

Dear Board of Zoning Administration,

I would like to submit evidence in direct response to DCRA and the property owners assertion that the ZC 13-07 hearings designated the development as a “by right” project. I apologize for such a late filing of evidence request but this is in direct response to a late and lengthy filing by the Intervenor in this case. The filing of their first response was Fri, Dec 8, 2017 at 4:10 PM., 17 days after the deadline of November 22 for submission (including weekends). There are points that I thought were important to clarify with actual transcript evidence as attached. At the time of the hearing after the revelation of the “contract” owners of the property were revealed this is when the project was broadly discussed. In this transcript I just want to show that it was specifically pointed out by Ms. Jennifer Steingasser of the Office of Planning that a BZA variance would be required for the rear yard. The Retaining wall was brought up but not discussed due to Commissioner May’s feeling about retaining walls; asking that he not speak of that feature because it may sway his decision. I do have one more important point to clarify with respect to the conversation that prompted the carport that was built for my neighbor. I am awaiting a statement pertinent to the underlying motive of this act of generosity. I would appreciate it if the Board would allow this evidence since it will also be late.

Thank You.

David Belt

Transcript excerpt from ZC 13-07 Feb. 20, 2014 Exhibit 2268 (p.18-20)...Comment by Commissioner May on personal feelings about retaining walls

And last, I know you asked for this already, but my understanding was that the ANC has not taken any official action so it would be great to see something from the ANC confirming that the testimony, whether the testimony we heard tonight is, in fact, the ANC's position. That concludes my comments. Thank you.

CHAIRMAN HOOD: Okay, Commissioners, any questions?

Commissioner May?

COMMISSIONER MAY: Mr. Voudrie, you made the statement about measuring point and the difference between R-5-B and what could result in R-5-B. What you're saying is that for R-5-B, if you could go to 50 feet and you start 30 feet above the curb, as might be the case because the properties are sloped, you'd wind up with something that's effectively 80 feet above the curb.

So for R-5-C is the circumstance the same?

MR. VOUDRIE: It is, but by allowing for larger lot occupancy you're able to propose a building that comes closer

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to the curb, so you end up having to excavate the lot. If you do a smaller building, you can fit it higher up on the hill. You can't fit a larger footprint building high up on the hill, so you end up having to excavate, so our project actually excavates 30 feet of the hill out and we build at the sidewalk level. So the back side of our building has a retaining wall such that the --

COMMISSIONER MAY: I don't want to hear about your project, because then I start picturing the retaining wall and then I start getting upset. I think Mr. Freeman knows I'm not a big fan of big retaining walls. But I'm just putting that completely out of my mind.

What I wanted to understand though for under C-3-A though you would have measured at the curb anyway.

MR. VOUDRIE: That's right, that's right.

COMMISSIONER MAY: But you're allowed to go 65 feet.

MR. VOUDRIE: My point is that C-

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3-A would have given more protection to the view of the park if, in fact, we were wanting to protect the view of the park than R-5-B.

COMMISSIONER MAY: Okay, thank you.

CHAIRMAN HOOD: Any other questions of the panel? Commissioner Miller?

COMMISSIONER MILLER: I would like to get some information about the project, even though we're not evaluating this solely on the project only because, Mr. Chairman, we're talking about consistency with Comprehensive Plan and there are so many policies in the Comprehensive Plan that encourage affordable housing that it's something you just can't ignore, the reality of what's happening here.

So I don't know if I need this right now, but I would like to get some information on what the original proposed height and number of units was and I know what the current proposed height and -- well, I don't know if I know the current

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Transcript excerpt from ZC 13-07 Exhibit 2193 Oct. 21, 2013(p.11-12) ...Discussion on Matter of Right and necessity for BZA approval with regards to variance relief for rear yard.

1 MS. STEINGASSER: Okay.

2 COMMISSIONER MILLER: And you said
3 R5C is - you were just referencing R5C?

4 MS. STEINGASSER: Well, we looked
5 at what the - what the applicant had submitted
6 for funding of the housing project had
7 sufficient information for us to be able to
8 assess it against other residential zones, and
9 it looks like with some reworking, the R5C would
10 accommodate the housing project.

11 There may be some variance relief
12 for a rear yard that would be needed, but the
13 height, the lot occupancy, the FAR, are all
14 within the R5C, and they're all within what would
15 be still considered moderate under a PUD.

16 And we're not suggesting that this
17 project come forward as a PUD, but that it's
18 still within that range which the commission has
19 determined to be consistent with the moderate
20 density residential.

21 COMMISSIONER MILLER: So, the
22 project that we heard about, with some

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1 reworking, could meet the R5C as a matter of
2 right?

3 MS. STEINGASSER: That is our
4 understanding, or it may require a rear yard
5 variance. But the rear yard seemed to be the
6 only real point of difficulty within an R5C.

7 COMMISSIONER MILLER: It might need
8 a BZA.

9 MS. STEINGASSER: It might need a
10 BZA.

11 COMMISSIONER MILLER: Okay, thank
12 you.

13 CHAIRMAN HOOD: Any other comments
14 from commissioners? Vice Chair?

15 VICE CHAIR COHEN: Thank you, Mr.
16 Chairman. Again, I have some sympathy for the
17 applicant's goals, but similar to OP, I think
18 that the larger benefit of the 71-unit
19 affordable residential development meets the
20 greater goal for the larger community, and
21 therefore, I would recommend dismissal of the
22 applicant's request.

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