



Analysis and Policy Recommendations regarding the Georgetown Liquor License Moratorium

A Georgetown Business Improvement District White Paper

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This white paper is a product of the staff of the Georgetown Business Improvement District (BID). The recommended policy option reflects the consensus of the BID's Board of Directors, however, the body of the text and its editorial comments do not necessarily reflect the views of individual members of the Board of Directors or the BID members they represent. This paper is intended to help clarify the issues associated with the Georgetown Liquor License Moratorium and assist the community to craft a response to the scheduled February 2016 moratorium expiration. Questions or comments Questions or comments on this white paper should be directed to: moratorium@georgetowndc.com.

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Executive Summary

- The Georgetown liquor license moratorium was created in 1989 in an attempt to address certain negative impacts from restaurants that were prevalent at the time, including litter, trash, and pests; public drunkenness and late-night noise; problematic operators; and, parking and access.
- The moratorium on the issuance of alcoholic beverage licenses for restaurants in Georgetown expires on February 3, 2016. Community input is required to help ABRA and the DC Government decide whether or not to continue, or amend, the moratorium.
- If the current moratorium is renewed as is, Georgetown will be the only neighborhood in DC with a restriction on all classes of restaurants. It will also be the District's longest standing moratorium, at 27 years since the initial restriction.
- Most of the problems that led to the creation of the moratorium in the 1980's decreased dramatically due to market forces or subsequent interventions by the Georgetown BID, ANC, Citizens Association of Georgetown, Georgetown University, and the DC Government.
- The moratorium creates unintended features in the market, including an oligopoly of operators, economic rents, and speculative behavior
- The moratorium contributes to the perception that it is too difficult to open a restaurant in Georgetown compared to other DC neighborhoods, compounding real challenges stemming from rental rates on M Street
- Georgetown's ratio of restaurants to shops is low compared to other benchmark retail markets.
- Past actions that increased the cap on permitted licenses and redistributed licenses held in safekeeping have not yielded new, high-quality restaurant concepts that are desired by the business community and residents
- This White Paper concludes that it is in the best interest of the community to allow the broad liquor license moratorium in Georgetown to sunset, and that the business and residential communities should work together to encourage new high-quality restaurants to open in Georgetown while discouraging restaurants that have negative impacts on the neighborhood's quality of life.

Current Georgetown Moratorium

A moratorium on the issuance of certain retailer's alcoholic beverage licenses¹ is currently in effect in Georgetown; this moratorium will expire on February 3, 2016. The Georgetown Moratorium Zone extends approximately 1,800 feet in all directions from the intersection of Wisconsin Avenue and N Street, NW (see map, below).

Several restrictions apply within the Georgetown Moratorium Zone, including:

- No new retailer's licenses class C or D may be issued to a tavern or nightclub.
- No retailer's license class C may be issued to a multipurpose facility.
- No more than 68 retailer's licenses class C or D may be issued to restaurants.
- No more than 1 retailer's license class D is permitted to be issued to a multipurpose facility.
- A license holder outside of the Georgetown Moratorium Zone is not permitted to transfer a license to a location within the zone.

Establishments exempt from the moratorium, include:

- All hotels; and
- Those in or to be located in Georgetown Park and Georgetown Park II (together, the current "Georgetown Park" on the 3200 block of M Street), Prospect Place Mall (the development which includes Café Milano, Morton's, and the former Neyla space), Georgetown Court (the development adjacent to Prospect Place Mall, including Peacock Café and Mai Thai) and Washington Harbor.



¹ Refer to Appendix A (page 19) for a description of license types and classes

“Georgetown Moratorium” vs “Special Restrictions for the Georgetown historic district”

The Georgetown Moratorium is distinct from other restrictions that apply to nightclub and tavern licenses within the entire Georgetown historic district. These additional restrictions stem from DC Official Code Title 25, specifically § 25-339:

Special restrictions for the Georgetown historic district.

(a) The number of nightclub or tavern license holders, class C or D, within the Georgetown historic district shall not exceed 6. No existing nightclub or tavern license shall be transferred to any other person or to any other location within the Georgetown historic district, except when the number of such licensed establishments in the Georgetown historic district is 6 or less.

(b) A licensee of a nightclub license, or a tavern license, class C, within the Georgetown historic district as of May 24, 1994, may apply for a conversion to a restaurant license, class C or D, for its present location, present owner, and for the duration of its present license. The application shall not require a public hearing or the assessment of fees

History of the Moratorium

Calls to ameliorate the adverse impact of nightlife in Georgetown trace back to the early 1970’s. According to accounts in the *Washington Post*, at this time there were only 13 licensed establishments but neighbors were already concerned with the “abundance” of drinking places. Concern with the proliferation of establishments and spill-over effects continued for a number of years.

In 1979, the Georgetown ANC 2e unsuccessfully called for a moratorium on new licenses. However, by the mid 1980’s, there was a city-wide push to use policy instruments to limit the spill-over effects of food and beverage activity. In response to complaints about traffic, noise, and litter, the Zoning Commission adopted regulations in 1985 that required BZA approval to operate a fast food operation in low-density commercial areas (C-2-A), including Georgetown.²

A year later, in 1986, the D.C. Council adjusted liquor regulations, setting up the current regulatory regime that allows residents to both block an individual license (via petition by abutting properties or groups of residents) and request a moratorium on licenses throughout a designated geography. With the passage of this legislation, Georgetown residents and business interests made formal requests for a moratorium in 1988.

At public hearings before the Alcohol Beverage Board in 1988, statements from Georgetown residents articulated their objections to the impacts of restaurants—namely noise, vandalism, and trash. Complaints included

“vandals, often having drunk too much...tore up bushes, destroyed fences, smashed windows, damaged cars, defecated on doorsteps”

“No one on my block of 30th Street sleeps between 2:30 and 3:30 on Fridays and Saturdays...it sounds like Broadway and 42nd Street”

“[we’re] the only community in the world with more bar seats than residents”

²Cf. DCMR Rule 11-733 and Sandra Evans, “D.C. Zoning Limits Set on Fast-Food Eateries,” *Washington Post*, July 9, 1985.

“step over a case of broken bottles on route to work”

“[attracts] tens of thousands on Redskins victory days”

“The perception of Georgetown as a playground would end if we had a moratorium...it would be the city saying stop this [street celebration]. We are wasting valuable resources when police have to patrol”

“A mall owner would find his mall deserted if there are too many restaurants.”

The Alcohol Beverage Board approved the moratorium request in 1989—the first in Washington, DC under the 1986 legislation—but reduced the proposed geography to the current boundaries and made the initial moratorium period 3 years (the community requested a 5 year moratorium).

Moratorium renewal of 2010/11

The most recent renewal of the moratorium was in 2010/2011 with an expiration set for five years after the date of publication of the final rulemaking (February 4, 2011). At that time, the cap on the number of licenses was expanded from 61 to 68 in order to address complaints from the community that there were not enough high-quality new restaurants moving into Georgetown.

DC Moratoria Timeline

1970 residents begin to express desire to limit establishments

1979 call by ANC for moratorium failed.

1985 ZC bans fast-food near low-density commercial near residential because of trash and traffic

1986 DC legislation allows for moratoriums and community input

1988 ANC holds public meetings, endorses moratorium zone

1989 Georgetown established as 1st moratorium zone in DC

1993 - Dupont East (17th Street)

1994 - Dupont West (P Street)

1996 - Glover Glover Park

2001 - Adams Morgan

Current assessment of nightlife impacts in Georgetown

Compared to the conditions described in the moratorium hearings of 1988, the environmental impacts of Georgetown's restaurants have substantially changed.

Trash, Litter, and Pests

Notwithstanding the imposition of the moratorium, problems with trash, litter, and pests in Georgetown went more or less unabated for many years. A marked change in addressing these problems occurred in 1999, with the creation of the Georgetown BID. Over the subsequent 16 years the BID's aggressive trash removal, rat abatement, and community organizing efforts, in concert with increased engagement from the ANC, Georgetown University, DPW, and DOH, have eliminated most of the trash and pest issues that existed in 1988. Georgetown is now a nationally acclaimed retail, office, and residential market known for its enticing mix of businesses and pleasant, well-maintained, environment. The Georgetown Business Improvement District (BID) was established in 1999 by property owners and merchants, as a publicly chartered, private, non-profit organization dedicated to protecting and enhancing the public environment. The BID provides a complement of 12 full-time "street team" personnel that collect street litter, maintain public trash bins, and ensure the upkeep of sidewalks and public spaces. The BID, in cooperation with the Department of Health and the Department of Public Works, also runs a comprehensive rodent abatement program throughout the commercial district.

The Georgetown Community Partnership (GCP), established in 2012 by Georgetown University, has a working group that actively addresses the issue of trash and litter within the residential area as it relates to the university's student body.

Public Drunkenness, Disorderly Conduct, and Late Night Disturbance

There is no longer a perception of Georgetown as a "party district." Large scale, anomic gatherings related to sports teams, holidays, or alcohol-related promotions are nearly unheard of.³ One contributing factor to this development is that the Redskins are no longer playing within the District.⁴ Other factors include the closure of college-oriented drinking places⁵ that slowly followed the 1986 phase out of the 18 year old drinking age, and the emergence – some say "explosion" – of many other restaurant and retail nodes within DC that have redistributed the intensity of party-goers. It should also be noted that DC was the last jurisdiction in the region to raise the drinking age to 21. This lag caused Georgetown to become the go-to regional location for young people to drink, and had residual impact for a generation after.

Violent crime in Georgetown is extremely rare compared to other parts of the city. Within the BID, only 48 crimes were reported in the last 4 years, or about one per month on average. In the residential neighborhood, only 25 violent crimes were reported in the same period, or one crime every 58 days on average.

³ One possible exception is Halloween night—but even on this day, Georgetown's restaurant and retail community is divided, with some establishments opting to close early or offer no promotions. The BID, the Citizens Association of Georgetown, the ANC, and MPD continue to explore options to effectively address Halloween in Georgetown.

⁴ Nor do the Redskins win like they used to in the 80's with a 97-61 record in 10 years before the moratorium and 68-96 over the last 10 years.

⁵ Cf. "The Death Knell of Georgetown College Bars," *Georgetown Metropolitan*, February 11, 2015.

The GCP's Safety and Student Life Working Group also works to address student behavior in the neighborhood, by finding creative solutions for transient noise in the neighborhood, recommending enhancements to on-campus social life (including open-container policies in certain areas of campus, late night food service, and removing barriers for students to access campus space), and addressing student misconduct.

Analysis of pedestrian data in the commercial district also suggests that late night activity is low in intensity. Less than two percent of total foot traffic occurs between the hours of 12:00 am and 3:00 am on weekends; on weekdays, this figure drops to less than one percent.⁶ This is far less than in other commercial areas of the District.

Problematic Operators

When restaurant and tavern operators ignore their responsibilities to act as a good neighbor or operate a business in good standing, the Georgetown community and DC government have shown great wherewithal to resolve issues in recent years.

ANC 2E, in cooperation with the Citizens Association of Georgetown, is a high functioning, elected body that has developed settlement agreements with numerous restaurant operators—both within the moratorium zone and without—that address the community's concerns with negative impacts.

In every administration since Mayor William's election in 1999, the DC government has also built enhanced capacity within ABRA, MPD, and DCRA to regulate and enforce policies that govern restaurant and alcohol sales activities.

Parking and Access

Parking and access is a challenge facing all businesses and residents in Georgetown. However, while many restaurant patrons drive to dinner as they always have, many restaurant managers are starting to report that their guests are increasingly using alternative transportation. Bicycles are becoming more popular in key Georgetown demographics: younger patrons who are less likely to own cars and affluent, middle-aged patrons who are more likely to be health conscious. Restaurant managers also have noted that car-sharing options are on the rise, particularly services like Uber that offer guests comfortable, inexpensive and safe rides, especially after guests drink.

Both the BID and the GCP have working groups and staff dedicated to transportation issues. The ANC also regularly engages the community and the DC government on parking issues.

⁶ Based on automated pedestrian counts on M Street at Wisconsin Avenue, 2014-2015.

Unintended Consequences of Moratorium on Economic Development

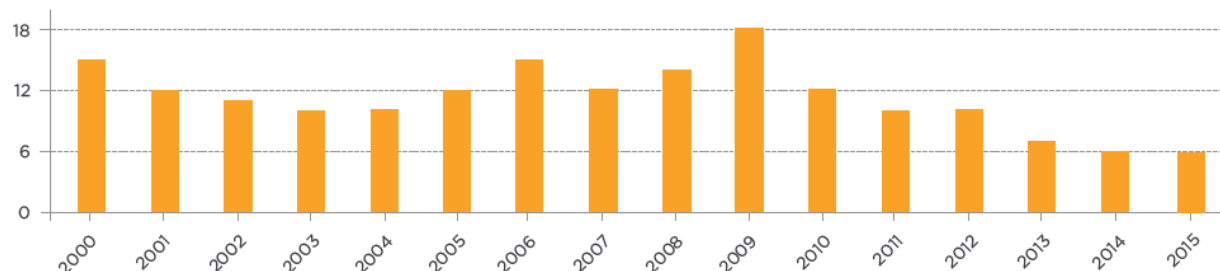
Economic Rents

The Georgetown Moratorium creates an artificially scarce resource—liquor licenses—by capping the number of licenses that may be issued within the moratorium area. Because a license is a necessary input, restaurant operators who obtain a license gain returns they would not accrue in an unregulated market: the ability to operate in a market shielded from (some level) of competition, and the ability to sell the license to another operator. These conditions create profits for some (license holders, a cottage industry of lawyers who deal in license transactions) without producing more outputs or benefits to consumers. This artificial construct is a classic example of a regulatory environment creating “economic rents” and inducing rent-seeking behavior.

The moratorium system erodes consumer choice (fewer restaurants to choose from) and welfare (restaurants operate in an oligopoly), artificially redistributes resources to certain actors (license holders vs. non-holders), and has ambiguous effects on city coffers (license sales do not accrue to city; total economic output may be affected).

There is some evidence that the lack of competition afforded by the moratorium has affected the quality of restaurants in Georgetown, though the impact may not be entirely causal. It is certainly the case, however, that emerging restaurant clusters have, over the last five years, sprung up where there are no moratoria in place: 14th Street, 11th Street/Columbia Heights, Penn Quarter, Shaw. It is over this same time period that reviews of Georgetown restaurants have generally declined, as evidenced in Georgetown’s falling stature in editorial features like the *Washingtonian’s* 100 Very Best.

TOTAL STARS OF BID AREA RESTAURANTS, WASHINGTONIAN MAGAZINE 100 VERY BEST LIST



Source: Washingtonian Magazine (2000-2015)

Perception of Friction and Speculative Behavior

The broker and restaurant operator community have also voiced concerns in the past few years about Georgetown. These players often say that restaurants do not consider locating in Georgetown due to a perception that it is difficult to operate here. Foremost among these difficulties is the (real or perceived) difficulty to obtain a license and serve alcohol, which is crucial to the financial health of many restaurant concepts.

Both the media and the broker community also report that the asking price for a license on the secondary market can reach in excess of \$20,000. The potential gain of such a sale encourages businesses to keep licenses even when they do not intend to actively use them during a specific time frame. This hoarding of licenses for potential use or sale is accomplished via regulatory mechanisms for safekeeping and “stipulated 405.1 licenses” (for businesses that do not yet have a certificate of occupancy).

Elimination of other Moratoria in DC

Since 2001 in Glover Park, and with increasing momentum in the last five years across all other moratorium areas, communities have been eliminating moratorium restrictions. If Georgetown renews its current moratorium, it will be the only neighborhood in the city with a restriction on all classes of restaurants. It will also be the longest standing moratorium, at 27 years since the initial restriction.

The stated rational (see appendices C through E) of the communities that have eliminated their moratorium mirrors the issues (in whole or part) highlighted in this whitepaper:

- Understanding that moratorium hinders economic development and sustainability of neighborhood
- Desire for more high-quality restaurant concepts that serve neighborhood demand
- Dissatisfaction with economic rents associated with selling licenses and speculative behavior
- Recognition that moratorium regulations do not necessarily address negative impacts effectively

For example, in 2015 ANC 2B writes:

We believe the dismissal of the moratorium should be implemented now due to economic development concerns...

[We are] not convinced that continuing a restriction on the number of licenses is the right way to ameliorate the negative externalities of liquor selling establishments. Instead the working group believes working with businesses to improve operational practices and allowing competition so only the best establishments may stay in the neighborhood is the right way to encourage a livable West Dupont. To accomplish these goals, the ANC must continue to negotiate strong settlement agreements...and enforce those agreements.

DC Moratoria Elimination Timeline

| | |
|------|--|
| 2001 | Glover Park eliminates moratorium on DR licenses |
| 2011 | Dupont West eliminates moratorium on CR and DR licenses |
| 2013 | Dupont East eliminates moratorium on CR and DR licenses |
| 2014 | Adams Morgan eliminates moratorium on CR and DR licenses |
| 2015 | Dupont West resolution to support elimination of tavern cap |
| 2018 | Dupont West resolution to support elimination of nightclub cap when it expires in 2018 |

Safekeeping and License Approval before Issuance of Certificate of Occupancy

When a licensee stops doing business they are required to place their liquor license in safekeeping if they intend to resume business at a later time. Similarly, businesses can have a license application approved (known as a 405.1 license) before their business has a certificate of occupancy so that, for example, a business can be assured of having a license before they begin construction on a space. Both licenses in safekeeping and stipulated 405.1 licenses are inactive, but count against the cap of 68 licenses in the Georgetown moratorium zone.

DC Code 25-791 provides that the Board may extend the period of time a license may be kept in safekeeping beyond 60 days for, “reasonable cause, such as fire, flood, other natural disaster; rebuilding or reconstruction; or to complete the sale of the establishment.” The Board is obliged to review the progress made on reopening an establishment every 6 months, and is given limited authority to cancel a license if the licensee has not made progress to resume operations.

To encourage licensees to resume business swiftly, DC Code 25-791 provides that license fees increase the longer a license is held in safekeeping:

0-24 months, 25% of annual license fee every 6 months (due at start of each period)
24+ months, 50% of annual license fee every 6 months (due at start of each period)

While the Board can cancel a license under DC Code 25-791, an exception for licenses in safekeeping within a moratorium zone is described in DCMR 23-704.3, which states, “a license for premises located in a moratorium area shall be permitted to be kept in safekeeping with the Board for the length of the moratorium.”

The Board’s lack of authority to cancel a license was apparent in a series of hearings that the Board called in May 2014 to review licenses held in safekeeping in Georgetown. At one point during a hearing to consider canceling a license in safekeeping held by Cherches, LLC t/a Grace Bamboo, Chairperson Miller notes:

whether we favor moratoriums or not or we see the problems, whether it's a bad regulation or a good regulation, it's the law right now. We can look at the reg[ulation] in the context of other laws or whatever it is, but I would think in light of that regulation, 704.3 that we not take any action on this case at this time. (p. 34)

To which fellow board member, Mr. Alberti, responds, “I agree, but I think that the Board would be remiss if it didn't encourage people to use the licenses.” (p. 34)

However, several Board members expressed concern about the economic development impact of having licenses in safekeeping within the moratorium that are then sold on the secondary market:

MR. ALBERTI: Well, I will tell you that we heard from business owners a few weeks ago lamenting the fact that it's hard for someone to open a new license because these licenses in safekeeping are worth \$50,000, \$60,000 and that is hampering new businesses from opening because they can't afford the license on top of...whatever it is to open a restaurant...my point is, is that I believe that allowing people to have things indefinitely in safekeeping hamper economic development. (p. 26-27)

MR. RODRIGUEZ: ...I'm not smiling to think that we have licenses in perpetuity. I think that I need to look into that legislation or the rules or more, but I just don't see any logical sense in keeping a license in perpetuity...I think we have a responsibility to ensure that the interests of the public are kept and that we don't have licenses that are kept there for speculation...it does not help the economic development (p 30-31)

Proposed Rulemaking Change to 23-704.3

A proposed rulemaking to eliminate the ability to hold a license for the length of a moratorium was published in the DC Register on May 8, 2015 (56224-1/Notice ID 5453745) and transmitted to the DC Council for a 90 day period of review. The proposed rule would delete the current text of DCMR 23-704.3 (which allows licenses to be held in safekeeping for the length of the moratorium) in its entirety and replace with text that does not afford any protection to licenses within a moratorium zone.

The 90-day period ended on August 6, 2015, when Council was on recess. ABRA General Counsel Martha Jenkins reported that the rule making was still with OPLA and would be reintroduced in September for Council action.

Cancelation and Release of Licenses under a Moratorium Cap

Eliminating the ability to hold, by right, a license in safekeeping for the length of the moratorium zone may help to bring some licenses out of safekeeping. But it is not clear that it would resolve many underlying problems of the current moratorium system; releasing licenses is also fraught with difficulty when a moratorium cap is in place.

New licenses created in 2010, along with licenses that have been canceled during the current moratorium, have been released back into the market by ABRA. The process for releasing a license, however, is not necessarily conducive to attracting high-quality restaurant operators or yielding new restaurants enjoyed by the community and visitors.

When licenses become available, relatively short notice is given to the market (30-60 days). Many operators—including operators that the business and residential community have expressed interest in attracting—do not make location decisions within that time frame. On the contrary, the actions of most high-quality operators involve many months, and sometimes years, of market research, site location, and negotiation with property owners.

After this short period of public notice, licenses are released on a first-come-first-served basis. Inevitably this results in license seekers camping out—sometimes for several days—near the entrance of ABRA. This spectacle reinforces the idea that it is difficult to open a restaurant in Georgetown and, according to the retail brokerage community, makes many operators skip over Georgetown as a sub-market worth exploring in DC. The first-come-first-served basis also means that one operator will have claim to a license over another simply by virtue of their position in the queue. This allocation method leaves little recourse to the community to obtain operators they prefer or desire.

So while mechanisms do exist to re-issue unused licenses within the moratorium, they have not proven to be useful in encouraging new, high-quality restaurant options to open in Georgetown. Over the course of the current moratorium period 15 licenses were released (either by increasing the cap or by cancelations of existing licenses) under this system. Nine of the released licenses were issued to existing restaurants—of which two were never put into active use! Four licenses were issued to concepts that never materialized. Only one (1) of the licenses issued produced a new restaurant (Yummi Crawfish).

Instead, many of Georgetown's most notable new restaurants have opened where the moratorium rules do not apply, (notably The Grill Room at the Capella [hotel exclusion], and Fiola Mare and Orange Anchor [Washington Harbour]) or where a license was acquired on the secondary market (notably Chez Billy Sud, Gypsy Sallys, and the forthcoming Sovereign).

Summary of licenses created or released from safekeeping/405.1 by ABRA under current moratorium

7 new licenses created in 2010 – Cap increased to 68 licenses

4 issued to existing or already planned establishments:

Tacklebox

Paul Bakery (already committed to opening prior to issuance)

Puro Café (held inactive under 405.1 after issuance...still inactive as of January 2015)

Zenobia (placed into safekeeping after issuance...later canceled)

3 issued to concepts that never opened

Bills Bar and Burger

Hu's Shoes restaurant concept (held inactive under 405.1 after issuance...still inactive as of January 2015)

International House of Ping Pong (held inactive under 405.1 after issuance... still inactive as of January 2015)

4 released April 2014 (68 of 68 licenses accounted for)

2 issued to existing establishments

Luke's Lobster

Smith Point (tavern license)

1 issued to concept that never opened

So Mi (held inactive under 405.1 after issuance)

1 issued to concept that opened after issuance

Yummi Crawfish

4 released in June 2015 (68 of 68 licenses accounted for)

3 issued to existing or already planned establishments:

AMC Theater

Lady Camellia/Macaroon Bee

Chaia (already committed to opening prior to issuance)

1 re-issued to interest that held a recently canceled license previously inactive under 405.1

Un-named Greek restaurant

Other Market Trends

The moratorium is not the only market condition that impacts the performance of restaurants (and retail) in Georgetown. Three main concepts are important to understanding the market.

Rents and Lease Terms that do not support restaurants on M Street

Growing interest in retail in DC has reinforced Georgetown as an iconic shopping destination. Interest has centered along M Street, especially near the intersection of Wisconsin Avenue. Demand for these locations by well-capitalized, national and international profile tenants has driven lease rates up. A recent study commissioned by the Georgetown

BID found that the median rental rate near the M Street and Wisconsin Avenue intersection is \$97.50 per square foot, triple net.⁷ Some rents exceed \$180 per square foot.

Rental rates this high, along with limited allowances for tenant improvements, are not compatible with most full-service restaurant concepts. In DC, restaurants are generally seeking rents less than \$60 per SF. As a result, a number of restaurants on M Street have closed in recent years, with property owners opting to replace them with fashion and apparel retailers, who are able to afford higher rents. These retailers frequently have stronger credit, and have lower impacts on buildings, so that they are attractive, low-risk tenants. This trend towards credit tenants on the M Street “high street” means that restaurants will, going forward, likely locate on side streets, upper Wisconsin, or below M Street where they are not competing with national retailers and can pay the full asking rent for a space. These locations—while discoverable (e.g., Gypsy Sallys, After Peacock Room)—are not always readily apparent and may be challenging to find.

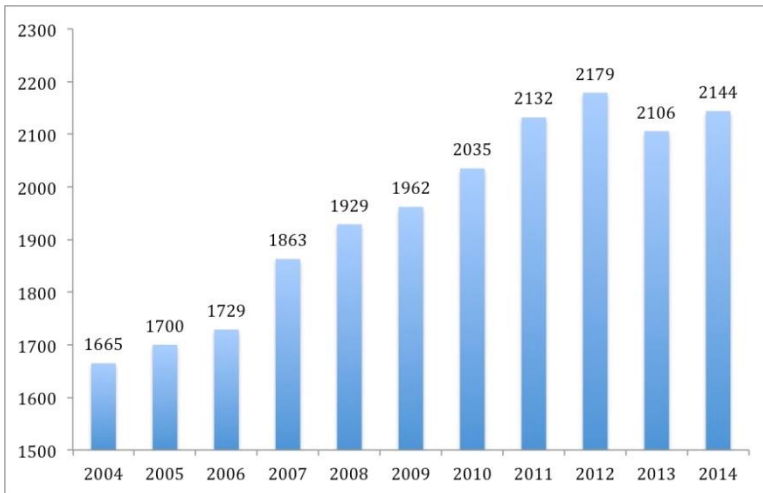
Median Retail Rents along M Street



Rapid growth of hospitality industry in DC region

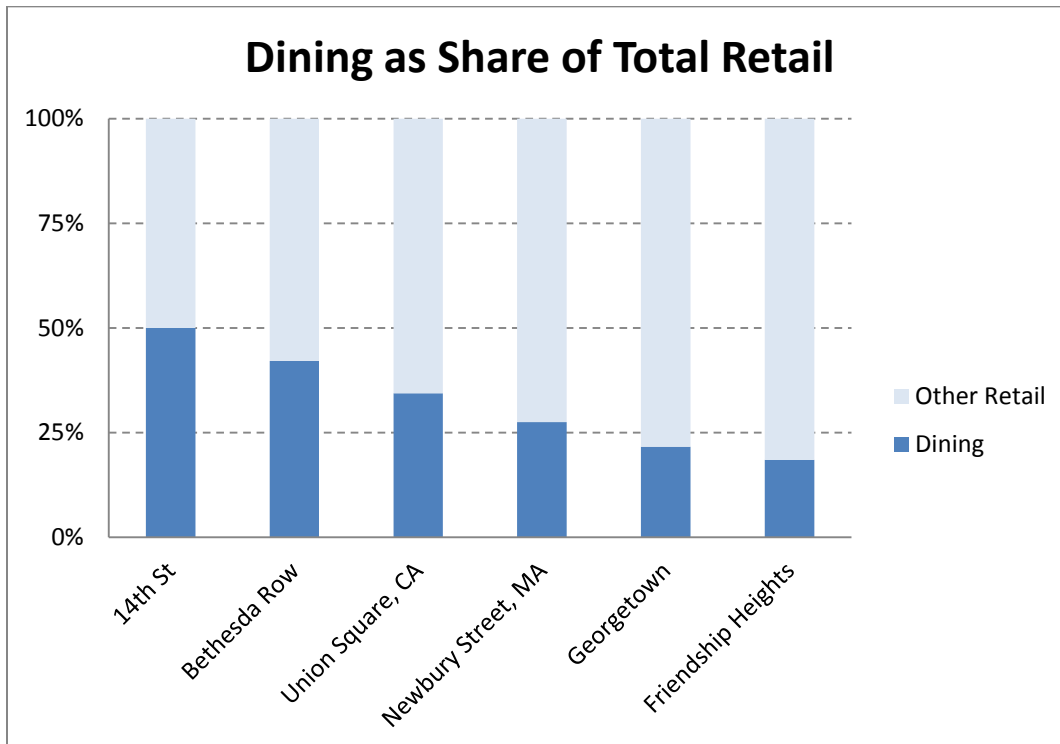
Growth of hospitality employment in both the region and in DC is a strong empirical sign that there is more competition facing restaurants. Between 2004 and 2014, food service and drinking places grew 29 percent, from 1,665 total establishments to 2,144.

⁷ Triple Net means that in addition to base rent, the tenant also pays all real estate taxes, insurance, and common area fees associated with their occupancy of the property



The importance of restaurants to contemporary retail areas

Georgetown’s ratio of full-service restaurants to general retail is low compared to the 14th Street corridor, Shaw, emerging developments like CityCenter, and other national destinations like Newbury Street or Union Square.. This is partially due to the success of general retail in Georgetown: well-financed brands are driving retail vacancy rates lower and rental rates higher. To the contemporary shopper—who increasingly seeks “experiential” destinations—restaurants act as anchor retail venues. In order to foster a vibrant environment that matches today’s consumer interest, Georgetown must find ways to attract and retain more restaurants.



Policy Options and Recommendation

The Georgetown BID staff developed a number of potential policy options based on our understanding of Georgetown's commercial and residential communities.

1. Renew the current moratorium with no change
 - a. Variant: Renew with an increase in the number of CR/DR licenses permitted in the moratorium zone (as was done in 2011)
 - b. Variant: Renew the current moratorium with no change and aggressively pursue action to cancel licenses held in safekeeping or issued provisionally before a CO is issued

Option 1 is the status quo and does not address critical economic development issues facing Georgetown's commercial district. Nor does it eliminate market distortions (oligopoly, economic rents, speculative behavior) created by the moratorium, nor change the narrative that contributes to keeping many high-quality restaurateurs from considering Georgetown. While this option may appeal to some community stakeholders who fear negative impacts from restaurants, it is unclear that the moratorium has addressed these impacts in the past. It is more likely that vigilant approval processes and strong settlement agreements, in concert with the public space efforts of the BID, GU, and other stakeholders have, and will continue to have, a greater impact on eliminating negative impacts from restaurants.

Variants (a) and (b) have been tried in the past with little demonstrated success to bring new, high-quality restaurant concepts to Georgetown. Reforming DC Government processes (e.g., changing the criteria by which licenses are canceled, changing the first-come-first-serve release of licenses) to improve outcomes is a complex, heavy lift and would need to be in place before Option 1 could be considered to provide any benefit to the community going forward.

2. Renew a moratorium, but simultaneously create a new class of license that is exempt from the moratorium restrictions. The new license class would restrict the alcoholic beverage sales hours of an establishment to a time earlier than last call elsewhere in the city (to which other licenses are subject).

Option 2 may be a compromise position if there is not community consensus on another policy option. However, creating a new class of license is complex and a heavy lift requiring several legislative and rule-making changes. ABRA expressed skepticism and was dismissive of similar proposals in the past, most recently in Adams Morgan. Similarly, even restaurateurs who tend to end alcohol sales much earlier than their licenses allow have expressed an unwillingness to restrict their operating hours. This option may help economic development issues, but may still leave residual concerns about the perception of doing business in Georgetown.

3. Change the boundaries of the moratorium to eliminate restrictions in some areas of the commercial district that have a lower impact on residents or are in the W zones.

Option 3 may be a compromise position if there is not community consensus on another policy option. An area that might be considered for elimination from the moratorium zone is the "Canal and Waterfront District" south of M Street that is located entirely in a W (light industrial) zone. This approach may or may not help areas that are not eliminated from the zone, depending on the conditions and caps on the remaining area.

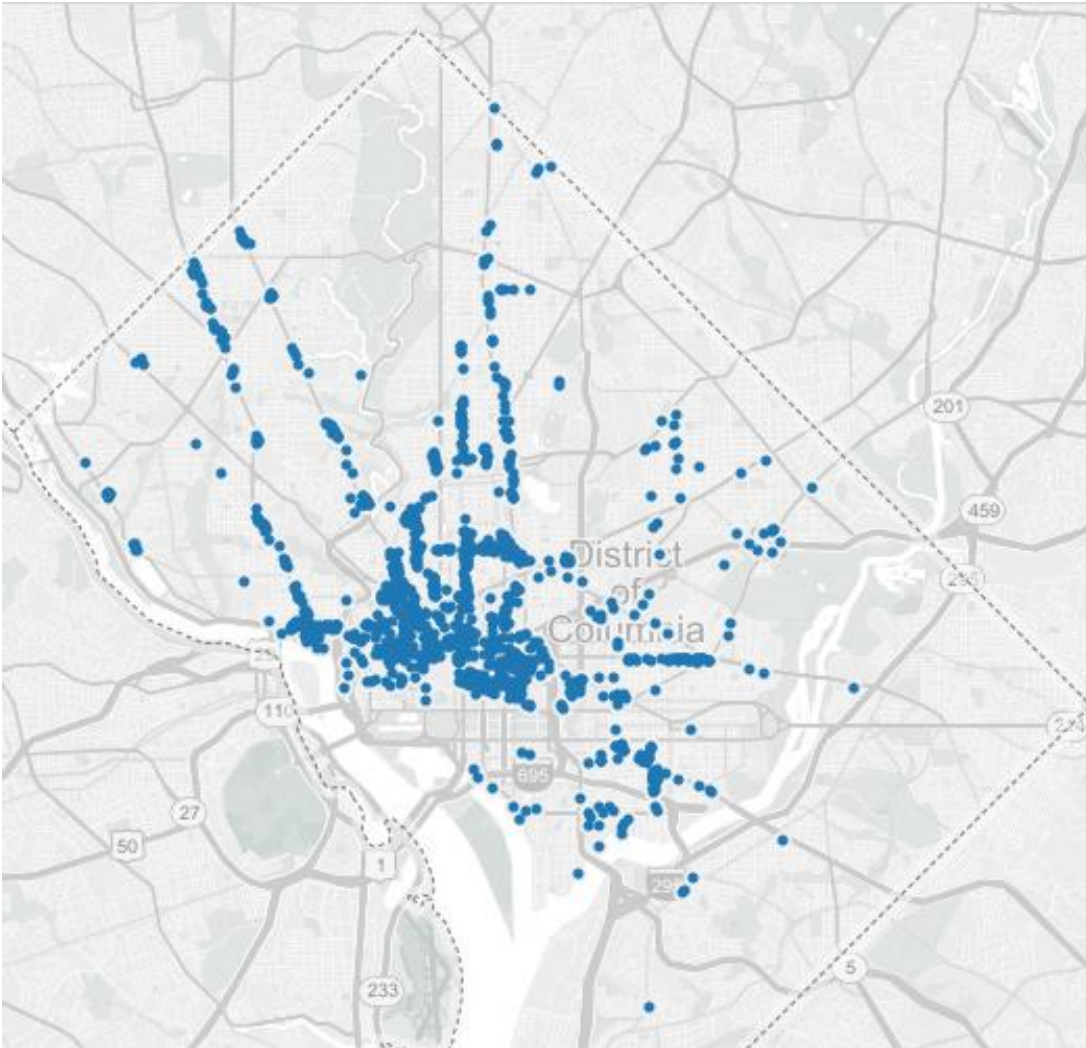
4. **Recommended:** Allow the moratorium to sunset, thereby allowing the market demand for high-quality restaurants to be properly met.

Option 4 eliminates market distortions and creates a more restaurant friendly, enabling, environment in Georgetown. The option responds to the actions and market trends of other neighborhoods in DC and beyond, is more likely to yield a stronger mix of high-quality restaurants, will help Georgetown remain competitive, and will provide better services to residents and a more sustainable co-tenant mix for other retailers.

APPENDIX A: Alcoholic Beverage Licenses in DC

ABC licenses are issued in the District of Columbia based on license type and class.

1,276 class C or D (off-premise) licenses in DC as of January 2015



License Types

There are several alcoholic beverage license types, covering a variety of businesses from manufacturers to festivals as well as managers of licensed establishments. The Georgetown Moratorium impacts on-premise retailer licenses:

On-premise retailers: Establishments where alcoholic beverages may be purchased and consumed on the licensed premises. On-premises retailers include restaurants, taverns, nightclubs, hotels, theaters, museums, sports facilities, passenger-carrying ships and trains.

License Classes

License class determines the kinds of alcoholic beverages an establishment can sell. The Georgetown Moratorium impacts:

- On-premises Retailer Class C: Permits the sale, service, and consumption of spirits, beer, and wine at a restaurant, tavern, nightclub, hotel, and multipurpose facility. The licenses are further defined as follows by type of establishment:
 - Restaurant: C/R license
 - Tavern: C/T license
 - Nightclub: C/N license
 - Hotel: C/H license
 - Multipurpose facility: C/X license
- On-premises Retailer Class D: Permits the sale, service, and consumption of beer and wine at a restaurant, tavern, nightclub, hotel, and multipurpose facility. The licenses are further defined as follows:
 - Restaurant: D/R
 - Tavern: D/T
 - Nightclub: D/N
 - Hotel: D/H
 - Multipurpose Facility: D/X

An operator may attach to their license a number of endorsements and permits

Endorsement and Permit Types

- Entertainment Endorsement: There are three different types of entertainment endorsement categories that allow a licensee to either provide live entertainment, dancing, or charge a cover. Restaurants, taverns and hotels that want to provide entertainment, dancing, or charge a cover can apply for one, two or all three endorsement categories.
- Summer Garden or Sidewalk Café Endorsement: Allows a restaurant, tavern, multipurpose facility, hotel or nightclub to sell, serve and allow the consumption of alcoholic beverages on outdoor public or private space.
- Tasting Permit: Allows a manufacturer or retailer to provide customers with a tasting of products on a portion of their licensed premises.
- Brew Pub Permit: Allows a licensee to brew beer on or adjacent to the premises and to sell the beer for consumption at a licensed restaurant, tavern, multipurpose facility, hotel, or nightclub. Also allows the licensee to sell the beer to wholesalers.
- Wine Pub Permit: Allows a licensee to manufacture wine on or adjacent to the premises and to sell the wine for consumption at a licensed restaurant, tavern, multipurpose facility, hotel, or nightclub. Also allows the licensee to sell the wine to wholesalers.
- Distillery Pub Permit: Allows an on-premises establishment to manufacture, distill and store craft liquors on the licensed premises or in an area immediately adjacent to the premises.
- Manufacturer's On-Site Sales and Consumption Permit: Allows a spirit, beer or wine manufacturer to sell their products for consumption on their licensed premises.

APPENDIX B: Safe Keeping Status in Georgetown, as of January 2015

| Status | t/a | name | license | Inactive since | Notes |
|--------|-----------------|-------------------------------|------------------------------------|----------------|---|
| | | | | | This was cancelled in 4/2015 for non-payment of licensing fees. Licensee requested reinstatement and this has been returned to safekeeping status |
| 1 | Safekeeping | River Club | Capital Restaurant Cor ABRA-010299 | 1997 | safekeeping status |
| 2 | Safekeeping | Grace Bamboo | Cherches, LLC ABRA-075733 | 2006 | |
| 3 | Safekeeping | Machu Picchu Restaurant | Bangkok, Inc. ABRA-008309 | 2006 | 2006 (still in safekeeping) |
| 4 | Safekeeping | | | | Safekeeping - First entered in 2006 |
| 5 | 405.1 New Const | Hu's Wear | Eastbanc, Inc. ABRA-076154 | 2010 | |
| 6 | 405.1 New Const | INTERNATIONAL HOUSE OF PONG | Hu's Wear LLC ABRA-084908 | 2010 | |
| 7 | 405.1 New Const | Lapis | DAVID SAKAI ABRA-084905 | 2010 | |
| 8 | 405.1 New Const | Puro Cafe | The Berliner Group, LL ABRA-085260 | 2010 | |
| 9 | Safekeeping | Five Guys | RHBB, LLC ABRA-084987 | 2010 | |
| 10 | Safekeeping | Pizzeria Uno | RMR CAPITAL, LLC ABRA-071127 | 2010 | |
| 11 | Safekeeping | Red Fire Grill Kabob & Lounge | Potomac Restaurant A: ABRA-003854 | 2012 | Canceled 2015 |
| 12 | Safekeeping | Rugby Cafe | Grill Kabob of Georget ABRA-090419 | 2013 | |
| 13 | 405.1 New Const | So Mi | Polo DC, LLC/Rugbycaf ABRA-075703 | 2013 | |
| 14 | Safekeeping | 3001 M STREET NW, LP | Ching LLC ABRA-095294 | 2014 | |
| 15 | Safekeeping | Johnny Rockets | 3001 M STREET NW, LP ABRA-092491 | 2014 | |
| 16 | Safekeeping | TBD | The Johnny Rockets Gr ABRA-081606 | 2014 | |
| 17 | Safekeeping | Mr. Smith's | JBS Ventures, LLC ABRA-092970 | 2014 | |
| | | | Kimberly Inc. ABRA-000864 | 2015 | |
| 18 | Safekeeping | M Cafe | | | Canceled 2015, reissued to same owner in 2015 as 405.1 |
| 19 | Safekeeping | Neyla | Silkari East, Inc. ABRA-087240 | | Canceled 2015 |
| | | | Crepizza, Inc. ABRA-021020 | | |
| 20 | Safekeeping | Four Seasons | | | Transferred to ABRA - 097368 (Eno Wine Bar) 2810 Penn Ave, NW |
| 21 | 405.1 New Const | FR&LH | DTRS ABRA-079139 | | ABRA - 095966 - this should be reflected as a 405.1 application |
| | | | | | ABRA-095966 |

APPENDIX C: Adams Morgan ANC Moratorium Recommendations



Advisory Neighborhood Commission 1C

PO Box 21009, NW, Washington, DC 20009

www.anc1c.org

Representing Adams Morgan

Commissioners:

February 28, 2014

Brian Hart (1C01)

Alcoholic Beverage Control Board

Marty Davis (1C02)

2000 14th Street NW, Suite 400S

Washington, DC 20009

Ted Guthrie (1C03)

Gabriela Mossi (1C04)

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

Elham Dehbozorgi (1C05)

Billy Simpson (1C06)

Chairperson Miller,

Wilson Reynolds (1C07)

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

Jimmy Rock (1C08)

Sincerely,

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.

APPENDIX D: Report of the West Dupont Liquor License Moratorium Committee

Dupont Circle Advisory Neighborhood Commission (ANC2B)

Report of the West Dupont Liquor License Moratorium Committee

Published for Public Comment on April 17, 2015

Reposted with corrected special meeting location on April 20, 2015

The Dupont Circle ANC will address the west dupont liquor license moratorium at its special meeting on Monday, April 27th at 7:00pm at the 1740 Massachusetts Avenue, Johns Hopkins Nitze Building, Kenney-Herter Auditorium. We encourage public participation at that meeting or to send comments to ANC Commissioners via email at commssioners@dupontcircleanc.net.

Establishment of the Moratorium Committee

Since 1994 a liquor license moratorium has been effect in the western portion of Dupont Circle—approximately 600 feet in each direction from the intersection of 21st and P NW. The moratorium limits the number and type of liquor licenses within the geographic area. On January 14, 2015, with the expiration of the West Dupont Liquor License Moratorium Zone approaching, ANC2B passed a resolution creating the ad-hoc West Dupont Moratorium Working Group in order to establish an impact driven and neighbor-focused community engagement process regarding the future of the West Dupont Moratorium Zone. The working group held public meetings, engaged a broad spectrum of the business and residential community, and developed recommendations to be considered at the April special meeting of the ANC. The ANC will provide advice to the Alcoholic Beverage Control Board for their review and action.

The following members were appointed:

- Daniel Warwick, Commissioner of ANC2B02 (Chairperson)
- Mike Feldstein, Commissioner of ANC2B01 (Vice-Chairperson)
- Patrick Kain, Appointed Liquor Liaison of ANC2B06
- Karyn Robinson, Resident and former Commissioner of ANC2B02

Public Outreach

The Working Group held three publicly noticed public meetings and posted an online questionnaire to gather feedback that was open for over a month. In addition, emails were sent to stakeholders and announcements were made in the Dupont Forum online group. Finally, meetings were publicized in the Dupont Current by the Dupont Circle Citizens Association and a news article written by Graham Vyse. The Working Group received 14 public comments, including five comments from residents of the moratorium zone. Public comments received online and during meetings were mixed with 8 commenters supporting extending the entire moratorium and 6 opposed to any extension.

The online questionnaire was designed to elicit responses based on the six categories of licenses covered by the moratorium. When respondents filled out the online questionnaire they were likely to either support the entire moratorium or oppose the entire moratorium. During public meetings, designed to weigh costs and benefits and discuss the merits of each portion of the moratorium, it was determined—even by steadfast supporters of the moratorium—that limitations on “off premises” liquor and beer and wine establishments would not be necessary. Among the categories, lifting all restrictions on the number of available nightclub and tavern licenses were the most likely to be opposed. A copy of the questionnaire is included in the appendix.

Terminology

Liquor selling establishments for “off premises” consumption are referred to as Class A and Class B licenses. Class A licenses sell liquor, beer, and wine while Class B may only sell beer and wine.

Liquor selling establishments for “on premises” consumption are referred to by a two letter combination designation where the first letter refers to the type of sales allowed and the second letter refers to the type of license. Class C establishments may sell liquor, beer, and wine while Class D establishments may only sell beer and wine. For the second letter, “R” establishments are restaurants, “T” establishments are taverns, “N” establishments are nightclubs, and “X” establishments are multipurpose. A restaurant which sells liquor is referred to as having a CR license.

History

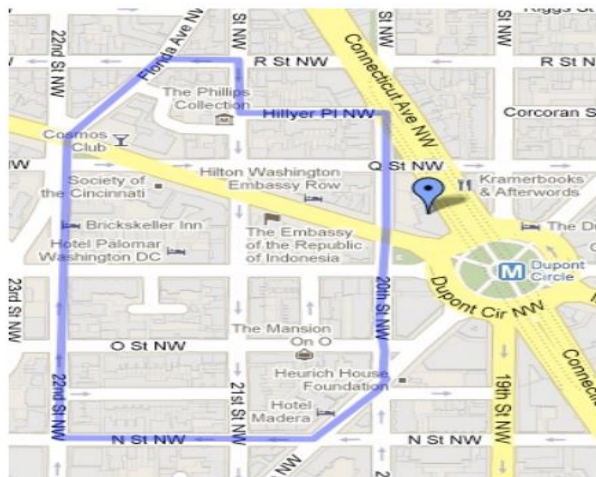
The West Dupont Moratorium was very restrictive when established in 1994 and has been slowly loosened, partially due to the recommendations of ANC 2B. From the 2011 ANC 2B moratorium report:

The West Dupont Circle Moratorium was created on July 22, 1994, to help guide the development of the neighborhood, making the area more attractive to retail while limiting the establishments that served liquor on P Street and in Western Dupont Circle. The original area extended 600 square feet from the intersection of 21st Street NW and P Street NW. All of the area within the Moratorium zone is part of the Dupont Circle Historic District.

The Moratorium has traditionally been up for renewal every 5 years and has been renewed to date on August 4, 2000 and March 24, 2006. Throughout the renewal cycles, Advisory Neighborhood Commission 2B has offered several modifications to the Moratorium to allow for additional development in the neighborhood. In 2006, the total number of ABRA licenses went from 29 to 30. In 2008, the number was increased to its current threshold of 34, expanding (at the ANC's request) the number of DR/CR licenses from 17 to 21. The ANC, recognizing the Moratorium as a temporary measure meant to adapt to community needs, took decisive action in 2009 to exempt the 1500 block of Connecticut Avenue NW from the Moratorium Zone. Of the businesses that moved in, all have CR/DR licenses. This increase in CR/DR licenses in 2008 and 2009 was consistent with the desires of ANC2B and the Dupont Circle Citizens Association to allow for the development of a "Restaurant Row" in Western Dupont Circle.

The Philips Gallery was granted a CX (multipurpose) license in 2010 with the reduction of one CR/DR license from 21 to 20.

In 2011, at the request of the ANC, the ABC Board granted the elimination of the limit on restaurant licenses to be removed in its entirety and to exempt the building at One Dupont Circle. A map of the current boundaries after adjustments and exceptions made in 2011 is located below.



Since 2011 when the restaurant restrictions were lifted, the number of restaurant licenses went from 20 to 22 based on the latest ABRA data from August 2014.

The Moratorium Now

The following table shows currently active and allowed licenses in the moratorium zone.

| License Type | Limit | Currently Active |
|--|-------|------------------|
| Class A (liquor store) | 2 | 2 |
| Class B (beer and wine store) | 3 | 2 |
| Class CX/DX (multipurpose—art gallery, private club) | 3 | 3 |
| Class CT/DT (tavern) | 6 | 4* |
| Class CN/DN (nightclub) | 0 | 0 |

*One additional tavern license is in safekeeping, meaning the licensee owns the license but is not currently using it. That tavern location, in Twinning Court, is currently in the process of conversion into a single family home. The number of active tavern licenses is 4.

Recommendation

Following the wishes of the neighborhood over the past nine years, the working group recommends further loosening of the moratorium zone restrictions. After dialogue and discussion with the community and after reviewing the input from community members, the working group recommends eliminating the moratorium on all license types. We request that the ANC adopt this report and not recommend an extension of the moratorium. We believe the dismissal of the moratorium should be implemented now due to economic development concerns, the potential for perverse profit incentives, and to encourage good businesses.

By limiting the number of licenses, a moratorium creates a market for liquor licenses in addition to the cost of a liquor license paid to the District. This means that if a private club wants to enter the West Dupont Moratorium Zone and obtain a liquor license, they must buy a license from the O Street Mansion, Phillips Collection, or Cosmos Club. This drastically increases start-up costs for a new business and requires more revenue to achieve a required return on investment to remain open and operating. By requiring a higher return, license owners are forced to prioritize profits over being good neighbors. In Adams Morgan, the moratorium has created a secondary market where licenses are sold for up to \$95,000. This secondary market prices out many local businesses from opening in the neighborhood, and restricts future market entrants to businesses that can afford the additional upfront capital—primarily well-funded chains.

Members of the working group have a vision for our neighborhood to remain walkable and livable with local-serving retail and neighborhood businesses. This requires providing local business owners with the opportunity to thrive in Dupont Circle. Raising the entry costs of business reduces future possibilities and ossifies current business. While there are presently concerns about some local taverns, extending the moratorium will only protect those problem taverns from market competition by increasing barriers to entry. This further solidifies the current business environment, whether it is best for our neighborhood or not.

While the working group suggests that the ANC not pursue a continuation of the West Dupont moratorium zone as a way to encourage neighborhood livability and vibrancy, the ANC should continue efforts of ensuring businesses on P Street can operate fairly in our neighborhood. There is a concern among some residents that loosening the restriction on the number of taverns

and nightclubs within the boundaries of the ANC could cause more late night noise, in opposition to West Dupont's residential character. The working group is not convinced that continuing a restriction on the number of licenses is the right way to ameliorate the negative externalities of liquor selling establishments. Instead, the working group believes working with businesses to improve operational practices and allowing competition so only the best establishments may stay in the neighborhood is the right way to encourage a livable West Dupont. To accomplish these goals, the ANC must continue to negotiate strong settlement agreements with liquor selling establishments in residential areas and enforce those agreements with the various enforcement agencies.

The working group encourages ANC 2B to recommend that the ABC Board not renew the West Dupont Circle Liquor License Moratorium. Instead the ANC should adopt a standing policy to protest new liquor license applications in the former moratorium zone until a settlement agreement can be reached with the application that will alleviate any possible concerns over peace, order, quiet and parking.



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

May 18, 2015

Chairwoman Ruthanne Miller
Alcoholic Beverage Control Board
Reeves Center
2000 14th Street NW
Washington, DC 20009

RE: West Dupont Liquor License Moratorium Zone

Dear Chairwoman Miller,

At its regular meeting on May 13, 2015 the Dupont Circle Advisory Neighborhood Commission (“ANC 2B” or “Commission”) considered the above-referenced matter. With 7 of 9 Commissioners present, a quorum at a duly-noticed public meeting, the Commission approved the following motion by a vote of (4-2-1):

Whereas Advisory Neighborhood Commission 2B (ANC 2B) appointed a Working Group on the West Dupont Liquor License Moratorium Zone at the January 12th meeting of the Commission; and

Whereas the Working Group held three public meetings regarding the future of the moratorium, conducted an online questionnaire, and reached out to neighbors over three months; and

Whereas the Working Group recommended the ANC should not extend the moratorium due to the desire to spur economic development, the potential for perverse economic incentives, and to encourage good business; and

Whereas ANC 2B recognizes the divisive nature of conversation regarding liquor licenses and the published intent to remove the moratorium led to more public involvement than was received during the working group process; and

Whereas ANC 2B believes the negative impacts of liquor selling establishments are contingent on operating practices and proximity to residential units rather than the Alcohol Beverage Regulatory Administration (ABRA) license classification system; and

Whereas ANC 2B acknowledges the long history of West Dupont as a mixed use neighborhood with apartments, condominiums, and late night businesses located next to each other; and

Whereas ANC 2B recognizes the amenities and availability of late night food service and entertainment options are what drives many neighbors to choose living in Dupont Circle; and

Whereas ANC 2B acknowledges late night amenities are often paired with late night problems—including the disruption of resident sleep due to disregard for peace, order, and quiet—ANC 2B believes these problems are based on the operating behavior of business owners, attentiveness of Metropolitan Police Department patrols, and effectiveness of ABRA and Department of Consumer and Regulatory Affairs (DCRA) enforcement of noise ordinances; and

Whereas ANC 2B finds the negative impacts of some late night liquor selling establishments are managed ineffectually through the current MPD, ABRA, and DCRA enforcement mechanisms, and

Whereas the West Dupont Moratorium provides a limit on quantity of liquor licenses, it does not offer protection against the negative operating practices of businesses disturbing residential peace including through amplified noise and base music which pierces through residential windows; and

Whereas within the moratorium zone there is a statutory limit of two Class A licenses, three Class B licenses, three CX (multipurpose, such as The Phillips Collection or Cosmos Club) licenses, six CT (tavern) licenses, and zero CN (nightclub) licenses; and

Whereas among the statutory limit of liquor licenses, all are currently in operation except for one Class B license and two CT licenses; and

Whereas ANC 2B believes licenses for off-premises consumption of alcohol—Class An and Class B licenses—are not drivers of peace, order, and quiet violations; and

Whereas multipurpose licenses are only available for venues serving alcohol at special events such as the Phillips Collection, O Street Mansion, and Cosmos Club; and

Whereas the differences between a restaurant, tavern, and nightclub license are based on a scale of food service and entertainment where restaurants are required to serve food up to two hours before closing and have revenue of \$2,000 or more in food service per occupant based on Alcohol Beverage Control (ABC) board certified certificate of occupancy or receive at least 50% of their revenue from food service while taverns and nightclubs have no food service requirement; and

Whereas restaurants and taverns may request endorsements for entertainment and dance floors above 140 square feet, nightclubs are granted an entertainment endorsement and a dance floor of unlimited size based on the virtue of their license, and may offer entertainment by nude performers; and

Whereas lifting the moratorium in its entirety would allow nightclubs to enter West Dupont while West Dupont has not had a nightclub for at least twenty years; and

Whereas the addition of a nightclub to West Dupont would be disruptive to the peace, order, and quiet of our and any mixed use neighborhood based on the guaranteed entertainment endorsements and lack of food service inherent in the license class.

Therefore be it RESOLVED while ANC 2B can endorse the Working Group's report to not request an extension on Class A, B, X, and T (liquor store, beer and wine store, multipurpose license such as the Phillips Collection or Cosmos Club, and tavern) licenses—in addition to the current lack of limitation on restaurant licenses—ANC 2B cannot support the recommendation to lift a moratorium on nightclub licenses.

Be it further RESOLVED ANC 2B petition the ABC Board for a renewal of a modified West Dupont Circle Moratorium for a three-year period from the date of Board action, with a modification so the moratorium is solely a continuation of the limitation on CN (nightclub) establishments in the same geographic region as the current moratorium zone; in this petition; ANC 2B will request the ABC Board lift the restriction on quantity of Class A, B, X, and T licenses similar to the lifting of Class R (restaurant) licenses in 2011.

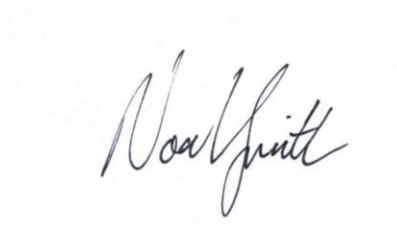
Be it further RESOLVED that ANC 2B work with ABRA, the ABRA noise task-force, the Metropolitan Police Department, the Department of Consumer and Regulatory Affairs, and the Zoning Commission, neighbors, businesses, and other stakeholders to codify a city-wide restriction on nightclubs next to residential buildings and residential buildings next to nightclubs so that three years from now, the blunt instrument of a moratorium zone will no longer be needed to protect residents in West Dupont.

Be it further RESOLVED the ANC's South of the Circle Working Group be expanded to include the area encompassed by the West Dupont Moratorium Zone.
Due to his position on the ABC Board, Commissioner Silverstein did not participate in this vote.

All Commissioners of the ANC with the exception of Mike Silverstein are the Commission's representatives in this matter.

ON BEHALF OF THE COMMISSION.

Sincerely,



Noah Smith
Chairman

cc:

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