

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

PUBLIC MEETING

+ + + + +

MONDAY
MAY 11, 2009

+ + + + +

The Public Hearing convened in Room
220 South, 441 4th Street, N.W., Washington,
D.C., 20001, pursuant to notice at 6:35 p.m.,
Anthony J. Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD	CHAIRPERSON
GREGORY JEFFRIES	VICE-CHAIRPERSON
WILLIAM WARREN KEATING	COMMISSIONER
MICHAEL TURNBULL, FAIA	COMMISSIONER (OAC)
PETER MAY	COMMISSIONER (NPS)

OFFICE OF ZONING STAFF PRESENT:

DONNA HANOUSEK	SECRETARY
ESTHER BUSHMAN	GENERAL COUNSEL

OFFICE OF THE ATTORNEY GENERAL PRESENT:

JACOB RITTING, ESQ.

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OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER DIRECTOR
JOEL LAWSON
MATT JESSICK
MAXINE BROWN-ROBERTS

The transcript constitutes the minutes
from the Public Meeting held on May 11, 2009.

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P R O C E E D I N G S

6:35 p.m.

CHAIR HOOD: This meeting will please come to order. Good evening ladies and gentlemen. Today's date is May 11th, 2009. My name is Anthony Hood. Joining me soon will be Vice Chairman Jeffries, joined by Commissioner May, Commissioner Keating and Commissioner Turnbull.

We're also joined by the Office of Zoning staff, Office of Attorney General staff and the Office of Planning staff. Copies of this agenda are located in the bin near the door.

Let me just remind you that we do not take any public testimony. We're also webcast live, so we would ask that you refrain from any disruptive noises. Okay. Please turn off all beepers and cell phones. Does the staff have any preliminary matters?

MS. HANOUSEK: No sir.

Preliminary Matters

CHAIR HOOD: Okay. Let me find -- I

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1 had an agenda that I marked up. We're going to
2 move the agenda around a little bit. We're going
3 to take Final Action last. Just try to hang with
4 me here. It's going to get confusing. Final
5 Action we're going to do last. Hearing Action
6 we're going to do second, and Proposed Action --
7 no, I'm sorry.

8 Final Action we're going to do first.
9 Hearing Action, we're going to do second.
10 Proposed Section, we're going to do last, in that
11 order, and everything else will remain the same.

12 I do have one preliminary matter.

13 The press has asked how the three
14 commissioners are moving forward with the process
15 for selecting a Director of the Office of Zoning.

16 While we do not bind ourselves to any dates, we
17 do have a date -- we have dates on the process,
18 but we are again volunteers.

19 So we're not going to -- and there's
20 subject note. Dates in the process are subject
21 to be changed.

22 But there's a process of how we're

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1 going about it, and that process is available to
2 anyone, any public, press or whoever is
3 interested. You can check with Ms. Sarah Bardin
4 in the Office of Zoning, and that is available, I
5 think, from 8:00 to 5:00.

6 Final Action/Consent Calendar

7 CHAIR HOOD: Okay. Let's move right
8 along with Final Action. I'm sorry. We don't
9 have anything on the consent calendar.

10 Case No. 09-01

11 CHAIR HOOD: Final Actions. Zoning
12 Commission Case No. 09-01, Office of Planning
13 Text Amendment, Time Extension and Minor
14 Modifications to BZA Orders. Ms. Hanousek?

15 MS. HANOUSEK: We received a report
16 from NCPC, Exhibit 12. They have no objections.

17 CHAIR HOOD: Okay. Commissioners, I
18 think that it's just this particular case. It's
19 just going to be Mr. Turnbull and Mr. May
20 participating in this case.

21 With that, I would move approval of
22 Zoning Commission Case No. 09-01, Office of

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1 Planning Text Amendment, Time Extension and Minor
2 Modifications to BZA Orders and ask for seconds.

3 COMMISSIONER TURNBULL: Second.

4 CHAIR HOOD: Moved and properly
5 seconded. Any further discussion? Any further
6 discussion?

7 (No response.)

8 CHAIR HOOD: All those in favor, aye?

9 (Chorus of ayes.)

10 CHAIR HOOD: Not hearing any
11 opposition of those who participated, Ms.
12 Hanousek, could you record the vote?

13 MS. HANOUSEK: Yes. On a motion made
14 by Commissioner Hood and seconded by Commissioner
15 Turnbull, the Commission approved ZC Case No. 09-
16 01 for final action by a vote of 3 to 0 to 2.
17 Commissioners Hood, May and Turnbull in favor;
18 Commissioners Jeffries and Keating not
19 participating, not voting.

20 Case No. 08-25

21 CHAIR HOOD: Okay Commissioners,
22 let's move right along. Zoning Commission Case

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1 08-25. This is the Matthews Memorial Terrace,
2 LLC, consolidated PUD and related map amendment
3 for Square 5868. Ms. Hanousek.

4 MS. HANOUSEK: We received a report
5 from NCPC, Exhibit 41, and they have no
6 objections.

7 CHAIR HOOD: Thank you very much.
8 Again colleagues, we have Exhibit 41 from NCPC.
9 I think we flushed this out very thoroughly, even
10 at the hearing and also in a proposed action, and
11 I would move approval of Zoning Commission Case
12 No. 08-25, Matthews Memorial Terrace, LLC,
13 consolidated PUD and related map amendment in
14 Square 5868, and ask for a second.

15 COMMISSIONER KEATING: Second.

16 CHAIR HOOD: Moved and properly
17 seconded. Any further discussion? Further
18 discussion?

19 (No response.)

20 CHAIR HOOD: All those in favor, aye?

21 (Chorus of ayes.)

22 CHAIR HOOD: Hearing no opposition of

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1 those who are here, Ms. Hanousek, could you
2 record the vote.

3 MS. HANOUSEK: On a motion made by
4 Commissioner Hood and seconded by Commissioner
5 Keating, the Commission approved ZC Case No. 08-
6 25 for final action by a vote of 4 to 0 to 1.
7 Commissioners Turnbull, Keating, Hood and May in
8 favor; Commissioner Jeffries not present, not
9 voting.

10 Hearing Action

11 CHAIR HOOD: Okay. Thank you very
12 much, Ms. Hanousek. Now we're going to go to
13 Hearing Action.

14 Case No. 09-08

15 CHAIR HOOD: Let's start off with
16 Zoning Commission Case No. 09-08, Brookland
17 Artspace Lofts, LLC, consolidated PUD and first
18 stage PUD and related map amendment in Square
19 3831 and 3832. Mr. Jessick?

20 MR. JESSICK: Thank you, Mr.
21 Chairman, and members of the Commission. The
22 applicant in this case is proposing two buildings

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1 on 8th Street in Brookland.

2 The first building would contain 41
3 artist live-work spaces. The second building
4 would be a new home for Dance Place, which is the
5 dance company that has called Brookland home for
6 many years.

7 In order to achieve this, they've
8 submitted a consolidated PUD for the live-work
9 building, a first stage PUD for the Dance Place
10 building, and a PUD-related map amendment to C-2B
11 for the entire site.

12 The property is located on the east
13 side of 8th Street, N.E., next to the CSX and
14 WMATA railroad right-of-way. It's at the
15 intersection of Kearney Street, which would put
16 it at about two and a half blocks south of the
17 Brookland Metro.

18 The Brookland Small Area Plan applies
19 to this site, and it calls for a mix of
20 residential and cultural uses in this location.
21 So the proposal is not inconsistent with that
22 designation.

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1 Now the project would be about 48
2 feet tall, and would have an overall FAR of about
3 2.7. That FAR is less than what would be allowed
4 as a matter of right under the current CM-1
5 zoning.

6 The only relief required would be for
7 rooftop structures, parking, rear yard and of
8 course the eight feet that would be gained
9 through the PUD process.

10 The amenity item for this project is
11 the affordable housing. About 50 percent of the
12 live-work units would be available to households
13 earning less than 60 percent of the AMI, and the
14 other half would be available to households
15 earning less than 50 percent of the AMI.

16 So the Office of Planning recommends
17 that the Commission set down the application for
18 a public hearing, and I'd be happy to take any
19 questions.

20 CHAIR HOOD: Thank you very much, Mr.
21 Jessick. Let me open it up for commissioner
22 questions. Commissioner Turnbull.

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1 COMMISSIONER TURNBULL: Thank you,
2 Mr. Chairman. Mr. Jessick, the street that's in
3 between the two buildings, public space?

4 MR. JESSICK: It is public right-of-
5 way at present. The Applicant would submit a
6 parallel application to close the street. It's
7 not improved right now. It's kind of used for
8 parking, but it's just gravel. So they would
9 need to close that right-of-way.

10 COMMISSIONER TURNBULL: Okay. I
11 think one of the things we'd like to see a little
12 bit more detail on is this is a very significant
13 project. It's got a lot of nice attributes to
14 it.

15 I want to see a little bit more about
16 the architecture. I'm a little bit concerned
17 about the panelized, the metal panels and how
18 that's actually going to work with this facade.

19 We've seen a lot of different types,
20 and some are better than others. I'm just
21 concerned that we've got such a very worthy
22 project that the architecture is going to

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1 complement the needs of the building. Mr. Chair,
2 those are my questions for right now anyways.

3 CHAIR HOOD: Good, thank you. Any
4 others? Commissioner May?

5 COMMISSIONER MAY: No. I would just
6 echo Commissioner Turnbull's comments with regard
7 to the architecture for the building. You know,
8 the information that we have is that it's
9 panelized siding. I'm not sure what that is, and
10 obviously we want to see that in much greater
11 detail and see detailed elevations and see
12 material samples and what-not for that and for
13 masonry and so on.

14 It has a lot of potential, buildings
15 for this sort of use and purpose and location.
16 There's sort of a unique opportunity to do
17 something a little bit different. But it is, I
18 think, very much dependent on the architecture
19 kind of living up to the challenge.

20 I just think there's still a bit of
21 ways to go in that regard. So thanks.

22 CHAIR HOOD: My question probably

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1 would be more probably with Mr. Jessick and Ms.
2 Steingasser.

3 I just want to understand, and it's
4 actually page five of your report, and this goes
5 to more than just this case. We have a number of
6 other cases where the small area plan seems to
7 have now is the tool in which we're using to look
8 at, as opposed to comp plan.

9 It says "The comprehensive plan's
10 generalized policy map describes the subject site
11 as neighborhood conservation area. The future
12 land use map indicates that production,
13 distribution and repair uses would be appropriate
14 on this site."

15 Then it says "The Brookland CUA Metro
16 Station Small Area Plan refines the vision for
17 this area." I probably have asked this question
18 and I'll probably ask it again.

19 We have the small area plan, we have
20 the comp plan, we have -- and I know this is not
21 involved -- we're working with Main Street and I
22 think you've heard this question before, Ms.

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1 Steingasser.

2 We're also working with Grace
3 Streets, and then we're doing the zoning rewrite.

4 But in particular this. As a Zoning
5 commissioner, we're mandated to look at the comp
6 plan.

7 Are the small area plans now
8 redefining the comp plan, or is that just another
9 tool for us to use? Just help me understand how
10 all that's working.

11 MS. STEINGASSER: Well, the
12 comprehensive plan is the overarching legal
13 document adopted by the City Council. The small
14 area plans are also adopted by the City Council
15 by resolution, as opposed to legislation, and
16 they provide a further refinement of the planning
17 tools in the comp plan.

18 They're considered before the
19 Commission as additional guidance. So they don't
20 trump the comprehensive plan, but they do provide
21 additional guidance to the Commission of the City
22 Council's planning guidance, planning desires for

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1 this.

2 They're designed in collaboration
3 with the neighborhoods, the communities, the
4 ANCs. So they do have great stakeholder input,
5 and then they're adopted by the City Council
6 through resolution.

7 CHAIR HOOD: So Ms. Steingasser, and
8 this not just basically then. I probably should
9 have asked this question during status. Let me
10 come back and ask this some more. I want to keep
11 going down that line on that. Okay, any other
12 questions?

13 (No response.)

14 CHAIR HOOD: Okay, with that, I would
15 move that we set down Zoning Commission Case 09-
16 08, with all the comments so noted. First stage
17 consolidated PUD -- I'm sorry, consolidated PUD
18 and first stage PUD and related map amendment, at
19 Squares 3831 and 3832. I'm looking for a second.

20 COMMISSIONER TURNBULL: Second.

21 CHAIR HOOD: Moved and properly
22 seconded. Any further discussion?

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1 (No response.)

2 CHAIR HOOD: All those in favor, aye?

3 (Chorus of ayes.)

4 CHAIR HOOD: Not hearing any nays,
5 Ms. Hanousek, would you record the vote?

6 MS. HANOUSEK: Commissioners, there
7 is a preliminary matter about a waiver of hearing
8 fees. Shall I go into that first or wait until
9 the --

10 CHAIR HOOD: What we'll do is we will
11 -- let's call this vote, and thanks for bringing
12 that to my attention.

13 MS. HANOUSEK: Yes sir.

14 CHAIR HOOD: What we'll do is we'll
15 do another motion once we discuss it.

16 MS. HANOUSEK: Yes sir. Staff
17 records the vote 4 to 0 to 1 to set down Case 09-
18 08 as a contested case, Commissioner Hood moving,
19 Commissioner Turnbull seconded. Commissioners
20 Hood, Turnbull, May and Keating in favor;
21 Commissioner Jeffries not present, not voting.

22 CHAIR HOOD: Thank you very much, and

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1 Ms. Hanousek, thank you for bringing our
2 attention to the request for the waiver of fees.

3 Colleagues, as you know, typically
4 when we have a request for the affordable housing
5 component on anything that's basically subsidized
6 by the government, we usually have to have a
7 letter from the director, and we have that
8 letter, asking us to give a waiver of fees from
9 Mrs. Edmonds, who is the Director of the Housing
10 and Community Development.

11 That is Exhibit 14, and we just
12 received that this evening. So Commissioner May?

13 COMMISSIONER MAY: I just have a
14 question, addressing the question of waiver of
15 these fees. Do we usually waive it when --
16 simply when it's requested by DCHD or is there --
17 does it have to be an actual public agency that
18 is the applicant for us to consider waiving it?

19 CHAIR HOOD: I'll usually -- well, I
20 think that we usually do it when it's a
21 government, subsidized by the government. But I
22 will go to Jake, I'm mean I'm sorry Mr. Ritting,

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1 to make sure the question is answered.

2 MR. RITTING: Thank you. I think
3 there's some guidance in the zoning regulations
4 at 3042.2. It says "For purposes of this
5 section, the term 'subsidized housing
6 development' shall mean a housing development
7 that receives funding from a recognized District
8 of Columbia or federal government housing subsidy
9 program.

10 "Low or moderate income projects
11 shall be as defined by the U.S. Department of
12 Housing and Urban Development."

13 CHAIR HOOD: Any other questions?

14 COMMISSIONER MAY: I'm just reading
15 the letter again that was submitted. You know,
16 certainly in principle I have no problem with
17 waiving the fees. It's just a question of
18 whether what's submitted meets the criteria and
19 if everyone's comfortable with that, then that's
20 fine with me.

21 CHAIR HOOD: I think the only portion
22 is the affordable portion that we're waiving.

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1 We're not doing market rate. I think that's the
2 issue. You ready to move forward?

3 I think what we'll do is I'll
4 entertain a motion to waive the fees, Since we
5 should have probably coupled that with the first
6 motion I made.

7 So what I would like to do is that we
8 acknowledge the letter from Ms. Edmonds, Director
9 of the Department of Housing and Community
10 Development, which is Exhibit 14, and I would
11 move that we waive, as requested for the
12 affordable portion of this project, and ask for a
13 second.

14 COMMISSIONER TURNBULL: Second.

15 CHAIR HOOD: It's moved and properly
16 seconded. Any further discussion?

17 (No response.)

18 CHAIR HOOD: All those in favor?

19 (Chorus of ayes.)

20 MS. HANOUSEK: Staff records the vote
21 4 to 0 to 1 to waive the fees for the affordable
22 housing portion of the project, 48,023 square

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1 feet, in Case 09-08, Commissioner Hood moving,
2 Commissioner Turnbull seconding; Commissioners
3 Hood, Turnbull, May and Keating in favor.
4 Commissioner Jeffries not present, not voting.

5 Case No. 09-05

6 CHAIR HOOD: Okay. Let's move right
7 along. Zoning Commission Case No. 09-05, United
8 House of Prayer for All People, consolidated PUD
9 and related map amendment, at Square 442. I saw
10 Mr. Lawson reach for the microphone. I thought
11 he had it. Okay.

12 MS. BROWN-ROBERTS: Good evening Mr.
13 Chairman and members of the Commission. I am
14 Maxine Brown-Roberts from the Office of Planning.
15 The United House of Prayer requests a
16 consolidated PUD and a related map amendment to
17 rezone the site from the R-4 zone to the C-2B
18 zone.

19 The property is located to the east
20 of the intersection of Rhode Island Avenue and
21 7th Street, N.W. The proposal includes 16
22 apartment units with 11 at-grade parking spaces.

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1 Eight of the units would be affordable at 60 to
2 80 percent of AMI.

3 The building would be at an FAR of
4 1.97 and 49.6 feet high. The proposal would be
5 approximately a block and a half from the Shaw-
6 Howard University Metro Station. In a report to
7 identify the square footage of the site, it's
8 57,120 square feet, but it is actually 32,125
9 square feet.

10 The PUD-related map amendment would
11 rezone the site from the R-4 to C-2B, similar to
12 existing zone district with abuts the property to
13 the west and to the north.

14 The square is split zone R-4 and R-
15 C2B. The proposed C-2B zone and use maintains
16 the integrity of the zone plan, with the
17 assurance of a PUD use. The applicant has
18 requested a change in zoning to the property to
19 permit additional flow air for an apartment use
20 over that permitted by right in the R-4 zone.

21 The proposed multi-family housing
22 would provide a transition to single family units

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1 along Rhode Island Avenue to the east. At the
2 corner of Rhode Island and 7th Street
3 intersection are properties in a mixed use and
4 medium density residential and commercial uses.

5 It should also be noted that the
6 applicant has done some development in this area,
7 which are located to the north and west of the
8 subject property, and the architecture that is
9 similar to those that are in the existing
10 development.

11 The applicant has requested
12 flexibility from the roof structure single
13 enclosed area requirement, and has provided as an
14 amenity to the affordable units a green roof.
15 The project is not inconsistent with a future
16 land use map recommendation for a mix of medium
17 density residential and medium density commercial
18 uses.

19 The generalized policy map shows the
20 property is located within the neighborhood
21 enhancement areas. These areas present
22 opportunities for compatible small scale infill

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1 development. The guiding philosophy in the
2 neighborhood enhancement area is to ensure that
3 new development fits in in response to existing
4 character.

5 The proposed development would
6 satisfy these criteria. The Office of Planning
7 therefore recommends that the application be set
8 down. Thank you, Mr. Chairman, and I'm available
9 for questions.

10 CHAIR HOOD: Thank you, Ms. Brown-
11 Roberts. Let's open it up for any commissioner
12 questions.

13 COMMISSIONER MAY: Mr. Chairman?

14 CHAIR HOOD: Commissioner May?

15 COMMISSIONER MAY: Reading the plans,
16 it looks to me like the building does not have an
17 accessible front entrance. Is that right? Am I
18 reading that correctly, or am I missing
19 something? It's A-1.1.

20 MS. BROWN-ROBERTS: An entrance, you
21 say an entrance that fronts on Rhode Island
22 Avenue.

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1 COMMISSIONER MAY: Yes. The front of
2 the building.

3 MS. BROWN-ROBERTS: That seems to be
4 correct.

5 COMMISSIONER MAY: Well, I'm not sure
6 what's legally required in this circumstance, but
7 I think that's something that ought to be
8 addressed, and frankly I think it's something
9 that ought to be accessible, even if it's not
10 technically a legal requirement and an ADA
11 requirement. It just doesn't make sense that you
12 can't go in the front door of the building if
13 you're to live there.

14 There's an elevator in the building.

15 There are units that are themselves accessible
16 otherwise. And going around through the green
17 space doesn't -- to the rear entry doesn't --
18 it's not the same.

19 You know, this is an interesting
20 building architecturally, and they're doing some
21 things that I think are -- that are unusual for
22 this Commission to review, things like corrugated

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1 metal siding, and I have a very open mind about
2 that. I'm familiar with some of the other
3 buildings that were done in the area.

4 I don't know if it's the same
5 architect or not, but I think I've seen some of
6 the other buildings that have been developed
7 there by the applicant. So and I'm sympathetic
8 to the style and, as I said, I have an open mind
9 about this.

10 But I am very interested in seeing
11 more detail on the materials that are going to be
12 used, and particular architectural CMU, which I
13 do have some significant questions about. Very
14 often, it just looks like regular CMU and I don't
15 think that's necessarily a very attractive
16 material. That's it for my questions.

17 CHAIR HOOD: Commissioner Turnbull.

18 COMMISSIONER TURNBULL: Thank you,
19 Mr. Chair. I would echo Commissioner May's point
20 about the architecture. The Office of Planning
21 did make reference to the Duke plan, which is a
22 subdistrict of this area. I guess I would like

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1 to see some panels, some of the architecture
2 showing that it's complimentary and how it fits
3 in.

4 Again, it's another significant
5 project. We'd like to see more on the
6 architecture, on how this thing's going to work.

7 CHAIR HOOD: Any other questions?
8 Commissioner Keating.

9 COMMISSIONER KEATING: No, I would
10 simply say, echo those comments. I'm looking
11 forward to seeing this. I'm excited about the
12 idea of the green roof and the green space in
13 this neighborhood, and I'm looking forward to
14 seeing more detail about it. I like what I see
15 so far though. That's all.

16 CHAIR HOOD: All right,
17 commissioners. Would someone like to give us a
18 motion or state a motion to set it down, or not
19 to set it down?

20 COMMISSIONER MAY: I would move that
21 we set down Zoning Case No. 09-05, consolidated
22 PUD and related map amendment of United House of

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1 Prayer.

2 COMMISSIONER KEATING: Second.

3 CHAIR HOOD: Okay. It's been moved
4 and properly seconded. Any further discussion?

5 COMMISSIONER JEFFRIES: I'll be
6 participating in this vote, even though I've just
7 walked in. I have read the record.

8 CHAIR HOOD: Thank you, and forgive
9 me for not acknowledging that you were present.
10 We're joined by Vice Chairman Jeffries. Okay.
11 All those in favor? I'm sorry. Hold on a
12 second.

13 MS. HANOUSEK: I apologize. Who
14 seconded?

15 COMMISSIONER KEATING: I did.

16 CHAIR HOOD: Commissioner Keating
17 seconded.

18 MS. HANOUSEK: And did Mr. Jeffries
19 say he was not --

20 CHAIR HOOD: He will be
21 participating.

22 MS. HANOUSEK: Thank you very much.

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1 CHAIR HOOD: Okay. Forgive us, Ms.
2 Hanousek, and I will acknowledge who seconded.

3 MS. HANOUSEK: Forgive me, forgive
4 me.

5 CHAIR HOOD: Okay. It's been moved
6 and properly seconded. Did we call for the vote?
7 Okay. It's been moved and properly seconded.
8 Any further discussion?

9 (No response.)

10 CHAIR HOOD: All those in favor?

11 (Chorus of ayes.)

12 CHAIR HOOD: Ms. Hanousek, I think
13 it's unanimous.

14 MS. HANOUSEK: Staff records the vote
15 5 to 0 to 0 to set down Zoning Case No. 09-05 as
16 a contested case, Commissioner May moving,
17 Commissioner Keating seconding, Commissioners
18 Turnbull, May, Keating, Hood, and Jeffries in
19 favor.

20 Excuse me, Chairman. I have one
21 thing to point out. On the vote before for case
22 09-08, I am not positive I said it was set down

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1 as a contested case. I did.

2 CHAIR HOOD: That's fine.

3 COMMISSIONER MAY: I believe you did.

4 COMMISSIONER TURNBULL: I agree.

5 MS. HANOUSEK: Well then, I've said
6 it a second time. Thank you.

7 CHAIR HOOD: One thing about it. We
8 know that case is definitely contested. Okay.
9 All right. Thank you, Ms. Hanousek.

10 COMMISSIONER TURNBULL: Mr. Chair, I
11 think we ought to give Ms. Hanousek a round of
12 applause for dealing with her incapacitation
13 tonight. She's as big and making a great effort,
14 trying to make these turns to the left and the
15 right.

16 (Applause.)

17 Case No. 09-03

18 CHAIR HOOD: Okay. Okay. Next,
19 Zoning Commission Case No. 09-03, Skyland
20 Holdings, LLC, consolidated PUD and related map
21 amendment, at Squares 5632, 5633, 5641, 5641N and
22 various parcels. Ms. Brown-Roberts.

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1 MS. BROWN-ROBERTS: Thank you, Mr.
2 Chairman, and again for the record, I'm Maxine
3 Brown-Roberts. The Office of Planning is please
4 to bring a proposal for the revitalization of the
5 Skyland shopping center.

6 The revitalization of this shopping
7 center has been in the planning stage for many
8 years, with various proposals put forth and
9 discussed with the community. The Deputy Mayor
10 for Economic Development has placed a high
11 priority on the redevelopment of this shopping
12 center, which we believe would be an asset to
13 residents east of the river.

14 The subject property is along Alabama
15 Avenue, Good Hope Road and Naylor Road, and the
16 application is for its rejuvenation, to be
17 carried out through a PUD and a map amendment.
18 The majority of the property is in the C-3A
19 district, with a small portion ion the R-5B, R-5A
20 and R-1B districts.

21 The map amendment would rezone the R-
22 5A, R-5B and R-1B areas to the C-3A district.

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1 The shopping center currently has a number of
2 businesses in operation. The proposal would
3 redevelop this site as a mixed use town center
4 consisting of apartments, row houses and retail
5 uses.

6 Development would also feature a Main
7 Street and a big box retail use. The development
8 would be within five blocks, most of which would
9 have ground floor retail and apartments above.,
10 The retail uses would be internally focused along
11 a central main street, and also have an external
12 focus along Alabama Avenue, Good Hope Road and
13 Naylor Road.

14 Above-grade parking structures would
15 be surrounded by retail and residential
16 buildings, first minimized in their invisibility.

17 An existing building that houses a switching
18 facility for the RCN cable company is currently
19 located in the center of the property, and that
20 would be relocated to an area close to Alabama
21 Avenue.

22 The property is serviced by seven bus

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1 routes which connect to four Metro stations. Four
2 of the routes terminate at the site. The number
3 of parking spaces proposed is significantly above
4 that required by the zoning regulation.

5 Both the Office of Planning and DDOT
6 feels this number of spaces is not consistent
7 with the aim of reducing car usage and
8 encouraging the use of other modes of
9 transportation, particularly at a location that
10 is well-served by many buses.

11 The Office of Planning will continue
12 to work with the applicant on ways to facilitate
13 riders, through the provision of real-time
14 information relating to bus routes, arrival and
15 departure times and improved facilities.

16 The applicant also proposes to
17 undertake some improvements to the adjacent
18 roadways, including pedestrian crossing,
19 intersection improvements and traffic signals.
20 The applicant has requested flexibility to reduce
21 the number of loading spaces, roof structure
22 setback and more than one enclosure.

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1 Amenities include affordable housing,
2 green use and transportation improvements. The
3 proposal is not inconsistent with a future land
4 use map that designates the property for moderate
5 density commercial, low and moderate density
6 residential.

7 The generalized land use map
8 designates the majority of the property as a
9 multi-neighborhood center. The proposal is
10 consistent with many elements of the
11 comprehensive plan, and with policies that
12 addresses the development of the Skyland shopping
13 center and its revitalization directly.

14 OP recommends that the proposal be
15 set down, and we will continue to work with the
16 applicant on the determination of that portion of
17 the site that is in the R-5A district, the roof
18 plan, theoretical subdivision plan, identifying
19 the location of courts and a bus stop design.
20 Thank you, Mr. Chairman, and I'm available for
21 questions.

22 CHAIR HOOD: Thank you very much, Ms.

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1 Brown-Roberts. Let's open it up. Commissioner
2 Turnbull.

3 COMMISSIONER TURNBULL: Thank you,
4 Mr. Chair. Ms. Brown-Roberts, I know one of the
5 items that was mentioned was the amount of
6 parking that's being provided, which is way above
7 what is necessary.

8 I guess what troubles me is looking
9 at the plan is Block 2, Block 2. The other,
10 Block 4 and 3 and the other one look into an
11 interior green courtyard. But Block 2 looks into
12 an interior parking lot. Have you had any
13 discussions with the applicant on that?

14 MS. BROWN-ROBERTS: No. We have not
15 on that particular, on what the views would be
16 from the neighborhood, no.

17 COMMISSIONER TURNBULL: I think
18 that's a sore spot. I mean I think that's really
19 a letdown in the plan, that you've got these
20 buildings. I mean the scope of the project is
21 nice. I think the intent is to be complimented,
22 and I think the overall idea is fine.

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1 But I just think when you have a
2 building like that, this super block, and you're
3 suddenly looking into a parking lot on the
4 inside, suddenly the whole focus of the project
5 falls apart. I don't think that's the intent of
6 the applicant, but I think in looking at this
7 roof plan, I think it's clearly something that's
8 not in the same context as the other buildings.

9 MS. STEINGASSER: Commissioner
10 Turnbull, we'll be happy to get further details
11 on that. But I believe when you go into the
12 plans themselves, there's an interior corridor
13 that separates the residential units from
14 actually looking into the parking structure.

15 We'll ask the applicant to provide a
16 little bit more detail on those drawings, so it's
17 clearer.

18 COMMISSIONER TURNBULL: But I think
19 there's more that could be done with a building
20 like that. Yes, yes. I think there is a lot
21 more that could make that building more exciting
22 for the people who would live in the area.

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1 I think you could really offer views
2 into an interior courtyard or do something more,
3 rather than looking at a parking lot like that.

4 I'd also like to see some details on
5 Block 1. Have they got parking? Again, a lot of
6 parking is being provided. There's below grade
7 parking and there's now parking up on the roof,
8 and it looks like they're building a whole facade
9 around the above-grade parking.

10 Some of it's got vines on it; some of
11 it looks like store windows. I'd really like to
12 see that fleshed out a little bit more, what's
13 really happening on that building. I think as we
14 said before on some of the other projects, it's
15 the architecture that's going to really make or
16 break a project like this.

17 So we're going to need some sample
18 panels. We need to know more about what this
19 thing really looks like, and rather than -- we've
20 got these little cartoons in perspective, which I
21 think need to be defined a little bit more, to
22 give us a little bit more realistic view of what

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1 we're expecting with the materials and how that's
2 working at street level. Thank you.

3 CHAIR HOOD: Any others?
4 Commissioner Keating?

5 COMMISSIONER KEATING: Yes. I have a
6 question just really about whether or not the
7 applicant has said that this will be a phased
8 project?

9 MS. BROWN-ROBERTS: Yes, that's
10 correct.

11 COMMISSIONER KEATING: So they're
12 going to do the demolition of the entire area and
13 then come into phase with the building. Did they
14 give you any detail about what that was?

15 MS. BROWN-ROBERTS: No, I don't think
16 we discussed that, how the demolition was going
17 to occur. I think what we did discuss was that
18 Block 1 was going to be the first block, then
19 moving to Block 2 and the remainder coming later,
20 depending on the market.

21 MS. STEINGASSER: In addition to
22 Block 1, the applicant's obligated under federal

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1 law to replace the cable switching building,
2 which will begin probably immediately approval of
3 the PUD. They need to get that relocated. They
4 cannot break its service. So they need to build
5 that, so that they can move the other one off the
6 site.

7 The facing's also important, because
8 it allows us to work through the parking
9 arrangement. What we're working with the
10 applicant on is building sufficient parking for
11 Phase 1, that allows some kind of test run of how
12 much parking is needed.

13 Then as we move into the subsequent
14 phases, the applicant will have the flexibility
15 then to respond to the use limits of the actual
16 parking.

17 COMMISSIONER KEATING: Just on that
18 parking question, this seems to be a fairly wide
19 gap between what they're asking and what we may
20 be looking for them to have. I mean they're
21 asking for 1,700 spaces; correct?

22 MS. STEINGASSER: Uh-huh.

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1 COMMISSIONER KEATING: What's
2 appropriate do you think for a Development of
3 size, and what are you looking to try to get the
4 applicant to? What number?

5 MS. BROWN-ROBERTS: I think that's
6 the unknown right now, and that's one of the
7 reasons why we're going in with having the first
8 phase, looking at how the parking is being used
9 and then revising that.

10 But I think one thing that we'd be
11 expecting to see is really, you know, a base
12 amount of what the zoning requires right now, and
13 then adjust as we go along.

14 CHAIR HOOD: Thank you. I just have
15 a question, Ms. Brown-Roberts. Just a design
16 question. One of the issues that still are
17 outstanding in your report on page one, you
18 mentioned bus stop design. Metrobus or what kind
19 of --

20 MS. BROWN-ROBERTS: Yes, yes. As I
21 mentioned, that this property is served by seven
22 bus routes, and so what we're trying to do is to

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1 get people to use the buses more.

2 So we're looking towards something
3 that is exciting to people, that will draw them
4 in, providing maybe much more information than is
5 right now given a bus stops, or maybe having
6 something inside of the property that is like a
7 small transportation center, that will send
8 Metrocheks and that sort of thing.

9 CHAIR HOOD: Okay, and also you
10 mentioned about the many plans that you have.
11 Since the property is in Ward 7 and within ANC
12 7B, and the ANC has the plans. It should rest
13 with the community and the ANC as the plans for
14 the redevelopment of the subject property evolved
15 over the years.

16 This is a major undertaking the way I
17 see it, and obviously you've had a lot of buy-in,
18 a lot of changes. I'm not asking you to speak
19 for the community, but I know, you're never going
20 to agree fully.

21 But as to those differences and the
22 gaps that were there, have they kind of been

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1 closed, any bridges in the issues there may have
2 been? I know this has been out there for years.

3 MS. BROWN-ROBERTS: Years, right. I
4 would say yes. I think one of the major thing
5 was that this property is zoned C-3A, and the
6 proposed FAR is way below that. I think the
7 applicant listened a lot to -- they had come in
8 some proposal of much taller buildings, and that
9 was something that the community did not like.

10 So you know, they lowered the
11 buildings. So I think this is sort of something,
12 the best so far, and you know, there are still
13 people there who are not in total agreement. But
14 I think there has been some buy-in.

15 CHAIR HOOD: Okay, good. That's
16 good. Okay, any other questions?

17 COMMISSIONER MAY: Yes.

18 CHAIR HOOD: Commissioner May?

19 COMMISSIONER MAY: Yes. The Good
20 Hope marketplace that showing up in the aerial
21 photo, that's a relatively new shopping center,
22 or is it just been facelifted? It's hard to

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1 tell.

2 MS. BROWN-ROBERTS: I think it has
3 been facelifted.

4 COMMISSIONER MAY: And is that major
5 retail?

6 MS. BROWN-ROBERTS: There's a
7 supermarket there, yes.

8 COMMISSIONER MAY: Okay. Was there
9 an attempt in the planning process to try to
10 reconcile the new streets with -- I know it's
11 kind of hard, but with the other streets?
12 Because you've introduced --

13 MS. BROWN-ROBERTS: The main street?

14 COMMISSIONER MAY: You know, new
15 intersections in the street that goes in front of
16 the big box retail, and then there's a new, you
17 know, where main street hits opposite Good Hope
18 marketplace as well. Is that all the work --

19 MS. BROWN-ROBERTS: It hasn't been
20 worked out, but they're working on it, to get
21 that intersection so that traffic can move easily
22 and you sort of have a one shot across, going

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1 across Alabama Avenue.

2 MS. STEINGASSER: I'd like to
3 interject, DDOT's been heavily involved in the
4 planning process to date, so that they're --

5 MS. BROWN-ROBERTS: They're aware of
6 it.

7 COMMISSIONER MAY: You know, one of
8 the things that strikes me about, and I mean I'm
9 obviously coming after there's been a lot of work
10 by many parties.

11 But the development overall is
12 obviously very inwardly-focused, and it's
13 situated amongst a number of roads that are
14 fairly broad and have sort of broad, sweeping
15 intersections and lots of turn lanes and things
16 like that, and it's a very sort of suburban
17 shopping center kind of feel to it.

18 It's clear from the architecture and
19 from some of the other moves that we're trying to
20 get away from that, and create more of a town
21 center that really does engage the neighborhood a
22 little bit more.

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1 But it's kind of hard to imagine how
2 it's going to all happen. I'm not sure what you
3 do about that, but this is just sort of my
4 overall reaction to it.

5 I would also agree with Commissioner
6 Turnbull's remarks with regard to the further
7 need for understanding the design. There's a lot
8 going on here, and it would be very, very helpful
9 to see drawings with, when we get to hearing
10 time, to be able to see drawings that have a
11 significant amount of detail to them.

12 What we see now is very
13 impressionistic, and it gives a good impression.

14 But it would be good to see more detail. I
15 also, and this is a recurring theme with me and
16 I'm not sure everybody will agree with me, but I
17 also believe in some simplification, and I think
18 some of the elevations are more successful than
19 others in terms of keeping, you know,
20 establishing a theme and keeping with it, and not
21 trying to vary the facades too much just for the
22 sake of variety.

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1 But a certain amount of
2 simplification, I think, would benefit the
3 project. And it would be very good to understand
4 more about what's going on with those interior
5 garage courts. I'm not quite as concerned, I
6 think, as Mr. Turnbull, because it seems like
7 it's all corridors that face on it.

8 But I've been in some buildings like
9 that where those sorts of treatments are done,
10 and it can really be unpleasant in that space.
11 So it would be good to know more about what's
12 happening there. I think that's it for me.
13 Thanks.

14 COMMISSIONER TURNBULL: Yes,
15 Commissioner May, I would agree. I think,
16 getting back to a single loading corridor, that
17 will go that long and to me just seems a rather
18 boring thing with what they're trying to do with
19 this site. With the opportunity to be able to
20 look into the courtyard, I think that there's
21 opportunities that could have been done, or could
22 have been achieved, that would have made it a

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1 little bit more boring.

2 I mean I have a feeling that this is
3 going to be a very -- I'm afraid of what the
4 single low loaded corridor is going to look like,
5 and how the people are actually going to
6 experience life in this building.

7 It's interesting, because they seem
8 really, really long. Judging from the number of
9 units that out there, not nearly as long as --the
10 corridors are not nearly as long as we've seen in
11 other buildings recently.

12 But you have to do something to break
13 up the corridors, and I'm just going to try to
14 have faith that what we see with those interior
15 courts are going to be something worth seeing,
16 because you can't -- you're going to have to have
17 windows into the courtyard. What are you going
18 to see, that sort of thing.

19 But we don't know any of that,
20 because we've only seen two dimensions.

21 COMMISSIONER MAY: Right.

22 CHAIR HOOD: Any other comments?

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1 Vice Chairman?

2 COMMISSIONER JEFFRIES: Yes. Mr.
3 Chairman, you know obviously I should probably
4 make some type of disclosure here, as it relates
5 to this project. This was the first project that
6 I worked on when I moved here for NCRC, and my
7 job was principally around land assembly and so
8 forth.

9 This project has really been in the
10 making for probably close to 20 years, if you
11 look at the work that the neighborhood has tried
12 to put into it.

13 I find myself, Commissioner May,
14 wanting to testify up here, but I'm not going to
15 do that, on a number of things you've questioned.

16 But I just wanted to put that on the record, and
17 I will participate in the set down. But I
18 probably will not be participating in the
19 hearing.

20 CHAIR HOOD: When you said 20 years,
21 I was telling Commissioner Keating that I was in
22 elementary school. He told me I wasn't, and I

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1 had to remember how old I was. Okay. Any other
2 discussion?

3 (No response.)

4 CHAIR HOOD: Okay. I would move that
5 we set down Zoning Commission Case No. 09-03 and
6 ask that the applicant take in the comments and
7 consideration of the comments that he heard from
8 the dias, and I ask for a second.

9 COMMISSIONER MAY: Second.

10 CHAIR HOOD: Moved and properly
11 seconded. Any further discussion?

12 (No response.)

13 CHAIR HOOD: All those in favor, aye?

14 (Chorus of ayes.)

15 CHAIR HOOD: Hearing no opposition,
16 Ms. Hanousek, could you record the vote, and it
17 was seconded by Commissioner May.

18 MS. HANOUSEK: Staff records the vote
19 5 to 0 to 0 to set down Zoning Commission Case
20 No. 09-03 as a contested case, Commissioner Hood
21 moving, Commissioner May seconding.
22 Commissioners Turnbull, Jeffries, Hood, May and

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1 Keating in favor.

2 CHAIR HOOD: What I would like to do
3 at this moment is to take a five minute break at
4 this point, and we'll be back shortly.

5 (Whereupon, a short recess was
6 taken.)

7 Proposed Action - Case No. 08-21

8 CHAIR HOOD: Last for discussion for
9 this meeting will be, other than our Office of
10 Planning status report, is the proposed action,
11 Zoning Commission Case No. 08-21, the Athena
12 Group, consolidated PUD and related map amendment
13 at 4460 MacArthur Boulevard, N.W.

14 We had started deliberating this at
15 our April 13th meeting, and we also allowed the
16 applicant to file a limited submission with the
17 parties' final responses thereto. The
18 submissions were filed and the case is before us
19 for consideration again.

20 Let me do this before I see if Ms.
21 Hanousek has anything additional. I would like
22 for us to put front of us Exhibit 82, 85, which

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1 is -- 82 is from the applicant; 85 is from ANC
2 3D, and Exhibit 83 is from Canal View Homeowners,
3 and also Palisades is Exhibit 84. Thank you.

4 Those are the ones that I kind of
5 worked with, and there was another exhibit. I
6 don't want anyone to think that we just omitted
7 anything. I think Exhibit 86, which was from Mr.
8 Schaeffer, a home owner who talked about the DDOT
9 and the street connectivity.

10 So that's what we have before us.
11 We're going to start deliberations. I'm actually
12 going to step out to get my packet, because I
13 don't have it. That's what I stopped five
14 minutes ago to do.

15 But anyway, Ms. Hanousek, do you have
16 anything extra, anything additional?

17 MS. HANOUSEK: No sir.

18 CHAIR HOOD: Okay. What I'd like to
19 do is to look at Exhibit 22, and this was the
20 submission that the applicant -- oh, I'm sorry,
21 Exhibit 82, and this was the submission that the
22 applicant submitted. A lot of it was per our

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1 request. I asked for what's on page one, along
2 with others, showing the balancing of the
3 amenities to the degree of the -- what's being
4 asked for, the flexibility.

5 Also I think someone asked for a
6 volumetric, and that's behind number three, Tab 3
7 and so on and so forth. I'm not sure who asked
8 for what, so what I'll do is open it up for any
9 questions, comments on the submissions we've got,
10 and we'll just take it from there.

11 (Pause.)

12 CHAIR HOOD: I'm being made aware
13 that we did have Exhibits 87 and 88 that were in
14 the packet also. I just didn't name everything.
15 It's not that we didn't look at it.

16 I just thought that those submissions
17 that I mentioned were very germane to exactly
18 what we were asking for in the response from the
19 applicant, as well as comments from the parties.

20 COMMISSIONER MAY: Mr. Chairman?

21 CHAIR HOOD: Sure, yes.

22 COMMISSIONER MAY: 87 addresses one

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1 of the issues that was raised in the other
2 submissions that we had gotten from the neighbors
3 and such, which is that the -- with regard to
4 what could be built in the R-5A zone as a matter
5 of right.

6 I'm still trying to track this and
7 understand it, and I guess I'm wondering what the
8 Office of Planning's opinion is on that.

9 CHAIR HOOD: Okay. Let's go to them.

10 Ms. Brown-Roberts -- oh, Ms. Steingasser?

11 MS. STEINGASSER: That's based on a
12 provision in Chapter 4. "While single family and
13 semi-detached are a permitted matter of right
14 use, the lot area in the R-5A has to be
15 prescribed or permitted by the Board of Zoning
16 Adjustments."

17 So there is no matter of right use
18 that an applicant could apply for a building
19 permit for, without some form of zoning relief.

20 CHAIR HOOD: Mr. May, are you
21 referring to, and I think I read somewhere where
22 I think one of the opponents was saying that they

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1 needed special exception relief from -- are you
2 referring to that document?

3 COMMISSIONER MAY: Yes. I mean one
4 of the questions that's been sort of nagging us
5 as we deliberate this has been, you know, what
6 could you be doing on this site as a matter of
7 right, and there's been a significant
8 disagreement between the applicant and the
9 neighbors about what's permissible as a matter of
10 right.

11 Now, you know, we have this back and
12 forth now about whether semi-detached and
13 detached houses can be built as a matter of
14 right. I guess I'm just looking at 88 right now,
15 so I don't know what the neighbors' latest
16 argument is on this.

17 CHAIR HOOD: Who asked for the
18 volumetric? I think it's behind 3, and I can't
19 remember exactly what. Was it you?

20 COMMISSIONER JEFFRIES: I think it
21 was me.

22 CHAIR HOOD: Okay, I think it was

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1 you, Vice Chair. Could you remind me, what did
2 you ask for? Did you ask for -- you asked for
3 matter of right, how it sits as a matter of
4 right?

5 COMMISSIONER JEFFRIES: Well, I can't
6 recall. I mean normally, I guess there were so
7 many questions around FAR and density and the
8 appropriateness of this development and this
9 community.

10 I just wanted to see a volumetric of
11 just what, you know, from a bird's eye view, in
12 terms of what you'd be looking at here, and just
13 eyeball it.

14 I don't recall asking for a
15 volumetric for matter of right. I mean maybe I
16 did, or did I? Okay, I did, which is -- and I'm
17 looking at that. Obviously, it's somewhat
18 disturbing. But you know, listening to
19 Commissioner May, obviously there's several ways
20 to skin a cat here, I would imagine, in terms of
21 matter of right development, than what's being
22 shown.

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1 CHAIR HOOD: I will tell you all,
2 from the information, I think the opponents have
3 made a very compelling argument, especially when
4 I look at some of the things that I think have
5 been omitted. It may have been omitted by the
6 applicant or maybe I omitted or maybe I just
7 didn't see it, and I'm sure my colleagues, you
8 guys, will help me.

9 When we talk about deviations from
10 2516, deviations from what? Because when I read
11 2516, you know, normally we specify A, B, C or --
12 let me turn to it -- 2516 has 16.1 through 16.11.

13 When I look at -- and maybe it's specified in
14 here, and maybe I missed it.

15 Those are some of the concerns that I
16 have as far as trying to make sense of what
17 exactly is being asked for, what's not being
18 asked for, what are we doing. So that doesn't
19 give me a comfort level --

20 COMMISSIONER MAY: Mr. Chairman?

21 CHAIR HOOD: Can you help through
22 this situation?

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1 COMMISSIONER MAY: The thing that I
2 found most troubling in all the discussion on
3 2516 is 2516.6(a), which says "The area of land
4 that forms a coveted means of ingress or egress
5 shall not be included in the area of any
6 theoretical lot, or in any yard that is required
7 by this title."

8 Which, you know, basically means that
9 with a theoretical lot subdivision, we have to
10 treat all of the roads and alleys as if they were
11 public space, and subtract them from the FAR
12 calculations and not consider them when measuring
13 things like yards and so on.

14 I don't recall ever having to deal
15 head-on with this particular clause, although I
16 certainly have been involved in many PUD cases
17 where this particular issue didn't come up,
18 except for, you know, kind of the occasional
19 complaint about how the open space seems to
20 include all of these roads and alleys.

21 So I guess I'm interested in hearing
22 what the Office of Planning has to say on this

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1 topic as well, because you know, this is --
2 raising this issue right now in this case is not
3 something that -- I mean it's just not come up
4 before in my previous experience, or at least not
5 that I recall.

6 It seems inconsistent with the way
7 PUDs have been treated in the past. But maybe
8 I'm wrong about that.

9 CHAIR HOOD: So let me make sure. I
10 was looking at the whole 2516, but you nailed it
11 down to 2516.6(a), which is the area of land that
12 forms a coveted means of ingress and egress shall
13 not be included in the area of any theoretical
14 lot, or in any yard that is required by this
15 title." Ms. Steingasser, can you help us?

16 MS. STEINGASSER: I believe the
17 applicant is specifically requesting relief from
18 that provision, to allow for this type of
19 calculation. It's true, when it's a straight
20 theoretical lot subdivision before the BZA,
21 that's strictly adhered to. But in the PUD,
22 there's a little more flexibility that the

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1 Commission can grant.

2 COMMISSIONER MAY: But in effect, by
3 granting an exception to that one clause, that
4 can effectively grant very substantial additional
5 FAR and very substantial additional relief to lot
6 occupancy and yard requirements, I mean with just
7 one fell swoop.

8 MS. STEINGASSER: That's true.
9 That's correct.

10 COMMISSIONER MAY: In the past, the
11 Zoning Commission has simply done that or not
12 explicitly?

13 MS. STEINGASSER: I don't know. I
14 honestly don't. I can't think of a PUD off the
15 top of my head, that involves 2516.

16 COMMISSIONER JEFFRIES: So if we did
17 not count the roads and so forth, then what kind
18 of -- what's the resulting FAR?

19 COMMISSIONER MAY: I don't know, but
20 I think it's over 1.0, which is the limit. If
21 you subtract out the roads, I don't think they
22 can get up.

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1 COMMISSIONER JEFFRIES: But nobody
2 knows exactly what it is?

3 COMMISSIONER MAY: I don't know.
4 Maybe it's in here. Maybe it's been calculated
5 by the neighbors. I don't know. I don't think
6 that the applicant has provided a calculation for
7 that, but I don't recall.

8 We did ask a question early on about
9 how much of the open space is roadway. So we
10 have some information about it.

11 COMMISSIONER JEFFRIES: But there is
12 -- I mean the volume is, you know, I hear your
13 point. But I guess as I look at the volumetric
14 or the aerial perspective here, I mean you know,
15 I'm still looking at the notion of volume and,
16 you know, the impact it has on the surrounding
17 community.

18 So I guess we dealt with this in a
19 very technical sense, I mean yes, I clearly
20 understand. But still the volume sort of
21 represents sort of one's experience as they're
22 walking through this thing.

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1 COMMISSIONER MAY: What does the
2 volumetric tell you about the impact of this on
3 the neighborhood? I mean does it make you more
4 comfortable or less comfortable?

5 COMMISSIONER JEFFRIES: Well, it
6 makes me a little more comfortable that the
7 buildings are -- I mean clearly, this building
8 that's behind the building that's on MacArthur is
9 problematic. But as I look at this, I mean the
10 volume aspect of it and the open space, you know,
11 makes me find it probably minimally acceptable
12 here.

13 This is a tough case. This is a
14 tough application. But again, as I think we've
15 gotten into the technical aspects of, you know,
16 how we address roadways and so forth, I clearly
17 am on that page with you.

18 But I think one's experience here, at
19 least how I see it, it looks like it's
20 appropriately or just above the point of being,
21 you know, acceptable in terms of just spacing,
22 and how it sits within this adjacent

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1 neighborhood.

2 COMMISSIONER MAY: Well, I'd have to
3 agree. I mean the volumetric study which shows
4 the proposed development in three dimensions, and
5 this sort of aerial view of the site, it doesn't
6 give me a great deal of heartburn in terms of how
7 it will sit in the neighborhood.

8 You know, I could find just as -- I
9 find other developments in the area just as
10 potentially having a negative impact as that. I
11 mean I don't think, for example, Canal View is a
12 really exemplary development. I think is that
13 what it is, Canal View is the lava rock place. I
14 mean I don't think that's a particularly
15 brilliant development, but it's a different kind
16 of density.

17 Then there are other townhouse rows
18 and other little apartment blocks and things like
19 that that are, you know, kind of similar in
20 nature. Certainly the two very large single
21 family homes that were built on Linton Road,
22 there at the very end, you know, those are very

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1 big houses.

2 However, you know, I'm trying to find
3 something about this PUD that I really like, and
4 you know, when I look at it from the neighbor's
5 perspective, there's plenty about it that I don't
6 like.

7 When I look at it from the
8 developer's perspective, there's, you know, I
9 don't -- I think in many areas they've made a
10 reasonable case that this level of development is
11 okay, in sort of gross terms.

12 When they get down to the particulars
13 of it, you know, there's not a lot that I really,
14 really like.

15 COMMISSIONER JEFFRIES: Yes, and you
16 know, I guess I'm more sympathetic as it relates
17 to the size of the development, because you know,
18 the applicant hasn't talked about this, but I
19 think if you talk two or three homes out of this
20 development, I just, you know, in terms of
21 economic viability and I know that we don't look
22 at that.

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1 I just -- I'm just thinking that this
2 could become somewhat of a difficult project to
3 bring to bear. I don't know that for a fact, but
4 you know, we've certainly seen up here a number
5 of developments where there's just two or three
6 homes that make up the profit.

7 You get rid of them and, you know,
8 it's all over. I just wonder in terms of site
9 preparation costs and so forth, that you know,
10 what we're talking about here. So the problem I
11 have with this case is that it's just not a lot
12 of room, a lot of flexibility room.

13 I mean either you're just going to
14 say yes to this or you're going to say no.
15 There's just not a lot of places to go and chop
16 things off or make drastic changes to make it
17 great. I mean I think I've commented that this
18 interior court area, I want it to be something
19 else that it just isn't.

20 I wish someone could, you know,
21 propose something that is much more attractive.

22 COMMISSIONER TURNBULL: The

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1 interior. Are you referring to the alley area?

2 COMMISSIONER JEFFRIES: Well, this --
3 the green.

4 COMMISSIONER TURNBULL: The green.

5 COMMISSIONER JEFFRIES: I mean it's
6 just a real peculiar space, you know. We've been
7 at this for a while. I believe the applicant
8 tried to put forward examples of this kind of
9 situation. It just looks like the green wants to
10 be something else that it just isn't, and I would
11 agree, Commissioner May. This is a very tough
12 application.

13 CHAIR HOOD: You know, before we --
14 because I'm pretty much -- I will tell you, the
15 way it exists now, I'll be frankly honest. I
16 don't think it meets the test of the 2516.6(a).
17 I have some issues with it. But you know, with
18 2516 period.

19 But I think that we need to look at
20 this. We need to look at the FAR. We need to
21 ask a few questions or answer a few questions
22 before we go down this road, because here's what

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1 I would --

2 I think that in the last hearing, I
3 think it was this case. I'm getting them mixed
4 up now; they're starting to run together. But I
5 think we asked the applicant to work along with
6 the community. Then when I looked again, by the
7 comments from those exhibits that I reviewed,
8 apparently the way I read it, we may have sent
9 them further apart. We were closer together
10 prior to us even asking them to go back.

11 COMMISSIONER MAY: Yes. I mean I
12 don't see any indication that the applicant
13 really talked seriously with the neighbors after
14 the last meeting. That was, you know, that's
15 disappointing.

16 You know, I think that the ultimate
17 request that was made, I'm not sure which --
18 whether it came from the ANC or who, but there
19 was the 32 homes and nothing over three stories,
20 and those were the sort of bottom line final
21 issues.

22 The applicant's response was either

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1 no response or no, I'm not sure which. We didn't
2 see anything specific from the applicant.

3 CHAIR HOOD: One of the things that
4 was in the ANC letter, and I'm not asking the
5 applicant to go 100 percent. We was just looking
6 for some more closer to the gap than what we
7 were, because at the end of the day, the way I
8 see it, the community is the ones, they're going
9 to be the ones that live there. They're going to
10 be the ones that will have to endure whatever we
11 approve.

12 But this is what I have highlighted.

13 "The ANC offered to drop all of its conditions
14 to supporting the PUD if the applicant would
15 limit all buildings to no more than" -- I think
16 you mentioned this -- "to three stories, and
17 reduce the number of units to 32. Athena
18 rejected this compromise offer."

19 The way I read it, is that the
20 applicant just, it was like it was no discussion.

21 We're not hearing it, we're not having it. Let
22 me just say this. The ANC is also concerned

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1 about consideration given by the Zoning
2 Commission to the applicant's statement that
3 compliance with the ANC conditions kills the
4 project.

5 I don't think there was ever an
6 intent of this Commission to even implicate that,
7 to even insinuate or even give the impression of
8 that. I think the question was, we were trying
9 to figure out how we can bridge the gap, because
10 we will make the decision.

11 Yes, something needs to be done. I
12 think everybody believes that. I think basically
13 at the end of the day, though, we're looking at
14 FAR. I mean at least that's what this
15 commissioner is looking at.

16 COMMISSIONER MAY: Well, I mean to
17 some extent it could be height. The thing about
18 FAR is that an overall FAR of 1.0, if we put
19 2516.6(a) to the side for the moment, the FAR
20 less than 1.0 is really not an onerous level of
21 development of building.

22 What it is, is it's 36 units. So

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1 it's 36 cars or 72 cars, whatever the number is,
2 I guess probably two per unit, plus visitors and
3 all that. So it's the number of units drives up
4 the number of vehicles and things like that. I
5 think that's where the impact comes from.

6 The other area where the impact comes
7 from is the height, and I think four story
8 townhouses of this type is, I mean it's hard to
9 understand where the demand is really coming from
10 for that height of development. I mean I don't
11 know. I mean --

12 COMMISSIONER JEFFRIES: The demand
13 for this --

14 COMMISSIONER MAY: Well, I mean the -
15 - most of the city where you have townhouse
16 development are two and three-stories fully above
17 grade. Sometimes you have an English basement or
18 something like that, so technically that's a
19 story.

20 This development isn't really like
21 that, because every one of them, I mean every one
22 of the stories is fully above grade, because they

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1 start out on a slab with a parking space.

2 COMMISSIONER JEFFRIES: But they're
3 stacked town homes, though.

4 COMMISSIONER MAY: Is that what these
5 are? These are not stacked town homes. I mean
6 they're separate town homes. Stacked, I'm
7 thinking one on top of each other, no.

8 CHAIR HOOD: Where you might have
9 more than one family living in it.

10 COMMISSIONER MAY: Right.

11 CHAIR HOOD: Right. That's stacked.

12 COMMISSIONER MAY: That's what I
13 think.

14 CHAIR HOOD: So Commissioner May, let
15 me just ask. So you don't have really an issue
16 with the FAR like I do?

17 COMMISSIONER MAY: No, not so much
18 FAR. You know, if the applicant came back to us
19 and knocked off a couple of units, I'd have seen
20 some movement. I'd have a more favorable
21 impression at this point.

22 Or if they had come back and said

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1 well you know what? We're just going to reduce
2 the height of one of the blocks of buildings, in
3 response to some of the concerns of the
4 neighborhood. That would have shown some
5 movement as well.

6 But we don't have either of those.
7 We have just sort of a flat no.

8 COMMISSIONER JEFFRIES: Well, but
9 they did take off one of the units.

10 COMMISSIONER MAY: I mean since the
11 last meeting, when we were trying to push them to
12 come a little closer together.

13 COMMISSIONER JEFFRIES: And then the
14 community, what movement did they make?

15 COMMISSIONER MAY: Well, they said
16 forget about the long list of conditions. We'll
17 boil it down to just this, 32 units max and
18 maximum of three stories.

19 CHAIR HOOD: I think that came from
20 the ANC. I don't know if everybody -- well,
21 you're not going to reach everybody, but --

22 COMMISSIONER MAY: Yes. But the ANC

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1 started out with a list of 11 conditions or
2 something, right?

3 CHAIR HOOD: They dropped it all to
4 one, and it specifically says "The ANC offered to
5 drop all of its conditions to supporting the PUD
6 if the applicant would limit all buildings to no
7 more than three stories and reduce the number of
8 units to 32. Athena rejected this compromise
9 offer."

10 COMMISSIONER MAY: And I'm not
11 suggesting that the applicant shouldn't simply
12 agree to that, but I mean got the sense from the
13 additional submissions that we have some
14 flexibility, some movement on the part of the ANC
15 and the neighbors, and the applicant just wrote
16 more stuff to prove their case.

17 COMMISSIONER JEFFRIES: But you know,
18 I go back to this whole notion that this is not a
19 large development. It just isn't, and I think
20 that we could very easily say okay, take off the
21 floors several feet and do X and do Y.

22 My suspicion is that it really does

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1 have some impact on this development, in terms of
2 the ability to deliver it. I mean in terms of
3 the size of units, I mean my suspicion is that
4 they have worked closely with a broker, who knows
5 what the demand is for types of housing in this
6 neighborhood and area.

7 I'm just, you know, I don't
8 understand why the applicant would be so
9 resistant at this point, given our comments here,
10 unless of course, you know, they're at their
11 tipping point. And again, I don't fully know
12 that, but again, this is not a large development.

13 COMMISSIONER MAY: You know, and I
14 think I agree with you, that from the point of
15 view of the FAR, it's not a large development. I
16 can even be convinced, I think, that 36 is an
17 okay number of units.

18 What I think still bothers me the
19 most is the inflexibility on height, and if the
20 units were a little deeper, a little squatter,
21 I'm not sure how -- maybe there's some way to
22 make them work, where the height or the

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1 perception of height is not as strong, because
2 that's really makes it seem quite massive.

3 You know, height in itself,
4 particularly the way zoning measures height, can
5 either be done, you know, kind of in your face or
6 it can be done in a way that mitigates the impact
7 or pushes the height and the perception of height
8 away from the neighbors.

9 I think that's the thing that still
10 bothers me the most, is just the height,
11 particularly the row of buildings along the
12 backside there.

13 COMMISSIONER JEFFRIES: Yes, I just -
14 - I'm really. I'm sorry.

15 COMMISSIONER KEATING: I didn't mean
16 to interrupt you.

17 COMMISSIONER JEFFRIES: Just, you
18 know, it would be interesting to look at
19 comparables in terms of other developments that
20 are in the area, and sort of what those heights
21 are in terms of the ability to make certain that
22 they sell these homes.

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1 I mean it's just -- I don't know. I
2 guess I've found myself being a little more
3 sympathetic with the applicant, in terms of
4 what's being presented here. Not by a lot, I'll
5 say that, but just somewhat a little more
6 sympathetic than perhaps some of my colleagues
7 here.

8 CHAIR HOOD: Commissioner Keating?

9 COMMISSIONER KEATING: Yes. No, I
10 hear you. It's not that unsympathetic to the
11 economics of any development. I mean obviously
12 that's not what we're here to consider, but it
13 plays a role in this.

14 But I guess my frustration kind of
15 with this project, I would have liked to have
16 seen, I think it was my comments at the end of
17 the last meeting on this, you know, the greater
18 community and the applicant coming together to
19 find some common ground. I didn't see that.

20 But sitting here, looking at the
21 documents that were submitted afterwards, I'm
22 looking again at this issue of affordable

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1 housing, and I am frustrated. You know, I look
2 at this and I say -- I think my comments last
3 time were I felt the affordable housing needed to
4 look indistinguishable from the other units.

5 Yet when I open up Exhibit 5, you
6 know, I can see the affordable housing units very
7 clearly. It wasn't hard for me to pick out where
8 they are on this image in Exhibit 5.

9 But when I go back to the text, I
10 read again from the applicant that they disagree
11 with the ANC, that the affordable housing units
12 are distinguishable from the market rate units.
13 Well, I'm perplexed.

14 Telling me that the affordable
15 housing units can be smaller because it's
16 consistent with inclusionary zoning regulations,
17 I think comments are falling on deaf ears and I
18 don't understand why.

19 COMMISSIONER MAY: Mr. Keating, can I
20 talk to that one point for just a second?

21 COMMISSIONER KEATING: Sure.

22 COMMISSIONER MAY: You know, one of

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1 the things about affordable housing and how you
2 can integrate it into a neighborhood has to do
3 with some of the more subtle aspects of a design.

4 I mean it's possible to take a full width unit
5 and essentially have two doors behind the front
6 door, so that you have an upstairs and a
7 downstairs unit or something like that.

8 So that from the exterior, they don't
9 appear to be any different. Or you can do things
10 where, I mean in this circumstance, you could
11 just -- you could have more units that were 14
12 feet wide, and some of them have the full height
13 and some of them don't.

14 You could also do things with the
15 depth of the unit, so that they might be the same
16 width but they're just not quite as deep, and
17 those things aren't done. So yeah, I mean I
18 think the bottom line is that what they're
19 showing us is something that clearly is
20 distinguishable.

21 If that were the only issue with the
22 case, it would be a much easier case to deal

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1 with.

2 COMMISSIONER JEFFRIES: But there's
3 one thing you do like, Commissioner May.

4 COMMISSIONER MAY: Oh please, tell
5 me.

6 COMMISSIONER JEFFRIES: Wasn't it the
7 retaining wall?

8 COMMISSIONER MAY: Oh actually yes.
9 I thought that there had been a lot of progress
10 on the retaining wall.

11 COMMISSIONER JEFFRIES: Probably a
12 lot of money too, in terms of what they proposed.
13 But I mean -- and I know we don't look at that,
14 but you liked that?

15 COMMISSIONER MAY: You're right, I
16 did.

17 CHAIR HOOD: Anytime in this
18 deliberation, I am open for any motion, if
19 someone feels so inclined or so supportive or not
20 supportive. But you know, I just see us being in
21 the same exact place, and I have to go along with
22 Commissioner Keating, you know, it's troublesome.

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1 Even though it may be a different
2 issue, but we're in the same place that we were
3 what, two weeks or was it a month ago? We're
4 here so often, I don't know when it was. But
5 anyway, the last time we dealt with it, the 13th,
6 April the 13th.

7 The way the submittals are, the
8 submissions came in, it looked as though the
9 opposition or the opponents, and I'm not taking
10 this as factual; I'm only going by what's in the
11 record, made efforts to try to have a
12 conversation.

13 It doesn't look like the applicant
14 was open to a conversation. That's what I'm
15 reading. Now I wasn't there, and I'm not saying
16 that's exactly how it happened, but that's what
17 the record is clear on. Yes, the applicant was
18 very responsive, especially me, with compliance
19 on Section 2403.8.

20 But when I look at deviations,
21 deviations from what? The affordable, as my
22 colleague mentioned. One thing I did notice is

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1 that, and I'm not sure which one of the opposing
2 parties mentioned this about the construction
3 management plan, actually that is in our
4 jurisdiction.

5 The applicant proffered a
6 construction plan to us. So you're looking and
7 trying to see, strike the balance. Yes, we can
8 do that. We can do special exceptions. We can
9 do variances. So that it within our
10 jurisdiction. So that's not in question.

11 The question for me is well, it's
12 density basically, the FAR is my issue and I know
13 it's not your issue. But it's my issue. But let
14 me see if -- I guess what I want to do is see,
15 and I think the applicant has heard us or I hope
16 they have, because you know, when I look at the
17 regulation of -- I just asked for this.

18 3029, where was that at? Which one?
19 Point 4. Thank you. "No application or
20 petition essentially the same as the denied
21 following a hearing shall be accepted for filing
22 within one year after denial."

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1 Now I'm not saying it's going to be
2 denied, but there is some serious concern up here
3 from my colleagues with what's before us. I
4 don't know. But I really didn't hear from you,
5 Mr. Turnbull.

6 COMMISSIONER TURNBULL: Mr.
7 Chairman, I think I echo, I think, the thoughts
8 of a lot of other Commissioners. In fact, I
9 think I remember talking specifically about the
10 two groups, the parties getting together to talk
11 about some of these things.

12 I guess what's frustrating is that
13 36, 32, no counter of 34. You didn't hear a 35.
14 You didn't even hear anything about well, maybe
15 we could lower the ends of certain rows.

16 I guess I'm not -- is it that tight
17 that there isn't any compromise that can be made?

18 I mean you saw the ANC saying hey, you know,
19 we'll back off everything if you, and you think
20 there could have been a pushback that said "Well,
21 we can't do 32. We need 34. We could lower some
22 of the units at certain areas here, to try to

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1 blend it in more with the neighborhood. We could
2 try stepping down a little further."

3 I think there's -- I don't know, and
4 again this is a tough case to start -- you know,
5 when you start getting into the weeds on this,
6 because there is a lot of community feeling
7 against this project going ahead, with the
8 density that it's at and the way it looks.

9 And again yes, I can look at the
10 matter of right and say gee, that looks
11 horrendous, the way it's laid out. But you have
12 an opportunity here to do something, to do a good
13 project. It's got a lot of aspects to it now
14 which are good. But there's a -- it's like
15 there's a little give and take that needs to be
16 done more to make this thing mesh out better.

17 So you're right. I'm with you, Mr.
18 Chair. I think we've got some problems.

19 COMMISSIONER JEFFRIES: Let me, I
20 just want to put this on the record here, for my
21 fellow commissioners here. So we're pretty
22 comfortable that the amenities that are being

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1 offered, you know, really do not represent the
2 relief that's being requested here?

3 Do we think that they are so far off
4 and not balanced here that -- I mean I know
5 there's other things, but I'm just really trying
6 to deal with this whole notion of sort of the
7 balance between what's being offered in this
8 project, what they're actually offering the
9 community and the city at large, versus what the
10 request is here.

11 CHAIR HOOD: Are you asking?

12 COMMISSIONER JEFFRIES: Yes, I'm
13 asking. We're at a meeting.

14 CHAIR HOOD: You're asking me or --

15 COMMISSIONER JEFFRIES: I'm asking
16 commissioners, fellow commissioners.

17 CHAIR HOOD: I was actually the one
18 who asked for it, and as I stated early on,
19 2516.6(a) was an issue which I agree with
20 Commissioner May. But anyway with that, we're
21 looking at we're reconciling here as far as
22 amenities.

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1 The affordable units, I think someone
2 has already mentioned. I do not recall in the
3 MacArthur Boulevard beautification, and I think
4 someone in one of the exhibits, you guys can help
5 me, eluded to that as far as the beatification.
6 I don't know which exhibit it was, because we
7 have three from three of the opposing parties.

8 But as far as I'm concerned, I just
9 think that what we specifically asked, Vice
10 Chairman, was that they try to come back and try
11 to get something amenable. Now is the
12 neighborhood going to accept it 100 percent? No.
13 We're not looking for that.

14 We're looking for some progress and
15 some movement, and we're having the exact same
16 discussion that we had previously. I will just
17 say this. I don't have a problem making a
18 motion. I think the record is not complete.
19 We've asked to try to bridge the gap. I think
20 that there's some things that are being asked
21 for, and as we eventually figured out, about the
22 rear, I think it's the rear yard. What was

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1 that? Was it the rear yard or side yard you
2 mentioned earlier? Was it the rear yard?

3 COMMISSIONER MAY: You mean in terms
4 of 2516?

5 CHAIR HOOD: Yes.

6 COMMISSIONER MAY: 2516 raises issues
7 of FAR, lot occupancy, rear yards and side yards.

8 CHAIR HOOD: Yes, because you
9 specifically mentioned, I think, egress and
10 ingress, ingress and egress. So there are some
11 issues that I don't think that have been brought
12 to our attention, and I'm not saying that this
13 application is trying to get them through us.

14 But there are some issues that are
15 still out here that are outstanding that needs to
16 be addressed, and I just don't see that. I'll
17 also say this. I'm also cognizant of hearing my
18 fellow commissioners in due diligence. I mean we
19 can keep going back and forth, Vice Chair, but
20 it's not doing any good. The votes are not here.

21 So that's why I asked what the
22 regulations were, and I can hear.

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1 COMMISSIONER JEFFRIES: But Mr.
2 Chair, I can certainly speak -- I can certainly
3 speak up.

4 CHAIR HOOD: You can speak. No, I'm
5 not saying that. I'm just saying the votes are
6 not here. What I'm trying to do for the
7 applicant, and this was not directed to you at
8 all. I'm just saying I'm counting the votes from
9 my commissioners, and I think that's what a chair
10 does, and I think most of us want to see
11 something happen here.

12 So I'm trying to balance all that.
13 Right now you're ready to vote.

14 COMMISSIONER JEFFRIES: No, I'm not
15 ready to vote. I'm just here, I'm still
16 deliberating. I mean we're having a meeting. I
17 mean, you know, so I'm just asking questions. I
18 just want to get some clarity from the other
19 commissioners as it relates to this whole notion
20 of amenities versus relief requested. That's
21 all.

22 So I'm not trying to move ahead and

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1 take a vote and all that. The other thing that I
2 wanted to point out as well is that, you know,
3 the ANC 3D, I mean I'm very appreciative that
4 they have come as far as they have.

5 But quite frankly, what they still,
6 you know, put as a condition to this applicant, I
7 mean that's the whole enchilada. I mean that's
8 90 percent. I mean you know really the issue of
9 a number of units and height, I mean that's the
10 enchilada.

11 So while I'm appreciative that the
12 ANC has moved, you know, I'm just again, and the
13 last time I'll state this, I'm just somewhat
14 suspicious that this applicant may have reached
15 its tipping point for a project that's somewhat
16 small.

17 So I just wanted to put that on the
18 record. If anyone cares to comment on the
19 amenities versus the relief being requested, and
20 whether, you know. Because I'm still remembering
21 that retaining wall and all the discussion around
22 the wetlands and the work that was done there,

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1 and that was early on in our discussion.

2 COMMISSIONER MAY: I'll take a shot
3 at the benefits, if you'd like, a little bit. I
4 mean what's being shown as the amenities, the
5 affordable units, the numbers that they're
6 throwing at us, in terms of the value-added,
7 that's a very hard thing to gauge in terms of a
8 gross dollar amount like that, without a specific
9 calculation of -- I mean is that a \$400,000
10 discount per unit that's going to be offered? I
11 mean does anybody know?

12 CHAIR HOOD: But you bring up another
13 issue. If the IZ comes in place, then that is
14 not profitable. I mean it has a net value of
15 zero, the way I read it.

16 COMMISSIONER MAY: Well, I mean this
17 wouldn't match the IZ requirements anyway, right?

18 CHAIR HOOD: I think it would,
19 wouldn't it? I think from what they're
20 proffering, if IZ is in effect, I think we will
21 have a net of zero. I stand to be corrected.

22 COMMISSIONER JEFFRIES: Office of

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1 Planning, could you comment on that at all?

2 MS. STEINGASSER: Well apparently
3 there was some misreading of the current IZ regs
4 that the Attorney General brought to our
5 attention moments before the meeting started this
6 evening, about what -- that the IZ regs are
7 somewhat applicable to this PUD, based on the
8 matter of right standard.

9 So matter of right standard would be
10 applicable. We have not had time to go back and
11 calculate, because of the split zoning, what
12 those matter of right standards would be. So at
13 this point, we're just not prepared to weigh in
14 with an exact figure.

15 COMMISSIONER MAY: So we need to
16 postpone voting because we need more information?

17 CHAIR HOOD: No actually -- you know,
18 what I was trying to do, and this is where I was
19 going with the Vice Chair, I think I would --
20 this is from my standpoint. I would like to see
21 something happen. I would like to see a little
22 more of what we asked for the last time.

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1 As I've heard from at least three of
2 my commissioners, well most of us up here, we
3 haven't saw any movement. But then I also -- the
4 Vice Chair also was making a very valid point,
5 the tipping point.

6 In trying to balance all that out, I
7 will tell you, I'm at the same place that I was
8 at the last hearing. I just needed to see some
9 kind of movement, you know, because at the end of
10 the day, I know the regulations are here. But at
11 the end of the day, the folks in the
12 neighborhood, not the applicant, unless the
13 applicant lives in the neighborhood -- I don't
14 know -- those are the ones who are going to
15 endure.

16 That's just where I am. I just don't
17 see anything that's basically giving them some
18 kind of relief for what they're going to endure
19 and what they're going to have to deal with. So
20 without us taking a vote tonight, because you
21 know, I don't have any problems making a motion,
22 I would like for us maybe to go back down that

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1 road again.

2 COMMISSIONER MAY: Well yes. I would
3 say that if I were to guess at what the vote
4 would be if we took a vote right now, I don't
5 think the project will move ahead.

6 So and I mean that's a terrible spot
7 to be in. I mean the last thing we want to do is
8 bring something along this far and then wind up
9 voting against it.

10 If there's room to make it better,
11 then I would be interested in finding out how
12 much better it could be, make it more worth
13 voting for at this point.

14 CHAIR HOOD: Do we go back down --
15 obviously, with no -- and I hear what you're
16 saying, but obviously with no movement or no
17 changes or tweaks or comments, maybe the
18 applicant already feels like there's no room to
19 make it better. Maybe this is the best they can
20 do.

21 COMMISSIONER JEFFRIES: But I will
22 say that the applicant has made several changes

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1 to this development over the course of several
2 hearings and so forth. Now I hear you, Chair,
3 that there hasn't been any movement from the 13th
4 until now, I mean, from where you sit.

5 But I have seen some changes and some
6 movements in this development from when we first
7 looked it set-down. But you know, I would agree
8 with you that, you know, it doesn't seem like
9 there's an appetite up here to move forward on
10 this tonight.

11 I would agree with Commissioner May.
12 I don't think we should take a vote on this
13 tonight, given the amount of time and effort and
14 money and so forth that's been invested in this,
15 you know. To bring them to the 11th hour here
16 and to a denial just seems to be quite harsh.

17 CHAIR HOOD: You know what? We're
18 not agreeing on that, and that's why I asked what
19 the regulation was if it was to deny, and that's
20 why I went through all that exercise.

21 I think, you know, for the most part
22 we're where we were last time. I think the

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1 seriousness of it and I think here's what I hear,
2 and I'm saying this to all parties involved.
3 What I hear is a commission who still has some
4 concerns, who validates some of what the
5 opposition has proposed. We're just looking for
6 some more bend.

7 But also here's a commission that
8 does not want to turn a project down. That's the
9 way I see this. That's the way I see it, because
10 for us not to take a vote tonight and again ask
11 for some more coming to the table or meeting of
12 the minds, I think that says a lot for the
13 Commission.

14 Now everybody might not like it. You
15 might not get it all 100 percent your way, but I
16 think that's us again doing our due diligence and
17 taking into consideration, as the Vice Chair
18 said. There's a lot of work, time put in and we
19 had how many hearings? I can't remember. We've
20 been having quite a few lately, but three, four.

21 Well, however many hearings we had.
22 So everybody now has put time in, and I know the

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1 applicant and the community has too. But again,
2 here we are again asking for some of the same
3 things. Will you come back applicant, with
4 everything, with what the community wants? No, I
5 don't believe so.

6 But can we do, as Commissioner May
7 says, see if we can make this a better project?
8 I don't want to put words in your mouth, but I
9 think that's what you said. Let's see if we can
10 do that.

11 COMMISSIONER JEFFRIES: And if you
12 can't do that --

13 CHAIR HOOD: Exactly.

14 COMMISSIONER JEFFRIES: you need to
15 offer a quite robust defense why you simply
16 cannot, you know.

17 COMMISSIONER MAY: What's the, from
18 our viewpoint, the biggest thing? Is it the
19 number of units or is the height related to
20 density? What is our biggest, that we can give
21 them some better direction?

22 COMMISSIONER JEFFRIES: Why don't we

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1 do a survey, one at a time. You start.

2 COMMISSIONER MAY: We're going to
3 give some direction. I mean I --

4 CHAIR HOOD: Let me ask you. Didn't
5 we do this the last time? Yes, we did. We
6 wouldn't have sent them out of here without that.

7 COMMISSIONER MAY: Did we? Have we
8 already gone through this then?

9 CHAIR HOOD: Yes, we did it then.
10 Wait a minute, you might not have been here.
11 Were you here?

12 COMMISSIONER JEFFRIES: I don't think
13 we were that specific in saying that, you know.

14 COMMISSIONER MAY: And maybe we don't
15 want to be that specific.

16 COMMISSIONER JEFFRIES: We kind of
17 talked around it.

18 CHAIR HOOD: Okay. Here's what I'll
19 do -- those who, I'm not necessarily in the mind
20 of the designer of the project. I'm the last
21 person that wants to design a project, but what
22 I'll do is open it up for comments. I will be

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1 making some comments, but I'll open it up. So
2 Commissioner May?

3 COMMISSIONER MAY: The thing that
4 gives me the greatest heartburn at this point is
5 the height issue, more than the number of units,
6 because again, I'm not uncomfortable with the
7 overall FAR. It's the perceived impact of having
8 these very large buildings.

9 I think that's the biggest thing,
10 because you know you could reduce the number of
11 units and still make them larger, and wind up
12 with the same FAR. It's still just not that much
13 FAR. So I think it's the height that's the
14 biggest concern for me.

15 I will say, though, that I would --
16 you know, if we're going to postpone voting, it
17 would be very helpful to me to learn more from
18 the Office of Planning on this IZ issue that they
19 just raised, and also to have them address the
20 deviations from 2516, because I don't think that
21 was addressed very specifically in their previous
22 reports.

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Because I'm very concerned about the 2516, and 2516.6(a) in particular.

COMMISSIONER

TURNBULL:

Commissioner, are you okay with the affordable units, the way they look right now?

COMMISSIONER MAY: No, I would prefer that they be improved. But if I had to pick my one issue, it would be the height thing, I think.

COMMISSIONER TURNBULL: Overall?

COMMISSIONER MAY: Overall. Again, I'm getting back to your question about IZ. I mean if you had eight percent, I seem to remember eight percent coming into the calculations, I mean eight percent of 36 is 2.8. But I mean I know that Ms. Steingasser was mentioning other issues, so I'm not sure how that plays out.

COMMISSIONER JEFFRIES: It was zoned something. I mean bringing that up is --

COMMISSIONER TURNBULL: Yes. I'm just bringing it up as a number, that's the applicant's offering two affordable units. My recollection of what IZ had originally was

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1 something like eight percent of the number, which
2 would be 2.8.

3 So I mean IZ is not enforced right
4 now, so they're offering their best at this point
5 in time.

6 COMMISSIONER JEFFRIES: Okay. Is
7 that all you have, in terms of --

8 COMMISSIONER TURNBULL: I'm sorry.
9 I was just commenting upon what -- I was just
10 commenting on what Commissioner May, a comment
11 that he had made. I wanted to clarify something.

12 CHAIR HOOD: Let me do this.
13 Commissioner May, have you finished? Okay.
14 Commissioner Turnbull.

15 COMMISSIONER TURNBULL: I guess I
16 would agree with the height issue too. I mean I
17 brought up the number of units. I think that's
18 probably more problematic than the height issue.
19 I'm not sure.

20 But I think to me, what I was hearing
21 from a lot of the residents and the issue in
22 general was the height, and I think that's

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1 probably the most -- the sticking point of this
2 project more than anything else.

3 And I guess I don't quite agree that
4 the affordable housing looks the same. Yes, if
5 you look at MacArthur Avenue and you look at the,
6 you could possibly say standing on the street,
7 yeah, they look the same.

8 But when you go down the alley, you
9 know which houses are affordable units. And
10 again, they're narrower. They are different.

11 CHAIR HOOD: Commissioner Jeffries,
12 do you have anything?

13 COMMISSIONER JEFFRIES: I don't have
14 an issue with the height at this point or the
15 FAR, although I have to tell you. This building
16 number one street scape perspective that they
17 submitted, along with April 23rd, I mean I don't
18 think of sort of unintended consequences here.

19 But it looks a little ominous. I
20 mean, you know, like it's right on top of the
21 sidewalk. I mean it doesn't quite help your case
22 much. But by and large, again I think that I'm

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1 erring on being somewhat sympathetic to a tough
2 site.

3 Some of the work that I've seen, the
4 applicant -- some of the movement I've seen the
5 applicant commit to throughout the course of
6 these hearings, I'm probably at a place where I'm
7 not really asking for anything.

8 I'm just, you know, at a 55 or 60
9 percent sort of -- I'm prepared to go forward.

10 CHAIR HOOD: Commissioner Keating.

11 COMMISSIONER KEATING: Yes. I don't
12 have as much of an issue with the height issue,
13 although I would like to see it addressed. I am
14 particular about this affordable units and
15 getting that right. I'd be interested to see
16 what OP comes back with on IZ requirements, and
17 also the deviation as to 2516.

18 CHAIR HOOD: Okay. I actually, and
19 one of the things I wanted to mention when Vice
20 Chair asked about amenities, I'd like to see how
21 some of them are going to be administered. I
22 think one of the -- I think it might have been

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1 Palisades, talked about how things were going to
2 be administered.

3 I mentioned the \$50,000 for the
4 beautification project. Who's doing it, who's on
5 first, who's on second. You know what? I may be
6 in here, but I just don't recall. So and then
7 the other issues, 2516.6(a) or (b), that whole
8 reg is an issue for me.

9 Then FAR, even though I know
10 Commissioner May and I think Commissioner
11 Turnbull both talk about the height. To me, it's
12 still an FAR issue at the end of the day, the way
13 I see it. So those are the things that we're
14 looking at.

15 But again, as the Vice Chair
16 mentioned about the tipping scale, I don't even
17 really want to go down that line. I just would
18 like to see some more coming together of the
19 minds. Now you know everybody may not be happy,
20 but I can tell you, I think as I stated, this
21 Commission is trying to move in a fashion where
22 we can see something develop there to.

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1 It might not be all of what the
2 neighborhood wants, all of what the applicant is
3 asking for. But -- and then any reliefs that are
4 out there that have not been bought, because it
5 seems like every time we discuss this, something
6 else shows up that are not out there.

7 I would ask the applicant to help us
8 with that. Any relief that you're asking for
9 that have not been bought to our attention. You
10 may have already done all that. If you have,
11 silence is golden. If you come back silent, then
12 we'll take it from there.

13 But I think -- I don't think we're
14 going to have too many more of these
15 deliberations in this fashion without taking a
16 vote.

17 COMMISSIONER JEFFRIES: Mr. Chair,
18 Mr. Turnbull and I were sort of talking about it.
19 When was the last time we denied a case, and
20 it's been a while.

21 CHAIR HOOD: I have voted against
22 one. No, okay.

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1 COMMISSIONER JEFFRIES: I know one
2 case in particular we denied, but that was one
3 where we were just -- it was just so egregious.

4 CHAIR HOOD: I think we did set down.

5 COMMISSIONER JEFFRIES: We did set
6 down, but we made a lot of statements, like this
7 does not look good, and we didn't see a lot of
8 movement. Again, it was just so -- it wasn't so
9 close as this one. I mean this one was just
10 really out there. But I won't mention that on
11 the record, but I know the case.

12 CHAIR HOOD: Okay. Anything else?
13 Ms. Hanousek, are there any other comments,
14 anything else? When can we take -- Ms. Hanousek,
15 can you work with Mr. Feola, and I'm going to
16 look at Mr. Feola and see -- they might not need
17 any time.

18 But I'm going to ask them do they
19 need some additional time, and if we can come up
20 with some dates or something. It may need
21 additional time, because --

22 MS. HANOUSEK: Excuse me one moment.

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1 CHAIR HOOD: We meet twice a month.

2 COMMISSIONER JEFFRIES: And Mr.
3 Chair, if I could just add something to the
4 applicant. You know, it might be helpful to take
5 a new approach in terms of how you convey this
6 project to the Commission.

7 You know, rather than doing sort of
8 the piecemeal thing, you might want to offer up
9 something a little more robust and to the point.
10 Just give some thought to that.

11 It seems like it should be
12 comprehensive and not, you know, dealing with
13 some of the smaller issues. So anyway, it's just
14 a thought.

15 CHAIR HOOD: We're going to try to
16 find some dates, so Mr. Feola, just see how much
17 time you think you might need.

18 MS. HANOUSEK: Sir, I don't see a
19 second meeting scheduled in May in the
20 secretary's book.

21 CHAIR HOOD: That would probably be
22 too soon anyway.

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1 MS. HANOUSEK: Also June 8th. In
2 order to be able to, we would have to get things
3 in essentially two weeks before that, so that
4 then the ANC would have a week, and then we need
5 a week to get the materials to you.

6 CHAIR HOOD: Okay, let's see. Does
7 everybody accommodated to that schedule? We're
8 going to try to take this up when, June the 8th?
9 Sure. Mr. Feola, if you can come to the table
10 too. Yes, Ms. Hauss? Oh, I'm sorry.

11 MS. SANDZA: I'm Elizabeth Sandza,
12 chair of the ANC.

13 CHAIR HOOD: Oh, Ms. Hauss was just
14 representing, or was that another case too. Turn
15 your microphone on. Identify yourself.

16 MS. SANDZA: I'm Elizabeth Sandza,
17 and I'm Chairman of ANC 3D. Anne Hauss is the
18 single member district representative of where
19 this project is located. I'm just looking at my
20 calendar, and our June meeting is June 3rd, and I
21 would ask that our response time is after that.

22 We've had many, many special meetings

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1 on this project. We've lived with it a long
2 time. I ask that we not have to do that again.

3 CHAIR HOOD: Okay. Mr. Feola, do you
4 have a problem with us extending that time for
5 the ANC to respond. Then that in turn will not
6 give you a chance to respond.

7 MR. FEOLA: I'm sorry, I apologize.
8 I was trying to figure out with the client.

9 MS. HANOUSEK: I see there's a second
10 meeting here on the 22nd, if that helps, in June.

11 CHAIR HOOD: Okay. That will
12 probably be better. But let's see if we can get
13 the first one in, because I don't know what the
14 time constraints or anything that may --

15 COMMISSIONER JEFFRIES: Are you sure
16 Donna is still going to be here?

17 CHAIR HOOD: That's why I said, let's
18 see if we can get the first one in, because the
19 second one, I don't know if I'm going to be here.

20 MS. HANOUSEK: Chair, the ANC meets
21 on June 3rd. If they are able to get something
22 to use essentially the next day, we can get it to

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1 you.

2 CHAIR HOOD: I don't even want to put
3 that on there. I won't even be here. That's
4 what I was asking Mr. Feola, if we could -- and
5 here's the thing. We don't need -- if you --
6 well, stick around and see what we carry out. We
7 don't need that much information.

8 If we can kind of give us a sound
9 bite, and I'm asking both sides to give us sound
10 bites. Make sure you address the issues, but if
11 we can get something that's manageable, sound
12 bites.

13 What I was going to ask is that we
14 allow, and that's why I was asking Mr. Feola,
15 because the ANC meets June the 3rd. That's if
16 you wanted us to try to take this up at our first
17 meeting in June.

18 The ANC meets June the 3rd, which is
19 -- what is that, a Wednesday? They probably
20 wouldn't have comments in until -- could you have
21 them in by Friday, or is that too soon?

22 MS. SANDZA: It depends. If they're

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1 going to --

2 CHAIR HOOD: No, that's asking too
3 much. Let's just go for the second meeting.

4 COMMISSIONER MAY: Well, I'm not sure
5 -- I mean two days later, we're not looking for
6 that much more information from the ANC either.
7 So I mean two days is reasonably -- I mean even
8 if we had to get the report on Monday, and we
9 just read it on the day of the meeting, I could
10 live with that.

11 CHAIR HOOD: My only issue with that
12 was then Mr. Feola would not have a chance to
13 respond. And I guess that's what I'm asking.
14 Would you forego that chance to respond, and you
15 read it like we read it on the day of?

16 MR. FEOLA: Yes.

17 CHAIR HOOD: Okay. That was easy.
18 Everything I think is going to be hard is very
19 easy around here. Okay.

20 MS. SANDZA: So what dates are those?

21 CHAIR HOOD: We're going to take this
22 up at our June 8th meeting. June 8th, right?

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1 MS. HANOUSEK: Correct.

2 CHAIR HOOD: So if we accept what
3 Commissioner May said, we will take the ANC's
4 report up until the 8th of -- we may have to
5 literally read it while we're out here.

6 MS. HANOUSEK: And we should be able
7 to get the applicant's by Monday the 1st?

8 MR. FEOLA: Yes.

9 MS. HANOUSEK: And then you'll serve
10 the ANC and the other parties?

11 CHAIR HOOD: It will be very
12 beneficial to serve the other parties also. Yes,
13 everyone else the same date as the ANC. And
14 again, we want sound bites and it would be good
15 if you all could work a little more together in
16 the response.

17 COMMISSIONER MAY: OP, we're going to
18 -- whatever we're going to get from OP, we can
19 get that on the 1st as well?

20 CHAIR HOOD: Are we getting something
21 from OP too? Okay, that's right. Yes, okay.
22 All right. Any problems? Is everybody on the

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1 same page? Well, let me just tell you what our
2 problem will be.

3 We have a commissioner who's very
4 integral to this process, who possibly may be
5 rotating off, and we want to make sure that
6 -- five of us are here, as you can see. We want
7 to make sure -- and the new member, I'm sure,
8 doesn't want to come in and read the record.

9 (Pause.)

10 MS. SANDZA: It's fine.

11 CHAIR HOOD: That's fine. Okay, all
12 right. So everybody, we're all on the same page.
13 We're going to try to deal with this on June the
14 8th, and I want to thank -- Ms. Hanousek, you
15 have anything you want to add?

16 MS. HANOUSEK: I believe you told the
17 ANC that they could have all the way up until
18 Monday to respond? Could you please make that by
19 noon, so that --

20 MS. SANDZA: Yes, we'll do that.

21 MS. HANOUSEK: Thank you.

22 CHAIR HOOD: Okay. That's it for

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1 this, and actually we still have -- so we're all
2 on the same page, and we'll try to move forward
3 with this or deal with this on June the 8th.
4 Thank you everyone for their time and attention
5 to this particular case.

6 Let's do the status report from the
7 Office of Planning.

8 Office of Planning Status Report

9 MS. STEINGASSER: We have no formal
10 presentation this evening. But if the Commission
11 wanted to discuss Small Area Plans, as indicated
12 earlier, we're happy to do so.

13 CHAIR HOOD: Yes. Ms. Steingasser,
14 let's talk about this, because I noticed. Is the
15 Duke plan -- well, I didn't want to talk about
16 any particular case, but those plans are small
17 area plans?

18 MS. STEINGASSER: They're small area
19 plans, yes.

20 CHAIR HOOD: And I'm noticing we're
21 starting to see a lot of that, and I guess where
22 the comprehensive plan and the small area plan

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1 disagree, you know, we're going to have -- my
2 question, my issue is we're going to have
3 interested persons or parties to come down and
4 tell us well, you should be looking at this one
5 or you should be looking at that one. This one
6 supersedes that one.

7 Is there a chronological order, as
8 Office of Planning and the Council in thinking
9 through this, which one, I don't want to say
10 "trumps," but I know all of them provide
11 guidance. Which one supersedes which one?

12 MS. STEINGASSER: Well, the
13 comprehensive plan has -- is the law. Let's go
14 with that. It's been adopted legislatively. The
15 small area plans provide additional guidance, but
16 they do not carry the same legal weight as the
17 comp plan.

18 They do provide the Commission with
19 additional guidance as to how the City Council
20 has viewed development potential in the area, and
21 we typically give them that similar weight. But
22 legally, the large weight goes to the

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1 comprehensive plan.

2 About, I don't know, six years ago,
3 seven years ago, the Office of Attorney General
4 did do a quick page and a half memo on the
5 relationship between these, and I'd be happy to
6 get that and recirculate it to you. It kind of
7 lays that out.

8 But the small area plans, they're
9 more of a special focus. You know, the
10 comprehensive plan is generalized, and the small
11 area plans are very fine-grained, very focused
12 and they do represent a whole other layer of
13 planning.

14 So they do carry a lot of weight, but
15 they do not replace the comprehensive plan.

16 CHAIR HOOD: Okay. Okay, and if I
17 can that -- we can get that memo, I think that
18 would be very good, help us with guidance. Okay.

19 Any other questions or comments for the Office
20 of Planning?

21 (No response.)

22 CHAIR HOOD: Okay. Let me thank the

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1 Office of Planning. Let me thank the Office of
2 Attorney General and also Ms. Hanousek for
3 standing in, and we can all keep Ms. Schellin's
4 family in our thoughts and prayers as we move
5 forward, as she goes through this difficult time.

6 Let me thank my colleagues for their
7 attention and deliberation this evening. So with
8 that, Ms. Hanousek, is there anything else before
9 us?

10 (No response.)

11 CHAIR HOOD: Okay. With that, this
12 meeting is adjourned.

13 (Whereupon, at 8:36 p.m., the meeting
14 was adjourned.)

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