

Jack's June report

At the May 15 ANC meeting, the commission:

- * Advised the DCRA against declaring the Deauville site "blighted" for tax purposes;
- * Advised the DHCD to select the Deauville site for Federal 9% Low Income Housing tax credits;
- * Advised ABRA to approve the application by Haydee's Restaurant for extension of their liquor license to the sidewalk cafe;
- * Advised ABRA to approve the application by Don Juan's Restaurant for an extension of the hours for serving alcoholic beverages at their sidewalk cafe; and
- * Advised the District Council to change the law prohibiting alcoholic beverage sales by liquor retailers on Sundays.

At a special ANC meeting on May 22, the ANC:

- * Advised the District Council to amend the single-sales ban in Mount Pleasant to permit liquor retailers to apply for exceptions to the ban; and
- * Affirmed the resolutions of May 15 concerning the Deauville site, this time with Commissioner Romero-Castillo excluded from the meeting, to eliminate any perception of impropriety, as she is president of the tenants' association that is purchasing the site.

The **Deauville apartment house** burned four years ago, and remains today a large hole in the ground and the remnants of the front wall. An effort is under way for the construction of a new apartment house, to be called the Monsignor Romero Apartments, owned by a tenants' association, with the assistance of the National Housing Trust/Enterprise Preservation Corporation. Blake Biles, of Arnold and Porter LLP, is guiding the effort of the tenants' association to find financing for the construction. The current matter before the ANC is the application to the Department of Housing and Commercial Development for an allocation of Federal 9% low income housing tax credits. The ANC will certainly do all it can to support this undertaking. Our support does not decide this DHCD financing matter, amounting to only about one-tenth the total "score" for the DHCD decision. This we readily provided at the May 15 meeting.

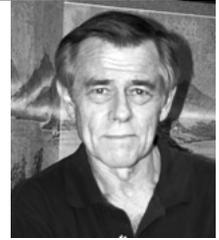
After that meeting, a resident asserted that this vote suggested an ethics problem, because one of the four commissioners voting "yes" is the president of the tenants' association. Just to remove that suggestion, we met a week later and passed the supporting resolution again, this time with Yasmin absent.

The **sidewalk cafe resolutions for Don Juan's and Haydee's** were routine. This ANC has a formal policy of supporting sidewalk restaurants. By the way, there's a possibility of a Thai restaurant opening on Mount Pleasant Street, and the prospective restaurateurs wanted some assurance that a sidewalk cafe would be permitted. I assured them of ANC support for a sidewalk cafe, and also that Mount Pleasant's infamous regime of aggressive, severely restrictive "voluntary agreements", forced on restaurants in past years by the MPNA, is a thing of the past. Our neighborhood has a terrible reputation among would-be entrepreneurs, due to the bitter battles between the MPNA and Mount Pleasant restaurateurs. I'm doing what I can to

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overcome that reputation. We certainly don't want to scare away a nice Thai restaurant for Mount Pleasant Street!

The resolution calling for allowing **Sunday liquor sales by off-site retailers** (i.e., Sportsman's, Lee-Irving) was mine. Councilmember Graham is holding a hearing on the subject on June 12. The Sunday sales ban, written into the DC Code, isn't so much a restriction on retailers as it is a ban on the purchase of alcoholic beverages on Sundays by you and me. It's a last vestige of the "blue laws" that once forced all shops to close on Sundays, presumably because we customers, and shop employees, are supposed to be attending church.

Most of those "blue laws" are gone, but the Sunday retail alcohol ban remains, based, I presume, on a religion-based idea that alcoholic beverages are improper on Sunday. That sort of government-enforced morality code should be left behind. Residents should be free to decide for themselves what's appropriate on Sunday, or whatever their sabbath day is, and what's not. Liquor store owners can decide for themselves if it's worth their while to be open on Sundays.

The resolution concerning **the ban on the sale of "singles" by liquor retailers** stems from a request by young Jesse Chong of Lee-Irving Liquors (son of owner John Chong, who died suddenly in March) to be allowed to sell "craft" beers as singles. The Mount Pleasant single-sales ban allows no exceptions. Compare Wards Two and Six, where similar single-sales bans exist, but retailers can apply for exceptions, to sell the kinds of beverage that the targets of the singles ban, indigent alcoholics needing a cheap alcohol "fix", don't want or can't afford. The ANC resolution, China Terrell's contribution, asks the District Council to amend the Mount Pleasant ban to allow similar requests for exceptions here. If and when this is done, we can take up the question of permitting single sales of "craft" beers.

I'd support that, of course. Not that I know one kind of beer from another, I never touch the stuff. But some residents do want these specialty beers, and I'll do what I can to make them available here in Mount Pleasant.

A resident asked that I put in my newsletter something about **the District's "special trees" law**. After all, how would anyone know that those large trees in their yard, on their very own lot, are *not* theirs to cut down, if they wish?

But that's the case. The "Urban Forest Preservation Act of 2002" requires that you get a permit to remove any tree that is 55 inches or more in circumference (equivalent to 18 inches in diameter), even if this tree is on your own property. A

permit for the removal of such a tree will be issued only if (1) the tree is “hazardous to life and/or property”, (2) the tree is a mulberry, ailanthus, or Norway maple, or (3) the owner plants replacement trees, or contributes \$35 per circumference inch into a Tree Fund. An Urban Forestry Administration arborist must inspect a tree before a permit is issued.

What happens if a resident takes down a “special tree” without a permit? A hefty fine, “not less than \$100 per each inch of circumference”, of the removed tree. You really don't want to go there. Problem is, how would you know this, if you're not keeping up with obscure District laws? The people hired to remove a large tree plainly have a duty to instruct their customers concerning these legal requirements. I gather that, in a certain case here in May, the tree company failed to do that, and thus has put a homeowner at risk.

Congresswoman Eleanor Holmes Norton has asked to come to our June ANC meeting, to talk about any Federal issues that affect our neighborhood. I have brought up the problems we have in accessing Rock Creek Park, especially on bicycle or on foot. The Park may be right next to us, but it's not so easy to get to, especially with your kids on bicycles, or on foot, or if you're in a wheelchair. The Zoo provides the easiest access, but they all too frequently close their gates, locking us out (or in!). Many times I've had to run across Beach Drive traffic and use the traffic ramp, not a measure I'd advise to any child on a bicycle. Klinge Road, wide and fast, is extremely bicycle- and pedestrian-hostile. There's a sidewalk, but only on one side of the street. Park Road is a dangerous ride, one I've done many times, but again, nothing I'd recommend to parents with children on bicycles. Why is this Federal park, so near to us, so hard to get to, on foot or by bicycle?

A representative of the Metropolitan Police attended our May meeting to sing the praises of “**photo enforcement**”, i.e., **speed and red-light cameras**. I have no complaint about red-light cameras, but the speed camera program is, I think, more about extracting cash from DC residents than about safety. The Mayor's FY2013 budget assumes, and depends upon, a revenue increase of 30 million dollars from the new enforcement cameras. That's on top of the 55 million dollars that DC currently gets from photo enforcement tickets. The average photo enforcement fine is \$135. This will amount to 1.4% of District revenues, a significant item.

I gave the MPD representative a rather hard time about the fact that we have been denied the speed camera we requested for Park Road, and instead have a speed camera down on Porter, just across the park, clearly put there for revenue purposes, not safety. If that camera were about pedestrian safety, it would be a bit further west, in the block adjacent to Connecticut Avenue, where there are residences and crosswalks. But it's been put down on the four-lane highway at the bottom of the Porter Street hill, where there are no residences, no crosswalks, no bike lanes, no bike-share indicators, and pedestrians are separated from the traffic by a hefty guard rail. The speed camera is put where drivers tend to speed up, not where there are actually pedestrians crossing the street.

Possibly surprising statistics, given the focus on speed as the villain in traffic accidents: 70% of fatal traffic accidents are *not* caused by excessive speed. In the District, in the latest data I could find, 80% of pedestrian deaths were *not* caused by vehicle speed. Driving drunk, driving on drugs, driving while distracted, are our principal accident causes. Even where speed is a factor, the driver is usually speeding because he's drunk or drugged or driving recklessly.

As for that speed camera on Porter, a general rule for speed limits is that they should be set at the 85th-percentile speed of traffic, on the theory that the great majority of drivers are cautious and drive only at speeds they consider safe. That bit of four-lane highway is clearly designed for higher speeds than 30 mph, and drivers react accordingly, the 85th-percentile speed being 41 mph. But the camera is set for the 30 mph posted limit, and hence yields plenty of \$125 tickets.

There are defenders of the speed cameras, but I ask, how many of those camera advocates themselves drive 25 mph on Beach Drive? Or 35 mph on Rock Creek Parkway? Or 40 mph on GW Parkway? On Beach Drive, for example, the *average* traffic speed is 30 mph, and if you're going the speed limit of 25 mph, you're obstructing traffic.

Now, if the MPD would put a speed camera on our quiet residential streets and nab the drivers blasting through at 30-40 mph every morning – Newton Street, for example – that would be just marvelous. But no, that's not where the MPD speed cameras are going to go. They're put where we don't want them, and they're not put where we do want them.

I've long complained about the **excessively restrictive historic preservation regulation** of our neighborhood, which demands that every home, however modest and plain, be kept looking just as it did the day it was built, regardless of changing needs and priorities. “Compatibility” is the sole criterion, with no useful considerations of finances, the environment, or the needs of an aging homeowner.

The Historic Preservation Review Board has denied a Cleveland Park homeowner permits for solar panels on the roof of his home, because they would be visible from the street. This denial came despite an endorsement of the panels by the Cleveland Park Historical Society. Solar panels are allowed only if they're not visible from the street, and if your house faces south and so must have panels visible from the street, well, no solar panels for you. The law does not permit the HPRB to weigh other factors, such as cost, or the environment, and make reasonable compromises. Cost-benefit analysis has no place in DC's historic preservation law. If it's not “compatible with the character of the historic district”, then the permit must be denied. Preservation wins, while the homeowner, and the environment, lose.

David Alpert, of Greater Greater Washington, offered this assessment (May 31): “As long as the preservation process holds that 'compatibility' is the sole factor and overly restrictive guidelines define it so narrowly, it's unlikely there will ever be public support for another historic district”.

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| The next meeting of the ANC will be on Tuesday, June 19, 2012, 7:00 pm. |
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