

MINUTES

ANC 6A Economic Development & Zoning Committee
Wednesday March 17, 2010 7-9:00 p.m.
Sherwood Recreation Center (640 10th St. NE)
2nd floor Community Room

Commissioners: Raphael Marshall (6A01), Drew Ronneberg (6A02)—Committee Chairperson; David Holmes (6A03), Kelvin Robinson (6A08).

Committee Members: Barbara Halleck, Jeff Fletcher, Phil Toomajian, Cody Rice

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

Ongoing Status Reports

H Street Redevelopment (Drew Ronneberg): In the March meeting of ANC 6A, the ANC took action on committee recommendations regarding the H Street Connection development. The full ANC supported the development (design, massing, amenities, traffic management) but took no position on the extra one-hundred extra parking spaces to be paid for by the city. The project will likely go to “set down” (preliminary hearing with the zoning commission) in April with the hearing in July.

Zoning code re-write (Cody Rice): The PUD portion of the DCOZ’s zoning code re-write project is going to kick-off on March 24, 2010. Interested members of the community are encouraged to attend: <http://dczoningupdate.org/>

Wednesday, March 24, 2010
6:30 to 8:30pm
441 4th Street NW
Washington DC
11th floor, Room 1107

Vacant properties (Phil Toomajian): ANC6A adopted the letter we prepared to Councilmember Wells articulating the principles we would like to see in vacant property reform legislation. Jack Evans and Muriel Bowser had both submitted separate legislation and are now working on a compromise of the two bills. Based on an article about the proposed compromise in the Washington Business Journal, ANC 6A wrote a second letter to commend the compromise and highlight two remaining areas of concern--permissive exemptions and failure to provide a grace period then gradual increase in the rate.

See the following articles for a summary:

<http://washington.bizjournals.com/washington/stories/2009/09/21/daily39.html> and

http://washington.bizjournals.com/washington/blog/breaking_ground/2010/02/more_on_dcs_vacant_property_tax_debate.html

We have also starting to look at the ANC’s vacant property map; we believe that many of the properties formerly listed as vacant are now occupied. Phil is looking for assistance in surveying SMDs to confirm the content of the map. The list we started with last winter was over 400 properties; the list is now down to around 150 properties. We want to ensure we have an accurate, current map in place to assist DCRA/OTR when the new legislation is enacted.

Raphael Marshall: what’s the definition of vacant?

Phil Toomajian: Neither bill appears to alter the definition of vacant. There may be a modification of blighted, which is vacant plus other issues. DCRA conduct site visits and does a four point inspection prior to labeling a property vacant.

Vacant and blighted property information:

<http://dcra.dc.gov/dcra/cwp/view,a,1343,q,625194.asp>

http://dcra.dc.gov/dcra/frames.asp?doc=/dcra/lib/dcra/four_point_survey_10_1_08.pdf

New Business

1. **1019 Florida Ave. NE – BZA #XXXXX.** The owner is proposing to build an attached deck on the rear of her house that will increase the lot occupancy to 100%, and hence, requires a variance to lot occupancy, rear yard setback, and the expansion of a non-conforming structure.

The owners bought the house at 1019 Florida Ave. in November 2009 with the plan to have a larger deck or garage. They found out that they would need a variance to build the deck that they want (a car-port with a deck on top) and are completing the due diligence prior to going before the BZA. They want to expand the existing deck, adding a 10'x15' extension. The deck would be elevated and would allow the owner to park their car beneath it, within the fenced in area of their back yard. The owners reported that the alley is currently in disrepair and full of trash. The owners expressed concern that having more eyes and ears from the residents on the alley would be beneficial to the neighborhood. The deck would be high enough for them to be able to view into the alley.

The owners presented drawing and a table showing that they were asking for a lot occupancy of 85% (15% more than the matter-of-right 60%). They also showed pictures of a number of homes with high lot occupancy from around the Capitol Hill area. The owners also provided signed letters showing support for this project from immediate neighbors and expressed that if needed, they could gather more approvals.

The ED&Z Committee Chair, Drew Ronneberg, made some estimates of the lot occupancy and asked the home owners where the 15% open area (after 85% occupancy) resided on the lot. The front yard is most likely public space (as are the other front yards around the entire area). There is also a "dog leg" area—which appears to be 4'; if it's less than 5', it counts as occupied space. The dimensions on the drawing were inconsistent, but it appears that the dog leg was only 4' and the total lot occupancy of the project approached 100%.

Commissioner Holmes stated that the BZA normally allows 70% lot occupancy through special exception. If the occupancy exceeds 70%, BZA will have a problem. The owner responded that their house already occupies 70% of the lot.

Commissioner Marshall expressed a desire to try to find a way to make this request work for his constituent.

Chairman Ronneberg: Since this case involves variance, it is a much higher burden of proof.

Section 3103.1 of Chapter 11 of the DCMR says "With respect to variances, the Board has the power under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(3)(2001) (formerly codified at D.C. Code § 5-424 (g)(3) (1994 Repl.)), "[w]here, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Official Code §§ 6-641.01 to 6-651.02 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship; provided, that the relief can be granted without

substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.”

Does the homeowner have an argument for substantial hardship: The homeowner believes that if they are not able to construct the deck/carport they are requesting, they would suffer substantial hardship in that they would not have outdoor family space and a secure space for their automobile. As it is now, they park their car in the back of their house as there is no residential parking on Florida Avenue. With this arrangement there is no outdoor family space. With their planned deck/carport, they would have both.

Is there anything exceptional about the lot? The rest of the lots on the block are the same.

Cody Rice: there is a set of zoning regulations that go along with the property; in the R-4 district (most of Capitol Hill); you get 60% occupancy of your lot, you have to maintain 20’ of rear yard . There are some special exceptions--you can go to 65% or 70%; after that you are getting into something special or exceptional.

The neighborhood typically expects that the houses generally conform to a similar footprint providing light and air to everyone equitably. We understand the desire to have everything—house, play area, parking. I don’t know whether this is enough to throw aside the expectations of the neighborhood and support a variance. We also must look at the precedent-setting possibility, not only in your area, but across the ANC.

Commissioner Marshall expressed his support for the project. He also expressed that the ED&Z committee may not have a full appreciation of the needs and desires of the community in his single member district.

Commissioner Holmes noted that our recommendations are considered very carefully and we are treated with great respect by BZA, so we need to be careful of the variances we allow.

Commissioner Ronneberg expressed concern about the precedential nature of this request; allowing one family to have 100% occupancy, where we would not allow it in any other locations.

Cody Rice expressed that we should discuss and document our policy regarding special exceptions and variances and our role in reviewing requests. Commissioner Ronneberg stated that this will be put on the agenda for April or May.

Commissioner Robinson stated, regarding 1019 Florida Avenue case, that he’s been hearing that there is a real need for development on that side of the community and that the area is struggling to get people there. He wonders if whether by being more flexible when it comes to the variances if that’s a reasonable price to pay for the neighborhood, if that’s what the residents want.

Phil Toomajian said that he is sympathetic to public safety benefit rationale in support of the deck.

Recommendation (Cody Rice/Drew Ronneberg): Moved that the committee make a recommendation to oppose this application for variance. The motion put forth by Cody Rice passed with the following results: 4 in favor; 1 opposed; and 3 abstentions. (Commissioners Marshall, Holmes, and Robinson were counted in the tally.)

- 2. 213 8th St. NE—Historic Preservation Case.** The homeowner would like to construct a small addition to the rear of the property and would like to get a “sense of the committee” before submitting their plans to HPO.

Marian Wiseman, the homeowner, wants to remove an existing addition to her house that started as a porch but were enclosed some time ago and replace it with a new, small addition that extends 3 feet from the current rear of the house. The lot itself is large and lot occupancy will actually be slightly smaller after the renovation. In actuality, they will be altering a non-conforming building and bringing it more closely into conformance. The side court is less than 6’. The

homeowner has one signed letter from an immediate neighbor and expects to receive letter from the other neighbor. Her neighbors are in support of “replacing the tacky balcony.”

Commissioner Ronneberg: If the project is increasing conformance then it may not need a BZA hearing.

Cody Rice stated that that based on past experience, he would be in support of this if it came before the committee.

Barbara Halleck believes that the project isn't controversial and would also support it.

Drury Talent would like to try to avoid a BZA hearing and get a ruling directly from the zoning administrator. To assist in this process, he requested a letter from the committee indicating support from the ANC supporting the Zoning Administrator's use of the 10% discretion afforded to the office by the Zonign Regulations.

Commissioner Holmes offered to discuss the project directly with the Zoning Administrator, Matt LaGrant. No letter from the ED&Z committee will be necessary.

3. **H Street Historic District:** Potential commercial historic district nomination for H Street NE. Continuation of October 2009 discussion of next steps now that the survey of buildings on H Street is complete. See minutes of previous discussion at <http://anc6a.org/minutes/EDZM102809.pdf>

The H Street historic survey was completed, which is a crucial step in establishing a commercial historic district. There is some consensus on the committee and within the community around certain points—if there is a historic district on H Street, it shouldn't have the same tight regulation as in a historic residential neighborhood.

Donna Hanousek provided some additional information regarding the process of achieving a historic designation for the commercial district on H Street NE.

She noted that without the historic designation, as the economy improves and development heats up, H Street NE will slowly lose buildings over time. We are already seeing some of that even in a down economy. She presumes that most of the people in the room feel that much of what makes H Street special and fun and funky *is* the buildings. The character of the architecture is a competitive advantage for a commercial district and it shouldn't be lost.

Commissioner Holmes stated that from his experience, H Street NE shop owners and restaurant owners and those opening new clothing stores, like the look of H Street. They are pulling in customers and they want to preserve the look and feel of the area because they believe it adds to their success.

Donna Hanousek: It would be good if we could work with ANC6C on the historic district nomination.

Drury Tallant recommended that we try to get a letter of support from H Street Main Street for the historic district. Dru thought that some of the merchants might see historic district designation as a burden, but historic designation would actually offer a level of protection they don't now have. It's important to establish an outreach and education program to help these business owners understand the advantages of being part of a commercial historic district. It's also important for these business owners to differentiate between a commercial historic district and a residential historic district. The commercial version allows more flexibility while maintaining the general “look and feel” of the commercial strip.

Cody Rice: without the design review required by a historic designation, it makes it easier for developers to come into H Street and take over a whole block and replace the current shops with new merchants.

Donna Hanousek: She has expressed the importance of an outreach and education program as an essential next step in getting the local merchants engaged in the process.

Commissioner Robinson stated that he is willing to go along with the commercial historic district but agrees that people need to understand the benefits they will realize.

Commissioner Ronneberg reminded the audience that there are tax benefits as well and that the H Street Connection is on board through their PUD. Clearly we need to do some outreach. Previously he had done some research on the cost and procedure for putting together nomination documents and three outreach meetings; the cost would be between \$10,000-\$15,000 for the whole H Street.

Donna Hanousek proposed an alternative strategy. She believes that we can get the nomination documents done a whole lot cheaper and do the outreach separately.

Drury Tallant again mentioned working with ANC6C—in a historic designation, the boundaries can't be arbitrary; the ANC boundary doesn't really reflect anything about the historic H Street area.

Commissioner Robinson said that it would be necessary for the commissioners to understand a little more about the process that we will have to go through, what are the benefits to the community, and what would it cost? He is not certain that there will be support to move forward from the ANC6A until we understand all of the steps and whether the community would actually be on board. Anecdotally there is evidence of support but we need more concrete information.

Commissioner Holmes: David Maloney, it's better to designate the whole street rather than one part but historic designation can be granted on part of the street.

David: We need to get someone who knows what they're doing to present information to ANC6A about the commercial historic district designation. Commissioner Robinson suggested that up to \$1K for outreach, but before the money is obligated, he would like to know what the money will be spent on. Commissioner Ronneberg volunteered to do find someone to do the presentation and report to Commissioner Robinson the cost and the work that will be done.

Recommendation: (Phil/Drew) – move that we recommend authorize up to \$1K for a limited education regarding commercial historic district outreach campaign. Passed unanimously.

4. Rezoning the area surrounding eastern end of H Street NE to be consistent with the 2006 Comprehensive Plan. The Comprehensive Plan designated specific areas surrounding the eastern end of H Street NE as residential use, while they are currently zoned for commercial use. In addition, the eastern end of H Street NE is zoned for greater density than the central area, while the Future Land Use Map calls for the eastern end to be less dense than the central area.

The Comprehensive Plan has a future land use map that advocates different land use than what is currently envisioned by the Zoning Map. The future Comp. Plan calls for substantial residential where there is now commercial zoning. It also calls for less dense commercial zoning at the eastern end of H Street than in the middle portion of H Street.

Motion—send the draft letter to office of planning to ask for a meeting to discuss rezoning the Eastern H Street area to be consistent with the Comprehensive Plan. If OP does not propose the amendment, ANC 6A would propose it directly to the Zoning Commission. Designate Drew Ronneberg and Andrew Hysell as ANC representatives.. Passed unanimously.

#5 and #6—letters that we've sent to DCRA and city administrator for which we have received no response. Drew makes a motion that we re-contact DCRA and the city administrator and request response to the letters previously sent. Passed unanimously.

Next Meeting

Wednesday April 21, 2010 7-9:00 p.m.
Sherwood Recreation Center (640 10th St. NE)
2nd floor Community Room