

MINUTES 5/10/76

Advisory Neighborhood Commission 3C met on Monday May 10, 1976 at the Cleveland Park Club. Attendance was taken and the following members were recorded as present: Sam Smith; Rose Graves; Lindsley Williams; Charles Van Way, Jr.; Thomas Corcoran, Jr.; Ruth Haugen; Kay McGrath; Katherine Coram; and Neal Krucoff.

The regular agenda from the by-laws was read. The agenda was suspended to allow a special presentation.

The presentation was made by Bill Johnson and Bill Middleton from the Municipal Planning Office. They discussed planning and zoning in the ANC area and heard comments on the Ward 3 Profile.

As a result of this the ANC decided to set up a planning and zoning committee. Possible members were discussed.

A report will be prepared on the comments of the Commission and our requests for changes and information.

Internal Business

A number of committees were suggested. It was decided that one Commissioner would have responsibility for setting up each committee. The committees and their assignments were:

Environment and related city services: Harry Bowen
Planning and Zoning: Katherine Coram
Education and Recreation: Rose Graves
Traffic and Transportation: Lindsley Williams
Finance and Revenue: Sam Smith
Human Resources, Problems of the Aging: Ruth Haugen
Public Safety: Tim Corcoran
Housing Maintenance, Licenses: Neal Krucoff

Finances: A report was given by the treasurer, Charles F. Van Way, Jr. We will have a budget of approximately \$4000 per quarter. We will probably get the first payment on or about June 1. Col. Van Way is prepared to open a checking account at Riggs National Bank and a savings account at National Savings and Loan. An Advisory Neighborhood Commission Security Fund has been set up as an alternative to bonding for treasurers of ANCs. Col. Van Way objects to the assurance that they would have him sign and prefers bonding. The ANC decided to pay the bonding fee. Lindsley Williams asked that all future investigations on this subject include the requirements for the vice-treasurer. The question of where to keep our deposits arose. Sam Smith will find out which banks and Savings and Loans have good policies concerning intracity mortgage loans. Ruth Haugen pointed out that American Security and Riggs are not participating in the program of exempting senior citizens from service charges.

Correspondence from the District government was announced and given to committees for action.

A request from Tom Foss an area resident for us to consider recommending that parking sticker programs be extended to weekends was referred to the transportation committee. Other issues raised by Mr. Foss that the committee will consider included: the method for starting a parking sticker petition; the lack of signs on Connecticut Avenue saying that there is parking available at the zoo; and the need for police to control traffic at the zoo.

Minutes 5/10/76

-2-

One of the notices handed out required immediate discussion, as the hearings were to be held before the next meeting of the ANC. These hearings were to concern proposed residency requirements for D.C. Employees. After a discussion in which both sides were presented a motion was made that we take no position. The motion passed.

Respectfully submitted,


Katherine Coram, Recording Secretary

MINUTES MAY 24, 1976

The regular meeting of ANC 3C was held on May 24, 1976 at the Second District Police Station. The meeting was called to order by Chairperson McGrath.

Attendance was taken and the following Commissioners were present: Smith, Van Way, Krucoff, Williams, Coram, Corcoran, and Haugen. Commissioner Bowen was reported to be ill.

The regular agenda was read and was suspended by a motion to allow several special visitors to speak.

The minutes of the previous meeting were read and the minutes of the meeting before that were amended and approved.

Jill Travis of the Municipal Planning Office and Mr. Dickerson of the DC Department of Recreation reported on what they knew of plans for a temporary Post office to be constructed on Recreation Department land on 39th St., between Newark and Macomb. They reported that the DC Department of General Services would handle such a proposal through its leasing program.

The United States Postal Service did not come to the meeting, however their representative had met with McGrath that morning to discuss their plans. Harley Daniels, representing CBI Fairmac -- the owners of McLean Gardens, also attended the ^{morning's} meeting unexpectedly. At that meeting they told McGrath that they had agreed on a plan to utilize the McLean Gardens Administration building for this facility. USPS had rejected the 39th St. site because of terrain problems, the expense and time lag that construction would cause, and opposition of the community, especially the gardeners. The plan for McLean Gardens would utilize all the area from the building to Wisconsin Ave. and would necessitate one new curb cut on Porter St. Because it would be a Federal ^{owned facility} installation ^{temporary} no zoning change would be required and only NCPC approval would be needed. It was indicated that there are 45 jeepsters which utilize the facility and that there are about 5 customers at a time who would use Porter St. USPS is required to get complete plans to NCPC by June 16 in order to be on the July agenda.

In discussion Patty Macie pointed out that there are a lot more cars of customers than this proposal would indicate. Phil Mendelson, Chairman of the Newark St. Community Gardens, said that the gardeners had not opposed the 39th St. ^{Site}, but had only asked for complete details.

The ANC will ask the Municipal Planning Office, USPS, and whoever else is involved to make a full report as soon as possible.

Hank Pizer of DC Recreation was present at the meeting. Several members of the Commission voiced their support for more tennis courts in the ANC area. The recreation problems of SMD 3C01 were discussed briefly. Smith asked for information on NPC's and youth programs for the summer.

The next item of business was the application of CJK Ltd. to construct a restaurant and Bar to be called "Ireland's Four Provinces" at 3412 Connecticut Ave. NW. The opponents and proponents of the restaurant were invited to speak at the meeting. The prospective owners who are applying for a Class C liquor license did not attend the meeting, because "their attorney was out of town." Gary Kopff, a resident of the immediate neighborhood of the site gave a ^{live-graph} presentation explaining the opposition of residents and businesses in the vicinity. Several other residents including Terrence Sheehy and Bobby Abbo spoke on the subject. In the course of the discussion several persons spoke to the issue of the future of the neighborhood shopping district on Connecticut Ave. Since rents are getting so high. The ANC, it was felt, should consider what actions it can take on this subject.

A resolution opposing this construction was presented. It passed by a unanimous vote. The resolution was numbered 3C-76-04. The Commission thanked Kopff for his presentation.

Minutes 5/24 (cont'd.)

The next issue raised was gun control. The Bill proposed by Dave Clarke on the issue was discussed. Various opinions were expressed by the Commissioners and attempts to agree on a position that was agreeable to all were fruitless. The issue was referred to the Public Safety Committee.

The next issue was traffic lights and stop signs. Smith asked for a recommendation for retiming of the lights on 34th St. so that pedestrians can cross in greater safety. He also asked for 3- or 4-way stops on Newark and Macomb Sts. Tim Corcoran spoke of the need for 4-way stops at 38th and Macomb, 38th and Woodley and Macomb and Idaho. Retiming of the lights on Connecticut Ave. was also suggested. It was decided that the Transportation committee would consider these and other requests and report back ~~at the next meeting~~. Noise and pollution effects of additional stop signs was to be considered.

A report was given on the closing of the Ward 3 Food Stamp Center which had been opened with considerable fanfare at the Chevy Chase Community Center. No notice was given to the ANC or to the public at large of this closing. The Commission empowered the Human Resources Committee to write a letter protesting this action.

The resolution opposing construction of the embassy complex on the site now occupied by McLean Gardens originally presented at the April meeting was reconsidered. After discussion the motion passed. The resolution was numbered **36-76-05**.

The proposed by-laws amendment that Neal Krucoff circulated requiring that Commissioners circulate all proposed motions and supporting information before each was adopted in spirit, realizing that an attempt to put it in the by-laws would be too restrictive. Two other amendments will be considered at the June meeting. These include putting historic preservation in the statement of purpose of the Commission and reordering the agenda.

After conclusion of business the meeting was adjourned.

Respectfully submitted,
Katherine V. Coram
Recording Secretary

ADVISORY NEIGHBORHOOD COMMISSION 3C

3C-76-04

Resolution adopted unanimously at a public meeting, May 24, 1976:

A

Advisory Neighborhood Commission 3C, pursuant to its responsibilities, has given full consideration to the application of CJK Corporation for a Class C license at 3412 Connecticut Avenue, N.W., Washington, D.C. (Application No. 10970). Neighbors of the location and the applicants were invited to appear; however, the applicants notified the Chairperson that due to the absence of applicant's lawyer they would not attend. One of the neighbors, Mr. Gary Kopff, presented the views of the neighbors in opposition to the application. The Commission objects to the application on the following grounds:

1. An overwhelming majority of the residential neighbors in the immediate vicinity of the proposed facility oppose it.
2. There is no fire exit from the facility except the front entrance.
3. There is no area for storage and pick up of trash and garbage save in front of the proposed facility at the main entrance adjacent to the Connecticut Avenue sidewalk.
4. Parking is inadequate based on the volume of anticipated patronage and the existing ABC licensed facilities in the same block. In addition, construction of the Metro station to be located in that stretch of Connecticut Avenue (the Cleveland Park Station) will further reduce available parking and make financial success of the proposed venture less likely.
5. There is no access to the rear of the facility for unloading and delivering supplies, and any such function must necessarily interfere, either with traffic on Connecticut Avenue or parking in an adjacent lot, or both.

The Commission reminds the Alcoholic Beverage Control Board that it is bound to act in accordance with law. Specifically the District of Columbia Self-Government and Governmental Reorganization Act, PL 93-198, (commonly known as the Home Rule Act) as amended by DC Law 1-58, provides in Section 13(b) that all actions of all agencies of the District of Columbia government shall be provided to the affected Advisory Neighborhood Commission. Section 13(c) of the same law specifies that those actions of agencies of the District of Columbia government as to which notice must be given to the affected Advisory Neighborhood Commission include the formulation of any final policy decision with respect to, among other things, licenses. Section 13(c) requires that the recommendations of Advisory Neighborhood Commissions be given "great weight" during the deliberations by the agency and it also provides that the issues raised by the Advisory Neighborhood Commission be discussed in the written rationale of the decision itself.

RESOLUTION 3C-76-05

Whereas, CBI-Fairmac, the owners of McLean Gardens have announced their intention of developing an embassy/chancery complex on the site now occupied by 723 units of middle income rental apartments, housing 200 people;

Whereas, the stated policy of the District of Columbia Governemnt is the preservation and increase of middle income housing;

Whereas, there is as yet no demonstrated need for any additional embassy/chancery space;

Whereas there is a study underway of such needs;

Whereas there is a demonstrated need for middle income housing in Ward 3;

Whereas, the area is currently zoned, planned, and used as a residential community; and

Whereas, the demolition of McLean Gardens and its replacement with a non-taxpaying embassy complex will have a destructive effect on the environment, traffic flow, safety, tax base, and general character of our neighborhood;

Be it resolved that ANC 3C goes on record opposing the proposed complex and calls on CBI-Fairmac to consider community needs in all future plans for the site.

PEABODY, RIVLIN, LAMBERT & MEYERS

WASHINGTON, D. C. 20036

TWELFTH FLOOR
CONNECTICUT BUILDING
1150 CONNECTICUT AVENUE, N. W.

TELEPHONE: (202) 457-1000
CABLE ADDRESS: "EXCELSIOR"
TELEX: 897413

MEMORANDUM

Date: May 18, 1976
To: Tedson J. Meyers
From: Timothy L. Harker *TH*
Re: Shoreham North Condominiums

I recommend that Shoreham North take the following action in regard to the nuisance situation:

1) File suit for injunction and damages in D. C. Superior Court against the major bus companies and the Shoreham Hotel for the maintenance of a private and public nuisance. The suit would allege under private nuisance theory that the noise from the buses constitutes a substantial interference with the use and enjoyment of property and that the traffic congestion created by the buses which double park unreasonably interferes with access to Shoreham North by plaintiffs. The public nuisance count should allege interference with public health and obstruction of public roadways, which causes plaintiff as adjacent owners special damage in the use and enjoyment of their own property. As part of the nuisance counts, we would allege that the buses are in violation (citing specific dates) of the D. C. Noise Ordinance restricting idling to under three minutes.

The complaint should also allege as a separate count, that the Shoreham has aided and abetted the bus companies in the maintenance of a nuisance by failing to provide adequate parking facilities for guest boarding and debarking.

In order to draft the complaint for such action, the following additional work is necessary:

(a) Shoreham North should compile specific dates on which buses have parked illegally, caused traffic congestion and/or violated the three minute limitation on idling. (Attached, Appendix A). I suggest that prospective "witnesses" on behalf of the Shoreham North gather such information for each of the major bus companies which are the

primary culprits. The information should be gathered in a fashion similar to that evidence discussed in your letter to Chief Cullinane of May 4, 1976 (attached hereto). In addition, it is necessary to obtain the license and carrier numbers of each bus involved; a recording of the time of day and duration of time each bus is idling or illegally parked, and a description of where it was parked and whether passengers boarding and debarking were going into the Shoreham Hotel.

I suggest that we attempt to obtain such data for a number of days as to each bus company and for a variety of times of day, so as to create a representative picture of the frequency of occurrences and the times on which they occur. Using these specific dates as a factual foundation for the complaint, we can also allege continuous violations for a time span prior to these specific dates.

(b) With this information, I would estimate that a nuisance complaint could be drafted with the expenditure of approximately eight hours of additional lawyers' time.

(c) In order to prepare for trial, extensive interviewing of Shoreham North residents would be advisable, both those who have gathered the above-mentioned specific information and those who are best equipped to testify to the history of nuisance at this site and the variety of ways in which it has interfered with ingress, egress, and use and enjoyment of the property. I believe that six or seven witnesses in this regard would be optimum.

In order to prepare said witnesses, I estimate approximately four days of lawyer's time. We may also want to engage in limited pre-trial discovery on the availability of boarding facilities at the Shoreham Hotel (1 day).

(d) Trial of the case would require approximately three days.

2) Redress should also be sought under the Federal Noise Control Act of 1972, if it is believed that the idling of any one bus exceeds 86dBA. I would suggest taking specific measurements by use of an acoustical consultant. If these measured noise events exceed EPA standards (40 CFR Part 202, attached as Appendix B), when measured in accordance with the required monitoring procedures, Shoreham North must report the violation to EPA and provide notice to those bus companies alleged to be in violation. Sixty days thereafter, if EPA has not acted, Shoreham North may file suit in U. S. District Court to enjoin violations of the Noise Control Act. Each day of violation of the Act constitutes a separate offense for which a

Tedson J. Meyers
Page Three (3)

maximum civil penalty of \$25,000 is established, if the Administrator of EPA determines that a violation has occurred. If citizen suit is brought in District Court to enjoin violation of the Act, the court may award costs, including attorney's fees, where appropriate.

TLH/bh
Attachments

PEABODY, RIVLIN, LAMBERT & MEYERS

WASHINGTON, D. C. 20036

May 4, 1976

ENDICOTT PEABODY
LEWIS A. RIVLIN
JEREMIAH D. LAMBERT
TEDSON J. MEYERS
DAVID J. TAYLOR
MICHAEL W. FABER
TIMOTHY J. WATERS
JOHN T. SCHELL
PETER B. ARCHIE
CHARLES R. WORK
TIMOTHY L. HARKER
CHRISTOPHER A. HART
ALLAN E. KAULBACH
ROBERT N. JENSEN

TWELFTH FLOOR
CONNECTICUT BUILDING
1150 CONNECTICUT AVENUE, N. W.

TELEPHONE: (202) 457-1000
CABLE ADDRESS: "EXCELSIOR"
TELEX: 897413

WRITER'S DIRECT DIAL NUMBER
(202) 457-1010

Chief Maurice J. Cullinane
Metropolitan Police Department
Municipal Center
Washington, D. C. 20001

Dear Chief:

It is no less time consuming to write a letter like this than it is for you to read it. It should not be necessary. The letter may focus on the poor performance of the police in the incident described (the second of which I have written), but I don't think the others involved have much to be proud of either. The problem is a continuing one: abuses by the many tour buses which congregate in front of the Shoreham Hotel.

The Department proudly reports a "string of tickets" from time to time. That is remedial, not preventive, action. With complaints coming in at least every weekend morning (and now, with the Bicentennial, during the week as well), much more is needed.

The morning in question was May 4. The offender: five Continental Trailways buses. The time: from roughly 7:50 a.m. to 8:50 a.m. Three Trailways buses were pulled up outside the Shoreham, at the curb; two more were double-parked in the middle of east-bound Calvert Street (for one hour!). The double-parked buses created a genuine traffic jam, hazardous to pedestrians, hazardous to traffic attempting to enter or entering from side streets and off-street garages.

Chief Maurice J. Cullinane
May 4, 1976
Page Two

Drivers east bound, forced into a single lane, were resentful, honking their horns and angrily letting their views be known to the bus drivers. One bus driver, unidentified, offered one of the motorists to pull over with the obvious indication that he would be prepared to fight. On as courteous terms as possible, I asked one driver if he didn't think the law was being violated. His answer was that if all those cars would get out of their way they could park at the curb. (In fact, cars were parked illegally; so were the buses.)

I then asked the driver of bus No. 32777 if they could do anything to help us, and he said the police told them to park that way, leaving the buses just as they were. I asked the driver of another bus if he could cut his motor down from high idle and informed him that I had sent for the police. He said -- rather smartly -- he would cut it down before the police came.

The attitude of the drivers was uncooperative and exhibited the impression that we civilians were getting in their way; that we didn't understand the problem and had a lot of nerve just raising the issue. They were indifferent to the traffic jam that they had created.

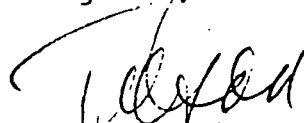
The police were summoned but never came in time. In one hour, no action! In perhaps one-half hour after calling for help -- no action! I was assured by Captain Culligan that officers were assigned to cover the area. Were they the same officers who allegedly gave permission for the buses to be double-parked? Were there in fact any officers who told the Trailways drivers anything at all? Would anyone care -- or dare -- to identify them?

Finally, I talked with the manager of the Shoreham Hotel. One of the buses was parked right across the main entrance to the Hotel and a AAA truck that had been on duty for some reason could not get out. Several other cars could not get in. Only the cab entrance was left open and it was blocked by cabs further down, so the Hotel suffered problems of ingress and egress as well.

Chief Maurice J. Cullinane
May 4, 1976
Page Four

If the residents of adjacent buildings are required to resolve this matter by litigation, it is my frank opinion as an attorney that they will win. Is that what the Department is supposed to do? Why force people to spend money to resolve by civil action in court what the violators could as easily resolve at far less expense, for certainly all involved will be paying lawyers some day, if they don't pay attention now.

Regards,



Tedson J. Meyers

cc: Manager, Shoreham Hotel
Deputy Chief Estes
Inspector, Second District
President, Continental Trailways
Mr. John E. Hartley

bc: Mrs. Florence Goldberg
Timothy L. Harker, Esq.

ARTICLE XIV. MISCELLANEOUS
Sec. 98. Unattended Motor Vehicle

No person driving, or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key, and effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the highway.

Sec. 99. Obstruction to Driver's View or Driving Mechanism

(a) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

(b) No passenger in a vehicle or streetcar shall ride in such position as to interfere with the driver's or operator's view ahead or to the sides, or to interfere with his control over the driving mechanism of the vehicle or streetcar.

(c) An operator shall, when operating a vehicle, give his full time and attention to the operation of the same.

(d) No driver of any motor vehicle in motion shall permit any person or persons to stand on the running board thereof and no person shall ride on the running board thereof when the same is in motion.

(e) No vehicle operated on the highways of the District of Columbia shall have any object attached to or suspended from the rear view mirror or rear view mirror bracket, or attached to or suspended from the windshield, the rear window, the front side windows, or the frame of such windshield or any such window. This subsection shall not be construed to prohibit the hanging of clothing or other objects from a hanger attached to either of the rear side windows of such vehicle, nor shall it be construed to prohibit the display of a sticker authorized or required to be displayed by the Commissioners, the Public Utilities Commission, the Joint Board, or the Director. (C.O. No. 58-1006)

Sec. 99.1. Excessive Idling of Motor Vehicles Prohibited

No person operating or having control of a passenger vehicle having a seating capacity of eight persons or more shall permit the engine of such vehicle to operate for more than three minutes while such vehicle is stationary at a route terminal, except when the temperature in the District as reported by the U. S. Weather Bureau is below 35 Degrees Fahrenheit. (C.O. No. 60-1940)

Sec. 100. Coasting Prohibited

(a) The driver of any motor vehicle when traveling upon a down grade shall not coast, with the gears of such vehicle in neutral.

(b) The driver of a commercial motor vehicle when traveling upon a down grade shall not coast, with the clutch disengaged.

APPENDIX B

§ 202.11

Title 40—Protection of Environment

§ 202.11 Effective date.

The provisions of Subpart B shall become effective October 15, 1975.

§ 202.12 Applicability.

(a) The provisions of Subpart B apply to all motor carriers engaged in interstate commerce.

(b) The provisions of Subpart B apply only to those motor vehicles of such motor carriers which have a gross vehicle weight rating or gross combination weight rating in excess of 10,000 pounds, and only when such motor vehicles are operating under the conditions specified in Subpart B.

(c) Except as provided in Subsections (d) and (e) of this section, the provisions of Subpart B apply to the total sound produced by such motor vehicles when operating under such conditions, including the sound produced by auxiliary equipment mounted on such motor vehicles.

(d) The provisions of Subpart B do not apply to auxiliary equipment which is normally operated only when the transporting vehicle is stationary or is moving at a speed of 5 miles per hour or less. Examples of such equipment include, but are not limited to, cranes, asphalt spreaders, ditch diggers, liquid or slurry pumps, air compressors, welders, and trash compactors.

(e) The provisions of Subpart B do not apply to warning devices, such as horns and sirens; or to emergency equipment and vehicles such as fire engines, ambulances, police vans, and rescue vans, when responding to emergency calls; or to snow plows when in operation.

Subpart B—Interstate Motor Carrier Operations Standards

§ 202.20 Standards for highway operations.

No motor carrier subject to these regulations shall operate any motor vehicle of a type to which this regulation is applicable which at any time or under any condition of highway trade, load, acceleration or deceleration generates a sound level in excess of 86dB(A) measured on an open site with fast meter response at 50 feet from the centerline of lane of travel on highways with speed limits of 35 MPH or less; or 90 dB(A) measured on an open site with fast meter response at 50 feet from the centerline of lane of travel on highways with speed limits of more than 35 MPH.

§ 202.21 Standard for operation under stationary test.

No motor carrier subject to these regulations shall operate any motor vehicle of a type to which this regulation is applicable which generates a sound level in excess of 88dB(A) measured on an open site with fast meter response at 50 feet from the longitudinal centerline of the vehicle, when its engine is accelerated from idle with wide open throttle to governed speed with the vehicle stationary, transmission in neutral, and clutch engaged. This section 202.21 shall not apply to any vehicle which is not equipped with an engine speed governor.

§ 202.22 Visual exhaust system inspection.

No motor carrier subject to these regulations shall operate any motor vehicle of a type to which this regulation is applicable unless the exhaust system of such vehicle is (1) free from defects which affect sound reduction; (2) equipped with a muffler or other noise dissipative device; and (3) not equipped with any cut-out, by-pass, or similar device.

§ 202.23 Visual tire inspection.

No motor carrier subject to these regulations shall at any time operate any motor vehicle of a type to which this regulation is applicable on a tire or tires having a tread pattern which as originally manufactured, or as newly retreaded, is composed primarily of cavities in the tread (excluding sipes and local chunking) which are not vented by grooves to the tire shoulder or circumferentially to each other around the tire. This section 202.23 shall not apply to any motor vehicle which is demonstrated by the motor carrier which operates it to be in compliance with the noise emission standard specified for operations on highways with speed limits of more than 35 MPH in § 202.20 of this subpart B, if the demonstration is conducted at the highway speed limit in effect at the inspection location, or, if speed is unlimited, the demonstration is conducted at a speed of 65 MPH.

PART 203—LOW-NOISE-EMISSION PRODUCTS

Sec.	
203.1	Definitions.
203.2	Application for certification.
203.3	Test procedures.
203.4	Low-noise-emission product determination.