

**FOGGY BOTTOM AND WEST END  
ADVISORY NEIGHBORHOOD COMMISSION 2A  
MEETING MINUTES  
MAY 24, 2010  
WEST END LIBRARY, 1101 24<sup>TH</sup> ST., N.W.**

**Call to Order**

Chair Rebecca Coder called the meeting to order at 7:08 PM. This is a special meeting, called to complete action on the agenda of the May 19 regular meeting of the Commission. Commissioners Coder, Corson, Malinen and Lehrman introduced themselves. A quorum being present, the agenda was adopted by a vote of 4-0. After commissioners agreed to add the matter of extending ABRA opening hours during the World Cup broadcasts. Commissioners Harmon and Irizarry joined the meeting at 7:10 and 7:16, respectively.

**Regulatory Agenda**

Discussion resumed on the proposed “minor modification” of the PUD order granted Vornado/Charles E. Smith for the rehabilitation of 2101 L. St., N.W. Commissioners Coder, Corson and Lehrman spoke in favor of the modification, arguing the need for flexibility, for recognition of the benefits already accrued from the building’s rehabilitation and in acknowledgement of the current economic conditions and their impact on the building management failure to reach the retail proportion envisioned in the original PUD. Commissioner Malinen expressed concern for the reduction of amenities without careful thought and argued in favor of delaying ANC action on the proposed modification. Commissioner Harmon favored tying approval of the modification to restricting the right to include nightclub or other alcohol-related businesses except for restaurants in the building.

Ms. Kahlow of WECA disputed the definition of “minor” put forward by the proponents. Debate continued on how to couple the Commission’s desire for flexibility with its firm desire to avoid alcohol-related businesses and its preference for day care or similar personal services as opposed to offices in the unleased space currently reserved for retail.

Commissioner Coder moved a resolution of support for the proposed PUD order modification provided that Vornado/Charles E. Smith provides written assurance to the Commission not to lease the space involved to a nightclub or other alcohol-

related business and to give preference to personal services such as a day care center in leasing the space involved. After further discussion, the motion passed by a vote of 6-0.

Commissioner Harmon introduced a draft resolution opposing the application for a certificate of occupancy and basic business license of Panutat, LLC (ABRA New License no. ABRA-083267) She pointed out that this resolution shifts the locus of opposition to Sanctuary 21 to the DC Department of Regulatory Affairs (DCRA). The Commission adopted the resolution by a vote of 6-0, subject to stylistic revisions to be provided by Commissioner Harmon. A copy of the resolution can be found in Appendix 1 of these minutes.

Following the suggestion of Ms. Kahlow, Commissioner Harmon agreed to send a letter to ABRA stating the violations of the voluntary agreement between ANC2A and the owners of Shadow Room/ Sanctuary 21.

Commissioner Harmon moved that the Commission provide an additional \$3,000 for legal fees in this matter. Commissioners Malinen and Lehrman spoke in support of this measure, which passed by a vote of 6-0.

No commissioner or member of the public raised objection to the renewal of the liquor licenses detailed in the agenda for the May 19 regular meeting.

On the subject of the pending “emergency legislation” pending in the DC Council to permit ABRA to waive opening hours restrictions during the June 11-July 11 World Cup broadcasts from South Africa, Commissioner Coder recommended that the Commission support the pending legislation and that, in the case of voluntary agreements between ABRA licensees and this ANC, waivers be granted on a case by case basis, with specific relief granted to McFadden’s, whose representative stated that he planned to request this. Commissioner Corson moved to authorize the chair to support McFadden’s request.

Commissioner Malinen described security enhancements planned for Department of State headquarters, which would eliminate C Street as an east-west passageway and which would take place entirely on federal land. He directed interested parties to a website -- [hstrenovation@state.gov](mailto:hstrenovation@state.gov) -- for further information.

### **Administration and Reports**

The executive director presented a choice of meeting spaces at GWU and at the DCPS School Without Walls for the June 16 meeting, which will include a full-scale presentation of the plans developed by Professor Iris Miller for reclaiming the parkland at the western edge of Foggy Bottom. Commissioner Corson questioned the appropriateness of meeting at GWU. It was decided to hold both the June and July meetings at the School Without Walls.

The minutes of the April 21 meeting were approved subject to Commissioner Coder's correction of the appended resolutions regarding obsolete curb cuts in the vicinity of Francis Field

## **Appendix 1:**

### ANC 2A RESOLUTION ON ANY APPLICATIONS BY PANUTAT LLC FOR CERTIFICATE OF OCCUPANCY AND BASIC BUSINESS LICENSE AT 2131 K STREET, NW, WASHINGTON, DC

WHEREAS Advisory Neighborhood Commission 2A, serving Foggy Bottom and the West End (“Commission” or “ANC 2A”) are relying and have relied on the ABRA License Application No. 75871-Retail Class “C” Night Club dated September 21, 2006 by Acott Ventures LLC, which stated that Acott Ventures LLC sought a Retail CN night club license for *both the first floor and basement* of 2131 K Street, NW, Washington, DC for a nightclub known as Shadow Room a/k/a Shadows (See Acott Ventures LLC ABRA Application dated 9/21/06 attached as Exhibit A);

WHEREAS ANC 2A are relying and have relied on the ABRA Order Dated September 5, 2007 which limited the operations of the Shadows Nightclub located at 2131 K Street, NW, Washington, DC, on *both the first floor and basement* to total occupancy of 300 persons (See ABRA 9/5/07 Order attached as Exhibit B);

WHEREAS the Department of Consumer and Regulatory Affairs (“DCRA”), based upon the misrepresentations of Acott Ventures LLC issued a Certificate of Occupancy for 2131 K Street for Acott Ventures LLC on June 23, 2008 solely for the first floor of 2131 K Street for an occupancy load of 300 and issued a basic business license for the Shadows Nightclub on June 26, 2008 (both attached as Exhibit C along with DCRA application) and DCRA would not have issued such a certificate of occupancy solely for the first floor and basic business license if it had been apprised of ABRA’s 9/5/07 Order in this case;

WHEREAS ANC 2A, in reliance on the representations of Acott Ventures LLC that this 300 person occupancy that covered *both the first floor and basement* of 2131 K Street, entered into a voluntary agreement dated November 2, 2008, agreeing to extended hours for the Shadows Nightclub (See 11/2/08 Voluntary Agreement attached as Exhibit D);

WHEREAS the same owners of Acott Ventures LLC (Das Swaptek, Steve Acott, and Panutat Khunachak) formed Panutat LLC, which applied for New License No. ABRA-083267 (Retail Class “C” Night Club) for the basement 2131 K Street, NW, for a

nightclub to be known as Sanctuary 21, which location was already subject to the Alcoholic Beverage Control Board's 9/5/07 Order expressly limiting occupancy on *both the first floor and basement* of this location to a total of 300 persons and to the ANC 2A voluntary agreement dated 11/2/08, which relied on this 300 person total occupancy limit on both the first floor and basement of 2131 K Street in granting Acott Ventures increased hours (See Panutat LLC nightclub application dated 10/15/09 attached as Exhibit E);

WHEREAS ANC 2A firmly believes that the express purpose of the Panutat LLC duplicative nightclub license application is to circumvent the occupancy and hours restrictions in the identical nightclub license of Acott Ventures LLC and the Alcoholic Beverage Control Board's 9/5/07 Order, as well as the Voluntary Agreement with ANC 2A;

WHEREAS ANC 2A unanimously voted to protest the ABRA application of Panutat based on concerns related to peace, order, and quiet of the neighborhood, impact on residential parking, and vehicular and pedestrian safety, and adverse affects on nearby residential real property values;

WHEREAS in the recent ABRA protest proceeding, in which ANC 2A unanimously voted to protest the Panutat LLC license application, the Alcoholic Beverage Control Board excluded evidence of the operating history of Shadows and the numerous police incident reports, involving serious assaults; excluded evidence of the numerous incidents of loud and unruly behavior by Shadows nightclub patrons that have disturbed nearby neighborhood residents; and excluded evidence of the failure of the Shadow operators to honor their commitments to ANC 2A in the voluntary agreement dated November 2, 2008 on the basis that the Panutat LLC nightclub license application was a "new" license application when in fact this location was already subject to an identical nightclub license and order limiting occupancy and hours;

**THEREFORE, BE IT RESOLVED** that the Commission has been and remains opposed to the issuance of a certificate of occupancy and basic business license for Panutat LLC for operation of a "new" nightclub in the basement of 2131 K Street, NW, Washington, DC.