Doc 03-03

BEFORE THE ZONING COMMISSION OF THE DISTRICT OF COLUMBIA

D.C. Office of Zoning
2003 OCT 30 PM 2:01

Consolidated PUD and Map Amendment	)	
at 4600 Wisconsin Avenue, N.W.	)	ZC Case No. 03-27
(4600 Brandywine Associates, LLC)	)	

MOTION TO ESTABLISH PARTY STATUS OF ANC 3F (NORTH CLEVELAND PARK, FOREST HILLS, & TENLEYTOWN)

ANC 3F respectfully moves this Commission to either recognize that it is automatically a party to the above-styled case, or in the alternative, that it is an "affected ANC" within the meaing of the ANC Act. In either event, this Commission should grant ANC 3F party status in all respects, including notice of all proceedings and service of all documents, and accord great weight to any written recommendations filed by ANC 3F.

In support of this motion, we point out that the subject property, 4600 Wisconsin Avenue, N.W., is located at the intersection of Wisconsin Avenue and Brandywine Street, N.W., within the boundary of ANC 3E, but across the street from the area represented by ANC 3F. The boundary line between the two ANCs is the centerlines of Wisconsin Avenue and Brandywine Street, N.W., making the distance between the property and the area represented by ANC 3F much less than 200 feet. The properties in Square 1770 listed in Exhibit D of the Application as within 200 feet of the subject property are located in Single-Member District (SMD) 3F06.

The Zoning Commission Regulations for contested cases, which apply to applications for planned unit developments, *see* 11 DCMR § 3022.1, require that notice of the hearing be given not only to the ANC in which the property is located, but also to "any other ANC that is within two hundred feet (200 ft.) of the property involved in the application." Section 3015.3 (c). Thus, the regulations contemplate that ANCs like ANC 3F will be full participants in a proceeding like this.

ANC 3F is also an "affected ANC" within the meaning of Section 13(b) of the Advisory Neighborhood Commissions Act, as amended, D.C. Code § 1-309.10 (b) (2001), which specifies that notice of D.C. government actions be given to each affected Commission and Commissioner representing the affected single-member district. Not only is the subject property adjacent to ANC 3F, it is located in the heart of the Tenleytown commercial district, shared by ANC 3E and ANC 3F. Anticipated impacts of changing the Zoning Map or granting some or all of the other relief sought by the Applicant would or could have a substantial and predictable effect on persons residing or doing business in ANC 3F, including impacts on:

ZONING COMMISSION
District of Columbia
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Exhibit 17

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EXHIBIT NO.17

- Traffic in ANC 3F
- Future development of the Tenleytown commercial district in ANC 3F
- The ambiance, streetscape, and environment of ANC 3F
- Other amenities for residents of ANC 3F, including the proposed financial contributions to four organizations that serve residents of ANC 3F, one of which – Wilson Senior High School – is located in ANC 3F

When a government entity is required to give notice to an ANC that would be affected by its actions, it must give great weight to the written recommendations of that ANC in its deliberations. D.C. Code § 1-309.10 (d)(3)(A). This is so even if the property in question is outside the boundary of that ANC. In *Neighbors United for a Safer Community v. D.C. Board of Zoning Adjustment,* 647 A.2d 793 (D.C. 1994) the D.C. Court of Appeals held that written recommendations of an ANC across the street from a proposed project must be given great weight, noting "[i]t would defy both logic and common sense to conclude that an ANC can be 'affect[ed]' but its written opinion not entitled to 'great weight.'" *Id.* at 698. (Opinion attached)

For the foregoing reasons, ANC 3F requests that it be accorded party status in this case as an affected ANC and that the ANC and the commissioner representing SMD 3F06 be given notice of all procedures and served with all documents at the following addresses:

Chair, ANC 3F
4401-A Connecticut Avenue, N.W.
Box 244
Washington, D.C. 20008-2322

Cathy Wiss, Commissioner
ANC 3F06
3810 Albemarle Street, N.W.
Washington, D.C. 20016

Submission of this motion was approved by ANC 3F by a vote of 6-0-0 at a duly noticed public meeting on September 15, 2003, with a quorum present (a quorum being 4).

Respectfully submitted,

Cathy Wiss

Cathy Wiss, Chair
ANC 3F
4401-A Connecticut Avenue, N.W.
Washington, D.C. 20008-2322

CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2003, a copy of the foregoing Motion was served by first class mail to:

4600 Brandywine Associates
c/o John Epting, Esq.
Shaw Pittman, LLP
2300 N Street, N.W.
Washington, D.C. 20037

Amy McVey, Chair
ANC 3E
4600 Albemarle Street, N.W.
Washington, D.C. 20016

Andrew Altman, Director
D.C. Office of Planning
801 North Capitol Street, N.E.
Washington, D.C. 20001

Councilmember Kathy Patterson
D.C. Council, Ward 3
1350 Pennsylvania Avenue, N.W.
Suite 107
Washington, D.C. 20004

Gottlieb Simon, Director
Office of Advisory Neighborhood Commissions
1350 Pennsylvania Avenue, N.W.
Suite G-9
Washington, D.C. 20004

Cathy Wiss