designed to follow neo-traditional design principles, including rear-loaded garages accessed through an alley system, the inclusion of two formal public greens to serve as focal points for the Project, an extensive and coordinated internal sidewalk system that allows for a high level of neighborhood walkability, and easy connections to both nearby transit and other uses in the surrounding community.

Owing to the steep grades along the eastern and northwestern edges of the Property, the Applicant will undertake extensive slope stabilization and reforestation in efforts to maximize visual buffering of the Site as well as soil erosion and storm water control. Additional plantings

on the Site will be comprised of native/indigenous species that have been approved for use by the Urban Forestry Administration of the DCDOT. The planting of exotic ornamentals species will be kept to a minimum.

B. §2403.9(b) Site Planning, and Efficient and Economical Land Utilization

The Project epitomizes efficient site utilization and planning. On a physical level, the Project makes very efficient use of its irregular shape and varied topography. The Project is also an efficient and economical use of land in that it will transform a largely vacant and underutilized industrial site into a significant generator of revenue for the District in the form of vastly increased property and income taxes payable by new residents. Furthermore, the new residents will add significantly to the market demand for existing neighboring retail uses and amenities, further invigorating the neighborhood.

As discussed in the Application, the Project also exemplifies the transit-oriented development ("TOD") model that the Mayor's Task Force and the Office of Planning have championed throughout the District in efforts to enhance traditional neighborhood centers with minimal disruption. In the case of an established urban jurisdiction such as the District, TOD is accomplished more in the form of in-fill projects rather than wholesale neighborhood design. The TOD model stresses six design principles, namely: (1) orientation and connectivity; (2) quality public realm and amenities; (3) pedestrian-friendly, safe environment; (4) attractive architecture and design; (5) mix of uses; and (6) creative parking management. The Project, in the context of the surrounding area, satisfies each and all of these criteria. Successful TOD results in increased property values, tax base and economic strength throughout a neighborhood as well as protection of the existing neighborhood character by focusing development nearest transit.

C. §2403.9(c) *Vehicular and Pedestrian Access, Transportation Management Measures, Connections to Public Transit Service*

The Property is ideally located for residential development in that it is within easy walking distance of a Metrorail station and several Metrobus routes. The Project also provides an ample supply of on-site parking. This amount is proposed in order to ensure that the Project does not increase the pressure on the neighborhood for limited street parking. It is not provided with the intent to discourage use of public transportation. Indeed, consistent with the TOD model, the Applicant expects the Project's proximity to public transportation to serve as a major amenity to prospective purchasers.

The Applicant's transportation management expert has prepared a Traffic Impact Study, which was submitted as Exhibit B to the Application, concluding that the Project will have an inconsequential impact on vehicular traffic. The levels of services at study intersections are projected to remain unchanged as a result of the Project. As will be demonstrated further at the public hearing, the private drive connection will not overburden or work any detriment to the Project's neighbors residing to the north or south.

D. §2403.9(f) *Housing and Affordable Housing*

The PUD guidelines state that the production of housing is a public benefit that the PUD process is designed to encourage. In furtherance of this important goal, the Project will add a total of 35 high-quality, sensitively-planned residential units in close proximity to public transportation. In addition, the Applicant proposes to dedicate 2 of these 35 units as affordable housing for District residents pursuant to the parameters set forth below. The Project is especially important and appropriate given that the Site is located within the Fort Totten Housing Opportunity Area. As such, the Comprehensive Plan encourages, among others, the conversion of non-residential property into residential property.

The Project is intended to supplement the housing stock in an area of the District that has historically been underserved. Given the stated preference of the community for a Project density consistent with the surrounding neighborhood, and further given the extraordinary site development costs, the Applicant has determined that it must proceed with the Project at market rate pricing for the area. Nonetheless, the Applicant has proffered, in coordination with the Office of Planning and the District of Columbia Department of Housing and Community Development, to make available and restrict the sale of 2 of the townhouse units for a period of 20 years, as affordable housing to qualifying households not exceeding 85 percent of metropolitan Washington area median income. The Applicant has identified the units proposed for restriction as affordable units as Lot 13 in Building #2 and Lot 32 in Building #6. Please see Sheet C-14 at Exhibit A herein.

In the present case, the Commission is presented with a purely residential project. There is no commercial component. Likewise, no increased building density is being requested. In fact, only a small fraction of the building density currently available on the Site as a matter of right is proposed to be developed under the Project. Whereas, more than 350,000 square feet could conceivably be developed on the Site consistent with its existing zoning, less than 82,000 square feet will be capable of development upon the PUD approval. In fact, the Project proposes significantly less residential square footage across the entire Site (81,703 sf) than is currently permitted as a matter of right in the R-2 portion of the Site alone (approx. 131,596 sf).

E. §2403.9(h) Environmental Benefits, Stormwater Controls

The Site's stormwater run-off will be accommodated in compliance with standards set by the District of Columbia Department of the Environment. Further, the Project will be constructed in full compliance with the energy conservation standards of the District of Columbia Building Code. Conformance to code standards will minimize the amounts of energy needed for the heat, ventilation, hot water, electrical distribution and lighting systems contained in the building.

F. §2403.9(i) Uses of Special Value to the Neighborhood or the District of Columbia as a Whole

It should not be forgotten that, at its core, the Project involves removing the Property from its longstanding underutilized industrial use and replacing it with vibrant residential use consistent with the Comprehensive Plan, the stated TOD goals of the District, and the preferences of the surrounding community.

The Applicant has also initiated discussion and solicited information from ANC 5A and the NMPCA for a suitable community enhancement project to which the Applicant could make a significant contribution. Given the ultimate success and community consensus stemming from the Emerson Park Phase I PUD approval, the Applicant proposes making an additional contribution in the amount of \$75,000 to the Friends of North Michigan Park Civic Association, said funds to be devoted, in coordination with ANC 5A, to a variety of identified community projects directly benefiting the Project's immediate neighbors and residents of the North Michigan Park neighborhood.

V. FLEXIBILITY REQUESTED FROM THE PROVISIONS OF THE ZONING REGULATIONS

The PUD process was created to allow greater flexibility in planning and design than may be possible under conventional zoning procedures. Under §2405.7 of the Zoning Regulations, the Zoning Commission may approve any use that is permitted as a special exception or that would otherwise require the approval of the Board of Zoning Adjustment. Further, §2405.8 provides that the Zoning Commission is not required to apply the special exception standards normally applied by the Board.

Consistent with §2516 of the Zoning Regulations, the Project involves the siting of multiple buildings on a single record lot. Because most of the buildings in the Project have no

street frontage, the Applicant must divide the lots into theoretical building sites. Owing to the configuration and topography of the Site, the Applicant is unable to totally comply with the required lot area for the R-4 Districts for certain of the interior rowhouse units. Nonetheless, the Project as a whole provides a significant amount of community common area (approximately 120,000 square feet) for use by residents of the Project that would not typically be available in an R-4 matter-of-right development. For this reason, the Applicant requests flexibility pursuant to the Commission's authority under §2405.4.

The Applicant has made every effort to provide a significant level of detail in the drawings. Nonetheless, some additional flexibility is necessary that cannot be anticipated at this time. Specifically, the Applicant requests additional flexibility in the following areas:

- (1) 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 buildings;
- (2) 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 materials; and
- (3) To make minor refinements to exterior details and dimensions, including 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.

VI. APPLICATION SATISFIES FILING REQUIREMENTS FOR CHAPTERS 24 AND 30

As provided through the Application materials and this Supplemental Statement, including the Certification included as Exhibit D, the Application satisfies the filing requirements established in §§ 2406 and 3013 of the Zoning Regulations.

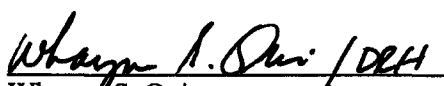
VII. THE APPLICANT REQUESTS APPROVAL

For all the foregoing reasons, and as set forth in the Application materials, Rocky Gorge Development, LLC, submits that the consolidated PUD and Zoning Map amendment application meets the standards set forth in Chapter 24 of the Zoning Regulations; is consistent with the purposes and intent of the Zoning Regulations and Zoning 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 project amenities; and advances important goals and policies of the District of Columbia.

Accordingly, the Applicant requests that the Zoning Commission schedule the PUD and Map Amendment application for public hearing at its earliest opportunity. Furthermore, the Applicant requests that the Commission determine at said public hearing that the Project is not inconsistent with the Comprehensive Plan, that the value of the benefits provided by the Project exceeds any development incentives requested, and that the Project has no adverse effects on the community, and thus approve the Application.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By: 
Wayne S. Quin


Dennis R. Hughes