



GOVERNMENT OF THE DISTRICT OF COLUMBIA
Dupont Circle Advisory Neighborhood Commission 2B

August 19, 2013

Chairwoman Ruthanne Miller
Alcoholic Beverage Control Board
Reeves Center
2000 14th Street NW
Washington, DC 20009
abra@dc.gov

RE: Resolution to Extend and Modify the East Dupont Circle Liquor Moratorium

Dear Chairwoman Miller,

At its regular meeting on August 14, 2013, the Dupont Circle Advisory Neighborhood Commission (“ANC2B” or “Commissioner”) considered the East Dupont Liquor Moratorium, which is currently set to expire in September 2013. We very much appreciate that ABRA Director Fred Moosally and his staff provided the ANC with reminders and notice at the beginning of 2013 that this moratorium was set to expire this year.

The Commission held a series of public meetings, beginning in May 2013 and continuing through August 2013, to discuss the moratorium openly with community stakeholders and formulate a recommendation for the Board.

With 8 of 9 Commissioners present at our August 14, 2013 meeting, a quorum at a duly-noticed public meeting, the Commission approved the below motion by a split vote of 4 to 4. The Commission has a tie-breaking rule in its by-laws that in case of a tie vote, the vote of the Chairperson controls. The Chair was one of the four Commissioners voting in favor of the below resolution, and therefore the resolution passed. As set forth in more detail below, the resolution recommends renewal of the moratorium for three years, but with restrictions lifted on Class CR, Class DR, Class A, and Class B licenses.

The resolution adopted by the Commission is as follows:

Whereas, the East Dupont Circle Moratorium (the Moratorium) has been recognized as a tool to reduce liquor license over-concentration and protect the peace, order and quiet of the East Dupont Circle neighborhood;

Whereas, a goal of the ANC is to promote the future of its neighborhoods, advocating for smart growth and sustainable, responsible economic development;

there are several tools that can effectively help promote the welfare of the neighborhood;

Whereas, the ANC has weighed the opinions of the impacted community, businesses, community organizations and the Dupont Circle neighborhood at-large; which were diverse and often strong;

Whereas, the East Dupont Circle Moratorium limits the number of Retailer's liquor licenses issued in the area that extends approximately six hundred (600) feet in all directions from the intersection of 17 and Q Streets, N.W., Washington, D.C.; and

Whereas, the East Dupont Circle Moratorium is set to expire on September 23, 2013.

Therefore, be it resolved, that ANC 2B petition the Alcoholic Beverage Control Board for the renewal of a modified East Dupont Circle Moratorium for a three-year period from the date of Board action;

Be it further resolved, that ANC 2B recommends continuing the current number of licenses allowable be listed as the following: Class CT/DT – Two (2); and Class CN/DN – Zero (0);

Be it further resolved, that ANC 2B recommends that the restriction on the number of Class A, Class B, and CR/DR licenses be lifted;

Be it further resolved, that ANC 2B recommends that the current exemption for hotels continue;

Be it further resolved, that ANC 2B recommends the existing language pertaining to transfer of ownership be maintained;

Be it further resolved, that ANC 2B recommends that the prohibition on the transfer of a CT/DT, or CN/DN license from outside the Moratorium zone to inside the Moratorium zone be continued;

Be it further resolved, that ANC 2B recommends the Moratorium shall prohibit the change of all CR/DR licenses to CT/DT or CN/DN licenses;

Be it further resolved that ANC 2B will track measures to determine the effectiveness of these changes. These will include: violations registered with ABRA, complaints registered with the Commissioners of the Single-Member Districts within the Moratorium boundaries, and the number and type of new businesses in the Moratorium boundaries; and

Be it further resolved that ANC 2B recommends that the Alcoholic Beverage Control Board take any actions necessary to ensure that the current moratorium does not expire before it can act on these recommendations.

Due to his position on the ABC Board, Commissioner Silverstein did not participate in the vote. Commissioner Silverstein was attending an extended ABC Board meeting on the night of August 14, 2013 and thus did not attend the ANC meeting at which the above resolution was considered.

Commissioners Kevin O'Connor (kevin.oconnor@dupontcircleanc.net), Will Stephens (will.stephens@dupontcircleanc.net), and Mike Feldstein (mike.feldstein@dupontcircleanc.net) are the Commission's designated representatives on this matter.

Enclosed is the Commission's report on the moratorium. A hard copy of the report's appendix will be delivered to ABRA's offices.

ON BEHALF OF THE COMMISSION

Sincerely,

A handwritten signature in cursive script that reads "William J. Stephens". The signature is written in dark ink and is positioned above the typed name and title.

Will Stephens
Chairman

Executive Summary

The 17th Street Commissioners, having been charged by Advisory Neighborhood Commission 2B (the ANC or ANC 2B) to determine a course of action on the East Dupont Circle Liquor Moratorium (the Moratorium), presents the following report and recommendations in accordance with its assigned duties and responsibilities.

The report identifies the key opinions and ideas presented by residents, community groups and businesses around the Moratorium. The purpose of obtaining public input was to establish the benefits and drawbacks of continuing, altering or removing the current Moratorium zone. The strengths and weaknesses of the current Moratorium became apparent through this process.

The analysis of public input regarding the current Moratorium leads the 17th Street Commissioners to recommend that the ANC continue an Eastern Dupont Circle Moratorium Zone with modifications that allow for future neighborhood growth and development.

The ANC has recognized that Moratoria are not permanent solutions and are designed to provide temporary relief to neighborhoods aiming to achieve specific goals. In altering the present Moratorium, it is the intention of the 17th Street Commissioners to adapt to the wishes of the businesses and residents of Eastern Dupont Circle. At the next review period, the ANC should decide if additional changes are merited and should revisit the idea of discontinuing the Moratorium.

Therefore it is recommended that ABRA:

- Continue a modified Moratorium for Eastern Dupont Circle;
- Eliminate the cap on CR/DR, A, B, and CX/DX licenses within the existing moratorium zone;
- Continue restrictions on the number of CT/DT and CN/DN licenses;
- Agree to revisit the Moratorium in 3 years;
- Encourage new businesses within the Moratorium boundaries to enter into Settlement Agreements as a “good faith” act for their neighbors.

History

In 1990, the Dupont Circle Advisory Neighborhood Commission 2B (ANC 2B), along with the Dupont Circle Citizens’ Association (DCCA), applied for a moratorium on any new liquor licenses being issued along 17th Street. The original moratorium was imposed by the Alcohol Beverage Regulation Administration (ABRA) with the dual purposes of:

1. Protecting the peace, order and quiet of the neighborhood; and
2. Ensuring neighborhood retail and service diversity.

Since 1990, the Dupont East liquor moratorium has been renewed four times, in 1995, 2000, 2005 and 2009, sometimes with modification in an attempt to to changes in the neighborhood.

The current moratorium expires on September 23, 2013.

Moratorium Deliberation

On April 22, 2013, the Commissioners whose Single Member District boundaries are within the moratorium zone, along with Kevin O'Connor, Chair of the ABRA Policy Committee, met to discuss the Moratorium. The 17th Street Commissioners are as follows:

- Stephanie Maltz, Commissioner 2B03
- Kishan Putta, Commissioner 2B04
- Abigail Nichols, Commissioner 2B05
- Leo Dwyer, Commissioner 2B07

During this meeting, the commissioners decided to establish an informal workgroup with 17th Street Commissioners only to work in coordination and collaboration on this issue. As a result, this report and resolution reflects the opinion of the majority of 17th Street Commissioners.

Engaging the Public

ANC2B actively engaged the public through a series of public meetings and solicitation of comments from all interested parties. Three public meetings were held at the Chastleton (1701 16th Street NW) on May 21, June 24 and August 7. Minutes from the first two each meetings were posted on the Dupont Circle ANC website (<http://dupontcircleanc.net>).

At the third listening session, the ANC presented its draft resolution and invited public comment. Members of the public asked several clarifying questions about the draft language and the number and type of licenses currently in the moratorium zone. In addition, there was discussion about the merits of license long-term safekeeping, which most participants were against. There was also a conversation about the merits of the moratorium discussion process every three or five years and its impact on neighborhood relations.

Announcements were made through: blog postings on websites (Borderstan), Twitter, Facebook, publications such *The InTowner*, *Dupont Current*, *The Washington Blade*, Dupont Circle Citizens' Association (DCCA) newsletters, DCCA members via email, public announcements at ANC meetings and DCCA membership meetings.

All told, 17th Street Commissioners received 51 response from Dupont Circle residents on the issues of the moratorium, including the following:

- Three (3) letters requesting that the moratorium be maintained and extended;
- Two (2) letters requesting that the moratorium be extended, but revised to allow

flexibility for businesses;

- One (1) letter requesting that the ANC request an extension period to allow for additional time before making a recommendation; and
- Forty-five (45) letters requesting that the moratorium be allowed to expire and not be renewed.

All correspondences are included in Appendix I.

Residents requesting the moratorium be maintained and extended submitted the following information:

- “Passing laws and changing policies is not always in the long-term best interest of the community. sometimes the wiser option is to leave things as they are.”
- “Please consider how we are all affected by the plethora of liquor stores and drinking establishments in our neighborhood. And please No More!

Residents requesting that the moratorium be extended, but revised submitted the following information:

- “Based on my conversations with these long-term residents, I believe that they are aligned with the following sentiment offered at the last ANC listening session -- that restaurant, fine dining, or other civilized establishments, not bars and clubs, would enhance the Dupont community and would be embraced by the residents of 17th & P St, NW.”
- “I wanted to let you know that I would love to see some form of the moratorium continue. While I think we could use more options for businesses in some designations (restaurants, grocery stores), I am very happy with the restrictions on some of the other categories (liquor stores, nightclubs and special purpose, whatever that is...).”

Residents requesting that the moratorium be allowed to expire and not be renewed submitted the following information:

- “I know enough that it has been retrograde on the neighborhood. Should have been dropped last time – in fact the defenders said, “just one more time.” Poor social engineering that should be assigned to the dustbin of history. Why do you think we are the only neighborhood for miles around that has a “popular” McDonald's?”
- “I understand that the moratorium that limits the number of liquor licenses that can be issued in the 17th Street Corridor is soon up for renewal. As a resident of 17th Street, I am in favor of letting it expire. It has always struck me as odd that on our well-situated

street we have a noticeable lack of good wining and dining establishments. There are some great ones, sure! But there could be more. Does 14th street have the same moratorium?"

- "I have resided at the above address since July 1975. I was around when the original moratorium was initially proposed, and I spoke against it before the ANC. I recall that one of the primary arguments in favor of the moratorium was that it would enhance neighborhood retail by, in effect, keeping vacant commercial space available for non-ABC uses, specifically retail. Despite several renewals and the passage of many years, 17th Street has not gained the projected retail/ As of now, I know of at least two potential retail sites (the old Angie's New Leaf next to JR's and the former Blockbuster space below the CVS) which have never hosted retail since the former establishments vacated. We do not understand the rationale for continuing the moratorium if it didn't encourage any new retail. We ask, "are empty storefronts better for the neighborhood than additional restaurants?" Lifting the moratorium will not affect the neighborhood's opportunity to object to specific proposed ABC establishments."
- "I urge the Dupont Circle Advisory Neighborhood Commission (ANC-2B) to vote to ask the D.C. Alcoholic Beverage Control (ABC) Board to terminate the 23-year-old "East Dupont" Liquor License Moratorium when it expires on Sept. 23."

Findings

The Committee was able to identify several major themes that arose through the meeting process and comments submitted:

- Peace, Order and Quiet;
- Public Safety; and
- Economic Development and Retail Diversity.

Peace, Order and Quiet

One of the primary concerns at the community meetings was the impact of the Moratorium on the lives of the neighbors within its boundaries. The presence of numerous businesses in a residential area has both advantages and disadvantages.

A number of residents voiced concerned about noise level. These focused specifically on noise produced by taverns and nightclubs as well as restaurants morphing into a tavern late into the evening. By restricting tavern and nightclub licenses, residents claimed the Moratorium had the beneficial result of preventing additional disruptions. The proposed resolution keeps the restriction of existing taverns license as it currently is in response to these concerns.

Residents seemed less concerned about noise produced by restaurants, which operate in a difference manner and often close earlier than their permitted hours. Many of the residents

speaking out in support of a continued moratorium acknowledged the benefit of allowing additional restaurants in the neighborhood. These benefits include more foot traffic that feed other types of neighborhood retail, as well as additional dining options for neighbors.

The ANC believes that the Settlement Agreement process provides the tools appropriate for managing restaurants seeking entertainment endorsements, which may be at risk of “morphing” into nightclub activity. Neighbors continually referenced the former Club Chaos space and the former Heritage India restaurants on Connecticut Avenue as an example of the risk of “morphing” from a restaurant during the day to what could be considered a nightclub. The ANC commits to working with new restaurant licenses to ensure that their business intentions are transparent and do not negatively impact the East Dupont Circle community.

Public Safety

Crimes Reported in a 500' Radius of 1700 Q St NW July 2012- July 2013

<i>Crime Type</i>	<i>7/25/2011 to 7/25/2012</i>	<i>7/25/2012 to 7/25/2013</i>	<i>% Change</i>
<i>Homicide</i>	<i>0</i>	<i>0</i>	<i>N/A</i>
<i>Sex Abuse</i>	<i>0</i>	<i>0</i>	<i>N/A</i>
<i>Robbery Excluding Gun</i>	<i>11</i>	<i>3</i>	<i>-73%</i>
<i>Robbery with Gun</i>	<i>1</i>	<i>0</i>	<i>-100%</i>
<i>Assault Dangerous Weapon (ADW) Excluding Gun</i>	<i>0</i>	<i>0</i>	<i>N/A</i>
<i>Assault Dangerous Weapon (ADW) Gun</i>	<i>1</i>	<i>0</i>	<i>-100%</i>
<i>Total Violent Crime</i>	<i>13</i>	<i>3</i>	<i>-77%</i>
<i>Burglary</i>	<i>4</i>	<i>7</i>	<i>75%</i>
<i>Theft</i>	<i>40</i>	<i>29</i>	<i>-28%</i>
<i>Theft F/Auto</i>	<i>42</i>	<i>39</i>	<i>-7%</i>
<i>Stolen Auto</i>	<i>1</i>	<i>4</i>	<i>300%</i>

<i>Arson</i>	<i>0</i>	<i>0</i>	<i>N/A</i>
<i>Total Property Crime</i>	<i>87</i>	<i>79</i>	<i>9%</i>
<i>Total Crime</i>	<i>100</i>	<i>82</i>	<i>-18%</i>

Source: Metropolitan Police Department (<http://mpdc.dc.gov/page/statistics-and-data>)

Data provided by the Metropolitan Police Department indicate that there has been a decrease in total crime in the Moratorium area since 2011 (by 18%). This includes a decrease in total violent crime (by 77%), and an increase in property crime (9%).

Overall, this mirrors the District’s recent decrease in overall crime. However, it is unclear whether or not there is a direct, causal relationship between this decrease in crime and the implementation of a moratorium.

Neighbors have both expressed concern that an increase in licenses would negatively impact crime in the area and, alternately, expressed that more businesses and “eyes on the street” would make the area safer for residents.

Based on the crime data available and the balance of arguments on public safety, the ANC believes that a compromised would allow the neighborhood to experience the positive elements of having more businesses in the neighborhood, while avoiding the potential public safety issues that would arise from over concentration.

Economic Development and Retail Diversity

17th Street is unique and distinct from many other areas of the District. By and large, commercial activity is concentrated on the east side of 17th Street, while the west side is largely residential. This creates a significant challenge to attracting retail as there is the street is not a traditional “commercial corridor” where business are located along both sides of the street. In this sense, the neighborhood is even more distinct than P Street, where there have also been difficulty attracting retail.

A focus of the community forum discussion has been about development of the neighborhood. Initially, the Moratorium was put in place to encourage different types of businesses to take root in the area and discourage overconcentration. Feedback from the public seems to reflect a desire to expand the opportunities for businesses, especially in vacant spaces, while controlling the elements that affect peace, order and quiet.

Public input was centered around how development can be controlled and not on whether additional growth should be permitted; this leads the 17th Street Commissioners to recommend a modified moratorium for a period of three years and then a serious consideration of eliminating

the zone.

A survey of the businesses on 17th Street finds that there are currently four vacant retail spaces. The community, through their comments to the ANC, have expressed interest in expanding retail diversity in the neighborhood. In fact, this is one of the reasons the Moratorium was initially implemented in the 1990s. However, while some of the retail has remained in the neighborhood over this time, there has also been a significant migration of retail business away from the neighborhood away from 17th Street. Neighbors specifically referenced Universal Gear and Glasses Store as examples of lost retail.

The ANC believes that a plan must be put into place to appeal to more retail and increase the attractiveness in the neighborhood. The lift on Class CR/DR licenses will serve as a supplement to revitalize 17th Street business and make the corridor more attractive to businesses in general.

In removing the current restrictions on CR/DR licenses, the neighborhood expressed concerns that building owners would be more inclined to raise rents on existing tenants and welcome new restaurant licenses over existing businesses. The ANC does not share these concerns and believes that working in close cooperation with building owners, Historic Dupont Circle Main Streets, and the District government that 17th Street can maintain existing tenants and become more welcoming to future retail as well.

Conclusion

ANC2B, having heard strong and passionate arguments both for and against a Moratorium, believes that the best course of action at this time is to pursue a modification of the existing East Dupont Circle Moratorium Zone. ANC2B agrees with prior ABC Board rulings that a Moratorium should serve as a temporary measure and has been in place for an extended period of time. However, the ANC does not conclude that the neighborhood would benefit from an immediate removal of the conditions of the Moratorium.

In the course of three public meetings and numerous email comments, the majority of respondents expressed the desire to see some change in the neighborhood and to help “revitalize” 17th Street. While, advocates for the moratorium expressed concerns specifically focused on nightclubs, taverns, and “morphing” restaurants; those opposed to the Moratorium specifically requested the Moratorium be lifted to allow new businesses - without regard for specific license types or business types. As such, the ANC believes lifting the restrictions on CR/DR licenses accommodates both the conditions requested by proponents of the Moratorium’s concerns with regards to peace, order and quiet, while allowing for the new businesses to enter into 17th Street as those oppose the Moratorium have requested.

The ANC additionally will not pursue the continuation of the current restrictions on Class A, B and CX/DX licenses. The ANC believes that the current District-wide restrictions on Class A and Class B licenses are adequate protection for neighbors concerned about the the increase in liquor sales from grocery or liquor stores. Furthermore, not one comment for or against the

Moratorium expressed concern about the issuance or possible issuance of special purpose CX/DX licenses. As such, the ANC will not advocate retaining these limitations.

While there was debate over the timing of the Moratorium's renewal, the ANC has concluded that 3 years is the appropriate time for review of these new conditions. A lift on the conditions of the Moratorium does represent a significant change in the 17th Street community, as such the proposed new conditions should be reviewed after 3 years to assess whether or not the desired results have come from relaxing Moratorium conditions.

Therefore the ANC proposes that a Moratorium with new conditions be implemented reflecting the changes desired by the Dupont Circle community.

Proposed Action

At its regular meeting on August 14, 2013, the Dupont Circle Advisory Neighborhood Commission ("ANC 2B" or "Commissioner") considered the above-reference mater advocating for a modified renewal of the Dupont East liquor moratorium. With 8 Commissioners present, a quorum at a duly-noticed public meeting, the Commission approved the following motion by a vote of 4 to 4.

Whereas, the East Dupont Circle Moratorium (the Moratorium) has been recognized as a tool to reduce liquor license overconcentration and protect the peace, order and quiet of the East Dupont Circle neighborhood;

Whereas, a goal of the ANC is to promote the future of its neighborhoods, advocating for smart growth and sustainable, responsible economic development; there are several tools that can effectively help promote the welfare of the neighborhood;

Whereas, the ANC has weighed the opinions of the impacted community, businesses, community organizations and the Dupont Circle neighborhood at-large; which were diverse and often strong;

Whereas, the East Dupont Circle Moratorium limits the number of Retailer's liquor licenses issued in the area that extends approximately six hundred (600) feet in all directions from the intersection of 17 and Q Streets, N.W., Washington, D.C.; and

Whereas, the East Dupont Circle Moratorium is set to expire on September 23, 2013.

Therefore, be it resolved, that ANC2B petition the Alcoholic Beverage Control Board for the renewal of a modified East Dupont Circle Moratorium for a three-year period from the date of Board action;

Be it further resolved, that ANC2B recommends continuing the current number of licenses allowable be listed as the following: Class CT/DT – Two (2); and Class CN/DN – Zero (0);

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Be it further resolved that ANC 2B recommends that the Alcoholic Beverage Control Board take any actions necessary to ensure that the current moratorium does not expire before it can act on these recommendations.