

**BEFORE THE DISTRICT OF COLUMBIA
ZONING COMMISSION**

**PREHEARING STATEMENT
IN SUPPORT OF REVIEW OF FIRST
STAGE AND CONSOLIDATED PUD**

**1333 M Street SE, LLC
Z.C. Case No. 13-12**

August 14, 2014

**Holland & Knight LLP
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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 August 14, 2014; and, in accordance with Section 3013.8, the application shall not be modified less than twenty (20) days prior to the public hearing.

<u>Subsection</u>	<u>Description</u>	<u>Page/Exhibit</u>
3013.1(a)	Information requested by the Zoning Commission and the Office of Planning and as discussed with the ANC 6B subcommittee	Pgs. 3-8
3013.1(b)	List of witnesses prepared to testify on the Applicant's behalf	Pg. 9 Exhibit C
3013.1(c)	Summary of testimony of witnesses or reports and area of expertise	Pg. 10 Exhibits D-H
3013.1(d)	Additional information introduced by the Applicant	Pgs. 8-9
3013.1(e)	Reduced plans	Exhibits A-B
3013.1(f)	List of maps, plans, or other documents readily available that may be offered into evidence	Pg. 10 Exhibit I
3013.1(g)	Estimated time required for presentation of Applicant's case	Pg. 10
3013.6(a)	Names and addresses of owners of all Property within 200 feet of the subject property	Pg. 10 Exhibit J
3013.10	Report by Traffic Consultant	Pg. 10 Exhibits L-M
30134	Agreements with the District of Columbia	Pg. 10 Exhibit K

Respectfully submitted,

HOLLAND & KNIGHT LLP



Leila M. Jackson Batties

LIST OF EXHIBITS

<u>Description</u>	<u>Exhibit</u>
Revised Architectural Drawings for First Stage PUD in Four Phases	A
Revised Architectural Drawings for Consolidated PUD Portion for Phase 1 Only	B
List of witnesses prepared to testify on behalf of Applicant	C
Draft outline of testimony and of Ronald Cohen / Eric Siegel, Cohen Siegel Investors, LLC	D
Draft outline of testimony and resume of Colline Hernandez-Ayala, GTM Architects	E
Draft outline of testimony and resume of Craig McClure, Parker Rodriguez	F
Draft outline of testimony and resume of Jami Milanovich, Wells & Associates, LLC	G
Draft outline of testimony and biography of Steven E. Sher, Holland & Knight LLP	H
List of maps, plans or other documents readily available that may be offered into testimony	I
Names and addresses of owners of property within 200' of the subject property	J
Form First Source Agreement	K
Preliminary Traffic Assessment Report by Wells + Associates	L
Transportation Demand Management Plan	M

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I. INTRODUCTION

This prehearing statement is submitted on behalf of 1333 M Street, SE, LLC (the "Applicant") in support of its application for a planned unit development ("PUD") and related map amendment from M to C-3-C for Square 1025-E, Lot 82, Square 1048-S, Lots 1, 801 and 802, RES 129 and RES 299 (collectively, the "Property"). As it relates to the PUD, the Applicant seeks two approvals:

1) First Stage approval for the overall project, which consist of 2.9 acres that will be developed in four phases with approximately 673 residential units and approximately 10,370 square feet of retail uses; and

2) Consolidated PUD approval for Phase I of the project, which consists of a 10-story residential tower containing approximately 181,911 square feet, generating approximately 218 dwelling units, an underground parking garage with approximately 67 spaces, and approximately 44 surface parking spaces.

The revised architectural drawings for the First Stage PUD are attached as **Exhibit A** and are titled, "Planned Unit Development in Four Phases." The revised architectural drawings for the Consolidated PUD are attached as **Exhibit B** and are titled, "Consolidated PUD Portion for Phase 1 Only."

This prehearing statement supplements the original application statement filed on October 30, 2013, and addresses the comments raised by the Zoning Commission at its setdown meeting on March 10, 2014, the Office of Planning ("OP") in its setdown report dated February 28, 2014, the Advisory Neighborhood Commission 6B at its Zoning Committee and subcommittee meetings held on April 3 and June 9, 2014, respectively, and the Capitol Hill Restoration Society's Zoning Committee meeting held on June 12, 2014. This prehearing statement also includes additional information from the Applicant, including items required under Section 3013 of the Zoning Regulations.

A. **Project Overview**

The proposed PUD will be constructed on three theoretical lots in four phases. The theoretical lots are delineated on Sheet 13 of the plans for the First Stage PUD.

Theoretical Lot 1 has approximately 80,128 s.f. of land area. It will be improved with a single building ("Building 1") that has two towers that connect at the ground level. Between the two levels, Building 1 will consist of 267,216 s.f. of residential, generating approximately 351 dwelling units, and 7,200 s.f. of ground floor retail. Tower A of Building 1, which will be constructed during Phase I of the PUD, will have 10 stories and a height of 100 feet, as measured from Virginia Avenue. Tower B of Building 1 will have 9 stories and a height of 90 feet, as measured from Virginia Avenue. Theoretical Lot 1 will be developed with an overall FAR of 3.4. This parcel will include 106 underground residential parking spaces, 6 retail parking spaces, and loading for the residential use only as follows: one 30-foot loading berth, one 200 s.f. loading platform and one 20' service space.

Theoretical Lot 2 has approximately 38,297 s.f. of land area. It will be improved with Building 2, which will consist of 181,209 s.f. of residential, generating 234 dwelling units, and 3,170 s.f. of ground floor retail. Building 2 will have 11 stories and a building height of 110 feet as measured from Virginia Avenue. Theoretical Lot 2 will be developed with an overall FAR of 4.73. This parcel will include 108 underground residential parking spaces and one underground retail parking space and loading for the residential use only as follows: one 30-foot loading berth, one 200 s.f. loading platform and one 20-foot service space.

Theoretical Lot 3 has approximately 9,074 s.f. of land area. It will be developed with Building 3 which will consist of 69,066 s.f. of residential, generating 88 dwelling units. There will not be any retail uses in this building. Building 3 will be 9 stories and have a building height of 91 feet as measured from M Street. Theoretical Lot 3 will be developed with an overall FAR of 7.6. This parcel will not have any parking or loading but will rely on on-street loading for servicing the building off M Street S.E.

Overall, the Property will be re-developed with approximately 673 dwelling units (plus or minus 10%), approximately 10,370 s.f. of retail, approximately 214 residential parking spaces and 7 retail parking spaces. The overall FAR for the PUD will be 4.14 where an FAR of 8.0 is permitted and the overall lot occupancy for the project will be 45% where 100% is permitted.

B. Procedural Background

The original application for the PUD was filed with the Zoning Commission on October 30, 2013. On March 10, 2014, the Zoning Commission voted unanimously to set down the application for public hearing. The Applicant presented the project to the ANC 6B Planning and Zoning Committee on April 3 and to a special subcommittee of ANC 6B on June 9. The Applicant also made a presentation to the Capitol Hill Restoration Society Zoning Committee on June 12. With the filing of this prehearing statement, and the accompanying exhibits, the Applicant respectfully requests that this case be scheduled for the next available public hearing before the Zoning Commission.

II. SUPPLEMENTAL INFORMATION ON THE APPLICATION

A. Information Requested by the Zoning Commission.

At its meeting on March 10, 2014, the Zoning Commission voted unanimously to set down the Application for public hearing. In its discussion on the Application, the Zoning Commission had comments about (i) the site plan; (ii) architecture; (iii) sustainability and landscape architecture; (iv) the amount of retail; (v) amount of parking; and (vi) phasing of development. Following are the Applicant's responses to the Zoning Commission.

i. **Site Plan.** The zoning Commission requested a discussion on the rationale for the master plan and an explanation on the design concept for Building 1A. Further, the Zoning Commission asked how the proposed PUD plan relates to the L'Enfant Plan Overlay.

The primary design goal for the PUD is to enhance the public connectivity to the Waterfront through the creation of a vibrant mixed-use community. A series of multi-

story buildings, beginning with Building 1A, step down in height and are oriented to maximize key corridor views south and southeast toward the Anacostia River and north and northwest toward the City. The north and south facades of Building 1A have been designed to provide large storefront windows with vibrant surrounding landscaping at the ground level units, along with bay elements that appear in a rhythm to provide variation at the base and encourage an active pedestrian level experience. The views toward the waterfront and the hills beyond will remain relatively the same for neighborhoods to the north of the Property due to the large expanse of the Southeast Freeway in proportion to the height of the M Street buildings.

That section of Virginia Avenue included in the PUD has been designed as a primary pedestrian promenade terminating in a public plaza that includes a monumental stair leading to a lower plaza area across from the District Yacht Club. This grand procession towards the waterfront will bring new life to a portion of Virginia Avenue that has been underutilized to its full potential. It also serves to emphasize the original axis that L'Enfant envisioned for Virginia Avenue, which is now physically and visually divided by 11th Street and the Southeast Freeway.

The existing topography of the triangular PUD site drops approximately 30 feet moving southeast along M Street. Two levels of below grade parking are planned below Buildings 1 and 2 in order to take advantage of this existing site condition. Main building entrances to Building 1, Tower B, and Building 2, are accessible from Virginia Ave, via landscaped entrance plazas that also provide opportunities for gatherings and communal events. Additionally, each building is designed with ground level retail and amenity uses in order to take advantage of the direct pedestrian access to the waterfront. A large terrace area borders the retail space located at the base of Building I, Tower B. This area provides opportunities for outdoor seating with water views. Along M Street, the base of each building is activated through the design of residential units with private front yards along the street. All loading and service functions for Buildings 1 and 2 will be managed from a new private street which connects Virginia Ave to M Street across the site. Building 3 has been designed as a "boutique" building with the primary vehicular

drop off along Water Street. The pedestrian entry along M street provides convenient access to the underground parking structure located below Building 1.

ii. **Architecture.** Since the application was originally filed, the design of Building 1A along M Street has been enhanced by lighter brick tones, additional detailing, a one-story base, and metal railings for a milder contrast with the surrounding environment. On the south elevation, the composition of glass and solid and the addition of bay projections have provided a unique rhythm to activate the waterfront. Particular detailing was added to the ground floor units to unite the base with the upper portions. In addition, the roof enclosure configurations and landscape design elements were transformed to open views from the neighborhoods to the north, which resulted in a light and simple structure. More detailed renderings are included in the plans for the Consolidated PUD-Phase 1.

iii. **Sustainability and Landscape Architecture.** The PUD is designed to achieve the equivalent of LEED Silver. The rain garden will be framed by masonry walls with weirs cut to allow the water to pool and cascade into the next basin facilitating slow infiltration. Excess water during large rain events will terminate in the arroyo that will consist of stone or textured precast concrete plinths. These stacked plinths create a visually intriguing basin area for a small amount of water catchment before it then drains into an overflow cistern/tank below. This cistern could be potentially used for irrigation reuse or connect back into the overall stormwater conveyance system. The plants will be typical rain garden plants, specific to the region, that can withstand drought and wet conditions, as seen on Sheet 29 of the PUD Plans. These plants will have striking seasonal variation, minimal maintenance and strong plant structure to prevent an unkempt appearance. The water wall uses the parking garage structure as a canvas. This wall will feature a patterned veneer showcasing an abstracted natural motif similar to the image on Sheet 27 of the PUD Plans. This will create strong imagery visible from the river, but also maintain interest at the pedestrian level. In addition to the patterned veneer, a portion of the wall will be layered with a vegetated trellis system that then will progress into an evergreen planting zone to soften the edge of the wall.

iv. **Retail.** The PUD is currently planned with approximately 10,370 square feet of retail, intended to serve the residents of the project and nearby office workers, such as a dry cleaner and restaurant. If there is evidence of demand for more retail development as the project progresses, the Applicant will consider increasing the amount of retail space at the project.

v. **Parking.** Currently, the plans for the project propose a total of 221 below-grade parking spaces where 169 are required under the Zoning Regulations. The parking program takes into consideration that the PUD site is not immediately accessible to a Metrorail Station. However, as the project progresses, it may be determined that fewer parking spaces are needed. Therefore, the Applicant seeks flexibility to adjust the number of parking spaces at each phase of development.

vi. **Phasing of Development.** Generally, under the Zoning Regulations, a final PUD approved by the Commission shall be valid for a period of two years, within which time application shall be filed for a building permit. Construction shall start within three years of the date of final approval. Consistent with this time frame, the Applicant shall file for a building permit for Phase II of the PUD within two years after the completion of Phase I of the PUD and start construction of Phase II within three years after the completion of Phase I of the PUD. This process will be repeated for Phases III and IV.

B. Information Requested by the Office Of Planning

In Section VIII on page 14 of its setdown report dated July 15, 2011, the Office of Planning ("OP") requested that the Applicant provide additional information on the project. Following are the issues raised by OP and the Applicant's response to same.

i. **Clarification on Discrepancies between application text, drawings, flexibility.**

The corrected zoning calculations for the overall project are reflected on Sheet 12 of the First Stage PUD plans and on Sheet 10 of the plans for the Consolidated PUD for Phase I. In addition to the previously requested flexibility for phasing, the Applicant seeks the following flexibility for the overall project:

a. Flexibility for Loading/Building 2. Building 2 of the PUD will require flexibility from the loading requirements set forth in Chapter 22 of the Zoning Regulations. The Applicant proposes one (1) loading berth at 30 feet, one (1) platform at 100 square feet, and one (1) service/delivery space at 20 feet where the Zoning Regulations require one (1) loading berth at 55 feet, one (1) platform at 200 square feet, and one (1) service/delivery space at 20 feet.

b. Flexibility for Loading/Building 3. Building 3 of the PUD will require flexibility from the loading requirements set forth in Chapter 22 of the Zoning Regulations. The Applicant proposes no loading facilities for this building where the zoning Regulations require one (1) berth at 55 feet, one (1) platform at 200 square feet, and one (1) service/delivery space at 20 feet. In lieu of on-site loading for this building, the Applicant will request from DDOT an on-street loading zone on M Street in front of the building.

ii. **First Source Agreement.** The Applicant is committed to signing a First Source Agreement with the Department of Employment Service on the form attached as Exhibit K.

iii. **View of Project from Capitol Hill east of 11th Street to Waterfront and Topographic Bowl.** Sheet 35a of the architectural drawings for the Consolidated PUD for Phase I (Exhibit B) provides a perspective view from Capitol Hill east to Building 1 of the project.

iv. **Additional Study of and Information on Design of Building 1, Tower A.** The revised design of Building 1, Tower A is reflected in the enclosed architectural drawings. The drawings include details on the color and materials for the building.

v. **Preliminary Details on Design, Responsibility, Timing for M Street Improvements.** The construction of the re-located Anacostia Riverwalk Trail to the north of M Street to connect at the circle near 12th Street, S.E. will occur during the construction of the second phase of the project (Building 1B). It is our understanding that D.C. Water will complete the shaft tunnel for its long-term control plan stormwater

management project on M Street in the second quarter of 2017. Accordingly, the Applicant anticipates completing the remaining M Street improvements, including the final paving of M Street, S.E. for the length of the property in the second quarter of 2017 or during the construction of the third phase of the project (Building 2), whichever occurs later.

vi. **Responsibility and Timing of Public Space Improvements/Mitigation Measures.** The Applicant will be responsible for the construction and maintenance of the lower plaza, monumental staircase and wildflower meadow within the Water Street right of way or otherwise in public space. The wildflower meadow will be installed in Phase I of the project. The lower plaza and monumental staircase will be constructed as part of Phase II of the project.

The proposed improvements to Water Street, in order to enable access to the proposed drop-off in the final phase of the PUD, will be constructed by the Applicant.

vii. **Bicycle Parking Spaces.** Each building will include a minimum of one secure bicycle parking space for each three residential units.

viii. **Privately constructed elements in Public Space.** A portion of the plaza and the continuation of the promenade paving pattern, at the base of the monumental stair, are within public space in order to provide a connection from M street to the waterfront. The Applicant will bear maintenance responsibility for this portion outside of the property line. The monumental stair, fully within the property line, is designed to maintain functionality in the case of any future changes to Water Street. The plaza can shrink as necessary for road adjustments to the public right of way.

C. Additional Information Provided by Applicant

i. **Community Outreach.** The Applicant presented the Application to the ANC 6B Planning and Zoning Committee on April 3, 2014. The committee subsequently established a subcommittee to work more closely with the development team. On June 9, the Applicant met with the subcommittee to address a number of questions and present an

update on the project design. Also, the Applicant met with the Zoning Committee for the Capitol Hill Restoration Society on June 12.

ii. **Affordable Units.** The ANC subcommittee for this project asked the Applicant to consider reducing the number of affordable units in Phase I of the project in order to provide larger units more suitable for families. The Applicant studied this and other options related to the affordability of units for families. In Phase I of the PUD, there will be 19 affordable units, 4 of which will be two-bedroom units. In order to address the ANC's concerns, the Applicant agrees to reserve all of the two-bedroom units for households with incomes not exceeding 60% AMI. The remaining affordable units -- a mix of studio and one-bedroom units -- will be for households with incomes not exceeding 80% AMI in accordance with the Inclusionary Zoning requirements.

The subsidy required to provide two-bedroom affordable dwelling units at 80% AMI as required under the Zoning Regulations amounts to \$326,000. The subsidy required to support the two-bedroom units at 60% AMI as proffered by the Applicant amounts to \$131,000 per unit. Therefore, reserving all of the two-bedroom units in Phase I of the PUD at 60% AMI results in additional subsidy of \$524,000 for the project. This additional affordable housing subsidy is a benefit of the PUD, as described under Section 2403.9 of the Zoning Regulations.

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 who may testify at the public hearing on behalf of the Applicant is attached as **Exhibit C**.

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 may be called to testify at the public hearing are attached as **Exhibits D through H**.

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 may be offered into evidence at the public hearing is attached as **Exhibit I**.

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 45 minutes, subject to the decision of the presiding officer at the public hearing.

E. Agreements with the District of Columbia

The Applicant will enter into a First Source Agreement with the Department of Employment Services on the form attached as **Exhibit K**, ensuring cooperation with the Department for employee recruitment for jobs created by the PUD, with the objective that 51% percent of the employees hired in connection with the development of the project are District of Columbia residents.

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

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

G. Report by Traffic Consultant

In accordance with Section 3013.10 of the Zoning Regulations, the preliminary report, prepared by Wells & Associates, dated June 30, 2014, is attached as **Exhibit L**. The full study will be submitted to DDOT, with a copy to the Office of Planning, no less than 45 days prior to the public hearing. The proposed transportation demand plan for the project is attached as **Exhibit M**.

IV. CONCLUSION

In accordance with Section 3013 of the Zoning Regulations, this prehearing statement is submitted on behalf of 1333 M Street, SE, LLC in order to provide additional information in support of its Z.C. Case No. 13-12. We respectfully request that the application be scheduled for hearing and remain hopeful of the Zoning Commission's favorable consideration of the Application.

Respectfully submitted,

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