

Comstock Sixth Street, LLC

Z.C. Case No. 15-04

**PREHEARING STATEMENT
OF THE APPLICANT
TO THE
DISTRICT OF COLUMBIA ZONING COMMISSION
FOR A
CONSOLIDATED PLANNED UNIT DEVELOPMENT
AND ZONING MAP AMENDMENT
AT SQUARE 3788, LOT 814**

May 22, 2015

HOLLAND & KNIGHT LLP
800 17th Street, N.W.
Suite 1100
Washington, D.C. 20006
(202) 955-3000
Dennis R. Hughes

DEVELOPMENT TEAM

Applicant:	Comstock Sixth Street, LLC 1886 Metro Center Drive Fourth Floor Reston, VA 20190
Project Architect:	W.C. Ralston Architects 3684 Centerview Drive Suite 110A Chantilly, VA 20151
Civil Engineer:	Dewberry 2101 Gaither Road Suite 340 Rockville, MD 20858
Traffic Consultant:	Gorove/Slade Associates, Inc. 1140 Connecticut Avenue, NW Suite 600 Washington, DC 20036
Land Use Counsel:	Holland & Knight LLP 800 17 th Street, NW Suite 1100 Washington, DC 20006

TABLE OF CONTENTS

	Page
DEVELOPMENT TEAM.....	I
TABLE OF CONTENTS.....	II
LIST OF EXHIBITS.....	III
<u>CERTIFICATION OF COMPLIANCE WITH SECTION 3013 OF THE ZONING REGULATIONS.....</u>	IV
I. <u>INTRODUCTION</u>	1
II. <u>ISSUES/CONCERNS RAISED BY THE COMMISSION AND THE OFFICE OF PLANNING</u>	3
III. <u>ADDITIONAL REQUIREMENTS OF SEC. 3013 OF THE ZONING REGULATIONS.....</u>	8
A. <u>LIST OF WITNESSES PREPARED TO TESTIFY ON BEHALF OF THE APPLICANT</u>	8
B. <u>SUMMARY OF TESTIMONY OF WITNESSES OR REPORTS AND AREA OF EXPERTISE</u>	8
C. <u>LIST OF MAPS, PLANS OR OTHER DOCUMENTS READILY AVAILABLE</u>	8
D. <u>ESTIMATE OF TIME REQUIRED FOR PRESENTATION OF APPLICANT'S CASE...</u>	8
E. <u>NAMES AND ADDRESSES OF OWNERS OF PROPERTY WITHIN 200 FEET OF PROPERTY</u>	9
IV. <u>CONCLUSION</u>	9

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 John Dapogny on behalf of Comstock Sixth Street, LLC
D	Outline of Testimony of Jeremiah Potter on behalf of W.C. Ralston Architects
E	Outline of Testimony and Resume of Daniel VanPelt on behalf of Gorove/Slade Associates, Inc.
F	Outline of Testimony and Resume of Kevin Mack on behalf of Dewberry
G	Outline of Testimony and Resume of Steven E. Sher of Holland & Knight LLP
H	List of Maps, Plans or Other Documents Readily Available To The Public, Which May Be Offered Into Evidence
I	List of Names and Addresses of All Property Owners Within 200 Feet of the Subject Property
J	Vehicular and Pedestrian Circulation Plan

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 March 4, 2015, complies with the provisions of Section 3013 of the Zoning Regulations as set forth below, that the application is complete.

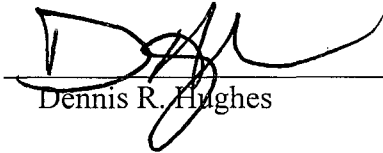
<u>Subsection</u>	<u>Description</u>	<u>Page</u>
3013.1(a)	Information Requested by Zoning Commission and Office of Planning	Pgs. Herein
3013.1(b)	List of Witnesses	Exhibit B
3013.1(c)	Outline of Testimony of Applicant's Witnesses and Resumes of Experts	Exhibits C-G
	John Dapogny Comstock Sixth Street, LLC	Exhibit C
	Jeremiah Potter W.C. Ralston Architects	Exhibit D
	Daniel VanPelt Gorove/Slade Associates, Inc.	Exhibit E
	Kevin Mack Dewberry	Exhibit F
	Steven E. Sher Holland & Knight LLP	Exhibit G
3013.1(e)	Insert Replacement Architectural (A) Drawings Sheets and Fire Access Plan	Exhibit A
3013.1(f)	List of Maps, Plans or other Documents Readily Available That May Be Offered Into Evidence	Exhibit H
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 I

The undersigned HEREBY CERTIFIES that it has complied with the requirements of Section 3013 of the Zoning Regulations. 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:


Dennis R. Hughes

I. INTRODUCTION

This Prehearing Statement and the attached documents are submitted by Comstock Sixth Street, LLC (the "Applicant") in support of its application to the Zoning Commission for the District of Columbia (the "Commission") for the consolidated review and approval of a Planned Unit Development ("PUD") and a related zoning map amendment, from the R-2 and FT/C-M-1 Districts to the R-4 District, for Lot 814 in Square 3788 (the "PUD Site").

The PUD Site consists of approximately 182,600 square feet of land area and is irregularly shaped. The PUD Site is located in the northeast quadrant of the District and is bounded to the north by the Emerson Park townhouse development, to the west by the Capital Area Food Bank, and to the south and east by a number of semi-detached dwellings fronting on 6th Place, N.E. and 7th Street, N.E., respectively. The PUD Site is split-zoned: the western portion is zoned C-M-1 and subject to the Fort Totten ("FT") overlay, and the eastern portion is zoned R-2. The PUD Site is within close walking distance of the Fort Totten Metrorail Station and is located within the boundaries of Advisory Neighborhood Commission ("ANC") 5A.

The Applicant seeks consolidated PUD approval and a related Zoning Map amendment to R-4 in order to establish a new residential use for the PUD Site, in the form of 40 single family row dwellings, each containing a garage for one vehicle and accessed by a private access road to be owned and maintained by a future Homeowners Association ("HOA"). Each dwelling will contain three bedrooms and contain approximately 2,205 to 2,282 square feet of gross floor area, including garage. Additional surface parking for approximately 17 vehicles will be provided throughout the PUD Site. The floor area ratio ("FAR") for the overall site will be approximately 0.49 FAR; the total lot occupancy will be approximately 17 percent; and the maximum building height will not exceed three stories or 40 feet. The PUD Site will be extensively landscaped and provide various outdoor amenities for residents, including a landscaped mews, seating areas, and

a small playground. The project also contemplates a paved and lighted pedestrian and bicycle path across the northern portion of the PUD Site, combined with public space/curb improvements in the neighborhood to the north of the site, with the goal of improving pedestrian connectivity from the PUD Site and properties to the south to the Fort Totten Metrorail Station.

The application is consistent with the District of Columbia Comprehensive Plan, 10A DCMR (the "Comprehensive Plan"). The project supports many of the guiding principles and major elements of the Comprehensive Plan, including the Upper Northeast Area Element, the area of the District in which the PUD Site is located. The application also is consistent with the Comprehensive Plan Future Land Use Map, which designates the PUD Site for Moderate Density Residential uses, and with the Comprehensive Plan Generalized Policy Map, which designates the eastern portion of the PUD Site as a Neighborhood Conservation Area and the western portion of the PUD Site as a Land Use Change Area.

The Zoning Commission previously approved a row dwelling project for the PUD Site in 2007 (Z.C. Order No. 06-26). The approval granted in Z.C. Order No. 06-26 lapsed in 2009. The Applicant, the contract purchaser from the Thos. Somerville Co., longstanding owner of the PUD Site, proposes to redevelop the PUD Site, which has long-served as a storage facility, with a residential use similar to the project previously approved by the Zoning Commission in terms of row dwelling use, overall density, and neo-traditional development principles, but with a more efficient layout, improved architectural treatments, and increased commitment to dedicated affordable housing.

The Applicant originally filed its application statement and supporting documents with the Commission on March 4, 2015 (the "Initial PUD Submission"). The Initial PUD Submission sets

forth in detail the proposed development, project design, and a discussion of how the project meets the applicable review and approval requirements.

The Office of Planning, by report dated April 3, 2015, recommended that the Commission schedule a public hearing on the application. At the public meeting on April 13, 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

As part of the Commission's deliberations during the April 13, 2015 public meeting, the Commissioners requested additional information regarding certain components of the project's design and operation. As shown in the insert replacement set of architectural ("A") drawing sheets and fire access plan ("Revised Sheets") attached hereto as Exhibit A, the Applicant has provided further detailed images of the proposed architectural design for the project as well as made certain revisions to the unit layouts to address the comments received by the Commission. A chart indicating how the project responds to these comments follows:

	Commission Comment	Action
1.	The Applicant should provide additional drawings and views of the proposed development. The drawings should include renderings of the individual units and views showing how the dwellings fit within the neighborhood context. The Applicant should also explain why	As shown on Sheets A1 and A3 of the Revised Sheets, the Applicant has provided detailed renderings of the east-facing perspective of the Mews (Sheet A1) and the rear/access drive perspective (Sheet A3) of the proposed development. Detailed elevations are provided at Sheets A4 and A5. Dormer window are proposed to be provided on certain units to add architectural interest

	some dwellings have windows in the roofline and some do not.	only. Some units are proposed to have front dormers. Others will have rear dormers. Some units will have dormers on both front and rear elevations. Some units will have gable frontages with windows. Finally, some units will not have any rooftop articulation. The Applicant further notes that it has reviewed and addressed the concern raised regarding the bathroom location on the second floor of the units and reconfigured same to provide an opening not on the stair landing. (Sheets A10-A12).
2.	The Applicant should provide additional information on the sustainability features and energy efficiencies of the project.	The project provides a number of environmental benefits and sustainability features, including tree planting and maintenance, extensive landscaping, methods to reduce storm water runoff, and green engineering practices. The project promotes sustainability goals further by utilizing efficient site design to minimize the impervious area for development and providing 91,300 square feet of pervious area, which exceeds the required pervious area of 18,260 square feet, by 73,040 square feet, or 1.68 acres. With respect to energy efficiencies, all of the units, including the units dedicated for inclusionary zoning, will include water-conserving fixtures, Energy Star appliances, Manual J sizing of HVAC systems, Energy Star lighting, low VOC paints, primers, adhesives and sealants, "Green Label" rated carpets, Energy Star exhaust fans, and mold prevention measures.
3.	The Applicant should provide information on the PUD Site's soils/topography and how drainage will be managed throughout the site.	The project incorporates techniques to allow storm water from the site to be discharged directly back into the water table, one of the primary goals of Low Impact Development (LID) design. Storm water will be collected onsite and treated in a variety LID devices including bio-filters and an infiltration trench.

		The infiltration trench will allow storm water to seep down to the bottom of the trench and drain into the water table which reduces runoff from the site. Any storm water runoff will be collected on-site in a storm water conveyance system of structures and pipes that will connect to a storm drain system that has already been installed in anticipation of development of the site, as part of the earlier Zoning Commission approval. That drain system runs underneath and through the Emerson Park townhouse development to the immediate north of the PUD Site but does not connect at all with the storm drain system serving the Emerson Park townhouse development, and connects to the public storm drain on Emerson Street, NE. There is no development planned for the slopes above the neighbors and those slopes will be left undisturbed.
4.	The Applicant should provide a transportation analysis and circulation plan that specifically describes (i) vehicular and pedestrian traffic circulation in neighborhood, (ii) how vehicles, pedestrians, and bicycles are going to access the PUD Site, and (iii) where visitors will pull-up and enter the dwellings.	Per the Commission's request, the Applicant has engaged Gorove/Slade to undertake an extensive analysis of transportation aspects relating to the project. A vehicular and pedestrian circulation plan within the neighborhood is included at Exhibit J. The Applicant will include its comprehensive transportation analysis in a subsequent filing to the Commission not less than 20 days prior to the public hearing.
5.	The Applicant should seek input from the D.C. Police Department and the Fire and EMS ("FEMS") Department to ensure the safety/security of residents and obtain confirmation that emergency vehicles can access the PUD Site.	Per the Commission's request, the Applicant has initiated discussions with both the Metropolitan Police Department and FEMS regarding security as well as emergency access. To that end, on May 2, 2015, the Applicant met with Lieutenant Herbert S. Taylor at the Office of the Fire Marshall, 1100 4th St, SW, to submit plans for the project and request a review by their office of the project regarding public safety concerns. Lieutenant Taylor said that the plan would be reviewed at a later date and Applicant would be contacted

		if additional information was required for their review. The Applicant met on April 21, 2015, with officers at Metropolitan Police Department, Fourth District Station, 6001 Georgia Avenue, NW, Washington, DC 20011 and submitted plans for the Project and a letter requesting that the proposed plans be reviewed for public safety concerns. The Applicant will continue to coordinate with these departments and will provide the Commission any updates received. The Applicant has included at Attachment A (Sheet C-12) a Fire Access Plan demonstrating that the private access drive is sufficiently configured to allow clear access for FEMS vehicles, including large 47' foot ladder trucks.
--	--	---

In its April 3 setdown report, the Office of Planning noted that the Applicant was requesting flexibility pursuant to section 2516 of the Zoning Regulation to allow multiple buildings on a single record lot. Further, the Applicant proposes subdivision into theoretical lots based on lack of public street frontage for the row buildings, pursuant to section 2516.5. The Office of Planning requested that the Applicant clarify the requested areas of flexibility.

The PUD process was created to allow greater flexibility in planning and design than may be possible under conventional zoning procedures. Under section 2405.7 of the Zoning Regulations, the Zoning Commission may approve any use that is permitted as a special exception or that would otherwise require the approval of the Board of Zoning Adjustment. Further, section 2405.8 provides that the Zoning Commission is not required to apply the special exception standards normally applied by the Board. As noted above, consistent with section

2516 of the Zoning Regulations, the project involves the siting of multiple buildings on a single record lot. Because the buildings in the project will have no public street frontage, the Applicant must divide the lots into theoretical building sites. Owing to the configuration and topography of the PUD Site, including the extensive slopes along its northern and eastern edges, the development footprint for the overall 4.2 acre site is comparatively tight. The Applicant has proposed an efficient and clearly organized site plan given these constraints with the front elevations of the units facing toward landscaped areas and the rear/service elevations facing a circular private access road. Section 2516.6(a) requires that the area of land forming a covenanted means of ingress or egress shall not be included in the area of any theoretical lot or in any required yard. Pursuant to section 404.1, a 20 foot rear yard is required in the R-4 Districts. While the Applicant is proposing rear yards for its theoretical lots measuring between 20 and 38 feet in depth, the private access road crosses portion of certain of these required yards. Please see Sheets C-02 and C-03 of the plans submitted as part of the Initial PUD Submission. For this reason, the Applicant requests flexibility with respect to section 2516.6, pursuant to the Commission's authority under §2405.4.

The Applicant has made every effort to provide a significant level of detail in the drawings. Nonetheless, some additional flexibility may be necessary that cannot be anticipated at this time. Specifically, the Applicant requests additional flexibility in the following areas: (1) to vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the buildings; (2) to vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of materials; (3) to make minor refinements to

exterior details and dimensions, including belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit; (4) to vary the location and arrangement of parking spaces so long as the number of spaces is not reduced; and (5) to vary the final selection of landscaping materials to provide equivalent plant material dependent on market availability.

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 section 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 section 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 G.

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 H, 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 I.

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

By: 
Dennis R. Hughes
800 17th Street, N.W.
Suite 1100
Washington, D.C. 20006
(202) 955-3000