

## **Executive Summary**

The ad hoc West Dupont Circle Moratorium Committee (the Committee), having been charged by Advisory Neighborhood Commission 2B (the ANC or ANC2B) to determine a course of action on the West Dupont Circle Liquor Moratorium (the Moratorium), presents the following report and recommendations in accordance with its assigned duties and responsibilities.

The report identifies the key opinions and ideas presented by residents, community groups and businesses around the Moratorium. The aim of obtaining public input was to establish the benefits and drawbacks of continuing, altering and/or removing the current Moratorium zone. The strengths and weaknesses of the current Moratorium became apparent through this process.

The neighborhood remains concerned specifically with the behavior of one bad actor within the Moratorium Zone. However, neighbors and business leaders alike agree that a problem institution should be dealt with through means specific to its situation: specifically, stronger Voluntary Agreements and the protest process.

Residents of the impacted neighborhood also recognize the hardship faced by nearby businesses in the face of the difficult economic times and the challenges faced during the P Street redevelopment project. As such, there is a strong desire to see the neighborhood welcome new businesses that will make P Street a destination for years to come.

The analysis of public input regarding the current Moratorium lead the Committee to recommend that the ANC continue a Western Dupont Circle Liquor Moratorium Zone with alterations that allow for future neighborhood growth and development.

The ANC has recognized that Moratoria are not permanent solutions and are designed to provide temporary relief to neighborhoods aiming to achieve specific goals. As such, the ANC has proactively acted in the past to modify the West Dupont Moratorium to more accurately reflect the desires of the people of Dupont Circle. These past changes have incorporated a greater number of licenses and have appropriately acted to carve out blocks from the Moratorium.

In altering the present Moratorium, it is the intention of the Committee to once again adapt to the desires of the business and residential neighbors of Western Dupont Circle. It is the desire of the ANC to allow these changes to go into effect in a manner that will allow a review of the success or failure these changes in a shortened time period. At the next review period, the Advisory Neighborhood Commission should decide if additional changes are merited and should re-visit the idea of discontinuing the Moratorium.

Therefore it is recommended that the ANC:

- Continue a modified Moratorium for Western Dupont Circle;
- Eliminate the cap on CR/DR licenses for the Moratorium Zone to allow for the development of a new “Restaurant Row;”

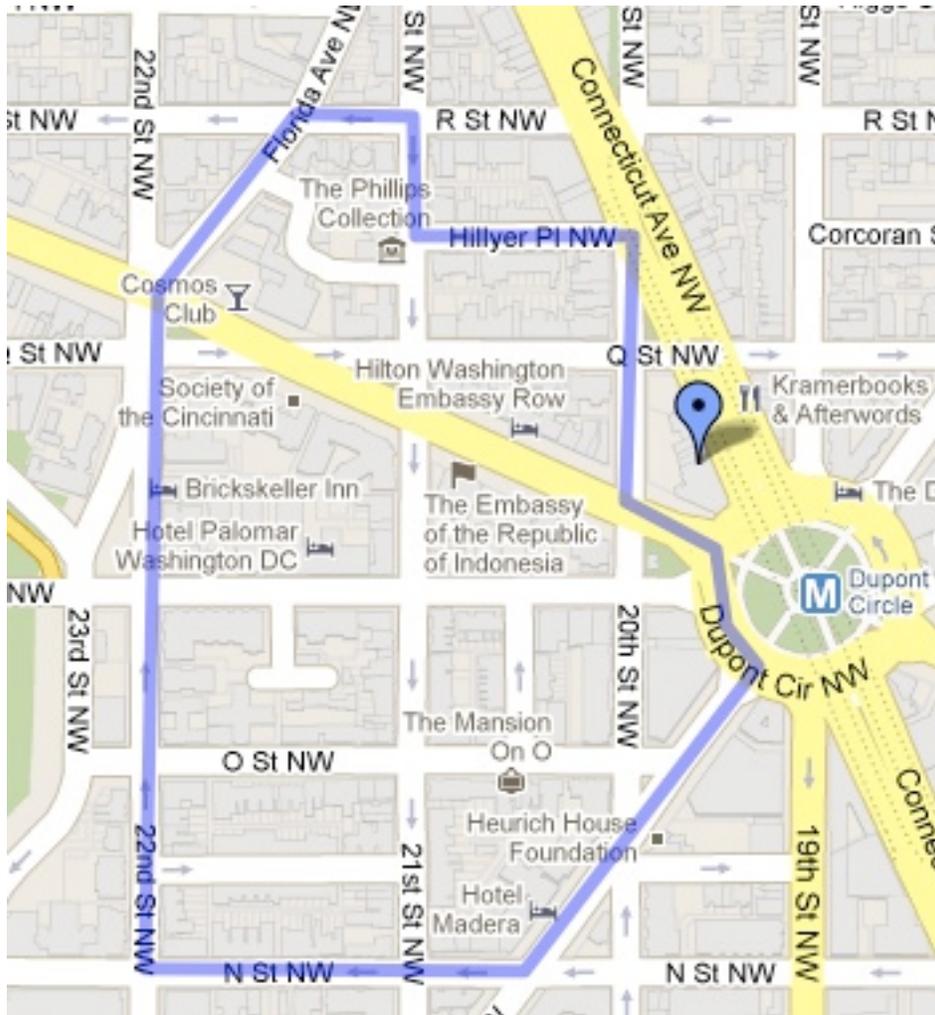
- Act with immediate effect to alter the boundaries of the Moratorium to exclude the block of New Hampshire Avenue NW between O and P Streets NW;
- Continue Restrictions on the number of CT/DT and CN/DN licenses;
- Agree to revisit the Moratorium in 3 years;
- Ask the ANC to encourage more standardized Voluntary Agreements and take appropriate actions against offending parties that choose to violate their agreements at time of license renewal;
- Encourage the ANC to ask new businesses that establish themselves within the Moratorium boundaries to enter into Voluntary Agreements as a “good faith” act for their neighbors. These Voluntary Agreements should reflect the Public Space Guidelines of ANC2B and should favor closing hours before 1am on weekdays and 3am on weekends;
- Suggest to the Alcoholic Beverage Regulation Administration (ABRA) that future Moratoria be allowed to include and exclude blocks from a Moratorium without following the current protocol of only allowing Moratoria to expand by 600, 1200 or 1800 feet;
- Reassess the effectiveness of these changes every 6 months, by weighing: complaints filed with ABRA about new businesses, the number of new businesses in the neighborhood and complaints registered with Commissioners of the Single-Member District impacted by the Moratorium.

## **History**

The West Dupont Circle Moratorium was created on July 22, 1994 to help guide the development of the neighborhood, allowing for a way to make the area more attractive to retail while limiting the establishments that served liquor in P Street and Western Dupont Circle.

The area originally included extended 600 square feet from the intersection of 21<sup>st</sup> Street NW and P Street NW. All of the area within the Moratorium zone is part of the Dupont Circle Historic District.

**Figure 1: Current Moratorium Zone**



The Moratorium has traditionally been up for renewal every 5 years and has been renewed to date on August 4, 2000 and March 24, 2006. Throughout the renewal cycles, Advisory Neighborhood Commission 2B has offered several modifications to the Moratorium to allow for additional development in the neighborhood.

In 2006, the total number of ABRA licenses went from 29 to 30. In 2008, the number was increased to its current threshold of 34, expanding (at the ANC's request) the number of DR/CR licenses from 17 to 21.

Of significant note is the ANC, recognizing that a Moratorium is a temporary measure that is meant to adapt to community needs, took proactive action in 2009 to exempt the 1500 block of Connecticut Avenue NW from the Moratorium Zone. Of the businesses that moved in, all have CR/DR licenses.

This increase in CR/DR licenses in 2008 and 2009 was consistent with the desires of ANC2B and Dupont Circle Citizens Association to allow for the development of a "Restaurant Row" in Western Dupont Circle.

The Philips Gallery was granted a CX (multipurpose) license in 2010, which was permitted with the reduction of one CR/DR license from 21 to 20.

There are currently no “floating” licenses in the West Dupont Moratorium Zone.

### **Establishment of the Moratorium Committee**

On December 8, 2010, with the expiration of the Moratorium approaching, ANC2B passed a resolution to establish a Committee to “[Engage] the residents and businesses of ANC 2B to gather input on the Moratorium.” The Committee was also charged with reporting to the ANC and presenting a resolution at the February 2011 meeting. The vote was 8-0, with former-Commissioner Bhavna Patel absent.

The delegated members of the Committee were appointed from the ANC, the community, civic organizations and business. They are as follows:

- Kevin O’Connor, Commissioner of ANC2B02 (chairperson);
- Mike Feldstein, Commissioner of ANC2B01;
- Donald Benedick, citizen delegate from ANC2B06;
- Robin Diener, representative of the Dupont Circle Citizens Association (DCCA);
- Aaron McGovern, representative of the DC Merchants and Professionals (DC MAP).

The Committee has agreed to adopt this report and the recommendations contained therein by a vote of...

### **Temporary Continuation of the Moratorium**

At the February 9, 2011 regular meeting of ANC2B, a vote was held to petition ABRA for a 60-day continuation of the current Moratorium. The purpose of this was to allow passage of the recommendations of the ad hoc Committee to be passed at the March 2011 ANC meeting without having to worry about the current Moratorium lapsing.

The motion was passed by a vote of 7-0, with Commissioner Carney absent and Commissioner O’Connor abstaining.

### **Engaging the Public**

As charged by ANC2B, the Committee actively engaged the public through a series of public meetings and solicitation of comments from all interested parties. With the assistance of DCCA, the Committee was able to hold three public meetings at the Church of the Pilgrims (2201 P Street NW) on January 18, February 8, 2011 and February 17, 2011. A meeting was also scheduled for January 26, 2011 but was cancelled due to inclement weather. Minutes for each meeting were made public through the Internet afterwards.

Announcements were made through outreach methods including: blog postings on websites such as Borderstan and the Georgetown Dish, Twitter, Facebook, Online

newsletters such as that of Councilmember Jack Evans, online message boards, posting fliers and posting signage in the affected area, print media (*Northwest Current*) and public announcements at meetings of the Dupont Citizens Association, Historic Dupont Circle Main Streets and the ANC.

## **Findings**

After consultation with the public through the meeting process and comments submitted, the Committee was able to identify several major themes that arose through the discussion. Sorting through the numerous comments made, one can place them in the following categories:

- Peace, Order and Quiet; and
- Public Safety; and
- Retail Diversity; and
- Economic Development.

### *Peace, Order and Quiet*

One of the primary concerns discussed at the community meetings involved how a Moratorium impacts the lives of the neighbors within the Moratorium boundaries. With the presence of numerous businesses in a residential area there are benefits and concerns that arise. This is particularly important because some of the primary concerns are related to noise and the health of residents.

One of the “advantages” provided by a Moratorium specifically mentioned by residents is that three people, in place of the ordinary requirement of five, can file a protest. Should new businesses be allowed to enter into the Moratorium boundaries, residents maintain an easier means of working with businesses without requiring ANC support. It was strongly expressed at meetings and in comments from residents that this be preserved.

Residents also expressed concern over controlling sanitation issues, particularly those of restaurants, clubs and taverns, which impact the health and safety of all residents. It was expressed that the ANC must be more proactive at approaching businesses that set a bad example by not appropriately managing their obligations to maintain a healthy establishment with regards to trash and rodent control. The Moratorium is not, and cannot, be used to address this matter specifically as it falls outside of the parameters of its defined role. To address this, the ANC must look at Voluntary Agreements as a tool to manage the behavior of certain businesses.

“I sincerely hope that it is NOT the case that the ABC Board will abandon the Moratorium even if the neighbors want it to continue... That would be utterly counter to the best interests of Dupont citizens.”

- Submitted Comment by Dupont Circle Resident

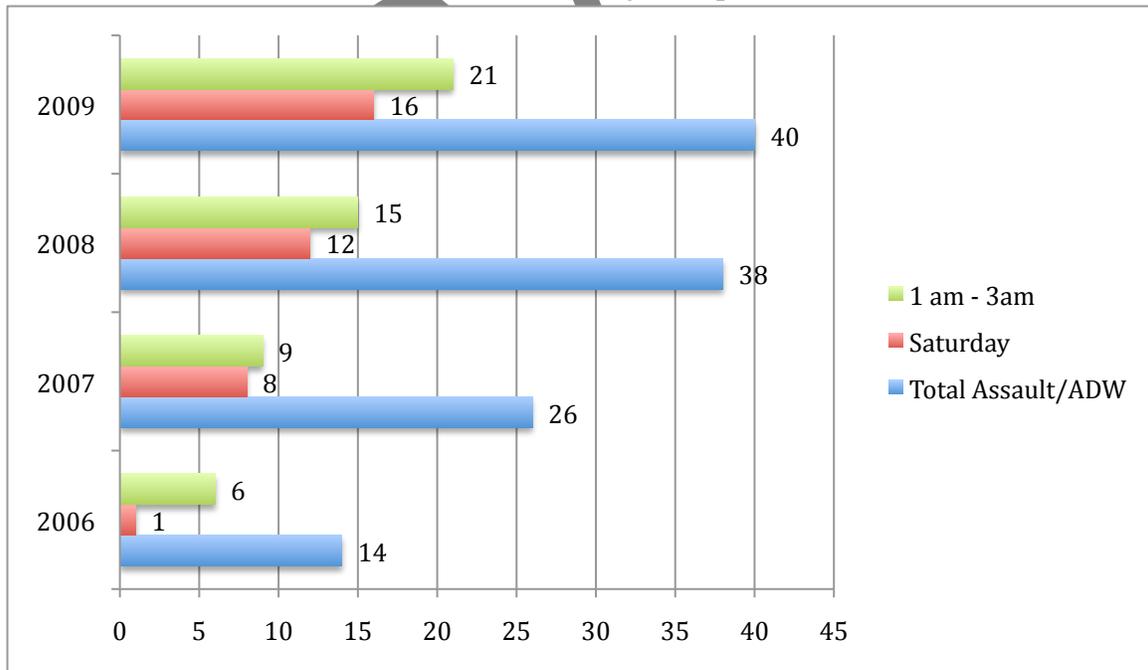
Noise was another concern voiced by a large number of impacted residents. The concerns raised focused specifically on the noise produced by taverns and nightclubs, which operate until later times and generally have patrons that may make noise after an establishment has closed. By restricting these types of licenses, residents claimed the Moratorium had the beneficial result of preventing additional disruptions from having a negative impact on residents. Residents seemed less concerned about noise produced by restaurants, which operate in a different manner and often close earlier than their permitted hours.

Several residents submitted comments inquiring as to why ABRA would not permit bordering blocks to “opt in” to the Moratorium. While the ANC can, and has, acted to carve out blocks from the Moratorium it has no ability to add blocks in if they so desire. The Committee recommends that ABRA consider a mechanism to allow this process to take place, if neighbors and businesses express interest.

*Public Safety*

In the time between the last ratification of the Moratorium in 2006 and 2009, the P Street area has seen an increase in Assaults and Assaults with a Deadly Weapon. This increase is notable particularly between 1 and 3 am, the time most establishments serving liquor close. The community has expressed concern that an increase of CT/DT or CN/DN licenses may have an impact on these figures by increasing the amount of traffic in Western Dupont Circle at the times these assaults have been occurring at the highest levels.

**Chart 1: Assaults and Assaults with a Deadly Weapon, 2006-2009**



To further determine the impact of the Moratorium on public safety, the Committee invited representatives from the Metropolitan Police Department (MPD) to speak at the February 8, 2011 public meeting. Present at the meeting were Lt. Scott Dignan and Sgt. Bryant Jeter. The comments of the officers focused on several major concepts:

- Lt. Dignan stated that P Street was not a “blip on the radar” prior to one establishment opening in the area. Public Safety concerns in the area have largely stemmed from this one institution with a CT/DT.
- MPD is interested in increasing foot traffic in the area. The more foot traffic in Dupont Circle, the greater an impact it will have on reducing crime, according to Lt. Dignan.
- Vacant space is a problem for public safety. MPD representatives repeatedly stated that a goal should be to reduce the amount of vacant space, which in turn will work to increase foot traffic in the area.

The Committee concludes from these remarks that business activity in the neighborhood has the potential to promote neighborhood public safety.

#### *Retail Diversity*

One of the primary goals in establishing a Moratorium is to protect and establish retail diversity in an area. Despite the Moratorium being in place, the Western Dupont area has seen retail spaces decrease over the course of the past 5 years. Among the businesses lost over this time include a hardware store, a video store, a plant/garden store, a clothing store and a health foods store. While some of this space has found new occupants, the majority of these new businesses have been restaurants. By these standards, the Moratorium has not been an effective tool at maintaining retail diversity.

“The P Street area is not as conducive to support retail as sections of Connecticut Avenue and Georgetown are. In order to attract retail, you need to have a critical mass that will bring people to the area. ”

*- Comment by Business Participant at 2/8 Public Meeting*

Comments were made at the February 8, 2011 public meeting that focused on why retail has not been as successful in Western Dupont Circle. For retail to thrive in an age where it must compete with the internet, there needs to be attractive space and significant recognizable brands to attract people. Within the Moratorium, this type of space does not exist. The P Street area in particular is perfect for small businesses that provide services to neighbors, but is not ideal for larger retail operations.

As an interesting comparison, Connecticut Avenue is a place where retail has thrived in the Dupont Circle area and it has not been part of the Moratorium zone.

Currently, there are 23 retail and service business within the West Dupont Circle Moratorium zone:

CVS, Books for America, Tigani Hair Boutique, Art & Frame, Quantum Fitness, Solar Planet, Z Lights & Furniture, Linea Pitti Custom Tailors, Georgetown Valet Cleaners, Westpark Cleaners, Kim's Custom Cleaners, Queen Nails, Corrective Shoe Repair, Lustre Cleaners, Art & Framing, Dupont Pet Stop, Dupont Veterinary Clinic, Luna's Hair Design, Hilltop Computers, Second Story Books, District Wellness Group, tabletop, and Tanning by Tan Line.

There are 5 institutions with the Moratorium zone that offer retail service of beer and liquor. There are two Class A licenses (liquors stores) and three Class B licenses selling beer and wine. Surveying both the public, local businesses and DCMAP it is clear that there is currently a saturation of this type of retail within the Moratorium zone. There is no public or business interest in expanding the number of these retail licenses.

#### *Economic Development*

A great deal of focus on the Moratorium has revolved around current and future development of the neighborhood. Initially, the Moratorium was put in place to encourage different types of businesses to take root in the area and discourage over concentration. Feed back from the public and business alike seem to reflect a desire to expand the opportunities for businesses in the area while controlling the elements that effect public safety and, in particular, noise.

“my wife and I have chosen to stay in Dupont Circle because we enjoy the vibrant urban lifestyle. I don't understand why Dupont Circle would choose to limit those urban experiences that make this neighborhood great. We should be doing everything we can to encourage, not discourage, new development of food and entertainment options.”

- Submitted Comment by Dupont Circle Resident

The focus of public input seems not to be on whether or not additional growth should be permitted, but rather how this can be controlled.

At the first public meeting on January 18, 2011, concern was expressed that relaxing the Moratorium would allow potential “bad actors” an opportunity to move to the neighborhood causing disruptions.

Both the Committee and the community felt strongly that a means of dealing with this was through stronger Voluntary Agreements with vigilant monitoring by both residents and the ANC. This objective is advanced by the continuation of the Moratorium, which allows for resident groups to protest with only 3 citizens as opposed to the standard requirement of 5.

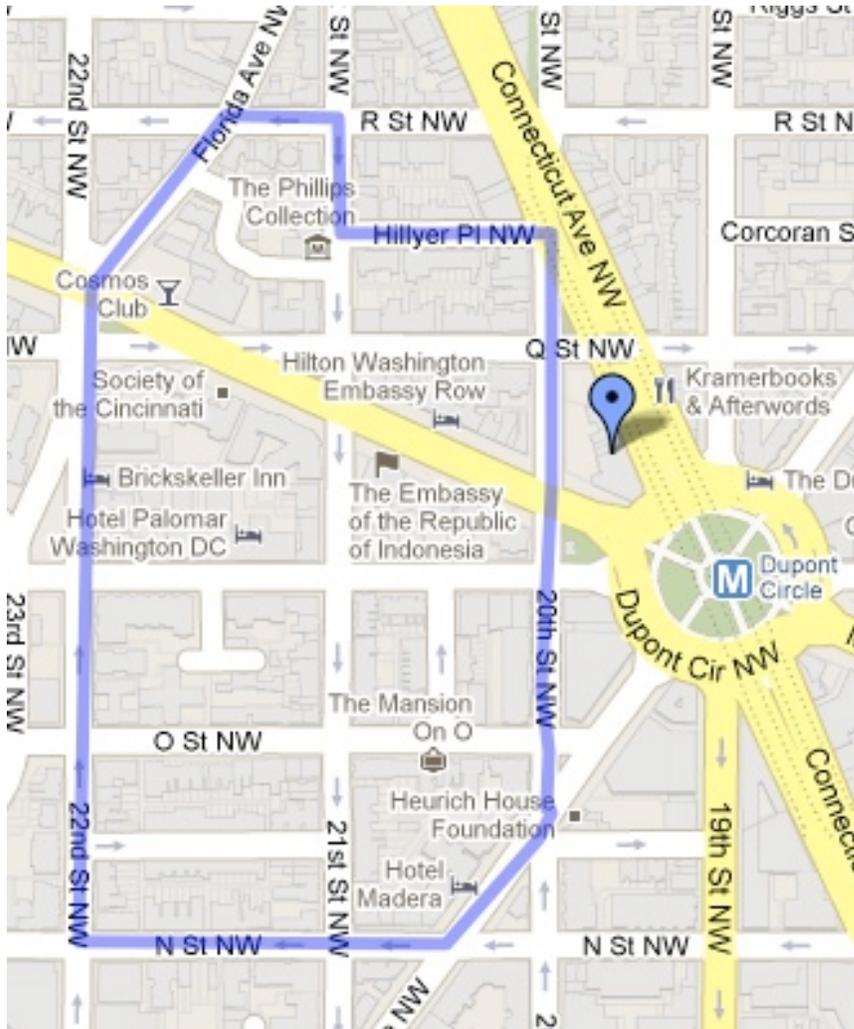
It was expressed that the ANC should pursue Voluntary Agreements with businesses wishing to establish themselves within the Moratorium boundaries in exchange for permission to increase the volume of licenses in the area.

To this extent, the Committee recognizes the important work being performed by ANC2B's ABRA Policy Committee, which has been working on establishing a model Voluntary Agreement that would make it easier for residents and businesses to come to terms on arrangements for new ABRA-licensed facilities that will open in the Dupont Circle area. The Committee is satisfied that this will help address current inconsistencies in Voluntary Agreements and will allow for just enforcement when required.

The existing boundaries of the Moratorium zone also present a challenge. While most of the area contained within the zone is mixed-use and divided between residents and businesses, there are inconsistencies to this. This was expressed several times at the community meetings held on January 18 and February 8. For example, after the block between 20<sup>th</sup> Street on the west, Q Street on the north Connecticut Avenue on the east and Massachusetts Avenue on the south was exempted from the Moratorium, it left another commercial block further down the road within the boundaries. This block, bordered by P Street to the north, New Hampshire Avenue to the east, O Street to the South and 20<sup>th</sup> Street to the west should be excluded from the Moratorium. This is particularly important as it is clearly designated a business area and falls within the same guidelines utilized to exempt its counterpart to the north of the Circle.

After conversations with the American Council on Education, it was discovered that this block might have been previously exempted from the Moratorium zone. Apparently, a previous occupant of One Dupont Circle had vacated the building, which was designed for a restaurant, and taken the associated liquor license away when the building was vacated. As a space designed for a restaurant, it was the intention of the community, the ANC and the ABC Board to allow this space to obtain a liquor license as it was designed. It was carved out of the Moratorium zone in the early 2000s. Due to technical errors at the time of renewal in 2006, this block was accidentally included in the Moratorium and has been listed as such ever since. Since the public, local business and the Metropolitan Police Department made comments regarding their desire to see this public space used, it is recommended that this block be carved out of the Moratorium zone with immediate effect.

**Figure 2: Proposed Moratorium Zone**



Furthermore, at both the January 18 and February 8 meetings discussion took place over the value of a liquor license within the zone. By restricting the number of licenses within the zone, each license holder has a commodity that becomes an asset that can be sold on the market to the highest bidder should an occupant choose to vacate their current space. The public and local businesses within the Moratorium zone expressed particular concern about this because it may prevent smaller, independent or local businesses from then moving. The higher price attributed to a license may make it is easier for larger “chain” or out-of-District business to move in, which would have a dramatic impact on the neighborhoods identity.

Ultimately, the community expressed a strong desire to see “guided” growth in West Dupont Circle. Concerns focused more on the type of license rather than whether or not more should be granted. Popular consensus seems to reflect that taverns and nightclubs may increase noise and public safety issues in the neighborhood. The Committee feels this perception may be formed by experiences with one neighbor in

particular, but agrees that any relaxation of licenses should be closely monitored and guided.

The goal of the Moratorium under this public guidance, would potentially allow for the creation of a "Restaurant Row," where an increase of DR/CR licenses may bring about development that is more conducive to maintaining peace, order and quiet in the neighborhood. Businesses along P Street in particular expressed the desire to focus on the quality of future neighbors rather than the quantity. Current restaurant owners actually seemed welcome to new establishments in so far as they brought value to the neighborhood and remained actively involved. This balances with the residential desire to maintain restrictions on CT/DT and CN/DN licenses, about which the community expressed reservation.

Furthermore, the ANC should carefully monitor growth of CR/DR licenses in the neighborhood. To be effective and successful, the ANC should attempt to stress its preference for restaurants to operate at hours that are appropriate and respectful of the neighbors in Western Dupont Circle. The ANC should reinforce and adhere to its Public Space Guidelines and ensure that Voluntary Agreements contain provisions that deal with delivery and shipments as well as trash disposal and rodent control.

### **Proposed Action**

The following Resolution is recommended to the ANC to enact the recommendations of the Committee and the public:

Whereas, the West Dupont Circle Moratorium (the Moratorium) has been recognized as an effective tool to protect against overconcentration, and protect the peace, order and quiet of the West Dupont Circle neighborhood; and

Whereas, a goal of the ANC is to promote the future of its neighborhoods, advocating for smart growth and sustainable, responsible economic development; and

Whereas, the Western Dupont Circle neighborhood has seen its businesses impacted both by both the economy and by the P Street redevelopment project; and

Whereas, the ANC has weighed the opinions of the impacted community, businesses, community organizations and the Dupont Circle neighborhood at-large; and

Whereas, the West Dupont Circle Moratorium is set to expire on March 23, 2011;

Therefore, be it resolved, that ANC2B petition the Alcoholic Beverage Regulation Administration (ABRA) for the renewal of a modified West Dupont Circle Moratorium for a three-year period from the date of Board action;

Be it further resolved, that ANC2B recommends continuing the current number of licenses allowable be listed as the following:

- Class A: 2
- Class B: 3
- Class CT/DT: 6

- Class CN/DN: 0
- Class CX/DX: 2

Be it further resolved, that the restriction on the number of CR/DR licenses be lifted; and

Be it further resolved, that the western boundaries of the Moratorium now be listed as beginning at 22nd Street and Florida Avenue; North on Florida Avenue to R Street; East on R Street to 21st Street; South on 21st Street to Hillyer Place to 20th Street; South on 20th Street to N Street; West on N Street to 22nd Street; North on 22nd Street to Florida Avenue; and

Be it further resolved, that the current exemption for hotels continue; and

Be it further resolved, that the existing language pertaining to transfer of ownership be allowed to continue;

Be it further resolved, that the prohibition on the transfer of a CT/DT, CN/DN A or B license from outside the Moratorium zone to inside the Moratorium zone be prohibited; and

Be it further resolved, that the Moratorium shall prohibit the change of all CR/DR licenses to CT/DT or CN/DN licenses; and

Be it further resolved, that ANC2B recommends ABRA consider a method for blocks to “opt-in” to the Moratorium zone that would not require an extension of 600 or more feet; and

Be it further resolved that ANC 2B will track measures to determine the effectiveness of these changes. These will include: complaints registered with ABRA, complaints registered with the Commissioners of the Single-Member Districts within the Moratorium boundaries, and the number and type of new businesses in the Moratorium boundaries.