

**Market Terminal
300, 325 and 350 Morse Street, NE**

Z.C. Case No. 15-27

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

May 11, 2016

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Exhibit	Description
A	Supplemental Architectural Plans and Elevations
B	Updated Design Narrative for Buildings A1, B and C1
C	Plat Showing Location of Existing Railway Easements and Location of Proposed DC Water Easement on the Subject Property
D	Proposed Public Benefits and Project Amenities
E	List of the Applicant's Witnesses and Estimated Time Required For Presentation of Applicant's Case
F	Outlines of Witness Testimony
G	Resumes of Expert Witnesses
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

CERTIFICATION OF COMPLIANCE
WITH SECTION 3013 OF THE ZONING REGULATIONS


The Applicant hereby certifies that this application, one original and eight copies of which were filed with the Zoning Commission on May 11, 2016, 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 E
3013.1(c)	Outline of Testimony of Applicant's Witnesses and Resumes of Expert Witnesses Graham Tyrrell Kettler/KF Morse LLC Sacha Rosen R2L:Architects Erwin Andres Gorove/Slade Associates, Inc. Austen Holderness Carr Properties Jeff Barber Gensler	Exhibits F and 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	Exhibit H
3013.1(g)	Estimated Time Required for Presentation of Applicant's Case	Exhibit E
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 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 KF Morse LLC (the "Applicant") in support of its application to the Zoning Commission of the District of Columbia (the "Commission") for consolidated and first-stage review and approval of a Planned Unit Development ("PUD") and a related Zoning Map amendment to rezone a portion of Record Lot 6 in Square 3587 from the C-M-1 District to the C-3-C District.

The property that is subject of this application is located entirely within Record Lot 6 in Square 3587 and consists of Assessment and Taxation ("A&T") Lots 805 and 814 and Condominium Lots 2001-2044. The condominium lots are located on an A&T lot that was previously known as A&T Lot 817. Together, the PUD site (A&T Lots 805, 814, and 817) is referred to herein as the "Subject Property." The remaining portion of Record Lot 6 is known as A&T Lot 819 and is owned by the District. Lot 819 is not included in the PUD application and is not part of the Subject Property. However, the Applicant proposes to undertake improvements to Lot 819 as part of redevelopment of the Subject Property.

The Subject Property is located in Square 3587, which is bounded by New York Avenue, NE to the north, 4th Street, NE to the northeast, Morse Street, NE to the southeast, Florida Avenue to the southwest, and the Amtrak and Metrorail lines to the west. Record Lot 6 in Square 3587 has frontage on New York Avenue, N.E. and Morse Street, N.E. and has approximately 343,030 square feet of land area. The Subject Property has approximately 213,044 square feet of land area. The Subject Property is located in Advisory Neighborhood Commission ("ANC") 5D, and is within Single Member District 5D01.

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 Residential, High-Density Commercial, 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. Moreover, the proposed PUD and map amendment will help to implement the strategic redevelopment goals and visions set forth in the Florida Avenue Market Study ("FAMS"), which envisions the area as a vibrant, mixed-use neighborhood that protects the look and feel of the historic retail markets while also providing a basis for new development and rehabilitation.

The Applicant proposes to redevelop the Subject Property with a mixed-use project comprised of four buildings ("Building A," "Building B," "Building C," and "Building D"), which will include residential, retail, office, and possibly hotel uses (the "Project"). The Project will be constructed in two phases. Phase I (the consolidated PUD) will include the following:

1. The southern portion of Building A ("Building A1"), designated for residential use with ground floor retail;
2. Building B, designated for residential use with ground floor retail; and
3. The southern portion of Building C ("Building C1"), designated for office use with ground floor retail.

Phase II (the first-stage PUD) will include the following:

1. The northern portion of Building A ("Building A2"), designated for residential use with ground floor retail, and the option for hotel use instead of residential use;
2. The northern portion of Building C ("Building C2"), designated for residential use with ground floor retail; and
3. Building D, designated for residential use with ground floor retail.

The Applicant originally filed its application statement and supporting documents with the Commission on October 30, 2015. The original application included architectural plans and elevations showing the proposed project (Exhibits 6A1-6A6), and set 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. On January 15, 2016, the Applicant submitted a revised set of architectural drawings (Exhibits 14A1-14A9) and an updated public benefits and amenities package (Exhibit 14B), which were based on additional meetings with the Office of Planning, the District Department of Transportation (“DDOT”), Advisory Neighborhood Commission (“ANC”) 5D, and other agencies and stakeholders.

The Office of Planning, by report dated April 20, 2016, recommended that the Commission schedule a public hearing on the application. At the public meeting on April 25, 2016, the Commission voted to set down the application as a contested case. This Prehearing Submission supplements the original application submitted on October 30, 2015 and the revised materials submitted on January 15, 2016, 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 April 25, 2015, the Commission voted to schedule a public hearing for the application. During the Commission's deliberations, the Commissioners requested additional information regarding various project components. 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 following chart indicates indicating how the project responds to the specific comments from the Commission and the Office of Planning:

	Commission Comment	Action
1.	<p>Study, and provide additional detail, regarding the project’s architectural design elements, including:</p> <ul style="list-style-type: none"> a. the color scheme for Building A1; b. adding additional balconies, particularly on the low-rise buildings; c. providing additional renderings of the outdoor spaces, eye-level renderings of the project, and information regarding the proposed Gantry Feature; and d. revise the roof plan for the high-rise portion of Building A-1 to meet the setback requirements. 	<p>As shown on the supplemental architectural drawing sheets (the “Supplemental Sheets”) attached hereto as <u>Exhibit A</u>, the Applicant has provided additional renderings and perspectives to address the Zoning Commission’s comments. In addition, an updated design narrative for Buildings A1, B and C1 is attached hereto as <u>Exhibit B</u>. The Applicant is continuing to update the application materials to address the design of the project, and will submit revised architectural drawings showing these updates no later than 20 days prior to the public hearing on this case.</p>
2.	<p>Explain the impact of the project on transportation conditions in the surrounding area, and provide information regarding the phasing of any proposed street openings and closings during development of the project.</p>	<p>The Project includes a number of elements designed to promote effective and safe vehicular, pedestrian, and bicycle movement in and around the Subject Property. The Project also includes sufficient on-site parking and loading facilities to accommodate the proposed mix of uses. Moreover, the Applicant is working closely with DDOT to develop appropriate transportation demand management (“TDM”) measures. As a result, the Project is not anticipated to have any negative impacts on the transportation system surrounding the Subject Property.</p> <p>The Applicant has retained Gorove/Slade Associates as its transportation consultant for the Project, who will submit a full transportation impact analysis to DDOT and the Zoning Commission no later than 20 days prior to the public hearing on this case.</p>

		The transportation impact analysis will also include details regarding the phasing of street openings and closures during development of the project.
3.	Study increasing the affordability proffer for the project.	As requested by the Zoning Commission, the Applicant is studying the feasibility of increasing the affordability proffer for the project. The Applicant will submit its final affordability proffer no later than 20 days prior to the public hearing on this case.
4.	Study increasing the LEED proffer to Gold or higher.	As requested by the Zoning Commission, the Applicant is studying the feasibility of increasing the LEED proffer for the project. The Applicant will submit its final LEED proffer no later than 20 days prior to the public hearing on this case.

	Office of Planning Comment	Action
1.	Additional drawings and renderings are needed to detail the consolidated portion of the PUD and OP notes that the architecture warrants additional attention. The park and the plaza created by the tower and lower Building B need to feel more open and engaged with Florida Avenue. The line of sight to and through this pedestrian park is critical to drawing people up to the western end of the Market. Views should be provided that include the connection to the adjacent project (Z.C. Case No. 15-01) all the way to Florida Avenue.	As shown on the Supplemental Sheets attached hereto as <u>Exhibit A</u> , the Applicant has provided additional renderings and perspectives to address the Zoning Commission's and Office of Planning's comments. The Applicant is continuing to update the application materials to address the design of the project, and will submit revised architectural drawings showing these updates no later than 20 days prior to the public hearing on this case.
2.	Verification that the obligations outlined in the authorization of use letter from DMPED dated April	The Applicant will continue to work closely with DMPED to ensure that DMPED provides the necessary confirmation for the proposed

	20, 2016 have been met. OP will coordinate closely with the Deputy Mayor's office to ensure the condition of the letter prior to making a recommendation at a public hearing.	park amenity on the District land. In the event that the Applicant and DMPED are not able to reach agreement prior to the public hearing, the Applicant will replace this proposed amenity with another amenity of comparable value.
3.	Depiction of railway easements on a plat showing the accurate location and size of the railway easements on the Property. Provide letter(s) from entities who are party to the railway easement that demonstrates their agreement of uses shown in the PUD on and adjacent to the railway easements.	Attached hereto as <u>Exhibit C</u> is a plat depicting the location and size of the railway easements on the Subject Property. The easements were reserved by the Consolidated Rail Corporation ("CRC") in 1983 to provide rail access to a number of existing warehouses on the Subject Property. However, the railway tracks shown on <u>Exhibit C</u> are in disrepair, blocked by fences, are partially buried, and appear to be abandoned. Title documents indicate that CRC only has existing easement rights to Track #1, and that with Track #2 was previously released or not part of the original reservation. The Applicant has contacted CRC to confirm this and to request the release of any and all remaining easements. If this request is not available or only available at an unreasonable cost, the Applicant will leave Track #1 in place and incorporate it into the proposed development.
4.	An easement per DC Water standards for their access and maintenance of a large sewer pipe at the western edge of the Property, where an easement does not currently exist.	Attached hereto as <u>Exhibit C</u> is a plat depicting the location of DC Water's facilities on the Subject Property and the proposed easement area. The Applicant will coordinate with DC Water to ensure that any easements required by DC Water are recorded at the necessary point in the permitting process in order to obtain DC Water approval for issuance of a building permit for building A-1 of the project.
5.	Confirmation if FAR relief is necessary for theoretical Lot C, which has an FAR of 9.27. Note: Overall project FAR is 6.64, under the permitted maximum of 8.0 FAR.	FAR relief is not necessary for theoretical Lot C, which has a proposed density of 9.27 FAR where a maximum density of 8.0 FAR is permitted. Based upon Zoning Administrator determinations for similar project sites, a single theoretical lot may be non-compliant with respect to density, so long as the overall

		development site complies with the density limitations set forth in the Zoning Regulations. The Applicant will submit a letter from the Zoning Administrator confirming this analysis for the Subject Property prior to the public hearing on this case.
6.	Confirmation if relief is needed to provide IZ units required in a Phase 2 building within a Phase 1 building (Building B in Phase 1 is planned to provide 3 IZ units required in Building A2/Phase 2. Note: Building A2 could be hotel use in Phase 2.)	The Applicant will work with the Office of the Attorney General to confirm whether relief is needed to provide IZ units required in a Phase 2 building within a Phase 1 building. If relief is necessary, the Applicant will submit justification for this relief no later than 20 days prior to the public hearing on this case.
7.	Demonstrate on the plans that Neal Place will be open during all phases of the project, even if not constructed with final materials.	The Applicant is in the process of finalizing phasing plans for development of the project, and is also working closely with DDOT to ensure appropriate timing for construction of the streets within the PUD. No later than 20 day prior to the public hearing on this case, the Applicant will finalize its phasing and construction plans to ensure that appropriate vehicular access to and through the Subject Property is provided throughout construction.
8.	Provide rationale for future use conversions, and confirm that both Buildings A2 and D could ultimately be developed both as hotel uses or both as residential, should this flexibility be approved.	<p>The Applicant is seeking flexibility with respect to the use of Building A2 based on market conditions at the time of permitting. This site is included in the first-stage review and will be subject to second-stage approval. The Subject Property is located in a highly dynamic market with a large supply of residential proposed, such that the Applicant seeks the flexibility to be able to provide a hotel use should that produce the highest and best use of the Subject Property.</p> <p>The Applicant is hereby confirming that Building D will be residential only, and thus is no longer requesting flexibility regarding the uses for this building.</p>
9.	More detail on the public benefits and amenities for the project.	Attached hereto as <u>Exhibit D</u> is a detailed listing of the proposed public benefits and project

		amenities associated with the project. As shown on the attached, the project includes a substantial amount of public benefits and project amenities that balance the flexibility being requested in this case. The Applicant will submit any updates to this listing no later than 20 days prior to the public hearing on this case, and will be prepared to describe in detail the appropriateness of the proposed public benefits and project amenities during the public hearing on this application.
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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 E.

B. Summary of Testimony of Witnesses or Reports and Area of Expertise

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

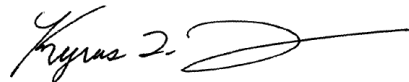
In accordance with section 3013.6 of the Zoning Regulations, a list of the names and addresses of the owners of all property located within two hundred feet (200') of the Subject Property is attached as Exhibit I.

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:  _____

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