ADVISORY NEIGHBORHOOD COMMISSION 3-C

GOVERNMENT OF THE DISTRICT OF COLUMBIA

CATHEDRAL HEIGHTS · CLEVELAND PARK · MASSACHUSETTS AVE. HEIGHTS · MCLEAN GARDENS · WOODLEY PARK

2737 DEVONSHIRE PLACE, N.W.
WASHINGTON, D.C. 20008
(202) 232-2232 FAX: 232-0667

Single Member District Commissioners:

01-Cheryl A. Opacinch
02-Alan Blevins
03-Michael V. Molnar
04-Vacant
05-Ann Hume Loikow
06-Jim Evans
07-Lyle Blanchard
08-Rosalyn P. Doggett
09-Ruthanne Miller

DISTRICT OF COLUMBIA
OFFICE OF ZONING
00 JUN 28 P 3:51

June 27, 2000

Chairman Sheila Cross Reid
District of Columbia Board of
Zoning Adjustment
441 Fourth Street, N.W., Room 210
Washington, D.C. 20001

Re: BZA Case No. 16586 – 3700 Massachusetts Avenue, N.W.(Square 1929, Lots 13,14,,803, 804, and 805)

Dear Chairman Reid:

The above-referenced case involves a property located within ANC 3C. The ANC has been informed that a hearing on this matter is scheduled for Wednesday, July 5, 2000. Please include for the record in this case the enclosed resolution that was unanimously approved at our public meeting of June 19, 2000 by a vote of 5-0 in favor of the resolution. The meeting was properly noticed by ANC 3C and a quorum, consisting of five commissioners, was present. In compliance with 11 DCMR 3115.1, ANC 3C's recommendations are being filed at least 7 days prior to the hearing. Accordingly, we request that the BZA give great weight to these recommendations.

As set forth in the enclosed resolution, ANC 3C supports the application of the Charles E Smith Companies for a special exception or, in the alternative for a use variance subject to the conditions delineated in the resolution. ANC 3C has authorized Commissioner Lyle Blanchard, the commissioner for the single member district in which the property is located, the Chair of ANC 3C, or the Chair's designee to appear and present ANC 3C's views on this case.

Thank you for the opportunity to present our position on this matter.

Sincerely,

Ruthanne G. Miller

Ruthanne G. Miller
Chair, ANC 3C

Enclosure

BZA
Case No. 16586
Exhibit No. 29

Board of Zoning Adjustment
District of Columbia
CASE NO.16586
EXHIBIT NO.29

cc: Richard Nettler, Esq.
Robins Kaplan Miller & Ciresi, LLP
1801 K Street, N.W.
Washington, D.C. 20006

Stephen Gell, Esq.
1101 30th Street, N.W., Suite 500
Washingron, D.C. 20007

ADVISORY NEIGHBORHOOD COMMISSION 3-C

GOVERNMENT OF THE DISTRICT OF COLUMBIA

CATHEDRAL HEIGHTS - CLEVELAND PARK - MASSACHUSETTS AVE. HEIGHTS - MCLEAN GARDENS - WOODLEY PARK

Single Member District Commissioners: 01 - Cheryl Opacinch, 02 - Alan Blevins, 03 - Michael V. Molnar, 04 - Richard C. Bartel, 05 - Ann Hume Loikow, 06 - Jim Evans, 07 - Lyle Blanchard, 08 - Rosalyn P. Doggett, 09 - Ruthanne Miller

RESOLUTION OF ADVISORY NEIGHBORHOOD COMMISSION 3C REGARDING THE APPLICATION OF THE CHARLES E. SMITH COMPANIES BEFORE THE BOARD OF ZONING ADJUSTMENT REGARDING ALBAN TOWERS

WHEREAS the Charles E. Smith Companies and its affiliates (Smith) have purchased the Alban Towers Apartment Building (Alban Towers), a historic landmark, and are in the process of restoring the landmark building for approximately 229 apartment units; and

WHEREAS Smith has also purchased the lots to the rear of the Alban Towers, for the development of semi-detached houses, and the number of houses and their height are below the amount permitted by the Zoning Regulations, and otherwise comply with all other zoning requirements; and

WHEREAS Smith is not required by the Zoning Regulations to provide more than the forty existing parking spaces for the tenants of the Alban Towers because of its status as a historic landmark; and

WHEREAS Smith has proposed to provide underground parking for the semi-detached houses and the tenants of Alban Towers Apartment Building, underneath the lots on which the semi-detached houses are being built, all within the same square on which the new houses and the apartment building are located, which lots are not separated by an alley; and

WHEREAS Smith has agreed to maintain an open landscaped area between the apartment building and the houses for use by the community and to maintain a public triangle park near the site, as well as to develop landscape buffers between the new houses, the apartment building and the existing houses; and

WHEREAS Smith has committed to limiting its construction schedule to mitigate any noise impacts and to provide other assurances that will limit any adverse impacts on adjoining properties, including compliance with the "Cooper Code":

NOW, THEREFORE, BE IT RESOLVED that Advisory Neighborhood Commission (ANC) 3C, at a properly noticed public meeting, resolves that the Board of Zoning Adjustment (Board) should grant the special exception relief sought by Smith to authorize the use of the garage by the tenants of the Alban Towers Apartment Building,

since the use will not have an adverse effect on the neighborhood but will mitigate any impacts from the renewed use of the Alban Towers by approximately 229 tenants. In the alternative, the ANC resolves that the Board should grant the use variance sought for the use of the parking garage, should such relief be necessary, because the apartment building, as a landmark, presents unique conditions, and a hardship would exist if a parking garage could not be utilized by the Alban Towers tenants. Either action should be subject to the following conditions:

1. That the construction mitigation measures agreed to by Smith, a copy of which is attached, be adopted by the Board in its order; and

2. That the landscape development plan and landscape maintenance plan agreed to by Smith, a copy of which is attached, be adopted by the Board in its order; and

3. That the use of the parking garage be restricted to only the residents of the apartment building and their guests, the owners of the semi-detached houses and their guests, and the employees working at the apartment building.

BE IT FURTHER RESOLVED that the ANC urges Smith to continue efforts to reach an understanding with the 38th Street neighbors to resolve any outstanding differences that may exist between the two parties, specifically regarding the size and scale of the semi-detached houses; and

BE IT FURTHER RESOLVED that ANC 3C authorizes the Commissioner Lyle Blanchard, the Chair or the Chair's designee to present its views to the Board.

This resolution was unanimously approved by ANC 3C by a vote of 5/0 at its properly noticed public meeting on June 19, 2000, at which a quorum, consisting of five commissioners, was present.

ATTACHMENT 1: CONSTRUCTION MITIGATION MEASURES

A. The Cooper Code: Safety Standards for Construction Vehicles

1. Before a trucking company starts a project, the excavation company must require documentation of:

o All necessary licenses and permits;
o Any accidents or citations involving trucks or on-duty drivers for the prior year;
o The last required federal inspection;
o Adequate liability insurance;
o Current federal safety report; and
o A pledge not to pay speeding tickets for drivers.

2. If any of the above information changes or expires during the project, the trucking firm must update its records.

3. Before work starts, the excavation company shall certify that the trucking company has complied. The certification shall be placed on the truck's windshield, with a list of each driver authorized to drive the truck.

4. Before any driver starts work on a project, the excavation company must inspect the driver's commercial license to make sure it is current and appropriate for the job.

5. The excavation company must identify routes for drivers that minimize the use of streets through residential areas.

6. The excavation company must not require or recommend that drivers take any other routes.

7. If the excavation company uses how long a trip takes to measure a trucker's performance, the standard shall be the "reasonable" time it takes to drive the recommended route.

8. The excavation company must not load any truck with more weight than the maximum allowed in any jurisdiction in which the truck is driven.

B. Other Construction Mitigation Measures:

Smith agrees that during construction on the Rear Site and rehabilitation of Alban Towers, contractors for Smith shall be subject to the following rules and regulations:

(a) Contractors shall work closely with the Neighbors to minimize disturbances during construction to keep to a minimum noise, traffic, vibrations, air pollution, and other

adverse effects from construction. The term "Neighbors" includes any resident within two blocks of the site and any other person in the general vicinity who notifies Smith or ANC Commissioner Lyle Blanchard that that they wish to be included in the group "Neighbors";

(b) Construction and construction related activities shall not start before 7 a.m. nor continue after 5 p.m.;

(c) Major machinery, such as backhoes and front end loaders, shall not start before 7:30 a.m. To the extent possible, Smith shall abate noise until 8:00 a.m., and Smith shall provide one quiet period each day from 11 a.m. to 3 p.m. of 30 minutes duration;

(d) Trash shall not be collected before 7 a.m. or after 7 p.m.;

(e) No pile driving is expected but, should unforeseen circumstances warrant pile driving, Smith will notify the Neighbors at least 24 hours in advance and provide them with the basis for the pile driving;

(f) Weekend exterior construction activity, if any, shall be confined to a period of 9 a.m. to 5 p.m. on Saturdays only;

(g) Contractors shall comply with the "Cooper Code" (Part A above), a plan governing truck traffic developed by Advisory Neighborhood Commission 3G;

(h) Contractors shall maintain a program of dust control along 38th and Garfield Streets, periodic watering of soil, daily cleaning of 38th and Garfield Streets, daily washing of truck tires and undercarriages;

(i) Construction workers shall be required to park on-site, in parking facilities designated by Smith, or in public on-street spaces not covered by the District of Columbia residential parking permit program;

(j) During construction, Smith will try to avoid using 38th Street to the extent possible;

(k) Smith shall promptly upon receipt provide the Neighbors with copies of all building permits;

(l) Smith shall provide the Neighbors with e-mail alerts or extra-net communications regarding any instances when construction is likely to produce considerably more noise than usual or increased noise levels for an extraordinary amount or duration of construction noise an unusually long period;

(m) Smith shall provide the Neighbors with information regarding the ventilation system utilized for the parking garage on the Rear Site, the air conditioning for the residential

structures on the Rear Site and the rooftop air conditioning for Alban Towers and assure Neighbors that such systems shall not produce any greater noise than provided in the specifications in Smith's plans or as required by applicable regulations of the District of Columbia; and

(n) Smith shall provide quarterly progress reports or newsletters to the Neighbors on the construction on the Property and the condition of the roads beginning on the effective date of this order; and

(o) Smith shall notify ANC 3C in advance of the routes to be used by trucks involved in the construction and shall ensure to the extent possible that they only use major arterials to travel through the District of Columbia.

ATTACHMENT 2: LANDSCAPE DEVELOPMENT PLAN AND MAINTENANCE PLAN

1. SMITH agrees to implement a Landscaping Plan for the Rear Site. The Landscaping Plan sets forth the planting to be undertaken by SMITH on the Rear Site, a triangle park in front of Alban Towers, and any other portions of the Square, all of which shall be maintained by SMITH in perpetuity. A triangle park in front of Alban Towers shall be maintained by SMITH in perpetuity to the extent permitted by the District Government.

2. SMITH agrees to establish a landscaped buffer area on both sides of 38th Street between improved portions of Alban Towers and the Rear Site and the neighborhood houses and to perform the landscaping work, as depicted in its plans.

3. SMITH agrees to undertake to stabilize and maintain open areas not built on, including the planting of grass, and planting of trees and shrubs, except as provided herein with regard to the use of the Rear Site Landscape Plan. Moreover, SMITH agrees to preserve as many trees and shrubs as possible and as long as possible consistent with reasonable needs of housing construction.