

**THE ARTHUR CAPPER/CARROLLSBURG
REDEVELOPMENT**

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

**PREHEARING STATEMENT
OF THE APPLICANT
TO THE
DISTRICT OF COLUMBIA ZONING COMMISSION FOR
2ND STAGE PUD APPROVAL AND MODIFICATIONS TO
THE 1ST STAGE APPROVAL FOR PROPERTY
LOCATED IN SQUARES 769 AND 882**

December 5, 2008

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HOLLAND & KNIGHT LLP
2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, D.C. 20006
(202) 955-3000
Whayne S. Quin, Esq.
Kyrus L. Freeman, Esq.
Steven E. Sher, Director of Zoning
and Land Use Services

ZONING COMMISSION
District of Columbia

CASE NO. 03-12/03-BE
ZONING COMMISSION
District of Columbia
EXHIBIT NO. 19
CASE NO. 03-12G/03-13G
EXHIBIT NO. 19

DEVELOPMENT TEAM

Owner:	District of Columbia Housing Authority 1133 North Capitol Street, NE Washington, DC 20001
Applicant/Developer of Residential:	Mid-City Urban 7735 Old Georgetown Road, Suite 600 Bethesda, MD 20814
Applicant/Developer of Office:	Forest City Washington 1615 L Street, NW, Suite 400 Washington, DC 20036
Architect of Office:	Shalom Baranes Associates 3299 K Street, NW, Suite 400 Washington, DC 20007
Architect of Residential:	The Lessard Group 8521 Leesburg Pike, Suite 700 Vienna, VA 22182
Landscape Architect:	EDAW 601 Prince Street Alexandria, VA 22314
Civil Engineers:	VIKA 8180 Greensboro Drive, Suite 200 McLean, Virginia 22102
Traffic Consultant:	Gorove/Slade Associates, Inc. 1140 Connecticut Avenue, Suite 700 Washington, DC 20036
Land Use Counsel:	Holland & Knight LLP 2099 Pennsylvania Avenue, N.W., Suite 100 Washington, DC 20006

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LIST OF EXHIBITS

Exhibit	Description
A	Zoning Commission Order No. 03-12/03-13
B	Architectural Plans and Elevations
C	Supplemental Traffic Analysis Memorandum prepared by Gorove/Slade Associates, Inc.
D	List of Witnesses and Outlines of Witness Testimony
E	Resumes of Witnesses
F	List of Maps, Plans or Other Documents Readily Available To The Public, Which May Be Offered Into Evidence
G	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 Applicant hereby certifies that this application, one original and twenty copies of which were filed with the Zoning Commission on December 5, 2008 complies with the provisions of Section 3013 of the Zoning Regulations as set forth below, that the application is complete.

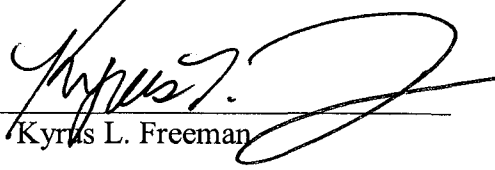
<u>Subsection</u>	<u>Description</u>	<u>Page</u>
3013.1(a)	Information Requested by Zoning Commission and Office of Planning	Pgs. Herein
3013.1(b)	List of Witnesses	Exhibit D
3013.1(c)	Summary of Testimony of Applicant's Witnesses and Reports for Record	Exhibit D
3013.1(e)	Reduced Plans	Exhibit B
3013.1(f)	List of Maps, Plans or other Documents Readily Available That May Be Offered Into Evidence	Exhibit F
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 G

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

I. INTRODUCTION

This statement and the attached documents support the application of Capper/Carrollsborg Venture, LLC, together with the District of Columbia Housing Authority ("DCHA"), (collectively the "Applicant"), to the Zoning Commission for the District of Columbia ("Commission") for modifications to portions of the first-stage approval of a Planned Unit Development ("PUD") and second-stage review and approval of the PUD for property located in Square 769 and 882. As set-forth herein, this Prehearing Statement meets the filing requirements for a PUD application under Chapter 24 of the District of Columbia Zoning Regulations.

First-stage approval for the overall project was granted pursuant to Zoning Commission Order No. 03-12/03-13 (the "First Stage Order"), a copy of which is attached hereto as Exhibit A. As shown on the updated Architectural Plans and Elevations (the "Prehearing Plans") attached hereto as Exhibit B, the property that is the subject of this application consists of the northern portion of Square 769 (which is bounded by 2nd, 3rd, L and M Streets, S.E.) and the entirety of Square 882 (which is bounded by 7th, L and M Streets, S.E.). The northern portion of Square 769 and Square 882 are collectively referred to herein as the "PUD Site."

As part of this application, the Applicant is seeking approval of the following modifications to the First Stage Order regarding the PUD Site:

- (a) *for the residential building in Square 769*, increase the number of units from 107 to 171 and increase the gross floor area from 169,906 to 181,420 square feet;

(b) *for the residential building in Square 882*, modify its design from a series of stacked townhouses to a single apartment building, increase the building's height from 45 to 60 feet (which is the maximum PUD height in the R-5-B Zone), increase the number of units from 75 to 189, and increase the gross floor area from 131,288 to 189,168 square feet; and

(c) *for the office building in Square 882*, increase the building's height from 90 to 92 feet (which is less than the maximum PUD height of 110 feet in the CR Zone), increase the gross floor area from 496,000 to 499,780 square feet, and reduce the number of off-street parking spaces from 400 to 284 spaces.

The requested modifications are necessary to facilitate development and second-stage approval for construction of the following, which is shown in more detail on the Prehearing Plans attached hereto as Exhibit B: (a) a 110-foot multi-family building on the northern portion of Square 769; (b) a 60-foot multi-family building on the northern portion of Square 882; and (c) a 92-foot office building on the southern portion of Square 882. This application collectively includes approximately 366,498 square feet of floor area devoted to residential uses, approximately 484,780 square feet of gross floor area devoted to office use, a minimum of 19,090 square feet of gross floor area devoted to retail use, and 608 off-street parking spaces.

A chart summarizing the requested modifications to the First Stage Order, the relief requested from the Zoning Regulations as part of second-stage approval, and the flexibility of design and layout requested for each component included in this application is on the following page.

PUD Component	First Stage Approval Conditions	Proposed Second-Stage Modifications	Relief Requested From Zoning Regulations as part of Second-Stage Approval	Summary of Flexibility of Design and Layout Requested
Square 769 (Residential)	107 units	171 units	<u>Loading Required:</u> 1 berth @55 feet deep 1 platform @ 200 sq.ft. 1 service/delivery space @ 20 ft. deep <u>Loading Proposed:</u> 1 berth @30 feet deep 1 platform @ 100 sq.ft. 1 service/delivery space @ 20 ft. deep	A) Range in the number of residential units, provided the total amount of parking provided in each residential building meets the minimum level required. B) Vary the location and design of all interior components, provided that the variations do not change the exterior configuration of the building. C) Vary the number, location and arrangement of parking spaces, provided that the total number of parking spaces is not reduced below the minimum level required. D) Vary the final selection of the exterior materials within the color ranges and material types as proposed, and to make minor refinements to exterior details and dimensions.
Square 769 (Residential)	169,906 sq. ft. of GFA	181,420 sq. ft. of GFA	<u>Public Space @ Ground Level Required:</u> 2,115 sq. ft. <u>Public Space @ Ground Level Proposed:</u> 0 sq. ft.	N/A
Square 769 (Residential)	N/A	N/A	Roof Structure Setback Relief	N/A
Square 882 (Residential)	Stacked Townhouses	Multifamily building	<u>Lot Occupancy Permitted:</u> 60% <u>Lot Occupancy Proposed:</u> 68%	A Through D Above
Square 882 (Residential)	75 units	189 units	N/A	N/A
Square 882 (Residential)	Height of 45 feet	Height of 60 feet	N/A	N/A

PUD Component	First Stage Approval Conditions	Proposed Second-Stage Modifications	Relief Requested From Zoning Regulations as part of Second-Stage Approval	Summary of Flexibility of Design and Layout Requested
Square 882 (Residential)	131,288 Sq. Ft. of GFA	189,168 Sq. Ft. of GFA	N/A	N/A
Square 882 (Office)	Height of 90 feet	Height of 92 feet	N/A	B Through D Above E) Flexibility to construct the building in 2 phases; F) Flexibility to provide a minimum of 3 loading berths @ 30 ft. deep; 3 platforms @ 100 sq. ft.; 1 service/delivery space at 20 ft. deep (provided the total amount of loading facilities is not reduced below the minimum level required by the Zoning Regulations); and G) Flexibility to remove the parking garage entrance on the eastern side of the building if not needed by future tenant.
Square 882 (Office)	496,000 Sq. Ft. of GFA	499,780 Sq. Ft. of GFA	N/A	N/A
Square 882 (Office)	400 Parking Spaces	284 Parking Spaces	N/A	N/A

II. ISSUES/CONCERNS RAISED BY THE ZONING COMMISSION AND THE OFFICE OF PLANNING

A. Clarification of 2nd Stage Project Components And Requested Modifications to Conditions of the First Stage Order Affecting Each Component

1. Residential Component in Square 769

The Zoning Commission requested that the Applicant clarify each of the components included in the second-stage application, as well as the requested modifications to the First Stage Order affecting each component.

As shown on Sheets 4.2 through 4.20 of the Prehearing Plans, the Applicant is seeking approval to construct a 110-foot, multi-family building on the northern portion of Square 769. The building will include approximately 177,330 square feet of residential gross floor area and approximately 4,090 square feet of ground-floor retail area. The retail uses are located adjacent to 2nd Street and facing the Canal Blocks Park, which will help to reinforce a pedestrian friendly streetscape. A total of 152 self-park parking spaces will be provided in a two level parking garage, and loading facilities will be provided from a private drive located at the rear of the building. The building will include 171 residential units, with thirty-four of the units (20%) dedicated to persons/families earning less than 60 percent of the Area Median Income, adjusted for family size. The building also includes 7,600 square feet of residential amenity space, including interior space and a courtyard, which will be fully accessible to all residents of the building.

The Applicant is also seeking modifications regarding the density and number of parking spaces for the residential building in Square 769. Specifically, Condition No. 5 of the First Stage Order provides that the distribution of densities shall be as shown on

the Site Plan Development Data, Sheet S-3.1 of the plans prepared by Torti Gallas and Partners, dated May 27, 2003, marked as Exhibit No. 19 in the record of Case No. 03-12, including the revisions from the Supplemental Post-Hearing Submission dated November 12, 2003 to include the property of the Van Ness Elementary School (the "Preliminary Plans"). The Preliminary Plans indicate that the residential building in Square 769 would include 107 units and a gross floor area of 169,906 square feet. However, the Applicant is seeking a modification to provide 171 residential units and a gross floor area of 181,420 square feet for this building.

The Applicant is requesting these modifications in order to provide additional leverage and funding support for the 695 public housing units included in the project. Specifically, since the project was initially approved in 2004, real estate construction and development costs have increased substantially. Therefore, in order to finance the cost of constructing the 695 public housing units that are included in the overall project, the Applicant needs to increase the overall number of market rate units by approximately 11 percent, from 950 units (1,645 – 695) to 1,052 units (1,747 – 695).

2. Residential Component in Square 882

The Applicant also proposes to construct a multi-family building on the northern portion of Square 882. As shown on Sheets 3.2 through 3.20 of the Prehearing Plans, this building will include approximately 189,168 square feet of residential gross floor area and will be constructed to a maximum height of 60 feet. The building will include 189 residential units, with 38 units (20%) dedicated to persons/families earning less than 60 percent of the Area Median Income, adjusted for family size. The building also includes approximately 5,764 square feet of residential amenity space, which includes four courtyards and an indoor pool and exercise room. The building amenities will be

available to all residents of the building. In addition, 172 parking spaces will be located in a below-grade parking garage, and loading facilities will be provided in a private drive located at the rear of the building.

The Applicant is also seeking modifications regarding the design of the residential building in Square 882. As discussed above, Condition No. 5 of the First State Order provides that the second-stage applications must be consistent with the approved Preliminary Plans. The Preliminary Plans indicate that the residential building would be designed as townhomes/stacked units, with three to four stories, and would include 131,288 square feet of gross floor area and 75 residential units. In addition, Condition No. 8(g) of the First Stage Order provides that the maximum permitted height for the residential building is 45 feet.

The Applicant seeks approval to construct the residential building in Square 882 as a 60-foot, 189-unit multi-family building instead of townhomes/stacked units in order to be more compatible with the large scale office building in Square 882 as well as the height and scale of the Marine Barracks across L Street. Moreover, the Applicant proposes to increase the gross floor area to 189,168 square feet and the building height in order to accommodate additional market rate residential units needed to finance the increased cost of constructing the affordable units included in the building, particularly given the rapidly increasing construction costs since the First Stage Order was issued. In addition, as shown on Sheet 2.10 of the Prehearing Plans, increasing the height of the residential building to the maximum permitted under the PUD guidelines will help to balance the scale of the office building *vis a via* the residential building in Square 882.

3. Office Component in Square 882

The third building included in this application is the proposed office building on the southern portion of Square 882. The office building will have an overall gross floor area of 499,780 square feet and a building height of 92 feet. The building includes a minimum of 15,000 square feet of retail space and 284 below-grade parking spaces. As shown on Sheet 2.20 of the Prehearing Plans, as requested by the D.C. Department of Transportation, the Applicant has relocated the parking garage entrance from its initial proposed location on 7th Street to the private drive located at the rear of the building.

The Applicant is also seeking modifications regarding the design of the building and the number of parking spaces for the office building in Square 882. The Preliminary Plans indicate that the office building would include 496,000 square feet of gross floor area. In addition, Condition No. 8(b) of the First Stage Order provides that the maximum permitted height for the office building in Square 882 is 90 feet. Finally, Condition No. 11 of the First Stage Order provides that the office use in Square 882 is required to include 400 parking spaces.

The Applicant seeks approval to construct the office building with a gross floor area of approximately 499,780 square feet, a maximum building height of 92 feet (not including the roof structures), and 284 parking spaces. The Applicant seeks a less than 1% increase to the building's gross floor area because a more developed and refined office building design than the one shown in the Preliminary Plans results in a building that is slightly larger than the 496,000 square foot target density.

With respect to the building height, the Applicant seeks approval to increase the building's height by 2 feet in order to achieve the required minimum retail ceiling height of 14 feet approved in the first stage PUD. As requested on page 9 of the Office of

Planning report, the Applicant has prepared a drawing, identified as Sheet 2.21 in the Prehearing Plans, that demonstrates the relationship between the ceiling height for the retail space and the overall height of the building. As shown on Sheet 2.21, the vertical clearances on the office floors located above the retail levels are at the practical minimum dimensions that are typically used for marketable office occupancy. Thus, in order to achieve 14-foot ceilings in the retail areas, the Applicant seeks a roughly 2% increase in building height. The requested building height of 92 feet is 18 feet less than the maximum PUD height of 110 feet permitted in the CR Zone.

With respect to parking, the Applicant is seeking a modification to reduce the amount of required parking for the office building from 400 to 284 off-street parking spaces, which meets the requirement of Section 2101 of the Zoning Regulations. By providing the minimum requirement of Section 2101 of the Zoning Regulations, the Applicant believes it can successfully serve the needs of building occupants. Moreover, as indicated in the analysis prepared by Gorove/Slade Associates, Inc. filed with the PUD Submission, reducing the number of parking spaces will not have an adverse impact on the project or the area.

B. Response to Office of Planning's Request For Clarification of Relief Requested From Zoning Regulations As Part of the Second-Stage Components

1. Flexibility from Loading Requirements For Residential Building In Square 769

The Office of Planning requested that the Applicant clarify the scope of the loading relief required for the residential building in Square 769. Pursuant to Section 2201.1 of the Zoning Regulations, an apartment house or multiple dwelling with 50 or more dwelling units in any zone district is required to provide one loading berth at 55 feet

deep, one loading platform at 200 square feet, and one service/delivery loading space at 20 feet deep. As shown on Sheet 4.10 of the Prehearing Plans, the residential building in Square 769 includes one 30 foot loading berth, one 100 square foot loading platform, and one 20 foot service/delivery space. Thus, the building requires flexibility to reduce the size of the loading berth from 55 feet to 30 feet and flexibility to reduce the size of the loading platform from 200 square feet to 100 square feet.

The Applicant has designed the loading facilities to meet the needs of the residents, given the number of units, the unit sizes, the anticipated infrequency of loading activity for the residential uses, and the typical size of trucks used for moving into and out of residential developments. Moreover, as indicated in the analysis prepared by Gorove/Slade Associates, Inc., the amount and location of loading facilities are appropriate for the residential uses and will not have an adverse impact on the public realm or pedestrian activity.

2. Flexibility from Public Space at Ground Level Requirement For Residential Building In Square 769

As discussed on page 13 of the Office of Planning report, the Applicant is seeking flexibility from the public space at ground level requirement for the residential building to be constructed on the northern portion of Square 769. Pursuant to Section 633.1 of the Zoning Regulations, this building is required to provide 2,115 square feet of public space at the ground level. However, the Applicant requests flexibility to waive this requirement since the building does not include public space, but does include approximately 4,090 square feet of ground floor retail uses that will be available to the public and help to activate the streetscape along 2nd and M Streets. In addition, the building is located to the

immediate east of the future Canal Blocks Park, which will provide active and passive recreation space for the public once developed.

The Office of Planning indicated that the requested relief may be appropriate given the site's location directly across from the Canal Blocks Park, but noted that the Applicant should consider providing assistance to the Canal Blocks Park or the community center. The Applicant notes that as part of the overall PUD, it is contributing \$137,000 to the development of the Canal Blocks Park and providing master planning and design services to facilitate the development of the community center.

3. Lot Occupancy of the Residential Building in Square 882

The Applicant is seeking flexibility from the lot occupancy requirement for the residential building in Square 882. Pursuant to Section 403.2 of the Zoning Regulations, the proposed building is permitted to have a maximum lot occupancy of 60%. However, as shown on Sheet 3.2 of the Prehearing Plans, the building has a proposed lot occupancy of 68%. As shown on Sheet 3.11 of the Plans, Square 882 has a step change in grade from east to west, which impacts the footprint of the proposed building. Moreover, the building includes four open courtyards at or near grade, which will help to provide adequate light, air and ventilation for the building occupants, which is consistent with the underlying purposes of the lot occupancy requirement. Finally, the residential lot occupancy for the overall PUD will not exceed 54%, which is consistent with Condition No. 9 of the First Stage Order.

4. Phasing of the Office Building in Square 882

The Applicant is seeking flexibility to construct the office building in two phases in order to respond to market conditions. Given that market conditions may require the

office building to be constructed in two phases, a temporary portion of the shared facade could be exposed in the interim between phases. In order to address the appearance of this facade, as shown on the elevation included as Sheet 2.8 of the Preliminary Plans, the Applicant has designed a stucco finish infill wall rendered in a color that matches the adjacent brick. Score patterns in the stucco will reflect the overall fenestration of the building. A "green screen" trellis, utilized in other permanent locations on the project, will be attached to the wall to provide an armature for vegetation to climb from planters located at the base of the screen. The design of the temporary wall condition would be similar for either phase of the building. Although it is only temporary in nature, the Applicant believes the design of this wall will be an attractive visual composition which will contribute positively to the greenscape of the project and the neighborhood.

The Office of Planning indicated on page 9 of its report that the Applicant's proposal to phase construction of the office building is acceptable. The Office of Planning indicates, however, that the proposed phasing would require temporary relief of approximately 17 feet in height from the First Stage Order if the western wing of the office building is constructed first. The Applicant believes that such temporary relief is not necessary for a number of reasons. The definition of "building, height of" in Section 199 of the Zoning Regulations provides that a building's height is measured from the curb opposite the middle of the front of the building, and that if a building fronts on multiple streets, any front may be used to determine the maximum building height. The office building site in Square 882 fronts on 7th Street to the east and M Street to the south. Thus, even if the western portion of the office building is constructed first, the building nonetheless still fronts on, and can take its height from, 7th Street. There is nothing in the

Zoning Regulations that requires a building to be constructed to a lot line in order to front on a street. Moreover, the office building will be constructed on a single record lot with nothing, other than the second phase of the office building, being constructed on the record lot between the western phase of the office building and the eastern property line on 7th Street. Finally, the PUD Site will be subject to a PUD Covenant that limits development of the property to the plans ultimately approved by the Commission, therefore the western phase of the development will have to be connected to the eastern phase of the office building and will be a single building for zoning purposes.

III. CONCLUSION

For the reasons stated above, the Applicant respectfully requests that the Zoning Commission approve the requested modifications to the First Stage Order and the second-stage PUD application as shown on the Prehearing Plans.

Respectfully submitted:

HOLLAND & KNIGHT LLP

By: Whayne S. Quin
Whayne S. Quin

By: Kyrus L. Freeman
Kyrus L. Freeman

By: Steven E. Sher
Steven E. Sher
Director of Zoning and Land Use Services

2099 Pennsylvania Ave., N.W.
Suite 100
Washington, D.C. 20006
(202) 955-3000

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