



District of Columbia Government  
Advisory Neighborhood Commission 6A-02  
815 F Street, NE  
Washington, DC 20002



August 2, 2005

Dr. Patrick J. Canavan, Director  
District of Columbia  
Department of Consumer and Regulatory Affairs  
941 North Capitol Street, NE, Room 2200  
Washington, DC 20002

Re: Fast food establishments in C-2-A zone

Dr. Canavan,

Please accept this invitation to attend ANC 6A's Economic Development and Zoning Committee meeting on August 30, 2005 at 7:00pm. The committee meeting will be held at Community Room of the Capitol Hill Towers located at 900 G Street, NE. The topics that will be discussed are as follows:

1. Certificate of Occupancy issued to Cluck-U-Chicken located at 1123 H Street, NE and Taste of Jamaica located on the corner of 6<sup>th</sup> and H streets, NE. Specifically, the floor plans, drawings, and applications the DCRA inspectors used to determine that 10% of the total floor space on the first floor is *not* used for customer queuing or self-service for carry out and on-premises consumption as defined in BZA order 17214.
2. The status of the Board of Zoning Adjustment order 17214 as it pertains to Chans Food, Inc, the current owner/operator of Blimpie's/Noble Roman Pizza, located at 721 H Street, NE.
3. An update of the inspections conducted by the Department of Consumer and Regulator Affairs (DCRA) and the Department of Health on all food establishments conducted between July 20 and August 5, 2005, between the 200 and 1500 blocks of H Street, NE. Please see Enclosure 1 for more details.
4. The status of ANC 6A's request for DCRA to establish Ward liaisons to assist the Commissioners and ANCs on issues that relate to DCRA. ANC 6A's initial request is provided at Enclosure 2.

We would welcome confirmation of your participation by August 23, 2005 either by electronic mail, phone call, or signed letter. If you have any questions, please contact Commissioner Cody Rice at [rice6a03@verizon.net](mailto:rice6a03@verizon.net) or 544-3734.

Respectfully,

Joseph Fengler, ANC 6A-02


Cc: Councilmember Ambrose



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Enclosure 1.

**From:** "Lewis, Theresa (DCRA)" <Theresa.Lewis@dc.gov>  View Contact Details

**To:** "Joseph Fengler" <fengler6a02@yahoo.com>, "Jones, Peter (EOM)" <Peter.Jones@dc.gov>, "Lewis, Theresa (DCRA)" <Theresa.Lewis@dc.gov>

**CC:** "Cody Rice" <rice6a03@verizon.net>, "Reiskin, Edward (EOM)" <Edward.Reiskin@dc.gov>, "Tangherlini, Dan (DDOT)" <Dan.Tangherlini@dc.gov>, "Ambrose, Sharon (COUNCIL)" <sambrose@dccouncil.us>, "Delfs, Christopher (DDOT)" <Christopher.Delfs@dc.gov>

**Subject:** RE: 1200 to 1300 Block of H Street, NE -- Adjacent Alley - Fast Food Establishments and 11 DCMR 733

**Date:** Wed, 20 Jul 2005 08:29:08 -0400

Mr. Fengler:

I will assign one or two inspectors to coordinate with the Department of Health (DoH), seeking their assistance in conducting inspections of all food establishments from the 200 block to the 1500 block of H Street, N.E. While DCRA has authority to enforce the housing and building codes, we will need the assistance of DoH in enforcing the health regulations as they pertain cleanliness, storage, and refuge. My goal will be to have this survey completed by August 5, 2005 and a report to you within a few days of that date.

Sincerely,

Theresa D. Lewis, Chief of Staff  
Office of the Director  
Department of Consumer and Regulatory Affairs  
941 North Capitol Street, NE Suite 9500  
Washington, D.C. 20002  
Office: (202) 442-8947  
e-mail: Theresa.Lewis@dc.gov  
Fax: (202) 442-9445

-----Original Message-----

**From:** Joseph Fengler [mailto:fengler6a02@yahoo.com]  
**Sent:** Wednesday, July 20, 2005 8:08 AM  
**To:** Peter Jones; Theresa.Lewis@dc.gov  
**Cc:** Cody Rice; Edward (EOM Deputy Mayor) Reiskin; Dan Tangherlini; Sharon (COUNCIL) Ambrose; Christopher (DDOT) Delfs  
**Subject:** 1200 to 1300 Block of H Street, NE -- Adjacent Alley - Fast Food Establishments and 11 DCMR 733

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Mr. Peter Jones,

Reference: 1200 to 1300 Block of H Street, NE -- Adjacent Alley

Commissioner Cody Rice pulled together the requirements for the fast food establishments that already have certificates of occupancy. Note paragraphs four through six, clearly Danny's Carryout (as perhaps most others as well) is in continued violation of these requirements. The reason why people treat this alley as a dumping ground is because of the unsecured trash dumpsters.

At the June 22, 2005, community meeting attended by Deputy Mayor Reiskin, we were promised that DC agencies would help us clean up the alley. DDOT has already stepped up to the plate and stated that they will repave this alley with concrete, increase the street light lamp wattage and trim back all the trees this year.

Peter, at a minimum, we need to have DCRA conduct an aggressive review of all the fast food establishments in the Linden/Wylie MAP - between 1200 to 1400 blocks on H Street, NE. Of course, I would welcome a review of the entire corridor - 200 to 1500 blocks on H Street as well. One of the key questions: Are the trash dumpsters secured according to regulations? We need DCRA to document the violations and start issuing fines. All we want is for these fast food establishments to operate within the bounds of the existing regulations.

Ms. Lewis, thank you for your update on Cluck-U-Chicken. Knowing that DCRA has put a hold on an over-the-counter certificate of occupancy for 1123 H Street, NE certainly will ensure that Cluck-U-Chicken must comply with BZA Order 17214 before they can operate. Not to unduly test your assistance, we certainly can use any help on getting a DCRA inspector to look at the existing fast food establishment on H Street, NE.

It would be a shame to repave the alley, improve the lighting, conduct tree maintenance and still have dumpsters unsecured in this alley. The community's expectations for action have been raised by both the establishment of the Wylie/Linden MAP as well as the dumped burned body found in this alley.

In close, I know we can't move mountains over night. But we are making progress and for that I am truly thankful.

Regards, Joe.

**Cody Rice <cody.rice@verizon.net>** wrote:  
Date: Tue, 12 Jul 2005 12:19:35 -0500 (CDT)  
From: Cody Rice <cody.rice@verizon.net>  
Subject: Re: Re: Re: Action on Blimpie's  
To: fengler6a02@yahoo.com

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1. A certificate of occupancy does not come up for renewal if the same owner holds it without changing uses, but sometimes special exceptions are granted with a renewal term. Special exceptions often contain conditions, but enforcement is even more spotty than with the liquor licenses.
2. Following are the criteria for a special exception per the zoning regs at 11 DCMR 733. Any of these are fair game for conditions of approval, but note the last item in particular.
3. Fast food restaurants shall be permitted in a C-2-A District as a special exception if approved by the Board of Zoning Adjustment under Section 3104, subject to the provisions of this section.
4. No part of the lot on which the use is located shall be within twenty-five feet (25 ft.) of a Residence District unless separated therefrom by a street or alley.
5. If any lot line of the lot abuts an alley containing a zone district boundary line for a Residence District, a continuous brick wall at least six feet (6 ft.) high and twelve inches (12 in.) thick shall be constructed and maintained on the lot along the length of that lot line. The brick wall shall not be required in the case of a building that extends for the full width of its lot.
6. Any refuse dumpsters shall be housed in a three (3) sided brick enclosure equal in height to the dumpster or six feet (6 ft.) high, whichever is greater. The entrance to the enclosure shall include an opaque gate. The entrance shall not face a Residence District.
7. The use shall not include a drive-through.
8. There shall be no customer entrance in the side or rear of a building that faces a street or alley containing a zone district boundary line for a Residence District.
9. The use shall be designed and operated so as not to become objectionable to neighboring properties because of noise, sounds, odors, lights, hours of operation, or other conditions.
10. The use shall provide sufficient off-street parking, but not less than that required by Section 2101.1, to accommodate the needs of patrons and employees.
11. The use shall be located and designed so as to create no dangerous or other objectionable traffic conditions.
12. There shall be adequate facilities to allow deliveries to be made and trash to be collected without obstructing public rights-of-way or unreasonably obstructing parking spaces, aisles, or driveways on the site.

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13. The Board may impose conditions pertaining to design, screening, lighting, soundproofing, off-street parking spaces, signs, method and hours of trash collection, or any other matter necessary to protect adjacent or nearby property.

>There are three classes of businesses:

>

>1) Blimpie/Noble Roman: BZA said C of O was issued in error for this specific business. It is a fast-food restaurant. They need to file for a new C of O and DCRA needs to send them to BZA for a special exception, which triggers ANC input. I am not aware that DCRA has taken any action to remedy the situation.

>

>2) New places (Taste of Jamaica, Cluck-U): We put DCRA on alert that they needed to take a close look at Cluck-U. The same is true for other new businesses. DCRA needs to make sure that they are not repeating the Blimpie error of classifying everything as a restaurant. New businesses that meet the fast-food criteria need to seek special exceptions.

>

>3) Older Existing places (McDonalds, other fast-food and carryout): There are a number of businesses along the corridor that should probably be classified as fast-food, but already have C of O's issued in the past. The official BZA appeal window is closed for these, but the ANCs could ask BZA to inspect/revoke as a mechanism to deal with the trash/vermin/etc that these businesses generate.

-Cody

# Enclosure 2



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



May 18, 2005

Dr. Patrick J. Canavan, Director  
Department of Consumer and Regulatory Affairs  
941 North Capitol Street, NE, Room 2200  
Washington, DC 20002

Re: Recommendation for Ward Liaisons

Dear Dr. Canavan,

On May 12, 2005, ANC 6A voted unanimously to send this letter recommending that DCRA establish Ward liaisons.

ANC 6A recommends that DCRA create Ward liaisons similar to those employed by the District Department of Transportation and the Office of Planning. These Ward liaisons would answer questions and respond to inquiries on building permits, certificates of occupancy, abatement of nuisance property, and other issues under the jurisdiction of DCRA.

While we appreciate the efforts of DCRA staff such as Mr. Joseph McCarley, we feel that the DCRA's scope of responsibility and the number of issues that regularly emerge in our ANC and Ward would justify the creation of multiple staff positions with Ward-specific responsibilities and accountability.

If you have any questions or need further information about this recommendation, please contact Commissioner Cody Rice, Chair of ANC 6A's Economic Development and Zoning Committee at 544-3734.

Respectfully yours,

A handwritten signature in black ink that reads "Joseph Fengler".

Joseph Fengler  
Chair, Advisory Neighborhood Commission 6A

cc: Councilmember Jim Graham  
Councilmember Sharon Ambrose