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September 26, 2005

VIA HAND DELIVERY

Zoning Commission for the
District of Columbia
441 Fourth Street, N.W., Suite 210
Washington, D.C. 20001

Re: Prehearing Statement for Zoning Commission Case No. 05-22
(Consolidated PUD – Level 2 Development, LLC)

Dear Members of the Zoning Commission:

We respectfully submit the following on behalf of Level 2 Development, LLC, in support of the above-referenced application for a planned unit development:

1. One original and twenty copies of the prehearing statement in support of the application with exhibits.

2. One original and twenty copies of the architectural drawings and plans.

3. A check in the amount of $10,195.65 for payment of the hearing fee.

4. Mailing labels for owners of the property within 200 feet of the PUD site.

ZONING COMMISSION
District of Columbia
CASE NO. 05-22
EXHIBIT NO. 15

ZONING COMMISSION
District of Columbia
CASE NO.05-22
EXHIBIT NO.15

We look forward to the Zoning Commission's favorable consideration of the application. Should you have any questions or require additional information, please do not hesitate to contact Norman Glasgow, Jr. or me. Thank you for your considerate attention to this matter.

Sincerely,

HOLLAND & KNIGHT, LLP

Leila Batties

Leila M. Jackson Batties

CC: Advisory Neighborhood Commission 1B (c/o Philip Spalding, via U.S. mail, w/ enc.)
Ms. Jennifer Steingasser, Office of Planning (via hand delivery, w/ enc.)
Mr. Abdoulaye Bah, Dept. of Public Works,
Office of Policy & Planning (via hand delivery, w/enc.)

05-22

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1075

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DATE 9/26/05 65-340-550

PAY TO THE ORDER OF DC TREASURER $ 10,195.65

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FOR Revised PUD Calculations / Hearing Fee

MP

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VIEW 14

PREHEARING STATEMENT OF
LEVEL 2 DEVELOPMENT, LLC
IN SUPPORT OF AN APPLICATION
FOR CONSOLIDATED REVIEW OF A PLANNED UNIT DEVELOPMENT

ZONING CASE NO. 05-22

September 26, 2005

HOLLAND & KNIGHT LLP
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Norman M. Glasgow, Jr.
Leila M. Jackson Batties
Counsel for Level 2 Development, LLC

CERTIFICATION OF COMPLIANCE WITH SECTION 3013 OF THE ZONING REGULATIONS

The undersigned hereby certifies that, in accordance with Section 3013 of the Zoning Regulations, twenty (20) copies of the following items were filed with the Zoning Commission on September 26, 2005, and, in accordance with Section 3013.8, the application shall not be modified less than twenty days prior to the public hearing.

Subsection	Description	Page/Exhibit
3013.1(a)	Information requested by the Zoning Commission and the Office of Planning	Pgs. 5 - 11
3013.1(b)	List of witnesses prepared to testify on the Applicant's behalf	Pg. 12 Exhibit J
3013.1(c)	Summary of testimony of witnesses or reports and area of expertise	Pg. 12 Exhibits K - O
3013.1(d)	Additional information introduced by the Applicant	Pg. 11 Exhibits H & I
3013.1(e)	Reduced plans	Exhibit A
3013.1(f)	List of maps, plans, or other documents readily available that will be offered into evidence	Pg. 12 Exhibit P
3013.1(g)	Estimated time required for presentation of Applicant's case	Pg. 12
3013.4	Memorandum of Understanding	Pgs. 12 - 13
3013.4	First Source Employment Agreement	Pgs. 12 - 13
3013.6(a)	Names and addresses of all property owners within 200 feet of the subject property	Pg. 13 Exhibit Q

Respectfully submitted,

HOLLAND & KNIGHT LLP

Leila Batties

Leila M. Jackson Batties

LIST OF EXHIBITS

Description	Exhibit
Architectural Plans and Drawings	A (Submitted Separately)
Letter of agreement between Level 2 Development and Sankofa Tenants' Association Re: Contribution for acquisition of Cresthill Apartments	B
Proposal of the Parent Association of the Boys & Girls Club of Greater Washington	C
Letter from Children's Studio School	D
Budget of Meridian Hill Neighborhood Association	E
Letter from Cardozo Shaw Neighborhood Association describing program initiatives	F
District of Columbia Corporation Counsel opinion re: Height Act of 1910	G
Revised PUD Calculations	H
Letter of support from Cardozo Shaw Neighborhood Association	I
List of witnesses to testify on behalf of Applicant	J
Outline of testimony of David Franco, Level 2 Development, Inc.	K
Outline of testimony of Sami Kirkdil, SK&I Architects	L
Outline of testimony of Martin Wells, Wells & Associates Traffic Consultant	M
Outline of testimony of Eric Smart, Bolan Smart & Associates, Inc.	N
Outline of testimony of Steven E. Sher, Holland & Knight LLP	O
List of maps, plans, or other documents readily available	P
Names and Addresses of Owners of Property Within 200' of the subject property	Q

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I. INTRODUCTION

This prehearing statement is submitted on behalf of Level 2 Development, LLC (the "Applicant") in support of its application for consolidated review and approval of the View 14 planned unit development (the "Application"). It addresses the comments and concerns raised by the Office of Planning and the Zoning Commission, and provides additional information by the Applicant about the proposed development, including the revised boundaries of the subject property and development calculations. This prehearing statement also includes items required under Section 3013 of the Zoning Regulations.

A. Project Overview

The proposed planned unit development ("PUD") consists of approximately 174 condominium units in 174,509 square feet of gross floor area, 36,111 square feet of retail uses, of which 13,159 square feet are counted toward gross floor area, and an underground parking garage with 163 parking spaces. The subject property consists of 34,357 square feet on the east side of 14th Street, N.W., between Florida Avenue and Belmont Street (the "PUD Site"), and consists of two lots – Lot 119, Square 2868, which consists of 28,106 square feet, and is currently improved with a warehouse and automobile repair shop, and all of Lot 122, Square 2868 (the "Comcast Site"), which consists of 6,251 square feet, and is located on the north side of Florida Avenue between 14th Street and a public alley. As a result of including the entire Comcast Site, instead of a portion of the site as with the original submittal, the area of the PUD Site has increased from 32,016 square feet to 34,357 square feet. The existing Comcast equipment building of 1,543 square feet, will remain, as discussed further below. The floor area ratio of the PUD will be 6.0 for the View 14 building, and 0.5 for the existing Comcast equipment building, for a total of 5.51 for the overall PUD Site.

B. Procedural Background

The Application was filed with the Zoning Commission on July 11, 2005. On September 15, 2005, the Zoning Commission unanimously voted to schedule the Application for public hearing. With the submittal of this prehearing statement, the

Applicant respectfully requests that the Application be scheduled for the next available hearing of the Zoning Commission.

II. SUPPLEMENTAL INFORMATION ON THE APPLICATION

A. Issues Raised By The Office Of Planning

On September 2, 2005, the Office of Planning filed its report for the Application with the Zoning Commission. In its report, the Office of Planning requested the Applicant to provide additional detail regarding certain amenities offered as part of the Application and raised concerns about certain elements of the View 14 plan and building design. The Office of Planning also requested clarification on the removal of the satellite dishes from the southern portion of the PUD Site and encouraged the Applicant to investigate the incorporation of environmental design or "green" building practices in the proposed development.

Following are the Applicant's responses to the issues raised by the Office of Planning:

1. **Off-Site Affordable Housing.** As part of the amenities and benefits offered in connection with the Application, in furtherance of the housing policies and objectives of the District of Columbia, the Applicant devoted an area equal to 15% of the increase in the residential FAR permitted on the Property as a PUD, or approximately 11,729 square feet, to affordable housing.[1] Of that, 6,000 square feet will create approximately 6 units at View 14, available to persons whose income does not exceed 80% of the area median income. The size of these units will reflect that of the market-rate units in the building. In lieu of constructing an additional 5,729 square feet of affordable housing on-site, the Applicant will contribute $1 million (the "Contribution") to the Sankofa Tenants' Association (the "Association") for the acquisition and rehabilitation of the Cresthill

[1] The maximum residential FAR permitted on the Property under the C-2-B regulations is 3.5, or 109,473 square feet. As a PUD, the maximum residential FAR permitted on the Property increases from 3.5 to 6.0, or 187,668 square feet, which is an increase of 78,195 square feet. 15% of the maximum increase is 11,729 square feet. Please note that the residential area provided is only 174,509 square feet.

Apartments, a 48-unit apartment house with over 50,000 square feet of gross floor area, located within one half block of View 14 at 1430 Belmont Street.

The Association is working with Jubilee Housing, Inc., the management agent for the Cresthill Apartments, and Ruben McCornack, an affordable housing development consultant, on a strategy for acquiring the apartment building, converting it to a cooperative, and rehabilitating and maintaining the 48 units within the building as affordable housing. In the event that the Association is unable to acquire the apartment building within one hundred twenty (120) days of the deposit of the Contribution, the Applicant will be reimbursed the full amount of the Contribution and will create an additional 5,729 square feet of affordable housing within View 14. A letter of agreement between the Applicant and the Association, attached as Exhibit B, outlines the basic terms of the Contribution. Paragraph 4 of the letter states that the Association will proffer a declaration of restrictions that will limit the use of the apartment property to affordable housing for a period of not less than twenty-five years from the date of acquisition.

2. **Monetary Contributions to Neighborhood Organizations.** As part of the amenities and benefits package offered in connection with the Application, the Applicant committed $40,000.00 to assist the following neighborhood programs and initiatives:

Parent Association of the Boys & Girl Club of Greater Washington. ($20,000.00) Education, field trips, educational materials, and supplies for high school members at the Mary and Daniel Loughram Clubhouse #10. A copy of the Parent Association proposal for this program is attached as Exhibit C.

Children's Studio School. ($10,000.00) Full day School of Arts as Education, Early Light and After 4 Studios, City as Studio, Urban Arts Complex, Evening Studios, Weekend Studios, Honoring and Transforming the Intimate Cultural Traditions of Washington Families,

Epicenter Stories, and internships at the Children's Studio School. A letter from the Children's Studio School describing each of these programs is attached as Exhibit D.

Meridian Hill Neighborhood Association. ($5,000.00) Scholarship fund, neighborhood clean-up, social events, welcome packages for new neighbors, education forums. A copy of the Association's budget for the $5,000.00 contribution is attached as Exhibit E.

Cardozo Shaw Neighborhood Association. ($5,000.00) "Rounding out the Historic District" and "Friends of Harrison Recreation Center." A description of these initiatives is attached as Exhibit F.

3. **Building Design.** The drawings enclosed herewith respond to many of the issues noted by the Office of Planning. SK&I Architects continue to enhance the design of View 14 and the Applicant will submit further revised drawings to the Zoning Commission no later than twenty days prior to the public hearing on the Application. In the meantime, please note that Sheet A4.1 of the enclosed plans illustrates that the portions of the building that project over 14th Street and Florida Avenue cover areas of 131 square feet and 68 feet square feet, respectively. These projections are nominal and unobtrusive, especially when compared to the aesthetic benefit offered by the enhanced design of the roof. The projection at the corner of 14th Street and Florida Avenue is designed to, on one hand, accentuate the approach to the building from downtown and, on the other hand, suggest a welcoming overhang for the retail entrance. The projection on the north side of the 14th Street elevation results from the desire to bend that portion of the overall faceted façade beyond what the property line permits, thus emphasizing a major characteristic of the PUD Site: a northerly elevation increase combined with a bend in the 14th Street line.

4. **Roof Plans.** Sheet A4.1 of the enclosed plans shows there will be no habitable space in the mechanical penthouse. With the exception of the cable dish discussed in the paragraph below, there will not be any equipment outside the roof structures on the View 14 rooftop. A detail of the parapet and railings on top of the penthouse is provided on Sheet A07 of the enclosed plans.

5. **Removal of Satellite Dishes.** A significant benefit of the redevelopment of the PUD Site is the removal of the satellite dishes and tower located on the Comcast Site. Comcast and the Applicant are currently negotiating an agreement where, subject to the Zoning Commission's approval of the PUD, the Applicant would purchase the western portion of the Comcast Site, where the satellite dishes are currently located, and develop it as part of View 14. Comcast would retain ownership of the eastern portion of the parcel, which contains a one-story equipment building and 140-foot tower. Comcast would install alternative technology and redundant fiber that would, at a cost in excess of $650,000.00 to the Applicant, enable the removal of the satellite dishes from the PUD Site prior to the issuance of a building permit for View 14.

Upon the completion of the roof for View 14, Comcast would remove the 140-foot tower from its site. The tower will be replaced with a twenty-four inch diameter microwave dish installed on a twenty foot pole on the roof of the mechanical penthouse on the north side of the View 14 building. The proposed height of the pole, the size of the satellite dish, and the location of the equipment are necessary to maintain the current points of cable satellite transmissions for areas throughout the District of Columbia. The specifications for said equipment is subject to approval by the Federal Communications Commission. The equipment building will remain on the eastern portion of the Comcast Site, but the Applicant will erect a wall so that the equipment building is screened from Florida Avenue. Comcast will have access to the equipment building from Florida Avenue, pursuant to a grant of easement across the View 14 parcel.

6. **Environmental Design / "Green" Building Practices.** The Applicant consulted with Casey Trees Endowment for the creation of approximately 2,000 square feet of "green" roof on top of the mechanical penthouse roof, as well as a comprehensive rooftop treescape. View 14 will include an irrigation system for recyclable rainwater that can be used for some green areas of the project.

B. Issues Raised By The Zoning Commission

At its meeting of September 15, 2005, the Zoning Commission voted unanimously to schedule the Application for public hearing. Some of the questions and concerns raised by the Zoning Commission were the same as those raised by the Office of Planning and addressed above. The Zoning Commission also requested information on additional issues, namely the PUD's compliance with the Height Act of 1910, the design and operation of the loading areas, the proposed alley improvements, the PUD's massing and relationship with other residential uses in the surrounding area, and specific elements of the building design.

Following are the Applicant's responses to the issues raised by the Zoning Commission:

1. **Compliance with the Height Act of 1910.** For a PUD in the C-2-B district, the maximum permitted building height is ninety feet. 11 DCMR § 2405.1. View 14, when measured from Belmont Street, complies with this height requirement. Belmont Street is used as the point of measurement because, of the three streets surrounding the PUD Site (Belmont Street, Florida Avenue, and 14th Street), it has an elevation that permits the greatest height of the building. See the Act of 1910, D.C. Official Code, § 6-601.07 ("If the building has more than one front, the height shall be measured from the elevation of the sidewalk opposite the middle of the front that will permit of the greater height.")

In an opinion dated May 11, 1950, the District of Columbia Corporation Counsel concluded that once the permitted maximum height of a building has been ascertained,[2] the actual height of the building is measured from the middle of the front of the building

[2] In the case of View 14, the maximum permitted height of the building is based on the width of 14th Street.

opposite the sidewalk having the greatest elevation. For the Commission's reference, a copy of the Corporation Counsel opinion is attached as Exhibit G.

2. **Loading Areas.** The site plan for View 14 was revised to clarify the operation of the loading areas proposed at the rear of the project. The revised drawings, including tracking diagrams, are shown on Sheets S03.1 through S03.6 of the enclosed plans.

3. **Alley Improvements.** One of the transportation features offered with the development of the View 14 is the widening of the alley on the east side of the PUD Site, from fifteen feet to twenty feet, in order to accommodate vehicular traffic generated by the project and improve traffic circulation in the immediate area. As depicted on the drawings shown on Sheet S04 of the enclosed plans, the alley will continue to operate with two-way traffic; however, truck circulation will be limited to one-way entering from Belmont Street.

4. **Relationship of PUD to Surrounding Residential Development.** The PUD Site is immediately surrounded by the Wardman Court Apartments (formerly known as Clifton Towers) on the north and a vacant lot on the east; rowhouses on Belmont Street are also located to the east. The properties along 14th Street are generally zoned to permit a higher density and height and more intensive use than the properties located along the east-west cross streets. Belmont Street, east of 14th Street, is zoned R-5-B, which permits a maximum height of fifty feet.

While View 14 would be built to a height of ninety feet, it would be compatible with the surrounding development and consistent with sound urban planning principles that encourage higher densities along major arterials, like 14th Street. In fact, the pattern of having less intense residential development on side streets or to the rear of taller residential buildings is a common development pattern throughout the District of Columbia. In many cases, the linear arterials adjoin low density single family dwellings on the side streets (for example Connecticut Avenue and Massachusetts Avenue). Also, the alley and setback for View 14 provide additional buffering between the project and the residences to the east because the View 14 wall closest to the eastern property line is

setback at least five feet from the alley and the central portions of the tower are even further removed from the east side lot line.

5. Building Design – Parapet Facing Belmont Street. Revised drawings with a detail of the parapet facing Belmont Street are shown on Sheet A07 of the enclosed plans.

C. Additional Information by the Applicant

1. Revised PUD Boundaries and Calculations for the Project. Originally, the Application included only a portion of the Comcast Site. The plans for the PUD have been revised to include the entire Comcast Site, which totals 6,215 square feet, thereby increasing the area of the PUD Site from 32,016 square feet to 34,358 square feet.

The Comcast Site is an important part of Comcast's cable television network in the District of Columbia. It contains antennas, a 140-foot tower, fiber optic lines and a building that houses cable equipment Comcast and the Applicant are negotiating an agreement, where, subject to the approval of View 14, Lot 122 would be re-subdivided to be a single record lot with View 14. The eastern portion of Lot 122 (where the equipment building and the tower are located), would be owned by Comcast as a separate assessment and taxation lot. The balance of Lot 122 would be purchased by the Applicant and developed as part of View 14. Separate computations, attached as Exhibit H, show that the density and height attributed to the Comcast Site are far below the maximum permitted on the property as a matter-of-right.

As discussed earlier, most of the surface equipment on the Comcast Site would be removed. The equipment building will remain on the eastern portion of the site, but will be screened from Florida Avenue. Comcast will have access to the equipment building from Florida Avenue, pursuant to a grant of easement across the View 14 parcel.

2. Letter of Support by the Cardozo Shaw Neighborhood Association. A copy of a letter in support of the Application from the Cardozo Shaw Neighborhood Association is attached as Exhibit I.

III. ADDITIONAL REQUIREMENTS OF SEC. 3013 OF THE ZONING REGULATIONS

A. List of Witnesses Prepared to Testify on Behalf of the Applicant

In accordance with Sec. 3013.1(b) of the Zoning Regulations, a list of witnesses prepared to testify at the public hearing on behalf of the Applicant is attached as Exhibit J.

B. Summary of Testimony of Witnesses or Reports and Area of Expertise

In accordance with Sec. 3013.1(c) of the Zoning Regulations, outlines of the testimony of all witnesses or of the written report and the area of expertise of any expert who will be called to testify at the public hearing are attached as Exhibits K through O.

C. List of Maps, Plans or Other Documents Readily Available

In accordance with Sec. 3013.1(f) of the Zoning Regulations, a list of the maps, plans, or other documents that are readily available to the general public and that will be offered into evidence at the public hearing is attached as Exhibit P.

D. Estimate of Time Required for Presentation of Applicant's Case

In accordance with Sec. 3013.1(g) of the Zoning Regulations, the estimated time for the presentation of the Applicant's case is 1.0 hour, subject to the decision of the presiding office at the public hearing.

E. Agreements with the District of Columbia

The Applicant has committed to make a bona fide effort to utilize local, small or disadvantaged business enterprises certified by the District of Columbia Local Business Commission in order to achieve, at a minimum, the goal of thirty-five percent participation in the contracted development costs in connection with the development of the View 14. The Applicant will also enter into a First Source Agreement with the Department of Employment Services ensuring cooperation with the Department for employee recruitment for jobs created by View 14, with the objective that fifty-one

percent of the employees hired in connection with the development of the project are District of Columbia residents. Draft versions of the foregoing agreements will be submitted to the Zoning Commission not less than twenty days prior to the date of the public hearing on the Application.

F. Names and Addresses of Owners of Property Within 200 Feet of Property

In accordance with Section 3013.6 of the Zoning Regulations, a list of the names and addresses of the owners of all property located within two hundred feet (200') of the PUD Site is attached as Exhibit Q.

G. Report by Transportation Consultant

In accordance with Section 3013.10 of the Zoning Regulations, a copy of the report prepared by Wells & Associates, traffic consultants, in connection with the Application will be submitted to the Department of Transportation not less than twenty (20) days prior to the public hearing on the Application.

IV. CONCLUSION

In accordance with Section 3013 of the Zoning Regulations, this prehearing statement is submitted on behalf of Level 2 Development, LLC. in order to provide additional information in support of the application for the View 14 PUD. Based on the information and items contained herein, and the case presented in the original submittal, we respectfully request the Zoning Commission's approval of the Application.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By: Leila Batties
for Norman M. Glasgow, Jr.

By: Leila Batties
Leila M. Jackson Batties

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