



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



January 12, 2006 Draft Agenda

- 7:00 pm Call to order, adopt agenda and approve previous meeting's minutes
Community Comments *(2 minutes each)*
- 7:15 **Commission Officer Elections:**
1. Chair
 2. Vice-Chair
 3. Secretary
 4. Treasurer
- 7:30 **Committee Changes / Additions:**
1. Expand Schools Committee to include Libraries
 2. Establish a Transportation Committee
- 7:45 **Committee Chair Elections:**
1. Alcohol Beverage Licensing Committee
 2. Economic Development and Zoning
 3. Community Outreach
 4. Public Safety
 5. Schools Committee or Schools and Libraries Committee (pending approval)
 6. Transportation Committee (pending approval)
- 8:00 **Committee Membership Nomination and Approval** - *(following above order)*
- 8:10 Commissioner's Single Member District reports *(2 minutes each)*
- 8:20 **Officer Reports:**
1. Chair *(2 minutes)*
 2. Vice-Chair *(2 minutes)*
 3. Secretary *(2 minutes)*
 4. Treasurer *(5 minutes)*
 - A. Approve monthly treasurer's report and previous month's disbursements
 - B. Approve participation in ANC Security Fund
 - C. Approve monthly photocopying expenses
- 8:30 **Standing Committee Reports:**
1. Alcohol Beverage Licensing *(5 minutes)*
 2. Economic Development and Zoning *(2 minutes)*
 3. Community Outreach *(2 minutes)*
 4. Public Safety *(5 minutes)*
 - A. Public Forum Sponsorship
 - B. Membership
 5. Schools Committee *(5 minutes)*
 - A. Future of Eastern Senior High School
- 8:40 **Unfinished Business**
- 8:41 **New Business**
1. Special Election Procedures for 6A01 Commissioner
 - a. Approve procedures
 - b. Draw for ballot order
 - c. Appoint Election Manager
 2. Pay Phone Permit Application, 1400 Maryland Ave NE (Borbely)
 3. Letter to DCRA re. Code Enforcement at 501 12th St. NE (Borbely)
- 8:52 Community comments – Round 2 (if time permits)
- 9:00 Adjourn

Time limits in parenthesis are for planning purposes, to ensure we complete all required business in two hours



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**Advisory Neighborhood Commission 6A
Miner Elementary School**

Minutes

December 8, 2005

The meeting was called to order at 7:00 p.m.

Present: Commissioners Alberti, Beatty, Borbely, Fengler, Mack and Rice

Approval of agenda

Two items were added to New Business: A presentation by Karina Ricks of DDOT on the H Street Streetscape Plan; and a letter to the Department of Transportation on an illegal fence on Maryland Avenue and 14th Street

Minutes

The minutes, with a minor correction, were moved by Mr. Alberti and approved without objection.

Community Comment

Lance Brown discussed his attempt to attend a Schools Committee meeting at Miner School and there was no meeting at the scheduled time and place. Mr. Borbely said that the meeting had been cancelled.

Alfonso Coles, 1st District Community Outreach Officer said the police were organizing a series of community meetings with city facilitators to informally discuss issues of concern to the various communities within Ward 6. He said one would be held on Capitol Hill to talk about such issues as race and gentrification.

SMD Reports

Commissioner Rice reported that there would be a Historic Preservation Review Board hearing on December 15th on the Apple Tree School. He said there has been no decision from DCRA on whether Apple Tree falls under City zoning regulations or is a matter-of-right project. Commissioner Fengler said that a letter had been sent to HPRB urging deferral of any action until DCRA determined the zoning status of the proposed school.

Commissioner Beatty announced that the Department of Parks and Recreation has not, as promised, updated the ANC on the progress of the permitting process for Lovejoy Park. She said she is following up on the issue.

Commissioner Alberti reported that a tree planting of five shade and two ornamental trees was taking place on 15th Street, and North Carolina and Constitution Avenues NE.

Commissioner Fengler reported that he was working with DCRA and MPD to check the noise levels of the group that proselytizes on 8th and H Streets on Saturday afternoons, but they have not shown up for the past two weeks. He also reported that a developer is doing illegal construction at 1124 E Street, which will be discussed later in the meeting. Further, he said he was working to get a copy of the House of Ruth's lease. He said that to date the City has not been responsive.

Commissioner Borbely reported that there are still landlord/tenant problems at 501 12th Street NE, including the landlord's failure to repair the front door so it will lock. He reported on the use of public space on Maryland Avenue and 14th Street as a used car lot with a fence. He said there is a hearing on the legal issues about the



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HaHu Grocery—whether the necessary 400' from a school requirement for the sale of liquor applies—on December 14th. He also reported about an incident on 14th and Emerald Streets where the police were called about smashed windows and a damaged car. The neighbors held a meeting and set up a telephone tree. Finally, he reported that some of his constituents were having problems with a new mail carrier.

Officer's Reports

Chair

Mr. Fengler announced that annual elections of officers and committee chairs would be held in January. He also announced that Commissioner Holden had resigned, leaving seven commissioners on the ANC, four constituting a quorum. He said that Gottlieb Simon would attend the January meeting to discuss election procedures, and there would be an election in February. He advised the community that, after a suggestion by Mr. Rice, DCRA had appointed a liaison to Ward 6 ANCs, Eric Rogers. He also announced that Mr. Ibangha was in the hospital for heart surgery.

Secretary

Mr. Borbely said that a flyer announcing the ANC vacancy had been posted December 8 on 20-30 lampposts throughout SMD 6A01.

Treasurer

Mr. Alberti presented the Treasurer's Report. The report shows that the opening checking account balance was \$14,376.78, and that the savings account balance was \$4,144.90. There was an allotment from the District of \$5,794.42. **Motions:** Mr. Alberti moved that a check for the following amount be approved: \$125 to Roberta Weiner for transcribing the ANC's minutes (Check #1263), and \$1,105.28 to Kinko's (Check #1262) for copies. The motion was approved without objection, leaving a checking account balance of \$13,143.50, and a saving account balance of \$4,146.31. **Motion:** Mr. Alberti moved to approve the Treasurer's Report. It was approved without objection. **Motion:** Mr. Alberti moved that \$600 be approved for copying for ANC materials, and that up to \$60 be approved for copying each Committee's materials and each SMD's materials for the next month. The motion was approved without objection.

Committee Reports

Alcoholic Beverage and Licensing

Ms. Beatty reported that a large crowd attended the ABL meeting to discuss the license renewals for many Class B stores. She said that there were four establishments that the committee voted to take no action on, while entering into negotiations on voluntary agreements. **Motion:** That the ANC approve the committee's recommendation to take no action on the renewal of liquor licenses for Me And My Supermarket; Sun and Moon Grocery; S&T Supermarket; and the Bella Market. The motion passed without objection.

Ms. Beatty said that there had been complaints about loiterers and appearance issues, as well as the name of the establishment on Parks Economy Market. **Motion:** Ms. Beatty moved that the ANC accept the committee's recommendation to protest the license renewal application of Parks Economy Market on grounds of negative impact on peace, order and quiet, and begin negotiations for voluntary agreement. She said that the protest was a way to pressure the owner of the market to enter into negotiations. The motion passed without objection.



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Motion: Ms. Beatty moved acceptance of her committee report, which was done without objection.

Economic Development and Zoning

Carsharing Spaces

Mr. Rice reported that DDOT was designating spaces for Flexcar/Zipcar parking in each part of the city, which will reduce the demand for cars. He said that currently 37% of households have no cars; 43-58% of those in parts of the 6A area have no cars. The ANC was given 30-day notice of the intent to designate two spaces. **Motion:** Mr. Rice moved the committee's recommendation that the ANC not object to the designation of two spaces for Carsharing on the west side of the 800 block of 12th Street NE, and 2/That the ANC send a letter to DDOT with additional candidate locations for Carsharing based on Commissioner nominations.

Mr. Rice said that subsequent to the committee meeting he had gone to look at the location, and became aware that while there are many businesses on the north side of H Street, the southeast corner of that block has spaces for four-hour metered parking, but only one meter, so that there is space there. He moved to strike the northwest side of H and 12th Street and replace it with the southeast corner. It was seconded by Mr. Alberti.

Dea Varszovsky said that while she supports the program, she opposes putting two spaces at that location because they are spaces that businesses need. She said she would support giving up one space to the program at that location, but not two. Rafael Marshall said that putting spaces there is not good for the neighborhood. Elizabeth Nelson said that adding the spaces to the H Street commercial district would create a net gain over the long term in residential parking. Mr. Fengler added that the change from northwest to southeast is not significant, but said he shared some of Ms. Varszovsky's concerns. He suggested that the site be tried for one year. **Motion:** Mr. Fengler moved that the recommendation be for only one spot for carsharing, instead of two, and that the program should be tried for one year. Commissioner Rice said that the ANC did not have the final say, but that he thinks the south side is the better location for now and there will be an opportunity to select additional sites. Ward 6 transportation planner Chris Delfs said the program does help with reducing the number of people owning multiple cars. He said it is more economically feasible to place two cars at one location, but having only one car per location would also be possible. Commissioner Mack says she uses the program and it would be a lot more convenient to have the cars spread out throughout the community. The amendment passed 6-0, and the motion was adopted without objection. **Motion:** Mr. Rice moved that Commissioners be asked to supply additional locations for carsharing spots before the next ANC meeting, so the ANC can inform DDOT of those suggestions. The motion passed without objection.

1124 E Street NE

Commissioner Rice said that 1124 E Street NE is a residential conversion that has had two stop orders placed on it that are being ignored. There are six units being constructed on a 1710 sq. ft. lot, in violation of zoning regulations that require 900 sq. ft. for every unit on a lot. A variance is required, and has not been granted. There are also problems with lot coverage and the number of parking spaces. The problem is the same as that with fast food establishments and Apple Tree: the failure of DCRA to enforce zoning restrictions. Mr. Fengler said that if DCRA had done due diligence and dealt with the zoning issues prior to the granting of other permits for electrical, plumbing, etc. these problems would not occur. **Motion:** Mr. Rice moved that the ANC approve the committee's recommendation for the ANC to submit an appeal to BZA on DCRA's decision to allow



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six units at this location without required variances. The committee also recommends sending a letter to the DC Zoning Administrator informing him of the appeal so that he will have an opportunity to bring the property into compliance. Mr. Rice moved an amendment to authorize Mr. Fengler, Mr. Rice and Richard Luna to represent the ANC in this matter, and it was accepted. The motion passed without objection.

Fast Food Establishments

Mr. Fengler raised the issue of fast food establishments and zoning regulations, saying the issue would be coming up again, with the opening of new establishments on H Street. Mr. Alberti said it should be made clear that the ANC is not anti-fast food, but is being denied by DCRA the ability to participate in zoning decisions. Laura Peterson said that there is a perception that the ANC is anti-fast food. Mr. Fengler said that the ANC is defending the rights of residents, and that with C-2-A zoning, and narrow alleys at the back, people have a right to be protected from the trash and noise from fast food restaurants. Mr. Rice said that there is a larger issue. The spillover affects the neighbors if there's bad management, and the community should have input. The special exception process allows community concerns to be taken into consideration before certificates of occupancy are granted.

Motion: Mr. Fengler moved acceptance of the committee report, which was approved without objection.

Community Outreach

Grants

Motion: Mr. Fengler moved that the ANC approve a grant not to exceed \$2000 to the Eastern High School PTSA for the purchase of curtains and medical books for the school's medical training program. Elizabeth Nelson said that Craig English is rebuilding the program, which started in the '80s. It has a fully functioning two-bed hospital suite, for which the curtains are needed. The requested materials are not provided by DCPS. The grant was approved without objection.

Motion: Mr. Fengler moved that the ANC approve a grant of \$600 to the Friends of the Northeast Public Library to establish a puppet theater. Ms. Nelson said it will be the only full-size puppet theater in the City. The grant was approved without objection.

Motion: Mr. Fengler moved ANC approval of a grant of \$400 to the Maury School PTSA for the purchase of materials necessary to complete their Internet research center. Ms. Nelson said that while the school has a computer lab for instruction, there are no computers available for basic research. The school has been given the computers, and the grant would be for the materials to get the center fully functional. The grant was approved without objection.

Fagon Guide Ad

Ms. Nelson raised the issue of placing a $\frac{1}{8}$ -page ad in the Fagon Guide. **Motion:** Mr. Fengler moved that the ANC allocate \$220 (less non-profit discount) to place a $\frac{1}{8}$ -page ad in the Fagon Guide. It was seconded by Ms. Beatty. Mr. Alberti said that the ANC already has a prominent ad in the Hill Rage, which is the same audience as the Fagon Guide. Mr. Fengler said that the ANC should use every opportunity to get the word out, and the Fagon Guide goes to every household on the Hill. The motion passed 4-2, with Messrs. Alberti and Borbely voting against the motion.



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Regulations for Candidate Appearances at the ANC

Motion: Mr. Fengler moved the following recommendation of the Community Outreach Committee for the appearance of candidates before the ANC:

The Advisory Neighborhood Commission is an official body of the District of Columbia government, as are the School Board, the Board of Zoning Adjustment or the City Council. The ANC meetings are held to conduct official business, as are the hearings and meetings conducted by other City agencies. Campaign activities fall outside the purview of the ANC and are no more appropriate for ANC meetings than they are for the functions of any other body of the District government. Therefore, we recommend that:

Candidates for public office should not be given time on the ANC agenda for any discussion of their candidacy.

2. If candidates wish to make a statement during community comments, it should be on a topic relevant to ANC 6A business, without mention of their candidacy.
3. Candidates wishing to introduce themselves to potential constituents or distribute campaign literature should be asked to do so outside the meeting room, as people exit, so as not to disrupt the meeting.
4. ANC 6A should not sponsor a candidates' forum.

Mr. Rice suggested that “without mention of their candidacy” be stricken from No. 2, and it was agreed to without objection. The motion passed without objection.

Public Safety Committee

Stephanie Nixon reported that there were two loiterers arrested at Parks Market, and one had hit an officer. She also reported that there was a real increase in violence between 14th Street and 21st Street NE from C Street to Benning Road, and local residents are planning community service activities. They would like to hold a public forum on crime and would like a letter inviting police and Council officials to attend. **Motion:** Mr. Fengler moved that the ANC approve the writing of a letter of invitation to public officials asking them to attend a public crime forum. Mr. Fengler said he would touch up the draft letter that had been included in the agenda package. The motion was approved without objection.

Motion: Mr. Fengler moved that the ANC re-approve the sending of a letter to Maury Elementary School about public safety conditions in its schoolyard. The motion was approved without objection.

Ms. Nixon requested contact information for three committee members—Elsie Taylor, Frances Lee and Michael Seneco—who have not attended four meetings, leaving the committee without a quorum.

Schools Committee

Mr. Borbely nominated two people for membership on the Schools Committee: Richard Carlson, of SMD 6A04, and Brenda Artis, of SMD 6A07. The nominations were accepted without objection.



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New Business

H Street Streetscape

Karina Ricks of DDOT presented the design for the streetscape for the H Street corridor. The project is currently at 30% of design—they have surveyed under the street, and know where the rights of way should go. The paving plan mimics the L'Enfant Plan with the linkage of the Starburst at one end, 8th and H in the middle, and the Hopscotch Bridge at the western end. The curb layouts will not be changed, and the street grid will also be the same. They will be using London pavers, with highlights of brick. There will also be extensive landscaping. She expects 65% design in early February and 100% by March. They are on track, she reported, to begin construction in July 2006.

Mr. Fengler asked whether the streetcar will be included in the RFP and was told that it is fully designed and DDOT is committed to building it.

The plan for Benning Road is pending the final design of H Street. The sidewalk will be a toned-down version of H Street, with grassy strips on Benning. There will be center alignment for the streetcar, and a planted median like Pennsylvania Avenue. The cost projections are \$20 million for H Street, \$3-5 million for the Starburst, and \$15 million for Benning Road.

They will have a committee to discuss the catenaries (overhead wiring) for the streetcar, and will get a group together to work with DDOT.

Community Meetings on Singles Moratorium

Mr. Borbely raised the issue of having community meetings on the proposed moratorium on the sale of singles proposed for H Street to let people know it is happening before the ANC takes action. He said he wants to hear from grocery stores as well as from residents, and about what the impact will be. **Motion:** Mr. Borbely moved that the ANC allocate \$220 for the printing of a flyer or letter saying "The ANC is planning to seek a ban on singles on H Street. If you have any questions or comments, please contact Mary Beatty..." He suggested asking volunteers to help with the distribution. It was seconded by Mr. Rice. Mr. Fengler moved to amend the motion to read "please contact Marc Borbely." The amendment passed without objection.

Ms. Beatty said that Mr. Borbely has good intentions, but there have already been nine public meetings on the H Street moratorium and the alternative of a store-by-store voluntary agreement. Five of those meetings have been between April and now, and the ANC knows how people feel. The ANC has also heard from the people who organized the Mt. Pleasant moratorium, and knows what the impacts will be. She asked what the purpose of the forum would be; Mr. Borbely said it would be to get the word out and hear comments. Ms. Mack said it would be useful to get another round of comments. Mr. Alberti said that while he understood Mr. Borbely's concern, one can leaflet the world and still have the same small number of people show up. The motion failed 3-3, with Mr. Borbely, Ms. Mack and Mr. Rice voting in support of the motion, and Mr. Fengler, Ms. Beatty and Mr. Alberti voting against.

1400 Maryland Avenue NE

Mr. Borbely reported that there was an illegal fence on public space at a used car lot at 1400 Maryland Avenue, and despite a series of contacts between DDOT and himself, and a cease and



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desist letter to the property owner, the fence was still in place. **Motion:** Mr. Borbely moved that a letter be sent to DDOT Commissioner Dan Tangherlini asking for action on the issue. The motion passed without objection.

The meeting adjourned at 9:18 pm.



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From the ANC 6A Bylaws...

ARTICLE VIII. Commission Elections

Section 1. The Commission shall elect officers from its members and standing committee chairs at a public meeting of the Commission held in January each year.

- (a). The officer positions shall be: Chairperson, Vice Chairperson, Secretary and Treasurer. The officers of the Commission must be elected commissioners.
- (b). The standing committee chairs shall be: Economic Development and Zoning, Alcohol Beverage Licensing, Public Safety, and Community Outreach. The committee chairs may be either elected commissioners or residents that live in the geographic boundaries of the4 Commission as defined in Article II.
- (c). The Commission may also elect any other officer or chairperson the Commission deems necessary.

Section 2. Methods of Election.

- (a). Upon a two-thirds majority of the Commissioners present and voting, any commissioner may submit a slate of officers and committee chairs for consideration. The approval of the slate shall require a simple majority of the Commissioners present and voting. If a simple majority vote is not achieved to approve the slate, the individual offices and committee chairs will be voted on separately as outlined in Article VIII, Section 2, subsection (b).
- (b). The Commission shall use the following procedure to elect individual officers and committee chairs:
 - (1). Each candidate shall be nominated by a Commissioner and must be seconded by another Commissioner. A Commissioner may nominate him or herself, but may not second the nomination. Upon receiving a second, the candidate shall be afforded a brief period of time to address the nomination.
 - (2). Officers of the Commission shall be elected by a simple majority vote of the Commission. In the event that no candidate has a simple majority vote of all Commissioners, there shall be a run-off between the two candidates having received the most votes.
 - (3). Voting on each office shall occur before the floor is open for nomination for another office.
- (c). Voting during the Commission elections for officers and committee chairs shall be conducted in accordance with Article V, Section 2, Subsection (d). Under any circumstance, there shall not be a secret ballot vote during these elections.

Section 3. The Commission shall approve the membership of all Commission committees at the request of each of the committee chairperson either at the January meeting or the next regularly scheduled meeting after the election of officers and committee chairs.

- (a). Each committee chairperson will forward a list of names, consisting of residents of the Commission area, to the Commission for approval.
- (b). The approval of committee membership shall be by a simple majority of the Commission. The approval can either be by a slate of candidates or voted upon individually.
- (c). Voting on each Committee membership shall occur before the floor is open for nominations for another Committee memberships.



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ADVISORY NEIGHBORHOOD COMMISSION 6A -- PROPOSED PROCEDURES

Special Election Procedures to Fill the Vacancy in SMD 6A01

Date and Place of the Election: The election will be held during the regularly-scheduled monthly meeting of ANC 6A on February 9, 2006, between 7:15 and 8:30 pm. The meeting will be held at Miner Elementary School located at 15th and G Streets NE.

Eligibility to Vote: The election will be open to registered voters of SMD 6A01 only. Potential voters must present themselves at the polling place and must have either a voter identification card showing that they are registered to vote in SMD 6A01 or be listed as a voter in SMD 6A01 on the voter registration list provided by the Board of Elections and Ethics (BOEE). There will be no absentee ballots.

The Candidates: The order* of the names on the ballot will be decided by a drawing on January 12, 2006, at the regularly schedule ANC 6A Commission meeting. On the day of the election, each candidate will be given a station outside the meeting room at which they or their representatives will be able to greet voters and answer questions. No electioneering will be permitted inside the [meeting room or building] or on the entrance walkway leading into the building. Ballots may only be cast for candidates certified by the BOEE; in accordance with the ANC law there will be no write-ins.

Eligibility of Voters: As voters enter the meeting room, they will be checked to determine whether their name is on the BOEE voter registration list or whether they have a voter identification card indicating they are registered in SMD 6A01. If their name is on the list, they will enter their signature on the list opposite their name. Those whose names are not on the list but who have a voter identification card will enter their names, addresses, and signatures on a separate sheet. A person without a voter identification card shall be asked to show some form of identification with the name and address matching that on the voter registration list (e.g., driver's license, passport, utility bill, bank statement, paycheck or pay stub, apartment lease, etc.).

Voting: Casting of ballots, supplied by the ANC, will commence the start of the meeting at 7:15 pm. A ballot box will be placed in the meeting room where it can be observed by all present at the meeting. The candidates or their representatives will check the ballot box before voting begins to assure that it is empty. Each candidate will be permitted one observer (the candidate *or* a designee of the candidate) to observe the voting process, but the observer will not be permitted to interrupt or interfere with the voting, and will not be permitted to communicate directly or indirectly with any voter. All ballots must be placed in the ballot box or returned to the election manager, who will make note of the returned ballot and the reasons for it. The election manager will have authority to replace spoiled ballots. The Chairperson shall appoint the election manager. Voting will continue until the polls close at 8:30 pm. Anyone still in line waiting to register at 8:30 pm will be allowed to vote if otherwise qualified.

Counting the Votes: The ballot box will remain closed until the polls have closed. After the voting ends, the ballot box will be opened, and the votes will be counted by at least two impartial vote counters. The candidates or their representatives may observe the counting of the votes. The results will then be submitted to and read aloud by the Chairperson of the ANC. The election manager will report to the Commission any unresolved issues not addressed by these rules. The Commission will take action to resolve these issues before the end of the meeting. In the event of a tie vote, the candidates or their proxies will cast lots to determine the winner. In the event of any incident or occurrence that threatens the conduct or fairness of the election or the vote count, the election manager will be authorized to suspend the balloting or counting

Filling the Vacancy: Following the results of the election, the ANC will vote on a resolution stating the name of the winner and asking the Board of Elections to declare the vacancy filled.



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Before the

DISTRICT OF COLUMBIA
 BOARD OF ZONING ADJUSTMENT

APPEAL OF:

Advisory Neighborhood Commissioner 6A from the
 Administrative Decision of DCRA on
 Building Plan Review Status 236 D 5 on

Approval of Electrical, Fire, and Mechanical

and Plumbing Disciplines

Statement of the Applicant

Advisory Neighborhood Commission 6A (“ANC 6A”) hereby requests that the Board of Zoning Adjustment (“Board”) GRANT the Appeal from the Administrative Decision of the Department of Consumer and Regulatory Affairs Building and Land Regulation Administration approval of the Electrical, Fire, Mechanical and Plumbing Disciplines at 1124 E Street, NE, and in support of its appeal states as follows:

SUMMARY OF APPEAL

The Department of Consumer and Regulatory Affairs (“DCRA”) erred in its decision to grant Electrical, Fire, Mechanical and Plumbing Disciplines contained Building Plan Review Status Tracking Number 236 D 5. The property which is the subject of this appeal is located at 1124 E Street, N.E. The property is zoned R-4. The appeal is requested for three reasons: (1) if the proposed use is for multiple dwelling, then the proposed use in this case is not permitted in an R-4 district without a variance, and DCRA has not granted a variance in this case; (2) if the proposed use is for an apartment house, then number of units for the property exceeds the square feet per apartment or condominium requirement as defined by 11 DCMR sections 330.5(c) and 401.3; (3) the permit requests expansion of an already non-conforming use; and (4) DCRA granted construction permits in this case in violation of DCMR section 2100.2, because the current building plans do not show the number of parking spaces required by 11 DCMR sections 331.1(b) and 2101.1, and the plans do not show the dimensions required by 11 DCMR section 2100.2.

DISCUSSION

I. DCRA erred in approving work permits for the building construction of a six- unit building.

In an R-4 Residential District, the proposed use not permitted in an R-4 district without a variance. 11 DCMR § The proposed use for 1124 E Street, Northeast is either a “multiple dwelling” or an “apartment house” as defined by 11 DCMR § 199.1.

If the proposed use is a multiple dwelling, such as condominiums, then the proposed use is not permitted. The building plans for 1124 E Street, Northeast show a combined six dwelling or rooming units. Multiple dwellings are not permitted as a matter of right or with a special exception. See 11 DCMR §§ 330-335. DCRA has not issued a variance for a multiple dwelling at 1124 E Street, Northeast. Therefore, DCRA erred in issuing building permits in this case.

Similarly, if the proposed use is an apartment house, then the proposed use is not permitted. Applicable regulations permit matter-of-right conversion of a building or structure existing before May 12, 1958 to an



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apartment house only if the conversion satisfies two requirements. See 11 DCMR § 330.5(c). One of those requirements is that the minimum dimensions of a lot are determined by the number of units in the proposed conversion. See 11 DCMR §§ 330.5(c), 401.3. The building plans for 1124 E Street, Northeast show a combined total of six apartments. Therefore, applicable regulations require the lot for 1124 E Street, NE to be 5400 square feet. However, the real property assessment database for the square and lot corresponding to 1124 E Street, Northeast (square 984, lot 44) indicates that the lot area is only 1,710 square feet, or 3,690 square feet less than required. Therefore, DCRA erred in issuing building permits in this case.

In short, DCRA erred in issuing building permits regardless of whether the proposed use is a multiple dwelling or an apartment house.

II. DCRA erred in approving work permits under a nonconforming use.

The building had an approved use as a three unit apartment. Inasmuch as the apartment building predates the current zoning requirements of the R-4 District, the structure and the use of the structure have been grandfathered. Notwithstanding its grandfathered designation, the subject property and its attendant use constitute a nonconforming use within the R-4 District. The property is nonconforming because the apartment building does not conform to the minimum lot area of 900 square feet per apartment unit. The subject property is located in Capital Hill in Ward 6. This street is primarily developed with single family rowhouses.

The building plans approved propose to add three units to the building. The proposed addition increases the number of three units to six units. This proposed increase is detrimental to the intent, purpose and integrity of the zone plan. The R-4 District is not an apartment house district. The proposed additional units will not conform to the minimum lot area requirements and the proposed additional units would increase the population density of the site.

As the building permits currently approved by DCRA enlarge the nonconforming structure, this is not permissible under an R-4 District. The current zoning regulations do not allow for apartment building in the R-4 District which do not have a minimum lot area of 900 square feet per apartment unit. Since any proposed construction should comply with existing regulations, it is the intent of the zoning regulations to have nonconforming aspects of property diminish over time. To allow the proposed construction to continue would enlarge, rather than eliminate, a nonconforming use.

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III. DCRA erred in the determination of the required parking spaces.

If the proposed use is a conversion to a multiple dwelling [or expansion of the existing use as an apartment house], then the regulations require the new use to provide for at least one parking space for every three units. 11 DCMR §§ 2100.4, 2101.1 (residential use in an R-4 Residential District). Furthermore, parking spaces must be 19 feet by 9 feet. See 11 DCMR § 2115.1.

The building plans for 1124 E Street, NE do not show the dimensions of the parking spaces. Based on initial measurements, the parking spaces do not conform to the 19 feet by 9 feet requirement. Therefore, DCRA issued the construction permits in direct violation of the regulations.

REQUEST FOR RELIEF

The appellant requests that the Board ORDER the Department of Consumer and Regulatory Affairs to:

1. Revoke the Electrical, Fire, Mechanical and Plumbing disciplines and approved building and construction permits for Building Plan Review Status Tracking Number 236 D 5 for 1124 E



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Street, NE as the current plans exceed the 900 square feet per unit requirement of a R-4 District.

2. Deny the pending zoning and certificate of occupancy requests based on the fact that the permits expand a nonconforming use of an R-4 District.
3. Deny the pending zoning and certificate of occupancy requests based on the fact that the parking spaces do not comply with 11 DCMR § 2115.1.

Respectfully submitted,

Joseph Fengler, Chair
Advisory Neighborhood Commissioner 6A
815 F Street, NE
Washington, DC 20002



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



December 12, 2005

Board of Zoning Adjustment
441 4th St, NW, Suite 210
Washington, DC 20001

Re: Letter of Authorization

Dear Board Members,

At the regularly scheduled and properly noticed meeting on December 8, 2005, Advisory Neighborhood Commission 6A voted unanimously to appeal the administrative decision of the Department of Consumer and Regulator Affairs Zoning Administrator to approve electrical, fire and mechanical and plumbing disciplines at 1124 E Street NE. Reference Building Plan Review Status Tracing Number 236 D 5.

Please be advised that Commissioner Fengler, Richard Luna and Commissioner Cody Rice are authorized to act on behalf of ANC 6A for the purposes of this appeal.

Sincerely,

Joseph Fengler
Chair, Advisory Neighborhood Commission 6A



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



December 14, 2005

Dan Tangherlini, Director
District Department of Transportation
2000 14th Street NW
Washington, DC 20009

Re: Carlink Inc. at 1400 Maryland Ave. NE

Dear Mr. Tangherlini:

We are requesting your assistance in ensuring that DDOT pursue enforcement, without delay, of a violation issued September 28, 2005 for occupying public space without a permit. Carlink Inc., a used car lot at 1400 Maryland Ave. NE, applied for a public space permit to occupy the grounds adjacent to their property in order to open a car rental business. The applicant failed to appear at the scheduled Public Space Committee hearing on September 22, 2005. Consequently, the application was closed and referred to the Office of Infrastructure Oversight for enforcement. It is important to note that our Commission unanimously opposed this application.

In a letter dated October 14, 2005, Mr. Lamont Regester, Chief of Infrastructure Oversight, provided notice to Carlink that violation was issued on September 28, 2005, for occupying public space without a permit. Specifically, the letter notified Carlink that their failure to remove the fence would initiate fines of up to \$300 per day for violating the public space.

Mr. Tyrone Jackson of the Office of Infrastructure Oversight informed our Commission on October 4, 2005, that a street maintenance crew would be removing the fence shortly. When that failed to happen, we make another inquiry and were told by e-mail on November 15, 2005, that this would happen within two to three weeks. Again, when that failed to transpire, we again requested a date for the fence removal. On November 30, 2005, Mr. Jackson informed us that Charles Stewart, in Street Maintenance, was reporting that the enforcement action would not take place until after January 1, 2006, due to preparations for the snow season and the holidays.

Adding to our consternation, Mr. Stewart subsequently told us that no fines have been levied as apparently the owner of the business is unreachable. If fines had been levied as required by law, the amount owed to the city would total about \$20,000. To put that in perspective, that is equal to our annual operating budget for our Commission. We refuse to accept that by merely being unreachable makes illegal action permissible. We fail to understand why fines are not attached to the property as an unpaid lien. We treasure our public space and request your immediate intervention to ensure the fence is removed, cars towed, and fines levied as required by law.

The public space in question is in the single member district represented by Commissioner Marc Borbely. If you have any questions, please contact him at (202) 544-2447 (home), (202) 557-1083 (cell), or by e-mail at borbely@anc6a06.us. We look forward to your response.

On behalf of the Commission,

Joseph Fengler
Chair, Advisory Neighborhood Commission 6A



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



December 9, 2005

Charles Burger
Chairman, Alcoholic Beverage Control Board
Suite 700
941 North Capitol Street, NE
Washington, DC 20002

Mr. Burger:

At its regularly scheduled meeting on December 8, 2005 with a quorum present, our Commission voted unanimously to protest the Class B liquor license renewal of Parks Economy Market, located at 1804 D Street, NE.

The Commission opposes the license renewal on the grounds that the establishment has a negative effect on the peace, order, and quiet in the neighborhood. Testimony of the community at our Commission's Alcohol Beverage Licensing Committee held on November 15, 2005 indicates that the loitering and drug dealing in front of the store creates a serious public safety issue in the neighborhood.

Commissioner Mary Beatty will represent our Commission at the renewal hearing on December 28, 2005.

On behalf of the Commission,

Joseph Fengler
Chair, Advisory Neighborhood Commission 6A



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Box 75115
Washington, DC 20013



December 6, 2005

Clifford B. Janey, Superintendent DCPS
825 North Capitol Street, NE,
Washington, D.C., 20002

Commander Diane Groomes, First District
Metropolitan Police Department
415 4th Street, SW
Washington, DC 20024

Re: Maury Elementary School Public Safety Challenge

Superintendent Janey and Commander Groomes:

At our October 13, 2005, regularly scheduled ANC 6A meeting, we voted unanimously to inform you in writing about the persistent problems at the Maury Elementary School playground. The school is located on the corner of 13th Street and Constitution Ave NE, in Police Service Area 103. Residents have seen ongoing drug activity and prostitution on the school's playground. Condoms, drug paraphernalia, and alcohol containers are found regularly on school grounds. School property has been vandalized, including the new playground equipment, which was installed just a year ago. Stolen cars have also been recovered from within playground fencing. The school staff has found it necessary to police the playground each morning, well before the students arrive, to ensure that the school grounds are safe for children. The site is particularly attractive to the criminal element due to the multiple escape routes afforded by the layout of the playground and the interruptions in the fencing. The fence is chain link and wide openings have been repeatedly been cut into it.

Principal Wilson recently called a community meeting regarding this activity at which Metropolitan Police Department First District officers were present. Videotape of vandals and photographs of graffiti and damaged property have been provided to the police. Sergeant Williams stated that the playground curfew ("closed at dusk") could not be enforced because the school is not completely fenced. He said the police could intervene if they witness a crime in progress but could not ask the loiterers to leave the premises unless the property is completely secured. Mr. Wilson has submitted a requisition for a secure iron fence, such as the one at Miner Elementary School., but it has not yet been approved.

Accordingly, our Commission requests that: (1) a secure iron fence, with gates that can be locked, be installed surrounding the Maury E.S. playground; and (2) the Metropolitan Police Department provide increased attention to the illegal activity on the site and begin to enforce the dusk curfew until such fencing has been installed.

On behalf of the Commission,

Joseph Fengler
Chair, Advisory Neighborhood Commission 6A

Cc:

Mayor Anthony Williams
Michael Wilson, Principal of Maury
Cornell Brown, DCPS Office of Facilities Mmgmt
Edward Reiskin, Deputy Mayor of Public Safety
Peggy Cooper-Cafritz, School Board Chair

Councilmember Sharon Ambrose
Tommy Wells, School Board Representative
Peter Jones, Neighborhood Services
Lieutenant Caldwell, PSA 103
Alphonso Coles, Community Outreach First District



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SMD 6A06 Report (Borbely)

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

From: Marc Borbely

Sent: Wednesday, December 14, 2005 11:56 PM

To: ANC 6A06 Listserv

Subject: [anc-6a06] City Rejects Ha Hu Grocery's Application for a Liquor License

Hi Neighbors --

The Alcoholic Beverage Control Board this morning rejected Ha Hu Grocery's (1451 Maryland Ave NE) application for a liquor license. The Board told Ha Hu that it couldn't transfer a liquor license to the site, because it's within 400 feet of a school (Academy for Ideal Education, at 15th and G). There had been some uncertainty regarding whether this rule applies even though the school is on commercial property.

This has been a six-month group effort.

THANK YOUs!

- Thanks to Ha Hu neighbor LaVita Grigsby for representing us so ably in settlement negotiations with the grocery store.
- Thanks to neighbor Benjamin Young for digging up important legal documents.
- Thanks to neighbors John Haugh and Nicole Hamam for helping to collect protest signatures
- Thanks to Nicole, and Steve Morrison, and Academy for Ideal Education Director Paulette Jones-Imany for testifying in front of the ANC.
- Thanks to Ms. Farrow for attending the roll call hearing downtown, this summer.
- Thanks to ANC 6A05 Commissioner Mary Beatty for representing us on this, as ANC liquor license committee chair, attending numerous hearings downtown and considering this in her committee.
- Thanks to the ANC for supporting our protest, adding its "great weight" to our voices.
- Thanks to the 19 official protestants, who came together on behalf of the neighborhood and took a stand in opposition to the license application: Aryeh Fishman, Barabara Tierney, Belinda Foster, Bill Tierney, Douglas LaChance, Hillery Gallasch, John Haugh, Kelly Miller, Marc Borbely, Margaret Farrow, Maria Motorfrancesco, Maxene Adams, Melynda Majors, Micah Salb, Nicole Hamam, Paula Kaufman, Richard Rashke, Sarah Brenerman, and Steve Morrison.
- And thanks to everyone else who submitted their comments on this, both for and against the license, to the ANC back in June!

best

- Marc

202-544-2447



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Washington, DC 20013



P.S. For anyone who's interested, here was our main legal argument...

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

From: Marc Borbely [mailto:borbely@fixourschools.net]

Sent: Tuesday, November 08, 2005 9:23 AM

To: fred.moosally@dc.gov

Cc: simonosnos@hotmail.com; fengler6a02@yahoo.com

Subject: Ha Hu Grocery: 25-314(b)(1) Requires ABRA To Deny This Application

From: Marc Borbely, representing a group of 19 individual protestants to liquor license Application # 60980 (transfer of Class B Liquor License #72570 from 1235 W St. NW to 1451 Maryland Ave. NE, Tutsi Corporation T/A Ha Hu Grocery)

To: Fred Moosally, general counsel, Alcoholic Beverage Regulation Administration

CC: Simon Osnos, attorney for Ha Hu Grocery
Joseph Fengler, chair, Advisory Neighborhood Commission 6A

Re: ABRA Is Barred by 25-314(b)(1) from Granting This Application and Must Deny This Application as a Matter of Law

1. The DC Municipal Regulations have exempted from the 400-foot rule schools on commercially zoned property since at least as far back as 1988.
 1. 23 DCMR 302.11 (Final Rulemaking, June 24, 1988): " The provisions of this section shall not apply where the main entrance to the college, university, or recreation line, or the nearest property line of the school or church, is actually on or occupies ground zoned commercial or industrial according to the official atlases of the Zoning Commission of the District of Columbia. "
 2. 23 DCMR 302.11 (June 1997): (same)
2. The DC Code Enactment and Related Amendments Act of 2001 (B13-0449; introduced 10/19/99, becoming A13-0603; L13-298) eliminated this exemption, leaving only the clear bar preventing licenses from being issued within 400 feet of a school.
 1. It contained 25-314(b)(1) (2001), under " Additional considerations for new license application or transfer of license to a new location " : " No license shall be issued for any establishment within 400 feet of a public, private or parochial primary, elementary, or high school. " (48 D.C. REG. 2959)
 2. According to the committee report (Report on Bill 13-449, DC



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Council Committee on Consumer and Regulatory Affairs, p. 116), this provision, originally 25-307(b)(1) in the committee print, " is based on the current 23 DCMR 302.1, and (b)(2) and (b)(3) are exceptions already largely contained in 23 DCMR 302.1(a) and 302.3."

3. There is no mention of the exemption for schools on commercial property, but since the Council transferred the exceptions (b)(2) and (b)(3), which exempt hotel licenses, club licenses and temporary licenses (b)(2) and situations where there is already a currently functioning establishment holding a license of the same class (b)(3), it must be presumed that the Council, if it had so desired, could easily have incorporated the exception in 302.11 as well.
3. Proposed Rulemaking (November 29, 2002) whose purpose was to bring regulations into conformity with the DC Code Enactment and Related Amendments Act of 2001 (A13-0603; L13-298), renewed the exemption in the Municipal Regulations, but in doing so reissued regulation 302.11 in plain conflict with the requirements of the statute.
4. Regulations cannot negate the plain meaning of a statute.
 1. Proposed acts must be read twice in substantially the same form, with at least 13 days intervening between each reading. (D.C. Code § 1-204.12 (2005)).
 2. Acts must be submitted to Congress for a 30-day review period. (D.C. Code § 1-206.02(c)(1) (2005)).
5. Thus the DC Code Enactment and Related Amendments Act of 2001, clearly barring licenses from being granted to establishments within 400 feet of a school, is current law, binding on ABRA, and ABRA should DENY this application for license transfer, as a matter of law.



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Box 75115
Washington, DC 20013



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

From: Marc Borbely
Sent: Thursday, January 05, 2006 6:31 PM
To: ANC 6A06 Listserv
Subject: [anc-6a06] Pay phone at 1400 Maryland Ave NE?

- 1) A public space enforcement person e-mailed me today to say that the fence at 1400 Maryland Ave NE will finally be taken down by the property owner tomorrow.
- 2) There is another issue regarding that corner: another company has applied for a public space permit for the pay phone at the same location.

Yes? No?

Some pros of pay phones: they're important for people who don't have cell phones (me until a few months ago). Some cons: they can encourage loitering and can be a focal point for drug deals etc.

My own view is that drug dealers these days have cell phones, and if possible we should be more outdoor-, stranger- and community-friendly, but what do other people think -- especially people who live near that intersection (has that phone in particular been a problem?).

Right now, the pay phone is out of service (no receiver). The company apparently says (see info below from the city government person) that this is to keep people from using it before the permit is issued. According to DDOT, the phone has been there since before the time permits were required.

If we said the phone was okay, I think we'd definitely want to insist that it be moved back to the real property line, since presumably after tomorrow the fence (where the phone is) will no longer be there, and we'll have reclaimed a lot of the public space.

- Marc

ps. the other two phones the company is seeking permits for aren't in our immediate area.



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Washington, DC 20013



**ANC6A Public Safety Committee Meeting
DRAFT AGENDA
Sherwood Recreation Center
Wednesday, January 18, 2006 at 7 pm**

1. Call to order
2. Introductions
3. Follow-up about Maury Elementary School
4. Follow-up about PSA 102 Representative suggestions
5. Follow-up about Rosedale Citizens Alliance public safety concerns (See letter)
 - a. See attached information from citizen
6. US Attorney's Office and Judges not filing papers on criminals when they do not have a 100% chance of winning
7. Focused mission of committee
8. Specific responsibilities of each group member toward achieving goals and objectives
9. Community Concerns
10. Goals and objectives of group
11. Tasks to be performed by next meeting
12. Adjourn



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To: Chief Charles Ramsey
Councilmember Sharon Ambrose (Ward 6)
Diane Lucas, US Attorney, United States Attorney's Office, 555 4th Street, NW, Washington, DC 20530
Deputy Mayor for Public Safety, Edward D. Reiskin, John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Suite 327, Washington, DC 20004

Dear Chief Ramsey, Councilmember Ambrose, Attorney Lucas, and Deputy Mayor Reiskin:

We have a serious and dangerous situation in the area ranging from 14th Street NE to 21st Street NE between C Street NE and Benning Rd/H Street corridor. Hopefully, you have been following the spiking surge of violence (specifically, multiple shootings). This group has sent e-mails to Commissioner Mfon Ibangha (ANC6a08), Chief Charles Ramsey, Joseph Fengler (ANC6a Chair), Tawanna Shuford in Councilmember Ambrose's office, Lieutenant Renato Caldwell, Commander Diane Groomes, and MPD-1D Community Outreach Alphonso Coles regarding the situation and requesting assistance. Although efforts have been made (i.e., Operation Fight Back) toward securing peace in this area, the violence continues and those responsible for the violence and drug-dealing continue to run the streets. This is a very serious situation with individuals being physically threatened if they dare to speak.

A PSA 103 action plan has been drafted and is ready for discussion, clarification, and adoption by PSA 103. Commander Groomes, Lieutenant Caldwell, Sergeant Gaumond, and Alphonso Coles (MPD Community Outreach) are working with the group on this plan. Representatives of the group met with Lieutenant Caldwell and Sergeant Gaumond on November 27, 2005 to put the plan in motion.

Although this plan has been adopted, the group would like to have a public meeting with Commissioner Ambrose, Chief Ramsey, US Attorney Lucas, Deputy Mayor Reiskin to discuss a specific strategy and implementation to combat those few individuals who are infecting our wonderful neighborhood with fear and violence. The group would like to know and use every available government agency and community-based organization to work collectively toward eliminating the violent drug-related activity.

The ANC6a supports this group's request for a "recent violent crimes public forum". We would hope that the agencies would be responsive to helping this group use available government resources to halt violent drug-related activity, which has plagued these areas for around 30 years. At this time the violent crimes part is on the rise and ANC6a community members as well as ANC7d community members.

Please contact ANC6a Public Safety Committee member Stephanie Nixon for assistance in hosting a "recent violent crimes public forum." Many members of this group have stated an interest in volunteering time and energy to abating violence, drugs, trash, and illiteracy in their community, but need assistance to come together, plan and implement.

Respectfully,

Joseph Fengler
Chair, Advisory Neighborhood Commission 6a

cc: Lieutenant Renato Caldwell
Commander Diane Groomes
Peter Jones, Neighborhood Services Coordinator, Ward 6
Councilmember Phil Mendelson (judiciary committee, PMendelson@dccouncil.us) 1350 Pennsylvania Avenue, N.W., Suite 402, Washington, DC 20004
Councilmember Vincent Grey (Ward 7, vgray@dccouncil.us),
ANC 7d01 Commissioner Veronica Raglin, 408 21st St, NE, WDC 20002
Kingman Park Civic Association