

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE AND CANNABIS BOARD**

In the Matter of:)
)
)
Addie Loves Soul Food) Case No.: 24-PRO-00063
t/a Addie Loves Soul Food Restaurant) License No.: ABCA-128106
) Order No.: 2024-658
Application for a New)
Retailer’s Class CR License)
)
at premises)
410 61st Street, N.E.)
Washington, D.C. 20019)
_____)

BEFORE: Donovan Anderson, Chairperson
James Short, Member
Silas Grant, Jr., Member

ALSO PRESENT: Addie Loves Soul Food, t/a Addie Loves Soul Food Restaurant, Applicant

Antawan Holmes, Chairperson, Advisory Neighborhood Commission
(ANC) 7C, Protestant

Martha Jenkins, General Counsel
Alcoholic Beverage and Cannabis Administration

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

INTRODUCTION

The Alcoholic Beverage and Cannabis Board (Board) approves the Application for a New Retailer's Class CR License filed by Addie Loves Soul Food, t/a Addie Loves Soul Food Restaurant (hereinafter “Applicant” or “Addie”). The Board is persuaded by the presentation of the Applicant that it intends to operate as a legitimate restaurant and will not have any negative impact on the community.

Procedural Background

The Notice of Public Hearing advertising Addie’s Application was posted on April 19, 2024, and informed the public that objections to the Application could be filed on or before June

3, 2024. *ABCA Protest File No. 24-PRO-00063*, Notice of Public Hearing [*Notice of Public Hearing*]. The records of the Alcoholic Beverage and Cannabis Administration (ABCA) indicate that Advisory Neighborhood Commission (ANC) 7C has filed a protest against the Application. *ABCA Protest File No. 24-PRO-00063*, Roll Call Hearing Results.

The parties came before the Board's Agent for a Roll Call Hearing on June 24, 2024, where the above-mentioned objector was granted standing to protest the Application. Finally, the Protest Hearing in this matter occurred on August 7, 2024.

The Board recognizes that an ANC's properly adopted written recommendations are entitled to great weight from the Board. D.C. Code §§ 1-309.10(d), 25-609; *Foggy Bottom Ass'n v. District of Columbia Alcoholic Beverage Control Bd.*, 445 A.2d 643, 646 (D.C. 1982). Accordingly, the Board "must elaborate, with precision, its response to the ANC[']s issues and concerns." *Foggy Bottom Ass'n*, 445 A.2d at 646. The Board notes that it received a properly adopted written recommendation from ANC 7C, which indicated that its protest is based on concerns regarding Addie's impact on peace, order, and quiet and residential parking and vehicular and pedestrian safety. The ANC's issues and concerns shall be addressed by the Board in its Conclusions of Law below.

Before the hearing, the Board denied the motion to dismiss for failure to state an appropriate claim filed by the Applicant based on the relevant issues raised in the ANC's initial protest letter. *Transcript (Tr.)*, Aug. 7, 2024 at 24-25. Nevertheless, the ANC's issues and concerns did not relate to residential parking needs and vehicular and pedestrian safety where the ANC raised concerns regarding occupancy and hours. As such, the Board limited the proceedings to only considering the impact of the establishment on peace, order, and quiet. *Id.* at 26-27.

Based on the issues raised by the Protestants, the Board may only grant the Application if the request will not have an adverse impact on the peace, order, and quiet; residential parking and vehicular and pedestrian safety; and real property values of the area located within 1,200 feet of the establishment. D.C. Code § 25-313(b); 23 DCMR §§ 1607.2; 1607.7(b) (West Supp. 2024).

FINDINGS OF FACT

The following statements represent the Board's findings of fact based on the evidentiary record. In reaching its determination, the Board considered the evidence, the testimony of the witnesses, the arguments of the parties, and all documents comprising the Board's official file. The Board credits all testimony and evidence identified or cited below unless otherwise stated.

I. Background

1. Addie's has submitted an Application for a New Retailer's Class CR License at 410 61st Street, N.E., Washington, D.C. *Notice of Public Hearing*.

2. ABCA Investigator Tavril Prout investigated the Application and prepared the Protest Report submitted to the Board. *ABCA Protest File No. 24-PRO-00063, Protest Report* (Jul. 2024) [*Protest Report*]. The proposed establishment is in a MU-4/CAP zone. *Id.* at 3. Three licensed establishments are located within 1,200 feet of the proposed location. *Id.* at 4. The establishment will operate and serve alcohol from 7:00 a.m. to 11:00 p.m., except on Saturday, when the business will open at 8:00 a.m. *Id.* at 5. The business has no prior history of violations because it has not held an alcohol license. *Id.* at 6.

3. The Capitol Heights Metro Station is within walking distance of the business. *Id.* at 5. There are also various bus lines that run by the area. *Id.* The business has “on-site and street parking.” *Id.* at 4. The investigator estimated that the business had approximately 10 parking spots. *Id.*

II. Tavril Prout

4. ABCA Investigator Tavril Prout is aware that Addie’s currently operates from 7:00 a.m. to 8:00 p.m. daily as a restaurant that does not sell alcohol. *Tr.*, 8/7/24 at 39. The establishment neighbors a church and a daycare center. *Id.* at 41. The business has been in operation since 2019. *Id.* at 42. He further noted that the business has chains to secure its trash area. *Id.* During his visits to the area, the business was closed and there was minimal activity. *Id.* at 44-45. He observed that street parking was available in the vicinity of the business and could accommodate approximately 25 cars. *Id.* at 58-59. Finally, he observed that there was a large amount of housing in the area; however, many residential units appeared unoccupied or abandoned. *Id.* at 60-61.

5. During his visit, he did not observe any drug activity. *Id.* at 67. The investigator believes he observed some prostitution activity in the neighborhood. *Id.*

III. Bernadette James

6. Bernadette James bought the business from a former carry out establishment. *Id.* at 99-100. At the time of purchase, there were loiterers and trash in the area and the business suffered a robbery. *Id.* at 100, 103. She noted that since the business has been in operation and based on her efforts to establish relationships with people in the community, that many of these issues have gotten better. *Id.* at 100-104.

7. If granted, the business will still engage in carry out and dine-in sales. *Id.* at 104-05. She plans to hold some events at the restaurant and outside the restaurant on occasion; however, she has another space available for large events. *Id.* at 106. The business currently has eight tables available for dine-in customers. *Id.* The establishment currently serves “soul food” and makes food fresh to order. *Id.* at 109. A full breakfast, lunch, and dinner is offered at the restaurant. *Id.* at 110. The business plans to serve beer, wine, and spirits if the license is granted. *Id.* at 114. The occupancy of the business is set at 75 persons. *Id.* at 114.

IV. Sherry Freeman

8. Sherry Freeman is a resident of the community and supports the Application. *Id.* at 70-73. She observed that Ms. James engaged in a lot of charity efforts in the community and is a respected member of the community. *Id.* at 71. Based on her experiences at the restaurant, she has not observed any crime in and around the business. *Id.* at 72, 74.

V. Charles Thornton

9. Charles Thornton resides in the neighborhood and frequently patronizes the restaurant. *Id.* at 77. He praised the ownership's involvement in the community and supports the application. *Id.* at 77-80. He is aware of prostitution occurring but has not observed any prostitution activity near the establishment. *Id.* at 82-83.

VI. Charles Jones

10. Charles Jones is a D.C. resident and has patronized the proposed establishment. *Id.* at 85. He supports the Application. *Id.* In his experience, the neighborhood and establishment are safe. *Id.* at 89.

VII. Tammy Taylor

11. Tammy Taylor has patronized the establishment. *Id.* at 94. It currently operates as a restaurant that sells "soul food." *Id.* She has never observed criminal activity at the establishment. *Id.* She also has never experienced issues finding parking near the establishment. *Id.* She has never observed litter near the establishment as well. *Id.* at 96.

VIII. Commissioner Carrie Brown

12. ANC Commissioner Carrie Brown visited the establishment on one occasion. *Id.* at 126. During her visit, she thought she observed "drug users" in the area and could not confirm if prostitution was occurring in or around the establishment. *Id.* at 126, 130. She further indicated that she did not observe trash in the Applicant's parking lot but did see trash in the vicinity of the restaurant. *Id.* at 131.¹

IX. Mary Gaffney

13. Mary Gaffney serves as the President of the Northeast Boundary Civic Association. *Id.* at 153. She is concerned about the impact of the restaurant on traffic, the appropriateness of the occupancy, and the hours of alcohol service. *Id.* at 154. She also believes drug users and prostitutes frequent the area outside the establishment. *Id.* at 155.

¹ The Board reminds the parties that a party's willingness or unwillingness to collaborate, work with, or communicate with others is not relevant to the decision to issue a liquor license under the law. *Tr.*, 8/7/24 at 150.

X. Susan Williams

14. Susan Williams lives near the establishment. *Id.* at 167. She has observed people sitting on the sidewalk near the establishment, but they were not on the premises of the establishment. *Id.* She noted that these people were not threatening in any way and that they were just engaged in talking. *Id.* at 167, 170. She has also observed other individuals walking the streets that routinely panhandle or may be engaging in prostitution. *Id.* She also had concerns about parking in the neighborhood. *Id.* at 168. She noted that the new residential buildings being constructed would be within walking distance of the premises. *Id.* at 171-73.

XI. Carol Washington

15. Carol Washington is concerned about the potential increase in customers and the potential for more customers to loiter on the streets. *Id.* at 174-75. She is also concerned about the impact of alcohol sales on the nearby daycare. *Id.* at 175. She is also concerned about alcohol sales encouraging driving while intoxicated. *Id.* at 175-76. She admitted that the business is currently not having a negative impact on the community. *Id.* at 183.

CONCLUSIONS OF LAW

16. The Board may approve an Application for a New Retailer's Class CR License when the proposed establishment will not have an adverse impact on the neighborhood. D.C. Code §§ 25-104, 25-313(b); 23 DCMR §§ 1607.2; 1607.7(b) (West Supp. 2024). Specifically, the question in this matter is whether the Application will have a negative impact on the peace, order, and quiet; residential parking and vehicular and pedestrian safety; and real property values of the area located within 1,200 feet of the establishment. D.C. Code § 25-313(b); 23 DCMR §§ 1607.2; 1607.7(b) (West Supp. 2024).

I. The Burden of Proof Lies with the Applicant to Prove its Case Through Substantial Evidence.

17. The burden of proof in this matter is assigned to the Applicant. D.C. Code § 25-311(a). “. . . [T]he Applicant in meeting its burden may rely on the record as a whole, which includes information provided in the Protest Report and the Protestant’s case, and not just what the Applicant presents during its case-in-chief.” *In re The New 7307, t/a Premier Lounge*, Case No. 22-PRO-000222, Board Order No. 2022-701, ¶ 1 (D.C.A.B.C.B. Oct. 19, 2022) *citing Esgar Corp. v. Commissioner of Internal Revenue*, 744 F.3d 648, 655 (10th Cir. 2014); *see also Washington Metro. Area Transit Auth. v. Dist. of Columbia Dept. of Employment Services*, 992 A.2d 1276, 1283 (D.C. 2010) *citing Dale v. S & S Builders, LLC*, 188 P.3d 554, 561 (Wyo. 2008) (saying in determining whether a party met its burden during an administrative hearing the court will look at the “record as a whole”). The Board further notes that where there is an “absence of evidence on an essential point [this] supports denial rather than granting of an application.” *Conrad v. Dist. of Columbia Alcoholic Beverage Control Bd.*, 21-AA-748, 2023 WL 163964, at *5 (D.C. Jan. 12, 2023).

18. Furthermore, in determining whether the Applicant has met its burden, the Board shall only base its decision on the “substantial evidence” contained in the record. 23 DCMR § 1718.3 (West Supp. 2024). The substantial evidence standard requires the Board to rely on “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Clark v. D.C. Dep’t of Employment Servs.*, 772 A.2d 198, 201 (D.C. 2001) citing *Children’s Defense Fund v. District of Columbia Dep’t of Employment Servs.*, 726 A.2d 1242, 1247 (D.C. 1999).

I. The Establishment is Appropriate for the Neighborhood.

19. Under the appropriateness test, “the applicant shall bear the burden of proving to the satisfaction of the Board that the establishment for which the license is sought is appropriate for the locality, section, or portion of the District where it is to be located” D.C. Code § 25-311(a). In determining appropriateness, the Board must consider whether the Applicant’s future operations will satisfy the reasonable expectations of residents to be free from disturbances and other nuisances—not just whether the Application complies with the minimum requirements of the law. D.C. Council, Bill 6-504, the “*District of Columbia Alcoholic Beverage Control Act Reform Amendment Act of 1986*,” Committee on Consumer and Regulatory Affairs, 38 (Nov. 12, 1986); see *Panutat, LLC v. D.C. Alcoholic Beverage Control Bd.*, 75 A.3d 269, 277 n. 12 (D.C. 2013) (“However, in mandating consideration of the effect on peace, order, and quiet, § 25-313(b)(2) does not limit the Board’s consideration to the types of noises described in § 25-725.”). As part of its analysis, the Board should evaluate each “unique” location “according to the particular circumstances involved” and attempt to determine the “prospective” effect of the establishment on the neighborhood. *Le Jimmy, Inc. v. D.C. Alcoholic Beverage Control Bd.*, 433 A.2d 1090, 1093 (D.C. 1981). Furthermore, the analysis may also include the Applicant’s efforts to mitigate or alleviate operational concerns, the “character of the neighborhood,” the character of the establishment, and the license holder’s future plans. *Donnelly v. District of Columbia Alcoholic Beverage Control Board*, 452 A.2d 364, 369 (D.C. 1982) (saying that the Board could rely on testimony related to the licensee’s “past and future efforts” to control negative impacts of the operation); *Upper Georgia Ave. Planning Comm. v. Alcoholic Beverage Control Bd.*, 500 A.2d 987, 992 (D.C. 1985) (saying the Board may consider an applicant’s efforts to “alleviate” operational concerns); *Citizens Ass’n of Georgetown, Inc. v. D.C. Alcoholic Beverage Control Bd.*, 410 A.2d 197, 200 (D.C. 1979); *Gerber v. D.C. Alcoholic Beverage Control Bd.*, 499 A.2d 1193, 1196 (D.C. 1985); *Sophia’s Inc. v. Alcoholic Beverage Control Bd.*, 268 A.2d 799, 800-801 (D.C. 1970).

a. The Application will not have a negative impact on peace, order, and quiet.

20. Addie’s has persuaded the Board that its proposed operations will not have a negative impact on the community. “In determining the appropriateness of an establishment, the Board shall consider . . . [t]he effect of the establishment on peace, order, and quiet, including the noise and litter provisions set forth in §§ 25-725 and 25-726.” D.C. Code § 25-313(b)(2); see also D.C. Code §§ 25-101(35A), 25-314(a)(4). Among other considerations, the Board is instructed to consider “noise, rowdiness, loitering, litter, and criminal activity.” 23 DCMR § 400.1(a) (West Supp. 2024).

21. Through its presentation, Addie’s has demonstrated that it intends to operate as a legitimate restaurant. In *Pal the Mediterranean Spot*, the Board found it unlikely that a legitimate restaurant could cause crime, disorder, and other negative impacts because the business model focused on food rather than alcohol sales. *In re Pal the Mediterranean Spot, LLC, t/a Pal the Mediterranean Spot*, Case No. 13-PRO-00101, Board Order No. 2014-038, ¶ 29 (D.C.A.B.C.B. Jan 22, 2014) (citations removed). As in that case, Addie’s currently operates as a carryout and restaurant focusing on soul food. *Supra*, at ¶ 7. There is no indication that Addie’s intends to depart from this model, add entertainment, sell alcohol after 11:00 p.m., or engage in other operations that would convert the business into a nightclub, change the business model to one focused on high volume or late-night drinking. *Supra*, at ¶¶ 2, 7. The Board further found concerns that the business could have a negative impact on the nearby daycare to be speculative as there is no credible evidence that a restaurant cannot operate in harmony with a nearby school or daycare or that the ownership would violate laws regarding the sale of alcohol to minors. There is also no credible evidence that the business would violate laws related to the overservice of alcoholic beverages, which makes concerns about driving while intoxicated, speculative. Therefore, there is minimal risk that the additional of alcohol sales will cause problems associated with high volumes of alcohol service and entertainment, such as noise, rowdiness, and crime.

22. The Board is further unpersuaded that the addition of alcohol service will have an impact on any existing problems involving crime, drug use, or prostitution in the neighborhood. An applicant or licensee should not be held responsible for any crime that has nothing to do with the establishment or that is not likely to be allowed, caused, encouraged, or permitted by the establishment’s existing or proposed operations. *LCP, Inc. v. Dist. of Columbia Alcoholic Beverage Control Bd.*, 499 A.2d 897, 899-900, 904 n. 10 (D.C. 1985). In this case, it appears that the crime, drug use, and prostitution complained of by the Protestants may exist or occur in the vicinity of the premises but there is no nexus between observed crime and antisocial behavior occurring in the neighborhood and the business. *Supra*, at ¶¶ 12-15. For example, there is no credible evidence that people make prostitution arrangements or distribute or consume narcotics in the business despite the business being open to the public at this time. Finally, there is no evidence that patrons congregating near the establishment are having a negative impact on peace, order, or quiet. *Supra*, at ¶ 14. Therefore, the Board finds in favor of the Applicant on the issue of peace, order, and quiet.

b. The Applicant will not have a negative impact on residential parking needs and vehicular and pedestrian safety.

23. Addie’s application will not have a negative impact on residential parking and vehicular and pedestrian safety. “In determining the appropriateness of an establishment, the Board shall consider . . . [t]he effect of the establishment upon residential parking needs and vehicular and pedestrian safety” D.C. Code § 25-313(b)(3); *see also* D.C. Code §§ 25-101(35A), 25-314(a)(4). Among other considerations, the Board is instructed to consider the availability of both private and public parking, any parking arrangements made by the establishment, whether “[t]he flow of traffic . . . will be of such pattern and volume as to . . . increase the [reasonable] likelihood of vehicular [or pedestrian] accidents” 23 DCMR § 400.1(b), (c) (West Supp. 2024).

24. The Board is persuaded that the Application will not have a negative impact on residential parking and vehicular and pedestrian. First, the business will be located near a Metro Station and bus lines, which reduce the need for parking in the vicinity. *Supra*, at ¶ 3. Second, the business has a parking lot with 10 parking spots and there is no indication that this is insufficient when the business is currently in operation. *Id.* There is also no indication that persons driving to or from the business would create a danger to pedestrians or vehicles and there is no history of traffic accidents by the business. Therefore, the Board finds in favor of the Applicant on this issue.

II. The Application Satisfies All Remaining Requirements Imposed by Title 25.

25. Finally, the Board is only required to produce findings of fact and conclusions of law related to those matters raised by the Protestants in their initial protest. *See Craig v. District of Columbia Alcoholic Beverage Control Bd.*, 721 A.2d 584, 590 (D.C. 1998) (“The Board’s regulations require findings only on contested issues of fact.”); 23 DCMR § 1718.2 (West Supp. 2024). Accordingly, based on the Board’s review of the Application and the record, the Applicant has satisfied all remaining requirements imposed by Title 25 of the D.C. Official Code and Title 23 of the D.C. Municipal Regulations.

ORDER

Therefore, the Board, on this 25th day of September 2024, hereby **APPROVES** the Application for a New Retailer’s Class CR License at premises 410 61st Street, N.E., filed by , Addie Loves Soul Food, t/a Addie Loves Soul Food Restaurant.

IT IS FURTHER ORDERED that the Board’s findings of fact and conclusions of law contained in this Order shall be deemed severable. If any part of this determination is deemed invalid, the Board intends that its ruling remain in effect so long as sufficient facts and authority support the decision. The omission of any testimony or evidence in the Board’s Order indicates that such testimony or evidence was contravened by the evidence or testimony credited by the Board, had no or minimal weight on the Board’s findings and conclusions, was irrelevant, was not credible, was not truthful, was repetitious, was too speculative, or was otherwise inappropriate for consideration.

The ABCA shall deliver a copy of this order to the Parties.

District of Columbia
Alcoholic Beverage and Cannabis Board

eSigned via SeamlessDocs.com
Donovan Anderson
Key: ac430b9b59d5f0e4b730060d1dccc8

Donovan Anderson, Chairperson

eSigned via SeamlessDocs.com
James Short
Key: 547ac373f820de0ac8d1b3325d2049c

James Short, Member



Silas Grant, Jr., Member

Pursuant to D.C. Official Code § 25-433(d)(1), any party adversely affected may file a Motion for Reconsideration of this decision within ten (10) days of service of this Order with the Alcoholic Beverage and Cannabis Administration, Reeves Center, 2000 14th Street, NW, 400S, Washington, D.C. 20009.

Also, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, D.C. Code § 2-510 (2001), and Rule 15 of the District of Columbia Court of Appeals, any party adversely affected has the right to appeal this Order by filing a petition for review, within thirty (30) days of the date of service of this Order, with the District of Columbia Court of Appeals, 430 E Street, N.W., Washington, D.C. 20001. However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR § 1719.1 stays the time for filing a petition for review in the District of Columbia Court of Appeals until the Board rules on the motion. *See* D.C. App. Rule 15(b) (2004).