

Minutes
Alcoholic Beverage Licensing (ABL) Committee
Advisory Neighborhood Commission (ANC) 6A
September 19, 2017

Pursuant to notice duly given, a meeting of the Alcoholic Beverage Licensing Committee (“Committee”) of ANC 6A was held commencing at 7:00 pm on September 19, 2017 at Sherwood Recreation Center, 640 Tenth (10th) Street NE, Washington, DC 20002.

Committee Members Present: Jay Williams (Co-Chair) and Justin Rzepka.

Committee Members Absent: Christopher Seagle, Roger Caruth, Mark Samburg, and Michael Herman.

Commissioners Present: Marie-Claire Brown

Community Members Present: Cynthia Simms (Nomad Hookah Bar), Daniel Lerner, Michelle Lerner

I. Call to Order

Mr. Williams called the meeting to order at 7:10 pm. The meeting proceeded with a quorum present.

II. Community Comment

None.

III. Old Business

None.

IV. New Business

A. Discussion of request for change of sidewalk café hours by Nomad Hookah Bar (1200 H Street NE) (ABRA License No. 087558).

- Mr. Williams preceded the discussion by explaining the history between ANC 6A and Nomad Hookah Bar.
- When Nomad recently renewed its license, the establishment requested that the ABC Board terminate or amend its Settlement Agreement to give it significantly later hours on its outdoor patio on weeknights and weekends.
- Days before the issue went to a hearing, the ANC and Nomad reached an agreement whereby Nomad would be able to keep the sidewalk café open until 2:00 am on weekends, provided that it fully enclosed the space. The agreement reached specifically stated that the hours would not be permitted until the patio was enclosed.
- Now Nomad has made a formal request to the Alcoholic Beverage Regulation Administration (ABRA) to extend its hours to match what was in the agreement.
- Mr. Williams reported that there are neighborhood concerns that (1) Nomad has not fully enclosed its patio pursuant to the agreement; and (2) there are general noise problems coming from Nomad that would be exacerbated with later hours.
- Ms. Simms reported that she agreed that Nomad had not enclosed its patio yet. She stated that the submission was made early, and that she understands that the ANC may need to protest until the patio is enclosed. Ms. Simms stated that she hoped the enclosure would be completed well before the scheduled protest hearing.

- Mr. Lerner stated that he (and other neighbors) had general concerns about Nomad's request. In particular, he was concerned about how a structure on the patio would abate noise at an acceptable level. For example, if the enclosure is fabric and not completely sealed off, he would be concerned about noise.
- Mr. Lerner stated that, especially on Saturday nights, the area around that intersection can get very loud. Mr. Lerner shared concerns that if there is another late-night destination nearby it would increase noise and traffic, impeding neighbors' ability to get rest.
- Ms. Simms stated that Nomad is not currently operating under the extended hours, and that since the new owners took over there have been no noise complaints.
- Mr. Lerner stated that he and his wife have called in noise complaints for issues in the area, but it is difficult for MPD or ABRA to pinpoint the source of the noise.
- Mr. Williams asked the Lerner's to clarify the type of noise they are hearing. They responded that it is a combination of noises, including cars parked outside on the street playing loud music.
- Ms. Simms stated that Nomad is meant to be a place for people to wind down or relax, not to get loud.
- Mr. Lerner stated that because Nomad is in a unique location on H street (close to residences), the ANC should have stricter standards for noise concerns and outdoor space.
- Mr. Williams acknowledged the uniqueness and stated that the ANC is sensitive to those issues and has taken strict approaches to other similarly-situated establishments.
- Mr. Lerner stated that Nomad benefits from the enclosure of the patio regardless of whether it gets additional hours, and that he believes it is inappropriate to grant them later hours even with the enclosure. Mr. Lerner also raised concerns about how hookah smoke would be ventilated from the enclosure.
- Ms. Simms stated that the enclosure will be soft with a doorway and zipped-open windows.
- Mr. Williams asked if it would be possible to have the north-facing wall of the patio be a more permanent structure. Commissioner Brown echoed that question, noting that the main issue at play is noise reduction.
- Ms. Simms stated that a permanent structure was not what was agreed to with the District Department of Transportation (DDOT).
- The Lerner's stated that when they moved to the area, they knew that they were moving into a mixed-use environment, but also knew that there were rules in place to minimize noise and limit hours for outdoor space. They stated that they believed 11:00 pm is a reasonable time for outdoor spaces to close. The Lerner's also stated that their approach would be different if what was being proposed was a more permanent structure, but their impression about the upcoming structure is that the walls can be rolled up.
- Ms. Simms stated that she was not sure whether the walls could, or would, be rolled up.
- Mr. Williams stated that the ANC will need to know if the walls can be rolled up. Commissioner Brown stated that she cannot make an informed decision without knowing this information.
- Ms. Simms stated that she understood, and again acknowledged that the request was likely submitted too soon.

- Mr. Williams explained that if the Committee recommends a protest, the ANC would then take it up at its next meeting and vote on the recommendation. Mr. Williams stated that whatever the ANC ultimately voted to do, he would implement and represent the ANC as best as he could.
- Mr. Williams further stated that he believed if Nomad sufficiently enclosed its patio in the way that was agreed to with the ANC, he did not believe that the ANC should protest the hours extension. He also noted that if the ANC agreed to the later hours, they could always revisit the issue at the renewal period, particularly if there were significant noise complaints.
- Mr. Williams noted that it was difficult to take issues related to noise to a protest hearing if there are no documented noise complaints. Mr. Williams encouraged neighbors to regularly report noise issues to ABRA and the Metropolitan Police Department (MPD) and to also email him when they had issues with noise so that there is a written record.
- Mr. Lerner stated that he did not believe that Nomad's current history is indicative of what could happen on the patio during later hours.
- Ms. Simms stated that the fact that Nomad has not had any noise complaints indicates that they will be a good neighbor.

Mr. Williams moved/seconded by Mr. Rzepka, to recommend that the ANC protest the request for extended sidewalk cafe hours by Nomad Hookah Bar (1200 H Street NE) due to impact to peace, order, and quiet unless it is satisfied that Nomad has sufficiently enclosed its sidewalk cafe pursuant to the terms of its April 2017 Settlement Agreement. The motion passed 3-0 (with Commissioner Brown voting).

V. Adjourn

The Committee adjourned at 8:04 pm.