

Advisory Neighborhood Commission 2G
501 New York Avenue, N.W.
BZA Case No. 21177– D.C. Department of General Services

Advisory Neighborhood Commission 2G’s Response to Department of General Services Supplemental Filing

Advisory Neighborhood Commission 2G (ANC 2G) submits this Response to the Applicant’s Supplemental Filing submitted into the record on November 1, 2024.

Introduction

Pursuant to D.C. Board of Zoning Adjustment’s October 31, 2024 Memorandum, the Applicant, the Department of General Services (DGS), was directed to provide additional information on the perimeter fencing to be added and the District Department of Transportation’s mandate on the distance of parking spaces from crosswalks (18 DCMR 2405.2(c)). ANC 2G’s response to the Applicant’s submittal is set forth below.

I. Perimeter Fencing

Like the film proposed on the windows, this late addition to the relocated Central Cell Block’s (CCB) design has not been approved by the Historic Preservation Office. While it provides necessary security and deters pedestrians and passersby from entering onto the CCB property, it does have unavoidable aesthetic impacts and is wholly out of harmony with the residential and neighborhood commercial uses it borders. There is no fencing currently on site and the addition of seven-foot high “walls” around the entirety of the property will result in a fortress-like structure out of place in this residential community. Given the surrounding community, this special exception use and the security measures required for its safe operation simply do not fit.

II. 18 DCMR § 2405.2(c)

Exhibit 158, the October 29, 2024 email from DDOT is left unaddressed in the Applicant’s filing. In it, DGS states that they will “work with all required agencies: and that the requirement does not “materially impact the project or the subject application.” This is patently false. If the Applicant is held to the same standards as other similarly situated yet private homeowners, then it most certainly affects the number of parking spaces it will be possible to provide on the site as demonstrated in the calculations in AN 2G’s October 23, 2024 Response. The ANC understands that there is no parking requirement here. What bears recognition and consideration is that insufficient though technically compliant parking presents a host of adverse impacts to this already highly-trafficked area. The use being proposed centers on constant transportation and that transportation’s seamless operation (and corresponding lack of adverse impacts to the surrounding community) depends on the parking scheme’s provision for the smooth execution of dropping off and picking up of the detainees. With the necessary reduction in parking comes an unavoidable challenge to that seamless operation and the effects will be suffered by the businesses and residences around 501 New York Avenue, N.W.

A portion of the fence that runs along New York Avenue, up 5th Street and then down L Street on the east appears to enclose the National Park Services' (NPS) Reservation 177, 994 square feet not owned by the District. The ANC would like to know if the NPS was consulted regarding the relocation and if they have obtained authorization to use this portion of land.

III. Extension of Building Permit No. B2301285

Due to the original building permit's expiration on November 6, 2024, the Applicant applied for an extension on November 5, 2024. That extension was approved on November 6, 2024. The associated permit application report for the requested extension (found on eRecords) is entirely blank. Absolutely no justification for the extension request is given nor the revised plans, or any supporting documentation for that matter, provided. What is the point of the extension application process if there is no standard of justification? Any extension application by the Applicant should have included, at a minimum, a letter detailing the status of the special exception review and the revised plans that have resulted. The plans now have an unapproved window film and a seven-foot-high fence – neither of which was approved or reviewed through the original permit application. It is difficult to reconcile the standard process that other applicants have been subjected to and the expedited treatment DGS has been given – even after they omitted critical step of filing for special exception approval.

IV. Conditions

So far, the Applicant has proposed seven conditions. In addition to those, the ANC asks that the Board include the following additional conditions if it approves the application:

1. Applicant agrees that no detainees will be released from the CCB.
2. Applicant agrees that it will not seek an extension of the special exception upon the expiration of the eight-year term and will include a provision in any potential contract for sale of the property that prohibits any successor in interest from doing so.
3. Applicant agrees to comply with the provisions of 18 DCMR § 2405.2(c).
4. Applicant agrees that CCB staff and employees will be prohibited from parking in the off-site residential streets surrounding the property.
5. Applicant agrees that there will be dedicated staff to enforce the “no loitering” signs posted in the public space.
6. Applicant agrees that no staff, employees or detainees will be permitted to congregate in the areas between the building and the perimeter fencing.
7. Applicant agrees not to seek any after-hours construction permits.
8. The Director of the Department of Corrections and the Director of the Department of General Services shall respond to any email from ANC 2G or 6E regarding the CCB within 24 hours.
9. The proposed DGS/ DOC liaison will provide an email and phone number by which community members may contact them and will respond to emails within 24 hours.
10. Applicant agrees to post signs at all on-street parking spaces prohibiting their use for detainee van transport staging so that only the area within the fenced perimeter is used for that purpose.

11. Applicant agrees to comply with the D.C. Noise Control Act – 20 DCMR Chapters 27-29.
12. Applicant agrees that no emergency response vehicles (including, but not limited to police cars, ambulances and fire trucks) traveling to or from the CCB will use sirens within a two-block radius of the site.
13. In the event that traffic accidents and traffic jams occur as a result of the CCB's operations, the Applicant will return to the Board to address additional traffic mitigation and public safety measures.

In the event that any of these conditions are not adhered to, the ANC requests that the Applicant be required to return to the Board to present its plan for correction. If no satisfactory plan is presented and the noncompliance continues, the ANC requests that the result be certificate of occupancy and special exception approval revocation.

Even with all of the above conditions in place, it is still the position of the ANC that the special exception standards are not met here and that the adverse impacts to the neighborhood are too great to justify an approval. It should speak to the “fit” of the proposal into the space proposed that so many conditions are required for mitigation purposes – at some point, the plethora of conditions needed highlights the incongruity of the use with the location.

Conclusion

The ANC reiterates that it agrees that a temporary location for the CCB is needed, but knows that there are locations that will meet the special exception standards so that detainees are afforded humane, clean and safe accommodations while in the District's custody. That location is not 501 New York Avenue, N.W. 515 D Street, N.W. is a vacant, District-owned building with a garage located across from the courthouse. 510 4th Street, N.W. is a federal building currently comprising cells close to the courthouse. The point here is that both objectives can be met – renovations to the Daly building that allow for improved conditions for detainees AND a temporary location that does not shift the adversity onto the surrounding neighborhood.

Additionally, there is more to review here. DDOT and HPO's reviews are incomplete and the issue of detainee release is still in question. Mr. Baldwin and Ms. Semyonova testified that the “no paper” determination is often made prior to transport to Superior Court meaning any extension of their custody to prevent them departing from the CCB would be unconstitutional. Similarly, any attempt to change the process to artificially prolong their custody by requiring prosecutors to wait until the detainees were at the Court would be unlawful. Detainees have been and should be free to leave the moment the decision not to bring charges is made regardless of their physical location.

As the Chair articulated and the Vice Chair reiterated at the October 9, 2024 hearing, “if the Board were to approve this application, the facility would have to operate in such a way that the residents don't even know it's there.” 10.9.24 Transcript at 279 & 282. Over approximately seven and a half hours of hearing time and 181 exhibits, over 100 residents and business owners and both affected ANCs provided testimony in opposition to the proposal. The overwhelmingly negative community response and the recommendations of *two* Advisory Neighborhood Commissions should not be ignored. The ANC's

recommendations must be afforded great weight. ANC 2G's vigilance is the very reason this application is before the Board and ANC 6E echoes 2G's disapproval of the proposal. The significant shift in intensity of use, increases in vehicular and pedestrian traffic, noise and public demonstrations and the structural modifications/ aesthetic alterations necessary to make this use fit into this space safely represent adverse impacts to the surrounding neighborhood that preclude the approval of the special exception.

We appreciate the Board's consideration and ask that the application be denied given the significant adverse impacts to the community.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on **November 8, 2024**, a copy of the foregoing Response for BZA Case No. 21177 was served via email, on the Applicant's counsel, Meredith Moldenhauer – mmoldenhauer@cozen.com and Advisory Neighborhood Commission 6E – 6E01@anc.dc.gov.

By: /s/ Tracy L. Themak