



**District of Columbia Government  
Advisory Neighborhood Commission 6A  
P. O. Box 75115  
Washington, DC 20013**



June 26, 2013

Mr. Matthew Marcou  
Deputy Director for Public Space Regulation  
District Department of Transportation  
55 M Street SE, Suite 400  
Washington, DC 20003

Dear Mr. Marcou,

Our ANC adopted a motion at our June 13 meeting to express our opposition to the proposed use of public space for a sidewalk café/patio by a business called Chupacabra located at 822 H Street NE by a vote of 8-0 (with five Commissioners required for a quorum). The meeting was our regularly scheduled, publicly announced<sup>1</sup> monthly meeting.

We are not certain if this matter is currently up for review before DDOT or the Public Space Committee. Our ANC has only heard about this application from the business, but has received no formal notice or a copy of this application from DDOT. In addition, this matter does not appear to be on the DDOT Public Space Committee agenda for June 27, 2013. However, we are sending this letter regardless assuming this matter will soon be before DDOT for review. We hope that we can reach an agreement with Chupacabra in advance of this matter appearing on the agenda of the Public Space Committee.

The motion our ANC passed on June 13 (attached) sets forth concerns the ANC has asked the business to address prior to the use of public space for a sidewalk café/patio. Our ANC asked Chupacabra to at least informally agree to address these concerns, a request to which the business has not agreed. The main point of disagreement is with respect to the hours of operation of the sidewalk café/patio area on public space. Our ANC is concerned, particularly given the anxieties expressed by neighbors who reside on the same block of 9th Street as the restaurant, with the owners' plan to operate the patio area with no restriction on the hours of its use. Given the unique location of this sidewalk café/patio space, which extends right up to the residential neighborhood on 9th Street NE north of H Street NE, any noise created by patrons using the space will permeate the nearby neighborhood. The closest residence is separated only by a 10 foot alley from the proposed seating area.

Our concern is heightened if such activity is permitted to extend beyond reasonable hours of operation (which we believe to be until 11 pm Sunday to Thursday and until midnight on Friday and Saturday). Other businesses using outdoor space along H Street are required to agree to these hours in settlement agreements with our ANC, so we think it is reasonable to ask this business to do the same, even if it has yet to file for an alcoholic beverage license.

To restate, we are opposed to the Chupacabra use of public space for a sidewalk café/patio so long as the business plans to use it in a way that we fear does not meet the reasonable expectations of nearby residents. Failing to address this problem now will only lead to a strain on city resources as DCRA, MPD and other agencies are called on for service requests to address neighborhood complaints about late night operations on the patio.

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<sup>1</sup> ANC 6A meetings are advertised electronically on the [anc6a-announce@googlegroups.com](mailto:anc6a-announce@googlegroups.com), ANC- 6A and NewHillEast yahoogroups, on the Commission's website, and through print advertisements in the *Hill Rag*.

Therefore, we respectfully request that you deny the proposed public space application of Chupacabra so long as the business fails to agree to the ANC requests explained in the attached motion, particularly the proposed hours of operation for the sidewalk café/patio space.

On behalf of the Commission,

A handwritten signature in black ink that reads "David Holmes". The signature is written in a cursive, flowing style with a prominent initial "D".

David Holmes  
Chair

cc: Councilmember Tommy Wells  
Courtney Williams, DDOT  
Catrina Felder, DDOT



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## **Motion to Present to the Department of Transportation, Public Space Committee**

Motion adopted:

That the ANC send a letter of support for Chupacabra's public space application proposing use of the public space area adjacent to its property as a patio (the "Public Space Patio"), but only so long as Chupacabra agrees to the following conditions (to be set forth in an agreement between the owners and ANC 6A):

1. Install fencing around the perimeter of the Public Space Patio designed to contain trash and other items, particularly by eliminating large gaps at the bottom of the fencing, so long as such requirement is not cost prohibitive;
2. Regularly maintain the tree box and keep all areas in front of the business clean, including the adjacent alley, sidewalk and street gutter;
3. Adjust the Public Space Patio site plans, if necessary, to ensure the sidewalk area adjacent to the Public Space Patio is at least the same width as the sidewalk along the rest of the west side of the 800 block of 9th Street NE;
4. Implement a detailed trash plan for the site, which shall be presented for review and approval to ANC 6A;
5. Limit the hours of use of the Public Space Patio to the same hours contained in the ANC 6A ABL Voluntary Use Agreement, which are currently Sunday to Thursday until 11 pm and Friday to Saturday until 12 am midnight;
6. Not place tables in the Public Space Patio area north of the front door entrance (as shown on the plans) or utilize this area for any other use that will encourage customer use of the area;
7. Take steps to mitigate customer noise, particularly at the north and northeast end of the Public Space Patio at all times, including the closure of an overhang wall or window flaps after 10 pm each night, or at some other time as reasonably agreed to by the owners and the ANC; and
8. Ensure there is no amplified sound, including the playing of music (live or recorded) on the outdoor patio space. In the alternative, if Chupacabra does not agree to these conditions, the ANC shall oppose the proposed use to the DDOT Public Space Committee.

This motion was adopted June 13, 2013 by a vote of 8 - 0 with five Commissioners needed for a quorum. The vote took place at the regularly scheduled, publicly announced monthly meeting of ANC 6A. ANC 6A meetings are advertised electronically on the [anc6a-announce@googlegroups.com](mailto:anc6a-announce@googlegroups.com), ANC- 6A and NewHillEast yahoogroups, on the Commission's website, and through print advertisements in the Hill Rag.