

**FOGGY BOTTOM AND WEST END
ADVISORY NEIGHBORHOOD COMMISSION 2A
MEETING MINUTES
July 21, 2010
SCHOOL WITHOUT WALLS, 2130 G St., N.W.**

Call to Order

Chair Rebecca Coder called the meeting to order at 7:10 PM. Commissioners Malinen, Lehrman, Harmon, Corson and Ms. Coder introduced themselves. A quorum being present, the Commission adopted the meeting agenda, with two additions to the regulatory agenda.

General Agenda

Public Comments

Ellie Becker called attention to a straw vote on mayoral and other city candidates being held in the neighborhood concurrently with this meeting. She also called attention to a candidates forum scheduled for August 3 at Sumner School, 17th & M sts. N.W.

Michael Akin of George Washington University introduced Darnell Caddette, a professional fellow now working with the university's Community Relations Office.

No member of the Metropolitan Police Department being present, no public safety report was made.

Informational Presentations

Ms. Coder introduced Gabe Klein, director of the District Department of Transportation, who introduced his colleague Jamie Henson, a transportation planner at DDOT. Mr. Klein began by describing DDOT's bike-sharing program, which will add 20 such stations in the West End and Foggy Bottom during the program's initial stage in fall 2010. The program is part of DDOT's effort to improve quality of life in the District by emphasizing alternatives to the automobile in its transportation planning. Other elements include the Circulator "local bus service," new bike lanes (including lanes on L and M sts.), market-rate valuation of publicly owned automobile parking spaces and an increased emphasis on pedestrian safety.

Discussion by commissioners and members of the public focused on whether DDOT's program was attempting "too much too fast," on the justification of and

models for the bike-friendly policy, pedestrian safety at Washington Circle and on the program's impact on residential parking in these neighborhoods. In response, Mr. Klein reviewed the history of the District's transportation development during the era of automobile dominance established during the 1960s by federal policy and emphasized DDOT's "heavy duty data analysis" as the basis for planning. Mr. Henson discussed the planned conversion of New Hampshire Ave. to a two-way street between DuPont and Washington circles, which is expected to begin on March 29, 2011 and to be completed by August 2012.

Mr. Klein also reviewed DDOT's plan to reintroduce streetcars into the District's transportation mix, beginning in Northeast and Southeast Washington. Eventually the streetcar system will extend to K Street N.W., linking Union Station and Washington Circle. Between 25 and 50 percent of the 1.5 billion dollar cost of the new system will come from private sources, he stated. The National Capital Parks and Planning Commission, historically automobile-oriented, has limited authority in these matters and has recently conceded as much in writing.

Special Event

Ira Brody of Washington Sports & Event Management described plans for the Nation's Triathlon scheduled for September 12, 2010, emphasizing street closing and other impacts in this neighborhood. Commissioners made no objections and directed the executive director to send a letter stating as much to Mr. Brody.

Informational presentations (cont'd)

Mr. Josh Levin, an independent film producer and former restaurant and bar owner, described his plan to revive the West End Cinema at 23rd & M sts. N.W. The reopened theater will emphasize documentary and arts films and festival programs and will serve alcohol and "real food." Occupancy will be below the current 258-seat capacity. He is planning to open the new facility on or about October 1, 2010.

Joyce Tsepas, Ward 2 Community Planner with the DC Office of Planning, gave an overview of the OP and the process that moves from planning to implementation. Commissioner and public commenters focused on the need for more transparency in planning decisions and for plans to be based on current demographics, especially in public recreation.

Regulatory Agenda

Mitchell Herman, co-owner of Ris Restaurant, described the discrepancy among permits issued by various D.C. agencies governing occupancy limits for outdoor sidewalk seating at the corner of 23rd and L streets, N.W. He asked the Commission's support in establishing a uniform limit of seventy (70) seats. He further asked for flexibility in installing four to eight umbrellas to the outdoor seating area. Commissioners raised no objection to these changes, nor did members of the public attending this meeting.

Commissioner Harmon introduced a resolution on the value of Voluntary Agreements attached to liquor licenses and on the application from Panutat LLC to establish a new nightclub in our neighborhood, now pending before the Alcoholic Beverages Control Board. The resolution was adopted by a vote of 5-0 and is attached to these minutes as Appendix 1.

In adopting this resolution, the Commission was guided by public statements made by Mayor Fenty and by Attorney General Peter Nickles that Voluntary Agreements negotiated by Advisory Neighborhood Commissions and ABRA license applicants are contracts entitled to constitutional protection. A copy of a letter to the Mayor reiterating this opinion is attached as Appendix 2.

Administration and Commissioner/Committee Reports

Commissioner Coder moved adoption of the June 16 meeting minutes. The motion passed by a vote of 5-0.

Treasurer Malinen presented the 3rd Quarter financial report prepared by Executive Director Williams and moved its adoption. The motion passed by a vote of 4-0.

Mr. Williams presented a report on the previously locked file cabinets housed in the West End Library and discussed plans for consolidating these files with those held by him and by commissioners. Discussion focused on bringing the ANC's practices into line with DC government retention schedules and archives policy.

There being no further business, the Commission adjourned at 9:28 PM.

Minutes approved October 13, 2010 by a vote of 6-0

Appendix 1

ANC 2A RESOLUTION ON VOLUNTARY AGREEMENTS

WHEREAS Advisory Neighborhood Commission 2A, serving Foggy Bottom and the West End (“Commission” or “ANC 2A”) is relying and has relied on the ABRA License Application No. 75871-Retail Class “C” Night Club dated September 21, 2006 by Acott Ventures LLC, which stated that Acott Ventures LLC sought a Retail CN night club license for *both the first floor and basement* of 2131 K Street, NW, Washington, DC for a nightclub known as Shadow Room a/k/a Shadows (See Acott Ventures LLC ABRA Application dated 9/21/06 attached as Exhibit A);

WHEREAS ANC 2A is relying and has relied on the ABRA Order dated September 5, 2007 which limited the operations of the Shadows Nightclub located at 2131 K Street, NW, Washington, DC, on *both the first floor and basement* to total occupancy of 300 persons (See ABRA 9/5/07 Order attached as Exhibit B);

WHEREAS on November 2, 2008, Acott Ventures, LLC (“Shadows” or “Shadow Room”) and ANC 2A entered into a Voluntary Agreement in response to a “substantial change” application filed by Shadows for increased hours and occupancy, whereby Shadows agreed to withdraw its request for increased occupancy for both the first floor and basement of 2131 K Street, NW, in exchange for the ANC 2A agreement for increased hours for Shadows. See Exhibit C attached, ¶ 3 of Voluntary Agreement.

WHEREAS on November 12, 2008, ABRA issued an Amended Order on Voluntary Agreement, which clearly states that the Shadow Room license covers the first floor and basement of 2131 K Street, N.W. See Exh. D. This Order states

“The official records of the Alcoholic Control Board (Board) reflect that Acott Ventures, LLC t/a Shadow Room (Applicant), holder of a Retailer’s Class “CN” license at premises 2131 K Street, N.W. has filed an Application for a Substantial Change to extend its hours of operation and sales and to increase its patron capacity on the ***establishment’s two floors.***” (Emphasis supplied noting that the only two floors on the Shadow Room September 21, 2006 ABRA Application are the “first floor and basement” of 2131 K Street, N.W.)

WHEREAS the same owners of Acott Ventures LLC (Das Swaptek, Steve Acott, and Panutat Khunachak) formed Panutat LLC, which applied for New License No. ABRA-083267 (Retail Class “C” Night Club) for the basement 2131 K Street, NW, for a nightclub to be known as Sanctuary 21, which location was already subject to the Alcoholic Beverage Control Board’s 9/5/07 Order expressly limiting occupancy on *both the first floor and basement* of this location to a total of 300 persons and to the ANC 2A voluntary agreement dated 11/2/08, which relied on this 300 person total occupancy limit on both the first floor and basement of 2131 K Street in granting

Acott Ventures increased hours (See Panutat LLC nightclub application dated 10/15/09 attached as Exhibit E);

WHEREAS, ANC 2A voted unanimously on January 20, 2010 to protest the ABC Application of Panutat, LLC for New License No. ABRA-083267 for the basement space at 2131 K Street, NW since it was identical to the basement space under the license of Acott Ventures LLC and controlled by the Alcoholic Beverage Control Board's 9/5/07 Order, as well as the Voluntary Agreement with ANC 2A;

WHEREAS at the hearing on April 28, 2010, the Board orally denied Protestants' motion to dismiss Panutat, LLC's application for a new license and proceeded with the protest hearing by incorrectly concluding that the Sanctuary 21 Retail CN Application is for a different location than the Shadow Room Retail CN license "because ABRA records indicate that the ABC license for Shadow Room does not include the basement of 2131 K Street";

WHEREAS, it has come to ANC 2A's attention that ABRA has adopted a new policy of rejecting voluntary agreements between applicants for a liquor license and other ANCs and such action is unprecedented;

THEREFORE, BE IT RESOLVED that ANC 2A has been and remains opposed to the issuance of a new Retail CN nightclub license for Panutat LLC for operation of a "new" nightclub in the same basement space at 2131 K Street, NW which is in conflict with and contrary to prior board rulings for the same space for the Shadow Room with an occupancy limitation;

THEREFORE, BE IT FURTHER RESOLVED that ANC 2A also expresses its grave concern over the Board's repudiation of its Voluntary Agreement dated 11/2/08 with Acott Ventures LLC and failure to respect ANC voluntary agreements in general.

Appendix 2

LETTER TO MAYOR TRANSMITTING RESOLUTION ON VOLUNTARY AGREEMENTS

July 23, 2010

Hon. Adrian M. Fenty
Mayor of the District of Columbia
Executive Office of the Mayor
John A. Wilson Building
1350 Pennsylvania Ave., N.W., Suite 316
Washington DC 20004

Dear Mr. Mayor:

At its regular, duly-noticed monthly meeting held July 21, 2010, with a quorum present, ANC2A adopted, by unanimous vote, the attached resolution, which has to do with the enforcement of Voluntary Agreements attached to liquor licenses, and with a particular application from our neighborhood now pending before the Alcoholic Beverage Control Board.

In adopting this resolution, the Commission was guided by your statement made at the time of the presidential inauguration of 2008 supporting the opinion of Attorney General Peter Nickles that Voluntary Agreements negotiated by Advisory Neighborhood Commissions and ABC license applicants are contracts entitled to constitutional protection.

ANC2A therefore opposes any attempt by the ABC Board to abrogate or otherwise weaken these agreements and urges you to reaffirm your support of these agreements. They are important instruments by which neighborhoods promote business expansion while protecting their stability and quality of life.

Sincerely,

Rebecca Coder
Chair