

**THE ARTHUR CAPPER/CARROLLSBURG
250 M STREET, S.E.
OFFICE BUILDING**

PREHEARING STATEMENT

OF THE APPLICANTS

**TO THE
DISTRICT OF COLUMBIA ZONING COMMISSION
FOR
SECOND-STAGE REVIEW AND APPROVAL
OF A PLANNED UNIT DEVELOPMENT**

August 4, 2006

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**ZONING COMMISSION
District of Columbia**

ZONING COMMISSION

District of Columbia

CASE NO. 03-13C / 03-13C

CASE NO. 03-13C / 03-13C

EXHIBIT NO. 15

EXHIBIT NO. 15

PREFACE

This Prehearing Statement and attached documents are submitted by Square 769, LLC and District of Columbia Housing Authority (collectively the "Applicants"), in support of their application to the Zoning Commission of the District of Columbia for second-stage review and approval of a Planned Unit Development ("PUD").

Preliminary and consolidated approval of the entire project was issued pursuant to Zoning Commission Order Number 03-12/03-13, dated February 6, 2004, and effective October 8, 2004. The portion of the preliminary PUD approval described in this application includes parts of Lots 18, 20, and 21 in Square 769. The PUD Site consists of approximately 27,960 square feet of land area and is presently zoned CG/C-3-C.

The Applicants originally filed a PUD Statement and supporting documents, including architectural plans and drawings, with the Zoning Commission on April 21, 2006 (the "PUD Submission"). The PUD Submission set forth in detail the proposed development, project design, requested areas of flexibility, and a discussion of how the project meets the requirements of the Comprehensive Plan. The PUD Submission also included an analysis of compliance with the first stage approval. This Prehearing Submission supplements the PUD Submission and responds to those issues raised by the Zoning Commission and the Office of Planning.

As set forth below, this Prehearing Submission, along with the original PUD Submission, meets the filing requirements for a PUD application under Chapters 24 and 30 of the District of Columbia Zoning Regulations.

DEVELOPMENT TEAM

Developer: William C. Smith & Co.
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Suite 1000
Washington, DC 20003

Owners: Square 769, LLC
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Washington, DC 20003

District of Columbia Housing Authority
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Washington, D.C. 20002-7599

Architect: Hickok Cole Architects
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Washington, DC 20007

Landscape Architect: Parker Rodriguez
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Alexandria, VA 22314

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McLean, Virginia 22102

Land Use Counsel: Holland & Knight LLP
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**CERTIFICATION OF COMPLIANCE
WITH SECTION 3013 OF THE ZONING REGULATIONS**

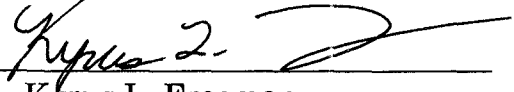
The Applicant hereby certifies that this application, one original and twenty copies of which were filed with the Zoning Commission on March 30, 2006, complies with the provisions of Section 3013 of the Zoning Regulations as set forth below, that the application is complete.

<u>Subsection</u>	<u>Description</u>	<u>Page</u>
3013.1(a)	Information Requested by Zoning Commission and Office of Planning	Pgs. 2-10
3013.1(b)	List of Witnesses	Exhibit D
3013.1(c)	Summary of Testimony of Applicant's Witnesses and Reports for Record	
	Bradley Fennell William C. Smith & Co./ Square 769, LLC	Exhibit E
	Michael E. Hickok Hickok Cole Architects	Exhibit F
	Trini Rodriguez Parker Rodriguez	Exhibit G
	Steven E. Sher Director of Zoning and Land Use Services, Holland & Knight LLP	Exhibit H
3013.1(e)	Reduced Plans	Exhibit A
3013.1(f)	List of Maps, Plans or other Documents Readily Available Which Will Be Offered Into Evidence	Exhibit I
3013.1(g)	Estimated Time Required for Presentation of Applicant's Case	Exhibit D
3013.4	First Source Employment Agreement	Exhibit B
3013.4	LSDBE Memorandum of Understanding	Exhibit C
3013.6(a)	List of Names and Addresses of All Property Owners Within 200 Feet of The Subject Property	Exhibit J

The undersigned HEREBY CERTIFIES that all of the requirements of Section 3013 of the Zoning Regulations have been complied with. In accordance with Section 3013.8, this application will not be modified less than twenty days prior to the public hearing.

Respectfully Submitted,

HOLLAND & KNIGHT LLP

By: 
Kyrus L. Freeman

LIST OF EXHIBITS

Exhibit	Description
A	Architectural Plans and Elevations
B	First Source Employment Agreement
C	LSDBE Memorandum of Understanding
D	List of Witnesses and Estimated Time Required For Presentation of Applicants case
E	Outline of Testimony of Bradley Fennell
F	Outline of Testimony of Michael E. Hickok
G	Outline of Testimony of Trini Rodriguez
H	Outline of Testimony of Steven E. Sher
I	List of Maps, Plans or other Documents Readily Available Which Will Be Offered Into Evidence
J	List of Names and Addresses of All Owners of Property Within 200 Feet of the Subject Property

I. INTRODUCTION

This Prehearing Statement and attached documents are submitted by Square 769, LLC and District of Columbia Housing Authority (collectively the "Applicants"), in support of their application to the Zoning Commission of the District of Columbia for second-stage review and approval of a Planned Unit Development ("PUD").

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II. ISSUES/QUESTIONS RAISED BY THE ZONING COMMISSION

A. Design of Roof Structure

As shown on the Architectural Plans and Elevations (the "Plans") attached hereto as Exhibit A, the proposed roof structure has been modified to address the concerns raised by the Zoning Commission at the public meeting. The penthouse wall along the 3rd Street elevation has been set back 24 feet, 8 inches from the building's facade. Moreover, the screen wall connected to the tower element that was included in the original plans has been removed. The effect of these changes is to eliminate the appearance of visually increasing the height of the building. In addition, the tower element now reads as a separate component of the building, and the penthouse has been visually differentiated such that it now reads as a separate element on the roof.

The sloping roof structure is a solution to many design considerations. The structure is intended to provide an area on the green roof that is of a comfortable human scale. Moreover, the lowered roof structure height on the west end, the Canal Park end, minimizes the height of the penthouse that is experienced along Canal Park. In addition, the slope of the roof structure echoes the building's acute angled southwest corner, while its

overhanging cornice provides a crown to the building's top – thus creating a single cohesive and integral building design from top to bottom.

The main design consideration and function of the roof structure, however, is to screen the rooftop equipments, the stairways, and the elevator penthouse from neighboring views. The sloping roof structure achieves it in a cost effective manner. That is, its maximum wall height of 18'-6" at its east end, and its minimum wall height of 13'-8" at its east end, successfully screens all of the building's utility space from neighboring views with minimum wall surface area. In contrast, a consistent 18'-6" roof structure height would not improve the roof structure's screening effectiveness, would unnecessarily add cost to the project and detract from the aforementioned design considerations.

B. Architectural Detailing of Building

As shown on the elevations included in Plans, the Applicants have further refined the design of the building, including the treatment of the southern, western and eastern facades, in order to emphasize the contrast between the sheer curtain walls and the more textured pre-cast facades. Specifically, the Applicants have further refined the articulation of the head and sill window conditions. In addition, the jointing pattern of the pre-cast panel has also been further refined. The articulation of the horizontal and vertical mullions of the curtain wall system have also been further refined.

C. Information Regarding Green Roof System

As shown on Sheets A1.10 and A1.11 of the Plans, the project includes a green roof on both the main roof and the roof of the penthouse. The green roof areas are included to provide ecological and technical benefits such as the cleansing of airborne toxins, re-oxygenating the air, recycling nutrients, reducing temperature extremes on the roof and increasing the building's energy efficiency. The green roof areas are not intend for public recreational access. However, access is provided to the green roof areas for maintenance and upkeep.

The green roof proposed for the project is an “extensive” system. This system supports a variety of low growing plants that will require minimal maintenance and can tolerate rooftop conditions. Specific plants will include sedums, herbs and ornamental grasses. The components of the green roof consist of a waterproofing layer, root barrier, insulation layer, drainage/ water storage/aeration layer and filter fabric. A shallow depth of lightweight soil mix is placed above these components. The soil will provide a stable structure for the anchorage of the plants' root system, while remaining as light as possible to prevent excess loading of the roof structure. The soil will also supply essential nutrients, water and oxygen.

III. ISSUES/QUESTIONS RAISED BY THE OFFICE OF PLANNING

A. First Source Employment Agreement

The Applicant has executed and submitted to the Department of Employment Services ("DOES") a First Source Employment Agreement in order to ensure cooperation with DOES for employee recruitment for jobs created by the PUD with the objective that fifty-one percent (51%) of the employees hired in connection with the development of the project are District of Columbia residents. A copy of the executed agreement the Applicant submitted to DOES is attached hereto as Exhibit B.

B. LSDBE Memorandum of Understanding

The Applicant has executed and submitted to the Office of Local Business Development ("OLBD") a Memorandum of Understanding committing to make a bona-fide effort to utilize local, small, or disadvantaged business enterprises certified by the District of Columbia Local Business Opportunity Commission in order to achieve, at a minimum, the goal of thirty-five percent (35%) participation in the contracted development costs in connection with the development of the project. A copy of the executed Memorandum the Applicant submitted to the OLBD is attached hereto as Exhibit C.

C. Coordination of Sidewalk Surfaces and Design with Anacostia Waterfront Corporation (AWC) and District Department of Transportation (DDOT)

The Applicants have modified their proposed plans to conform with the *South Capitol Street Streetscape Coordination* plan issued jointly by the AWC

and DDOT. Moreover, the Applicants have scheduled a meeting with AWC and DDOT to review the proposed plan. The Applicants will submit any further agreed-up changes at least 20 days prior to the hearing on this application.

D. Arcaded Retail Street Frontage Along 2nd Street

As shown on the Plans, the arcaded retail street frontage along 2nd Street, S.E. has been removed and the wall of the first floor has been redesigned to be essentially parallel to the street.

E. Proposed Retail Uses Along M Street

The proposed retail uses along M Street will be devoted to the preferred uses as permitted in §§ 701.1 through 701.5 and §§ 721.1 through 721.6 of the Zoning Regulations. The proposed retail uses will not include any of the following uses: automobile, laundry, drive-through accessory to any use, gasoline service stations, or office uses (other than those accessory to the administration, maintenance, or leasing of the building).

F. Conformance of Display Windows With Section 1604.6

As noted on Sheet T0.00 of the Plans, 62.13% of the surface area of the street wall along M Street will be devoted to display windows having clear or low-emissivity glass. This meets the requirement of Section 1604.6 of the Zoning Regulations, which provides that not less than 50% of the surface area of the street wall along M Street will be devoted to display windows having clear or low-emissivity glass. Moreover, the glass used will have a visible light transmission rating of at least 70% and an outdoor visible light

reflectance rating of no greater than 17%, which is consistent with the definition of "glass, clear and/or low-emissivity" adopted by the Zoning Commission pursuant to Order No. 04-31.

G. Architectural Detailing of Building

As discussed above in Section II, B, the Applicants have further refined the design of the building to address the concerns raised by both the Zoning Commission and the Office of Planning.

H. Information Regarding Green Roof System

As discussed above in Section II, C, the Applicants have provided further information regarding access of the green roof areas, the areas' intend use and the type of system proposed to be installed.

I. Compliance With Roof Structure Special Exception Standard

As provided in Section 2400.2 of the Zoning Regulations, the PUD process was created to allow greater flexibility in planning and design than may otherwise be possible under conventional zoning procedures. As permitted under Section 2405.8, the Commission may grant such flexibility without the need for special exception approval from the Board of Zoning Adjustment or compliance with the special exception standards that might otherwise apply. Nonetheless, as discussed below, the Applicants meet the requirements for special exception relief from Section 411.5 of the Zoning Regulations, which provides that enclosing walls of a roof structure must be of equal height.

Under Section 411.11, special exception relief may be granted from the strict requirements for a roof structure where full compliance is "impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area" and would be "unduly restrictive, prohibitively costly, or unreasonable." 11 DCMR §411.11. Deviations from the roof structure requirements may be approved, provided the intent and purpose of Chapter 400 and the Zoning Regulations are not "materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely." *Id.*

In this case, strict compliance with Section 411.5 of the Zoning Regulations would be impracticable because of conditions relating to the building and surrounding area, and would also be unreasonable. As shown on the Plans, the project includes a roof structure that will have enclosing walls of unequal height. The structure slopes from 18'-6" at its east end to 13'-8" at its west end. As discussed above, the roof structure responds to a number of conditions relating to both the building and the surrounding area. For instance, the slope of the structure helps to achieve an intimate area on the roof to shelter users of the rooftop terrace from the sun and rain. Moreover, the decreased height of the structure near the eastern edge of the building helps to minimize the height of the penthouse that is experienced along Canal Park. In addition, the proposed roof structure screens the rooftop equipment, stairways, and the elevator penthouse from neighboring

views. A portion of the structure has to have a height of 18'6" in order to enclose the mechanical and elevator equipment. However, requiring the entire penthouse to have enclosing walls of 18'6" would be unreasonable in light of the conditions of the surrounding area and the objective of minimizing views of roof structures.

The proposed roof structure does comply with the intent and purpose of the roof structure provisions and the Zoning Regulations, and does not adversely affect the light and air of adjacent buildings. Indeed, the roof structure height is a direct byproduct of the Applicants' attempt to provide adequate light and air to adjacent property and abutting streets.

The roof structure meets all of the roof structure requirements other than Section 411.5. In fact, the proposed setbacks exceed the one-to-one requirement in the regulations. Moreover, the roof structure has a FAR of 0.23, or 6,375.66 square feet, which is less than the permissible FAR of 0.37, or 27,960.90 square feet permitted by zoning. The enclosed portion of the roof structure will only be used to provide access to the roof, roof terraces, and to house mechanical, elevator, and other utility equipments.

The Applicants would not need the requested relief if the entire roof structure had equal walls measuring 18'-6". However, the structure would have unnecessary mass and height which would not further the intent of the Zoning Regulations. Instead, the Applicants propose to construct a sloped

roof structure that will not hinder the light and air of adjacent property owners.

**IV.
CONCLUSION**

For the foregoing reasons, the Applicants respectfully request that the Zoning Commission approve the PUD application.

Respectfully submitted:

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