

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR



October 19, 2015

Holland & Knight LLP
Steven E. Sher, Director of Zoning and Land Use Services
800 17th Street, N.W. - Suite 1100
Washington, DC 20006

Re: Rhode Island Metro PUD #04-24

Dear Mr. Sher:

This is to follow-up on our discussion on September 1, 2015, concerning the above-referenced property, also known as Record Lot 59 in Square 3848. The property is currently divided into a series of air rights and assessment and taxation lots. The property is located on the south side of Rhode Island Avenue, N.E., immediately east of the railroad right-of-way and comprises land owned by the Washington Metropolitan Area Transit Authority acquired for facilities for the Rhode Island Avenue Metrorail station.

The property is developed as a planned unit development (PUD) approved by the Zoning Commission through the following Orders:

- No. 04-24 (dated September 15, 2005, effective October 7, 2005) granting first stage approval to the PUD;
- No. 04-24A (dated April 9, 2007, effective September 28, 2007) granting second stage approval to the PUD; and
- No. 04-24B (dated May 12, 2008, effective May 13, 201) granting a minor modification to the PUD to allow office use in a portion of the building originally designated for retail use.

Pursuant to the Orders approving the project, the property was rezoned to the C-2-B District.

The overall PUD approved the construction of a mixed use town center with a total of approximately 270 dwelling units, approximately 70,000 square feet of retail space and parking for approximately 531 cars. Condition No. 3 of both Orders No. 04-24 and 04-24A identify the uses permitted in the project, including "70,000 gross square feet of retail uses." Order No. 04-24B amended that condition to add the following: "Up to 14,000 gross square feet of the gross floor area reserved for retail uses may be used for office uses." Nothing in any of the three orders otherwise defined or limited the uses which could go into the retail space.

We reviewed three uses which are proposed to occupy space within the commercial component of the project, as follows:

1. Sale of pet food and supplies and a veterinary hospital: Certain animal related uses are only permitted in a C-2 District as a special exception, including animal boarding, a pet grooming establishment, a pet shop and a veterinary boarding hospital. Those terms are all defined in §199.1 of the Zoning Regulations. The sale of pet food and supplies is not encompassed by any of those definitions, as long as the sale of animals themselves is not proposed. The sale of pet food is substantial the same as sale of groceries or other sundries, which are permitted as matter-of-right in a C-2 District. A veterinary hospital is also a defined term (“an establishment used by a licensed veterinarian for the practice of veterinary medicine and not as an animal boarding establishment”) and is a use specifically permitted as a matter-of-right in a C-2 District by §721.2(y).
2. Dental office: Offices, including medical and dental offices are permitted in a C-2 District. The proposed use would be permitted under the PUD as long as the total square footage devoted to office use does not exceed the 14,00 square feet of gross floor area identified in Order No. 04-24B.
3. Bank including an exterior ATM, general banking office, and other ancillary uses customarily found in bank branches: A “bank or other financial institution” is a use permitted by §701.1(a) in a C-1 District and is therefore carried over and permitted as a matter-of-right in a C-2 District and in this PUD.

I conclude and confirm that the three uses identified above are all permitted in the commercial component of the PUD, provided that the office use is included within the 14,000 square feet of gross floor area identified in Order No. 04-24B. Please let me know if I may be of further assistance.

Sincerely, 
Matthew Le Grant
Zoning Administrator