

Please note: In addition to the text and vote counts of the official actions taken by the Commission, these minutes may contain summaries of comments that were made and discussions that took place at the meeting. Such summaries are not intended to be a verbatim account of the meeting.

**Advisory Neighborhood Commission 1C
Adams Morgan
Minutes of October 7, 2015**

I. Call to Order and Introduction of Commissioners

A regularly scheduled meeting of Advisory Neighborhood Commission 1C was held on October 7, 2015 at Mary's Center. Chair Simpson called the meeting to order at 7:03 pm. Approximately 18 members of the public attended. In attendance were Commissioners Julie Seiwel (1C01), Hector Huezo (1C02), Ted Guthrie (1C03), Gabriela Mossi (1C04), Alan Gambrell (1C05), Billy Simpson (1C06), Wilson Reynolds (1C07), and JonMarc Buffa (1C08).

II. Officers' Reports

a. Chair's Report

i. Proposed Amendment to By-Laws

Chair Simpson described a proposal to slightly relax ANC 1C by-laws with respect to reporting requirements for agendas items and votes taken. The amendment is related to the public transparency requirements that Chair Simpson introduced to the By-Laws a couple of years ago. Pursuant to those requirements, the Commission is generally required to ensure that agenda items are notified to the community at least two weeks prior to a meeting (subject to exception provisions). A related provision requires that the Commission report to the community any votes taken at a meeting within 2 days. The proposed amendment would reduce the two-week requirement to 10 days, would simplify the exception provision, and would extend the notification of votes taken requirement to 4 days. The intention of the proposed changes is to avoid foot faults if a slight delay in reporting arises due to extenuating circumstances, but to still preserve robust reporting requirements overall. Commissioner Reynolds seconded the motion. Commissioner Buffa agreed that the change was needed. Commissioners then agreed to the change in the by-laws by a vote of 7 to 0. (Commissioner Huezo had not yet arrived.)

ii. Notice of Proposed Amendment to By-Laws for November

Commissioner Buffa reported that he would propose a change to the by-laws at the November meeting to address the occasional difficulty of getting a quorum of Commissioners at committee meetings. He noted that ANC 3D allows each of its commissioners to be an ex-officio member of every committee, both to be heard and to vote. Commissioner Buffa proposed allowing ANC 1C commissioners to be ex-officio members of all committees only in the instance when there is not a quorum of standing committee members for that committee.

Commissioner Gambrell spoke in support of the proposed change. Commissioner Reynolds asked how many commissioners could vote when a quorum of committee members is not met. Commissioner Buffa answered that as many commissioners as are present could vote.

iii. Resolution Commending Adams Morgan Day Organizers

Chair Simpson moved a resolution commending community volunteers and business owners who collaborated to save Adams Morgan Day and transform it into an Adams Morgan-focused event; and calling on the Mayor and the District Council to incorporate into the District's budget a right for each

neighborhood to hold one street festival each year without being charged for the costs of closing the street or providing police and emergency services. Commissioner Reynolds seconded the motion and complimented Chair Simpson on the resolution.

Commissioner Gambrell thanked the volunteers for a successful Adams Morgan Day (and revealed that he was wearing the t-shirt from the event).

Commissioner Buffa commented that outside vendors is a controversial topic. He said the point of the resolution was not so much to disparage outside vendors, but rather to be pro-local businesses.

Commissioner Guthrie said he supports the idea of the city contributing to a festival that celebrates a distinct neighborhood in the city.

Denis James said street closure would change the character of the festival and shift the focus to vendors in the street instead of on the local businesses.

Chair Simpson said the intent of closing the street is not to open the festival to outside vendors, but to have artists or other booths that would not compete with the local businesses. He said those decisions can be left to the organizers.

Commissioner Buffa said closing the street creates a festival character and noted that attendees missed the art on Belmont this year. He suggested having street vendors who aren't selling food.

Commissioner Huezo noted that closing the street is a positive from the safety standpoint. He said he hopes the event will become even more successful in future years and that sidewalks alone would not be enough to hold all the attendees.

A member of the public commented that the festival is for the people and said this one seemed to have the elements of a good festival including music and local business participation.

Chair Simpson asked Robert Turner, one of the organizers, to provide a report on the festival. Mr. Turner noted that Adams Morgan Day is the longest running neighborhood festival in DC and the volunteers wanted to keep that tradition going. He said they started organizing only nine weeks before the event this year with a very grassroots effort and that an estimated 6 or 7 thousand people attended. He said they will consider the street closure option for future festivals.

Another volunteer from Mary's Center, which acted as the fiscal coordinator for the festival this year, reported that they raised \$9,355.00 and spent \$9,351.08. She said the budget breakdown will be posted on the Adams Morgan Day website: www.adamsmorganday2015.com.

Commissioner Huezo thanked the organizers for keeping the finances open and transparent.

Another organizer said that Mary's Center stepped in on short notice to help with the fiscal management and keeping the books and records straight.

Commissioner Buffa suggested adding Mary's Center to those being commended in the first line of the resolution. The change was made without objection.

Commissioners then passed the resolution by a vote of 8 to 0 (Commissioner Huezo had arrived).

Proposed Resolution Regarding Adams Morgan Day

Advisory Neighborhood Commission 1C hereby thanks and commends the local residents, Mary's Center, and business owners who, on short notice, exerted tremendous time and effort to save Adams Morgan Day. By all accounts, this year's festival was a tremendous success, and felt like a true celebration of Adams Morgan. We urge the organizers to seek street closures for the festival in future years (as was done in past years). However, in doing so, we strongly urge the organizers to follow the approach that was taken this year of making the festival a celebration of the businesses, artists, and people that are actually part of Adams Morgan and that make our community unique and wonderful.

ANC1C calls on the Mayor and the District Council to incorporate into the District's budget a right for each neighborhood (as reflected by ANC boundaries) to hold one street festival each year without being charged by the District for the costs of closing the street or providing police and emergency services. While those costs are real, they should be borne in the general budget rather than being charged as fees to the organizers of neighborhood festivals. The community volunteers who bring these festivals into existence have enough to worry about without having to figure out how to fund-raise tens of thousands of dollars to pay the District. Those charges also create a perverse necessity for festival organizers to fill their festivals with outside vendors to generate booth fees. The goods and services provided by those outside vendors are often in direct competition with the goods and services provided by the businesses in the neighborhood in which the festival is taking place, which undermines the very focus of the festivals as celebrations of their local communities. The District should proactively recognize the tremendous time and effort that community volunteers expend in organizing these festivals, and make it easier for these volunteers to benefit their communities and the District as a whole.

b. Secretary's Report

i. Minutes for September 9, 2015 meeting

Secretary Seiwell moved to approve the draft minutes for the September 9, 2015 monthly ANC 1C meeting. Commissioner Guthrie seconded the motion that then passed by a vote of 8 to 0.

c. Treasurer's Report

i. Budget for Fiscal Year 2016

Chair Simpson made a procedural motion to add the fiscal year 2016 budget to the agenda without the typical ten days advance notice on the basis that not doing so would be adverse to the community.

Commissioner Mossi seconded the procedural motion. The procedural motion passed by a vote of 8 to 0.

Treasurer Gambrell then moved to approve the fiscal year 2016 budget for ANC 1C.

Commissioner Guthrie seconded the motion. Treasurer Gambrell then provided an overview of the budget explaining that it was based on fiscal year 2014-2015 expenses. Chair Simpson noted that the Commission receives an annual allocation of a little less than \$20,000 and also has a significant positive balance in the bank.

Treasurer Gambrell noted that there were some additional expenses with special meetings and translation services in the past year. In answer to a question about the line item for office rental, he said that was actually for renting space for meetings. Commissioner Huezo asked about purchase of services for Marie Reed modernization meetings.

The Commissioners then voted 8 to 0 to adopt the budget.

ANC1C - FY15-16 BUDGET	Amount
1. Net Salary & Wages	\$4,000
2. Insurance:	
a. Health	
b. Casualty/Property	\$25
3. Total Federal Wages Taxes (Income and Soc. Sec.)	\$800
4. State and Local (DC, MD, VA) Income Taxes Paid	\$800
5. Unemployment Insurance Taxes	\$100
6. Tax Penalties Paid	
7. Local Transportation	
8. Office Rent	\$2,500
9. Telecommunication Services	
a. Landline Telephone	
b. Cellular Telephone	
c. Cable/Internet Services	
10. Postage and Delivery	\$150
11. Utilities	
12. Printing and Copying	\$2,000
13. Flyer Distribution	
14. Purchase of Service	\$3,000
15. Office Supplies	\$200
16. Office Equipment	
a. Rental	
b. Purchase	
17. Grants	\$6,000
18. Training	
19. Petty Cash Reimbursement	
20. Transfer to Savings Account	
21. Bank Service Charges	\$50
22. Website/webhosting	
23. Other	
Total	\$19,625

ii. Allocation of up to \$100 for audio recording device

Treasurer Gambrell made a procedural motion to add to the agenda consideration of allocating funds for an audio recording device without the typical ten days advance notice on the basis that not doing so would be adverse to the community. Chair Simpson seconded the motion. He explained that ANC 1C received a letter from the DC Office of Advisory Neighborhood

Commissions stating that all ANCs are required to record their meetings, so this step was being taken to be in compliance with that requirement. The procedural motion passed by a vote of 8 to 0.

Commissioner Seiwel reported that she looked into audio recording devices and suggested getting one that has 12 hours of recording time and cost under \$100. Chair Simpson moved to approve up to \$100 to purchase an audio recorder. Commissioner Seiwel seconded the motion.

Commissioners discussed different types of recording equipment that would be needed to pick up the voices of a typical meeting and decided that a more expensive model may be needed. The motion was amended to approve up to \$250 for an audio recorder with no objection. The motion was then approved by a vote of 8 to 0.

III. Commissioner Announcements/Comments

a. October Committee Meetings

Chair Simpson announced that the community meeting for the Marie Reed School improvement project had been changed to Thursday, October 22 at 6pm at the Marie Reed School.

i. ABC and Public Safety Committee

Commissioner Guthrie announced that at its October 14 meeting the ABC and Public Safety Committee would receive a police report; consider an alcohol license application for the Adams Morgan Coffee Shop; and, receive comments of the Adams Morgan Vision Framework.

Chair Simpson explained that each committee would be considering elements of the draft Vision Framework that pertain to matters covered by that committee and that members of the public would have an opportunity to comment on those elements at committee meetings. Commissioner Buffa noted that ANC 1C may wish to comment as a commission by passing a resolution indicating which elements ANC 1C supports or doesn't support and why.

A member of the public asked whether the ANC would be forwarding comments from the public. Chair Simpson said members of the public can choose to submit comments themselves directly to the Office of Planning and/or to submit comments to the ANC. Commissioner Buffa noted that the latter option requires reaching consensus on particular comments.

Denis James noted that the Office of Planning may not be required to give "great weight" to ANC comments. Commissioner Buffa said that some of the proposals in the Vision Framework could dictate plans for neighborhood such as affordable housing, and other matters. He said the ANC should be on the record as endorsing or not endorsing the specific proposals. Commissioner Huezo said the end result was originally supposed to be a broad vision, but it is now into the details in some areas.

ii. Planning, Zoning, and Transportation Committee

Commissioner Buffa announced that the Planning, Zoning, and Transportation Committee October 21 meeting would include review of the 16th Street Transit Study. Commissioner Gambrell added that a DDOT representative will come to meeting to present broad alternatives for improving bus flow on 16th Street. He noted that the study can be accessed online though some modifications are still being made. Commissioner Buffa said he intends to offer a resolution to identify alternatives that will affect this ANC and that we can support. He said some of the proposals would benefit commuters from farther out at the expense of those who live close-in.

Chair Simpson announced that the PZT Committee would also consider a proposed contra-flow southbound bike lane on Ontario Road NW from Columbia Road NW.

iii. Public Services and the Environment Committee

Commissioner Huezo announced that at its October 28 meeting the Public Services and the Environment Committee would hear from State Board of Education Member Laura Wilson Phelan regarding credit for high school graduation; deliberate on an application by the Kalorama Citizens Association to historically landmark Kalorama Park; and receive comments on the Adams Morgan Vision Framework draft.

b. Commissioner Announcements

- Commissioner Huezo announced that a Kalorama neighborhood clean-up would be held on Saturday, October 10; the Office of Planning would be issuing the Adams Morgan Vision Framework draft on October 14; Mary's Center would be holding a gala on October 16; and the Young Playwrights' Theater would have a performance on October 19.
- Commissioner Gambrell acknowledged efforts by the Department of Health rodent control to eradicate rats in the neighborhood. He also announced that a meeting would be held on Tuesday, October 13 with the DC Department of Consumer and Regulatory Affairs on property conversion and zoning issues.
- Commissioner Mossi announced that Jubilee Jumpstart would hold a free breakfast for the community to learn about their work on October 14 at 7:30 AM, and that the director would be interviewed on WAMU.
- Commissioner Seiwell noted a few ANC1C Commissioners attended Chair Mendelson's Quarterly ANC Meeting, where the increase in synthetic drug use and the increase in homicides in DC compared to last year was discussed. She also noted that community members can use their cell phones to text the police at 50411 with tips about crimes.

IV. Public Announcements / Comments

- Khadija Ismail of the Mayor Office on Volunteerism announced that they are recruiting volunteers for the DC Citizen Snow Team to help senior and disabled residents remove snow from their property this winter. She said an information meeting for interested volunteers would be held at the Reese Building on October 14 from 6 to 7:30 pm.
- Denis James announced that Jeffery Carroll, the new police commander for the Third District, would be at the next Kalorama Citizens Association (KCA) meeting on Thursday, October 15.
- Regina Murphy of the United Planning Organization announced that UPO is conducting a community needs assessment and invited neighbors to participate in focus groups to discuss what they would like to see in the neighborhood. She said the surveys will be posted on the UPO website and that dinner is provided for the focus groups. Their website is: www.upo.org
- Tony Harvey asked why ANC 1C did not include on its agenda discussion of the request for proposal for modernization of the Marie Reed Learning Center. He said that the KCA had an analysis and response to the document at its September meeting. Chair Simpson said that the School Improvement Team was told that the images reflected in the RFP are reflective only of what had been conceptualized prior to that date; that the design has changed since then; and that the design is expected to continue to develop over the next couple of months. He noted that representatives from the Department of General Services are scheduled to come to the October 22 community meeting at Marie Reed to provide an update on the modernization plans.
- Kristen Barden, Executive Director of the Adams Morgan Partnership BID, announced that Porchfest has been moved to October 24th, and that the first annual Adams Morgan Apple Festival would also take place on October 24th at the farmers market at 18th and Columbia Road.

- Patrick Nelson announced that the Citizens Advisory Council will hold an awards banquet on Saturday, December 12 to honor police officers in the 3rd District. He said that purchase of ad space in the banquet program pays for the event and asked for help in soliciting advertisers.
- Ben Case, liaison to Mayor Bowser's office, announced that the Kids Ride Free program now includes Metro and urged residents to sign up for this program. He reminded the public about the rewards program for tips on guns and the Mayor's larger plan for combating crime. Mr. Case also urged people to show support for ending homelessness in DC by signing the Homeward DC pledge. Finally, he provided handouts with information on the Mayor's plan for the PEPCO-Exelon merger and said that if people have questions about the plan they can contact him at ben.case@dc.gov and he can connect them with the experts on the issues. Commissioner Buffa noted that he has recused himself from any discussion of the merger matter. Chair Simpson asked Commissioners to let him know if any of them wants to volunteer to take the lead on having the Commission assess the proposed merger.

V. Scheduled Business

a. ABC and Public Safety

i. Red, White & Basil – Settlement Agreement and Stipulated License

Commissioner Guthrie moved that ANC1C adopt a settlement agreement in connection with an application by Red, White & Basil to sell beer and wine, and to recommend that a stipulated license be granted allowing service of beer and wine during the placarding. Commissioner Seiwel seconded the motion.

Commissioner Gambrell asked about noise levels. Commissioner Guthrie said the agreement states that music will not be heard beyond the curb. Commissioner Huezo asked about enforceability of item number 10 addressing consideration of neighbors. Commissioner Guthrie answered that the language in the agreement puts the owners of the establishment on notice of the ANC's expectations.

Commissioners then voted 8 to 0 to adopt the settlement agreement with Red, White & Basil.

NEW SETTLEMENT AGREEMENT CONCERNING ISSUANCE OF LICENSE FOR ALCOHOLIC BEVERAGES

NEW AGREEMENT, made this 7th day of October, 2015, by and between A Little Mouthful, LLC, d/b/a Red White & Basil (hereinafter "Applicant"), Advisory Neighborhood Commission 1C (hereinafter "ANC 1C") and Reed Cook Neighborhood Association (hereinafter "RCNA"), witnesseth:

Whereas, Applicant has applied for a Class DR License No. 100236, located at 1781 Florida Avenue, NW, Washington DC,

Whereas, ANC 1C and RCNA, would have the opportunity to protest the license,

Whereas, Applicant will agree to adopt certain measures to address the concerns of ANC 1C and RCNA, and to include this Agreement as a formal condition of its prospective application for a license, and ANC 1C and RCNA agree to the approval of such license provided that this Agreement is incorporated into the Board's Order approving such application, and

Now, therefore, in consideration of the mutual covenants and undertakings memorialized herein, **the Parties hereby agree as follows:**

1. **Nature of Establishment**

At all times, the Applicant shall operate with the primary purpose of food preparation and consumption. Applicant shall maintain a menu featuring, but not limited to, a selection of hot, cooked food items. Menus with food selections will be offered to patrons. The kitchen shall be staffed and maintained, open and operational, with cooked food menu items available at all times. Applicant shall keep on hand sufficient food supplies to fulfill menu items, with staff to serve them, at all times when the establishment is open for business.

2. Entertainment

The parties agree that the restaurant shall feature no entertainment under an Entertainment Endorsement as described at 23 DCMR 1000 1002.4. Although applicant initially applied for an Entertainment Endorsement, applicant expressly withdraws that portion of the application.

3. Hours of Operation

Applicant has requested and the parties agree that the hours of operation will be 11am-12 midnight Sunday-Saturday.

It is understood between the parties that the 11am opening time is not a requirement, but may be used at the discretion of the Applicant.

Sidewalk Cafe/Summer Garden Hours: 11am-12 midnight.

4. Occupancy

Interior capacity will not exceed the interior seating capacity as specified in the Certificate of Occupancy: 17 seats; sidewalk/summer garden seating will not exceed 20.

5. Noise

Applicant acknowledges familiarity with and agrees to comply with all applicable noise-control provisions of District of Columbia law and regulations, including, but not limited to:

a.) Preventing emissions of sound, capable of being heard outside the premises, by any amplification device or other device or source of sound or noise, in accordance with D.C. Official Code section 25-725. Further the Applicant agrees to abide by all relevant provisions of the D.C. Noise Control Act of 1977 (D.C. Law 2-53), including 20 DCMR, Chapters 27 and 28, as amended.

b.) The parties further agree that during any time the windows or doors of the premises are open during business hours and music is being played, or a sound amplification device is being employed in the premises, the sound generated from inside the premises shall not be audible beyond the edge of the sidewalk curb. This provision shall not apply to noise heard only when persons are in the act of using the door for ingress to or egress from the premises.

c.) Applicant agrees not to place outside in the public space any loudspeaker, tape player, CD player or other similar device, or to place any inside speaker in such a way that it projects sound into the public space.

d.) Sound from inside will not be audible at surrounding residential housing areas.

6. Trash/Garbage/Rodents

a.) Applicant shall maintain regular trash/garbage removal service, regularly remove trash from the trash and dumpster area, and see that the trash and dumpster area remains clean. Applicant shall deposit trash and garbage only in rodent-proof dumpsters, and shall see that dumpster covers fit properly and remain fully closed except when trash or garbage is being added or removed. Applicant will make every reasonable effort to eliminate food sources for rodents and help eliminate the rat population.

b.) Applicant agrees to segregate and recycle bottles and glass refuse from trash and agrees to make all reasonable efforts to minimize noise associated with the disposal of bottles and glass refuse in the outside trash dumpsters between the hours of 11:00 p.m. and 8:00 a.m.

ii. Heaven & Hell – Summer Garden

Chair Simpson moved to protest the application of Heaven and Hell to serve alcohol in an outdoor space on the basis that it would have an adverse impact on peace, order, and quiet in the neighborhood. Commissioner Reynolds seconded the motion.

Chair Simpson noted that the ANC has had some success in seeing some of worst alcohol establishments go away, but Heaven and Hell continues to be one with respect to which Commissioners continue to hear negative comments from residents and other businesses. He also noted that it has been associated with recent incidents of violence. He said that the outdoor space that they are requesting would be located near the windows of the residential building on the other side of the alley and he thought the ANC should join with neighbors in making sure this does not happen.

Commissioner Reynolds noted that the proposed outdoor space would be on the roof of the establishment and right across from an apartment building. He strongly urged his colleagues to support the protest of this application.

Commissioner Buffa said his objection to adding any outdoor noise is universal, especially for establishments serving alcohol until 3 am. He said we would oppose this type of application in all cases.

Commissioner Guthrie expressed strong support for the protest and urged residents to participate in the process and tell the ABC Board directly that this is not okay. He said it makes an impact when neighbors show up at hearings.

A long-time resident of the Lofts at Adams Morgan said it has been an ordeal working with Heaven and Hell over noise issues. She said they can hear the music even with windows closed and can't imagine what it will be like to have an open deck facing their building. She added that residents of her building will be preparing letters and will show up at the hearing.

Commissioner Buffa asked the neighbor whether they ever invited inspectors from ABC to check the noise levels. The resident said they have tried that.

Commissioners then voted 8 to 0 to protest Heaven and Hell's application to serve alcohol in an outdoor space.

iii. Noise Abatement Legislation

Chair Simpson made a procedural motion to add to the agenda consideration of a resolution on noise abatement without the typical ten day notice on the basis that not doing so would be adverse to the community. Commissioner Buffa seconded the procedural motion that then passed by a vote of 8 to 0.

Commissioner Guthrie explained that the District Council is considering legislation (B-21-196) addressing regulation of noise from alcohol-serving establishments. He said that the Alcohol Beverage Regulation Administration would be more empowered to enforce noise regulations than it has in the past. He then moved a resolution to support this legislation subject to three requested revisions. Commissioner Seiwel seconded the motion.

Chair Simpson offered a friendly amendment to add the phrase “because sidewalk speakers are already prohibited by DCMR 24 Section 208.4” which was accepted without objection.

The resident from the Lofts at Adams Morgan who spoke earlier expressed support for this resolution.

The Commission then voted 8-0 to support proposed legislation before the District Council (B-21-196) regulating noise from alcohol-serving establishments subject to three requested revisions.

**RESOLUTION ON THE
DRAFT COMMITTEE PRINT – B-21-196, DC COUNCIL COMMITTEE ON BUSINESS, CONSUMER AND
REGULATORY AFFAIRS**

Whereas, the noise emanating from alcohol-licensed establishments has been a continuing issue in the Adams Morgan neighborhood, and

Whereas, B-21-196 attempts to meet some of the problems associated with the proximity of residential units to licensed establishments, and

Whereas, the licensees of Adams Morgan are located in C-2-A or C-2-B zones, (which zones are not excluded from application of the act), and

Whereas, those who reside in a building that also contains one or more alcohol licensees should be able to sleep in their homes, and

Whereas, those who live in a building owned by a licensee and adjacent to the licensed establishment should be able to sleep in their homes, and

Whereas, DCMR 24, Section 208.4 states that speakers are not permitted on sidewalk cafes

Now therefore, ANC 1C supports the efforts of Chairman Orange and the Committee on Business, Consumer and Regulatory Affairs to provide noise protections to more DC residents, with a clearer set of requirements for citing noise violations from ABC establishments, and

Further, supports enactment of B-21-196, with the request that “sidewalk cafe” be taken out of subsection (g) (because loudspeakers are already prohibited by DCMR 24, Section 208.4) and that subsections (h)(1) and (2) be deleted from the measure.

b. Planning, Zoning, and Transportation Committee

i. Penthouse Regulations

Commissioner Buffa offered a procedural motion to add to the agenda consideration of a resolution addressing penthouse regulations without the typical ten day advance notice on the basis that not doing so would be adverse to the community. Chair Simpson seconded the motion that then passed by a vote of 8 to 0.

Commissioner Gambrell reported that he had worked with Larry Hargrove on drafting a resolution to provide comments to the DC Zoning Commission on proposed final regulations on rooftop penthouses. He moved a resolution in support of proposed regulations limiting penthouse structures on rowhouses – commending the Zoning Commission on some provisions and urging revision of other provisions. Commissioner Buffa seconded the motion and thanked

Commissioner Gambrell for the thorough, detailed resolution. Commissioner Gambrell, in turn, thanked Larry Hargrove for his work on the resolution.

Commissioners then passed the resolution by a vote of 8 to 0.

Penthouse Regulations (14-13)ⁱ - Resolution of ANC 1C

October 7, 2015

The Zoning Commission has issued a Notice of Proposed Rulemaking in Case No. 14-13, setting out its proposed final text of revised Zoning Regulations concerning Rooftop Penthouses.

Comprehensive Plan Provisions. The Comprehensive Plan:

- Mandates the protection of the scale, character and architectural integrity rowhouse neighborhoods and their role in providing housing for larger households and thus helping to keep young families in the District, through a collection of precise actions and policies. This action program for protecting rowhouse neighborhoods includes provisions specifically related to curtailing penthouses and added stories.
- Requires a setback from adjoining side walls of row houses and semi-detached houses,¹ which is necessary as rowhouses are relatively short buildings whose appearance can be greatly diminished by penthouse additions.

Potential Impact of Penthouses on Rowhouses. Redevelopment of individual buildings, with disproportionately large penthouses, is particularly destructive in rowhouse neighborhoods as major changes to the mass or height of one rowhouse can diminish the livability of its immediate neighbors and rupture the integrity of the whole row.

Proposed Revisions in 14-13. The revised 14-13 text contains improvements that could forestall damaging effects of excessive height and width of penthouses on rowhouses; specifically:

- **Height and width:** §411.5 of the text prohibits roof penthouses as a matter of right on any “detached dwelling, semi-detached dwelling, rowhouse or flat in any zone,” other than for mechanical equipment or a guardrail. They are allowed by Special Exception but only for the purpose of providing a stair or elevator for roof access and up to 30 square feet of storage space ancillary to a roofdeck, and cannot exceed ten feet in height
- **Setback:** The text requires setback from adjoining walls where the two buildings have the *same* legal height limit for R-1 through R-4 zones (§411.18(a)(3)), but for R-5 and other zones limits the requirement to walls adjacent to a property with a *lower* permitted height (§411.18(a)(4)).² However, it does not require setback where the two buildings have the same building height limit. There is no perceptible reason for this arbitrary exclusion of rowhouses in Adams Morgan and other R-5 and Mixed Use zones from the two setback provisions mentioned above (§411.18(a)(3) and the ZRR), which would mean that for the typical interior rowhouse in those zones the penthouse could extend across the full width of the house. The proposed final text requires generally that “penthouses and mechanical

¹ Action LU-2.1.B: Amendment of Exterior Wall Definition. Amend the city’s procedures for roof structure review so that the division-on-line wall or party wall of a row house or semi-detached house is treated as an exterior wall for the purposes of applying zoning regulations and height requirements.

² As to side walls adjoining another building, the ZRR draft now also requires setback where the adjacent property has a lower matter of right building height. See C-1500.8(a)(2).

equipment shall be placed in one (1) enclosure and shall harmonize with the main structure in architectural character, material and color” (§411.6) and that “[e]nclosing walls of a penthouse from roof level shall rise vertically” (§411.10).

- The proposed final text substantially curtails exemptions from gross floor area (§411.13), providing an improvement from the earlier draft that provided a substantial exemption of penthouse floor area used for human habitation from inclusion within allowable gross floor area.

Prior ANC 1C resolutions have endorsed both the 10 foot height limit of “roof structures” and application of the side-wall setback formula provided in C§505.2(3). Roof Structures, April 2, 2014, updated September 9, 2015 and Penthouses, Passed January 7, 2015.

Therefore it is resolved that ANC 1C:

- Commends the Zoning Commission for the very significant progress reflected in the proposed final text as regards protecting rowhouse neighborhoods from rooftop penthouses of excessive height, width and bulk.
- Commends the Zoning Commission for the enhanced attention to the aesthetic impact of penthouses reflected in the proposed final text, through requirements regarding penthouse design and compatibility of materials and color.
- Commends the Zoning Commission for substantially curtailing exemptions from the inclusion of penthouse floor area from allowable gross floor area in the proposed final text.
- Urges the Zoning Commission to prohibit matter-of-right penthouses on any “detached dwelling, semi-detached dwelling, rowhouse or flat in any zone”, and limit the use and height and other dimensions of rowhouse penthouses that are allowed thereon by special exception, by enacting §411.5 of the pending draft, and clarifying that 30 square feet is the maximum floor area of roof structures covered by this provision; and
- Urges the Zoning Commission to enact the side-wall setback formula provided in §411.18(a) of the pending text, with §411.18(a)(3) amended so as to apply to any “detached dwelling, semi-detached dwelling, rowhouse or flat in any zone” and §411.18(a)(4) amended so as to reflect this change.

ⁱ Case No. 14-13 (Notice of Proposed Rulemaking -- Text Amendments to Chapters 1, 4, 5, 6, 7, 12, 15, 19, 26, 27, 29, and 33: Definitions, Use Permissions, and Size Restrictions for Rooftop Penthouses).

ii. Child Development Homes

Commissioner Gambrell reported that the Zoning Commission will be holding a hearing on November 2nd on child care centers in residential zones.

iii. Russian Embassy Fence – BZA Application

Commissioner Buffa reported that the Board of Zoning Adjustment would hold a hearing on October 20 on the Russian Embassy's application for a new fence at its trade office at 2001 Connecticut Avenue, NW. Commissioner Gambrell said a new fence could create a different look to the property. Chair Simpson asked whether the property is in a historic district. Commissioner Guthrie said it seemed that more information was needed and he assumed that the Historic Preservation Office will have to look at the plans.

c. Public Services and the Environment

i. Joseph's House

Commissioner Huezo reported that the Public Services and the Environment Committee voted to recommend that ANC 1C approve a grant to Joseph's House, a home at the corner of Lanier and Ontario for homeless men and women with terminal illnesses. A representative from Joseph's House explained that they are in need of a new washer and dryer to care for their residents.

Commissioner Huezo moved that ANC 1C approve a grant of \$1000 for Joseph's House to acquire a washer and dryer. The motion did not require a second since it was a Committee recommendation. A neighbor spoke in support of Joseph's House. Commissioners then approved the grant by a vote of 8 to 0.

ii. Proposed Regulation of Personal Trainers

Commissioner Buffa moved a resolution to (i) urge the DC Board of Physical Therapy to withdraw its proposed regulation of personal fitness trainers, and (ii) urge the DC Council and the Mayor to eliminate the DC Board of Physical Therapy's authority to regulate personal fitness trainers. The motion did not require a second since it was a committee recommendation. Commissioner Buffa explained that the proposed regulation would determine when the services of a personal trainer are covered by insurance. He said that many trainers would not fit the proposed new definition, and gyms and cross-fit locations may have to close because their trainers no longer qualify which would be counter to Mayor Bowser's fitness initiative.

Commissioner Huezo commented that at the PSE Committee meeting one business owner said that ten of their trainers would be affected by the proposed regulations. Commissioner Mossi said the owner of a small gym in Mount Pleasant thought the regulation had been tabled.

Commissioner Gambrell said it seemed part of the confusion is over what is covered for insurance purposes and what qualifies for licensure purposes.

Commissioners then passed the resolution by a vote of 8 to 0.

ANC Resolution Regarding Proposed Regulation of Personal Trainers by the D.C. Board of Physical Therapy

Advisory Neighborhood Commission 1C ("ANC1C") adopts the following resolution and votes to send it to the D.C. Board of Physical Therapy, the Mayor, and the DC Council:

WHEREAS, the Omnibus Health Regulation Amendment Act of 2013, states, in pertinent part: "(h) Section 209(b) (D.C. Official Code § 3-1202.09(b)) is amended to read as follows: '(b) The Board shall regulate the practice of physical therapy and the practice of athletic training, including practices by physical therapist assistants and by personal fitness trainers.'"

WHEREAS, the D.C. Board of Physical Therapy has submitted a proposed regulation on personal fitness trainers pursuant to the Omnibus Health Regulation Amendment Act of 2013.

WHEREAS, the D.C. Board of Physical Therapy's proposed regulation would restrict and burden personal fitness trainers with anti-competitive licensure and certification requirements.

WHEREAS, many personal fitness trainers are small business owners and entrepreneurs whose efforts have benefited D.C. and the local Adams Morgan economy.

WHEREAS, these small businesses should not be burdened by unnecessary and costly government regulations.

WHEREAS, the efforts of personal fitness trainers have improved the health and well-being of numerous residents of Adams Morgan and has helped D.C. earn the title of the fittest city in America.

WHEREAS, in the Spring of 2015, Mayor Muriel Bowser launched "FitDC" which is a comprehensive health and wellness initiative that encourages residents to live a healthier lifestyle by linking them to nutrition and physical fitness resources in their communities.

WHEREAS, Councilman Jack Evans has introduced the Omnibus Health Regulations Rationalization Amendment Act of 2015 that would amend the Omnibus Health Regulation Amendment Act of 2013 to remove the D.C. Board of Physical Therapy's authority to regulate personal fitness trainers.

Resolved, that:

- *ANC1C urges the D.C. Board of Physical Therapy to withdraw its proposed regulations of personal fitness trainers.*
- *Without endorsing any particular proposed legislation, ANC1C urges the DC Council and the Mayor to enact a law to eliminate the D.C. Board of Physical Therapy's authority to regulate personal fitness trainers.*

iii. Pledge to End Homelessness

Commissioner Reynolds moved a resolution stating that ANC 1C pledges to do its part to end homelessness in DC, enlist support of family and friends to join in this effort, and to support Mayor Bowser's Homeward DC plan. No second was required as the resolution was approved in the PSE Committee. Commissioners then passed the resolution by a vote of 8 to 0.

Resolution Expressing ANC 1C Support to work to end homelessness in the District of Columbia and in support of the Homeward DC Plan to make homelessness in the District of Columbia rare, brief, and nonrecurring.

Whereas there are far too many men, women, and children living on our streets and in our shelters;

Whereas homelessness in the District of Columbia is not an intractable problem and can be solved;

Whereas when members of our community experience homelessness, we all suffer, and our entire community must be a part of the solution;

Whereas every neighborhood, and every resident, has a stake in preventing homelessness and supporting people who experience homelessness;

Whereas by committing to action and using proven strategies, the District of Columbia has an opportunity to lead the nation in ending homelessness and;

Whereas as a community, we should close and replace DC General with smaller, more dignified private room emergency housing for families across the District and;

Whereas Mayor Bowser and the DC Interagency Council on Homelessness agreed on a five-year plan called Homeward DC to reduce homelessness and support policies to;

-Make shelter available to families when they need it, not only during hypothermia.

-Commit to reduce the time individuals and families experience homelessness by connecting them to housing and important 'wrap-around' social service to help them achieve independence and find a path to the middle class.

-Provide 'interim eligibility' short term placements to assure the public safety of families waiting for permanent shelter placement.

-Clarify emergency housing configuration as apartment-style or a private room.

THEREFORE BE IT RESOLVED that Advisory Neighborhood Commission 1C, affirming in its oath of office to work in the best interest of the District of Columbia as a whole, pledge to do its part to end homelessness in the District of Columbia, enlist support of our families, friends, and neighbors to join this important effort, and let local leaders know that we support the Homeward DC plan, and that they should too.

VI. Adjournment

Commissioner Buffa moved to adjourn at 9:46 pm. Commissioner Guthrie seconded the motion which passed unanimously.