



Advisory Neighborhood Commission 6D
Southwest, Buzzard Point, The Wharf

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May 30, 2024

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Fredrica Kramer

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Anthony Hood, Chairman
Commissioners Stidham, Miller, and Imamura
DC Zoning Commission
441 4th St. NW, Suite 200S
Washington, DC 20001

Via email: DCOZ-ZCSubmissions@dc.gov

RE: ANC 6D Report in Opposition to Request for Modification of Consequence in ZC Case NO. 11-03M

Dear Chairman Hood and Commissioners:

At a specially scheduled and properly noticed public meeting on May 23, 2024 with a quorum present, a quorum being 5 Commissioners, Advisory Neighborhood Commission (ANC) 6D voted 8-0-0 to oppose the April 25, 2024 application of Philippe DC LLC d/b/a Merchants Marina for a Modification of Consequence to the M Street Landing component of Phase 2 of The Wharf, approved as part of the PUD pursuant to Z.C. Order No. 11-03J and scheduled to be reviewed by the Zoning Commission as ZC Case 11-03M.

ANC 6D's opposition is based on the following issues and concerns.

1. Although Philippe LLC's application is ostensibly seeking only 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—already begun, a permanent bar/café of which the "canopy" is only one component. This permanent structure is being installed in the 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

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and Lounge” a violation of both the letter and spirit of the Order issued in ZC Case 11-03J.

2. Exhibit 100 in 11-03J clearly depicts the vision for the M Street Landing, specifically detailing 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 also 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, "**Café nodes near the buildings** and also in the park will offer a chance for refreshment and relaxation."
3. 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, the Applicant 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**." Their report to the Zoning Commission recommends denial of the application.
5. In addition to violating the PUD Order in ZC #11-03J, a permanent structure in the 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 toward 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 directly impinges on the interests of unit owners at the Amaris Condominium, which directly faces the proposed edifice only feet 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.

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.

Should you have any questions, please contact Commissioner Bruce Levine at 6D06@anc.dc.gov or me at 6D07@anc.dc.gov.

Sincerely,



Chair, ANC 6D