



Advisory Neighborhood Commission 1C

PO Box 21009, NW, Washington, DC 20009

www.anc1c.org

Representing Adams Morgan

Commissioners:

February 28, 2014

Brian Hart (1C01)

Marty Davis (1C02)

Ted Guthrie (1C03)

Gabriela Mossi (1C04)

Elham Dehbozorgi (1C05)

Billy Simpson (1C06)

Wilson Reynolds (1C07)

Jimmy Rock (1C08)

Alcoholic Beverage Control Board
2000 14th Street NW, Suite 400S
Washington, DC 20009

Re: Petition for Renewal of and Modification to
the Adams Morgan Moratorium

Chairperson Miller,

Please find attached Advisory Neighborhood Commission
1C's petition for renewal of and modification to the Adams
Morgan moratorium.

Sincerely,

A handwritten signature in black ink, appearing to be 'Billy Simpson', with a long, sweeping underline.

Billy Simpson
Chair, ANC1C

Introduction

Advisory Neighborhood Commission 1C ("ANC 1C") hereby petitions the District of Columbia Alcoholic Beverage Control Board (the "Board") to renew in part, and modify in part, the conditions of the existing moratorium on the issuance of new retailer's licenses to sell or serve alcoholic beverages in certain parts of Adams Morgan (the "Moratorium"). In satisfaction of the requirements of DC Official Code 25-352(a):

- (1) The petitioner is Advisory Neighborhood Commission 1C, with address P.O. Box 21009, Kalorama Station, Washington, DC 20009.
- (2) The area of the District to be covered by the Moratorium is the same area to which the existing Moratorium currently applies as set forth in DCMR 23-304.2 (the "Moratorium Zone").
- (3) As described in further detail below, ANC1C is seeking the following actions from the Board:
 - (i) Continue to prohibit any nightclub licenses (CX/DX) in the Moratorium Zone.
 - (ii) Continue to prohibit any new tavern licenses (CT/DT) in the Moratorium Zone, or the conversion of other licenses into tavern licenses in the Moratorium Zone, at any time that the number of tavern licenses equals or exceeds 10.
 - (iii) Allow new restaurant licenses (CR/DR) in the Moratorium Zone.
 - (iv) Prohibit new entertainment endorsements in the Moratorium Zone of the kind that characterize nightclub activity, specifically cover charges, live music other than as an accompaniment to dining, DJs, and dancing.
 - (v) Prohibit promoters and bar crawls in the Moratorium Zone.
- (4) As described further below, ANC1C considers these Moratorium requests to be necessary due to the following appropriateness standards of DC Official Code 25-313(b):
 - (i) Overconcentration of tavern licenses and licenses that are operating as de facto night clubs within the Moratorium Zone.
 - (ii) Adverse effects on peace, order, and quiet.
 - (iii) Adverse effects on residential parking needs and vehicular and pedestrian safety.

History

The Adams Morgan Moratorium has generally been in effect in one form or another since July 2000. Most recently, in April 2008, ANC1C, together with the established Adams Morgan neighborhood associations, petitioned the Board to extend the Moratorium for a further 5 years with (i) a prohibition on any nightclub licenses, (ii) a limit of 10 tavern licenses, and (iii) no new restaurant licenses.

In January 2009, the Board granted the requested extension of the Moratorium on the basis that Adams Morgan suffers from "significant problems with peace, order, and quiet, particularly with respect to criminal activity, noise, litter, disorderly conduct, crowd control, and vehicular and pedestrian safety, as well as parking problems during the late evening hours in the Adams Morgan Moratorium Zone". The Moratorium is currently set to expire on April 16, 2014.

Public Outreach in 2013

Immediately upon taking office in January 2013, the Commissioners of ANC1C began publicizing to the community that the Moratorium would be expiring in 2014, and that ANC1C would need to make a determination about continuing, modifying, or removing the Moratorium. Early in 2013, ANC1C's ABC and Public Safety Committee hosted the Director of the Alcoholic Beverage Control Board, Fred Moosally, to explain the history of the Moratorium, its content, and the procedures for making a determination about its future.

In September of 2013, the Commission's Moratorium deliberations began in earnest. Representatives of the community's principal neighborhood associations, the Kalorama Citizens Association ("KCA") and the Reed-Cooke Neighborhood Association ("RCNA"), were specifically invited to participate, as were representatives of the Adams Morgan Business Improvement District ("AMBID"). The Commission invited and received public comments at the September 11, 2013 meeting of its ABC and Public Safety Committee, at an October 9, 2013 Special Forum, and at the Commission's regularly scheduled meeting on November 6, 2013. The meetings were advertised on the Commission's website, on the Adams Morgan Listserv, and directly by Commissioners to their constituents. The Commission also invited residents to submit written comments throughout the process and in advance of meetings. Drafts of proposed resolutions were posted on the Commission's website and on the Adams Morgan Listserv for public consideration and comment. All in all, the Commission received several hundred written and in-person comments.

At its meeting on November 6, 2013, the Commission began its formal deliberations and voting. The process was extended to the Commission's meeting on December 4, 2013. The resolutions below were taken by the Commission at these meetings.

The Problems

By a vote of 7-0 (with 1 Commissioner absent), ANC1C resolved that Adams Morgan continues to suffer from "significant problems with peace, order, and quiet, particularly with respect to criminal activity, noise, litter, disorderly conduct, crowd control, and vehicular and pedestrian safety, as well as parking problems during the late evening hours in the Adams Morgan Moratorium Zone" as set forth in the ABC Board's Final Rulemaking concerning the Adams Morgan Moratorium Zone on January 22, 2009.

Appropriateness Standards

In satisfaction of the appropriateness requirements set forth in DC Official Code 25-352(a)(4) and 25-313(b), by a vote of 7-0 (with 1 Commissioner absent), ANC1C resolved to submit this petition on the basis that the Moratorium is necessary due to (i) overconcentration of tavern licenses and of licenses that are operating as de facto night clubs within the Moratorium Zone, (ii) adverse effects on peace, order, and quiet, and (iii) adverse effects on residential parking needs and vehicular and pedestrian safety.

Overconcentration

Based on information provided by ABRA, there are (i) 0 nightclub licenses, (ii) 15 tavern licenses, and (iii) approximately 60 restaurant licenses (of which 9 appear to be in safekeeping) in the Adams Morgan Moratorium Zone. These numbers have not changed significantly since the Board last extended the Moratorium in January 2009.

In its 2009 Moratorium ruling, the Board found that this constituted an overconcentration of on-premises establishments. For ANC1C's part, by a vote of 7-0 (with 1 Commissioner absent), ANC1C resolved that the problems identified above arise principally from the fact that, although there are no nightclub licenses in Adams Morgan, multiple alcohol-serving establishments in the Adams Morgan Moratorium Zone have been permitted to operate as though they were nightclubs through entertainment endorsements, the failure to enforce food sales requirements, and the failure to enforce the District's noise ordinances and other applicable requirements of District law.

Consequently, ANC1C is focused on the overconcentration of tavern licenses and of licenses that are operating as de facto night clubs within the Moratorium Zone. Our Moratorium requests have the objective of reducing the number of establishments that are operating in this manner, and ensuring that existing or new establishments do not begin to operate in this manner. We note that this is consistent with Policy MC-2.4.2 of the Comprehensive Plan, which provides in part that "the conversion of restaurants to night clubs or taverns and the expansion of existing night clubs or taverns into adjacent buildings should be discouraged."

Peace, Order, and Quiet

Based on the 2010 census, there are approximately 16,000 people living in Adams Morgan. With its many apartment buildings, co-operatives, condominiums, and large rowhouses, Adams Morgan is one of the most densely populated areas in the District. Meanwhile, Adams Morgan's commercial district runs through the geographical center of the community, ensuring that any adverse externalities that emanate from the commercial district are immediately felt by residents.

A great many of our commercial establishments, including a great many of our alcohol serving establishments run reputable businesses. But the establishments that have pursued a nightclub business model (while actually being licensed as restaurants or taverns) seem to disproportionately produce the criminal activity, noise, litter, disorderly conduct, and crowd control issues that were identified by the Board in its 2009 ruling.

These problem establishments focus on serving as much alcohol as possible to as large a crowd as possible in as noisy an environment as possible. They often use promoters, who market to a disreputable customer base inviting violence, as seen most recently in the massive fight and multiple stabbings that took place at the establishment known as District on New Year's Eve. The music from these establishments penetrates nearby residences and leaves residents

unable to sleep. And then at closing time, these establishments disperse overly-intoxicated and unruly patrons onto the streets where they jostle each other, and get into loud verbal and physical arguments. This in turn requires that large numbers of police officers be regularly deployed, at significant cost to the District government (and the taxpayers) and to the businesses within the Adams Morgan Business Improvement District.

Even when the police are successful at moving people out of the commercial corridor without incident, these drunken individuals then make their way home through the residential streets where they yell, sing, toss trash, kick over garbage cans, urinate, and vomit. These people also constitute a target for criminals who strategically wait until 2 am and 3 am to commit their robberies.

The community does not want this kind of an environment. By a vote of 7-0 (with 1 Commissioner absent), ANC1C resolved that it considers it to be the overwhelming shared vision of the Adams Morgan community, including residents and businesses, that the commercial district within the Adams Morgan Moratorium Zone should not be a "club zone", or an "entertainment district", but should instead be a district that integrates quality and diverse dining, complemented by moderate entertainment, with local retail, and that respects the residential character of the neighborhood. We note that this is consistent with Policy MC-2.4.2 of the Comprehensive Plan which calls in part for "[e]ncourag[ing] small businesses that meet the needs of local residents, rather than convenience stores, large-scale commercial uses, and concentrations of liquor-licensed establishments."

Residential Parking Needs and Vehicular and Pedestrian Safety

Even though Adams Morgan can boast of having one of the lowest rates of car ownership in the District, it is well known that parking in Adams Morgan is challenging. Much of the housing in the community does not include off-street parking, and there are almost no surface parking lots remaining in the neighborhood. There is limited metered parking, a commercial parking garage located on 18th Street, and another smaller commercial garage on Florida Avenue (slated for residential development) but the relatively few hourly parking spaces in these locations quickly fill up on weekend nights.

Accordingly, there is a constant competition for on-street parking spaces. And the difficulty of finding parking becomes a near impossibility on Thursday, Friday, and Saturday evenings as people from outside the community drive in to experience Adams Morgan, and park throughout the residential streets. Residents in turn find themselves unable to invite family or friends over for an evening visit. And residents have to forego driving out of the neighborhood to run errands or for social engagements because they are unlikely to find a parking space when they return.

Meanwhile, again, ANC1C considers it to be the overwhelmingly shared vision of the Adams Morgan community, including residents and businesses, that the commercial district within the Adams Morgan Moratorium Zone should be a district that integrates quality and diverse dining, complemented by moderate entertainment, with local retail, and that respects the residential character of the neighborhood. Establishments that fulfill this vision are far more likely to be the kinds of businesses that cater to local patrons who can therefore arrive by walking or taking public transportation. In contrast, the establishments that have pursued a nightclub business model rely on a constant stream of patrons from far outside the neighborhood, many of whom drive.

In addition to adversely impacting the parking needs of local residents, people who drive to Adams Morgan for a “club scene” put pedestrian safety at tremendous risk when they drive home intoxicated. Those risks were tragically highlighted in September 2010 when a pedestrian was killed by a driver who was found to have been over-served at the previous iteration of the establishment known as District.

Night Clubs CX / DX

Based on the assessments above, by a vote of 6-0 (with 1 Commissioner abstaining and 1 Commissioner absent), ANC1C resolved to support continuing a prohibition on the issuance of any night club licenses within the Adams Morgan Moratorium Zone.

Taverns CT / DT

Based on the assessments above, by a vote of 6-0 (with 1 Commissioner abstaining and 1 Commissioner absent), ANC1C resolved to support continuing a prohibition on the issuance of any new tavern licenses within the Adams Morgan Moratorium Zone, or the conversion of any other licenses into tavern licenses within the Adams Morgan Moratorium Zone, at any time that the number of tavern licenses within the Adams Morgan Moratorium Zone equals or exceeds 10.

Restaurants CR / DR

With respect to restaurants, ANC1C took a different approach than has been taken in the past. After considering the numerous public comments received, ANC1C acknowledged a sincere difference of opinion among well intentioned and committed members of the community with respect to the treatment of restaurant licenses within the Adams Morgan Moratorium Zone. On the one hand, some residents feel that the adverse conditions that persist in Adams Morgan can only be improved if the current prohibition on the issuance of new restaurant licenses within the Moratorium Zone is extended along with the limitations on night club licenses and tavern licenses. On the other hand, some residents feel that the adverse conditions that persist in Adams Morgan can be improved by allowing additional restaurant licenses to foster competition among existing establishments and raise the level of quality within the commercial district.

Having considered these two perspectives, ANC1C is convinced that allowing additional restaurant licenses within the Moratorium Zone can foster competition among existing establishments, raise the level of quality, and positively impact the adverse conditions that persist in Adams Morgan. However, ANC1C believes strongly that this approach can only work if establishments operating under restaurant licenses are required to operate as bona fide restaurants (in which the quality of the menu is the primary factor driving the success of the business), and are not allowed to devolve into de facto night clubs (in which alcohol consumption is the primary factor keeping the business alive).

Based on these views, by a vote of 6-1 (with 1 Commissioner absent), ANC1C resolved to support ending the prohibition on the issuance of new restaurant licenses within the Adams Morgan Moratorium Zone, subject to the following conditions:

- 1) That no additional entertainment endorsements be granted within the Adams Morgan Moratorium Zone of the kind that characterize night club activity, specifically cover charges, live music other than as an accompaniment to dining, DJs, and dancing.
- 2) That promoters and bar crawls be prohibited.

ANC1C is cognizant that some of these conditions may not be eligible for inclusion within the Moratorium order that the ABC Board will issue. We believe that restrictions on entertainment, at least, can be permitted pursuant to the "substantial change" provision in DC Official Code 25-351(a)(2). In any event, to the extent that these conditions are not eligible for inclusion within the Moratorium order, ANC1C requests that the ABC Board impose them license by license for the duration of the Moratorium period.

Duration

By a vote of 7-0 (with 1 Commissioner absent), ANC1C resolved to seek to have these limitations apply for a period of 5 years, subject to review and further comment by the community at the mid-point of that 5 year period.

Timing

With the current Moratorium set to expire on April 16, 2014, we believe that enough time remains for the Board to schedule a hearing and vote on this petition before the current Moratorium expires. However, if the timing is inadequate, we request that the Board temporarily extend the current Moratorium until this petition can be fully addressed.