

**BEFORE THE DISTRICT OF COLUMBIA
ZONING COMMISSION**

**PREHEARING STATEMENT
IN SUPPORT OF APPLICATION FOR
CONSOLIDATED PUD & RELATED
MAP AMENDMENT**

**1336 8th Street SPE LLC
Z.C. Case No. 16-24**

March 6, 2017

**Holland & Knight LLP
800 17th Street, NW
Washington, DC 20006
(202) 955-3000**

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

The undersigned hereby certifies that, in accordance with Subtitle Z § 401 of the Zoning Regulations, ten (10) copies of the architectural drawings and two (2) copies of all of the other below information were filed with the Zoning Commission on February 24, 2017; 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 Subsection</u> <u>Page/Exhibit</u>	<u>Description</u>	
401.1(a)	Information requested by the Zoning Commission and the Office of Planning and	Pgs. 5-12
401.1(b)	List of witnesses prepared to testify on the Applicant's behalf	Pg. 13 Exhibit C
401.1(c)	Summary of testimony of witnesses or reports and area of expertise	Pg. 13 Exhibits D-G
401.1(d)	Additional information introduced by the Applicant	Pg. 12
401.1(e)	Reduced plans	Exhibit A
401.1(f)	List of maps, plans, or other documents readily available that may be offered into evidence	Pg. 13 Exhibit H
401.1(g)	Estimated time required for presentation of Applicant's case	Pg. 13
401.3(a)	Names and addresses of owners of all Property within 200 feet of the subject property	Pg. 14 Exhibit I
401.8	Report by Traffic Consultant	Pg. 14
401.2	Agreements with Public Entity or Private Entity	Pg. 8

Respectfully submitted,

HOLLAND & KNIGHT LLP



Leila M. Jackson Batties

LIST OF EXHIBITS

<u>Description</u>	<u>Exhibit</u>
Supplemental Architectural Drawings	A
DMPED Letter in Support of PUD Application	B
List of witnesses prepared to testify on behalf of Applicant	C
Draft outline of testimony of Richard Lake, Roadside Development, LLC	D
Draft outline of testimony of and resume of Robert Sponseller, Shalom Baranes Associates	E
Draft outline of testimony and resume of Lisa Siri, Siri Landscape Architecture LLC	F
Draft outline of testimony and resume of Dan VanPelt Gorove/Slade Associates, Inc.	G
List of maps, plans or other documents readily available that may be offered into testimony	H
Names and addresses of owners of property within 200' of the subject property	I

TABLE OF CONTENTS

Page

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

LIST OF EXHIBITS..... ii

TABLE OF CONTENTS..... iii

I. INTRODUCTION4

 A. Project Overview4

II. SUPPLEMENTAL INFORMATION ON THE APPLICATION.....5

 A. Information Requested by the Zoning Commission5

 B. Information Requested by the Office of Planning7

 C. Additional Information Provided by Applicant12

III. ADDITIONAL REQUIREMENTS OF SUBTITLE Z § 401 OF THE ZONING REGULATIONS.....13

 A. List of Witnesses Prepared to Testify on Behalf of the Applicant13

 B. Summary of Testimony of Witnesses or Reports and Area of Expertise ..13

 C. List of Maps, Plans or Other Documents Readily Available.....13

 D. Estimate of Time Required for Presentation of Applicant's Case.....13

 E. Names and Addresses of Owners of Property Within 200 Feet of the Subject Property14

 F. Report by Traffic Consultant14

IV. CONCLUSION.....14

I. INTRODUCTION

This prehearing statement is submitted by 1336 8th Street SPE LLC (the “Applicant”) on behalf of the District of Columbia, the owner of the property located at 1336 8th Street, N.W. (Square 399, Lot 68) (the “Property”) in support of its application for the consolidated review and approval of a planned unit development (“PUD”) and related Zoning Map amendment to rezone the Property from the MU-4 to the MU-6 Zone. The application for the PUD and related map amendment was filed with the Zoning Commission on November 7, 2016. On February 13, 2017, the Zoning Commission voted unanimously to setdown the application for public hearing. With the filing of this prehearing statement and the accompanying exhibits, the Applicant respectfully requests that this case be scheduled for the next available hearing of the Zoning Commission.

This prehearing statement supplements the original application statement, and addresses the comments raised by the Zoning Commission at its setdown meeting and the comments raised by the Office of Planning (“OP”) in its setdown report dated February 3, 2017. This prehearing statement also includes additional information from the Applicant, including items required under Subtitle Z § 401 of the Zoning Regulations.

A. Project Overview

The Applicant originally proposed to redevelop the Property with a mixed-use development that included approximately 87,248 square feet devoted to residential use, generating approximately 80 units, and approximately 7,980 square feet devoted to non-residential uses, which included approximately 1,240 square feet of space for use by The Church of the Immaculate Conception (the “Church”) (the “Project”). However, in order

to address the comments raised by the Zoning Commission and Office of Planning, the gross floor area of the building will increase. The maximum density of the Project will not exceed 7.2 FAR, which is the maximum permitted for a PUD within the MU-6 Zone. The Project will also have a maximum building height of 98 feet and includes 23 below grade parking spaces¹. Vehicular access to the garage and to the associated loading facilities will be from the public alley immediately west of the Property. The Project has been reviewed and conceptually approved by the Historic Preservation Review Board (“HPRB”).

The development of the Property is subject to the Applicant's Land Disposition and Development Agreement (“LDDA”) with the District, which requires the Applicant to set aside 30% of the total residential units as affordable units. Half of the affordable units will be reserved for households earning up to 50% of the area median income (“AMI”) and half of the affordable units will be reserved for households earning up to 80% of AMI. In accordance with the LDDA, all of the affordable units will be in the multifamily component of the Project.

II. SUPPLEMENTAL INFORMATION ON THE APPLICATION

A. Information Requested by the Zoning Commission

At its meeting on February 13, 2017, the Zoning Commission voted unanimously to set down the Application for public hearing. In its discussion of the Application, the Zoning Commission accepted all of the Office of Planning’s comments and had additional questions and comments about the requested penthouse flexibility, the rear

¹ The Applicant incorrectly stated that 20 parking spaces would be provided for the project in its November 7, 2016, submission.

building façade, and the location of affordable housing. Following are the Applicant's responses to the Zoning Commission's questions and comments.

Penthouse Flexibility

The Commission encouraged the Applicant to redesign the penthouse to meet all of the required setbacks. The Applicant is redesigning the penthouse to meet the required setbacks. The revised drawings will be filed with the Zoning Commission no less than 20 days prior to the public hearing on the Application.

Alley Facing Building Façade

The Commission requested a rendering of the building façade facing the alley. The rendering is provided on Sheet 24 of the architectural drawings filed with the Zoning Commission on November 7, 2016. In response to the Commission's comments, the Applicant is refining some of the building façades and is exploring adding additional windows on the alley facing façade for the Church office. The revised drawings will be filed with the Zoning Commission no less than 20 days prior to the public hearing on the Application.

Location of Affordable Units

The Commission requested clarity regarding the location of the affordable units. In accordance with the LDDA, the number of affordable units will be equal to 30% of all of the residential units in the Project, but all of the affordable units will be located in the multifamily component of the Project. The Applicant provided a preliminary layout for the affordable dwellings units on Sheets 14-17 of the architectural drawings filed with the Zoning Commission on November 7, 2016. An updated affordable unit plan will be filed

with the Zoning Commission no less than 20 days prior to the public hearing on the Application.

B. Information Requested by the Office of Planning

In its setdown report, OP requested that the Applicant address the following prior to the public hearing:

Waiver of Area Requirements under Subtitle X § 301.1

The Property has a land area of approximately 13,306 square feet where a minimum of 15,000 square feet of land area is required pursuant to 11 DCMR Subtitle X § 301.1. The Commission may waive not more than 50% of the minimum area requirements provided: (i) the Commission finds after a public hearing that that development is of exceptional merit and in the best interest of the District or country; and (ii) at least 80% of the gross floor area of the development shall be used exclusively for dwelling units and uses accessory thereto. 11 DCMR Subtitle X § 301.2. As a result, the Applicant respectfully requests a waiver from the minimum land area requirements.

The Project is of exceptional merit and in the best interest of the city. The Project will significantly improve the existing area by replacing a surface parking lot with a mixed-use project that will activate the surrounding streets and is just three blocks from the Mt. Vernon Square/7th Street/Convention Center Metrorail Station. Further, the Project will result in new affordable housing. Under its LDDA with the District, the Applicant is required to set aside multifamily units within the Project equal to 30% of the total residential units as affordable units. Half of the affordable units will be reserved for households earning up to 50% of the median family income (“MFI”) and half of the

affordable units will be reserved for households earning up to 80% of MFI. The amount of floor area that will be set aside for the affordable units is 14,451 square feet, which equals 24.3% of the gross residential floor area for the Project.

At least 80% of the gross floor area of the Project is devoted to residential use. Specifically, 79,268 square feet of the 87,248 square feet of the floor area of the Project -- or 91% -- is devoted to residential use.

Additional details on the benefits and amenities, specifically the management of the specified funds to the community

Subtitle X § 305.3 states that monetary contributions proffered as a public benefit of the PUD shall only be permitted if made to a District government program or if the Applicant agrees that no certificate of occupancy for the PUD may be issued unless the applicant provides proof to the Zoning Administrator that the items or services funded have been or are being provided.

In this case, the Applicant proffers the following two monetary contributions:

- a. A contribution to the District Department of Parks and Recreation in the amount of \$25,000.00 to enhance programming for youth activities at the Kennedy Recreation Center; and
- b. A contribution in the amount of \$100,000 to promote, market and/or attract retail activity in the Shaw neighborhood.

With regard to the latter contribution, the Applicant proffers the following condition:

The Applicant shall contribute \$100,000 to fund events and programs over a two-year period that promote the retail and restaurant venues in the Shaw neighborhood. Confirmation of the monetary contribution and the events/programs that will be funded shall be documented in an agreement between the Applicant and a local organization, which shall be submitted to the Zoning Administrator prior to the issuance of a certificate of occupancy for the retail component of the PUD.

Submission of a Comprehensive transportation review (“CTR”) and transportation demand management (“TDM”) measures

In accordance with Subtitle Z § 401.8 of the Zoning Regulations the Applicant will submit its CTR no later than 30 days prior to the date of the public hearing and will serve a copy of the report on the affected ANC, OP, and the District Department of Transportation (“DDOT”).

Clarification of whether the 5-foot setback for the rear yard adjacent to the 10-foot alley will include an easement for public use

The 5-foot setback will not include an easement for public use. It will be used to help facilitate access to the Project’s loading facilities.

Dimensions for courts and loading facilities

The court dimensions are provided on Sheet 4 and the truck turning diagrams are provided on Sheet 46 of the architectural drawings filed with the Zoning Commission on November 7, 2016. The dimensions of the loading area are included in the architectural drawings attached hereto as **Exhibit A**.

LEED Commitment

The Applicant is committed to achieving LEED Gold certification under the USCBG LEED v2009. The Project has been registered with the USGBC as a LEED v2009 project, registration #1000078356, with an anticipated goal of achieving LEED Gold, v2009. The LEED Certification Checklist is included with the architectural drawings attached hereto as **Exhibit A**.

Flexibility for exterior building materials

In its report, OP states that the changes to the approved materials may require an application for a modification of the PUD if the materials were determined by the Commission to be a significant aspect of the PUD's design. In this case, since the project is located in a historic district and subject to neighborhood considerations by HPRB, OP suggests this concern as significant to the PUD's elements of design. In response, the Applicant amends its request for flexibility to read as follows:

To vary the final selection of the color of the exterior materials, within the color ranges reflected in the approved architectural drawings, without making changes to the exterior materials; and to make minor refinements to exterior details, locations and dimensions, including: window mullions and spandrels, window frames, doorways, glass types, belt courses, sills, bases, cornices, railings, canopies and trim; and any other changes necessary to comply with all applicable District of Columbia laws and regulations or that are otherwise necessary to obtain a final building permit.

Additional information on the request to vary the environmental design features such a GAR and storm water management

In its application statement, the Applicant requested flexibility to vary the features, means and methods of achieving (i) the Code-required GAR of 0.3, and (ii) stormwater retention volume and other requirements under 21 DCMR Chapter 5 and the 2013 Rule on Stormwater Management and Soil Erosion and Sediment Control.

For purposes of the PUD, the Applicant amends this request for flexibility to be limited only to the features, means and methods of achieving the GAR requirement. The GAR score sheet will be included with the architectural drawings submitted to the Zoning Commission no less than 20 days prior to the public hearing on the application. The Applicant will also include a discussion on the types of environmental design features

contemplated for the PUD.

Some of the environmental design features that will help achieve the required GAR include increasing the tree canopy on the Property, vegetated roofs, and utilizing permeable surfaces to reduce the amount of stormwater runoff, improve air quality and reduce urban heat island effect. The Applicant is proposing nine canopy trees with a caliper greater than 2.5 inches, which help reduce runoff through the uptake of rainwater via tree roots. The Applicant is also providing expansive vegetated green roof areas, which occupy over 4,000 square feet. The Applicant will also use wood deck tile and porous concrete for the permeable surfaces of the Project. Wood deck tile pavers manufactured by Bison harvest wood is an environmentally responsible method designed to preserve and enhance the economic viability of rain forest hardwoods, while porous concrete paver systems manufactured by Hanover provide environmental benefits that yield high reflectance and emittance values.

Materials samples

The Applicant will include the proposed exterior materials in the architectural drawings filed with the Commission not less than 20 days prior to the public hearing on the application. The building materials samples will be available at the public hearing.

Explain the mitigation of potential conflicts in alley with other loading functions anticipated by building the at 810 O Street

As shown on the Ground Level Demising Plan on Sheet 13 of the architectural drawings filed on November 7, 2016, the existing public alley is 10 feet wide. The Applicant has pulled the building back five feet from the property line, effectively

widening the alley to 15 feet, in order to accommodate vehicles and parking related activities for the PUD.

The plans for the PUD at 810 O Street, located immediately west of the Property, on the opposite side of the alley, show that building pulled back 10 feet from its property line and does not include an easement for public use. This widening will accommodate loading facilities for that project.

Given the building setbacks for the respective projects, the alley has effectively been widened to 25 feet from the building at 810 O Street and the building for the subject PUD. This allows for additional maneuvering space into and out of the loading areas, and helps facilitate two-way vehicular traffic in this portion of the alley.

Consultation with public space to determine whether projections on the east and north elevation would be permitted

The Applicant is working to address this element of the building design. Updated drawings will be submitted to the Zoning Commission no later than 20 days prior to the public hearing.

C. Additional Information Provided by Applicant

The Office of the Deputy Mayor for Planning and Economic Development recently issued a letter in support of the application. A copy of the letter is attached as **Exhibit B**. The PUD application should be considered by ANC 6E at its public meeting scheduled for March 7, 2017.

**III. ADDITIONAL REQUIREMENTS OF SUBTITLE Z § 401
OF THE ZONING REGULATIONS**

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

In accordance with Subtitle Z § 401.1(b) of the Zoning Regulation, a list of witnesses who may testify at the public hearing on behalf of the Applicant is attached as **Exhibit C**. The Applicant will offer the following persons as expert witnesses:

1. Robert Sponseller, Shalom Baranes Associates
2. Lisa Siri, Siri Landscape Architecture, LLC
3. Dan VanPelt, Gorove/Slade Associates

Ms. Siri has not been accepted previously as an expert witness by the Zoning Commission.

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

In accordance with Subtitle Z § 401.1(c) of the Zoning Regulations, outlines of the testimony of all witnesses or of the written report and the area of expertise of any expert who may be called to testify at the public hearing are attached as **Exhibits D through G**.

C. List of Maps, Plans or Other Documents Readily Available

In accordance with Subtitle Z § 401.1(f) of the Zoning Regulations, a list of the maps, plans, or other documents that are readily available to the general public and that may be offered into evidence at the public hearing is attached as **Exhibit H**.

D. Estimate of Time Required for Presentation of Applicant's Case

In accordance with Subtitle Z § 401.1(g) of the Zoning Regulations, the estimated time for the presentation of the Applicant's case is 45 minutes, subject to the decision of the presiding officer at the public hearing.

E. Names and Addresses of Owners of Property Within 200 Feet of the Subject Property

In accordance with Subtitle Z § 401.3(a) of the Zoning Regulations, a list of the names and addresses of the owners of all of the property located within two hundred feet (200') of the Property is attached as **Exhibit I**.

F. Report by Traffic Consultant

As stated above and on accordance with Subtitle Z § 401.8 of the Zoning Regulations, the traffic report for the PUD will be filed with the Zoning Commission at least 30 days prior to the public hearing.

IV. CONCLUSION

In accordance with Subtitle Z § 401.8 of the Zoning Regulations, this prehearing statement is submitted by 1336 8th Street SPE LLC, on behalf of the District of Columbia, in order to provide additional information in support of its Z.C. Case No. 16-24. We respectfully request that the application be scheduled for hearing and remain hopeful of the Zoning Commission's favorable consideration of the Application.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By: *Leila M. Jackson Batties*
Leila M. Jackson Batties
Joseph O. Gaon