

501 H Street, N.E.

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

February 27, 2015

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LIST OF EXHIBITS

Exhibit	Description
A	Revised Architectural Plans and Elevations (attached separately)
B	Memorandum prepared by Gorove/Slade with information regarding parking impacts on surrounding neighborhood
C	List of the Applicant's Witnesses and Estimated Time Required For Presentation of Applicant's Case
D	Outline of Testimony of Paul Millstein of Jemal's CDC, LLC
E	Outline of Testimony and resume of Kevin Sperry of Antunovich Associates Architects
F	Outline of Testimony and resume of Erwin Andres of Gorove/Slade
G	Outline of Testimony and resume of Steven E. Sher of Holland & Knight LLP
H	Outline of Transportation Impact Study, prepared by Gorove/Slade
I	List of Names and Addresses of All Property Owners Within 200 Feet of the Property

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

The Applicant hereby certifies that this application, one original and ten copies of which were filed with the Zoning Commission on August 6, 2014, complies with the provisions of Section 3013 of the Zoning Regulations as set forth below, that the application is complete.

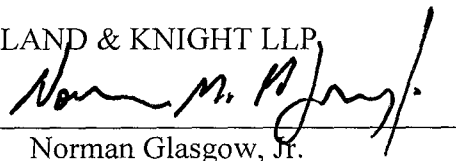
<u>Subsection</u>	<u>Description</u>	<u>Page</u>
3013.1(a)	Information Requested by Zoning Commission and Office of Planning	Pgs. Herein
3013.1(b)	List of Witnesses	Exhibit C
3013.1(c)	Outline of Testimony of Applicant's Witnesses and Resumes	Exhibits D-G
	Paul Millstein Douglas Development Corporation Jemal's Hecht's, LLC	Exhibit D
	Kevin Sperry Antunovich Associates Architects	Exhibit E
	Erwin Andres Gorove/Slade Associates, Inc.	Exhibit F
	Steven E. Sher Holland & Knight LLP	Exhibit G
3013.1(e)	Reduced Plan Sheets	Exhibit A
3013.1(f)	List of Maps, Plans or other Documents Readily Available That May Be Offered Into Evidence	Pgs. Herein
3013.1(g)	Estimated Time Required for Presentation of Applicant's Case	Exhibit C
3013.6(a)	List of Names and Addresses of All Property Owners Within 200 Feet of The Property	Exhibit I

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:


Norman Glasgow, Jr.

INTRODUCTION

This Prehearing Statement and the attached documents are submitted by Jemal's CDC, LLC (the "Applicant"), in support of its application to the Zoning Commission of the District of Columbia (the "Commission") for the consolidated review and approval of a Planned Unit Development ("PUD") and a zoning map amendment to rezone 501 H Street, N.E. (Square 833, Lot 47) (the "PUD Site"), from the HS-H/C-2-A District to the HS-H/C-2-B District. The Applicant proposes to construct a six-story above-grade, mixed use building at the PUD Site that incorporates two floors of above-grade, one floor of below-grade (cellar) retail, and four floors of residential use.

The PUD Site has a land area of approximately 9,813 square feet with 122.7 linear feet of frontage on H Street, N.E. and 80 linear feet of frontage on 5th Street, N.E. The PUD Site is located on the southeast corner of the intersection of 5th and H Streets, N.E., and is bounded by H Street to the north, 5th Street to the west, a public alley immediately to the south, and private property to the east. The PUD Site is currently improved with a single-story building, most recently occupied by the H Street Community Development Corporation, and six surface parking spaces located at the rear of the building. The Applicant proposes to raze the existing building in connection with redevelopment of the PUD Site.

Square 833 includes a public alley system with varying widths and access points. The alley located at the rear of the PUD Site runs east-west between 5th and 6th Streets and has a width of 12.17 feet behind the PUD Site, narrowing to a width of eight feet as it moves eastward through the Square. The PUD Site is within walking distance of the Union Station Metrorail station and has excellent access to numerous transportation options, including Metrobus and the DC Streetcar that will run along H Street in front of the PUD Site.

The PUD Site is designated in the Moderate Density Commercial and Medium Density Residential land use categories on the District of Columbia Comprehensive Plan Future Land Use Map, and is designated in a Main Street Mixed Use Corridor area on the District of Columbia Plan Generalized Policy Map. As indicated in the Applicant's initial PUD application submission (the "Initial PUD Submission"), rezoning the PUD Site to the HS-H/C-2-B District is not inconsistent with those designations (*see* Exhibit 4 in the case record).

The Applicant is seeking approval from the Zoning Commission to develop a six-story mixed-use multiple-dwelling residential building. The building program consists of approximately 48,037 square feet of gross floor area (4.90 floor area ratio ("FAR")). Approximately 17,562 square feet of gross floor area (1.79 FAR) and approximately 7,856 square feet of cellar floor area will be devoted to retail uses on the cellar, first, and second levels. Approximately 30,475 square feet of gross floor area (3.11 FAR) will be devoted to residential uses comprised of 28 residential units (plus or minus three units). Consistent with Chapter 26 of the Zoning Regulations, no less than eight percent of the residential gross floor area will be devoted to affordable housing, with 50 percent of the affordable dwelling units devoted to low income households (earning up to 50 percent of the area medium income ("AMI")) and 50 percent of the affordable dwelling units devoted to moderate income households (earning up to 80 percent of the AMI). This subsidy level meets the Inclusionary Zoning ("IZ") requirements for the existing C-2-A District, which is a greater subsidy than that required for the proposed C-2-B District, which is at 80 percent AMI only.

The Applicant originally filed its Initial PUD Submission with the Commission on August 6, 2014. The Initial PUD Submission sets forth in detail the proposed development, project design, requested areas of zoning and design flexibility, and a discussion of how the

project meets the applicable review and approval requirements. Since filing the Initial PUD Submission, the Applicant has continued to work with the community and District agencies to improve the project. Accordingly, the plans included with this submission show a revised building design with slightly different square footages, materials, and configurations; however, the overall program and areas of flexibility remain the same.

By report dated September 19, 2014, the Office of Planning recommended that the Commission schedule a public hearing on the application. At the public meeting on September 29, 2014, the Commission unanimously voted to set down the application for a public hearing. This Prehearing Submission supplements the Initial PUD Submission, provides architectural drawings that show the Applicant's continued design work on the project, and includes the specific information requested by the Office of Planning and the Zoning Commission.

ISSUES/CONCERNS RAISED BY THE COMMISSION AND THE OFFICE OF PLANNING

At its public meeting of September 29, 2014, the Commission voted to schedule a public hearing for the application. During the Commission's deliberations, the Commissioners requested additional information regarding various components of the project's program and design. The Office of Planning indicated it would work with the Applicant to address any concerns raised by the Commission and other agencies during the review process.

The Applicant has made a number of changes to address the concerns raised by the Commission and the Office of Planning. A chart indicating how the revised building program and design responds to the specific comments follows:

	Commission Comment	Action
1.	Clarify whether the Applicant is proffering compliance with the IZ regulations as an amenity, since there would have been more affordability as a matter-of-right without the map amendment.	Pursuant to Chapter 26 of the Zoning Regulations, the C-2-A District (existing zoning) would require the Applicant to set aside eight percent of the residential gross floor area for affordable dwelling units, with 50 percent set aside for low income households (earning up to 50 percent of the AMI) and 50 percent set aside for moderate income households (earning up to 80 percent of the AMI). In contrast, the proposed C-2-B District would require the Applicant to set aside eight percent of the residential gross floor area for affordable dwelling units, with 100 percent set aside for moderate income households (earning up to 80 percent of the AMI). As a matter-of-right steel and concrete frame building in the C-2-A District, the Applicant could build a maximum of 24,532 square feet of residential gross floor area, and would be required to set aside 1,962 square feet (eight percent) as IZ units, with 981 square feet devoted to low income households and 981 square feet devoted to moderate income households. As a PUD in the C-2-B District, the Applicant proposes to construct 30,475 square feet of residential gross floor area. Under Chapter 26, the Applicant is required to set aside 2,438 square feet (eight percent) as IZ units, all of which is permitted to be devoted to moderate income households. However, the Applicant proposes to devote half of the affordable gross floor area (1,219 square feet) to low income households and half of the affordable gross floor area to moderate income households. Therefore, this modest sized PUD is providing additional area for low income households.
2.	Provide further explanation on why flexibility from the H Street Overlay is necessary.	The Applicant requests relief from 11 DCMR § 1321.3, which provides that the FAR for new construction in the HS-H sub-district may not exceed 0.5 FAR for non-residential uses. In this case, the Applicant proposes to provide 1.79 FAR of non-residential uses, and therefore requires flexibility. The Applicant notes that pursuant to 11 DCMR § 1326.1(a), additional FAR provided above that permitted as a matter of right shall be used only for housing or the preferred uses listed in §§ 1322.2 and

		1323.2. In this case, the additional non-residential FAR above that permitted as a matter of right will be used for the specifically-listed preferred uses. The Applicant also notes that pursuant to § 2405, PUDs in the underlying C-2-B District are permitted to have a maximum residential density of 6.0 FAR and a maximum commercial density of 2.0 FAR. Thus, the PUD complies with FAR requirements of the PUD regulations of Chapter 24.
3.	Provide additional information regarding the LEED rating and why it should be Silver.	The PUD will achieve a sustainability rating in accordance with the newly adopted D.C. Green Building Code, one of the most progressive green codes in the nation. In response to the Commission's comments, the Applicant increased the LEED points for the project, such that the project will now be LEED Gold-equivalent (<i>see</i> LEED scorecard included as Sheet 6 of the Architectural Plans at <u>Exhibit A</u>).
4.	Provide a rendering of how the building looks from the street level.	As shown on the Architectural Plans attached as <u>Exhibit A</u> , the Applicant significantly revised the design of the building. Sheet 8 shows how the building looks from the street level.
5.	Explore a design with additional elements (e.g. balconies, architectural embellishments) to add more articulation and differentiation to the façade.	The Applicant's revised design for the building includes an embellished façade with significantly more articulation as requested by the Commission.
6.	Explain the infeasibility of providing underground parking.	The Applicant cannot provide below-grade parking at the Site. Doing so would result in the following negative impacts to the design and program of the project: (i) elimination of significant ground floor and cellar retail space, (ii) relocation of public street lights and parking meters, (iii) creation of a new curb cut, (iv) repositioning core elements and residential units to accommodate egress from the garage, (v) elimination of the retail trash room, and (vi) a significant increase in construction costs. In addition, given the Site's depth and the required ramp width and space for turning movements, providing any below-grade parking would result in an inefficient floor plate. Furthermore, additional parking is not necessary for the proposed uses, given the walkable, mixed-use neighborhood and the numerous public transportation options in close proximity to the Site. Together these

		factors make it infeasible and unnecessary to provide below-grade parking.
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	Office of Planning Comment	Action
1.	Provide additional architectural detail and perspectives of the project's relationship with existing development, including street level views.	As shown on the Architectural Plans, the Applicant incorporated additional architectural detail and perspectives of the building's relationship with existing development.
2.	Provide a discussion of the parking, its impacts on the surrounding neighborhood and the building's inclusion/exclusion in DDOT's Residential Parking Permit ("RPP") program.	The project will provide six on-site compact parking spaces where 26 spaces are required for the residential and retail uses. As explained in detail in the memorandum prepared by Gorove/Slade (<u>Exhibit B</u>), the project will realize much less parking demand than is required by the Zoning Regulations, and the six spaces are adequate to serve the demands of the Site such that there will be no negative impacts to the surrounding neighborhood. The Site is located on a block that is RPP-eligible. The 400 and 500 blocks of H Street are the only H Street blocks within the vicinity of the Site that are currently RPP-eligible. However, the Applicant will restrict all tenants from applying from RPP, thus further eliminating any potential adverse impacts to the availability of on-street parking in the area. In addition to the parking adequacy analysis attached at <u>Exhibit B</u>, Gorove/Slade is conducting a comprehensive transportation analysis regarding the impact of the PUD on parking in the surrounding neighborhood. The Applicant and Gorove/Slade have met with the District Department of Transportation ("DDOT") on several occasions to design the appropriate scope of the transportation analysis. The final transportation report will describe the surrounding roadway network, transit, car-sharing facilities, bicycle facilities, and pedestrian infrastructure. The report will also describe the development program, site access and circulation, loading, parking, and transportation demand management ("TDM") strategies. A memorandum summarizing the major elements of the transportation report is attached as <u>Exhibit H</u>. The final report will be submitted to DDOT at least 45 days prior to the

		public hearing. Gorove/Slade and the Applicant will continue to meet with DDOT and incorporate its recommendations into the final analysis.
3.	Provide a revised amenities package commensurate with the requested flexibility.	As described in the Initial PUD Submission, the project will generate a number of public benefits and amenities, which as a whole justify approval of the project. For example, the development of 30,475 square feet of gross floor area devoted to residential uses on the PUD Site will help to meet the needs of present and future District residents. The development of this new housing represents a substantial contribution to the District's housing supply, and the provision of new affordable residential units at this location is fully consistent with the District's land use policies. The project also fosters a number of architectural best practices that will assist in the further development of H Street, N.E. into a major mixed-use corridor with higher-density residential uses and high-quality community oriented retail uses. The project will implement a number of strategies to enhance the sustainable nature of the PUD Site's location and to promote a healthy and desirable lifestyle that will minimize the building's impact on the environment. As described above, the project is designed to meet rigorous energy and environmental design standards using the LEED 2009 for New Construction and Major Renovations rating system as a guide and performance metric. The Applicant is also in the process of negotiating with Advisory Neighborhood Commission ("ANC") 6C for additional off-site amenities. As indicated in the letter of support from the ANC 6C05 Single Member District ("SMD") Commissioner, included in the record as Exhibit 13, the SMD Commissioner and the Chair of ANC 6C's Planning and Zoning Committee have met with the Applicant on several occasions to discuss the development plan, community benefits, and improvements to the PUD Site. The Applicant will continue to work with the ANC Commissioners to develop a mutually-acceptable public benefits package. The Applicant also notes that the Site is designated Moderate Density

		Commercial and Moderate Density Residential on the Comprehensive Plan Future Land Use Map, which is consistent with the requested C-2-B District.
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ADDITIONAL REQUIREMENTS OF SEC. 3013 OF THE ZONING REGULATIONS

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 C.

Summary of Testimony of Witnesses or Reports and Area of Expertise

In accordance with Sec. 3013.1(c) of the Zoning Regulations, the summaries of the testimony of those persons who may be called to testify at the public hearing are attached as Exhibits D-G.

List of Maps, Plans or Other Documents Readily Available

In accordance with Sec. 3013.1(f) of the Zoning Regulations, the following maps, plans, or other documents that are readily available to the general public may be offered into evidence at the public hearing:

1. Exhibits Herein
2. Zoning Regulations and Map of the District of Columbia
3. Future Land Use Map of the District of Columbia
4. District of Columbia Comprehensive Plan ("Comprehensive Plan")
5. Metrobus and Metrorail Route Maps and related WMATA and other public transportation materials
6. Orders of the D.C. Zoning Commission and Board of Zoning Adjustment
7. Orders and Reports of District and Federal Agencies
8. Publicly Available Information from District of Columbia

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 thirty (30) minutes.

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 Property is attached as Exhibit J.

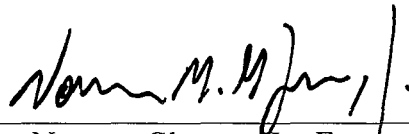
CONCLUSION

For the foregoing reasons, the Applicant submits that the proposed PUD and zoning map amendment meet the standards of Chapter 24 of the Zoning Regulations and the standards for approval. Accordingly, the Applicant requests that the Commission approve the application.

Respectfully submitted:

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