

PETITION FOR THE ESTABLISHMENT
BEFORE THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD

THE MORATORIUM ON ISSUANCE OF NEW
RETAILER'S LICENSES IN THE HISTORIC
14TH AND U STREET CORRIDOR

Submitted by:

The Shaw-Dupont Citizens Alliance

And

The Residential Action Coalition

DATE: 12/10/12

BEFORE THE DISTRICT OF COLUMBIA ALCOHOLIC BEVERAGE CONTROL BOARD

PETITION FOR THE ESTABLISHMENT OF THE MORATORIUM ON ISSUANCE OF NEW RETAILERS LICENSES IN THE HISTORIC 14TH AND U STREET CORRIDOR

The Shaw Dupont Citizens Alliance, (SDCA), and the Residential Action Coalition (RAC), incorporated in the District of Columbia, hereby petition the District of Columbia Alcoholic Beverage Control Board to establish a moratorium on the issuance of new retailer's licenses to sell or serve alcoholic beverages in the Historic 14th and U Street Corridor. The Petitioners seek to modify or add other provisions which are detailed in the section: "Actions sought by Petitioners" below. The Petitioners will establish to the Board that present conditions justify an establishment of a moratorium as required under DC Official Code Title 25 § 25-351.

Petitioner Shaw Dupont Citizens Alliance, P. O. Box 73153 Washington, DC 20059 is a civic association whose members are residents of the area bounded by: 12th Street, NW to the east; 15th Street, NW to the west; S Street, NW to the south; and U Street, NW to the north. Concerned with quality of life issues, the SDCA addresses issues of Zoning, Historic Preservation, Alcoholic Beverage Control Licensing, Education, and neighborhood beautification.

Petitioner Residential Action Coalition, 1524 T Street NW, Washington, DC 20009, is a group founded in 1981 to preserve housing and to improve the quality of life of residents living in the historic Dupont Circle neighborhood. Its boundaries are from south to north, M St. to V St. and from east to west 14th St. to Florida Avenue.

Introduction

The character of the Historic 14th and U Street Corridor is one of primarily one and two unit historic row houses with some new high rise infill developments being constructed. While the residents of the 14th and U Street Corridor have supported the growth and development of the neighborhood, it has now become overwhelming clear that there has been a saturation of liquor licenses that has had a negative effect on the community.

Under § 25-352 (d) (3) If the requested moratorium area is a portion, there shall exist in the area at least 9 establishments of the same class or 18 establishments of any class or combination of classes. The designated "portion" of the requested Historic 14th and U Street Corridor Moratorium Zone currently comprises 107 existing liquor licenses in a combination of all classifications of licenses.

In addition to the list of at least 107 existing licenses (Annex-A), there are at least 4 new license applications in process, potentially, soon to be approved, which would bring the total of licenses within the designated "portion" to 111.

In addition to these 111 licenses, there are at least 8 additional properties within the designated "portion", currently under construction, that have been issued building permits for the "proposed use – Restaurant" or "proposed use – Restaurant / Bar" which will bring the total number of licenses that could shortly exist within the designated "portion" to **119 licenses**. This number breakdown is a constantly moving target with licenses being applied for, and approved, faster than we are able to write this moratorium document.

This area has the greatest concentration of alcohol licensed establishments in the city and in fact is significantly higher than any other current Moratorium Zone.

As extraordinary as this over-concentration of licenses may be, perhaps more problematic is the fact that the overwhelming bulk of these 100+ licenses within the designated “portion” of this Moratorium request coincides with the highest frequency of violent and non-violent crime (Annex-B – Police Calls of Service).

The continued explosion of licenses in the Historic 14th and U Street Moratorium Zone has forced the residents to request this Moratorium Zone based on the Appropriateness Standards as specified in § 25-313 (b)(2)(3)(4):

- (2) Effect of these establishment on peace, order, and quiet, including the noise and litter provisions set forth in § 25-725 and § 25-726
- (3) Effect of these establishment on residential parking needs and vehicular and pedestrian safety
- (4) In the case of a license renewal the provisions of this subsection and § 25-315

and § 25-314 (a)(4):

- (4) Whether issuance of the license would create or contribute to an overconcentration of licensed establishments which is likely to affect adversely the locality, section, or portion in which the establishment is located.

These issues have had a negative effect in two distinct ways. First they have regularly imposed extremely stressful conditions for those living in, and in close proximity to, the Moratorium area that currently includes over 16,000 alcohol seats. The over-concentration of establishments brings increased crime, noise, residential parking problems, vehicular and pedestrian traffic at all hours of the night and early morning. Secondly, they have stunted the growth of licenses in neighboring communities where the need/desire for alcohol licensed establishments may be greater.

Description of the Proposed Area for the Historic 14th and U Street Moratorium Zone

In accordance with ABRA statute § 25-352(a)(2), the proposed Zone for this Moratorium request shall be the “portion” measured as per § 25-352(b), an 1800 foot radius circle drawn from ABRA licensed establishment with the trade name (Ben’s) “Next Door”, 1211 U Street NW, DC, 20009, CT License # ABRA-077567

The proposed Moratorium Zone for this application is the “portion” that extends approximately eighteen hundred (1800) feet in all directions from the aforementioned address on U Street between 12th and 13th Street NW, Washington, DC 20009.

The Historic 14th and U Street Moratorium Zone is more specifically described as an 1800 foot radius centered on U Street midway between 12th and 13th Streets NW. The circular zone includes the following in the Northwest Quadrant and extends to the north to Clifton Street, (Between 12th and 13th) to the East at V Street between 8th Street and Georgia Avenue, and to the west at U Street between 15th and 16th Street NW, and to the south on R Street between 14th and 11th Streets, NW. Included east west blocks are both sides of T, U, V, W, and Florida

Avenue between 8th -15th Streets as well as S Street Between 9th and Johnson Avenue, R Street between 10th to 14th Street and Westminster Street between 9th and 10th Street, French Street between 9th and 10th Streets, Swann Street between 14th and 15th Streets, Riggs Street between 13th and 14th, Wallach Place between 13th and 14th Street, and Belmont Street between 13 and 14th Street as well as about 80% of Belmont between 14th and 15th Streets.

North South blocks include both sides of 8th street between T and V both sides of 9th between French Street and Barry Place, both sides of 10th Street between R and Florida Ave, both sides of Vermont Ave between R and Florida Ave, both sides of 11th Street between R and Clifton Street, both sides of 12th street between R and Florida, 12th place between W and Florida Avenue, both sides of 13th Street between R and Clifton Street, both sides of 14th Street between R and Chapin Street and both sides of 15th Street between Swan Street and W Street. (See Attachment Diagram # 1)

Current Zoning and Comprehensive Plan

The proposed area for the Historic 14th and U Street Moratorium Zone is generally, a circle made up of a central core of low density and medium density mixed-use CR, C-2-A and C-2-B, and C-3-A surrounded by low and medium residential uses of primarily R-4, with R-5-B and R-5-D. In the CR, C-2-A, C-2-B, and C-3-A areas of 14th Street and U Street, there is a substantial, and in some blocks, predominant land use in ABC licenses which clearly exceed the newly enacted 50% cap that was implemented to address the chronic problem at DCRA in applying the previous regulatory requirements for the 25% cap.

The ANC 2F ARTS Overlay Review Committee Report¹, which was unanimously endorsed by ANC 1B, details the significant challenges impacting the implementation of the Arts Overlay. The ANC 2F ARTS Overlay Review Committee Report cover letter² states:

“As the attached report indicates, the Uptown ARTS Overlay District is currently at serious risk of losing many of its arts and retail uses. The current ARTS Overlay regulations have been ineffective in incentivizing arts uses, and both arts and retail uses are currently being priced out of this district by restaurant and bars. While restaurants and bars play an important role in promoting nighttime foot traffic in arts districts (and, many times, in partnering with arts uses), restaurants and bars often impair daytime foot traffic (which many arts and retail uses require to survive) and drive up rents. Thus, use limitations on restaurants and bars play an essential role in ensuring development of a vibrant and balanced (arts/retail/restaurants) arts district.”

Additionally the ANC 2F Report states:

“Given the current influx of eating and drinking uses into the ARTS District, a text amendment that modernizes the current limitation along the above lines is urgently needed so that enforcement of this provision by the Zoning Administrator can begin in the ARTS District in early 2010, before the frontage in some parts of this district risks becoming even more over-weight with these uses.”

¹ ANC 2F ARTS Overlay Review Committee Report
<http://www.anc2f.org/files/arts/report/ANC2F-ARTS-Report-Part1.pdf>

² ANC 2F ARTS Overlay Review Committee Report cover letter
<http://www.anc2f.org/files/arts/report/Letter-Reed-OP-Sep262009.pdf>

This was accomplished ³ :

OP Report – ZC Case 10-07, test amendment, ARTS Overlay District April 15, 2010
D. Require that any additional eating / drinking establishment proposal, once the 50% limit on a block is achieved, would require variance approval, rather than special exception approval permitted for other provisions of the ARTS Overlay. While OP has some concerns with this provision because of the standards of a variance test, it was made clear that this is critical to the neighborhood, and its implications warrant discussion at a public hearing. OP estimates that four of the 33 block faces appear to be currently above the proposed 50% limit – both the U Street and 14th Street frontages of square 236, the U Street frontage of square 332 (which is only slightly over the limit); and the U Street frontage of Square 305, which is currently exclusively developed with popular eating establishments.

Unfortunately the enforcement of the new regulation has not been improved and the overconcentration of these licenses has continued to increase over the new 50% threshold since 2010.

The Historic 14th and U Street Corridor has been zoned with an Arts Overlay. The purpose of such a designation is to encourage the Arts. The DC Office of Zoning describes the ARTS Overlay District ⁴ as:

*“The Uptown Arts-Mixed Use (ARTS) Overlay District was established to encourage retail, entertainment and residential uses that require pedestrian activity; an increased presence and integration of the arts and related cultural and arts-related support uses; a design character and identity of the area by establishing physical design standards and adaptive reuse of older buildings in combination with new buildings; and increased public safety. The ARTS Overlay provides for flexibility in use, height, bulk, bonus density, and combined lot development; and is subject to the Inclusionary Zoning Requirements of Chapter 26 of the Zoning Regulations. **No portion of an eating/drinking establishment located on the ground floor of squares fronting 14th Street or U Street, N.W. is permitted to occupy more than fifty percent (50%) of the linear frontage of that square. Where there are conflicts between the ARTS Overlay and the underlying zoning, the more restrictive provisions of the Zoning Regulations govern.**”*

Listed below are the relevant sections of the Office of Planning Comprehensive Plan that have direct bearing on the concerns of this area and the request for a moratorium.

Chapter 20- Mid City Area Element ⁵

Policy MC-2.3 U STREET/UPTOWN

³ Final Rulemaking published at 57 DCR 7679, 7683 (August 20, 2010), as corrected by Errata Notice published at 58 DCR 4314, 4316 (May 20, 2011).

⁴ <http://dcoz.dc.gov/info/overlay.shtm>

⁵ Office of Planning Chapter 20 Mid City area Element

<http://planning.dc.gov/DC/Planning/In+Your+Neighborhood/Wards/Ward+2/Comprehensive+Plan+Area+Elements/Mid+City+Area+Element>

The downside of U Street's success is that many of the long-time businesses, including basic services like barber shops and bookstores, are having difficulty paying the higher rents and taxes that have come with gentrification. Efforts to retain the street's character must do more than just preserve its buildings; measures to retain and assist existing businesses are needed. 2013.2

As development takes place, continued efforts to improve the streetscape and public space, provide affordable housing, preserve historic buildings, and mitigate development impacts (particularly those associated with the increased concentration of restaurants, night clubs, and entertainment uses) should be included. 2013.4

Policy MC-2.3.6: Small Business Retention

Incorporate small business retention and assistance programs in the Uptown District's revitalization, possibly including zoning regulations, tax relief, and other measures which assist small businesses as redevelopment along U Street, 9th Street, and 7th Street takes place. 2013.10

Policy MC-2.3.1: Uptown Destination District

Encourage the redevelopment of U Street between 6th Street and 12th Street NW... as a mixed use residential/commercial center, with restored theaters, arts and jazz establishments, restaurants, and shops, as well as housing serving a range of incomes and household types. 2013.5

Action MC-1.1.B: Overconcentration of Liquor-Licensed Establishments

Identify the potential for regulatory controls to address the problem of excessive concentrations of liquor-licensed establishments within the neighborhood commercial districts . . . 2008.12

Chapter 21 – Near Northwest Area Element ⁶

Policy NNW-1.1.3: Enhancing Stable Commercial Areas

Sustain and enhance the neighborhood, community, and regional shopping areas of Near Northwest, including ... 14th Street NW. Sustain these areas as diverse, unique, pedestrian-oriented shopping streets that meet the needs of area residents, workers, and visitors. 2108.4

Policy NNW-2.3.2: 14th Street Mixed Use

Promote the development of art galleries, lofts, and business incubators for the arts along 14th Street, along with the establishment of cultural facilities and street level retail and neighborhood service uses, such as restaurants and local-serving professional offices. 2113.5

Action NNW-1.1.B: Alcoholic Beverage Control Laws

⁶ Office of Planning Chapter 21 Near Northwest Area Element
<http://planning.dc.gov/DC/Planning/In+Your+Neighborhood/Wards/Ward+2/Comprehensive+Plan+Area+Elements/Near+Northwest+Area+Element>

Analyze the patterns of alcohol beverage control (ABC) licensed establishments in the Near Northwest area, and the regulations and procedures that guide the siting and operation of these establishments. Identify possible changes to improve enforcement of ABC regulations and to reduce the problems associated with high concentrations of bars and night clubs in the area's commercial districts. 2108.17

Policy NNW-1.1.5: Over Concentration of Liquor-Licensed Establishments

Discourage the excessive concentrations of liquor-licensed establishments on local shopping streets. . . 2108.6

Chapter 14 - Arts & Culture Element

Action AC-1.2.A: Arts Overlay Zones

Use zoning overlays to promote and sustain Arts Districts. Ensure that Arts overlay zones are consistent with other District zoning regulations and that incentives for arts-related uses are not precluded by other provisions of zoning. 1404.8

Action AC-1.2.D: Enforcement of Zoning Requirements

Establish an inspection and enforcement program for Arts District zoning Requirements, ensuring that such requirements (such as the display of art in store windows) are enforced after projects are constructed. This program Should be part of the city's overall zoning enforcement efforts. 1404.11

- *“Retaining existing clusters of arts establishments” is a “key issue” facing DC (page 14-1)*
- *Existing arts and cultural facilities “may be threatened by rising rents and redevelopment pressures” (page 14-2)*
- *“The City faces a persistent need for the retention and further development of affordable neighborhood arts facilities” (page 14-2)*
- *When siting arts facilities “give preference to locations near public transit” (page 14-3)*
- *“Regulatory changes” should be considered to “encourage the provision of space for arts in new and refurbished public buildings” (page 14-3)*
- *“Arts Districts are identified, mixed-use areas of the city in which a high concentration of arts and cultural facilities serves as an anchor of attraction” (page 14-4)*
- *DC should “identify, recognize and support existing clusters of arts establishments” (page 14-5)*
- *DC should “ensure that ... incentives for arts-related uses are not precluded by other provisions of zoning” (page 14-5)*
- *DC should “establish an inspection and enforcement program for Arts Districts zoning requirements, ensuring that such requirements ... are enforced after projects are constructed” (page 14-5)*

- DC should “support the temporary reuse of vacant and/or underutilized storefronts and other nonresidential buildings for arts exhibition” (page 14-7)
- “The city’s ability to sustain its artists is threatened by a lack of affordable real estate and suitable locations for studios, live-work space, and production facilities” (page 14-9)
- DC should “ensure that the District’s zoning and land use regulations support the development of live-work space for artists in a variety of settings around the city” (page 14-10)
- DC should “conduct a review of planning, building and zoning regulations as they relate to arts uses to: (a) ... create incentives for joint living and work quarters for artists in new and existing structures; and (b) make it easier to use garages and accessory buildings on residential lots as studio spaces ...” (page 14-10)
- “The non-profit arts are not entirely self-supporting” (page 14-11)
- DC should “explore off-setting costs for business licenses and permits, property taxes, insurance, and rents for use of city facilities, among others” (page 14-12)

Chapter 3 – Land Use Element ⁷

LU-2.4 Neighborhood Commercial Districts and Centers

Even the most successful neighborhood centers in the District must deal with land use conflicts. Excessive concentrations of bars, liquor stores, fast-food outlets, convenience stores, and similar uses are causes of concern in almost every part of the city.

Policy LU-2.4.7: Location of Night Clubs and Bars

*Provide zoning and alcoholic beverage control laws that discourage the excessive concentration and potential negative effects of liquor licensed establishments (e.g., night clubs and bars) in neighborhood commercial districts. New uses that generate late night activity and large crowds should be located away from low and moderate density residential areas and should instead be concentrated Downtown, in designated arts or entertainment districts, and in areas where there is a **limited** residential population nearby. 312.11*

Current ABC licenses – (Based on the most current information accessible at the time of the writing of this Petition)

There are a total of 107 existing licenses, (see below) in the designated “portion” of this Moratorium request. This total number of licenses fulfills the requirement of § 25-352(d) (3), that there be at least 9 establishments of the same class or 18 establishments of any class or combination of classes. The number of licenses currently present in the proposed Moratorium Zone is more than **6 times** the legal threshold for a “portion,”

ABC Licenses in the Petition for the 14th and U Street Corridor Moratorium Zone
 CM CR CT CN DR DT A B DM

⁷ Office of Planning Chapter 3 – Land Use Element
<http://planning.dc.gov/DC/Planning/Across+the+City/Comprehensive+Plan/2006+Comprehensive+Plan/Volume+1+Acknowledgements,+Introduction+and+Citywide+Elements/Land+Use>

5 41 35 6 4 1 5 9 1 Total of existing licenses 107

Actions sought by petitioners in the establishment of a Historic 14th and U Street Moratorium Zone:

A. Establishment of Historic 14th and U Street Corridor Moratorium, with the geographical and narrative boundaries discussed above under "Description..." for a period of five (5) years.

- a. The five (5) year period that the Petitioners are requesting is essential for the following reasons:
 - i. Commercial landlords will otherwise attempt to "wait out" the Moratorium in the hope of obtaining a high volume (and thus higher rental) ABC tenant. If the Moratorium period is longer, landlords are more likely to allow other uses of their properties, which through good communication and marketing could lead to more community-serving retail locating in the Historic 14th and U Street Corridor.
 - ii. A shorter term than 5 years puts the neighborhood through a wrenching and divisive struggle before the Moratoriums' effects can be fully discerned.

B. A prohibition against transfer of licenses from outside the Historic 14th and U Street Moratorium Zone to a location inside that Zone.

- a. This is a necessary element of any ABC Moratorium to ensure isolation of the problems. If licenses from outside the Moratorium Zone were allowed to enter, it would defeat the primary purposes of this petition which are to prevent further growth of problems associated with: parking, disturbance of peace, order and quiet and negative impacts on vehicular and pedestrian safety as well as to limit the further over-concentration of ABC licenses in the proposed Moratorium Zone.

C. A prohibition on the issuance of all classes of licenses.

- a. This provision is needed as the basic tool to prevent any worsening of conditions as discussed under Appropriateness Standards as discussed in sections 1, 2, and 3 below.
- b. An exception to allow the issuance of new Retailer's Licenses Class B, as provided under 25-303 (c.), 25-331(d.), 25-332 (c.) or 25-333 (c.).
- c. The Petitioners recognize the value of the exemption to the city-wide quota on Class B licenses for full service grocery stores and wish to make provision in this Petition for existing and future retailers who qualify under the Act.

D. A cap on the number of CN and DN licenses of zero (0).

- a. Based on the most recent data available provided by ABRA there are currently six (6) CN licenses in the proposed Historic 14th and U Street Corridor Moratorium Zone. The Petitioners feel that there is a delicate balance to be achieved between

restaurants, a very limited number of taverns, the rest of the non-ABC business community, and the residential neighbors. The service of food, along with the alcohol and entertainment, is essential as the business and residential communities work to co-exist in harmony. As there is no requirement for a nightclub to sell any measurable amount of food, and § 25-314(c) recognizes the distinction between other types of licenses and nightclub or tavern licenses, stating that: "...the Board shall consider whether the proximity.....to a residence district.....would create a substantial adverse impact on the residents of the District."

- i. The Petitioners believe that the introduction of any CN or DN licenses would indeed have such adverse impacts on our residential communities, witness the unresolved problems with late night entertainment activity detailed in the crime data attached to this petition. Recent violent crimes have included incidents with firearms and knives at: Tabac, DC 9, and most recently Indulge. Further, the Original Comprehensive Plan for Ward One (***Ward 1 Actions to Implement Land Use Objectives Chapter 12: Ward 1 Plan, 1231 (e) (4)***)⁸ specifies that the application of ABC regulations should "encourage late-night club-type operations in areas **where there is a limited residential population nearby**". The Petitioners respectfully request that the Board act in accordance with this stated policy objective and set a cap of Zero (0) for the total number CN and DN licenses in the Historic 14th and U Street Moratorium Zone.

E. A cap on the total number of CT and DT licenses at ten (10)

- a. Based on ABRA data, there are currently thirty-five (35) CT and one (1) DT licenses in the proposed Historic 14th and U Street Moratorium Zone. In our local experience, to some extent these taverns (CT/DT) have been problematic. The Petitioners nevertheless recognize the need for flexibility within the marketplace, and coupled with new ABC regulations and food service requirements, suggest a cap on the total number of allowable CT and DT licenses of ten (10).
- b. The size of the proposed Moratorium Zone is similar to the Georgetown Moratorium Zone, where there are only six (6) tavern licenses permitted by § 25-339(a). Further, the Petitioners note the distinction in § 25-314(c), as above under Section D, that the proximity of taverns, as well as nightclubs to Residential districts must be considered as to creating "...a substantial adverse impact on the residents...".

F. A ban on expansion of service or sale of alcoholic beverages into any adjoining or adjacent space, property, or lot.

- a. The 14th and U Street Corridor is starved for residential-serving retail businesses that would offer goods and services to a very attractive demographic, that is: potential customers who can pay from \$500,000 to significantly over \$1,000,000 for luxury condominiums or restored town homes. Such prices are now common throughout the 14th and U Street Corridor. The current, densely packed ABC use of much of the 14th and U Street commercial strips crowd out other non-ABC uses, as rents for commercial space rise to match that which high-volume, high turnover, cash-oriented ABC tenants can afford.

⁸ Page 44 http://www.repairklingleroad.org/Chapter_12_WD_1.pdf

- b. The Petitioners request that the Board recognize this trend and grant this provision that will give a future to non-ABC retail in the 14th and U Street Corridor. Without such a provision a steady stream of variance and substantial change requests will march along 14th and U Streets gobbling up storefronts as they become available. This pushing out of local non-ABC retail is in direct conflict with the Comprehensive Plan and the ARTS Overlay intent.

G. A hold placed on the acceptance by the Board of any type of further applications by C or D class retailers as of the date of this Petition.

- a. The Petitioners seek to address the issue of license issue, transfer, or conversion with no advantage given to any particular licensee based on the speed with which they were able to fill out an application to beat the ruling of the Board on this Moratorium Request. We would note that there is nothing in the regulations that prohibits such an action, and that there is precedent for it, as in 2000 the Board took no further applications for new licenses after the Adams Morgan Petition for a Moratorium was filed until a decision was made.

H. A hold placed on the acceptance by the Board of any further applications by C or D class retailers located within the Historic 14th and U Street Moratorium Zone to change license class to CT, CN, DT, or DN.

- a. There has been a rush of “substantial change” applications for CR conversions to CT licenses, many even before the establishment opens.

I. A hold placed on the acceptance by the Board of any further applications for expansion of service or sale of alcoholic beverages into any adjoining or adjacent space, property, or lot.

Appropriateness Standards

Before granting the petition for the establishment of a Moratorium Zone, the Board must find, under § 25-352(a) (4), that the Moratorium would be appropriate under at least two of the appropriateness standards listed in § 25-313(b). The Petitioners believe the establishment of the Historic 14th and U St. Moratorium Zone should be granted based on conditions to be addressed under:

- § 25-313(b)(2) The effect...on peace, order, and quiet, including the noise and litter provisions set forth in § 25-725 and § 25-726; and
- § 25-313(b)(3) The effect...upon residential parking needs and vehicular and pedestrian safety; and
- § DC ST 25-314(a) (4) whether issuance of the license would create or contribute to an over concentration of licensed establishments which is likely to affect adversely the locality, section, or portion in which the establishment is located.

1. Additional ABC-licensed establishments in this Zone will adversely affect the peace, order, and quiet of the residents of this “portion” of the city.

As neighborhood civic associations in the 14th and U Street Corridor, much of the focus of both the SDCA and RAC is on quality of life issues and seeking protections for the residential community to allow quiet enjoyment of their homes. Based on the 2010 Census, there are

approximately 5,000 people living in roughly a rectangular shape encompassing the zone, its many apartment buildings, co-ops, condominiums, and large stock of two, three, and four story row-houses make this one of the more densely populated sections of the city. Because so many people are living in such close quarters with each other it is all the more important to protect against disturbance to the peace, order, and quiet as provided in ABC law.

Further, it must be noted that the mixed-use CR, C-2-A, C-2-B, C-3-A zones, which contain licenses currently inside the requested Moratorium Zone, also contain many large residential apartment and condominium buildings. The residents of these mixed-use areas must be protected against further inappropriate ABC-licensed expansion nearby, as many of the remaining non-ABC storefronts would be unsuitable uses, because they lack the necessary infrastructure such as any additional public parking, service alleys, loading zones, and adequate sidewalk egress.

At the time of this writing, there are at least 107 active class C and D retailers located within the requested Moratorium Zone. The cumulative effect that the extreme over-concentration of 107 ABC licensed establishments brings to bear in such a small area, that is primarily residential, is of huge impact. The repercussions of such an over concentration manifests in many ways including, but not limited to: noise, trash, broken bottles, traffic, public urination, litter, property damage, theft, violent crimes, rodent infestation, drug activity, and sexual activity that linger long after the establishments close each evening.

- A. The peace, order and quiet is disturbed in multiples of 107 as those establishments' trash dumpsters, and recycling containers are filled (at all hours of the day and night) and emptied by noisy trash compacter trucks, three, four, and five times a week.
- B. Sadly, many of the establishments are unwilling or unable to keep their refuse in an orderly manner. It is a common sight to find overflowing dumpsters with food and other trash on the ground or easily accessible to rats, which continue to be a major problem. Trash collection pick up times occur at all hours and it is common for this to occur between midnight and 5:00 am in the alleys shared by residential homes.
- C. Decorative tree boxes installed and maintained by residents are routinely used as trash receptacles for empty beer cans, liquor bottles, condoms, and miscellaneous trash. Broken bottles are common.
- D. Because many ABC establishments have occupied more of their lots (by building to the property lines) than is permitted under Zoning law, most of their dumpsters sit illegally on public space in the alleys, blocking free passage of trash and delivery trucks and neighboring residents, many of whom access their parking through these same alleys. This leads to honking battles as one or another truck or car attempts to navigate a packed alley, or the automatic beeping that is a safety feature built into most trucks as they back down the length of an alley to avoid an obstruction. The dumpsters' location on the public alleyway also defeats any attempt the city might make to clean the alleyway.
- E. Despite the efforts of some individual business owners, whether they are ABC licensees or not, the vast number of patrons of the combined establishments overtaxes the ability of business owners to keep the sidewalks and streets and curbs clean. The public refuse containers are often full before the crowds arrive on a Friday or Saturday night. The result is overflowing public trash cans, and once

that happens, casual visitors often tend to litter with whatever disposable items they are carrying.

- F. Because of the entertainment orientation of many establishments, some of our own licensees, but mainly others from around town see the 14th and U Street Corridor's ABC patrons as a market to be tapped. It is routine for parked cars to be "flyered" with advertisements for other ABC establishments not only on the commercial streets, but on block after block of residential streets as well. Most of this slick printed material winds up either "glued" to windshields after a rain or lying in the street or gutter and clogging storm drains.
- G. Carry-out pizza by-the-slice businesses and other "all night" food establishments have developed as a by-product of the vast mass of ABC patrons who are mainly drinking in the hours between 11:00 pm and 2:00 or 3:00 am. Many of these folks exit licensed establishments and misguidedly believe that a little food will sober them up. These businesses stay open until after ABC closing time, strictly to serve outgoing ABC patrons. While these are perfectly legal business that have nothing to do directly with ABC law or liquor establishments, those of us who have to deal with the results of their operations know that without the late-night scene such businesses could not survive and prosper. They exist as a direct result of the over concentration of ABC establishments.
- H. To a lesser extent, there are also problems associated with the "A" and "B" establishments. First, it should be noted that there are adequate numbers of these licensees apart from the "C"s and "D"s (currently a total of 14) to meet the legal basis for seeking a moratorium. With the total combined occupancy of ABC-licensed seats at over 16,000 and with a **total occupancy** significantly higher in the Moratorium Zone on a busy night, with many establishments full or overcrowded, not to mention the normal life of the neighborhood, there may be upwards of 20,000 persons in establishments or out walking around in the 14th Street and U Street area. This has significant impact on the peace, order, quiet, noise, residential parking needs, and safety of the residents. The dull roar that is created is combined with the gridlocked traffic and incessant honking, and provides the backdrop for the other major source of noise disturbance: licensed establishments that insist on keeping doors and windows open, while blaring the sounds of recorded or live music out into the neighborhood in an effort to attract patrons to their establishments. It should be noted that in many cases where this occurs the establishments are in violation of their voluntary agreements, not to mention ABC regulations and city noise ordinances.
- I. for a "portion" under § 25-352(d) (2). Many patrons will buy alcohol at these establishments and consume it prior to going into on-premise establishments. The streets, sidewalks, tree boxes, and yards are littered with the debris of this activity virtually every day.
- J. The presence of so many on-premises retailers in such a concentrated area has led to too much competition for patrons, to the point that drinks are widely discounted at many "happy hours," drink specials are routine. Many patrons make their way from establishment to establishment, and not many operators are willing to turn away paying customers, even though they have been over-served elsewhere. These over-served persons then become easy targets for robbery or mugging as they make their way back to their vehicles parked on the residential neighborhood streets late at night. As they leave the neighborhood, they are a danger to themselves and

others as their judgment is impaired by over-service. Residents are routinely disturbed late at night as boisterous patrons loudly make their way back to their vehicles, and proceed to get behind the wheel and drive!

- K. Serious violent crime and non-violent crime continues to be a concern. Shootings, stabbings, and other assaults have plagued a small number of establishments over the years, and are an obvious danger to the community at large. Property crimes have escalated exponentially. (See Annex B – Police Calls of Service)

2. Additional ABC-licensed establishments will have a severely negative impact upon residential parking needs and vehicular and pedestrian safety.

Parking in the residential streets of the requested Moratorium Zone and surrounding areas is inadequate to cope with the needs of its residents. In recent years, the 14th and U Street Corridor has become an increasingly popular place to live. There is a fine stock of turn of the (20th) century row houses and town homes, distinguished old apartment buildings, The 14th and U Street Corridor is integral to both the District of Columbia's and the Nation's history. It has long been a racially and ethnically mixed community. This mix is shown by the variety of some of our local small businesses and ethnic restaurants. The areas proximity to the downtown employment district also contributes greatly to its attractiveness as a residence district.

All these things that make the 14th and U Street Corridor a popular and interesting place to live bring in additional residents, and, with these new residents, come cars. There is intense competition for street parking. Zoned neighborhood parking plans which limit out-of-zone parking to two hours for much of the day (until 8:30 pm) are in effect throughout the neighborhood, and in some locations the new Enhanced Residential Parking is in effect. These plans do nothing to help the limited parking available to residents in the evening hours or on weekends.

In the whole of this area, there are only 293 metered spaces for cars. There are no commercial garages except for limited use at the Reeves Center that provides approximately 350 spaces during the hours of Monday- Friday 6:00pm – 1:00am, and Saturday and Sunday 9:00am – 1:00am. Some of these spaces may be listed for use by various valet services. The parking company reports that the garage is in full use. Properties in the 14th and U Street Corridor formerly used as surface parking lots for restaurant and bar patrons have been converted to residential apartments/condominium buildings in the recent construction boom. The parking lots that many ABC licensees claimed as available patron parking in their ABC license applications no longer exist. This loss of off-street parking has been one of the chief contributors to the disappearance of on-street parking in the surrounding neighborhoods of the 14th and U Street Corridor.

The relative lack of legitimate Valet Parking further contributes to this problem as many valet operations routinely use available street spots.

Another factor contributing to the shortage of on-street parking is a change in the nature of the apartment rental market. New residential units are now inhabited by more wealthy young urban professionals, who have driven up rental prices and moved in to the area with their automobiles. These new residential buildings have routinely been granted variances by the BZA and OP for the less than the required amount of parking in the regulations, resulting in additional

residents searching for street parking. This new group of car owners has increased the pressure on the already limited stock of on-street parking spots.

The parking needs of the combined ABC licensees (over 16,000 ABC-licensed seats inside the Moratorium Zone) and their employees put a heavy burden on neighborhood residents. It becomes very difficult to entertain friends and family when there is no place for them to park, particularly in the evening and on the weekends. Residents think twice about doing ordinary errands or going out of the neighborhood if that requires driving, because of the difficulty of finding a parking space on their return. The over-concentration of licenses forces residents to leave the neighborhood to pursue their normal retail shopping needs since it has become nearly impossible for any type of retailers to find sustainable rental space. The new Enhanced Residential Parking Program does little to help with these issues. The area that is impacted by ABC licensees' need for parking is huge, stretching to distances of 5 and 6 blocks that is then often adding additional pressure into other parking challenged areas such as the Dupont and Logan neighborhoods.

To further exacerbate the problems, METRO closes long before the nightlife ends. METRO service is less frequent on weekends and late night hours at the times when demand would be highest as patrons would be leaving establishments. Reliability issues plague metro as do weekend maintenance closings. All this contributes to problems with masses of patrons exiting establishments in the early hours of the morning, and creates intense competition for available taxis with frequent battles going on for access. The additional 19 nights for extended hours will further intensify this problem. Even more concerning is the amount of people that choose to drive to the area, and in various stages of inebriation, get into their vehicles and try to drive back home.

Specific negative impacts contributed to, or caused directly by ABC-licensed establishments' need for parking include:

- A. Significant traffic congestion, particularly Thursdays through Saturdays. On many Friday and Saturday nights, from 11:00 pm to 3:00 or 4:00 am, U Street and its adjacent side streets from 6th Street to 16th Street often become gridlocked. We anticipate that this problem will increase as the valet parking lots for the Howard Theater put hundreds more cars on the street as shows let out.
- B. Alcohol and automobiles are a dangerous mixture. When they are combined with narrow and congested streets vehicular and pedestrian safety are put at serious risk as drivers, eager to park, search aggressively for anything that might be considered to be a parking place.
- C. During the daytime, deliveries to the many establishments cause disruption to the flow of traffic on 14th Street and U Street. Huge tractor-trailers from alcohol distributors and restaurant supply companies routinely double-park, blocking traffic lanes and curbside parking alike. Alley access is constantly blocked which prevents city trash and recycling removal.
- D. During the busiest nights, legal parking is so scarce that fire hydrants, pedestrian crosswalks, and Metrobus zones are routinely obstructed. Drivers park too close to intersections, making cornering difficult. Illegal parking in alleys further endangers residents by blocking clear passageway for emergency vehicles. Private driveways and garages are often blocked.

- E. Valet parking concerns often "dump" vehicles in the public alleys when they run out of spaces for which they have made a legal arrangement. These valets, who pick up in front of an establishment routinely block the right lane of traffic in carrying out their operations. Additionally, a number of these valet services operate out of METRO Bus Zones thereby endangering passengers and pedestrians. At community meetings, police and residents have often discussed the valets putting cars in the first available street spot they see, instead of removing the vehicles to some off-street location.
- F. Taxi-cabs are a major additional source of traffic congestion, noise (from unthinking honking) and air pollution as they endlessly circle, seeking fares. This can be frequently observed on the 1400 block of T Street.

3. Issuance of any further licenses within the requested area for the Historic 14th and U Street Moratorium Zone would contribute to the current over-concentration of licensed establishments, adversely affecting the "portion" in which the establishment(s) would be located.

No other area of the city has so many licenses crammed into such a small area. Other areas which have previously been granted Moratorium protection by the Board contain fewer licenses per square foot. Georgetown, Dupont Circle East and West, and Adams Morgan Moratorium Zones, also contain far fewer licenses, singly, or combined when calculated on the size of the Zone, than the proposed Historic 14th and U Street Corridor Moratorium Zone.

Moratorium Zones, City-Wide (numbers provided by ABRA)

Moratorium Affected Zone	Area	Class A	Class B	Class C	Class D	Total Licenses
Adams Morgan	1400' r.	4	10	69	2	85
Dupont, E.	600' r.	2	2	13	2	19
Dupont,W.	600' r.	2	5	24	2	33
Georgetown	1800' r.	5	6	77	6	94
Glover Park	1200' r.	1	5	14	1	21
Proposed Historic 14th and U	1800' r.	5	9	87	6	107

In conclusion, the Petitioners believe that the present conditions in the requested Historic 14th and U Street Moratorium Zone area, as detailed above (and as required by § 25-351) justify establishment of a Moratorium Zone.

The Petitioners believe that the establishment of the Historic 14th and U Street Moratorium Zone as proposed in these pages is necessary to prevent further significant adverse impacts on the "portion" in which these establishments would be located, as detailed in Sections 1, 2, and 3 above. The issuance of further licenses in the Zone would only exacerbate the problems that already affect our neighborhood, and contribute to impeding the implementation of the intent of the ARTS Overlay plan. Continuing violent crime, in multiple establishments, show no sign of abating. Overtaxed MPD officers struggle to keep up with the escalating number of incidents. The lack of any type of coordinated regulatory enforcement, despite the direction within the Comprehensive Plan, is directly responsible for the lack of compliance to the recently raised 50% limit on ABC licensed establishments.

All of these factors have forced the petitioners to ask for this protection to provide the "breathing room" this area needs to develop both the Arts and retail trade that includes more than just nightclubs, taverns, and restaurants making it a vibrant and safe place to live both during the daytime and evening hours.

Respectfully Submitted:

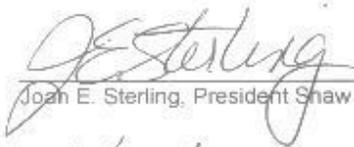
Joan E. Sterling, President Shaw Dupont Citizens Alliance

Kathryn A. Eckles, President Residential Action Coalition

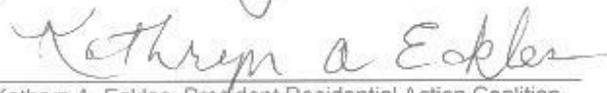
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Respectfully Submitted:



Josh E. Sterling, President Shaw Dupont Citizens Alliance



Kathryn A. Eckles, President Residential Action Coalition