

ADVISORY NEIGHBORHOOD COMMISSION 3-C
Government of the District of Columbia

Cathedral Heights

Cleveland Park

McLean Gardens

Woodley Park

Minutes
June 25, 1979

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- II. Minutes for April 23rd and May 28th of this year: There was brief discussion regarding the delay in the submission of these minutes; it was noted that the Commission would prefer to receive minutes right after a meeting, rather than right before the next one.
- The minutes for both meetings were approved "in general," with the understanding that any corrections are acceptable on or before the Commission's next meeting. Kopff urged that corrections should be submitted to Phil Mendelson within the next few days.
- III. Treasurer's report: A copy of the report, for the month of June, is attached to the file copy of these minutes. The current balance is \$8,093.43. Both Grinnell and Kopff said there was nothing new to report with regard to the reduction and delays in the Commission's funding. Susan Aramaki said the matter should be resolved in the next couple of weeks. The report was then approved by voice vote.
- III. Proposed cross-town water main: Grinnell suggested that the Commission recommend the half-cut/half-dug route. He said the people who would be most affected by construction of this route do not seem to object. Grinnell asked that the Commission state that it is not yet convinced of the necessity of a new water main, and that it would like to see convincing evidence. Williams asked that the Commission propose, in its comments, that capital projects should be subjected to referenda, and that this kind of capital project should take precedence over the convention center proposal. The public has heard only the arguments of the Dep't of Environmental Services experts, and several commissioners said they would like to hear the opinions of independent engineers regarding the necessity of this project; therefore, the D.C. Council should look into this proposal carefully. Rothschild urged that the Commission, perhaps with other ANC's, seek authorization and funding from the D.C. Council to hire such independent expertise. This discussion was incorporated into the form of a motion, which was approved unanimously by voice vote. Phil Mendelson was asked to draft the appropriate letter.
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- A. Hearst School funding--Polly Peacock reported to the Commission that the program to purchase playground mats has received \$300 from the School's PTA and \$500 from ANC-3F. This Commission has granted \$300 with the option of an additional amount in matching funds (see minutes of February 26, 1979). Peacock requested the matching funds. Arons moved that an additional \$300 be provided to enable the Hearst program to receive the full amount necessary to purchase the playground mats. This was approved.

Single Member District Commissioners, 1978-1979

01-Fred Pitts
02-Ruth Haugen
03-Bernie Arons
04-Lindsley Williams
05-Katherine Coram

ANC-3C Office
2737 Devonshire Place, N. W.
Washington, D. C. 20008
232-2232

06-Kay McGrath
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B. 37th Street "speedway"--Peacock explained that the portion of 37th Street between Quebec and Upton Streets runs between two schools and contains no intersections. She said some drivers drive too fast along this street, and that there is some drag-racing. Neighborhood residents have complained, and have petitioned the city to locate crosswalks and a stop sign where a driveway comes out of Hearst School, which is opposite steps to the Sidwell Friends School property. The Chair asked for a motion to urge the city to take measures to eliminate this problem and, if possible, to erect a stop sign. This was moved and approved unanimously by voice vote.

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Grinnell asked that the Commission reaffirm its former position, taken in 1977, to support this project. At that time the Commission approved \$1000 for construction of the tot-lot and another \$500 for interior painting of the Center. Grinnell proposed that all \$1500 be used now for the tot-lot (the city has already painted the building). A motion was made to authorize up to \$1500, but to expend not less than \$1000, for construction of the tot-lot. Approval, by voice vote, was unanimous. The total authorization will be expended if the Commission is successful in obtaining its funding from the City.

V. Planning & Zoning:

A. BZA #12826 (Saudi Chancery)--A blueprint, portraying a revised parking plan was displayed. This plan was submitted at the request of the BZA, which may reject it in lieu of the original plan. It was explained that 3C must submit any comments by July 2nd. Wayne Quin, representing the applicant, briefly explained the plan, which provides 20 parking spaces, plus 1 space in a garage, and up to 10 additional spaces with attendant parking. Tim Corcoran, representing neighborhood residents, said the new plan may meet parking requirements, but it is still considered incompatible with the neighborhood; a wall will be partially removed, a fountain eliminated, and more garden area asphalted. He asked the Commission to reconsider its previous position and oppose the application.

It was moved that a letter be conveyed by the Chairman to the BZA stating that: 1) the Commission has received and reviewed the revised plan; and 2) the applicant has represented that this plan meets a projected demand for thirty cars, if attendant parking is provided; therefore, attendant parking should be required by the BZA. Grinnell stated that such a requirement cannot be enforced against a foreign nation's diplomatic mission. He also asked that the minutes show that there is a rumor that the new Ambassador may be considering using the property for guest quarters, in which case this application will become moot. The motion was approved by a vote of 5 to 1 (Arons).

B. Proposed Zoning Commission rules, published in the June 8th *D.C. Register*, concerning procedures for citizens rights and participation--This has been scheduled for July 14th action by the Zoning Commission. Susan Aramaki distributed and reviewed a memorandum with proposed comments. She stated that the notice requirements might not allow enough time for ANC comments, given the monthly frequency of its meetings. These requirements would also place a burden on ANC's to disseminate the notice to the community.

The Chair asked Wayne Quin if he had any comments. He had two: 1) parties should be required to file as such in ample time, to allow adequate preparation for all; and 2) parties should not be able to qualify as such merely by making an announcement; instead, there should be some standard that requires real interest. Aramaki noted that more time could be allowed for filing as a party if more than 40 days notice was required.

Williams suggested that the Commission adopt the memorandum as its comments with two changes: 1) all references to 40 day notice requirements be changed to read 60 days; and 2) on page 7, paragraph 6.c. (at the bottom of the page) add the words "or" and "if any" so that it reads: "The environmental, economic, or social impacts, if any, upon the neighborhood..." It was also agreed to consolidate items 6.a. and 6.b., on the same page, so as to avoid any interpretation that might require a detailed metes and bounds description. These changes were then formally moved and approved unanimously by voice vote. Aramaki was instructed to prepare a cover letter, which would include the fact that the Anne Blaine Harrison Institute undertook this work at the Commission's request.

C. BZA #12949 (Sheraton Park Hotel)--A site plan was displayed; the application involves seeking an exception to rooftop and courtyard requirements. Bill Carroll and Lindsley Williams explained the background of the application and the history of the community task force, which acts under the auspices of 3C. A letter from the task force to the BZA, commenting on this issue, was distributed. It urges that the application be granted, but that in return, construction savings be dedicated to an improvement benefiting the community. This benefit could take the form of a direct connection between the hotel and the Metrorail system.

Williams distributed a letter which he proposed be adopted. It expands upon the position of the task force. Arons moved to adopt the letter. It was approved unanimously by voice vote. Williams asked the record to show that the hotel's attorneys were invited to tonight's meeting, but did not attend.

D. Mrs. Mary Farha addressed the Commission regarding parking on Porter Street near Connecticut Avenue; it is inadequate, particularly in light of the City's stepped-up enforcement program. She proposed that Klinge Road, under the Connecticut Avenue bridge, be widened to permit parking for hundreds of cars. She also suggested that restricted parking be expanded to be applicable 24 hours a day in her neighborhood, and that Metrobus hours be expanded to accommodate late night bar clientele. Judy Kopff, also in attendance, suggested that local businesses should be required to provide and/or have their patrons pay for more parking. Williams urged Farha to testify before the June 28th hearing of the D.C. Council Committee on Transportation; he would testify about the parking problem by the Uptown Theater and Ireland's Four Provinces. Williams also noted that the City's parking enforcement program is not able to handle special disruptive events (e.g., one-day conventions, popular movies, etc.) or function at night, when parking problems still occur.

E. Bill 3-145 (bus shelter advertising)--Williams distributed a proposed letter urging a number of amendments to the legislation. Arons moved acceptance. Grinnell said he was gravely concerned about the Bill; it could encourage crime and increased illumination in the visually less-open shelters. He was also concerned that some current ones may be removed from the neighborhood and replaced with the advertising ones. The letter was unanimously approved.

F. Grinnell reported that there is a problem with speeders on Fulton Street between Wisconsin and Massachusetts Avenues; the residents would like the City to change the stop signs at 36th Place so that traffic would stop on Fulton. Williams said the 3C Transportation Committee would take action.

G. A newspaper clipping concerning the installation of a 2,000 gallon gasoline tank at the Mazza residence on Cathedral Avenue was distributed.

H. A June 20th letter from the D.C. Dep't of Transportation was discussed; it proposes the elimination of the pedestrian crossing at Wisconsin Ave. and Lowell Street. Mendelson objected to the proposal saying human behavior (which DOT admits is a problem here) cannot be controlled by prohibiting it. The Commission deferred the matter and Kopff said he would look into it.

VI. Miscellaneous items:

A. Jack Bindeman, attorney for Ireland's Four Provinces, died last week. Various comments of respect were noted.

B. The next meeting of the Commission will be July 23rd; Williams said he would be out of town.

C. Haugen distributed the schedule for the new Wilson pool.

VII. The meeting adjourned at approximately 10:50pm.


Attached to the file copy of these minutes are the following:

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for the Commission:


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Attested as Approved & Corrected:


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Respectfully Submitted
for the Commission:


Phil Mendelson

Attested as Approved & Corrected:


Katherine V. Coram
Recording Secretary

RECEIVED JUN 22 1979

GOVERNMENT OF THE DISTRICT OF COLUMBIA

DEPARTMENT OF TRANSPORTATION

415 12TH STREET, N. W.

WASHINGTON, D. C. 20004



ASSISTANT DIRECTOR

June 20, 1979

Mr. Lindsley Williams
Commissioner - ANC 3C
2737 Devonshire Place, N.W.
Washington, D.C. 20008

Dear Mr. Williams:

I would like to ascertain community opinion and the ANC's position concerning a proposal to change the pedestrian crossing at Wisconsin Avenue and Lowell Street, N.W.

We have received a request from the National Cathedral School to conduct traffic surveys at locations adjacent to the school with the object of improving student traffic safety. One of the readily apparent improvements would be for the students to cross Wisconsin Avenue at the signalized intersections of Woodley Road to the south, and Macomb Street to the north, rather than at the unsignalized intersection of Wisconsin Avenue and Lowell Street. The traffic signals offer positive traffic control and a safer pedestrian crossing for all pedestrians.

In discussing this matter with School representatives, it was pointed out that they had been unsuccessful in directing their students to use the safer signal controlled intersections.

Therefore, in the interest of pedestrian safety, I would like to eliminate the crosswalks at Wisconsin Avenue and Lowell Street, install signs advising pedestrians to cross at the adjacent signal controlled intersections just a short distance away, and install a small pedestrian barricade as a reminder.

I would appreciate your advice and consent to this proposal. No action will be taken until I hear from you.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "G. C. Wendt", is written over the typed name.

GARY C. WENDT, Chief
Traffic Operations Division

ADVISORY NEIGHBORHOOD COMMISSION 3-C
Government of the District of Columbia

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June 29, 1979

Robert Lewis
Acting Director
Department of Licenses,
Investigations and Inspections
Room 307
614 H Street, N.W.
Washington, D. C. 20001

Dear Mr. Lewis:

Responsibilities for fire safety in public assembly buildings is a critical public policy issue that has come to our attention, both as a result of recent tragedies in our City as well as our Commission's experience in connection with a case before the Alcoholic Beverage Control (ABC) Board concerning a bar/restaurant in our community.

The attached memorandum summarizes the events associated with the ABC Board case, including our unsuccessful efforts to obtain a clarification as to the responsibilities of the Fire Department and of your Department. Our subpoenas of the Fire Chief and your predecessor to appear before the ABC Board were thwarted by questionable evidentiary rulings by ex-Commissioners of the ABC Board. Moreover, your Department has not responded to three questions posed to you in our letter last August (detailed in the attachment).

We would appreciate your assistance in clarifying the responsibilities of your department on matters such as the case in which we became involved. Corrective regulations or legislation may be needed based on the run-around we received from the ABC Board, the Fire Department, and the Department of Licenses, Investigations and Inspections.

On behalf of the Commission,

Gary J. Kopff
Vice-Chairman

Attachment

cc: Leonard W. Burka
Attorney for Bar/Restaurant

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June 29, 1979

Mr. Edward E. Schwabb
Office of Corporation Counsel
Appellate Division, Room 309
District Building
Washington, D. C. 20004

Dear Mr. Schwab:

Responsibilities for fire safety in public assembly buildings is a critical public policy issue that has come to our attention, both as a result of recent tragedies in our City as well as our Commission's experience in connection with a case before the Alcoholic Beverage Control (ABC) Board concerning a bar/restaurant in our community (Kopff, et al v. ABC Board, No. 14091 before the District of Columbia Court of Appeals).

The attached memorandum summarizes the events associated with the ABC Board case, including our unsuccessful efforts to obtain a clarification as to the responsibilities of the Fire Department and Department of Licenses, Investigations and Inspections. Our subpoenas of the Fire Chief and head of the Licensing department to appear before the ABC Board were thwarted by questionable evidentiary rulings by ex-Commissioners of the ABC Board. Moreover, neither department head has responded to these questions posed to them last August.

We would appreciate your assistance in clarifying the responsibilities of both departments on matters such as the case in which we became involved. Corrective regulations or legislation may be needed based on the run-around we received from the ABC Board, the Fire Department, and the Department of Licenses, Investigations and Inspections.

On behalf of the Commission,

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Wilhelmina Rolark
Chairperson of Committee of City Council
on Public Services and Consumer Affairs
District of Columbia Government

Dear Council member Rolark:

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The attached memorandum summarizes the events associated with the ABC Board case, including our unsuccessful efforts to obtain a clarification as to the responsibilities of the Fire Department and the Department of Licenses, Investigations and Inspections. Our subpoenas of the heads of each department to appear before the ABC Board were thwarted by questionable evidentiary rulings by ex-Commissioners of the ABC Board. Moreover, neither Chief Jefferson nor Mr. Robert Lewis (Acting Director) has responded to three questions posed to them last August.

We would appreciate your assistance in clarifying the responsibilities of both departments on matters such as the case in which we became involved. Corrective regulations or legislation may be needed based on the run-around we received from the ABC Board, the Fire Department, and the Department of Licenses, Investigations and Inspections.

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Washington, D.C. 20008

06-
07-Gary Kopff
08-
09-Louis Rothschild

ADVISORY NEIGHBORHOOD COMMISSION 3-C
Government of the District of Columbia

Cathedral Heights

Cleveland Park

McLean Gardens

Woodley Park

June 29, 1979

David Clarke
Chairman of Judiciary Committee
City Council
District of Columbia Government
Washington, D. C.

Dear Council member Clarke:

Responsibilities for fire safety in public assembly buildings is a critical public policy issue that has come to our attention, both as a result of recent tragedies in our City as well as our Commission's experience in connection with a case before the Alcoholic Beverage Control (ABC) Board concerning a bar/restaurant in our community.

The attached memorandum summarizes the events associated with the ABC Board case, including our unsuccessful efforts to obtain a clarification as to the responsibilities of the Fire Department - for which you have oversight responsibility. Our subpoena of the Fire Chief to appear before the ABC Board was thwarted by questionable evidentiary rulings by ex-Commissioners of the ABC Board. Moreover, Chief Jefferson has not responded to three questions posed to him last August.

We would appreciate your assistance in clarifying the responsibilities of the Fire Department on matters such as the case in which we became involved. Corrective regulations or legislation may be needed based on the run-around we received from the ABC Board, the Fire Department, and the Department of Licenses, Investigations and Inspections.

On behalf of the Commission,

Gary J. Kopff
Vice-Chairman

Attachment

cc: Leonard W. Burka
Attorney for Owner of Bar/Restaurant

Single Member District Commissioners, 1978-80

01-Fred Pitts
02-Ruth Haugen
03-Bernie Arons
04-Lindsley Williams

ANC-3C Office
2737 Devonshire Place, N. W.
Washington, D. C. 20008

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ADVISORY NEIGHBORHOOD COMMISSION 3-C
Government of the District of Columbia

Cathedral Heights

Cleveland Park

McLean Gardens

Woodley Park

June 28, 1979

Mr. Steven E. Sher
Executive Director
District of Columbia Board
of Zoning Adjustment
District Building, Room 9-A
14th & E Streets, N.W.
Washington, D.C. 20004

RE: Case No. 12826

Dear Mr. Sher:

In a letter with enclosures dated June 22, 1979, and received June 25, 1979, ANC 3C was notified by the Applicant, the Royal Kingdom of Saudi Arabia, of the submission of a modified parking plan for its proposed chancery at Massachusetts Avenue, N.W.

This parking plan was considered by ANC 3C at its June 25, 1979, meeting, and by a vote of five to one ANC 3C resolved as follows:

- (1) The Applicant has represented to the Board that thirty spaces would be needed to accommodate the number of visitors and employees at the chancery at any one time;
- (2) The Applicant has indicated to ANC 3C that if an attendant were on duty at all times, the proposed parking facilities could accommodate thirty cars;
- (3) ANC 3C approves of the Applicant's modified parking plan on the condition that a parking attendant will remain on duty at all times that the chancery is in use.

Single Member District Commissioners, 1978-1979

01-Fred Pitts
02-Ruth Haugen
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04-Lindsley Williams
05-Katherine Coram

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Page 2 - Mr. Steven E. Sher

The approval of the Applicant's modified parking plan shall in no way be construed as a withdrawal of any of the other objections previously communicated to the Board.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lindsley Williams".

Lindsley Williams,
Chairperson

cc: Richard Gookin
Thomas G. Corcoran, Jr. Esq.
Whayne S. Quin, Esq.
Daniel Shear
LeRoy Nigra
Wayne Parrish
Charles Webb, Jr.
James O. Gibson

ADVISORY NEIGHBORHOOD COMMISSION 3-C
Government of the District of Columbia

Cathedral Heights

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Woodley Park

June 28, 1979

Honorable Ruby McZier, Chairperson
 Zoning Commission of the District of Columbia
 District Building, Room 9-A
 14th & E Streets, N.W.
 Washington, D.C. 20004

RE: Proposed Rules of Practice
 and Procedure Before the
 Zoning Commission of the
 District of Columbia

Dear Mrs. McZier:

This letter and the accompanying comments and recommendations are being submitted in response to the Notice of Proposed Rulemaking published in the District of Columbia Register on June 8, 1979. Although not explicitly stated in the notice or proposed rules, it is assumed that the proposed rules would supplant existing rules governing practice and procedure before the Zoning Commission.

As the following recommendations will indicate, ANC 3C urges the Commission to make a number of amendments to the proposed rules prior to adoption. In general, the policy objectives of the attached suggestions are to clarify the responsibilities of persons, parties, ANCs, and agencies and to ensure adequate notice to those particularly affected by Commission action.

On June 25, 1979, ANC 3C adopted by unanimous 6-0 vote the attached recommendations. One matter which has come to my attention since the vote of the ANC concerns the requirement of Section 3.3b that petitioners of map changes post the necessary notice. The burden on civic organizations of posting notice in cases where extensive and widespread map changes are requested can be prohibitive. For this reason the government -- i.e. the Commission -- should take the responsibility in such public interest cases. The following change is therefore recommended:

Single Member District Commissioners, 1978-1979

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To subsection b add the following:

Where the petitioner is an ANC, citizen's organization, or association created for civic purposes and not for profit, and where the requested map change involves large area map changes, the Commission shall post the notices required in this subsection.

We hope you will find the attached comments and suggestions useful in developing and adopting the new "Rules of Practice and Procedure Before the Zoning Commission of the District of Columbia". As this letter is authorized by resolution of Advisory Neighborhood Commission 3C voted at its meeting on June 25, 1979, we look forward to your discussion of the attached materials in your final decision. If we can be of any assistance, please feel free to contact us.

Sincerely,



Lindsley Williams
Chairperson

LW:amb

cc: Honorable David Clarke
Honorable Polly Shackleton
Mr. James O. Gibson
Ms. Kay Campbell McGrath
Mr. Steven E. Sher

COMMENTS AND RECOMMENDATIONS

Section 1.1(d) "Person" Defined

Comment: The Commission's definition limits "persons" to those who are not parties. At the same time, however, Section 1.1(e) defines "party" as "any person in support of or in opposition to an application", and Section 6.2(a) limits parties to "any affected person". The more logical approach is that taken by the D.C. A.P.A., [D.C. Code §1-1502(9)-(10) (1973 ed.)], which begins with "person" as the larger category of which "party" is a smaller subset. In other words, a "party" is simply a "person" who meets particular requirements which qualify him for special rights. The Commission's definition differs from the D.C. A.P.A. definition of person in that the latter does not include any government body, but there seems to be no reason to object to the Commission's inclusion of government within its definition.

Recommendation: The definition for "person" should therefore read as follows:

"Person" includes individuals, partnerships, corporations, associations, and public or private organizations of any character.

Section 1.1(e) "Party" Defined

Comment: The requirement under Section 1.1(e)(2) that a person must be "in support of or in opposition to an application" may unnecessarily preclude affected persons who would otherwise qualify under Section 6.2, but who take an intermediate position, for instance, by supporting the application with conditions. However, a number of factors militate in favor of the requirement that a party be either for or against the application. In the first place, unless there is opposition to an application, the contested case procedures of Chapter 6 may not apply. These procedures are vital to the effective assertion of citizen rights. Second is the legitimate consideration of administrative efficiency in Commission proceedings: if the Commission's choice is one of granting or denying an application, the contributions of persons who are for both sides may not be perceived as particularly helpful by a Commission that must decide one way or the other. Most important, however, is the fact that persons who take an intermediate position for an application with certain conditions are not thereby precluded from qualifying as parties, because such a position can just as easily be characterized as being against the application unless certain

conditions are met. Indeed, from a strategic standpoint, this is the preferable approach for one seeking to maximize his position to achieve desired conditions.

Finally, the rights of parties under D.C. Code 1509(b) to call witnesses to provide objective comment and testimonial evidence, as well as the rights of persons to be heard under Section 6.3(g)&(j) make it unnecessary to grant the special rights of parties to persons who simply want to provide evidence. See Comment, Section 6.2b, infra, for a discussion of the proper standard for determining whether a person qualifies as a party.

Finally, ANCs should be included as parties as a matter of right once they have filed the information required under Section 6.2a. Certain changes in the information required have been recommended for that section. See Comment, Sections 6.2a and 6.2b, infra.

Recommendation: No change.

Section 1.1(f) "Working day" Defined

Comment: This definition introduced unnecessary confusion by differentiating between "days", presumably meaning calendar days, and "working days", meaning business days. One or the other should apply to all time periods. See Comment, Section 1.4, infra.

Recommendation: Delete entirely.

Section 1.3 Resolution of Conflict

Comment: The requirement of D.C. Code §1-1501 that in the event of conflict the D.C. A.P.A. shall supercede the Commission's administrative procedures should be expressly incorporated into this section, for the reason that such a provision would make the interrelationship of those respective laws more accessible to citizens without legal training.

Recommendation: Add the following sentence at the end of Section 1.3:

In any conflict between these rules and the D.C. A.P.A., [D.C. Code §1-1501 et seq. (1973 ed.)], the D.C. A.P.A. shall govern.

Section 1.4 Time

Comment: As indicated above under Section 1.1(f), this section rather than the definition section should delineate

which days are to be counted in determining time periods. The current practice in most D.C. Agencies is to count calendar days rather than working days in computing time periods, unless a time period ends on a Saturday, Sunday, or legal holiday, in which case the time period ends on the next day that is not a Saturday, Sunday, or legal holiday. This is the present form of Section 1.4.

The primary reason for using calendar days rather than working days is that the former are easier to calculate and thereby less susceptible to disastrous miscalculation of filing dates. While the effect of using working days would be to lengthen time periods, this is more properly accomplished by direct measures. See eg., Section 3.3, *infra*.

Regarding the concern that time periods ending on days when the D.C. government is closed for snow might prejudice participants, such snow days are rare, and the Commission may make exceptions by waiving the time period requirements under Section 1.11.

Recommendation: No change.

Section 1.5(b) Appearance and Representation

Comment: The section relating to persons or parties appearing before the Commission requires written authorization whenever an attorney, agent, or representative appears on his or her behalf. ANC 3C supports this proposal. The language, however, goes on to require that the attorney, agent, or representative be empowered to "bind" the person on the pending matter. Such a specific requirement has the potential to cause the exclusion of a legitimate representative who has the clearly adequate, but general authorization to appear on behalf of the absent person. In addition, the extent of authorization necessary for effective participation varies considerably between parties and persons appearing for different purposes. For these reasons, the authorization should continue to be required in writing, but attorneys, agents, and representatives should be allowed to participate to the extent of their authorization. At any rate, no more than a general authorization to appear on a person's behalf should be required, since that authorization encompasses the power to bind the principal in any matter on which the representative is appearing, unless otherwise limited.

Recommendation: Delete "bind" in the last sentence of subsection b. and replace it with "appear on behalf of". At the end of subsection b. add the following:

Any attorney, agent, or representative appearing in a lesser capacity shall state the limitations of his or her authority, and may participate only to the extent of that authority.

Section 1.9d Evidence

Comment: Under this section the Commission and any other D.C. agency -- but not ANC's -- may pose questions to witnesses. Although ANC's have this right under Section 6.2 if they file as parties, the right of cross examination does not extend to rulemaking proceedings or to contested case proceedings where the ANC has chosen not to take a position but only wishes to air its issues and concerns. For this reason, ANC 3C recommends that ANC's be included under Section 1.9d. As a minor point, the Chairman should be referred to as the "Presiding Officer" pursuant to subsection 1.1c.

Recommendation: Add "or ANC" immediately after "Agency". Delete "Chairman" and replace with "Presiding Officer".

Section 1.11 Waiver of Rules

Comment: This section allows the Commission to waive provisions of the rules of procedure if such "waiver will not prejudice the rights of any party". While it is a legitimate concern that the rights of persons who are not parties may be adversely affected by such a waiver, it is also true that the rights of parties -- who must concededly have a greater interest in the outcome -- may be adversely affected if the Commission is deprived of the discretion to waive the rules because of prejudice to a person with a lesser interest. In order for this section to be effective at all, it may be necessary to limit the safeguards to those who most need protection.

Recommendation: No change.

Section 2.1d Applications and Petitions - Notice of Filing

Comment: Subsection d requires the Commission to give public notice of the filing of an application by publishing in the D.C. Register and by providing public libraries and ANC's with copies to be posted. Given the fact that few citizens read the D.C. Register, this improperly places the major burden of public notice on the libraries and ANC's. While dissemination of notice through the library system and ANC's is laudable, it should at most be viewed as ancillary to the primary duty of the Commission to notify the public through publishing in a newspaper of general circulation.

Recommendation: Delete subsection d after "the District of Columbia Register" and add the following:

and in a daily newspaper of general circulation. In addition the Commission shall provide copies of the notice to the public library system and to the appropriate Advisory Neighborhood Commission(s) for such dissemination and posting as the library and Advisory Neighborhood Commission(s) deem appropriate.

Section 2.3c Commission Review - Notice of Dismissal

Comment: See Comment, Section 2.1d, supra. Publishing in a newspaper is overly burdensome for entire orders. For this reason, no such requirement is recommended for this section. It should be noted that notice of dismissal is not as critical to potential citizen participants as notice of filing, since the latter in effect gives citizens a head start in organizing prior to the setting of the hearing date.

Recommendation: Delete the first sentence of subsection 2.3c immediately after Advisory Neighborhood Commission(s) and add "for such dissemination and posting as the library and Advisory Neighborhood Commission(s) deem appropriate."

Section 3.1 Referrals and Reports

Comment: While there is some support for the proposition that ANCs be expressly included in this section governing input from other government agencies, a number of factors favor leaving the section substantially unchanged. To begin with, the agencies included in this section appear to differ from ANCs in the character of their participation. The agencies are called upon to render expert opinions and to provide information. ANCs on the other hand are more political in nature and have a role as advocate of citizen views. For this reason the place of ANCs in the process is more akin to that of the citizen himself (with special procedural advantages) rather than as part of the government in general.

One minor point is that the reference to "working days" should be eliminated from subsection c in accordance with the recommendation for Section 1.1f.

Recommendation: Delete "working days" from subsection 3.1c and add "days, excluding Saturdays, Sundays, and legal holidays."

Section 3.3 Notice

Comment: Notice should be published in a newspaper of general circulation as well as in the D.C. Register to ensure adequate public notice, since few citizens read the D.C. Register. Serious problems exist with respect to notice to ANCs. At the very least copies of the notice should be provided to ANCs at the same time notice is published and posted, not ten days later. Given the Commission's requirement that persons file as parties at least ten "working days" before a contested hearing (or 14 calendar days as herein recommended, see Comment, Section 6.2a), there is simply not enough time for ANCs to make a fully considered decision and prepare for effective participation, even if notice to ANCs were given forty days in advance. ANCs meet regularly only once a month. Even after considering a zoning application at its monthly meeting, it is necessary to make a decision, prepare recommendations or evidence, vote on any proposed submissions at a subsequent meeting, and prepare for the Zoning Commission hearing. Although the ANCs can call special meetings with seven days notice, it is unreasonable to assume that an ANC will be able to act effectively on every matter that comes before it, given the time limitations imposed by the revised regulations. The ultimate effect would be to limit the number of proceedings in which ANCs are able to participate. For this reason, ANC 3C proposes a lengthening of the time period for ANC notice to 60 days, while substantially retaining the time period proposed by the Commission for filing under Section 6.2.

In order to provide parity for citizens organizations and the public at large, this sixty day notice requirement should be extended to everyone.

Certain textual changes in subsection d are necessary to provide for notice to more than one affected ANC.

Subsection d(2) requires 40 day notice to all owners of property within 200 feet, occupants of buildings on the subject property, and the affected ANC. Conspicuously unmentioned are occupants of property within 200 feet who are not property owners and who do not live on the subject property. Given the high percentage of renters in the District, this provision unreasonably precludes from personal notice many of those most affected by zoning changes. In addition, this suggestion is reinforced by the recent D.C. Court of Appeals decision in DuPont Circle Citizen's Assn v BZA (#12473).

Paragraph d(4) should be deleted entirely because it makes special notice to those most affected by a Zoning change discretionary for the Commission. This in effect makes such notice unenforceable. Personal notice under paragraph d(2) should be obligatory.

References in paragraph d(3) to map changes, PUDs, and air-space development should be accompanied by citations to the appropriate provisions of the Zoning Regulations governing such developments, in order to make the regulations more accessible to the public. Are air-space developments included under Article 76?

Recommendation: The following specific changes should be made:

(1) In paragraph a(1) add "and in a daily newspaper of general circulation" immediately after "D.C. Register".

(2) In paragraph a(3) delete "for posting in appropriate locations" at the end of the first sentence and replace with "for dissemination and posting as the libraries and ANC(s) deem appropriate." In the second sentence delete "thirty-five" and "thirty", and replace with "sixty-five" and "sixty", respectively.

(3) In paragraph d(1) add "and a daily newspaper of general circulation" immediately after "Register", delete "the number of the Advisory Neighborhood Commission", and replace with "the number of each Advisory Neighborhood Commission in the".

(4) In paragraph d(2) delete "forty" and replace the "sixty". Delete subparagraph d(2)(b) and replace with the following:

b. Occupants of any property within 200 feet of the property included in the application.

(5) In subparagraph d(2)(c) delete "The" and replace with "Each".

(6) In paragraph d(3) cite applicable regulations for map changes, PUDs, or air space development.

(7) Where "forty" appears in a(1), a(2), b, and d(3), delete and replace with "sixty".

Section 5.3 Order of Procedure

Comment Given the statutory requirement that ANCs' concerns be given great weight, ANCs should be given a position above that of ordinary persons appearing at a Chapter 5 rule-making proceeding. For this reason, ANCs should appear after D.C. agencies but before individual persons. Moreover, this parallels the order of appearance under Section 6.3.

Recommendation: Insert the following after subsection e, and change the letter headings for subsequent subsections accordingly:

f. Affected Advisory Neighborhood Commission(s).

Section 6.2a Parties - Information to be Filed

Comment: Under the Commission's current proposed 30 day notice for ANC's, the requirement for filing by parties ten working days prior to a hearing is excessive and tends to limit the effectiveness of citizen participation. According to this requirement, ten working days could be fourteen calendar days with two weekends, and even more with a legal holiday. Under the Commission's current proposal, this could leave only about two weeks for meeting, adopting a position, preparing submissions, and filing. See Comment, Section 3.3, *supra*. On the other hand, the extended period between the filing of parties and the hearing provides an important opportunity for opposing parties to settle differences prior to the hearing. For this reason ANC 3C recommends that the notice period for ANC's under Section 3.3 be lengthened rather than that the filing period for parties be shortened. In the alternative, if the notice period under Section 3.3 is not sufficiently lengthened, ANC 3C supports a shortening of the filing period in this section to five days, excluding Saturdays, Sundays, and legal holidays.

Pursuant to the Comments for Sections 1.1f and 1.4, the reference to "ten working days" should be expressed in terms of calendar days to avoid confusion. ANC 3C proposes a period of fourteen days as the equivalent of ten working days.

Regarding the specific information required to be filed, much of it is inappropriate for ANC's, since ANC's do not own real property. Accordingly, a paragraph should be added after 6.2a(5) to provide for information from ANC's.

The requirement in paragraph a(6) of a "list of witnesses who will testify" is excessively binding, especially considering the fact that under Section 3.2a(3) applicants and petitioners are only required to submit a "list of witnesses who are prepared to testify" (emphasis added).

Recommendation: The following specific changes should be made:

(1) In subsection a delete "ten working days" and replace with "fourteen days".

(2) Delete paragraph a(6) and add the following:

6. For Advisory Neighborhood Commissions, a written statement setting forth the following:

- a. The location of the neighborhood represented by the Advisory Neighborhood Commission in relation to the property for which action of the Commission is requested;
- b. The environmental, economic, or social impacts upon the neighborhood, if any, which are likely to occur if the action requested of the Commission is approved;
- c. Any other matters which would demonstrate how the neighborhood would be affected or aggrieved by action upon the application.

(3) Add the following new section to replace former a(6):

7. A list of witnesses who are prepared to testify on the person's behalf.

Section 6.2b Parties - Determined by Commission

Comment: Subsection b gives the Commission excessive discretion in determining who qualifies as a party. There are no standards for evaluating "whether the specific information presented qualifies the person as a party."

The basic distinction between a party and a person is the extent to which the party's rights and interests are affected by the Commission's action. Based on this assumption, the preferred standard should be broad to allow maximum participation as parties by those parties whose rights and interests are affected. For this reason, the recommendation below requires only that a person make a prima facie showing that his rights or interests are likely to be substantially affected.

Given the representative function of ANCs, however, it may be difficult to show an interest of the ANC itself which is directly affected. For this reason, ANCs should only be required to comply with the filing requirements of subsection 6.2a in order to automatically qualify as a party.

Recommendation: Delete subsection 6.2b and add the following:

- b. The Commission shall determine who will be recognized as a party. The Commission shall admit as a party any ANC which has complied with the requirements of 6.2a. The Commission shall admit as a party any other person who has complied with the requirements of 6.2a, provided that the information filed under 6.2a shows such person's rights or

interests are likely to be substantially affected by the action requested of the Commission.

TECHNICAL AMENDMENTS

Comment: Certain technical, typographical, and otherwise widespread changes should be made:

Recommendations: ANC 3C suggests the following changes:

Technical

(1) While Chapter 5 contains three sub-sections, identified as 5.1, 5.2, and 5.3 in the introduction of that chapter, the sections are later identified as 5.1, 5.2 and 5.2. The last of these should, obviously, be 5.3.

(2) Section 1.7b has two paragraphs the first of which is identified as "1" and the second of which is identified as "3." Unless there is a missing paragraph, the second paragraph should be redesignated as "2."

Typographical

(3) Sub-paragraph 6.2a(5)(c) includes the verb "occurr", which is a spelling error.

Widespread

(4) Wherever "working days" is used, replace with "days, excluding Saturdays, Sundays, and legal holidays", unless otherwise indicated.

(5) Wherever "he", "him", or "his" is used, replace with "he or she", "him or her", and "his or hers", respectively.

(6) Wherever reference is made to a Planned Unit Development (PUD), or air space development, cite the applicable provisions of the Zoning Regulations. This would be Article 75 for Planned Unit Developments; the matter of air space is vague (is the reference to Article 76?).

ACKNOWLEDGMENTS

The preceding comments and recommendations were initially prepared by Advisory Neighborhood Commission 3C. They were then forwarded to the Anne Blaine Harrison Institute for Public Law for analysis and comment. Subsequently, there were discussed at the regular monthly meeting of ANC 3C that took place June 25, 1979 and revised in accordance with instructions from ANC 3C.

ADVISORY NEIGHBORHOOD COMMISSION 3-C
Government of the District of Columbia

Cathedral Heights

Cleveland Park

McLean Gardens

Woodley Park

June 20, 1979

Mr. Robert Stumberg
Anne Blaine Harrison Institute
for Public Law
601 "G" Street, Suite 401
Washington, D.C. 20001

Dear Bob:

This follows up our conversation of earlier today relating to the new rules of procedure being proposed by the D.C. Zoning Commission (see D. C. Register of June 8).


Under terms of our agreement with you to assist in legal matters, this is to request that you and your colleagues look over the proposed rules and advise us of a course of action that would maximally protect citizen rights and permit maximum (reasonable) citizen involvement.

Enclosed is a markup of the proposed rules and a first crack at a letter to the Zoning Commission which I have prepared.

As the ANC 3C meets Monday, June 25, some quick turn-around is required at your end; we will need to vote on the matter that evening of risk missing the close of the comment period provided in the Notice and under the D.C. Administrative Procedures Act.

I am joined in this request by Commissioners Haugen, Arons, and Grinnell -- half of the presently sitting Commissioners. I did not attempt to poll others to get this review started by your troops.

Sincerely,



Lindsley Williams, Chairperson

cc: 3C Minutes

Enclosures

Single Member District Commissioners, 1978-1979

01-Fred Pitts
02-Ruth Haugen
03-Bernie Arons
04-Lindsley Williams
05-Katherine Coram

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ADVISORY NEIGHBORHOOD COMMISSION 3-C
Government of the District of Columbia

Cathedral Heights

Cleveland Park

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Woodley Park

June 17, 1979

Mr. Peter Sturdevant, Headmaster
Maret School, Inc.
3000 Cathedral Avenue, NW
Washington, D.C. 20008

Dear Mr. Studevant:

Mr. Steven E. Sher, Executive Director, Board of Zoning Adjustment of the Government of the District of Columbia was kind enough to reply to my letter of June 3 relating to Maret School.

His letter, which is dated June 13, is enclosed. I believe you will find it pertinent to your planning.

As stated in our letter of June 3, we are prepared to work with both you, your immediate neighbors, and the surrounding community on the matter of the swimming pool as well as other development you may have in mind.

Sincerely,



Lindsley Williams, Chairperson

Enclosure

cc: President, Cleveland Park Citizens Association
President, Woodley Park Community Association
Keyes, Condon, and Florance
General Kenneth Hodson

Single Member District Commissioners, 1978-1979

01-Fred Pitts
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Government of the District of Columbia

ZONING COMMISSION



June 13, 1979

Mr. Lindsley Williams, Chairperson
Advisory Neighborhood Commission 3-C
2737 Devonshire Place, N. W.
Washington, D. C. 20008

Dear Mr. Williams:


The Zoning Regulations do not require an application for a special exception under Paragraph 3101.42 to operate a private school to prepare and submit a campus plan to the Board of Zoning Adjustment. As you correctly state in your letter, such a requirement is applicable to a college or university proceeding under Paragraph 3101.46. I also agree with your conclusion that it is not reasonable to construe the Maret School as a college or university.

It is my opinion that, if an applicant were unwilling to submit its proposed future plans to the Board at the same time that it presented an application to erect a specific facility or commence a specific use, the Board cannot compel the applicant to submit the plans nor could the Board deny the application for that reason alone. As a practical matter, there are two points you should generally be aware of. First, many private school applications under Paragraph 3101.42 include only a single building or a small property, and it is therefore neither reasonable or necessary to require a plan. Second, most of the larger schools who have what might be considered a campus have routinely disclosed to the Board the future plans of the school as far as they are known, particularly as to enrollment, faculty and staff and new buildings or additions. This does not mean that the schools are able to show drawings, floor plans or elevations, but that generally the future operations of the school can be and are discussed.

- 2 -

I hope this is a satisfactory response to your inquiry. If you have any further questions, feel free to call the Zoning Secretariat at 727-6311.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Steven E. Sher", is written over the typed name.

STEVEN E. SHER
Executive Director

Mendelson - 3C Minutes

ADVISORY NEIGHBORHOOD COMMISSION 3-C

Government of the District of Columbia

Cathedral Heights

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June 8, 1979

Mr. Steven E. Sher
Executive Director
Board of Zoning Adjustment
Gov't of the District of Columbia
District Building, Room 9-A
Washington, D.C. 20004

Dear Mr. Sher:

Re: BZA #12952 (Czelen deck)

This is in reply to your letter of May 11 advising us of the application pending before the Board of Zoning Adjustment from Mr. John Czelen for a variance from certain side-yard requirements to enable him to construct a deck to his home which is located at 3411 Thirtieth Street, N.W. in an R-1-B district (Lot 35, Square 2070).

ANC 3C considered this matter at its meeting of May 28, 1979 and is pleased to recommend that the Board of Zoning Adjustment grant the requested variance (by unanimous vote of this ANC).

Prior to taking this action, the undersigned inspected the file in your office and there learned that Mr. Czelen had originally been issued a building permit which was, a few days later, withdrawn because of what appears to have been an unfortunate administrative slip-up in the first instance.

In addition, the Single Member District Commissioner for the area in which the applicant resides spoke both with Mr. Czelen and his most closely affected neighbor at the site of the proposed deck. Commissioner Kopff reported to us that said neighbor had no objection to the proposed project.

Our support of the application for this variance, thus, stems both from the merit of the application and a sense of compassion for the delays the applicant has experienced due to revocation of his original building permit. Accordingly, if circumstances permit, we urge the Board to consider approving this application "From the Bench" rather than requiring the applicant to await a later written decision.

FOR THE COMMISSION,

Lindsley Williams
Lindsley Williams, Chairperson

cc: Mr. Czelen

Single Member District Commissioners, 1978-1979

01-Fred Pitts
02-Ruth Haugen
03-Bernie Arons
04-Lindsley Williams
05-Katherine Coram

ANC-3C Office
2737 Devonshire Place, N. W.
Washington, D. C. 20008
232-2232

06-
07-Gary Kopff
08-
09-Louis Rothschild
10-David Grinnell

ADVISORY NEIGHBORHOOD COMMISSION 3-C
Government of the District of Columbia

Mandelson
3C Minutes
(see p. 2)

Cathedral Heights

Cleveland Park

McLean Gardens

Woodley Park

June 7, 1979

Mr. Leonard L. McCants, Esq.
Chairperson, Board of Zoning Adjustment
Government of the District of Columbia
District Building, Room 9-A
Washington, D.C. 20004

Dear Mr. McCants:

Re: BZA # 12949

This is an interim reply to the letter we received dated May 11, 1979 from Steven E. Sher advising this Advisory Neighborhood Commission (ANC) of the application of the Washington Sheraton Corporation for a special exception relating to the number of roof structures and a variance relating to width requirements of closed courts for the hotel currently under construction at the premises, 2660 Woodley Road, N.W. (Lot 32, Square 2132).

In response to our first notice of the case, which came by way of the D.C. Register, we asked the Washington Sheraton Corporation (hereafter, "Hotel") to share with us pertinent materials (attachment 1). Counsel for the Hotel, Norman M. Glasgow, responded by letter and enclosures May 17 (attachment 2, enclosures omitted). We, in turn, shared this with the Chairman and members of an Ad Hoc Task Force on the Reconstruction of the Sheraton Park Hotel (hereafter, "Task Force").

This Task Force, which is operating under the auspices of ANC 3C, has been considering many aspects of the redevelopment of the Sheraton Park Hotel. The Task Force felt it could only consider the instant applications before your Board if it were apprised of other matters of concern to the community, and the Hotel began to respond to these in the form of a letter dated May 18 (attachment 3, enclosure omitted) and site plan May 31. More has been requested and is anticipated in the coming weeks.

However, because the Hotel was not able to provide the full set of materials the Task Force felt it wanted to examine, the Task Force was unable to formulate a recommendation for the ANC to consider when it last met, May 25.

The ANC, thus, is not presently in a position to advise you of its own position on the application pending before you. The hearing on this case is scheduled June 13. The ANC does expect to meet on Monday, June 25. We expect the Task Force to have recommendations for us to consider on or before June 25, and we expect to act upon them that evening at our scheduled meeting.

Single Member District Commissioners, 1978-1979

01-Fred Pitts
02-Ruth Haugen
03-Bernie Arons
04-Lindsley Williams
05-Katherine Coram

ANC-3C Office
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Washington, D. C. 20008
232-2232

06-
07-Gary Kopff
08-
09-Louis Rothschild
10-David Grinnell

[Based on these expectations, ANC 3C voted May 25 to request that you hold the hearing record in this application open for a two week period following the hearing itself, i.e. until the close of business Wednesday, June 27. This is, we understand, a customary practice which will not unduly delay your decision.

We are, by copy of this letter, inviting the Hotel's attorney (and others he may wish to involve) to join us at our next scheduled meeting (Second District Police Station, 8 pm).

Thank you for your assistance and interest.

Very truly yours,

Lindsley Williams

Lindsley Williams, Chairperson

Attachments

1. Letter of ANC 3C dated May 12 to Hotel
2. Letter of Hotel's Attorney dated May 17 to ANC 3C
3. Letter of Hotel dated May 18 to Task Force

cc: Norman M. Glasgow, Esq.
William R. Carroll
Paul O'Neil

ADVISORY NEIGHBORHOOD COMMISSION 3-C
Government of the District of Columbia

Cathedral Heights

Cleveland Park

McLean Gardens

Woodley Park

Minutes
June 25, 1979

- I. The meeting was called to order, with Lindsley Williams presiding, at 8:10pm at the Second District Police Station. Pitts, Arons, and Coram were absent. (Arons arrived shortly thereafter.)
- II. Minutes for April 23rd and May 28th of this year: There was brief discussion regarding the delay in the submission of these minutes; it was noted that the Commission would prefer to receive minutes right after a meeting, rather than right before the next one.
- The minutes for both meetings were approved "in general," with the understanding that any corrections are acceptable on or before the Commission's next meeting. Kopff urged that corrections should be submitted to Phil Mendelson within the next few days.
- III. Treasurer's report: A copy of the report, for the month of June, is attached to the file copy of these minutes. The current balance is \$8,093.43. Both Grinnell and Kopff said there was nothing new to report with regard to the reduction and delays in the Commission's funding. Susan Aramaki said the matter should be resolved in the next couple of weeks. The report was then approved by voice vote.
- III. Proposed cross-town water main: Grinnell suggested that the Commission recommend the half-cut/half-dug route. He said the people who would be most affected by construction of this route do not seem to object. Grinnell asked that the Commission state that it is not yet convinced of the necessity of a new water main, and that it would like to see convincing evidence. Williams asked that the Commission propose, in its comments, that capital projects should be subjected to referendum; and that this kind of capital project should take precedence over the convention center proposal. The public has heard only the arguments of the Dep't of Environmental Services experts, and several commissioners said they would like to hear the opinions of independent engineers regarding the necessity of this project; therefore, the D.C. Council should look into this proposal carefully. Rothschild urged that the Commission, perhaps with other ANC's, seek authorization and funding from the D.C. Council to hire such independent expertise. This discussion was incorporated into the form of a motion, which was approved unanimously by voice vote. Phil Mendelson was asked to draft the appropriate letter.
- IV. Recreation:
- A. Hearst School funding--Polly Peacock reported to the Commission that the program to purchase playground mats has received \$300 from the School's PTA and \$500 from ANC-3F. This Commission has granted \$300 with the option of an additional amount in matching funds (see minutes of February 26, 1979). Peacock requested the matching funds. Arons moved that an additional \$300 be provided to enable the Hearst program to receive the full amount necessary to purchase the playground mats. This was approved.

Single Member District Commissioners, 1978-1979

01-Fred Pitts
02-Ruth Haugen
03-Bernie Arons
04-Lindsley Williams
05-Katherine Coram

ANC-3C Office
2737 Devonshire Place, N. W.
Washington, D. C. 20008
232-2232

06-Kay McGrath
07-Gary Kopff
08-
09-Louis Rothschild
10-David Grinnell

B. 37th Street "speedway"--Peacock explained that the portion of 37th Street between Quebec and Upton Streets runs between two schools and contains no intersections. She said some drivers drive too fast along this street, and that there is some drag-racing. Neighborhood residents have complained, and have petitioned the city to locate crosswalks and a stop sign where a driveway comes out of Hearst School, which is opposite steps to the Sidwell Friends School property. The Chair asked for a motion to urge the city to take measures to eliminate this problem and, if possible, to erect a stop sign. This was moved and approved unanimously by voice vote.

C. Addressograph machine--It was reported that the D.C. Council resolution, enabling this Commission to accept the machine, was published, as proposed, in last week's *D.C. Register*. Grinnell reported that a serviceman has looked at the machine and says it is operative. The Board of Elections cross index lists (see May 28, 1979 minutes) will be used for address plates; verified lists should be returned to Grinnell.

D. Guy Mason tot-lot -- Grinnell reported that the D.C. Dep't of Recreation has affirmatively responded, at last, to the community's request for a tot-lot to be constructed at the Guy Mason Recreation Center site. Grinnell read the Department's letter, and added that the proposed location within the site may not be completely acceptable.

Grinnell asked that the Commission reaffirm its former position, taken in 1977, to support this project. At that time the Commission approved \$1000 for construction of the tot-lot and another \$500 for interior painting of the Center. Grinnell proposed that all \$1500 be used now for the tot-lot (the city has already painted the building). A motion was made to authorize up to \$1500, but to expend not less than \$1000, for construction of the tot-lot. Approval, by voice vote, was unanimous. The total authorization will be expended if the Commission is successful in obtaining its funding from the City.

V. Planning & Zoning:

A. BZA #12826 (Saudi Chancery)--A blueprint, portraying a revised parking plan was displayed. This plan was submitted at the request of the BZA, which may reject it in lieu of the original plan. It was explained that 3C must submit any comments by July 2nd. Wayne Quin, representing the applicant, briefly explained the plan, which provides 20 parking spaces, plus 1 space in a garage, and up to 10 additional spaces with attendant parking. Tim Corcoran, representing neighborhood residents, said the new plan may meet parking requirements, but it is still considered incompatible with the neighborhood; a wall will be partially removed, a fountain eliminated, and more garden area asphalted. He asked the Commission to reconsider its previous position and oppose the application.

It was moved that a letter be conveyed by the Chairman to the BZA stating that: 1) the Commission has received and reviewed the revised plan; and 2) the applicant has represented that this plan meets a projected demand for thirty cars, if attendant parking is provided; therefore, attendant parking should be required by the BZA. Grinnell stated that such a requirement cannot be enforced against a foreign nation's diplomatic mission. He also asked that the minutes show that there is a rumor that the new Ambassador may be considering using the property for guest quarters, in which case this application will become moot. The motion was approved by a vote of 5 to 1 (Arons).

B. Proposed Zoning Commission rules, published in the June 8th *D.C. Register*, concerning procedures for citizens rights and participation--This has been scheduled for July 14th action by the Zoning Commission. Susan Aramaki distributed and reviewed a memorandum with proposed comments. She stated that the notice requirements might not allow enough time for ANC comments, given the monthly frequency of its meetings. These requirements would also place a burden on ANC's to disseminate the notice to the community.

The Chair asked Whayne Quin if he had any comments. He had two: 1) parties should be required to file as such in ample time, to allow adequate preparation for all; and 2) parties should not be able to qualify as such merely by making an announcement; instead, there should be some standard that requires real interest. Aramaki noted that more time could be allowed for filing as a party if more than 40 days notice was required.

Williams suggested that the Commission adopt the memorandum as its comments with two changes: 1) all references to 40 day notice requirements be changed to read 60 days; and 2) on page 7, paragraph 6.c. (at the bottom of the page) add the words "or" and "if any" so that it reads: "The environmental, economic, or social impacts, if any, upon the neighborhood..." It was also agreed to consolidate items 6.a. and 6.b., on the same page, so as to avoid any interpretation that might require a detailed metes and bounds description. These changes were then formally moved and approved unanimously by voice vote. Aramaki was instructed to prepare a cover letter, which would include the fact that the Anne Blaine Harrison Institute undertook this work at the Commission's request.

C. BZA #12949 (Sheraton Park Hotel)--A site plan was displayed; the application involves seeking an exception to rooftop and courtyard requirements. Bill Carroll and Lindsley Williams explained the background of the application and the history of the community task force, which acts under the auspices of 3C. A letter from the task force to the BZA, commenting on this issue, was distributed. It urges that the application be granted, but that in return, construction savings be dedicated to an improvement benefiting the community. This benefit could take the form of a direct connection between the hotel and the Metrorail system.

Williams distributed a letter which he proposed be adopted. It expands upon the position of the task force. Arons moved to adopt the letter. It was approved unanimously by voice vote. Williams asked the record to show that the hotel's attorneys were invited to tonight's meeting, but did not attend.

D. Mrs. Mary Farha addressed the Commission regarding parking on Porter Street near Connecticut Avenue; it is inadequate, particularly in light of the City's stepped-up enforcement program. She proposed that Klinge Road, under the Connecticut Avenue bridge, be widened to permit parking for hundreds of cars. She also suggested that restricted parking be expanded to be applicable 24 hours a day in her neighborhood, and that Metrobus hours be expanded to accommodate late night bar clientele. Judy Kopff, also in attendance, suggested that local businesses should be required to provide and/or have their patrons pay for more parking. Williams urged Farha to testify before the June 28th hearing of the D.C. Council Committee on Transportation; he would testify about the parking problem by the Uptown Theater and Ireland's Four Provinces. Williams also noted that the City's parking enforcement program is not able to handle special disruptive events (e.g., one-day conventions, popular movies, etc.) or function at night, when parking problems still occur.

E. Bill 3-145 (bus shelter advertising)--Williams distributed a proposed letter urging a number of amendments to the legislation. Arons moved acceptance. Grinnell said he was gravely concerned about the Bill; it could encourage crime and increased illumination in the visually less-open shelters. He was also concerned that some current ones may be removed from the neighborhood and replaced with the advertising ones. The letter was unanimously approved.

F. Grinnell reported that there is a problem with speeders on Fulton Street between Wisconsin and Massachusetts Avenues; the residents would like the City to change the stop signs at 36th Place so that traffic would stop on Fulton. Williams said the 3C Transportation Committee would take action.

G. A newspaper clipping concerning the installation of a 2,000 gallon gasoline tank at the Mazza residence on Cathedral Avenue was distributed.

H. A June 20th letter from the D.C. Dep't of Transportation was discussed; it proposes the elimination of the pedestrian crossing at Wisconsin Ave. and Lowell Street. Mendelson objected to the proposal saying human behavior (which DOT admits is a problem here) cannot be controlled by prohibiting it. The Commission deferred the matter and Kopff said he would look into it.

VI. Miscellaneous items:

A. Jack Bindeman, attorney for Ireland's Four Provinces, died last week. Various comments of respect were noted.

B. The next meeting of the Commission will be July 23rd; Williams said he would be out of town.

C. Haugen distributed the schedule for the new Wilson pool.

VII. The meeting adjourned at approximately 10:50pm.


Attached to the file copy of these minutes are the following:

- Notice of the meeting as posted.
- Attendance at the meeting--for those who filled out attendance cards.
- Treasurer's report for the month of June, 1979.
- June 21, 1979 letter from D.C. Recreation re. tot-lot at Guy Mason.
- June 25, 1979 memorandum re. comments on selected section of Zoning Commission's proposed rule making.
- June 24, 1979 letter from Sheraton Park Hotel task force.
- Proposed letter re. BZA #12949 (Sheraton Park Hotel).
- Proposed letter re. Bill 3-145 (Bus Shelters).
- June 22nd *Star* article re. Mazza gasoline tank.
- June 20, 1979 D.C. DOT letter re. Wisconsin & Lowell pedestrian crossing.
- Summer schedule for Wilson Pool.

Respectfully Submitted
for the Commission:


Phil Mendelson

Attested as Approved & Corrected:


Katherine V. Coram
Recording Secretary

ADVISORY NEIGHBORHOOD COMMISSION 3-C
Government of the District of Columbia

Cathedral Heights

Cleveland Park

McLean Gardens

Woodley Park

June 12, 1979

N O T I C E : Advisory Neighborhood Commission 3C will hold its June meeting on Monday, June 25, starting at 8 pm at the Second District Police Station.

Meetings of the Commission are open and the public is invited to attend and participate in the discussion.

Topics now scheduled to be discussed include the following:

- Planning and Zoning Matters:
 - Zoning Commission Case 78-12 (Group Homes)*
 - Zoning Commission Case 78-29 (Iranian Chancery)**
 - Zoning Commission Case 79-1 (Hotels)*
 - Zoning Commission Case 79-2 (Planned Unit Developments)*
 - Board of Zoning Adjustment Case 12952 (Sheraton Park)**
 - Board of Zoning Adjustment Case 12826 (Saudi Chancery)**
 - Office of Planning and Development; Status of Comprehensive Plan for the District of Columbia*
- Transportation Matters:
 - Bus Shelter Legislation**
- Environmental Services Matters:
 - Cross Town Water Main Proposal**
- ANC 3C Budget Items:
 - Grants for Community Enhancement, 1979*
 - Status of Addressograph*
 - Procurement of Addressograph Mailing Plates for 3C**
- Human Resources and the Elderly:
 - Report from Commissioner Haugen
- Uptown Theater and Aliens -- A Neighborhood Nuisance or a Neighborhood Business?**

* Information Item

Single Member District Commissioners, 1978-1979

** Action Item

01-Fred Pitts
02-Ruth Haugen
03-Bernie Arons
04-Lindsley Williams
05-Katherine Coram

ANC-3C Office
2737 Devonshire Place, N. W.
Washington, D. C. 20008
232-2232

06-
07-Gary Kopff
08-
09-Louis Rothschild
10-David Grinnell

REGISTRATION CARD

Date: 25 June 79

Name : Mary N. Farber
 Address : 3001 Portlaid St. NW Apt: 243
 Represent: self Zip: 20008
 Telephone: Home: 686-1231 Days: Ret Call

Topic(s) of Concern:

Circle Choice*

ParkingSpeak ☒ ObserveSpeak ☐ ObserveSpeak ☐ ObserveSpeak ☐ Observe

*Persons wishing to change from "observe" to "speak" should submit an amended card.

REGISTRATION CARD

Date: 6-25-79

Name : Polly Peacock
 Address : 3643 Tilden Apt:
 Represent: Hearst NSC Zip:
 Telephone: Home: 966-6446 Days:

Topic(s) of Concern:

Circle Choice*

Matching funds. Playground MatsSpeak ☒ ObserveSpeak ☐ ObserveSpeak ☐ ObserveSpeak ☐ Observe

*Persons wishing to change from "observe" to "speak" should submit an amended card.

REGISTRATION CARD

Date: 6/25/79

Name : Lucille J. Buchanan
 Address : 2804 27 St. NW Apt:
 Represent: WPCA Zip: 20008
 Telephone: Home: 483-6485 Days:

Topic(s) of Concern:

Circle Choice*

Sheraton Hotel SituationSpeak ☐ ☒ ObserveHistoric Preservation DistrictsSpeak ☒ ObserveSpeak ☐ ObserveSpeak ☐ Observe

*Persons wishing to change from "observe" to "speak" should submit an amended card.

REGISTRATION CARD

Date: 6/25/79

Name : T. G. CORCORAN VR.
 Address : 3920 MILITARY RD. Apt:
 Represent: BENON PLACE NEIGHBORS Zip: 20015
 Telephone: Home: 244-3180 Days: 783-7900

Topic(s) of Concern:

Circle Choice*

SAUDI ARABIASpeak ☒ ObserveIRANSpeak ☒ ObserveSpeak ☐ ObserveSpeak ☐ Observe

*Persons wishing to change from "observe" to "speak" should submit an amended card.

REGISTRATION CARD

Date: June 25Name : Anthony ChastkaAddress : 3033 Ordway St. N.W. Apt: Represent: Zip: Telephone: Home: 686 1948 Days: SunTopic(s) of Concern: Circle Choice*Theater Speak Observe Speak Observe Speak Observe Speak Observe

*Persons wishing to change from "observe" to
"speak" should submit an amended card.

REGISTRATION CARD

Date: 6/25/79Name : DORIS O'GRADYAddress : 2727 29th ST. NW Apt: 437Represent: Zip: 20008Telephone: Home: 667-4929 Days: 877-5515Topic(s) of Concern: Circle Choice* Speak Observe Speak Observe Speak Observe Speak Observe

*Persons wishing to change from "observe" to
"speak" should submit an amended card.

TREASURER'S REPORT, ANC-3C

For Month of June, 1979

A. Opening Balances

1. Checking maintained at _____
2. Savings maintained at _____
3. Other maintained at _____

8321.18
 \$
 \$ 2855.17
 \$ 5466.01
 \$ — 0 —

B. Revenues During Month

1. D.C. Government
2. Interest on savings
3. Other

\$ _____
 \$ _____
 \$ _____
— 0 —

C. Disbursements Made

Total Disbursed

\$ 227.75

<u>Payee</u>	<u>Purpose</u>	<u>Amount</u>
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

} Check # 313 through # 318

(Additional details posted in Treasury Accounts Book and in Treasury Vouchers, both available for inspection by consulting with the Treasurer)

D. Closing Balances (A + B - C) = (D.1 + D.2)

1. Checking
2. Savings
3. Other

\$ 8093.43 ✓
 \$ 2627.42
 \$ 5466.01
 \$ — 0 —

David Grinnell

David Grinnell, Treasurer

Respectfully submitted by

Gary J. Kopff, Vice-Treasurer

Date

Phil

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF RECREATION
3149 SIXTEENTH STREET, N. W.
WASHINGTON, D. C. 20010



June 21, 1979

Mr. David Grinnell, Commissioner
ANC 3C-SMD10
2603 36th Place, N.W.
Washington, D.C. 20007

Dear Mr. Grinnell:

As agreed in the meeting with the Ward III Community last night I have directed my staff to proceed posthaste with your request for a Tot-Lot development on the Guy Mason Adult Recreation Center site. We have tentatively selected a location in the northwest corner near Wisconsin Ave., and Calvert St., which appears to be ideally suited for the tot-lot. It is grassy, shaded, and in closer proximity to the water fountain than other locations. It is also isolated from vehicular traffic and from the softball activity (see attached map).

I have designated Messrs Lesko and Dickerson to work directly with your committee on this project, and they may be reached at 673-7689. They will assist with coordination of equipment selection, siting, and installation by your suppliers. They are in touch with companies which have successfully expedited projects of this type for other community groups. We are, of course, proceeding with the understanding that the community will bear full cost of this project. In addition I must reiterate that at present there is no staffing available for the tot-lot and necessary supervision must be provided by the parents and community.

We cannot state a time frame for this project but I do assure you that necessary support from my staff will be prompt and immediate. Progress as relates to the community and equipment suppliers is a factor we can not control. However, we anticipate that we can work together harmoniously and accomplish this tot-lot development in accordance with your ANC requirements.

Sincerely yours,

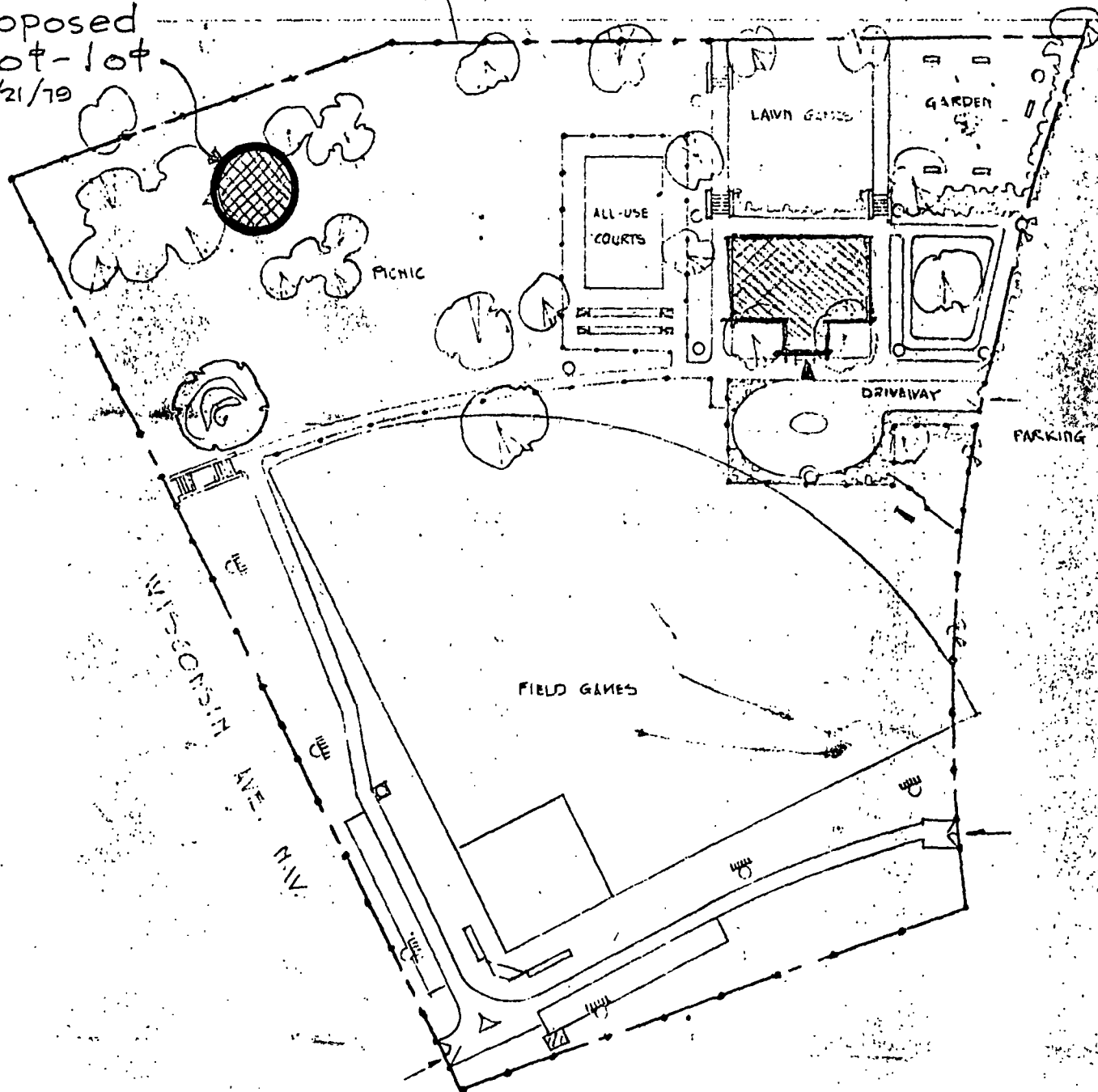
William H. Rumsey
William H. Rumsey, Ph.D.
Director

Attachment:

100% COMP. M.D.H.

CALVERT STREET N.W.

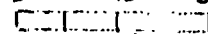
proposed
#04-104
6/21/79



GUY MASON REC. CENTER
D.C. RECREATION DEPARTMENT



0' 20' 40' 80'



SCALE 1"=20'-0"

M.D.H.



THE ANNE BLAINE HARRISON
INSTITUTE FOR PUBLIC LAW

GEORGETOWN UNIVERSITY LAW CENTER
605 G ST., N.W. - SUITE 401
WASHINGTON, D.C. 20001
202-624-8235

June 25, 1979

M E M O R A N D U M

Dean of the Law Center
DAVID J. MCCARTHY

Associate Dean for
Clinical Programs
JOHN R. KRAMER

Director
JASON I. NEWMAN

Deputy Director
ROBERT K. STUMBERG

Administrator
NANCY D. BRADLEY

Institute Fellow
SUZAN ARAMAKI

Special Counsel
JOHNNY BARNES
Community Legal Assistance
ANN BRITTON
Developmental Disabilities
J. MICHAEL FARRELL
Developmental Disabilities

Programs
COMMUNITY LEGAL
ASSISTANCE
DEVELOPMENTAL
DISABILITY LAW PROJECT
LEGISLATIVE
RESEARCH CENTER

Advisory Board

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Vice-Chair
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CHARLES DUNCAN
HAROLD FLEMING
BARBARA FOOTE
CONNIE ADAMS FORTUNE
DAVID HARRISON
HARRY J. HOGAN
BERNICE JUST
GARY KOPFF
DAVID J. MCCARTHY, JR.
HON. H. CARL MOULTRIE I
JOSEPH L. RAUH, JR.
MARGARET REUSS
CHARLES RICHARDSON
LOUISE SAGALYN
STEPHEN J. WRIGHT

TO : Lindsley Williams, Chairperson
Advisory Neighborhood Commission 3C

FROM : Suzan Aramaki

RE : Comments on Selected Sections of Zoning
Commission's Proposed RuleMaking

Regarding your request for comments on specific provisions of the Zoning Commission's proposed rules relating to citizen rights and citizen participation, comments are presented below by section and subsection designations.

Section 1.1(d) "Person" Defined

Comment: The Commission's definition limits "persons" to those who are not parties. At the same time, however, Section 1.1(e) defines "party" as "any person in support of or in opposition to an application", and Section 6.2(a) limits parties to "any affected person". The more logical approach is that taken by the D.C. A.P.A., D.C. Code §1-1502(9)-(10) (1973 ed.), which begins with "person" as the larger category of which "party" is a smaller subset. In other words, a "party" is simply a "person" who meets particular requirements which qualify him for special rights. The Commission's definition differs from the D.C. A.P.A. definition of person in that the latter does not include any government body, but there seems to be no reason to object to the Commission's inclusion of government within its definition.

Recommendation: The definition for "person" should therefore read as follows:

"Person" includes individuals, partner ships, corporations, associations, and public or private organizations of any character.

Section 1.1(e) "Party" Defined

Comment: The requirement under Section 1.1(e)(2) that a person must be "in support of or in opposition to an application" may unnecessarily preclude affected persons who would otherwise qualify under Section 6.2, but who take an intermediate position, for instance, by supporting the application with conditions. However, a number of factors militate in favor of the requirement that a party be either for or against the application. In the first place, unless there is opposition to an application, the contested case procedures of Chapter 6 may not apply. These procedures are vital to the effective assertion of citizen rights. Second, are the legitimate considerations of administrative efficiency in Commission proceedings: if the Commission's choice is one of granting or denying an application, the contributions of persons who are for both sides may not be perceived as particularly helpful by a Commission that must decide one way or the other. Most important, however, is the fact that persons who take an intermediate position for an application of certain conditions are not thereby precluded from qualifying as parties, because such a position can just as easily be characterized as being against the application unless certain conditions are met. Indeed, from a strategic standpoint, this is the preferable position for one seeking to maximize his position to achieve those conditions.

Finally, the rights of parties under D.C. Code 1509(b) to call witnesses to provide objective comment and testimonial evidence, as well as the rights of persons to be heard under Section 6.3(g)&(j) make it unnecessary to grant the special rights of parties to persons who simply want to provide evidence. See Comment, Section 6.2, infra, for a discussion of the proper standard for determining whether a person qualifies as a party.

Recommendation: No change.

Finally, ANCs should be included as parties as a matter of right once they have filed the information required under Section 6.2a. Certain changes in the information required have been recommended for that section. See Comment, Section 6.2, infra.

Section 1.1(f) "Working day" Defined

Comment: This definition introduced unnecessary confusion by differentiating between "days", presumably meaning calendar days, and "working days", meaning business days. One or the other should apply to all time periods. See Comment, Section 1.4, infra.

Recommendation: Delete entirely.

Section 1.3 Resolution of Conflict

Comment: The requirement of D.C. Code §1-1501 that in the event of conflict the D.C. A.P.A. shall supercede the Commission's administrative procedures should be expressly incorporated into this section, for the reason that such a provision would make the interrelationship of those respective laws more accessible to citizens without legal training.

Recommendation: Add the following sentence at the end of Section 1.3:

In any conflict between these rules and the D.C. A.P.A., D.C. Code §1-1501 et seq. (1973 ed.), the D.C. A.P.A. shall govern.

Section 1.4 Time

Comment: As mentioned above under Section 1.1(f), this section rather than the definition section should delineate which days are to be counted in determining time periods. The current practice in most D.C. Agencies is to count calendar days rather than working days in computing time periods, unless a time period ends on a Saturday, Sunday, or legal holiday, in which case the time period ends on the next day that is not a Saturday, Sunday, or legal holiday. This is the present form of Section 1.4.

The primary reason for using calendar days rather than working days is that the former are easier to calculate and thereby less susceptible to disastrous miscalculation of filing dates. While the effect of using working days would be to lengthen time periods, this is more properly accomplished by direct measures. See eg., Section 3.3, infra.

Regarding the concern that time periods ending on days when the D.C. government is closed for snow might prejudice participants, such snow days are rare, and the Commission may make exceptions by waiving the time period requirements under Section 1.11.

Recommendation: No change.

Section 1.5(b) Appearance and Representation

Comment: The section relating to persons or parties appearing before the Commission requires written authorization whenever an attorney, agent, or representative appears on his or her behalf. ANC 3C supports this proposal. The language, however, goes on to require that the attorney, agent, or

representative be empowered to "bind" the person on the pending matter. Such a specific requirement has the potential to cause the exclusion of a legitimate representative who has the clearly adequate, but general authorization to appear on behalf of the absent person. In addition, the extent of authorization necessary for effective participation varies considerably between parties and persons, appearing for different purposes. For these reasons, the authorization should continue to be required in writing, but attorneys, agents, and representatives should be allowed to participate to the extent of their authorization. At any rate, no more than a general authorization to appear on a person's behalf should be required, since that authorization encompasses the power to bind the principal in any matter on which the representative is appearing, unless otherwise limited.

Recommendation: Delete "bind" in the last sentence of subsection b. and replace it with "appear on behalf of". At the end of subsection b. add the following:

Any attorney, agent, or representative appearing in a lessor capacity shall state the limitations of his authority, and shall be permitted to participate only to the extent of that authority.

Section 1.9d Evidence

Comment: Although the Commission and any other D.C. Government agency -- but not ANCs -- may pose questions to witnesses under this section, it is not necessary that ANCs have this authority, since any ANC filing under Section 6.2 would be a party and therefore have the right of cross examination under Section 6.2c.

Recommendation: No change.

Section 1.11 Waiver of Rules

Comment: This section allows the Commission to waive provisions of the rules of procedure if such "waiver will not prejudice the rights of any party". While it is a legitimate concern that the rights of persons who are not parties may be adversely affected by such a waiver, it is also true that the rights of parties -- who must concededly have a greater interest in the outcome -- may be adversely affected if the Commission is deprived of the discretion to waive the rules because of prejudice to a person with a lesser interest. In order for this section to be effective at all, it may be necessary to limit the safeguards to those who most need protection.

Recommendation: No change.

Section 2.1d Applications and Petitions - Notice of Filing

Comment: Subsection d requires the Commission to give public notice of the filing of an application by publishing in the D.C. Register and by providing public libraries and ANCs with copies to be posted. Given the fact that few citizens read the D.C. Register, this improperly places the major burden of public notice on the libraries and ANCs. While dissemination of notice through the library system and ANCs is laudable, it should at most be viewed as ancillary to the primary duty of the Commission to notify the public through publishing in a newspaper of general circulation.

Recommendation: Delete subsection d after "the District of Columbia Register" and add the following:

and in a newspaper of general circulation. In addition the Commission shall provide copies of the notice to the public library system and to the appropriate Advisory Neighborhood Commission(s) for such dissemination and posting as the library and ANC deem appropriate.

Section 2.3c Commission Review - Notice of Dismissal

Comment: See Comment, Section 2.1d, supra. Publishing in a newspaper is overly burdensome for entire orders. For this reason, no such requirement is recommended for this section. It should be noted that notice of dismissal is not as critical to potential citizen participants as notice of filing, since the latter in effect gives citizens a head start in organizing prior to the setting of the hearing date.

Recommendation: Delete the first sentence of subsection 2.3c immediately after Advisory Neighborhood Commission(s) and add "for such dissemination and posting as the library and ANC(s) deem appropriate."

Section 3.1 Referrals and Reports

Comment: While there is some support for the proposition that ANCs be expressly included in this section governing input from other government agencies, a number of factors favor leaving the section substantially unchanged. To begin with, the agencies included in this section appear to differ from ANCs in the character of their participation. The agencies are called upon to render expert opinions and to provide information. ANCs on the other hand are more political in nature and have a role as advocate of citizen views. For

this reason the place of ANCs in the process is more akin to that of the citizen himself (with special procedural advantages) rather than as part of the government in general.

One minor point is that the reference to "working days" should be eliminated from subsection c in accordance with the recommendation for Section 1.1f.

Recommendation: Delete "working days" from subsection 3.1c and add "days, excluding Saturdays, Sundays, and legal holidays."

Section 3.3 Notice

Comment: Notice should be published in a newspaper of general circulation as well as in the D.C. Register to ensure adequate public notice. Copies should be provided to ANCs at the same time notice is published and posted, not ten days later. Certain textual change in subsection d are necessary to provide for notice to more than one affected ANC. Paragraph d(4) should be deleted entirely because it makes special notice to those most affected by a contested case discretionary for the Commission. Such notice should be obligatory.

Recommendation: The following specific changes should be made:

(1) In paragraph a(1) add "and in a newspaper of general circulation" immediately after "D.C. Register".

(2) In paragraph a(3) delete "for posting in appropriate locations at the end of the first sentence and replace with "for dissemination and posting as the libraries and ANC(s) deem appropriate." In the second sentence delete "thirty-five" and "thirty", and replace with "forty-five" and "forty", respectively.

(3) In paragraph d(1) delete "the number of the Advisory Neighborhood Commission" and replace with "the number of each Advisory Neighborhood Commission in the".

(4) In subparagraph d(2)(c) delete "The" at the beginning of the sentence and replace with "Each".

(5) Delete paragraph d(4).

Section 5.3 Order of Procedure

Comment Given the statutory requirement that ANCs' concerns be given great weight, ANCs should be given a position above that of ordinary persons appearing at a Chapter 5 rule-

making proceeding. For this reason, ANCs should appear after D.C. agencies but before individual persons. Moreover, this parallels the order of appearance under Section 6.3.

Recommendation: Insert the following after subsection e:

f. Affected Advisory Neighborhood Commission(s); Change the letter headings for subsections after this new subsection accordingly.

Section 6.2a Parties - Information to be Filed

Comment: The requirement for filing ten working days prior to a hearing is excessive and tends to limit the effectiveness of citizen participation. Under this requirement ten working days could be fourteen calendar days with two weekends, and even more with a legal holiday. Given the current 30 day notice for ANCs, this could leave only about two weeks for meeting, adopting a position, and filing.

Regarding the specific information required to be filed, much of it is inappropriate for ANCs, since ANCs do not own real property. Accordingly, a paragraph should be added after 6.2a(5) to provide for information from ANCs.

The requirement in paragraph a(6) of a "list of witnesses who will testify" is excessively binding, especially considering the fact that under Section 3.2a(3) applicants and petitioners are only required to submit a "list of witnesses who are prepared to testify" (emphasis added).

Recommendation: The following specific changes should be made:

(1) In subsection a delete "ten working days" and replace with "five days, excluding Saturdays, Sundays, and legal holidays."

(2) Delete paragraph a(6) and add the following:

6. For Advisory Neighborhood Commissions, a written statement setting forth the following:

- a. The boundaries of the neighborhood represented by the Advisory Neighborhood Commission;
- b. The location of that neighborhood with respect to the property for which action of the Commission is requested;
- c. The environmental, economic, and social impacts upon the neighborhood which are

likely to occur if the action requested of the Commission is approved;

- d. Any other matters which would demonstrate how the neighborhood would be affected or agrieved by action upon the application.

- 7. A list of witnesses who are prepared to testify on the person's behalf.

Section 6.2b Parties - Determined by Commission

Comment: Subsection b gives the Commission excessive discretion in determining who qualifies as a party. There are no standards for evaluating "whether the specific information presented qualifies the person as a party."

The basic distinction between a party and a person is the extent to which the party's rights and interests are affected by the Commission's action. Based on this assumption, the preferred standard should be broad to allow maximum participation as parties by those parties whose rights and interests are affected. For this reason, the recommendation below requires only that a person make a prima facie showing that his rights or interests are likely to be substantially affected.

Given the representative function of ANC's, however, it may be difficult to show an interest of the ANC itself which is directly affected. For this reason, ANC's should only be required to comply with the filing requirements of subsection 6.2a in order to automatically qualify as a party.

Recommendation: Delete subsection 6.2b and add the following:

- b. The Commission shall determine who will be recognized as a party. The Commission shall admit as a party any ANC which has complied with the requirements of 6.2a. The Commission shall admit as a party any other person who has complied with the requirements of 6.2a, provided that the information filed under 6.2a shows such person's rights or interests are likely to be substantially affected by the action requested of the Commission.

TASK FORCE ON THE REBUILDING OF THE SHERATON PARK HOTEL

Advisory Neighborhood Commission 3C
Cleveland Park Citizens Association
St. Thomas Apostle Parish Council
Woodley Park Community Association

2264 Cathedral Ave., N.W.
Washington, D. C. 20008
June 24, 1979

Board of Zoning Adjustment
Government of the District of
Columbia
District Building, Room 9-A
Washington, D. C. 20004

Re: Application of the Washington Sheraton
Corporation, BZA No. 12949

Dear Board Members:

This letter supplements our letter of June 12, 1979 on the subject application.

The community task force concerned with the reconstruction of the Sheraton Park Hotel met with representatives of the Hotel on the evening of Wednesday, June 20, 1979. The matters being considered in the Hotel's application before the Board of Zoning Adjustment in Case 12949 were among the items discussed.

The community task force has further investigated the Hotel's application and reports to the Board (and, by copy, to ANC3C) as follows:

1. The matter of the request for a special exception to allow more than one structure is one which impacts dramatically on the community and, if not granted, will result in a building with an appearance of greater mass and bulk than what would otherwise result. In this instance, the community believes it would be adversely served by requiring the Hotel to comply with the requirement to have but one roof structure. The Hotel estimates it would save some \$300,000 in construction costs if the special exception is granted. The Task Force recommends that the Hotel be granted the special exception it seeks and further recommends (but not as a condition) that the funds saved thereby be dedicated to an improvement that will benefit the community at large. Below, we discuss specific public benefits. We believe your decision could be based on public benefits being identified by our Task Force, and approved by the Assistant City Administrator for Planning and Development.

2. The matter of the request for a variance pertaining to a requirement relating to court yard widths is entirely internal to the Hotel and, if granted, will not impact on the community in any way. Nor will it be detrimental to the community to have the application denied. The Task Force recommends the application be granted only on the condition that the Hotel agrees to dedicate funds saved, estimated by the Hotel to be \$300,000, to an improvement that will benefit the community at large (see below).

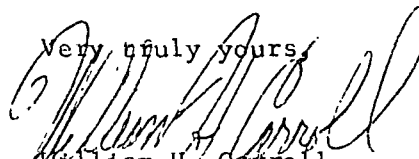
Over the years in which the Task Force and the Hotel have been discussing the reconstruction of the Sheraton Park Hotel, both parties have agreed that it would be useful to have a direct connection from the Hotel to the "Metro." In fact, community input in 1972 resulted in Metro's decision to provide a mezzanine just below street level as an intermediate step to reaching the subway. Also as a result of community input, the mezzanine's side walls consist of "knock out" panels, one of which would open out to the Sheraton Park property.

The Hotel has previously indicated to the Task Force its willingness to explore activating this direct connection but has reported that it is not able to finance such a connection. Should the Board grant the variance and special exception the Hotel is requesting, the Hotel would - in effect - have some \$700,000 that it could dedicate to this proposition. The Task Force recommended this to the Hotel Wednesday, June 20, and the Hotel representatives indicated they would give the suggestion full consideration. We have not yet heard from them but hope they will agree. In any event, the Task Force urges the Board to grant the special exception relating to roof structures and the variance relating to courts, particularly if the Board could find a legal means to compel the Hotel to dedicate the funds so saved to a clear public benefit.

We also recommend the Board make specific findings on the matter of whether the application is, in fact, complete since there are already a number of other roof structures housing elevators and mechanical equipment relating to new construction and that which pre-existed. We are asking ANC 3C to supply you details on this point.

We continue to have concerns about a number of other aspects of the hotel complex now under construction. As we concluded in our letter of June 12, we may need to bring some matters not immediately related to this application to your attention at an appropriate time.

Very truly yours,


William H. Carroll
Chairman

cc:
ANC 3C

ADVISORY NEIGHBORHOOD COMMISSION 3-C
Government of the District of Columbia

Cathedral Heights

Cleveland Park

McLean Gardens

Woodley Park

June 25, 1979

Mr. Leonard L. McCants, Esq., Chairperson
Board of Zoning Adjustment
Government of the District of Columbia
District Building, Room 9-A
Washington, D.C. 20004

Dear Mr. McCants:

Re: BZA 12949 (Sheraton Park)

This letter is to advise you of the views of Advisory Neighborhood Commission 3C in connection with the application of the Washington Sheraton Corporation (hereafter "Sheraton" or "Hotel") for a special exception to allow more than one roof structure on a building (ordinarily one is to be provided under terms of section 3308.2) and for a variance to permit the construction of a closed court that would not satisfy the width requirements of section 3306.1 for a building which is a hotel.

The applicant's premises is located on lot 32 of square 2132 and has the street address of 2660 Woodley Road. The lot in question is a "through lot" under the Zoning Regulations. The applicant's building plans indicate that the applicant has designated Woodley Road as the "front" of the property. Development of the lot may be conceived of in four stages, although this is not intended to be a comprehensive assessment:

<u>Year</u>	<u>Development Activity</u>
-------------	-----------------------------

1918†	Construction of the <u>Wardman Park Hotel</u> . This is the crescent-shaped hotel having the address of 2660 Woodley Road. Renamed the <u>Sheraton Park</u> in the 1950's, it is to be demolished in July, August, and September 1979.
-------	--

1931	Construction of the <u>Wardman Tower Annex</u> . This is the cross-shaped building situated at the northeast corner of the lot at the intersection of Connecticut Avenue and Woodley Road; its address is 2600 Woodley Road. It has been designated a Class II historic landmark.* The Hotel has informed the community that it intends to maintain the building as a hotel. At one time, the building consisted of approximately 60 apartments. It now consists of a mixture of apartments and habitable rooms or suites in hotel use.
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* Also designated is the arcade connecting to the main building and, possibly, the entire complex if defined as one building.

Single Member District Commissioners, 1978-1979

01-Fred Pitts
02-Ruth Haugen
03-Bernie Arons
04-Lindsley Williams
05-Katherine Coram

ANC-3C Office
2737 Devonshire Place, N. W.
Washington, D. C. 20008
232-2232

06-
07-Gary Kopff
08-
09-Louis Rothschild
10-David Grinnell

- 1963 Construction of the Motor Inn and Sheraton Hall, along with the Lanai complex. This is the portion of the Hotel which faces Calvert Street and the Hotel's private driveway connecting Calvert Street and Woodley Road running parallel to 29th Street to the rear of Oyster School and apartment houses located in the 2700 block of 29th Street as well as the apartment house at 2800 Woodley Road.

This project was presented to the Board of Zoning Adjustment in 1962 under Case 6750. With the exception of the Lanai complex, which has already been demolished, the Motor Inn and Sheraton Hall convention areas are expected to remain.

- 1978-9 Construction of the Washington Sheraton Hotel. This is the replacement hotel for the crescent-shaped Sheraton Park/ Wardman Park.

The application before the Board of Zoning Adjustment in case 12949 relates exclusively to the Washington Sheraton Hotel. However, the position recommended by Advisory Neighborhood Commission 3C asks that the Board consider the application in terms of all of the buildings and structures situated upon lot 32 of square 2132.

Authority for the Board to grant variances, such as that the applicant is seeking relating to the width of closed courts, derives from section 8207.11 of the Zoning Regulations. Similarly, authority for the Board to grant special exceptions, such as that relating to limitations on the number of roof structures, derives from section 8207.2. The first imposes a test of "exceptional practical difficulties or ... hardship" and may be granted when the relief will not be of "substantial detriment to the public good" and will not "impair ... the zone plan." The second (relating to special exceptions) imposes a test of "harmony" with the zoning regulations and plans and may be granted when it will not "affect adversely the use of neighboring property" under the zone plan. Inherent in these, we feel, is the general concept of public benefit -- a matter to which we later return.

The Matter of the Width of the Closed Court:

The Washington Sheraton Hotel's main building consists of an essentially "Y"-shaped building oriented in such a way that the lower portion of the letter faces north and the two upper portions face, respectively, southeast and southwest. The area between these two wings of the building are part of a large "closed court" within the meaning of the Zoning Regulations. No part of the court can be seen from any habitable adjacent area or building.

The applicant has indicated that it would cost some \$400,000 to construct the building in a manner complying with the Zoning Regulations, basically by building a set of balconies

that would span the distance between the wings facing southeast and southwest thereby making the width of the court that which is required, some thirty (30) feet.

It is the view of Advisory Neighborhood Commission 3C that:

1. The practical difficulties cited by the applicant derive, in part, from the design of the project which may not have been contemplated when the regulation was promulgated.
2. The practical difficulties cited by the applicant (page 4 of the application) seem to be solely the matter of unnecessary cost.
3. The granting of the requested variance would not be detrimental to the public nor would it impair the zone plan.
4. The granting of the variance would result in the Hotel's saving of some \$400,000 in construction costs and reduced maintenance costs all of a portion of which the Board could direct be dedicated to a distinct public benefit.

Advisory Neighborhood Commission recommends the variance be granted, particularly if the Board can condition the variance with an improvement that will be of public benefit.

The Matter of the Number of Roof Structures:

The Washington Sheraton Hotel's main building main building is large and has main corridors which measure approximately 1000 feet all told. It is, as explained above, essentially "Y"-shaped. The building has three banks of elevators, the main set being at the intersection of the "Y" and the others being mid-way down each wing toward Calvert Street from the main set. Each of these elevator banks is housed in a structure that sits above the level of the top floor. The applicant's existing plans on file indicate a willingness to construct a curtain wall between these structures so as to make them seem to be one, a possibility reinforced by section 3308.32 of the Zoning Regulations which permits such curtain walls without penalty to floor area ratio.

The applicant has indicated that it would cost some \$300,000 to construct the curtain wall in a manner complying with the Zoning Regulations.

In contrast to the matter of the courts, discussed above, the matter of the roof structures is one which impacts on the community in a very direct way. The roof structures are now, due to the advanced state of construction, highly visible to the community. This fact makes it possible for community residents to visualize the effect of complying with the provision of the Zoning Regulations that requires all rooftop

"penthouses and mechanical equipment" to be "placed in one enclosure." To do so in this case would add to the apparent bulk of the building, thereby detracting from the appearance. This visual impact would be seen from, among other places, the approaches to the Woodley Park area across both the Taft (Connecticut Avenue) and Duke Ellington (Calvert Street) bridges, persons passing by on Connecticut Avenue in the current commercial district at the intersection of Connecticut and Calvert, persons passing by the front of the building on Woodley Road, and particularly impact on those persons residing in apartment buildings along 29th Street and Woodley Road, persons living in the single family homes facing the hotel's front entrance, and school children at Oyster School. All told, we estimate that the roof structure will be visible to about 300 families.

It is the feeling of Advisory Neighborhood Commission 3C that:

1. The applicant's proposal to have three separate roof structures on the Washington Sheraton Hotel's main building would be more in "harmony" with the overall design of the complex and the neighborhood in general than to require that the applicant build a curtain wall connecting each of the separate structures.
2. The granting of the special exception requested would be more beneficial to neighboring property than would be a denial of same; a denial would be "adverse" in nature.
3. The granting of the requested special exception would save some \$300,000 in construction costs which might well be dedicated to a distinct public benefit.

However, while the application appears to be in order with respect to the hotel building now under construction, ANC 3C asks the Board to examine the entire sixteen acre site and all the buildings and structures erected thereon in terms of requirements for roof structures. There is a distinct possibility the application may be incomplete.

Our reading of section 3308 of the Zoning Regulations suggests that its standards relate to each building. The application to construct the new facility has been figured in many ways as if the entire complex were, in fact, one building. If this is so, then the application is ignoring additional roof structures now in existence on the Wardman Tower Annex and, more pertinent as it was constructed since the Regulations took effect, the Motor Inn and Sheraton Hall. The application also ignores a large complex of three massive air-conditioning towers recently set down on the roof of the Motor Inn as yet unenclosed by any wall, let alone material designed to "harmonize with the main structure in architectural character, material, and color" as required by section 3308.12. The Hotel has agreed with the community to comply with the regulations, but these towers appear so massive that they may exceed the limit on height of mechanical equipment set down at section 3201.26 of eighteen feet six inches (18' 6").

June 25, 1979

Thus, we feel the application must either be amended to reflect all roof structures proposed in the entire project area or the application must be limited to the single building of which it is a part. We urge the latter course, with the implication that the Hotel must return to the Board to seek relief from limitations on the number of roof structures on other buildings on the site.

It is the view of Advisory Neighborhood Commission 3C that, when construction of Phase I* of the re-building of the Sheraton Park complex is complete the grounds will be the foundation of four separate buildings, as follows:

1. The Wardman Tower Annex, constructed about 1931.
2. The Motor Inn and Sheraton Hall, constructed about 1963.
3. The Cotillion Ballroom (and Garage), constructed as a part of the 1963 plan.
4. The Sheraton Washington Hotel's main building, construction of which is now underway.

We feel this is the case as the connecting arcade between the Wardman Tower Annex and the new Sheraton Washington Hotel's main building ties together two structures at the first floor level of the Wardman Tower Annex but at one floor below the first floor of the Sheraton Washington Hotel's main building, a fact relevant under the Zoning Regulation's definition of "building." Similarly, the Motor Inn ties in with the Sheraton Washington Hotel's main building at a level below the first floor of the latter (but at the eighth floor of the former due to substantial terrain differences). Lastly, the Cotillion Room will be connected to the Sheraton Hall area only by an enclosed walkway which will span over a driveway to be used by automobiles and delivery trucks.

The Matter of Public Benefit

If the Board were to grant either the requested variance from the requirement relating to width of courts or the special exception relating to roof structures, the Hotel would save construction costs amounting to \$400,000 and \$300,000 respectively, a total of some \$700,000.

Advisory Neighborhood Commission 3C feels that this savings should not revert automatically to the applicant, particularly given the lateness of the application in the building process. Rather, we urge the Board to direct or, if that is not possible, to urge the Hotel to redeploy the funds it would have expended on the matters from which it seeks relief to aspects of the overall site development that would be in the public interest.

The Hotel and the Task Force on the Reconstruction of the Sheraton Park Hotel created under the auspices of ANC 3C have been exploring ways by which to take advantage of the soon-to-be-opened "METRO" station at the intersection of 24th Street and Connecticut Avenue through removal of "knock out" panels

* Phase I and Phase II are shown on applicant's drawing Z-3.

and the construction of an appropriate escalator way and covered walkway. The Hotel and the Task Force have agreed that such a connection would be beneficial, but the Hotel has indicated that they could not "finance" the suggestion. The Task Force has suggested the funds "saved" be redirected to this matter. The Hotel has taken the suggestion under advisement. Advisory Neighborhood Commission 3C concurs with the recommendation of the Task Force and urges the Board of Zoning Adjustment to support this notion to the extent it is legal to do so.

Thank you for considering the views of Advisory Neighborhood Commission 3C. We trust they will help you make a decision that will be in the public interest.

BY RESOLUTION OF ADVISORY
NEIGHBORHOOD COMMISSION 3C,

Lindsley Williams, Chairperson

Attachments:

Section 3308 of the Zoning Regulations
Letter of June 24 to the Board of Zoning
Adjustment from the Ad Hoc Task Force
on the Reconstruction of the Sheraton Park

cc: Honorable Polly Shackleton
Honorable David Clarke
Mr. James O. Gibson
Mr. Norman M. Glasgow, Esq.
Mr. William R. Carroll

SECTION 3308 - EXCEPTIONS TO DENSITY REGULATIONS FOR ROOF STRUCTURES

3308.1 So as to exercise a reasonable degree of architectural control upon roof structures in all districts, housing for mechanical equipment, stairway and elevator penthouses and when not in conflict with the Act of June 1, 1910 (36 Stat. 452) penthouses for storage and toilets incidental and accessory to roof swimming pools shall be subject to conditions and variable floor area ratio credit specified below:

3308.11 When located below, at the same roof level with, or above the top story of any building or structure, penthouses, as outlined above, shall be subject to Paragraph 3201.26, 4201.22, 4403.3, 4503.6, 5201.23 or 6201.22 when applicable and to conditions and variable floor area ratio specified below.

3308.12 All penthouses and mechanical equipment shall be placed in one enclosure, same to harmonize with the main structure in architectural character, material and color. Enclosing walls from roof level shall be of equal height and shall rise vertically to a roof except as provided in Paragraph 3308.13.

3308.13 When consisting solely of mechanical equipment, such equipment shall be fully enclosed as prescribed in Paragraph 3308.12, except that louvers may be provided. A roof over a cooling tower need not be provided when such tower is located at or totally below the top of enclosing walls.

3308.14 Solely for the uses designated in this section, an increase of allowable floor area ratio of not more than 0.37 shall be permitted.

3308.15 Roof structures shall not exceed one-third of the total roof area for those districts where there is a limitation on the number of stories.

3308.16 In addition to the floor area ratio allowed by Sub-section 3308.14 mechanical equipment owned and operated as a roof structure by a fixed right-of-way public mass transit system shall be permitted in addition to roof structures permitted in Sub-section 3308.1 and 3308.2.

3308.17 Before taking final action on a roof structure plan, the Zoning Administrator shall have submitted the plan to the Director, Municipal Planning Office for review and report. Such report shall be returned within fifteen (15) days of the date of submission unless a different period has been provided by mutual agreement of all parties involved.

3308.2 Where impracticable because of operating difficulties, size of building lot or other conditions relating to the building or surrounding area which would tend to make full compliance unduly restrictive, prohibitively costly or unreasonable, the Board of Zoning Adjustment is empowered to approve the location and design of any or all of such structures even if such structures do not meet the normal setback requirements of Paragraphs 3201.26, 4201.22, 4403.3, 4503.6, 5201.23 or 6201.22 when applicable, and to approve the material of enclosing construction used if not in accordance with Paragraph 3308.12, provided the intent and purpose of this section is not materially impaired thereby and the light and air of adjacent buildings are not affected adversely.

3308.3 For the purposes of this Section, the following rules of interpretation shall be applicable:

3308.31 In computing the floor area ratio of a roof structure, the aggregate square footage of all levels or floors contained within a roof structure measuring 6.5 feet or more in height shall be included in the total floor area ratio permitted.

3308.32 Areas within curtain walls without a roof used where needed to give the appearance of one structure shall not be counted in floor area ratio but will be computed as a roof structure to determine if same complies with Paragraph 3308.15.

3308.33 For the administration of Section 3308, mechanical equipment shall not include telephone equipment, radio, television or electronic equipment of a type not necessary to the operation of the building or structure.

3308.34 In the administration of this section, skylights, gooseneck exhaust ducts serving kitchen and toilet ventilating systems and plumbing vents stacks shall not be considered as roof structures.

3308.35 Roof structures less than four feet in height above a roof or parapet wall will not be subject to this section.

ADVISORY NEIGHBORHOOD COMMISSION 3-C

Government of the District of Columbia

Cathedral Heights

Cleveland Park

McLean Gardens

Woodley Park

June 25, 1979

Honorable Jerry A. Moore, Jr., Chairperson
Committee on Transportation and
Environmental Affairs
Council of the District of Columbia
District Building
Washington, D.C. 20004

Dear Rev. Moore:

Re: Bill 3-145 (Bus Shelters)

Advisory Neighborhood Commission (ANC) 3C would like to alert you to some general concerns we have on the subject of bus shelters, a topic being considered by you and your committee in connection with Bill 3-145, a bill introduced to --

"... authorize the Mayor to enter into a franchise agreement for the installation and maintenance of bus shelters; to provide for advertising on the sides of bus shelters; and for other purposes." (D.C. Register of May 4, 1979 at page 9791.)

The text of the proposed legislation appeared subsequent to the above May 4 notice, specifically in the D. C. Register of May 16 (pages 10107-10118). Notice of a public hearing came thereafter, specifically in the D.C. Register of May 25, 1979 (at page 10265).

As you will recall, the subject of bus shelters was the subject of Council consideration over the summer of 1978 -- but the primary locus of responsibility was in a committee other than Transportation and Environmental Affairs. ANC 3C notes that in the case of the legislation being considered this year, the public was provided ample notice of the matter and of scheduled hearings; this stands in considerable (and favorable) contrast to the manner in which the matter was handled last year. The committee and its staff are to be commended in this regard.

Our principal concerns with the proposal to have the District of Columbia enter into any bus shelter program which relies on advertising are (1) safety of persons waiting in shelters and the safe operation of vehicles in adjacent street right-of-ways, (2) restricting advertising to the promotion of commodities or services which are consistent with public health, and (3) aesthetic. Comments on Bill 3-145 follow on a section-by-section basis, but these three themes are the most common underlying concerns.

Single Member District Commissioners, 1978-1979

01-Fred Pitts
02-Ruth Haugen
03-Bernie Arons
04-Lindsley Williams
05-Katherine Coram

ANC-3C Office
2737 Devonshire Place, N. W.
Washington, D. C. 20008
232-2232

06-
07-Gary Kopff
08-
09-Louis Rothschild
10-David Grinnell

June 25, 1979

Advisory Neighborhood Commission 3C supports the shelters now being installed in limited numbers by the Washington Metropolitan Area Transit Authority (hereafter "Metro"). The shelters Metro has installed in the District of Columbia are well designed and afford maximal safety and visibility. They do not, of course, permit advertising.

Advisory Neighborhood Commission 3C supports the concept of additional shelters but does not wish to see the District's program come about at a cost of possibly unsightly shelters which are, in part, a billboard -- particularly in residential areas, areas that are historic in nature, or areas that are critical to the image of the Federal city.

To this end, we suggest that the Committee develop a number of amendments to the proposed legislation before reporting it out to the full Council. Some of these are suggested below and others in the attached section-by-section commentary.

Depending on site design at each location where a shelter is contemplated, shelters -- and particularly those with advertising -- could result in restricted sight lines for persons operating motor vehicles. This is particularly so when a shelter is positioned immediately prior to an intersection (prior relative to the flow of vehicles on the side of the street on which the shelter is to be located). While advertising panels are to be at the "end opposite the end nearest approaching buses," these panels could block the view of the cross street. Accordingly, ANC 3C recommends that the legislation be amended so as to require certification from the Department of Transportation that sight lines will not be materially impaired.

Finally, ANC 3C asks the Committee to review the current sign regulations of the District of Columbia. These are set forth in Article 14 of the Building Code of the District of Columbia. Section 1407 is relevant to Bill 3-145. Section 1407 generally bans all signs from those locations which are zoned "residential" or "special purpose" in the Zoning Regulations of the District of Columbia. We recommend this limitation be maintained in the proposed legislation.

We hope you find this letter and its attachment helpful. We hope your committee will revise the legislation along the lines we recommend so that we might join the ranks of those supporting it.

BY RESOLUTION OF ADVISORY
NEIGHBORHOOD COMMISSION 3C,

Attachment

Lindsley Williams, Chairperson

cc: Honorable David Clarke
Honorable Polly Shackleton
Charles Atherton, Comm. on Fine Arts

Section 1: Titles bill as "Bus Shelter Act of 1979." No comment.

Section 2: Finding and Purpose.

General comment: This section, particularly sub-section (a) which lists various findings of the Council, does not seem to consider the need for proper design; nor does sub-section (b). ANC 3C recommends that the consideration of design be added at appropriate locations such as (a)(4) and (b)(2).

Section 3: The Franchise Agreement.

Among other matters, this section requires (at (e)(1)) the franchisee to be responsible for "all the costs and expenses for the shelter design approved by the Mayor." This is the only location in this section where "design" is considered.

While this matter of "design" is one which will be discussed elsewhere and may warrant the drafting of a separate section exclusively on that subject, should this not occur, the language of sub-section (e)(1) should be amended to as to provide for input to the Mayor by the Commission on Fine Arts. As is known, the Commission has design jurisdiction in many parts of the District of Columbia (and has approved the shelters used by Metro). It would be appropriate to require Commission involvement so that the District can have shelters of as nearly uniform design as possible rather than a hodge podge.

Section 4: Agreement on Location of Shelters.

This section sets forth the basic outline of a contract that the Mayor and franchisee will sign to govern location of bus shelters.

The set of factors to be considered does not include the applicability of certain historic districts and sites. It is the feeling of this ANC that, if not already protected by existing D.C. Law, such areas and sites should not be among those in which shelters with advertising are contemplated. Second, there are large additional areas of the District in which the Commission on Fine Arts has an important role to play and this ANC feels that role should continue (as it derives from Federal legislation, there seems little question). ANC 3C thus suggests that section (4) be amended so as to preclude advertising type shelters in specified districts and sites and provide for appropriate involvement of the Commission on Fine Arts in others. In this regard, the committee may wish to look at section (5)(b) of Bill 2-328 as reported out June 8, 1978 by Mrs. Rolark.

Section 5: Advertising.

- (a). Sub-section (a) allows the franchisee to sell advertising space "on no more than two sides of a single end" of specified shelters. The section goes on to indicate that the end with advertising shall be "opposite the end nearest approaching buses." This, of course, is a design matter but one clearly related to the safety of bus patrons who await their bus as well as passing vehicles.

While possibly in appropriate to this section -- and certainly more appropriate to a possible section on design -- some steps should be taken to limit the total size of advertising panels to no larger than common posters, about 8 square feet. In addition, the Bill does not indicate whether panels, or for that matter entire shelters, are to be illuminated. For reasons relating to safety of both persons awaiting buses and those passing by in other vehicles, ANC 3C recommends that any permitted advertising not be "backlighted" from lamps located on the interior of the sign. The Committee should, in this regard, also consider the statement made by the Mayor in his veto of recent legislation to allow advertising on the roofs of taxicabs, and ANC 3C hereby requests that that statement be incorporated by reference into the deliberations of the Committee (see the D.C. Register of May 18, 1979 at pages 10158-10168).

- (b). Sub-section (b) provides the Mayor authority to review the content of advertising materials before it is placed in shelters where advertising is permitted. At present, Bill 3-145 imposes a test that requires the Mayor to find the material "obscene or offensive to public morals." ANC 3C feels that the Mayor should not be authorized to promote consumption of commodities known to be injurious to health and that the Mayor should have the power to preclude others by regulation. Accordingly, ANC 3C suggests that the test at the end of the first sentence of this sub-section be amended to read "obscene, offensive to public morals, or promoting the consumption of products contrary to public health including tobacco and alcohol; and the Mayor may establish additional classes of products contrary to the health of the public by regulation." Again, the Committee should consider the Mayor's statement in the matter of taxi-cab advertising.

Section 6: Compensation.

This section establishes the rate at which the District of Columbia is to be compensated for shelters from advertising revenues. The recommendations of ANC 3C may, if accepted, have the effect of reducing revenue potential. We do not object to this, but hope the operation might be self-sustaining. Accordingly, the specifics of this section may need to be modified.

Section 7: Insurance and Bonds. No comment.

Section 8: Termination of Franchise Agreement. No comment.

Section 9: Relation to Other Provision of Law.

This section removes the applicability of the Building Code of the District of Columbia to advertising signs of the bus shelter program. ANC 3C recommends that the provisions of section 1407 of the Building Code, which bans signs in zones designated as "residential" or "special purpose," continue in effect.

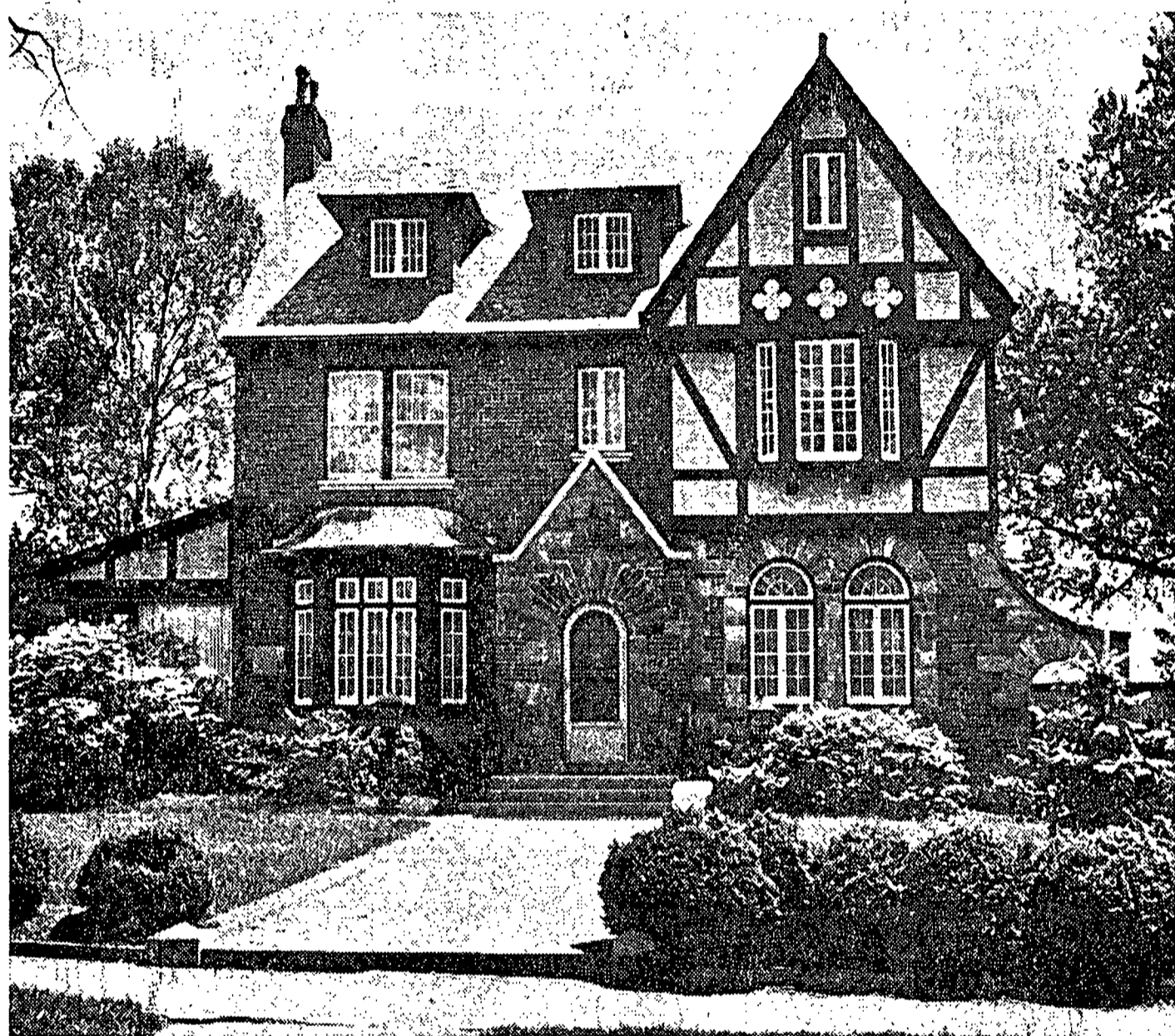
Section 10: Regulations. No comment.

Section 11: Severability. No comment.

Section 12: Effective Date. No Comment.

FRIDAY, JUNE 22, 1979

COMICS OBITUARIES GARDENS DC



—Washington Star Photographer Ray Lustig

A 2,000-gallon gasoline tank has been installed beneath the driveway of the Olga Mazza home on Cathedral Avenue NW.

Her Own Gas Tank at Home

By Dwayne Cotton
Washington Star Staff Writer

A Northwest District woman recently had a 2,000-gallon gas tank installed beneath her driveway and filled it with gasoline, much to the consternation of her neighbors.

Olga Mazza, owner of the land under Mazza Gallerie and Lord and Taylor, appears to be the only District resident who owns such a tank.

Mazza, who lives in the 3000 block of Cathedral Avenue NW, refused to talk to a reporter about the tank.

Neither District Fire Inspector Fred Wharton nor James J. Fahey, the District Zoning Administrator, say they can recall any other private citizen requesting approval of a tank.

To install a tank legally, a District resident must have the approval of both departments.

"I really didn't want to approve it,

but as far as we're concerned, she has everything in order," said Lt. Jack Fletcher of the District fire department. "I'm just surprised she found someone to fill it. I didn't think she had a Chinaman's chance of making that thing fly," he said.

Fahey said he, too, would have been against approving the tank, but someone else in his department handled Mazza's inquiry before he heard about it.

Gas tanks have been banned from residential areas in the District since June 10, Fahey said. However, he said Mazza applied to HCD on May 10.

"My interest is whether it is safe," said Dorothy Kallivas Ballas, a neighbor of Mazza. "I called the fire marshal to find out how safe it is. I have a sick mother in a bedroom at home, and I just can't have this," she said.

Ballas said she has contacted various

authorities to determine if there is some way she and Mazza's other frightened neighbors can legally have the tank removed. She said her driveway is connected to the same alley as Mazza's driveway.

Frances Lombard, Mazza's next-door neighbor said, "When I went to work in the morning (June 6, the day the tank was installed) they were just tearing up the driveway. When I came home, the gas tank was in. What a terrible thing to have happen next door to you."

Lombard also said the workmen from the American Oil Co. who filled up Mazza's tank told Lombard they were putting in fuel oil used for heating, not gasoline.

"They just shrugged off the notion they were putting in gasoline," she said.

See TANK, DC-3

Tank

From DC-1

However, Dave Gee, the dispatcher for H. B. Kidd, the firm that handled Mazza's gasoline order, said he doubts whether any of his drivers would say such a thing.

Gee said Mazza asked the firm for the gasoline in January, before she had even bought her tank. The firm had a 125 percent allocation of gasoline in January, Gee said, and despite various predictions of a worsening oil crunch it agreed to sell the 2,000 gallons to Mazza.

However, he said, it took Mazza much longer to secure the tank than he had expected — five months, in fact — and by then he had only 70 percent allocation.

Despite the precipitous drop in his gasoline supply, Gee said he felt obligated to keep his promise. Kidd sold Mazza the gas for 86.1 cents per gallon, or \$1,722, he said.

Gee said another reason he sold Mazza the gas in good conscience was that he was led to believe he was selling it to a business, Mazza's real-estate firm. He said Mazza's firm was listed on the payment sheet.

"I figured she was going to use it to gas the fleet of cars she uses for her firm," he said.

When asked why his men didn't query Mazza when they arrived at her home with the gas, and realized it was a residence and not a business, Gee hung up the phone.

Mazza bought her tank from French's Petroleum Service of the District, at a cost of \$3,000, French's president Irving Favin said. Favin said he did not want to say too much about the tank because, "Then a lot of people will be over there trying to steal her gas."

Mazza inherited the District land she owns from her mother, Louise Mazza, a District real-estate investor, when her mother died in 1963.

RECEIVED JUN 22 1979

GOVERNMENT OF THE DISTRICT OF COLUMBIA

DEPARTMENT OF TRANSPORTATION

415 12TH STREET, N. W.

WASHINGTON, D. C. 20004



ASSISTANT DIRECTOR

June 20, 1979

Mr. Lindsley Williams
Commissioner - ANC 3C
2737 Devonshire Place, N.W.
Washington, D.C. 20008

Dear Mr. Williams:

I would like to ascertain community opinion and the ANC's position concerning a proposal to change the pedestrian crossing at Wisconsin Avenue and Lowell Street, N.W.

We have received a request from the National Cathedral School to conduct traffic surveys at locations adjacent to the school with the object of improving student traffic safety. One of the readily apparent improvements would be for the students to cross Wisconsin Avenue at the signalized intersections of Woodley Road to the south, and Macomb Street to the north, rather than at the unsignalized intersection of Wisconsin Avenue and Lowell Street. The traffic signals offer positive traffic control and a safer pedestrian crossing for all pedestrians.

In discussing this matter with School representatives, it was pointed out that they had been unsuccessful in directing their students to use the safer signal controlled intersections.

Therefore, in the interest of pedestrian safety, I would like to eliminate the crosswalks at Wisconsin Avenue and Lowell Street, install signs advising pedestrians to cross at the adjacent signal controlled intersections just a short distance away, and install a small pedestrian barricade as a reminder.

I would appreciate your advice and consent to this proposal. No action will be taken until I hear from you.

Sincerely yours,

GARY C. WENDT, Chief
Traffic Operations Division

SUMMER SCHEDULE
June 16 through September 2, 1979

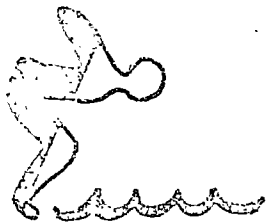
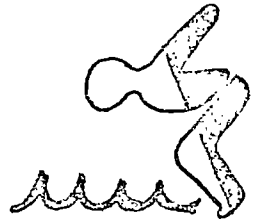
D.C. DEPARTMENT OF RECREATION
DR. WILLIAM H. RUMSEY
DIRECTOR

WILSON AQUATIC PROGRAM
Nebraska Avenue and Chesapeake St.

Staff: Benny McCottry - Director
Greg Gordon - Assistant Director

Telephone: 282-2216

SPECIAL PROGRAMS DIVISION
WILSON AQUATIC PROGRAM

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
10:00 a.m. to 10:55 a.m. WILSON REC. SUMMER LEAGUE SWIM TEAM - ALSO - PUBLIC <u>LAP SWIMMING ONLY</u>					10:00a.m.- 12 NOON
11:00 a.m. to 11:55 a.m. CHILDREN'S LEARN - TO - SWIM CLASSES - ALSO - ADAPTIVE SWIMMING.					SKIN & S.C.U.B.A. DIVING INSTRUCTIONS
12 NOON TO 1:15 p.m. ADULT SWIM HOUR (<u>18 & UP ONLY</u>) - SENIOR CITIZENS - SWIM AND STAY FIT					10:00a.m.- 12 NOON SWIM & STAY FIT
 1:30 P.M. TO 5:30 P.M. GENERAL AFTERNOON PUBLIC SWIMMING (ALL AGES)					 <u>LAP SWIMMING ONLY</u> 11:00a.m.- 12 NOON SWIM AND TRIM (calisthenics & swim)
6:00 - 6:55p.m. ADULT SWIM CLASSES	6:00- 6:55p.m. SWIM & TRIM	6:00 - 6:55p.m. ADULT SWIM CLASSES	6:00 - 6:55p.m. SWIM & TRIM	6:00 - 8:00p.m. FAMILY NIGHT SWIM (18 & up unless accompanied by an adult)	12 NOON TO 4:00p.m.
DIVING INSTRUCTION	D.C. REC. DEPT. MASTERS SWIM TEAM	SMALL CRAFT INSTRUCTION	D.C. REC. DEPT. MASTERS SWIM TEAM SPECIAL ACTIVITIES HOUR	ALSO	GENERAL AFTERNOON
7:00 - 8:00p.m. EVENING ADULT SWIM - main pool <u>strictly 18yr.-up</u> Training Pool Open	7:00 - 8:00p.m. EVENING GENERAL PUBLIC SWIMMING (all ages)	7:00 - 8:00p.m. EVENING ADULT SWIM - main pool <u>strictly 18yr.-up</u> Training Pool Open.	7:00 - 8:00 p.m. EVENING GENERAL PUBLIC SWIMMING (all ages)	SWIM & STAY FIT LAP SWIMMING	PUBLIC SWIMMING

ADVISORY NEIGHBORHOOD COMMISSION 3-C
Government of the District of Columbia

Cathedral Heights

Cleveland Park

McLean Gardens

Woodley Park

Minutes

June 25, 1979

- I. The meeting was called to order, with Lindsley Williams presiding, at 8:10pm at the Second District Police Station. Pitts, Arons, and Coram were absent. (Arons arrived shortly thereafter.)
- II. Minutes for April 23rd and May 28th of this year: There was brief discussion regarding the delay in the submission of these minutes; it was noted that the Commission would prefer to receive minutes right after a meeting, rather than right before the next one.
- The minutes for both meetings were approved "in general," with the understanding that any corrections are acceptable on or before the Commission's next meeting. Kopff urged that corrections should be submitted to Phil Mendelson within the next few days.
- III. Treasurer's report: A copy of the report, for the month of June, is attached to the file copy of these minutes. The current balance is \$8,093.43. Both Grinnell and Kopff said there was nothing new to report with regard to the reduction and delays in the Commission's funding. Susan Aramaki said the matter should be resolved in the next couple of weeks. The report was then approved by voice vote.
- III. Proposed cross-town water main: Grinnell suggested that the Commission recommend the half-cut/half-dug route. He said the people who would be most affected by construction of this route do not seem to object. Grinnell asked that the Commission state that it is not yet convinced of the necessity of a new water main, and that it would like to see convincing evidence. Williams asked that the Commission propose, in its comments, that capital projects should be subjected to referenda, and that this kind of capital project should take precedence over the convention center proposal. The public has heard only the arguments of the Dep't of Environmental Services experts, and several commissioners said they would like to hear the opinions of independent engineers regarding the necessity of this project; therefore, the D.C. Council should look into this proposal carefully. Rothschild urged that the Commission, perhaps with other ANC's, seek authorization and funding from the D.C. Council to hire such independent expertise. This discussion was incorporated into the form of a motion, which was approved unanimously by voice vote. Phil Mendelson was asked to draft the appropriate letter.
- IV. Recreation:
- A. Hearst School funding--Polly Peacock reported to the Commission that the program to purchase playground mats has received \$300 from the School's PTA and \$500 from ANC-3F. This Commission has granted \$300 with the option of an additional amount in matching funds (see minutes of February 26, 1979). Peacock requested the matching funds. Arons moved that an additional \$300 be provided to enable the Hearst program to receive the full amount necessary to purchase the playground mats. This was approved.

Single Member District Commissioners, 1978-1979

01-Fred Pitts
02-Ruth Haugen
03-Bernie Arons
04-Lindsley Williams
05-Katherine Coram

ANC-3C Office
2737 Devonshire Place, N. W.
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232-2232

06-Kay McGrath
07-Gary Kopff
08-
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B. 37th Street "speedway"--Peacock explained that the portion of 37th Street between Quebec and Upton Streets runs between two schools and contains no intersections. She said some drivers drive too fast along this street, and that there is some drag-racing. Neighborhood residents have complained, and have petitioned the city to locate crosswalks and a stop sign where a driveway comes out of Hearst School, which is opposite steps to the Sidwell Friends School property. The Chair asked for a motion to urge the city to take measures to eliminate this problem and, if possible, to erect a stop sign. This was moved and approved unanimously by voice vote.

C. Addressograph machine--It was reported that the D.C. Council resolution, enabling this Commission to accept the machine, was published, as proposed, in last week's *D.C. Register*. Grinnell reported that a serviceman has looked at the machine and says it is operative. The Board of Elections cross index lists (see May 28, 1979 minutes) will be used for address plates; verified lists should be returned to Grinnell.

D. Guy Mason tot-lot -- Grinnell reported that the D.C. Dep't of Recreation has affirmatively responded, at last, to the community's request for a tot-lot to be constructed at the Guy Mason Recreation Center site. Grinnell read the Department's letter, and added that the **proposed** location within the site may not be completely acceptable.

Grinnell asked that the Commission reaffirm its former position, taken in 1977, to support this project. At that time the Commission approved \$1000 for construction of the tot-lot and another \$500 for interior painting of the Center. Grinnell proposed that all \$1500 be used now for the tot-lot (the city has already painted the building). A motion was made to authorize up to \$1500, but to expend not less than \$1000, for construction of the tot-lot. Approval, by voice vote, was unanimous. The total authorization will be expended if the Commission is successful in obtaining its funding from the City.

V. Planning & Zoning:

A. BZA #12826 (Saudi Chancery)--A blueprint, portraying a revised parking plan was displayed. This plan was submitted at the request of the BZA, which may reject it in lieu of the original plan. It was explained that 3C must submit any comments by July 2nd. Wayne Quin, representing the applicant, briefly explained the plan, which provides 20 parking spaces, plus 1 space in a garage, and up to 10 additional spaces with attendant parking. Tim Corcoran, representing neighborhood residents, said the new plan may meet parking requirements, but it is still considered incompatible with the neighborhood; a wall will be partially removed, a fountain eliminated, and more garden area asphalted. He asked the Commission to reconsider its previous position and oppose the application.

It was moved that a letter be conveyed by the Chairman to the BZA stating that: 1) the Commission has received and reviewed the revised plan; and 2) the applicant has represented that this plan meets a projected demand for thirty cars, if attendant parking is provided; therefore, attendant parking should be required by the BZA. Grinnell stated that such a requirement cannot be enforced against a foreign nation's diplomatic mission. He also asked that the minutes show that there is a rumor that the new Ambassador may be considering using the property for guest quarters, in which case this application will become moot. The motion was approved by a vote of 5 to 1 (Arons).

B. Proposed Zoning Commission rules, published in the June 8th *D.C. Register*, concerning procedures for citizens rights and participation--This has been scheduled for July 14th action by the Zoning Commission. Susan Aramaki distributed and reviewed a memorandum with proposed comments. She stated that the notice requirements might not allow enough time for ANC comments, given the monthly frequency of its meetings. These requirements would also place a burden on ANC's to disseminate the notice to the community.

The Chair asked Whayne Quin if he had any comments. He had two: 1) parties should be required to file as such in ample time, to allow adequate preparation for all; and 2) parties should not be able to qualify as such merely by making an announcement; instead, there should be some standard that requires real interest. Aramaki noted that more time could be allowed for filing as a party if more than 40 days notice was required.

Williams suggested that the Commission adopt the memorandum as its comments with two changes: 1) all references to 40 day notice requirements be changed to read 60 days; and 2) on page 7, paragraph 6.c. (at the bottom of the page) add the words "or" and "if any" so that it reads: "The environmental, economic, or social impacts, if any, upon the neighborhood..." It was also agreed to consolidate items 6.a. and 6.b., on the same page, so as to avoid any interpretation that might require a detailed metes and bounds description. These changes were then formally moved and approved unanimously by voice vote. Aramaki was instructed to prepare a cover letter, which would include the fact that the Anne Blaine Harrison Institute undertook this work at the Commission's request.

C. BZA #12949 (Sheraton Park Hotel)--A site plan was displayed; the application involves seeking an exception to rooftop and courtyard requirements. Bill Carroll and Lindsley Williams explained the background of the application and the history of the community task force, which acts under the auspices of 3C. A letter from the task force to the BZA, commenting on this issue, was distributed. It urges that the application be granted, but that in return, construction savings be dedicated to an improvement benefiting the community. This benefit could take the form of a direct connection between the hotel and the Metrorail system.

Williams distributed a letter which he proposed be adopted. It expands upon the position of the task force. Arons moved to adopt the letter. It was approved unanimously by voice vote. Williams asked the record to show that the hotel's attorneys were invited to tonight's meeting, but did not attend.

D. Mrs. Mary Farha addressed the Commission regarding parking on Porter Street near Connecticut Avenue; it is inadequate, particularly in light of the City's stepped-up enforcement program. She proposed that Klinge Road, under the Connecticut Avenue bridge, be widened to permit parking for hundreds of cars. She also suggested that restricted parking be expanded to be applicable 24 hours a day in her neighborhood, and that Metrobus hours be expanded to accommodate late night bar clientele. Judy Kopff, also in attendance, suggested that local businesses should be required to provide and/or have their patrons pay for more parking. Williams urged Farha to testify before the June 28th hearing of the D.C. Council Committee on Transportation; he would testify about the parking problem by the Uptown Theater and Ireland's Four Provinces. Williams also noted that the City's parking enforcement program is not able to handle special disruptive events (e.g., one-day conventions, popular movies, etc.) or function at night, when parking problems still occur.

E. Bill 3-145 (bus shelter advertising)--Williams distributed a proposed letter urging a number of amendments to the legislation. Arons moved acceptance. Grinnell said he was gravely concerned about the Bill; it could encourage crime and increased illumination in the visually less-open shelters. He was also concerned that some current ones may be removed from the neighborhood and replaced with the advertising ones. The letter was unanimously approved.

F. Grinnell reported that there is a problem with speeders on Fulton Street between Wisconsin and Massachusetts Avenues; the residents would like the City to change the stop signs at 36th Place so that traffic would stop on Fulton. Williams said the 3C Transportation Committee would take action.

G. A newspaper clipping concerning the installation of a 2,000 gallon gasoline tank at the Mazza residence on Cathedral Avenue was distributed.

H. A June 20th letter from the D.C. Dep't of Transportation was discussed; it proposes the elimination of the pedestrian crossing at Wisconsin Ave. and Lowell Street. Mendelson objected to the proposal saying human behavior (which DOT admits is a problem here) cannot be controlled by prohibiting it. The Commission deferred the matter and Kopff said he would look into it.

VI. Miscellaneous items:

A. Jack Bindeman, attorney for Ireland's Four Provinces, died last week. Various comments of respect were noted.

B. The next meeting of the Commission will be July 23rd; Williams said he would be out of town.

C. Haugen distributed the schedule for the new Wilson pool.

VII. The meeting adjourned at approximately 10:50pm.

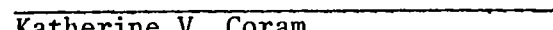
Attached to the file copy of these minutes are the following:

- *Notice of the meeting as posted.
- *Attendance at the meeting--for those who filled out attendance cards.
- *Treasurer's report for the month of June, 1979.
- *June 21, 1979 letter from D.C. Recreation re. tot-lot at Guy Mason.
- *June 25, 1979 memorandum re. comments on selected section of Zoning Commission's proposed rule making.
- *June 24, 1979 letter from Sheraton Park Hotel task force.
- *Proposed letter re. BZA #12949 (Sheraton Park Hotel).
- *Proposed letter re. Bill 3-145 (Bus Shelters).
- *June 22nd *Star* article re. Mazza gasoline tank.
- *June 20, 1979 D.C. DOT letter re. Wisconsin & Lowell pedestrian crossing.
- *Summer schedule for Wilson Pool.

Respectfully Submitted
for the Commission:


Phil Mendelson

Attested as Approved & Corrected:


Katherine V. Coram
Recording Secretary