

**REPORT OF THE
ECONOMIC DEVELOPMENT AND ZONING COMMITTEE OF ANC 6A
March 28, 2006**

Present: Commissioners Nick Alberti, Raphael Marshall and Cody Rice; Resident Members Jeff Fletcher, Rich Luna, Drew Ronneberg, and Vanessa Ruffin-Colbert.

Commissioner Rice chaired the meeting.

BZA 17498 (1116 E. Capitol Street, NE)

The committee discussed an application for a variance and special exceptions to allow a 3'6" deep, semicircular one-story addition to an existing rear porch and a rear parking space. The variance is required to allow an off-street parking space that is shorter than the required length. The special exceptions are required to allow a rear addition to an existing single-family row dwelling under section 223, not meeting the lot occupancy requirements (section 403), rear yard requirements (section 404), and open court requirements (section 406) in the R-4 District.

The following paragraph describes the required zoning relief. Off-street parking spaces are required to be 19 feet, but the addition would only leave 17.9 feet at the shallowest point. The existing lot occupancy is 67%, and the addition would increase lot occupancy to 68% (60% is allowed by right, with up to 70% as a special exception). The existing rear yard is 21.4 feet, and the addition would decrease the rear yard from the edge of the bump-out to the rear property line to 17.9 feet (20 feet is required without a special exception). There is an existing nonconforming open court (dog leg) that is 5.5 wide feet that would be extended by the addition (6 feet wide is required without a special exception). The committee discussed how this zoning relief would provide minor variations from the zoning requirements that would allow a small rear addition, and attractive rear yard redesign, and provide an additional off-street parking space.

Most of the committee discussion concerned an automatic swing gate that would allow access to the rear yard. This gate will swing out into a 10-foot wide public alley. The public alley has limited vehicular access from Walter Houp Court NE and no cross traffic from 11th and 12th Streets. The alley runs straight south toward the rear of the subject property from Walter Houp Ct, then branches into dead ends toward the east and west. The applicant said that they would be able to see over the gate from their back porch to see if anything is blocking the gate, and that the gate would swing very slowly. They also noted the letters of support from the two adjoining property owners.

The applicant provided letters of support from the two adjoining property owners.

Recommendation: That the ANC send BZA a letter of support for this application.

Public Space: 401 8th Street, NE

The committee discussed an application for an unenclosed sidewalk café at Jacob's Coffee at 8th and D Streets NE. The committee reviewed the application which shows 4 round tables and 8 chairs on an existing fenced brick patio. The committee discussed the hours of operations and conditions at 8th & D Street NE with respect to neighboring properties.

Recommendation: That the ANC send a letter of support to DDOT for this application recommending that tables and chairs be removed from public space when the establishment is closed.

Public Space: Lovejoy Park at 12th & E Streets, NE

The committee discussed an application for installation of special pavers, fencing, bollards, signage, and drinking fountain at Lovejoy Park. These features and their placement has been previously negotiated between Friends of Lovejoy Park and the Department of Parks and Recreation. The committee did not find any objectionable aspects to the proposed features.

Recommendation: That the ANC send a letter of support for this application to DDOT.

Zoning text amendment for eating establishments.

The committee discussed possible revisions to the zoning definitions for various eating establishments, including "fast food restaurants." The committee discussed whether the definitions should include specific criteria for both restaurant and fast food restaurant designations, or whether this might result in some eating establishments not meeting either definition. The consensus was that a definition for restaurant with general characteristics and a definition for fast food restaurants with specific criteria would work better. The ability to evaluate the fast food restaurant criteria from submitted plans prior to construction was seen as an improvement over current rules which cannot be fully evaluated until after an eating establishment opens. The committee discussed whether the number of pending BZA appeals and planned eating establishments on H Street NE would be an adequate justification for asking the Zoning Commission to act on an emergency basis as it did for charter schools.

Recommendation: That the ANC petition the Zoning Commission to adopt the attached definitions of "restaurant," "fast food restaurant," "delicatessen," and "coffee shop" on a emergency basis.

Next Scheduled ED&Z Committee Meeting:

Tuesday, April 25, 2006

7-9 PM

900 G Street, NE

Community Room of the Capitol Hill Towers

Existing Definitions

Restaurant - a place of business where food, drinks, or refreshments are prepared and sold to customers primarily for consumption on the premises. This term shall include but not be limited to an establishment known as a café, lunch counter, cafeteria, or other similar business, but shall not include a fast food restaurant. In a restaurant, any facilities for carryout shall be clearly subordinate to the principal use providing prepared foods for consumption on the premises.

Restaurant, fast food - a place of business devoted to the preparation and retail sale of ready-to-consume food or beverages for consumption on or off the premises. A restaurant will be considered a fast food restaurant if it has a drive-through. A restaurant will be considered a fast food restaurant if the floor space allocated and used for customer queuing for self-service for carry out and on-premises consumption is greater than ten percent (10%) of the total floor space on any one (1) floor that is accessible to the public, and it exhibits one (1) of the two (2) following characteristics:

- (a) At least sixty percent (60%) of the food items are already prepared or packaged before the customer places an order; and/or
- (b) The establishment primarily serves its food and beverages in disposable containers and provides disposable tableware.

(This definition does not include an establishment known as a retail grocery store, convenience store, ice cream parlor, delicatessen, or other business selling food or beverages as an accessory use or for off-premises preparation and consumption.)

Food delivery service - a restaurant, delicatessen, or fast food restaurant in which the principal use is delivery of prepared food by motor vehicle to customers located off the business premises. Seating and tables for customers may or may not be provided for on premises consumption, but if present are clearly subordinate to the principal use of delivering prepared food to off-site customers. Any establishment that derives more than seventy-five percent (75%) of its sales from delivery orders will be considered a food delivery service in all cases. This definition does not include catering establishments.

Undefined types of eating establishments that appear in the H Street Overlay as preferred uses in various sections: delicatessen, ice cream parlor, bakery, café, lunch counter, coffee shop.

Proposed Definitions

Restaurant –

(a) General definition. A “restaurant” is place of business that prepares and serves food or beverages on nondisposable plates and containers with nondisposable eating utensils to seated customers. A restaurant is designed and operated so that its customers consume the food or beverages while seated at tables or counters on the premises. A restaurant shall include but not be limited to an establishment known as a café, lunch counter, or other similar business. A restaurant may provide carryout service as an accessory use without being deemed a fast food restaurant only if its carryout facilities are clearly subordinate to its primary use as a restaurant. A restaurant shall not include a fast food restaurant.

(b) Characteristics. A restaurant will generally have the following characteristics:

- (1) A restaurant employee serves food and beverage items at the same table or counter at which customers order and consume said items;
- (2) The establishment provides an individual printed menu to each customer;
- (3) The establishment does not provide trash receptacles in or around seating or queuing areas for disposal of trash by customers; and
- (4) The establishment requires payment only after consumption.

(c) Exceptions. Notwithstanding other provisions of this definition, a restaurant shall include a cafeteria where food or beverages for consumption on premises are served exclusively on nondisposable plates and containers with nondisposable eating utensils and any carryout facilities are clearly subordinate to its primary use as a restaurant.

Restaurant, fast food –

(a) General definition. A “fast food restaurant” is a place of business devoted to the preparation and retail sale of ready-to-consume or quickly-prepared food or beverages for consumption on or off the premises.

(b) Characteristics. An establishment shall be a fast food restaurant if it has any one or more of the following characteristics:

- (1) Customer orders are taken from a service window or a walk-up service counter that lacks fixed customer seating;
- (2) It offers customers food or beverages on one or more printed signs, placards, posters, or boards that are permanently affixed in conspicuous places in the building;

(3) It provides one or more trash receptacles within the building for customers to deposit the disposable packaging in which the establishment provides its food or beverages;

(4) It has a drive-through;

(5) It requires payment prior to the consumption of food or beverages;

(6) It customarily serves its food or beverages in disposable containers and provides disposable tableware; and/or

(7) Facilities for carryout service are not clearly subordinate to facilities for on premises consumption.

(c) Exclusions. A fast food restaurant shall not include:

(1) any establishment that sells food or beverages either only as an accessory use or only for preparation and consumption off the premises, such as a retail grocery store, convenience store or delicatessen.

(2) a coffee shop or ice cream parlor, but only if any other use is clearly subordinate to this primary use.

Delicatessen – a place of business devoted to the retail sale of meats, cheeses, and other food items by weight for off-premises preparation and consumption. A delicatessen may also sell food or beverages for consumption on or off the premises as an accessory use. A delicatessen is not a restaurant or a fast food restaurant.

Coffee Shop – a place of business devoted to the retail sale of coffee, tea, and other nonalcoholic beverages for consumption on or off the premises, which may also include the sale of a limited number of food items as an accessory use. A coffee shop is not a restaurant or a fast food restaurant.