

Agenda

ANC 6A, October 24, 2013

Special Meeting

Maury Elementary School

13th Street and Constitution Avenue NE

7:00 Call to Order, Announcement of Agenda

7:05 Alcoholic Beverage Licensing Committee recommendations

7:20 1242 H Street, failure to obtain required variances

7:30 Option Public Charter School with Receiver Josh Kern

Community Comments

ABL Committee

Recommendation: ANC take no action regarding the CT license renewal for H Street Country Club at 1335 H Street NE (License Number ABRA-076649).

Recommendation: ANC take no action regarding the CT license renewal for HRock N Roll Hotel at 1353 H Street NE (License Number ABRA-072777).

Recommendation: ANC take no action regarding the CT license renewal for Liberty Tree at 1016 H Street NE (License Number ABRA-083356).

Recommendation: ANC take no action regarding the CT license renewal for Rose's Dejavu at 1378 H Street NE (License Number ABRA-089342).

Recommendation: ANC notify the ABC Board that it does not agree with the changes to the Settlement Agreement requested by Sahra Hooka Lounge at 1200 H Street NE (License Number ABRA-087558).

Recommendation: ANC formally protest the CT license renewal for Sahra Hooka Lounge at 1200 H Street NE (License Number ABRA-087558).

+++++

Amendments sought to Settlement Agreement by Sahra:

AMENDMENT TO VOLUNTARY AGREEMENT BETWEEN

RAS0 CORPORATION T/A SAHRA HOOKAH LOUNGE
1200 H STREET, NE
WASHINGTON, DC 20002
ABRA-087558

AND

ADVISORY NEIGHBORHOOD COMMISSION 6A

1. The Parties Agree As Follows:

REMOVE Section 1: (a) through (c) cleaning the environs, is stated in Section §25-726.

REMOVE Section 1: (d) through (i) not enforceable by ABRA regarding vermin infestation, trash, removing graffiti and removal of snow but is enforceable by DPW; a valid permit to use public space is required by DDOT.

2. Business Operations and Practices:

REMOVE from Section 2: (a) a sale of alcoholic beverages to a minor as a violation is stated in Section §25-785. Additionally, review Section §25-781 regarding sales to minors or intoxicated person prohibited.

REMOVE from Section 2: (c) bringing an open container of an alcoholic beverage into a licensed establishment—consuming an alcoholic beverage or in possession of an open container in public is against the law and is enforceable by ABRA. Sahra is licensed to serve alcoholic beverages on premise.

REMOVE from Section 2: (d) Applicant will not provide or sell alcoholic beverages “to go.” This establishment is licensed to sale alcoholic beverages on premise as a CT license in Section §25-113(a)(1)(2)(A).

REMOVE from Section 2: (e) through (g)(i-v)-- licensed establishment will be managed by an owner or ABC manager, which is stated in Section §25-120. (e) (f) All other employees are not required to have alcoholic beverage server training as stated in Section §25-410. (g) (i-iv) Applicant shall post notice regarding proof of age, selling alcohol to anyone under the age of 21 and consuming alcohol while pregnant, which is stated in Section §25-712. (v) is not enforceable by ABRA regarding panhandlers.

ALREADY REMOVED as stated in the Board Order dated January 12, 2012--Section 2: (j) (i-k and m) Raso Corporation t/a Sahra Hookah Lounge should not be required to have a Metropolitan Police Department Reimbursable Detail because the establishments business is Hookah with a limited bar and limited seating. The business has an occupancy load of 32 seats inside, with proposed seating outside for an ABRA approved sidewalk café.

3. Music/Dancing/Entertainment

REMOVE Section 3: (c) (3, 5-7) and (d) through (h) the establishment has applied for an Entertainment Endorsement and has been approved for a sidewalk café. The Licensee would prefer that the hours of operation and the sidewalk café to be consistent. Patrons visit Sahra Hookah Lounge to wind down from an evening of entertainment and dancing from other locations.

Additionally, Sahra Hookah Lounge does not have a need for a security plan because the size of the establishment and its patrons is under the number that is approved for other establishments in the H Street corridor. The establishment does have a host at the entrance of the establishment to check ID's and no one under the age of 21 may enter at no time.

There is no full kitchen located inside Sahra Hookah Lounge. Therefore, the kitchen does not need to remain operational up until at least one hour prior to closing. The only food provided are snacks such as chips, pretzels, popcorn or trail mix.

4. Modifications. **REMOVE**--Required by Section §25-446 (a) through (B) (e).
5. Miscellaneous. **REMOVE**--Required by Section §25-446 (a) through (B) (e).
6. Enforcement. **REMOVE**--Required by Section §25-446 (a) through (B) (e).

1242 H Street

The Zoning Administrator sent the plans for 1242 H to the BZA for consideration of needed variances.

In 2009, the ANC was opposed to any variance to the non-residential FAR at 1242 and any issuance of a variance from the various requirements of the H Street Overlay. The developer sought a variance from the BZA to build a wholly commercial building with the extra FAR for upper floor residential use but, on encountering opposition from the ANC, IS withdrew their BZA application.

It appears that either IS went ahead and built what they wanted or the current owners do not know about Overlay zoning requirements. We need to protect the Overlay we sought.

This is time sensitive, since failure to object to a violation within a certain time period may mean that enforcement may not be possible. Da Luft just opened, and we just found out that the upper floors are being used as lounges and bars.

Proposed letter

October 24, 2013

Mr. Matthew Le Grant
Zoning Administrator, DCRA
1100 Fourth Street SW, Room 3102
Washington, DC 20024

Re: Notice to ZA of Potential Zoning Violation (1242 H Street NE)

Dear Mr. Le Grant,

At a regularly scheduled and properly noticed^[1] meeting on October 10, 2013, our Commission voted 4-0-1 (with five Commissioners required for a quorum) to advise you that the operators of 1242 H, which just opened for the first time, appear to be in violation of DC zoning laws and of the H Street Overlay in particular.

You may remember that you advised the builder, IS Enterprises, that they would required variances. Specifically:

BZA #17968. (Area Variance) pursuant to 11 DCMR §3103.2, for a variance from the non-residential floor area ratio requirements under subsection 1321.2, and a variance from ground floor level ceiling height requirements under subsection 1324.12, to allow the construction of a new commercial (retail/office) building in the HS (H Street Housing Sub-District Overlay)/C-2-A District, at premises 1242 H Street, N.E. (Square 1003, Lot 22).

The matter was taken up by the BZA, and ANC 6A responded with a resolution of opposition to the proposal. The owner withdrew his application. You may remember construction at the site was fraught with a number of issues requiring attention by DCRA. Exterior construction has continued at the rear of the structure, and so total lot occupancy may have changed.

We were surprised to find the upper two levels in operation as a bar, since that had been explicitly prohibited by your office and DCRA. The recent opening

was the public's first chance to view the upper floors. It has taken years to put the space to use, so this is the first opportunity to see that there may be zoning problems and alert your office.

Attached are notes from our Zoning committee discussion which formed the basis of the ANC's opposition.

Please tell us if the developer built the way he wanted without reference to the requirements of zoning and the Overlay.

Dan Golden and I are authorized to represent the ANC in this matter. I can be reached at David.Holmes@anc.dc.gov.

For the Commission,
David Holmes
Chair

+++++

Economic Development and Zoning Committee, 8-19-2009, Meeting Report

The owner wishes to build a 4 story building at 1242 H Street NE and is looking for a variance due to the small size of the lot – 17' 6" x 72':

1.
The requirement for 14' ceiling on the first floor puts the project requires that they also put a landing on each floor. The landing would use up to about 30% of the first floor. Owner would like to get as much usable space out of the first floor so is asking for a ceiling height of less than 14'. Requesting 10' 6" ceiling height on 1st floor.
2.
The owner wishes to configure the building for more than one tenant. A corridor would separate the stairs from the rest of the first floor.
3.
The ground level is likely to be professional services offices. 2nd through 4th floor would be professional offices for the owner's development company and his general counsel.
4.
No residential use.
5.
The plan for the building incorporates some environmentally friendly aspects such as solar panels, green roof, and use of local/recycled bricks, energy efficient windows. The plan calls for high quality construction to allow the building to last for a 100-year lifespan. The building would not be LEED certified.

increase the usable floor space.

1.
Elevator would require stairs anyway
2.
Can't move stairs closer to the front of the building due to fire control room. The fire control room must be accessible from a common area.

Design Issues

1.
Front is brick to maintain the look from the neighborhood. Design breaks the monotony and massing with windows. There is a roof deck at the top floor of the building.
- 2.

Rear is hardieplank siding.

3.

Uniform casement windows.

In general, the committee commented that the design was not in keeping with the rest of H Street.

1. All the other structures on the block are 2 stories

2.

The design of the front does not reflect any of the architectural elements found on H Street. No historical elements, windows are modern looking instead of having the shape/style of other windows seen along H Street.

Zoning Issues

1. Current zoning for the location calls for ground floor retail with residential above.

2.

H Street Overlay/arts district modifies underlying C-2-A zoning. Meant to create an incentive for better retail space.

3. C-2-A zoning—base zoning

a. 1.5 FAR for non residential

b. maximum of 2.5 FAR

c. 50' height restriction

d. 60% lot occupancy for residential

e. 15' rear yard

4. H Street Overlay modifications –supersedes base zoning

a. Residential – 70% lot occupancy

b. Non-residential FAR 1.0

5. They are asking for

a. 3.0 FAR

b. Not provide 14' ceilings on ground floor for retail

6. Procedural issues

a. Need zoning relief to base zoning in addition to variance to overlay

b. Application doesn't request the relief needed.

c. In addition, we have seen DCOZ allow zoning variances on FAR

Options Public Charter School

1/. Email from David Holmes to Scott Pearson, Executive Director, Public Charter School Board

Cover note with newspaper links

Attached ANC letter re Options situation

2/. Copy of a court order from Judge Iscoe detailing limits on what the Options Receiver, Josh Kern, can say about any tentative or final recommendations and/or findings

+++++

Mr. Pearson,

Attached is a signed PDF, and below an unsigned copy of a letter, conveying the sentiments of Advisory Neighborhood Commission 6A with respect to the current severe problems of Options Public Charter School. We list three recommendations, which were delivered orally to the PCSB in its October 16, 2013, meeting. Note that we do not speak with respect to the current Options Board and administrative staff.

Please be aware that the PCSB closed another charter school located in ANC 6A serving teenagers of academic and behavioral fragility - the Sasha Bruce PC School (SB). Links to stories by Theola Labbe and others in the Post can be found below. While the ANC had complaints about the movement of students to and from the school, it appeared to me, at least, that the school had taken strong steps to turn itself around. In the case of both schools, timely rigorous financial oversight by the PCSB was missing. The students of Sasha Bruce were forced to suffer from the confusion of trying to transfer late in the process to other schools with inadequate space to take them. Please ensure this does not happen again.

In both cases the PCSB bears much responsibility for the schools' failures, with arguably unethical behavior of the then-PCSB chair and the current alleged malfeasance of the PCSB financial officer.

As said in the testimony, these students need care and supportive supervision. They need to stay in school to find a set of skills that can provide with employable skills and self-worth. Please help them achieve that. They deserve our best, not abandonment.

David Holmes
Chair, Advisory Neighborhood Commission 6A

October 14, 2013

DC Public Charter School Board
3333 14th Street, NW
Suite 210
Washington, D.C. 20010

Advisory Neighborhood Commission 6A adopted a motion at its October 12 meeting^[1] to:

1/. Express support for the transfer of Option's charter to a new operator. Under its current charter, we have had many experiences of bad management and inadequate security. We often expressed concern at the behavior of students moving to and from the school. They need better supervision than they have been getting. For example, the practice of holding students outside the school because they are tardy has been a recipe for neighborhood trouble.

2/. Urge that the school not be closed because of the adverse impact on the students since the school has vocational training that would not easily allow continuity in instruction if the students are transferred to a new school. Tossing the students out by cancelling the charter would be a disaster for these kids. They need schooling, training and care; they need to be kept in school to provide skills to support them in their adult life. The smoothest possible transition is necessary.

3/. Call for a transition to a new, larger and more easily controlled site. Vocational education requires large special purpose classrooms not easily available in this former elementary school. Middle and upper grade students need large outdoor facilities to provide healthy stress-relieving exercise. The school itself is too small for the number of students who need this type of instruction and supervision. Again these are not available at the current location. We hope these requirements will be kept in mind by this Board and any new operator.

Commissioners Hysell, Williams and Holmes are authorized to represent the ANC in this matter. I can be reached at David.Holmes@ANC.DC.gov.

For the Commission,

David Holmes
Chair

[1] This was the Commission's regularly scheduled public meeting with a quorum present. The meeting was publicized in the Hill Rag, on the Commission website, through notices posted on two Yahoo groups of wide Hill distribution, and through the Commission's email distribution list.

+++++

<http://www.washingtonpost.com/wp-dyn/content/article/2006/07/24/AR2006072401352.html>
<http://www.washingtonpost.com/wp-dyn/content/article/2006/08/16/AR2006081601521.html>

Another story written by Pulitzer Prize winner James Grimaldi with Ms. Labbe:

<http://www.washingtonpost.com/wp-dyn/content/article/2008/12/13/AR2008121301779.html>

The story reveals the convoluted story of the transfer of Sasha Bruce to Options and the emptying out of Options' financial resources to cover debt owed by SB to a company on which the Chair of the PCSB served as a board member.

A quote from the story:

"As charter board chairman, Nida wrote a letter certifying that Options was "in good standing," which was submitted to the city bond office. Two weeks after the sale closed April 30, the board reversed course, issuing Options a warning. It designated the school as "high risk" because of poor academic performance, having failed to meet no child left behind status for more than five years. The board shelved the school's plan for a vocational center and imposed a moratorium on its high school expansion.

"Nida said the board did not deliberately delay the "high risk" notice until after the building sale. It "was not a timing" issue "where I was connecting the finances or the interest of the CSDC to the school's performance," Nida said. "We were dealing with what the school was doing academically.

"Last month, Nida voted "aye" on giving Options time to get its academic house in order. He said he saw no reason to recuse himself."

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION
DISTRICT OF COLUMBIA *

*

Plaintiff, *

* Civil Action No. 2013 CA 006644 B

* Judge Craig Iscoe

v. *

*

OPTIONS PUBLIC CHARTER *

SCHOOL, et al., *

*

Defendants. *

*

ORDER

On October 3, 2013, the Court appointed Joshua Kern as Receiver for the Options Public Charter School ("Options PCS"). The Court appointed a Receiver in order to ensure that Options PCS is able to provide educational and support services to its students and to maintain the school's safe and productive environment. The Court ordered Mr. Kern to hold, preserve, administer, and operate the business and activities of Options PCS in the best interests of the school's students and the public. In addition, the Court directed Mr. Kern to conduct an initial assessment of the status of the operations of Options PCS and to deliver a report to the Court on October 21, 2013. The Court requires Mr. Kern to file that report, and any subsequent such reports, of his findings, assessments, and recommendations under seal, so that the Court may evaluate them before determining the manner and timing of making those findings, assessments, and recommendations public.

The Court understands that Mr. Kern may conclude that it is necessary for him to attend various public meetings in order to reassure the public about the continued operation of Options PCS. If Mr. Kern appears at any public or private meeting where the status of Options PCS is discussed, the Court directs Mr. Kern not to discuss any of his tentative or final findings, or recommendations. Mr. Kern may discuss the terms of his receivership and the general process by which he is conducting his initial assessment for the school. He may also discuss the process by which he intends to ensure that Options PCS meets its obligations to its students, their parents and guardians, and the public.

Therefore, it is this 16th day of October,
SO ORDERED.