

ADVISORY NEIGHBORHOOD COMMISSION 1B

Government of the District of Columbia

MINUTES

6 July 2006, True Reformer Building, 1200 U Street NW

Attending: Commissioners Moss, Spalding, Hunter, M. Smith, Stephens, Akinmboni

Absent: Commissioners Hammonds, T. Smith, Z. Wright, Mathews, R. Wright

Quorum was achieved shortly after 7PM. In the Secretary's report Commissioner Spalding reported on the current status of the Source Theatre sale, and reported that a period for alternate bidders wishing to maintain the space as a theatre is currently open. Community members are working with the Prince Hall Mason's to explore tenants other than CVS for the ground floor space in the Mason's building at 1000 U Street. BZA case 17491 for a rear addition to 1303 T St. passed, and BZA 17466 ran into difficulties over the trade of residential recreation space for additional parking, with the decision to be made in the next few weeks. At HPRB the Mason's parking lot development was tabled for further design work, but the reception to the basic design was good. OPM has not identified any District owned office space for the Commission. DDOT Public Space approved the new sign for the church at 2033 11th St.; however, they did request that the design reduce the sign by twenty square feet in size. Board for Condemnation condemned the building at 2006 10th St. and is working with owner to remediate, condemned 1361 U St., and ordered 2023 Vermont Avenue to be rendered sanitary/repared by the DC government. Minutes of the June meeting were moved, seconded and adopted (6-0). Treasurer Stephens moved reimbursing secretarial expenses for June in the amount of \$13.13, and it was seconded and adopted (6-0). The June monthly report reflects spending in the amount of \$8,705.25, no outstanding items which leaves a balance of \$66,216.54. June Treasurer's report was moved, seconded and adopted (6-0). Commissioner Stephens requested that the agenda item on ANC1B's budget be rescheduled for a future meeting, and Commissioner Spalding suggested September, and the Commission agreed to place this item on the September agenda.

In Community Events & Announcements Commissioner Moss reminded everyone that the PSA 305 monthly meeting normally scheduled for the first Tuesday of each month had been moved this month to Tuesday the 11th at 7PM at the HFA building on Florida Ave. Commissioner Stephens noted that the bus stop on 14th Street affected by the razing

of the Petrovitch site is still problematic. John Kardon from Level 2 Development responded that the stop is now at 14th and W St. Commissioner Akinmboni added that the new locations are inadequately signed. Commissioner Spalding thanked local developer Marvin Jawer for providing tree box surrounds in front of his properties on U St., and asked representatives of the MidCity Business Association to remind business owners that they are responsible for maintaining the public space in front of their stores, which could include keeping these new tree boxes clean and filled with plants. Commissioner Spalding noted that MidCity Business Assoc. and the CSNA are preparing for the Dog Days of August celebration on the first weekend in August, and that part of this year's sale will be a special presentation at Reeves Center showcasing local development, and encouraged everyone to participate. Commissioner Moss announced that a special dedication ceremony will be held on Tuesday, July 25th at 9AM honoring and renaming the 400 block of T St. in LeDroit Park as "Home of Walter Washington Way". Scott Pomeroy announced that on July 27th from 7PM to 9PM at the HFA building a local presentation on planning and policing neighborhood destination districts as part of the Responsible Hospitality Initiative. The panelists that evening will include Scott Bruner, Director of the City of Chicago's Department of Business Affairs and Licensing, Brian Israel who spearheaded the residential involvement in the Chicago HRP, Elizabeth Peters a night club consultant from Hollywood California, and Jack Lumpkin who is Chief of the Athens-Clarke County Police Department. This will be the kick off for the pilot program focusing on a one and a half block radius of the intersection of 9th and U Sts. This is an area that includes a Metro entrance, the AADSM, three schools, the highest concentration of ABC licenses in the area, several vacant parcels, the 9:30 Club. It's an area that has been designated as a destination district in the Duke Destination plan, and an area that will see thousands of new housing units built and occupied over the next few years. Everyone was invited to participate.

Commissioner Spalding presented new elevations of the designs for the development project of Sorg and Associates at the First African New Church site at 10th and V Sts. Sorg is not present tonight because they are presenting on another of their projects at a different community meeting. This design has been before HPRB twice now, and reflects changes requested by the Board on the design approved by ANC1B. Like the previous Bonstra design which went before the Board three times, this design is now headed back for its third appearance. Since this is a design in process, the representations we have are not finished. The Board had a number of problems at the first presentation, and at the second presentation the Board was happier with the 10th Street elevation but dissatisfied with the V Street design. Commissioner Spalding noted a number of the specific requests from the Board addressed by the ongoing design changes. The V St. façade has changed from vertical bays, to horizontal bays, and now is a mixture of both. Commissioner Spalding invited community members to study the elevations and to forward any comments to him, since he is designated to continue following this process through HPRB's hearings.

Commissioner Spalding presented the monthly review of current ABRA cases. Abiti's application for an entertainment endorsement was dismissed when the owners did not appear at the hearing. Beverage Etc. is scheduled for a roll call on August 16th, and is on tonight's agenda for reconsideration of ANC1B's protest. Nicholas Deli's renewal is being investigated since we can't find the business open or locate owners. Serv U Liquor's substantial change application to extend their hours was withdrawn, and the renewal of the license was supported. Alero's application for an entertainment endorsement is in negotiations towards a voluntary agreement, and the next status hearing is on July 12th. Black Cat's application for a roof deck is scheduled for a mediation session on July 14th. Blue Moon Bistro is still having difficulties with DCRA permitting which has pushed back their opening. Bohemian Caverns/Club is still in the transfer process to new management. Carbonero, a new CR for 1926 9th St., is still in the negotiating process with three separate protesting groups. Crème Café has signed a voluntary agreement on their application for an entertainment endorsement, and this will be submitted to the Board next week. Nellie's is in the midst of transferring the existing license at 900 U Street. El Paraiso Market's voluntary agreement is waiting for a signature from owner who is currently in El Salvador. Eleven Market negotiations are ongoing, and Chairman Hunter has been working with the owners to strengthen the language in the voluntary agreement that I drafted a few months ago. When that language gets to me I'll incorporate it in the existing document and hopefully we can agree to it. Very specific issues with this license were voiced by nearby constituents in regard to trash, loitering, singles sales and enforcing the voluntary once it's in place. Portico located at 1914 9th is in the area where the zoning change may affect the license, and the usual result of this type of change is a 'grandfathered' use of the residential property for the specific commercial use currently in place. U Turn's application to serve liquor at their newly established sidewalk café may be delayed by other problems ABRA has encountered with the operation of the license. Until this substantial change is approved U Turn does not have permission to serve liquor outdoors, and the community should monitor the café and report any incidents of serving or consumption of alcohol in the café area. Yegna's application for a new restaurant license to be located at 1920 9th has been through mediation, but the negotiations are still having difficulty with hours of operation, and the next status hearing is scheduled for July 19th. Delicatessen Judy's application for an entertainment endorsement is being negotiated, and the next status hearing is July 12th. Florida Liquors renewal is being negotiated, and the next status hearing is July 26th. Mercadito Ramos negotiations for renewal of a Class B license are ongoing, and the next status hearing is July 12th. W Street Market negotiations around renewal of their Class B license are ongoing. Shop Express did not appear at their last status hearing and their application for renewal of their Class B license was dismissed. Seven Days Grocery is negotiating with Commissioner Akinmboni and the South Columbia Heights Neighborhood Assoc., and the next status hearing is on August 16th. Chuck's Market is negotiating a voluntary agreement and Commissioner T. Smith is working on this renewal. Harvard Deli's renewal was dismissed when they did not appear at the last ABRA status hearing, they will probably apply for reinstatement but I have not had word on the status of that request. Harvard Liquors is scheduled for mediation on July 17th. Sonia's Market is negotiating a voluntary agreement. And finally, we have a new application for a restaurant license at 1340 U Street that will be

considered later this evening. Constituents had a number of questions on the negotiations with Black Cat, and Commissioner Spalding attempted to answer these questions and noted that Chairman Hunter has scheduled a meeting for this coming Saturday at 11AM here in this room to further discuss the Black Cat application. Ron Renchard asked about the status of Café Collage and their signs for the business, Commissioner Spalding responded that he has asked ABRA to investigate this license and if they are not going to use the license to cancel it. A constituent asked about occupancy numbers at ABRA licensed businesses, and Commissioner Spalding went through an explanation of the DCRA occupancy numbers and the ABRA occupancy numbers.

Christopher Finelli from Bogdan Builders introduced their traffic control plan (TCP) for their development located at 1330 Belmont Street. Elevations of the building and the design of the TCP were handed out to the Commissioners. Commissioner Spalding asked if the closure in the alley would impede traffic, and Mr. Finelli stated that it is a twenty foot alley and they would be taking ten feet of the alley for twelve months. Commissioner Stephens asked if this had been coordinated with the work Level 2 will be doing with the development site to the west of the alley, and Mr. Finelli said that it was not coordinated to his knowledge. Commissioner Moss asked about the duration of the TCP, and Mr. Finelli stated that they hoped to be done within twelve months. Chairman Hunter asked if this had been reviewed by the local neighborhood associations, and Mr. Finelli responded that it had not, and Chairman Hunter responded that it should be and that perhaps the new Belmont Street Association would be appropriate. Commissioner Spalding asked that the TCP be shared with the Principal of Cardozo High School. Commissioner Stephens asked that Bogdan work with Level 2 and coordinate the TCP's for their projects. Jon Kardon from Level 2 who was present offered to work with Bogdan to coordinate the plans. Chairman Hunter expressed hesitation over approving the TCP prior to vetting with community groups and Cardozo High School, and Commissioner Spalding responded that the work is scheduled to begin on August 1st. Chairman Hunter moved that ANC1B conditionally approve the TCP, and that a committee including Chairman Hunter, Commissioner Stephens and members of the affected surrounding community continue to review the TCP and offer any needed amendments to the plan, and it was seconded and adopted (5-1-0).

Commissioner M. Smith introduced consideration of the proposed Meridian Hill Historic District, and stated that there has not been adequate time to address constituent concerns and asked that consideration be delayed. Commissioner M. Smith noted that he has received more input on this proposal than on any other issue, and that sentiments are strong on both sides of the issue. Chairman Hunter suggested that Commissioner Smith forward the comments to him, and that it may be more appropriate for this to be considered at a special meeting than in the regular monthly meeting agenda. Motion was made to table, and it was seconded and adopted (6-0).

Commissioner M. Smith introduced reconsideration of HPRB review of 1461 Florida Avenue. The Commission previously reviewed plans for this location and did not approve the design. No one was present to represent the applicant. Michael Brown from the Belmont St. Association testified that this is a very difficult and ongoing problem site. This project has had problems with its abutting neighbors on either side, and the problems have not been adequately addressed. Chairman Hunter asked if the applicant knew this was on the agenda, and Secretary Spalding responded that he had spoken with applicant on the phone a few weeks ago and informed him that they would be on the agenda. Commissioner M. Smith moved that ANC1B not approve this request for support to HPRB based on applicant's not presenting to the Commission and on testimony of constituents in opposition to the project, and it was seconded and adopted (6-0).

Commissioner Spalding introduced consideration of HPRB review of a third story addition to 1324 Wallach Place. This application is for addition of a bedroom and bathroom to a mid block inside two story row house. Architectural designs for the project were shared with Commissioners. One important consideration is that the design shows that the addition will not be visible from any street frontage. Owner Steve Inskeep stated that this is a single family home that will stay a single family home, and they are eager to work within the guidelines of HPRB. Commissioner Stephens asked if they had secured support from their neighbors, and Mr. Inskeep responded that they have shared the plans with both abutting neighbors and have their support. Commissioner Stephens asked if there were other examples of rear expansions nearby, and Mr. Inskeep responded that there are three nearby examples, but all were of different designs. Commissioner Spalding added that the Commission had recently supported the rear addition to 1303 T Street which is in the same alley as 1324 Wallach. Commissioner Spalding moved support of HPA 06-378 for a rear addition to 1324 Wallach Place, and it was seconded and adopted (6-0).

Commissioner Spalding requested the Commission designate him in ongoing Board for the Condemnation of Insanitary Buildings (BCIB) case dealing with 1359/1361 U Street. The Board has already condemned this property and is seeking remediation. Commissioner Spalding was designated to represent the Commission in this case in a (6-0) vote.

Commissioner Spalding introduced consideration of ABRA application for a new CR restaurant license for Axis Bar & Grill to be located at 1340 U Street NW. This building was before the Commission for HPRB review some time ago, and at that time the owner

of the property mentioned that the build out was aimed at providing a restaurant space on the basement and first floor of the newly configured building. The proposed occupancy is ninety-nine, and does feature full allowed hours running to 2AM weekdays and 3AM weekends. The entertainment endorsement section simply states the hours of 6PM to 2/3AM. Mr. Sadeh, owner, described the restaurant as neighborhood serving with an American menu featuring steak and ribs. Chairman Hunter asked for more definition of the entertainment, and Mr. Sadeh responded that it was something that could be worked out. Mr. Sadeh also explained that they are asking for sidewalk seating, and Commissioner Spalding added that the design of the sidewalk café would have to come back before the Commission as a DDOT Public Space request with complete drawings of the proposed use. Chairman Hunter raised the difficulty in using the sidewalk in front of Polly's, and Mr. Sadeh responded that the extended staircase to the east prevents regular sidewalk use, and that his proposed use would be inside the projection of the existing neighbor's staircase. Mr. Sadeh also mentioned the need to accommodate smokers. Commissioner Stephens agreed that accommodation of patrons for smoking will be an issue all along the commercial corridors. Commissioner Spalding indicated unrest with the specificity of the entertainment endorsement, and Mr. Sadeh again offered to compromise on this using other neighboring entertainment endorsements as a guide. Examples of Café Nema and Utopia having music until 1:30AM were raised as examples. Commissioner Spalding asked when they expected to open, and Mr. Sadeh responded that they were hoping for early September. Commissioner Spalding suggested that one route to take would be to reapply with better defined entertainment hours and description which would mean replacarding. Chairman Hunter suggested that protesting and revising the language in the application might be more efficient, and Commissioner Spalding agreed. Chairman Hunter gave a description of the protest and voluntary agreement process to Mr. Sadeh. Commissioner Spalding moved to protest the application of Axis Bar and Grill on the basis of "peace order and quiet" specifically in terms of the entertainment endorsement section of the submitted application and it was seconded and adopted (6-0).

Commissioner Moss introduced reconsideration of Class A renewal for Beverages Etc. located at 1905 9th Street. The Commission voted to protest this renewal at our June meeting, which was based on our inability to find the owner. Mr. William Lewis, owner, stated that he has been in business in this location for ten years with no problems. Commissioner Moss added that Mr. Lewis and his wife are active members of the Westminster Neighborhood Association. Chairman Hunter asked if they sold single beers, and Mr. Lewis stated that they do. Chairman Hunter asked if they sell any drug paraphernalia, and Mr. Lewis stated that they do not. Chairman Hunter asked Mr. Lewis to consider removing cheap wines from his inventory, and Mr. Lewis agreed that he is planning on up-scaling his inventory. Mr. Lewis detailed trouble with a couple who had been managing the store for the past few years, and indicated that this was the reason the Commissioners Moss and Spalding had found the store closed in the past few months. Commissioner Moss asked about a planned expansion to the second floor, and Mr. Lewis explained that he owns the building and that over time two restaurants had occupied the

space above the store. They have an application submitted to operate an up-scale bistro in this space. Commissioner Spalding asked to add to the record that all of the Class A licenses are usually reviewed at the same time; however, due to a clerical error we are reviewing the renewal of the two Class A licenses in this block separately. I do question the existence of two class A licenses in this block, but I also think it unfair to not consider them at the same time. Stefanie Solomon who lives near the store asked about the hours since she kept finding the store closed, and Mr. Lewis stated they are currently open noon to 6PM and would return to their stated hours of 9AM to 9PM as soon as possible. Commissioner Moss moved support of the Class A renewal for Beverages Etc., and it was seconded and adopted (5-1) with Commissioner Spalding voting nay.

Commissioner Spalding described research that had discovered that the currently shown CM1 zoning in Square 0361 was actually changed by Zoning Commission order to residential R4 zoning in 1989. The Office of Zoning has admitted that this is the case, and that the Zone Map was never corrected to reflect the decision of the Zoning Commission. Commissioner Spalding introduced a motion requesting the Zoning Administrator to notify the owners of affected properties and to research any nonconforming uses that may have been allowed due to the error in the Zone Map. Chairman Hunter asked if the current zoning of these properties is incorrect, and Commissioner Spalding explained that the Zoning Commission changed the underlying zoning of these properties in a 1989 order, however, this change was not reflected in the Zone Map and the Zoning Administrator's Office may have based decisions on use based on the inaccurate Zone Map rather than on the actual zoning. Commissioner Moss asked if the map was being corrected, and Commissioner Spalding responded that Office of Zoning has admitted the error in the Zone Map and is currently working to correct the Zone Map. Commissioner Stephens asked if commercial uses were allowed during the period when the map was incorrect, and Commissioner Spalding responded that it was likely. Commissioner Spalding added that he has been working with residential owners who have not been allowed to renovate their residential properties based on the incorrect reading of the underlying zoning as commercial. The actual zoning of these properties is residential R4, and the Zoning Administrator should straighten this situation out by telling these owners what their actual underlying zoning is. Commissioner Stephens asked about commercial uses in these properties, and Commissioner Spalding responded that he knows of a restaurant, a record store and a hairdresser that appear to be operating out these properties. Chairman Hunter asked if Commissioner Spalding was telling the Zoning administrator to grandfather the current commercial uses, and Commissioner Spalding responded that he does not have the power to tell the Zoning Administrator how to deal with non conforming uses. Chairman Hunter stated that his reading was that this request is telling the Zoning Administrator what to do, and Commissioner Spalding responded that he is requesting that the Zoning Administrator alert these property owners that their underlying zoning is R4 residential, and if they find commercial uses that were allowed in error then they need to deal with that situation. While I can't make decisions for the Zoning Administrator's Office, I can suggest that they need to study the current situation and find ways of dealing with it. Owner of Portico was present and asked what

would happen to his business, Commissioner Spalding responded that he has a business that is a pre-existing condition as an incompatible use in a residential zone, and normally the decision is the grandfather the use, which means that as long as it stays the same business it is allowed to continue the nonconforming use unless the use lapses for a two year period of time, and in that case the use would revert to the underlying residential use allowed. Any owner of these properties can request a nonconforming use, but it does require a BZA use variance. Commissioner Stephens asked if the business could be sold, and Commissioner Spalding responded that as long as the use stayed consistent it was his understanding that the continued nonconforming use was allowed under the same grandfathered status. Chairman Hunter stated that this affects a lot of property owners, and I want to personally take a look at these properties. We don't need to resolve this tonight. Commissioner Spalding responded that he has had to intercede with residential constituent problems with this confused zoning to allow renovations to proceed at their homes, so all I'm asking is that the Zoning Administrator review the situation and inform these owners of their actual underlying zoning. Chairman Hunter requested that Commissioner Spalding give better notice to the Commission when bringing such a substantial issue, and Commissioner Spalding responded that he had told the Commission of this Zoning Office decision two months ago at a regular meeting. Commissioner Spalding stated that delaying the decision might allow further errors in allowed use by DCRA until the Zoning Administrator addresses the problem. One of the residential owners of property in the affected area offered full support of the request. William Lewis stated that he had been involved in the changing of the zoning on the block, and Commissioner Spalding responded that the lower east side of the 1900 block of 9th St. was changed in a separate 1998 decision to allow commercial use, but this did not have anything to do with the properties across the street in Square 0361. Commissioner Spalding moved the proposed letter to the Zoning Administrator, and it was seconded and defeated (2-4) in a roll call vote with Commissioners Spalding and M Smith voting yea, and Commissioners Moss, Hunter, Stephens and Akinmboni voting nay. Chairman Hunter moved that this item be placed on the August agenda, that we arrange to visit these addresses, and that we forward these addresses to Councilmember Graham's office in the meantime, and it was seconded and adopted (6-0).

Chairman Hunter introduced consideration of opposition to Council Bill 16-696 "On Premises Retailers Act of 2006" introduced by Councilmember Graham. This would allow ABRA to consider liquor applications within four hundred feet of schools, which is not currently allowed by the law. This piece of legislation was introduced by Councilmember Evans in response to a single license which was denied in the Shaw area. A hearing has been held on this matter, and the testimony was overwhelmingly opposed to this particular legislation. I personally oppose granting liquor licenses within four hundred feet of schools. It's not something we've been doing, and I don't think it's a practice that we need to start. Chairman Hunter moved that ANC1B go on record opposing this legislation, and that we write to the Council expressing our opposition and it was seconded. Commissioner Spalding asked to expand on Chairman Hunter's opposition. One of the difficulties with this language in the regulations is that there is a

prohibition on any new license within four hundred, however, the rule also states that when there is a license of the same class already existing within four hundred feet of a school then there are no limits to the number of licenses that are allowed. This has meant in ANC1B's territory that we have multiple licenses within four hundred feet of schools, and more applied for with no restriction applying. The legislation and regulations as they are written right now certainly deserve exploration. I don't believe that this legislation addresses the issue fully, and does not address bad language in the existing regulations, and I will support Chairman Hunter's opposition to this bill. I do ask that in our opposition we state that this language does need to be reviewed in terms of additional licenses in proximity to schools. Chairman Hunter accepted this as a friendly amendment to his motion. Commissioner Stephens asked that we consider the different classes of licenses, and to admit that restaurants can be community building businesses as shown here in our own community. Commissioner Stephens also noted the closure of school buildings and the effect on location of new liquor licenses. Motion of Chairman Hunter as amended by Commissioner Spalding was moved, seconded and adopted (6-0).

Meeting adjourned at approximately 9PM.