

**Park Concepts, LLC dba Surroundings Flowers
1023 East Capitol St., SE
Washington, D.C. 20003**

January 31, 2015

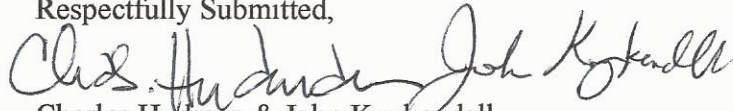
Stephen Varga, AICP, LEED Green Assoc.
Senior Zoning Specialist
Office of Zoning
Gov. of D.C. Board of Zoning Adjustment
441 4th Street, N.W., Suite 200/210-S
Washington, D.C. 20001

In re: Appeal of Marie E. Birnbaum
BZA Appeal No. 18948
Second Joint Letter of Opposition

Dear Mr. Varga,

On January 24, 2015, Park Concepts, LLC dba Surroundings Flowers ("Park Concepts") submitted a Joint Letter of Opposition in conjunction with the Motion to Dismiss that it filed in this proceeding. Park Concepts hereby submits additional representative emails and letters from nearby neighbors residing in both ANC6B and ANC6A as well as throughout the Capitol Hill area opposing Ms. Birnbaum's appeal. We join with these and the other residents voicing their opposition and urge the Board of Zoning Adjustment to expeditiously dismiss the appeal.

Respectfully Submitted,



Charles Hudman & John Kuykendall

Managing Members

Park Concepts, LLC dba Surroundings Flowers

From: disilber@yahoo.com [disilber@yahoo.com]
Sent: Tuesday, January 27, 2015 1:16 PM
To: Allen, Charles (Council)
Cc: surroundings@comcast.net
Subject: 1023 E Capitol ST SE BZA Appeal No 18948

Dear Mr. Allen,

We live across the street from 1023 E. Capitol St. We are writing to support John and Charles in their effort to avoid a hearing by correcting the inadvertent error on the C of O. As long as we have lived here, since 1999, there has been a market in the basement level of this property. The grocery and sale of flowers and plants is a much needed and appreciated part of our neighborhood.

In addition we don't understand the complaint made about the landscaping of the front and side yard of this property. All of us who live on East Capitol Street have made efforts to landscape and beatify the front of our homes and condo buildings. Charles and John have done so as well, with a much appreciated garden. Why they should be singled out to get a public space permit for doing something we all try to do is a mystery to us. We love what they have done.

In summary we ask that the C of O be corrected and the hearing for this and the public space permit requirement be dropped. We will support Charles and John in any way we can.

Thank you.

Sincerely,

Diane and Igal Silber

1018 East Capitol St, NE Apt 7
Washington, DC 20003

From: Karl Reitz [<mailto:krreitz@gmail.com>]
Sent: Monday, January 26, 2015 9:57 AM
To: Steve6b05@anc6b.org; Allen, Charles (Council); levyfor6a04@gmail.com
Cc: Charles Hudman; Shelby R
Subject: Surroundings C and O

Messrs Allen, Hagedorn, and Levy,

We're writing in support of Surroundings effort to correct an error on the C of O in hopes that they can avoid a hearing.

Surroundings has occupied the corner of 11th and North Carolina SE for the whole time we have lived on Capitol Hill. We frequent both the garden store and the market. They're great stores and the owners and employees are great neighbors.

Few people have done more to beautify the neighborhood during the time we lived here. It's also a tough time for small, independent retailers and it's great for this corner of the neighborhood to have these retail areas filled by established, conscientious, and local businesses.

It's incredibly frustrating that it seems that all efforts to make things in the neighborhood nicer are met with such stiff resistance from a small unrepresentative few.

Sincerely,

Karl and Shelby Reitz
1318 North Carolina Ave NE

From: barbara johnson [bodner.johnson@gmail.com]
Sent: Friday, January 30, 2015 5:45 PM
To: steve6b05@anc6b.org; Allen, Charles (Council)
Cc: surroundings@comcast.net
Subject: Support for Surroundings ("Park Concepts") at 1023 East Capitol Street SE

Dear Mr. Hagedorn and Mr. Allen:

I have recently been made aware of the issue related to the appeal of Surroundings' Certificate of Occupancy allowing a retail grocery store and flower shop to exist in the basement of the property. I understand that an inadvertent, clerical error on the C of O was made which has prompted the appeal. Mr. Hudman and Mr. Kuykendall are seeking to correct this error and I support this effort. Their efforts offer a reasonable solution to an error and should be allowed; the hearing scheduled for mid-March is not necessary and can be avoided.

It is in the best interests of the community and immediate neighborhood that Surroundings continue to exist in their current form, at their current site, and to offer the merchandise that they do. I have lived at **105 11th Street SE (virtually across the street from Surroundings) since 1991**. Before that I lived at 1016 East Capitol Street NE for almost 8 years and before that at 204 11th St. SE since 1977! In the late 70's, the corner store was really not safe because there were random robberies; in addition, the clerks/owners were very unpleasant as was the store. Over the years, the owners continued to be harsh to customers. One owner refused to allow me to buy milk because I did not have the correct change. I could go on. I stopped going there as did many of my neighbors. As weird as it sounds, it was often a frightening experience to get that quart of milk.

In addition, (prior to Surroundings) the outdoor corner space facing 11th and North Carolina was a concrete mess--a place for garbage, a parking spot or a place to abandon a car or other debris. No effort was made to maintain a clean or appealing environment. Just the opposite; it was a place for throwing junk and trash.

Surroundings changed all that; they have developed a beautiful "green" space offering wonderful flowers and the retail store is a significant resource to the community. The retail store has been refurbished on the outside to fit the neighborhood's historic buildings. The outdoor environment and flower shop are maintained daily, do not intrude onto the sidewalk and, indeed, it is a joy to walk by. The people that work there and the owners are always pleasant and very sensitive to their neighbors' requests; they are "good neighbors" which is a much valued commodity in our city. There is just no down side to their being there--no noise, no dirt, no unpleasantness --all good. It would be a tremendous loss to the community if they were not allowed to carry on their business as they have done. Surely a clerical error should not be allowed to jeopardize a thriving business that has added so much to our Capitol Hill neighborhood.

Thank you for your consideration of Surroundings effort to correct the clerical error on the C of O. Your efforts are appreciated.

Best regards,

Barbara Johnson
105 11th. Street SE
Washington DC 20003

-----Original Message-----

From: geri rosen [<mailto:tomluddite@gmail.com>]
Sent: Saturday, January 24, 2015 10:33 PM
To: Allen, Charles (Council)
Subject: Surroundings

For the last seven years, I have enjoyed the wonderful improvements made to the building at 1023 East Capitol Street. Ever since Mr. Charles Hudman and John Kuykendall purchased the once-decrepit building, they have worked to restore and beautify not only the building but the area directly across from the west end of Lincoln Park. Surroundings, their flower shop, has brought outdoor displays of blooming seasonal plants and color, light and beauty to the neighborhood. The friendly owners of Surroundings have gone out of their way to get to know residents and have become supportive and caring neighbors. I am particularly grateful for their kindness to my late wife as we passed Surroundings on her walker-assisted strolls. It was one of the highlights of her day during a period of decreasing mobility.

You can imagine my amazement when I discovered that one disgruntled neighbor had made Surroundings the focus of her wrath. Taking advantage of a clear error on the part of DCRA, she has filed an appeal to the Certificate of Occupancy (CO) issued to Surroundings. For the many decades I have lived in this neighborhood a small grocery store has operated in the basement of 1023 East Capitol. The current owners leased a portion of the retail space to a new grocery store, the P&C Market, and reserved the rest of the space for Surroundings. At the time they did this they were assured that selling flowers and plants using the existing CO for "Retail Grocery Store" would not violate zoning regulations since grocery stores often sell flowers and plants. Unfortunately when Hudman and Kuykendall sought to update the CO to Grocery Store/Flower Shop, DCRA issued the updated CO for the "first floor" rather than the "basement" of the property. This clerical error has provided the unhappy Ms. Marie

Birnbaum with the opening she needed to file an appeal to the updated CO and as a result a hearing before the Board of Zoning and Adjustment has been scheduled for March 17, 2015. In addition to the appeal, Hudman and Kuykendall have been informed for the first time that they need a "public space" permit to beautify the area around the store. Already, much of that area has been returned to the bare brick and concrete that was there before.

If public space can be used on sidewalks in front of restaurants for commercial outdoor seating, it seem only rational to not just permit, but to actively encourage, the beautification of such space with plants and flowers.

I continue to be amazed, though I have unfortunately witnessed other instances, of how much damage one malevolent individual can do to not just a legitimate business, but one that actively improves a neighborhood. I ask you to do what you can to correct the clear, if inadvertent, DCRA error and avoid an unnecessary hearing.

Many Thanks for Your Consideration,

Thomas Kuchenberg
112 Eleventh Street NE

On Jan 31, 2015, at 11:52 AM, Robert Mantel <rmantel@msn.com> wrote:

ANC Member Steve Hagedorn--

Charles Hudman and John Kuykendall, owners of Park Concepts (Surroundings Flowers) have brought to our attention what appears to be an inadvertent error on the C of O for their building that, in the face of a complaint by a neighbor, has led to a scheduled hearing in March before the BZA.

We are not familiar with the details of the C of O, but we can affirm that Hudman/Kuykendall from the initial purchase planned to live in the first floor residential flat while renting out the other flat. They have since occupied both flats as their residence.

It is clear to us that they did not intend the flower shop to be run out of their first floor residence, but rather as a adjunct to the grocery store in the basement, which had a valid C of O as a business.

Moreover, they have done a magnificent job in changing the external lot from a drab yard to a beautiful garden greatly enjoyed by the neighbors. The entire L:incoln Park neighborhood is enhanced by the beauty of the property.

We request that you use your influence to correct what appear to be a procedural error without putting Hudman/Kuykendall through a formal hearing with all that entails.

Thank you,

Robert and Ida May Mantel
1116 E. Capitol St NE

-----Original Message-----

From: Eric Lieberknecht Design [<mailto:eric@lieberknechtdesign.com>]
Sent: Sunday, January 25, 2015 7:39 PM
To: steve6b05@anc6b.org; Allen, Charles (Council); surroundings@comcast.net
Subject: "Surroundings" C of O issue

To any concerned: As a neighbor, this email is to support the whole of Surrounding's current use of their property, and to encourage whatever is necessary to quickly, easily and cheaply allow them to continue that use.

Eric Lieberknecht

--

Eric Lieberknecht Design
149 11th Street NE
Washington, DC 20002

-----Original Message-----

> From: Karl [<mailto:kkpp3@yahoo.com>]
> Sent: Sunday, January 25, 2015 10:46 AM
> To: Allen, Charles (Council); Steve6b05@anc6b.org
> Cc: surroundings@comcast.net
> Subject: 1023 East Capitol St, SE
>
> Charles/Steve -
>
> This email is in support Charles Hudman and John Kuykendall and their company Park Concepts in the matter of their property at 1023 East Capitol St.
>
> We understand DCRA inadvertently made an error in the an updated version of the property's Certificate of Occupancy. We also understand DCRA has scheduled a hearing in response to a neighbor's appeal based on this incorrect CofA. It seems to us that it would make more sense and be a better use of the DC's government's time and money simply to correct the inadvertent error and thereby dispense with the need for a hearing.
>
> We also understand Park Concepts now requires public space permits for the changes made at the property. We fully and enthusiastically support Park Concepts in its application for any necessary permits. Charles Hudman and John Kuykendall have transformed a dreary, dirty, and generally unsightly corner into a beautiful, welcoming area of our neighborhood. We applaud and thank them for that.
>
> Karl and Patricia Pieragostini
> **1007 North Carolina Ave, SE**

From: CB Douglas [<mailto:cathybdouglas@gmail.com>]
Sent: Monday, January 26, 2015 7:26 AM
To: steve6b05@anc6b.org; Allen, Charles (Council)
Cc: surroundings@comcast.net
Subject: Resounding Support for Surroundings

To Whom It May Concern:

We support Surroundings. More than that, it is a place of necessity, beauty, cleanliness, charm, and kindness. If Surroundings is not in my neighborhood, then it is not the neighborhood "sold" to us 3-1/2 years ago. We rely on this lovely corner market and flower shop *and* the well-being of its owners.

Please do all you can to help Surroundings.

Respectfully,

Cathy & David Douglas
115 10th ST NE

From: pamela.kish@comcast.net [<mailto:pamela.kish@comcast.net>]
Sent: Thursday, January 29, 2015 6:44 PM
To: steve6b05@anc6b.org
Cc: Allen, Charles (Council)
Subject: "Surroundings"

Dear Sirs: I am writing in support of Charles Hudman and John Kuykendall, the owners of "Surroundings", the lovely shops on the corner of East Capitol Street and 11th. It is more than a "shame " that someone has sought to disrupt the business and lives of these two gentlemen, who have done nothing in error...and quite to the contrary have beautified the Lincoln Part area and given us a wonderful place to buy unique specialties and unusually beautiful flowers. They not only contribute to our community through their business efforts.but are taxpayers (business and personal income) of this city.. and devoted residents of Capitol Hill. They have brought joy and beauty to this previously run down corner and have been valued friends to all who know them as neighbors. I would like to request your assistance in providing them support in any way possible during this process...which is not only sad and unnecessary..but extremely unjust. Instead of harassment...these gentlemen deserve the gratitude and admiration of all city officials who may judge this situation.. Your consideration of my letter is most appreciated and I thank you in advance for your help.

With kind regards,

Pamela Kish and Family
107 10th St NE
Washington D.C 20002

p.s. we are family who moved to this house in 1984...at that time Lincoln Park was a nightmare...both dangerous and ugly..."Surroundings" is the best thing that has happened to us in all of those years.."hands down"!!!

From: Jason Maga [jjmaga@gmail.com]
Sent: Monday, January 26, 2015 7:08 PM
To: Allen, Charles (Council); ANC, 6B05 (ANC 6B05)
Cc: surroundings@comcast.net
Subject: Surroundings

Messrs. Allen and Hagedorn,

I have been made aware of the recent zoning issues that have come up regarding the Surroundings shop on East Capitol St., including the city's scheduling of a zoning hearing and requirements for the shop to secure new permits for the greenery that they have installed. I would like to express my support for whatever zoning measures will allow Surroundings to maintain their business and the outdoor greenery that they do such a nice job of keeping up. This is one of the most beautiful corners in the neighborhood. We as a community should be appreciative of the owners' efforts, and I hope our government will make it as easy as possible for the owners to keep it that way if they so choose.

In particular, I oppose Marie Birnbaum's December 20, 2014 appeal and hope that the zoning hearing regarding this appeal will be cancelled. I also support the granting of any new permits required to allow this business to continue maintaining their outdoor greenery.

Thank you for your assistance.

Sincerely,
Jason Maga
112 Kentucky Ave SE

-----Original Message-----

> From: Susan Hunt [<mailto:susan.hunt2@gmail.com>]
> Sent: Friday, January 30, 2015 10:58 AM
> To: Steve6b05@anc6b.org; Allen, Charles (Council)
> Cc: Charles Hudman
> Subject: 1023 East Capitol Street SE
>
> Dear Mr. Hagedorn & Mr. Allen,
>
> Our names are Susan and Dan Hunt. We have lived at **140 12th Street NE**, Washington DC 20002 since November 2010.
>
> It is our understanding that a hearing has been scheduled before the Board of Zoning Adjustment on March 17, 2015 solely on the basis of an inadvertent error in an updated Certificate of Occupancy No. C01500286 ("C of O") issued for 1023 East Capitol Street SE as a result of an October 29, 2014 decision by the Zoning Administrator. We understand that this error consists of DCRA

listing "first floor" (which is residential) rather than "basement" as the floor to which the C of O pertains. The error is obviously inadvertent when the updated C of O is compared to the previous one.

>

> The fact that this error has given rise to an appeal regarding the merits of the C of O seems to us to be an abuse of process. No other parties have been misled by this error. Principles of fundamental fairness and equal treatment come into play. Such an error should not subject the blameless and unlucky owners of the premises in question to the time, expense and considerable stress of having the C of O challenged. Not should it bestow upon anyone who does not agree with the merits of the C of O an opportunity to reopen an otherwise closed matter. Surely the government agency in question has the power and responsibility to correct its own error, thereby rendering moot the appeal.

>

> The fact that this inadvertent error in the C of O came about during an updating process initiated by property owners Charles Hudman and John Kuykendall to ensure that all licenses were correct and current in order that it be clear to everyone that no zoning laws were being violated is more than simply ironic. It reinforces the necessity for the agency to correct its own error and not subject the property owners, who have throughout this process conducted themselves responsibly and respectfully, to an appeal.

>

> The agency has plenty of legitimate work to be doing. This hearing will be at the expense of the taxpayers, not only in dollars but in a far more valuable currency - respect for government and the manner in which it carries out its responsibilities and wields its considerable power over citizens. Reciprocal respect is the basis for government at all levels. Please help us maintain our respect for local government.

>

> Respectfully,

>

> Susan and Dan Hunt

On Tue, Jan 27, 2015 at 10:30 AM, Liz Schoonover Schwartz <elizabeth.schoonover@gmail.com> wrote:

My husband and I are Lincoln Park area homeowners, have lived on the Hill for the better part of a decade, and are raising our family here. We were shocked to hear that our wonderful local business, Surroundings, is being forced to remove its outside plants and decor as the result of a permitting issue. We passed by just this weekend and were sad to see so much of the really charming, and always tasteful, display gone. It is strange to think that there is action being taken by the city to stop a property owner from making positive improvements in the space just outside their own doors. Surroundings has always been a bright spot in the neighborhood and the work they have put into making that corner beautiful should be encouraged, not stopped because of a bureaucratic issue.

We would like to register our support for the owners of 1023 E Capitol St. and can only hope that more property owners put the kind of time and resources into improving the neighborhood that they have.

Sincerely,

Liz Schwartz

1348 Constitution Ave, NE

-----Original Message-----

From: Peggy O'Brien [<mailto:pobrien@FOLGER.edu>]
Sent: Monday, January 26, 2015 6:10 AM
To: Allen, Charles (Council); Steve6b05@anc6b.org
Cc: surroundings@comcast.net
Subject: Surroundings and the P and C Market

Councilmember Allen and Mr. Hagedorn,

Please assist Surroundings and P&C Market in their efforts to have the error on their Certificate of Occupancy corrected and thereby avoiding a hearing. The presence of Surroundings and P and C on that corner is clearly a wonderful asset to the neighborhood--both in terms of beauty and convenience.

I moved to the Hill in 1970 so that I could walk to my teaching job at Eastern High School. In addition to raising my children here, and starting a business here (The Man in the Green Hat, only the second restaurant to open on the Senate side), I am a previous owner of the property at 1023 East Capitol Street SE.

We owned the building from the late 1970s to the mid 1980s. During all of those years--and before and after our ownership--the basement was occupied by Sam's, a small market that sold dreambooks and a very few staples/groceries at prices four times higher than those at the Safeway. Sam's used the outside of the building for storage--two very large locked coolers that stored ice (and that advertised this on their exteriors) and for numerous crates always on their way to being unpacked.

So, obviously, the misinformation in the current C of O is just a typo. Previous C of Os clearly noted that the store was in the basement. When we owned the building, it certainly did. The typo should be changed.

In terms of the property itself . . . it's a real no-brainer. After Park Concepts purchased the property, it became absolutely beautiful . . . and it has been a lovely work in progress ever since because the flowers and plants change with the seasons. It's a gift to the whole neighborhood. They leased to P&C market and now all kinds of folks--including kids--are in and out of the shop. A far cry from Sam's . . . where most of the foot traffic was from people playing the numbers.

I do not know Ms. Birnbaum, and I have no idea what fuels her agenda against these positive and beautiful changes at 1023. It is very clear that Mr. Hudman and Mr. Kuykendall are a definite asset on Capitol Hill. In addition, because they live in the building at 1023 East Capitol, their investment in its appearance and their care of the property goes far beyond even the highest "good neighbor" category. They are wonderful neighbors--even for the many who don't know them personally--because they share this gorgeous corner with everyone: walkers, drivers, lingerers, people going to and from the park.

Please assist them in correcting the C of O, and in continuing their many contributions to the neighborhood.

Thank you.

Peggy O'Brien
12 Seventh Street SE
Washington, DC
202.543.1369
also
Peggy O'Brien, Ph.D.
Director of Education
Folger Shakespeare Library
Washington, DC
202.675.0372

CERTIFICATE OF SERVICE BY E-MAIL

CERTIFICATE OF SERVICE I, John Kuykendall, do hereby certify that on January 31, 2015, a true and exact copy of the foregoing Second Joint Letter of Opposition was served by electronic mail, addressed as follows:

Rabbiah A Sabbakhan, Director
DC Department of Consumer and Regulatory Affairs
1100 4th Street SW
Washington DC 20024
rabbiah.sabbakhan@dc.gov

James Rudisill, Permit Clerk
DC Department of Consumer and Regulatory Affairs
1100 4th Street SW
Washington DC 20024
dcra@dc.gov

Marie E. Birnbaum
1015 East Capitol St. SE
Washington, DC 20003
mariebirnbaum@verizon.net

Matthew Le Grant, Zoning Administrator
DCRA
1100 4th St SW - Room 3100
Washington, DC 20024
matthew.legrant@dc.gov

Stephen Varga, AICP, LEED Green Assoc.
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Office of Zoning
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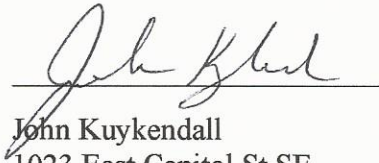
Ward 6 Councilmember Charles Allen
John A. Wilson Building, Suite 406
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Washington, DC 20004
CAllen@DCCOUNCIL.US

Kristen Oldenburg, Chair, ANC6B
423 12th Street, SE
Washington, DC 20003
Kirsten6b04@anc6b.org

Stephen Hagedorn, ANC6B Single Member District Representative
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Steve6b05@anc6b.org

Phil Toomajian, Chair, ANC6A
631 10th St. NE
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Chris Ward
141 11th Street, NE
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cward6a03@gmail.com



John Kuykendall
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