

## **ATTACHMENT #2**

### **2/16/19 Meeting Agenda & Resource Materials**

## AGENDA

Special ANC 5E07 Neighborhood Meeting on  
Conditions of Use of 1724 North Capitol St. NW as  
A Sit-Down Jam Doung Restaurant (BZA Case #19887)  
Saturday, February 16, 2019, St Martins Church, 4 - 6:30 pm

- GREETINGS & INTRODUCTIONS
- BACKGROUND/CURRENT STATUS/QUESTIONS - The Owners' vision of a sit-down Jam Doung; What & Why of a "Variance in Use"; The BZA process; Current status of BZA case #19887
- OUR TASK TODAY: DEVELOPMENT OF A NEIGHBORS/OWNERS AGREEMENT OF CONDITIONS OF USE - BZA requirements and OP guidance as noted in 'Jam Doung Meeting Documents'; Questions; Identification of persons who will sign Final Agreement (Comm. Holliday)
- REVIEW AND BRAINSTORMING OF A NEIGHBORS/OWNERS AGREEMENT (unsigned) of 1/27/19 - Review and discuss ALL areas of concern and their related strategies/provisions for additions, deletions, modifications and/or 'no change' (Moderated by Comm. Holliday).
- TOWARDS AN AGREEMENT (Moderated by Comm. Holliday)
  - Response of Jam Doung owners to REVISED identified areas of concern and associated strategies (agreement/disagreement and rationale)
  - In search of 'common ground' - Comments of agreement/disagreement to revised strategies by residents (Can residents and owners live with identified strategies? Do residents and owners think the areas of concern and each of their associated strategies might positively impact the neighborhood and its business community?)
  - Final revision of strategies
  - Drafting an Agreement - Designating Neighbors who will help draft Agreement with owners & Commissioner based on final revision of strategies; major content of Agreement; timelines for ensuring Agreement submission to BZA by February 25, 2019; other related issues/procedures
- WRAP-UP

*Thank You for Coming and Contributing to*  
**THE BETTERMENT OF OUR NEIGHBORHOOD!!**

## MENMORANDUM

**DATE:** January 27, 2019

**TO:** DC Office of Planning  
DC Board of Zoning Adjustment  
(via IZIS)

**RE:** Case # 19887, Jam Doung Restaurant, 1724 North Capitol Street, NW  
Request for Variance in Use

**SUBJ:** Proposed Agreement of Stipulations between Neighbors and Owners

**FROM:** Janet Stedman, Co-Owner, Jam Doung Restaurant  
Bertha G. Holliday, ANC5E07 Commissioner

On Saturday January 19, 2019, the owners of Jam Doung Restaurant met for nearly 4 hours with Bloomingdale residents living within 200 feet of the proposed location. This meeting focused on addressing concerns about the impact of the take-out restaurant's planned move to a next-door building and conversion of Jam Doung's operations to a sit-down restaurant. The discussion was publicly announced and facilitated by ANC 5E Commissioner Bertha Holliday.

At the meeting, Jam Doung owners and neighbors agreed to the following stipulations, if a variance is granted. These stipulations will be submitted to the Office of Planning and Board of Zoning Adjustment (via IZIS) for review prior to the upcoming 1/30/19 BZA decision hearing on Jam Doung's application for a variance in use. However, after this meeting, the Office of Planning released its follow-up report on case #19887. Despite OP's failure to consult with Jam Doung owners regarding OP's proposed stipulations, some of the neighbors viewed OP's stipulations as having greater authority, while being supportive of some of their concerns. Consequently, no neighbor could be identified who was willing to sign the Agreement that had been crafted at the January 19 meeting. We request that the following stipulations (which were jointly approved by owners and neighbors) be considered for incorporation into any decision BZA may make regarding Jam Doung's application.

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### Noise

-Jam Doung will not have live, recorded or amplified music in, on, or above any outdoor space on the property.

-Jam Doung will install sound insulated walls on second floor patio for walls facing residents in order to abate noise, if the roof-top deck is permitted.

-Jam Doung will install and maintain planters, plantings and/or shrubberies for the purpose of abating noise emanating from the proposed sidewalk cafe, if a sidewalk cafe is approved.

## **Hours**

- Allowable hours of operation: Indoor -- kitchen will close by 10 PM, restaurant closes at midnight or earlier.
- All proposed outdoor seating areas close at 9 PM or earlier.

## **Parking**

- Jam Doung will take all necessary steps to request DDOT install bollards or apply street markings to abate illegal parking on the north side of Randolph Place NW at the North Capitol Street NW
- Jam Doung in collaboration with the Unit Block of Randolph Place NW Neighbors will take all necessary steps to request DDOT convert one side of Randolph PI NW to Resident Permitted Parking only until midnight.
- Jam Doung in collaboration with the Unit Block of Randolph Place NW Neighbors will take all necessary steps to ensure delivery vehicles to Jam Doung do not impede traffic flow on Randolph Pl., including requesting that DDOT identify a Loading Zone with limited hours.
- Jam Doung in collaboration with the Unit Block of Randolph Place NW Neighbors will take all necessary steps to request DDOT install a bike rack near the restaurant.
- Jam Doung will support traffic and parking remediation initiatives supported by 50% or more of the Unit Block of Randolph Place NW residents.
- Jam Doung in collaboration with Unit Block of Randolph Place NW Neighbors will request DDOT to designate a "drop off" location for taxis and ride shares

## **Trash**

- Jam Doung will retain a private contractor(s) to remove trash, garbage, and grease at least twice (2) per week.
- Jam Doung will retain a private contractor to remove trash for recycling at least once (1) per week.
- All refuse contractors will not block traffic or impede traffic flow on the Unit block of Randolph Place NW when removing, trash, garbage, grease, and recyclables.
- If permission is granted to have a dumpster placed on Randolph PI NW, a screen, fence or barrier will be installed to minimize visual impact and rodent access.

-Jam Doung will evaluate the use of a refuse compacting machine and the availability of DC grants for purchase of such a machine by restaurants.

-Jam Doung will maintain a trash and snow-free sidewalk on its property and abutting public space such as tree boxes..

### **Pest/Rodent Control**

-Jam Doung will maintain a contract with a pest abatement (interior and exterior) service provider

### **Sewage**

-Jam Doung will request that DC Water ensure current City sewer lines are sufficient for accommodating increased restaurant use.



**MEMORANDUM**

**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Jonathan Kirschenbaum, Case Manager  
    JL Joel Lawson, Associate Director Development Review  
**DATE:** January 29, 2019  
**SUBJECT:** Supplemental Report #2 for BZA Case 19887 (1724 North Capitol Street, NW) to permit a restaurant use on the first floor and second floor of a row building.

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**I. BACKGROUND**

OP filed its first supplemental report to the record on January 23, 2019 (Exhibit 54). The supplemental report reiterated OP's support for the use variance relief for the main floor, but noted that, in OP's opinion, the applicant had still not made a sufficient case indicating a hardship associated with the second-floor space that warranted a use variance to use the second floor as a commercial restaurant.

OP's prior supplemental report included *suggested* operating conditions, in the event the Board weighs all the available evidence, including testimony from the applicant, the ANC, and the area residents who are in support and in opposition to the relief, and determines that the applicant has made a sufficient hardship case to permit the use variance on the first and second floors. OP generally based these suggested conditions on ones mentioned in written submissions from area residents, and the report clearly stated that any final operating conditions should be agreed to by the applicant, the ANC, and the neighbors.

Since the supplemental report was filed to the record, the applicant filed additional materials to the record detailing a community meeting that was held on January 19<sup>th</sup>, 2019 (Exhibits 55 and 55A) with area residents residing within 200 feet of the subject premises invited to attend. The Commissioner of ANC 5E07 facilitated a discussion between neighbors in attendance and the applicant over specific operating conditions. The specific conditions, which the applicant states were agreed upon by the applicant and the neighbors in attendance, can be found in Exhibit 55.

As stated previously, the operating conditions listed in the previous supplemental report were suggestive only, and were intended to provide some guidance to the Board. OP has no major objection to the proposed operating conditions in Exhibit 55, and, if the Board decides to approve this proposal, no objection to the Board using those conditions related to the use of this building.

OP does note that a trash dumpster placed on Randolph Street, NW would require approval by DDOT's public space committee, and some other conditions related to street signage and traffic may be considered by the BZA to be beyond the normal scope of a BZA case, so may need to be addressed through the applicant and the ANC working directly with DDOT.

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Board of Zoning Adjustment



January 31, 2019

**Memo to file:**

Re: BZA Application No. 19887

In response to the three, properly filed motions to reopen the record (Ex. 56, 57 and 59), at the public meeting on January 30, 2019, the Board of Zoning Adjustment decided to reopen the record for the application. The items requested in the motions have been uploaded to the record accordingly.

The Board has also requested that the following items be submitted to the record:

- 1) A list of proposed conditions to be developed by the Applicant and the Community. Due on **February 25, 2019**.
- 2) A supplemental report from the Office of Planning addressing the proposed conditions.

The Board scheduled the case for a limited scope hearing on the proposed conditions on **March 6, 2019**.

If you have questions, please contact our office at 202-727-6311.

SINCERELY,

A handwritten signature in dark ink, appearing to read "Clifford W. Moy". The signature is fluid and cursive, with a long horizontal stroke at the end.

**CLIFFORD W. MOY**  
Secretary, Board of Zoning Adjustment  
Office of Zoning

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441 4<sup>th</sup> Street, N.W., Suite 200/210-S, Washington, D.C. 20001

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Board of Zoning Adjustment

District of Columbia

CASE NO. 19887

EXHIBIT NO. 60

**From:** Lawson, Joel (OP)  
**Sent:** Monday, February 4, 2019 12:21 PM  
**To:** Holliday, Bertha G. (SMD 5E07) <5E07@anc.dc.gov>  
**Cc:** janet stedman <p2705191@yahoo.com>  
**Subject:** RE: REQUEST FOR GUIDANCE RE UPCOMING NEIGHBORS/OWNERS MEETING RE JAM DOUNG (#19887)

Good afternoon, Commissioner Holliday – thank you for the email. I will go through your points one by one, to make sure that I provide a response to each.

- what should and should not be the focus of the required Agreement between Neighbors and Owners?
- the appropriateness of discussion of agreement/disagreement with items related to USE that have been approved by BZA -- e.g., right for restaurant to include use of the 2nd floor, right to have a Sidewalk Cafe and Rooftop Garden (with final approval by DDOT as these involve public space), etc.

While I would not instruct an ANC or a neighborhood on what to discuss at a community meeting, I believe that you are very much correct that the Board of Zoning Adjustment gave instructions that the record is only left open for community discussion regarding conditions of use for the restaurant, including on the first and the second floor. The BZA as a whole stated that they were satisfied that the applicant had met the test for the variance for the use of both floors of the building for restaurant use, and that this would not be part of any further deliberations by them.

By Rooftop Garden, I am assuming that you mean the restaurant terrace on the second floor. That was part of the BZA's use related discussion for the second floor. However, it is within my understanding of the BZA's discussion that they would welcome community discussion regarding any conditions related to the use of this space.

Any proposal for a sidewalk café, however, is essentially outside the scope of the BZA approval. For that, the owner would need to have discussions with the DDOT Public Space Committee.

- modification of language regarding requests for approval from DDOT (e.g., loading zone, customer drop-off zone, Residential Parking Permits, etc.) Such issues were a major concern of neighbors.

This is a tricky one. Typically, many of the issues raised in earlier discussions would be considered outside the scope of normal BZA consideration, and are under the authority of DDOT. It would be up to you, the community and the owner, as part of any agreement to decide if you wish to include them in your agreement. However, such conditions, if related to public street parking, could be outside the scope of the BZA to enforce. As such, the owner could be agreeing to conditions that they cannot fulfill; if DDOT does not allow them, the owner might then have to go back to the BZA to request a modification to the Order to remove the conditions. Instead, the community could include conditions related to the applicant making "good faith efforts" to work with



DDOT, or instead of making them conditions of the BZA approval, the community, through the ANC, could come to a separate agreement with the owner outside the scope of the BZA consideration.

- whether or not the Agreement report should include mention of those provisions on which consensus could not be reached

The BZA will be most interested, I think, in conditions for which there was general agreement but they are experienced enough to know that is not always possible. In the end, it is the Board's decision what to include as conditions of approval, so if the community felt it was important to include mentions of conditions that were not agreed to, that would be your decision and I don't think that would be outside the scope of what the BZA asked for.

- who should be the signers of the document (e.g., designated representatives of owners, neighbors, ANC5E)

Typically, because the ANC is given great weight, the Board will want to be sure that any conditions are agreed to by the applicant and the ANC. Having directly impacted neighbors indicate agreement would also be important.

- any other suggestions you might have that might promote common ground, consensus, and the drafting of a solid Agreement between neighbors and owners.

I don't think so, other than the obvious suggestions that any conditions need to be enforceable, should be reasonable, and should relate to the relief requested by the applicant.

You seem to have this very well organized, so OP and the Board will be interested in seeing the results of the community discussions.

<image001.png> **Have a good day.**

**Joel Lawson** • Associate Director, Development Review

DC Office of Planning