

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 08-26
Case No. 08-26

**Consolidated Planned Unit Development and Zoning Map Amendment – Georgia and
Lamont Limited Partnership - Square 2892, Lots 98, 903, 904, 908 and 911**

[Date of Final Action]

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on March 12, 2009, to consider applications from Georgia and Lamont Limited Partnership (the "Applicant"), owner of Lots 98, 903, 904, 908 and 911 in Square 2892, for the consolidated review and approval of a planned unit development ("PUD") and a zoning map amendment to rezone the subject property from the R-4 and GA/C-2-A District to the GA/C-2-B District. The Commission considered the applications pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the applications.

FINDINGS OF FACT

The Application, Parties, and Hearing

1. On October 3, 2008, Georgia and Lamont Limited Partnership, a partnership between the Neighborhood Development Company and Mi Casa, Inc. (collectively referred to herein as the "Applicant"), filed an application with the Commission for the consolidated review and approval of a planned unit development ("PUD") and a zoning map amendment to rezone Lots 98, 903, 904, 908 and 911 in Square 2892 (the "Subject Property") from the R-4 and GA/C-2-A District to the GA/C-2-B District.
2. The Subject Property, which includes a portion of a public alley to be closed, has a combined land area of approximately 19,191 square feet and is located at the southwest corner of Georgia Avenue and Lamont Street, N.W. Approximately 8,402 square feet of the Subject Property is located in the R-4 District, and the remaining 10,789 square feet is located in the GA/C-2-A District. Square 2892 is located in the northwest quadrant of the District and is bounded by Lamont Street to the north, Georgia Avenue to the east, Kenyon Street to the south, and Sherman Avenue to the west.
3. The site is within walking distance of the Georgia Avenue Metrorail Station and is currently improved with two asphalt parking lots and a number of low-rise commercial buildings which the Applicant proposes to raze in connection with redevelopment of the Subject Property.

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EXHIBIT NO. 42

4. The Applicant is seeking approval to develop a multiple-family dwelling building with ground-floor retail on the Subject Property in accordance with the C-2-B PUD zoning requirements. The project will contain approximately 87,055 square feet of gross floor area, with an overall FAR of 4.54 and a maximum building height of approximately 80 feet. Approximately 10,955 square feet of gross floor area will be devoted to retail uses and approximately 76,100 square feet of gross floor area will be devoted to residential uses. The project will include a total of 69 residential units, at least half of which will be affordable to households earning 60 – 80% of the area median income ("AMI"). The project also includes 29 off-street parking spaces located in a below-grade garage.
5. At its public meeting held on November 10, 2008, the Commission voted to schedule a public hearing on the application.
6. On December 22, 2008, the Applicant submitted a Prehearing Statement, along with revised Architectural Plans and Elevations (the "Plans"), marked as Exhibits 16 and 17 of the record in this case. The prehearing statement included additional information regarding access and truck circulation maneuvers; a list of the revisions made to the Plans; a request for flexibility regarding the design of the loading berth; and additional materials required pursuant to Section 3013 of the Zoning Regulations.
7. After proper notice, the Commission held a public hearing on the application on March 12, 2009. The parties to the case were the Applicant and Advisory Neighborhood Commission ("ANC") 1A (the ANC within which the Subject Property is located).
8. Five principal witnesses testified on behalf of the Applicant at the public hearing, including Adrian Washington, on behalf of the Neighborhood Development Company, as an expert in urban real estate development; Logan Schutz and Mel Thompson, on behalf of Grimm and Parker Architects, as experts in architecture; Nicole White, on behalf of Symemeta Design, as an expert in transportation planning and analysis; and Steven E. Sher, Director of Zoning and Land Use Services, Holland & Knight LLP, as an expert in land use and zoning. Based upon their professional experience, as evidenced by the resumes submitted for the record, Mr. Washington, Mr. Schutz, Mr. Thompson, Ms. White and Mr. Sher were qualified by the Commission as experts in their respective fields.
9. The Office of Planning ("OP") testified in support of the project. The District Department of Transportation ("DDOT") testified regarding DDOT's report and review of the project, as discussed in more detail below.
10. ANC 1A submitted a resolution in support of the application marked as Exhibit 14 of the record of the case. ANC 1A's resolution of support indicated that at a duly noticed public meeting on October 8, 2008, at which notice was properly given and a quorum was present, ANC 1A voted unanimously to recommend that the Commission approve the Applicant's proposed PUD and zoning map amendment. ANC 1A indicated that it strongly supports the project, particularly since the development will assist in the revitalization of a long-neglected area and will also provide affordable housing. ANC

1A also indicated that the proposed residential and retail uses on the site constitute significant amenities for the neighborhood, and the District as a whole.

11. Councilmember Jim Graham also submitted a letter in support of the project (Exhibit 25). Councilmember Graham indicated that he strongly supports the project and that he is especially pleased with the Applicant's commitment to designate at least half of the residential units as affordable. Councilmember Graham concluded his letter by recommending that the Commission approve the applications.
12. Ms. Kay Gunn, an individual residing at 746 Lamont Street, testified in support of the project and indicated that she commends the Applicant for bringing development and change to Georgia Avenue.
13. On April 15, 2009, the Applicant submitted a post-hearing submission, marked as Exhibit _____ of the record in the case. The post-hearing submission included a proposed order and supplemental Plan sheets which addressed the architectural issues raised during the public hearing, including: (1) additional bike racks in the building garage; (2) bike racks on Lamont Street and Georgia Avenue; (3) a revised trellis design; (4) an updated roof plan showing screening around the mechanical units; and (5) a more developed green roof planting plan.
14. At its public meeting held on March 12, 2009, the Commission took proposed action by a vote of 4-0-1 to approve the application and plans that were submitted to the record.
15. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") on March 16, 2009 under the terms of the District of Columbia Home Rule Act (Exhibit 38). NCPC, by action dated April 2, 2009, found that the proposed PUD would not affect the federal establishment or other federal interests in the National Capital, nor be inconsistent with the Comprehensive Plan for the National Capital (Exhibit ____).
16. The Commission took final action to approve the application on _____ by a vote of _____.

The PUD Project

17. The Subject Property is situated in Ward 1 and consists of Lots 98, 903, 904, 908 and 911 in Square 2892. The Subject Property has a combined land area of approximately 19,191 square feet, with approximately 8,402 square feet located in the R-4 District and approximately 10,789 square feet is located in the GA/C-2-A District.
18. The Applicant proposes to develop a multiple-family dwelling building with ground-floor retail on the Subject Property. The project will contain approximately 87,055 square feet of gross floor area, with an overall FAR of 4.54 and a maximum building height of approximately 80 feet. The project will include a total of 69 residential units, at least half of which will be affordable to households earning 60 – 80% of the area

median income ("AMI"). The project also includes 29 off-street parking spaces located in a below-grade garage.

Development under Existing Zoning

19. The Subject Property is currently zoned R-4 and GA/C-2-A. The Applicant is seeking to rezone the Subject Property to GA/C-2-B in connection with this Application.
20. The R-4 zoning classification is designed to include areas developed with row dwellings and dwellings for two or more families. 11 DCMR § 330.1. R-4 Districts permit residential uses, child/elderly development centers, hospitals, churches, public and charter schools, and other similar uses as a matter-of-right. 11 DCMR § 330.5.
21. The maximum permitted matter-of-right height in the R-4 District is 40 feet with a maximum of three stories. 11 DCMR § 400.1. The R-4 District requires a minimum lot area ranging from 1,800 square feet to 9,000 square feet (depending on the use), and a minimum lot width ranging from 18 feet to 120 feet (depending upon the use). 11 DCMR § 401.3. There is no prescribed maximum floor area ratio ("FAR") in the R-4 District. 11 DCMR § 402.4.
22. The maximum percentage of lot occupancy in the R-4 District ranges from 40% to 60%, depending upon the use. 11 DCMR § 403.2. Moreover, pursuant to Section 404.1 of the Zoning Regulations, a rear yard with a minimum depth of 20 feet must be provided for each structure in the R-4 District. Side yards generally are not required in the R-4 District. However, if a side yard is provided, it must be at least three inches wide per foot of building height, but not less than eight feet. 11 DCMR §405.6.
23. Where an open court is provided in the R-4 District for anything other than a one-family dwelling, the court must have a minimum width of four inches per foot of height of court, but not less than ten feet. 11 DCMR §406.1. Where a closed court is provided in the R-4 District for anything other than a one-family dwelling, the court must have a minimum width of four inches per foot of height of court, but not less than fifteen feet, and an area of twice the square of the required width of court dimension based on the height of court, but not less than 350 square feet.
24. An apartment house or multiple dwelling in the R-4 District is required to provide one parking space for each three dwelling units. 11 DCMR §2101.1. The loading requirement for an apartment house or multiple dwelling with 50 or more dwelling units in all zoning districts is one loading berth at 55 feet deep, one loading platform at 200 square feet, and one service/delivery loading space at 20 feet deep. 11 DCMR §2201.1.
25. Development of the Subject Property under the PUD guidelines for the R-4 District would allow a maximum building height of 60 feet, and a maximum FAR of 1.0, all of which would be devoted to residential use. 11 DCMR §§ 2405.1 and 2405.2.
26. The C-2 zoning classification is divided into C-2-A, C-2-B and C-2-C Districts. The C-2-A District is designed to provide facilities for shopping and business needs, housing,

and mixed uses for large segments of the District outside of the central core. 11 DCMR § 720.2.

27. The maximum permitted matter-of-right height in the C-2-A District is 50 feet with no limit on the number of stories. 11 DCMR § 770.1. The maximum floor area ratio ("FAR") in the C-2-A District is 2.5, all of which may be devoted to residential use, but not more than 1.5 of which may be devoted to non-residential uses. 11 DCMR § 771.2.
28. In the C-2-A District, the maximum percentage of lot occupancy for a building or portion of building devoted to residential use is 60%. 11 DCMR § 772.1. Moreover, pursuant to Section 774.1 of the Zoning Regulations, a rear yard with a minimum depth of 15 feet must be provided for each structure in the C-2-A District. Side yards generally are not required in the C-2-A District. However, if a side yard is provided, it must be at least two inches wide per foot of building height, but not less than six feet. 11 DCMR § 775.5.
29. Where a court is provided for a building or portion of building devoted to residential uses, at any elevation in the court, the width of court must be a minimum of four inches per foot of height, measured from the lowest level of the court to that elevation, but not less than fifteen feet. 11 DCMR § 776.3. In the case of a closed court for a building or portion of a building devoted to residential uses, the minimum area must be at least twice the square of the width of court based upon the height of court, but not less than 350 square feet. 11 DCMR § 776.4.
30. An apartment house or multiple dwelling in the C-2-A District is required to provide one parking space for each two dwelling units. 11 DCMR § 2101.1. The loading requirement for an apartment house or multiple dwelling with 50 or more dwelling units in all zoning districts is one loading berth at 55 feet deep, one loading platform at 200 square feet, and one service/delivery loading space at 20 feet deep. 11 DCMR § 2201.1.
31. Development of the Subject Property under the PUD guidelines for the C-2-A District would allow a maximum building height of 65 feet, and a maximum FAR of 3.0, all of which may be devoted to residential use, but not more than 2.0 of which may be devoted to non-residential uses. 11 DCMR §§ 2405.1 and 2405.2.
32. The Georgia Avenue Commercial (GA) Overlay District applies to certain properties zoned C-2-A and/or C-3-A along both sides of Georgia Avenue. 11 DCMR § 1327.1.
33. The GA Overlay includes a number of design requirements in Section 1328 of the Zoning Regulations, including the following:
 - Buildings must be designed and built so that not less than seventy five percent (75%) of the street wall at the street level is constructed to the property line abutting the street right-of-way;

- Buildings on corner lots must be constructed to all property lines abutting public streets;
- In the GA/C-2-A Zone District, seventy percent (70%) lot occupancy is permitted for mixed use buildings that include residential use;
- On-grade parking structures with frontage on Georgia Avenue, N.W. must provide not less than sixty-five percent (65%) of the ground level frontage as commercial space;
- Each building on a lot that fronts on Georgia Avenue, N.W. must devote not less than fifty percent (50%) of the surface area of the street wall at the ground level to entrances to commercial uses or to the building's main lobby, and to display windows having clear or clear/low emissivity glass. Decorative or architectural accents do not count toward the fifty percent (50%) requirement;
- Security grilles over windows or doors shall have no less than seventy percent (70%) transparency;
- Each commercial use with frontage on Georgia Avenue, N.W. must have an individual public entrance directly accessible from the public sidewalk.
- Buildings must be designed so as not to preclude an entrance every forty feet (40 ft.) on average for the linear frontage of the building, excluding vehicular entrances, but including entrances to ground floor uses and the main lobby;
- The ground floor level of each building or building addition must have a uniform minimum clear floor-to-ceiling height of fourteen feet (14 ft.);
- Buildings that have a minimum clear floor-to-ceiling height of fourteen feet (14 ft.) on the ground floor level are permitted an additional five feet (5 ft.) of building height over that permitted as a matter-of-right in the underlying zone; and
- Off-street surface parking is permitted in rear yards only.

34. The GA Overlay also prohibits certain uses, such as drive-through and automobile – related uses (11 DCMR §1329), includes special exception provisions for certain uses (11 DCMR §1330), and includes PUD provisions 11 DCMR §1331).

35. The Commission finds that the proposed PUD is meets the applicable requirements of the GA Overlay as set forth in the report and testimony of the Applicant's land use and zoning expert and the report of the Office of Planning.

Development under Proposed GA/C-2-B Requirements

36. The Applicant proposes to rezone the Subject Property to GA/C-2-B in connection with this Application. The C-2-B District is designed to serve commercial and residential functions similar to the C-2-A District, but with high-density residential and mixed-uses. 11 DCMR § 720.6. The C-2-B Districts are compact and located on arterial streets, in uptown centers, and at rapid transit stops. 11 DCMR § 720.7. Buildings may be entirely residential or a mixture of residential and commercial uses in the C-2-B District. 11 DCMR § 720.8.

37. The C-2-B District includes the following development requirements:

- A maximum matter-of-right height of 65 feet with no limit on the number of stories (§770.1), and a maximum height of 90 feet under the PUD requirements (§2405.1);
- A maximum matter-of-right FAR of 3.5, all of which may be devoted to residential use, but not more than 1.5 of which may be devoted to non-residential uses (§771.2), and a maximum FAR of 6.0, all of which may be devoted to residential use, but not more than 2.0 of which may be devoted to non-residential uses under the PUD requirements (§2405.2);
- A maximum lot occupancy of 80% (§772.1);
- A minimum rear yard depth of 15 feet (§774.1) and, if provided, a side yard at least two inches wide per foot of building height, but not less than six feet (§775.5);
- If provided for a residential use, a minimum court width of four inches per foot of height, but not less than fifteen feet (§776.3) and in the case of a closed court, a minimum area of at least twice the square of the width of court, but not less than 350 square feet (§776.4);
- For a retail establishment in excess of 3,000 square feet, 1 off-street parking space for each additional 350 square feet of gross floor area and cellar floor area (§2101.1) and for an apartment house or multiple dwelling with 50 or more units, 1 off-street parking space for each 3 dwelling units (§2101.1); and
- For a retail establishment with 5,000 to 20,000 square feet of gross floor area, one loading berth at 30 feet deep and one loading platform at 100 square feet (no service/delivery loading space is required) (§2201.1) and for an apartment house or multiple dwelling with 50 or more dwelling units, one loading berth at 55 feet deep, one loading platform at 200 square feet, and one service/delivery loading space at 20 feet deep (§2201.1).

Development Incentives and Flexibility

38. The Applicant requested the following areas of flexibility from the Zoning Regulations:

- a. *Flexibility From Parking Requirements (Section 2101.1).* Pursuant to Section 2101.1 of the Zoning Regulations, the project is required to provide a total of 33 off-street parking spaces. However, the Applicant is seeking flexibility to provide 29 instead of 33 off-street parking spaces. The Applicant cannot provide all of the required parking spaces given the size of the building footprint. The parking garage has been designed to encompass the full area of the building footprint – some of which must be used to accommodate necessary and required functions such as the garage access ramp, egress stairs, building systems and the elevator lobby. Given the geometry of the standard and accessible parking spaces, as well as the anticipated vehicle movements, no more than 29 parking spaces could be achieved without extraordinary and impractical structural and construction measures. Moreover, as indicated in the Traffic Impact Study prepared by Symmetra Design, the Applicant's traffic consultant, the amount of proposed parking is sufficient to meet the anticipated parking demand. The site is located on Georgia Avenue, which is served by a number of bus routes. Moreover, the Subject Property is within walking distance of the Georgia Avenue/Petworth Metrorail Station. DDOT indicated in its March 9, 2009 memorandum that it credits the Applicant with providing a reduced number of parking spaces (Exhibit 29). Thus, the Commission finds that reducing the number of parking spaces will not have an adverse impact on the project or the area.
- b. *Flexibility From Loading Requirements (Section 2201.1 and Section 2203.3).* The Applicant requests relief from Sections 2201.1 and 2203.3 of the loading requirements. Pursuant to Section 2201.1 of the Zoning Regulations, the Applicant is required to provide the following: 1 loading berth at 30 feet deep; 1 loading berth at 55 feet deep; 1 loading platform at 100 square feet; 1 loading platform at 200 square feet; and 1 service/delivery space at 20 feet deep. However, due to the anticipated needs of the residents and retail uses, the Applicant is seeking flexibility to provide 1 loading berth at 30 feet deep; 1 loading platform at 100 square feet; and 1 service/delivery space at 20 feet deep. The Applicant cannot provide a 55 foot loading berth and an additional 200 square foot loading platform because doing so would impact the location of the building core, trash collection and storage area, and other uses proposed on the ground-floor. The Commission finds that this requested flexibility is in accordance with the Comprehensive Plan's recommendations to consolidate loading areas within new developments and minimizing curb cuts on streets to the greatest extent possible, and to provide shared loading spaces in mixed-use buildings. Given the nature and size of the residential units, it is unlikely that the building will be served by 55 foot tractor-trailer trucks. In addition, the loading areas are likely to be used by the residents primarily when they move in or out of the building, and any subsequent use by residents is generally infrequent and can be restricted to times which pose the least potential conflicts with retail users.

Pursuant to Section 2203.3 of the Zoning Regulations, all loading berths are required to be designed such that no vehicle or part thereof projects over any lot line or building line. As shown on the Plans, in order to provide better access to the loading facility, the Applicant has redesigned the loading berth such that it no longer runs north to south, but is now at a slight angle to the service drive to the rear. This layout is improved from an operational and transportation management perspective since it allows for easier maneuvering into the loading berth and provides adequate spacing for circulation during loading operations. In addition, the loading berth has been designed such that vehicles will not project over any lot line. However, when a 30 foot truck is utilizing the berth, a small portion of the truck will project beyond the building line and into the easement area, the underlying fee of which will remain owned by the Applicant. The Applicant cannot increase the depth of the loading berth because doing so would require decreasing the size of the loading dock area, which has been sized to provide adequate loading area for the building. The Applicant has developed this layout in consultation with DDOT, and DDOT has submitted a memorandum approving of the layout of the loading berth (Exhibit 23). The Applicant also submitted a Transportation Demand Management and Loading Management Plan marked as Exhibit 31 that includes provisions regarding delivery vehicle access, delivery vehicle size limits, delivery hours, service/delivery facility management and loading berth scheduling/management provisions. DDOT submitted a supplemental memorandum marked as Exhibit 39 indicating that the Applicant's plan includes measures to ensure the loading and delivery operations perform well. The Commission finds that based upon the above, the proposed number and layout of the loading facilities will not have an adverse impact on the project or the neighborhood.

- c. *Flexibility From Roof Structure Requirements.* The Applicant requests flexibility from the roof structure requirements of the Zoning Regulations because there will be multiple roof structures (§411.3 and §770.6(a)), and the roof structure containing the elevator tower cannot be setback from all exterior walls a distance equal its height above the roof (§§ 411.2 and 770.6(b)). The Commission finds that each roof structure is a necessary feature and the structures have to be separated due to the building code requirement to provide separate means of egress for buildings, as well as the desire to break up massing on the roof. Moreover, each roof structure meets the setback requirement from all street frontages and flexibility is requested only from the wall of the court in the center of the building. The location and number of mechanical units on the roof is driven by the layout and design of the residential units within the building. In addition, the Applicant is providing the greatest setbacks possible given the size of the roofs and the internal configuration of the proposed buildings. The Commission further finds that the requested roof structure design will not adversely impact the light and air of adjacent buildings since each element has been located to minimize its visibility. Therefore, the intent and purposes of the Zoning Regulations will not be materially impaired and the light and air of adjacent buildings will not be adversely affected.

- d. *Additional Areas of Flexibility.* The Applicant also requests flexibility in the following areas:
- i. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the building.
 - ii. To make refinements to the garage configuration, including layout, number of parking spaces, and/or other elements, provided the number of zoning-compliant parking spaces is not reduced below 29 spaces.
 - iii. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinements to exterior details and dimensions, including curtainwall mullions and spandrels, window frames, glass types, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit.

Public Benefits and Amenities

39. The Commission finds that the following benefits and amenities will be created as a result of the PUD:

- a. *Urban Design, Architecture, Landscaping and Open Space.* The project will help to implement a number of urban design and architectural best practices, will assist in the further development of Georgia Avenue into a major mixed-use corridor with higher-density residential uses and high-quality community oriented retail uses. Moreover, given the width of the Georgia Avenue right-of-way, taller buildings holding a uniform street wall will create a well-proportioned street section with a better sense of enclosure and place. This new street section in combination with the mix of uses and streetscape improvements on the site will support the ultimate revitalization of this portion of Georgia Avenue into another great Washington mixed-use main street.
- b. *First Source Employment Agreement and Local, Small and Disadvantaged Business Enterprises.* The Applicant has entered into a First Source Employment Agreement with the Department of Employment Services (Exhibit 27). The Applicant will also enter into a CBE Agreement with the District's Office of Local Business Development and will submit a copy of the fully-executed agreement prior to the issuance of a building permit for the project. Execution and implementation of these agreements will help to expand employment opportunities for residents and local businesses is a priority of the Applicant.

- c. *Housing and Affordable Housing.* The single greatest benefit to the area, and the city as a whole, is the creation of new housing consistent with the goals of the Zoning Regulations, the Comprehensive Plan and the Mayor's housing initiative. The proposed PUD includes 75,905 square feet of residential gross floor area, at least half of which will be designated as affordable housing units for households earning 60 – 80% of the AMI. This substantially exceeds the amount of affordable housing that would be required under the Inclusionary Zoning requirements set-forth in Section 2603.1 of the Zoning Regulations.
- d. *Environmental Benefits.* The proposed development will help to ensure the environmental, economic and social sustainability of the residents through the implementation of sustainable design features. The Applicant's goal is to provide high quality affordable housing that will promote a healthy living environment, reduce life cycle costs for long term property management, promote efficient utility costs for residents and create a synergy that will enhance interest in practical green building in the community. Thus, the Applicant is participating in the Green Communities program and the project will include a number of sustainability features as indicated in the Green Communities Criteria matrix filed by the Applicant and included as Exhibit H of the Applicant's application statement marked as Exhibit 4 of the record.

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

- 40. The Subject Property is designated in the Mixed-Use, Medium Density Residential and Moderate Density Commercial land use category on the District of Columbia Comprehensive Plan Future Land Use Map. The Medium Density Residential designation is used to define neighborhoods or areas where mid-rise (4-7 stories) apartment buildings are the predominant use. Pockets of low and moderate density housing may exist within these areas. The Medium Density Residential designation also may apply to taller residential buildings surrounded by large areas of permanent open space. The R-5-B and R-5-C Zone districts are generally consistent with the Medium Density designation, although other zones may apply in some locations. (§2.4.2, ¶224.8)
- 41. The Moderate Density Commercial designation is used to define shopping and service areas that are somewhat more intense in scale and character than the low-density commercial areas. Retail, office, and service businesses are the predominant uses. Areas with this designation range from small business districts that draw primarily from the surrounding neighborhoods to larger business districts uses that draw from a broader market area. Buildings are larger and/or taller than those in low density commercial areas but generally do not exceed five stories in height. The corresponding Zone districts are generally C-2-A, C-2-B, and C-3-A, although other districts may apply. (¶224.12)

42. The Commission finds that the Applicant's proposal to rezone the property from the R-4 and GA/C-2-A Districts to the GA/C-2-B District to construct a mixed-use development on the Subject Property is not inconsistent with the Comprehensive Plan designation of the Subject Property. The Applicant proposes to construct 3.96 FAR of residential use on the Subject Property, which is consistent with the amount of residential density permitted in moderate density zones. Moreover, the proposed C-2-B zoning classification is specifically identified as a moderate density commercial zone district. In addition, one of the primary purposes of the C-2-B District is to provide commercial and residential functions within a single building, which is also consistent with the stated principle of the mixed-use designation of the Subject Property. The Subject Property is also located along a transportation corridor and is in close proximity to a Metrorail station. Given the District's stated policy of channeling new residential and retail growth into areas near transit stations and along bus routes, the proposed project and map amendment are not inconsistent with the Comprehensive Plan's designation of the Subject Property.
43. A portion of the Subject Property is designated in a Neighborhood Conservation Area on the District of Columbia Comprehensive Plan Generalized Policy Map, and the remaining portion is designated in a Main Street Mixed Use Corridor on the map. Neighborhood Conservation Areas are anticipated to include some new development and reuse opportunities. The guiding philosophy in these areas is to preserve and enhance the character of these neighborhoods, and that new developments should be compatible with the existing scale and architectural character of the area.
44. Main Street Mixed Use Corridors are traditional commercial business corridors with a concentration of older storefronts along the street. The service area for Main Streets can vary from one neighborhood (e.g., 14th Street Heights or Barracks Row) to multiple neighborhoods (e.g., Dupont Circle, H Street, or Adams Morgan). Their common feature is that they have a pedestrian-oriented environment with traditional storefronts. Many have upper story residential or office uses. Conservation and enhancement of these corridors is desired to foster economic and housing opportunities and serve neighborhood needs. Any development or redevelopment that occurs should support transit use and enhance the pedestrian environment.
45. The Commission finds that the proposed PUD is consistent with each of these designations. With respect to the Neighborhood Conservation Area policies, the project presents a new development opportunity that will help to enhance, and have an overall positive impact on, the surrounding area by virtue of the proposed retail uses, additional residents, and the project's exceptional architectural design. Moreover, consistent with the purpose of the Main Street Mixed Use Corridors, the project includes both residential and retail uses, which will help to further economic and housing opportunities and serve neighborhood needs.

46. The Commission finds that the proposed PUD is also consistent with many guiding principles in the Comprehensive Plan for managing growth and change, creating successful neighborhoods, and building green and healthy communities, as follows:

- a. *Managing Growth and Change.* In order to manage growth and change in the District, the Comprehensive Plan encourages, among other factors, the growth of both residential and non-residential uses, particularly since non-residential growth benefits residents by creating jobs and opportunities for less affluent households to increase their income. (§ 2.3, ¶ 217.4). The Comprehensive Plan also states that redevelopment and infill opportunities along corridors is an important part of reinvigorating and enhancing neighborhoods. (§ 2.3, ¶ 217.6). The Commission finds that the proposed PUD is fully-consistent with each of these goals. Redeveloping the Subject Property into a vibrant mixed-use development will further the revitalization of the neighborhood. Moreover, the proposed ground floor retail uses will increase employment opportunities for District residents.
- b. *Creating Successful Neighborhoods.* One of the guiding principles for creating successful neighborhoods is the recognition that many neighborhoods include commercial uses that contribute to the neighborhood's character and make communities more livable. (§ 2.3, ¶218.2). Another guiding principle for creating successful neighborhoods is getting public input in decisions about land use and development, from development of the Comprehensive Plan to implementation of the plan's elements. (§ 2.3, ¶218.8). The Commission finds that the proposed PUD further these goals with the construction of a quality residential project. In addition, the Applicant has worked with, and received the support of, ANC 1A to ensure that the development provides a positive impact to the immediate neighborhood.
- c. *Building Green and Healthy Communities.* One of the guiding principles for building green and healthy communities is that building construction and renovation should minimize the use of non-renewable resources, promote energy and water conservation, and reduce harmful effects on the natural environment. (§2.3, ¶221.3) As discussed in more detail herein, the Commission finds that the building will include a significant number of sustainable design features.

47. The Commission also finds that the proposed PUD furthers the objectives and policies of many of the Comprehensive Plan's major elements as set forth in the report and testimony of the Applicant's land use and zoning expert and the report of the Office of Planning. The Commission finds that approval of the PUD and map amendment would not be inconsistent with the Comprehensive Plan.

Office of Planning Report

48. By report dated October 31, 2008, the Office of Planning ("OP") indicated that it supports the applications and that the proposed PUD and zoning map amendment are

not inconsistent with the Comprehensive Plan. Therefore, OP recommended that the Commission schedule a public hearing on the application. (Exhibit 13).

49. By report dated March 2, 2009, OP recommended final approval of the application. (Exhibit 26). OP indicated that the proposed project is consistent with the PUD evaluation standards, that the application will further a number of the elements and principles of the Comprehensive Plan, and the project is not inconsistent with the Comprehensive Plan's policies and land use maps. OP also indicated that the project includes an appropriate amount of public benefits and amenities. OP also supported the requested zoning flexibility from the parking, roof structure and loading requirements. OP's recommendation that the Commission approve the applications was subject to the following conditions: (1) the Applicant submit floor plans indicating why additional windows could not be installed on the south elevation of the building; (2) floor plans showing the location of the affordable units; (3) species of the proposed street trees to be installed; and (4) submission and approval of a loading management plan by DDOT.
50. The Commission finds that the Applicant has satisfied each of these conditions. The Applicant submitted and presented at the public hearing a PowerPoint presentation (Exhibit 33) and revised Plans (Exhibit 34) which indicate that the Applicant has provided additional windows where possible on the south elevation, the location of the affordable units, and information regarding the species of trees proposed to be planted on the site. The Applicant also submitted a Transportation Demand Management and Loading Management Plan, marked as Exhibit 31, and DDOT submitted a supplemental memorandum marked as Exhibit 39 indicating that the Applicant's plan includes measures to ensure the loading and delivery operations perform well.

DDOT Reports

51. DDOT submitted a memorandum dated December 30, 2008, marked as Exhibit 23 in the record of this case, indicating that the Applicant's proposed design for the loading dock facilities meets DDOT recommendations and does not conflict with the public easement providing access to the building. DDOT indicated that it has no objections to the development as long as the loading dock design is incorporated into the construction documents.
52. DDOT also submitted a memorandum dated March 6, 2009, marked as Exhibit 29, indicating that DDOT agrees with the Applicant's request to build a mixed-use PUD and to rezone the site. DDOT indicated that the proposed easement will provide better access to the residential and retail loading berth and underground parking. DDOT also supports the Applicant's request to provide 29 parking spaces. DDOT requested that the Applicant provide a truck tracking diagram and additional information regarding management of the loading dock. DDOT also recommend that the Applicant implement a number of transportation demand management measures. DDOT also made a number of public space recommendations.

53. DDOT's Urban Forestry Administration submitted a memorandum, dated March 10, 2009, marked as Exhibit 28, recommending that the Applicant be required to preserve four existing Oak trees and three existing Chinese elm trees on the site, and that the Applicant be required to widen the existing street tree boxes from four feet to six feet.
54. DDOT submitted an additional memorandum dated March 19, 2009, marked as Exhibit 39, indicating that it reviewed the Applicant's Transportation Demand Management and Loading Management Plan and concluded that the Applicant's plan includes measures to ensure the loading and delivery operations perform well. DDOT also included specific recommendations regarding how the plan should be enforced. DDOT also recommend that the Applicant provide additional parking for the bicycles within the building, 2 public bicycle racks on Lamont Street, and 3 public bike racks on Georgia Avenue. DDOT also reiterated its recommendation that the Commission require the Applicant to locate its utilities on the proposed site and not in public space.
55. Based upon the testimony of the Applicant's expert in transportation analysis and planning, and DDOT's March 19, 2009 memorandum, the Commission finds that the Applicant's Transportation Demand Management and Loading Management Plan includes measures to ensure the loading and delivery operations perform well and sufficient transportation demand measures. The Commission also finds that the Applicant's PowerPoint presentation (Exhibit 33) and revised Plans (Exhibit 34) submitted at the public hearing address the public space concerns raised by DDOT regarding the doorway entrances, ADA ramps, curb cuts, and location of street trees. The Commission further finds that the Plans included with the Applicant's posthearing submission on April 15, 2009 increase the number of bicycle spaces from 10 to 18 within the building, and provide 2 public bicycle racks on Lamont Street and 3 public bike racks on Georgia Avenue. However, given the extent of DDOT's recommendations regarding enforcement of the Transportation Demand Management and Loading Management Plan and the location of the utility vaults, the Commission declines to adopt such recommendations in this case due to the specific facts of this case. Moreover, a number of the public space concerns raised by DDOT will have to be addressed during the permitting process, which the Commission finds is the most appropriate setting for resolving those issues for this project.
56. With respect to DDOT's Urban Forestry Administration memorandum, the Commission finds that the Applicant's PowerPoint presentation (Exhibit 33) and revised Plans (Exhibit 34) submitted at the public hearing indicate that there are five existing trees on the site, and that the Applicant proposes to install eight street trees on the site, which is a net increase of three trees. The Commission further finds that the Applicant will work with DDOT during the permitting phase of the project to appropriately size the proposed street tree boxes.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. 11 DCMR § 2400.1. The overall goal

of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." 11 DCMR § 2400.2.

2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking and loading, or for yards and courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.
3. Development of the property included in this application carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. The PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations.
5. The PUD, as approved by the Commission, complies with the applicable height, bulk and density standards of the Zoning Regulations. The uses for this project are appropriate for the Subject Property. The impact of the project on the surrounding area is not unacceptable. Accordingly, the project should be approved.
6. The application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
7. The Applicant's request for flexibility from the Zoning Regulations is consistent with the Comprehensive Plan. Moreover, the project benefits and amenities are reasonable trade-offs for the requested development flexibility.
8. Approval of this PUD is appropriate because the proposed development is consistent with the present character of the area, and is not inconsistent with the Comprehensive Plan. In addition, the proposed development will promote the orderly development of the Subject Property in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
9. The Commission is required under D.C. Code Ann. § 1-309.10(d)(3)(A) (2001) to give great weight to the affected ANC's recommendation. In this case, ANC 1A voted unanimously to support the project and recommended that the Commission approve the application. (See Exhibit 14). The Commission has given ANC 1A's recommendation great weight in approving this application.
10. The application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia orders **APPROVAL** of the applications for the consolidated review and approval of a planned unit development ("PUD") and a zoning map amendment to rezone Lots 98, 903, 904, 908 and 911 in Square 2892 from the R-4 and GA/C-2-A District to the GA/C-2-B District subject to the following guidelines, conditions and standards:

1. The PUD shall be developed substantially in accordance with the plans prepared by Grimm and Parker Architects, dated December 22, 2008, marked as Exhibit 17 in the record (the "Plans"); as modified by the revised architectural plans submitted at the public hearing and marked as Exhibit 34 and the supplemental sheets submitted on April 15, 2009 and marked as Exhibit ____; and as further modified by the guidelines, conditions and standards herein.
2. The PUD shall have a maximum FAR of 4.54 and a gross floor area of no more than 87,055 square feet, including approximately 76,100 square feet of gross floor area dedicated to residential uses and approximately 10,955 square feet of gross floor area dedicated to ground floor retail uses. The project shall contain no more than 69 residential units.
3. The maximum height of the building shall be 80 feet.
4. The project shall include a minimum of 29 striped off-street parking spaces in the garage.
5. The project shall include a minimum of 34 affordable units in the locations shown on Exhibit 34.
6. The Applicant is granted flexibility from the parking (§2101.1), loading (§2201.1 and §2203.3), and roof structure number and setback requirements (§411 and §770), consistent with the approved Plans and as discussed in the Development Incentives and Flexibility section of this Order.
7. The Applicant shall also have flexibility with the design of the PUD in the following areas:
 - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the building.
 - b. To make refinements to the garage configuration, including layout, number of parking spaces, and/or other elements, provided the number of striped parking spaces is not reduced below 29 spaces.

- c. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinements to exterior details and dimensions, including curtainwall mullions and spandrels, window frames, glass types, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit.
8. No building permit shall be issued for this PUD until the Applicant has submitted to the Zoning Division of the Department of Consumer and Regulatory Affairs (DCRA) a fully-executed agreement with the District of Columbia Department of Small and Local Business Development.
9. No building permit shall be issued for this PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the owners and the District of Columbia, that is satisfactory to the Office of the Attorney General and DCRA. Such covenant shall bind the Applicants and all successors in title to construct on and use the Subject Property in accordance with this Order or amendment thereof by the Zoning Commission.
10. The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the Applicant has filed a copy of the covenant with the records of the Zoning Commission.
11. The PUD approved by the Zoning Commission shall be valid for a period of two years from the effective date of this Order. Within such time, an application must be filed for a building permit as specified in 11 DCMR § 2409.1. Construction shall begin within three years of the effective date of this Order.
12. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicants to comply shall furnish grounds for the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

On _____, _____, 2009, the Zoning Commission approved the application by a vote of _ _ _ _
(_____).

The Order was adopted by the Zoning Commission at its public meeting on _____, by a vote of _ - _ (_____).

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

ANTHONY HOOD
Vice Chairman,
Zoning Commission

RICHARD NERO
Director
Office of Zoning