

**300 M Street, N.E.
Z.C. Case No. 14-19**

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

April 21, 2015

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DEVELOPMENT TEAM

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LIST OF EXHIBITS

Exhibit	Description
A	Revised Architectural Plans and Elevations Sheets
B	List of the Applicant's Witnesses and Estimated Time Required For Presentation of Applicant's Case
C	Outline of Testimony of Berkeley Shervin on behalf of M Street Development Group, LLC
D	Outline of Testimony and Resumes of David Wahl and Sophia Lau on behalf of Hickok Cole Architects
E	Outline of Testimony and Resume of Erwin Andres on behalf of Gorove/Slade
F	Outline of Testimony and Resume of Jeff Lee on behalf of Lee and Associates, Inc.
G	List of Maps, Plans or Other Documents Readily Available To The Public, Which May Be Offered Into Evidence
H	List of Names and Addresses of All Property Owners Within 200 Feet of the Subject Property
I	Example First Source Employment Agreement

CERTIFICATION OF COMPLIANCE
WITH SECTION 3013 OF THE ZONING REGULATIONS

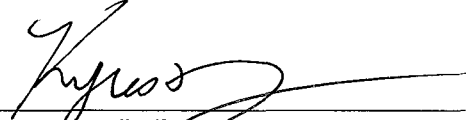
The Applicant hereby certifies that this application, one original and ten copies of which were filed with the Zoning Commission on October 14, 2014, complies with the provisions of Section 3013 of the Zoning Regulations as set forth below, that the application is complete.

<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 B
3013.1(c)	Outline of Testimony of Applicant's Witnesses and Resumes of Experts	Exhibits C-E
	Berkeley Shervin M Street Development Group, LLC	Exhibit C
	David Wahl and Sophia Lau Hickok Cole Architects	Exhibit D
	Erwin Andres Gorove/Slade Associates, Inc.	Exhibit E
	Jeff Lee Lee and Associates, Inc.	Exhibit F
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	Exhibit G
3013.1(g)	Estimated Time Required for Presentation of Applicant's Case	Exhibit B
3013.6(a)	List of Names and Addresses of All Property Owners Within 200 Feet of The Subject Property	Exhibit H

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

I. INTRODUCTION

This Prehearing Statement and the attached documents are submitted by M Street Development Group, LLC and Square 772 Development Group, LLC (together 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 Lots 1, 2, 6, 7, 19, 801, and 802 in Square 772 (collectively the "Subject Property") from the C-M-1 District to the C-3-C District.

The Subject Property has a combined land area of approximately 67,446 square feet. The Subject Property has approximately 329 linear feet of frontage on M Street, N.E., approximately 270 linear feet of frontage on 3rd Street, N.E., and approximately 150 linear feet of frontage on 4th Street, N.E. Square 772 is located in the northeast quadrant of the city and is bounded by N Street to the north, 4th Street to the east, M Street to the south, and 3rd Street to the west.

The Subject Property is presently zoned C-M-1. The Applicant is seeking to rezone the Subject Property to the C-3-C District in connection with this application. The requested map amendment is consistent with the Comprehensive Plan's Future Land Use Map designation of the Subject Property as mixed-use: Medium-Density Commercial, Medium-Density Residential, and Production, Distribution and Repair. The requested map amendment is also consistent with the Comprehensive Plan's Generalized Policy Map designation of the Subject Property as a Land Use Change Area, and is also consistent with the NoMa Small Area Plan's recommendations for the Subject Property.

The Subject Property is currently improved with a warehouse building and associated surface parking, and is surrounded by a variety of uses, including warehouses and charter school facilities to the north, residential uses to the east and south, and industrial and residential uses to the west. The Applicant proposes to raze the non-historic warehouse building in connection with

redevelopment of the Subject Property and to build a mixed-use building composed of retail and residential uses. The building will have an FAR of 6.14 and will include a total of approximately 414,118 square feet of gross floor area. Approximately 401,218 square feet of gross floor area will be devoted to residential use and 9,000 - 12,900 square feet of gross floor area will be devoted to retail use. The building will include 401 residential units (plus or minus 10%) and a total of 175 off street parking spaces located in a below-grade parking garage. The building will be constructed to a maximum height of 110 feet at its highest point, and will step down to approximately 80 feet and 50 feet from west to east.

The Applicant originally filed its application statement and supporting documents with the Commission on October 14, 2014 (the "Initial PUD Submission"). 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.

The Office of Planning, by report dated January 30, 2015, recommended that the Commission schedule a public hearing on the application. At the public meeting on February 9, 2015, the Commission voted to set down the application as a contested case. This Prehearing Submission supplements the Initial PUD Submission and includes the information requested by the Commission and the Office of Planning.

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

At its public meeting of February 9, 2015, 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 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. As indicated in the revised architectural drawing sheets (the “Revised Sheets”) attached hereto as Exhibit A, the Applicant has prepared revised sheets to provide the information requested by the Commission and the Office of Planning. A chart indicating the Applicant’s response to specific comments follows:

	Commission Comment	Action
1.	The Applicant should provide better renderings of the building from the intersections of 3 rd and M Streets and 4 th and M Streets, N.E.	As shown on Sheets A05, A07, A10, and A11 of the Revised Sheets, the Applicant has prepared renderings of the building from the intersections of 3 rd and M Streets, N.E. and 4 th and M Streets, N.E. As shown on these sheets, the building has been designed with high quality materials and architectural articulation that provide visual interest.
2.	The Applicant should consider increasing the affordability commitment.	The Applicant has reviewed the feasibility of increasing the project’s affordability commitment. However, given the substantial benefits and amenities being provided by the project, which have been developed in coordination with neighborhood residents and ANC 6C, the Applicant is unable to increase the proffered affordability commitment. The Applicant notes that the Subject Property’s existing zoning does not permit any residential use as a matter-of-right. Therefore, all of the housing and affordable housing proposed for the Subject Property should be treated as a project amenity pursuant to section 2403.9(f) of the Zoning Regulations, which states that “housing provided in compliance with § 2603 shall not be considered a public benefit except to the extent it exceeds what would have been required through matter-of-right development under existing zoning.” (See, e.g. Z.C. Order No. 12-02, stating that “[g]iven that the majority of the PUD Site is currently zoned C-M-2, no new housing or affordable housing can be constructed on approximately 96% of the site. Thus, the Applicant's proposal to

		rezone the site will result in 196,029 square feet of new residential use, which is an amenity, including 16 new units devoted to affordable housing which is also an amenity.” <i>See also</i> Z.C. Order No. 13-12, stating “[t]he PUD has the following benefits and amenities in the areas of housing and affordable housing (§ 2403.9(f)): The PUD will bring approximately 673 new residential units on a site where none is required through a matter-of-right development under the existing zoning.”) Thus, the substantial amount of housing and affordable housing proposed for the Subject Property constitutes a significant public benefit in this case because the existing zoning for the Subject Property does not permit <i>any</i> new housing.
3.	The Applicant should provide additional roof plans and perspectives.	As shown on Sheets A01-A04, of the Revised Sheets, the Applicant provided additional plans and perspectives of the roof. The building includes two roof structures on the roof of the 9 th level of the building, and two roof structures on the upper roof of the western wing of the building. The roof structures on the 9 th level enclose mechanical equipment and a stair tower; the roof structures on the upper roof enclose mechanical equipment, stair towers, elevators, and residential amenity space.

	Office of Planning Comment	Action
1.	The Applicant should provide further justification for the areas of flexibility requested.	As described in the Statement of the Applicant (Exhibit 4), the Applicant requests zoning flexibility from the side yard, loading, and roof structure requirements. First, the Applicant cannot provide a compliant side yard to the north of the building because doing so would create an extremely wide alley entrance and an unfettered view of the rear of

		buildings beyond, and would also require repositioning the building's density to M Street, which would increase building height closest to the existing townhomes. Second, the Applicant is providing two 30-foot loading berths instead of the required 55-foot loading berth. The Applicant cannot fit a 55-foot berth on the site, accessed from the public alley, because doing so would interfere with the location of the ramp to the parking garage, service corridors, and egress pathways. Moreover, given the nature and size of the residential units, it is unlikely that the building will be served by 55-foot trucks. Finally, the Applicant is providing multiple roof structures that are not setback 1:1 from all exterior walls, and one roof structure will have walls of unequal heights. However, each roof structure is a necessary feature to the building. The structures have been separated due to the building code requirement for separation of egress, and the greatest setbacks have been provided given the size of the roofs and the internal configuration of the building. The roof plan as proposed will not adversely impact the light and air of adjacent buildings since each element has been designed and located to minimize its visibility.
2.	The Applicant should provide an explanation of the intended use of what appears to be an enclosed penthouse-level open space (Sheet A-26).	As shown on Sheets A01-A04 of the Revised Sheets, and as described above, the roof structures enclose mechanical equipment, stair towers, and elevators. The southern roof structure on the upper roof also encloses a residential amenity space, which will incorporate a small kitchen and furniture for scheduled events.
3.	The Applicant should provide more information about potential alternative locations for bicycle parking spaces on the upper garage level.	The Applicant has incorporated a mezzanine level between the ground floor and the P1 level that will accommodate a bicycle storage room for approximately 100 bicycles. The northern-most portion of the ground floor will also accommodate a bicycle storage room for

		approximately 36 bicycles, with access from 3 rd Street.
4.	The Applicant should clarify its commitment to a bikeshare station proffer.	The Applicant's traffic consultant is working with DDOT to provide an updated transportation report for the project. The report will include data on the project's bicycle facilities and will indicate the type of transportation demand management ("TDM") measures that are necessary for the project. The Applicant will submit its official transportation report no less than 45 days prior to the public hearing.
5.	The Applicant should clarify the square footage totals for the different types of green roofs.	As shown on Sheet A12 of the Revised Sheets, the Applicant is providing approximately 9,978 square feet of green space on 9 th level roof (57% green space), and approximately 4,165 square feet of green space on the upper roof (31% green space). The Applicant is also providing approximately 5,450 square feet of green space in the ground floor courtyard (49% green space), and approximately 5,002 square feet of green space at the second level (69% green space).
6.	The Applicant should clarify and enhance the community benefits proffers.	The PUD includes project amenities and public benefits that adequately balance and reconcile any potential adverse effects. <i>See</i> 11 DCMR § 2403.8. The PUD incorporates housing and affordable housing (§ 2403.9(f)), transportation and parking amenities (§ 2403.9(c)), enhanced streetscape improvements (§ 2403.9(a-b)), and significant sustainability features (§ 2403.9(h)). The proposed development is a major improvement over the Subject Property's current improvements, which include a warehouse building and associated surface parking. The Applicant is currently working with ANC 6C to incorporate additional benefits of special value to the neighborhood, and will submit a more detailed list of proffers at least 20 days prior to the public hearing.

		Moreover, the Subject Property's existing zoning (C-M-1) is inconsistent with the Future Land Use Map's designation for the Subject Property as mixed-use Medium Density Commercial, Medium Density Residential, and Production, Distribution, and Repair uses. The C-M-1 District is intended to provide sites for heavy commercial and light manufacturing activities. 11 DCMR § 800.1. In contrast, the proposed C-3-C District is designed to provide medium to high-density development, including office, retail, housing, and mixed-use development. 11 DCMR § 740.8. The proposed C-3-C zoning will enable the Subject Property to be redeveloped with a mix of uses, consistent with its designation on the Future Land Use Map, and to a density of 6.14 FAR, which is consistent with the density permitted in medium-density commercial zones (the C-3-C District permits 6.5 FAR as a base density (§ 771.2), 7.8 FAR with the Inclusionary Zoning bonus density, and up to 8.0 FAR as a PUD (§ 2405.2)). Furthermore, since residential use is presently not permitted on the Subject Property, the Applicant believes that the entire residential component of the project should be considered an amenity, pursuant to section 2403.9(f) of the Zoning Regulations.
7.	The Applicant should provide a written commitment to signing a First Source Agreement.	Prior to obtaining a building permit, the Applicant will submit to DCRA an executed First Source Employment Agreement consistent with the First Source Employment Agreement Act of 1984 and the Apprenticeship Requirements Amendment Act of 2004, and in substantially the same form as the First Source Employment Agreement attached hereto as <u>Exhibit I</u>.
8.	The Applicant should provide public space design revisions, if needed.	Prior to filing the initial PUD application, the Applicant met with DDOT to review the project's public space design features. The Applicant will continue to work with DDOT on the final design of elements within public

		space, with final layout and design subject to review and approval by DDOT's public space committee.
9.	The Applicant should submit a report on traffic, parking, and TDM studies and plans.	The Applicant's traffic consultant is working with DDOT to provide an updated transportation report for the project. The report will include data on the project's vehicle trip generation, site access and loading, roadway and streetscape improvements, transit networks, bicycle and pedestrian facilities, and parking availability. The report will also indicate the necessary TDM measures. The Applicant will submit its official transportation report no less than 45 days prior to the public hearing.
10.	The Applicant should provide the following information to more fully evaluate the design: a. Penthouse design, cladding, openings, and interior equipment; and perspective views of the roofs to understand the relationships among the roof structures, pergolas, shading areas, mechanical equipment, etc.; b. Conceptual signage plans for the first floor retail spaces; and c. Consideration of possible enhancements of the portion of the façade and landscaping that terminates the northern view from Abbey Place.	As requested, the Applicant has provided the following information to more fully evaluate the building design: a. As shown on Sheets A01-A04 of the Revised Sheets, and as described above, the Applicant has provided more detailed drawings of the penthouse design and the relationships among the roof structures and equipment. b. As shown on Sheet A06 of the Revised Sheets, the Applicant has provided conceptual signage plans for the first floor retail spaces. As shown on this sheet, retail signage will be located above the canopies at the ground level. The final signage location, size, and design will be determined based upon retailer needs and will comply with applicable D.C. Signage Regulations. c. As shown on Sheets A08-A-9 of the Revised Sheets, the Applicant has enhanced the façade and landscaping at the terminus of Abbey Place, and proposes to install a sculpture in this location. The final location, size, and design of the proposed sculpture will

		be determined based upon artist specifications and will be subject to final review and approval by DDOT for any elements located in public space.
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III. ADDITIONAL REQUIREMENTS OF SEC. 3013 OF THE ZONING REGULATIONS

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

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

B. 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 C through F.

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

In accordance with section 3013.1(f) of the Zoning Regulations, and attached hereto as Exhibit G, the Applicant provided a list of maps, plans, and other documents that are readily available to the general public and which may be offered into evidence at the public hearing.

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

In accordance with section 3013.1(g) of the Zoning Regulations, the estimated time for the presentation of the Applicant's case is sixty (60) minutes.

E. 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 Subject Property is attached as Exhibit H.

IV. 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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