

**REPORT OF THE ECONOMIC DEVELOPMENT AND ZONING
COMMITTEE OF ANC 6A
March 27, 2007**

Present: Citizen Members: Drew Ronneberg, Vanessa Ruffin, Rich Luna, Jeff Fletcher, Heather Scott, Linda Whitted.

Commissioners: Nick Alberti, David Holmes, Raphael Marshall, Stephanie Nixon

Drew Ronneberg chaired the meeting.

Community Comments

None

Status Reports

H Street Upzoning Moratorium. Rich Luna reported that ANC 6A's petition for an upzoning moratorium on H Street NE would be filed soon. SPNA and CHRS were in support of the moratorium. ANC 6C will revisit it at their April meetings.

200H (Dreyfus Development). Jeff Fletcher reported that there were new renderings of the 200H project which eliminated the overhanging projection on the H Street facade and included other changes that made the design more acceptable. Jeff reported that a community design advisory group had been created that would operate much like the 600H group and forward recommendations to the developer and architect.

Vacant Properties. Heather Scott reported that she has received over 50 reports of vacant properties and she will contact Rich Luna about getting the properties reported to DCRA and OTR.

Historic District Creation/Expansion. Drew Ronneberg reported that there will be 3 joint meetings with ANC 6C on the expansion of the existing historic district or the creation of a new historic district. The first meeting will be on April 4th at 7pm at the 2nd floor of the NPR building at 635 Mass. Ave NW. The second meeting will be on April 24th at 7pm at the Community Room of Capitol Hill Towers. The final meeting will take place on May 23 at 7pm at Sherwood Recreation Center. A flyer for these meetings are attached to the minutes.

BZA 17610 (1404 Constitution Ave. NE)

Ms. Jennifer Fowler presented plans to dig out a full basement at 1404 Constitution Ave. NE. The basement would be used as an in-law suite and not as a separate unit. Constructing a basement requires a special exception because the house is a non-conforming structure that occupies more than 60% of the lot. Ms. Fowler presented letters of support from both adjacent neighbors. As the basement would neither affect the air or light of the neighboring properties and wasn't visible from the street grade, the committee was satisfied that the conditions of a special exception were met.

Recommendation: The committee unanimously recommends that the ANC send a letter of support to the BZA for a special exception to allow the construction of a basement at 1404 Constitution Ave NE.

BZA 17611 (314 12th St NE)

Ms. Jennifer Fowler presented plans to construct a garage behind 314 12th St NE that accesses off the alley. The owners plan to construct a garage similar in height and depth to the garages of the adjacent

neighbors. In addition the garage will be a replacement for a garage that was demolished on the same site a number of years ago. Ms. Fowler presented a letter of support from one of the adjacent property owners. Mr. Mitchiner, the owner of 314 12th St. NE, said that the other adjacent property owner was on vacation that he was expected to provide a letter of support once he returned. Ms. Fowler intended to present the case to the BZA as a special exception because with the addition of the garage, the lot occupancy will be larger than 60% but below 70%. Ms. Fowler claimed that OP and the BZA are reinterpreting the zoning laws to require a variance for detached garages because they are technically not “additions” under the zoning code. The committee was satisfied that the new garage was similar in height and depth to the neighbor's garage and was meant as a replacement for the demolished garage. As a result, it was felt that either a special exception or a variance should be granted.

Recommendation: The committee unanimously recommends that the ANC send a letter of support to the BZA for a special exception or a variance to allow the construction of a garage at 314 12th St. NE.

1225 Wylie St. NE

Ms. Vanessa Ruffin claimed that there were numerous problems with the construction at 1225 Wylie St. including the construction of a 3rd floor addition that required the use of party walls of the adjacent properties. Ms. Ruffin was concerned that the 3rd floor and lot occupancy violated zoning code. She also said that she could not find the permit application or the plans on file at DCRA and was concerned that the permits may have been fraudulently issued. Ms. Ruffin also claimed that the developer received a Stop Work order and continued to work on the property in violation of the order. Drew Ronneberg said that a 3rd floor is permitted as a matter-of-right in R-4 districts. Another committee member asked for documentation to show that the stop work order was still in effect when the construction was resumed. In order to determine if the construction was within the scope of the permits and plans, Ms. Ruffin asked the committee recommend that the ANC send a letter asking for the items that she did not receive from DCRA.

Recommendation: The committee unanimously recommends that the ANC send a letter to DCRA requesting copies of the applications, plans, permits and records of notifications to adjacent property owners for 1225 Wylie St. NE.

423 18th St NE. Commissioner Nixon reported that the apartment building at 423 18th St. NE originally had 12 small units, but that they were combined to six units during a recent renovation. In addition to combining the original units, an addition with six new units was added to the building. Ms. Nixon was unable to obtain plans from DCRA and the online tracker showed that permits had not been issued for the site. Commissioner Nixon suspected that the displayed permits were fraudulent and asked the committee recommend that a letter be written to DCRA requesting the building permit application, plans and permits. Ms. Nixon also requested that the ANC notify DCRA that illegal construction had taken place at the site because proper permits had not been issued.

Recommendation: The committee unanimously recommends that the ANC send a letter to DCRA requesting copies of the applications, plans, permits and for 423 18th St NE and notify DCRA about the illegal construction that has taken place at the property.

ZC No. 06-23 (Text Amendment – Eating Establishment Definitions)

The current definition of a fast food restaurant is based on operational characteristics like the percentage of food items prepared before the customer places an order or whether an establishment serves food in disposable containers. The current definition makes it impossible to determine if an establishment is a fast food restaurant based on the submitted plans, and thus DCRA must rely on the self-reporting of applicants. On May 12, 2006 ANC 6A petitioned the Zoning Commission to change the definition of a

fast food restaurant so that an establishment could be determined to be a fast food restaurant by physical characteristics shown on a set of plans. For example, if the building plans do not depict a dishwasher or do depict trash receptacles in public areas, then the condition of disposable plates would be satisfied. Many of the physical characteristics that were in ANC 6A's original proposal did not make it into the draft regulations.

Rich Luna pointed out that in the proposed regulations, an owner could self-certify that a service counter shown in the plans is clearly subordinate to the principal use of a restaurant, and that this would escape the definition of a fast food restaurant. Mr. Luna claimed that this was exactly the same problem of self-certification that exists under the current regulations. He also stated that the requirement that food be cooked allowed loopholes for microwaved or warmed food. These loopholes did not exist in regulations proposed by ANC 6A.

Mr. Luna also proposed that the H Street Overlay be amended to limit the percentage of fast food restaurants to 15% on any block rather than for the overlay as a whole.

Recommendation: The committee unanimously recommends that the ANC send a letter of support to the Zoning Commission for the new definitions of a fast food establishment but that the Zoning Commission adopt changes that will eliminate the problem of self-certification for restaurants with service counters and the vagueness of the proposed regulations.

Additional Designated Representatives for Ongoing Zoning Commission Cases

The 200H Case and the H Street Upzoning Moratorium case currently have one designated representative (Jeff Fletcher for the 200H case and Rich Luna for the Upzoning Moratorium Case.) This is problematic because if these individuals have to withdraw for work or personal reasons, ANC 6A would be left with no designated representative. It was decided that it would be wise to have additional representatives for these cases in case the principal representatives needs to withdraw.

Recommendation: The committee unanimously recommends that the ANC send a letter to the Zoning Commission designating Drew Ronneberg and any officer of ANC 6A as representatives for the 200H case and the H Street Upzoning Moratorium case.

**Next Scheduled ED&Z Committee Meeting:
Tuesday, April 24, 2007
7-9 PM
900 G Street, NE
Community Room of the Capitol Hill Towers**