Res. 04-25

ANC 3F RESOLUTION

BZA Application # 17200, Potomac Foods (Burger King)
Special Exception for Continued Use of a Parking Lot off an Alley
behind 4422 Connecticut Avenue, N.W.

Advisory Neighborhood Commission 3F
North Cleveland Park, Forest Hills and Tenleytown
PMB #244, 4401-A Connecticut Avenue, NW
Washington, D.C. 20008

WHEREAS, the Burger King has filed an application (BZA Application No. 17200) for a renewal of its four year special exception, which expired March 2004, pursuant to 11 DCMR 214 to maintain a parking lot on the alley behind its building at 4422 Connecticut Avenue; and

WHEREAS, the Board of Zoning Adjustment has scheduled a hearing on the application on October 6, 2004; and

WHEREAS, one standard for review under Section 214 is that "accessory parking spaces shall be so located, and facilities in relation to the parking lot shall be so designed, that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic, or other objectionable conditions"; and

WHEREAS, to determine Burger King's compliance with the above standard the Commissioner for the SMD 3F01, in which district Burger King is located, held a community meeting on July 7, 2004, to discuss the impact of Burger King 's operation on the residents near the property. Burger King through its attorney was invited to attend but did not do so; and

WHEREAS, based on that meeting and later discussions with neighbors, the Commissioner and a number of residents met on August 18 with management of the Burger King and the company's BZA attorney to discuss the concerns raised at the July 7 meeting and other matters, which arose partially from reviewing the previous relevant BZA orders; and

WHEREAS, on September 8, Burger King, through its attorney, agreed to most of the changes requested by the neighborhood;

NOW, THEREFORE, BE IT RESOLVED THAT, ANC 3F does not object to the application if the final order is limited to two years in order for Burger King to show it can comply with the conditions below, as well as with conditions proposed by the Office of Planning:

1. Deliveries and trash pick-up shall be limited to the hours of 10:00 a.m. to 6:00 p.m. daily.

2. Trash pick-up shall occur at least three times per week. The number of pick-ups shall be increased if the dumpsters are overflowing on a regular basis between pick-ups. The side dumpster doors shall be welded closed or the dumpsters themselves replaced with a top access only type.

BZA
Case No. 17200
Exhibit No. 25

Board of Zoning Adjustment
District of Columbia
CASE NO. 17200
EXHIBIT NO. 25

3. Two trash cans shall be maintained on the parking lot and emptied once per day, more often if they are overflowing with trash.

4. The portion of the trees located on Burger King's (BK) property shall be pruned at least once per year. All trees on the BK property which overhangs the neighbors' property shall be pruned if an affected resident requests such an action and gives BK permission to enter his/her property.

5. BK shall keep the volume of its drive-through loudspeaker at no more that 40 DB at night at the property line of the lot containing the Burger King structure.

6. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.

7. An exterminator shall perform monthly extermination services to control any rodents. The exterminator's treatments shall be more frequent if a neighbor notifies Burger King of any rodent infestations. In addition, the portion of the fence located on the Burger King property shall be reinforced underground to help prevent any rodents from entering the neighbors' property.

8. A retractable cable shall be installed to close the entrance of the parking lot to vehicles at 9 PM each night.

9. Burger King shall appoint a neighborhood and ANC liaisons. The company shall notify all residences within 200 feet of the Burger King and the ANC, of the name, telephone number, and e-mail box of the individual appointed to fill this responsibility. When that individual is no longer designated to act as the liaison, Burger King shall use the same procedure to notify the neighborhood of his/her successor.

10. Due to the fire marshal's concerns collected grease shall be stored in sealed containers outside at the back of the Burger King building at a point farthest away from the neighbors' homes.

11. BK shall provide to the ANC and the residences within 200 feet an annual report summarizing its compliance with the conditions above.

BE IT FURTHER RESOLVED THAT, ANC 3F designates Commissioner Kessler and Commissioner Perry to represent it before the BZA.

Adopted September 20, 2004, by a vote of 7-0-0 at a duly noticed public meeting with a quorum present (a quorum being four).

Karen Lee Perry cpk
Karen Lee Perry, Chair

Cathy Wiss
Cathy Wiss, Secretary