



ADVISORY NEIGHBORHOOD COMMISSION 5A

SLOWE SCHOOL DEMOUNTABLE

1322 Irving Street NE Washington, DC 20017

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John Feeley, Jr.
Recording Secretary

Robert King
Parliamentarian

To: Lloyd Jordan, Chairperson – Board of Zoning Adjustment

From: Janae Grant – Chair ANC 5A

Date: October 11, 2012

RE: **BZA 18395 – Request for Special Exception relief to establish gasoline station on property located at 2441 Market Street, NE**

Dear: Chairperson Jordan,

COMMISSIONERS

5A01 Sandi Washington
5A02 Patricia Roberts
5A03 Angel Alston
5A04 Herman (Rip) Preston
5A05 Necola Shaw
5A06 John Feeley, Jr.
5A07 Carolyn Steptoe
5A08 Timothy (Tim) Thomas
5A09 Shirley Riven Smith
5A10 Vacant
5A11 Janae Grant
5A12 Robert (Bob) King

On behalf of Advisory Neighborhood Commission 5A, I am writing to request that the Board of Zoning Adjustment waive its rules and accept ANC 5A's attached letter in support of application 18395, for the following reasons:

- 1) ANC 5A received notice of the Board of Zoning Adjustment hearing on Application 18395, scheduled for September 11, 2012.
- 2) ANC 5A was on recess and did not meet during the month of August to take a vote before the scheduled hearing date.
- 3) Commissioner Robert "Bob" L. King, SMD 5A12, sent a letter to Deputy Director Richard Nero, dated August 31, 2012, requesting that, pursuant to the Board's authority under the zoning regulations, the BZA keep open its record until after ANC 5A held its community meeting on September 26, 2012.
- 4) Commissioner King notified his single member district by hand delivering notices on September 1, 2012 of an emergency meeting to discuss and vote on the proposed gas station and, in fact, held the SMD meeting on September 10, 2012. See Meeting Agenda. See also Independent Gas Station Operators' Alliance's flyer, which hand delivered and mailed to all residents in Fort Lincoln announcing the date and location of ANC 5A's September 26, 2012 meeting. Finally, the Fort Lincoln Civic Association emailed a letter to ANC 5A, with copies to all of the Fort Lincoln and Ward 5 list serves announcing ANC 5A's September 26, 2012 meeting.
- 5) Commissioner King attended the September 11 hearing and gave testimony to the BZA, on behalf of his SMD, in support of the Application. Additionally, during his testimony, Commissioner King requested that the Record be held open until after the ANC 5A Community meeting on September 26, 2012. See also written Statement of Robert "Bob" King, Commissioner.
- 6) ANC 5A met on September 26, 2012, and voted 6-3-1 to support Application 18395, with the understanding that the record was held open to allow the ANC to duly provide their 'great weight' regarding this matter as referenced in the letter submitted on August 31, 2012 by Commissioner King.

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18395
EXHIBIT NO. 46

Furthermore, ANC 5A respectfully requests this Board to give this letter of support the “great weight” it deserves. The Commission is thankful to the Board for allowing and including our ‘great weight’ into the record. Lastly, the Commission appreciates the efforts the Board has taken in upholding and satisfying the controls and regulations in place that affords the ANC the ability to provide its ‘great weight’ in matters of special exceptions.

Janae Grant

Thank you kindly,
Chair ANC 5A
Janae Grant



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To: Lloyd Jordan, Chairperson – Board of Zoning Adjustment

From: Janae Grant – Chair ANC 5A

Date: October 5, 2012

RE: **BZA 18395 – Request for Special Exception relief to establish gasoline station on property located at 2441 Market Street, NE**

Dear: Chairperson Jordan,

The Advisory Neighborhood Commission 5A would like to weigh in on the matter of the Special Exception application 18395 filed by applicant CWC WDC LLC the owner of Lot 5 in Square 4327 to install a 16 pump gasoline filing station an ancillary use located at 2241 Market Street, NE.

On September 26, 2012, ANC 5A held a regularly scheduled public meeting at Potomac Lighthouse Public Charter School, at which notice was properly given and a quorum was present. ANC 5A includes 12 single member districts, with one vacancy, thereby reducing the quorum requirement to six commissioners. Notice of the meeting was provided on ANC 5A's website, by individual Commissioners to their single member districts (SMDs), and various Ward 5 list serves. Subsequently, due to the prior meetings held on this matter local media including print and broadcast, and notices to Ward 5 civic associations, churches, and businesses were informed. In addition, all of the public meetings were recorded by a photographer and videographer, including the leadership meetings.

During this meeting, ANC 5A considered BZA application number 18395 of CWC WDC LLC filed pursuant to 11 DCMR § 3104.1, for a special exception under sections 706, 726, and 2302, to allow the construction of a new gasoline station in the C-2-B District on a portion of the premises located on Lot 5 in Square 4327. Ward Five Councilmember Kenyan McDuffie attended this meeting and spoke in great detail about the importance of The Shops at Dakota Crossing development, and the benefits to the City that will derive from approval of the gas station application. In addition, Michael A. Brown, Chairman of the Council's Committee on Economic Development and Housing, sent a text to Council Member McDuffie which he read at the meeting, stating that he strongly supports the proposed gas station and he recommended that the community support the BZA application. In addition, Council Member Brown proposed that the Costco Warehouse look at the land availability to build a car wash on the site.

The Applicant has attended numerous meetings in length to present the application and gas station proposal at Fort Lincoln leadership meetings on June 9th and June 16th, a single member district meeting on June 23rd, and an emergency single member district meeting on

September 10th. The Applicant presented at each of these meetings a detailed analysis of the project, as well as a discussion of the requested zoning relief, justifications for the relief, and responded to all the questions raised by the Commissioners and the community. The BZA application is within the Single Member District of Commissioner Robert “Bob” King (5A12 – Fort Lincoln), who has served the Fort Lincoln Community for nearly thirty (30) years. Commissioner King has held numerous community meetings attended by community members ranging from 150 to over 350 people. There were several hundred notices and flyers distributed throughout the community and Ward-wide announcing the community meetings to discuss the gas station application, among other issues. In addition to these meetings, ANC Commissioners and leaders of the various Fort Lincoln housing clusters met on June 9th, 16th, July 10th, July 25th, and September 8th to discuss potential environmental and safety, and traffic issues regarding the proposed gas station.

The main questions raised by the community concerned the impact of the proposed new gas station on potential traffic impacts, potential environmental and safety concerns on the gas station site, and safety concerns in and around the Fort Lincoln community. In addition, the Fort Lincoln Community and ANC considered the arguments and filings submitted by the Independent Gas Station Operators Alliance (IGSOA). Specifically, at the June 23rd meeting, Attorney John Ray, on behalf of the IGSOA, was permitted to give a presentation on the gas and go issue, which was not well received by those in attendance.

However, based upon the information presented, including the numerous presentations and written documents from the Applicant, ANC 5A believes that the Applicant meets the special exception standards as set forth in the Zoning Regulations. Specifically, the proposed gas station is approximately 965 feet away from the nearest residence, and ranges from approximately 2,310 to 2,850 feet away from the nearest elementary school, community pool, and day care/recreation center. As set out in the motion approved by the Fort Lincoln Community at the September 10th emergency meeting (see attached Motion), the Applicant has committed to work with the ANC and DDOT to ensure that DDOT installs pavement markings at 33rd Place designating the left turn lane as a left turn only lane, the middle lane as a shared left/through lane, and the right lane as a right turn only lane. Unfortunately, prior to the development, traffic has been a major issue in this area. It is hopeful that this development has now implemented traffic calming measures that will help both the directly affected residents and the community at large, which have been ignored for too long.

Additionally, per the Single Member District representative's request and that of the ANC, the Applicant will continue to work with DDOT, ANC, the Mayor and City Council, federal transportation officials, and the community throughout the permitting process to ensure that additional traffic mitigation measures are discussed, adopted and implemented in and around the commercial retail development center. In fact, the full ANC 5A, at its public meeting on July 25 at the Hospital for Sick Children, with a quorum present, voted that Costco request to conduct a comprehensive traffic study in and around the proposed commercial retail development center. Finally, the Applicant has addressed at the meetings attended, detailed information regarding the state-of-the art safety and environmental safeguards that will be incorporated into the project. ANC 5A notes that the Applicant will have to comply with all applicable safety and environmental regulations, including D.C. Department of the Environment regulations, in order to construct the gas station.

With regard to the arguments raised by the existing gas stations in opposition to the application, ANC 5A believes that approval of the BZA application and of the proposed gas station will not drive out existing gas stations since membership is needed, but rather will make them be more competitive and offer cheaper gas, which will in turn benefit members of the community.

In conclusion, ANC 5A supports this project, including the conditions recommended in the Motion approved by the voting members of SMD 5A12, and believes that approval of the requested zoning relief will go a long way towards solidifying Fort Lincoln as an economic hub in the city which had been lying dormant for way too long and would not have any detriment to the general public good or on neighboring properties. The motion as was read in the attachment was properly moved by Commissioner King and seconded by Commissioner Thomas. The motion passed in support of the gas station by 6- 3 -1 by the Commission. Therefore, we are requesting that ANC 5A's 'great weight' be given to support the construction of the gas station, adhering to current regulations from DDOE and DDOT, ensuring the environment and experience be that of safety first; with additional support from Council Members McDuffie and Brown (Chair of the Council Committee on Economic Development and Housing).

Additionally, it must be noted that while this matter as any development has its tense moments in trying to reach a consensus, the misleading of information and condemning of the ANC was uncalled for and contributed to much strife which hampers the community. At the center of the storm is Attorney John Ray, who represents many of the gas station owners throughout the city. Sadly, their financial interest has been unfairly brought up to be tantamount to that of the actual residents living in Fort Lincoln. Due to regulation that was crafted by Mr. Ray, the law prevents the same ownership to sell gasoline and alcohol. However, Mr. Ray stands much to lose, since you can set up separate ownership and comply with the law. Unfortunately this doesn't make Mr. Ray look good before the clients he represents, considering the protest letters filed to ABRA on September 16 well after the July 25th protest deadline passed. Additionally, Mr. Ray failed to do his due diligence, because the attacks on the ANC which are trite, didn't prevent him from attending and finding out about our meetings, as well as finding out about the public filing before the BZA and ABRA. Contrary to Mr. Ray wanting to work the ANC, which he has chosen not to do, instead he attacks us because we have a different position, flies in the face of the many times the ANC needed support when developers out position us due to resources. Hence, you win some and you lose some, but being a poor loser is no reason to lie about hearing from the community. At our ANC meeting on September 26, the community asked many questions regarding the gas station before we voted with our Councilmember present. Furthermore, the prior community meetings held with the applicant present totaled more than 25 hours of discussion on the gas station, the liquor license and the retail operation. So attacking the ANC and trying to undermine our decision just because Mr. Ray didn't bring his 'A' game is not just cause for having a temper tantrum.

Finally, thank you to the Board for your consideration of the ANC process and vote.

Janae Grant

Thank you kindly,
Chair ANC 5A
Janae Grant

- Enclosures:
- 1) Motion Approved by SMD 5A12, dated September 10, 2012
 - 2) Chronology of Various Community and Leadership Meetings and Activities, dated September 26, 2012
 - 3) Copies of Meeting Flyers and Meeting Agendas