

**ADVISORY NEIGHBORHOOD COMMISSION 2F REGULAR MONTHLY PUBLIC
MEETING** Wednesday, February 4, 2009 – 7:00 PM
WASHINGTON PLAZA HOTEL
10 THOMAS CIRCLE, NW

Present: Charles Reed (2F01) (Chairman), Brian Vargas (2F03), Mike Benardo (2F06) (Vice Chairman) Dustin Cole (2F05), Matt Raymond (2F04), Monica Schneider (2F02)

COMMUNITY FORUM

Commissioner Announcements

The Office of Planning moved from 801 North Capitol Street, NE to 2000 14th Street, NW, 4th floor (Reeves Center). The Office of Planning can be reached at 202-442-8835 or www.planning.dc.gov/hp .

On February 16, 2009 Mayor Adrian M. Fenty, DC Department of Parks, and Recreation Director, Clark E. Ray, and District leaders will join Ward 2 residents, park lovers, and dog owners for a groundbreaking ceremony to celebrate the beginning of major improvements at the S and T Street Triangle Parks in Northwest Washington. The S Street Park dog park will be 5,600 square feet and will be the District's first permanent public dog park and will be maintained by a partnership between DPR and Circle Dogs, the sponsoring community organization. The S Street dog park will feature artificial grass designed specifically for dogs, historic ornamental fencing, entrances on both New Hampshire Avenue and 17th Street, a community bulletin board, seating area, a water fountain for dogs, and preservation of the existing cherry trees. In addition to the dog park area, a new plaza will be constructed at the corner of S Street and New Hampshire Avenue. The artificial grass being used for the dog park is K9Grass, which is the only artificial grass designed specifically for dogs. The grass drains well, is able to withstand wear and tear, is easy to maintain, and the knitted structure of K9Grass helps wick away urine for a cleaner facility and a cleaner dog. In addition, the grass blades are coated with an antimicrobial product which helps fight odors and creates a safer, cleaner environment for the dogs.

PSA 307 Report – Lt. Hauser

Officer Caron presented to the ANC meeting that assaults up from 1 in December 2008 to 3 in January 2009. Theft from autos down 61%, but there seems to be a rash of robberies mostly from fast food establishment like Chinese carry-out. **Reed** discussed how the ANC has been very helpful with allocation in a thief from auto two years ago.

Lt. Hauser can be reached at 202-423-8091 or by email at charles.houser@dc.gov

Mayor's Office Ward 2 Coordinators- (Chris Dyer presented for Abby Petersen)

Dyer pointed out that you can now receive e-mail alert from that your license is about to expire. Visit www.dmv.dc.gov for more information. At www.DCHousingSearch.org individuals can browse up-to-date, detailed listings to find available for rent and for sale properties that meet their housing needs. The Department of Housing and Community Development is committed to creating and preserving opportunities for affordable housing and economic development to

revitalize underserved communities in the District. Residents are encouraged to call the Mayor's Call Center 311 to report graffiti, potholes, or other non-emergency issues.

Abby Petersen can be reached at the Office of Community Relations and Services 202-442-9509 or at abby.petersen@dc.gov

Community Announcements

Sherri Kimbel reported City Council member Jack Evans office is working with CVS on the trash issue and inconvenient delivery times. The dumpster is now locked and CVS has agreed to change the delivery hours.

Jack Evans reported the best news is for Fiscal Year 2008; the city had a \$191 million General Fund budgetary surplus. The District ended the year with a General Fund Balance of \$1.245 billion and a "Rainy Day Fund" of \$330 million. Included in the Fund Balance are \$87 million in unrestricted funds available for balancing FY 2009. As we look forward, the current fiscal year, 2009, is in balance. However, FY 2010 had issues because of a projected \$450 million in lost revenues because of the nation wide recession. The actions taken in the next months and years will all be critical for the District. It is important that the Mayor and the Council make hard, well thought out decisions, to keep our finances strong. How does this affect the neighborhood? Development has slowed, and many projects are off the books.

Evans did report that The District of Columbia saw 1.8 million visitors on Inauguration Day and no arrests were made. ANC2F was one of a few Commissions which permitted bars and restaurants with Voluntary Agreements to stay open for the later hours during the Inauguration for which there appears to have been no major issues with the later hours. Residents agreed, and Evans applauded the ANC for their willingness to work with area businesses. In addition, Evans spoke about the revitalization of the O Street Market, located between 9th and 7th Street on O Street and said that it was still on track. Residents also asked him about his efforts to bring FiOS to DC. Evans said it would be several years until it reached all of Ward 2. Councilmember Evans' Logan Circle liaison is Sherri Kimbel, skimbel@dccouncil.us

- 10 Minute Recess -

BUSINESS MEETING

Approval of Agenda

Add under ABRA:

A-1 Wine and Liquors- single sale exception

Best-In liquors

Modern Liquors'

Barrel House

Add under CDC:

1332 Vermont Ave

Delete under New Business:

Emmaus Services for the Aging NIF Grant

Vote: (6-0) Unanimous

Upon motion by **Raymond** seconded by **Schneider**, and after further discussion, the agenda was unanimously approved with the above additions and deletions.

Vote: (6-0) Unanimous

Approval of ANC 2F Minutes of Meeting of January 7, 2009

Minutes of the meeting of January 7, 2009, were presented for approval.

Vargas noted a vote discrepancy in the January meeting minutes; the minutes shall remain open until approved at the March 4, 2009 meeting after the correction (insertion below) is made to ABRA International Lifestyles- The Space 903 N Street, NW CX Club 076926

Given the escalating claims and counterclaims at its public meetings, the Commission will hold an evidentiary hearing at its February 4, 2009 public meeting.

Upon motion by **Raymond** seconded by **Reed**, and after further discussion, it was **RESOLVED**, That, the January minutes will remain open until the March 4, 2009 meeting

Vote: (6-0) Unanimous

HSEMA/Street Closures

Rick Freedman presented a request for street closing for the Twenty-first Annual St. Patrick's Day 8 K Race, will be held on Sunday, March 15, 2009 from 9:00 AM -10:30 AM. **Freedman** stated that the request complies with the published street closing policy of this ANC and that she had made substantial progress in dealing with others entitled to notice and opportunity to comment. **Freedman** can be reached at www.runwashington.com for more information.

Upon motion by **Vargas**, seconded by **Raymond**, and after further discussion, it was,

RESOLVED, That upon review of the street closing application of Twenty-first

Annual St. Patrick's Day 8 K Race, will be held on Sunday, March 15, 2009 pending before the Homeland Security Emergency Management Agency ("HSEMA") and presented to the ANC, ANC2F advise EMADHS to grant such application.

Vote: (6-0) Unanimous

ABRA

Single Sale Ban Status and Exceptions Requests

District of Columbia has recently enacted the Consolidated Mt. Pleasant, Ward 2, and Ward 6 Single Sales Moratorium Act of 2008, (the "Act") which, among other things, provides under D.C. Code §2-345, restrictions on the sale of beers, ales and half-pint liquors by off premise retailers like Licensee, but allows for exceptions to such restrictions upon certain conditions. Licensees must apply to ABRA and the ANC for exceptions, and get a letter of support from the ANC. This applies only to licensees that have Voluntary Agreements. Purpose of Single Sale Ban to eliminate crime, trash, and public drunkenness

Upon motion by **Reed**, seconded by **Raymond**, and after further discussion, it was,

RESOLVED, That, ANC2F can review the matter and application for single sale exemption to the ban and in consideration when reviewing each on a case by case bases then the ANC will look as facts and circumstances in certain licensees whether or not a single sale exemption will be granted and a new VA will be entered into between the parties.

Vote: (6-0) Unanimous

Upon motion by **Reed**, seconded by **Vargas**, and after further discussion, it was,

RESOLVED, That, ANC2F amend the VA of Barrel House in the form provided and ANC2F enter into an agreement with Barrel Liquor that they may have an exception, providing Barrel House agrees to amendment of the Voluntary Agreement it holds with ANC2F with the following restrictions:

1. All single sales are unrefrigerated
2. The retailer agrees to mark their products with a distinctive stamp of some kind indicating the retailer (so that where the containers wind up in the street we will know where it is coming from.
3. Analogous to Whole Foods, there is a reasonable trial period where the ANC can ask that the exception be revoked if there is evidence that the sales are leading to street drinking.
4. Price minimums on gourmet beers and ales (\$4) and on half pints (\$6).

Vote: (6-0) Unanimous

FURTHER RESOLVED, That, ANC2F amend the VA of the other businesses in the form provided including District Liquor, Modern Liquors, Best-In Liquor, A-1 Wine and Liquors providing the business is in good standing

Vote: (6-0) Unanimous

International Lifestyles- The Space 903 N Street, NW CX Club 076926

Given the escalating claims and counterclaims at its public meetings, the Commission held an evidentiary hearing at this meeting. The Commission heard from complainants, including the adjacent tenants, Mrs. Ramos, Ed Horvath (a member of the Blagden Alley Association), and from the licensee, through its counsel (Jerry Jacques), its general manager (Justin Lange) and Mr. Cox, owner. Each side was given an equal amount of time to present opening statements, introduce evidence, argue and provide rebuttal. Witnesses were cross examined by the Commission. Community members present were afforded the opportunity for comment and questioning.

Complainant evidence included witness testimony describing numerous occasions of loud, disturbing noises and repeated unsuccessful efforts to elicit cooperative relief from licensee's principals or employees. Such testimony was provided by the adjacent tenants and by Ms. Ramos. The individual and cumulative effect of this testimony was that the licensee routinely disturbed adjoining residential tenants with loud noise, so severe that sleep within their apartments was impossible; and that the licensee was insensitive to its obligations not to disturb the peace, order and quiet; and was openly hostile to those affected by its operations. One witness, for example, stated that in response to a request to stop the noise, Mr. Cox refused to take any corrective action, saying "Look, I have a business to run here." In addition, complainants also introduced dated photographs of parties being held on the structures which licensee was operating as an outdoor garden platform (the space delineated in licensee's dismissed application referred to above). The noise from those customers contributed greatly to the disturbances of which the witnesses complained.

Michael Alderfer, a tenant of Mrs. Ramos, offered photographs he had taken of licensee's premises. Mr. Alderfer's apartment directly adjoins the licensee's premises. They clearly show customers drinking outside. They also show customer's arriving well after the licensee's closing hours. In one series of photographs, Alderfer shows that the licensee has failed to maintain proper trash disposal, itself a violation of licensee's operating requirements, and a breach of its Voluntary Agreement. Finally, the pictures disclose licensee's improper posting in connection with its summer garden application, the placard having been displayed so that it was out of sight from persons passing in front of the premises.

Other witnesses testified to what they considered false statements that licensee had made to them in connection with licensee's application in 2007 for its CX license. They described the small, sedate, members-only social club that licensee had similarly described to the ANC in its quest for ANC support of its stipulated license request which the ANC gave. They further testified that had they known the true nature of licensee's proposed operations, they would have vigorously opposed the license. They also pointed out that licensee's web site (<http://www.thespace-dc.com>), belies the notion that licensee intended to operate a members-only club.

Licensee's responses were, for the most part, non-responsive to the specific peace, order and quiet complaints raised at the hearing. Counsel for licensee asserted that the licensee was denied "due process," due to the fact that he had been retained only on the day of the hearing, and sought a continuance. Mr. Cox did not deny or refute any of the specifics given by other witnesses as to the noise issues, providing only a general denial, nor did he deny the statements attributed to him concerning the lack of cooperation. With respect to the testimony regarding illegal use of the outside space, licensee categorically denied that the licensee permitted drinking there, but otherwise did not deny the use of the deck, which, incidentally, is featured on licensee's website.

In the view of the ANC, the complainants more than adequately proved to the satisfaction of the Commission that:

- (a) Licensee is operating in violation of its obligation not to disturb the peace, order and quiet of the residential tenancies by generating noise and disturbances that are loud, and penetrating within the apartments of those near the licensee's premises.
 - (b) Licensee is uncooperative with the community and, contrary to its undertakings to remedy any disturbances, simply ignores complaints.
 - (c) Licensee is conducting operations illegally by serving alcoholic beverages on its outside deck in space which the Board has refused to permit by summarily rejecting licensee's request for a summer garden; by violating its operating hours; by illegal posting of placards, and by failure to properly dispose of trash,
 - (d) Licensee's operations constitute breaches of its Voluntary Agreement with Ms. Ramos.
 - (e) Licensee avoided protests from other entities entitled to protest at the time it acquired its license in 2007 by falsely representing to the ANC, the Blagden Alley Association and others
- Alcoholic Beverage Control Board February 17, 2009

Upon motion by **Vargas**, seconded by **Raymond**, and after further discussion, it was

RESOLVED, That, Advisory Neighborhood Commission 2F, having determined that International Lifestyles, LLC, dba "The Space," 903 N Street, NW, Washington, DC which holds "CX" Club License #076926 is (a) operating in violation of applicable licensing conditions, (b) breaching the peace, order and quiet of the residential community surrounding the premises of the licensee, (c) breaching the restraints contained in its existing voluntary agreement, dated July 24, 2007, with Edda Ramos, a nearby owner of residential property, and (d) obtaining its license through fraud, advise the Alcoholic Beverage Control Board to institute proceedings against the named licensee, requiring it to show cause why its license should not be revoked or, otherwise, why it should not be disciplined.

Vote: (6-0) Unanimous

Ollies Trolley- Amendment to VA (transfer of ownership)

Upon motion by **Reed**, seconded by **Raymond**, and after further discussion, it was

RESOLVED, That, ANC2F will agree to amend the Voluntary Agreement to have the new owner to agree to the conditions using language acceptable to the commission and new owner.

Vote: (6-0) Unanimous

Community Development Committee

1332 Vermont Avenue- Renovation and small addition to the ground level and first floor - Bernard Robinson Owner, Josh McCuller, Arcitect- Owners seeking area variances in floor area ratio, lot coverage, rear yard setback and court

CDC vote was not unanimous the reason this project was placed before the ANC.

The owning partnership of 1332 Vermont Avenue in the Logan Circle District wishes to renovate and upgrade the basement and first floor of the row house, making it a functional and livable primary home for Bernie Robinson, the Managing General Partner.

There is currently no direct access from the rear parking area to the first floor kitchen and living space. Creating this access is most crucial to the functionality, safety, and livability of the renovated apartment, which will hinge on having a direct and safe entry from the rear parking space, and having an internal connection between the first floor living space and cellar below. We are proposing to enclose an existing original 42” wide cellar area-way as an internal stairwell loggia to provide this rear entry. Secondly, the lack of security when parking, coming and going must be addressed. There was a homicide in the rear yard of this property on July 17, 2008. The owner wishes to enclose the rear yard with 12’ tall brick walls in keeping with the appearance of other brick walls and carriage houses along the alley. This will eliminate the blind spots and hiding places behind this house, as well as prevent the collection of unhealthy urban debris. The enclosed parking will connect to the entry stair loggia mentioned above. The renovated first floor will open into the stair loggia and provide clear visibility from the renovated first floor to the outside which currently does not exist. The owners are asking for a variance in lot coverage, setback, and floor area ratio to achieve this crucial part of the project. The F.A.R. will increase modestly from 1.8 to 2.0 in total. The existing lot coverage is 64%, but would increase to 83% if the parking enclosure was permitted. However, the since the rear yard is already paved for parking, there would be no loss of true “green space”. Because the existing side yard is extensively paved to provide safe egress for the other tenants in the house, there is no useable or private outdoor garden or recreation space. Building a deck for recreation and container gardening above the parking area, will provide about 455sf of useable outdoor space to mitigate the increased lot coverage, create new opportunities for socialization with the neighbors and provide even greater visibility of the alley. The storm water generated by this project is proposed to be collected in a cistern and will actually result in a net decrease in the volume of water generated by this property.

Upon motion by **Reed**, seconded by **Cole**, and after further discussion, it was

RESOLVED, That, ANC2F will defer until the March 7, 2009 meeting

Vote: (6-0) Unanimous

New Business

Unity Washington

Rescheduled for March 4, 2009 ANC meeting

Franklin School Building

Upon motion by **Vargas**, seconded by **Reed**, and after further discussion, it was

RESOLVED, That, ANC2F write a letter to Mayor Fenty advising him to publish a Requests for Proposals (RFP) for development and use of the Franklin School Building.

Vote: (6-0) Unanimous

Treasurer's Report (Dustin Cole, Treasurer)

Upon motion by **Reed**, seconded by **Benardo** and after further discussion, the following expenses were approved;

Cynthia Cota		\$938.70
Verizon	64.20	
DC Treasurer		54.00
Brian Vargas	31.66	

Vote: (6-0) Unanimous

Adjournment

There being no further business, the meeting was duly adjourned at 11:00pm.