

**Testimony of ANC-6D
Before Zoning Commission of the District of Columbia
ZC Case No. 11-03J
Second Stage PUD for Wharf II
November 2, 2017**

Good evening Commissioners. My name is Andy Litsky. I live at 423 N Street, SW and tonight I will be delivering testimony on behalf of ANC-6D where I served as Chairman. I am also the SMD Commissioner for 6D-04, representing both of the residential waterfront complexes directly adjacent to this particular PUD as well as the 94 live aboard residents whose homes are located at the Gangplank Marina, the only residents actually living within the boundaries of the PUD itself. I have lived at the Southwest Waterfront for 40 years and have served for the past 19 representing the Waterfront District as an Advisory Neighborhood Commissioner. This entire project is in my single member district.

In full disclosure, I am also a founding shareholder of Tiber Island Cooperative Homes, where I have lived since 1977. TICH is located directly adjacent to The Wharf and is a party in this hearing as a result of that proximity. However, I assure you that my comments are reflective of the unanimity of opinion of the Commissioners on our ANC and trust that, as a result, they will be provided great weight.

Once again, I want to remind you that this ANC has historically supported the redevelopment of our Southwest Waterfront – in one form or another – going back decades. Indeed, and as most of you may recall, in 2012 when we both wrote our September back-to-school essays “What I Did on my Summer Vacation” they were about the intricacies of The Wharf Stage One design elements that were heard before this body. I trust that this evening’s discussion and that which will be held on November 6 & 9 on will not consume us so completely.

Before we dive into the ANC’s testimony, I’d like to state the obvious. The Wharf is pretty damned spectacular. It is quite clearly the game changer that virtually all of us have been looking for in the neighborhood for a very long time. Its success is a testament to this developer, this development team, our city officials – including the members of this Commission

-- and literally hundreds of Southwest residents who participated in scores of meetings over more than a decade to ensure that October 12 marked the moment when Southwest came into its own as the most exciting neighborhood on the entire East Coast.

So that is why this Commission might find it perplexing that at a regularly scheduled and properly noticed meeting held on October 16, 2017, with a quorum present, ANC-6D voted 5-0-0 to oppose this application for the reasons we provided in our ANC Report to Zoning. The Commissioners also entrusted their Negotiation Team, comprised of Commissioners Collins, Fast and me, to continue to meet with the Applicant and other parties to discuss their issues and attempt to work toward effective solutions addressing outstanding concerns. We were further authorized by ANC 6D in that recorded vote to alter the recommendation of our Commission should we find during that period of time that the Applicant and various government departments – namely DDOT and DMPED – were responsive to our concerns.

Over the course of the past month and a half, our Negotiating Team has met with the Applicant five times. I met with them for four hours during the past week alone. During those meetings we addressed in great detail the list of items that we insisted required more fulsome answers before we could embrace the Second Phase. ANC-6D is always hopeful that continued and constructive engagement can win the day. And so it has here. For on October 31, we arrived at a point where I believe that we can properly say that ANC-6D has a level of comfort with the majority of the answers we have sought and that our Negotiating Team now recommends supporting this project.

ANC-6D feels the need to remind the Commissioners that we also withheld support for First Phase five years ago until major items of concern were addressed. We believe that First Phase is now better for the details we helped fix. I strongly believe that withholding our support this time has similarly helped move the discussion along and arrive in much better shape than when we began.

As we counseled in First Phase hearings, what is and remains a challenge in a project of this scope is how to address with full assurance with all parties that any plan to which we may be referring at any one particular time is accurate at that moment. Such is the case where there have been subtle iterations over time thanks to frequent review from various entities. Some of us are involved with a greater level of intensity than others. And things change rapidly in a negotiation. It behooves us to ensure that we are all on the same page as this process moves

ahead. I wish to apologize to the Commission and to the Applicant, some of what would normally be put in our Report from the ANC will, by necessity, be addressed tonight in testimony or need clarification in cross for there are still moving pieces on the board. As OP found ... there's a lot on the plate.

I say on behalf of the Negotiating Committee but also as the SMD Commissioner representing the residential waterfront that I have also met with representatives of adjacent residential complexes of Tiber Island Cooperative Homes, Tiber Island Condominiums, 525 Water Street, and multiple times with the GPSA, the Gangplank Slipholders Association, representing the residents at the Marina who will be most directly impacted by the result of this proceeding. Each of them have rightfully put in for party status. I want to put on the record that the ANC's embrace of this project is not meant to diminish in any way the importance of the outstanding items that any of these individual parties may bring to the table that they may feel have not been resolved to their satisfaction. Yes, there is still additional work to do between The Wharf and some of the parties. I also look forward to hearing with a greater level of specificity what those remaining issues are and how they may still be resolved. It is the ANC's hope that during the course of these three hearings — and perhaps a bit longer -- that solutions will present themselves.

In particular, I want to encourage the Commissioners to pay particular attention to the concerns of the Gangplank Slipholders Association. They are the largest community of liveaboard residents on the East Coast of the United States. You can't have a waterfront neighborhood without waterfront neighbors and they have been our neighbors for fifty years. The residents at the Gangplank Marina have a special place in the hearts of the people of Southwest and this city. They are the virtual symbol of our very diverse neighborhood. They are, as some have characterized them, our pandas. This ANC just wants to ensure that as Wharf II proceeds that we don't remove too much of their bamboo. We ask the members of this Commission to direct the Applicant to continue to work with the GPSA leadership and the ANC to address their major concern that they are not simply priced out of existence.

This intrepid band of liveaboards --- 94 strong, thanks to the Zoning Commission decisions on First Phase -- still feel endangered. ANC-6D embraced First Phase with the strict assurance that we would be maintaining a sustainable community throughout construction and beyond in a post-construction era. As we proceed with the development of this enormous project, this ANC

insists that we hold fast to the hard won assurances we – and they – were given five years ago. In particular, ANC-6D wants to be assured that as The Wharf and GPSA work toward coming to an agreement in a timely fashion that there will be no back tracking on commitments previously made to that community. I look forward to hearing GPSA address their concerns in much greater detail than I could ever hope to convey.

Let me continue to bring the Commission up to date on one of the major aspects of this project about which we've been concerned for more than a decade: Transportation.

Our ANC didn't receive a whole lot of guidance from DDOT on the issues that were of most concern to us -- the buses on Maine Avenue, Uber & Lyft, and the Circulator – even though we specifically asked them to address them in their report on this matter. So ANC-6D has needed to address some of these pretty significant issues with the Applicant, lacking that professional guidance. I hope that we got it right.

On bus management drop off and loading for Entertainment Cruises on Maine Avenue.

Our neighborhood's primary on-going concern regards the curbside management plan advanced by the Applicant for motor coach operations along Maine Avenue serving Entertainment Cruises. Entertainment Cruises has demonstrated that they are adequate when it comes to handling bus management on a usual basis and are simply overwhelmed during peak season from March – July. Sixteen buses lined up, some picking up, some discharging. At times it's been nothing but a hot mess.

Addressing interim condition when some of these spots are next to big holes in the ground won't be a simple task. How do we meet them in final? If Maine Avenue continues to be challenging, and we hope it won't -- it is up to The Wharf to meet that challenge and DDOT, of course, since it is in the public realm. But what is DDOT's buy-in on the plan that the Applicant has put forward? We have no idea, for DDOT has not communicated on this topic this far. One thing is for certain, once Second Phase is built out traffic won't get any lighter.

In our discussions with the Applicant, the ANC made it clear that Entertainment Cruise Bus situation must be better managed. The ANC has more confidence now that we understand The Wharf is going to be providing more supervision of this process. We think that the plan they have advanced ought to provide an opportunity to work itself out. It's on the Applicant to make

certain it works. But as we proceed with the design and approval of the brick and mortar for Second Phase ANC 6D counsels that we ought not to preclude having portions of the buses on site *if* Maine Avenue proves unworkable. Let's be certain that the streets can accommodate them but only if absolutely required. **However, ANC 6D does NOT believe this an ideal solution as it will also impact the extraordinary Second Phase of the development.** This will put the onus on all concerned to get it right because the alternative is very unpalatable.

But also noted, the current paradigm has Entertainment Cruise buses parked along Maine Avenue right up to the corner of residential Sixth Street alongside St. Augustine's Church. The Tiber Island Condominiums are directly across narrow Sixth Street. And there are residences situated directly above where the buses will park on the 525 Water Street condominiums facing Maine Avenue. They have balconies the use of which will be significantly impacted by placement of these buses on that site from March – July. The buses need to be moved away from Sixth Street and the 525 Water Street building. The goal of any Entertainment Cruises bus plan was to keep them away from existing residential neighborhood. Let's figure out a way to make that happen.

On the preservation of Waterfront Park adjacent streets remaining bus free.

ANC-6D believes the best intentions of Wharf Partners to support the pledges made to our Community and to the Zoning Commission in their Phase One PUD about keeping busses serving Entertainment Cruises off of Sixth Street, M Place and Water Street. However, since these three streets are being re-conveyed to the District of Columbia in relatively short order they will soon be under the control of the District in the public realm controlled by DDOT.

ANC-6D believes that we have a binding agreement between the existing residential waterfront, Hoffman-Madison and the District of Columbia (as represented by DMPED in negotiations and the Zoning Commission in a decision in a formal zoning case) to prohibit forever any bus transport on Sixth Street (south of M Street, SW), M Place, SW or Water Street, SW. That agreement was part and parcel of the major Community Benefit proffered as a consequence of our support of First Phase – creation of The Eleanor Holmes Norton Waterfront Park – which will be virtually unusable should buses be moved back on those streets.

We have sought an answer to what happens *if* the Entertainment Cruises Maine Avenue Bus Plan fails after control of these streets goes back to DDOT? Is the existing residential

neighborhood protected by our agreement as we had been promised and is clearly stated in the Final Zoning Order in First Phase? Are we now potentially subject to re-imposition of buses around Waterfront Park? More to the point, have we – and every other ANC and neighborhood group that is negotiating PUDs with developers all across the city and incorporating very specific discussions about transportation issues --- simply being led down the garden path if DDOT feels no compulsion to abide by such Zoning Orders? I don't know that anyone's asked that question before. An answer would be helpful.

ANC-6D has not been willing to wait for an answer. We've sought our own solution. We told the Applicant that we were going to request special council legislation. We were asked not to do so because they suggested that they themselves could place a covenant on the parcels prior to re-conveyance that would "run with the land" thus making it impossible to change what had been agreed to about a no bus zone adjacent to Waterfront Park.

The ANC-6D also sought special legislation from Council anyway on this matter and worked with the Applicant to facilitate that request. We anticipate that emergency legislation will be introduced on November 7. I believe that the Applicant has provided as an exhibit updated versions of the *Southwest Waterfront Park Bus Prohibition Emergency Act of 2017* and the *Southwest Waterfront Park Bus Prohibition Temporary Act of 2017*. This requires three separate bills, mayoral signature and, eventually, Congressional approval. Is there a risk that none of this may happen in final? Sure there is. And that causes us great consternation.

Now, the Applicant is again prepared to place a covenant that forever runs with the land memorializing the commitment that HMW made to the Southwest Community and the ANC in First Phase regarding motor coach buses from accessing, parking, loading or circulating through Waterfront Park or along Sixth Street, M Place or Water Street, SW so that after the District again holds title to the land, neither the District nor any of its agencies, commissions or boards will be able to remove or replace said prohibition. ANC 6D verified this with the DMPED General Counsel the afternoon of November 2, 2017. We encourage this Commission to require DMPED to provide such documentation prior to voting on this case and that it specifically be recorded in the Zoning Order as a consequence of our embrace of this project.

Uber & Lyft

When the Zoning Commission held hearings on Wharf First Phase in 2012, Uber has been in operation in the District for little over six months. Nobody had any inkling that such services would up-end the taxi industry and town car services in major cities across the country. We recognize also that these rideshare services are very lightly regulated. And, of course, no one figured Metro would stop running at 11:30 each night, causing heartburn for just about everyone. Accordingly, we now must adapt to how Uber, Lyft and other services now used quite routinely can be incorporated – after the fact within Phase One. This is a task in progress --- made all the more difficult because it is within that already built environment.

But Phase Two isn't built yet. So ANC-6D had been concerned that Second Phase plan gave little guidance as to how The Wharf proposed to accommodate Uber and taxi pick-up and drop off. We have asked The Wharf to continue to address with Uber & Lyft developing a plan for how these commercial services – not just privately owned automobiles -- access the space in front of Waterfront Park to get to Entertainment Cruises that right now is impacting the lives of the residents at both Tiber Island and 525 Water Street.

Absent strict rules and regulations, which this Administration seems loathe to develop, our Southwest neighborhood residential blocks – as well as other residential blocks adjacent to 'nightlife districts' across the city -- will quickly become a ride hailing options for thousands of patrons at major destinations. But what *has* been happening is that people walk into the existing residential neighborhood blocks to summon Uber because that's where they can be more easily located. I am not ready to wait for a Nightlife Mayor to fix this problem.

Again, without DDOT counsel and in an attempt to make this all work, the ANC requested that the Applicant provide four spaces to accommodate rideshare on Marina Way, SW. The Applicant has agreed. In addition, we encourage DDOT to turn over three parking spaces on Maine Avenue between Marina Way and Wharf Street for the same purpose. Will this solve The Wharf II transportation challenges? No. But we have to start somewhere. We can no longer continue to kick the can down the road for we have simply run out of road.

Return of the SW Circulator

ANC-6D would like to see the plan for the return of the Circulator which is anticipated in Spring, 2018. It is under DDOT's control now. As such, DDOT ought to be able to provide this ANC with a clear understanding of where the stops will be on both sides of Maine Avenue. If we must make plans for Entertainment Cruise Ship buses, automobile parking, taxi drop offs, Uber & Lyft, curb cuts for wheel chairs, we also need to know where the stops are going to be located that are anticipated to service The Wharf – particularly as pertains to Phase Two.

Affordable and Workforce Housing

ANC-6D is inclined to support the Office of Planning regarding their impression about the mix and placement of affordable housing throughout the project.

The Construction Management Plan

In every other development, ANC-6D has insisted on a community management construction plan as part of our embrace of any PUD. That is something that is always committed to by the developer but rarely provided in any detail this far in advance. Contracts need to be hired and through them, subs. There are lots of moving pieces. But some written understanding must be in place before shovel hits dirt. When the ANC voted to oppose Phase II we had no construction plan. Now we do.

We have clarified how trucks move into and out of the site as well as how they are directed to avoid certain local streets during that process. The ANC recommends that Maine Avenue, M Street and South Capitol Street need to be agreed upon access and egress roads for major construction vehicles at the site – as Potomac Avenue has been for much of the construction on Buzzard Point. That Applicant further agreed just two days ago that both Seventh Street, SW and Eye Street, SW would be off the table for trucks during excavation and also concrete pours. We found that these two portions of construction caused the greatest headache for the neighborhood. We're glad that will now not be an issue.

Vector Control

The ANC has a continuing concern about vector control. Clearly, this is part of the construction plan. But Wharf II is being constructed closer to existing residential neighborhood than First Phase. Many of those closest residences are townhouses at ground level – on either side of

Maine Avenue. Rats love townhouses. Our latest iteration of Southwest rats – particularly at The Wharf – are huge and brazen. ANC-6D expects that HMW will need to take more than extraordinary efforts to ensure that they are controlling this scourge.

Construction Worker Parking / DPW Enforcement

Still on the table to be addressed is the neighborhood's abiding concern with construction worker parking and how that will be handled during Phase II. It took a while for the project managers to get on top of this for First Phase. We need this handled from the beginning of Phase Two, recognizing that much of the space where workers and employees park will be under shovel. Where will they park?

This is also something that we've continued to address with DPW during bi-weekly meetings over the past three months prior to October 12. Our District Government must step up their enforcement in and around Southwest. We are now ground zero and Sunday is no exception – except DPW is the only District Agency that, apparently, takes Sundays off. Again – District neighborhoods don't want to wait for a Nightlife Mayor to fix that problem. It needs to be dealt with now.

Continued Community Engagement

As we have had throughout, the SW Community is pleased to have had the support of The Wharf throughout First Phase as we've continued to have monthly meetings of our Community Construction Group comprised of the leadership of the residential complexes and businesses adjacent to The Wharf. These meetings have been extraordinarily helpful. Of course, we expect the commitment that they will continue.

The Bosque

ANC-6D has asked for a more clearly articulated plan for Building 10 "Bosque" area and its physical relationship to Waterfront Park. We want it understood that the Waterfront Park is a Community Amenity and not to be considered additional outside dining space for any restaurant that may be situated in Building Ten. We have been assured that what is envisioned there is not a "grab and go" kind of restaurant, but a sit-down space.

The Terrace Park is part of Waterfront Park. Waterfront Park was specifically provided as a Community Amenity as a consequence of the First Phase PUD. Consequently Waterfront Park,

including The Terrace Park – including a portion of the area that had previously contained the Copper Beech -- ought to be strictly prohibited from commercial use that removes any portion of that amenity from public use and enjoyment.

At this time, the ANC does not support the notion that the Terrace will be used for special events, let alone events that include music – even unamplified music – at *any* time. We strenuously object to the hours that the Applicant has proposed for such use. Further, we believe that should this use be granted, that the question of hours, occupancy, music -- amplified or otherwise -- properly falls under the ABC since, undoubtedly, alcohol would be served. These issues will be dealt with at that time with that specific ABC applicant as per our usual ANC procedures that the Applicant well knows are in place.

The Copper Beech

ANC-6D also wanted a more clearly articulated plan for what is to replace the copper beech amenity. It's a shame that such a magnificent tree failed to take in the new space. The ANC gives great credit to the Applicant for going through the time, great expense and planning to move the tree but we want to be included in the discussion about what is to take its place on that site. After all, the community helped design the park ... and this is part of the park. Something ought not appear without proper review. The ANC still does not have a real clear understanding or illustration of specifically what's to replace the copper beech.

Special Needs Access

ANC-6D is pleased that in Applicant's Exhibit F they have provided a plan and an updated route for those non-gasoline powered vehicles that will transport Entertainment Cruise Ship Patrons requiring such assistance when they emerge on Maine Avenue.

Public Restrooms

ANC-6D notes that there is a paucity of public restroom facilities throughout the project. We specifically requested – at a minimum -- that family bathrooms be included on the west side of Building Ten. We are pleased that the applicant has included three family restrooms. The ANC is still anxious that the hours for such public accommodation are still in flux. Bodily functions don't cease because the clock strikes nine or require you to purchase a glass of wine so you can address your need. The placement of these facilities serve an additional function in that there are few publicly accessible bathrooms in the existing Phase One. The Applicant has long

contended that this is a project for everybody. Let's make that happen. How they manage, control and patrol ... figure it out. That's part of operations.

Non-Profit Boating

ANC-6D wanted some assurance that non-profit boating associations will be fully incorporated into Second Phase. The Applicant provided us with that assurance with a chart that shows location and dockage. However, this is out of context in that we don't know what's being provided now. There is nothing that specifically names the existing non-profit users: Dragonboats, DC Sail, Carefree Boat Club as part of that process nor what percentage of the 415 feet of dockage will be provided for non-profit vs. for profit canoe, kayak and paddle board rental. We have been pleased that the Applicant had helped DC Sail relocate (perhaps only temporarily in The Yards, if they want to return to The Wharf). ANC-6D still wants a clear commitment that the schooner they operate and can't be accommodated in SE will be able to remain throughout construction of Phase Two and have a permanent dock after completion.

Pedestrian Friendly Pavers

ANC-6D has noted that there is considerable concern about the pavers in Phase One. They hurt your feet. The placement of unanticipated restaurant seats along the sea wall require baby carriages, walkers and wheel chairs to use the space that had been otherwise designed to slow down motorists. The experience – and I have observed this first hand – is teeth chattering. We have been assured that the Applicant plans to have more flat pavers in Second Phase, but would still like to see a sample.

ANC-6D has been provided by the Applicant with a plan to move special needs passengers from buses on either side of Maine Avenue to the Entertainment Cruises and also show where the non-gasoline powered vehicles will be stored after use.

Electric Car Charging Stations

The ANC has asked that The Wharf include no fewer than 10 electric car charging stations in publicly available garage spots throughout the project. They have agreed.

Illuminated Signage

ANC-6D is still concerned about the placement of illuminated signage and advertising throughout the property. The Applicant has agreed on a prohibition of digital signage along

Maine Avenue will be memorialized in the Final Order and will supersede any existing law or future legislation that *may* allow the addition of such signage on said property. We've yet to reach agreement about precise wording for what construes digital advertising or it's placement beyond non-live action, moving digital signage so that they can place them on on trashcans, bus stops, in garages, etc.

What the ANC is concerned about is leaving the door open to possibilities that no one envisions particularly as relates to overall signage in Second Phase. In First Phase there was a very robust discussion before the ANC and at Zoning about how lighting and signage was to be handled. In particular, both the ANC and the Commission were clear that we didn't want lighting or signage to be overwhelming – and particularly we didn't want it to create a visual distraction from National Park Service Land at Hains Point which, thanks to The Wharf jitney is now more accessible than ever before. That makes this an even more important issue. Unfortunately, it hasn't been as robustly upheld.

ANC-6D encourages the Commission to review the signage and lighting discussions from First Phase and to incorporate the contents of those very thorough decisions within Second Phase to ensure consistency throughout the development.

Commissioners, that concludes my testimony. I thank you for the opportunity to testify.