

**BEFORE THE
ZONING COMMISSION
FOR THE DISTRICT OF COLUMBIA**

PREHEARING SUBMISSION

Z.C. CASE NO. 20-12

**APPLICATION FOR A CONSOLIDATED
PLANNED UNIT DEVELOPMENT AND ZONING
MAP AMENDMENT**

WESTMINSTER PRESBYTERIAN CHURCH SITE

**400 I STREET, SW
SQUARE 499, LOT 52**

January 14, 2021

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CERTIFICATION OF COMPLIANCE
WITH SUBTITLE Z § 401 OF THE ZONING REGULATIONS

The undersigned hereby certifies that a copy of this Prehearing Submission was filed with the Zoning Commission on January 14, 2021, and, in accordance with Subtitle Z § 401.5, the application shall not be modified less than twenty (20) days prior to the public hearing.

<u>Subtitle Z</u>	<u>Description</u>	<u>Page/Exhibit</u>
401.1(a)	Information requested by the Zoning Commission and the Office of Planning	Pages herein
401.1(b)	List of witnesses prepared to testify on the Applicant's behalf	Exhibit A
401.1(c)	Outlines of witness testimony and resumes of expert witnesses	Exhibit B
401.1(d)	Additional information introduced by the Applicant	Pages herein
401.1(e)	Reduced plan sheets	To be submitted no later than 20 days prior to the hearing
401.1(f)	List of maps, plans, or other documents readily available that may be offered into evidence	Exhibit C
401.1(g)	Estimated time required for presentation of Applicant's case	Exhibit A
401.3(a)	Names and addresses of owners of all Property within 200 feet of the site	Exhibit D
401.8	Report by Traffic Consultant	To be submitted no later than 30 days prior to the hearing

HOLLAND & KNIGHT LLP


Jessica R. Bloomfield

LIST OF EXHIBITS

<u>Description</u>	<u>Exhibit</u>
List of Witnesses and Estimated Time Required For Presentation of Applicant's Case	A
Outlines of Witness Testimony and Resumes for Expert Witnesses	B
List of Maps, Plans, or Other Documents Readily Available that may be Offered into Evidence	C
List of Names and Addresses of All Owners of Property Within 200 feet of the Site	D
Consistency of the Project with the Comprehensive Plan and Southwest Neighborhood Plan	E
Support Letter from Councilmember Charles Allen	F
Support Letter from Councilmember Anita Bonds	G
Support Letter from the Southwest BID	H
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Support Letter from the James Creek Resident Council, Inc.	J
Preliminary List of Conditions Related to Church Programs	K
Letter from the Westminster Presbyterian Church	L
Hearing Fee Calculator Form 116 and Approved DHCD Waiver Request Letter	M

I. INTRODUCTION

This prehearing statement and accompanying documents are submitted on behalf of Westminster Presbyterian Church, Westminster Community Partners, Bozzuto Development Company, and Bozzuto Homes Inc. (collectively, the “Applicant”) in support of its application to the Zoning Commission for the District of Columbia (“Zoning Commission”) for a consolidated planned unit development (“PUD”) and a related Zoning Map amendment from the R-3 zone to the MU-2 zone for property located at 400 I Street, SW (Square 499, Lot 52) (the “Site”).

This application is submitted in accordance with Subtitle X, Chapter 3 of District of Columbia Municipal Regulations, Title 11 of the District of Columbia Municipal Regulations (“11 DCMR” or the “Zoning Regulations”).

II. SUMMARY OF APPLICATION

The Site is currently the home of the Westminster Presbyterian Church (the “Church”). The Applicant proposes to redevelop the Site with a new mixed-use building that will have approximately 214,338 square feet of gross floor area (“GFA”) (7.06 FAR) and a maximum building height of 90 feet. The building will contain approximately 18,513 square feet of GFA devoted to new facilities for the Church, including assembly/congregation space, a kitchen and dining area, conference rooms and offices, and a community and art gallery. The rest of the building will be devoted to approximately 222 residential units, of which approximately 123 units will be senior affordable housing reserved for households earning up to 60% of the Median Family Income (“MFI”) and approximately 99 units will be market-rate. Together with the Church, the proposed development is hereinafter referred to as the “Project”. The Project will be located at an underutilized site in a transit-oriented and mixed-use location in Southwest Washington, DC.

III. SETDOWN RECOMMENDATION

By report dated July 17, 2020, the Office of Planning (“OP”) recommended setdown of the application, and at its public meeting of July 27, 2020, the Zoning Commission voted to schedule the case for a public hearing. Both OP and the Zoning Commission requested that the Applicant submit additional information, which is provided in Sections IV and V below.

In addition to responses to comments from OP and the Zoning Commission, this Prehearing Submission also includes the information required pursuant to Subtitle Z § 401. Accordingly the Applicant requests that the Zoning Commission schedule a public hearing for consideration of this Application.

IV. INFORMATION REQUESTED BY THE ZONING COMMISSION

At its public meeting of July 27, 2020, the Zoning Commission asked the Applicant for additional information. The following chart identifies the Zoning Commission’s comments on the Application and the Applicant’s responses thereto.

Zoning Commission Comment	Applicant’s Response
The Applicant should provide additional analysis confirming that the Project is not inconsistent with the Comprehensive Plan.	<p>As described in the Applicant’s Application Statement and supporting exhibits (Exhibit 3-3K) and the Office of Planning set-down report (Exhibit 11), the proposed PUD and related Zoning Map amendment are not inconsistent with the Comprehensive Plan for the National Capital, including the Site’s land use designation on the current Future Land Use Map (“FLUM”) and the Generalized Policy Map (“GPM”), as supplemented by the Southwest Neighborhood Small Area Plan (“SW Plan”), which was adopted by the D.C. Council on July 14, 2015, pursuant to Resolution PR21-0127. The SW Plan specifically recommends that the Westminster development site is used for medium-density development.</p> <p>The Guidelines for using the FLUM and the GPM (Chapter 2 Framework Element, Section 226, Attachment III) indicate that the maps are intended to provide generalized guidelines for development decisions. They are to be interpreted broadly</p>

	<p>and are not parcel-specific like zoning maps; i.e. the maps, in and of themselves, do not establish detailed density; uses; or support systems such as parking and loading. They are to be interpreted in conjunction with relevant written goals, policies and action items in the Comprehensive Plan text, and further balanced against policies or objectives contained in relevant Small Area Plans and other citywide or area plans.</p> <p>The Applicant’s detailed “<i>Consistency of The Project With The Comprehensive Plan And Southwest Neighborhood Plan</i>” analysis included as Exhibit 3E in the record of this case and reattached hereto as <u>Exhibit E</u> describes how the project is fully consistent with the Comprehensive Plan and related maps.</p> <p>In addition, the proposed PUD and related Zoning Map amendment are not inconsistent with the proposed amendments to the Comprehensive Plan. Specifically, the Comprehensive Plan amendments currently before the Council recommend amending the FLUM to show the site as appropriate for a mix of Medium Density Residential and Low-Density Commercial uses. The DC Council held public hearings on the proposed amendments in November 2020, and the Applicant understands that the DC Council will vote on the proposed amendments in February and March, 2021. Thus, the proposed amendment to the Site would be approved by the time of the public hearing on this application.</p> <p>Moreover, as indicated in the support letters attached hereto as <u>Exhibits F and G</u>, respectively, the proposed PUD has the support of Councilmember Charles Allen, who is the Councilmember for the PUD site, and from Councilmember Anita Bonds, the Chair of the Council’s Housing and Neighborhood Revitalization Committee.</p> <p>In addition, as shown in <u>Exhibits H-J</u>, the proposed PUD also has the support of the Southwest Business Improvement District (SW BID), the Southwest Neighborhood Assembly (SWNA), and the James Creek Resident Council, Inc., respectively.</p>
<p>The Applicant should provide further justification of the proposed affordable housing plan.</p>	<p>As part of the subject application, the Applicant requests a Zoning Map amendment from the R-3 zone to the MU-2 zone.</p>

Under the existing R-3 zone, the IZ requirement would have been 10% of the residential GFA, or approximately 5,468 square feet of GFA devoted to IZ units at 60% of the MFI.¹ However, the Project is exempt from IZ pursuant to 11-C DCMR § 1001.6(a), since the Project will be financed, in part, utilizing tax-exempt bonds and 4% Low Income Housing Tax Credits administered by DCHFA.

Although exempted from the IZ requirements, the Project will provide and greatly exceed the minimum IZ requirement of 5,468 square feet of GFA for an R-3 development at the Site, the Applicant proposes to dedicate approximately 104,640 square feet to affordable units, which is 99,172 square feet more affordable housing than required as a matter of right in the existing R-3 zone. Said differently, whereas only 10% of the residential GFA would be required to be devoted to IZ in the R-3 zone, approximately 52.9% of the residential GFA and penthouse floor area combined will be dedicated to affordable housing at the Project. Moreover, under IZ the Project would only be required to provide 15,835 square feet devoted to IZ units (8% of the residential GFA), whereas the Project is dedicating 104,640 square feet to affordable housing (approximately 52.9% of the residential GFA), which is 88,805 square feet more IZ than is required for the Project.

Specifically, the affordable housing will be provided as follows:

MFI Level	Required IZ R-3 Matter of Right (sf)*	Required IZ in Proposed MU-2 PUD (sf)	Proposed Affordable Housing in Project (sf)	Delta R-3 v. Project (sf)	Delta MU-2 PUD v. Project (sf)
50% (PH)	-	456	456	456	-
60%	5,468	15,379	104,184	98,716	88,805
Total Affordable Housing	5,468	15,835	104,640	99,173	88,805
% of Total Residential	10.0%	8.0%	52.9%	42.9%	44.9%

* The maximum permitted GFA and number of units in the R-3 zone (and the resultant IZ contribution) is based on the Site's land area; maximum SF per lot (1,600 sf for IZ row dwellings); lot occupancy (60% for row dwellings); and number of stories in the R-3 zone.

The Applicant is proposing to locate all of the affordable units in the Project on the eastern portion of the Site in the "Senior Tower" and the market rate units on the western portion of the Site in the "Residential Tower." The units in

¹ The IZ requirement under the existing R-3 zone was generated by assuming a maximum of 54,675 square feet of GFA permitted at the Site, based on the Site's land area, maximum permitted square footage per lot (1,600 square feet for IZ row dwellings), lot occupancy (60% for row dwellings), and the number of stories (three) permitted in the R-3 zone.

the Senior Tower will remain affordable at up to 60% of the MFI for the first 40 years of the Project, after which a minimum of 8% of the residential GFA in the overall Project will be converted to IZ units at 60% MFI, and 8% of the penthouse habitable space in the overall Project will be converted IZ units at 50% MFI.

The overall Project is a single building for zoning purposes, and as stated above the Project is exempt from IZ and the Applicant is dedicating approximately 52.9% of the Project to affordable units, whereas only 8% is required, and therefore the Project significantly exceeds the minimum IZ requirements. The market rate component of the Project subsidizes the Applicant's ability to dedicate the entire Senior Tower as affordable, as well as its ability to construct approximately 18,513 square feet of the building to new facilities for the Church. Accordingly, constructing such a significant number of new affordable units in the Senior Tower would not be possible without development of the market rate Residential Tower separately.

The senior-only component of the Project is authorized by and in direct response to Mayor's Order 2019-036 May 10, 2019. This order provides the "Housing Framework for Equity and Growth" requiring the District to provide for senior housing. The District is committed to "[its] seniors [who] represent the bedrock of our community," and it is committed to providing "safe and affordable places for them to age in place."

The Commission and the Board of Zoning Adjustment have both previously approved other projects that contain senior-only components, which is frequently requested because it is easier to finance and operate a 100% senior project, which has functionally different needs than non-senior buildings. *See, e.g.* Z.C. Case No. 20-09; Z.C, Case No. 16-11; Z.C. Case No. 17-06; BZA Case No. 20158. Similarly, the Commission has approved projects that separate market-rate and affordable housing into separate towers within a single building. *See, e.g.* Z.C. Case No. 14-08, which provided approximately 30% of the Project as affordable housing (whereas 8% was required), all of which was located in "Wing A" and which was financed with Low Income Housing Tax Credits.

	The affordable units will be constructed concurrently with the market rate units and will not be overly concentrated by tenure, dwelling type, or on any floor of the single building, in compliance with 11-C DCMR §§ 1005.4 and 1005.5. The affordable units will be spread on all floors and among all unit types within the Senior Tower. They will be constructed out of the same high quality materials as the market rate units, will have comparable residential amenities as the market rate units, and will be designed by the same architect and built simultaneously by the same construction company as a single building. Accordingly, although all of the affordable units will be located within the Senior Tower, they will be comparable to the market rate units and developed as part of a high-quality and harmonious development project.
The Applicant should further refine the architectural design of the Project.	The Applicant will provide updated Architectural Plans and Elevations incorporating refinements to the architectural design of the Project no later than 20 days prior to the public hearing on this case.

V. INFORMATION REQUESTED BY THE OFFICE OF PLANNING

The following chart identifies the Office of Planning’s comments on the Application and the Applicant’s responses thereto.

OP Comment	Applicant’s Response
The Applicant should provide additional information about the duration of the public benefits related to Church programs, and should provide a “condition-ready” list of Church programs that will be continued or expanded and the duration of the commitment.	Attached hereto as <u>Exhibit K</u> is a preliminary “condition-ready” list of Church programs that will be continued or expanded, and the duration of each commitment. The Applicant may supplement this list no later than 20 days prior to the public hearing.
The Applicant should provide additional information regarding the proposed affordable housing commitment, including: <ul style="list-style-type: none"> • explore alternative approaches to the 	A justification of the Applicant’s affordable housing proposal is included in Section IV. No later than 20 days prior to the public hearing on this case the Applicant will provide updated Architectural Plans and Elevations that clarify the square footages used for the IZ calculations and delineate which units in the Senior Tower will be dedicated as IZ units after expiration of tax exempt/tax credit period.

<p>proposed placement of all of the affordable units in one of the two proposed residential towers;</p> <ul style="list-style-type: none"> • consider including IZ units in the market rate tower or propose an acceptable alternative; • clarify the square footage in each tower – including occupied units in penthouses – that are used in the IZ set-aside calculations; and • delineate on the architectural plans which units would be reserved as IZ units. 	
<p>The Applicant should, in consultation with DDOE:</p> <ul style="list-style-type: none"> • consider designing the building to meet the LEED Gold standard; • indicate what standard the overall building will meet; • provide the square footage and type of proposed green roof(s); and • consider the addition of solar panels. 	<p>The Residential Tower (market rate units) will be certified under LEED and the Senior Tower (affordable units and ground floor Church facilities) will be certified under Enterprise Green Communities, which is the standard certification applicable to affordable projects given the requirements associated with their funding sources.</p> <p>For the Residential Tower, the Applicant is pursuing LEED Silver utilizing LEEDv4. The Applicant notes that Silver under LEEDv4 is effectively equivalent to Gold under LEED 2009, which was an available certification version until recently. There are practical program, design, and cost challenges associated with the Project reaching LEEDv4 Gold. The additional credits needed to go from Silver to Gold are items that are still far from standard practice, making availability, cost, design expertise, construction expertise, ongoing maintenance expertise true hurdles.</p> <p>The Applicant has also explored the feasibility of adding solar panels, but cannot do so for the following reasons:</p> <ul style="list-style-type: none"> • The upper roofs lack adequate space due to rooftop mechanical units;

	<ul style="list-style-type: none"> • Sun path studies show that the low roof will be in shade most of the time throughout the year; and • The relatively small areas of green roof would allow for the installation of solar panels, but the DOEE requirements for installation/clearance would result in a very small number of panels which would generate less than 2% of the building’s energy consumption. <p>The Applicant will provide additional information regarding the sustainability of the Project, including updated LEED and Green Communities checklists, as well as updated information regarding the square footage and type of proposed green roofs no later than 20 days prior to the public hearing on this case.</p>
<p>The Applicant should re-examine aspects of the building’s design, including:</p> <ul style="list-style-type: none"> • the proposed architectural embellishments; • the size/location/lighting of the proposed cross on the east tower; • the absence of balconies or terraces that serve individual units; • simplification of and better integration of the facades for the two towers; • explore design changes that would further modulate the height of the building on I Street; • the south side of the building is relatively flat and plain at the ground level; 	<p>The Applicant will provide updated Architectural Plans and Elevations addressing aspects of the building’s design no later than 20 days prior to the public hearing on this case. The revised drawings will include the following revisions in response to comments from OP, among others:</p> <ul style="list-style-type: none"> • Removing the architectural embellishment on the Residential Tower; • Simplifying the facade of the Residential Tower and better coordinating the colors and materials of both towers to create a more unified and integrated overall project; • Adding balconies to approximately 52% of the affordable units, which will provide access to natural light and fresh air; and • Incorporating bay windows with full height glazing in the residential units. <p>As set forth in the letter from the Church (Ex. 3G in the case record and reattached hereto as <u>Exhibit L</u>), the Church’s highest priority in being part of the redevelopment efforts for the Project was to have assembly space with tall ceilings. The Applicant’s design team was able to achieve this goal while also providing for the functional needs of the other project components by pushing the assembly area to the back of the building between the two towers. Doing so also had the result of highlighting the affordable housing component of the Project, which was also an important goal of the Church in supporting the community. As set forth in its letter, the Church indicated that it does not want to “look like a church” but would rather “be a church.” See <u>Exhibit L</u>, p. 2.</p>

<ul style="list-style-type: none"> • consolidate the two fire control rooms and one pump on the I Street ground floor frontage to provide more transparency on this frontage; • the number and location of laundry features; and • explore the feasibility of providing additional setbacks on the I Street side of the building in furtherance of the transitional nature of the proposed zone. 	<p>Therefore, the proposed building design that incorporates the Church’s primary functions at the rear of the building is fully supportive of the Church’s mission and appropriate for their continued programming at the PUD Site.</p>
<p>The Applicant should provide additional information explaining why the stair towers are located where they are and why they cannot be located so that they can meet setback requirements and not need relief from the penthouse regulations.</p> <p>The Applicant should provide additional information regarding the roof top architectural embellishments to help clarify where a 1:1 setback may be required.</p>	<p>The stair locations have been updated to meet setback requirements. In addition, the architectural embellishment on the Residential Tower has been removed. The Applicant will provide updated Architectural Plans and Elevations reflecting these changes, as well as other design updates, no later than 20 days prior to the public hearing on this case.</p>
<p>The Applicant should explain the programmatic or design needs for why the requested relief to provide 8% more lot occupancy is needed on the ground floor.</p>	<p>Despite exceeding the maximum permitted lot occupancy at the ground level, the Project includes a large interior courtyard, has significant step-backs on the upper floors, has open space between the towers, and will have less FAR than is permitted for a PUD in the MU-2 zone. Accordingly, the Project will not overcrowd the Site or create any adverse impacts. Moreover, the Site is surrounded by public streets to the north and west and a large unimproved parcel of District-owned land to the east and south, which results in unimpeded light and air surrounding the Site.</p>

	<p>Moreover, the ground floor of the building has to be designed to accommodate three distinct uses: (i) the market rate residential uses and associated amenity spaces, including building entries, lobby, mail room, trash facilities, and mechanical spaces, among others; (ii) the affordable residential uses and associated amenity spaces, including building entries, lobby, mail room, leasing office, trash facilities, and mechanical spaces, among others; and (iii) the Church uses and its associated facilities, including building entries, offices and conference rooms, assembly room, dining and kitchen/serving facilities, and gallery space and art studios, among others. Due to the combination of these distinct uses, as opposed to a more traditional building with a single or potentially two uses, the overall Project needs to occupy a greater extent of the ground floor area, thus resulting in non-compliance with the minimum lot occupancy requirements.</p>
<p>The Applicant should explain the programmatic or design needs for the requested rear yard relief.</p>	<p>As described in the Applicant’s Statement in Support of the Application (Ex. 3), a minimum rear yard of 2.5 inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, or 12 feet minimum, is required. The rear yard is not required to be provided for the first 20 feet of height above the mean finished grade. <i>See</i> 11-G DCMR § 305. However, the proposed Project does not have any rear yard thus requiring relief from 11-G DCMR § 305.1.</p> <p>As stated above, the PUD Site is surrounded to the north and west by public streets and to the south and east by a large, irregularly-shaped and vacant District-owned parcel. Accordingly, there will be ample open space on all sides of the Project and the building as designed will not overcrowd the Site or create any adverse impacts as a result of the lack of a rear yard. At the rear of the Site specifically, the District parcel provides approximately 45 feet of open space between the rear wall of the project and the closest nearby property to the south.</p> <p>The Project also includes a large interior court that separates the Residential and Senior Towers that will provide significant light, air, and ventilation, as well as roof decks that provide outdoor areas for residents. As explained above, the ground floor of the building has to be designed to accommodate three distinct uses: the market rate residential</p>

	<p>uses, the affordable residential uses, and the Church uses. Due to the combination of these distinct uses, as opposed to a more traditional building with a single or potentially two uses, the overall Project needs to occupy a greater extent of the ground floor area, thus resulting in non-compliance with the minimum rear yard depth requirements. Accordingly, based on the foregoing, the lack of a rear yard will not result in any adverse impacts given the extensive open space on an surrounding the Site.</p>
<p>The Applicant should propose percentage parameters for the requested flexibility to vary the number of parking spaces.</p>	<p>The Applicant requests design flexibility to vary the number, location, and arrangement of parking spaces, provided that the total number is not reduced below the minimum number of parking spaces required by the Zoning Regulations.</p> <p>This flexibility is consistent with flexibility that the Zoning Commission has previously granted for other PUDs. <i>See, e.g.</i> Z.C. Case No. 18-21, Decision No. A(3)(c); Z.C. Case No. 15-27, Decision No. A(8)(b); Z.C. Case No. 08-07, Decision No. A(4)(b).</p>
<p>The Applicant should consult with the Zoning Administrator to confirm whether relief is needed for the proposed 16% driveway grade and the proposed glass railing atop the NW bay projection.</p>	<p>The Applicant will confirm whether relief is needed for the proposed 16% driveway grade and the proposed glass railing atop the northwest bay projection no later than 20 days prior to the public hearing on this case.</p>
<p>The Applicant should provide signage details, including proposed limits on the size and location, of signage.</p>	<p>The Applicant will provide signage details, including proposed limits on the size and location, of signage no later than 20 days prior to the public hearing on this case.</p>
<p>The Applicant should propose limitations for the requested signage flexibility; there should be limitations regarding the location(s), font, color and message of proposed signage.</p>	<p>The Applicant proposes the following limitations within the requested signage flexibility:</p> <p>To vary the color, font, message, and logo of the approved signage, provided that (i) permanent digital and neon signage shall not be permitted on the exterior of the project; (ii) the maximum overall dimensions and signage materials are consistent with the signage on the plans approved by the order; and (iii) the signage is compliant with the DC signage regulations.</p>

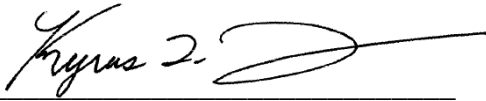
<p>The Applicant should provide an assessment of the building’s impact on the plantings in the linear park to the south of the Project.</p>	<p>The Applicant will provide an assessment of the building’s impact on the plantings in the linear park to the south of the Project no later than 20 days prior to the public hearing on this case.</p>
<p>The Applicant should provide details/preliminary assessment of which proposed improvements in public space would not otherwise be required by the District.</p>	<p>The Applicant will provide more details regarding the proposed public space improvements no later than 20 days prior to the public hearing on this case.</p>
<p>The Applicant should indicate any proposed First Source and/or CBE proffer.</p>	<p>The Applicant will (i) enter into a First Source Employment Agreement with the District Department of Employment Services, consistent with the First Source Employment Agreement Act of 1984; and (ii) enter into a Certified Business Enterprise (“CBE”) Agreement with the District Department of Small and Local Business Development for the affordable housing component of the Project (“Senior Tower”).</p>
<p>File Transportation Report</p>	<p>The Applicant’s transportation consultant will file a transportation report with DDOT no later than 45 days prior to the public hearing.</p> <p>The Applicant will file a copy of this transportation report with the Office of Zoning no later than 30 days prior to the public hearing.</p>
<p>Provide material samples</p>	<p>Material samples will be provided for the public hearing.</p>

VIII. CONCLUSION

This Prehearing Submission along with the original application meets the filing requirements for a consolidated PUD and related Zoning Map amendment, as required by Subtitle X, Chapter 3 and Subtitle Z of the Zoning Regulations. For the reasons set forth in the application and this Prehearing Submission, the Applicant respectfully requests that the Zoning Commission schedule a hearing on the application.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By: 

Kyrus L. Freeman
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