

ANC 6C Planning, Zoning, and Economic Development Committee Report

ANC 6C Commission Meeting: November 8, 2017

PZE Meeting Date: November 1, 2017 6:30 pm

Meeting Location: Northeast Library
7th & D Streets NE

Committee Attendees: Mark Eckenwiler (Chair)
Ryan McGinness (Vice Chair)
Bobbi Krengel
Chris Mitchell
Bill Sisolak
Dru Tallant

Other Commissioners Present: Christine Healey (6C01)
Heather Edelman (6C06)

Agenda Items

1. **19 Fourth St. NE/rear (BZA 19618)** – Application of Gillette Wing, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle U § 601.1(c), to permit a one-family dwelling unit in an existing structure on an alley lot in the RF-3 Zone at premises 19 4th Street Rear N.E. (square 816, lot 18). Representative: Meridith Moldenhauer, Cozen O’Connor. Hearing on December 13, 2017 (postponed from December 6). [6C01] ([Application file](#); [hearing notice](#))
2. **1121 Abbey Pl. NE (BZA 19622)** – Application of Mark Rivetti, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 5201
 - a. from the lot occupancy requirements of Subtitle E § 304.1 and
 - b. from the rear yard requirements of Subtitle E § 306.1to add a third floor and construct a four-story rear addition to an existing one-family dwelling in the RF-1 Zone at premises 1121 Abbey Place N.E. (square 773, lot 184). Representative: n/a. Hearing on December 6, 2017. [6C06] ([Application file](#); [hearing notice](#))
3. **Discussion of proposed D.C. Comprehensive Plan amendments**
4. **Discussion of Bill 22-0382, Union Market Tax Increment Financing Act of 2017**
5. **Discussion of Nov. 14 Council Hearing on DCRA Management of the Vacant and Blighted Property Program** ([hearing notice](#))

6. **Discussion of Nov. 9 Council Hearing on Bills 22-31 (stop-work-order disclosure) and 22-317 (ANC notice of vacant/blighted designations) ([hearing notice](#))**

Agenda Item #1: Discussion and Recommendations

19 Fourth St. NE/rear (BZA 19618) – Application of Gillette Wing, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle U § 601.1(c), to permit a one-family dwelling unit in an existing structure on an alley lot in the RF-3 Zone at premises 19 4th Street Rear N.E. (square 816, lot 18). Representative: Meridith Moldenhauer, Cozen O'Connor. Hearing on December 13, 2017 (postponed from December 6). [6C01]

Motion ***To recommend support with conditions (see below)***
 (carried 4-1-1)

Key Discussion Points:

1. Meridith Moldenhauer and Eric DeBear (both of Cozen O'Connor) and Lorena Checa (architect) appeared on behalf of the applicant.
2. The applicant seeks permission to convert a disused alley structure—originally a stable—into a single-family dwelling. The existing structure occupies 91% of the lot; it abuts the property line on the north, west, and south, with a 3' setback from the alley to the east. No increase in lot occupancy is proposed.
3. Special exception relief is necessary only because the adjacent alley is 10' wide. (Matter-of-right use requires a 15' alley no more than 300' of a public street.) The application meets the objective criteria for special-exception relief (minimum lot size, access to an alley of any width leading to a street, etc.). The chief area of focus is potential adverse effects on adjacent property owners.
4. Several owners/residents of nearby properties offered comments to the PZE. Some expressed concern about the physical safety of the subject property's residents and their ability to escape in the event of fire. PZE members did not find this objection persuasive.
5. The dominant concern expressed was over increased motor-vehicle traffic in the narrow alley and disruption/obstruction during the construction phase. More than one resident commented that another neighbor on the block is handicapped and (owing to the number of steps at the front of his house) relies on access through the rear and out the alley. The PZE Chair suggested that the applicant might consider leasing space at a nearby garage/parking pad for parking worker vehicles and storing construction materials.
6. Another issue discussed was the privacy implications of new inhabitants being able to look into nearby yards & houses. The applicant does not propose to add to or enlarge the original window openings, and has offered to use frosted glass on the one window facing west toward the rear of 19 4th St. NE (front lot).
7. The PZE voted to recommend support for the application, with the majority expressing the view that residential use is appropriate to the site. At the same time, the PZE recognized the challenges posed by the restricted access to the site and the impacts during construction; as a result, the PZE recommended that ANC strictly condition support on the execution of a construction-management plan that adequately mitigates impacts on other properties served by the same alley.
8. After the meeting, the Chair noted that some of the plans provided to the PZE have not been filed with BZA. Applicant advised that the intent is to file them with the pre-hearing statement.

Agenda Item #2: Discussion and Recommendations

1121 Abbey Pl. NE (BZA 19622) – Application of Mark Rivetti, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 5201

- a. *from the lot occupancy requirements of Subtitle E § 304.1 and*
- b. *from the rear yard requirements of Subtitle E § 306.1*

to add a third floor and construct a four-story rear addition to an existing one-family dwelling in the RF-1 Zone at premises 1121 Abbey Place N.E. (square 773, lot 184). Representative: TBD. Hearing on December 6, 2017. [6C06]

Motion **To recommend opposition**
(carried 6-0)

Key Discussion Points:

1. Applicant (who did not attend; see below) proposes to construct a third-story addition atop an existing two-story rowhouse.
2. Houses on this block, including the subject property, show a consistent architectural style and pattern. PZE members noted that the additional floor, set back less than 4' from the current façade, would be highly visible and apparently inconsistent with the requirement in section E-5201.3(c) that the addition “not substantially visually intrude upon the character, scale, and pattern” of the streetfront.
3. PZE members also noted that the application does not address the need for relief under E-206 (rooftop and upper-floor additions). Both this section and the one discussed above are implicated by the applicant’s proposal to remove the sloping roof and supporting brackets which typify houses on this block (and which are intact on the houses on either side).
4. After the PZE meeting, applicant advised the Chair that he had misunderstood the multiple communications advising him of the PZE meeting time and location (and the need for his presence). Applicant has filed a written request with BZA to postpone the hearing to January 10 so as to allow the PZE to review an amended application in December. The Board will not act on that request until November 13; **the PZE Chair recommends that the ANC file a short statement supporting the motion.**

Agenda Item #3: Discussion and Recommendations

Discussion of proposed D.C. Comprehensive Plan amendments

Motion **To recommend sending a letter of support to OP with conditions**
(carried 6-0)

Key Discussion Points:

1. Commissioner Edelman asked the PZE to look at a set of Comp Plan text amendments submitted to the Office of Planning (OP) by Greater Great Washington. The thrust of those amendments is to provide further support for affordable and inclusionary housing.
2. With two exceptions, the PZE endorsed the text of the amendments without any caveats. As to Amendment 2-5-1 (a new section), which reads as follows,

Policy: Prioritize Affordable Housing as a Community Benefit

For any development that is approved for increased density through the PUD process, rezoning or granting significant zoning relief, the District should affirm that affordable housing (in addition to any underlying requirement, such as what is required by Inclusionary Zoning) is the highest priority benefit and that other community benefits should be long-lasting.

the PZE recommended a modified version reading as follows:

Policy: Prioritize Affordable Housing as a Community Benefit

For any development that is approved for increased density through the PUD process or, rezoning ~~or granting significant zoning relief~~, the District should affirm that affordable housing (in addition to any underlying requirement, such as what is required by Inclusionary Zoning) is ~~the a high-est~~ priority benefit ~~and that other community benefits should be long-lasting~~.

3. As to the proposed amendments to existing Policy H-2.1.5, which reads as follows,

Except where precluded by federal programs, affordable **rental** units should have affordability covenants attached to the land that run **in perpetuity** ~~remain affordable for the life of the building~~

members of the PZE noted that such a stringent condition risks creating disincentives to needed redevelopment of older buildings. Instead of proposing alternative language, the PZE voted to recommend noting this as a concern.

Agenda Item #4: Discussion and Recommendations

Discussion of Bill 22-0382, Union Market Tax Increment Financing Act of 2017

Motion **To recommend opposition**
(carried 6-0)

Key Discussion Points:

1. Bill 22-0382 would provide \$82 million in public financing for development at Union Market. Of that figure, \$46 million would go to upgrades for public infrastructure such as water and sewer service. The remaining \$36 million is proposed to subsidize retail parking for certain lots in the Market area.
2. The PZE strongly recommends that the ANC oppose the parking subsidy, for several reasons.
 - a. Union Market is already thriving as a retail destination, with numerous additional projects either substantially constructed or approved as Zoning PUDs. Public funds are unnecessary to the future success of this new commercial center.
 - b. Some of the properties listed for parking subsidy are, as noted above, **already built**. An example is 1250 4th St. NE, an Edens project on which ANC 6C weighed in during 2015. That project was approved for 480-750 underground spaces which, in the applicant's own words, "will serve not only the uses within the Project ... but also be open to the public and satisfy broader parking demand within the Union Market neighborhood." In other words, excess parking capacity been planned **and built** for this and other UM projects **without any need for government subsidy**. To publicly fund this already-built project is a giveaway to developer after the fact.
 - c. The customer base for UM within walking distance will explode in the next few years as new housing is built immediately north and south of Florida Avenue. (ANC 6C has reviewed and supported many of these projects, including 300 M St. and the Central Armature Works PUD on 3rd St.) Moreover, UM is extremely close to the NoMa Metro station, and could be made even more accessible (see below).
 - d. Adding parking will only increase the amount of motor-vehicle traffic on Florida Avenue, which is precisely contrary to the need—long noted by ANC 6C—to reduce the number of lanes, lower average vehicle speeds, and support alternative modes such as walking and cycling. Using public funds to pay for parking not commercially viable distorts the economics of transportation and runs counter to the efforts ANC 6C and DDOT have made to plan for a less highway-like avenue.
3. The PZE recommends that some of all of the proposed \$36 million be dedicated instead to design and construction of a pedestrian underpass at N St. west of 3rd, which would provide better access to the Metro station's north passenger entrance. Support for such an entrance is already in the approved plans for the Central Armature PUD, which includes a dedicated public right of access across the property.
4. **Post-PZE developments:** On November 7, this bill passed the Council's first reading. A second reading is required and could take place as soon as November 21.

Agenda Item #5: Discussion and Recommendations

Discussion of Nov. 14 Council Hearing on DCRA Management of the Vacant and Blighted Property Program

Motion ***To recommend authorizing testimony***
 (carried 6-0)

Key Discussion Points:

1. The Chair drew the PZE's attention to this upcoming hearing, which prompted by [the DC Auditor's highly critical Sept. 21 report](#) on the failures of DCRA's Vacant Building Enforcement Unit (VBEU).
2. The Chair noted that the Auditor's report actually *understates* the problems at DCRA. One of the sample properties studied in the report—720 4th St. NE, in 6C04—is covered only for the period starting in late 2014. However, the Chair (who represents 6C04) spent more than a year prior to that unsuccessfully trying to persuade DCRA to inspect and designate the property. The obstruction and inertia he encountered at DCRA go far beyond what is described in the Auditor's report.
3. The Chair also noted that the same types of problems remain. On Nov. 1 he contacted VBEU about a property (518 6th St. NE) for which he requested an inspection in April 2017. VBEU reported that the property had been inspected and found "blighted"—but that DCRA had never transmitted that finding to Tax & Revenue, meaning that the property's tax rate was never changed.
4. The PZE's vote recommended that the Chair be authorized to present testimony on these facts at the Council hearing.

Agenda Item #6: Discussion and Recommendations

Discussion of Nov. 9 Council Hearing on Bills 22-31 (stop-work-order disclosure) and 22-317 (ANC notice of vacant/blighted designations)

Motion ***To recommend authorizing testimony in support, with revisions***
(carried 6-0)

Key Discussion Points:

1. B22-31 would require that sellers of residential real property disclose any stop-work orders (SWOs) that have been issued against the property during the seller's ownership or control.
2. The PZE supports the goals of the legislation, and suggests a number of improvements:
 - a. The legislation should carefully define "ownership or control" to disallow loopholes such as transfers (to a spouse or second LLC, for example) that would "launder out" SWOs.
 - b. In lines 46 and 51, the legislation should cover excavation as well as construction.
 - c. The bill should include not just SWOs, but also NOIs/NOVs for improper work in public space and/or in a historic district.
3. B22-317 would make explicit the important of ANC input and notice in vacant/blighted building designations and appeals from same.
4. The PZE supports the bill, with these suggestions for improvements:
 - a. At lines 51 and 55, insert "at the same time" to ensure that ANCs receive notice of designations at the same time as owners.
 - b. At line 67, that the ANC be given 45 days (and not 30 days) advance notice of any appeal of such a designation.
5. The PZE's vote recommended that the Chair be authorized to present testimony on the above at the Council hearing.