

	ADVISORY NEIGHBORHOOD COMMISSION 3C GOVERNMENT OF THE DISTRICT OF COLUMBIA <i>CATHEDRAL HEIGHTS • CLEVELAND PARK</i> <i>MASSACHUSETTS AVENUE HEIGHTS</i> <i>McLEAN GARDENS • WOODLEY PARK</i>
<i>Single Member District Commissioners</i> 01-Lee Brian Reba * 02-Gwendolyn Bole * 03-David Valdez 04-Vacant * 05-Margaret Siegel * 06-Carl Roller 07- Victor Silveira * 08-Catherine May * 09-Nancy MacWood	3601 Connecticut Avenue, NW Suite L-06 Washington, DC 20008 Website http://www.anc3c.org Email all@anc3c.org

MINUTES
Advisory Neighborhood Commission 3C
January 20, 2015 Public Meeting
MPD2D Community Room, 3320 Idaho Avenue, NW
7:30PM

I. Establishment of Quorum:

At 7:30pm Commissioner May acknowledged that, with five Commissioners present, a quorum had been established and called to order the Advisory Neighborhood Commission 3C's (ANC3C) regular meeting on January 20, 2015. The meeting took place in the Community room of MPD2D, 3320 Idaho Avenue NW. Other Commissioners present were Gwen Bole, Nancy MacWood, Victor Silveira, David Valdez and Margaret Siegel. Commissioner May noted that the proceedings were being recorded.

II. Verification of Notice (Listserve: CP, WP, MAHCA, CAH, MG, OG, QH, Ward3DC, and NWC, Twitter)

Commissioner May verified that notice was given on the ANC3C website, local community listserves, Twitter, and the Northwest Current newspaper.

III. Approval of Agenda

Commissioner May moved the following agenda for approval.

<p>I. Establishment of Quorum II. Verification of Notice (Listserve: CP, WP, MAHCA, CAH, MG, OG, QH, Ward3DC, and NWC, Twitter) III. Approval of Agenda IV. Announcements V. Community Forum VI. Consent Calendar</p> <ul style="list-style-type: none"> • HPRB Application for rear addition to 3601 35th Street, NW <p>VII. Commission</p> <ol style="list-style-type: none"> 1. Presentation/Discussion regarding Cathedral Commons construction traffic queuing 2. ABRA Petition for Special Change to license for Coppi's, located at 3321 Connecticut Av NW 3. HPRB Application for 3456 Macomb St. regarding an addition to add elevator that will be accessible from the outside. 4. HPRB Application for 2820 Ordway St. regarding a 2-story side addition 5. Consideration of Request for Enforcement to be made to the Zoning Administrator to Halt the Child Development Center Use and Multi-Family Housing use at Embassy Church, 3855 Massachusetts Ave NW 6. Consideration of Letter to DC Public Space regarding the private use of a portion of Public Space on the intersection of Massachusetts Ave, Idaho Ave & 39th St NW, in the area also known as the planned Hamilton Circle. <p>VIII. ANC Coordination Issues</p> <ol style="list-style-type: none"> 1. Mayor's Meeting: 2. Council 3. ANCs <p>IX. Officer's Reports/Committee Reports, Administration Issues, SMD Reports</p> <ol style="list-style-type: none"> 1. Secretary's Report: Approval of Minutes from the December 15, 2014 Meeting 2. Treasurer's Report: <ol style="list-style-type: none"> 1. Approval of 2015 Budget 3. Administrative Issues: <ol style="list-style-type: none"> 1. Resolution regarding ANC3C Bonding and Security Fund Participation 2. Election of Officers (Chair: Carl Roller, Vice-Chair: Catherine May, Secretary: Gwen Bole, Treasurer: Margaret Siegel) 3. Approval of ANC3C 2015 Calendar 4. Discussion of Office Move 4. SMD Reports <p>X. Adjournment</p>

Upon hearing no objections, the agenda was approved by voice vote.

IV. Announcements:

Commissioner MacWood noted that Commissioner Reba was absent from the meeting due to a death in the family.

V. Community Forum:

Residents of 3815 Woodley Rd NW raised concerns about parking as Cathedral Commons does not validate parking and patrons are choosing to park in the neighborhood. Commissioner MacWood noted that restaurants that are not part of Cathedral Commons are to receive 30 spaces every night at no charge to patrons, as part of the Zoning Order requirements. A request has been made to the Zoning Administrator to clarify this so ANC3C know how this will be implemented fairly. Residents reported that high fees were being charged to patrons parking in the garage, resulting in patrons parking in the neighborhood, which raises a separate issue.

VI. Consent Calendar

- HPRB Application for rear addition to 3601 35th Street, NW

Commissioner Siegel asked that the item be removed from the consent calendar when a neighbor expressed concern about the Application. The item was placed on Commission business.

VII. Commission Business

1. Presentation/Discussion regarding Cathedral Commons Construction Traffic Queuing
Commissioner MacWood provided overview of the project and noted that the Cathedral Commons Liaison Committee has been meeting for two years to monitor issues. The current issue involves the fact that the delivery trucks are not following the prescribed route to the loading dock nor being timed to prevent queuing on the local streets. The management of Buzzuto Development, joint owners with Giant of the development was invited by Commissioner MacWood to the ANC3C public meeting to provide an explanation of the occurrences and to explain how the loading dock management will function so as to ensure compliance with the zoning order requirements for truck access to and from loading docks and managed scheduling of truck arrivals.
2. ABRA Petition for expanded hours and entertainment endorsement license for Coppi's, located at 3321 Connecticut Av NW
Commissioner MacWood provided overview of this issue, stemming from the conveyance of the liquor license of the former establishment, Lavandau, to the current establishment, Coppi's. Coppi's is requesting closing hours of 2AM, 7 days per week, and live entertainment endorsement for the same hours. Commissioner MacWood read and moved a resolution to protest the license requests so that discussions with the owner on a settlement agreement could continue and the ANC would preserve its opportunity to discuss community concerns with the ABC Board.

ANC Commissioners are working with the Cleveland Park Citizens Association on negotiating a settlement agreement. Motion to support the resolution was passed by a roll call vote as follows:

Bole - yes	Roller - absent
MacWood - yes	Siegel - yes
May - yes	Silveira - yes
Reba - absent	Valdez - abstain

ANC 3C Resolution No. 2015-001

Regarding ABRA Request for Substantial Change to Current Liquor Licensure for 3321 Connecticut Avenue NW

Whereas La Cucina Biologica, LLC t/a Coppi's Organic Restaurant ("Coppi's") has applied to the Alcoholic Beverage Regulation Administration ("ABRA") for a change in operating hours and for an entertainment endorsement; and

Whereas Coppi's is a new restaurant in the Cleveland Park commercial area on Connecticut Avenue and it's CR license was transferred from the restaurant L'Avandou, which operated at this location for decades; and

Whereas Coppi's requests changing the opening hour from 5pm on Saturday and Sunday to 11:30am and maintain the opening hour for the rest week at 11:30am; and

Whereas Coppi's requests changing the closing hour from 10pm Monday through Thursday and 11pm Friday through Saturday to 2am daily; and

Whereas there are 13 ABRA licensed restaurants in the Cleveland Park commercial area on Connecticut Avenue with advertised closing hours between 10 - 11pm, with one exception and this restaurant closes at 11:30pm on weekends; and

Whereas Coppi's owner has told ANC and Cleveland Park Citizen Association representatives that he wants to extend the hours for potential restaurant customers but also to establish a pizza carry out/delivery business to operate until 2am; and

Whereas Coppi's has applied to ABRA for an entertainment endorsement to provide live entertainment from 6pm to 2am daily; and

Whereas an entertainment endorsement cannot be limited to certain types of entertainment; and

Whereas the entertainment endorsement and the CR license can be transferred by right to successive establishments that would have the right to operate within the approved restaurant operating hours, the entertainment endorsement operating hours, and a settlement agreement, if one exists; and

Whereas there is long standing concern in the surrounding neighborhood of the Cleveland Park commercial area that it not become an entertainment district and that a balance be maintained between vibrancy and choice in the commercial area and respect and maintenance of the quiet, family neighborhood; and

Whereas there have been complaints in the surrounding neighborhood that the 5 licensed taverns, which have operating hours extending after the restaurants close, have patrons who exit the taverns late at night, often inebriated, and who disrupt the neighborhood tranquility by shouting or having loud conversations, either on Connecticut Avenue or local streets while searching for parked cars or a place to relieve themselves; and

Whereas the Cleveland Park Community Association has regularly invited police to public meetings to discuss how to better control this behavior, with the most recent police presentation held in November 2014; DC MPD Chief Groomes told the group a year earlier that there is a connection between late night activity and street crime and there is a tipping point at which crime accelerates:

Be It Resolved that Advisory Neighborhood Commission 3C ("ANC") protests the application to extend Coppi's hours and the application for an entertainment endorsement;

Be It Resolved that the grounds for the ANC objection are based on the pre-midnight closing pattern of restaurants in Cleveland Park and the detrimental effect the approval would have on the peace, order, and tranquility expected as part of the a quality of life standard in a District low density neighborhood;

Be It Resolved that the Cleveland Park neighborhood surrounding the commercial area has reached a tipping point in the ANC estimation and additional late night entertainment or food service will only exacerbate a noisy and disruptive situation that police and neighborhood leaders have not been able to control;

Be It Resolved that the Chair and SMD 05 and 09 commissioners are authorized to represent the ANC in this matter, including any negotiations related to a settlement agreement.

Attested by



Catherine May

Vice-Chair, on January 20, 2015

This resolution was approved by a roll-call vote of 5-0, with one abstention on January 20, 2015 at a scheduled and noticed public meeting of ANC 3C at which a quorum (a minimum of 5 of 8 commissioners) was present.

At this time Commissioner Siegel noted the Applicant and neighbor had addressed the neighbor's concerns, and asked for the item to be returned to the consent calendar. Without objection, a motion of No Objection to the Application was placed on consent. Commissioner May moved to approved the motion on the Consent Calendar. It was approved by a voice vote.

3. HPRB Application for 3456 Macomb St. regarding an addition of an elevator that will be accessible from the outside.
Commissioner MacWood provided overview of this project. Mr. Landis, Architect, outlined the scope of the project and verified that the applicant was presenting two options, with the second option designed to respond to concerns expressed during the ANC 3C HP Committee meeting and by HPO staff..
Commissioner MacWood read and moved a resolution endorsing the second option. The motion to support the resolution was approved by voice vote.

ANC 3C Resolution No. 2015-002

Regarding HPRB Application for Concept Review of elevator construction for 3456 Macomb Street NW

Whereas the owner of 3456 Macomb Street has applied for concept review by the Historic Preservation Review Board of a proposal to construct an elevator, which would alter the exterior design of this contributing house to the Cleveland Park Historic District; and

Whereas the proposal has been submitted in the alternative with one design extending the elevator box outside the existing east-facing side wall toward the rear and the second proposal containing the elevator box within the house at the southeast rear corner; and

Whereas both proposals would allow a person operating the wheel chair used by the owner to enter the elevator from the outside and near to the driveway at ground level and then to enter the house from the elevator at several floor levels; and

Whereas the Historic Preservation Office has recommended standards for the installation of temporary lifts to assist disabled people living in contributing houses in historic districts, but they apply the uniform standards when a permanent structure is proposed:

Be It Resolved that ANC 3C supports the owner's desire for a n elevator and finds that the proposal to construct an elevator within the existing footprint of the house with an entrance facing the rear is the preferred alternative;

Be It Resolved that the Chair and SMD 3C09 commissioner are authorized to represent the ANC on this matter.

Attested by



Catherine May

Vice-Chair, on January 20, 2015

This resolution was approved by a unanimous voice vote on January 20, 2015 at a scheduled and noticed public meeting of ANC 3C at which a quorum (a minimum of 5 of 8 commissioners) was present.

4. HPRB Application for 2820 Ordway St. regarding a 2-story side addition
Commissioner Siegel provided an overview of the project. Greg Tomas, More Architects, outlined the scope of project.
Commissioner Siegel read and moved a resolution on this matter. Commissioner Bole offered a friendly amendment (to eliminate the phrase “and will make it difficult to distinguish original structure from new structure”), which was accepted. The motion to support the resolution was approved by a voice vote.

**ANC 3C Resolution No. 2015-003
Regarding HPRB Application for Concept Review of Addition
to 2820 Ordway Street NW**

WHEREAS the owners of a residence at 2820 Ordway Street NW, a contributing house within the Cleveland Park Historic District, have filed for concept review at the DC Historic Preservation Review Board (“HPRB”); and

WHEREAS the proposal includes a major two story addition on the side of the existing house, occupying almost the entire side yard of the property, and

WHEREAS, the submitted elevation shows that proposed addition will nearly double the house as seen from the street:

THEREFORE, BE IT RESOLVED that ANC 3C is concerned about the scale and massing of the addition, including its siting,

BE IT FURTHER RESOLVED that ANC 3C urges the owners of the house to consider reducing the scale and mass of the addition, so that it becomes more subordinate to the original house, and the materials and design of the addition are better coordinated with the existing house.

BE IT RESOLVED that the Chair and Commissioner representing ANC3C05 are authorized to represent the commission on this matter.

Attested by



Catherine May

Vice-Chair, on January 20, 2015

This resolution was approved by a voice vote of 5-0, with one abstention, on January 20, 2015 at a scheduled and noticed public meeting of ANC 3C at which a quorum (a minimum of 5 of 8 commissioners) was present.

5. Consideration of Request for Enforcement to be made to the Zoning Administrator to halt the Child Development Center Use and Multi-Family Housing use, which are violations of zoning regulations, at Embassy Church, 3855 Massachusetts Ave NW
Commissioner Silveira provided an overview of the issue. He then read and moved a resolution on the matter. The motion to support the resolution was approved by voice vote.

ANC 3C Resolution No. 2015-004

Regarding a Request for Enforcement to be Made to the Zoning Administrator to Halt the Child Development Center Use and Multi-family Housing Use at Embassy Church; 3855 Massachusetts Avenue NW

Whereas, Embassy Church (“Owner”), owner of the property located at 3855 Massachusetts Avenue, NW (the “Subject Property”), has caused the Subject Property to be used for a child development center (“CDC”) for up to eighty-eight (88) children, and also uses the Subject Property, among other uses, as housing for at least three (3) families;

Whereas, the CDC use is not permitted as a matter-of-right and is only permitted by special exception approval of the Board of Zoning Adjustment (“BZA”), and Owner has never applied for nor received such special exception approval;

Whereas such special exception requires notice to the ANC, which triggers its right to participate and the opportunity for ANC views to be given great weight by the Board of Zoning Adjustment and the process failure denied the ANC its right to represent the community on this matter;

Whereas, the CDC operates pursuant to Certificate of Occupancy #CO1002760 (the “C of O”), which purports to authorize the use of the Subject Property as a child development center for 88 children, with a total occupancy load of 88 and no mention of the number of CDC staff;

Whereas, Ms. Joan Kinlan, neighbor to 3855 Massachusetts Avenue, NW, appealed the Zoning Administrator’s decision to allow the CDC to operate in BZA Appeal No. 18827, during which the Zoning Administrator offered no defense on the substantive issue of the CDC use requiring a special exception, but instead filed a Motion to Dismiss for Failure to Timely File, which the Board granted;

Whereas, in the BZA Appeal decision meeting, the BZA commented that it likely would have granted the appeal but for the untimely filing because the CDC use is not permitted as a matter of right;

Whereas, pursuant to District of Columbia Court of Appeals case law involving nonconforming and illegal uses, a certificate of occupancy for an illegal use may be revoked by the Zoning Administrator at any time, regardless of the passage of time; therefore, where the BZA believed it was restricted in its ability to entertain the appeal on procedural grounds, the Zoning Administrator has no such restriction against revoking the C of O and requiring the CDC to pursue special exception approval, respecting the appropriate ANC review;

Whereas, The D.C. Court of Appeals has ruled that “[i]ssuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of the applicable Construction Codes, Zoning

Regulations or other laws or regulations of the District.” Gorgone v. D.C. BZA 973 A.2d 692 (D.C., 2009), citing Kuri Brothers, Inc. v. D.C. BZA, 891 A.2d 241 (D.C., 2006) and in Krui Brothers, the Court also ruled that “[i]f the C of O were construed to authorize such a use without the required special exception, it would have been invalid and subject to revocation as having been issued in error.” Kuri, footnote 6;

Whereas, the Court of Appeals has also ruled that “[a] certificate of occupancy is an “enforcement tool” that is used by administrative officers “to check proposed uses, as well as proposed structures, against the [applicable] ordinances.” Gorgone, citing American Law of Zoning §1.03[4][d], 1-54 (5th ed. 2008) (a CO “construed to authorize ... a use” that is not permitted by the zoning laws is “invalid and subject to revocation as having been issued in error”);

Whereas, based on the above case law, the Zoning Administrator clearly has the authority and the obligation to require the CDC to obtain special exception approval if it wishes to continue operating, or to revoke the C of O if no special exception is applied for and approved;

Whereas, at the BZA appeal hearing, the Owner admitted that in addition to the thirty (30) youth living in Embassy Church, there were three families, with children, also residing within the Embassy Church building, despite the fact that the Owner had apparently previously represented to the Zoning Administrator that only one family resided in the building;

Whereas, in his letter dated May 16, 2014, the Zoning Administrator stated that just one family could reside in a church, but only if it was the family of the “pastor or minister” of the church:

Therefore Be It Resolved, therefore, that ANC 3C requests the Zoning Administrator (i) to revoke the CDC C of O pursuant to the case law noted above, if the CDC does not apply for special exception relief by March 31, 2015; and (ii) to institute the appropriate enforcement action for the Owner’s illegally housing three families within Embassy Church;

Be It Further Resolved, that the ANC3C Chair, the ANC3C-07 Commissioner, and or their designees are authorized to represent the commission on this matter.

Attested by



Catherine May

Vice-Chair, on January 20, 2015

This resolution was approved by a voice vote of 5-0, with one abstention on January 20, 2015 at a scheduled and noticed public meeting of ANC 3C at which a quorum (a minimum of 5 of 8 commissioners) was present.

6. Consideration of Resolution to DC Public Space regarding the private use by Embassy Church of a portion of Public Space on the intersection of Mass Ave, Idaho Ave & 39th St NW, in the area also known as the planner Hamilton Circle.
Commissioner Silveira provided an overview of the issue. He then read and moved a resolution on this matter. The motion to support the resolution was approved by voice vote.

ANC 3C Resolution No. 2015-005

Regarding DDOT Public Space Use of the Future Hamilton Circle by Embassy Church, 3855 Massachusetts Avenue NW

Whereas Embassy Church ("Property") located at 3855 Massachusetts Ave NW currently occupies a portion of the Public Space located in front of the Church for its private parking and driveway; and

Whereas the area in front of the Property adjoins the intersection of Mass Ave, Idaho Ave & 39th St NW, and is part of the planned, but not constructed, Hamilton Circle. This public space circle area is bordered by Annunciation Church, two apartments buildings, two residential corners, and Embassy Church. All the properties on the Circle respect the public space set-back, except for Embassy Church, that uses a portion of this public space for its private parking lot and driveway; and

Whereas the ANC3C considered the public space uses by the Property that were not approved and permitted with its ANC3C Resolution 2014-026, attached. In this Resolution, the ANC Resolved to urge DDOT to enforce its regulations and cause all uses without permission to cease on the public space adjacent to the Property:

Now Therefore, the ANC3C requests the DC Public Space Office to inspect the public space in front of the Property, specifically the area known as Hamilton Circle, for any violations of public space, and to take the appropriate measures to return any privately occupied land to the public space. This should include the removal of private driveways and parking lots from the DC Public Space, with the view to restore the integrity of the public space of Washington, DC; and

Be it also Resolved that the ANC3C also request DDOT Public Space Office and any other involved agency the courtesy of providing an update within 60 days to the ANC3C regarding their findings and actions taken; and

Be It Further Resolved, that the ANC3C Chair, the ANC3C-07 Commissioner, and or their designees are authorized to represent the commission on this matter.

Attested by



Catherine May

Vice-Chair, on January 20, 2015

This resolution was approved by a roll call vote of 5-0, with one abstention, on January 20, 2015 at a scheduled and noticed public meeting of ANC 3C at which a quorum (a minimum of 5 of 8 commissioners) was present.

VIII. ANC Coordination Issues

1. Mayor's Meeting: nothing to report
2. Council -
 - a. Commissioner May again asked for CM Cheh's assistance in getting the No Left Turn signage removed at the intersection of Wisconsin Av and Calvert St. She has received an email from James Cheeks (DDOT) stating that DDOT wants to keep the AM restriction but would consider relaxing the PM restriction. Commissioner May explained that five establishments are affected.
 - b. Kelly Whittier, CM Cheh's representative, noted that CM Cheh has introduced several new pieces of legislation, including one encompassing Death with Dignity. Staffers will be in touch with ANC3C regarding details of the Bill.
3. ANCs: nothing to report

IX. Officer's Reports/Committee Reports, Administration Issues, SMD Reports

1. Secretary's Report: Approval of Minutes from December 15, 2014 Meeting

Commissioner Bole moved approval of the December 15, 2014 minutes. Motion was approved by voice vote.

2. Treasurer's Report:

1. Approval of 2015 Budget-

Commissioner Siegel moved adoption of the 2015 Budget. After some discussion the motion was tabled until next month.

3. Administrative Issues:

1. Resolution regarding ANC3C Bonding and Security Fund Participation:

Commissioner Siegel read and moved a resolution on this matter. Motion was approved by voice vote.

2. Election of Officers (Chair: Carl Roller, Vice-Chair: Catherine May, Secretary: Gwen Bole, Treasurer: Margarita Siegel)

Commissioner May moved to approve the slate of officers as posted. Motion was approved by voice vote.

3. Approval of ANC3C 2015 Calendar

Commissioner May moved to approve the calendar of meeting date for 2015. The motion was approved by voice vote.

4. Discussion of Office Move

Commissioner Bole moved to approve for ANC3C to go "office-less" and allot sufficient funds for a post office box. Motion was approved by voice vote.

4. SMD Reports

02: Escalators are being replaced and during the work, the contractor planned to remove bike racks from use. But now WMATA has agreed to relocate racks during the 2 1/2 years of the work. There will be no reduction of bike parking spaces.

05: There is a meeting on February 7, 2015 at the Cleveland Park library from 1-3pm to discuss the pending library renovations. \$18.6 million has been allocated for the entire project.

08: The application for 2709 36th street has been postponed.

09: Commissioner MacWood gave a shout-out to DC water. A resident contacted her over the holidays, as the resident had not had water service for over 24 hours. DC water came and determined that the connection in street was faulty. Emergency crew was out within a few hours and worked for 3 days to correct the problem.

X. Adjournment:

Commissioner May moved to adjourn the meeting. The motion was approved by unanimous voice vote. Meeting was adjourned at 9:42pm.

The next meeting of ANC3C is scheduled for Tuesday, February 17, at 7:30pm in the Community Room of MPD 2D, 3320 Idaho Avenue NW. Please check anc3c.org for any updates.