

**DC Water
Office Building Headquarters
Z.C. Case No. 15-14**

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

AUGUST 14, 2015

HOLLAND & KNIGHT LLP
800 17th Street, N.W.
Suite 1100
Washington, D.C. 20006
(202) 955-3000
Kyrus L. Freeman, Esq.
Jessica R. Bloomfield, Esq.

DEVELOPMENT TEAM

Applicant:	DC Water and Sewer Authority 5000 Overlook Avenue, S.W. Washington, DC 20032
Architect:	SmithGroup JJR 1700 New York Avenue, N.W. Washington, DC 20006
Landscape Architect:	Oehme, van Sweden & Associates 800 G Street, S.E. Washington, DC 20003
Civil Engineer:	Wiles Mensch Corporation 11860 Sunrise Valley Drive Suite 200 Reston, VA 20191
Traffic Consultant:	Gorove/Slade Associates, Inc. 1140 Connecticut Avenue, N.W. Suite 600 Washington, DC 20036
Land Use Counsel:	Holland & Knight LLP 800 17th Street, N.W. Suite 1100 Washington, DC 20006

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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 and Biography of George Hawkins on behalf of the Applicant
D	Outline of Testimony and Resume of Sven Shockey on behalf of SmithGroup JRR
E	Outline of Testimony and Resume of Erwin Andres on behalf of Gorove/Slade Associates, Inc.
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
H	Comprehensive Transportation Review Form
I	DC Water Security Constraints Memorandum
J	Analysis of Public Benefits and Project Amenities for the PUD (11 DCMR § 2403.9)

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 June 8, 2015, complies with the provisions of subsection 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
	George Hawkins District of Columbia Water and Sewer Authority	Exhibit C
	Sven Shockey SmithGroup JJR	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 subsection 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 District of Columbia (the "District"), as fee owner, by and through the District of Columbia Water and Sewer Authority ("DC Water" or "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 a portion of Lot 805 in Square 744S and a portion of Lot 801 in Square 744SS, as shown on the Plat included in the record at Exhibit 3A (the "Subject Property") from the CG/W-2 District to the CG/CR District.

The Subject Property has a combined land area of approximately 119,875 square feet and is partially improved with surface parking and the O Street Pumping Station, which is a 20,000 gross square foot, two-story brick building operated by DC Water. The Subject Property is bounded by N Place and Canal Street to the north, the Anacostia River to the south, and private property to the east and west, all located in the southeast quadrant of the District.

The Subject Property is presently zoned W-2 and is located in the Capitol Gateway ("CG") Overlay District. The Applicant is seeking to rezone the Subject Property to the CG/CR 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 and Medium-Density Residential. 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. It should be noted, however, that the Subject Property is the location of the O Street Pumping Station and along with the adjacent Main Street Pumping Station, are the two primary untreated sewage hubs routing materials from throughout Washington DC to Blue Plains for processing. These two facilities are centralized choke points

for over 70% of all sanitary sewage and stormwater collected in the DC Water service area. There are no plans to change the primary use of the Subject Property as a sewage pumping station.

The Applicant proposes to build a new office building headquarters for DC Water on the Subject Property, wrapping the pumping station on two sides. Located to the west of the historic Main Pumping Station and to the east of the National's Ballpark, the new headquarters building will be DC Water's most sustainable construction project ever. The building will have an overall density of 1.39 floor area ratio ("FAR") and will include approximately 167,180 square feet of gross floor area. The project will have a maximum building height of 100 feet and will include 20 off-street parking spaces. In addition, there will be 125 temporary parking spaces provided on the land just north of the Subject Property for use by DC Water until such time as the Forest City PUD is implemented. The proposed development will anchor DC Water's new campus along the Anacostia River, which embraces DC Water's relationship to the watershed and reflects DC Water's stewardship of both the natural and built environments.

The Applicant originally filed its application statement and supporting documents with the Commission on June 8, 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.

By report dated July 17, 2015, the Office of Planning recommended that the Commission schedule a public hearing on the application. At the public meeting on July 30, 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 July 30, 2015, the Commission voted to schedule a public hearing for the application. During the Commission's deliberations, the Commissioners requested that the Applicant provide the additional information requested by the Office of Planning ("OP") in OP's July 17, 2015 report. In response, the Applicant has prepared revised architectural drawing sheets (the "Revised Sheets"), which are attached hereto as Exhibit A. A chart indicating the Applicant's response to specific comments follows:

	Comment	Action
1.	The Applicant should provide additional architectural detail and perspectives of the building and its context, including a view looking east from O Street showing the encapsulation of the pumping station by the new building.	As shown on Sheets A410-A421 of the Revised Sheets attached hereto as <u>Exhibit A</u> , the Applicant has provided multiple perspectives of the building and its context. As shown on these sheets, the building has been designed as a world-class headquarters for DC Water that integrates efficient building systems to create a dynamic workplace environment. The building façade is primarily a glass and aluminum curtain wall, which will be calibrated to respond to day lighting, views, and energy efficiency. The project supports the continued operation of the O Street Pumping Station, which will be wrapped on two sides by the new construction to allow containment of the operation beneath and inside the office building.
2.	The Applicant should provide a detailed discussion with illustrations showing how the roof plan meets the Zoning Regulations.	As shown on Sheets A107-A110 of the Revised Sheets, the Applicant has included detailed notes and descriptions indicating how the roof plan meets the applicable sections of the Zoning Regulations.
3.	The Applicant should provide an additional analysis regarding the requested parking relief and transportation demand management ("TDM") program.	The Applicant's traffic consultant is working with DDOT to provide a transportation report for the project. The Applicant has prepared and submitted to DDOT a Comprehensive Transportation Review ("CTR") form, which

		is attached hereto as <u>Exhibit H</u> . The final transportation report will indicate the type of 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.
4.	The Applicant should provide bicycle parking and repair accommodations within the building.	The Applicant cannot provide bicycle parking and repair accommodations within the building due to a variety of site constraints. The Applicant cannot locate bicycle parking below-grade because, as shown on Sheet A101C of the Plans attached hereto, the building does not have any conventional basement or cellar space due to existing DC Water infrastructure beneath and occupying all of the building footprint, such as large diameter sewer lines, tide gates, pumps, generators, and electrical transformers, which prevent any type of below-grade excavation or development. The Applicant also cannot locate bicycle parking on the ground level of the building, since the existing O Street Pumping Station will be incorporated into the new construction and limits usable ground floor space. As a result, the limited ground floor area is devoted to typical office uses. However, as shown on the Revised Sheets, the Applicant will provide adequate outdoor bicycle parking on the Subject Property.
5.	The Applicant should consider providing additional public access to the Subject Property to allow for continued waterfront access while maintaining a secure site.	As shown on the circulation plan included as Sheets A100A.0 and A100B of the Plans, the Applicant's proposed development does not remove any current pedestrian access to the waterfront. Pedestrians can continue to access the waterfront utilizing First Street, S.E. and the existing Riverwalk, and pedestrians will also be able to access the waterfront utilizing 1½ Street, S.E. once that street is constructed and opened by Forest City. DC Water distributes drinking water and collects and treats wastewater for more than 600,000 residential, commercial and

		governmental customers in the District of Columbia. DC Water also provides wholesale wastewater treatment services for a population of 1.6 million in Montgomery and Prince George's counties in Maryland, and Fairfax and Loudoun counties in Virginia. Given the critical role that DC Water plays, the Applicant cannot provide unrestricted, public access on any portion of the Subject Property due to security constraints related to the Subject Property's designation by the Department of Homeland Security ("DHS") as an <u>essential component</u> in supporting the United States government and the people of the District of Columbia, Maryland, and Virginia. <i>See</i> Homeland Security Act of 2002, which directs DHS to ensure the protection of the Nation's critical infrastructure and key resources ("CI/KR").¹ As indicated in the DC Water Security Constraints memorandum attached hereto as <u>Exhibit I</u>, development of the Subject Property must incorporate security measures, including access restrictions, in support of the Federal policies and directives described in footnote 1. The headquarters building will have command leadership staff, finance,
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¹ The Homeland Security Presidential Directive 7 (HSPD-7), of December 17, 2003, directed the Secretary of DHS to establish a national plan, working closely with other Federal departments and agencies, State, local, tribal, and territorial governments, and the private sector, to unify national efforts to protect CI/KR. In addition, the DHS National Infrastructure Protection Plan ("NIPP") was published in 2006 to establish a partnership structure for coordination across 18 CI/KR sectors, and a risk management framework to identify assets, systems, networks and functions whose loss or compromise pose the greatest risk. NIPP identifies the roles and responsibilities of DHS, sector-specific agencies, and private sector partners, and provides the unifying structure for the integration of existing and future CI/KR protection efforts and resiliency strategies into a single national program to achieve this goal. NIPP also supports the prioritization of protection and resiliency initiatives and investments across sectors to ensure that government and private sector resources are applied where they offer the most benefit for mitigating risk by lessening vulnerabilities, deterring threats, and minimizing the consequences of terrorist attacks and other man-made and natural disasters. .

NIPP also meets the requirements of Presidential Policy Directive 21 ("PPD-21"): Critical Infrastructure Security and Resilience, signed in February 2013 which will supersede HSPD-7 once fully implemented. PPD-21 was developed through a collaborative process involving stakeholders from all 16 critical infrastructure sectors, all 50 states, and from all levels of government and industry. It provides a clear call to action to leverage partnerships, innovate for risk management, and focus on outcomes. PPD-21 also requires the Federal government to work with critical infrastructure owners and operators to take proactive steps to manage risk and strengthen the security and resilience of the Nation's critical infrastructure, considering all hazards that could have a debilitating impact on national security, economic stability, public health and safety, or any combination thereof. These efforts are intended to reduce vulnerabilities, minimize consequences, identify and disrupt threats, and hasten response and recovery efforts related to critical infrastructure.

	procurement, and other critical support elements necessary to the successful operations of the organization, which include the delivery of water and the removal of waste. As shown as shown on Sheet A101C of the Plans attached hereto, the entire site includes critical elements on multiple portions of the Subject Property that must be secured at all times. The surrounding property lines, adjacent roads, and walkways all require direct observation and controlled access through a variety of security measures and the creation of 'buffer zone' expansion capabilities when threat levels increase. Given these serious security considerations, people accessing the Subject Property have to be cleared through security at guarded check-points. The Applicant notes that the Subject Property will continue to be used primarily as a sewage pumping station with associated infrastructure above and below grade. This use will remain operational during construction and after the office structure is completed and occupied. The proposed building keeps open the north and west sides of the Subject Property for continued access for removal of waste, replacement and delivery of pumps and other equipment, and for emergency situations. Moreover, all employees at DC Water undergo the following briefings as part of their orientation to the industrial working conditions they are surrounded by: (i) Risk Management Briefing, (ii) Security Briefing, (iii) Emergency Management, and (iv) Safety Briefing. Employees also will participate in regularly scheduled evacuation exercises and will be trained on safety, security, and evacuation procedures for the various operational environments in which they may work. The Subject Property will otherwise remain a pumping station as the primary and controlling use.
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	The OP report states that the Applicant is “unable to provide public access to the waterfront and the proposal may be inconsistent with the policies related to the waterfront,” such as <i>Policy LU 1.2.8-Large Sites and the Waterfront</i>. See OP report, pp. 4 and 10. However, in evaluating a proposed PUD, the Commission is only required to find that the PUD is “not inconsistent” with the Comprehensive Plan as whole. 11 DCMR § 2403.4. There is no requirement that a proposed PUD satisfy each of the Plan’s many goals and policies. <i>Tenley & Cleveland Park Emergency Comm. v. District of Columbia Bd. of Zoning Adjustment</i>, 550 A.2d 331, 338 (D.C. 1988) (recognizing that the Plan’s discrete goals and policies “guide but do not direct” the Commission’s action). A proposed PUD may conflict with various policies within the Comprehensive Plan, and that fact does not preclude the Commission from properly concluding that the proposed PUD is consistent with the Comprehensive Plan as a whole. <i>Guy Durant, et al., v. D.C. Zoning Comm’n</i>, 65 A3d 1161, 1168 (D.C. 2013). Moreover, in assessing whether a proposed PUD is consistent with the Comprehensive Plan, the Commission must necessarily balance the Plan’s “occasionally competing policies and goals.” <i>Id.</i> at 1167. In this case, the Applicant’s, the District’s, and the overall public’s interest in providing a safe and secure facility for the delivery of clean water and the removal of waste exceed the goal of <i>Policy LU-1.2.8</i>. The Subject Property’s use as a pumping station will remain its primary and controlling use, even after the office headquarters construction is complete and the building is occupied. The design and placement of the headquarters office building was done with the knowledge that the pumping station—along with its operational and security needs—would continue to be the primary and controlling use
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		of the Subject Property given that by their very nature, pumping stations of necessity must be secure and must have direct access to the water. Thus, based upon these site-specific constraints, the Commission can still find that the PUD meets the applicable standards for approval and is not inconsistent with the Comprehensive Plan as a whole since the project is consistent with the guiding principles of the Comprehensive Plan, as well as with numerous other policies within the Land Use, Transportation, Environmental Protection, Economic Development, Urban Design, and Infrastructure Elements of the Comprehensive Plan, as explained in detail in Exhibit 3G in the Applicant's Initial PUD Submission and in OP's report.
6.	The Applicant should provide a revised fencing plan with no chain link fencing.	As shown on Sheet L15 of the Revised Sheets, the Applicant has provided a revised fencing plan that includes variety of fencing materials including metal, stainless steel, cable mesh, and architectural screen walls.
7.	The Applicant should provide a refined amenities package commensurate with the requested flexibility.	The proposed development includes a number of public benefits and project amenities that meet the standards of 11 DCMR § 2403.9. A detailed list of how the project meets the applicable standards of 11 DCMR § 2403.9 is attached hereto as <u>Exhibit J</u> . Moreover, as indicated in <u>Exhibit J</u> , the Applicant is currently determining the scope of any additional public benefits and project amenities with the ANC and business improvement district ("BID"), and will submit a more detailed list of proffers at least 20 days prior to the public hearing.

III. ADDITIONAL REQUIREMENTS OF SECTION 3013 OF THE ZONING REGULATIONS

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

In accordance with subsection 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 subsection 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 subsection 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 subsection 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

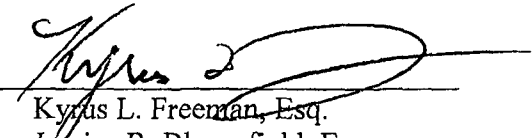
In accordance with subsection 3013.6 of the Zoning Regulations, a list of the names and addresses of the owners of all property located within 200 feet of the Subject Property is attached as Exhibit G.

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

By: 

Kyrus L. Freeman, Esq.
Jessica R. Bloomfield, Esq.
800 17th Street, N.W., Suite 1100
Washington, D.C. 20006
(202) 955-3000