

**ANC 2B DUPONT CIRCLE ADVISORY NEIGHBORHOOD COMMISSION REGULAR
MEETING MINUTES**

Wednesday, April 10, 2013 Brookings Institution

The April Regular Meeting of the Dupont Circle Advisory Neighborhood Commission (Commission or ANC 2B) was called to order by Chairman Stephens at 7:00 pm. The Commissioners identified their Single Member Districts (SMDs). Present were: Mike Feldstein (2B01), Kevin O'Connor (2B02), Stephanie Maltz (2B03), Kishan Putta (2B04), Abigail Nichols (2B05), Leo Dwyer (2B07), Will Stephens (2B08), and Noah Smith (2B09). Commissioner Silverstein (2B06) expected for late arrival due to his duties on the ABC Board. The Chair noted the presence of a quorum.

Chairman Stephens passed out the April-May monthly ANC Work Calendar and noted that there are 4 weeks in between ANC meetings this month.

Commissioner Smith made a motion to approve the March minutes. Commissioner O'Connor seconded the motion. The motion carried (8-0).

Public Announcements

1. Commissioner Stephens: Ward 2 Budget Town Hall will be held on 4/20/13 2pm at Sumner School. The ANC is co-sponsoring.
2. Commissioner Feldstein: Annual Dupont Circle Village Silent Auction will be held on 4/12/13 6:30pm-10pm at the Women's National Democratic Club, 1526 New Hampshire Ave NW
3. Commissioner Stephens: Ward 2 At-Large Straw Poll will take place on 4/16/13 (Ward 2 Democrats), 7pm at the Dupont Circle Hotel
4. Out of Darkness Overnight Walk (Amer. Foundation for Suicide Prevention) 6/1/13-6/2/13: Organizers described the walk, including part of the route through ANC 2B, and requested a letter of support. Commissioner Stephens moved to support. Seconded by Commissioner Dwyer. Passed 8-0.
5. Stonewall Kickball All-Star event (5/4/13), Dragball event (6/2/13), & movie night after dragball sponsored by Capital Pride in Stead Park: Organizers described the event and requested a letter of support. Commissioner Stephens moved to support. Seconded by Commissioner O'Connor. Passed 8-0.
6. EU Embassies Open House on 5/11/13 (Sandi Auman) 10am-4pm; Ms. Auman described the event and asked to use the Resource Center as a headquarters and staging area as in past year. The ANC approved by acclimation the use of the Resource Center for this purpose.
7. Commissioner Feldstein: On 4/21/13 the new "Glen's Garden Market" located at the old "Secret Safeway" location will open from 8am-10pm.
8. Commissioner Stephens provided updates on the website, including work on a new home page slide show and updated videos, as well as new "general" ANC email addresses: commissioners@dupontcircleanc.net, officers@dupontcircleanc.net, abra@dupontcircleanc.net, zpd@dupontcircleanc.net, and community@dupontcircleanc.net.
9. Commissioner O'Connor reminded everyone to use #anc2b on Twitter
10. Commissioner Putta announced that the Mayor's budget proposal includes an approved \$1.6 million for renovations at Stead Park (for FY 2015), but that requests are being made to move this into the FY 2014 budget.
11. Commissioner O'Connor: ABRA Policy Committee listening session on the proposed U Street moratorium will take place next Wednesday at 7pm at the Chastleton Ballroom.
12. Commissioner O'Connor: Council will be having a hearing on food truck regulations on May 10th.
13. Community member: Dog park cleanup at 9am at Stead & T St park this Saturday
14. Skip Coburn of the DC Nightlife Association announced 2 new programs: 1) Raising awareness on sexual harassment 2) program to discourage using fake and fraudulent IDs; MPD posting a 40-page document: Best

Practices for Nightlife Establishments. Commissioners Stephens and O'Connor noted that this would be a good discussion item for a future ABRA Policy Committee meeting.

15. Ruth Werner from Jack Evans Office announced that new regulations are pending regarding sidewalk & mobile vending.

16. DC Black Pride Health & Wellness Fair 5/26 12-6pm. Organizers described the event and asked for a letter of support. Moved by Commissioner Stephens, seconded by Commissioner Feldstein. Approved 8-0.

Regulatory

Alcohol Applications

License Renewals – NO ACTION taken on any of the following alcohol license renewals:

First Set: Renewal of CR (restaurant full bar) licenses

1. Alero Restaurant, 1724 Conn Ave NW (2B01)
2. Thai Chef, 1712 Conn Ave NW (2B01)
3. City Lights of China, 1731 Conn Ave NW (2B01)
4. Food Corner Kabob, 2029 P St NW (2B02)
5. Scion Restaurant, 2100 P St NW (2B02)
6. Kramerbooks & Afterwards Café, 1517 Conn Ave NW (2B03)
7. Dupont Italian Kitchen, 1637 17th St NW (2B04)
8. Mari Vanna Restaurant, 1141 Conn Ave NW (2B05)
9. The Meeting Place, 1707 L St NW (2B05)
10. Trattu, 1823 Jefferson Pl NW (2B06)
11. Sichuan Pavilion, 1814 K St NW (2B06)
12. The Palm, 1225 19th St NW (2B06)
13. Bertucci's, 1218 Conn Ave NW (2B06)
14. Otello, 1329 Conn Ave NW (2B07)
15. Café Citron, 1343 Conn Ave NW (2B07)
16. Kababji, 1351 Conn Ave NW (2B07)
17. Selam Restaurant, 1524 U St NW (2B09)

Petition date 5/6/13; Hearing date 5/20/13

1. Mandu, 1805 18th St NW (2B01)
2. Pesce, 2002 P St NW (2B02)
3. Ping Pong, 1 Dupont Circle NW (2B02)
4. Raku, 1900 Q St NW (2B03)
5. McCormick & Schmick, 1652 K St NW (2B05)
6. Vapiano, 1800 M St NW (2B06)
7. Nooshi, 1120 19th St NW (2B06)
8. Vidalia, 1990 M St NW (2B06)

Second Set: Renewal of DR (restaurant beer/wine only) licenses (Petition date 5/6/13; Hearing date 5/20/13)

1. Zorba Cafe, 1612 20th St NW (2B02)
2. Loeb's Deli, 1712 I St NW (2B06)

Third Set: Renewal of CX (multi-purpose) licenses (Petition date 5/6/13; Hearing date 5/20/13):

1. Art Jamz, 1728 Conn Ave NW (2B01)
2. Washington Post, 1150 15th St NW (2B05)

Fourth Set: Renewal of C (hotel) licenses:

Petition date 4/29/13; Hearing date 5/13/13

1. Hilton Washington Embassy Row Hotel, 2015 Mass Ave NW (2B02)
2. Tabard Inn, 1739 N St NW (2B05)

Petition date 5/6/13; Hearing date 5/20/13

1. Courtyard by Marriott, 1600 Rhode Island Ave NW (2B05)

Fifth Set: Renewal of C (club) licenses:

Petition date 4/29/13; Hearing date 5/13/13

1. Cosmos Club, 2121 Mass Ave NW (2B02)

Petition date 5/6/13; Hearing date 5/20/13

1. Sulgrave Club, 1801 Mass Ave NW (2B07)

New Application by Sakana (ABRA #014963), 2026 P St NW, for a 10 seat Summer Garden. Hours: 11:30am-10:30pm (2B02)

Commissioner O'Connor explained that this summer garden has been in use for some time. Commissioner O'Connor moved to support. Seconded by Commissioner Feldstein. Passed 8-0.

New Request by Circa Dupont to Change a "Voluntary Agreement" to a "Settlement Agreement" with additional sidewalk cafe hours (2B03)

Steve Gavula presented on behalf of Circa. Commissioner Maltz read the following resolution which was seconded by Commissioner Feldstein. Passed 8-0.

WHEREAS, Circa Dupont has been a benefit to the neighborhood, by adding a trash compactor;

WHEREAS, the requested extension is only one additional hour beyond current hours of operation and still below the maximum hours permitted;

THEREFORE, BE IT RESOLVED that the Dupont Circle Advisory Neighborhood Commissioner 2B supports changing the existing "Voluntary Agreement" to a "Settlement Agreement" with the outdoor summer garden hours of 12:00 a.m. Sunday through Thursday, and until 1:00 am, Friday and Saturday.

Commissioner Silverstein arrived to the meeting.

Public Space Applications

Application (Tracking #79874) by Embassy of Indonesia, 2020 Mass Ave NW, for erection of statute on public space (2B02)

Commissioner O'Connor moved to support. Seconded by Commissioner Feldstein. Passed 9-0.

Application (Tracking #78882) by Heritage India, 1901 Pennsylvania Ave NW, for public space sidewalk cafe (2B06)

Commissioner Maltz moved to support. Seconded by Commissioner Putta. Passed 8-0, with Commissioner Silverstein not participating due to his position on the ABC Board.

Application (Tracking #78070) for installation of benches in public space at 1900 M Street NW (2B06)

Commissioner Silverstein moved to support. Seconded by Commissioner Feldstein. Passed 9-0.

Historic Preservation & Zoning Applications

Application for zoning variance from 1412 Hopkins St NW for rear deck (2B02)

Commissioner O'Connor read the following resolution which was seconded by Commissioner Stephens and passed 9-0.

Whereas the Zoning Preservation and Development Committee was presented with a request for a zoning variance for the residence of 1412 Hopkins Street NW for a rear patio elevated to the first floor from the ground floor;

Whereas the applicant committed that the north structural steel column and bollard be located at the midpoint of the north side of the patio, instead of at the corner of the patio;

Therefore be it resolved that ANC 2B supports the request for zoning variance, provided that the column and bollard are relocated as described above, based on the following:

1. the patio will improve the quality of air and light by raising the exterior space above the neighboring concrete wall that currently blocks light and air;
2. the project improves the equity of the property because the neighboring patio is similarly elevated; and
3. the project does not incur additional hardship to the neighbors but improves the aesthetic of the alley.

Application to HPRB for 1412 T Street for construction on vacant lot (2B09)

Commissioner Smith read the following resolution which was seconded by Commissioner Maltz and passed 9-0.

That ANC 2B cannot support the project as presented because we do not have sufficient information; That we are concerned that the depth of the project in the rear, coupled with the additional height, is not appropriate for the context;

That ANC 2B requests a one-month delay in order to see this additional information and see these issues addressed;

That ANC 2B therefore would like to see the following additional information and tests:

1. Rear alley photos along both sides of the alley, showing in particular how far back other houses extend into the alley;
2. Sightlines along T Street coming from both 14th Street and 15th Street;
3. A flag test;
4. A light study for the rear, including scenarios that both maintain and eliminate the existing tree in the rear;
5. Massing drawings showing more of the block in context; and
6. A photo of the existing tree in the rear;

That ANC 2B requests the following commitments from the applicant on the project:

1. That the exterior front stair area-way be moved to the interior of the structure;
2. That no roof deck will be included; and
3. That the applicant will engage an arborist to consider the effect on the existing rear tree, and will provide a similar and appropriate replacement tree (or trees) after construction if there is damage or removal of the rear tree.

Proposal by 1216 18th Street NW (HPA #13-212) for rooftop deck and concealment of mechanical equipment (2B06)

Commissioner Silverstein did not participate in this matter due to his position on the ABC Board and the

potential overlap of these HPRB issues with alcohol-related issues and the applicant's Voluntary Agreement. Commissioner Maltz read the following resolution which was seconded by Commissioner Stephens. After an amendment passed 5-0-3 and a friendly amendment striking the last clause which was seconded by Commissioner Stephens, the new resolution passed 7-0-1. The final resolution reads as follows:

Whereas the construction at this location has begun without appropriate permitting;

Whereas construction continued despite stop work orders issued by the District;

Whereas the construction team illegally removed stop work orders on multiple occasions;

Whereas ANC 2B has already negotiated an alcoholic beverage "Voluntary Agreement" for this location with certain limitations negotiated for the roof structure;

Therefore be it resolved that ANC 2B asks HPRB to ensure that any concept design is consistent with those terms of the Voluntary Agreement;

Be it further resolved that ANC 2B does not currently have objection to the renderings as presented but requests a full presentation to the DCC and the ZPD committee prior to the HPRB hearing at the end of April.

Committee & Liaison Reports

Zoning, Preservation & Development Committee

1. Consideration of comments to Historic Preservation 2016 plan. Commissioner Stephens read the following resolution which was seconded by Commissioner O'Connor and passed 9-0. Commissioner Smith offered a friendly amendment which was accepted and incorporated in the final resolution below.

Whereas, the Historic Preservation Office (HPO) has released a draft "2016 District of Columbia Historic Preservation Plan: Enriching Our Heritage" and seeks public comment;

Whereas, ANC 2B recognizes the effort that went into the draft plan and commends the HPO on its work;

Whereas, ANC 2B includes parts of 5 historic districts and numerous designated historic landmarks, and thus deals regularly with the Historic Preservation Review Board (HPRB) and the HPO;

Whereas, ANC 2B agrees with the draft report that "some of the [HPRB/HPO] systems are rusty," that the HPRB/HPO "communications are not up to par," and that the HPRB/HPO "need[s] to strengthen and reinvigorate . . . partnerships," especially with respect to ANCs;

Therefore be it resolved that ANC 2B requests that the draft plan be revised to address explicitly the following points:

1. **Effective Enforcement** The plan should explore how to more effectively enforce historic preservation laws, rules, decisions, and orders. This may require a more formalized enforcement relationship between HPO/HPRB and DCRA. Frequently, violators pay a limited fine, sometimes as little as \$500, but are not forced thereafter to actually correct the offending construction or work. Rules and decisions are not meaningful unless they can be properly enforced.

2. **Great Weight: Addressing ANC Opinions** The plan should address improving how ANC resolutions are discussed in HPO staff reports and HPRB decisions. The HPO/HPRB needs to comply with D.C. law requiring

agencies to provide “great weight” to ANC opinions by addressing, point-by-point, any ANC resolutions submitted to the HPO/HPRB. Currently, HPO staff reports frequently fail to even mention the ANC opinion, let alone discuss each substantive point set forth in the ANC resolution as required. This means that the final HPRB action, which is generally an adoption of the staff report (with or without changes), does not explicitly address relevant ANC resolutions. This violates D.C. law and needs to be corrected.

3. Great Weight: Notice to ANCs The plan should address improving notice to ANCs of applications before the HPRB. The HPO/HPRB is the only regulatory board that does not currently send a notice document directly to ANCs for each application within the respective ANC that will be on the board’s agenda. This is contrary to the practice of the Alcoholic Beverage Control Board, the District Department of Transportation Public Space Committee, the Board of Zoning Adjustment, and the Zoning Commission. In practice, this diminishes “great weight,” because it prevents ANCs from carefully reviewing HPO/HPRB applications and providing timely and thoughtful opinions.

4. Transparency and Accessibility We support the plan’s recognition that the “government’s rules for the preservation process should be understandable and easily obtained.” We find that HPRB/HPO decision-making is difficult to predict and difficult to follow. The HPRB/HPO should develop and share an understandable plan of procedures and guidelines. This should include (1) an HPRB docketing system, (2) published transcripts of all HPRB meetings, (3) final crafted and published HPRB orders, similar to the orders issued by other boards such as the Board of Zoning Adjustment or the Alcoholic Beverage Control Board. Again, those orders should address ANC resolutions point by point, as described above.

5. Ensuring Timely and Fair Staff Reports The plan should address how to improve the timeliness and fairness of HPO staff reports. The HPO needs to release draft staff reports in time for relevant ANCs to weigh in and respond, before the HPRB hearing on the matter. Otherwise, ANCs are submitting opinions in a vacuum, rather than addressing the discrete points that will be before the HPRB in the staff report. In addition, the HPRB needs to ensure that staff reports are fair and cite all relevant precedent. For example, the HPO issued a 16-page staff report on the ICG/Third Church project (900 16th St NW) that referenced the height of buildings as far away as Massachusetts Avenue NW, but never mentioned the Hay-Adams Hotel less than one block away, which was granted a waiver by HPRB four years earlier, and is higher than what the ICG/Third Church sought in its application.

6. Fair Appeals Process The plan should address the process for appealing an HPRB decision, which can be slow and costly. The HPRB/HPO should work together with the Mayor and Council to develop and ensure a fair, efficient, and transparent appeals mechanism that is not overly burdensome on applicants.

7. Recognition of the Place of Preservation Among Other Important Policies & Values The plan lacks any discussion of how preservation fits into the framework of broader law and policy in the District, and that other values and policies – such as civil rights, treatment of the aged and disabled, public safety, smart growth, individual property rights, or economic development – may at times override preservation concerns.

8. Consideration of Americans with Disabilities Act (ADA) Concerns The plan should address how to improve HPO/HPRB procedures when seniors and the disabled are involved. The HPO/HPRB needs to provide for fast-tracked consideration of ADA-related proposals – especially those that involve modifications to structures to allow seniors and those with disabilities to stay in their homes. Seniors and disabled citizens who suffer health setbacks cannot wait months or years for approval of such modifications.

9. Recognition of the Supremacy of the Constitution and Federal Law The plan should address how HPO/HPRB will incorporate applicable Constitutional and federal laws explicitly into its decision-making. The

HPO/HPRB must recognize that the United States Constitution and federal law, as the supreme law of the land, control HPRB/HPO decision-making and actions. In past cases, the HPRB has refused to consider or discuss the implications of the First Amendment, the Religious Freedom Restoration Act, the Religious Land Use and Institutionalized Persons Act, and the Americans with Disabilities Act (ADA). This was done ostensibly on the basis that the HPRB is limited to considering only the relevant regulatory factors under D.C. law, and those federal questions went beyond that limited scope. This represents a fundamental misunderstanding of how law works in the United States. All government bodies must comply first and foremost with the Constitution, then applicable federal law, and then applicable local law. Ignoring Constitutional and federal law questions is not behaving with limited scope and power, but with overly expansive power. D.C. laws limit the powers of the HPO/HPRB, and the Constitution and federal law limit those powers even further.

10. Respect for Democratic Choices The plan should address how to improve upon the substantive rules for historic districts and the processes for approving historic districts, not just how to communicate about preservation more effectively. The plan frames the opposition to new historic districts in Barney Circle, Chevy Chase, and Lanier Heights as a communication and perception failure. This implies that if residents had better understood historic district designations, the districts would have been approved. This demonstrates a lack of respect for the democratic process. It also represents failure to recognize that the substantive rules of historic districts may need to be revised to address legitimate voter concerns.

11. Expanding the “Economic Hardship” Criteria to Include Non-profits The plan should address correcting the oversight that non-profits are not explicitly included in the waiver rules. Under existing rules, applicants who demonstrate economic hardship may be granted a waiver. However, the rules as drafted include hardship on for-profit entities, but do not include non-profit entities, such as schools, charities, or religious institutions. This should be corrected.

Be it further resolved that ANC 2B requests that HPO ensure substantial ANC commissioner participation in its “steering committee” that the HPO has convened for the plan.

2. Next Meeting: Tuesday 5/7/13 7pm at the Resource Center (First Tuesdays)

Community Involvement Committee

1. Commissioner Feldstein gave a brief update regarding the status of the Grants Paper.
2. Update on Logan Circle / Dupont Circle ANC Education Leaders: Commissioner Maltz proposed cosponsoring a meeting on 5/11/13. Seconded by Commissioner Putta. Passed 8-0.
3. Next Meeting: 4/15/13 7pm at the Resource Center (Third Mondays)

Public Safety Liaisons

1. Commissioner Smith gave brief update regarding the 15th St bike lane upgrades/construction.

*Commissioner Reports *

Short Reports on Old Business tabled except for the following:

Commissioner Silverstein moved to invite the family members of Harland Garland to be ANC 2B’s guests at the Pride Parade. Seconded by Commissioner Stephens. Passed 9-0.

Administrative/Financial Matters

1. Commissioners approved Nicole Baillis as Deschaine Community Involvement Intern and Qiuchi (Angela) Zhou as Coudriet Public Policy Intern, for the “Summer Semester” to begin May 1, 2013, including a stipend

for each intern in accordance with the Commission's previously-approved budget.

2. Commissioner Maltz moved to approve \$167.00, subject to DC Auditor's Office approval for the expense, for cosponsoring a candidate forum with the Foggy Bottom Association, ANC 2A, and the Dupont Circle Citizens Association. Seconded by Commissioner Stephens. Passed 9-0.

Adjournment (10:00pm)