

ANC6D Special Meeting Minutes
May 23, 2024
Virtual Meeting held on Zoom

The Commission convened at approximately 7:03 p.m. The following Commissioners were in attendance: Fredrica Kramer, Bob Link, Andrea Pawley, Bruce Levine, Gail Fast, Rhonda Hamilton, Chearie Phelps-El, and Ron Collins.

The meeting commenced with Commissioner Kramer stating the agenda and the reason for the meeting, that is, to consider how the ANC should respond to the application by Philippe DC LLC for a modification of consequence to the Phase 2 PUD of The Wharf to enable construction of the Merchant’s Marina bar and lounge.

Commissioner Levine offered the following motion: that ANC 6D submit a report to the Zoning Commission, in opposition to the application of Philippe DC LLC d/b/a Merchants Marina, dated April 25, 2024, seeking a "modification of consequence" to the approved plans for the M Street Landing component of Phase 2 of The Wharf which were approved by the Zoning Commission as part of a PUD pursuant to Z.C. Order No. 11-03J, and which is now scheduled to be reviewed by the Zoning Commission at a regularly scheduled meeting as Zoning Case No. 11-03M. on the basis of the following issues and concerns:

1. Although Philippe LLC’s application is ostensibly only seeking a modification of the PUD in order to “facilitate the construction of a canopy over an outdoor café,” in fact, they are seeking to construct—and have already started constructing—a permanent bar/café structure of which the “canopy” is only one component. This permanent structure is being installed in M Street Landing, a section of Phase 2 of The Wharf that by the terms of the PUD order is intended as “open space” with a limited set of explicit uses that does not include this building. The ANC, on behalf of the community, considers the construction of “Merchants marina Bar and Lounge” as a violation of both the letter and spirit of the Order issued in Case 11-03J.

2. More specifically, Exhibit 100 in 11-03J clearly depicts the vision for the M Street Landing. It details specifically the circulation of the space "designed to shape memorable connections to the waterfront promenade through the site, including options to engage and enjoy the Fountain, Plaza, or walk around it if it is busy with activities. The furnishings are described, "In the café spaces, and also elsewhere in the space moveable chairs and tables give visitors the chance to choose the **perfect view** and degree of sun or shade. And programming is spelled out as, "**Café nodes near the buildings** and also in the park will offer a chance for refreshment and relaxation."

3. Further, Exhibit 104C Signed Covenant, PUD Parcel 10 approved by the Zoning Commission on December 17, 2017 specifically outlines the M Street Landing and defines it as, "allowing for flexible uses such as farmer's market stalls, movable cafe tables and chairs, concessions, events and performances." Philippe LLC's proposed structure cannot by any reasonable interpretation be viewed as being consistent with any of the specified uses. While Philippe LLC's application for a "modification of consequence" artfully offers a "Description of the Modification" that plays down what is proposed as a "modest structure" and continually emphasizes that this is a "café" so as to presumably make it seem more aligned with the vision of M Street Landing described above, they cannot deflect the truth that in putting a permanent structure on one of the pads in M Street Landing, this "modification" is a change in use of open space that should not be countenanced.

4. The Office of Planning has already weighed in on this matter, stating "The design of M Street Landing approved by the Commission in ZC #11-03J was for a mostly passive park used for gathering, seating, slightly raised viewpoints of the Wharf and the water, and minor recreation, with some café seating, **but no permanent buildings**." Accordingly, they have filed a report with the Zoning Commission recommending denial of the Applicant's application.

5. In addition to being violative of the PUD Order in ZC #11-03J, putting a permanent structure in M Street Landing is inconsistent with the Comprehensive Plan goals of maintaining views, including along major accesses such as M Street, 7th Street and 9th Street.” The viewshed looking from the north side of Maine Avenue towards the Washington Channel and beyond is unalterably affected in a negative way by the imposition of this structure that was not contemplated by the PUD Order.

6. The placement of this bar/lounge in M Street Landing also directly impinges on the interests of unit owners at the Amaris Condominium, which is directly facing this proposed edifice only ___ feet across Wharf Street from the entrance to Merchants Marina. Relying on the PUD Order, these owners could not reasonably have expected that a permanent structure of any kind, let alone a bar/lounge would be impeding their views and their enjoyment of M Street Landing.

7. Applicant is seeking approval of its wrongly-denominated “modification of consequence” only because the Zoning Administrator, during a review of a supplemental structural permit requested by the DC Department of Buildings, determined the addition of the covering of the structure required Zoning Commission review. The genesis of this project, which the ANC became aware of only through a liquor licensing process that did not give the ANC appropriate notice of what was planned for this space by Philippe LLC, has led to this Application being the first time the ANC 6D has had a real opportunity to provide its official input into what is wrongly occurring in M Street Landing.

8. Based on the above issues and concerns, ANC recommends that the Zoning Commission determine that the sought-after modification violates the PUD Order and cannot be approved or, at a minimum, determine that the proposed modification is not one “of consequence” but, rather, a

“modification of significance” which pursuant to Zoning Commission Rule 704.1. , requires a public hearing.

He then presented an overview of the developments concerning Merchant’s Marina.

Following, Mark Aguirre, representing owners at The Amaris, presented comments in opposition to the construction of the project.

David Avitabile, attorney for Philippe DC LLC, presented comments regarding the applicant’s position.

After further discussion by the Commission, the abovementioned motion was approved by a vote of 8-0.

Pursuant to the motion, Commissioner Kramer will file a report with the Zoning commission in Case 11-03M prior to the scheduled date for the Zoning Commission to consider the application on June 27, 2024.

Date Approved: July 15, 2024

Prepared by: Bruce Levine, Secretary.