

Gangplank Slipholders Association

97. GPSA testified as a party in opposition to the Parcel 2 PUD. GPSA's concerns were focused on the status of the live-aboard community and mechanisms to assure its protection. GPSA requested a mechanism for transferring live-aboard status that protects the slipholders' investment in their vessels and encourages continued investment and upkeep during construction; a transition plan that covers not only boat movements but livability and affordability; recognition that preservation of the "unique live-aboard community" as recognized by the Commission during the Stage 1 PUD requires special attention to lighting, noise, visual privacy, and other project elements that would directly affect the slipholders' quality of life during and after construction; protections against delays in construction, interruption of services, increases in fees and changes in marina slipholder requirements. GPSA submitted for the record a proposed outline of minimum transition plan elements that it would like to see implemented.
98. GPSA also expressed specific concerns about the landside facilities essential to its successful function, such as marina security, access control, shipping and receiving rooms, restrooms, maintenance, and laundry facilities.
99. The Gangplank Marina will not be redesigned or developed as part of this Stage 2 PUD. However, portions of the existing Gangplank Marina will be removed to allow construction of the Phase 1 waterside plan. Prior to commencement of construction of the Phase 1 marina, existing live-aboard slipholders will be relocated to the existing docks within the Gangplank Marina.
100. The District of Columbia owns the Gangplank Marina and the slipholders hold licenses, which must be renewed annually, to occupy the slips with their boats. By letter dated March 1, 2012, the slipholders were forwarded their license agreements for renewal for the period April 1, 2012 through March 31, 2013. The letter advised the slipholders of the transition plans and notified them that beginning on January 1, 2013, the Applicant would have the right, in its sole discretion, to cancel the license agreement pursuant to Paragraph 30 therein in anticipation of or connection with the commencement of Phase 1 of the project. (Ex. 122.)
101. The Commission is left, then, to balance (i) the clear rights of the Applicant to cancel the slipholders license in order to proceed with development against (ii) the Stage 1 PUD requirement to provide for a live-aboard community during construction with approximately 94 boat slips, with provisions for reasonable continuity of services, utilities, and amenities during construction for the existing live-aboard slipholders.

102. The Applicant presented a detailed transition diagram at the July 12, 2012 hearing, which was also submitted in the drawings to the record. Additionally, the record also reflects a detailed written transition plan dated July 27, 2012, prepared by the Applicant that was submitted to the ANC to help inform the ANC in its own deliberations on the project. (Ex. 171AA). The plan provides for 94 live-aboard slips and for the reasonable continuation of services, utilities, and amenities during construction.
103. This plan was formally accepted by GPSA through an agreement with the Applicant, a copy of which was submitted to the record. (Ex. 235C.) The Commission is satisfied that the transition plan meets the requirements of the Stage 1 PUD. (Ex. 171AA.) The Commission notes that the Applicant represented at the July 31, 2012, hearing night that it had reached an accord with GPSA and there was no testimony to contradict that statement.

U.S. Army Corps of Engineers

104. In order to pursue development of the waterside elements of the PUD, the Applicant is required to obtain a permit from the U.S. Army Corps of Engineers ("USACE"), which has jurisdiction over the navigable waters of the United States. USACE provided the permit on July 31, 2012, and a copy was submitted to the record. (Ex. 184.) The permit authorizes the construction of the waterside development, including the Market Pier and Docks, the Transit Pier, the District Pier, the 7th Street Pier, the Gangplank Marina, the Capital Yacht Club marina, the bulkhead Pier 3, Pier 4, and the mooring field. The permit allows the development of the areas to the limit of the federal navigational channel, consistent with the dimensions of the improvements shown on the drawings submitted to the PUD record.
105. There was considerable testimony in opposition to the waterside development and, in particular, the deauthorization of the navigable channel and related navigational and anchoring issues. Several individuals testified that the proposed dock and pier extension would impede boat traffic and reduce the opportunities to anchor in the Washington Channel. Many witnesses were concerned that waterside improvements had expanded since the Stage 1 PUD approval. The Commission notes that presently, the ability to anchor in the Washington Channel is under the jurisdiction of the Harbormaster and will remain so in the future.
106. Based on the Applicant's testimony and the drawings in the record, however, the fixed docks and piers have actually been reduced from the approved Stage 1 PUD by approximately 23%. This is a result of the elimination of the commercial pier and the residential building on Pier 4. Additionally, the docks and fixed obstructions in the channel have been pulled back between 40 feet and 75 feet