

GOVERNMENT OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR PUBLIC HEARING  
CASE NO. 11-03N

+ + + + +

MONDAY

NOVEMBER 17, 2025

+ + + + +

The Public Hearing of the District of Columbia Zoning Commission convened via teleconference, pursuant to notice at 4:00 p.m. EDT, Anthony J. Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson  
ROBERT E. MILLER, Vice Chair  
GWEN WRIGHT, Commissioner  
TAMMY STIDHAM, Commissioner

OFFICE OF ZONING STAFF PRESENT:

PAUL YOUNG, Zoning Data Specialist  
SHARON S. SCHELLIN, Secretary

OFFICE OF ZONING LEGAL DIVISION STAFF PRESENT:

HILLARY LOVICK, ESQUIRE

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## ALSO PRESENT:

DAVID AVITABILE, ESQUIRE, Goulston and Storrs  
SHANE DETTMAN, Goulston and Storrs  
ANDREW SON, President, District Wharf Properties (DWP)  
MATTHEW JESICK, DC Office of Planning  
DANA ROLLISON  
WILL BUTLER  
MARK AGUIRRE  
LAURIE MCMAHON

The transcript constitutes the minutes from the  
Regular Public Hearing held on November 17, 2025.

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(4:00 p.m.)

CHAIRMAN HOOD: Good afternoon, ladies and gentlemen. We are convening and broadcasting this public hearing by videoconferencing. My name is Anthony Hood, and I'm joined by Vice Chair Miller and Commissioner Wright, as well as Commissioner Stidham, who will be joining us in about five to ten minutes. We're also joined by the Office of Zoning staff, Ms. Sharon Schellin and Mr. Paul Young, who will be handling all of our virtual operations, and, also, our Office of Zoning Legal Division, our counsel, Ms. Hillary Lovick. I will ask all others to introduce themselves at the appropriate time.

The virtual public hearing notice is available on the Office of Zoning's website. The proceeding is being recorded by a court reporter and is also webcast live via Webex and YouTube Live. The video will be available on the Office of Zoning's website after the hearing. Accordingly, all those listening on Webex or by phone will be muted during the hearing and only those who have signed up to testify will be unmuted at the appropriate time. When called, please state your name before providing your testimony. When you are finished speaking, please mute your audio.

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1 | or if you have not signed up to testify. All persons planning  
2 | to testify must have signed up in advance and will be called by  
3 | name at the appropriate time. At the time of sign-up, all  
4 | participants will complete the oath or affirmation required by  
5 | Subtitle Z-408.7. If you wish to file written testimony or  
6 | additional supporting documents during the hearing, then please  
7 | be prepared to describe and discuss it at the time of your request  
8 | when submitting.

9 |           The subject of this evening's hearing is Zoning  
10 | Commission Case Number 11-03N, Wharf Phase 3 REIT -- somebody  
11 | tell me what that is -- Leaseholder, LLC -- which I think I know  
12 | what it is -- modification with hearing of second-stage PUD at  
13 | Square 473, Lot 1008, 635 Wharf Street Southwest. Again, today  
14 | is November the 17th, 2025.

15 |           The hearing will be conducted in accordance with the  
16 | provisions of 11-Z DCMR, Chapter 4, as follows: preliminary  
17 | matters; applicant's case -- the applicant has up to 60  
18 | minutes -- we'll hear collectively with the parties in support  
19 | or opposition, which I don't think we have any -- and the ANC  
20 | report. So report of the Office of Planning and Department of  
21 | Transportation, report of other government agencies -- we will  
22 | actually hear the report of other government agencies first; then  
23 | we'll hear the report of the Department of Transportation; and  
24 | then the report of the Office of Planning; report of the ANC;  
25 | testimony of organizations and individuals -- organizations, five

1 minutes; individuals, three minutes -- and then we'll have  
2 rebuttal and closing by the applicant. The -- one second. At  
3 this time, the Commission will consider any preliminary matters.  
4 Does the staff have any preliminary matters?

5 MS. SCHELLIN: Just briefly. I think that REIT is Real  
6 Estate Investment Trust, but I might be wrong.

7 CHAIRMAN HOOD: Okay. Thank you.

8 MS. SCHELLIN: If I'm wrong, I'm sure Mr. Avitabile  
9 will correct me. But, as you stated, this is a modification with  
10 hearing. Originally, it was filed with -- as a modification  
11 without hearing, I believe close to a year ago, if not a year,  
12 and so the Commission asked that they come back and file it as a  
13 modification with hearing, and so they are at that stage.

14 They are asking for a modification to a second-stage  
15 PUD that was approved by the Commission to authorize a retail  
16 pavilion that would add an enclosure or enclose the eating and  
17 drinking establishment that has already been constructed on the  
18 property, and it would allow for operable louvers and roll-up  
19 side shades to extend some of the seasonal months and during any  
20 inclement weather that we may have in the District.

21 And ANC 6D, there's no report; however, today I did  
22 receive an e-mail from Gottlieb Simon, the Chairman, asking if  
23 they could have the record open until at least Wednesday to  
24 provide a report, so if the Commission would consider that for  
25 them. And OP's hearing report is at Exhibit 18. I looked at

1 little bit ago, did not see a DDOT report or any other government  
2 agency reports. If I'm incorrect, I'm sure someone will let me  
3 know. But, other than that, I am ready to turn it over, except  
4 for one expert witness, and that being Shane Dettman, who has  
5 previously been accepted. I just ask that he be accepted in this  
6 case as an expert in planning.

7 CHAIRMAN HOOD: Okay. We'll do Shane Dettman like we  
8 did Steven Sherer (phonetic). Any objections, colleagues, of  
9 Shane Dettman?

10 VICE CHAIR MILLER: (Shakes head negatively.)

11 COMMISSIONER WRIGHT: (Shakes head negatively.)

12 CHAIRMAN HOOD: Okay. No objections. But before we  
13 move any further, can we get Commissioner Stidham -- she's having  
14 a problem getting in.

15 MS. SCHELLIN: Okay. I'll get her in.

16 CHAIRMAN HOOD: Okay. Yeah, let's get her in.

17 MS. SCHELLIN: And the ANC, are you okay with them  
18 submitting by Wednesday or, say, by Friday?

19 CHAIRMAN HOOD: Sure. I'm looking at my  
20 colleagues -- a name from the past, Gottlieb Simon. Any  
21 objections?

22 COMMISSIONER WRIGHT: (Shakes head negatively.)

23 CHAIRMAN HOOD: Okay. No objection.

24 MS. SCHELLIN: By Friday then?

25 VICE CHAIR MILLER: No objection.

1 CHAIRMAN HOOD: No objection. Yeah, that's fine. Let's  
2 get Commissioner Stidham in.

3 MS. SCHELLIN: Okay. And I'll get Commissioner Stidham  
4 in. Okay. Sure.

5 CHAIRMAN HOOD: Let's get her in, as -- let's get her  
6 in first. And, Mr. Young, you can start bringing everybody up.  
7 We won't start -- there she is.

8 MS. SCHELLIN: There she is.

9 CHAIRMAN HOOD: Okay. Good. Commissioner Stidham, can  
10 you -- can you hear us?

11 COMMISSIONER STIDHAM: Yes. I'm having lots of  
12 trouble.

13 CHAIRMAN HOOD: We are glad to have you back. It's  
14 only been 40 or 45 days.

15 COMMISSIONER STIDHAM: Oh, geez, what a mess. Yes, I  
16 am glad to be back.

17 CHAIRMAN HOOD: We are glad to have you back. Welcome  
18 back, Commissioner Stidham.

19 COMMISSIONER STIDHAM: Thank you.

20 CHAIRMAN HOOD: All right. Okay. Mr. Avitabile, you  
21 all may begin.

22 MR. AVITABILE: Thank you. Good afternoon Chairman  
23 Hood and members of the Commission.

24 CHAIRMAN HOOD: Mr. Avitabile, I'm getting a little  
25 older, but I can't hear you. Maybe --

1 MS. SCHELLIN: I can't either.

2 MR. AVITABILE: Can you hear me now?

3 CHAIRMAN HOOD: Sounds good.

4 MR. AVITABILE: Excellent. When we reconfigured, Webex  
5 didn't have my old settings. All right. Good afternoon,  
6 Commissioners -- Chairman Hood and members of the Commission.  
7 I'm David Avitabile with Goulston and Storrs, land use counsel  
8 for the applicant. I'm joined today by my colleague, Shane  
9 Dettman. Thank you for certifying him as an expert witness. We  
10 are here to present an application for a modification to the  
11 prior approvals to the Wharf PUD.

12 We're also joined by Andrew Son, the President of  
13 District Wharf Properties. Is Andrew on? There we go. Great.  
14 He's part of our team. And if Andrew can come up. So District  
15 Wharf Properties, which is an affiliate of the applicant, is a  
16 company that was established to manage and oversee the ongoing  
17 operations of the Wharf. And we wanted to start by asking Andrew  
18 to introduce himself and just give a couple of minutes of  
19 background on his role and the role that District Wharf Properties  
20 plays as the steward for the Wharf. Andrew, take it ahead.  
21 Andrew, we can't hear you. This is going around apparently. No.

22 MS. SCHELLIN: He is unmuted.

23 MR. AVITABILE: Yes, yes, now we can.

24 MR. SON: Oh, great. Excellent. All right. Sorry,  
25 y'all. Well, thank you, David, for the introduction, and thank

1 | you, Commissioners, for the opportunity to speak. Two -- brief  
2 | two minutes about sort of me and the organization. My name is  
3 | Andrew Son. I'm the CEO of District Wharf Properties. The  
4 | District -- DWP is the investment manager and operator of The  
5 | Wharf. It's a 32-person integrated real estate company  
6 | headquartered in the Southwest, right here at The Wharf. And  
7 | while the organization has been around since mid-2021 overseeing  
8 | the day-to-day operations of The Wharf's operating portfolio, it  
9 | did rely heavily on the original developers of The Wharf, Hoffman  
10 | and Associates and Madison Marquette in the development and lease  
11 | up of Phase 2. And so, you know, everything changed back in  
12 | April of 2025, just seven months ago.

13 |           As reported in various news outlets, PSP Investments,  
14 | a long-time limited partner in the deal, acquired the interests  
15 | of Hoffman and Associates and Madison Marquette, and really since  
16 | then, the last seven months, DWP has stepped in as the sole  
17 | owner's representative, overseeing the management of the common  
18 | areas, financing and operations of the real estate portfolio,  
19 | and, of course, engagement with the community.

20 |           And among my biggest priorities, in the short time that  
21 | we've led this neighborhood, has been pivoting away from the  
22 | development footing that The Wharf and its various entities have  
23 | been working under, you know, really for the last dozen or so  
24 | years and shifting to a more long-term view of The Wharf as an  
25 | anchor for the Southwest and as one of the economic drivers of

1 the city as a whole. And some of the highlights of that short  
2 period of time include increased engagement with ANC 6D, both  
3 with the Commissioners who represent The Wharf and to all of 6D.  
4 We're grateful for the dialogue and appreciate the ANC's  
5 willingness to work with us. A lot of examples of that, you  
6 know, in the last seven months to a year.

7 We've increased engagement with the Council,  
8 particularly Councilmember Allen's office, on issues that affect  
9 DC and The Wharf. We've increased engagement with DMPED, who's  
10 the primary business partner of The Wharf, and we've appreciated  
11 a continued dialogue and collaboration, despite the change in  
12 ownership. Of course, we have an ongoing and very strong  
13 relationship with MPD's First District and keeping the area safe.  
14 And, you know, what I'm particularly proud of is the engagement  
15 that we've had with many local organizations, like Waterfront  
16 Village, Southwest Neighborhood Association, SWNA, Theater  
17 Alliance, to name a few. These groups, you know, value a  
18 relationship with The Wharf, and the feeling's mutual. And, you  
19 know, we haven't really -- you know, to be frank, it may not have  
20 been a big priority for us to have engagement with these local  
21 groups in the past, for the many years that we were in  
22 development, but we are in a very different stage of our life  
23 cycle now, and so we're proud of those relationships.

24 And, finally, one of the major priorities, you know,  
25 for us has been continuing to make The Wharf a safe and engaging

1 place for people from all over DC and the region to experience  
2 DC's waterfront. We bring over eight million people a year to  
3 the site. We're proud of it. It was the main and original  
4 objective of the Anacostia Waterfront Initiative, and it  
5 continues to be our north star. So we're proud of the 17-plus  
6 acres of parks, piers, and public space that we maintain to a  
7 world-class standard. We're proud of the hundred free events  
8 that we host onsite each year. We're, of course, proud of the  
9 336 affordable and workforce units that are in our portfolio, as  
10 well as the countless other benefits we provide to the community.

11           Now, that being said, you know, we -- you know, these  
12 free events, you know, cost something, obviously; keeping  
13 security, you know, going all cost something, and, unfortunately,  
14 The Wharf is not immune to the economic and societal pressures  
15 that DC is facing, and so we've had no choice to redouble our  
16 efforts on security to keep the site safe for visitors. We're  
17 looking for ways to attract economic activity to DC, and The  
18 Wharf in particular, and, you know, probably, most importantly  
19 and relevant for this conversation, is we're supporting our  
20 tenants where we can to give them a fighting chance, as we  
21 collectively work through some of the turbulence in the local  
22 economy. And so we appreciate your -- appreciate the opportunity  
23 to speak in front of you and appreciate you considering a  
24 modification of the PUD. Thank you.

25           MR. AVITABILE: Thank you, Andrew. All right. And

1 turning to the request before you, Commissioners, we're here for  
2 approval of a small one-story pavilion that will frame an outdoor  
3 bar and café within the open space known as M Street Landing.  
4 And if we go to the next slide please, Mr. Young. Thank you.  
5 Great. Next slide after that. Excellent.

6 The establishment that's going to operate within this  
7 pavilion, known as Merchants Marina, is operated by the same  
8 tenant that runs the Phillipe Chow restaurant that's located  
9 within the Amaris Building, which is Parcel 9 of The Wharf, across  
10 Wharf Street to the west -- north and west of where we are. And  
11 if we go to the next slide please. So this just gives you a  
12 little bit of a sense of the location we're talking about here.  
13 The area that's circled is where the pavilion has been constructed  
14 and where the use will be located. You can see the Amaris  
15 Condominiums is sort of to the west side of us; it's sort of to  
16 the north and west, and you can see the associated restaurant  
17 where it is located right across what is Wharf Street there.

18 So the approved PUD expressly called for outdoor café  
19 seating within M Street Landing, and the issue today is the  
20 pavilion itself. The use and the structure received building  
21 permits, but during the review of a supplemental permit, the  
22 Zoning Administrator flagged concerns regarding the enclosing  
23 elements, the operable louvers and the pull-down curtains you can  
24 see in these images, that allowed the café to be fully enclosed.  
25 Because prior permits had already been fully vested, the ZA

1 | allowed the applicant to proceed with -- to construct the  
2 | pavilion, but on the condition that the applicant secure Zoning  
3 | Commission approval for those enclosing elements, and the  
4 | structure is fully complete and constructed.

5 |           The Commission may recall that similar concerns were  
6 | raised regarding another establishment a little bit further up  
7 | the street, within the Parcel 6/7 office building, for a  
8 | restaurant known as Kinfolk, which the Commission approved  
9 | enclosing elements for as a modification without hearing back in  
10 | early 2024. We had originally filed this application under the  
11 | same process as well at the same time, but both the Office of  
12 | Planning and ANC 6D expressed concerns about the structure, and  
13 | so you asked us to proceed to refile for a modification with  
14 | hearing, which we did earlier this year.

15 |           Next slide please. And here, again, is I think some  
16 | images, which we include in our application, which show the  
17 | location and show the completed structure where it sits, relative  
18 | to the surrounding landscape and the surrounding buildings.

19 |           Next slide. Thank you. As a modification, the standard  
20 | of review is the same as a second-stage PUD, compliance with the  
21 | intent and purposes of the first-stage PUD. And with that in  
22 | mind, I wanted to briefly walk through the PUD history, and then  
23 | Shane will then summarize our analysis of why the modification  
24 | is compliant with the applicable standards.

25 |           Next slide please. And so here, this is an image from

1 the first-stage PUD, which approved the overall program and plan  
2 for The Wharf and included from the beginning this concept of M  
3 Street Landing toward the southern end of The Wharf development.

4 Next slide please. And here are some close-up images  
5 from the first-stage PUD. The first-stage PUD showed M Street  
6 Landing as an active urban plaza and included, actually, at that  
7 time, not one but two retail pavilions, and one of which is  
8 located in roughly the same location as what we're talking about  
9 today. There's comparatively little landscaping in the first-  
10 stage concept, and the area really serves as a gathering place  
11 and crossroads for the retail and other commercial activity that  
12 was intended for The Wharf. The first-stage PUD also considered  
13 view corridors and concluded that the design of M Street Landing,  
14 including those pavilions that were contemplated at the time,  
15 would not impact those view corridors.

16 Next slide please. And this, again from the first-  
17 stage PUD, shows the use mix and really shows how it sits in the  
18 center amid retail activity surrounding it on both sides.

19 Next slide please. So as is typical, the design of M  
20 Street Landing evolved for the second-stage PUD. And this shows  
21 the second-stage PUD, which was limited to just Parcel 6 through  
22 10, with M Street Landing, again, sitting in between Parcels 9  
23 and 10.

24 Next slide please. The final design shown here  
25 bifurcated M Street Landing into two primary areas; the more

1 inward area circled around the fountain, which is closer to M  
2 Street, and then a more open and flexible area along the water.  
3 M Street Landing remained an active plaza, but the final design  
4 introduced landscape areas to help define these outdoor rooms.  
5 The area also retained retail activity, though now -- if you go  
6 to the next slide please -- this is comparing the first and the  
7 second.

8           Next slide please. Thank you. And what you can see  
9 in this image, which is from the second-stage PUD, is that retail  
10 activity was continued to be contemplated, not just around but  
11 within M Street Landing, in the form of café-seating areas, as  
12 well as other flexible seating. So it was against this backdrop  
13 that the Zoning Administrator approved the permits for the use  
14 of the property for an outdoor bar/café, but then flagged the  
15 construction of a fully-enclosable structure around that space  
16 as an issue for the Commission to consider, just as she had for  
17 the Kinfolk enclosure.

18           And so, with that, I'll now turn the discussion over  
19 to Shane for an evaluation of the proposed modification.

20           MR. DETTMAN: Thanks, Dave. And, Mr. Young, can we go  
21 to the next slide? Next one. And good evening, Commissioners.  
22 So very quickly, as Dave mentioned in his opening remarks, in  
23 terms of the standard of review for a modification to a second-  
24 stage PUD, it's primarily the -- whether or not it's consistent  
25 with the intent and purpose of the first-stage PUD, and then an

1 overall detailed site plan evaluation.

2           When it comes to the intent and purpose of the first  
3 stage, as Dave mentioned, M Street Landing was described at that  
4 time as an active urban plaza with a mix of retail and gathering  
5 places, water features and views to Arena Stage. And with the  
6 pavilion that's being looked at now this evening, M Street Landing  
7 will continue to serve these functions.

8           And, as Dave mentioned, while the plan for M Street  
9 Landing evolved from the first stage -- you know, the first stage,  
10 what you see on the left here, to what was approved in the second  
11 stage, which is shown on the right. It continues to serve that  
12 first-stage PUD stated purpose, as an active urban plaza. It's  
13 flexible and can be used for markets, cafés, concessions, events,  
14 and performances, especially in the more active room portion of  
15 M Street Landing, which is closer to the waterfront, as well as  
16 Wharf Street.

17           Next slide. In terms of M Street Landing's current and  
18 contemplated character and scale, the pavilion does not have any  
19 impact on the character and use of M Street Landing, as you can  
20 see in these diagrams here. It will have no impact on the more  
21 passive outdoor room that Dave mentioned around the plaza that's  
22 closer to M Street. It also will have no impact on kind of the  
23 character use and the scale of the second outdoor room that makes  
24 up M Street Landing, which is the more active portion of the  
25 overall plaza, which is closer to the bulkhead and down at the

1 terminus of Wharf Street.

2           Next slide. And, as Dave mentioned, M Street Landing  
3 has always been kind of considered this active plaza that has,  
4 among other things, retail and outdoor café seating and what not.  
5 In the first-stage PUD, it was contemplated to be located closer  
6 to the fountain, but through the flexibility granted in the PUD  
7 order, what we're looking at here is the café seating and the  
8 location of that kind of orange oval area, which is where the  
9 use was -- is currently looked at -- being looked at, and then  
10 it's the enclosing elements around that particular café use that  
11 we're --that's under consideration today.

12           Next slide. In the first-stage PUD, there are view  
13 corridors to and through and actually out of M Street Landing  
14 that were looked at. So we just did a very quick viewshed  
15 corridor analysis, looking at the current built environment of M  
16 Street Landing relative to the pavilion that's been constructed  
17 and coming to the conclusion that, like the Commission did in the  
18 first-stage PUD and the second-stage PUD, impacts to view  
19 corridors will not be adverse whatsoever.

20           And, in this case, you can see from this image, looking  
21 from kind of where M and Main Avenue kind of come together looking  
22 towards M Street Landing, you won't have any view of the pavilion,  
23 as it's currently constructed. You can see there, that's actually  
24 the canopy to the below-grade parking structure that's there.  
25 The pavilion is actually far on the other side of that particular

1 structure.

2           Next slide. Looking from Arena Stage towards the  
3 waterfront, again, kind of the pavilion being tucked into an  
4 existing kind of sculptural landscape form that's there. And  
5 then, next slide, looking south from Wharf Street, it's kind of  
6 pulled off to the side so that terminus of the -- of the Parcel  
7 10 building will not be disrupted whatsoever.

8           Next slide. In terms of circulation, I mentioned --  
9 you can see in the orange oval there that the pavilion is tucked  
10 into a pre-existing sculptural landscape form, and so the  
11 pedestrian movements through and into M Street Landing will not  
12 be disrupted.

13           Next slide. This is looking at the back of the  
14 structure towards the Parcel 9 building there. You can see it  
15 has no impact on the -- kind of the open plaza area that's  
16 available in M Street Landing for those types of markets and  
17 programming.

18           Next slide. And so just going back to the standard of  
19 review that's applicable here, the proposed modification to the  
20 second-stage PUD is consistent with the intent and purpose of the  
21 first-stage PUD and the description of M Street Landing that was  
22 sort of described in the first-stage PUD order and the second-  
23 stage PUD order. It's consistent with the types of uses that  
24 are contemplated for The Wharf in the Comprehensive Plan,  
25 including the Future Land Use Map, which shows M Street Landing

1 for a mix of open space, as well as low-scale commercial uses.

2 And then, finally, as the brief planning analysis  
3 shows, the proposal will have no impact on the site plan,  
4 character, use, views, and the circulation around M Street  
5 Landing. And, with that, I'll turn it back to Dave.

6 MR. AVITABILE: Thanks, Shane. And I think we can stay  
7 here, Mr. Young. I just wanted to conclude by wrapping up sort  
8 of our response to the items in the record. First, we're  
9 appreciative of the time and the thought that the Office of  
10 Planning has devoted to this application. As the Commission may  
11 remember, OP was not supportive of the original request, but we  
12 appreciate the thorough re-evaluation that OP undertook,  
13 including a site visit to see the completed structure and context,  
14 as noted in its report in support of the modification. We agree  
15 with OP that the particular design of this pavilion does not  
16 impair the intent of the original PUD and that the degree of any  
17 impact is minor, given the overall levels of activity at The  
18 Wharf.

19 Second, we appreciate the time that ANC 6D has also  
20 given to considering this request. ANC was not a fan, to say  
21 the least, when we were initially before you over a year ago,  
22 but The Wharf team has spent a significant amount of time working  
23 together with the ANC's Commissioners to address issues of mutual  
24 concern, and that's noted in -- although we don't have a report  
25 from the ANC yet, the Single-Member District Commissioner did

1 submit a letter attesting to some of that and indicating that he,  
2 at least, no longer opposes the modification. It's my  
3 understanding that the ANC's plan this evening is to essentially  
4 consider that. We certainly understand. We're happy for the  
5 record to be left open to hear from the full ANC on any action  
6 they might take and, you know, reserve the right, if it differs  
7 materially from what the current letter says, to share our  
8 thoughts on it, but our hope is we sort of have used the last  
9 year plus to sort of set up a framework going forward to work  
10 together, as Mr. Son described.

11           And I think we also can say that we agree with the ANC  
12 that going forward these sorts of permanent enclosures would be  
13 discussed prior to any implementation. You know, these are a  
14 relic of sort of decisions that were made prior to the involvement  
15 of myself, the involvement of Mr. Son, but we will make sure,  
16 going forward, to follow the process the way it should be.

17           And then third, with respect to the concerns that were  
18 raised by the Amaris in the statement that was submitted, we  
19 heard from them late in the week last week. We have exchanged  
20 some correspondence back and forth with their counsel on some of  
21 their concerns that they've identified. We submitted a letter  
22 yesterday around noon, which the Commission may or may not have  
23 had a chance to review. I can certainly summarize that, if you'd  
24 like, but I don't want to go into detail yet, but let me know  
25 and I'm happy to do it. I think -- on balance, we think that

1 we've found a reasonable accommodation in addressing their  
2 concerns, particularly given the context here of an active dense  
3 urban entertainment zone with lots of outdoor dining activity.  
4 We really do believe that many of the issues that they've raised  
5 are best addressed through the liquor licensing process. That's  
6 where things like security, hours of operation, and noise are  
7 typically handled for these sorts of establishments, and that's  
8 the case here.

9           There's a written Cooperative Agreement that's been in  
10 place for a couple of years that settles out all of those  
11 expectations. With that said, we did review a couple of the  
12 concerns that they raised and thought that it was appropriate to  
13 add, potentially, additional conditions here; one, affirming that  
14 this establishment will also utilize the same loading dock, the  
15 same loading management plan that the existing establishments  
16 use; and then, second, that we would agree to no live music within  
17 the establishment.

18           And then, finally, I did want to note an appreciation  
19 for the Zoning Administrator's careful consideration of this  
20 issue, which led us here, which really did provide a fair balance  
21 on how to respect validly issued permits and investments by The  
22 Wharf and its tenants, but also make sure that the Commission was  
23 looking at this question about sort of something that can create  
24 a fully-enclosed space and constitutes a building. And so, with  
25 that, we conclude our presentation, and we are happy to answer

1 | your questions. Thank you.

2 |           CHAIRMAN HOOD: Thank you, Mr. Avitabile. Before I go  
3 | to Commissioner Wright, I'm just trying to think of the history  
4 | of this. I think -- I think the issue is that, when the  
5 | Commission dealt with The Wharf at the very beginning, it was to  
6 | keep openness; is that correct? It was supposed to open; am I  
7 | correct? Like, the pergola we're talking about, it was  
8 | supposed -- we wanted to have open viewsheds and view lines. Was  
9 | that -- was that the legislative history? I'm trying to remember.  
10 | I think -- I think that was it.

11 |           VICE CHAIR MILLER: I think that's correct, Mr.  
12 | Chairman.

13 |           MR. AVITABILE: Yeah.

14 |           CHAIRMAN HOOD: Oh, okay.

15 |           MR. AVITABILE: No, I think -- I think that is correct,  
16 | but I also think there was an understanding that it was overall  
17 | views and viewsheds and not necessarily that it would be  
18 | completely open and undeveloped. Obviously, there was going to  
19 | be landscaping. There's things like the parking structure. And,  
20 | you know, at least in the first stage, there was this idea of  
21 | retail pavilions, which would also be here, so -- and even in the  
22 | second stage, the idea there would be outdoor cafes and seating,  
23 | so it would be an actively-used area, but that it would be -- it  
24 | would certainly not be improved with buildings.

25 |           CHAIRMAN HOOD: Okay. I appreciate that. And I

1 | guess -- that's been some years ago. Now I'm revisiting it, and  
2 | I'm wondering -- first of all, I was wondering why you all were  
3 | here. That was the first -- my first question when I was doing  
4 | this. And my second question, I was wondering what we were  
5 | thinking, because I cannot find myself, as a citizen, going down  
6 | there, sitting out in the hot -- I mean, that's just me. Maybe  
7 | I'm -- maybe it's just me by myself. I think this is modest. I  
8 | know people had some concerns, and I think those things can be  
9 | worked out.

10 |           I also agree with some of what I've heard -- what I saw  
11 | in your submission about Diane Groomes. Diane Groomes is now the  
12 | security person of The Wharf. She has a track record in this  
13 | city, which has been very successful, as well as the collaboration  
14 | that you all have. And I know the most affected neighbors  
15 | probably don't see it that way, and I get it, but I want you  
16 | all -- I'm sure you all will continue to have those discussions.

17 |           And I appreciate the comments from the Single-Member  
18 | District, but I'd like to hear from Chair Simon and all the rest,  
19 | but I think -- I think it's a draw, at least for a person like  
20 | me, because I can tell you right now, on them hot days I'm not  
21 | coming down there to sit out there, and I think Commissioner  
22 | Kramer and I have had this conversation before about another  
23 | property. But, anyway, I just think that it's beneficial. I  
24 | think this is modest, and, again, I wanted to know why you were  
25 | here, but I also want to hear from people like Mr. Aguirre from

1 | Amaris and all those people who have concerns and hear what their  
2 | concern is, to see if we can navigate through that. So, with  
3 | that, I'm going to -- those are just my quick comments. I was  
4 | giving Commissioner Wright a chance to get settled and get  
5 | straight, so I will turn it over to Commissioner Wright. You  
6 | have any questions or comments?

7 |           COMMISSIONER WRIGHT: Okay. Thank you very much. I  
8 | don't have a voice today, so I apologize and I'm very -- have  
9 | lots of laryngitis.

10 |           Could you talk a little about the landscaping in this  
11 | particular open space? I noted in the OP report that maybe the  
12 | original intent was for trees that were going to grow so that  
13 | they were not going to restrict a lot of views, and that may  
14 | still be in process. You know, the trees that have been planted  
15 | are not that old. But could you talk a little bit about the  
16 | landscaping of this area, specifically related to viewsheds?

17 |           MR. DETTMAN: Sure. Sure, Commission Wright, I can.  
18 | So I know -- so the viewsheds through M Street Landing was an  
19 | issue that came up late in the first-stage PUD, and it was --  
20 | that issue, post-hearing, was specifically analyzed. And if  
21 | you -- if you look at the first-stage order, it talks about how  
22 | M Street Landing -- really there was no viewshed there. There  
23 | was an idea that maybe -- it was more sort of like a view towards  
24 | M Street Landing, rather than through M Street Landing, right?  
25 | So it was -- if you can picture yourself looking -- on M Street

1 | looking west towards The Wharf, it was the idea that you were  
2 | looking at space that was framed by buildings; the Parcel 10  
3 | building, the Parcel 9 building. And I think in the order it  
4 | even talks about how there was an existing stand of mature trees  
5 | that was blocking the view to see the actual water at that time.

6 |           And then, as you saw in the plans in the first-stage  
7 | PUD, which, at that time, you're sort of just looking a use and  
8 | massing and what not, that M Street Landing was just a completely  
9 | open, paved area with a fountain and a couple of retail pavilions  
10 | in it. It's not until sort of the second-stage PUD where the  
11 | sort of -- when you look inside M Street Landing and the  
12 | landscaping and the site plan of M Street Landing started taking  
13 | its shape, and that's -- when it took its shape, it was  
14 | a fountain at M Street -- up at M Street surrounded by some  
15 | sculptural forms of landscape and what not, with some sort of  
16 | like understory trees.

17 |           And then toward the waterfront, it was more urban,  
18 | where you could have those sort of programmed events and what  
19 | not. I think you're right. I think -- I don't exactly know the  
20 | species of tree that's there, but if you think -- like, Phase 2  
21 | of The Wharf actually has not been open all that long, and I  
22 | think that it's in process, that those trees will -- given some  
23 | time to grow and then perhaps through pruning, the idea would be  
24 | there that you have some views underneath the trees, but not  
25 | necessarily the intent of seeing all the way through to the

1 waterfront.

2 MR. AVITABILE: And I'd add to that a couple of other  
3 things that OP noted in their analysis. One, while I think the  
4 high-limb deciduous trees are part of it, there is also sort of  
5 a fair amount of evergreen planting and landscaping, including  
6 particularly where the pavilion is, so it's sort of occluded by  
7 that more or less year-round. And then the other thing that the  
8 Office of Planning noted is that there's a grade change from sort  
9 of M Street down toward the water of about three feet. So this  
10 structure, which is only eleven feet, you know, it's really --  
11 it sort of shrinks down a little bit too. So all of those things  
12 sort of work in concert. And then, finally, the footprint of  
13 this is only so much. You still have all of that open space  
14 between Parcel 9 and Parcel 10 to see through.

15 COMMISSIONER WRIGHT: Yeah. And I do want to note --  
16 and maybe you can talk about this. I know that it has the ability  
17 to be enclosed, but I would assume that that enclosure will really  
18 be probably for -- it would be enclosed for fewer days than it  
19 is open, because the idea of sitting out in the open for your  
20 customers is more appealing.

21 The enclosure that you have does seem pretty -- but,  
22 again, I'm only seeing it in the sort of renderings and  
23 drawings -- seems pretty solid. Is it actually more glassy than  
24 what we're sort of seeing in the -- in the renderings?

25 MR. AVITABILE: So it's actually -- at least a couple

1 of the images are actual photographs of it, and so there are two  
2 pieces to the enclosure. There are the operable louvers on the  
3 top, which I think would largely close in the event of rain, and,  
4 otherwise, could be open, and you can adjust them, obviously. On  
5 those particularly hot days that Chairman Hood described, I think  
6 you might do more -- bring them closer to bring more shade than  
7 not. And then the other piece of it are the pull-down -- the  
8 pull-down sides. Those are opaque, and I do think the point of  
9 the pull-down sides is less about enclosures while it's operable.  
10 You might do maybe one side of it to keep the rain from coming  
11 in if, you know, a squall comes through, but, largely, I think  
12 those are to secure it when it's not in operation.

13 COMMISSIONER WRIGHT: I see.

14 MR. AVITABILE: You know, that's, at least, my  
15 understanding of how this will operate. And, Andrew, I don't  
16 know if you have anything further to add on that. You're still  
17 muted.

18 MR. SON: Sorry. Thank you. You know, I think you  
19 appropriately described it. You know, I think the idea is about  
20 making it a pleasant place to be and, you know -- you know,  
21 obviously, Chairman Hood, you know, mentioned sort of the sun  
22 issue. It's a big issue. We're also on the water, and so it  
23 is -- it can get quite windy, and, you know, just because the  
24 rain may be coming top down, the wind does not make it so. And  
25 so really the idea is about making it, like, a place that's

1 active. I think, you know, Diane Groomes was mentioned. She's  
2 an important part of what we have here, and, you know, this is  
3 something that she supports as well, largely because, you know,  
4 activation is -- has a lot to do with safety. And so even when  
5 it's raining, even, you know, when it's, like, a little too sunny,  
6 you kind of want people out there, and, you know, we think this  
7 modest structure does achieve those objectives.

8 COMMISSIONER WRIGHT: And just so -- and it's helpful  
9 to understand, what I was referencing is they look like either  
10 gray or off-white sort of panels that come down and actually  
11 fully enclose. And is that you're saying primarily going to be  
12 for security; that it may be, at times, to block off a portion  
13 of it on a particularly windy day, but when it's operating as a  
14 restaurant or a café you, in all likelihood, would not have all  
15 of those panels down and set.

16 MR. AVITABILE: That's exactly right.

17 COMMISSIONER WRIGHT: Great, because I was thinking it  
18 could become a little claustrophobic. Those are, you know, sort  
19 of fully opaque panels, but if they're essentially there for, you  
20 know, at night when everything is closed down, I certainly think  
21 that makes a lot of sense. So thank you. I think those were my  
22 only questions, and, again, I appreciate you coming forward and  
23 explaining things in your presentation, which was very helpful.

24 CHAIRMAN HOOD: Okay. Thank you. Commissioner  
25 Stidham, any questions or comments?

1           COMMISSIONER STIDHAM: Well, if I can get my microphone  
2 working, since everything else seems to be a little  
3 (indiscernible) right? So thank you for the presentation and for  
4 the materials. That was really helpful. So I just -- I just  
5 have a few questions. This is already constructed, right, but  
6 not occupied because you've been waiting for this hearing; is  
7 that correct?

8           MR. AVITABILE: That's correct, yes.

9           COMMISSIONER STIDHAM: And what is the expected --  
10 like, what is the occupancy of the building? How many people  
11 are supposed to be able to be in this space at any one time? I'm  
12 sure it was in the materials, but I just missed it.

13           MR. AVITABILE: I believe it's around 50 tables -- 50  
14 seats, more or less, but let me see if I can find that in the  
15 plans. I remember seeing it somewhere, unless, Andrew, you happen  
16 to recall.

17           MR. SON: I do not know the number off the top of my  
18 head, David.

19           VICE CHAIR MILLER: I recall 40 seats, but there's  
20 probably standing room as well, so that's what Commissioner  
21 Stidham was asking about, the total occupancy.

22           COMMISSIONER STIDHAM: Right. Right. Just trying to  
23 get a sense of how many people, you know, to get to the concerns  
24 that we've heard related to noise and security from others, just  
25 trying to better understand, you know, how many people are we

1 talking about during any given period? And I sort of see this  
2 as more like an open -- based on your description and the  
3 materials, this is more like an open area pavilion, right? People  
4 would stand around it in order to, you know, visit the  
5 establishment, but it's not that they would be enclosed inside,  
6 which feels very claustrophobic to me.

7 MR. AVITABILE: That's exactly right.

8 MR. SON: It might be worth noting, also, that, you  
9 know, there may be times when, you know, we don't want, you know,  
10 sort of the activity in there to sort of leave. The best way to  
11 attenuate the sound is to actually keep it -- keep it in there.  
12 Now, we don't think that, you know, the 40-some-odd people who --  
13 you know, at max, or whatever the number ends up being, you know,  
14 is going to really change the amount of noise that happens. At  
15 The Wharf it is quite active. We bring in eight million people  
16 to the site a year, so we don't think that this actually  
17 changes -- moves the lever, but if there is a time, the operable  
18 louvers, like, is a way to just make it so the sound stays there,  
19 as claustrophobic as it may be for the customers.

20 COMMISSIONER STIDHAM: And is it -- from the overview  
21 and sort of from the Google street-view images in your  
22 presentation, is it only accessible from the one side? Is it  
23 completely landscaped on the sides and the back side?

24 MR. AVITABILE: Yes. Yes. It's only accessible from  
25 Wharf Street, sort of across the street from the Phillippe Chow

1 restaurant.

2 COMMISSIONER STIDHAM: Okay.

3 MR. AVITABILE: And then it nestles into the  
4 landscaping. And, in fact, sort of the bar is to the back piece  
5 of it, so you really just have the seating towards Wharf Street.

6 COMMISSIONER STIDHAM: Okay. Great. That is -- that  
7 is helpful to better understand. Okay. I think those are the  
8 only questions that I had. Thank you.

9 CHAIRMAN HOOD: All right. Vice Chair Miller.

10 VICE CHAIR MILLER: Thank you, Mr. Chairman, and thank  
11 you, Mr. Son and Mr. Avitabile and Mr. Dettman, for your  
12 presentation. And welcome back, Commissioner Stidham. It's  
13 great to have you back. And I'm sorry about your laryngitis,  
14 Commissioner Wright.

15 So just following up on Commissioner Wright's question  
16 about the opaque side. I mean, I can see how that would attenuate  
17 noise maybe better. I'm not sure what the material is. I think  
18 aesthetically, both from inside and from outside, it would be a  
19 lot better if it was transparent. You can't see, but I guess  
20 based on where you said that is, if you're at Arena Stage, for  
21 example, you would be -- or on that side of M Street, you  
22 wouldn't be able to see that side. It's not facing that side --  
23 that side of the -- that's not in a viewshed from M Street; is  
24 that correct?

25 MR. AVITABILE: Correct. Right. You really can't see

1 | it. That was one of the photos that Ms. Dettman, and you really  
2 | cannot see it. If you're standing across the street at Arena  
3 | Stage, between all the landscaping and everything else, you don't  
4 | see it.

5 |           VICE CHAIR MILLER: I still think from Wharf Street and  
6 | from the -- and from being inside, the claustrophobic comments  
7 | of my colleagues, I think it would be -- if you can protect  
8 | weather -- if the material can protect weather and still be  
9 | transparent, I think that would be a lot more attractive for  
10 | patrons and for people who are around there. That's just --  
11 | that's, obviously, a subjective statement -- personal statement,  
12 | but we are talking about the design here of the structure, so  
13 | that's why I'm getting into it. Now, if you have a comment on  
14 | that, you seem to want to say something.

15 |           MR. AVITABILE: No, I -- no, it does make sense. I do  
16 | want to emphasize, again, I think the primary time that those  
17 | curtains are coming down is when it's not being used and it's  
18 | for security reasons. And, in that case, you actually really  
19 | don't want things to be terribly visible looking in, and it's  
20 | obvious that there's a bar there that may or may not have liquor  
21 | there or something else. You actually want it to be somewhat  
22 | opaque and somewhat nothing to see here. I think, by and large,  
23 | when it's in operation, no one's going to come to go have a drink  
24 | and sit in an enclosed 750-square-foot room with vinyl pull-down  
25 | things; you'll go inside a restaurant, if the weather's that

1 | inclement. And, also, we're noting too, as we're looking at the  
2 | drawings -- and I can't recall from when I've been down to the  
3 | site -- the drawings do call for -- there's sort of a mesh  
4 | curtain, so there is maybe a little bit porosity when you're up  
5 | close. But, again, I don't think the intent is that, when people  
6 | are in there having a drink or having some food from the  
7 | restaurant across the way, they're doing it with those down.  
8 | They're -- the intent is for it to be open air, because that's  
9 | why you're coming down to the water is for that sort of outdoor  
10 | dining experience.

11 |           VICE CHAIR MILLER: Well, that makes sense. And I  
12 | wasn't here, I think, for the first-stage approval in 2011, and  
13 | you weren't either, Mr. Avitabile or Son, but I think I was here  
14 | for everything else, and I was here -- I was, in a prior life,  
15 | at the Council when the tax-increment financing was done. I  
16 | don't know if it was zoning testimony at some stage or counsel  
17 | testimony at some stage, but I vividly remember the architect for  
18 | the Arena Stage, Bing Thom or his representative -- I think it  
19 | was him, himself -- talking about the importance of the viewshed  
20 | from Arena Stage, that all-glass side that he beautifully built,  
21 | being able -- and he saw all of the water, because there was  
22 | nothing developed there in that first year or two or three, and  
23 | then it was going to be narrowed down to this viewshed, and  
24 | importance -- the importance of keeping that viewshed. And I  
25 | understand what you're saying. I agree, it's a modest -- it is

1 a very modest structure. I think it's an attractive structure.  
2 I don't know if that's wood or whatever around it, and it's small,  
3 and there's landscaping, but it does block the view too.

4 I'm wondering, if we're waiting for the ANC report,  
5 which is important to see, if there's a way we could just get  
6 a -- I guess I could go ride by it myself right now -- if we  
7 could get a shot of -- a photo shot of -- from Arena Stage or M  
8 Street when the deciduous trees are done -- have started to lose  
9 their (indiscernible) of what the viewshed is. I just remember  
10 the importance of that openness and -- that the Chairman was  
11 talking about at the outset for this particular viewshed,  
12 although even though the original plans might have included those  
13 two retail pavilions. And I'm glad you brought that up. I didn't  
14 realize -- I didn't realize that, but wasn't in the PUD order.  
15 The structure, itself, not just the enclosed louvers on the  
16 roof -- well, let me put it in the form of a question. What's  
17 before us is the structure, the building. It's not just the  
18 closing of the side and the closing of the top, which you want  
19 to do; it's the building, because that structure was not in our  
20 PU -- the Zoning Commission's PUD order. Is that correct?

21 MR. AVITABILE: Yes, I think that's where we are at  
22 this point. One could split hairs a little bit on is a more open  
23 structure allowed, because, clearly, what was -- what was called  
24 for in the PUD was the idea that there would be cafe seating  
25 related to a specific tenant, and this has been sort of the

1 ongoing question about what happened over a series of years with  
2 all of the restaurants at The Wharf, where the outdoor cafes were  
3 allowed; and then they added sort of a little bit of a structure  
4 over them as a roof; and then, during COVID, everyone added sort  
5 of the more fulsome exclosures (sic) -- enclosures, and at what  
6 point does an open outdoor café become a building. And, really,  
7 what happened here was there was a change in Zoning Administrator,  
8 and the last couple of ones that came through, Kinfolk and this,  
9 the Zoning Administrator said, "Hey, this feels like it goes a  
10 step too far, and it needs to go to the Zoning Commission." And  
11 so I think while it might have been those enclosing elements that  
12 pushed it there, I don't think we would quibble over sort of what  
13 it is. The point is, it is the structure that requires the review  
14 and approval of the Commission, and we understand and we agree.

15           VICE CHAIR MILLER: And I agree that it's a very modest  
16 and generally attractive structure and will contribute to what  
17 the entire Southwest Waterfront Development contributes to an  
18 incredible revitalization of that area for benefit of the entire  
19 District of Columbia and region. It's been an amazing  
20 revitalization. The -- I appreciate the community engagement  
21 you've done since you've taken over and trying to -- and with  
22 engagement with the ANC and the neighbors. Was -- and we look  
23 forward to the ANC report. I think I didn't see the SMD report.  
24 I think I have to pull it up and -- I don't know if that came in  
25 later. I just -- I just probably missed it. But the SMD

1 Commissioner you said has no objection; is that correct?

2 MR. AVITABILE: Yes. He has -- he said he has no  
3 objection -- does not oppose the current application. It  
4 notes -- you know, he does note very clearly, like, look, this  
5 should have been discussed before anything was proposed, and  
6 further, you know, the fact that it was constructed sort of before  
7 consulting with us is a problem, but he ultimately says, look,  
8 you know, the fact that it's done and that it would open, it  
9 isn't going to, you know, cause a problem, as long as the  
10 provisions of the Cooperative Agreement with the ANC are adhered  
11 to.

12 VICE CHAIR MILLER: Right. And that is -- I did see  
13 that, actually. He put it on the ANC 6D letterhead, but I see  
14 it's from Bruce Levine at Exhibit 20, and, yes, he did -- at the  
15 end, he did have no objection in general, but was -- said how it  
16 all came about and he urged the Commission to reiterate the need  
17 for compliance with the relevant PUD orders, so that, A, no one  
18 has to expend valuable time and effort on matters like this case  
19 in the future, and, B, the constituents of ANC 6D and, in  
20 particular, residents of the Amaris Condos immediately across  
21 from the bar pavilion are not negatively affected. So I hope by  
22 reading that, I've urged the applicant to do that -- just that.  
23 Was there any community engagement with Arena Stage  
24 representatives about the viewshed?

25 MR. AVITABILE: Not to my knowledge, no.

1 VICE CHAIR MILLER: Oh, okay. All right. Thank you.  
2 I appreciate you bringing this forward. I have no further  
3 questions, Mr. Chairman.

4 CHAIRMAN HOOD: Thank you, Ms. Schellin. I don't  
5 believe we have Gottlieb Simon here -- Chairperson Simon, right,  
6 for the ANC?

7 MS. SCHELLIN: I did not see him, but let me look one  
8 more time.

9 CHAIRMAN HOOD: Kind of funny. I've never called him  
10 Chairman Simon.

11 MS. SCHELLIN: I know. I know. He's always had a  
12 different role since he's been around. I do not see him, no,  
13 sir.

14 CHAIRMAN HOOD: Okay. All right. Let's go to -- do  
15 we have Office of Attorney General or the other government  
16 agencies?

17 MS. SCHELLIN: I do not have anyone signed up, and I  
18 don't see anyone.

19 CHAIRMAN HOOD: Okay. What about DDOT? Let's go to  
20 DDOT. Do we have DDOT?

21 MS. SCHELLIN: I don't see anybody from DDOT, actually.  
22 Let's see. Mr. Avitabile, who were you working with from DDOT?  
23 I don't see --

24 MR. AVITABILE: We reached out to DDOT and they're --  
25 they determined that, given the minor nature of this, they didn't

1 plan to --

2 MS. SCHELLIN: I was going to say, I don't have anybody  
3 up here from DDOT.

4 CHAIRMAN HOOD: So we don't -- we don't have a letter  
5 either from them. At least I didn't see it. Maybe it's --

6 MS. SCHELLIN: Yeah, I did not see one either.

7 MR. AVITABILE: Correct. I don't recall seeing  
8 anything from DDOT.

9 CHAIRMAN HOOD: Okay. All right. Well, let's go to  
10 the Office of Planning. I think we have that, don't we? I'm  
11 sure.

12 MS. SCHELLIN: Yes.

13 CHAIRMAN HOOD: Mr. Jesick.

14 MR. JESICK: Yes. Thank you, Mr. Chairman and members  
15 of the Commission. The Office of Planning reviewed this PUD  
16 modification against the policies of the Comprehensive Plan and  
17 against the design and intent of the original PUD approval, and  
18 OP finds that the applications is not inconsistent with the  
19 general policy guidance of the Comprehensive Plan or the general  
20 intent of the original PUD, both of which seek to create an active  
21 mixed-use Southwest Waterfront with open spaces and eating and  
22 drinking establishments. OP also examined the particular  
23 policies for this exact site and the discussion of this location  
24 during the Commission's PUD hearings, and OP finds that this  
25 particular design, given its scale, the significant surrounding

1 landscaping, the change in grade, and other view-obstructing  
2 structures, does not impair the intent of the original PUD, nor  
3 change the facts on which the Commission made its original  
4 decision to a degree that would alter that original conclusion.  
5 OP can, therefore, recommend approval of the proposed  
6 modification. Thank you, and I'm available for questions.

7 CHAIRMAN HOOD: Thank you, Mr. Jesick. Let me look  
8 and -- I'm looking at my colleagues. Anybody have any questions  
9 of the Office of Planning?

10 (No response.)

11 CHAIRMAN HOOD: Okay. I'm hearing none. Mr. Avitabile,  
12 you have any questions of the Office of Planning?

13 MR. AVITABILE: No, I don't. Thank you.

14 CHAIRMAN HOOD: Okay. Thank you, Mr. Jesick, for your  
15 analysis and report.

16 VICE CHAIR MILLER: Mr. Chairman --

17 CHAIRMAN HOOD: Yes.

18 VICE CHAIR MILLER: -- I just had one question I meant  
19 to ask Mr. Avitabile. The ABC -- ABCA (phonetic), I guess, order  
20 incorporates the Cooperative Agreement for the Phillipe Chow  
21 restaurant and this -- and this Merchants Marina Bar/Winery; is  
22 that correct?

23 MR. AVITABILE: Yes, it's for both. The Cooperative  
24 Agreement covered both, and so the order, as I understand it,  
25 covers both as well.

1           VICE CHAIR MILLER: Yeah. I recognize you may not have  
2 been part of that proceeding as well, but that -- I think, based  
3 on the date I see in that Cooperative Agreement that wasn't  
4 included in this record, it's 2024. I assume, like a lot of ABC  
5 licenses, that that comes up for renewal every three years, I  
6 think, so there would be an opportunity for neighbors to assess,  
7 if this opens and operates under that Cooperative Agreement, to  
8 see if it's working and for the operator to see how it's working  
9 and work that out in that process, which I think is actually the  
10 more appropriate process to deal with a lot of the issues that  
11 the neighbors have raised here. But is -- so is that your  
12 understanding, that it would be probably -- Mr. Son, that ABC  
13 approval of the license -- ABC the license would come up for  
14 renewal again?

15           MR. SON: Yes, you're correct. Our understanding is  
16 that we are a couple of years into it, that there will be another  
17 opportunity to readdress as part of the extension or renewal of  
18 the ABCA license.

19           VICE CHAIR MILLER: Okay. Thank you. I just wanted  
20 to clarify that. Thank you.

21           CHAIRMAN HOOD: And I would concur, Vice Chair. I have  
22 become very fluent with ABCA and BEGA, as I always try to make  
23 sure that we do our closed meetings correct, so I've done my  
24 homework, and you're right. I've been watching their hearings,  
25 like I don't have anything else to do, but I think Chair Anderson

1 and those -- that group will be able to handle a lot of those  
2 issues that have come up, and they will be evaluating it, and  
3 they actually do a very good job. So, anyway -- so nobody say I  
4 didn't put a plug in for ABCA. Okay. All right. Ms. Schellin --

5 COMMISSIONER STIDHAM: I don't know if you're sitting  
6 watching their hearings when you have free time. I'm a little  
7 worried about you.

8 CHAIRMAN HOOD: Well, I had to do that for us, because  
9 I wanted to make sure that BEGA -- that we had -- we were right  
10 in what we were doing, and they were one of the people I watched.  
11 And I also watched BEGA, because I had to learn -- I had to learn,  
12 so -- and it's actually been very informational. I still like  
13 the Zoning Commission better. I'll just leave it at that, before  
14 I get myself in trouble. All right. Let me -- let me -- Ms.  
15 Schellin, do we have anyone here -- I know that -- I don't think  
16 Mr. Levine is going to be speaking tonight. He's waiting for  
17 his full ANC. So do we have anyone who's here in support?

18 MS. SCHELLIN: Sorry about that. Yes, in support we  
19 have Dana Rollison and Will Butler.

20 CHAIRMAN HOOD: Okay. Let's bring them up. Let's go  
21 with Dana Rollison first, and then we'll go to Will -- I didn't  
22 catch the last name.

23 MS. SCHELLIN: Butler.

24 CHAIRMAN HOOD: Butler. Okay.

25 MS. ROLLISON: Hello. Can you hear me?

1 CHAIRMAN HOOD: Yes, we can.

2 MS. ROLLISON: Oh, wonderful. Thank you. I'll keep  
3 it super brief. I just -- I'm a resident down at Vio. I've  
4 lived in DC since 2015 and at Vio for three-and-a-half years now.  
5 And every day I take, like, a long walk, do a lap, walk past  
6 that, and have been really excited for it to open. It fits really  
7 well with the area. Sometimes -- we love, like, our little super  
8 lively area with, like, so much, you know, outdoor dining, outdoor  
9 music, all -- you know, all sorts of things by Vio. And then as  
10 you kind of walk towards that side, you can -- you know, it gets  
11 a little quieter, it gets a little -- and I feel like it would  
12 be such a good addition to the area.

13 That little closure things that they're talking about  
14 too, if you walk up to them, they're just kind of like -- imagine  
15 almost like mesh, you know what I mean, where, like, if you peek  
16 up really closely, like, wind can go right through them; like,  
17 you can kind of push on them (indicating), so it's not like it's  
18 this big, thick, like, hardened stuff that comes down. If  
19 anything, it'll probably be helpful to have, like, just on one  
20 side when the sun just like blasts you, you know. And I -- we've  
21 been, like, kind of sad that it has been closed for the last year  
22 and, like, constantly peeking in to see if, like, they've done,  
23 you know, the building process and where it's going.

24 Anyway, I guess, I'm happy to answer any questions or,  
25 like, speak more on this, but we love the area, we love The Wharf,

1 | we love the -- it's so exciting to have a neighborhood that's so  
2 | lively, that has so much outdoor space. And that area gets a  
3 | lot of folks just kind of sitting in a lot of those, like, open  
4 | seating areas and stuff, and I think having, like, a structure  
5 | like that that provides some additional food, drinks, things like  
6 | that, would be great. And it's a really, really common popular  
7 | area during all of the monthly events and other things that pop  
8 | up where they set up like a little bar area and stuff, and so  
9 | it's kind of become that, like, staging point, you know, for  
10 | special occasions, and I think it would be really cool to have  
11 | something there regularly.

12 |           CHAIRMAN HOOD: All right. Thank you, Ms. Rollison.  
13 | If you could hold tight, we may have some questions for you. Let  
14 | me --

15 |           MS. ROLLISON: Yeah, for sure.

16 |           CHAIRMAN HOOD: Okay. Thank you. Will Butts  
17 | (phonetic). I think I pronounced your last name right. I'm not  
18 | sure.

19 |           MR. BUTLER: Hey, everybody. Can you hear me?

20 |           CHAIRMAN HOOD: Yes, we can hear you.

21 |           MR. BUTLER: Awesome. Nice to meet you all, and thanks  
22 | for the time to speak. I actually -- I was going to say pretty  
23 | much everything that Dana just said, so I'll be brief. I just  
24 | want to say I love living down here at The Wharf. It's one of  
25 | the most innovative urban areas I've really ever been, and I

1 appreciate that you all are being so thoughtful about designing  
2 these public spaces. And I can say that, as somebody who lives  
3 with these decisions every day, I can confirm that, like, the  
4 circulation, the views, the scale, the use, it all seems very  
5 appropriate and usable to me, and I think it's going to have a  
6 real positive impact on all of the public space and the local  
7 businesses around it. And, you know, to be honest, I actually  
8 kind of like these enclosures; like, if you look at Kinfolk,  
9 that's where a lot of people want to sit, and, like some of you  
10 all have said, it can get really windy down there sometimes, so  
11 I actually think it's great to be able to control that to some  
12 degree. So, anyway, I'll keep it brief. I just wanted to say  
13 I'm really excited for this thing to open. Thanks, everybody.

14 CHAIRMAN HOOD: Okay. Thank you both. Let's see if  
15 we have any questions. I'm looking at my colleagues. Any  
16 questions or comments, Vice Chair Miller?

17 VICE CHAIR MILLER: No questions or comments. Thank  
18 you, Will and Dana -- I can't remember your last names -- for  
19 your participation here this evening and your comments and for  
20 helping revitalize that neighborhood.

21 CHAIRMAN HOOD: I, too, want to thank you. I can tell  
22 you that sitting in all the hearings that we had on The Wharf  
23 and, actually, eventually going down there, I think it was very  
24 successful. Those hearings, even though some of them were in  
25 opposition, but I think we've -- the city has come up with a win-

1 win, because when I go down there, it's very nice. And to hear  
2 you all say it, that's makes all those hours of Wharf hearings  
3 and those nights in the hearing room worth it. So thank you for  
4 at least letting us know that we did do something right all these  
5 years, so thank you both. All right. Let's -- Ms. Schellin,  
6 let's bring up opposition. Do we have any opposition? I think  
7 we finished support.

8 MS. SCHELLIN: Just a couple. Just a couple. Just  
9 two. Mark Aguirre --

10 CHAIRMAN HOOD: Okay.

11 MS. SCHELLIN: -- and Laurie McMahon or McCann  
12 (phonetic).

13 CHAIRMAN HOOD: Okay. Ms. --

14 MS. SCHELLIN: And that will be the end of all  
15 witnesses.

16 CHAIRMAN HOOD: Okay. Ms. Schellin, I'm not going to  
17 follow you with his last name. I'm going to say Aguirre. I may  
18 be wrong, but let's see who's right this time.

19 MS. SCHELLIN: Okay.

20 CHAIRMAN HOOD: Mr. Mark Aguirre or Aguary (phonetic),  
21 if you could correct us, you may begin. You might want to unmute  
22 yourself. If you're on your computer, you'll see a little button  
23 that says "Mute"; just hit that.

24 MR. AGUIRRE: I'm unmuted now, right?

25 CHAIRMAN HOOD: There you go. There you go.

1 MR. AGUIRRE: Is there a way to put -- turn my video  
2 on? I could not find that in this --

3 CHAIRMAN HOOD: You see something to the right of the  
4 mute button?

5 MR. AGUIRRE: There. All right.

6 CHAIRMAN HOOD: There you go. All right.

7 MR. AGUIRRE: All right. So it's Mark Aguirre. That's  
8 how I pronounce it.

9 CHAIRMAN HOOD: Okay. Thank you.

10 MR. AGUIRRE: Yeah, that's how they pronounce the  
11 basketball player with my same name in Dallas. But, anyway,  
12 yeah, I'm a resident here at Amaris Condominium, and I strongly  
13 oppose any and all requests for Phillip Chow to establish  
14 Merchants Marina Bar and Lounge on the M Street Landing. The  
15 proposed sports bar would directly face our building, unlike  
16 anywhere else on the Well (sic) -- on the Wharf, understand, and  
17 will be 50 feet from my closest neighbors and my bedrooms -- 50  
18 feet. That's not an exaggeration. That's not across the street.  
19 That's not down around the corner. That's right in front of our  
20 bedrooms. This is going to create an unacceptable impact on our  
21 privacy and ability to enjoy our homes. I think my video went  
22 out again. I'm not sure. And it's important to me, because I'm  
23 going to -- before the sun sets, I want to show you where it is.

24 CHAIRMAN HOOD: Actually, you can't -- actually, you  
25 can't show us that. Just go ahead and give us your testimony,

1 | because we can't -- we can't -- you cannot show us that, unless --  
2 | well, you know what, don't show us that. Don't show us that.

3 |           MR. AGUIRRE: Okay. All right. So a large majority  
4 | of Amaris residents share these concerns. We believe that the  
5 | proposal would bring increased noise and late night disturbances,  
6 | heightened safety and security risks, and negatively impact our  
7 | property values and our quality of life here at Amaris  
8 | Condominiums. They're -- that's pretty much all I was going to  
9 | say, besides -- before I turn to say, you know, thank you for  
10 | consideration, I just wanted to say that what I'm not -- what I'm  
11 | not hearing anyone say is there's no bathroom in this place, and  
12 | the way to get to the bathroom from Phillipe Chow is to go to  
13 | the back of our building and inside the restaurant to the back  
14 | of the restaurant. It's just poorly conceived. I really think  
15 | that this is unwise. It's unfair to those of us that face this  
16 | and the unfortunate damage it's going to do to our property  
17 | values. Our units here on this side face the water, have the  
18 | best views, and we're going to take a hit once this place opens.  
19 | It's been there, but -- and I know real estate agents ask what's  
20 | going on with that, because several units sold in these tiers  
21 | here, and it's just terribly unfortunate. We were not warned  
22 | that this was going to be activated like this -- like this. I  
23 | saw that there was a Vio resident there. There were several Vio  
24 | residents here and who left Vio to come here, and she asked  
25 | specifically, the developer whether or not this was going to be

1 monetized, and was told no, and -- but she was aware they put  
2 one of these in front of Vio after the -- after Vio was built,  
3 so she chose the other side of the building. That's kind of the  
4 scuttlebutt on all of this. That summer garden in front of Vio,  
5 which is part of the Del Mar restaurant there, is never used.  
6 I've been here for three years. I never see it open. I never  
7 see people in there. I think it's a flawed concept. The only  
8 way to make something like this work is to make it year-round,  
9 because you can't hire staff and just fire them once it gets so  
10 cold that the place is just operable. It just does not make  
11 sense to me. Anyway, I'm willing to take any other questions.  
12 I know someone had brought up trees. I've been here for three  
13 years, and the trees are already to a size that the views I have  
14 from my unit are far changed, and I think it's only going to get  
15 more obstructed, to the point where I won't even really be able  
16 to see much of anything, and perhaps someday -- I'm on the fourth  
17 floor -- someday I may not be able to see the water. So I think  
18 there were too many trees and too many big trees put on this --  
19 on this landing. So I'm going to be here. If you have any  
20 questions, I'm open to answering.

21           CHAIRMAN HOOD: Okay. So you know, Mr. Aguirre, I'm  
22 not trying to give you any additional work, but you -- by law,  
23 you can't show us anything, because we can't put it in the record,  
24 but what you can do -- and it doesn't have to be to scale -- you  
25 can give us a schematic drawing, and you don't have -- it can be

1 | just a little scribble or however you want to do it to give us  
2 | kind of what you -- what you were trying to show us. I'm trying  
3 | to give you a way to show us what you were trying to convey to  
4 | us, if you want. I just want to open that opportunity up to you,  
5 | and you'll let us know if you want to do that. If not, we will  
6 | go with your testimony. Let me see if my colleagues have -- I'm  
7 | sorry. Go ahead.

8 |           MR. AGUIRRE: I'm willing to do that. That's an easy  
9 | thing for me to do, but, just understand, I am not exaggerating;  
10 | this is 50 feet from our bedrooms on this side.

11 |           CHAIRMAN HOOD: Okay. Again, that's why I'm giving you  
12 | that opportunity --

13 |           MR. AGUIRRE: Yeah.

14 |           CHAIRMAN HOOD: -- because we cannot -- you cannot show  
15 | us that, because we can't put it in the record, but you can give  
16 | us a little -- it doesn't have to be to scale; just give us  
17 | something of what you're trying to convey to us. That will help  
18 | you. All right. Let's see if we have any questions of Mr.  
19 | Aguirre. I'm looking at my colleagues.

20 |           VICE CHAIR MILLER: Mr. Chairman --

21 |           CHAIRMAN HOOD: Vice Chair Miller.

22 |           VICE CHAIR MILLER: -- I know we do have some rule  
23 | about showing things during verbal testimony, but I thought he  
24 | could also just take a photograph and submit that for the record.  
25 | Is that not permitted either?

1 CHAIRMAN HOOD: He could do that too, but I thought a  
2 drawing, for me, so, like, something -- a either one.

3 VICE CHAIR MILLER: You gave him a harder homework  
4 assignment than might be necessary. That's all.

5 CHAIRMAN HOOD: Well, when I draw stuff, it ain't hard,  
6 but whatever he decides to give -- if a picture -- whatever gets  
7 his point across, I want him to feel comfortable. Whatever gets  
8 his point across.

9 VICE CHAIR MILLER: No, I was just trying to understand  
10 what our rule -- I know we have a rule about that. I was just --  
11 I think it was during verbal testimony, but I could be wrong.

12 CHAIRMAN HOOD: Yeah. Well, he can't show us any --  
13 he can't show us anything, because we can't put it in the record,  
14 even though it's on tape, but he can't show us that. And if any  
15 of our legal counsel want to correct me and tell me I'm wrong,  
16 they can do it, because I know that's what the BZA does, and we  
17 actually supersede the BZA. So, all right, thank you. My  
18 colleagues have any questions?

19 (No response.)

20 CHAIRMAN HOOD: All right. Mr. Avitabile, you have --

21 COMMISSIONER STIDHAM: Just one. Just one, Chairman  
22 Hood. Mr. Aguirre, were -- did you participate in any of the  
23 ANC meetings regarding the work here?

24 MR. AGUIRRE: I did. It was the year that I was on  
25 the Board, and I represented the Board to the meetings, and I

1 spoke out and put together a statement saying that we oppose  
2 this. That passed the Board with, you know -- and so I read that  
3 into the statement. And he -- Bruce had that. Yeah, I'm really  
4 surprised. I left the Board last year -- earlier in the year,  
5 and I'm just kind of surprised things have changed so drastically.  
6 There's nowhere else on The Wharf that this happens but right  
7 here, and I don't think it has anything to do with what was meant  
8 here at The Wharf, to put up bars facing homes. We have young  
9 families and retirees and people mid-career that are focused on  
10 work, and it's just absurd, the thought that they're -- they have  
11 put this bar to face our homes and our bedrooms. It's not right.  
12 It is just not right.

13 COMMISSIONER STIDHAM: Okay. Thank you very much.

14 CHAIRMAN HOOD: I've been informed by my legal counsel,  
15 you can -- a photo or a little drawing, however you want to do  
16 it, I think a sketch or whatever -- however you want to do it,  
17 whatever's going to get your point across to us, that's what you  
18 can do -- you can send. So they advised me either one is okay.  
19 Thank you for that. Mr. Avitabile, you have any questions for  
20 Mr. Aguirre?

21 MR. AVITABILE: No. I'll save a couple of points for  
22 rebuttal. Thank you.

23 CHAIRMAN HOOD: Okay. All right. Well, thank you  
24 both. No, thank you --

25 MR. AVITABILE: Oh, we need to hear from Ms. McMahon

1 as well.

2 CHAIRMAN HOOD: Yeah, I know. I'm going to go back to  
3 her, yeah. Thank you, Mr. Avitabile. Thank you, again, Mr.  
4 Aguirre. Ms. -- is it McMahon?

5 MS. MCMAHON: McMahon, like Ed and Jim, no relation.

6 CHAIRMAN HOOD: Go right ahead, Ms. --

7 MS. MCMAHON: -- if anybody remembers those two.

8 CHAIRMAN HOOD: Okay.

9 MS. MCMAHON: Yeah. Good afternoon, everyone.  
10 Appreciate your time to all the Commissioners and to everyone  
11 else that's in attendance. You know, I've been listening, and  
12 it's very interesting, because Mr. Son's commentary about the  
13 evolution of The Wharf is exactly what's happening here. We talk  
14 about this Cooperation Agreement that was signed in 2024. It was  
15 about the time that this Association went from a developer-led  
16 Board to a resident-led Board, and that provides for much of the  
17 conversation today that's been about a beautiful sunny afternoon  
18 and enjoying a cocktail at The Wharf. The concern -- and I know  
19 Mark shares these -- is what happens at one a.m., which is the  
20 time that this bar can be open until.

21 The applicant aligns the operation of the proposed  
22 Merchants Marina with the existing restaurant. It's important  
23 to note that the branding and fare is very different. It's a  
24 bar and lounge, and the Phillipe Chow installation is a high-end  
25 Chinese restaurant. The atmosphere, expected activity level,

1 they're not comparable, and you just heard from Mark that the  
2 distinction is really important to our residents. The hours we  
3 proposed to the applicant for Merchants Marina are consistent  
4 with those of the current operation of Phillipe Chow, and, in  
5 fact, as Mark noted and as was noted in the letter from Mr.  
6 Avitabile, there are no -- there's no infrastructure or  
7 restrooms, and so I don't -- it's unclear how it can reasonably  
8 remain open beyond the restaurant operating hours.

9 Noise is not unique to The Wharf, but we all know,  
10 under 20 DCMR, Chapter 27, noise management is a reactive process,  
11 and without -- when excessive noise occurs at night, which it  
12 does, there's really no real-time remedy. And, as Mark said, for  
13 certain residents within Amaris, there will be significant  
14 impacts.

15 I do want to clarify that we have two really -- two  
16 primary concerns regarding loading operations. First, we oppose  
17 loading and unloading on Wharf Street to the pavilion, and the  
18 applicant has said they would work with us to insure that didn't  
19 happen, so we really appreciate that. The second is the movement  
20 of materials -- trash, food, supplies -- from the restaurant to  
21 the pavilion, which essentially will be coming right in front of  
22 our building, at our front door. The route pass, like I said,  
23 it's right in front, and it's not as simple to load a pavilion  
24 in open space. Phillipe Chow's connected to the loading dock in  
25 our shared building through behind-the-scenes private loading

1 corridors. That's not the case with the pavilion. Effective  
2 management and clear restrictions on the activities to load this  
3 pavilion are really important.

4 We talked about drop off and pickup, and I know that  
5 may or may not be in the context of this particular matter, but  
6 they're really heightened by Merchants Marina, specifically  
7 because it's marketing itself as a private-event venue on its  
8 website, and it's likely to attract additional ride-share  
9 traffic, groups of guests arriving together. On busy days at The  
10 Wharf -- and, again, everyone that lives here loves the  
11 environment. It's really all about balance, but on busy days at  
12 The Wharf, parking operations in Garage Three are queueing both  
13 in and out, so if this operation continues -- impacts Wharf  
14 Street, it impacts the only way residents can get in and out of  
15 their parking and in and out of the building. We've emphasized  
16 in our testimony that we have to maintain the right-of-way on  
17 Wharf Street, and that, I think, includes some parking  
18 operations.

19 So what's interesting, as I mentioned, most of the  
20 conversation we're talking here is a beautiful sunny day. That's  
21 not going to be the most impactful time for residents at Amaris,  
22 and that's something we would ask the applicant to reconsider.  
23 And I will -- I'll stop -- I'll end by saying, with awareness of  
24 the urban conditions disclosure that the applicant referenced,  
25 many Amaris homeowners chose this building because of the unique

1 parklike open space to the east, consistent with the plan that  
2 Commissioner Miller talked about earlier in the hearing and what  
3 his expectation for that space was. And people living here chose  
4 it specifically in lieu of making a decision to be at Vio, in  
5 the center of the action. So the shift is significant. It's  
6 significant to the character, and the consequences are deeply  
7 meaningful, as you can hear from someone who's going to sort of  
8 live right in front of the establishment, like Mark.

9 We do support a thriving Wharf ecosystem, and I will  
10 say to anybody from The Wharf, Amaris residents probably  
11 contribute more to the retailers than any visitor coming here  
12 once or twice a year, in terms of bars, restaurants, picking up  
13 take-out, and being active members of the community. But we  
14 respectfully ask the Commission insure that the residents' needs  
15 are fully addressed, so The Wharf remains a thriving environment  
16 to play, to work, and to live, and I think that's really all  
17 we're really focused on right now. So thanks so much for the  
18 time and for considering our point of view.

19 CHAIRMAN HOOD: Thank you, Ms. McMahon. Let's see if  
20 we have any questions or comments. Commissioners, I'm looking,  
21 I'm looking.

22 (No response.)

23 CHAIRMAN HOOD: Nobody. Okay. Mr. Avitabile, you have  
24 any questions or comments.

25 MR. AVITABILE: No comments, other than to say hello.

1 Ms. McMahon and I have a client in common that we work closely  
2 with together.

3 CHAIRMAN HOOD: Well, you know, that's good that even  
4 through all of this, you still have relationships and still able  
5 to work together. But I will ask you this, Mr. Avitabile. I  
6 notice that Amaris prevented (sic) -- presented us with some  
7 approving the application. You responded -- and you all did  
8 respond to that. That's -- those were your responses.

9 MR. AVITABILE: We responded and -- on two of the items,  
10 where we said we could prohibit no live music and then part of  
11 the loading piece of it as well.

12 CHAIRMAN HOOD: And if you could talk about that to  
13 reiterate that for all of us, when you do your rebuttal or  
14 closing.

15 MR. AVITABILE: Will do.

16 CHAIRMAN HOOD: All right. Ms. McMahon, thank you very  
17 much. We'll see how we can try to balance it, as requested.  
18 Thank you.

19 MS. MCMAHON: Thank you.

20 CHAIRMAN HOOD: All right. Ms. Schellin, we don't have  
21 anyone else or anybody undeclared, do we?

22 MS. SCHELLIN: That is correct.

23 CHAIRMAN HOOD: And nobody showed up late, so we're  
24 good.

25 MS. SCHELLIN: That is correct.

1 CHAIRMAN HOOD: All right. All right. Mr. Avitabile,  
2 if you have any rebuttal; if not, we'll take your closing.

3 MR. AVITABILE: Certainly. A couple of quick points  
4 on rebuttal, and then I can briefly go through our response to  
5 the -- to the issues that were raised by the Amaris, which we  
6 were -- have thought about and worked on over the last couple of  
7 days. First, Mr. Son, I have a question for you, and I'm doing  
8 the dangerous thing that lawyers shouldn't ever do, is ask a  
9 question when you don't know the answer, but it came up that the  
10 ABRA or the ABCA process allows -- it requires renewal of these  
11 things. You've now seen a couple of other restaurant tenants  
12 have to go through that renewal process, I assume. Are you aware  
13 of any others that made changes, as they've gone through the  
14 renewal process, to respond to either concerns you all expressed  
15 or concerns that residents expressed?

16 MR. SON: Yeah, that's a good question, David. We,  
17 obviously, have a lot of tenants here. We've been open for eight  
18 years this year. You know, we don't typically get involved in  
19 that ABCA process, as, when we lease space, we lease the leasehold  
20 improvements and space to a tenant, and so, really, the onus is  
21 on the tenant to work with community to sort of get to, like, an  
22 appropriate solution; like, I don't dictate exactly what's on  
23 Phillipe Chow's menu. It's not really -- like, that's not our  
24 business; we're in the real estate business. - so I can't speak  
25 to any individual instances of that changing, but, you know,

1 that's what the process is for, and we do keep close tabs on it,  
2 because we, obviously, are looking out for the success of our  
3 tenants, but, you know, as, hopefully, the ANC will attest, you  
4 know, we partner with them a great deal for joint causes, and  
5 sometimes if a tenant is sort of not behaving to what we would  
6 like and it's still within the bounds of their lease, then, like,  
7 you know, we would also stand with the ANC to get an outcome.  
8 And so, you know, we do think that this is the right path to be  
9 able to, like, address some of these operational concerns, but,  
10 you know -- you know, to be very blunt about it, I don't know of  
11 any instances, which is not to say it doesn't happen, just because  
12 we are not the applicant in the ABCA to renewals. That's --  
13 we're not -- we're not -- we're not in the game on that.

14 MR. AVITABILE: Great. Thank you. And then I think  
15 one other point I wanted to make on rebuttal, and then I'll talk  
16 about the letter, in some of the testimony there was sort of a  
17 description of how there's nothing like this elsewhere in The  
18 Wharf, but as I think -- well, Mr. Dettman can attest as fact  
19 witness, if necessary, but I think we all know if you walk up  
20 and down Wharf Street the entire length of The Wharf, there are  
21 small kiosks, smaller establishments, and actual buildings across  
22 from multiple buildings that were part of what the Commission  
23 approved and create sort of an environment on both sides of the  
24 building. And I don't know if you have anything to add to that  
25 point, but I wanted to just make that point.

1 MR. DETTMAN: Nothing to add.

2 MR. AVITABILE: Okay. So then, in response to the  
3 issues raised by the Amaris, I'll walk through them quickly, if  
4 that would be helpful. So the first issue they spoke about was  
5 noise. We heard Ms. McMahon talk -- McMahon talk a little bit  
6 more about that. You know, the first issue they had raised was  
7 the idea of sound-absorbing materials on the pavilion, designed  
8 to mitigate noise. And, as we've talked about, this is intended  
9 to be open air, so most of the time when it's in use, it'll be  
10 open air, so sound-mitigating materials wouldn't address that.

11 The second item, which is the limit on the hours of the  
12 pavilion, you know, they asked for us to limit the hours to 9:30  
13 on weekdays and 10:30 on weekends. Now, that diverges pretty  
14 significantly with what's in the Cooperative Agreement that was  
15 approved by ABCA, which calls for the hours to go until midnight  
16 during weekdays and one a.m. on weekends. And what I want to  
17 note again here, which is what we noted in our filing, that's  
18 actually two hours less than how late Phillipe Chow is allowed  
19 to be open. Phillipe Chow, the restaurant, the Agreement allows  
20 it to be open until two a.m. on weekdays and three a.m. on  
21 weekends. So the ABCA actually restricted -- the Cooperative  
22 Agreement actually restricts the use of this space to less than  
23 what the restaurant, which is right -- you know, which has outdoor  
24 seating right at the base of the Amaris. I mean, Mr. Aguirre  
25 was talking about something that's 50 feet away. Well, there's

1 outdoor seating immediately adjacent to the base of their  
2 building that would be even closer. That is just part of the  
3 environment of being in a mixed-use area where there is ground-  
4 floor retail and dining.

5           The third point that came up is this idea that we would  
6 somehow have real-time noise monitoring equipment, rather than  
7 follow the way the regulations work, which is reactive. We think  
8 that's a step too far here. We'll obviously comply with the  
9 noise regulations, and, again, the process will allow, if noise  
10 is excessive, during renewal to address that, and that's I think  
11 the appropriate time for that, in addition to sort of ongoing  
12 enforcement for actual issues when they -- when they occur.

13           And then the last was a prohibition on outdoor  
14 speakers, TVs, and live music. We have outdoor speakers that are  
15 part of this and TVs; that's part of what the Cooperative  
16 Agreement anticipated and allowed. There were also outdoor  
17 speakers for the Phillipe Chow outdoor dining that is, again,  
18 immediately at the base of this building. So we don't think that  
19 this is too much for us to have on top, though I do think -- we  
20 did think it was reasonable for them to ask and for us to restrict  
21 live music, and so we've agreed to do that.

22           On the second item, which was their concerns that were  
23 raised about security, which I think were largely raised just in  
24 the written piece of this, you know, I think, by and large, there  
25 is a sitewide plan for security for The Wharf and led by Diane

1 Groomes, who oversees the whole thing, and we really think that  
2 that plan which we have in place is really the best way to address  
3 security for The Wharf, as a whole, and for these individual  
4 establishments, and, again, that's part of what was approved in  
5 the Cooperative Agreement.

6           The third item, the loading and unloading, you know,  
7 it sounds like we do have some common ground, which is great to  
8 hear, on sort of we'll continue to use the loading dock. I  
9 understand that there will be some activity crossing from the  
10 Phillipe space, but, again, this is a small cafe area -- bark  
11 area that the food -- there's not going to be foodservice here,  
12 so all the food's going to be prepared inside the restaurant.  
13 The only activity would be carrying the food out to tables here.  
14 And then, beyond that, you're just talking about the occasional  
15 movement of, you know, liquor bottles and soft drinks and the  
16 like over to the bar. This isn't excessive loading and unloading  
17 akin to what you would have for a full-service restaurant. And  
18 while I'm thinking about it, on the point about the restrooms,  
19 again, there are restrooms inside the restaurant right across the  
20 way, and that's what the residents will go and use, and it's no  
21 different than if you're sitting in the outdoor café seating and  
22 you have to walk in to go find your way to the restroom; you just  
23 happen to go, you know, a -- you know, a couple of steps further.

24           And then the last item, on parking, they brought up  
25 concerns about parking as a general issue. I think we hear those.

1 I think that's perhaps an issue for Mr. Son and his team to work  
2 on more broadly, but with respect to this specific establishment  
3 and its relatively small amount of seating, it's a proverbial  
4 drop in the bucket. So, with that, I don't know if you have  
5 anything else to add, Shane.

6 MR. DETTMAN: No.

7 MR. AVITABILE: But we appreciate everyone's time, and,  
8 again, I think this whole experience and process over the past  
9 year-and-a-half has been one, as we've sort of tried to learn  
10 from the past and build sort of an operation going forward. And  
11 what I said to Andrew and his team is, this strikes me as not  
12 too dissimilar from what -- and you all appreciate -- this  
13 experience with the universities, where you have ongoing  
14 relationships and ongoing operations, and you have to just sort  
15 of continually engage to make sure you're staying on top of those  
16 issues, but that's, I think, one of the things we've taken away  
17 from this, and The Wharf team is continuing to do. And sometimes  
18 it takes precipitating incidents like this to, you know, get you  
19 going on it, but we're going on it now and, you know, making --  
20 you know, whether it's small improvements here or there, but, you  
21 know, everything that sort of improves the relationship of this  
22 development to the neighborhood, that has been what we are working  
23 on. So, with that, we'll conclude, and, again, happy to answer  
24 further questions, and thank the Commissioners all for your time.

25 CHAIRMAN HOOD: Thank you, Mr. Avitabile. Let's see

1 | if we have any questions or comments. I'm looking at my  
2 | Commissioners. Any follow-up questions or comments? I'm seeing  
3 | no. Vice Chair Miller.

4 |           VICE CHAIR MILLER: No. I just wanted to thank David  
5 | Avitabile for the -- for the testimony in response to the comments  
6 | and for your pledge to continue to have engagement as -- with  
7 | neighbors going forward, and Mr. Son's commitment to that as  
8 | well.

9 |           It just -- on the restrooms, I agree that it's the same  
10 | as -- it's the same as the outdoor cafe that's there at Phillipe  
11 | Chow. There's also, I believe -- I don't know where exactly in  
12 | relation to here; I can't remember -- there are public -- there  
13 | are communal -- there are public restrooms in The Wharf area that  
14 | are -- that aren't a part of any individual entity. That's my  
15 | experience, but they're -- I can't remember where exactly they're  
16 | located, but maybe they are part of another entity, but I think  
17 | I've seen signage to that effect that directs you to restrooms.

18 |           MR. SON: Yes, we have ample public restrooms that are  
19 | available; Parcel 7, Parcel 10 I believe is the closest one there.  
20 | But, to your point, I mean, you're just going to walk into the  
21 | restaurant. You know, as Mr. Aguirre said, it's 50 feet from  
22 | the building, and so, you know, it's a pretty brief walk.

23 |           VICE CHAIR MILLER: Well, the discussion about  
24 | restrooms prompted a question in my mind, Mr. Chairman, if I can  
25 | ask, which hasn't been addressed of anybody's testimony, so I

1 | hate to bring up something new, but I'm just curious and maybe  
2 | it's in our -- it may be in our record in the drawings -- in the  
3 | submissions. There will be heating, ventilation, and air-  
4 | conditioning I assume in this pavilion, if you're having -- or  
5 | is there not going to be? Is --

6 |           MR. AVITABILE: I don't believe so. It's -- you know,  
7 | it's open air. Maybe there will be some portable heaters that  
8 | are brought in sort of cooler temperatures, akin to what you see  
9 | in sort of other outdoor cafe settings, but it is -- it's not  
10 | sort of -- this is why sort of saying it's fully enclosed is a  
11 | little bit of a misnomer, because it's not, you know, airtight.  
12 | You know, you heard -- and I thank one of the support witnesses  
13 | for noting it -- you know, those curtains aren't solid; they're  
14 | a mesh. The air passes through them. So this is not going to  
15 | be a space that can be air-conditioned when it's really, really  
16 | hot or fully heated when it's -- when it's really cold. It won't  
17 | be open for a few months out of the year, presumably, most likely  
18 | when the weather is too cold to really operate. You know, it's  
19 | seasonal, but with extended -- what the covering allows you to  
20 | do is to extend that season a little bit.

21 |           VICE CHAIR MILLER: Okay. Well, that's -- yeah, that's  
22 | what I was trying to -- I didn't realize that it wasn't going to  
23 | be operable twelve months a year, seven days a week. Yeah, so I  
24 | was worried about all that -- all those liquor bottles freezing  
25 | or exploding with heat. So thank you -- thank you very much.

1 CHAIRMAN HOOD: Okay. Thank you. Any follow-up  
2 questions? Commissioner Stidham.

3 COMMISSIONER STIDHAM: Yeah, just a point of  
4 clarification just to see if I heard this correctly. So the  
5 restaurant that is supporting this pavilion, it closes two hours  
6 after the pavilion would be closed?

7 MR. AVITABILE: So my understanding is the Cooperative  
8 Agreement allows it to stay open until two hours further -- later.  
9 I think, if I understood what Ms. McMahon was saying, is that  
10 maybe right now the restaurant closes a little bit earlier, but,  
11 you know, what they will do, I'm sure the plan is, they'll keep  
12 the restaurant open with some staff. so that if the restaurant,  
13 say, continues to close a little bit earlier and this open an  
14 hour or two later than the restaurant, they'll stay open so that  
15 people can come in and use the restroom. I'm sure that's part  
16 of the plan. And I think if we needed to make that a part of a  
17 condition, that's certainly something we could entertain to  
18 clarify that.

19 COMMISSIONER STIDHAM: Okay. Thank you for that.

20 CHAIRMAN HOOD: Okay. Well, thank you, Mr. Avitabile,  
21 Mr. Dettman, and Mr. Son. Thank you for presentation. And,  
22 also, I want to thank the public and all the witnesses, the ANC,  
23 and everyone who participated as we move forward. I believe that  
24 we're going to be waiting for an ANC report. I think we've given  
25 them until Friday, and once we get that, we will take it up. Ms.

1 Schellin, do you have any dates?

2 MS. SCHELLIN: Yes. How much time, Mr. Avitabile, do  
3 you think you're going to need?

4 MR. AVITABILE: Well, I don't know that we -- I mean,  
5 assuming -- I guess it depends upon what the ANC files and perhaps  
6 what -- if Mr. Aguirre chooses to file something, if we felt the  
7 need to respond to it, but, otherwise, I -- you know, we won't  
8 need to respond, if the ANC report is what we think. If it is  
9 something, then we would want the traditional week or two, but I  
10 think --

11 MS. SCHELLIN: Okay. So there's nothing additional you  
12 need to provide?

13 MR. AVITABILE: Not to my knowledge. I feel like the  
14 record's complete, from our perspective.

15 MS. SCHELLIN: Okay. If that is true, then the only  
16 thing we need is -- sorry about that; it's trying to do Christmas  
17 too -- is the ANC's report, which the record would be open until  
18 three o'clock noon (sic), and we have already notified Mr. Simon,  
19 and he's agreeable with that, and so that would be until the  
20 22nd, and we will put this on. And then that would allow you a  
21 week to respond, if need be, or since there's no rush and there  
22 is a holiday in there, we can give you until December 2nd, three  
23 o'clock noon -- I mean, three o'clock p.m., rather. And then  
24 we'll put this on for the December 18th meeting at four o'clock  
25 p.m.

1 MR. AVITABILE: Lovely. Thank you.

2 MS. SCHELLIN: Okay. And I believe this is a one-vote  
3 case, so that'll be up for final action. Chairman Hood, anything  
4 else you need?

5 CHAIRMAN HOOD: No, that's it. Do you -- we're all on  
6 the same page everybody? Okay. Great. Before I close this  
7 hearing, I just want to let everyone know, we're going to meet  
8 November the 20th; we have a regular meeting. I did not -- we  
9 did not do a closed meeting for that one. We did a closed meeting  
10 for the 25th. If we need to go into closed session, it will be  
11 an emergency closed session the day of, but I think we can get  
12 through it. We may have to 24-11, but we'll see. Let's just  
13 try to go through it, and we'll see what we need to do. All  
14 right. So, with that, my colleagues have any questions or  
15 comments to me on that?

16 (All Commissioners shake head negatively.)

17 CHAIRMAN HOOD: Okay. All right. With that, I want  
18 to thank everyone for their participation tonight, and this  
19 hearing is adjourned. Goodnight, everyone.

20 (Whereupon, the above-entitled public hearing was  
21 adjourned at 5:38 p.m.)

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C E R T I F I C A T I O N

This is to certify that the foregoing transcript

In the matter of: Public Hearing - Case No. 11-03N

Before: DC Zoning Commission

Date: 11-17-25

Place: Webex Videoconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



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Deborah B. Gauthier