

Dupont Circle Advisory Neighborhood Commission (ANC2B)

Report of the West Dupont Liquor License Moratorium Committee

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Reposted with corrected special meeting location on April 20, 2015

The Dupont Circle ANC will address the west dupont liquor license moratorium at its special meeting on Monday, April 27th at 7:00pm at the 1740 Massachusetts Avenue, Johns Hopkins Nitze Building, Kenney-Herter Auditorium. We encourage public participation at that meeting or to send comments to ANC Commissioners via email at commssioners@dupontcircleanc.net.

Establishment of the Moratorium Committee

Since 1994 a liquor license moratorium has been effect in the western portion of Dupont Circle—approximately 600 feet in each direction from the intersection of 21st and P NW. The moratorium limits the number and type of liquor licenses within the geographic area. On January 14, 2015, with the expiration of the West Dupont Liquor License Moratorium Zone approaching, ANC2B passed a resolution creating the ad-hoc West Dupont Moratorium Working Group in order to establish an impact driven and neighbor-focused community engagement process regarding the future of the West Dupont Moratorium Zone. The working group held public meetings, engaged a broad spectrum of the business and residential community, and developed recommendations to be considered at the April special meeting of the ANC. The ANC will provide advice to the Alcoholic Beverage Control Board for their review and action.

The following members were appointed:

- Daniel Warwick, Commissioner of ANC2B02 (Chairperson)
- Mike Feldstein, Commissioner of ANC2B01 (Vice-Chairperson)
- Patrick Kain, Appointed Liquor Liaison of ANC2B06
- Karyn Robinson, Resident and former Commissioner of ANC2B02

Public Outreach

The Working Group held three publicly noticed public meetings and posted an online questionnaire to gather feedback that was open for over a month. In addition, emails were sent to stakeholders and announcements were made in the Dupont Forum online group. Finally, meetings were publicized in the Dupont Current by the Dupont Circle Citizens Association and a news article written by Graham Vyse. The Working Group received 14 public comments, including five comments from residents of the moratorium zone. Public comments received online and during meetings were mixed with 8 commenters supporting extending the entire moratorium and 6 opposed to any extension.

The online questionnaire was designed to elicit responses based on the six categories of licenses covered by the moratorium. When respondents filled out the online questionnaire they were likely to either support the entire moratorium or oppose the entire moratorium. During public meetings, designed to weigh costs and benefits and discuss the merits of each portion of the moratorium, it was determined—even by steadfast supporters of the moratorium—that limitations on “off premises” liquor and beer and wine establishments would not be necessary. Among the categories, lifting all restrictions on the number of available nightclub and tavern licenses were the most likely to be opposed. A copy of the questionnaire is included in the appendix.

Terminology

Liquor selling establishments for “off premises” consumption are referred to as Class A and Class B licenses. Class A licenses sell liquor, beer, and wine while Class B may only sell beer and wine.

Liquor selling establishments for “on premises” consumption are referred to by a two letter combination designation where the first letter refers to the type of sales allowed and the second letter refers to the type of license. Class C establishments may sell liquor, beer, and wine while Class D establishments may only sell beer and wine. For the second letter, “R” establishments are restaurants, “T” establishments are taverns, “N” establishments are nightclubs, and “X” establishments are multipurpose. A restaurant which sells liquor is referred to as having a CR license.

History

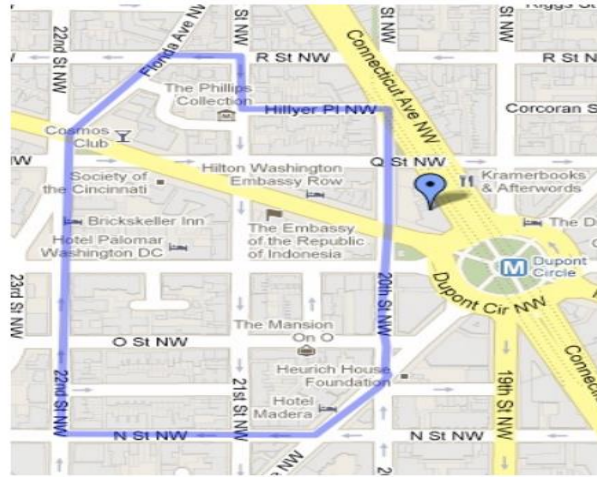
The West Dupont Moratorium was very restrictive when established in 1994 and has been slowly loosened, partially due to the recommendations of ANC 2B. From the 2011 ANC 2B moratorium report:

The West Dupont Circle Moratorium was created on July 22, 1994, to help guide the development of the neighborhood, making the area more attractive to retail while limiting the establishments that served liquor on P Street and in Western Dupont Circle. The original area extended 600 square feet from the intersection of 21st Street NW and P Street NW. All of the area within the Moratorium zone is part of the Dupont Circle Historic District.

The Moratorium has traditionally been up for renewal every 5 years and has been renewed to date on August 4, 2000 and March 24, 2006. Throughout the renewal cycles, Advisory Neighborhood Commission 2B has offered several modifications to the Moratorium to allow for additional development in the neighborhood. In 2006, the total number of ABRA licenses went from 29 to 30. In 2008, the number was increased to its current threshold of 34, expanding (at the ANC's request) the number of DR/CR licenses from 17 to 21. The ANC, recognizing the Moratorium as a temporary measure meant to adapt to community needs, took decisive action in 2009 to exempt the 1500 block of Connecticut Avenue NW from the Moratorium Zone. Of the businesses that moved in, all have CR/DR licenses. This increase in CR/DR licenses in 2008 and 2009 was consistent with the desires of ANC2B and the Dupont Circle Citizens Association to allow for the development of a "Restaurant Row" in Western Dupont Circle.

The Philips Gallery was granted a CX (multipurpose) license in 2010 with the reduction of one CR/DR license from 21 to 20.

In 2011, at the request of the ANC, the ABC Board granted the elimination of the limit on restaurant licenses to be removed in its entirety and to exempt the building at One Dupont Circle. A map of the current boundaries after adjustments and exceptions made in 2011 is located below.



Since 2011 when the restaurant restrictions were lifted, the number of restaurant licenses went from 20 to 22 based on the latest ABRA data from August 2014.

The Moratorium Now

The following table shows currently active and allowed licenses in the moratorium zone.

License Type	Limit	Currently Active
Class A (liquor store)	2	2
Class B (beer and wine store)	3	2
Class CX/DX (multipurpose—art gallery, private club)	3	3
Class CT/DT (tavern)	6	4*
Class CN/DN (nightclub)	0	0

*One additional tavern license is in safekeeping, meaning the licensee owns the license but is not currently using it. That tavern location, in Twinning Court, is currently in the process of conversion into a single family home. The number of active tavern licenses is 4.

Recommendation

Following the wishes of the neighborhood over the past nine years, the working group recommends further loosening of the moratorium zone restrictions. After dialogue and discussion with the community and after reviewing the input from community members, the working group recommends eliminating the moratorium on all license types. We request that the ANC adopt this report and not recommend an extension of the moratorium. We believe the dismissal of the moratorium should be implemented now due to economic development concerns, the potential for perverse profit incentives, and to encourage good businesses.

By limiting the number of licenses, a moratorium creates a market for liquor licenses in addition to the cost of a liquor license paid to the District. This means that if a private club wants to enter the West Dupont Moratorium Zone and obtain a liquor license, they must buy a license from the O Street Mansion, Phillips Collection, or Cosmos Club. This drastically increases start-up costs for a new business and requires more revenue to achieve a required return on investment to remain open and operating. By requiring a higher return, license owners are forced to prioritize profits over being good neighbors. In Adams Morgan, the moratorium has created a secondary market where licenses are sold for up to \$95,000. This secondary market prices out many local businesses from opening in the neighborhood, and restricts future market entrants to businesses that can afford the additional upfront capital—primarily well-funded chains.

Members of the working group have a vision for our neighborhood to remain walkable and livable with local-serving retail and neighborhood businesses. This requires providing local business owners with the opportunity to thrive in Dupont Circle. Raising the entry costs of business reduces future possibilities and ossifies current business. While there are presently concerns about some local taverns, extending the moratorium will only protect those problem taverns from market competition by increasing barriers to entry. This further solidifies the current business environment, whether it is best for our neighborhood or not.

While the working group suggests that the ANC not pursue a continuation of the West Dupont moratorium zone as a way to encourage neighborhood livability and vibrancy, the ANC should continue efforts of ensuring businesses on P Street can operate fairly in our neighborhood. There is a concern among some residents that loosening the restriction on the number of taverns

and nightclubs within the boundaries of the ANC could cause more late night noise, in opposition to West Dupont's residential character. The working group is not convinced that continuing a restriction on the number of licenses is the right way to ameliorate the negative externalities of liquor selling establishments. Instead, the working group believes working with businesses to improve operational practices and allowing competition so only the best establishments may stay in the neighborhood is the right way to encourage a livable West Dupont. To accomplish these goals, the ANC must continue to negotiate strong settlement agreements with liquor selling establishments in residential areas and enforce those agreements with the various enforcement agencies.

The working group encourages ANC 2B to recommend that the ABC Board not renew the West Dupont Circle Liquor License Moratorium. Instead the ANC should adopt a standing policy to protest new liquor license applications in the former moratorium zone until a settlement agreement can be reached with the application that will alleviate any possible concerns over peace, order, quiet and parking.