

Holland & Knight

2099 Pennsylvania Avenue, N.W., Suite 100 | Washington, DC 20006 | T 202.955.3000 | F 202.955.5564
Holland & Knight LLP | www.hklaw.com

July 29, 2011

KYRUS L. FREEMAN
202-862-5978
kyrus.freeman@hklaw.com

RECEIVED
D.C. OFFICE OF ZONING
2011 JUL 29 PM 4:43

VIA HAND DELIVERY

D.C. Zoning Commission
441 4th Street, N.W., Suite 210
Washington, DC 20001

Re: Prehearing Statement for Z.C. Case No. 07-21B (Per Star M Street Partners, LLC –
Modification to PUD @ Square 50)

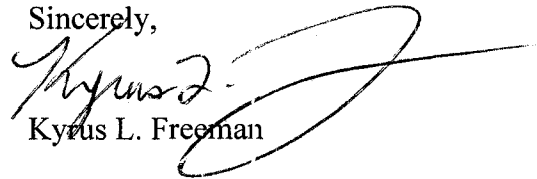
Dear Members of the Commission:

On behalf of PerStar M Street Partners, L.L.C., as Applicant in the above-referenced case, we hereby submit the following in support of Z.C. Case No. 07-21B:

- An original and twenty copies of the prehearing statement in support of the application and supporting exhibits;
- A completed Form 116 and a check in the amount of \$1,777.97 for payment of the hearing fee; and
- Mailing labels for the owners of property within 200 feet of the subject property.

We look forward to the Zoning Commission's favorable consideration of this application.

Sincerely,



Kyrus L. Freeman

Enclosures

cc: Advisory Neighborhood Commission 2A (w/attachments, via U.S. Mail)
West End Citizens Association, c/o Barbara Kahlow (w/attachments, via Hand)
Foggy Bottom Association, c/o Asher Corson (w/attachments, via Hand)
Steve Cochran, D.C. Office of Planning (w/attachments, via Hand)

ZONING COMMISSION
District of Columbia

CASE NO.

07-21B

EXHIBIT NO.

14



BEFORE THE ZONING COMMISSION
OF THE DISTRICT OF COLUMBIA



FORM 116 – HEARING FEE CALCULATOR

Pursuant to §3041 of DCMR Title 11, the following hearing fees shall be paid when the Zoning Commission schedules a public hearing on a petition or application. In the case of a petition or application combining two (2) or more actions on this form, the fee charged shall be the greatest of all the fees computed separately. Please show ALL computations.

A department, office, or agency of the Government of the District of Columbia is not required to pay a hearing fee where the property is owned by the agency and the property is to be occupied for a government building or use.

PLEASE COMPLETE, SIGN, AND RETURN THIS FORM WITH PAYMENT TO THE OFFICE OF ZONING.

MAP AMENDMENT

Pursuant to §3041.1 of DCMR Title 11, if the Commission schedules a public hearing on a petition or application for an amendment to the Zoning Map, prior to advertisement of the hearing, the petitioner/applicant shall pay a hearing fee in accordance with the following schedule:

Petition or Application for Rezoning to any:	Fee	Unit	Total
R-1, R-2, or R-3 District, for each acre (43,560 ft. ²) or part of an acre	\$650.00		
R-4 or R-5-A District, for each acre (43,560 ft. ²) or part of an acre	\$1,625.00		
R-5-B District, for each acre (43,560 ft. ²) or part of an acre	\$3,250.00		
R-5-C, R-5-D, or R-5-E District, for each acre (43,560 ft. ²) or part of an acre	\$6,500.00		
SP, W, or CR District, for each 20,000 ft. ² or part of that area	\$2,600.00		
C-1 or C-2 District, for each 10,000 ft. ² or part of that area	\$1,625.00		
C-3, C-4, or C-5 District, for each 10,000 ft. ² or part of that area	\$3,250.00		
C-M or M District, for each 20,000 ft. ² or part of that area	\$2,600.00		
TOTAL			

Notes:

- For any overlay district, the fee shall be computed in accordance with the requirement for the underlying zone
- The maximum hearing fee for rezoning to any Residence District (R-1, R-2, R-3, R-4, or R-5) is \$50,000
- For an application that proposes rezoning to more than one (1) zone district or is in the alternative, the fee shall be the total of the amounts for the area devoted to each proposed district or alternative computed separately

TEXT AMENDMENT

Pursuant to §3041.3 of DCMR Title 11, if the Commission schedules a public hearing on a petition for an amendment to the text of the Zoning Regulations, prior to the advertisement of the hearing, the petitioner shall pay a hearing fee in accordance with the following schedule:

Petition	Fee	Unit	Total
Each section proposed to be added, deleted, or amended	\$325.00		
TOTAL			

Note:

- The maximum hearing fee for a text amendment to the Zoning Regulations is \$1,300

PLANNED UNIT DEVELOPMENT (PUD), AIR SPACE DEVELOPMENT, OR ANY OTHER REVIEW OF A SPECIFIC SITE PLAN OR BUILDING PLAN

Pursuant to §3041.4 of DCMR Title 11, if the Commission schedules a public hearing on an application for approval of a planned unit development, air space development, or any other action where review of a specific site plan or building plan is required, prior to the advertisement of the hearing, the applicant shall pay a hearing fee in accordance with the following schedule:

Application	Fee	Unit	Total
For each 100 ft. ² of gross floor area (GFA), or part thereof, included in the application devoted to dwelling units, and the immediate area needed to serve that dwelling unit	\$7.00		
For each 100 ft. ² of GFA, or part thereof, included in the application devoted to any use other than a dwelling unit and the immediate area needed to serve that dwelling unit	\$13.00		
TOTAL			

PLEASE CONTINUE TO SIDE TWO OF THIS FORM

Exhibit No. _____

Case No. _____

FORM 116 – HEARING FEE CALCULATOR – Side 2

MODIFICATION TO AN APPROVED PUD, AIR SPACE DEVELOPMENT, OR ANY OTHER REVIEW OF A SPECIFIC SITE PLAN OR BUILDING PLAN

Pursuant to §3041.6 of DCMR Title 11, if the Commission schedules a public hearing on an application for a modification to an approved planned unit development, air space development, or any other review of a specific site or building plan, prior to the advertisement of the hearing, the applicant shall pay a hearing fee in accordance with the following schedule:

Request for Modification	Fee	Total
Modification to a previously approved case	26% of original hearing fee or \$1,300, whichever is greater	\$1,777.97
TOTAL		\$1,777.97

FEE OF PETITION/APPLICATION

Pursuant to §3041.4 of DCMR Title 11, in the case of a petition or application combining two (2) or more actions on this form, the fee charged shall be the greatest of all the fees computed separately. Below, please list the total fee for each action requested and enter the fee of the greatest fee calculated.

Type of Petition/Application	Total
Map Amendment	
Text Amendment	
PUD, air space development, or any other review of a specific site plan or building plan	
Modification to an approved PUD, air space development, or any other review of a specific site or building plan	
GREATEST OF CALCULATED FEES	

CERTIFICATION

I/We certify that the information on this form is true and correct to the best of my/our knowledge, information and belief. Any person(s) using a fictitious name or address and/or knowingly making any false statement on this application/petition is in violation of D.C. Law and subject to a fine of not more than \$1,000 or 180 days imprisonment or both.
(D.C. Official Code § 22 2405)

Name:

Kyrus C Freeman

Signature:

Kyrus C Freeman

Date:

7/29/11

OFFICIAL USE ONLY: Office of Zoning Determination

Based upon review of the petitioner's/applicant's supplemental filing and the information contained on this form:

- ☐ the calculated fee is accepted as submitted
- ☐ the calculated fee requires adjustment (requires new Form 116 – Hearing Fee Calculator Form)

Signature:

Date:



If you need a reasonable accommodation for a disability under the Americans with Disabilities Act (ADA) or Fair Housing Act, please complete a Form 155 - Request for Reasonable Accommodation.

District of Columbia Office of Zoning
441 4th Street, N.W. Ste. 200 S, Washington, D.C. 20001
(202) 727 6311 * (202) 727 6072 fax * www.dcoz.dc.gov * dcoz@dc.gov

**PERSTAR M STREET PARTNERS, LLC
ZONING COMMISISON CASE NO. 07-21B**

**PREHEARING STATEMENT
OF THE APPLICANT
IN SUPPORT OF AN APPLICATION
TO MODIFY A PLANNED UNIT DEVELOPMENT
APPROVED PURSUANT TO ZONING COMMISSION
CASE/ORDER NO. 07-21**

July 29, 2011

HOLLAND & KNIGHT LLP
2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, D.C. 20006
(202) 955-3000
Christopher H. Collins, Esq.
Kyrus L. Freeman, Esq.

2011 JUL 29 PM 4:43

RECEIVED
D.C. OFFICE OF ZONING

DEVELOPMENT TEAM

Applicant:	PerStar M Street Partners, LLC 2099 Pennsylvania Avenue, N.W., Suite 950 Washington, DC 20006
Development Partners:	OTO Development, LLC 340 E. Main Street, Suite 300 Spartanburg, SC 29302 Perseus Realty, LLC 2099 Pennsylvania Avenue, N.W., Suite 950 Washington, DC 20006 Starwood Capital Group 591 West Putnam Avenue Greenwich, CT 06830
Architect:	Shalom Baranes Associates 3299 K Street, N.W., Suite 400 Washington, DC 20007
Civil Engineer:	VIKA Capitol, LLC 4910 Massachusetts Ave, NW Suite 214 Washington, DC 20016
Traffic Consultant:	Wells & Associates, LLC 1420 Springhill Road, Suite 600 McLean, Virginia 22102
Landscape Architect:	Oculus 2410 17th Street, N.W., Suite 201 Washington, DC 20009
Land Use Counsel:	Holland & Knight LLP 2099 Pennsylvania Avenue, N.W., Suite 100 Washington, DC 20006

TABLE OF CONTENTS

	Page
DEVELOPMENT TEAM.....	1
TABLE OF CONTENTS.....	i
LIST OF EXHIBITS.....	ii
CERTIFICATION OF COMPLIANCE WITH SECTION 3013 OF THE ZONING REGULATIONS	1
I. INTRODUCTION	3
II. ISSUES/CONCERNS RAISED BY THE ZONING COMMISSION AND OFFICE OF PLANNING	5
A. Roof Structure Setback and Design	5
B. Coordination with D.C. Department of Transportation and D.C. Department of the Environment.....	5
C. Job Creation	7
D. Ground Floor Retail Use.....	7
III. ADDITIONAL REQUIREMENTS OF SEC. 3013 OF THE ZONING REGULATIONS.....	8
A. List of Witnesses Prepared to Testify on Behalf of the Applicant	8
B. Summary of Testimony of Witnesses or Reports and Area of Expertise	8
C. List of Maps, Plans or Other Documents Readily Available.....	8
D. Estimate of Time Required for Presentation of Applicant's Case.....	9
E. Names and Addresses of Owners of Property Within 200 Feet of Property	9
IV. CONCLUSION.....	10

LIST OF EXHIBITS

Exhibit	Description
A	Revised Architectural Plan Sheets
B	List of the Applicant's Witnesses and Estimated Time Required For Presentation of the Applicant's Case
C	Outline of Testimony and Biography of Mark Adamo, Perseus Realty, LLC
D	Outline of Testimony and Resume of Thomas S. Messervy, P.E., OTO Development, LLC
E	Outline of Testimony and Biography of Robert Geimer, Starwood Capital Group
F	Outline of Testimony and Biography of Shalom Baranes and Patrick Burkhart, Shalom Baranes Associates
G	Outline of Testimony and Biography of Jami L. Milanovich, P.E., Wells & Associates, Inc.
H	Outline of Testimony and Biography of Eric Smart, Eolan Smart Associates, Inc.
I	Outline of Testimony and Resume of Steven E. Sher, Holland & Knight LLP
J	List of Maps, Plans or Other Documents Readily Available to the Public Which May Be Offered Into Evidence
K	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 submission, one original and twenty copies of which were filed with the Zoning Commission on July 29, 2011, complies with the provisions of Section 3013 of the Zoning Regulations as set forth below, and that the submission 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	Exhibit C-I
	Mark Adamo Perseus Realty, LLC	Exhibit C
	Thomas S. Messervy, P.E. OTO Development, LLC	Exhibit D
	Robert Geimer Starwood Capital Group	Exhibit E
	Shalom Baranes/Patrick Burkhart Shalom Baranes Associates	Exhibit F
	Jami L. Milanovich, P.E. Wells & Associates, Inc.	Exhibit G
	Eric Smart Bolan Smart Associates, Inc.	Exhibit H
	Steven E. Sher Holland & Knight LLP	Exhibit I
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 J
3013.1(g)	Estimated Time Required for Presentation	Exhibit B

of Applicant's Case

3013.6(a)

List of Names and Addresses of All
Property Owners Within 200 Feet of
The Subject Property

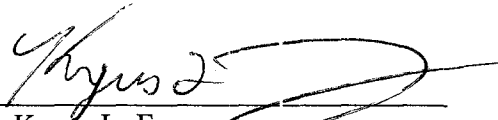
Exhibit K

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

PerStar M Street Partners LLC (the "Applicant"), the owner of record of Lot 87 (former Lots 82, 84, 813, 814 and 816) in Square 50 (the "Subject Property"), submits this Prehearing Statement and the attached documents in support of its application to the Zoning Commission of the District of Columbia (the "Zoning Commission" or "Commission") for modifications to an approved Planned Unit Development ("PUD").

The Subject Property has a land area of approximately 15,588 square feet and is located in the CR zone at the northwest corner of 22nd and M Streets, N.W. Square 50 is bounded by M, 22nd, N and 23rd Streets, N.W.

The Zoning Commission approved a PUD for the Subject Property in Order No. 07-21, dated May 12, 2008. The approved hotel project includes approximately 122,235 square feet of gross floor area, including 148 to 170 hotel rooms and suites, ground floor restaurant space, landscaped outdoor space, a spa and below-grade parking. The building was approved at a maximum height of 110 feet, exclusive of roof structures. The approved plans include 42 striped off-street parking spaces accessed by a vehicular elevator in a valet operated garage that has a maximum capacity of 71 vehicles. The overall density of the project was approved at 7.84 FAR. By letter dated September 30, 2008, and pursuant to his authority under Section 2409.6 of the Zoning Regulations, and the flexibility granted by the Commission in Order No. 07-21, the Zoning Administrator approved administrative modifications to the PUD plans, resulting in a 1.6% increase in the building's FAR to 7.97. Pursuant to Order No. 07-21A, dated May 10, 2010, the Zoning Commission granted a two-year extension such that a building permit application

for the approved PUD must be filed no later than June 27, 2012, and construction must commence no later than June 27, 2013.

The Applicant seeks Zoning Commission approval of modifications to the approved PUD plans for the hotel. Specifically, the Applicant requests approval to redesign the exterior facades of the building; to increase the maximum number of hotel rooms from 170 to 238; to reduce the building's height from 110 feet to approximately 107 feet; and to provide 53 striped off-street parking spaces accessed by a ramp in a valet operated garage. The overall density of the modified project is 7.99 FAR, which is consistent with the applicable CR zone district PUD guidelines. In all other respects, the proposed project will be substantially consistent with the prior approval and the conditions set forth in Zoning Commission Order No. 07-21.

The Applicant originally filed a PUD Statement and supporting documents for this modification, including architectural plans and elevations, with the Zoning Commission on June 20, 2011 (the "PUD Modification Submission"). The PUD Modification Submission 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.

At its public meeting of July 25, 2011, the Zoning Commission voted to schedule a public hearing on the application. This Prehearing Submission supplements the PUD Modification Submission and responds to the issues raised by the Zoning Commission and the Office of Planning report dated July 15, 2011.

II. ISSUES/CONCERNS RAISED BY THE ZONING COMMISSION AND OFFICE OF PLANNING

A. Roof Structure Setback and Design

During the Zoning Commission's deliberations on July 25, 2011, the Commission requested that the Applicant re-examine the design of the roof structure adjacent to the western edge of the building. Specifically, the Commission requested that the Applicant set back the roof structure from the western edge of the roof if possible, and in any event to articulate the roof structure's western façade to minimize the structure's apparent height. As shown on the Revised Architectural Plan Sheets (the "Plans") attached hereto as Exhibit A, the project Architect has set the roof structure back approximately 8 inches from both the western and northern edge of the roof, which exceeds the prior approved 6 inch setback. The roof structure cannot be set back any further due to the location of the stair towers that are necessary to provide access to the roof. Similar to the approved PUD, the stair towers are located at the end of the hotel's corridors in order to provide an efficient hotel layout and to comply with the building code. In addition, with respect to the treatment of the roof structure, and as shown on the Plans, the Architect has changed the color of the roof structure's material from a white glazed brick to a light gray glazed brick in order make the roof structure visually less dominant. Overall, providing the set back and changing the roof structure's color combine to minimize the structure's apparent height.

B. Coordination with D.C. Department of Transportation and D.C. Department of the Environment

The Zoning Commission and the Office of Planning requested more information about the implications of the proposed increase in the number of hotel rooms and the requested decrease in the number of parking spaces. In addition, the Office of Planning

recommended that the Applicant consult with the D.C. Department of the Environment ("DDOE") about the potential impact of proposed changes to the District's environmental regulations on the project.

With respect to parking, the Applicant's development team met with representatives of the D.C. Department of Transportation ("DDOT") on May 4, 2011 to discuss the proposed modifications to the approved PUD, including the increase in the room count and the decrease in the number of off-street parking spaces. The DDOT representatives did not raise any specific concerns regarding the amount of proposed parking during that meeting, and requested that the Applicant submit additional information regarding the truck management plan for the project, a transportation demand management plan, and information about the relocation of a signal pole at the intersection of 22nd and M Streets. The Applicant's transportation consult submitted this information to DDOT, and a copy of that memo is included as Exhibit D of the PUD Modification Submission.

The Applicant will continue to work with DDOT to address any transportation issues. The Applicant will also submit supplemental information prepared by Wells & Associates, Inc. no less than 20 days prior to the public hearing on this application. As will be discussed in more detail at the hearing on this application, the amount of proposed parking is sufficient to meet the anticipated parking demand for the hotel, and the reduction in the number of parking spaces will not have an adverse impact on the project or the area.

The Applicant is also in the process of scheduling a meeting with DDOE to discuss the potential impact of proposed changes to the District's environmental

regulations on the project, and will submit any additional information regarding the results of this meeting no less than 20 days prior to the public hearing on this application.

C. Job Creation

The Zoning Commission requested that the Applicant submit additional information regarding the number and types of jobs to be created as result of this project. Based upon the Applicant's experience, the Applicant anticipates that the hotel, restaurant and valet services for the hotel will generate over 100 new jobs, as follows:

- Hotel Operations: 40-45;
- Restaurant Operations: 55-65; and
- Valet Operations: 6-10.

Moreover, as indicated in the PUD Modification Submission, the Applicant has executed a First Source Employment Agreement with the Department of Employment Services and has executed a Certified Business Enterprise Utilization Agreement ("CBE Agreement") with the District's Office of Small and Local Business Development. The Applicant is in the process of updating the CBE Agreement to reflect the scope of the modified project, and consistent with prior Zoning Commission approvals, the Applicant will be submitting a copy of the executed CBE Agreement to DCRA prior to the issuance of a building permit for the project.

D. Ground Floor Retail Use

The Zoning Commission requested additional information regarding the proposed ground floor retail use included in the project. As shown on the plans included with the PUD Submission, the project includes a highly-visible bar and restaurant located at the ground floor along the outside edge of the building, which is ideally situated to engage the public throughout the day. The restaurant will be open to the public, and the

Applicant will apply for a public space permit for outdoor seating and dining subsequent to the approval of this PUD modification. The design of this space will include folding glass partitions that open the interior to the outdoors when weather permits, thus allowing public engagement. Overall, these features will promote the public's interaction with the building and proposed hotel use.

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 B.

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

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

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

In accordance with Sec. 3013.1(f) of the Zoning Regulations, the following maps, plans, or other documents that are readily available to the general public may be offered into evidence at the public hearing:

1. Exhibits Herein
2. Zoning Regulations and Map of the District of Columbia
3. Future Land Use Map of the District of Columbia
4. District of Columbia Comprehensive Plan ("Comprehensive Plan")

5. Metrobus and Metrorail Route Maps and related WMATA and other public transportation materials
6. Orders of the D.C. Zoning Commission and Board of Zoning Adjustment
7. Orders and Reports of District and Federal Agencies
8. Publicly Available Information from District of Columbia

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

In accordance with Sec. 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

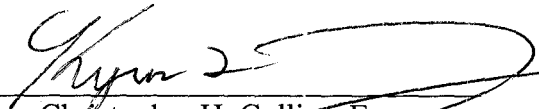
In accordance with Section 3013.6 of the Zoning Regulations, a list of the names and addresses of the owners of all property located within two hundred feet (200') of the PUD Site is attached as Exhibit K.

IV. CONCLUSION

For the reasons stated above, and in the PUD Modification Submission, the Applicant submits that the proposed modifications to the approved PUD meet the standards of Chapter 24 of the Zoning Regulations and the standards for approval. Accordingly, the Applicant requests that the Zoning Commission approve the proposed PUD modification.

Respectfully submitted:

HOLLAND & KNIGHT LLP

By: 

Christopher H. Collins, Esq.
Kyrus L. Freeman, Esq.
2099 Pennsylvania Ave., N.W.
Suite 100
Washington, D.C. 20006
(202) 955-3000