

BOARD OF ZONING ADJUSTMENT
FOR THE DISTRICT OF COLUMBIA

2010 SEP 14 AM 8:26

Appeal by ANC 8(E) from an April 1, 2010, decision)
by the Director of DCRA to issue a building permit)
(No. B1002975) for interior renovation of an apartment) BZA No. 18103
building, for Peaceoholics, Inc., in the R-5-A District at)
premises 1300 Congress Street, S.E. (Square 5915, Lot 12))

REQUEST FOR PARTY STATUS

Pursuant to 11 DCMR § 3106, Brian Townes, Tonette Sivells, and Shayla Edgerton, who are individuals who reside and/or own property in close proximity to 1300 Congress Street, S.E., hereby file this motion to appear as a party in support of the above-captioned appeal filed by Advisory Neighborhood Commission ("ANC") 8E from an April 1, 2010, decision by the Director of the Department of Consumer and Regulatory Affairs ("DCRA"), to issue a building permit (No. B1002975) for interior renovation of an "apartment building," to Peaceoholics, Inc., in the R-5-A District at premises 1300 Congress Street, S.E. (Square 5915, Lot 12). Ms. Sivells, Mr. Townes, and Ms. Edgerton will be represented in this proceeding by Andrea C. Ferster, 2121 Ward Court, N.W. 5th Fl., Washington, D.C. 20037. Letters authorizing the undersigned counsel to represent these individuals in this proceeding are attached hereto as Exhibit 1.

Mr. Townes resides at and owns property within one block of 1300 Congress Street, S.E. at the following address: 1207 Congress Street, S.E., Washington, DC 20032. Ms. Sivells reside and owns property within 50 feet of 1300 Congress Street, S.E. at the following address: 1310 Congress Street SE #402, Washington, DC 20032. Ms. Edgerton resides within 50 feet of 1300 Congress Street, S.E. at the following address at 1310 Congress Street, S.E., # 301, Washington, D.C. 20032.

BOARD OF ZONING ADJUSTMENT
District of Columbia

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CASE NO. 18103

EXHIBIT NO. 15

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Mr. Townes, Ms. Sivells, and Ms. Edgerton will be adversely affected and aggrieved if the subject appeal is denied. While a building permit was issued to Peaceoholics solely for purposes of constructing a 13-unit “apartment building,” the record shows that Peaceoholics intends to renovate the building in order to operate a Community Based Residential Facility (“CBRF”). A CBRF is defined by the Zoning Regulations as “a residential facility for persons who have a common need for treatment, rehabilitation, assistance, or supervision in their daily living.” 11 DCMR § 199.1. A CBRF includes a Youth Residential Care Facility (“YRCF”), a Youth Rehabilitation Home and a Substance Abusers Home. *Id.* The Zoning Regulations clearly provide that “[i]f an establishment is a community-based residential facility as defined in this section, it shall not be deemed to constitute any other use under the authority of these regulations.” 11 DCMR § 199.1 (definition of CBRF). Since the facility will be a CBRF, the building permit cannot constitute an “apartment building” under the Zoning Regulations, and the building permit for a 13-unit apartment building was therefore wrongfully issued.

Specifically, Peaceoholics received a \$4.4 million loan in May 2009 from the D.C. Department of Housing and Community Development (“DHCD”), as part of the Strategic Housing Intervention Program (“SHIP”), to acquire the 1300 Congress Street, S.E. property. As a condition of this loan, Peaceoholics is required to rent units first to “Extremely low-income at risk youths referred by the District of Columbia Child and Family Services Agency.” DHCD Contract No. 2008-06, at 2 (attached hereto as Exhibit 2). The contract requires Peaceoholics to further adhere to “licensing requirements for independent living programs for adolescents and young adults as established by the District’s Child and Family Services Agency.” *See* 29 DCMR Chapter 63.” DHCD Contract No. 2008-06, at 4.

According to Peaceaholics' material on its Strategic Housing Intervention Program, Peaceaholics will "[i]dentify, assess and select youth who are either wards of the District of Columbia's foster care system and or high-risk youth between the ages of 15-21 who are under the supervision of the Department of Youth Rehabilitation Services (DYRS) or youth under the supervision of Court Social Services (CSS))." Peaceaholic – Strategic Housing Intervention Program (SHIP), at 3-4 (attached hereto as Exhibit 3). The facility will house these at risk youths and "will nurture these young male adults by providing case management and intensive intervention aimed at improving their adulthood outcomes and contribution to society." *Id.*, at 2. Residents of the program will be assigned a case manager; an "Individual Service Plan will be developed for each resident," and "[t]he staff team will meet with each resident weekly to evaluate the effectiveness of the services received." *Id.* at 4. "Any youth upon initial screening with substance abuse issues must be actively engaged in treatment and/or maintenance and provide proof of participation." *Id.*

The licensing requirements to which Peaceaholics must adhere under its contract with DHCD make clear that residents have a common need for supervision in their daily living, and will be provided with the supportive services that characterize a CBRF. Specifically, the regulations implementing the Youth Residential Facilities Licensure Act of 1986 provide that "An independent living program shall recruit and hire staff members who have the specialized knowledge, skills, and cultural competency necessary to provide for the residents' safety and developmental needs." 29 DCMR § 6323.1. "An independent living program must designate a clinical director who is responsible for the development, implementation, and supervision of programmatic services provided by or through the independent living program," and employ at

least one social worker who is “responsible for the daily implementation of the social services provided to residents.” *Id.* §§ 6323.5, 6323.7. “An independent living program shall educate a resident concerning life skills.” *Id.* § 6330.7 The staff of the independent living program “shall monitor each resident and residence, including through at least twice monthly inspections of each residence,” through “announced and unauthorized inspections.” *Id.* § 6331. Residents must be given a monthly stipend and weekly allowance, and provided with household supplies, furniture, furnishings, and equipment. *Id.* §§ 6329, 6332. Plans for the facility on file with DCRA show that supervisory staff will reside on-site. Accordingly, residents at 1300 Congress Street, S.E. have “a common need for treatment, rehabilitation, assistance, or supervision in their daily living,” and the facility is clearly a CBRF as defined in DCMR § 199.1. It therefore cannot be an “apartment building.” *Id.*

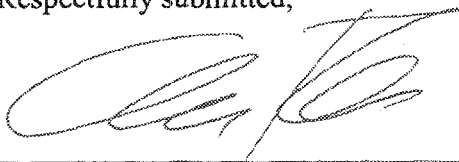
Under the Zoning Regulations, CBRFs are not permitted as a matter of right in the R-5 zone unless the Zoning Administrator has determined that the facility houses persons having “handicaps.” 11 DCMR §§ 330.5(i) 350.4(a). A YRCH or community residence facility for seven to fifteen persons are not permitted within the R-5 district if there is another property containing an existing CBRF for 7 or more persons in either the same square or within a radius of 500 feet from any portion of the subject property. *Id.* § 350.4(f). Youth rehabilitation homes and substance abusers homes for one to twenty persons, not including resident supervisors or staff and their families, are permitted in the R-5 District only if approved as a special exception by this Board. Here, the Zoning Administrator has made no determination that the facility will house persons who have handicaps. Moreover, there are already three CBRF’s within the same square/500 feet of 1300 Congress Street, including a Community Residence Facility (“CRF”) for

eight residents operated by Individual Development Corporation at 2030 Congress Street, S.E., and a CRF for 20 adults operated by Holy Comforter at 3323 13th Street, S.E.

Mr. Townes, Ms. Sivells, and Ms. Edgerton believe that the clustering of social service agencies will adversely affect and aggrieve them by increasing noise and traffic and parking difficulties near their homes, and compromising their safety and security due to problems associated with inadequately supervised, at-risk youths and the over-concentration of CBRFs in the same square/500-foot area. The issuance of the building permit for the facility as an “apartment” is designed to evade the special exception review applicable to CBRFs by this Board, and the applicable zoning requirements that such facilities be operated so as not to adversely affect neighboring property. 11 DCMR § 3104. As neighboring property owners, Mr Townes, Ms. Sivells, and Ms. Edgerton will be more significantly, distinctively, and uniquely affected in character and kind by the proposed appeal than other persons in the general public.

For the foregoing reasons, Mr. Townes’, Ms. Sivells’, and Ms. Edgerton’s requests for party status should be granted.

Respectfully submitted,



Andrea C. Ferster
2121 Ward Court, N.W., 5th Fl.
Washington, D.C. 20037
(202) 974-5142

CERTIFICATE OF SERVICE

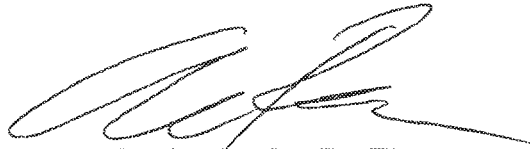
I hereby certify that, on September 13, 2010, a copy of the foregoing Request for Party

Status was served by mail on the following:

Zoning Administrator
DCRA
1100 4th Street SW
Washington, DC 20024

Peaceoholics, Inc
606 Raleigh Place, S.E.
Washington, D.C. 20032

Commissioner Sandra Seegars, Chair
ANC 8E
1107 Savannah St., SE
Washington, D.C. 20032

A handwritten signature in black ink, appearing to read 'A. Ferster', written over a horizontal line.

Andrea C. Ferster

September 8, 2010

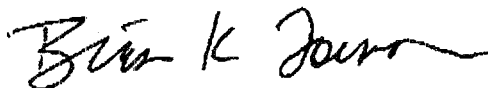
Jamison Weinbaum
D.C. Office of Zoning
Board of Zoning Adjustment
441 4th Street, N.W. Room 210
Washington, D.C. 20001

Re: BZA Appeal No. 18103

Dear Mr. Weinbaum:

Please be advised that Andrea C. Ferster is authorized to represent me as its legal counsel in the above-referenced zoning proceeding.

Very truly yours,



Brian Townes
1207 Congress St. SE
Washington, DC 20032

September 9, 2010

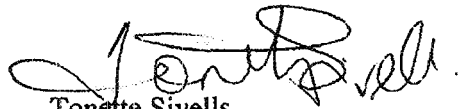
Jamison Weinbaum
D.C. Office of Zoning
Board of Zoning Adjustment
441 4th Street, N.W. Room 210
Washington, D.C. 20001

Re: BZA Appeal No. 18103

Dear Mr. Weinbaum:

Please be advised that Andrea C. Ferster is authorized to represent me as its legal counsel in the above-referenced zoning proceeding.

Very truly yours,

A handwritten signature in black ink, appearing to read "Tonette Sivells", with a stylized flourish at the end.

Tonette Sivells
1310 Congress Street SE #402
Washington, DC 20032

Weinbaum ltr.doc

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September 9, 2010

Jamison Weinbaum
D.C. Office of Zoning
Board of Zoning Adjustment
441 4th Street, N.W. Room 210
Washington, D.C. 20001

Re: BZA Appeal No. 18103

Dear Mr. Weinbaum:

Please be advised that Andrea C. Ferster is authorized to represent counsel in the above-referenced zoning proceeding.

Very truly yours,

Name Snayla Edgerton
Address 1310 Congress St. SE #30
Washington DC 20032

x Sharp m Edh