

**LINDA JOY & KENNETH JAY POLLIN
MEMORIAL COMMUNITY
PLANNED UNIT DEVELOPMENT**

PREHEARING STATEMENT

OF THE APPLICANT

**TO THE
DISTRICT OF COLUMBIA ZONING COMMISSION
FOR A
CONSOLIDATED PLANNED UNIT DEVELOPMENT
AND
ZONING MAP AMENDMENT**

May 21, 2007

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**ZONING COMMISSION
District of Columbia**

CASE NO. 06-30
ZONING COMMISSION
District of Columbia
CASE NO. 06-30
EXHIBIT NO. 21B

TABLE OF CONTENTS

	Page
PREFACE	1
DEVELOPMENT TEAM	3
CERTIFICATION OF COMPLIANCE WITH SECTION 3013 OF THE ZONING REGULATIONS	4
LIST OF EXHIBITS	6
I INTRODUCTION	7
II ISSUES/QUESTIONS RAISED BY THE ZONING COMMISSION	9
A Construction of Residential Units within the Horizontal Plane of the 100 year Floodplain	9
B Details Regarding Fence Materials	12
III ISSUES/QUESTIONS RAISED BY THE OFFICE OF PLANNING	12
A Flexibility From Lot Occupancy Requirements of Section 403 2	13
B Flexibility From Street Frontage Requirements of Section 2516 5	13
IV CONCLUSION	15

PREFACE

This Prehearing Statement and attached documents are submitted by Pollin Memorial Community Development, LLC ("PMCD"), on behalf of the District of Columbia (the "District"), the District of Columbia Housing Authority ("DCHA"), and the National Park Service ("NPS") (collectively referred to herein as the "Applicants"), in support of their application to the Zoning Commission of the District of Columbia for the consolidated review and one-step approval of a Planned Unit Development ("PUD") and related Zoning Map Amendment

As shown on the Architectural Plans and Elevations attached hereto as Exhibit A, the property included in the application consists of Lot 804 in Square 5040, a portion of Parcel 170/27 and a portion of Parcel 170/28. Parcel 170/27 and Parcel 170/28 are owned in fee by the District. Lot 804 in Square 5040 is owned in fee by DCHA. NPS has administrative jurisdiction over a portion of Parcel 170/27 and Parcel 170/28 by virtue of a transfer of administrative jurisdiction from the District to NPS recorded on October 12, 1950. A copy of the transfer of administrative jurisdiction plat is attached hereto as Exhibit B. The proposed development has been limited to a 178,641 square foot portion of the property located at the southern end of the boundaries of the transfer of jurisdiction. The project will continue to include a portion of Parcel 170/28 not included in the transfer of jurisdiction as well as Lot 804 in Square 5040.

The Applicants are seeking consolidated PUD approval and rezoning to the R 5 A District of the unzoned portion of the site that will be developed by the Applicants. The land removed from the initial proposal and hence no longer included in the PUD will remain within the administrative jurisdiction of the NPS.

The project contains approximately 185,234 square feet of gross floor area dedicated to residential uses, with 91 row dwellings, 83 unit apartment buildings, and 5 flats, amounting to a total of 125 units in 104 residential buildings on the Subject Property. The 83 homeownership units will ultimately be owned by the unit purchasers, the 42 public housing units will be owned and operated by DCHA, and the public parks will be owned and maintained by the District. The buildings will be constructed to a maximum height of three stories. The project will include at least one off street parking space for each of the 125 units, as well as 150 on street parking spaces. The project will have an overall floor area ratio ("FAR") of approximately 0.8 and an overall lot occupancy of approximately 32%, both of which are less than the matter of right limitations of Sections 402.4 and 403.2, respectively, for the R 5 A District.

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

DEVELOPMENT TEAM

Owner of Parcel 170/27 & Parcel 170/28	District of Columbia Office of Planning and Economic Development 1350 Pennsylvania Avenue NW
Owner of Lot 804, Square 5040	District of Columbia Housing Authority 1133 North Capitol Street NE Washington DC 20001
Administrative Jurisdiction over Portion of Parcel 170/27 & Parcel 170/28	National Park Service 1100 Ohio Drive SW Washington DC 20242
Developer	Pollin Memorial Community Development LLC 601 F Street NW Washington DC 20001
Development Consultant	Enterprise Homes Inc 312 N Martin Luther King Jr Boulevard Baltimore MD 21201
Architect	Torti Gallas and Partners Inc 1300 Spring Street 4th Floor Silver Spring Maryland 20910
Civil Engineers	Greenhorne & O Mara Inc 9001 Edmonston Road Greenbelt, MD 20770
Builder	Clark Builders Group 4401 Wilson Boulevard Suite 600 Arlington VA 22203
Traffic Consultant	Wells & Associates LLC 1420 Springhill Road Suite 600 McLean Virginia 22102
Land Use Counsel	Holland & Knight LLP 2099 Pennsylvania Avenue NW Suite 100 Washington DC 20006

**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 May 21, 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 I
3013 1(c)	Summary of Testimony of Applicant's Witnesses and Reports for Record	Exhibit J
	John Stranix Pollin Memorial Community Development LLC	Exhibit J
	Murphy Antoine Torti Gallas and Partners, Inc	Exhibit J
	Ben Allen Greenhorne & O'Mara, Inc	Exhibit J
	Chris Kabatt Wells & Associates, LLC	Exhibit J
	Steven E Sher Director of Zoning and Land Use Services, Holland & Knight LLP	Exhibit J
3013 1(e)	Reduced Plans	Exhibit A
3013 1(f)	List of Maps, Plans or other Documents Readily Available That May Be Offered Into Evidence	Exhibit K
3013 1(g)	Estimated Time Required for Presentation of Applicant's Case	Exhibit I
3013 4	First Source Employment Agreement	Exhibit G

3013 4	Draft LSDBE MOU	Exhibit H
3013 6(a)	List of Names and Addresses of All Property Owners Within 200 Feet of The Subject Property	Exhibit L

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	Transfer of Jurisdiction Plat
C	Letter Regarding Floodplain Certification
D	Letter Regarding Flood Insurance
E	Floodplain Plat
F	Transportation Impact Study
G	First Source Employment Agreement
H	Draft LSDBE MOU
I	List of Witnesses and Estimated Time Required for Presentation of Applicant's Case
J	Outline of Testimony of Witnesses
K	List of Maps, Plans or Other Documents Readily Available Which May be Offered into Evidence
L	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 Pollin Memorial Community Development, LLC ("PMCD"), on behalf of the District of Columbia (the "District") and the District of Columbia Housing Authority ("DCHA"), owner of the Subject Property, and the National Park Service ("NPS") (collectively referred to herein as the "Applicants"), in support of their application to the Zoning Commission of the District of Columbia for the consolidated review and one step approval of a Planned Unit Development ("PUD") and related Zoning Map Amendment

As shown on the Architectural Plans and Elevations attached hereto as Exhibit A, the property included in the application consists of Lot 804 in Square 5040, a portion of Parcel 170/27 and a portion of Parcel 170/28. Parcel 170/27 and Parcel 170/28 are owned in fee by the District. Lot 804 in Square 5040 is owned in fee by DCHA. NPS has administrative jurisdiction over a portion of Parcel 170/27 and Parcel 170/28 by virtue of a transfer of administrative jurisdiction from the District to NPS recorded on October 12, 1950. A copy of the transfer of administrative jurisdiction plat is attached hereto as Exhibit B. The proposed development has been limited to a 178,641 square foot portion of the property located at the southern end of the boundaries of the transfer of jurisdiction. The project will continue to include a portion of Parcel 170/28 not included in the transfer of jurisdiction as well as Lot 804 in Square 5040.

The Applicants are seeking consolidated PUD approval and rezoning of the unzoned portion of the Subject Property to the R 5-A zoning District so that the Subject Property will be zoned R 5 A in its entirety. The project will contain approximately 185,234 square feet of gross floor area dedicated to residential uses, with 91 row dwellings, 8 3-unit apartment buildings, and 5 flats, amounting to a total of 125 units in 104 residential buildings on the Subject Property. The 83 homeownership units will ultimately be owned by the unit purchasers, the 42 public housing units will be owned and operated by DCHA, and the public parks will be owned and maintained by the District. The buildings will be constructed to a maximum height of three stories. The project will include one off street parking space for each of the 125 units, as well as 150 on street parking spaces. The project will have an overall floor area ratio ("FAR") of approximately 0.8 and an overall lot occupancy of 32%.

The Applicants originally filed a PUD Statement and supporting documents, including architectural plans and drawings, with the Zoning Commission on June 16, 2006 (the "PUD Submission"). That 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. On April 26, 2007, the Applicants amended the application to remove from the project a portion of land under the administrative jurisdiction of the NPS, and also filed a letter of support and signed application forms from the NPS. This Prehearing Submission

supplements the PUD Submission and responds to those issues raised by the Zoning Commission and the Office of Planning

II ISSUES/QUESTIONS RAISED BY THE ZONING COMMISSION

A Construction of Residential Units within the Horizontal Plane of the 100 year Floodplain

A major goal of this project is to provide safe and affordable housing for District residents. As set forth in the Applicants' original application statement, PMCD is a non profit entity led by Mr Abe Pollin, who brings significant real estate development experience to this project and has a passion for giving back to the community. As a symbol of his commitment to the success and quality of this project, the proposed community will be named in memory of Mr Pollin's two children, Linda Joy Pollin and Kenneth Jay Pollin.

The Applicants have thoroughly studied the applicable District of Columbia and federal regulations for construction of residential uses within a floodplain, and have carefully designed this project to meet all of the applicable requirements. The Applicants will be utilizing respected and established building and engineering techniques to raise the level of the existing grade from Elevation 13.40 feet to ranges between Elevation 14.1 feet to Elevation 21 feet so that none of the new construction is subject to significant flood damage. Indeed, as set forth in the certification prepared by Greenhorne & O'Mara attached hereto as Exhibit C, the proposed

development meets the applicable flood hazard rules contained in the District of Columbia Municipal Regulations

Under 20 DCMR §3104.2, residential construction is permitted within the floodplain provided the lowest floor (including basement) of any new construction is at least one and one half feet (1½ ft) above the 100 year flood elevation. The 100 year flood elevation is at 13.40 feet. The finished floor elevations of the lowest level of all units located within the floodplain are required to be at or above Elevation 14.90 feet. With respect to streets, 20 DCMR §3104.5(e) provides that the finished elevation of all new streets constructed within a floodplain must be no more than one foot below the Regulatory Flood Elevation (defined as the 100-year flood elevation plus a freeboard safety factor of 1½ ft), which when added together results in a minimum elevation of 13.90 feet.

As shown on the Site Sections (Sheets S16 and S17) of the Architectural Plans and Elevations, the finished floor elevations of the lowest level of each unit are at least 1½ ft above the floodplain elevation, and range from Elevation 15.4 feet to Elevation 23 feet. The finished elevation of all new streets and alleys range from a minimum of Elevation 14.1 feet to a maximum of Elevation 21 feet. Therefore, the proposal meets the requirements of 20 DCMR §§3104.2 and 3104.5(e). In addition, the Applicants propose to construct a retaining wall along the western boundary

of the development as an additional safeguard to protect the new construction from any unforeseen flooding

The Zoning Commission also requested certification that purchasers of the units located within the 100 year floodplain will be able to purchase flood insurance. As set forth in the letter prepared by Riggs, Counselman, Michaels & Downes, Inc. attached hereto as Exhibit D, all purchasers of units located within the floodplain are eligible to purchase flood coverage through the National Flood Insurance Program. Homeowners can purchase policies with limits up to \$250,000 for structures and \$100,000 for contents, and the annual premium is based upon the location and specific elevation of the property.

Finally, as requested by the Zoning Commission, the Applicants have begun researching other projects constructed within the floodplain and approved pursuant to 20 DCMR §§3104.2 and 3104.5(e). The Applicants have determined that the existing residential structures located on the portion of the property known as Lot 804 in Square 5040 are not within the 100 year floodplain and have not experienced any flooding problems. Moreover, as shown on the plat attached hereto as Exhibit E, no part of West Virginia Avenue is located within the 100 year floodplain. However, the contour of portions of land along West Virginia Avenue, including property near Bethesda Baptist Church, are lower than the contour of surrounding property. This grading condition places the area at a greater risk of flooding.

after heavy rain events even though the property is not within the 100 year floodplain – because the contours are lower and there is no stream valley or other outlets leading to lower elevations

In this case, the Subject Property is not surrounded by property having a higher elevation Moreover, as shown on the Architectural Plans and Elevations, the Applicants have a detailed stormwater management plan (Sheet 19) and water and sewer plan (Sheet S20) that will provide proper drainage Finally, the Applicants also propose to construct a retaining wall along the western boundary of the development as an additional safeguard to protect the new construction from any unforeseen flooding

B Details Regarding Fence Materials

The Architectural Plans and Elevations have been updated and now include a sheet (Sheet 15) that provides more detail regarding the proposed exterior materials, including privacy fences, to be located in the development

III ISSUES/QUESTIONS RAISED BY THE OFFICE OF PLANNING

As suggested by the Office of Planning, the Applicants are hereby amending this application to include flexibility from the lot occupancy and street frontage requirements, as discussed in more detail below

A. Flexibility From Lot Occupancy Requirements of Section 403 2

Under Section 403 2 of the Zoning Regulations, a building in the R 5 A District may not occupy more than 40% of the lot upon which it is located. As shown on Sheets S3 through S8 of the Architectural Plans and Elevations, and the Lot Tabulations on Sheet S9, the Applicants have designed the layout of the proposed development to meet as many of the applicable zoning requirements as possible. However, due to design and layout features of the project, and the clustering of units to provide useable open space, a number of units exceed the maximum permissible lot occupancy on individual lots. As noted by the Office of Planning, the highest lot occupancies are located between Anacostia Avenue and Barnes Street, where the Subject Property is uniquely shaped and developable area is limited. The lots located west of Anacostia Avenue are generally larger and have lower lot occupancies. Moreover, the overall lot occupancy is 32%, which is less than the maximum permissible, and the project includes a large amount of open space, such as generously sized rear yards and two public parks.

B. Flexibility From Street Frontage Requirements of Section 2516 5

When the application was initially filed, flexibility from the street frontage requirements was not necessary because Section 410 of the Zoning Regulations permitted groups of buildings constructed in R 5 and R 4 Districts to be deemed a single building for zoning purposes, and each "single building" in the project has street frontage. However, the Zoning

Commission repealed Section 410 pursuant to Zoning Commission Order No 06 05. Thus, the proposed units are now being developed as separate theoretical lots under Section 2516.5 of the Zoning Regulations.

Section 2516.5 of the Zoning Regulations allows theoretical lots to be created that have no public street frontage. Section 2516.5(b) requires that the units that do not front on a public right-of-way must provide a front yard with a depth equivalent to the required rear yard. As shown on Sheets S6 and S59 of the Architectural Plans and Elevations, Lots K3 and K4 have no frontage onto the proposed right-of-way.

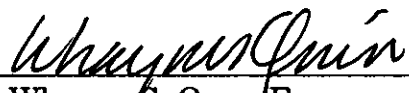
The front of each building is the side upon which the principal entrance is located, as required under Section 2516.5(a). Each of these lots is accessible from the proposed sidewalk. Moreover, the proposed alley provides vehicular access to the lots and each of the units have private parking pads located at the rear of the unit. The units include front yards measuring 5' 1". The Applicants cannot, however, increase the depth of these yards due to the proposed lot depth and unit layout, as well as the desire to keep consistent street frontages. However, the units have ample rear yards ranging from 25 to 37 feet, which exceeds the minimum rear yard requirements.

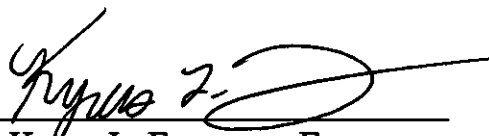
IV
CONCLUSION

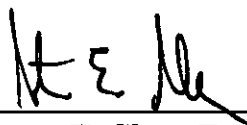
For the reasons stated above, the Applicants respectfully request that the Zoning Commission approve the PUD application

Respectfully submitted

HOLLAND & KNIGHT LLP

By 
Whayne S. Quin, Esq

By 
Kyrus L. Freeman, Esq

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

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