



March 6, 2019

On February 27, 2019, Advisory Neighborhood Commission 3D (ANC3D) received Exhibit 433A in Zoning Case 16-23: “Applicant’s Response to CRD’s Submission.” During a regularly-scheduled and publicly advertised meeting of ANC3D, and with a quorum present at all times, the Commission voted to approve this letter supporting the Applicant’s request to reopen the record in ZC 16-23.¹

In Exhibit 279 on January 1, 2019, ANC3D responded to a motion to strike a submission from the “Spring Valley Opponents” (SVO). In opposing the motion to strike the SVO Response, we stated that “ANC3D is generally opposed to motions to strike submissions,” and “ANC3D views *The SVO Response as presenting an aspect of Applicant-community engagement less easily seen elsewhere in the case record.*”

It is for these same reasons that ANC3D supports the “Applicant’s Motion to Reopen the Record” in Exhibit 433 so that Exhibit 433A can be formally included. As in our submission in Exhibit 279, our support of the motion to reopen the record is in furtherance of the principle of fulsome commentary. Equally necessary, however, is that Exhibit 433A presents an important and telling aspect of Applicant-community engagement less easily seen elsewhere in the case record.

In Exhibit 433, the Applicant submits a “motion to reopen the record” so that it can address what the Applicant believes to be misleading and disingenuous points made by Citizens for Responsible Development (CRD) in Exhibits 430A1 and 430A2. The accompanying exhibit, Exhibit 433A, highlights three aspects of the CRD response as viewed by the Applicant:

- 1) CRD’s dissembling regarding the role of focal length in visual representations
- 2) CRD’s contradictory statements regarding the Applicant’s responsiveness to Zoning Commission requests
- 3) CRD’s assertions about the Applicant’s portrayal of shadow impacts

Our motivation for adopting this letter pertains to the Applicant’s second point about the Applicant’s responsiveness to requests. In our testimony in Exhibit 396 on January 7, 2019, ANC3D sought to lay bare some of the challenges we believe impaired the engagement process between the Applicant and the opponents. These same issues are apparent in the post-hearing submissions.

The Applicant takes issue with CRD’s portrayal that “*again the applicant has failed to produce what was asked*” for by the Zoning Commission.² It is our understanding that the Zoning Commission requested the Applicant submit four renderings showing the proposed building *within* existing-conditions photographs.³ Tellingly for us, the evidence presented by the Applicant in Attachment A to Exhibit 433A

¹ Although authority for responding to matters on behalf of the ANC has been delegated to Commissioner Kravitz in this case, ANC3D was fortunate to have a regularly-scheduled public meeting prior to the next Zoning Commission hearing on this matter. As the ANC3D meeting occurs only one day after the culmination of the seven-day reply window, we believe it was more important from a policy perspective to discuss the motion under consideration publicly despite our response therefore becoming “untimely.”

² “CRD’s Response to Applicant’s Sims (Part I),” Zoning Case 16-23, Exhibit 430A1, February 28, 2019, p. 1.

³ At the February 6, 2019 Zoning Commission hearing, Chairman Hood stated, “*I want to see what the exact situations are, just what you said with [the proposed building] plopped down in the area where it’s supposed to be.*” (Transcript of Zoning Commission hearing in ZC 16-23, February 6, 2019, p. 47.) This request was confirmed at



confirms in writing that CRD maintained the same belief: CRD wrote, “*we know the ZC didn’t require you to produce [photos of existing conditions].*” While this may seem a minor matter, we believe it is emblematic of the breakdown of good faith communication regarding this project.

When evaluating competing claims about efforts to ameliorate neighborhood concerns, it is only natural for members of the Zoning Commission to reflect upon their impressions about the Applicant’s cooperation with their own requests, such as that leading to the images provided in the Applicant’s post-hearing submission. Understanding how the parties in this case privately viewed the Zoning Commission’s request is germane to evaluating both performance and intent.

While we do not believe the Applicant is adding any material information into the record in the exhibit attached to their motion, we are concerned that the omission from the record of the context provided in Attachment A of Exhibit 433A may disadvantage them unjustly. Relatedly, we see no harm to any other party by its inclusion in the record; the email correspondence stands on its own.

As elected officials, we labor under aspirations of fostering discussion and mediating, if need be, competing viewpoints. This goal is challenging to attain in even the best conditions. It is unfortunate that the sentiments expressed in our testimony on January 7, 2019 have become less abstract in the post-hearing submissions. Nonetheless, ANC3D believes the post-hearing discussion is illuminating about the interaction between the project’s Applicants and its opponents and, for that reason, ANC3D supports the Applicant’s Motion to Reopen the Record so that Exhibit 433A can be included.

Troy Kravitz
Authorized representative of ANC3D
(Letter approved by majority vote of the Commission)

the conclusion of the hearing with Chairman Hood asking Secretary Schellin, “*Do we have anything that we’ve asked for other than maybe one thing. Four photographs.*” (Ibid, p. 141.) Secretary Schellin replies, “*Just the four photographs, the only thing that I have down.*” (Ibid, p. 142.)
