

ANC 6A Economic Development and Zoning Committee  
MINUTES

Wednesday September 15, 2010, 7 - 9pm  
Sherwood Recreation Center (640 10<sup>th</sup> St. NE)  
2<sup>nd</sup> floor Community Room

**Commissioners:** Drew Ronneberg (6A02)—Committee Chairperson; Kelvin Robinson (6A08), David Holmes (6A03)

**Committee Members:** Barbara Halleck, Jeff Baker, Phil Toomajian, Dan Golden, Arkan Haile, Charmaine Josiah, Sharee Lawler

**Call to order:** 7:00pm by Chairperson Drew Ronneberg

**Community Comments:** None

**Ongoing Status Reports**

1. H Street Connection Redevelopment

ANC 6A sent a supplemental letter supporting changes that occurred due to the Zoning Commission hearing, related to the ingress on the 8<sup>th</sup> street side. The ANC supported both options presented by the developer for ingress off of 8<sup>th</sup> St or from the private alley. The building will be set back from the alley to give more privacy/buffer to residents on 8<sup>th</sup> street. There will also be a 4' buffer with plantings to provide additional buffer. The letter of support can be found at <http://anc6a.org/901HpudChangesSprt.pdf>.

2. ANC6A will appeal the certificate of occupancy of the 7-11 located at the H Street Connection. We have to prove that 1. The 7-11 is a fast food establishment under the zoning regulations—they sell many kinds of readily consumable fast food items and that more than 15% of their sales are related to them. If we can prove that the 7-11 is operating as a fast food establishment their C of O can be revoked - as fast food establishments are required to apply for special exceptions to obtain C of Os on H Street under the Overlay.

3. Vacant Properties

Dan Golden reported on the new law regarding vacant and blighted properties:

Previously the definition of blighted building was in the tax section of the code but it has been moved into the real property section of the code. The mayor's office will now be solely responsible for designating a building as blighted, although the mayor's office must "consider" when making its designation whether a pending condemnation by the Board of Condemnation is underway.

The statute now says that the mayor “shall” consider various enumerated factors to determine whether a building is blighted, whereas the prior version of the statute stated that the mayor “may” consider those factors. However, the effect of that change remains to be seen, particularly since there is no discussion of what it means for the mayor’s office to “consider” those factors.

Going forward, the mayor must now keep two lists, one of vacant buildings and one of blighted buildings, and it must update these lists and forward them to the Office of Tax and Revenue semi-annually. As with the vacant property list, the blighted property list is to include only those properties for which a notice of final determination has been issued and administrative appeals have been exhausted or expired. We will need to keep track of the two lists to see whether they reflect the lists of vacant and blighted properties maintained by our committee. In the event they do not, we should consider proposing further changes to remedy the situation.

The new statute exempts from classification as vacant those properties “for which an intent to return and occupy the building can be shown.” There is no further articulation of how this standard can be met. This is something that should be monitored closely, as the committee believes this significant loophole could be exploited.

One change has been made to the factors that the mayor’s office shall consider when determining whether a building is vacant - now “low usage” on an electrical, gas, or water meter shall be considered evidence of vacancy, not simply the fact that a meter is no longer running.

Changes have also been made to the exemptions from classification as vacant property. The new construction exemption has been eliminated. The revised statute also adds a “in good faith” requirement for owners trying to rent or sell their property. In addition, owners now have up to a year to rent a vacant property; this is an increase from the former 90 days. In another change, there is no longer a separate exemption for properties that are rendered vacant by fire, flood, or other casualty.

The mayor’s office continues to be able to exempt properties from being considered vacant in “extraordinary circumstances and upon a showing of substantial undue economic hardship.” Previously, the statute required the mayor’s office to notify the ANC and the DC Council whenever an applicant sought such an exemption. Now, however, the mayor’s office simply must put a notice in the DC register when such an exemption is granted. There is no longer any requirement of notice to the ANC or the DC Council. It was noted that, as far as we know, the ANC has only been notified once by the mayor’s office of a grant of a vacant property exemption based on extraordinary circumstances. In another change, whereas previously the mayor’s office could grant an exemption of two years for extraordinary circumstances, such an exemption is now limited to one year.

There was some discussion with respect to the fact that we need to look further at whether owners can use the same exemption more than once—that is, if they try to rent for a year but cannot, can they then try to sell and thereby avoid having their property classified as vacant?

The mayor now can set a schedule of fines for violations. The old statute provided for up to 90 days imprisonment for certain violations, but that provision has been removed.

The registration fee requirement has been streamlined under the revised statute. Anyone registering a vacant building has to pay the same \$250 and must pay an additional \$250 each year to renew the registration. The size of a building has no effect on these fees.

The new law now recognizes four classes of property. Class 1, which would include occupied residential property; Class 2, which is a catch-all classification that would include occupied commercial property; Class 3, which consists of vacant property; and Class 4 which consists of blighted property. Notably, unimproved vacant lots in residential zones are now considered to be Class 1 property. Class 3 property now would appear to include all vacant properties, regardless of whether residential or commercial. Property taxes are now to be calculated on the basis of \$5/\$100 of assessed value for Class 3 (vacant) property and \$10/\$100 of assessed value for Class 4 (blighted) property.

Finally, it appears that the process of appealing a vacant or blighted determination has been streamlined under the new regime.

Phil Toomaijian provided the following update regarding the update to the ANCs vacant property map:

6 of the 8 SMDs have been surveyed, and the map updated for vacant/blighted. Only 6A01 and 6A08 have not been surveyed, so we will seek volunteers for them.

## **New Business**

1. HPA #10-433 (312 9th St NE). The applicant is proposing to add a 2 story-rear addition to the property at 312 9th St NE. (30 min)

We will reconsider this issue at a later meeting, as it appears that there are some zoning issues (lot occupancy) that we would like to address at the same time as the request to do the addition. Even though the addition is part of an existing structure, the structure is non-conforming, there will be a zoning issue to review.

2. HPA #10-XXX (322 11<sup>th</sup> Street NE). Owner wants to build an alley-facing garage in keeping with the other garages already there. The garage is hardy plank siding. There is no problem with exceeding lot occupancy requirements. Zoning has reviewed and sent over to historic preservation (Mr. Truitt). The garage will need to be set back 6' from the edge

of the alley—adjacent . The owner is out of the country so has not requested any letters of support from neighbors.

**Motion:** Mr. Ronneberg moved that we request that ANC6A provide a letter in support of the garage. Passes unanimously.

3. BZA #18122 (815-817 A Street NE). The applicant is seeking a variance from the lot area requirements under subsection 401.3, to allow the conversion of a flat (two-family dwelling) to a three unit apartment building in the R-4 District at premises 815 A Street, NE (Square 919, Lot 31) (45 min)

Built as a grocery store in 1913. The first floor is 11' high and 60' deep and is one large space. There is no bathroom or kitchen in the space. There is also a full size, full height basement w/half bath and kitchen plumbing (there used to be a kitchen). This adds up to approximately 2500 sq' of space. The owner had received a variance in 1991 but did not finalize the construction. Variances expire after two years if they are not used.

When he bought the property, it was a church on the first floor with apartments on 2<sup>nd</sup> and 3<sup>rd</sup> floor. He applied with the church for a variance. It was approved at that point but he didn't have the funding to complete the construction. Right now, the building has an apartment on floors 2 and 3; the owner would like to turn the 1<sup>st</sup> floor and basement into a separate apartment (817 A St. NE). There is 2 car garage already on the property.

Only requires 1 parking space for a 3-unit apartment but he will have 2.

If the lot has 2700 square feet then the owner could build a 3-unit apartment building as matter of right. Because the lot is 2400 square feet, he needs to receive a use variance. The requirement to support a variance is much stronger than a special exception, requiring demonstration of economic hardship, etc.

A neighbor had asked that conditions be placed on the variance to prevent a roof-top deck on the garage closer than 8 feet to his property. The Committee felt that this was redundant because the building was also a non-conforming structure that would require another variance to expand the building envelope.

**Motion:** Mr. Holmes moves that ANC6A support granting the requested variance. Passes unanimously.

4. ZC Case #08-06-12 (Comprehensive Zoning Regulations Review: Planned Unit Development). The committee will consider the Office of Planning's proposal to rewrite the Planned Unit Development regulations. (20 min)

Most recent Zoning regulations were put into place in 1958 and are currently going through an extensive review and re-write. In the agenda package is a framework for the new regulations regarding Planned Unit Developments (PUDs) was published.

ANC 6A has had three substantial experiences with PUDs - the proposed PUD for the H Street Connection Redevelopment, the Dryefus PUD on the 200 block of H St NE and the Comstock PUD across from Eastern High School.

The committee thought that the standardization of the density bonus as a percentage of the underlying zone's FAR was a positive step forward, In addition. Drew Ronneberg thought that the addition of the Type 1 PUD was a good idea but wouldn't be extensively used because no bonus density would be granted.

Jeff Fletcher and other members of the committee that that it was potentially a positive change to have the community amenities evaluated by a point system but that there were too few details to provide a recommendation.

Drew Ronneberg thought that the Type 3 PUDs that have an associated map amendment are the most common forms of PUDs and should be restricted under the new regulations. He suggested that based on ANC 6A's experience in the Dreyfus case, they should not be allowed in Neighborhood Commercial Overlays and should be subject to a 2-stage process in other zones.

**Motion:** Mr. Ronneberg moves that we request ANC 6A

1. Support regularization of density bonus across zones.
2. Ask for more information about community benefits.
3. Object to type 3 PUDs in commercial overlays.
4. Type 3 PUDs should be considered in two phases— where the first phase would consider the need for a map amendment.

Passed unanimously.