

Testimony

By

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Chair, Advisory Neighborhood Commission 6B

Commissioner, ANC 6B09

Testimony on behalf of ANC 6B

Before the

Zoning Commission

**Case No. 14-03: Text Amendment to Section 2802.1 to Allow
Relocation of Existing Emergency Shelter in the Hill East District**

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Good evening Chairman Hood and members of the Zoning Commission. My name is Brian Flahaven, and I serve as chair of Advisory Neighborhood Commission 6B. My single member district, 6B09, lies in Hill East and is located immediately west of Reservation 13 and the DC General campus. My district also includes Barney Circle, the Historic Congressional Cemetery, and the Eastern Branch Boys & Girls Club Building.

We appreciate this opportunity to testify on the Office of Planning's proposed text amendment to the Hill East District to allow for the relocation of the Harriet Tubman Women's Shelter from Building 9 to Building 27 on the DC General campus. During our regularly scheduled and properly noticed May 13, 2014 meeting with a quorum present, ANC 6B voted 9-0-1 to send formal comments to the Zoning Commission stating our opposition to the proposed text amendment and urging the commission to require OP to seek a special exception to allow for the relocation of the shelter.

When I visited the Office of Zoning's website earlier this week, I learned of OP's additional submissions and decision to revise their text amendment request based on our comments and comments received by the Department of Human Services. We appreciate that OP, working with DHS and the Office of the Deputy Mayor for Planning and Economic Development, decided to revise the text amendment by removing references to the renovation of Building 9 and by adding a time limit – essentially the third option ANC 6B suggested in our May 14 letter to the Zoning Commission.

While the revised text amendment is a significant improvement, ANC 6B still urges the Zoning Commission to require OP to seek a special exception to allow the relocation of the shelter.

In 2009, the Zoning Commission approved the text and map amendments for the Hill East District (HE), area bounded by 19th Street SE on the west, Independence Avenue on the north, the Anacostia River waterfront on the east and a proposed extension of Massachusetts Avenue SE on the south. Prior the Zoning Commission's action, the area, commonly known as Reservation 13 and site of the former DC General Hospital, was largely unzoned. The HE District was zoned to be

consistent with the community developed and supported, and DC Council-approved, Reservation 13 master plan, a plan that calls for mixed-use development and the extension of the existing street grid to the Anacostia River waterfront.

Unfortunately, while the master plan and zoning have now been in place for a number of years, development plans for the site have stalled. One of the main obstacles to development is the continued use of the former DC General Hospital campus as the location of an emergency family homeless shelter, women's shelter and numerous other temporary uses inconsistent with the HE District that were grandfathered in during the zoning process. When city leaders chose to locate these uses on the site, they made it clear that the uses were temporary. However, the city has continued to expand capacity at the shelters despite deteriorating, unsafe conditions.

In regard to this case, ANC 6B certainly understands the need to relocate the Harriet Tubman Women's Shelter from Building 9 to another building. While our preference would be that the residents be moved to a newly constructed facility, we understand that the city must immediately relocate the current residents into a safer facility and has determined that Building 27 is an appropriate alternative.

While we do not object to the relocation itself, we do object to OP's approach to seeking the zoning relief necessary to permit the relocation. OP is asking the Zoning Commission to approve a text amendment that would change matter of right uses in the HE District. Instead of changing matter of right uses, OP should follow the clear process for seeking a special exception that already exists in HE District zoning.

As we outlined in our May 14 letter, there is precedent for using this special exception process. HE District zoning clearly prohibits at-grade surfacing parking lots (Section 2805.1(a)) but allows an applicant to seek a special exception for such a use under Section 2803.11, which allows, "New or expanded at-grade surface parking lots accessory to an existing use or building for a period of five (5) years which may be renewed a maximum of two (2) times."

The city used this process to construct the temporary at-grade parking lot that exists just north of Building 9. The idea was to give the city flexibility to move the

parking lots around as the development of the full site occurred - with the clear understanding that any surface parking lots are temporary.

Similarly, OP could pursue such a special exception for the relocation of the women's shelter under Section 2803.13, which states, "Other principal uses that are not permitted by § 2802, but not prohibited by §2805 shall be permitted in the HE District as a special exception provided the Commission considers that the use is appropriate in furthering the purposes of the HE District."

The Zoning Commission would have the power, under this section, to grant such a special exception to allow the relocation of the shelter to Building 27, particularly if the city's intention to demolish Building 9 is included in the special exception request. Demolition of Building 9, which we strongly support, would certainly further the purposes of the HE District.

Another option would be to allow for the temporary relocation of the emergency shelter under the special exception provisions of Section 2803. There is already a provision in this section (Section 2803.6(b)) that allows for a special exception for emergency shelters for five to 15 persons. This section could be amended using similar language to the language in OP's proposed text amendment to read, "Emergency shelter for five to 15 persons, not including resident supervisors or staff and their families, subject to the standards and requirements of § 305 except that an emergency shelter for not more than one hundred (100) persons, not including supervisors or staff and their families shall be permitted in Building 27 for a period of 2 years."

In a May 26 submission to the Zoning Commission, OP states that they do not support allowing the shelter use through a special exception, arguing that the special exception criteria in the HE District zoning are not applicable to this use. But as I mentioned earlier Section 2803.6(b) specifically references emergency shelter use, just for a smaller scale shelter. We believe that the Zoning Commission can amend this section, as was done in the case of at-grade parking lots, to allow for the time-limited emergency shelter relocation. Rather than approve a text amendment that expands matter-of-right uses, the commission should use the special exception process already outlined in the HE District.

If the Zoning Commission decides to bypass the special exception process – something we hope you won't do – ANC 6B would support a text amendment with two conditions. The first condition is that the text amendment does not permit emergency shelter use to remain at Building 9 and removes any references to renovating Building 9. Given the current hazardous and deteriorating state of Building 9, ANC 6B believes that city should proceed with and fund demolition of the building. Razing the building would clear the way for the city to pursue development on the northernmost parcels of Reservation 13, which would be consistent with furthering the purposes of the HE District. In addition, the DC Departments of General Services and Human Services have made it clear that they have no interest in renovating Building 9 and would support its demolition.

The second condition is the inclusion of a time limit on the emergency use similar to the time limit outlined for at-grade surface parking in Section 2803.11. We have learned the hard way that "temporary" tends to become "permanent" in the HE District. Since OP explicitly states that the emergency shelter relocation is temporary in their prehearing report, they should have no objection to including a reasonable time limit in the final order. A time limit also ensures that the city would have to seek additional zoning relief to extend uses inconsistent with the HE District.

We suggested a time limit of 2 years in our May 15 letter, mainly to ensure that the city would have to come back to the commission and community sooner rather than later to justify the continued temporary use and report on the progress of plans for permanent relocation of the shelter. While we appreciate that OP's revised text amendment includes a time limit, we are concerned that five years is too long. Given our experience with temporary uses in the Hill East District, we believe OP should have to come back to the affected commissions and community within a shorter time frame to ask for additional relief if needed and to share an update on their plans to find a permanent location for the shelter.

I'd also like to share two other points for your consideration. First, Building 27 is located in Parcel J, on the northern edge of the future Massachusetts Avenue Monument Circle. This location is called out for special treatment in both the Reservation 13 master plan and the HE District zoning (Section 2811.2). The first time we heard or were notified that Building 27 had been vacated was during a Department of General Services community meeting on May 8, 2013. If ANC 6B

had been informed of this information in 2013 – perhaps during one of numerous community meetings we and ANC 7F held with DMPED on Phase I of the Hill East Development - we likely would have urged the city to demolish the building. Now we are stuck weighing in on another request for a temporary use inconsistent with the HE District. We remain disappointed with the lack of information and notice we are receiving from city agencies about activities taking place in the HE District.

Second, the Reservation 13 master plan envisions that municipal uses, such as shelter use, would be located in Square L, south of the future extension of Massachusetts Avenue. We hope that allowing a large emergency shelter at Building 27, which is located in Square J, does not set a precedent of allowing municipal uses outside of Square L or interfere with plans to construct the Massachusetts Avenue extension and Monument Circle.

Finally, we are pleased that the city is moving forward with Phase I of the Hill East Development, which will bring mixed-use development to parcels F1 and G1 on the western edge of the Hill East District and catalyze the remaining site for development. We hope that our next HE District-related appearance before you will be focused on future development consistent with the Reservation 13 master plan, not short-term strategies to permit uses inconsistent with the HE District.

Thank you for your time and consideration of our testimony, and I'd be happy to answer any questions.