

Ltr 06-07

Government of the District of Columbia
ADVISORY NEIGHBORHOOD COMMISSION 3F
North Cleveland Park ■ Forest Hills ■ Tenleytown

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July 20, 2006

D. C. Zoning Commission
441 Fourth Street, NW, 2nd Floor
Washington, DC 20008

Dear Chair Mitten and Members of the Zoning Commission:

By a vote of 6-0-0, with a quorum present (a quorum being 4), at a special public meeting on July 20, 2006, ANC 3F agreed to submit the following into the record in Zoning Commission Case # 05-26, for a map amendment and consolidated approval of a planned unit development by Clark Construction at 2950 Tilden Street, NW.

ANC 3F has serious safety concerns after just receiving the memorandum from Tony Sneed, captain, to Fire Marshall, Richard Fleming, entered into the record with no direct or cross-examination, at the hearing on June 22, 2006. In addition to citing traffic congestion, Captain Sneed indicated, "this building would be surrounded by three other buildings further limiting access." This is a neighborhood with no alley system. Because of the underground parking lot extending from property line to property line, fire trucks will have no access to the rear of these buildings. Captain Sneed cited the International Fire Code, 2000 Edition, "The code official is authorized to require more than one fire apparatus access road based upon the potential for impairment of a single road by vehicle congestion, condition of terrain, climatic conditions, or other factors that could limit access." Captain Sneed indicated an agreement between Clark and 3883 Connecticut Avenue for an additional fire lane to the rear of 3883 and for the use of the existing fire lane might help eliminate the problem.

What Captain Sneed did not know at the time of the writing of this memorandum, and what ANC 3F did not know at the June 22nd hearing, was that in order to get 3883 Connecticut Avenue to drop its opposition, Clark signed away all rights to use the existing fire lane. ANC 3F has also now been informed that a 20-foot wide fire lane is not sufficient. Based on the attached drawing received from the Cleveland Park fire station, the space necessary in order for the aerial ladder trucks to set-up correctly would not be available due to the need to extend the stabilizer jacks on each side of the truck. The total distance necessary for the truck, arms, and stabilizer jacks is 33 feet.

ANC 3 F would like to place into the record the June 26, 2006, letter from David Rose, President of the Unit Owners Association at 3883 Connecticut Avenue, N.W., to residents upset by the Board's withdrawal of opposition to Clark's proposed planned unit development, which states:

- (a) Clark agreed to vacate its easement over our driveway lane in exchange for official withdrawal of our opposition to Clark's variance application.
- (b) Clark agreed to vacate its right to the fire lane.

- (c) The Office of Planning has ensured that many of our concerns have been met. Clark created at 56-foot buffer and, in fact, may be required by the Office of Planning to expand the depth of the courtyard even further.
- (d) Based on our discussions with Clark, if Clark's variance application is denied, Clark will develop the property by-right and build town homes on the lot.

The veracity and the ability of an applicant to fulfill promises and comply with conditions are important factors to our ANC. Clark has used easement agreements in order to get needed concessions. As such, ANC 3F would also like to place in the record the following:

1. The Cooperation and Development Agreement and the Easement Agreement (July 1999) entered into between parties representing 3901 Connecticut Avenue and "Tilden Gardens," the Applicant's limited liability Corporation set up at that time to develop Lots 800 and 804 in Square 2234. In obtaining the cooperation of 3901 Connecticut to support development of its planned improvements on these lots, the Applicant represented that it intended to build a 9-story apartment building on Lot 804 and 8 row houses (four duplexes) on Lot, 800, the subject property (See Exhibit H). A conceptual development plan showing these improvements was made part of the agreement and an architectural rendering was placed on the Clark web site. This agreement was intended to be binding on the parties, their heirs, successors, and assigns.

Without these agreements Clark could not have built 3883 Connecticut Avenue as 3901 Connecticut Avenue property was used for driveway construction, sheeting and shoring, and the underpinning of 3883 Connecticut Avenue. Now, based on the testimony of Ms. Thomm, that "*On the contrary, Clark Realty Capital does not develop market rate townhomes,*" (June 22, 2006, transcript, pg. 24, line 22), Clark had no intention of living up to the easement agreement or conceptual development plan that accompanied and was filed with the Recorder of Deeds.

2. The easement/covenant agreement with 3883 Connecticut Avenue discussing the fire lane and construction of a driveway connecting the 3883 property with the Tilden lot. It also discusses in paragraph 2, page 4, that "Tilden Owner intends to develop the Tilden Land for use as single family, multi-family or semi-detached residential housing," -- the same semi-detached housing Clark now says it does not develop.

Sincerely,

/s/ Cathy Wiss
Catherine J. Wiss
Chair

Drawing of fire truck and stabilizer bars

Attachments:

Memorandum from Tony Sneed, Fire and Emergency Medical Services
Department (Clark exhibit, submitted June 22, 2006)
Memorandum to Unit Owners of 3883 Connecticut Avenue
Cooperation and Development Agreement with 3901 Connecticut
Easement Agreement with 3901 Connecticut Avenue filed with Recorder of Deeds
Tilden Property Easement Agreement (3883 Connecticut Avenue)

CC: Phil Feola, Shaw Pittman
Cornish F. Hitchcock, Esquire