

**1444 IRVING STREET, N.W.
WASHINGTON, DC
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**

Z.C. CASE NO. 07-02

NOVEMBER 13, 2007

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ZONING COMMISSION
District of Columbia

CASE NO. 07-02
EXHIBIT NO. 15A

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

The Applicants hereby certify that this Prehearing Statement and the preceding Application, one original and twenty copies of which were filed with the Zoning Commission on November 13, 2007 and January 3, 2007, respectively, comply with the provisions of Section 3013 of the Zoning Regulations as set forth below:

<u>Subsection</u>	<u>Description</u>	<u>Page</u>
3013.1(a)	Information requested by the Zoning Commission and the Office of Planning	Pgs. Herein
3013.1(b)	List of Witnesses	Exhibit B
3013.1(c)	Summary of Testimony of Applicant's Witnesses and Reports for Record	Exhibit C
3013.1(e)	Reduced Plans	Exhibit A
3013.1(f)	A list of maps, plans, or other documents that are readily available to the general public and that will be offered into evidence	Exhibit D
3013.1(g)	An estimate of the time required for the Applicant's Presentation	Exhibit B
3013.4	First Source Employment Agreement	Exhibit H to Application
3013.6(a)	List of Names and Addresses of All Owners of Property within 200 Feet of the Subject Property	Exhibit I to Application

The undersigned HEREBY CERTIFIES that all of the requirements of Section 3013 of the Zoning Regulations have been complied with.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By: _____

Jeffrey T. Johnson

LIST OF EXHIBITS

Exhibit	Description
A	Revised Architectural Plans and Elevations
B	List of Potential Witnesses and Estimated Time for Presentation
C	Outlines of Witness Testimony
D	List of Maps, Plans, or Other Documents Readily Available to the Public, Which May Be Offered Into Evidence

I. **INTRODUCTION**

This Prehearing Statement and the attached documents are submitted by Donatelli Development on behalf of the RLA Revitalization Corporation, the fee owner of the subject property (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.

The property that is the subject of this application is located at 1444 Irving Street, N.W. and consists of Lot 726 in Square 2672 (the "subject property"). The subject property has a land area of approximately 25,415 square feet and is currently split-zoned C-3-A and R-5-B. Square 2672 is bounded by Irving Street, N.W. on the north, 14th Street, N.W. on the east, Columbia Road, N.W. to the south, and 15th Street, N.W. to the west.

The Applicants seek to have the western portion of the subject property—which is currently zoned R-5-B—rezoned to C-3-A so the entire site is zoned C-3-A. The Applicants also seek approval of a PUD to allow the construction of a 69-unit condominium building and a 104-unit community based residential facility ("CBRF"). A CBRF is permitted as a matter of right in the C-3-A District. The project will contain a total of 114,368 square feet of gross floor area, with approximately 80,703 square feet in the condominium building and 33,665 square feet in the CBRF. The project will have an overall density of 4.5 FAR and will rise to a maximum height of 82 feet, four inches. The project will include a total of 84 off-street parking spaces in a below-grade garage.

Although the Applicants will not construct or operate the CBRF, they are dedicating the property for that use and are bearing the costs associated with designing the facility and

obtaining the required zoning approvals. The CBRF will be constructed under the auspices of the District of Columbia with the Office of Property Management as its representative.

The requested zoning change is fully consistent with the District of Columbia's recently adopted Comprehensive Plan and with its designation on the Future Land Use Map. The Applicants filed an application and supporting documents, including architectural plans and elevations, with the Zoning Commission on January 3, 2007 (the "PUD Submission"). The PUD Submission sets forth in detail the proposed development, project design, requested areas of flexibility, and a discussion of the project's consistency with the Comprehensive Plan. This Prehearing Statement 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 Statement, 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.

II. ISSUES RAISED BY THE ZONING COMMISSION

A. Revised Architectural Plans and Elevations, Color Renderings, and Updated Development Data

In response to comments received from the Commission and the Office of Planning, the Applicants have made a number of modifications to the proposed PUD. A copy of the revised architectural plans and elevations is attached hereto as Exhibit A. Color renderings of the proposed project are presented on the cover sheet of the attached architectural plans and elevations. An updated table of development data is included as Sheet 06 of the attached architectural plans.

B. Sustainable Design Features

The proposed PUD will incorporate a number of energy-efficient and environmentally sustainable design features and construction practices, which will include:

- Stabilization of silt and dirt during construction;
- Compact, high-density infill development in close proximity to public transportation;
- HVAC and fire-suppression systems that do not use HCFCs or Halon;
- Dedicated space for collection and sorting of recyclable materials;
- Use of recycled steel, high-fly-ash-content concrete, recycled or synthetic gypsum board, and recycled-content carpeting;
- Individual control over thermal, ventilation, and lighting systems in residential units;
- Operable windows in all residential units;
- Implementation of an air-quality management plan during construction; and
- Use of low-VOC paints, sealants, adhesives, and carpeting.

All of these important features will help protect the natural environment and will further the policies and objectives set forth in the Environmental Protection Element of the District's Comprehensive Plan.

C. Aerial Photographs and Context of Proposed Project

During its public meeting on April 9, 2007, the Commission requested aerial photographs to illustrate the subject property in its surrounding context. An aerial photograph of the subject property and surrounding area is included on Sheet 01 of the attached architectural plans and elevations.

D. Distinction between SRO/Dormitory and Community Based Residential Facility

The Commission questioned the use of the term "SRO/Dormitory," which is not expressly defined in the Zoning Regulations, to describe the proposed PUD. The Applicants agree with the Commission that the project falls within the broad definition of a community-based residential facility ("CBRF") that is set forth in section 199.1 of the Zoning Regulations. Accordingly, the Applicants will henceforth refer to this 33,665 square foot portion of the PUD as a CBRF and expect that the Commission will evaluate the project as such for zoning purposes.

E. Appearance of Condominium Building's North Façade

The Commission expressed concern about the appearance of the portion of the condominium building's north façade that will eventually be covered by the CBRF. The Applicants have addressed this concern by designing relief-sculpture, which will be installed until the CBRF is constructed. This relief-structure is composed of twelve raised metal frames—approximately six feet by six feet—which form an abstracted pattern based on the design for the front elevation of the CBRF. Each frame will sit approximately a foot off the wall so that shadows will be cast by the frames. In addition, the frames are subdivided by vertical elements that will add a visual rhythm to the group as a whole. The vertical divisions are based on the composition of the windows that appear in the front elevation of the CBRF. The Applicants believe that this modified design will provide an aesthetically attractive—if only temporary—façade along the building's Irving Street frontage.

**III.
ISSUES RAISED BY THE OFFICE OF PLANNING**

A. Multiple Principal Buildings on a Single Record Lot

In its report to the Commission, the Office of Planning surmised that the absence of an above-grade connection between the condominium building and the CBRF precluded the

treatment of the PUD as a single building for zoning purposes. Based on this assessment, the report concluded that the proposed project required flexibility from the off-street parking requirements for the CBRF and the required loading facilities for the CBRF. The report also directed the Applicants to explain why the two buildings will function as one for zoning purposes and why that is necessary.

The Zoning Regulations provide that "[w]hen [two portions of a structure are] separated from the ground up or from the lowest floor up, each portion shall be deemed a separate building." 11 DCMR § 199.1 (definition of "building"). Because there will be no meaningful above-grade communication between the condominium and the CBRF, the Applicants agree that these two portions of the PUD are properly treated as separate buildings for zoning purposes. Section 2516 of the Zoning Regulations, however, provides that the Board of Zoning Adjustment may authorize the placement of two or more principal buildings on a single record lot, provided the specific requirements of that section are satisfied. 11 DCMR § 2516.1. Section 2405 of the Zoning Regulations, moreover, provides that the Commission may approve any use permitted as a special exception without applying the requirements normally applied by the Board of Zoning Adjustment. 11 DCMR §§ 2405.7 and 2405.8. Although the Commission is not required to apply the requirements set forth in section 2516, the Applicants believe that those requirements will be satisfied in this case because the PUD process involves precisely the type of project-specific impact analysis contemplated by section 2516.

B. Flexibility from the Loading and Parking Requirements

If the CBRF and the condominium are deemed to be separate buildings, then each must separately comply with the loading and parking requirements of the Zoning Regulations. The CBRF must therefore provide one 30-foot loading berth, one 100-square-foot loading platform, and one 20-foot service/delivery space. 11 DCMR § 2201.1. The Applicants intend to file an

application with the District Department of Transportation for a loading zone on Irving Street, which will serve as a combined loading berth and service/delivery space for the CBRF. The proposed loading zone will be twelve feet wide and approximately forty feet deep, thus obviating the requirement for a separate loading platform. *See* 11 DCMR § 2201.3 (providing that "[n]o loading platform need be provided for loading berths if the required loading berth is increased in depth for the full width thereof, such that the resulting enlarged loading berth is equal in area to the combined area of a required loading berth and a required loading platform").

The Zoning Regulations require one off-street parking space for every ten individuals housed in a CBRF within a C-3 District. 11 DCMR § 2101.1. The CBRF component of the proposed PUD is therefore required to provide 10 parking spaces under the Zoning Regulations. Because the parking spaces in the underground garage will be reserved exclusively for the use of the condominium building's residents, the CBRF requires flexibility from the off-street parking requirements.

C. Relief from the Roof Structure Requirements

The original application for this PUD indicated that the project would need relief from the requirements of Section 411.3 of the Zoning Regulations, which requires that all penthouses and mechanical equipment be placed within a single enclosure. 11 DCMR § 411.3. Because the Commission is now treating the proposed project as two separate buildings, there is no longer any need for relief from that section. The project nevertheless requires relief from the one-to-one setback requirement of Section 770.6(b). 11 DCMR § 770.6(b). As illustrated on the architectural plans and elevations, portions of the rooftop stairwells will not be sufficiently set back from all exterior walls. The Applicants therefore request relief from the requirements of Section 770.6.

D. Screening between Loading Facilities and Facing Windows of Residential Units

The Office of Planning asked whether the proposed building's loading facilities would be sufficiently screened from the residential units at the rear of the condominium building. All alley-facing windows in the ground-floor residential units will be in-filled with glass block. This design approach will provide both light and privacy for the occupants of these units.

E. Shadowing Effects on Adjacent Properties

In its report, the Office of Planning expressed concern about the impact of the proposed PUD on the light of the adjacent property to the west. As illustrated in the shadowing study presented on Sheet 08 of the attached architectural plans and elevations, the proposed project will have a negligible effect on the light of nearby buildings and property. The courts along the west side of the proposed project will provide adequate separation between the PUD and the neighboring apartment building to the west.

F. Viability of Loading Provided for Proposed Project

The recently adopted Comprehensive Plan includes area elements that specifically address the issues of traffic and parking. For this project, the Applicants have commissioned the preparation of a Traffic Impact Study, which has been submitted to the District Department of Transportation for review. The study concludes that the project will have no adverse impact on traffic, parking, and loading within the adjacent community. This conclusion is based on the following:

- 1) 1444 Irving Street, N.W. is located one block from the Columbia Heights Metrorail Station, which provides significant opportunities for public transportation use with Metrorail and Metrobus services. This proximity will result in a significant portion of site trips being made by mass transit or other non-passenger car modes.

- 2) The proposed PUD will include a two-level parking garage, which will accommodate approximately 84 vehicles. This number of parking spaces exceeds the requirements of the Zoning Regulations and will adequately accommodate parking demands for the residential condominium units.
- 3) The proposed parking demand from the CBRF element of the development will be very low, primarily due to the demographics of the tenants. As such, the relief sought regarding the provision of parking spaces for this use will not adversely impact the surrounding neighborhood.
- 4) The Transportation Impact Study concluded that the project would not significantly change the projected future intersection levels of service. It is noted that the Columbia Heights area has undergone substantial revitalization, and the study included significant "background" developments including DC-USA and Highland Park, which are within the immediate local area.

The proposed development will include one 12' x 30' loading berth, one 100-square-foot loading platform, and one 10' x 20' service/delivery space, all of which are accessible from the public alley off Irving Street. Due to the proposed size and nature of the project, the Applicants do not anticipate any deliveries to the condominium building or CBRF by 55-foot tractor-trailers. There is thus no need for a 55-foot loading berth in this case. The 20-foot public alleyway off Irving Street provides adequate maneuvering space for delivery vehicles to enter and exit the proposed loading berth. The residential condominium use within the development will be adequately served by the proposed 30-foot loading berth. To further minimize potential conflicts in the alley, the Applicants also intend to schedule most deliveries on weekends and during off-peak daytime hours during the week.

No loading berths are proposed for the CBRF use, and there is no direct connection between the CBRF portion of the PUD and the rear loading facilities. The Applicants are working with DDOT to provide an on-street loading zone along the frontage of the site to accommodate deliveries to the CBRF. The Traffic Services Administration and Public Space Management divisions at DDOT, however, do not typically approve loading zones prior to a PUD's approval by the Zoning Commission. As such, discussions with DDOT have been informal and investigative at this early stage in the process. Because daily deliveries to the CBRF are expected to be limited to items such as food and linens, the residents of the CBRF units are expected to create little additional need for loading facilities. The Applicants intend to limit the use of the on-street loading zone to non-peak traffic periods on weekdays to minimize interference with traffic on Irving Street. The Traffic Impact Study concludes that the proposed loading facilities will adequately serve the proposed development and will not create any adverse impacts on the surrounding neighborhood.

G. Completed Traffic Impact Analysis

The final Traffic Impact Analysis will be filed with the Commission no less than twenty days prior to the public hearing on this application. As discussed above, this study will demonstrate that the proposed project will not increase traffic congestion in the surrounding area or have an adverse impact on the service levels of nearby intersections.

H. Comments from the District Department of Transportation

The Traffic Impact Analysis has been provided to DDOT for review. The Applicants anticipate that DDOT will file its report on the application before the Commission's public hearing on this application.

I. Operational Information for Community Based Residential Facility

In its report, the Office of Planning requested operational information for the proposed CBRF. The CBRF will be constructed by the Office of Property Management and operated by the Department of Human Services. The new facility will operate in two phases. During the initial transitional phase, the CBRF will provide beds for approximately forty homeless individuals who are expected to remain at the facility for approximately six months. After this transitional phase, the CBRF will be operated as a single-room occupancy ("SRO") facility. Each resident will be required to enter into a lease agreement with the operators of the facility. The CBRF will provide a number of services for its residents, including meals, case management, employment and housing placement assistance, and substance abuse counseling.

Deliveries to the facility will be coordinated to minimize their impact on traffic circulation along Irving Street. Food will be delivered to the facility daily, and linen service will be provided on a weekly basis. The CBRF will receive deliveries of office and household supplies approximately once each month. Trash will be collected from the site on Mondays, Wednesdays, and Fridays.

J. Public Benefits and Amenities

In its report, the Office of Planning requested additional information regarding the public benefits and amenities provided by the proposed PUD. Specifically, the report questioned whether the affordable housing provided in the form of CBRF units could be considered a public benefit under Section 2403.9(f) of the Zoning Regulations. Additionally, the Office of Planning sought additional information on the CBRF to determine whether it could be considered a "use of special value to the neighborhood or the District." Each of these issues is discussed below.

1. **Housing and Affordable Housing – Section 2403.9(f)**

a. **Affordable Units in the Condominium Building**

The Office of Planning's report expressed the opinion that, based on the information provided in the Applicants' initial submission, the housing provided in the proposed PUD would provide no public benefit or amenity. The report also suggested, however, that additional information might allow the Commission to balance the benefits provided by the market-rate and affordable housing in the proposed PUD against the affordable housing that would be provided under the District's recently adopted—but not yet effective—inclusionary zoning ("IZ") program.

On July 30, 2007, the Commission took proposed action to approve a text amendment to the IZ regulations in Zoning Commission Case No. 04-33B. Under the proposed text amendment, PUDs that were set down prior to the effective date of Zoning Commission Order No. 04-33B are not subject to the IZ requirements. *See Notice of Proposed Rulemaking, Z.C. Case 04-33B, 54 D.C. Reg. 7773, 7785 (August 10, 2007).* Because this application was set down on April 9, 2007, the Applicants are not required to provide any affordable housing under the IZ program. The Applicants are nevertheless committed to setting aside twenty percent of the residential units in the condominium building for households earning between fifty and eighty percent of area median income ("AMI"). This is a clear benefit to the community and the District as a whole.

b. **The Community Based Residential Facility**

In addition to the affordable units provided in the condominium building, the CBRF component of the project will provide housing for people who are too impoverished to qualify for the District's IZ program. Although the units in the CBRF would not qualify as "inclusionary units" under the IZ regulations, the affordable housing provided by the CBRF represents a significant public benefit to the District.

With a few limited exceptions, the IZ regulations require all new developments that contain ten or more dwelling units to set aside a specified percentage of the project's matter-of-right density or achievable bonus density as "inclusionary units." 11 DCMR § 2603.1. An inclusionary unit is defined as "a unit set aside for sale or rental to an eligible low- or moderate-income household pursuant to the Act." 11 DCMR § 2601.1 (definition of "Inclusionary Unit"). Importantly, the IZ regulations do not indicate that an inclusionary unit is necessarily a dwelling unit, which generally includes private bathroom facilities. Even if the units in the proposed CBRF fall within the definition of an "inclusionary unit," however, those units would fail to satisfy the requirements of the IZ regulations for at least two reasons.

First, any new development located within the C-3-A District that is subject to the IZ requirements must set aside 100 percent of its inclusionary units for moderate-income households. 11 DCMR § 2603.4. A "moderate-income household" is defined as a "household of one or more individuals with a total annual income adjusted for household size equal to between fifty percent (50%) and eighty percent (80%) of the Metropolitan Statistical Area median as certified by the Mayor pursuant to the Act." 11 DCMR § 2601.1 (definition of "moderate-income household"). Because the proposed CBRF will be occupied by individuals who earn far less than fifty percent of AMI, the facility will not meet the requirement of section 2603.4.

Second, the units in the proposed CBRF will not satisfy the development standards for inclusionary units set forth in the IZ regulations. Those standards provide that "[a]ll inclusionary units shall be comparable in exterior design, materials, and finishes to the market-rate units." 11 DCMR § 2605.3. Additionally, the "interior amenities of inclusionary units (such as finishes and appliances) shall be comparable to market-rate units, but may be comprised of less expensive materials and equipment." 11 DCMR § 2605.4. Finally, the development standards provide that

the "proportion of studio, efficiency, and one-bedroom inclusionary units to all inclusionary units shall not exceed the proportion of market-rate studio, efficiency, and one-bedroom units to all market-rate units." 11 DCMR § 2605.2. Because the individual units in the CBRF will be designed as single-room occupancies ("SROs") without private bathrooms or kitchens, those units will not comply with the development standards described in section 2605.

Although the CBRF units will not technically comply with the requirements of the IZ regulations, it is clear that the facility will further the objectives the IZ regulations and the Housing Element of the Comprehensive Plan. The CBRF component of the proposed project will provide shelter for some of the District's most economically vulnerable residents. The principal beneficiaries of the District's IZ program are households earning between fifty percent and eighty percent of AMI. While there is certainly a need for additional workforce housing in the city, the Housing Element of the Comprehensive Plan clearly states the District's policy of encouraging "the provision of homeless services through neighborhood-based supportive housing and single room occupancy (SRO) units, rather than through institution-like facilities and large-scale emergency shelters." 10 DCMR § 516.14. *See also* 10 DCMR § 505.11 (providing that District agencies should "[a]llow the development of single room occupancy (SRO) housing in appropriate zone districts"); 10 DCMR § 507.7 (encouraging changes to the Zoning Regulations to "facilitate development of ... single occupancy housing units"). The proposed CBRF will further all of these objectives in a way that compliant inclusionary units would not. The Applicants thus believe that the Commission should treat the housing provided by the CBRF as a public amenity.

2. Uses of Special Value to the Neighborhood or the District of Columbia as a Whole – Section 2403.9(i)

The Office of Planning also requested additional information regarding the public benefits of the proposed project that fall within the category of "Uses of Special Value to the Neighborhood and the District of Columbia as a Whole." The specific questions raised by the Office of Planning are addressed below.

a. Land Disposition Agreement with the RLA Revitalization Corporation

In its report, the Office of Planning inquired whether the proposed land contribution was a condition of the Exclusive Rights Agreement ("ERA") with RLARC and, if so, whether the property's sales price was written down accordingly in the Land Disposition Agreement ("LDA"). The sales price of the subject property was not written down to account for the contribution of land to the District of Columbia. The sales price reflected in the LDA has not changed since Donatelli submitted its bid in response to RLARC's Request for Proposals ("RFP"), which did not include any requirement that property be donated for the replacement of the existing La Casa facilities.

b. Architectural Design Fees Attributable to the CBRF

The Office of Planning has asked the Applicants to provide an estimate of the architectural fees incurred in designing the CBRF component of the project. The architectural, structural engineering, mechanical, electrical, and plumbing ("MEP") engineering, and landscape architecture fees for designing and documenting the CBRF will be approximately \$481,000.

c. District's Funding Commitment and Timing for Construction of the CBRF

In its report, the Office of Planning questioned the District's funding commitment and timeline for constructing the proposed CBRF. The District is committed to providing \$11 million in funding for the new facility. Although the timing of construction will be ultimately

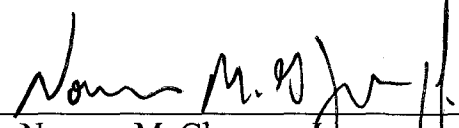
determined by the approval of this application, the Office of Property Management ("OPM") tentatively hopes to begin construction in June 2008. OPM expects construction of the facility to last between eighteen and twenty-four months.

IV. CONCLUSION

For the foregoing reasons, the Applicants respectfully request that the Zoning Commission approve the PUD application and related Zoning Map Amendment.

Respectfully submitted,

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