November 8, 2005

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2005 NOV -9 AM 11: 44

Geoffrey Griffis
Chairman
District of Columbia Board of Zoning Adjustment
441 Fourth Street, NW
Washington, DC 20001

RE: Application 17392

Dear Chairman Griffis:

In Mr. Movahedi's application for rezoning of his property at 1700 Q Street NW, he cited a hardship due to the discomfort arising from outside noise into each room, all of which opens onto either 17th Street or Q Street.

This noise has been a continuing problem in the neighborhood. In May 2005, neighborhood residents and Lieutenant Christian, of the Metropolitan Police Department Third District, delivered testimony to this effect at the ABC Hearing for the Dupont Circle East Moratorium stating that the ABC establishments in the area fomented the high levels of noise pollution.

Please find attached the ABC Notice of Emergency and Proposed Rulemaking citing Lt. Christian's testimony on page 3 page.

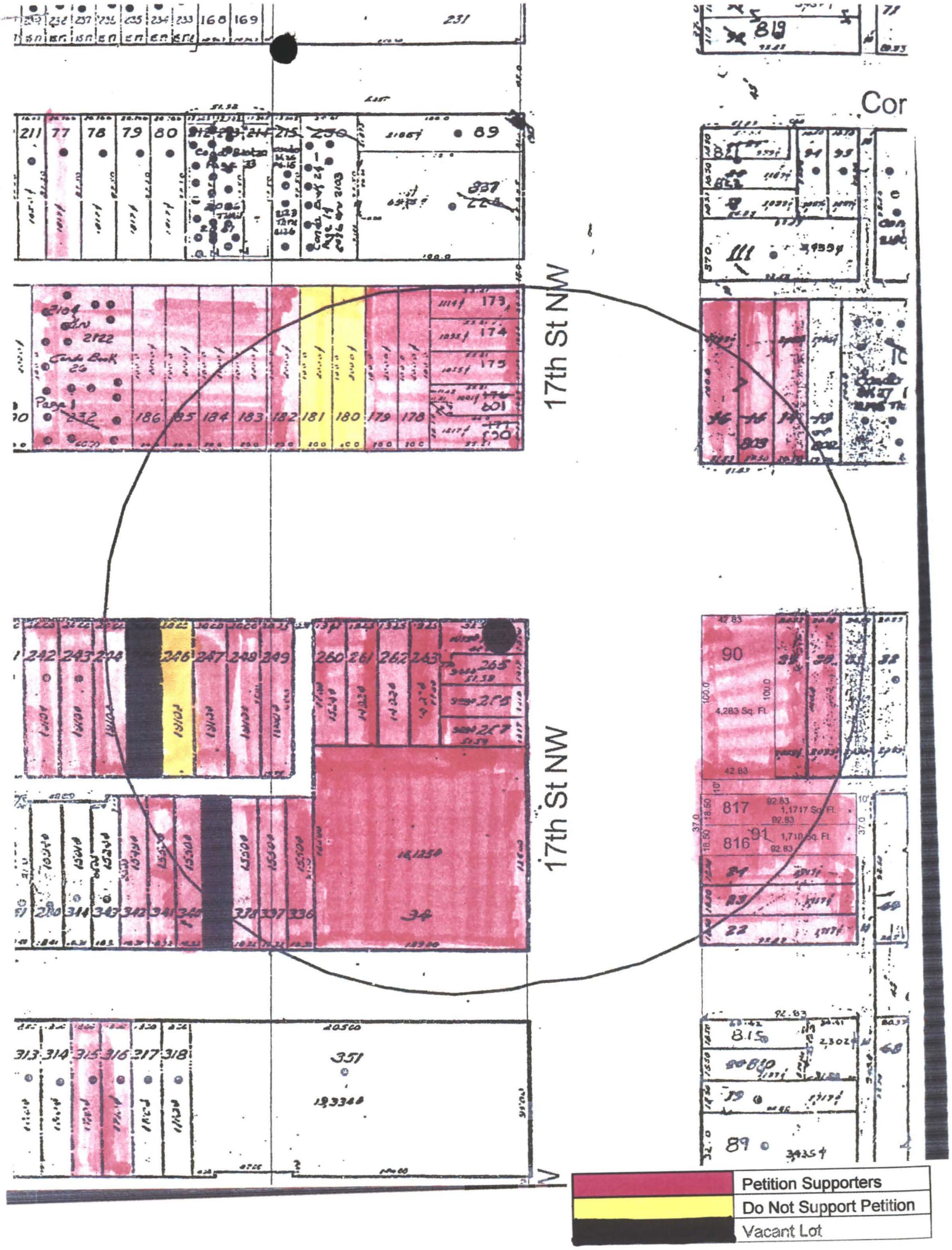
Also attached is the signed petition from 76 of Mr. Movahedi's neighbors.

Sincerely,

Steve Gell

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 17392
EXHIBIT NO. 29

Board of Zoning Adjustment
District of Columbia
CASE NO. 17392
EXHIBIT NO. 29


17th St NW
17th St NW
Petition Supporters
Do Not Support Petition
Vacant Lot

To the Board of Zoning Adjustment: BZA Case No. 17392

We, the undersigned, support the request of Babak Movahedi and his title firm, Dupont Title & Settlements, for a variance to use the building 1700 Q Street as an office.

NAME	ADDRESS	SIGNATURE	DATE
Shannon Landreth	1735 B Church St NW		9/29/05
Jeff Darrah	1767 P Street NW #1		9-29-05
John DeBell	1 Scott Circle NW #617		9/30/05
Joseph GULER	1523 17th.		9/29/05
GARY LYLES	1618 17TH		9/29/05
DAVID PERENZZA	1519 17th/1521 17th S		10/4/05
Mario-Vogliesi	1526 17th street #303		10/5/05
Amy Beall	1713 Q St Apt B	Amy Beall	10/5/05
LACRISAFULLI	1779 CHURCH ST.		10-5-05
Melanie Lockhart	1734 Church St.		10-5-05
Dave Stetson	1748 Corcoran St #24		10/5/05
Diana Gutierrez	1727 Church St. NW		10/5/05
Colin Phillips	1757 Church St, NW		10/5/05
Sharon Livesley	1757 Church St, NW		10/5/05
David Franco For Universal Gas	1601 17th St NW		10/11/05
Matthew Brill	1704 Q St NW		10/11/05

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NAME	ADDRESS	SIGNATURE	DATE
Lisa Bell	1724 1/2 Q St NW		9/28/05
MICHAEL GRAD	1521 17 NW		9/28/05
Maura Regan	1545 18th St. NW		9/28/05
Maude Grace	1526 17th St NW	Maude Grace	9/28/05
RICHARD BURLESON	1526 17th ST NW		9/28/05
Charles Moore	1536 17th St NW		9/28/05
[illegible] Batts	1708 Q St. N.W.		9/28/05
SASHA GENTLING	1720 Q St. NW		9/28/05
Regino Madrid	1720 Q St NW		9-28-05
David Adush	1717 Q St NW		9/28/05
Seth Nickinson	1717 Q St. NW		9/28/05
Kathy Bayer	1717 Q St NW		9/28/05
Alfred Blicher	1717 Q St. NW		9/28/05
Hilary Cochio	1723 Q Street NW		9/28/05
Brian Wedel	1719 Q St NW	Kim Wedel	9/28/05
JANICE [illegible]	1733 Church St NW		9/28/05
Ali Rosholt	1703 Q Street NW		9/28/05

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NAME	ADDRESS	SIGNATURE	DATE
Nancy Desmond	1526 17th St. NW #116	Nancy A. Desmond	9/16/05
Casey Jurie	1526-17th NW, #216	Casey Jurie	9/16/05
Payam Yazdani	1645 Q St. NW		9/19/05
Melissa Diffly	1540 17th St, NW #1		9/19/05
RORY DONNELLY	1536 17th St. NW		9/19/05
TERESA LEE	1526 17th St, NW		9/19/05
Maeva Reynolds	1526 17th St. NW		9/19/05
Sabrina Chen	1722 Q St NW		9/19/05
Mark Smolinski	1708 Q St NW		9/19/05
P WEGIMONT	1706 Q St NW		9/21/05
Erika Sato	1720 Q St NW		9/21/05
Maggie Rhodes	1711 Q St NW		9/21/05
Kevin Klym	1725 Church St. NW		9/21/05
R. Mey	1723 Church St. NW		9/21/05
Judy Peng	1723 Church st. NW		9/21/05
LINDSAY VARNEY	1548 17th St NW B		9/21/05
KEVIN McDEVITT	1606 17th St. NW		9/22/05

To the Board of Zoning Adjustment: BZA Case No. 17392

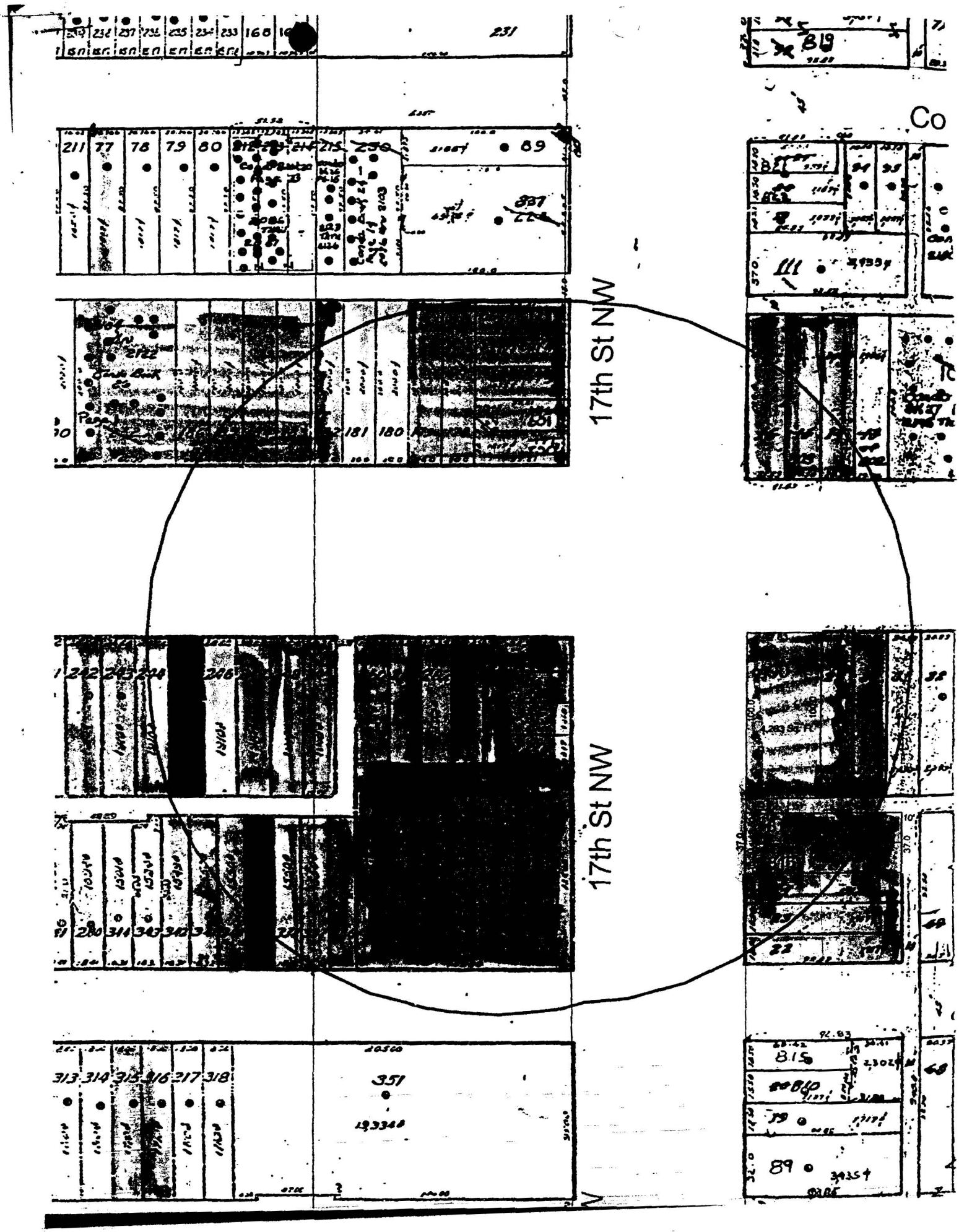
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NAME	ADDRESS	SIGNATURE	DATE
Kamyar Kadivar	1606-08 17th St. NW ~~1113 Hopkins Pl NW #4~~		9/9/05
John Perazich	1701 Q St NW		9/12/05
George Mallios	1537 17th St NW		9/12/05
Jamie Jeeds	1624 Q St. NW		9/12/05
Lona Towsley	1702 Q St NW #1		9/12/05
DANIEL McGREGOR	1712 Q St NW		9/12/05
Vicki Laun	1705 Q ST. NW		9/12/05
FLORIANA NESTORE	1602 17 St NW		9/12/05
NADER LOTFI	1608 17TH NW		9/12-05
William Theben	1608 17th N.W.		9/12/05
C.S. BLUMENTHAL	1700 17th NW		9/16/05
CESAR A. CACERES	1720 Q ST NW		9/16/05
Kathy Le	1710 Q. St NW #4		9/16/05
NIZAR JAWDAT	1715 Q St. NW.		9/16/05
Claude Buckl	1702 Q St. N.W. #2		9/16/05
Mike Burton	1526 17TH St NW		9-16-05
Konstantin Kostadinov	1526 17TH St. NW #3		9-16-05

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NAME	ADDRESS	SIGNATURE	DATE
Tom Goodwin	1717 P St. NW	Tom Goodwin	10/5/05
Jeff Brier	1728 Corcoran St NW	JEFFREY BRIER	10/5/05
Dennis Rogers	1732 church st.		10/05/05
Joe DiIenno	1731 Church St.		10/11/05
David J. Messing	1714 Q St. N.W.	David J. Messing	10/12/05


17th St NW
17th St NW

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Alcoholic Beverage Control Board ("Board"), pursuant to the authority set forth in D.C. Official Code § 25-351(a) (2001) and Section 303 of Title 23 of the District of Columbia Municipal Regulations ("DCMR"), 51 DCR 4309 (April 30, 2004), hereby gives notice of the adoption of emergency rules that replace existing section 306 of Title 23 DCMR and impose a limit on the number of retailer's licenses Class A, B, CR, CT, CN, CX, DR, DT, DN, and DX issued in a portion of East Dupont Circle, which shall be known as the East Dupont Circle Moratorium Zone, for a three (3) year period.

On November 24, 2004 the Board received a joint request from the Dupont Circle Citizens Association ("DCCA") and the Dupont Circle Merchants and Professional Association ("DC MAP") to extend the existing East Dupont Circle Moratorium Zone for a six-month period ("Petitioners' moratorium request"). The Board subsequently held a public hearing on the joint petition on January 19, 2005, pursuant to the requirements of D.C. Official Code § 25-354 (2001). At the January 19, 2005 hearing, the Board heard testimony, including from Advisory Neighborhood Commission ("ANC") 2B Chairperson Darren Bowie, that a number of residents and businesses wished to provide additional comments to the Board on the Petitioners' moratorium request. As a result, the Board voted seven (7) to zero (0) on January 19, 2005, to keep the record open for additional comments from the public on the Petitioners' moratorium request until April 19, 2005, with the Board rendering a decision on the Petitioners' moratorium request by May 19, 2005. Additionally, the Board voted on January 19, 2005, to extend the existing East Dupont Circle Moratorium Zone on an emergency basis based upon testimony provided to the Board by the Petitioners at the public hearing, as well as letters submitted in favor of extending the moratorium by various District of Columbia residents. Specifically, the Board found that the present conditions in the East Dupont Circle Moratorium Zone, as listed above, justified an extension of the moratorium pending the closing of the comment period regarding the Petitioners' moratorium request on April 19, 2005 and subsequent Board decision by May 19, 2005.

A second public hearing was held by the Board, pursuant to D.C. Official Code § 25-354 (2001), on May 11, 2005, to receive additional comments from the public on the Petitioners' moratorium request. Specifically, the second hearing was conducted in response to a written request from the Petitioners, dated March 21, 2005, for an additional hearing to present evidence on issues raised by their proposed extension of the East Dupont Circle Moratorium Zone. The Petitioners' March 21, 2005 letter also contained two (2) separate proposals that included recommendations that differed from their original joint petition to the Board to renew the East Dupont Circle Moratorium Zone in its current form for six (6) months. For example, DCCA's and DC MAP's revised proposals contained requests to modify provisions of the existing moratorium as well as to change the time period for the new moratorium to five (5) and three (3) years, respectively. As a result, the Board voted on Wednesday, March 23, 2005 to extend the comment period on the Petitioners' moratorium request until May 11, 2005, to provide members of the public with sufficient time to comment on the Petitioners' original

moratorium request as well as the two separate proposals contained in the Petitioners' March 21, 2005 letter.

The Board received a significant amount of detailed testimony and comments, both in favor and in opposition to (1) the Petitioners' original moratorium request and (2) DCCA's and DC MAP's separate proposals contained in the Petitioners' March 21, 2005 letter. For example, the Board received comments from Ward Two Councilmember Jack Evans, ANC 2B, the Office of Planning, the Metropolitan Police Department ("MPD"), the Bay State Tenants' Association, Inc., the Restaurant Association of Metropolitan Washington ("Restaurant Association"), as well as numerous Dupont Circle residents and other District of Columbia organizations. The Board found the testimony and comments provided in response to the Petitioners' original November 24, 2004 moratorium request, as well as the two separate proposals contained in the Petitioners' March 21, 2005 letter, to warrant imposing a limit on the number of retailer's licenses Class A, B, CR, CT, CN, CX, DR, DN, DT, and DX issued in the East Dupont Circle Zone, based upon the appropriateness standards set forth in D.C. Official Code §§ 25-313(b)(2) and 25-313(b)(3) (2001).

In reaching its decision, the Board gave great weight to the written recommendations of ANC 2B as required by section 13(d)(3) of the Advisory Neighborhood Councils Act of 1975, effective October 10, 1975, D.C. Law 1-21, D.C. Official Code § 1-309.10(d)(3) (2001), as amended, and D.C. Official Code § 25-609 (2001). ANC 2B voted to extend the existing East Dupont Circle Moratorium by a 6-3 vote taken at a duly called public meeting on March 9, 2005. In reviewing the recommendation of ANC 2B as well as the proposals submitted by the Petitioners, the Board finds based upon the appropriateness standards set forth in D.C. Official Code §§ 25-313(b)(2) and 25-313(b)(3) (2001), that the testimony and evidence put forward by DCCA, ANC 2B, and various individual residents located in or in proximity to the East Dupont Circle Moratorium Zone reveals that significant problems with peace, order, and quiet, particularly with respect to late night noise, litter, public urination, and vehicular and pedestrian safety, as well as parking problems continue to exist, particularly after 8 p.m., in the East Dupont Circle Moratorium Zone. For example, the testimony of Frank Hornstein with regard to the DCCA Dupont East Parking Survey revealed that there are significant residential parking and vehicular and pedestrian safety problems, including illegal parking, caused in part by patrons of ABC establishments on the 17th Street, N.W., corridor. Additionally, the DCCA Dupont East Parking Survey revealed that parking problems are at their worst in the East Dupont Moratorium Zone between 8 p.m. and Midnight. These residential parking and vehicular and pedestrian safety problems were also supported by testimony and written comments from various nearby residents, such as Judith Neibrief, Ralph Johanson, and Lex Rieffel. The Board did not find, however, that the ABC establishments in the East Dupont Circle Moratorium Zone are adversely affecting real property values in the surrounding area.

Additionally, the testimony provided by MPD, including Lieutenant Bryan Christian, Third District, whose comments were endorsed by Charles H. Ramsey, Chief of Police, MPD, revealed a number of significant public safety issues, including illegally parked vehicles by patrons of ABC establishments along with vehicular traffic congestion problems in the East Dupont Circle Moratorium Zone. Additionally, Lieutenant Christian indicated that Patrol Service Area 306, which contains the area of the East

Dupont Circle Moratorium, experiences a significant number of quality of life crimes and related problems, including drinking in public, public urination, and panhandling, as well as problems with litter caused by patrons of the ABC establishments who leave empty alcohol bottles on the ground. Finally, Lieutenant Christian indicated that there is a high level of noise pollution as a result of the ABC establishments in this area.

Currently, there are nineteen (19) ABC licenses located in the East Dupont Circle Moratorium Zone. The Board found the testimony of ANC 2B and DCCA -- in recommending that revoked or cancelled licenses be permitted to be replaced by licensees of the same class and sub-class -- to support maintaining the current limit of nineteen (19) ABC licenses permitted to be issued in the East Dupont Circle Moratorium Zone. However, the Board found the testimony and comments it received to reveal that there is both a need and neighborhood support to modify the existing number of Class CR or Class DR licenses in the East Dupont Circle Moratorium Zone. Specifically, testimony provided by DC MAP established that there are existing food establishments in the East Dupont Circle Moratorium Zone that (1) have neighborhood support; (2) operate as restaurants, and (3) would not likely have a significant adverse effect on peace, order, and quiet, or residential parking and vehicular and pedestrian safety, should they obtain a Class CR or Class DR license. For example, the Board received both testimony and signed petitions, including from numerous residents in ANC 2B, in support of an ABC license for the existing neighborhood restaurant Pasha Bistro located at 1523 17th Street, N.W., which testimony revealed has been a positive addition to the neighborhood. Additionally, the Board heard testimony and received comments from residents who believed that more Class CR and Class DR retailer's licenses should be permitted. For example, Dupont resident Robert Barker noted that the 17th Street, N.W., business district has remained flat and stated that he would like to see new and improved restaurants come to the 17th Street, N.W., area. Furthermore, the Board received testimony and comments from Lynne Breaux, Executive Director, Restaurant Association Metropolitan Washington, and Paul Cohn, Capital Restaurant Concepts, Ltd., about the need to provide new fine dining restaurants an opportunity to locate in the East Dupont Circle Moratorium Zone. After considering this testimony, the Board has decided to modify the existing moratorium to permit the issuance of three (3) additional Class CR or Class DR retailer's licenses and to place a limit on the number of retailer's licenses in the East Dupont Circle Moratorium Zone as follows: Class A - Two (2); Class B - Two (2); Class CR or Class DR - Fifteen (15); Class CT or Class DT - Three (3); Class CN or DN - Zero (0); and Class CX or Class DX - Zero (0). While the testimony presented at the May 11, 2005 hearing established that a significant number of patrons walk to the ABC establishments located in the East Dupont Circle Moratorium Zone, the Board believes that it is necessary to allow only three (3) additional Class CR or Class DR licenses in light of the fact that permitting more than three (3) new Class CR or Class DR licenses would cumulatively start to have a direct adverse impact on the limited amount of parking currently available, as well as increase the amount of noise, such as the noise generated by an increase in the amount of outdoor seating, in the East Dupont Circle Moratorium Zone.

ANC 2B voted on March 9, 2005 in favor of a four (4) year extension of the East Dupont Circle Moratorium, whereas the modified requests of DCCA and DC MAP urged for a five (5) year and three (3) year extension, respectively. After evaluating all the testimony and comments, the Board concluded that a three (3) year extension period, as sought by

DC MAP, is the most appropriate. Specifically, comments from ANC 2B, Councilmember Evans, and various residents revealed that ANC 2B has appointed a committee to examine the creation of a zoning overlay in the 17th Street, N.W., corridor as an acceptable long-term substitute for an ABC moratorium. The Board concluded that a three (3) year extension should be sufficient to determine whether progress can be made in creating a zoning overlay. Furthermore, the testimony of DC MAP, licensed establishments, and individual residents revealed that while problems with criminal activity, litter, noise, parking, and vehicular and pedestrian safety still exist in the East Dupont Circle Moratorium Zone to justify imposing a limit on the number of licenses issued, these problems appear to be decreasing and worth re-examining at the end of a three (3) year moratorium period. Specifically, the testimony of DC MAP and several East Dupont Circle businesses and residents revealed that the number of patrons visiting the East Dupont Circle Moratorium Zone has started to decline, in part due to the moratorium as well as the surrounding commercial growth of nearby areas with new ABC establishments including both the U Street, N.W., and 14th Street, N.W., corridors.

ANC 2B recommended four (4) modifications to the existing moratorium, all of which are supported by DCCA. First, ANC 2B requested that the holder of an existing Class DR license be permitted to request a change of license class to Class CR. The Board found merit in creating this exception based upon the testimony and comments it received on this issue, including from ANC 2B Commissioner Ramon Estrada, DCCA, DC MAP, the Restaurant Association, and Johnny Monis, who is the chef/owner of Komi located at 1509 17th Street, N.W.

Second, ANC 2B recommended that "[i]f a license used at a location within the East Dupont Circle Moratorium Zone is transferred outside the East Dupont Circle Moratorium Zone or is revoked or otherwise cancelled, a license of the same class and sub-class as that license may be transferred to a location within the East Dupont Circle Moratorium Zone." This recommendation is intended to prevent the overall number of licensed establishments from being reduced merely because an existing licensee goes out of business. Commissioner Ramon Estrada's testimony indicated that the ANC's recommendation was limited to transfers of existing licenses to ensure that the licensee had a track record that could be examined by ANC 2B. The Board, based upon testimony submitted by the Restaurant Association and individual residents, however, finds that allowing a license application to be filed in these circumstances by either a new or existing license holder is a more equitable approach - provided that the granting of the license application will not exceed the number of licenses permitted in the East Dupont Circle Moratorium Zone for that particular class or sub-class.

Third, ANC 2B recommended that the holder of a Retailer's license Class C or Class D within the East Dupont Circle Moratorium Zone should be able to apply for outdoor seating in public space. The Board agrees with this recommendation, which was supported by DCCA, as the Board found it helpful in clarifying that the existing prohibition on lateral expansion is not intended to apply to outdoor seating in public space.

Fourth, ANC 2B recommended that ABC licensees within the East Dupont Circle Moratorium Zone not be permitted to request a transfer or change of license class to Class CT or Class CN. This recommendation was also supported by DCCA and several

nearby residents. In light of the Board's decision to allow for three (3) additional Class CR or Class DR licenses, the Board found merit in not allowing restaurants to convert to tavern or nightclub licenses. Specifically, not permitting establishments licensed as restaurants to change their class of license to taverns or nightclubs will help to limit further problems of late night noise in the neighborhood, of which numerous nearby residents complained. Prohibiting conversion of restaurant licenses to tavern or nightclub licenses will also help to focus new restaurants on their food sale requirements in order to qualify as restaurants in the neighborhood. The Board did not adopt the suggested prohibition on transfers contained in this modification, as it was inconsistent with other language supported by ANC 2B and DCCA, which permitted applications to be filed for a transfer of ownership and in some cases a transfer to a new location.

The Board also heard testimony from several licensees, including John Colameco, Owner, Peppers Restaurant; Paul Katinas, Owner, Annie's Paramount Steak House; and Dimitri and George Mallios, Owners, Trio Restaurant, requesting that the Board not renew or, alternatively, that the Board relax the existing limitations on lateral expansion as contained in the DCCA petition. For example, the testimony of Dimitri and George Mallios revealed that they were in favor of lifting or modifying the lateral expansion prohibition to allow them to expand Trio Restaurant into an existing frame shop. Additionally, the testimony of John Colameco indicated that he desired to expand Peppers Restaurant to include, among other things, outdoor roof deck seating. However, based upon the testimony and written comments from ANC 2B, DCCA, and various residents, the Board determined that failing to renew the existing lateral expansion prohibition as contained in DCCA's petition would adversely affect (1) peace, order and quiet, and (2) residential parking and vehicular and pedestrian safety in the East Dupont Circle Moratorium Zone. Specifically, the testimony of resident David Mallof revealed that removing the lateral expansion provision would dramatically increase the existing number of ABC licensed seats in the East Dupont Circle Moratorium Zone, having an adverse impact on peace, order, and quiet, including late night noise, and residential parking. In light of the testimony of Mr. Mallof and several licensees, the Board concluded that removing the lateral expansion prohibition would result in a much greater adverse impact to the neighborhood under D.C. Official Code §§ 25-313(b)(2) and 25-313(b)(3) (2001) than allowing three (3) additional Class CR or Class DR licenses in the East Dupont Circle Moratorium Zone. The Board notes that D.C. Official Code § 25-351(a)(2) provides the Board with the authority to renew the lateral expansion prohibition as it allows the Board to declare a moratorium on the issuance of licenses that constitute a substantial change.

The statements set forth above reflect the written reasons for the Board's decision as required by subsection 303.1 of Title 23 DCMR (2004).

The emergency action is necessary to: (1) ensure that the limitations placed on the issuance of new retailer's licenses Class A, B, CR, CT, CN, CX, DR, DT, DN, and DX are not exceeded; and (2) prevent the filing of license applications involving lateral expansion requests, which the Board has determined pursuant to D.C. Official Code §§ 25-313(b)(2) and 25-313(b)(3) (2001) would:

(1) (1) have an adverse effect on peace, order, and quiet; and
(2) (2) have an adverse effect on residential parking needs

and vehicular and pedestrian safety.

These emergency rules were adopted by the Board on May 18, 2005. The rules became effective on that date. The emergency rules will expire 120 days from the date of effectiveness or upon publication of a Notice of Final Rulemaking in the D.C. Register, whichever occurs first.
The Board also gives notice of its intent to adopt these proposed rules in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

Pursuant to D.C. Official Code § 25-211(b)(2) (2001), these proposed rules are also being transmitted to the Council of the District of Columbia, and the final rules may not become effective until their approval by Council resolution during the ninety (90) day period of Council review.

Title 23 DCMR, Chapter 3 (Limitations on Licenses), is amended by replacing the existing section 306 to read as follows:

306. EAST DUPONT CIRCLE MORATORIUM ZONE

306.1 A limit shall exist on the number of retailer's licenses issued in the area that extends approximately six hundred (600) feet in all directions from the intersection of 17th and Q Streets, N.W., Washington, D.C., as follows: Class A - Two (2); Class B - Two (2); Class CR or Class DR - Fifteen (15); Class CT or Class DT - Three (3); Class CN or DN - Zero (0); and Class CX or Class DX - Zero (0). This area shall be known as the East Dupont Circle Moratorium Zone.

306.2 The East Dupont Circle Moratorium Zone is more specifically described as beginning at New Hampshire Avenue and S Street; East on S Street to 17th Street; South on 17th Street to Riggs Place; East on Riggs Place to 16th Street; South on 16th Street to P Street; West on P Street to 18th Street; North on 18th Street to New Hampshire Avenue; and Northeast on New Hampshire Avenue to S Street, N.W.

306.3 All hotels, whether present or future, shall be exempt from the East Dupont Circle Moratorium Zone.

306.4 Nothing in this section shall prohibit the Board from approving the transfer of ownership of a Retailer's license Class A, B, CR, CT, DR, or DT located within the East Dupont Circle Moratorium Zone, subject to the requirements of the Act and this title.

306.5 Nothing in this section shall prohibit the Board from approving the transfer of a license from a location within the East Dupont Circle Moratorium Zone to a new location within the East Dupont Circle Moratorium Zone.

306.6 A license holder outside the East Dupont Circle Moratorium Zone shall not be permitted to transfer its license to a location within the East Dupont Circle Moratorium Zone unless the transfer will not exceed the number of licenses permitted in the East Dupont Circle Moratorium Zone for that particular class or sub-class, as set forth in Section 306.1.

306.7 Subject to the limitation set forth in Section 306.8, nothing in this section shall prohibit the filing of a license application or a valid protest of any transfer or change of license class.

306.8 No licensee in the East Dupont Circle Moratorium Zone shall be permitted to request a change of license class to CT, DT, CN, or DN.

306.9 As of December 19, 2000, and at any time during the pending or renewed effective dates of the East Dupont Moratorium Zone established by this section, current holders of a Retailer's license Class A, B, C, or D within the East Dupont Moratorium Zone shall not be permitted to apply to the Board for expansion of service or sale of alcoholic beverages into any adjoining or adjacent space, property, or lot, the prior owner or occupant of which has not held within the last five (5) years a Retailer's license Class A, B, C, or D, or which has had a certificate of occupancy or building permit held in the name of any person other than the current holder of a Retailer's license Class A, B, C, or D within the East Dupont Moratorium Zone at any time within a period of five (5) years. Nothing in this section shall prohibit the Board from approving any application pending prior to December 19, 2000, subject to the requirements of Title 25 of the District of Columbia Official Code, nor shall this section prohibit holders of a Retailer's license Class C or D from applying for outdoor seating in public space.

306.10 This section shall expire three (3) years after the date of publication of the notice of final rulemaking.

Copies of the proposed rulemaking can be obtained by contacting Fred Moosally, General Counsel, Alcoholic Beverage Regulation Administration, 941 North Capitol Street, N.E., 7th Floor, Washington, D.C. 20002. All persons desiring to comment on the proposed rulemaking must submit their written comments, not later than thirty (30) days after the date of publication of this notice in the D.C. Register, to the above address.