



District of Columbia Government Advisory Neighborhood Commission 6A Agenda for June 9, 2016



Second (2nd) Thursdays at 7:00 pm, Miner Elementary, 601 Fifteenth (15th) Street NE
Public Meeting - All Are Welcome to Attend

- 7:00 pm **Call to order**
- 7:01 pm **Approve Previous Meeting's Minutes, Adopt Agenda**
- 7:02 pm **Community Presentations**
Office of Unified Communications (OUC) - Karima Holmes, Director
- 7:30 pm **Officer Reports**
Chair
Vice-Chair
Secretary
Treasurer
1. Approve Treasurer's Report *pg. 19*
- 7:40 pm **Standing Committee Reports:**
Community Outreach *pg. 20*
1. No report. Committee did not meet in May 2016.
2. Next meeting - 7:00 pm, June 27, 2016 (4th Monday)
- 7:41 pm **Alcohol Beverage Licensing *pg. 21***
1. Approve May 2016 committee report.
2. **Suggested Motion:** ANC 6A support a stipulated endorsement for a request by Dangerously Delicious Pies (1339 H Street NE) to increase its seating capacity from 18 to 36.
3. Next meeting - 7:00 pm, June 21, 2016 (3rd Tuesday)
- 7:45 pm **Transportation and Public Space *pg. 35***
1. Approve May 2016 committee report.
2. **Recommendation:** ANC 6A write a letter asking WMATA to complete the Stadium-Armory segment before the beginning of the next school year.
3. **Recommendation:** ANC 6A write a letter to DDOT requesting a study at the intersection of 19th and Benning Road NE to be combined with the study of 18th and Benning Road NE and also requesting a pedestrian crosswalk on the west side of 19th St. crossing Benning Road NE.
4. Next meeting - 7:00 pm, June 20, 2016 (3rd Monday)
- 7:55 pm **Economic Development and Zoning *pg. 39***
1. Approve May 2016 committee report.
2. **Recommendation:** ANC 6A write a letter to the BZA in support of the application for a special exception from the use requirements under § 336, to convert a two-story, one-family dwelling into a three-unit apartment house in the R-4 District at 1121 G Street, NE (BZA 19300) with the following restrictions: 1. provide language within



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the condominium by-laws that requires private trash management at the rear of the property; 2. make best efforts to replicate the porch cover at existing structure; and 3. extend the porch to match at new structure.

3. **Recommendation:** ANC 6A write a letter to the BZA in support of the application for a variance from the off-street parking requirements under § 2101.1, to renovate and expand an existing apartment house at 11 15th Street, NE (BZA 19307) in the C-2-A District with the following restrictions: 1. there will be RPP restrictions placed on two of the units to be determined by the developer; 2. traffic mitigation efforts are included within the building; 3. a shadow study will be completed showing no impact on the lighting on neighboring properties; and 4. best attempts will be made to get letters of support from neighbors.
4. **Recommendation:** ANC 6A write a letter to the BZA in support of the application for variances from the rear yard requirements under § 774, the court requirements under § 776, the off-street parking requirements under § 2101.1, and the HS overlay design requirements under § 1324.4, and a special exception from the single-enclosure penthouse requirements under § 411.6, to renovate an existing structure into an apartment building containing up to eight dwelling units with ground-floor retail at 1111 H Street, NE (BZA 19308) in the HS-R/C- 2-C District with the following restrictions: 1. the developer include RPP restrictions into sale documents or condominium by-laws; 2. the developer investigate reducing the courtyard to allow reduction of the impact of the building on neighbors with southern-facing balconies; 3. the developer conduct a shadow study to determine the lighting impact on other neighbors; and 4. the developer make best efforts to get letters of support from neighbors. Or in the alternative or in addition, the ANC 6A authorize a letter of opposition and protest be filed if the adequate efforts at finding accommodation to justify supporting the relief requested at 1111 H Street, NE (BZA 19308) have not been made by the June 2016 EDZ meeting.
5. **Suggested Motions:** ANC 6A accept the resignation of Laura Gentile from the EDZ Committee and approve the nomination of Jake Joyce as a member of the EDZ Committee.

8:35 pm

New Business

Proposed letter to City Administrator Rashad Young requesting issuance of DDOT regulations regarding the implementation of resident-only parking restrictions on our residential streets. (Toomajian/Mahmud)

8:40 pm

Single Member District reports (1 minute each)

8:50 pm

Community Comments (2 minutes each)

9:00 pm

Adjourn



Advisory Neighborhood Commission 6A Meeting Minutes of May 12, 2016



Advisory Neighborhood Commission (ANC) 6A Minutes Miner Elementary School May 12, 2016

Present: Commissioners Phil Toomajian (Chair), Matt Levy, J. Omar Mahmud, Patrick Malone, Sondra-Phillips-Gilbert, Mike Soderman, Calvin Ward, Stephanie Zimny

The meeting convened at 7:00 pm.

The minutes for the ANC April 2016 meeting and the agenda for the May 2016 meeting were accepted without changes or objection.

Community Presentations

Ms. Courtney Snowden, Deputy Mayor for Greater Economic Opportunity

Ms. Snowden gave a brief overview of the Mayor's budget proposal. Ms. Snowden also gave information on enhancements to the city's workforce development programs including increased outreach and access to city services to individuals seeking employment, and/or employment training and related services. Ms. Snowden spoke of the Mayor's goal to promote economic opportunity and growth to the more economically distressed sectors of the city. Programs of note to advance the Mayor's initiatives through the Office of the Deputy Mayor for Greater Economic Opportunity (DMGEO) are: Project 500, Summer Youth Employment Program, and the Aspire to Entrepreneurship Pilot Project. Detailed information about above-referenced can be obtained through the DMGEO website at: dmgeo.dc.gov.

Ms. Rebecca Snyder, Mr. Trent Smith, and Mr. Richard Hausler, CEO, Insight Property Group

The above-named representatives of the Insight Property Group discussed with the Commissioners their proposal to submit a request to the Board of Zoning Adjustment (BZA) allowing permission for a change in designation for twenty-nine (29) of thirty-three (33) units planned for the site at 1300 H Street NE from high-end residential to affordable housing. Insight Property Group asked that ANC 6A send a letter to the BZA in support of this proposal.

Motion: Chairman Phil Toomajian moved and Commissioner Sondra Phillips-Gilbert seconded the motion that ANC 6A send a letter of support to the DCHD in behalf of the Insight Property Group's application to support affordable housing to be developed at the 1300 H Street NE site pending further community discussion of and support for the concept at the May 18, 2016 Economic Development and Zoning Committee meeting. The motion passed (8-0).

Officer Reports

Mr. Toomajian mentioned the Sherwood Neighborhood Volunteers Spring Cleanup to take place on Saturday, May 21, 2016 at the Sherwood Recreation Center, 640 Tenth (10th) Street NE. Mention was also made of the upcoming Benning Road and Georgetown Streetcar Extension and Environmental Assessment (EA) public hearings. Public comment on this on this project will be accepted through June 2, 2016, at: info@benningproject.com.

Vice Chairman Mahmud indicated general maintenance work has begun on the C Street NE project but that major construction on this project is not scheduled to begin until 2018.



Advisory Neighborhood Commission 6A Meeting Minutes of May 12, 2016



Treasurer's Report. Commissioner Stephanie Zimny presented the second (2nd) Quarter Report. The second (2nd) Quarter Report was accepted without objection. Commissioner Zimny then delivered the Treasurer's Report. The opening balance in the checking account was \$13,600.38, with a forwarding balance of \$7,327.45. There were disbursements of \$450.00 to Irene Dworakowski (Check 1744) for agenda/web master services; \$200.00 for April 2016 minutes; (Check 1745); \$159.50 to FedEx; (Check 1746) \$10.56 Travel for Jay Williams (ABL Committee); (Check 1748), \$45.00 for domain name renewal (Check 1749), leaving a balance of \$12,735.32, in the checking account and \$13,721.71, including a \$.024 interest deposit in the savings account. A Petty Cash Summary was included in the report showing a forwarding balance of \$25.00. The report was accepted without objection.

Committee Reports:

Community Outreach Committee (COC)

No report. The COC Committee did not meet in April 2016.

Next meeting - 7:00 pm, May 23, 2016 (4th Monday).

Alcohol Beverage Licensing (ABL)

The April 2016 ABL Committee Report was accepted without objection.

Motion: The Committee moved and Commissioner Mahmud seconded a motion that the ANC protest the license renewal of Ben's Chili Bowl (1001 H Street NE) unless a Settlement Agreement is approved prior to the protest hearing date, and authorize Jay Williams, Christopher Seagle, and Phil Toomajian to represent the ANC in this matter. The motion passed (8-0).

Motion: Chairman Toomajian moved and Commissioner Mahmud seconded a motion that the ANC protest the request for a substantial change in the license of Sol Mexican Grill (1251 H Street NE) for an increase in occupancy from 60 to 155, increase weeknight closing time from 11:00 am to 2:00 am, increase weekend closing time from 2:00 am to 3:00 am, add entertainment weeknights from 6:00 pm to 1:00 am (previously none), and extend entertainment hours on weekends from 1:00 am to 2:00 am, unless an agreement with the ANC is reached regarding trash management prior to the protest date, and authorize Jay Williams, Christopher Seagle, and Phil Toomajian to represent the ANC in this matter. The motion passed (8-0).

Motion: Chairman Toomajian moved and Commissioner Levy seconded a motion that the ANC authorize a protest of the license renewal of the following establishments if the ABL Committee recommends a protest at its May 17, 2016 meeting, and authorize Jay Williams, Christopher Seagle, and Phil Toomajian to represent the ANC in these matters:

- Atlas Performing Arts Center at 1333 H Street NE
- Granville Moore's at 1238 H Street NE?
- Imm on H at 1360 H Street NE
- Maketto at 1351 H Street NE
- Redrocks at 1348 H Street NE
- Sally's Middle Name at 1320 H Street NE
- H & Pizza at 1118 H Street NE
- Smith Commons at 1245 H Street NE

The motion passed (8-0).



Advisory Neighborhood Commission 6A Meeting Minutes of May 12, 2016



Next meeting - 7:00 pm, May 17, 2016 (3rd Tuesday)

Transportation and Public Space Committee (TPS)

The TPS Committee Report was accepted without objection.

Motion: The Committee moved and Chairman Toomajian seconded a motion that ANC 6A send a letter to the District Department of Transportation (DDOT) Public Space Committee expressing conditional support for BAB Korean Fusion's (1387 H Street NE) application for a sidewalk café permit. Conditions agreed to with the owner are as follows:

- a. Owner agrees to follow hours and terms of sidewalk café operation stipulated in ANC 6A's Standard Voluntary Agreement (SA), including closing at 11:00 pm Sunday through Thursday and 12:00 am Friday and Saturday. This agreement includes no music on the sidewalk café; and only food and drink service;
- b. Food will be plated; it will not be light-weight paper or plastic that is prone to litter the area;
- c. Attractive fencing consistent with DDOT requirements and other sidewalk cafes on H Street, with a preference for fencing that contains trash in the sidewalk café area by having bars that go down to the ground;
- d. Owners agree to move chairs and tables to the side and lock them up when not in use;
- e. Regularly maintain any adjacent tree boxes and keep all areas in the front of the business and sidewalk café area clean, including the adjacent sidewalk and street gutter; and
- f. Ensure the sidewalk café allows for an adjacent sidewalk that maintains a consistent width with the sidewalk on the rest of the block.

The motion passed (7-0).

Motion: The Committee moved and Commissioner Soderman seconded a motion that ANC 6A send a letter to DDOT in support of the petition for residential permit parking by residents of the 1000 block of Tenth (10th) Street. The motion passed (8-0).

Motion: The Committee moved and Commissioner Phillips-Gilbert seconded a motion that ANC 6A send a letter to DDOT requesting an assessment of pedestrian safety issues and traffic flow at the intersection of Eighteenth (18th) Street NE and Benning Road NE, and possible remedies. The motion passed (8-0).

Next meeting - 7:00 pm, May 16, 2016 (3rd Monday)

Economic Development and Zoning (EDZ)

The April 2016 EDZ Committee report was accepted without objection.

Motion: The Committee moved and Commissioner Malone seconded a motion that the ANC write a letter to the BZA in support of the requested special exceptions at 920-922 H Street NE (BZA 19250) based on the revised design with the following restrictions: a. continuation of exterior façade materials along the side of the building; b. residential parking restrictions; c. complete shadow study prior to ANC meeting to prove that there is no adverse effect on neighboring sites; d. the developer provide a transit subsidy; e. seek alternative parking options for residents; and f. reach out to neighbors. The motion passed (8-0).



Advisory Neighborhood Commission 6A Meeting Minutes of May 12, 2016



Motion: The Committee moved and Commissioner Soderman seconded a motion that the ANC write a letter to the BZA in support of the relief requested at 1234 Duncan Place, NE (BZA 19276) on the conditions that the design be changed to extend brick to the sides of the addition for all areas visible from the street, and that a site-line report be given to the Committee before it goes to the full ANC. The motion passed (8-0).

Motion: The Committee moved and Commissioner Mahmud seconded a motion that the ANC write a letter to the BZA in support of the requested relief at 1018 Ninth (9th) Street NE (BZA 19265) on the condition that the design use stucco or stucco paneling on all visible side to match the design of the existing structure. The motion passed (8-0).

Next meeting - 7:00 pm, May 18, 2016 (3rd Wednesday).

New Business:

Chairman Toomajian advised of Councilmember Charles Allen's legislation proposing that a sign language interpreter be present at ANC Commission meetings and/or ANC Commission subcommittee meetings, upon request.

Motion: Chairman Toomajian moved and Commissioner Levy seconded a motion that ANC 6A send a letter to the DC Council in support of Councilmember Allen's legislation. The motion passed (8-0).

Single Member District Reports

Commissioner Patrick Malone (ANC6A05) spoke about alley cleaning efforts.

Commissioner Matt Levy (ANC6A04) gave a brief overview of the status of the Maury Elementary modernization status.

Commissioner Phillips Gilbert (ANC6A07) noted efforts to work with the Safer Stronger DC Community Partnership; that Congresswoman Norton recently held a community forum in Rosedale; that DDOT would host a meeting later this month regarding the Seventeenth (17th) Street, NE Redesign Project; and that the Rosedale Summer Olympics event would be held on June 25, 2016.

Vice Chairman Mahmud (ANC6A01) mentioned that community residents should be vigilant in reporting suspicious activity with regard to community complaints about the pilfering of delivered packages from neighborhood residences.

Commissioner Zimny (ANC6A06) indicated that three (3) alleys were cleared in her district. There has been historic preservation interest in the old Miner Elementary School. There will be a meeting of concerned parents with DC Department of Health later this month to discuss whether lead abatement action is indicated for the Miner Elementary School. Miner Elementary School is losing the current principal.

Commissioner Soderman (ANC6A03) spoke about the responsiveness of Rachel Mariman, one of two Ward 6 Outreach Specialists appointed by the mayor's office.

Commissioner Ward (ANC608) indicated that community residents continue to express concern about street activity at Eighteenth (18th) and D Streets NE.



Advisory Neighborhood Commission 6A Meeting Minutes of May 12, 2016



Community Comments

The proprietor of Masters Liquors advised that he was aware of community concerns regarding activity near his place of business, and indicated that he would be following-up with Commissioner Calvin Ward and MPD in an effort to address the stated concerns.

Rachel Mariman, Ward 6 Outreach Specialist, mentioned the Mayor's efforts for DC Statehood. Detailed information can be found at: DC@statehood.dc.gov.

The meeting adjourned at 9:00 pm.



Advisory Neighborhood Commission 6A Community Presentations





Commission Letters of May 12, 2016 Meeting



District of Columbia Government
Advisory Neighborhood Commission 6A
Box 75115
Washington, DC 20013



May 13, 2016

Mr. Matthew Marcou
Deputy Associate Director for Public Space Regulation
District Department of Transportation
55 M Street SE, Suite 400
Washington, DC 20003

Re: Sidewalk café public space application for BAB Korean Fusion at 1387 H Street NE

Dear Mr. Marcou,

At a regularly scheduled and properly noticed meeting¹ on May 12, 2016, our Commission voted 7-0 (with 5 Commissioners required for a quorum) to express our conditional support for the above-referenced sidewalk café application.

The motion provides our support based on the following conditions the ANC has asked the applicant to fulfill prior to and during the use of public space for a sidewalk café:

1. the sidewalk café shall not be open for use past 11 pm Sunday through Thursday and midnight on Friday and Saturday;
2. the sidewalk café shall only be used for food and drink service, and not for any other use, including the playing of any music, amplified or otherwise;
3. food served in the area will be plated; it will not be light-weight paper or plastic that is prone to litter the area;
4. the applicant shall use easily moveable chairs (no tables) that shall be secured or locked away when not in use;
5. the applicant shall ensure no trash container of any sort will be stored on or adjacent to the sidewalk café itself;
6. the enclosure will consist of attractive fencing consistent with DDOT requirements and other sidewalk cafes on H Street, with a preference for fencing that has bars that go down to the ground to keep any incidental trash from falling outside the area;
7. the applicant shall regularly clean and maintain the adjacent tree boxes, sidewalk and street gutter, and keep all areas in front of the business and within the sidewalk café area clean; and
8. the applicant will ensure the sidewalk café allows for an adjacent sidewalk that maintains a consistent width with the sidewalk on the rest of the block.

Thank you for considering our ANC's comments on this application. We request that you include the attached conditions with any approved public space application for this applicant. Should you wish to discuss this matter, please feel free to contact me or Commissioner Omar Mahmud at mahmud6a01@gmail.com.

On behalf of the Commission,

Phil Toomajian
Chair, Advisory Neighborhood Commission 6A

¹ ANC 6A meetings are advertised electronically on the anc6a-announce@yahoogleroups.com, anc-6a@yahoogleroups.com, and newhilleast@yahoogleroups.com, at www.anc6a.org, and through print advertisements in the Hill Rag.



Commission Letters of May 12, 2016 Meeting



District of Columbia Government
Advisory Neighborhood Commission 6A
Box 75115
Washington, DC 20013



May 13, 2016

Phil Mendelson
Chair, Council of the District of Columbia
1350 Pennsylvania Avenue NW, Suite 504,
Washington, DC 20004

Dear Chairman Mendelson,

At a regularly scheduled and properly noticed meeting¹ on May 12, 2016, our Commission voted 8-0 (with 5 Commissioners required for a quorum) to request that the Council of the District of Columbia pass and fund the “Advisory Neighborhood Commissions Access to Sign-Language Interpreters Amendment Act of 2016”, B21-0737.

Our ANC is located adjacent to Gallaudet University and home to numerous residents who require sign language interpreters to participate in community meetings. Already this year, ANC6A has accumulated thousands of dollars in expenses accommodating reasonable requests from residents who wish to participate in our Commission and Committee meetings. Recently, additional residents with sign language interpretation needs have contacted our Commission to express an interest in participating in on a regular basis. Unfortunately, our current budget limits our ability to adequately accommodate our residents with these needs and the District’s Office of Disability Rights does not pay for these services for our meetings. The need to accommodate our residents by paying for sign language interpreters out of our existing budget is potentially crippling and necessitates prompt Council action to enact and fund this proposed pilot program.

The “Advisory Neighborhood Commission Access to Sign Language Interpreters Amendment Act of 2016” legislation drafted by Councilmembers Allen and McDuffie goes a long way to allowing our and other Commissions to accommodate all of our residents who wish to participate in our community. Our Commission fully supports the legislation and commends these Councilmembers and the rest of the eleven Councilmembers who have already cosponsored the legislation for their leadership. We ask that act expeditiously to authorize and fund the program so that we may reasonably accommodate our constituents when they seek to participate in ANC meetings.

¹ ANC 6A meetings are advertised electronically on the anc6a-announce@yahoogroups.com, anc6a@yahoogroups.com, and newhilleast@yahoogroups.com, at www.anc6a.org, and through print advertisements in the Hill Rag.



Commission Letters of May 12, 2016 Meeting



District of Columbia Government
Advisory Neighborhood Commission 6A
Box 75115
Washington, DC 20013



Thank you for giving great weight to the recommendation of ANC 6A. Should you wish to discuss this letter with the Commission, please do not hesitate to contact me at philanc6a@gmail.com.

On behalf of the Commission,

A handwritten signature in blue ink that reads "Phil Toomajian".

Phil Toomajian,
Chair, Advisory Neighborhood Commission 6A

cc: Councilmember Charles Allen
Councilmember Kenyan McDuffie
Councilmember Anita Bonds
ANC6C Chair Karen Wirt
ANC5D Chair Adam Roberts
OANC Director Gottlieb Simon



Commission Letters of May 12, 2016 Meeting



District of Columbia Government
Advisory Neighborhood Commission 6A
Box 75115
Washington, DC 20013



May 13, 2016

Mr. Clifford Moy
Secretary of the Board of Zoning Adjustment
Board of Zoning Adjustment
441 4th St. NW, Suite 210
Washington, DC 20001

Re: BZA Case No. 19276 (1234 Duncan Place, NE)

Dear Mr. Moy,

At a regularly scheduled and properly noticed meeting on May 12, 2016,¹ our Commission voted 8-0 (with 5 Commissioners required for a quorum) to support the Applicant's request for a special exception under § 223, not meeting the lot occupancy requirements under § 403.2, and the nonconforming structure requirements under § 2001.3, and special exceptions from the height requirements under §§400.23 and 400.24, to construct a third floor addition to an existing two-story, one-family dwelling in the R-4 District.

The Commission supports granting the requested special exception because the design for the exterior of the addition preserves the character of the block and does not adversely impact the enjoyment of neighboring properties. The applicant's design preserves the roof top architectural elements and maintains the character of the neighborhood. The Commission supports this applicant on the condition that the materials used on the front of the design be extended to all areas on the addition that are visible from the street.

Please be advised that Brad Greenfield and I are authorized to act on behalf of ANC 6A for the purposes of this case. I can be contacted at philanc6a@gmail.com and Mr. Greenfield can be contacted at brad.greenfield@gmail.com.

On Behalf of the Commission,

Phil Toomajian
Chair, Advisory Neighborhood Commission 6A

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Commission Letters of May 12, 2016 Meeting



District of Columbia Government
Advisory Neighborhood Commission 6A
Box 75115
Washington, DC 20013



May 13, 2016

Mr. Clifford Moy
Secretary of the Board of Zoning Adjustment
Board of Zoning Adjustment
441 4th St. NW, Suite 210
Washington, DC 20001

Re: BZA Case No. 19265 (1018 9th Street NE)

Dear Mr. Moy,

At a regularly scheduled and properly noticed meeting on May 12, 2016,¹ our Commission voted 8-0 (with 5 Commissioners required for a quorum) to support the Applicant’s request for a special exception under §223, not meeting the lot occupancy requirements under § 403.2, and special exceptions from the rooftop structure requirements under § 400.24, the rooftop mechanical equipment requirements under § 411.5, and the penthouse screening requirements under § 411.18, to construct a rear addition to an existing two-story, one-family dwelling in the R-4 District.

The Commission supports granting the requested special exception because the design for the exterior of the addition preserves the character of the block and does not adversely impact the enjoyment of neighboring properties. The applicant's design preserves the roof top architectural elements and maintains the character of the neighborhood. The Commission supports this applicant on the condition that the materials used on the front of the design be extended to all areas on the addition that are visible from the street.

Please be advised that Brad Greenfield and I are authorized to act on behalf of ANC 6A for the purposes of this case. I can be contacted at philanc6a@gmail.com and Mr. Greenfield can be contacted at brad.greenfield@gmail.com.

Phil Toomajian
Chair, Advisory Neighborhood Commission 6A

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Commission Letters of May 12, 2016 Meeting



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Box 75115
Washington, DC 20013



May 13, 2016

Mr. Clifford Moy
Secretary of the Board of Zoning Adjustment
Board of Zoning Adjustment
441 4th St. NW, Suite 210
Washington, DC 20001

Re: BZA Case No. 19250 (920-922 H Street, NE)

Dear Mr. Moy,

At a regularly scheduled and properly noticed meeting on May 12, 2016,¹ our Commission voted 8-0 (with 5 Commissioners required for a quorum) to support the Applicant's request for special exceptions by 920 H LLC, pursuant to 11 DCMR § 3103.2, for variances from the lot occupancy requirements under § 1324.4, the off-street parking requirements under § 2101.1, and the parking space size requirements under § 2115.1, to allow the construction of a mixed-use building with a restaurant and nine residential units in the HS-R/C-2-A District at 920-922 H Street NE (Square 933, Lots 57 and 803).

The Commission believes that the location and size of the proposed development create an extreme burden to meet the off-street parking size and space requirement. The special exception for lot occupancy is warranted since the lot occupancy will be decreased with the development from its current state. The Commission is concerned about the applicant's use of the FAR bonus for facade preservation. We believe that this bonus should only be allowed if the developer preserves the majority of the facade (in our opinion, 90% of the existing facade should be preserved), and this design falls short of that threshold amount. Despite this concern, the Commission believes that the design preserves as much of the facade as is practicable, given the change in use and the nature of the existing facade.

The Commission believes the development will not unduly diminish neighboring properties or result in additional parking in the neighborhood, and supports granting the requested special exception with the following restrictions: continuation of exterior facade materials along the side of the building; residential parking restrictions; the developer provide a transit subsidy to building residents; and seek alternative parking options for residents.

Please be advised that Brad Greenfield and I are authorized to act on behalf of ANC 6A for the purposes of this case. I can be contacted at philanc6a@gmail.com and Mr. Greenfield can be contacted at brad.greenfield@gmail.com.

On Behalf of the Commission,

Phil Toomajian
Chair, Advisory Neighborhood Commission 6A

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Commission Letters of May 12, 2016 Meeting



District of Columbia Government
Advisory Neighborhood Commission 6A
P. O. Box 75115
Washington, DC 20013



May 16, 2016

Mr. Donovan Anderson, Chairperson
Alcoholic Beverage Control Board
2000 14th Street, NW, Suite 400S
Washington, DC 20009

Re: ABRA-093103 (1001 H St, LLC t/a Ben's Chili Bowl / Ben's Upstairs / Ten 01), 1001 H Street NE

Dear Mr. Anderson,

Please be advised that at the May 12, 2016 meeting of Advisory Neighborhood Commission 6A, with a quorum present, the Commission voted (8-0) to protest the Class C Restaurant License renewal of Ben's Chili Bowl/Ben's Upstairs/Ten 01, ABRA #093103. This vote took place at our regular and publicly announced meeting.¹ The grounds for the protest are disturbance to peace, order, and quiet.

I, as the Co-Chair of the ANC 6A Alcohol Beverage Licensing Committee, will be the primary representative of the ANC in this matter. The ANC's Chair (Phil Toomajian), Commissioner and the ABL Committee's Co-Chair (Christopher Seagle) are also authorized to represent the ANC before the Board with respect to this application. I can be reached at 202-906-0657 or WilliamsANC6A05@gmail.com.

On behalf of the Commission,

Jay Williams
Commissioner, ANC 6A05
Co-Chair, ANC 6A ABL Committee

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Commission Letters of May 12, 2016 Meeting



District of Columbia Government
Advisory Neighborhood Commission 6A
Box 75115
Washington, DC 20013



May 19, 2016

Polly Donaldson, Director
DC Department of Housing and Community Development
1800 Martin Luther King Jr. Avenue, SE
Washington, DC 20020

Dear Director Donaldson:

I am writing to extend the support of ANC6A for 1300 H Street NE LLC's proposed redevelopment of 1300 H Street, NE. Over the past month, 1300 H Street NE LLC and Insight Property Group have worked with ANC6A through our Chair and our Economic Development and Zoning Committee to engage the ANC and participate in community presentations at the full body meetings regarding their proposal to build 33 units affordable at 30% and 50% of AMI as part of the mixed-use project they will construct on the site. The ANC voted affirmatively in support of the 1300 H Street NE LLC group's application for 9% Low Income Housing Tax Credits being submitted to the Department of Housing and Community Development in the Spring 2016 NOFA Round at the monthly meeting held on May 12, 2016.

This proposal to make all units in this new apartment building affordable will bring inclusive diversity to our community by preserving and creating affordable residences to residents who might have otherwise been priced out of our neighborhood. The proposed building design will conform to the evolving character of the H Street corridor through its massing and materials which sustain the architectural quality of community. The project will also include high quality amenities for its residents.

1300 H Street NE LLC and Insight Property Group have demonstrated their desire to be a good neighbor by working to build a long, fruitful relationship with the existing residents and other stakeholders on this project as well as another large mixed-use, mixed-income project that they are building in our neighborhood. On behalf of ANC6A, I am proud to support the 1300 H St NE project. I sincerely hope it receives DHCD's approval so the development can move forward.

Thank you for giving great weight to the recommendation of ANC 6A. Should you wish to discuss this letter with the Commission, please do not hesitate to contact me at philanc6a@gmail.com.

On behalf of the Commission,

Phil Toomajian,
Chair, Advisory Neighborhood Commission 6A



Commission Letters of May 12, 2016 Meeting



District of Columbia Government
Advisory Neighborhood Commission 6A
P. O. Box 75115
Washington, DC 20013



June 5, 2016

Mr. Donovan Anderson, Chairperson
Alcoholic Beverage Control Board
2000 14th Street, NW, Suite 400S
Washington, DC 20009

Re: ABRA-092192 (Fernando Postigo t/a Sol Mexican Grill), 1251 H Street NE

Dear Mr. Anderson,

Please be advised that at the May 12, 2016 meeting of Advisory Neighborhood Commission 6A, with a quorum present, the Commission voted (8-0) to protest the requests for expansion of premises and the change of hours of sales, operation, and live entertainment by Fernando Postigo, t/a Sol Mexican Grill, ABRA #092192 (note that the expansion and the change of hours were placarded separately; the ANC voted on both issues). This vote took place at the ANC's regular and publicly announced meeting.¹ The grounds for the protest are disturbance to peace, order, and quiet.

I, as the Co-Chair of the ANC 6A Alcohol Beverage Licensing Committee, will be the primary representative of the ANC in this matter. The ANC's Chair (Phil Toomajian), and the ABL Committee's Co-Chair (Christopher Seagle) are also authorized to represent the ANC before the Board with respect to this application. I can be reached at 202-906-0657 or WilliamsANC6A05@gmail.com.

On behalf of the Commission,

Jay Williams
Co-Chair, ANC 6A ABL Committee

¹ ANC 6A meetings are advertised electronically on anc6a-announce@yahoogroups.com, anc-6a@yahoogroups.com, and newhilleast@yahoogroups.com, at www.anc6a.org, and through print advertisements in the Hill Rag.



Officer Reports - Treasurer



ANC 6A Treasurer's Report May 2016

Period Covered 5/1/2016-5/31/2016

Checking Account:

Balance Forwarded			\$	6,507.40
Total Receipts			\$	6,227.93
Total Funds Available			\$	12,735.33
Disbursements:				
Irene Dworakowski (Agenda/Web Master Services	CK#1744	\$	450.00	
Note Taking (May 2016 Minutes)	CK#1745	\$	200.00	
Total Disbursements			\$	650.00
Ending Balance			\$	12,085.33

Savings Account:

Balance Forwarded			\$	13,721.71
Receipts: Interest	05/21/16	\$	0.24	
Deposit -				
Total Receipts			\$	0.24
Total Funds Available			\$	13,721.95
Disbursements			\$	-
Ending Balance			\$	13,721.95

PETTY CASH SUMMARY

Balance Forwarded	\$	25.00
Deposit to Petty Cash	\$	-
Total Funds Available	\$	25.00
Disburser		
Total Disbursements	\$	-
Ending Balance	\$	25.00



Committee Reports
Community Outreach Committee (COC)



No report. Committee did not meet in May 2016.



Committee Reports

Alcohol Beverage and Licensing (ABL)



Minutes

Alcoholic Beverage Licensing (ABL) Committee

Advisory Neighborhood Commission (ANC) 6A

May 17, 2016

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 April 19, 2016 at Sherwood Recreation Center, 640 Tenth (10th) Street NE, Washington, DC 20002.

Committee Members Present: Christopher Seagle (Co-Chair), Jay Williams (Co-Chair), and Michael Herman.

Committee Members Absent: Justin Rzepka, David Oberting, Roger Caruth, and Mark Samburg.

Commissioners Present: Mike Soderman

Community Members Present: Ron McNeill (Smith Commons)

I. Call to Order

Mr. Williams called the meeting to order at 7:05. The meeting having been duly convened was ready to proceed with business without a quorum. There were no additions or edits to the agenda as published.

II. Community Comment

None.

III. Old Business

None.

IV. New Business

A. Discussion of license renewal of Atlas Performing Arts Center (1333 H Street NE) (CM license).

- Mr. Williams stated that he had received no complaints, and that Atlas had a Settlement Agreement in place.
- There was no further discussion.

B. Discussion of license renewal of Granville Moore’s (1238 H Street NE) (CR license).

- Mr. Williams stated that he had received no complaints, and that Granville Moore’s currently had a standard ANC 6A Settlement Agreement in place.
- There was no further discussion.

C. Discussion of license renewal of Imm on H (1360 H Street NE) (CR license).

- Mr. Williams stated that he had received no complaints, and that Imm on H currently had a standard ANC 6A Settlement Agreement in place.
- There was no further discussion.

D. Discussion of license renewal of Maketto (1351 H Street NE) (CR license).

- Mr. Williams stated that he had received no complaints, and that Maketto currently had a standard ANC 6A Settlement Agreement in place.



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Alcohol Beverage and Licensing (ABL)



- There was no further discussion.

E. Discussion of license renewal of RedRocks (1348 H Street NE) (CR license).

- Mr. Williams stated that he had received no complaints, and that RedRocks currently had a standard ANC 6A Settlement Agreement in place.
- There was no further discussion.

F. Discussion of license renewal of Sally's Middle Name (1320 H Street NE) (CR license).

- Mr. Williams stated that he had received no complaints, and that Sally's Middle Name currently had a standard ANC 6A Settlement Agreement in place.
- There was no further discussion.

G. Discussion of license renewal of H & Pizza (1118 H Street NE) (CR license).

- Mr. Williams stated that the only complaints he had received were related to trash management, which was more of a public space concern and didn't rise to the level of an issue that required protesting. He also noted that H & Pizza does have a standard Settlement Agreement in place.
- There was no further discussion.

H. Discussion of license renewal of Smith Commons (1245 H Street NE) (CR license).

- Mr. Williams stated that he had received no complaints, and that Smith Commons currently had a standard ANC 6A Settlement Agreement in place.
- Mr. Williams thanked Mr. McNeill for the efforts made by Smith Commons in the past few years to work with neighbors to reach an agreement regarding the establishment's outdoor space. He and Mr. McNeill agreed that the results have been good for both the community and the establishment.
- There was no further discussion.

V. Adjourn

The Committee adjourned at 7:30 pm.



Committee Reports
Alcohol Beverage and Licensing (ABL)



THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD

_____)	
In the Matter of:)	
Naomi’s Ladder, LLC)	Case No.: 15-PRO-00023
t/a Touche)	License No: 096779
Application to Renew a)	Order No: 2016-351
Retailer’s Class CT License)	
at premises)	
1123 H Street, N.E.)	
Washington, D.C. 20002)	
_____)	

BEFORE: Donovan Anderson, Chairperson
Nick Alberti, Member
Mike Silverstein, Member
Ruthanne Miller, Member
James Short, Member

ALSO PRESENT: Naomi’s Ladder, LLC, t/a Touche, Applicant

Jay Williams, Chairperson, Advisory Neighborhood Commission (ANC)
6A

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

INTRODUCTION

The current protest before the Alcoholic Beverage Control Board (Board) addresses the Application to Renew a Retailer’s Class CT License (Application) filed by Naomi’s Ladder, LLC, t/a Touche, (hereinafter “Applicant” or “Touche”). The Board concludes that noise generated by Touche’s roof intereferes with the reasonable expectation oef residents to enjoy peace and quiet in their homes during late night hours. Therefore, the Board conditions renewal on the reduction of hours of the rooftop to midnight on Friday, Saturday, and holidays, and 11:00 p.m. on all other days. Moreover, the Board prohibits the production of amplified sounds on the roof between 10:00 p.m. and 9:00 a.m. Touche is also advised that it has an obligation to comply



Committee Reports Alcohol Beverage and Licensing (ABL)



with the terms of the Settlement Agreements attached to its license. The Board's reasoning is provided below.

Procedural Background

The Notice of Public Hearing advertising Touche's Application was posted on October 27, 2015, and informed the public that objections to the Application could be filed on or before April 13, 2015. *ABRA Protest File No. 15-PRO-00023*, Notice of Public Hearing [*Notice of Public Hearing*]. The Alcoholic Beverage Regulation Administration (ABRA) received protest letters from Advisory Neighborhood Commission (ANC) 6A. *ABRA Protest File No. 15-PRO-00023*, Roll Call Hearing Results.

The parties came before the Board's Agent for a Roll Call Hearing on April 27, 2015, where the ANC was granted standing to protest the Application. On July 22, 2015, the parties came before the Board for a Protest Status Hearing. Finally, the Protest Hearing in this matter occurred on April 6, 2016.

The Board recognizes that an ANC's properly adopted written recommendations are entitled to great weight from the Board. See *Foggy Bottom Ass'n v. District of Columbia Alcoholic Beverage Control Bd.*, 445 A.2d 643, 646 (D.C. 1982); D.C. Official Code §§ 1-309.10(d); 25-609. Accordingly, the Board "must elaborate, with precision, its response to the ANC[s] issues and concerns." *Foggy Bottom Ass'n*, 445 A.2d at 646. The Board notes that it received a properly adopted written recommendation from ANC 6A. The ANC's issues and concerns shall be addressed by the Board in its Conclusions of Law, below.

Based on the issues raised by the Protestants, the Board may only grant the Application if the Board finds that the request will not have an adverse impact on the peace, order, and quiet of the area located within 1,200 feet of the establishment. D.C. Official Code § 25-313(b); 23 DCMR §§ 1607.2; 1607.7(b) (West Supp. 2016). It is further noted that during opening statements, ANC 6A limited its protest to requesting "reasonable limitations on the operations of Touche's roof deck." *Transcript (Tr.)*, April 6, 2016 at 21-22.

FINDINGS OF FACT

The Board, having considered the evidence, the testimony of the witnesses, the arguments of the parties, and all documents comprising the Board's official file, makes the following findings:

I. Background

1. Touche has submitted an Application to Renew a Retailer's Class CT License at 1123 H Street, N.E., Washington, D.C. *Notice of Public Hearing*.



Committee Reports Alcohol Beverage and Licensing (ABL)



II. Facts Provided by ABRA Investigator Abyie Ghenene

2. ABRA Investigator Abyie Ghenene investigated the Application and prepared the Protest Report submitted to the Board. *ABRA Protest File No. 15-PRO-00023, Protest Report* (Mar. 2016) [*Protest Report*]. The establishment is located in a C-2-A zone. *Id.* at 2. At least twenty-three licensed establishments are located within 1,200 feet of the proposed location. *Id.* There are no schools, recreation centers, or public libraries within 400 feet. *Id.* at 3.

3. According to the Protest Report, Touche's hours of entertainment last from 5:00 p.m. to 2:00 a.m., Monday through Thursday; 5:00 p.m. to 3:00 a.m. on Friday; and 10:00 a.m. to 3:00 a.m. on Saturday. *Id.* at 4.

4. The Protest Report describes Touche's investigation history. The report indicates that Touche has been the subject of six noise complaints between March 25, 2015, and March 25, 2016. *Id.* at 5. The report further indicates that Touche paid a \$1,000 related to inadequate import permits. *Id.* at 6.

5. Touche is located on the same block as several businesses. *Tr.*, 4/6/16 at 36. The tavern is located in a three story building. *Id.* The first floor has a kitchen and bar on the first floor. *Id.* The second floor has a bar and dining area. *Id.* The rooftop is licensed as a summer garden. *Id.* The roof is not enclosed and three of the walls of the roof are only waist high. *Id.* at 60.

III. Facts Provided by Tim Franklin

6. Tim Franklin lives about 150 feet from the establishment. *Id.* at 62. He noted that noise generated from many establishments in the neighborhood may be heard on his property. *Id.* at 73, 80.

IV. Facts Provided by Dwayne Greenwood

7. Dwayne Greenwood works at a retail establishment next door to Touche. *Id.* at 85. As a patron of Touche he has never observed live entertainment on the roof of the establishment. *Id.* at 86. Mr. Greenwood noted that the H Street, N.W., neighborhood is generally a noisy area. *Id.* at 89.

V. Facts Provided by Megan Uzzell.

8. Megan Uzzell lives on G Street, N.E., approximately seventy-five yards from the back of Touche. *Id.* at 97. She can see Touche from the back of her home. *Id.* Ms. Uzzell discussed noise problems related to Touche. *Id.* On two to three occasions over the past year, she has heard amplified music and an amplified voice coming into her home, even though her air conditioner was on, the rear of her home has been soundproofed, and the windows and doors of her home were closed. *Id.* at 97-99, 110, 131. The noise she heard came from Touche's roof. *Id.* at 100, 116, 123. She noted that noise from the prior establishment located on Touche's premises caused her to add soundproofing to her home. *Id.*



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VI. Facts Provided by Katherine Paniagua

9. Katherine Paniagua lives on 12th Street, N.E. *Id.* at 138. She lives approximately one hundred feet from the establishment and can see the premises from her bedroom window. *Id.* at 139.

10. Ms. Paniagua has submitted about ten noise complaints related to Touche's roof to ABRA. *Id.* at 139-40. The noise she heard in her home consists of amplified music, an amplified voice, and patrons. *Id.* at 139. The noise routinely came after midnight, even with her windows and doors closed. *Id.* at 140, 142. Ms. Paniagua can confirm the disturbing noise entering her home comes from Touche because she can see the establishment. *Id.* at 140, 143.

VII. Facts Provided by Denise Corte

11. Denise Corte lives on 12th Street, N.E. *Id.* at 159. Her home is located next to Ms. Paniagua's home. *Id.* She is located approximately seventy meters from Touche. *Id.* She experiences the same noise problems created by Touche reported by Ms. Paniagua, even though she keeps her windows and doors closed. *Id.* at 160-61, 163, 168. While she has never heard live music on Touche's roof, she has heard noise from amplified voices and patrons in her home. *Id.* at 169.

VIII. Facts Provided by Claude Labbe

12. Claude Labbe lives on Linden Place, N.E., between 12th Street, N.W., and 13th Street, N.W. *Id.* at 172-73. He has noticed that the voices of patrons standing on the roof carry to Linden Place, N.E. *Id.* at 176, 179.

IX. Facts Provided by ANC Commissioner Phil Toohajian

13. ANC Commissioner Phil Toohajian lives on 10th Street, N.E., approximately three blocks from Touche. *Id.* at 191. He represents Single Member District 6A02 and chairs ANC 6A. *Id.* In his role as an ANC Commissioner, he has received many complaints from residents living close to the establishment. *Id.* at 192. He further indicated that the number of complaints regarding Touche outpaces complaints regarding other establishments in his district, which encompasses part of the H Street, N.E., entertainment area. *Id.* at 192-93. Specifically, his constituents indicate that noise from Touche interferes with their ability to sleep inside their homes. *Id.* at 208.

14. Commissioner Toohajian has observed that Touche has advertised multiple events featuring disc jockey entertainment on the roof. *Id.* at 230.

X. Facts Provided by Jay Williams

15. ANC Commissioner Jay Williams serves as the co-chair of ANC 6A's Alcohol Beverage Licensing Committee. *Id.* at 240. Similar to Commissioner Toohajian, Commissioner Williams has received a number of complaints regarding Touche. *Id.* at 243.



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16. A photo submitted by the ANC shows an event on Touche’s rooftop with many standing patrons. *Protestant’s Exhibit No. 8*. Another photo shows a woman in front of a table with a laptop and turntable on Touche’s rooftop, which constitutes a disc jockey booth. *Protestant’s Exhibit No. 9*. The table also has a table cloth that reads “DJ Curley Sue.” *Id.*
17. An advertisement related to an event at Touche indicates that the establishment hosted an event, titled “Sundresses & Whiskey,” on July 25, 2015 between 3:00 p.m. and 8:00 p.m. *Protestant’s Exhibit No. 11*. The event indicates that it was a “Rooftop Edition” event with music provided by “DJ Utmost Sash.” *Id.*
18. An advertisement related to another event at Touche indicates that the establishment hosted an event, titled “Roots Rock Reggae Rooftop Party,” on July 19, 2015, between 10:00 p.m. and 2:00 a.m. *Protestant’s Exhibit No. 12*. The advertisement indicates that the event was hosted by “DJ Trini.” *Id.*

XI. Relevant Provisions of Touche’s Settlement Agreement

19. Section 1.3(c) of Touche’s First Settlement Agreement prohibits “live bands or musical entertainment on the roof deck” but allows “soft background music [to] be played for dining.” *In re BEG Investments, t/a Twelve*, Case No. 61245-07/040P, Board Order No. 2007-140, at First Settlement Agreement, § 1.3(c) (D.C.A.B.C.B. Oct. 31, 2007) (entered into with a group of residents). In § 1.3(e), the agreement provides that Touche shall “manage sound that originates from the rooftop/deck and ensure that sound does not become noise to those who reside next door and beyond in the residential community.” *Id.* at § 1.3(e) (underlining removed). The agreement further limits the roof deck’s operation to no later than midnight, between Sunday and Thursday, and 2:00 a.m. on Friday and Saturday. *Id.* at § 1.4(a).
20. Section 4(c) of Touche’s Second Settlement Agreement prohibits Touche from amplifying “sounds on the rooftop” except for pre-recorded music under certain conditions. *Id.* at Second Settlement Agreement, § 4(c) (entered into with the ANC). The agreement outlines various soundproofing measures on the rooftop and limits the “seating capacity” to “50 persons” and limits usage of the rooftop to dining. *Id.* The agreement further indicates that “the rooftop will be utilized on for dining, and therefore will not be utilized beyond hours of food service, and will not be used for events in which patrons are standing ([i.e.], receptions, private parties[], etc[.]”).
21. The Second Settlement Agreement further provides, in § 4(e), that

In the event that noise from conversations and pre-recorded music on the rooftop repeatedly disturbs homeowners to the rear of the building, the ANC and owner will work in good faith to negotiate an addendum to this agreement to mitigate noise through additional soundproofing measures.

Id. at § 4(c).



CONCLUSIONS OF LAW

22. The Board may approve an Application to Renew a Retailer's Class CT License when the proposed establishment will not have an adverse impact on the neighborhood. D.C. Official Code §§ 25-104, 25-313(b); 23 DCMR §§ 1607.2; 1607.7(b) (West Supp. 2016). Specifically, the question in this matter is whether usage of the roof will have a negative impact on the peace, order, and quiet of the area located within 1,200 feet of the establishment. D.C. Official Code § 25-313(b); 23 DCMR §§ 1607.2; 1607.7(b) (West Supp. 2016).

23. Furthermore, “. . . the Board shall consider whether the proximity of [a tavern or nightclub] establishment to a residence district, as identified in the zoning regulations of the District and shown in the official atlases of the Zoning Commission for the District, would generate a substantial adverse impact on the residents of the District.” D.C. Official Code § 25-314(c).

I. The Unreasonable Noise Generated on the Roof Renders Touche Partially Inappropriate.

24. The Board deems the Application partially inappropriate due to Touche’s inability to control the disturbing noise emanating from the roof during late night hours and Touche’s inability to comply with the current Settlement Agreements restricting the use of the roof.

25. Under the appropriateness test, “. . . the applicant shall bear the burden of proving to the satisfaction of the Board that the establishment for which the license is sought is appropriate for the locality, section, or portion of the District where it is to be located” D.C. Official Code § 25-311(a). The Board is further required to rely on the probative and substantial evidence contained in the record. 23 DCMR § 1718.3 (West Supp. 2016).

26. In determining appropriateness, the Board must consider whether the applicant’s future operations will satisfy the reasonable expectations of residents to be free from disturbances and other nuisances—not just whether the Application complies with the minimum requirements of the law. D.C. Council, Bill 6-504, the “District of Columbia Alcoholic Beverage Control Act Reform Amendment Act of 1986,” Committee on Consumer and Regulatory Affairs, 38 (Nov. 12, 1986); see *Panutat, LLC v. D.C. Alcoholic Beverage Control Bd.*, 75 A.3d 269, 277 n. 12 (D.C. 2013) (“However, in mandating consideration of the effect on peace, order, and quiet, § 25-313(b)(2) does not limit the Board's consideration to the types of noises described in § 25-725.”). As part of its analysis, the Board should evaluate each “unique” location “according to the particular circumstances involved” and attempt to determine the “prospective” effect of the establishment on the neighborhood. *Le Jimmy, Inc. v. D.C. Alcoholic Beverage Control Bd.*, 433 A.2d 1090, 1093 (D.C. 1981). Furthermore, the analysis may also include the Applicant’s efforts to mitigate or alleviate operational concerns, the “character of the neighborhood,” the character of the establishment, and the license holder’s future plans. *Donnelly v. District of Columbia Alcoholic Beverage Control Board*, 452 A.2d 364, 369 (D.C. 1982) (saying that the Board could rely on testimony related to the licensee’s “past and future efforts” to control negative impacts of the operation); *Upper Georgia Ave. Planning Comm. v. Alcoholic Beverage Control Bd.*, 500 A.2d 987, 992 (D.C. 1985) (saying the Board may consider an applicant’s



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efforts to “alleviate” operational concerns); *Citizens Ass'n of Georgetown, Inc. v. D.C. Alcoholic Beverage Control Bd.*, 410 A.2d 197, 200 (D.C. 1979); *Gerber v. D.C. Alcoholic Beverage Control Bd.*, 499 A.2d 1193, 1196 (D.C. 1985); *Sophia's Inc. v. Alcoholic Beverage Control Bd.*, 268 A.2d 799, 800-801 (D.C. 1970).

27. “In determining the appropriateness of an establishment, the Board shall consider . . . [t]he effect of the establishment on peace, order, and quiet, including the noise and litter provisions set forth in §§ 25-725 and 25-726.” D.C. Official Code § 25-313(b)(2); *see also* D.C. Official Code §§ 25-101(35A), 25-314(a)(4). Among other considerations, the Board is instructed to consider “noise.” 23 DCMR § 400.1(a) (West Supp. 2016).

a. Touche has failed to demonstrate the effectiveness or sufficiency of the soundproofing on the roof.

28. The Protestants have persuaded the Board that Touche’s attempt to soundproof the roof is ineffective and insufficient. In considering appropriateness, the Board “may consider an applicant’s efforts to address or alleviate operational concerns.” *In re Inner Circle 1223, LLC t/a Dirty Maritni Inn Bar/Dirty Bar*, Case No. 13-PRO-00172, Board Order No. 2014-507, ¶ 34 (D.C.A.B.C.B. Dec. 10, 2014). Specifically, “the Board may consider the establishment’s soundproofing features and noise mitigation practices related to both amplified music and the human voice.” *Id.* In this case, Touche operates an unenclosed roof that lacks soundproofing features that prevent noise from escaping into the surrounding neighborhood and is located near many residents. *Supra*, at ¶¶ 5, 8, 10-12. Based on these facts, Touche failed to demonstrate that the soundproofing installed on the roof is sufficiently adequate to support the unrestricted use of the roof.

b. Touche’s roof is generating an unreasonable amount of noise.

29. The Board further finds that Touche’s operation of the roof as a dance and entertainment space creates an unreasonable and inappropriate amount of noise.

In interpreting [appropriateness test], the Board has explained that it may “. . . consider whether an establishment is generating little or no sound.” *In re Solomon Enterprises, LLC, t/a Climax Restaurant & Lounge*, Case No. 13-PRO-00152, Board Order No. 2014-474, ¶ 32 (D.C.A.B.C.B. Nov. 15, 2014) *citing In re 19th and K, Inc., t/a Ozio Martini & Cigar Lounge*, Case No. 13-PRO-00151, Board Order No. 2014-366, ¶ 37 (D.C.A.B.C.B. Oct. 1, 2014); *see also Panutat, LLC, v. District of Columbia Alcoholic Beverage Control Bd.*, 75 A.3d 269, 276-77 n. 12 (D.C. 2013). The Board further explained that the appropriateness test seeks to “. . . determine the appropriate amount of sound in light of the reasonable expectations of residents.” *Id.*; *see also* D.C. Council, Bill 6-504, the “District of Columbia Alcoholic Beverage Control Act Reform Amendment Act of 1986,” Committee on Consumer and Regulatory Affairs, 38 (Nov. 12, 1986).

. . . Previously, the Board has looked to the court’s decision in *T.L.* as a means of determining the reasonable expectations of residents. *Climax Restaurant & Lounge*, Board Order No. 2014-366 at ¶ 33; *see also Ozio Martini & Cigar Lounge*, Board Order No. 2014-366 at ¶ 6. There, the court found that the government has a substantial interest



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in preventing noise from disturbing people in their homes. *In re T.L.*, 996 A.2d 805, 812 (D.C. 2010). Therefore, the government has the authority to prevent noise so unreasonably loud that it “. . . unreasonably intrude[s] on the privacy of a captive audience or so loud and continued as to offend[] a reasonable person of common sensibilities and disrupt[] the reasonable conduct of basic nighttime activities such as sleep.” *Id.* at 813 (quotation marks removed).

In re Inner Circle 1223, LLC t/a Dirty Martini Inn Bar/Dirty Bar, Case No. 13-PRO-00172, Board Order No. 2014-507, ¶¶ 29-30 (D.C.A.B.C.B. Dec. 10, 2014) (footnote removed)

30. In applying this standard, the Board has previously held that an establishment acts inappropriately when it generates amplified music that may be heard in residences located in another building. “For example, in *Ozio*, the Board determined that it was unreasonable for the licensee to have its amplified music emanate into a residence approximately 100 feet away from the establishment.” *Id.* at ¶ 31 citing *Ozio Martini & Cigar Lounge*, Board Order No. 2014-366 at ¶ 59. “Likewise, in *Climax*, the Board found that it was inappropriate for the licensee to have its amplified music emanate into an apartment located 700 feet away from the establishment.” *Id.* at *Climax Restaurant & Lounge*, Board Order No. 2014-366 at ¶ 35.

31. In this case, multiple residents living more than 100 feet from the establishment reported that they hear amplified sounds from Touche’s roof inside their homes. *Supra*, at ¶¶ 8, 10-11. Similar to *Ozio* and *Climax*, Touche’s rooftop operations are generating unreasonable and inappropriate amount of noise that must be curbed.

c. The Noise Generated by Touche Violates the Terms of its Settlement Agreements.

32. The record shows that Touche is not complying the terms of its Settlement Agreements.

33. Under § 25-315(b), during renewal, “The Board shall consider the licensee's record of compliance with . . . any conditions placed on the license during the period of licensure, including the terms of a settlement agreement.” D.C. Official Code § 25-315(a), (b)(1). The Board notes that when an establishment is governed by multiple settlement agreements with provisions that address the same topic, the strictest condition governs.

34. The combination of both Settlement Agreements solely allows the licensee to play pre-recorded music on the rooftop to support dining activities. *Supra*, at ¶¶ 19-20. It prohibits live entertainment, including disc jockeys, and amplification of the human voice, such as through a microphone. *Id.* By law a disc jockey is defined as anyone that plays prerecorded music and either makes “announcements or comments”; [m]anipulate[s] or mix[es] music”; “provide[s] live entertainment”; or “play[s] music from a disc jockey booth.” D.C. Official Code § 25-101(19A).

35. The agreements further indicate that the roof cannot be used for standing events, and should be used exclusively for dining and food service. *Supra*, at ¶ 20. There is also an expectation that the Applicant will manage sound coming from the roof so that it does not bother nearby residents. *Supra*, at ¶¶ 19-20.



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36. Nevertheless, the record shows that Touche is not complying with the noise control provisions of its Settlement Agreements. First, the ANC demonstrated a violation of the prohibition on hosing live entertainment, which includes the use of disc jockeys, on the roof. *Supra*, at ¶¶ 16-18. Specifically, this finding is supported by the fact that the woman in the photograph is standing in a disc jockey booth, identifies herself as a disc jockey, and has mixing equipment, which renders her a disc jockey as a matter of law. *Supra*, at ¶ 16. Second, multiple residents reported hearing amplified sounds coming from the roof even though they live at least one hundred feet or more from the establishment. *Supra*, at ¶¶ 8, 10-11. This is a violation of the agreements, because the clear intent of the parties to these agreements was to prevent noise from disturbing nearby residents. And third, the ANC demonstrated a violation of the requirement to use the roof for only dining through the picture of a crowd standing on the roof and advertisements showing that the roof was used for parties. *Supra*, at ¶¶ 16-18.

37. The Board is aware that Touche has argued that it is not being treated similarly to other establishments. Regardless of whether this is actually the case, the specific adverse impacts caused by the operation of the roof and settlement agreement violations identified in this case merit the placement of additional restrictions on the roof.

38. For these reasons, the Board finds that renewal is inappropriate so long as disturbing noise coming from the roof continues unabated.

II. The Board Imposes Conditions on the Roof to Resolve The Noise Issue.

39. In light of the Board's findings regarding appropriateness, the Board finds it necessary to impose conditions on the Applicant's license in order to justify the renewal of the license. *See In re Dos Ventures, LLC, t/a Riverfront at the Ball Park*, Case No. 092040, Board Order No. 2014-512, ¶ 49 (D.C.A.B.C.B. Nov. 13, 2013) (saying "[i]n practice, the Board has imposed conditions when it is shown that there are valid concerns regarding appropriateness that may be fixed through the imposition of specific operational limits and requirements on the license").

40. Under § 25-104(e), the Board is granted the authority to impose conditions on a license when "... the inclusion of conditions will be in the best interest of the [neighborhood]" D.C. Official Code § 25-104(e). The Board is also authorized to reduce the hours of sale and delivery of alcohol at an establishment under § 25-724. D.C. Official Code § 25-724.

41. In prior cases, the Board has restricted outdoor seating hours when faced with potential late night noise problems. For example, in *Romeo & Juliet*, the Board disapproved of full operational hours for an outdoor seating area, because the proposed tree enclosure was not sufficient to prevent the leakage of sound and the prior business generated noise that could be heard by nearby residents on their property. *In re 301 Romeo, LLC, t/a Romeo & Juliet*, Case No. 13-PRO-00136, Board Order No. 2014-045, ¶ 46 (D.C.A.B.C.B. Jan. 29, 2014). The Board then conditioned licensure on the sidewalk café not operating past 11:00 p.m., Sunday through Thursday, and midnight on Friday and Saturday. *Id.* at 11; *see also In re 1001 H Street, LLC, t/a Ben's Chili Bowl/Ben's Upstairs*, Case No. 13-PRO-00133, Board Order No. 2014-071 (D.C.A.B.C.B. Mar. 12, 2014) (imposing similar conditions on a restaurant applicant's sidewalk café and rooftop).



Committee Reports

Alcohol Beverage and Licensing (ABL)



42. The Board conditions renewal on Touche ceasing usage of the roof at 11:00 p.m., Sunday through Thursday, and midnight on Friday, Saturday, and days designated as extended hours holidays in accordance with D.C. Official Code § 25-723(c). This condition balances the reasonable expectations of nearby residents for peace and quiet in their homes during traditional sleeping hours against the Touche’s business need to use its rooftop.

43. The Board further prohibits the production of amplified sounds on the roof between 10:00 p.m. and 9:00 a.m. The Board imposes this condition because the settlement agreement specifically limits the use of the rooftop to dining and usage of the roof for food service after 10:00 p.m. is highly unlikely. *Supra*, at ¶¶ 16, 20. Moreover, the Board imposes this condition because the rooftop lacks any significant soundproofing features; therefore, this condition further prevents the creation of disturbing late night noise.

III. Except for the Issue of Noise, Touche is Deemed Appropriate Under § 25-311(a).

44. In this case, the parties did not dispute the general appropriateness of the other portions of Touche’s operations. Therefore, the Board deems the other aspects of Touche’s operations—unrelated to rooftop noise—appropriate.

IV. The Board Satisfies the Great Weight Requirement.

45. ANC 6A’s written recommendation submitted in accordance with D.C. Official Code § 25-609(a) indicated that its protest was based on concerns regarding Touche’s impact on peace, order, and quiet. *ANC 2B Protest Letter*, 1. The Board notes that it specifically addressed these concerns in the Board’s Conclusions of Law, above.

V. The Application Satisfies All Remaining Requirements Provided by Title 25.

46. Finally, the Board is only required to produce findings of fact and conclusions of law related to those matters raised by the Protestants in their initial protest. *See Craig v. District of Columbia Alcoholic Beverage Control Bd.*, 721 A.2d 584, 590 (D.C. 1998) (“The Board’s regulations require findings only on contested issues of fact.”); 23 DCMR § 1718.2 (West Supp. 2016). Accordingly, based on the Board’s review of the Application and the record, the Applicant has satisfied all remaining requirements imposed by Title 25 of the D.C. Official Code and Title 23 of the D.C. Municipal Regulations.

ORDER

Therefore, the Board, on this 1st day of June 2016, hereby **APPROVES** the Application to Renew a Retailer’s Class CT License at premises 1123 H Street, N.E. filed by Naomi’s Ladder, LLC, t/a Touche, under the **CONDITION** that it operates in accordance with the following:

1. The license holder’s operational hours on the roof, including the ability to allow patrons on the roof, shall end at 11:00 p.m., Sunday through Thursday and midnight on Friday,



Committee Reports

Alcohol Beverage and Licensing (ABL)



Saturday, and days designated as extended hours holidays in accordance with D.C. Official Code § 25-723(c); and

2. The license holder shall not permit or play amplified music or other amplified sounds, including background or pre-recorded music, on the roof between 10:00 p.m. and 9:00 a.m.

Touche is **ADVISED** that it has an obligation to ensure that it does not violate the terms of its Settlement Agreements while they are in effect. Touche is advised that Paragraphs 19 and 20 of this Order represent the Board's interpretation of those agreements.

IT IS FURTHER ORDERED that the Board's findings of fact and conclusions of law contained in this Order shall be deemed severable. If any part of this determination is deemed invalid, the Board intends that its ruling remain in effect so long as sufficient facts and authority support the decision.

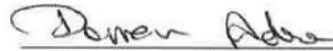
The ABRA shall deliver a copy of this order to the Applicant and ANC 6A



Committee Reports
Alcohol Beverage and Licensing (ABL)



District of Columbia
Alcoholic Beverage Control Board




Donovan Anderson, Chairperson

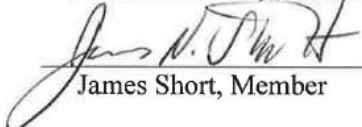
Nick Alberti, Member



Mike Silverstein, Member



Ruthanne Miller, Member



James Short, Member

Pursuant to D.C. Official Code § 25-433(d)(1), any party adversely affected may file a Motion for Reconsideration of this decision within ten (10) days of service of this Order with the Alcoholic Beverage Regulation Administration, Reeves Center, 2000 14th Street, NW, 400S, Washington, D.C. 20009.

Also, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, D.C. Official Code § 2-510 (2001), and Rule 15 of the District of Columbia Court of Appeals, any party adversely affected has the right to appeal this Order by filing a petition for review, within thirty (30) days of the date of service of this Order, with the District of Columbia Court of Appeals, 430 E Street, N.W., Washington, D.C. 20001; (202/879-1010). However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR § 1719.1 stays the time for filing a petition for review in the District of Columbia Court of Appeals until the Board rules on the motion. *See* D.C. App. Rule 15(b) (2004).



Committee Reports

Transportation and Public Space (T&PS)



MINUTES

ANC 6A Transportation & Public Space Committee Meeting

Capitol Hill Towers (900 G Street, NE)

May 16, 2016 at 7:00 pm

- I. Meeting called to order at 7:04 pm
- II. Introductions
 - A. Committee members: Todd Sloves (co-chair), Jeff Fletcher, Elizabeth Nelson, Lara Levison. Andrea Adleman arrived after introductions.
 - B. ANC Commissioners: Calvin Ward (6A08), Mike Soderman (6A03), Sondra Phillips-Gilbert (6A07)
- III. Announcements: None
- IV. Community Comment
 - A. Commissioner Soderman requested a letter of support for a traffic calming assessment for the 200 block of Tenth (10th) Street NE (between Constitution and C Street NE). The neighbors are close to having the 75% required for a petition. Drivers are using Tenth (10th) Street NE to avoid the stoplights on Eleventh (11th) and Ninth (9th) Streets NE where they cross Constitution Avenue NE.
 - i. The Committee can consider this at the June 2016 meeting, or you can ask for it to be taken up at the full ANC meeting.
 - B. Inquiry about the intersection at Tenth (10th) and Massachusetts Avenue NE. What has been requested previously regarding that intersection and safety concerns?
 - i. Co-chair Sloves will check.
- V. New Business
 - A. Councilmember Charles Allen's request to WMATA to adjust Metro closure schedule. WMATA's plan would have the Stadium-Armory station closed during the opening weeks of school at Eastern High and surrounding schools.
 - i. ***Co-chair Sloves offered a motion, seconded by Jeff Fletcher, recommending that ANC 6A send a letter asking WMATA to complete the Stadium-Armory segment before the beginning of the next school year. The motion passed 8-0-0 with the support of Commissioners Soderman, Ward, and Phillips-Gilbert.***
 - B. Request for traffic study at Nineteenth (19th) Street and Benning Road NE
 - i. Commissioner Ward: This is a request for a crossing signal and crosswalk on the west side of E Street NE (crossing Benning along Nineteenth (19th) Street NE). Pedestrians are expected to cross to the east side of the intersection in order to cross Benning Road NE, but no one actually does, and it is unrealistic and unfair to expect that. The current situation is unsafe.
 - ii. ***Co-chair Sloves offered a motion, seconded by Elizabeth Nelson, to recommend that the ANC write a letter to DDOT requesting a study at the intersection of***



Committee Reports

Transportation and Public Space (T&PS)



Nineteenth (19th) Street and Benning Road NE and requesting a pedestrian crosswalk on the west side of Nineteenth (19th) Street NE crossing Benning Road NE. We ask that the study be combined with the study of Eighteenth (18th) Street and Benning Road NE. Motion passed 8-0-0.

- VI. Additional Community Comment - none
- VII. Meeting adjourned at 7:25 pm.



Committee Reports Transportation and Public Space (T&PS)



June XX 2016

Mr. Paul J. Wiedefeld
General Manager and CEO
Washington Metropolitan Area Transit Authority
600 5th Street, NW
Washington, DC 20001

Re: Changes to SafeTrack Closure Schedule

Dear Mr. Wiedefeld,

At a regularly scheduled and properly noticed meeting¹ on June 9, 2016, our Commission voted X-X-X (with 5 Commissioners required for a quorum) to support a request from District of Columbia Council Member Charles Allen to alter the proposed SafeTrack closure schedule in order to make sure the Stadium-Armory Metro Station is not closed during the first weeks of the 2016-2017 school year. Recently, it has come to our attention that changes were made, and we would like to take this opportunity to thank you for making this important adjustment.

As you know, according to SafeTrack's original schedule, all stations on the Blue, Orange and Silver Lines between Minnesota Avenue and Eastern Market were scheduled to be closed from August 20 to September 6, coinciding with the first weeks of the school year. This interrupted service would have a severely negative impact on students using Metro to get to and from Eastern High School during the first weeks of the school year when many freshmen and others are adjusting to new travel routes and schedules. Thankfully, WMATA's recently-updated SafeTrack schedule indicates that the closure of these stations will now occur in late June and early July and be completed well before the beginning of the school year.

We thank you for your understanding of and responsiveness to this concern while making sure the greatly needed safety improvements to Metro move forward in a timely manner. Should you wish to discuss this letter with the Commission, please feel free to reach out to me at philanc6a@gmail.com or the ANC 6A Vice-Chair, J. Omar Mahmud, at mahmud6a01@gmail.com.

On behalf of the Commission,

Phil Toomajian,
Chair, Advisory Neighborhood Commission 6A

cc: The Honorable Jack Evans, WMATA Board of Directors, District of Columbia representative
Leif Dormsjo, WMATA Board of Directors, District of Columbia representative
Corbett Price, WMATA Board of Directors, District of Columbia representative
Tom Bulger, WMATA Board of Directors, District of Columbia representative

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Committee Reports Transportation and Public Space (T&PS)



June XX, 2016

Mr. Leif A. Dormsjo
Director, District Department of Transportation
55 M Street SE, Suite 400
Washington, DC 20003

Re: Traffic at intersection of 19th Street NE and Benning Road NE

Dear Director Dormsjo,

At a regularly scheduled and properly noticed meeting¹ on June 9, 2016, our Commission voted X-X-X (with 5 Commissioners required for a quorum) to request that the District Department of Transportation (DDOT) examine the intersection of 19th Street NE and Benning Road NE for improvements designed to enhance pedestrian, bicyclist and driver safety and combine this with the previously requested study of 18th Street NE and Benning Road NE.

The intersection at 19th Street NE and Benning Road NE poses a unique problem for pedestrians. While there is a crosswalk and walk-signal at the east side of the intersection, there is none on the west side. Despite the lack of a crosswalk, many pedestrians cross Benning Road on the west side of the intersection due to the abundance of retail at both the northwest and southwest corners. Pedestrians should not be expected to cross three streets to get from one side of Benning Road to the other. The current infrastructure should aim to make our city and neighborhoods more walkable and safer for drivers and pedestrians alike.

Based on the testimony of residents in ANC 6A, the Commission strongly recommends that DDOT conduct an examination of this intersection in conjunction with that of 18th Street NE and Benning Road NE and implement solutions to resolve safety concerns. Thank you for giving great weight to the recommendation of ANC 6A. Should you wish to discuss this letter with the Commission, please feel free to reach out to me at philanc6a@gmail.com or the ANC 6A Vice-Chair, J. Omar Mahmud, at mahmud6a01@gmail.com.

On behalf of the Commission,

Phil Toomajian,
Chair, Advisory Neighborhood Commission 6A

¹ ANC 6A meetings are advertised electronically on the anc6a-announce@yahoogroups.com, anc-6a@yahoogroups.com, and newhilleast@yahoogroups.com, at www.anc6a.org, and through print advertisements in the Hill Rag.



Committee Reports Economic Development and Zoning Committee



Report of the Economic Development and Zoning (EDZ) Committee of the Advisory Neighborhood Commission (ANC) 6A May 18, 2016

Present:

Members: Brad Greenfield, Missy Boyette, Stephanie Zimny, Justin Thornton, Michael Hoenig, Matt Turkstra.

Commissioners: Phil Toomajian, Mike Soderman, Sondra Phillips-Gilbert.
Brad Greenfield chaired the meeting.

Community Comment

None.

Status Reports

Chairman Greenfield reported that the ANC approved all recommendations from the last meeting.

Old Business

1300 H Street NE (BZA 19026): The Applicant presented an update on the project, stating that the project will now be work force housing. The Developer will seek a 9% tax credit in May 2016 as this is necessary in order to provide the work force housing at this site.

The Applicant stated that they would be submitting paperwork at the end of May 2016 and that this change would also provide the ability to have families live on H Street NE. A Community member asked what this would entail and the Developer's representative stated that this would provide six (6) three bedroom units and a host of two (2) bedroom units.

The Community had some concerns about parking and site contamination. As this project was previously reviewed, the parking concern was quickly addressed and the Applicant explained that the site is, in fact, contaminated and that the Developer will provide a thick vapor barrier at grade and install sub-slab piping to pull contaminated gases out and away from the building. The Applicant is working closely with the District Government to provide the best site contamination containment available in addition to not digging out the entire site. Brad Greenfield reported that the full ANC had already been presented with the proposed change and voted to support, pending the approval of the EDZ.

Mr. Greenfield made a motion that the EDZ recommend that the ANC send a letter of support to the Bureau of Zoning Adjustment (BZA) for the requested transition of the project to workforce housing. Motion was seconded by Michael Hoenig. Motion was approved 6:0.

New Business

1121 G Street NE (BZA 19300): Application, pursuant to 11 DCMR § 3104.1, for a special exception from the use requirements under § 336, to convert a two (2) story, one (1) family dwelling into a three-(3) unit apartment house in the R-4 District. The Applicant team, consisting of Martin Sullivan, Justin Sprinzer (Developer), and Bob Chambers (General Contractor), presented the project.

The project proposes a three (3) story plus penthouse structure on top of an existing two (2)-story masonry structure, to provide a third (3rd) unit with a rear addition that would be at sixty percent (60%) lot occupancy. The Applicant mentioned that they would be seeking a zoning letter to confirm conversion



Committee Reports Economic Development and Zoning Committee



and will not raze the existing structure. The applicant did provide a few neighbor letters. It appears the developer has done some community outreach and is also under contract to purchase 1119 G Street NE.

Mr. Greenfield asked about private trash pick-up in the rear of the property. Although, most of the trash on the block is picked up out front, the Committee was concerned about adding additional trashcans (super-sized cans) to the sidewalk as most neighbors leave the cans out front throughout the week.

Regarding the building design, a Committee member asked about retaining the porch of the existing building. This led to the Community asking questions about the total project, including 1119 G Street, and if the porch could continue through to both projects to allow it to fit in with the neighborhood. The Committee and neighbors were open to supporting any additional relief necessary (e.g., lot occupancy) that would be necessary for the porch addition at the front façade. Additionally, the Community asked not to have two different colors on the façade in an effort to deal with the scale of the project.

Mr. Greenfield made a motion to recommend that the ANC write a letter to the BZA in support of the requested special exceptions with the following restrictions: 1. Provide language within the condominium by-laws that requires private trash management at the rear of the property; 2. Make best efforts to replicate the porch cover at existing structure; and 3. Extend the porch to match at new structure. The motion was seconded by Mr. Hoenig and approved 6:0.

11 Fifteenth (15th) Street NE (BZA 19307): Application of Lock7 Development, LLC, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under § 2101.1, to renovate and expand an existing apartment house in the C-2-A District. The applicant team, presented the project.

The project proposes a five (5)-story plus penthouse structure on top of an existing one (1)-story masonry structure, to provide eight (8) dwelling units above ground floor retail. Most of the development is being done “by rights” with the only relief being sought for parking relief.

The layout of the space makes the addition of parking spots impossible, since there is a dog-leg in the alley at the rear of the building that makes the addition of parking spots impossible. Mr. Greenfield asked about the inclusion of Residential Parking Permit (RPP) restrictions as a way to mitigate the parking impact to the neighborhood. The Developer suggested that since two (2) additional spaces would be required by regulation, it would only be necessary for two (2) of the units to have RPP restrictions placed upon them. Mr. Greenfield asked which two units would get the RPP restriction, and Ms. Meredith Muldenhauer reported that the Developer could select the two units that would receive the restriction. The Committee indicated that this would be acceptable.

During the community comment discussion, the neighbor to the north of the building voiced concern about the bay projections in the public space blocking sunlight. The Applicant noted that the projections are not large and that they decided not to provide the projections at the street level in an effort not to block any potential sunlight at neighbors’ first (1st) level. There were some concerns expressed by neighbors that the additional height of the building would impact them; which the Developer believed would not be the case, but they did not have a shadow study to confirm that.

Neighbors indicated they generally are okay with development and understand that this project is in the C-2-A District. They noted that bus lines and bike share are readily accessible and that the project is already providing density to the neighborhood.



Committee Reports Economic Development and Zoning Committee



The Applicant signaled there had been strong community outreach and further work to attempt to provide parking at the site through easements although these efforts failed due to competing interests of neighboring property owners. The Committee was generally supportive due to site constraints and general outreach to the neighbors.

Mr. Greenfield made a motion that the Committee recommend that the ANC write a letter to the BZA in support of the requested variance with the restriction that: 1. There be RPP restrictions placed on two of the units to be determined by the developer; 2. Traffic mitigation efforts within the building; 3. A shadow study completed showing no impact on the lighting on neighboring properties; and 4. Best attempts made to get letters of support from neighbors. Mr. Hoenig seconded the motion, and it was approved 6 - 0.

1111 H Street NE (BZA 19308): Application, pursuant to 11 DCMR §§ 3103.2, 3104.1, and 411, for variances from the rear yard requirements under § 774, the court requirements under § 776, the off-street parking requirements under § 2101.1, and the HS overlay design requirements under § 1324.4, and a special exception from the single-enclosure penthouse requirements under § 411.6, to renovate an existing structure into an apartment building containing up to eight dwelling units with ground-floor retail in the HS-R/C- 2-C District.

The Applicant team, presented the project.

The project proposes a five (5) story plus penthouse structure on top of an existing one (1)-story masonry structure, to provide eight (8) dwelling units above ground floor retail. The design had an unusual footprint necessitated by the narrow property boundary (16 feet wide). The Developer has added an open courtyard in the middle of the building, with two (2) penthouses at the north and south ends of the building. The individual units in the building are relatively small.

Because of the layout of the alley access behind the building, multiple parking spots, as required under regulations, are not viable. Hence, the developer is seeking relief from the parking spot restrictions. Mr. Greenfield noted that since the address is on H Street, they would be subject to RPP restrictions. He asked if the developer would be willing to include condominium by-law restrictions to ensure no future attempts to get RPP from residents, and the Developer indicated they would be willing to include this restriction.

Neighbors to the east of the building (a completed condo project) voiced concerns about the development impacting their use of balconies and light into their property. The building at 1115 H Street NE have balconies that go to the property line and will abut the wall at 1111 H Street NE. The Applicant noted that they are building to right for the building height, and that any development that occurred with this building would likely have the same impact on 1115 H Street NE.

The Developer has met with the condominium owners at 1115 H Street NE and has sought to seek some accommodation with them, including potentially giving them some rights to decorate the outer wall of the building at 1111 H Street NE or providing greenery. The neighbors at 1115 H Street NE asked if the property could be set back some distance, and the applicant replied that this was not feasible because of the very small lot size.

There was some discussion about whether the courtyard could be reduced in size to decrease the southern footprint of the building. Neighbors with balconies on the south side of the 1115 H Street NE



Committee Reports Economic Development and Zoning Committee



building thought that even a small reduction in the footprint size to the south might provide them some additional light.

Mr. Greenfield noted that the EDZ committee would appreciate if the Developer sought to find some accommodation with the neighbors at 1115 H Street NE. The Developer and the neighbors should make best efforts to reach accommodations. To ensure that the EDZ would request authorization to protest the relief request, even if the recommendation would be to support the relief being sought. This model would be similar to the mechanism used with the Alcoholic Beverage Licensing (ABL) committee, where they are pre-authorized to protest applications.

Mr. Greenfield made a motion to recommend that the ANC write a letter to the BZA in support of the requested special exceptions with the following restrictions: The Developer 1. Include RPP restrictions into sale documents or condominium by-laws; 2. Investigate reducing the courtyard to allow reduction of the impact of the building on neighbors with southern-facing balconies; 3. Conduct a shadow study to determine the lighting impact on other neighbors; and 4. Make best efforts to get letters of support from neighbors.

A second motion was made that the ANC pre-authorize the EDZ to protest the relief request should adequate efforts at finding accommodation not be made by the next EDZ meeting.

Both motions were seconded by Mr. Matt Turkstra. The motion passed with a vote of 6-0.

814 H Street NE: The Applicant team did not show up to the Committee meeting to present this project. We await a BZA number and further conversation.

**Next Scheduled ED&Z Committee Meeting:
Wednesday, June 15, 2016
7:00-9:00 pm
640 10th Street NE
Sherwood Recreation Center, 2nd Floor**



Committee Reports Economic Development and Zoning Committee



June XX, 2016

Mr. Clifford Moy
Secretary of the Board of Zoning Adjustment
Board of Zoning Adjustment
441 4th St. NW, Suite 210
Washington, DC 20001

Re: BZA Case No. 19300 (1121 G Street, NE)

Dear Mr. Moy,

At a regularly scheduled and properly noticed meeting on June 9, 2016,¹ our Commission voted X-X-X (with 5 Commissioners required for a quorum) to support the Applicant's request pursuant to 11 DCMR § 3104.1, for a special exception from the use requirements under § 336, to convert a two (2) story, one (1) family dwelling into a three-(3) unit apartment house in the R-4 District.

The Commission supports granting the requested special exception because the development meets the conditions stipulated in §§ 336.2 through 336.10. With regard to §§ 336.11, the Commission believes that the development will maintain the character of the block if the developer makes their best efforts to replicate the porch cover at the existing structure and extend the porch to match the new structure being built. In addition, the Commission requires that the developer provide language within the condominium by-laws that requires private trash management at the rear of the property, to avoid trash issues negatively impacting the enjoyment of neighboring properties, as described in §§ 336.9.

Please be advised that Brad Greenfield and I are authorized to act on behalf of ANC 6A for the purposes of this case. I can be contacted at philanc6a@gmail.com and Mr. Greenfield can be contacted at brad.greenfield@gmail.com.

On Behalf of the Commission,

Phil Toomajian
Chair, Advisory Neighborhood Commission 6A

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Committee Reports
Economic Development and Zoning Committee



June XX, 2016

Mr. Clifford Moy
Secretary of the Board of Zoning Adjustment
Board of Zoning Adjustment
441 4th St. NW, Suite 210
Washington, DC 20001

Re: BZA Case No. 19307 (11 15th Street, NE)

Dear Mr. Moy,

At a regularly scheduled and properly noticed meeting on June 9, 2016,¹ our Commission voted X-X-X (with 5 Commissioners required for a quorum) to support the Applicant's request pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under § 2101.1, to renovate and expand an existing apartment house in the C-2-A District.

The Commission supports granting the requested variances because of the exceptional practical difficulties posed by the nature of this property. The alley behind the property is situated to make the addition of additional parking spots difficult if not impossible.

The Commission supports granting the requested variances, with the following conditions: 1. There be RPP restrictions placed on two of the units to be determined by the developer; 2. Traffic mitigation efforts be installed within the building; 3. A shadow study completed showing no impact on the lighting on neighboring properties; and 4. Best attempts made to get letters of support from neighbors.

Please be advised that Brad Greenfield and I are authorized to act on behalf of ANC 6A for the purposes of this case. I can be contacted at philanc6a@gmail.com and Mr. Greenfield can be contacted at brad.greenfield@gmail.com.

On Behalf of the Commission,

Phil Toomajian
Chair, Advisory Neighborhood Commission 6A

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Committee Reports Economic Development and Zoning Committee



June XX, 2016

Mr. Clifford Moy
Secretary of the Board of Zoning Adjustment
Board of Zoning Adjustment
441 4th St. NW, Suite 210
Washington, DC 20001

Re: BZA Case No. 19308 (1111 H Street, NE)

Dear Mr. Moy,

At a regularly scheduled and properly noticed meeting on June 9, 2016,¹ our Commission voted X-X-X (with 5 Commissioners required for a quorum) to support the Applicant's request pursuant to 11 DCMR §§ 3103.2, 3104.1, and 411, for variances from the rear yard requirements under § 774, the court requirements under § 776, the off-street parking requirements under § 2101.1, and the HS overlay design requirements under § 1324.4, and a special exception from the single-enclosure penthouse requirements under § 411.6, to renovate an existing structure into an apartment building containing up to eight dwelling units with ground-floor retail in the HS-R/C- 2-C District.

The Commission supports granting the requested variances because of the exceptional practical difficulties posed by the nature of this property. The alley behind the property is situated to make the addition of additional parking spots difficult if not impossible. In addition, the property is particularly narrow (16 feet), and as such posed particular design hurdles to the owner. In order to ensure the comfort and enjoyment of the residents, the developer wishes to add a courtyard and penthouse structures to the building. Because of the particularly narrow width of the property, variances are required to make these additions to the property.

The Commission supports granting the requested variances, with the following conditions: 1. Include Residential Parking Permit (RPP) restrictions into sale documents or condominium by-laws; 2. Investigate reducing the courtyard to allow reduction of the impact of the building on neighbors with southern-facing balconies; 3. Conduct a shadow study to determine the lighting impact on other neighbors; and 4. Make best efforts to get letters of support from neighbors.

Please be advised that Brad Greenfield and I are authorized to act on behalf of ANC 6A for the purposes of this case. I can be contacted at philanc6a@gmail.com and Mr. Greenfield can be contacted at brad.greenfield@gmail.com.

On Behalf of the Commission,

Phil Toomajian
Chair, Advisory Neighborhood Commission 6A

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Committee Reports
Economic Development and Zoning Committee



June XX, 2016

Mr. Clifford Moy
Secretary of the Board of Zoning Adjustment
Board of Zoning Adjustment
441 4th St. NW, Suite 210
Washington, DC 20001

Re: BZA Case No. 19308 (1111 H Street, NE)

Dear Mr. Moy,

At a regularly scheduled and properly noticed meeting on June 9, 2016,¹ our Commission voted X-X-X (with 5 Commissioners required for a quorum) to oppose the Applicant's request pursuant to 11 DCMR §§ 3103.2, 3104.1, and 411, for variances from the rear yard requirements under § 774, the court requirements under § 776, the off-street parking requirements under § 2101.1, and the HS overlay design requirements under § 1324.4, and a special exception from the single-enclosure penthouse requirements under § 411.6, to renovate an existing structure into an apartment building containing up to eight dwelling units with ground-floor retail in the HS-R/C- 2-C District.

The Commission opposes granting the requested variances because the developer has not made best efforts to come to accommodation with the neighbors of the property at 1115 H Street NE. The Commission believes that the development will negatively affect the light and enjoyment of these residents, and that the owner of 1111 H Street has not made adequate efforts to accommodate these neighbors' needs.

Please be advised that Brad Greenfield and I are authorized to act on behalf of ANC 6A for the purposes of this case. I can be contacted at philanc6a@gmail.com and Mr. Greenfield can be contacted at brad.greenfield@gmail.com.

On Behalf of the Commission,

Phil Toomajian
Chair, Advisory Neighborhood Commission 6A

¹ ANC 6A meetings are advertised electronically on the anc6a-announce@yahoogroups.com, anc-6a@yahoogroups.com, and newhilleast@yahoogroups.com, at www.anc6a.org, and through print advertisements in the Hill Rag.



New Business

