

**DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**
441 4th Street, N.W.
Washington D.C. 20001

Appeal of ANC 6C

Appeal No. 18367

**DISTRICT OF COLUMBIA'S MOTION TO DISMISS AND PRE-HEARING
STATEMENT**

The Appellee, the District of Columbia Department of Consumer and Regulatory Affairs ("DCRA"), by and through undersigned counsel, respectfully submits its Motion to Dismiss and Pre-Hearing Statement in response to the appeal filed by Tony Goodman on behalf of Advisory Neighborhood Commission 6C ("Appellant") on February 27, 2012. The basis for the motion to dismiss is that the Board lacks jurisdiction as the appeal is untimely.

BACKGROUND

In its appeal, Appellant states that it is appealing the issuance of Certificate of Occupancy no. 1200641 ("CO1200641") on December 29, 2011 to Southwest Social Scene, Inc. to operate a private club at 16 M St., NE ("the Property"). See Exhibit A. The private club is known as The Crucible. The Crucible is a members' only club that holds itself out as "DC's Only BDSM Club Play Space".¹ The basis of the appeal is that Appellant believes DCRA erred in determining that The Crucible is a private club. Appellant contends that The Crucible is a sexually-oriented business establishment ("SOBE") as defined by the Zoning Regulations.

¹ BDSM= bondage, discipline, and sadomasochism.

The Crucible has operated in the District for several years. Before relocating to the 16 M St., NE location, The Crucible operated as a private club at 1816 Half St., SW under Certificate of Occupancy no. 53578, which was issued by DCRA on May 1, 2003. See Exhibit B.

In August 2011, Southwest Social Scene applied for a building permit to renovate the Property and relocate The Crucible there. Almost immediately members of ANC 6C contacted Mathew LeGrant, DCRA's Zoning Administrator ("ZA"), and alerted him of their concerns. Specifically, in his August 23rd email to the ZA, Mr. Goodman indicates that The Crucible is a "BDSM sex and play club" that is relocating from its Half Street, SW location. See Exhibit C at p. 4. Mr. Goodman advised the ZA that the Crucible is a SOBE and thus should not be allowed at the Property. *Id.* In response to these complaints, the ZA decided to personally review the pending building permit application and kept ANC 6C, Mr. Goodman, and other interested parties apprised of his handling of the matter:

- September 6, 2011: the ZA communicates that he will be reviewing the pending application for Building Permit no. B1110444 and will review whether The Crucible is a SOBE as defined under the Zoning Regulations. See Exhibit C at p. 1.
- September 8: the ZA met with owner of The Crucible to discuss the proposed use.
- September 15: the ZA communicates that he has met with the owner of The Crucible and conducted an initial review of the pending building permit application for a private club. He indicates that he is awaiting additional information "that will help [him] determine if the use would fall within the definition of a Sexually Oriented Business Establishment [.]". See Exhibit D.
- October-November: ZA obtains additional information from the Crucible and reviews it. Information reviewed includes a floor plan, a SOBE questionnaire, IRS confirmation of 501(c)(7) status, and membership rules for The Crucible. See Exhibits E, F, G, and H.
- November 30: ZA gives zoning approval to the pending building permit application. See Exhibits I and J.
- December 8: DCRA issues Building Permit no. B1110444 approving the "alteration and repair per plan to convert warehouse into private social club." See Exhibit K.
- **December 9: ZA sends email to ANC 6C informing it that he has completed his review and determined that the proposed use is a private club and not a SOBE.** He writes, "Accordingly, DCRA has approved the building permit for The Crucible for a Private Club use. That permit, B1110444, was issued yesterday, December 8, 2011." See Exhibit L.

- December 29: After construction is completed and inspected, DCRA issues CO1200641.

1) The Appeal Must Be Dismissed as Untimely

Timeliness is a jurisdictional issue. When an appeal is not timely filed, the Board lacks jurisdiction to hear it. *See Economides v. D.C. Bd. of Zoning Adjustment*, 954 A.2d 427, 434-435 (D.C. 2008). Under 11 DCMR § 3112.2(a), an appeal of a decision concerning the Zoning Regulations must be filed within sixty days from the date the person “reasonably should have had notice or knowledge of the decision complained of.”

While the instant appeal purports to appeal the issuance of CO1200641 on December 29, 2011, the Appellant had notice of the ZA’s decision that the Crucible’s proposed use was a private club and not a SOBE as early as December 9, 2011. Under the Zoning Regulations, the Appellant must have filed its appeal within 60 days of receiving notice of that decision. Instead, Appellant waited until February 27 to file its appeal, which is in excess of the 60 day appeal period.

Undoubtedly, Appellant will argue that its appeal is timely because it was filed within 60 days of the issuance of CO1200641; however, this argument is not supported by the language of the Zoning Regulations or the Board’s prior decisions. In fact, the Board addressed this exact issue in a recent decision. *See Appeal no. 18300 of Lawrence and Kathleen Ausubel* (April 11, 2012). In Ausubel, the ZA informed the appellant by email that he had approved the plans for an addition. *Id.* at p. 1. The building permit was issued a few weeks later and the appellant waited until nearly 60 days after the issuance of the building permit to file an appeal. *Id.* The Board determined the issuance of the building permit did not contain a new or different zoning decision than the one contained in the email. *Id.* at p.8. Thus, only the ZA’s email was appealable. *Id.* The Board reached this conclusion because the email gave the appellant unambiguous notice that

the ZA had made an administrative decision on the very issue the appellant complained of. *Id.* Accordingly, the Board dismissed the appeal as untimely. *Id.* at p. 9.

Similarly, DCRA's issuance of Building Permit no. B1110444 and the ZA's email of December 9th unequivocally gave notice to ANC 6C that The Crucible's proposed use had been deemed a private club by DCRA. The ZA's December 9th email unambiguously conveys the ZA's decision and gives an explanation of his analysis. Additionally, the building permit itself indicates that the use of the Property will be a private club.² As in Ausubel, the issuance of the certificate of occupancy for a private club on December 29th did not contain a new zoning decision, but was a reiteration of the ZA's earlier decision.

Such reiterations are not separately appealable and do not re-start the 60-day appeal period. *See Appeal No. 17966-A of Stephen Bruce* at p. 2 (September 13, 2010) (emails from DCRA staff confirming validity of permit do not re-start appeal period); *see also Appeal no. 16982 of J. Brendan Herron Jr. and ANC 3F* at p. 9-10 (March 11, 2003).

In Herron, the Board ruled that the purpose of the 60-day appeal period from the date of the *original* decision is to ensure that permit holders can exercise their rights free from the risk that a subsequent confirmation of those rights by DCRA would give rise to a new opportunity to appeal. *See Appeal no. 16982 of J. Brendan Herron Jr. and ANC 3F* at p. 9. In that case, a neighbor and the ANC objected to a building permit issued by DCRA. Because the appellants failed to file a timely appeal of the issuance of the building permit, they characterized their claim

² The Board has previously held that a building permit stating the proposed use of the property is sufficient to give notice as to potential appellants as to the proposed use. *See Appeal no. 18070 of Advisory Neighborhood Commission 6B* (December 17, 2010) (Board denied as untimely appeal of building permit approving use as a private club). "Ordinarily, the building permit is the document that reflects a zoning decision about whether a proposed structure, and its intended use as a described in the permit application, conform to the zoning regulations." *See Appeal no. 18070 of Advisory Neighborhood Commission 6B* at p. 4 (quoting *Basken v. District of Columbia Bd. Of Zoning Adjustment*, 946 A.2d 356, 364 (D.C. 2008)).

as an appeal of DCRA's subsequent refusal to revoke the permit. *Id.* The Board dismissed the appeal as untimely stating, "The Board does not find it in the interests of judicial economy or fairness to allow an appeal of a second or subsequent determination on the same basic issue, which can come months or years after the initial determination[.]" *Id.* The same principle must be applied here. It would certainly not be fair or consistent with the regulations to allow the Appellant to wait until construction of The Crucible was complete and the certificate of occupancy was issued to file an appeal, when it knew DCRA had approved renovation of the Property for the private club use.

It is clear that Appellant had notice that the ZA determined The Crucible's proposed use for the Property to be a private club as early as December 9th and Appellant failed to file an appeal within 60 days. Accordingly, the appeal must be dismissed.

2) The Zoning Administrator did not err in determining that the Property can be used as a private club

Should the Board decide to address the merits of this appeal, it must find that the Zoning Administrator did not err in determining that The Crucible may operate as a private club at the Property. Since the Property is zoned C-3-C, a private club is permitted as a matter of right. *See* 11 DCMR §§ 330.5(i), 741.1.

Based on the information that was provided to the Zoning Administrator during his review, the use proposed by Southwest Social Scene meets the definition of a private club. The Southwest Social Scene's mission statement reads as follows:

The Southwest Social Scene (also known as "the Crucible") is an alternative lifestyle non-profit organization that provides a safe, secure, and friendly environment for mutually supportive interaction among members of a community that have not found welcome in traditional social organizations due to gender, sexual orientation, or lifestyle choice. The Crucible is a non-judgmental lifestyle organization that meet these needs by providing social events, educational classes,

lifestyle events, and outreach events in support of the community and local charities.

See Exhibit H.

In applying for its building permit, The Crucible represented to the ZA that the Property would be used to provide a place for club members to socialize and learn about BDSM and to participate in BDSM activity with other consenting members of the club.

A private club is defined in the Zoning Regulations as:

Building and facilities or premises used or operated by an organization or association for some common avocational purpose such as, but not limited to, a fraternal, social, educational, or recreational purpose; provided, that the organization or association shall be a non-profit corporation and registered with the U.S. Internal Revenue Service; goods, services, food, and beverages shall be sold on the premises only to members and their guests; and office space and activities shall be limited to that necessary and customarily incidental to maintaining the membership and financial records of the organization.

See 11 DCMR § 199.1.

This definition essentially contains three elements: 1) the property must be used for avocational purposes (with some accessory office space permitted), 2) by a non-profit organization, and 3) where the goods and services provided are limited to members and guests.

The Crucible meets all three elements of this definition. As demonstrated by the letter from the IRS, The Crucible is clearly operated by a non-profit corporation. *See Exhibit G*. The membership rules of The Crucible demonstrate that this is a club for members only. *See Exhibit H*. It is not open to the general public. Membership is restricted to people 18 years of age and older who pay annual dues and who share the goals and interests of the club. A member may bring a guest, but that guest can only come to the club twice in one year.

Additionally, The Crucible has demonstrated to the ZA that its purpose is avocational in nature as opposed to vocational. "The word vocation is defined as '(o)ne's calling or business . .

.. (t)he activity on which one spends (the) major portion of his time and out of which he makes his living.’ Avocation is defined in opposite terms as meaning ‘(a) calling away, a diversion, suggesting (the) idea of smaller affairs of life, or occasional employments as distinguished from one’s ordinary or principal occupation.’” *Association for Preservation of 1700 Block of N Street, N.W. and Vicinity v. D.C. Bd. of Zoning Adjustment*, 384 A.2d 668, 671 (D.C. 1978) (finding a YMCA to be a private club under the Zoning Regulations). Meeting and socializing with others who share an interest in BDSM, learning about BDSM, and participating in BDSM are all activities that are recreational, social, and educational in nature and are not business activities. Thus, the purpose of The Crucible is avocational as required by the Zoning Regulations.

Having met all three elements, The Crucible is a private club. Appellant, in its appeal statement, makes little attempt to argue that The Crucible fails to meet any portion of the definition found in the Zoning Regulations.³ Instead, Appellant argues that The Crucible should have been classified by the ZA as a SOBE.

Under the Zoning Regulations, a SOBE is defined as:

An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals, films, materials, and articles, or an establishment that presents as a substantial or significant portion of its activity, live performances, films, or other materials, that are distinguished or characterized by their emphasis on matters depicting, describing, or related to specified sexual activities and specified anatomical areas.

These establishments may include, but are not limited to, bookstores, newsstands, theaters, and amusement enterprises. If an establishment is a sexually-oriented

³ Attached to Appellant’s appeal is a flyer for an event that purports to take place at The Crucible on January 14, 2012. Mr. Goodman sent a copy of that flyer to the ZA in December 2011, which prompted the ZA’s office to contact The Crucible to learn more about the event and to ensure that The Crucible was operating within its permitted use as a private club. After doing so, the ZA was satisfied that the event was for members only and The Crucible agreed to clarify that on its website. The ZA’s office then communicated this back to Mr. Goodman. See Exhibit M. For Appellant to attach the flyer to its appeal without this additional information is obviously an attempt to mislead the Board.

business establishment as defined here, it shall not be deemed to constitute any other use permitted under the authority of this title.

See 11 DCMR § 199.1.

The Appellant has labeled The Crucible a SOBE without conducting any analysis and without giving the language of this definition any consideration. On its face, the language of this definition simply does not apply to The Crucible.

The first part of the definition of SOBE refers to “an establishment *having as a substantial or significant portion of its stock in trade*, books, magazines, and other periodicals, films, materials, and articles” that are sexually-oriented (italics added). Unlike an adult book store or video store, this part of the definition is not applicable to The Crucible as it is not in the business of selling any sexually-oriented books, magazines, films, or other goods.

The second part of the definition refers to an establishment “that *presents* as a substantial or significant portion of its activity, live performances, films, or other materials” that are sexually-oriented (italics added). The Crucible is not this type of establishment either. Unlike a theater, The Crucible is not in the business of presenting sexually-orientated films or live performances to paying customers. Instead, the members of the club are using the Property as a place to meet, socialize, and engage in BDSM with other members.

The last part of the definition gives examples of SOBEs, which may include “bookstores, newsstands, theaters, and amusement enterprises.” None of these types of establishments describe The Crucible.

As The Crucible meets the definition of a private club and not a SOBE, the ZA correctly determined the use to be a private club and the appeal must be denied.

Respectfully Submitted,

IRVIN B. NATHAN
Attorney General for the District of Columbia

MELINDA M. BOLLING
General Counsel for the Department of Consumer
and Regulatory Affairs

July 11, 2012



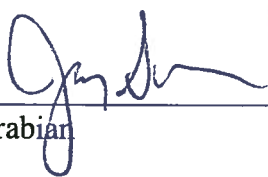
JAY A. SURABIAN (DC Bar # 977657)
Assistant Attorney General
Department Of Consumer And Regulatory Affairs
Office of the General Counsel
1100 4th Street, SW, 5th Floor
Washington, DC 20024
(202) 442-8403 (office)
(202) 442-9447 (fax)
jay.surabian@dc.gov

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing filing was served by email and first class mail, this 11 day of July 2012, to the following:

ANC 6C
c/o Tony Goodman
1152 4th St., NE
Washington, DC 20002
tonytgood@gmail.com

Betsy E. Lehrfeld, Esq.
Swankin & Turner
1400 16th Street, NW, Suite 101
Washington, DC 20036
betsy@swankin-turner.com
(email only)



Jay Surabian

EXHIBIT A

Government of the District of Columbia
Department of Consumer and Regulatory Affairs

1100 4th Street SW
Washington DC 20024
(202) 442 - 4400

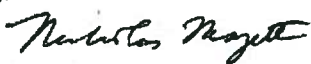
dcra.dc.gov



CERTIFICATE OF OCCUPANCY

PERMIT NO. **CO1200641**

Issued Date: **12/29/2011**

Address: 16 M ST NE		Zone: C-3-C	Ward: 6	Square: 0672	Suffix:	Lot: 0839
Description of Occupancy: PRIVATE CLUB						
Permission Is Hereby Granted To: Southwest Social Scene, Inc.		Trading As: SOUTHWEST SOCIAL SCENE, INC.		Floor(s) Occupied 1ST FLOOR		Occupant Load: 180 No. of Seats
Property Owner: STANFORD B WEINSTEIN		Address: WASHINGTON, DC		BZA/PUD Number:		Occupied Sq. Footage: 5000 PERMIT FEE: \$83.60
Building Permit Number (if applicable)		Type of Application: Use Change	Approved Building Code Use Private Club - B: Approved Zoning Code Use: Private club, lodge			
Conditions/ Restrictions: THIS CERTIFICATE MUST ALWAYS BE CONSPICUOUSLY DISPLAYED AT THE ADDRESS MAIN ENTRANCE, EXCEPT PLACES OF RELIGIOUS ASSEMBLY. Use complies with DCMR Title 11 (Zoning) and Title 12 (Construction). As a condition precedent to the issuance of this Certificate, the owner agrees to conform with all conditions set forth herein, and to maintain the use authorized hereby in accordance with the approved application and plans on file with the District Government and in accordance with all applicable laws and regulations of the District of Columbia. The District of Columbia has the right to enter upon the property and to inspect all spaces whose use is authorized by this Certificate and to require any changes which may be necessary to ensure compliance with all the applicable regulations of the District of Columbia.						
Director (Code Official): Nicholas A. Majett 		Permit Clerk Erika King		Expiration Date:		
02/28/2012 TO REPORT WASTE, FRAUD OR ABUSE BY ANY DC GOVERNMENT OFFICIAL, CALL THE DC INSPECTOR GENERAL AT 1-800-521-1639						



Application for Certificate of OccupancyApplication Date: Dec 14, 2011C of O Number: 012 00641APPLICATION FEE IS NON-REFUNDABLE
CERTIFICATE FEE IS BASED ON SQUARE FOOTAGE

Erasing, Crossing Out, Whiting Out, or Otherwise Altering Any Entered Information Will Void This Application

INFORMATION ON THE BUILDING/PROPERTY

1. Property Address 16 M ST, NE DC 20002
2. Building/Property Owner's Name: STAN WEINSTEIN Phone: _____ Email: SWBNFLORIDA@AOL.COM
3. Property Square 0612 Suffix _____ Lot 0839 202-210-5900
4. Number of Floors ONE
5. Zone _____ Overlay (if applicable) _____

APPLICANT INFORMATION

6. Applicant's Name (see instructions):
FRAZIER BOTSFORD
7. Trade name of business (if applicable) SOUTHWEST SOCIAL SCENE, INC
8. Applicant's Mailing Address 716 HAMLIN ST, NE
9. Applicant's Day Phone # _____ Cell # 202-246-8910 Email Address FRAZIER@HIS.COM

INFORMATION ON PREMISES/OCCUPANCY

10. ☐ Ownership Change ☒ Use Change ☐ Load Change ☐ Revision ☐ New Bldg
11. Proposed use of Premises PRIVATE CLUB
12. Prior use of Premises WAREHOUSE C of O # _____
13. Proposed Occupancy Load 150
14. Area Occupied by Proposed Use 5000 sq. ft.
15. List Floors of a building to be Occupied by Proposed Use ONE
16. Does your business sell or rent any goods or provide any services that could be described as sexually-oriented?
☐ Yes ☒ No If yes, please fill out the supplemental form.
17. Is your business a Medical Marijuana Dispensary or Production Facility? ☐ Yes ☒ No
18. Was this use approved by an order of the BZA or ZC? ☐ Yes ☐ No If yes, provide order # and date of approval:
19. Is there a building permit associated with this application? ☒ Yes ☐ No If yes, provide building permit number
B1110444
20. What use was listed on the building permit? YES Private Club
21. Were all inspections conducted and approved? ☐ Yes ☐ No
22. Is off-street parking on the property provided for this use? ☒ Yes ☐ No If yes, number of spaces: 24

ATTESTATION AND SIGNATURE

I certify that all of the statements on this application are true to the best of my knowledge and belief. I agree to comply with all applicable laws and regulations of the District of Columbia.

Applicant or Agent's Signature [Signature] Date 14 Dec 11

*If you are an applying as an Agent on behalf of the Applicant, attach completed Authorization Form

Making a false statement on this application can result in the denial or revocation of your certificate of occupancy and criminal penalties, under D.C. Official Code § 22-2405, of a fine up to \$1000 and/or imprisonment up to 180 days.

For more information about C of Os, please visit dcra.dc.gov and click on Permits/Zoning

OFFICIAL DCRA USE ONLY

C of O # CO1200641Premises Address 1600 8th NE

PERMIT REVIEW COORDINATOR

Checked items #1-9 for completeness

Approved By [Signature]Date 12/15/11

ZONING INFORMATION

BZA or ZC # (if applicable) _____

Prior C of O # (if applicable) POD

Prior Use on above C of O _____

ZONING REVIEWER

Continuation of Prior Use? ☐ Yes ☒ NoZone C-3-CUse Allowed? ☐ Yes ☐ No Provide Zoning Code Use Private Club.

Cite Zoning Section # _____

Off-street Parking Required? ☐ Yes ☐ No If yes, number of spaces required _____. If no, was a waiver granted?

Parking credit? BZA relief obtained? Describe: _____

Is Zoning Inspection Required? ☐ Yes ☐ No If Yes, describe: _____Approved By [Signature]Date 12/28/11

ENGINEERING REVIEW AND APPROVAL

Prior Bldg Permit Applicable? ☐ Yes ☐ No Bldg. Permit # _____New Bldg Permit Required? ☐ Yes ☐ No

Construction Code Inspections for the Proposed Use:

Bldg
(715)Elec
(720)Plumb/Mech
(730/725)Fire
(750)

Approved By _____

Date _____

INSPECTIONS

Zoning Inspection (745) Approved? ☐ Yes ☐ No N/AAll Construction Code Inspections Approved? ☒ Yes ☐ No N/A

Stormwater Inspection Verification? Yes No N/A DDOE Approval

Approved By [Signature]Date 12/29/11

Date _____

APPROVAL

Issuance: By _____

Date _____



EXHIBIT B

Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration
941 North Capitol Street, N.E., Room 2100
Washington, D.C. 20002
Tel: (202) 442-4470 Fax: (202) 442-4882

Overseas
Public Affairs
Washington, D.C.
20541-0001
BLR 0422

C of O

CERTIFICATE OF OCCUPANCY

PERMIT NO.

CO 53578

THIS PERMIT IS VALID ONLY FOR THE PREMISES
OF THE PROJECT ADDRESS.

DATE: 5/1/2003

ADDRESS: 1816 HALF ST. SW	FLOOR(S): FIRST, FL.	PRCLID: 0664 (square) WARD: 2	-0000- ZONE: M	0803 (sq)
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PERMISSION IS HEREBY GRANTED TO: SOLE PROPRIETOR: J. FRAZIER BOTSFORD	TRADING AS:
---	-------------

APPROVED USES: PRIVATE CLUB	PREVIOUS USES: OFFICE SPACE
---------------------------------------	---------------------------------------

TYPE: USE CHANGE	BZA NO:	OCCUPIED SQ. FOOTAGE: 5,668	OCCUP. LOAD: 150	EXPIRATION DATE: NONE
----------------------------	---------	---------------------------------------	----------------------------	---------------------------------

DESCRIPTION OF USE: PRIVATE CLUB	FEE: \$ 112.00 \$78.00x
--	---

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, VALID ONLY for the premises at the above address or part thereof, and for the purpose(s) indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

David A. Clark DIRECTOR	PERMIT CLERK: ADEMOLA SHITTU
----------------------------	--

EXHIBIT C

Surabian, Jay (DCRA)

From: LeGrant, Matt (DCRA)
Sent: Tuesday, September 06, 2011 4:39 PM
To: Tony Goodman; Rob Amos; Jamie Bratt; Karen Wirt; Nero, Richard (DCOZ)
Cc: Reid, Rohan (DCRA)
Subject: RE: New Sexually-Oriented Business in NoMa adjacent to Residential Zoning

Tony Goodman, ANC Commissioner - 6C04

Thank for your email correspondence on this matter and I apologize for not responding to your earlier email. I am familiar with The Crucible when it was at another location in the District, which has since closed, and I will personally review the pending building permit # B1110444 for 16 M St NE. As this building permit review is not yet concluded I will need to analyze the application to ensure that it meets all Zoning requirements, including those provisions applicable to Sexually Oriented Establishments. I will contact the owner to ascertain the operation as to whether the establishment qualifies as a Private Club, and advise him that prior to any business activity occurring at this location, a valid Certificate of Occupancy must be first secured.

I will keep you updated as to the course of my review, and please feel free to contact me if you have any questions.

Best Regards,

Matthew Le Grant

Zoning Administrator
Dept of Consumer and Regulatory Affairs
Government of the District of Columbia
1100 4th St SW - Room 3100
Washington, DC 20024
Phone: 202 442-4652
FAX: 202 442-4871
Email: matt.legrant@dc.gov
Web: <http://dcra.dc.gov/DC/DCRA/Permits/Certificates+of+Occupancy+and+Zoning>

Preventing terrorism is everybody's business.

If you SEE something, SAY something. Call the Metropolitan Police Department at (202) 727-9099 or email at SAR@DC.G report suspicious activity or behavior that has already occurred. Call 911 to report in-progress threats or emergencies.

To subscribe to real-time text message and email updates on emergency and traffic incidents, visit <https://textalert.ema.dc.gov/register.php>.

Join the District's Observance of the 10th Anniversary of 9/11 - <http://www.september11.dc.gov>

From: Tony Goodman [mailto:tonytgood@gmail.com]

Sent: Saturday, September 03, 2011 6:36 PM

To: Rob Amos; Jamie Bratt; LeGrant, Matt (DCRA); Karen Wirt; Weinbaum, Jamison L. (DCOZ); Nero, Richard (DCOZ)

Subject: Re: New Sexually-Oriented Business in NoMa adjacent to Residential Zoning

All,

I walked past 16 M Street NE again today, and they had the garage door slightly up and the interior partially visible from the street. There were several vehicles parked in public space in front of the warehouse, blocking the sidewalk (despite the fact that their adjoining parking area was not full).

There were two individuals inside. From the sidewalk, I politely asked them what was moving in to the warehouse, and they replied "a private club." When I asked if the rumors were true that the Crucible sex club was moving there, they did not deny it, and still would only say that it's a "private club."

I couldn't see much from the street because the door was only partially open (mostly boxes and metal storage cages on wheels along with many chains laid out on the warehouse floor). But it appears that they are putting together the finishing touches before the SuspendDC event on September 18th, which still lists their location as the Crucible at 16 M (<http://www.suspendc.com/>).

However, their building permits are still pending. They only applied for permit B1110444 on 8/17/2011 and it is still in review. On the other hand, according to the online calendar for their business, they have been actively doing plumbing, drywall, and other work for the last several months.

What can be done to ensure that this business follows the rules? It appears they are (1) blocking public space, including a sidewalk leading to a Metro station; (2) performing construction without proper permits; and (3) planning to open a sexually-oriented business without a zoning variance and within 600 feet of a residential zone.

Thank you,
Tony Goodman

On Tue, Aug 23, 2011 at 10:55 PM, Rob Amos <robamos59@gmail.com> wrote:

The SuspendDC is the correct event so that must be the address

Good investigation work

Rob

On Aug 23, 2011 10:02 PM, "Tony Goodman" <tonytgood@gmail.com> wrote:

> I think it is more likely to be 16 M, and not 35 NY (those are on different
> blocks). A quick Google search yielded a link for an event at 16 M on
> September 18th. <http://www.suspendc.com>
>
> I couldn't find any information on 35 NY. I also went by both locations
> during the day and this evening, and there were lights on and cars at 16 M,
> but not 35 NY. It certainly could be either location - neither have any
> sort of signs.

>

>

> On Tue, Aug 23, 2011 at 5:15 PM, Rob Amos <robamos59@gmail.com> wrote:
>
>> Tony and Jamie,
>>
>> I'm not sure that that is the correct address ... everything before had
>> pointed to 35 New York Ave NE next to the old Mirrors nightclub - that's the
>> location that they had been touting before that they were moving into. Is 16
>> M teh rear of that same building?
>>
>>
>>
>> Rob
>>
>>
>>
>> On Tue, Aug 23, 2011 at 4:22 PM, Jamie Bratt <jbratt@nomabid.org> wrote:
>>
>>> We got a call from a broker last week who is representing the building (16
>>> M) for sale on behalf of the current owner. We asked him about the status
>>> of this lease and he said he had no info about it, that he only represented
>>> the sales interest. However, based on conversational context we got some
>>> hints that the lease may have died. I'll certainly let you know if we hear
>>> anything definitive.
>>>
>>>
>>> Jamie Brätt, LEED AP
>>> Director of Planning & Economic Development
>>> NoMa Business Improvement District
>>>
>>> (O) [202-289-0111](tel:202-289-0111) x6 (C) [202-570-0700](tel:202-570-0700)
>>>
>>> Sign up for the NoMa BID Newsletter here!
>>>
>>>
>>> www.nomabid.org
>>>
>>>
>>>
>>> -----Original Message-----
>>> From: Karen Wirt [mailto:KWIRT@crs.loc.gov]
>>> Sent: Tuesday, August 23, 2011 4:20 PM
>>> To: matt.legrant@dc.gov; tonytgood@gmail.com
>>> Cc: robamos59@gmail.com; Jamie Bratt
>>> Subject: Re: New Sexually-Oriented Business in NoMa adjacent to
>>> Residential Zoning
>>>
>>> Good grief. Keep me posted, Tony. I can make a few calls myself if this
>>> email you sent needs more support.
>>> -----Original Message-----
>>> From: Tony Goodman <tonytgood@gmail.com>
>>> Cc: Wirt, Karen <KWIRT@crs.loc.gov>

>>> To: <matt.legrant@dc.gov>
>>> Cc: Amos, Rob <robamos59@gmail.com>
>>> Cc: Bratt, Jamie <jbratt@nomabid.org>
>>>
>>> Sent: 8/23/2011 3:59:52 PM
>>> Subject: New Sexually-Oriented Business in NoMa adjacent to Residential
>>> Zoning
>>>
>>> Mr. Le Grant,
>>>
>>> My name is Tony Goodman, and I am the incoming ANC Commissioner for
>>> 6C04, which covers portions of NoMa and Near Northeast. I will be
>>> officially sworn in within the next couple weeks.
>>>
>>> One of my neighbors alerted me to a new tenant that is planning on
>>> opening soon (or has perhaps just opened) at 16 M Street NE. This
>>> business is called "The Crucible," and they are a sexually-oriented
>>> business that is relocating from Half Street SW. They are a "BDSM sex
>>> and play club."
>>>
>>> The subject property (Square 0672, Lot 0839) is zoned C-3-C, but it is
>>> less than 600 feet from a school building, a residential zone, and a
>>> playground. Therefore it appears that according to the zoning
>>> regulations (11-744), this would not even be eligible to apply for a
>>> special exception by BZA.
>>>
>>> Please let me know what can be done to ensure that this business does
>>> not open in this inappropriate location.
>>>
>>> Thank you,
>>> Tony Goodman
>>> Cell: [734-330-4832](tel:734-330-4832)
>>>
>>> cc: Jamie Bratt, NoMa BID; Karen Wirt, ANC 6C Chair; Rob Amos, ANC 6C PZE
>>> Chair
>>>
>>>
>>

EXHIBIT D

Surabian, Jay (DCRA)

From: LeGrant, Matt (DCRA)
Sent: Thursday, September 15, 2011 3:57 PM
To: Tony Goodman; Rob Amos; Jamie Bratt; Karen Wirt; Nero, Richard (DCOZ); Alia E Dastagir
Cc: Reid, Rohan (DCRA); O'Brien, Linda (COUNCIL); Majett, Nicholas (DCRA); Sankaran, Senthil (EOM)
Subject: The Crucible - 16 M St NE

Tony Goodman, ANC Commissioner - 6C04, and interested parties:

After speaking with you this afternoon on the phone I wanted to document the status of my review with this email to you and others inquiring about this matter. As you know the Crucible has submitted building permit application #B1110444 for a Private Club at this location. I have conducted my initial review of this application, and 'Held it For Correction' requiring additional information. The answers to my questions are needed in order to be able to conduct a full analysis, including questions that will help me determine if it the use would fall within the definition of a Sexually Oriented Business Establishment, and how parking would be provided. I met with the business owner and his counsel last week and obtained information including the documentation of the Club's non profit status. At that meeting I advised the owner that no event could occur on September 18th, because no valid Certificate of Occupancy had been secured, and he represented to me that no event would occur and that the event advertised on the Website would be cancelled or moved. _

I am now awaiting a response to my request for additional information from the applicant. No permits will be issued nor any authorization to use the space can occur until the application review concludes.

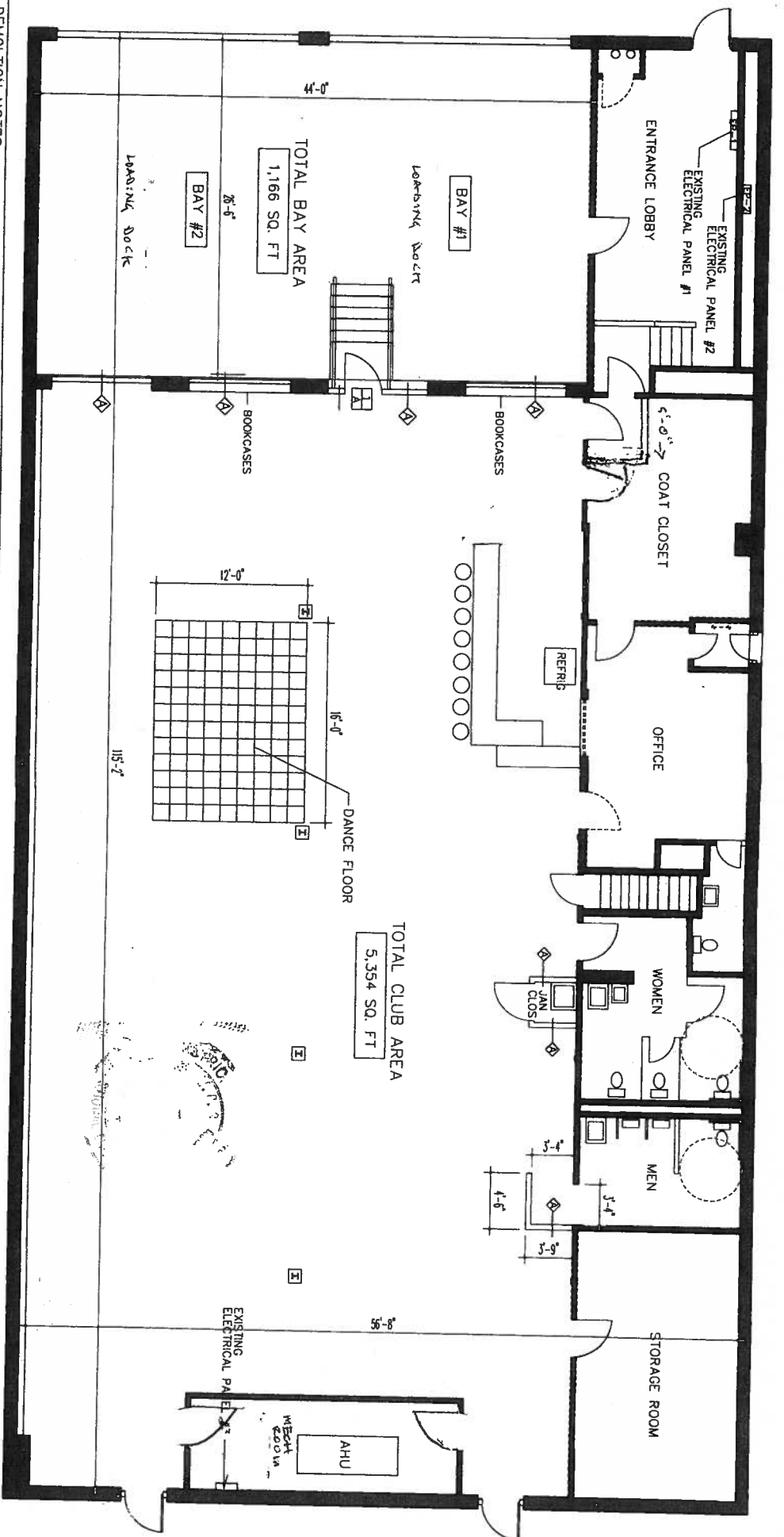
I will keep you updated as to the course of my review, and please feel free to contact me if you have any questions.

Best Regards,

Matthew Le Grant

Zoning Administrator
Dept of Consumer and Regulatory Affairs
Government of the District of Columbia
1100 4th St SW - Room 3100
Washington, DC 20024
Phone: 202 442-4652
FAX: 202 442-4871
Email: matt.legrant@dc.gov
Web: <http://dcra.dc.gov/DC/DCRA/Permits/Certificates+of+Occupancy+and+Zoning>

EXHIBIT E



DEMOLITION NOTES

- DO NOT SCALE DRAWINGS. WRITTEN DIMENSIONS GOVERN. ALL PARTITION LOCATIONS SHALL BE AS SHOWN ON PARTITION PLAN. IN CASE OF CONFLICT NOTIFY ARCHITECT.
- NOTIFY ARCHITECT IN WRITING OF ANY DISCREPANCIES OR CONFLICTS IN THE LOCATION(S) OF NEW CONSTRUCTION. UPON COMPLETION OF PARTITION OF THE LAYOUT, NOTIFY THE ARCHITECT. VERIFICATION OF THE LAYOUT TO BE PROVIDED BY THE ARCHITECT PRIOR TO PARTITION INSTALLATION.
- ALL EXPOSED GYPSUM BOARD EDGES TO HAVE METAL EDGE TRIM.
- ALL WORK SHALL BE ERECTED AND INSTALLED PLUMB, LEVEL, SQUARE AND TRUE. AND IN PROPER ALIGNMENT.

LEGEND

- WOOD DANCE FLOOR
- EXISTING WALLS TO REMAIN
- NEW/ADDITION OF THE ZONING ADMINISTRATOR/COMPLIES WITH REQUIREMENTS OF DC ZONING REGULATIONS (DDCMR)

SHED DRAWINGS APPROVED:

AS SUBMITTED
AS NOTED

INSTALLATION SUBJECT TO FURTHER APPROVAL OF FIELD INSPECTION

Signature

11-8-11

Date

PARTITION PLAN

SCALE: 1/8" = 1'-0"

REV 10-17-11

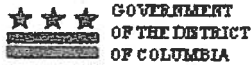
SOUTHWEST SOCIAL SCENE, INC.
16 M STREET NE
WASHINGTON, DC

ADS-LLC
2862 SCENIC MEADOW ST
WALDORF, MARYLAND

A1-0

EXHIBIT F

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
Permitting and Licensing Division
OFFICE OF ZONING ADMINISTRATOR'



PLAN CORRECTION LIST

<i>Job #</i>	<i>Address</i>	<i>Zone</i>	<i>Review Engineer</i>	<i>Date</i>
B1110444E	16 M St NE	C-3-C	Matthew Le Grant	9/15/2011

CHANGES REQUIRED PRIOR TO APPROVAL

No.	Comments
------------	-----------------

1. In order to help distinguish the proposed Private Club use from being classified as a Sexually Oriented Business Establishment, please complete the attached Sexually Oriented Business Establishment Questionnaire.

Attached

2. At our meeting of 9/8/11 you indicated the space would be rented out to other groups from time to time. Please state the extent of the rental income as a percentage of your anticipated total income.

No more than 12%

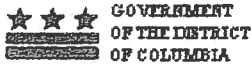
3. On the floor plan entitled "Seating Plan – Sheet S-1" there is no scale; please indicate scale so the square footage can be verified.

Resubmitted plans comply

4. For this change of use from Warehouse to Private Club parking at the rate of a space per 600 square feet of gfa is required, to be provided on the same lot. Please indicate the location and number of off-street parking spaces being provided, and show on a DC Surveyor's Plat.

We have the adjoining lot w/ 24 spaces as shown on the plat plan

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
Permitting and Licensing Division
OFFICE OF ZONING ADMINISTRATOR'



PLAN CORRECTION LIST

<i>Job #</i>	<i>Address</i>	<i>Zone</i>	<i>Review Engineer</i>	<i>Date</i>
B1110444E	16 M St NE	C-3-C	Matthew Le Grant	9/15/2011

CHANGES REQUIRED PRIOR TO APPROVAL

No.	Comments
------------	-----------------

5. Please complete boxes 28 through 58 on page 2 of the building permit application which were left blank [note N/A to those sections not applicable].

Completed

6. Additional comments may follow upon resubmission.

Government of the District of Colombia
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
Office of Zoning Administrator

**SEXUALLY ORIENTED BUSINESS
ESTABLISHMENT QUESTIONNAIRE**

Please complete the following form regarding the use, whether existing or proposed, in order for our review staff to determine if the use qualifies as a Sexually Oriented Business Establishment, as defined in 11 DCMR § 199.1. Please print legibly in ink or type. Answer the following questions and add additional explanation if needed for clarification.

Premises Address: 16 M St., NE DC

Name of Business: SOUTHWEST SOCIAL SCENE

Person completing form: FRAZIER BOTSFORD OCT 24, 2011
Print Name Date

Definitions:

Sexually-oriented business establishment - an establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals, films, materials, and articles, or an establishment that presents as a substantial or significant portion of its activity, live performances, films, or other materials, that are distinguished or characterized by their emphasis on matters depicting, describing, or related to specified sexual activities and specified anatomical areas.

These establishments may include, but are not limited to, bookstores, newsstands, theaters, and amusement enterprises. If an establishment is a sexually-oriented business establishment as defined here, it shall not be deemed to constitute any other use permitted under the authority of this title.

Specified anatomical areas - parts of the human body as follows:

- (a) Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
- (b) Human genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities - the following activities:

- (a) Acts of human masturbation, sexual intercourse, sexual stimulation or arousal, sodomy, or bestiality; and
- (b) Fondling or other erotic touching of human genitals, pubic region, buttock, or breast.

Please answer the following questions in order to determine the correct zoning classification for the proposed use:

Page 2 **QUESTIONNAIRE FOR SEXUALLY ORIENTED BUSINESS
ESTABLISHMENT APPLICATIONS**

Does the proposed or existing establishment:

1. Sell or rent, books, magazines, and other periodicals, films [including videos or DVDs], articles, or other materials, that depict or describe the **specified sexual activities and specified anatomical areas defined on page 1 of this form?**

Yes _____ No X Some or partial _____

If the answer is 'some', state the expected percentage of sales: _____%. State the percentage of floor space dedicated to the sale or rental of these items: _____%

2. Sell merchandise that is marketed or intended to be used as a sex toy?

Yes _____ No X If Yes, Please explain:

3. Does the establishment present live performances, films, entertainment or dancing in which the patrons or performers are partially disrobed, nude, or engage in any specified sexual activities?

Yes _____ No X If Yes, Please explain:

4. If #3 is yes, does the establishment have guidelines of conduct for performers?

Yes _____ No _____ If Yes, Please attach.

5. If #3 is yes, does the establishment offer lap dancing?

Yes _____ No _____ If Yes, Please explain:

If checked by staff, please provide the following:

- ☐ - Provide a complete floor plan. Show all floors, seating and assembly areas.
- ☐ - For Existing: Provide photographs of the interior including the performance areas, assembly spaces, private rooms, stages, or product sales racks.
- ☐ - If food or beverage is served, provide a copy of the menu.

Signature of person completing form: _____

Name

OCT 24, 2011
Date

Page 3 **QUESTIONNAIRE FOR SEXUALLY ORIENTED BUSINESS
ESTABLISHMENT APPLICATIONS**

For Staff Use ONLY:

Zone: C-3-C

Overlay District N/A

**I have reviewed this questionnaire, and supporting information if supplied, and
determined, under the applicable zoning definitions, that the establishment is defined as:**

☐ **Restaurant**

☐ **Public Hall**

☒ **Private Club**

☐ **Retail Sales**

☐ **Art Gallery**

☐ **Sexually Oriented Business Establishment**

☐ **Other:** _____

Matthew L. Galt
Zoning Administrator

11-10-11
Date

EXHIBIT G

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

NOV 15 2010
Date:

SOUTHWEST SOCIAL SCENE
C/O MARTIN R YERICK
1400 16TH ST NW STE 101
WASHINGTON, DC 20036

Employer Identification Number:
27-3513883

DLN:
17053298302000

Contact Person:
RENEE RAILY NORTON ID# 31172

Contact Telephone Number:
(877) 829-5500

Accounting Period Ending:
December 31

Form 990 Required:
Yes

Effective Date of Exemption:
September 21, 2010

Contribution Deductibility:
No

Dear Applicant:

We are pleased to inform you that upon review of your application for tax-exempt status we have determined that you are exempt from Federal income tax under section 501(c)(7) of the Internal Revenue Code. Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.

Please see enclosed Publication 4221-NC, Compliance Guide for Tax-Exempt Organizations (Other than 501(c)(3) Public Charities and Private Foundations), for some helpful information about your responsibilities as an exempt organization.

A section 501(c)(7) organization is permitted to receive up to 35 percent of its gross receipts, including investment income, from sources outside of its membership without losing its tax-exempt status. Of the 35 percent, not more than 15 percent of the gross receipts may be derived from the use of the club's facilities or services by the general public. Income in excess of these limits may jeopardize your continued tax-exempt status.

SOUTHWEST SOCIAL SCENE

We have sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Choi". The signature is stylized with a large, looping "R" and a cursive "Choi".

Robert Choi
Director, Exempt Organizations
Rulings and Agreements

Enclosure: Publication 4221-NC

EXHIBIT H

Surabian, Jay (DCRA)

From: Betsy Lehrfeld [betsy@swankin-turner.com]
Sent: Monday, November 21, 2011 3:31 PM
To: LeGrant, Matt (DCRA)
Cc: Frazier
Subject: Southwest Social Scene
Attachments: Southwest Social Scene outline of membership program.doc

Dear Mr. LeGrant:

Please let me know if you have any questions or would like any additional information.

Sincerely,

Betsy Lehrfeld

The Southwest Social Scene Mission Statement

The Southwest Social Scene (also known as “the Crucible”) is an alternative lifestyle non-profit organization that provides a safe, secure, and friendly environment for mutually supportive interaction among members of a community that have not found welcome in traditional social organizations due to gender, sexual orientation, or lifestyle choice. The Crucible is a non-judgmental lifestyle organization that meet these needs by providing social events, educational classes, lifestyle events, and outreach events in support of the community and local charities.

Club Facility

Use of the club's facility shall not be open to the general public but shall be limited to members of the Crucible and their guests. Membership shall be limited to an appropriate number for the size of the club's facilities and members agree that attendance at any event shall be limited in the discretion of the club management.

Who Can Become a Member of the Crucible

Membership is available to individuals who wish to meet and interact with others who share their interests, who support the civil rights and social interaction of members of sexual minorities, agree to respect the privacy, autonomy and personal expression of all other members, fill out an online application demonstrating their interest in and support for the club's mission, provide proof of age of 18 or older, agree to be bound by the bylaws, and pay an annual membership fee (currently \$25/year). Admission to membership shall be at the discretion of the club management. Members will be issued membership cards showing the expiration date of their annual dues; members who are more than 30 days late paying dues will be suspended until dues are up to date. Members shall bring their membership cards to events; if a member does not bring their card, a temporary card for that event only may be issued by club management based on club membership records and picture ID of the member.

Guest Policy

Members may bring up to 3 guests per event who must pay a guest fee to attend. Guests may only visit two times in one calendar year before they are required to join the Crucible. Club management will place a limit on the number of guests at each event and members wishing to attend shall be given priority over guests in excess of one.

Recruiting

Recruiting events include a monthly Introduction 101 night that allows prospective members an opportunity to learn about the Crucible, its mission and events. Prospective members are encouraged to explore at their own pace.

Confidentiality

Membership in the Crucible is considered confidential and is maintained in the strictest confidence. Only the current managers of the Crucible will have access to the membership list.

EXHIBIT I



Mayor
VINCENT C. GRAY

Search

Search

Ask the Mayor | Subscribe to Emails | Agency Directory | 311 Online | Closures

311 Online

District Residents

Businesses

Visitors

Media

Online Services

[DC Home](#) > [DCRA Home](#)

Building Plan Review Status

Project Information

- Application ID: B1110444
- Date filed: 8/17/2011
- Address: 16 M ST NE
- Agent:

Application Status

Please see the table below for review statuses. The table is not shown if the reviews have not been identified. A blank Status date means that the initial review has not been completed.

Discipline	Review Status	Status Date
Electrical Review	Electrical Review Approved	11/8/2011
Elevator Review	Elevator Review Approved	12/8/2011
Fire Review	Fire Review Approved	11/8/2011
Mechanical Review	Mechanical Review Approved	10/31/2011
Plumbing Review	Plumbing Review Approved	10/31/2011
Structural Review	Structural Review Approved	12/8/2011
Zoning Review	Zoning Review Approved	11/30/2011
Issue Permit	Permit Issued	12/8/2011

EXHIBIT J

Surabian, Jay (DCRA)

From: LeGrant, Matt (DCRA)
Sent: Wednesday, November 30, 2011 9:35 AM
To: Frazier
Cc: permitxpirt@aol.com; betsy@swankin-turner.com; Tanya Hill; Reid, Robert (DCRA); Wilson, Kenneth (DCRA); McKenzie, Jahdal (DCRA); Washington, Ramon (DCRA)
Subject: RE: Permit application B1110444 - 16 M St NE
Importance: High

Frazier Botsford:

After receiving the results of the inspection to see if any illegal work had been conducted, no improper construction work was found (the Inspector will be seeking entry into the building to conduct a follow up site visit); I have signed off on the pending permit application and plan set and returned the plans to the Fileroom.

Best Regards,

Matthew Le Grant

Zoning Administrator
Dept of Consumer and Regulatory Affairs
Government of the District of Columbia
1100 4th St SW - Room 3100
Washington, DC 20024
Phone: 202 442-4652
FAX: 202 442-4871
Email: matt.legrant@dc.gov
Web: <http://dcra.dc.gov/DC/DCRA/Permits/Certificates+of+Occupancy+and+Zoning>

Join Mayor Gray's One City • One Hire - 10,000 Jobs Campaign

"Putting District Residents Back to Work – One Hire at a Time"

Learn more at <http://onecityonehire.org>

Support the DC One Fund Campaign, Each One Give One.

Learn more at www.dconefund.org or www.onefund.dc.gov. One City, Working Together!

From: Frazier [<mailto:Frazier@his.com>]
Sent: Monday, November 28, 2011 12:58 AM
To: LeGrant, Matt (DCRA)
Cc: permitxpirt@aol.com; betsy@swankin-turner.com
Subject: My permit application B1110444

Mr LeGrant, I'd like to clear the air somewhat.

Thanksgiving was the same as the event we scheduled in September. Something we thought we'd be open in time to host, but since we weren't/aren't, neither event was held at the M St. location. I held the Thanksgiving party in my home, and hosted 25 people who had nowhere else to eat with family or friends. Something we've been doing for 9 years now.

Rest assured, no events have been, or will be held in this space until we have our CofO, and all appropriate business licenses in hand.

As to the assertion that we're doing illegal work on the building, that's specious.

We have/are doing some work, but it's all under the purview of the permit that we **do** have, our demolition permit #D1100236

I believe we have answered all your questions, and have done due diligence to make sure we comply with both the IRS and DC's requirements for our private club application. I hope you can give us your approval asap, so we can move forward to getting open soon.

Sincerely,
Frazier Botsford

EXHIBIT K

Department of Consumer and Regulatory Affairs

Permit Operations Division

1100 4th Street SW

Washington DC 20024

Tel. (202) 442 - 4589

Fax (202) 442 - 4862

TO SCHEDULE INSPECTIONS PLEASE CALL (202) 442 9557

B**BUILDING PERMIT**THIS PERMIT MUST ALWAYS BE CONSPICUOUSLY DISPLAYED AT THE ADDRESS OF WORK
UNTIL WORK IS COMPLETED AND APPROVED

Issue Date: 12/08/2011

PERMIT NO. B1110444

Expiration Date: 12/08/2012

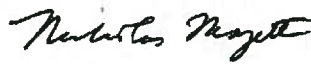
Address of Project: 16 M ST NE				Zone: C-3-C	Ward: 6	Square: 0672	Suffix:	Lot: 0839
Description Of Work: ALTERATION AND REPAIR PER PLAN TO CONVERT WAREHOUSE INTO PRIVATE SOCIAL CLUB								
Permission Is Hereby Granted To: Stanford B Weinstein			Owner Address: SBW REALTY INC 461 E MACEWEN DR			PERMIT FEE: \$1,095.00		
Permit Type: Alteration and Repair		Existing Use: Other (Specify)		Proposed Use: Private Club - B			Plans:	
Agent Name:		Agent Address:		Existing Dwell Units:	Proposed Dwell Units:	No. of Stories:	Floor(s) Involved:	
Conditions/ Restrictions: This Permit Expires if no Construction is Started Within 1 Year or if the Inspection is Over 1 Year. All Construction Done According To The Current Building Codes And Zoning Regulations; As a condition precedent to the issuance of this permit, the owner agrees to conform with all conditions set forth herein, and to perform the work authorized hereby in accordance with the approved application and plans on file with the District Government and in accordance with all applicable laws and regulations of the District of Columbia. The District of Columbia has the right to enter upon the property and to inspect all work authorized by this permit and to require any change in construction which may be necessary to ensure compliance with the permit and with all the applicable regulations of the District of Columbia. Work authorized under this Permit must start within one(1) year of the date appearing on this permit or the permit is automatically void. If work is started, any application for partial refund must be made within six months of the date appearing on this permit. Lead Paint Abatement Whenever any such work related to this Permit could result in the disturbance of lead based paint, the permit holder shall abide by all applicable paint activities provisions of the 'Lead Hazard Prevention and Elimination Act of 2008' and the EPA 'Lead Renovation, Repair and Painting rule' regarding lead-based include adherence to lead-safe work practices. For more information, go to http://ddoe.dc.gov, Lead and Healthy Housing.								
Director: Nicholas A. Majett 			Permit Clerk James DeVaughn					
TO REPORT WASTE, FRAUD OR ABUSE BY ANY DC GOVERNMENT OFFICIAL, CALL THE DC INSPECTOR GENERAL AT 1-800-521-1639 FOR CONSTRUCTION INSPECTION INQUIRIES CALL (202) 442-9557 TO SCHEDULE INSPECTIONS PLEASE CALL (202) 442-9557.								

EXHIBIT L

Surabian, Jay (DCRA)

From: LeGrant, Matt (DCRA)
Sent: Friday, December 09, 2011 5:06 PM
To: Tony Goodman
Cc: Nero, Richard (DCOZ); Alia E Dastagir; Reid, Rohan (DCRA); O'Brien, Linda (COUNCIL); Majett, Nicholas (DCRA); Sankaran, Senthil (EOM); Wells, Thomas (COUNCIL); Robin-Eve Jasper
Subject: The Crucible - 16 M Street NE

Tony Goodman
ANC Commissioner, 6C04

I wanted to give you, as well as others who have inquired about this matter, an update regarding my review of this establishment. After completing my review I have determined that the proposed establishment is classified as a Private Club. As such, it is not a Sexually Oriented Business Establishment. In order to distinguish the Private Club use from a Sexually Oriented Business Establishment use, I found that The Crucible meets the requirements of the Zoning Regulations' definition of being a "Club, Private", as follows :

Club, private - building and facilities or premises used or operated by an organization or association for some common avocational purpose such as, but not limited to, a fraternal, social, educational, or recreational purpose; provided, that the organization or association shall be a non-profit corporation and registered with the U.S. Internal Revenue Service; goods, services, food, and beverages shall be sold on the premises only to members and their guests; and office space and activities shall be limited to that necessary and customarily incidental to maintaining the membership and financial records of the organization.

The applicant has provided documentation of the organization's non-profit status, its avocational [recreational] use, and has also given me information regarding the Club's membership and guest policies. As a Private Club, it is different than a business that is open to the general public. A Sexually Oriented *Business* Establishment [my emphasis, in *italics*] is a type of business that meets the following definition:

Sexually-oriented business establishment - an establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals, films, materials, and articles, or an establishment that presents as a substantial or significant portion of its activity, live performances, films, or other materials, that are distinguished

or characterized by their emphasis on matters depicting, describing, or related to specified sexual activities and specified anatomical areas.

These establishments may include, but are not limited to, bookstores, newsstands, theaters, and amusement enterprises. If an establishment is a sexually-oriented business establishment as defined here, it shall not be deemed to constitute any other use permitted under the authority of this title.

Since The Crucible is not a business, it is not subject to the above definition.

Accordingly, DCRA has approved the building permit for The Crucible for a Private Club use. That permit, B1110444, was issued yesterday, December 8, 2011.

Please let me know if you have any further questions.

Best Regards,

Matthew Le Grant
Zoning Administrator
Dept of Consumer and Regulatory Affairs
Government of the District of Columbia
1100 4th St SW - Room 3100
Washington, DC 20024
Phone: 202 442-4652
FAX: 202 442-4871
Email: matt.legrant@dc.gov
Web:

<http://dcra.dc.gov/DC/DCRA/Permits/Certificates+of+Occupancy+and+Zoning>

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Learn more at <http://onecityonehire.org>

Support the DC One Fund Campaign, Each One Give One.

Learn more at www.dconfund.org or www.onefund.dc.gov. One City, Working Together!

EXHIBIT M

Surabian, Jay (DCRA)

From: Reid, Rohan (DCRA)
Sent: Friday, December 30, 2011 1:16 PM
To: Tony Goodman
Cc: Rob Amos; Karen Wirt; Nero, Richard (DCOZ); aliae.dastagir@gmail.com; O'Brien, Linda (COUNCIL); Majett, Nicholas (DCRA); Sankaran, Senthil (EOM); Planning; Robin-Eve Jasper; Wells, Thomas (COUNCIL); Keith Silver; Mark Dixon; Kevin Wilsey; Tom Hamilton; Bill Crews; Bonner, Carlos; Tyrrell, Graham; mritz@wscsmith.com; bbaschuk@jstreetcompanies.com; Robert.ward@skanska.com; richardsonmarvin@gmail.com; FitzGerald, Christopher (EOM); LeGrant, Matt (DCRA); Moosally, Fred (ABRA)
Subject: RE: Crucible January Event - Code XXX

Tony Goodman,

In response to your concern, I contacted Frazier Botsford, the owner of the Crucible, who provided me with the following information regarding the entrance requirements for the event to be held on January 14, 2012.

-All ticket holders will be required to become Crucible members and will be issued a membership receipt.

-The Crucible will apply for a one day liquor license from ABRA.

I noted to Mr. Botsford that the language on the flyer and website was unclear about whether attendance to the event was limited to Crucible members only, or if it was open to the general public. He informed me that it was open to Crucible members only he will correct the language and website to explicitly state that membership is required to attend the event.

Based on this information, it appears the Crucible is operating within the scope of its certificate of occupancy as a private club. But please also bear in mind that just like any other private club in the District, the Crucible is permitted to occasionally host events where non-members are welcome or invited as guests.

Thank you for bringing this matter to the attention of the Office of the Zoning Administrator.

Regards,

Rohan Reid
Program Analyst
Office of the Zoning Administrator
Department of Consumer and Regulatory Affairs
District of Columbia Government
1100 4th Street, SW, Room 3100
Washington, DC 20024
(202) 442-4648 (p)
(202) 442-4863 (f)
rohan.reid@dc.gov
www.dkra.dc.gov



DEPARTMENT OF CONSUMER & REGULATORY AFFAIRS

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From: Tony Goodman [<mailto:tonygood@gmail.com>]

Sent: Thursday, December 29, 2011 8:46 AM

To: LeGrant, Matt (DCRA)

Cc: Rob Amos; Karen Wirt; Nero, Richard (DCOZ); aliae.dastagir@gmail.com; Reid, Rohan (DCRA); O'Brien, Linda (COUNCIL); Majett, Nicholas (DCRA); Sankaran, Senthil (EOM); Planning; Robin-Eve Jasper; Wells, Thomas (COUNCIL); Keith Silver; Mark Dixon; Kevin Wilsey; Tom Hamilton; Bill Crews; Bonner, Carlos; Tyrrell, Graham; mriz@wcsmith.com; bbschuk@jstreetcompanies.com; Robert.ward@skanska.com; richardsonmarvin@gmail.com; FitzGerald, Christopher (EOM)

Subject: Crucible January Event - Code XXX

Mr. LeGrant,

Attached is the flier for one of (or the) first events planned at the Crucible's 16 M Street NE location on January 14, 2012. As you can see, this is not a private, members-only event. This is a public event, with both alcohol and on-premises sexual activity, where anyone can line up and pay a cover charge to enter. The only difference between the operation of 16 M and a nightclub like the adjacent Fur or nearby Ibiza is that this adds sex, and removes most ABRA, and all ANC oversight and discussion.

This nightclub cannot and should not be allowed to operate in this manner. 16 M NE is less than a block from thousands of both occupied and under-construction residential units, many of which are in a residential district. NoMa is no longer a quiet industrial area; it is a neighborhood with thousands of daytime workers and nighttime residents.

In addition, while I can understand how sexual activity can legally occur at a true private club between members, how can those permissive rights possibly extend to public events run by an outside group? The club owners are not simply renting out their venue as a generic events space, they are operating a sex/nightclub using outside promoters. This is an unacceptable use without at least going through the same procedures with the ANC and ABRA as other businesses. (Even next-door Harris Teeter & Tynan Coffee had to go in front of the ANC to sell beer & wine!)

Please let me know what will be done to resolve this situation.

Thank you,
Tony Goodman
ANC Commissioner, 6C04
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