

	ADVISORY NEIGHBORHOOD COMMISSION 3C GOVERNMENT OF THE DISTRICT OF COLUMBIA CATHEDRAL HEIGHTS • CLEVELAND PARK • MASSACHUSETTS AVE. HEIGHTS MCLEAN GARDENS • WOODLEY PARK	
Single Member District Commissioners 01-Cheryl A. Opacinch; 02-Kurt Vorndran; 03-Robert Martin (Secretary) 04-Richard C. Bartel (Vice Chair); 05-John Welsh; 06-(vacant) 07-Lars Hyde (Treasurer); 08-Rosalyn P. Doggett; 09-Nancy MacWood (Chair)	2737 DEVONSHIRE PLACE, NW WASHINGTON, DC 20008 TEL 202/232-2232 • FAX 202/232-2232 Email anc3c@aol.com Website http://groups.yahoo.com/group/anc3c	

Carol J. Mitten, Chair
D.C. Zoning Commission
441 4th Street, NW, Suite 210
Washington, DC 20001

August 23, 2002

Dear Ms. Mitten,

Please find enclosed a resolution passed at the regular August ANC 3C meeting. The resolution regards the text amendments to the Neighborhood Commercial Overlay Districts. A copy of this resolution was also faxed to your office last week.

In addition, enclosed is a letter sent by ANC 3C Chair Nancy MacWood to Acting Zoning Administrator Denzil Noble.

Please contact the ANC 3C office or Chair MacWood at nmacwood@aol.com or 966-5333 with any questions. We appreciate your consideration of ANC 3C commissioners' views on this matter.

Best,

Amy Scribner, Administrator
ANC 3C

enclosures

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 D.C. ZONING COMMISSION
 AUG 27 2002 4:18:36

District of Columbia
 Case 02-06
 35

ZONING COMMISSION
 District of Columbia
 CASE NO.02-06
 EXHIBIT NO.35

	ADVISORY NEIGHBORHOOD COMMISSION 3C GOVERNMENT OF THE DISTRICT OF COLUMBIA <i>CATHEDRAL HEIGHTS • CLEVELAND PARK • MASSACHUSETTS AVE. HEIGHTS</i> <i>MCLEAN GARDENS • WOODLEY PARK</i>	
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August 20, 2002

Denzil Noble
Acting Zoning Administrator
DC Department of Consumer and Regulatory Affairs
941 North Capitol Street, NE
Suite 2000
Washington, DC 20002

Re: Cleveland Park Commercial District Overlay Measurements

Dear Mr. Noble:

Thank you for sending the chart comparing 2001 street frontage measurements of restricted use establishments to 2002 measurements in the Cleveland Park commercial overlay district to Advisory Neighborhood Commission 3C. As you know from previous meetings on this subject, we did not agree with the methodology employed by the Department of Consumer and Regulatory Affairs (DCRA) last year. While progress has been made in correcting both the methodology and the measurements, we are still not in agreement with your totals.

At the August 19, 2002 ANC 3C meeting the commission passed a resolution regarding the Text Amendments to the Neighborhood Commercial Overlay Districts being considered by the Zoning Commission. In particular, ANC 3C urged the Zoning Commission to eliminate the proposed 3 year vacancy period for restricted use establishments and to revise the proposed inclusion of restricted accessory uses in non-restricted use establishments for purposes of determining the total linear street frontage for all restricted use establishments. If the Zoning Commission accepts our recommendations, the measurements for restricted use establishments will be materially different from the chart you prepared.

Since DCRA employed methodologies in preparing the chart that ANC 3C has previously found to be outside the scope of current regulation, and these same methodologies are currently under review by the Zoning Commission, we urge you to resist implementing the standard operating procedures until the Zoning Commission has issued its Order. As your recent chart demonstrates, there are significant differences in outcome depending on the methodology used to measure the restricted use establishments, with profound implications for accurately administering the overlays.

ANC 3C will respond more fully to the outstanding overlay issues once the Zoning Commission has issued its Order. If you have any questions or comments, please don't hesitate to contact me at nmacwood@aol.com or 966-5333.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy J. MacWood". The signature is fluid and cursive, with the first name "Nancy" being the most prominent.

Nancy J. MacWood
Chair, ANC 3C

Cc: Geoffrey Griffis, Chair, BZA
Councilmember Kathy Patterson
Councilmember Sharon Ambrose
David Clark

This letter was authorized by unanimous vote of ANC 3C at noticed public meeting on August 19, 2002.

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ANC3C RESOLUTION 2002-30

Resolution Regarding Text Amendments to Neighborhood Commercial Overlay Districts

WHEREAS the Zoning Commission of the District of Columbia is considering Text Amendments to Neighborhood Commercial Overlay Districts (NCOD): Limitation For Eating Or Drinking Establishments, Case No. 02-06; and

WHEREAS 3 of the 4 overlay districts are within ANC 3C boundaries; and

WHEREAS ANC 3C has considered implementation of the NCOD at several publicly noticed meetings and has commented twice to the DC Department of Consumer and Regulatory Affairs on the proposed procedures for implementing Title 11 DCMR Chapter 13; and

WHEREAS NCOD regulations allow the Board of Zoning Adjustment to grant special exceptions from the requirements of the NCOD under certain conditions:

NOW BE IT RESOLVED that ANC 3C believes any Text Amendments to NCOD should advance the intent of the overlays by

- insuring fairness for new restricted use businesses by not barring them from renting space at other locations in the NCOD because a vacancy is being counted as a restricted use space;
- discouraging business owners to hold empty spaces, hoping to rent to a restaurant, rather than renting to a non-restricted use business; and
- permitting the orderly attrition of permits that are in excess of the prescribed percentage limitation; and

BE IT RESOLVED that ANC 3C urges the following revisions to the proposed language to amend Section 1302.5 of the Zoning Regulations (changes to proposed Text Amendments are represented by underlining for deletions followed by boldface for additions):

(e) An eating or drinking establishment that occupies the same premises as a gas station, grocery store, billiard parlor, or other non-eating or drinking establishment **A non-restricted use establishment that includes on its premises an accessory restricted use that includes facilities to sit and eat or drink at a table, bar or counter** shall be subject to the applicable street frontage limitation within a particular NC Overlay District, if the eating or drinking establishment use is reflected upon, or is required to be reflected upon, the Certificate of Occupancy and the eating or drinking use occupies all or part of the ground floor level for restricted use establishments for restricted use establishments;

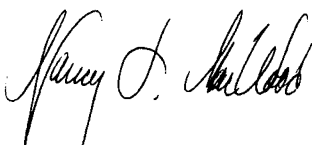
(f) In the event that a property ceases to be used as an eating or drinking establishment, a restricted use establishment, its linear square footage street frontage shall no longer be included in the measurement of such uses. once three (3) years has passed since the use was discontinued; or a certification of occupancy is issued for a different use, which ever occurs first; This provision shall not be so interpreted as to impair the right of a restricted use business owner to close temporarily for alterations or repairs, and then reopen for business under the same ownership. (This language clarifies that there is no “grandfathering” or “vesting” of restricted use space.);

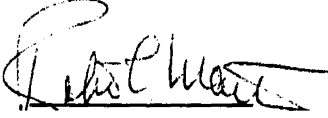
(g) Whenever the **total** linear street frontage devoted to existing eating or drinking restricted use establishments use equals or exceeds the applicable percentage limitation, no new certificates of occupancy may be issued for:

- (1) A new eating or drinking restricted use establishment occupying all or part of the ground floor level of a building, except those uses intending to occupy the same space vacated by an eating or drinking establishment, if the space has remained vacant for a period of three years or less; or
- (2) The expansion of an existing eating or drinking restricted use establishment occupying the ground floor level of a building.

BE IT FURTHER RESOLVED that ANC 3C recommends that “eating and drinking establishments” be changed to “restricted use establishments” and that “linear street frontage” be used consistently when referring to the areas to be measured; and that ANC 3C resolves that the Chair, or her designee, is authorized to testify in regard to this resolution.

This resolution was approved by the ANC 3C by a vote of 5-0 with two abstentions at its regular public meeting on August 19, 2002, at which a quorum was present.

Attested by  , Chair, on August 19, 2002
Nancy MacWood Date

Attested by  , Secretary, on August 19, 2002
Robert Martin Date