

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

CASE NO. 03-12F/03-13F

**PREHEARING STATEMENT
OF SQUARE 769 LLC AND
THE DISTRICT OF COLUMBIA HOUSING AUTHORITY
IN SUPPORT OF AN APPLICATION
FOR A MINOR MODIFICATION TO AN APPROVED PUD**

March 7, 2008

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ZONING COMMISSION
District of Columbia

CASE NO. 03-12F-03-13F

EXHIBIT NO. 9
ZONING COMMISSION
District of Columbia
CASE NO. 03-12F/03-13F
EXHIBIT NO. 9

DEVELOPMENT TEAM

Applicant/Owners:

Square 769, LLC
1100 New Jersey Avenue, S.E.
Suite 1000
Washington, DC 20003

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

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1023 31st Street, NW
Washington, DC 20007

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VIKA
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LIST OF EXHIBITS

Exhibit	Description
A	Supplemental Architectural Plan and Elevation Sheets
B	D.C. Law 16-277 – "Closing Of A Public Alleys In Squares 798, 799 And 824 (S.O. 04-12081) And Dedication And Designation Of 2 nd Place, S.E., 3 rd Place, S.E., L Street, S.E. (S.O. 04-12080), Act Of 2006"
C	<i>Circulation Plan</i> – Sheet T-1.0 of plans approved as part of initial Capper/Carrolsburg PUD
D	List of Witnesses and Outlines of Witness Testimony
E	List Of Maps, Plans or Other Documents Readily Available To The Public, Which May Be Offered Into Evidence
F	List Of Names And Addresses Of All Property Owners Within 200 Feet Of The Subject Property

**CERTIFICATION OF COMPLIANCE
WITH SECTION 3013 OF THE ZONING REGULATIONS**

The Applicants hereby certify that this application, one original and twenty copies of which were filed with the Zoning Commission on December 10, 2007, complies with the provisions of Section 3013 of the Zoning Regulations as set forth below, that the application is complete.

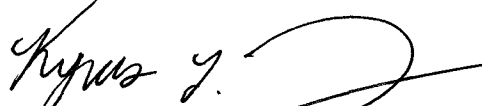
<u>Subsection</u>	<u>Description</u>	<u>Page</u>
3013.1(a)	Information Requested by Zoning Commission and Office of Planning	Pgs. Herein
3013.1(b)	List of Witnesses	Exhibit D
3013.1(c)	Summary of Testimony of Applicant's Witnesses and Reports for Record	Exhibit D
3013.1(e)	Reduced Plan Sheets	Exhibit A
3013.1(f)	List of Maps, Plans or other Documents Readily Available That May Be Offered Into Evidence	Exhibit E
3013.1(g)	Estimated Time Required for Presentation of Applicant's Case	Exhibit D
3013.6(a)	List of Names and Addresses of All Property Owners Within 200 Feet of The Subject Property	Exhibit F

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:


Kyfus L. Freeman

I. INTRODUCTION

This Prehearing Statement and the attached documents are submitted on behalf of Square 769, LLC and the District of Columbia Housing Authority (collectively, the "Applicant"), the owners of Lots 18, 20 and 21 in Square 769 (the "Property"), in support of the Applicant's request that the Zoning Commission approve modifications to the office building to be located at 250 M Street, S.E. approved pursuant to Zoning Commission Order No. 03-12C/03-13C.

As shown on the Supplemental Architectural Plan and Elevation Sheets (the "Plans") attached hereto as Exhibit A, the Applicant requests that the Zoning Commission approve modifications to: (1) increase the measured building height from 110 feet to 130 feet; and (2) increase the gross floor area of the approved building from 207,785 square feet to 234,182 square feet. The Plans attached hereto address the concerns raised by the Zoning Commission, and the Applicant will submit a full set of plans at least 20 days prior to the public hearing on this application.

With respect to building height, the building was initially approved at a height of 110 feet, plus a mechanical penthouse measuring 18 feet, 6 inches above the roof, resulting in an absolute building height of 128 feet, 6 inches above the measuring point. The Applicant has redesigned the building to clearly distinguish between the 11th floor, which includes a conference center and rises to a height of 130 feet, and the mechanical penthouse to be located on the 10th floor roof. The mechanical penthouse has a height of 18 feet, 6 inches and is set back one-to-one from each exterior wall of the roof upon which it is located. With the mechanical penthouse, the absolute height of the proposed building is approximately 135 feet, 1 inch, and thus the requested modification will result in a nominal increase of approximately 7 feet, 10 inches in overall building height.

The Applicant is requesting the increased building height so that the building can come closer to achieving the gross floor area approved by the Zoning Commission in the original Capper/Carrollsborg PUD. The Applicant proposes to increase the gross floor area of the building from 207,785 square feet to 234,182 square feet, which is 1,818 square feet less than the permitted gross floor area of 236,000 square feet approved in the Capper/Carrollsborg PUD.

As set forth below, this Prehearing Statement, along with the original modification materials filed on December 28, 2007, meets the filing requirements for a modification to an approved PUD under Chapter 24 of the District of Columbia Zoning Regulations.

II. ISSUES/CONCERNS RAISED BY THE ZONING COMMISSION

A. Clarification of Measurement of Building Height and Penthouse Setbacks

The Zoning Commission requested clarification regarding how the Applicant is measuring the building's height and how the top of the roof relates to the mechanical penthouse. Sheets A2.01, A3.01, and A3.02 of the Plans attached hereto as Exhibit A have been updated to illustrate how the Applicant measured the height of the proposed building. As shown on Sheets A2.01, A3.01, and A3.02, the Applicant measured the building height from the level of the curb opposite the middle of the building's front on 3rd Street (El. 21 feet, 3.625 inches), as allowed under the Zoning Regulations and the 1910 Height Act, to the top of the building's roof (El. 151 feet, 3.625 inches), which results in a building height of 130 feet.

In addition, in response to the concerns expressed by the Zoning Commission at the public meeting on February 11, 2008, the Applicant has also revised the Plans to clearly distinguish between the top of the roof and the proposed mechanical penthouse.

As shown on Sheets A3.01 and A3.02, the mechanical penthouse begins at the roof of the 10th floor. The Plans have been revised since February 11th such that the mechanical equipment storage area is no longer proposed to be part of the 11th floor, and clearly functions separately from the 11th floor, which was a concern raised by the Zoning Commission. The mechanical penthouse now has a height of 18 feet, 6 inches, as measured from the roof of the 10th floor (El. 137 feet, 11 inches) to the top of the mechanical penthouse (El. 156 feet, 5 inches). In addition, Sheets A1.10 and A1.11 show the top of the building and the top of the mechanical penthouse. Sheets A1.10 and A1.11 also show that the mechanical penthouse is set back 18 feet, 6 inches from each exterior wall of the roof upon which it is located. Thus, the mechanical penthouse complies with the height and set back requirements of the Zoning Regulations, and addresses the concerns expressed by the Zoning Commission.

B. Basis For, And Timing Of, Modification Request

The Zoning Commission requested that the Applicant provide additional information regarding the basis for, and timing of, the current modification request. The initial Capper/Carrollsborg PUD application was filed on March 21, 2003, and the order approving that application was issued on October 8, 2004. At the time the initial Capper/Carrollsborg PUD was approved, 2nd Street was not an open public street, and as shown on the *Circulation Plan* sheet included in the initial Capper/Carrollsborg approved plans (Exhibit C), 2nd Street was not proposed to be dedicated as a new public street. Thus, since the rights-of-way of 3rd and M Streets are each 90 feet wide, the maximum permissible building height at that time was 110 feet.

As the overall Capper/Carrollsbury PUD proceeded through further development and processing, the D.C. Department of Transportation ("DDOT") required that 2nd Street be dedicated in fee as a public street and the Council ultimately passed, and the Mayor signed, legislation reopening 2nd Street as a public street. A copy of D.C. Law 16-277, which approved the dedication and designation of 2nd Place, S.E., is attached hereto as Exhibit B. With the street reopened, the Zoning Administrator recently confirmed that the 1910 Height Act allows the building to be built to a maximum height of 130 feet, which in this instance will allow the building to have 9.5 office floors and come closer to achieving the gross floor area approved by the Zoning Commission in the original Capper/Carrollsbury PUD.

C. Impact Of Requested Modification On Views From Canal Block Park

The Zoning Commission requested that the Applicant provide additional information regarding potential impacts of the requested building height modification on views from the Canal Block Parks. As shown on Sheets A2.01A, A2.01B and A0.04A to A0.04D of the Plans, the requested height modification will not have any increased impacts on views from, or light and air to, the Canal Blocks Park. Specifically, as shown in Sheets A0.02 and A2.01A, there is approximately 250 linear feet between the eastern edge of the building located at 1100 New Jersey Avenue, S.E. and the western edge of the proposed building. This ratio of approximately 2 feet of open space per foot of building height exceeds the one-to-one ratio of the 1910 Height Act. This ratio also exceeds the typical distance between buildings constructed to heights of 130 feet on either side of streets such as 19th, 14th and 11th Streets. In addition, as shown on Sheets A2.01Ai and A2.01Aii, this ratio is comparable to the widths between buildings on either side of John Marshall Park, Farragut Square, and McPherson Square. Moreover, Sheets

A0.04A to A0.04D of the Plans show that increasing the height of the building from 110 feet to 130 feet will not increase shadows cast on the Canal Blocks Park. The requested height increase also will not have any perceptible impact on sight lines from the Canal Blocks Park.

The proposed building height for 250 M Street is consistent with the heights of buildings in the surrounding area. Across 2nd Street, 1100 New Jersey Avenue, S.E. has a building height of 130 feet. The west building of the Department of Transportation Headquarters located at 300 M Street and the combination apartment house/hotel in the block bounded by 2nd, K and L Streets and New Jersey Avenue are also built to a height of 130 feet. Accordingly, 250 M Street with its proposed building height will be in scale with the buildings immediately adjacent to the Property and will not have any adverse impact on views from the Canal Block Parks to the east.

III. ISSUES/CONCERNS RAISED BY THE OFFICE OF PLANNING

A. Roof Structure Setback

The Office of Planning ("OP") requested that the Applicant (1) clarify the height of the 10th and 11th floor roofs, and the height of the mechanical penthouse and its screen wall, both in absolute terms, and in relation to the approved PUD plans; and (2) describe the roof structure setback.

The approved PUD permits a building height of 110 feet, plus a mechanical penthouse with a height of 18 feet, 6 inches, which would result in an overall building height of 128 feet, 6 inches. Sheets A2.01, A3.01, and A3.02 of the Plans illustrate that the height of the building is 130 feet and top of the penthouse is approximately 135 feet, 1 inch above the measuring point. Thus, compared to the approved PUD plans, the

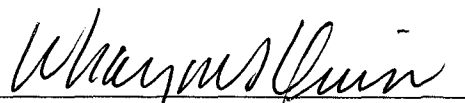
overall relative increase in building height is only approximately 7 feet, 10 inches. Moreover, as discussed above, Sheets A1.10 and A1.11 show that the proposed penthouse is set back 18 feet, 6 inches from each exterior wall of the roof upon which it is located and therefore complies with the height and set back requirements of the Zoning Regulations

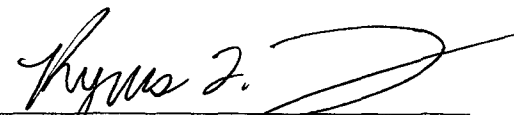
IV. CONCLUSION

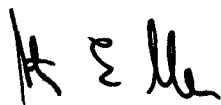
For the reasons stated above, the Applicant respectfully requests that the Zoning Commission approve the PUD application and Zoning Map amendment.

Respectfully submitted:

HOLLAND & KNIGHT LLP

By: 
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By: 
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By: 
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