

# Holland & Knight

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May 10, 2011

## Via Hand Delivery

Zoning Commission for the  
District of Columbia  
441 4th Street, N.W., Suite 210S  
Washington, D.C. 20001

Re: Z.C. Case No. 11-03 – Southwest Waterfront Redevelopment  
Prehearing Submission

Dear Members of the Commission:

On behalf of Hoffman-Struever Waterfront, L.L.C. ("Applicant"), we submit this prehearing letter in support of the planned unit development ("PUD") and map amendment applications in the above-referenced case. Included with this submission is a check in the amount of \$234,520.00 in payment of the hearing fee, as well as the Fee Calculator Form. The fee is based on the land area to be rezoned and included in the FAR calculations, as described in Paragraph B.1 below. This prehearing submission responds to the issues raised by the Zoning Commission at its set-down meeting and those issues identified by the Office of Planning ("OP") in its report to the Commission.

### **A. Clarification of Parcels Included in the Project**

The National Park Service ("NPS") land known as Lot 819 in Square 473 is not included in the Southwest Waterfront Project. Although the NPS parcel is surrounded by the PUD project, that parcel is not included in the list of properties identified in the initial application. Drawings 1.3 and 2.1 have been updated to include a notation that this parcel is excluded from the project.

### **B. Clarification of Information Provided in PUD Application and Drawings**

1. **Subtraction of Private Roadways and Recalculated FAR.** At the recommendation of OP, the Applicant has subtracted out of the land area for the PUD the portions of the site that will be devoted to private roadways and sidewalks. In doing so, the total land area of the PUD is reduced from 991,113 square feet to 817,835 square feet, resulting in a density of 3.87.

ZONING COMMISSION  
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2. Parcel 10 Height: OP noted in its report that the Parcel 10 height is shown on the project drawings as both 70 feet (Sheet 2.8) and 67 feet (Sheet 5.6). The correct height at Parcel 10 is 60 feet to the roof, plus a penthouse height of 18.5 feet, as shown updated Sheets 2.8 and 5.6 included with the architectural drawings attached as Exhibit A.

3. Pier 4 Rowhouse Height: OP noted that the rowhouses as shown on sheet 5.7 of the project drawings is listed as 67 feet in height. The correct height this residential building is 60 feet to the roof, plus a penthouse height of 12 feet, as shown on updated Sheets 2.8 and 5.7.

4. Building/Townhouse Count: In its initial submission, the Applicant indicated a count of 11 mixed-use buildings and 10 townhouses. The correct count is 11 mixed-use development parcels (consisting of one or more individual buildings on each parcel). On the waterside, Pier 4 will be developed with one residential building, and club buildings will be constructed for the Gangplank and Capital Yacht Club marinas. The public access parks and wharf will include small retail structures and kiosks as shown in the submission.

5. Hotel in Segment C: The application previously provided inconsistent information by noting that that Segment C could have up to 120,000 square feet of hotel use, while sheet 2.7 of the plans indicated that only residential or office uses would be provided. Sheet 2.7 has been updated to reflect the correct uses for Segment C as retail, residential, office and hotel at landside, and recreation and retail at the waterside.

6. Uses in Parcel 5: Sheet 2.6 of the drawings has been updated to remove residential uses from Parcel 5.

7. Parking and Loading: In response to the Zoning Commission's comments, the Applicant has refined the number of parking spaces for the project to a range of 2000-2500. The Applicant believes the ranges proposed parking spaces are sufficient to accommodate the parking needs of residents, tenants, and visitors to the site, but will further adjust that number as the specific uses at each parcel is finalized. The Applicant agrees with OP's recommendation to defer evaluation of a waiver of the loading facilities for the project until consideration of Stage 2 PUD applications. The Applicant anticipates that some of the loading facilities can be shared. Supplemental information on the parking and loading facilities will be provided to the Zoning Commission in the Applicant's supplemental submission to be filed twenty days prior to the hearing ("20-day Submission").

8. Bicycle Parking: The Applicant will increase the number of bicycle parking spaces to meet the standards of LEED-ND SLL Credit 4: Bicycle Network and Storage. The Applicant is presently studying locations for the additional bicycle storage but the number of spaces will be in excess of the code minimum and the proposed new zoning requirements. The Application will provide an updated bicycle parking and circulation diagram in its 20-day Submission.

9. Zoning of Parcels 10 and 11: In response to OP's recommendation and comments from the Zoning Commission, the Applicant no longer seeks rezoning of Parcel 10 and will develop the land under its current W-1 designation as part of the PUD. The height of the proposed building on Parcel 10 has been reduced to strengthen the transition to Parcel 11. It will have a 1-2 story base, with 3-5 floors above with a total height of 60 feet. Retail uses will be provided on the ground floor and office or residential uses on the upper floors. The Applicant also requests that Parcel 11 be rezoned to the R-5-B District in the alternative, instead of C-3-C District, as requested in the original application. It will be improved with a four-story building, 45 feet in height with a 12-foot penthouse, that will be devoted to civic/church and residential uses. As a result of pursuing R-5-B zoning on this parcel, the proposed building will no longer comply with lot occupancy restrictions as it would under the proposed C-3-C District. The building will occupy approximately 95 percent of the lot, which is in excess of the 60 percent limit on lot occupancy in the R-5-B District. The Applicant therefore requests a waiver from the lot occupancy provisions pursuant to the Zoning Commission's authority under section 2405.4 of the PUD regulations for rezoning to the R-5-B District. The proposed new zoning for Parcels 10 and 11 can be found on updated Sheet 2.8 in the attached set of drawings. At OP's suggestion, the Applicant has provided in the revised drawings an east-west cross section showing the relationship between Parcel 10, Parcel 11, and Tiber Island.

**C. Design Refinement and Restudy**

1. Orientation of Building Towers: At the suggestion of OP, the Applicant is presently studying the orientation of the towers at the northwest end of the project, some of which are parallel to Maine Avenue and the waterfront. The Applicant will continue to work with OP on an appropriate solution for the orientation of buildings that can be presented to the Zoning Commission at the hearing.

2. Additional View Studies and Massing Diagrams: The Applicant is undertaking the production of additional view studies and diagrams, which will be provided to the Zoning Commission as part of the Applicant's 20-day Submission. The drawings will include a building height diagram, an orthogonal massing drawing for the project, a cross section showing the relationship of the proposed music venue and the existing Banneker Overlook, as well as an evaluation of ways to improve the visual relationship between Banneker Overlook and the project by possibly shifting Parcels 1 and 2 to the South or sculpting Parcel 1.

3. Market Square Details: The Applicant has provided an updated drawing that provides additional information on the dimension and functionality of the Market Square located between the Fish Market and Parcel 1. The Market Square is a significant entry plaza into the project from both the north and west and is a pedestrian-oriented space with retail, cafés and market uses extending out and into the square. The addition of a stairway from Banneker Overlook and a new intersection with signals will vastly improve the pedestrian experience. As

mentioned above, the Applicant is continuing to work with OP, the National Capital Planning Commission ("NCPC"), and the Commission of Fine Arts ("CFA") on improving the views from Banneker and the shapes of Parcels 1 and 2.

4. The Fish Market: The Applicant is preparing detailed information on the planned improvements to the Fish Market and how it relates to Market Square, particularly in light of the grade changes. Supplemental information will be provided to the Zoning Commission in the Applicant's 20-day Submission.

**D. Amenities Package**

In response to OP's request, the Applicant will provide additional details in its 20-day Submission on several elements of its public benefits and amenities, including the Workforce Intermediary Program and efforts to link residents with training opportunities and apprenticeships, the duration of local business opportunities, the distribution and mix of the affordable housing units, and the stairs to the Banneker Overlook. The materials will also include a description of several elements required under the Land Disposition and Development Agreement that may be counted as public benefits and project amenities.

**E. Variance from Building Lot Control**

The Office of Planning has suggested that the Applicant seek approval for a variance from section 3202.3 to allow building permits to be issued for building to be constructed on piers, which will not have lot numbers. The Applicant believes that section 3202.3 is not applicable to the buildings to be constructed on the piers because they will be built over water, not land. Section 3202.3 provides that a building permit cannot be issued for the construction of any principal structure unless the land on which the proposed structure is to be built has been subdivided into its own lot of record. To the extent that the Zoning Commission determines that a variance is needed, the Applicant submits that piers' location over water instead of land is an extraordinary and exceptional condition inherent in the property that makes it practically difficult to comply with the strict application of section 3202.3. The variance can be granted, however, without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan. The ability to construct buildings over the piers, in fact, will implement the Comprehensive Plan for Southwest Waterfront.

**F. Validity of Stage 1 PUD Approval**

The Applicant has restudied the amount of time needed for the validity of the Stage 1 PUD and has determined that it only requires flexibility for an additional six month period. That is, the Applicant requests that the Stage 1 PUD order be valid for a period of 18 months. This will allow the Applicant sufficient time to submit the final Master Plan to the Deputy Mayor's Office for Planning and Economic Development for final review and approval. Once approved

by DMPED, the applicant will proceed to submit its first Stage 2 application within the following 12-month period, consistent with the provisions of the Land Disposition and Development Agreement.

**G. Phasing of Project**

1. Construction Phasing: In response to Zoning Commission comments, the Applicant has also developed a construction phasing plan, as shown in attached drawings. Construction is currently anticipated to span a ten-year period in three phases. Phase I would encompass Parcels 2 to 5, and adjacent waterside bulkhead, piers and marinas. It also includes a major relocation of utilities and infrastructure from water Street, N.W., to Maine Avenue, S.W., to effectuate all vertical development. Phase I would be scheduled for construction between late 2012 and 2016. Phase II would include Parcel 1 and the Fish Market, and adjacent waterside bulkhead, piers and marinas. It would be scheduled for construction between 2016 and 2019. Phase III would cover Parcels 6-11 and Waterside Park and adjacent waterside bulkhead, piers and marinas. It would be constructed between 2019 and 2022. The project phasing plan is preliminary and the Applicant will pursue accelerating the later phases to reduce overall construction duration.

2. Waterside and Utility Phasing: The Zoning Commission and OP requested clarification on how construction phasing would be handled during development of the waterside to ensure coordinated relocation of the boats and piers. In particular, OP requested information on how utilities would remain functional for existing uses, especially to the live-aboard and work-aboard communities. The applicant is presently working with its construction managers to develop a sequencing plan. This plan will be submitted to the Zoning Commission with the 20-day Submission.

**H. Additional Information to be Provided Prior to the Hearing**

In addition to the information described above, the Applicant will also provide in its 20-day Submission a detailed traffic analysis of the future development, details on the transportation infrastructure including reconstruction of Maine Avenue, features associated with Arena Stage features, and the streetcar system. Additionally, the Applicant will provide an update on the status of federal legislation related to the relocation of the navigable waters in the Washington Channel, the shoreline and related air rights. Finally, the Applicant will update the Zoning Commission on the approval process for the project and the reviews conducted to date, including CFA, NCPC, the Army Corps of Engineers, and other agencies.

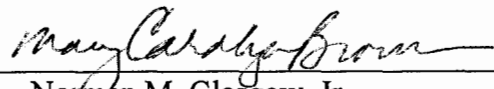
**I. Conclusion**

Because the requested map amendment and Stage 1 PUD are consistent with the Comprehensive Plan, the Property's designation on the Future Land Use Map, and the purposes

of the Zoning Regulations and Zoning Map as set forth in D.C. Code § 6-641.02, the Applicant respectfully requests that the Commission approve the application.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By:   
Norman M. Glasgow, Jr.  
Mary Carolyn Brown

Attachments

cc: Susan Longstreet, DMPED/OAG (w/attach. via overnight mail)  
Matt Troy, DMPED (w/attach. via overnight mail)  
Harriet Tregoning, Office of Planning (w/attach. via overnight mail)  
Jennifer Steingasser, Office of Planning (w/attach. via overnight mail)  
Joel Lawson, Office of Planning (w/attach. via overnight mail)  
Matt Jesick, Office of Planning (w/attach. via overnight mail)  
Andy Litsky, ANC 6D04 (w/attach. via overnight mail)  
Bob Craycraft, ANC 6D01 (w/attach. via overnight mail)  
Ron McBee, Chair, ANC 6D (w/attach. via overnight mail)  
Betsy Karmin, DLA Piper (w/attach. via overnight mail)  
Jacques DePuy, Greenstein, DeLorme & Luchs (w/attach. via overnight mail)  
Kwasi Holman, St. Augustine's Church (w/attach. via overnight mail)  
Cornish Hitchcock, Esq. (w/attach. via overnight mail)



# 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. <sup>2</sup> ) or part of an acre	\$650.00		
R-4 or R-5-A District, for each acre (43,560 ft. <sup>2</sup> ) or part of an acre	\$1,625.00		
R-5-B District, for each acre (43,560 ft. <sup>2</sup> ) or part of an acre	\$3,250.00	2	\$6,500.00
R-5-C, R-5-D, or R-5-E District, for each acre (43,560 ft. <sup>2</sup> ) or part of an acre	\$6,500.00		
SP, W, or CR District, for each 20,000 ft. <sup>2</sup> or part of that area	\$2,600.00	9	\$23,400.00
C-1 or C-2 District, for each 10,000 ft. <sup>2</sup> or part of that area	\$1,625.00		
C-3, C-4, or C-5 District, for each 10,000 ft. <sup>2</sup> or part of that area	\$3,250.00	60	\$195,000.00
C-M or M District, for each 20,000 ft. <sup>2</sup> or part of that area	\$2,600.00		
<b>TOTAL</b>			<b>\$224,900.00</b>

- 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		
<b>TOTAL</b>			<b>N/A</b>

- 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. <sup>2</sup> 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	19,750	\$65,000 (max)
For each 100 ft. <sup>2</sup> 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	13,040	\$169,520
<b>TOTAL</b>			<b>\$234,520.00</b>

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	
<b>TOTAL</b>		<b>N/A</b>

### 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.

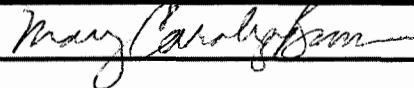
Type of Petition/Application	Total
Map Amendment	\$224,900.00
Text Amendment	N/A
PUD, air space development, or any other review of a specific site plan or building plan	\$234,520.00
Modification to an approved PUD, air space development, or any other review of a specific site or building plan	N/A
<b>GREATEST OF CALCULATED FEES</b>	<b>\$234,520.00</b>

### 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: Mary Carolyn Brown, Holland & Knight LLP

Signature:



Date:

6/10/11

### 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.





# BEFORE THE ZONING COMMISSION OF THE DISTRICT OF COLUMBIA



## SAMPLE CALCULATIONS FOR THE HEARING FEE CALCULATOR

### MAP AMENDMENT

**SAMPLE:** A petition for a map amendment to rezone a property at 1624 Q Street, N.W., from the DC/R-5-B to the DC/C-2-B Zone District.

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

### TEXT AMENDMENT

**SAMPLE:** A request for a text amendment to §§ 701.4(a), 701.5, and 701.7 of the Zoning Regulations.

Petition	Fee	Unit	Total
Each section proposed to be added, deleted, or amended - with a maximum hearing fee of \$1,300	\$325.00	3	\$975.00
<b>TOTAL</b>			<b>\$975.00</b>

### PLANNED UNIT DEVELOPMENT (PUD) AND RELATED MAP AMENDMENT

**SAMPLE:** An application for a consolidated review and approval of a Planned Unit Development ("PUD") and a related zoning map amendment to rezone a 45,031 ft.<sup>2</sup> property from the R-2 and C-1 Districts to the C-2-A District. The PUD contains approximately 92,700 ft.<sup>2</sup> of gross floor area. The project includes approximately 84,600 ft.<sup>2</sup> of gross floor area devoted to residential uses, and 8,100 ft.<sup>2</sup> of gross floor area devoted to a mix of commercial uses.

Petition or Application for Rezoning to any:	Fee	Unit	Total
R-1, R-2, or R-3 District, for each acre (43,560 ft. <sup>2</sup> ) or part of an acre	\$650.00		
R-4 or R-5-A District, for each acre (43,560 ft. <sup>2</sup> ) or part of an acre	\$1,625.00		
R-5-B District, for each acre (43,560 ft. <sup>2</sup> ) 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. <sup>2</sup> ) or part of an acre	\$6,500.00		
SP, W, or CR District, for each 20,000 ft. <sup>2</sup> or part of that area	\$2,600.00		
C-1 or C-2 District, for each 10,000 ft. <sup>2</sup> or part of that area	\$1,625.00	5	\$8,125.00
C-3, C-4, or C-5 District, for each 10,000 ft. <sup>2</sup> or part of that area	\$3,250.00		
C-M or M District, for each 20,000 ft. <sup>2</sup> or part of that area	\$2,600.00		
<b>TOTAL</b>			<b>\$8,125.00*</b>

Application	Fee	Unit	Total
For each 100 ft. <sup>2</sup> 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	846	\$5,922.00
For each 100 ft. <sup>2</sup> 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	81	\$1,053.00
<b>TOTAL</b>			<b>\$6,975.00*</b>

\* Please note the fee to be paid on this PUD is the greater of the two calculated amounts - \$8,125.00.

**HOFFMAN-STRUEVER WATERFRONT, LLC**

4725 WISCONSIN AVE. NW, SUITE 200  
WASHINGTON, D.C. 20016  
(202) 686-0010

EAGLE BANK  
BETHESDA, MD 20814

65-329  
550

1428


Pay: \*\*\*\*\*Two hundred thirty-four thousand five hundred twenty dollars  
\*\*\*\*\*and no cents

DATE  
May 2, 2011

CHECK NO. AMOUNT  
1428 \$\*\*\*\*234,520.00

D.C. Treasurer

**PAY**  
TO THE  
ORDER  
OF

  
VOID AFTER 90 DAYS