

In the Matter of:)	
)	
Wonder Mart, LLC)	Case No.: 20-PRO-00048
t/a Wonder Mart)	License No: ABRA-116997
)	Order No: 2021-102
Application for a New)	
Retailer's Class B License)	
)	
at premises)	
2743 Martin Luther King Jr. Avenue, S.E.)	
Washington, D.C. 20032)	
)	

ALSO PRESENT: Wonder Mart, LLC, t/a Wonder Mart, Applicant

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

INTRODUCTION

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neighborhood, which interferes with the educational mission of the school, and renders the environment inappropriate for the addition of another alcohol outlet pursuant to D.C. Official Code § 25-314.

Procedural Background

The Notice of Public Hearing advertising Wonder Mart's Application was posted on August 14, 2020. *ABRA Protest File No. 20-PRO-00048*, Notice of Public Hearing [*Notice of Public Hearing*]. The records of the Alcoholic Beverage Regulation Administration (ABRA) indicate that Advisory Neighborhood Commission (ANC) 8C has filed a protest against the Application. *ABRA Protest File No. 20-PRO-00048*, Roll Call Hearing Results. The Protest Hearing in this matter occurred on February 4, 2021.

The Board recognizes that an ANC's properly adopted written recommendations are entitled to great weight from the Board. D.C. Code §§ 1-309.10(d), 25-609; *Foggy Bottom Ass'n v. District of Columbia Alcoholic Beverage Control Bd.*, 445 A.2d 643, 646 (D.C. 1982). Accordingly, the Board "must elaborate, with precision, its response to the ANC[s] issues and concerns." *Foggy Bottom Ass'n*, 445 A.2d at 646. The Board notes that it received a properly adopted written recommendation from ANC 8C, which protests on the basis of negative impact on the neighborhood's peace, order, and quiet; residential parking needs and vehicular and pedestrian safety; the proximity of the establishment to schools and day care centers, and impact on their operations; and the overconcentration of licensed establishments.

Based on the issues raised by the Protestants, the Board may only grant the Application if the Board finds that the request will not have an adverse impact on the peace, order, and quiet; residential parking and vehicular and pedestrian safety; and real property values of the area located within 1,200 feet of the establishment. D.C. Code § 25-313(b); 23 DCMR §§ 1607.2; 1607.7(b) (West Supp. 2021). The Board will also consider the Application according to the factors listed in D.C. Official Code § 25-314.

FINDINGS OF FACT

The Board, having considered the evidence, the testimony of the witnesses, the arguments of the parties, and all documents comprising the Board's official file, makes the following findings:

I. Background

1. Wonder Mart has submitted an Application for a New Retailer's Class B License at 2743 Martin Luther King Jr. Avenue, S.E. *Notice of Public Hearing*.
2. ABRA Investigator Earl Jones investigated the Application and prepared the Protest Report submitted to the Board. *ABRA Protest File No. 20-PRO-00048*, *Protest Report* (Jan. 2021) [*Protest Report*]. The proposed establishment is located in a Mixed Use (MU-4) zone. *Protest Report*, at 2. Three licensed establishments are located within 1,200 feet of the proposed location. *Id.* at 6. Two of the three licensees are off-premise retailers. *Id.* at 3. Wonder Mart's

proposed hours will run from 9:00 a.m. to midnight. *Id.* at 5. Wonder Mart currently operates as a small deli and convenience store that does not sell alcoholic beverages. *Id.* at Exhibit Nos. 17, 20-23.

3. The Protest Report indicates that Friendship Public Charter Elementary School, Southeast Elementary School, and Dawn to Dusk daycare center are located within 1,200 feet of Wonder Mart. *Id.* at 3.

4. ABRA Investigators monitored the operations of the existing store on several occasions between January 13, 2021 and January 22, 2021. *Id.* at 6. Investigators observed heavy traffic and limited parking in front of the premises. *Id.* They did not observe issues with litter but noted that the “rear garbage container” was “[n]ot closed and full.” *Id.* Investigator Jones did not notice issues at Wonder Mart but observed “loitering . . . in front of [the nearby] King Avenue Liquors.” *Id.*

5. As an application for a new license, Wonder Mart does not have an existing alcohol law violation history. *Id.* at 7-8. The records of the Metropolitan Police Department indicate that 22 calls for service were made at Wonder Mart’s present address. *Id.* at 7.

6. Investigator Jones observed that Friendship Charter School shares an alley with Wonder Mart. *Transcript (Tr.)*, February 4, 2021 at 36.

II. Etsegenet Ketema

7. Etsegenet Ketema is the owner of Wonder Mart and seeks to expand her business. *Id.* at 49. She has owned the business since August 2019. *Id.* at 57. The store currently sells food, drinks, groceries, and tobacco products. *Id.* at 58. She indicated that the establishment has hired security guards and installed cameras around the premises. *Id.* at 50. She further indicated that she would get training to prevent underage drinking sales when she obtains her license. *Id.* at 51.

III. Joyce Doyle

8. Joyce Doyle has lived in Ward 8 for 16 years and helped found the Congress Heights Homeowners Association. *Id.* at 59. She believes that the addition of another alcohol license to the neighborhood will encourage drug and alcohol abuse, homelessness, poverty, mental health issues, littering, drug sales, open alcohol consumption, street harassment, disorderly conduct, and violence. *Id.* at 60. She also believes that the presence of an additional license will hurt property values. *Id.* at 63.

IV. Juanda Johnson

9. Juana Johnson has lived in the neighborhood for 37 years. *Id.* at 68. She indicated that she does not feel safe due to the number of people loitering in the neighborhood. *Id.* As a long time resident, she has seen an increase in homelessness, alcoholism, and drug addiction in the neighborhood. *Id.* at 68-69.

V. Vierah Butler

10. Vierah Butler is 12 years old and resides in the neighborhood. *Id.* at 71, 76. She indicated that she and other kids do not feel safe playing in the neighborhood due to the number of intoxicated people wandering about. *Id.* at 71. Due to the situation, she often visits her father's neighborhood in Maryland to play. *Id.*

VI. Dr. Carlene Reid

11. Dr. Carlene Reid serves as the Ward 8 Representative to the D.C. State Board of Education. *Id.* at 78. The Office of Student Advocate released a safe passage report that studied student's experiences when commuting to and from school. *Id.* at 78-79. The report noted that at Friendship Charter School, more than a quarter of the students felt "uncomfortable coming into school," another quarter "were concerned about their commute," and approximately 3 percent were afraid. *Id.* at 79. One in five students reported they did not feel safe because "they were either harassed, being watched, or feeling threatened." *Id.* She also noted that there have been instances where students have been robbed. *Id.* Dr. Reid is further concerned that the addition of another alcohol outlet will encourage further harm to students by encouraging more street harassment, loitering, and additional alcohol abuse in the neighborhood. *Id.* at 80-81, 86. She noted that these types of negative experiences traumatize students. *Id.* at 87.

VII. Kristi Love

12. Kristi Love currently serves as the President of the metropolitan District of Columbia branch of the Association of Black Social Workers. *Id.* at 89-90. She has resided in the neighborhood since March 2019 and has worked in Wards 7 and 8 since 2007. *Id.* at 89. She believes that the presence of another license will be harmful to the community. *Id.* at 90. She noted that the community experiences a high rate of community and family services issues. *Id.* at 91.

CONCLUSIONS OF LAW

13. The Board may approve an Application for a New Retailer's Class B License when the establishment will not have an adverse impact on the neighborhood. D.C. Code §§ 25-104, 25-313(b); 23 DCMR §§ 1607.2; 1607.7(b) (West Supp. 2021). Specifically, the question in this matter is whether the Application will have a negative impact on peace, order, and quiet; residential parking needs and vehicular and pedestrian safety; the operations of schools and day care centers; and otherwise contribute to an overconcentration of licensed establishments within 1,200 feet of the establishment. D.C. Code § 25-313(b); 25-314; 23 DCMR §§ 1607.2; 1607.7(b) (West Supp. 2021).

I. The Board Denies the Application Because the Addition of Another Alcohol Outlet Will Contribute to a Neighborhood Environment Negatively Impacting Students Pursuant to D.C. Official Code § 25-314.

14. The Board finds the Application inappropriate because the addition of another alcohol outlet will have a negative impact on students commuting to and from Friendship Charter School.

15. Under D.C. Official Code § 25-314(a),

In determining the appropriateness of an establishment for initial issuance of a license . . . the Board shall also consider the following:

- (1) The proximity of the establishment to schools, recreation centers, day care centers, public libraries, or other similar facilities;
- (2) The effect of the establishment on the operation and clientele of schools, recreation centers, day care centers, public libraries, or other similar facilities; and . . .
- (4) Whether issuance of the license would create or contribute to an overconcentration of licensed establishments which is likely to affect adversely the locality, section, or portion in which the establishment is located.

D.C. Code § 25-314(a), (1), (2), (4).

16. ANC 8C has demonstrated that the addition of another alcohol outlet will have a negative impact on students attending Friendship Charter School and that Wonder Mart's selected location does not satisfy D.C. Official Code § 25-314. Friendship Charter School is located near the proposed establishment. *Supra*, at ¶ 6. Residents report that the neighborhood is saturated with loiterers and persons suffering from alcohol and drug abuse. *Supra*, at ¶ 8. Residents further report that street harassment is an ongoing issue and that residents do not feel safe in the streets. *Supra*, at ¶¶ 8-10. Most worrisome, over half the students attending Friendship Charter School report being made uncomfortable, concerned, or fearful when commuting to and from school. *Supra*, at ¶ 11. Indeed, many students specifically reported feeling harassed and threatened during their commute. *Id.* This type of negative impact on Friendship Charter School's student body is intolerable and unacceptable.

17. Moreover, it is reasonable to tie this negative environment to the operation of licensed establishments and presume that the addition of new establishments will exacerbate the situation. First, the insecurity of the student body stems directly from people loitering in the streets. Second, as noted by the observations of the investigator, an alcohol outlet in the neighborhood already attracts loiterers to the area. *Supra*, at ¶ 4. Therefore, it is reasonable for the Board to presume that the addition of another alcohol outlet will contribute to loitering, street harassment, and other negative behaviors in the neighborhood. Based on these circumstances, a neighborhood environment that makes a large portion of a school's student body feel unsafe and insecure is not appropriate for another off-premise retail alcohol license.

ORDER

Therefore, the Board, on this 3rd day of March 2021, hereby **DENIES** the Application for a New Retailer's Class B License.

IT IS FURTHER ORDERED that the Board's findings of fact and conclusions of law contained in this Order shall be deemed severable. If any part of this determination is deemed invalid, the Board intends that its ruling remain in effect so long as sufficient facts and authority support the decision.

The ABRA shall deliver a copy of this order to the Parties.

District of Columbia
Alcoholic Beverage Control Board

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Donovan Anderson, Chairperson

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Edward S. Grandis, Member

I dissent from the position taken by the majority of the Board.

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Jeni Hansen, Member

Pursuant to D.C. Official Code § 25-433(d)(1), any party adversely affected may file a Motion for Reconsideration of this decision within ten (10) days of service of this Order with the Alcoholic Beverage Regulation Administration, 2000 14th Street, N.W., Suite 400S, Washington, DC 20009.

Also, pursuant to section II of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, D.C. Official Code § 2-510 (2001), and Rule 15 of the District of Columbia Court of Appeals, any party adversely affected has the right to appeal this Order by filing a petition for review, within thirty (30) days of the date of service of this Order, with the District of Columbia Court of Appeals, 430 E Street, N.W., Washington, D.C. 20001; (202/879- 1010). However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR § 1719.1 (2008) stays the time for filing a petition for review in the District of Columbia Court of Appeals until the Board rules on the motion. See D.C. App. Rule 15(b) (2004).