



BEFORE THE ZONING COMMISSION OR
BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA



FORM 140 - PARTY STATUS REQUEST

Before completing this form, please review the instructions on the reverse side.
Print or type all information unless otherwise indicated. All information must be completely filled out.

PLEASE NOTE: YOU ARE NOT REQUIRED TO COMPLETE THIS FORM IF YOU SIMPLY WISH TO TESTIFY AT THE HEARING. COMPLETE THIS FORM ONLY IF YOU WISH TO BE A PARTY IN THIS CASE.
(Please see reverse side for more information about this distinction.)

Pursuant to 11 DCMR §§ 3022.3 or 3106.2, a request is hereby made, the details of which are as follows:

Name:	3RD STREET NEIGHBORS		
Address:	1114 3RD Street NE		
Phone No(s):	202-492-5711	E Mail:	fredicby4@gmail.com
I hereby request to appear and participate as a party in Case No.:		16-13	
Signature:		Date:	NOVEMBER 7, 2016
Will you appear as a(n)	<input type="checkbox"/> Proponent	<input checked="" type="checkbox"/> Opponent	Will you appear through legal counsel? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

If yes, please enter the name and address of such legal counsel.

Name:			
Address:			
Phone No(s):		E Mail:	

WITNESS INFORMATION:

On a separate piece of paper, please provide the following witness information:

1. A list of witnesses who will testify on the person's behalf;
2. A summary of the testimony of each witness (*Zoning Commission only*);
3. An indication of which witnesses will be offered as expert witnesses, the areas of expertise in which any experts will be offered, and the resumes or qualifications of the proposed experts (*Zoning Commission only*); and
4. The total amount of time being requested to present your case (*Zoning Commission only*).

PARTY STATUS CRITERIA:

Please answer all of the following questions referencing why the above entity should be granted party status:

1. How will the property owned or occupied by such person, or in which the person has an interest be affected by the action requested of the Commission/Board?
2. What legal interest does the person have in the property? (i.e. owner, tenant, trustee, or mortgagee)
3. What is the distance between the person's property and the property that is the subject of the application before the Commission/Board? (Preferably no farther than 200 ft.)
4. What are the environmental, economic, or social impacts that are likely to affect the person and/or the person's property if the action requested of the Commission/Board is approved or denied?
5. Describe any other relevant matters that demonstrate how the person will likely be affected or aggrieved if the action requested of the Commission/Board is approved or denied.
6. Explain how the person's interest will be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than that of other persons in the general public.

Except for the applicant, appellant or the ANC, to participate as a party in a proceeding before the Commission/Board, any affected person shall file with the Zoning Commission or Board of Zoning Adjustment, this Form 140 not less than fourteen (14) days prior to the date set for the hearing.

Person vs. Party in a Proceeding

Any person or representative of an organization may provide written and/or oral testimony at a public hearing. A person who desires to participate as a party in a proceeding, however, must make a request and must comply with the provisions on this form. A party has the right to cross-examine witnesses, submit proposed findings of fact and conclusions of law, receive a copy of the written decision of the Zoning Commission or Board of Zoning Adjustment, submit a Motion for Reconsideration or Rehearing, and exercise any other rights of parties as specified in the Zoning Regulations. Approval of party status is contingent upon the requester clearly demonstrating that his or her interest will be more significantly, distinctively, or uniquely affected by the proposed zoning action than that of other persons.

INSTRUCTIONS

Any request for party status as provided in the District of Columbia Zoning Regulations (11 DCMR Zoning) that is not completed in accordance with the following instructions shall not be accepted.

1. All applications shall be made pursuant to this form. If additional space is necessary, use separate sheets of 8½" x 11" paper to complete the form (drawings and plans may be no larger than 11" x 17").
2. Present this form and supporting documents to the Office of Zoning at 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001, not less than fourteen (14) days prior to the date set for the hearing.



If you need a reasonable accommodation for a disability under the Americans with Disabilities Act (ADA) or Fair Housing Act, please complete Form 155 - Request for Reasonable Accommodation.

PARTY WITNESS INFORMATION-Z.C.CASE NO. 16-13

- 1. A list of witnesses who will testify on the party's behalf.**

Fred Irby, IV

- 2. A summary of the testimony of each witness (Zoning Commission Only):**

Concerns with proposed allowable building height, relief on minimum size of PUD, use change and alley relocation (to the degree it relates to the rezoning of 220 L Street NE and 1109 Congress Street NE).

- 3. An indication of which witnesses will be offered as expert witnesses, the areas of expertise in which any experts will be offered, and the resumes or qualifications of the propose experts.(Zoning Commission only):**

No expert witnesses

- 4. The total amount of time being requested to present your case (Zoning Commission only).**

Fifteen minutes

PARTY STATUS CRITERIA- Z.C.CASE NO. 16-13

- 1. How will the property owned or occupied by such person, or in which the person has an interest be affected by the action request of the Commission/Board?**

The 3rd Street Neighbors represent the homeowners adjacent to the east of the site proposed for rezoning.

- 2. What legal interest does the person have in the property? (i.e. owner, tenant, trustee, or mortgagee)**

The 3rd Street Neighbors are each owners of the affected properties adjacent to the east of the site proposed for rezoning.

- 3. What is the distance between the person's property and the property that is the subject of the application before the Commission/Board? (Preferably no farther than 200ft.)**

The 3rd Street Neighbors properties are less than 10 feet from the site proposed for rezoning.

- 4. What are the environmental, economic or social impacts that are likely to affect the person and/or the person's property if the action requested of the Commission/Board is approved or denied?**

The following bullet points illustrate the overbearing, if not massive, size and scale of the proposed project in relation to not only the 3rd Street Neighbors' homes, but also the surrounding area:

- the proposed project's height (90 feet) is **more than twice its maximum allowable building height** under the site's current (PDR) zoning (40 feet).
- the proposed project's height (90 feet) is **more than four times the height of the 3rd Street Neighbors' homes**; it is also important to note that this project is **less than 10 feet from the rear lot lines** of the 3rd Street Neighbors' properties and roughly **40 feet from the rear facades** of the 3rd Street Neighbors' homes. To lend perspective, the distance between the homes on either side of 3rd Street NE is roughly 80 feet.
- **all of the properties along Congress Street NE** feature uses that are compatible with their underlying C-M (PDR) zones and are improved with buildings of a height below the maximum allowed, by-right, by the C-M (PDR) zone.

- the recent redevelopment of the Uline Arena was eligible, by-right, for PUD consideration (i.e. site greater than >15,000 SF) yet was constructed to a size (40 feet / 3 stories for its C-M-1-zoned lots & 51.75 feet / 4 stories for its C-M-3-zoned lots) and use (commercial offices with ground floor retail) compatible with its underlying zone and general surroundings.

Accordingly, if the requested action for the proposed project is approved, the overall size and scale of the approved project would significantly and adversely impact the 3rd Street Neighbors homes (ex. exposure of air and light, etc.).

5. Describe any other relevant matters that demonstrate how the person will likely be affected or aggrieved if the action requested of the Commission/Board is approved or denied.

While we are unsure the degree this matter falls under the purview of zoning, a significant part of the overall proposed redevelopment involves closing part of a public alley behind our houses. In a nutshell, the applicant proposes to close the vehicular public alley that runs easterly from Congress Street NE (between the urgent care facility at 220 L Street NE and the warehouse at 1109 Congress Street NE) and replace it with an "access" easement over the northern end of the 1109 Congress Street NE site (i.e. private land). Our concerns center on the access/use rights of homeowners that may be compromised when such a public alley (one that abuts a given property or is used to access the rear of a given property) is then closed and replaced by an access easement over private land. As an example, were a vehicle to illegally block a public alley, an affected homeowner would have the recourse of calling 311 to request the vehicle be ticketed/towed. To the best of my knowledge, such recourse is unavailable to a homeowner for the same vehicle were it instead blocking an access easement over private land. The potential issues extend further as they involve, among a number of possibly compromised rights, subsurface access/rights (underground wires, pipes etc.) and air access/rights (suspended electrical wires, posts, etc.) that convey with a public alley but would not for easements on private land.

The alley closures of which we are aware, albeit a limited set, occurred where the private party seeking to close the public alley owned all the land surrounding the public alley--hence alleviating potential rights conflicts. Given this is not the case with this proposed alley closure, the 3rd Street Neighbors are worried our rights may be diminished, if not eliminated, for the benefit of the applicant's redevelopment.

6. Explain how the person's interest will be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than that of other persons in the general public.

As stated in #4 above, this project is less than 10 feet from the rear lot lines of the 3rd Street Neighbors' properties and roughly 40 feet from the rear facades of the 3rd Street Neighbors' homes. A development of such a massive and overbearing size would significantly impact the exposure of light and air onto the 3rd Street Homeowner's properties. One 3rd Street Homeowner in particular—Fred Irby at 1114 3rd Street NE (Sq. 748, Lot 804)—currently has solar panels installed on his roof. Were this project approved, the efficiency of his solar panels would be reduced by as much as 50%—if not more during winter months.

CERTIFICATE OF SERVICE


I HEREBY CERTIFY that, in reference to Zoning Case 16-13, a copy of Form 140 was served by email this 7th day of November, 2016, to the following:

Advisory Neighborhood Commission 6C:

SMD	Name	Email
6C01	Daniele Megan Schiffman	<u>6C01@anc.dc.gov</u> , <u>daniele.schiffman@gmail.com</u>
6C02	Karen Wirt <i>Chairperson</i>	<u>6C02@anc.dc.gov</u> , <u>Karen.Wirt@anc.dc.gov</u>
6C03	Scott Price	<u>6C03@anc.dc.gov</u>
6C04	Mark Eckenwiler	<u>6C04@anc.dc.gov</u>
6C05	Chris Miller	<u>6C05@anc.dc.gov</u> , <u>christopher.e.miller@gmail.com</u>
6C06	Tony T. Goodman	<u>6C06@anc.dc.gov</u> , <u>ward6tony@gmail.com</u>

Mary Carolyn Brown – cbrown@castrohaase.com, carolynbrown@donohuestearns.com

Signed,



FRED IRBY, II