

**THE HIGHLINE
AT UNION MARKET
320 Florida Avenue, N.E.**

Z.C. Case No. 15-01

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

April 3, 2015

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DEVELOPMENT TEAM

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c/o Level 2 Development
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Washington, DC 20009

Architect: Eric Colbert & Associates PC
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Landscape Architect: Lee and Associates, Inc.
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LIST OF EXHIBITS

Exhibit	Description
A	Revised Architectural Plans and Elevations (attached separately)
B	List of the Applicant's Witnesses and Estimated Time Required For Presentation of Applicant's Case
C	Outline of Testimony of David Franco on behalf of Level 2 Development
D	Outline of Testimony and Resume of Eric Colbert on behalf of Eric Colbert & Associates PC
E	Outline of Testimony and Resume of Erwin N. Andres, on behalf of Gorove/Slade
F	List of Maps, Plans or Other Documents Readily Available To The Public, Which May Be Offered Into Evidence
G	List of Names and Addresses of All Property Owners Within 200 Feet of the Subject 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 January 28, 2015, 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
	David Franco Level 2 Development	Exhibit C
	Eric Colbert Eric Colbert & Associates PC	Exhibit D
	Erwin Andres Gorove/Slade Associates, Inc.	Exhibit E
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 F
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 G

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

A handwritten signature in black ink, appearing to read "Kyrus L. Freeman", written over a horizontal line.

By: _____
Kyrus L. Freeman

I. INTRODUCTION

This Prehearing Statement and the attached documents are submitted by Level 2 Development (the "Applicant"), on behalf of 320 Florida Owner, LLC (the "Owner"), 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 Lot 4 in Square 3587 (the "Subject Property") from the C-M-1 District to the C-3-C District.

The Subject Property has a land area of approximately 28,394 square feet. The Subject Property is an irregularly-shaped rectangular lot with approximately 246 linear feet of frontage on Florida Avenue, N.E. to the southwest and otherwise bounded by private property to the north, east, and west. Square 3587 is bounded by New York Avenue, N.E. to the north, private property and 4th Street, N.E. to the east, Florida Avenue, N.E. to the southwest, and the Amtrak and WMATA rail lines 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 High-Density Commercial, High-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 Multi-Neighborhood Center, and is also consistent with the Florida Avenue Market Study ("FAMS") recommendations for high density development at the Subject Property and the immediate area.

The Applicant is seeking consolidated PUD approval and a zoning map amendment to develop a mixed-use building composed of retail and residential uses, to be known as The Highline at Union Market. The building will have a density of 8.0 floor area ratio ("FAR") and

will include a total of approximately 227,089 square feet of gross floor area. Approximately 218,617 square feet of gross floor area will be devoted to residential use and approximately 8,472 square feet of gross floor area will be devoted to ground floor retail use. Of the total gross floor area of housing, including square feet devoted to residential units on the penthouse level, the Applicant will dedicate eight percent as affordable housing, which will significantly add to the District's affordable housing supply. The building will include 315 residential units (plus or minus ten percent) and a total of 143 off-street parking spaces located in a below-grade parking garage. The building will be constructed to a maximum height of 120 feet at its highest point, as measured from the top of the curb opposite the middle of the front of the building to the highest point of the main roof.

The Applicant originally filed its application statement and supporting documents with the Commission on January 28, 2015 (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 March 9, 2015, recommended that the Commission schedule a public hearing on the application. At the public meeting on March 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 March 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 shown on the Revised Architectural Plans and Elevations ("Revised Plans") attached hereto as Exhibit A, the Applicant 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 design responds to the specific comments follows:

	Commission Comment	Action
1.	The Applicant should provide additional drawings, including a rendering of the residential entrance.	As shown on Sheets A14-18 and A21 of the Revised Plans, the Applicant prepared additional renderings, elevations, and perspectives of the building. For example, a revised rendering showing the residential entrance is included on Sheet A14; revised elevations are included on Sheets A15-18; and new perspectives of the building's entrance are included on Sheet A21.
2.	The Applicant should study the design of the east façade of the proposed building.	As shown on Sheet A18 of the Revised Plans, the Applicant added at-risk windows to the east façade to make this elevation appear more open and consistent with the overall design of the proposed building.
3.	The Applicant should provide additional roof plans and sections.	The Applicant has refined the design of the roof such that the proposed roof structure does not exceed 20 feet in height and is setback 1:1 from the building's exterior walls to the east, west, and south. The north (rear) of the building does not exceed 20 feet in height; however, zoning relief is requested from the 1:1 setback requirement. As shown on the Revised Plans, the Applicant made the following specific changes to the roof: • Sheet A22 shows revised sections through the penthouse; • Sheets A23-24 show new aerial views of the roof from various angles;

		• Sheet 33 shows a revised penthouse plan with the interior amenity space facing north and the residential units facing south; • Sheet A34 shows a revised mechanical mezzanine plan showing the upper floor of the penthouse units facing south and east; • Sheet L06 shows revised rooftop sections confirming the 1:1 setbacks.
4.	The Applicant should try to achieve LEED Silver certification.	As shown on Sheet A08 of the Revised Plans, the project will achieve LEED Silver certification with a minimum of 50 points. The Applicant requests flexibility to vary the sustainable design features of the building, provided that the total number of LEED points achievable does not decrease below 50 points.
5.	The Applicant should further describe the proposed use and design features of the public land adjacent to the Subject Property.	The Applicant will dedicate design, construct, and maintain (for a 10 year period) a park and pedestrian pathway located on public property adjacent to the Subject Property (Square 3585, part of Lot 806) at a cost of up to \$600,000. As shown on Sheet L01 of the Revised Plans, the southern-most portion of Lot 806 is adjacent to the Subject Property and will include a public green space and plaza, pedestrian walkway, benches, canopy trees, and lighting. Lot 806 is owned by the District and managed by the Department of General Services (“DGS”). The Applicant is currently in negotiations with DGS regarding the use and maintenance of the southern portion of Lot 806. The Applicant is also in discussions with the adjacent property contract purchaser to continue the pathway to Morse Street.
6.	The Applicant should consider enhancing the project’s affordable housing commitment.	The Applicant proposes to devote eight percent of the PUD’s residential gross floor area to affordable dwelling units. Of the total area devoted to affordable housing, including square feet devoted to residential units on the penthouse level, 10 percent will be devoted to households earning up to 50 percent of the

		area medium income (“AMI”) and 90 percent will be devoted to households earning up to 80 percent of the AMI. This affordable housing proffer is at a deeper subsidy than that required under Chapter 26 of the Zoning Regulations.
7.	The Applicant should increase the public benefits and amenities package to be commensurate with the increase in density.	In reviewing a PUD application, the Zoning Commission is required to “judge, balance, and reconcile the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects.” 11 DCMR § 2403.8. In this case, the proposed public benefits and project amenities are commensurate with the modest development incentives requested. The Subject Property is designated on the Future Land Use Map of the Comprehensive Plan for mixed-use High Density Commercial, High Density Residential, and Production, Distribution, and Repair uses. The Subject Property is currently zoned C-M-1, which 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 existing zoning is inconsistent with the Future Land Use Map designation for the Subject Property. The C-3-C District is fully consistent with the Subject Property’s designation on the Future Land Use Map. The proposed C-3-C zoning classification will enable the Subject Property to be developed as a mixed-use development built to a maximum density of approximately 8.0 FAR, which is consistent with the amount of density permitted in high-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)). Therefore, the

		increase of density requested to achieve 8.0 FAR for this project is nominal, and the public benefits and project amenities are fully commensurate with the requested increase in density.
8.	The Applicant should reduce the amount of flexibility requested.	The Applicant is requesting zoning flexibility from the rear yard, court, compact parking space, loading, and roof structure requirements of the Zoning Regulations, which are areas of zoning flexibility that the Zoning Commission frequently grants for PUD applications. The Applicant is also requesting flexibility from several design standards, such as the location and number of balconies, but not to exceed an increase or decrease in balconies by more than 20%, the design of interior components, the final selection of exterior materials, and the means of achieving LEED points and GAR ratio requirements, all of which the Commission also routinely grants for PUD applications. The Applicant is continuing to refine the details of the project design and will provide updated drawings and a final list of zoning flexibility prior to the public hearing.

	Office of Planning Comment	Action
1.	The Applicant should provide roof plans that better demonstrate the proposed layout, dimensions, uses, and areas of flexibility.	As described above, the Applicant further refined the design of the roof such that all roof structures are 20 feet or less in height and are setback 1:1 from the building's exterior walls to the east, west, and south. The north (rear) of the building does not exceed 20 feet in height; however, zoning relief is requested for the 1:1 setback requirement. As shown on the Revised Plans, the Applicant made the following specific changes to the roof: • Sheet A22 shows revised sections cutting through the penthouse; • Sheets A23-24 show new aerial views of the roof from different angles; • Sheet 33 shows a revised penthouse plan with the interior amenity space

		facing north and the residential units facing south; • Sheet A34 shows the revised penthouse mezzanine plan showing the upper floor of the penthouse units facing south and east; • Sheet L06 shows revised rooftop sections confirming the 1:1 setbacks.
2.	The Applicant should provide more specificity regarding the use, design, and features of the proposed public space, and further describe who will be responsible for the pedestrian pathway.	As described above, the Applicant will dedicate up to \$600,000 for the design, construction, and maintenance of a park and associated pedestrian linkage located on District-owned land adjacent to the Subject Property (Lot 806). As shown on Sheet L01 of the Revised Plans, this area will include a public green space and plaza, pedestrian walkway, benches, canopy trees, and lighting. The Applicant is currently in negotiations with DGS regarding the use, operation, and maintenance of Lot 806. Currently, DGS is proposing to initially offer a license agreement for the intended use and improvements while the Applicant works with neighbors to generate a comprehensive plan and continue the link and green space. Upon implementation of a final plan for green space and pedestrian walkway, DGS may then grant the Applicant up to a 20 year easement for this southern portion of Lot 806, or up to a 50 year easement with DC Council approval. The Applicant is currently evaluating designs to make the pathway ADA-accessible and will supplement the record with additional information and designs prior to the public hearing.
3.	Provide additional detail and specificity with regard to the public benefits and amenities.	See # 7 above. Additionally, the Applicant will be working with DDOT to provide TDM measures. The Applicant will also provide power stations for car stations for car charging capability in up to 5% of garage parking spaces. The Applicant will also make a \$10,000 contribution to a study being commissioned by the NOMA Bid regarding

		improving safety and connections for the Metropolitan Branch Trail.
4.	Clarify which building and development elements are within public space.	As shown on Sheet A27 of the Revised Plans, three Pepco vaults and one bus vault are located in public space in front of the building and, as shown on Sheets A30-33, building projections at the 4 th through penthouse levels are located in public space. All improvements within public space will be subject to review and approval by DDOT.
5.	Provide additional detail regarding the proposed streetscape plan.	As shown on Sheets L01 and L05 of the Revised Plans, the Applicant provided additional detail regarding the streetscape plan. The streetscape will include plantings and pavers, trees, bicycle racks, light fixtures, a handicap ramp, seat wall, and space for a bus stop.

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 E.

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 F, 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 G.

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:

HOLLAND & KNIGHT LLP

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By: _____

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