

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

PUBLIC HEARING

+ + + + +

IN THE MATTER OF:

MARINA VIEW TRUSTEE, LLC -
MODIFICATION OF APPROVED
CONSOLIDATED PUD

Case No.:
05-38A

Monday,
September 29, 2008

Hearing Room 220 South
441 4th Street, N.W.
Washington, D.C.

The Public Hearing of Case No. 05-38A by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room at 441 4th Street, N.W., Washington, D.C., 20001, Anthony J. Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD Chairperson
MICHAEL TURNBULL Commissioner
 (FAIA) (OAC)
PETER MAY Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN Secretary
DONNA HANOUSEK Zoning Specialist

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER
JOEL LAWSON

OFFICE OF THE ATTORNEY GENERAL:

MARY NAGELHOUT, ESQ.
JACOB RITTING, ESQ.

This transcript constitutes the minutes from the Public Hearing held on September 29, 2008.

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1 P-R-O-C-E-E-D-I-N-G-S

2 7:25 p.m.

3 CHAIRMAN HOOD: Good evening,
4 ladies and gentlemen. This is the first of
5 two Public Hearings of the Zoning Commission
6 of the District of Columbia for Monday,
7 September 29, 2008. My name is Anthony Hood.
8 Joining me are Commissioner Turnbull and
9 Commissioner May. We are also joined by the
10 Office of Zoning staff Ms. Sharon Schellin and
11 Ms. Donna Hanousek and also the Office of
12 Attorney General Mr. Ritting, from the Office
13 of Planning under the leadership of Ms.
14 Steingasser.

15 This proceeding is being recorded
16 by a Court Reporter and is also webcast live.
17 The subject of this evening's hearing, first
18 hearing, is Zoning Commission Case No. 05-38A.
19 This is a request by Marina View Trustees, LLC
20 for approval of a modification to a PUD for
21 property located at Lot 61, Square 499.

22 Notice of today's hearing was

1 published in the DC Register on July 25, 2008
2 and copies of that announcement are available
3 to my left on the wall bin near the door.

4 And let me thank all those for
5 your indulgence as we had a Special Public
6 Meeting which went over an hour. I appreciate
7 it and I know everybody's time is valuable, so
8 I thank you all for your indulgence.

9 This hearing will be conducted in
10 accordance with provisions of 11 DCMR 3022 as
11 follows: Preliminary matters, applicant's
12 case, report of the Office of Planning, report
13 of other Government agencies, ANC-6D,
14 organizations and persons in support,
15 organizations and persons in opposition,
16 rebuttal and closing by the applicant.

17 The following time constraints
18 will be maintained in this meeting. The
19 applicant 15 minutes, organizations 5 minutes,
20 individuals 3 minutes. The Commission intends
21 to adhere to the time limits as strictly as
22 possible in order to hear the case in a

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1 reasonable period of time.

2 The Commission reserves the right
3 to change the time limits for presentations,
4 if necessary, and notes that no time shall be
5 ceded. All persons appearing before the
6 Commission are to fill out two witness cards.
7 When presenting information to the Commission,
8 please, turn on and speak into the microphone
9 first stating your name and home address.
10 When you are first speaking, please, turn your
11 microphone off, so that -- when you are
12 finished speaking, please, turn your
13 microphone off, so that your microphone is no
14 longer picking up sound or background noise.

15 To avoid any appearance to the
16 contrary, the Commission requests that persons
17 present not engage the Members of the
18 Commission in conversation during any recess
19 or at any time.

20 Please, turn off all beepers and
21 cell phones so as not to disrupt these
22 proceedings.

1 Would all individuals wishing to
2 testify, please, rise to take the oath?

3 MS. SCHELLIN: Please raise your
4 right hand.

5 (Whereupon, the witnesses were
6 sworn.)

7 MS. SCHELLIN: Thank you.

8 CHAIRMAN HOOD: Okay. At this
9 time, if anyone is here, I see a few people I
10 recognize, is anyone here for the two cases in
11 Ward 5A, we have completed that for this
12 evening. Okay. At this time, the Commission
13 will consider any preliminary matters.

14 Does the staff have any
15 preliminary matters?

16 MS. SCHELLIN: Yes, sir, there is
17 a couple. We have received the Affidavit of
18 Maintenance and it's in order. And then we
19 have two other preliminary matters. One the
20 applicant has proffered an expert witness, Mr.
21 Esocoff, who has been previously accepted.
22 And then we have a request for party status at

1 Exhibit 15.

2 CHAIRMAN HOOD: Okay. Let's deal
3 with the expert witness. We have seen Mr.
4 Esocoff on a number of occasions. I don't
5 think we would have any -- but let me before
6 I say anything, does anybody have any issues?
7 Okay. Thank you. So we will accept it, so
8 noted.

9 Okay. As was mentioned by Ms.
10 Schellin, Exhibit No. 15, this is a request
11 for party status, and also asking us to not
12 move forward, because of some legality issues
13 that are happening with another case, another
14 case as far as we're concerned is not 05-38A,
15 which is in front of us tonight.

16 And I'll just comment normally
17 unless we stay the order and I think the same
18 thing applies for the Court of Appeals and
19 then me not having so much legal jargon, I'll
20 go to Mr. Ritting. I think that unless that
21 is the case, the other order has been in the
22 Register and is valid.

1 MR. RITTING: Good evening. I
2 believe you are addressing the issue that was
3 raised in the filing from Mr. Greenberg and
4 Tiber Island Cooperative Homes dated September
5 12th. And one of the issues they raised is
6 that they say that the Zoning Commission
7 cannot properly consider a modification to the
8 order unless and until it becomes final
9 following any Court of Appeals order.

10 I just wanted to clarify that the
11 order is valid until the Court of Appeals in
12 some way vacates it and that has not occurred.
13 So there is really no reason not to proceed
14 tonight.

15 CHAIRMAN HOOD: Okay. Thank you,
16 Mr. Ritting. Next, in the letter it also
17 speaks of asking for party status. The
18 parties name and addresses are as follows:
19 Tiber Island Cooperative Homes, Inc. and Paul
20 Greenberg. But it is signed by Mr. McGovern.
21 But without getting into all of that, I would
22 just say that I don't think this meets the

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1 test of party status.

2 And when I look at this, it took
3 me straight -- and I was trying to figure out
4 if it met 3022.3 Regulations and it took me
5 straight to F under 3022.3(5), an explanation
6 of how "A person at interest as identified in
7 response to paragraph 4 would likely be more
8 significantly, distinctively or uniquely
9 affected in character or kind by the proposed
10 zoning action than those of the other persons
11 in the general public."

12 I don't see where that meets that
13 and I'm sure there is more on here under 3022.
14 But what I will do is hear from my colleagues,
15 because I am inclined to deny this party
16 status.

17 COMMISSIONER MAY: I would agree
18 with you, Mr. Chairman. I don't see -- you
19 know, again, going to 3022.3(f)(5) the
20 uniquely affected clause.

21 CHAIRMAN HOOD: Okay. I think
22 legally we don't have to take public comment.

1 I think the record and submittal stands for
2 itself. I didn't call anyone to the table, so
3 I don't think we need to hear from anyone.

4 MR. TUMMONDS: Mr. Chairman?

5 CHAIRMAN HOOD: I don't think we
6 need to hear from anyone. I have already
7 mentioned that we are going to take the
8 submittal as presented, which is not adequate.
9 It does not address 3022.3, a number more than
10 what we just mentioned. So at this point, I
11 would move that we deny Tiber Island
12 Cooperative Homes, Inc. and Paul Greenberg
13 party status and ask for a second.

14 COMMISSIONER TURNBULL: Second.

15 CHAIRMAN HOOD: Moved and properly
16 seconded. Any further discussion? Any
17 further discussion? All those in favor?

18 ALL: Aye. Not hearing any
19 opposition, staff would you record the vote?

20 MS. SCHELLIN: Staff records the
21 vote 3-0-2 to deny party status to Tiber
22 Island Cooperative Homes, Inc. and Paul

1 Greenberg. Commissioner Hood moving,
2 Commissioner Turnbull seconding, Commissioner
3 May in favor, Commissioners Etherly and
4 Jeffries not present not voting.

5 CHAIRMAN HOOD: And what we will
6 do for anyone that may be at the table now,
7 before their time, we will ask that you --
8 there will be a time for you to come up and
9 make a presentation at the appropriate time.
10 So with that, we will ask the applicant -- if
11 you can go ahead and remember, this scope is
12 very narrow and let's stay focused with why we
13 did not put it on the consent calendar.

14 MR. TUMMONDS: Absolutely. Good
15 evening, Mr. Chairman, Members of the
16 Commission. I'm Paul Tummonds from the Law
17 Firm of Pillsbury Winthrop Shaw Pittman on
18 behalf of the applicant in this PUD
19 modification application.

20 In keeping with the instructions
21 from the Commissioners from their July 14th
22 Public Meeting, we are making a very limited

1 scope presentation this evening to show the
2 minor changes that are proposed to the
3 approved PUD.

4 ANC-6D has submitted its
5 resolution in support of this modification
6 application and the Office of Planning and the
7 Historic Preservation Office support the
8 proposed changes to the buildings in this
9 project.

10 Phil Esocoff will quickly run
11 through the minor changes to the buildings.
12 Graham Brock on behalf of the applicant will
13 outline additional community amenities that
14 are proposed in this modification application
15 and the need to have an order from the Zoning
16 Commission that clearly and definitively tells
17 a potential lender that a building permit for
18 the new buildings can be obtained without
19 further regulatory hurdles.

20 I expect that our presentation
21 will last, approximately, 10 minutes. With
22 that, I'll have Mr. Esocoff present his

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1 testimony.

2 MR. ESOCOFF: Good evening,
3 Chairman and Members of the Commission. I
4 thought I would just explain the difference
5 between the approved drawings and the proposed
6 modifications. They are all minor and driven
7 by programmatic changes. None of it was for
8 cost cutting. It's just that after the
9 approval, we refined some of the unit plans
10 and the windows didn't work with the plans and
11 the inside of the units. That was one reason
12 we made a few adjustments.

13 And also, since that time, we also
14 found out what was being built across the
15 street in the adjoining project that straddles
16 4th Street. And so we took the balconies and
17 the amount of glazing on the east ends of our
18 towers and moved it more to the corners and
19 then created windows that have diagonal bleak
20 views and high windows for light for privacy
21 on the end elevations, so that the residents
22 in this building wouldn't be looking directly

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1 across to an office building proposed on the
2 other side of the street.

3 And that was just out of
4 consideration for those folks. These units
5 all have balconies on the front elevation as
6 they did before and after. And we think it
7 actually improved the elevations. But, you
8 know, there is almost very little change.
9 There is a little bit more glass here, so you
10 have a nice corner bay, that's about the only
11 difference there.

12 I'll go back. The other thing is
13 that the old building, the old amenities
14 building had a swimming pool and a second
15 floor and we thought we would have an office
16 building across the street. We didn't think
17 it would be fair for the people in the
18 building that is going to be across this alley
19 to have to look into a large public space that
20 have lights on. If that's -- you know, you're
21 in your apartment, you don't really want to be
22 looking across about 30 feet to a big lit

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1 swimming pool that could be empty and kind of
2 glary.

3 So we changed that, because up
4 here just smaller individual rooms with
5 generous windows, so it has a little bit more
6 residential scale. And for the architects,
7 you probably know Society Hill Towers in
8 Philadelphia also designed by IM Pei, they are
9 surrounded by low rise townhouses that have a
10 very similar elevation of treatment here.

11 So we thought those would be
12 simpatico with the Pei buildings that flank
13 it. So those are really the only changes
14 there. And these work out pretty well as a
15 den, two bedrooms and then living/dining
16 spaces with lots of glass looking diagonally
17 to the north, to the northeast end to the
18 southeast. So through the apartments.

19 I'm hoping to do this in three
20 minutes. You can almost not see, there was a
21 small minor change to the front of the
22 building also, to the front of the amenities

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1 building. There's a little bit less glass on
2 the front, but generally speaking, it's very
3 much the same still.

4 So we left the windows in the
5 amenities building that overlook the garden
6 very open, because they are not really
7 intruding on anybody else. So that's pretty
8 minor. And then in terms of the site plan,
9 the window was approved. You can see we cut
10 through the amenities building. There was a
11 pool inside.

12 After considering the market,
13 Fairfield and talking to residents, Fairfield
14 decided to put the pool outside, which seemed
15 to be more desirable. And so the inside
16 became more like a commons room and then we
17 have some wood decking, some paving around
18 here in this one quadrant for the pool.

19 Then the other change was -- it's
20 like subdividing a property into one. It
21 sounds counterintuitive, subdividing, but the
22 IM Pei lobbies were this -- are this

1 configuration. And at the time we got the
2 approval, we thought they might need more
3 space inside those lobbies.

4 But as it has turned out, some of
5 the things that were going to happen here can
6 happen behind the brick columns, they are
7 brick pods, that are at either end of the
8 paved buildings. And so we are going to keep
9 those walls just as they designed them and
10 replace the glass walls with double glazing.

11 So it's a change back to the
12 before. And also because the elevator systems
13 have changed, the roofs of the Pei buildings
14 have become more green. And this one drawing
15 just shows the arcade as it is now, what we
16 had approved, and how it will actually be,
17 which is the -- it's a proposed modification
18 to what was approved. You know, to what was
19 originally there.

20 And one nice thing we're going to
21 do, if you were to look at this very closely,
22 I don't want to go off camera, Pei had

1 designed these to be 10 foot wide pieces of
2 glass, but -- either by -- well, I think these
3 -- those panes broke, every single glaze. And
4 as they were replaced, they were replaced with
5 vertical 5 foot strips of glass.

6 In the new scheme, we will
7 actually have a 10 foot wide piece of glass as
8 originally designed. So I think it will be a
9 major improvement. If you were to go over
10 there and look out the windows where they are
11 10 feet across, it's exactly what Pei would
12 have wanted. It's a big dazzling view. And
13 it's like there's no glass there.

14 So I'm glad to see that we're able
15 to do that. That's the end of my
16 presentation. If you have any questions, I'd
17 be glad to answer them.

18 CHAIRMAN HOOD: Commissioner May?

19 COMMISSIONER MAY: Could you put
20 those boards back up with the --

21 MR. ESOCOFF: Sure.

22 COMMISSIONER MAY: -- views,

1 please? Yeah, I have questions.

2 CHAIRMAN HOOD: Oh, I'm sorry.

3 Hold on. We have one more witness.

4 MR. TUMMONDS: There's one more.
5 Yeah, we have one more quick witness, but it
6 sounds like this is mostly an architectural
7 discussion.

8 CHAIRMAN HOOD: Well, let's go to
9 the -- is he going to talk about the minor
10 modification amenities, is that what he is
11 going to talk about? Let's go to that,
12 because I have -- and then we'll come back to
13 that.

14 MR. GRAHAM BROCK: I'll be very
15 brief and then I'll let you get back to it.

16 CHAIRMAN HOOD: Okay.

17 MR. GRAHAM BROCK: We are changing
18 our amenities package slightly with our
19 changes. One of the things we had originally
20 proffered was a condo portion of our amenities
21 package. We had originally worked out with
22 the residents of selling our condos at \$525 a

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1 foot. I mean, \$425 a foot is the amenities
2 package.

3 We had predicted that the market
4 was going to be \$525. As the markets turn,
5 that amenity sort of disappeared. It's not
6 money we are recouping in any way if we take
7 away the condos. But the price today versus
8 the price that we had as an amenity is looking
9 about to be the same value.

10 So the \$3.2 million that we had in
11 amenities is really evaporated. It hasn't
12 gone in anyone's pocket. It has gone with the
13 way of the market. So we have promised
14 \$50,000 for a shuttle service around southwest
15 as ourselves and Waterside Mall go under
16 construction to get residents around the huge
17 super construction site.

18 And then the final amenity that we
19 are also doing is we promised \$178,500 for the
20 renovation of the Towncenter Park. We had
21 originally done a study we were promising to
22 implement that study. One of the things that

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1 I actually disagree with, respectfully, Office
2 of Planning's recommendations, they want to
3 tie the building permit to -- of our new
4 buildings to the completion of the Towncenter
5 Park.

6 What that is going to do is stop
7 us from being able to get our funding. We are
8 more than willing to tie the construction, our
9 Certificate of Occupancy to the completion of
10 the Towncenter Park on the south -- on the new
11 south building. What that will do is make us
12 under the gun to complete the work. But it
13 will allow us to get our construction
14 financing.

15 Without going into a lot of
16 details, it's extremely hard to get
17 construction financing and to have sort of an
18 open end issue that we have to complete a
19 park, some time in the future without
20 construction funding, will be nearly
21 impossible for us.

22 MR. TUMMONDS: That completes our

1 presentation. We're here to answer any
2 questions you may have.

3 CHAIRMAN HOOD: Let me start off
4 with Commissioner May.

5 COMMISSIONER MAY: Just so I
6 understand correctly what is going on in terms
7 of the buildings, what was it that was going
8 to be built across the street that changed,
9 that caused you to change the elevations?

10 MR. ESOCOFF: Yes, across -- I
11 think the street is the -- it's not the
12 street. It's this alley.

13 COMMISSIONER MAY: Oh.

14 MR. ESOCOFF: It's a private
15 alley.

16 COMMISSIONER MAY: Okay.

17 MR. ESOCOFF: There is an existing
18 tower. You can see it. It's actually right
19 along that line.

20 COMMISSIONER MAY: Right.

21 MR. ESOCOFF: So it's very close.
22 And it would be like somebody having their

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1 apartment and we had all these windows open
2 and you would be looking into it. I don't
3 think it would be very nice to those folks.
4 I don't think people in there would want to be
5 on display to the residents.

6 MR. TUMMONDS: The project Mr.
7 Esocoff was referring to was the Waterside
8 Mall PUD, that's the project.

9 MR. ESOCOFF: And these are the
10 two DOT towers that were 130 feet.

11 COMMISSIONER MAY: Um-hum.

12 MR. ESOCOFF: Those would be --
13 finally, we know that they are going to be
14 residential. And originally we thought that
15 there would be loading docks down on that end,
16 but they are not there now. They are actually
17 people's private homes looking right across
18 that could come across as commercially done.

19 COMMISSIONER MAY: I see. So they
20 would be 30 feet across an alley or 25 feet
21 across an alley?

22 MR. ESOCOFF: Yeah, I mean, what's

1 that?

2 COMMISSIONER MAY: To the --

3 MR. ESOCOFF: Is it from about
4 here to there?

5 COMMISSIONER MAY: Yes.

6 MR. ESOCOFF: And I just thought a
7 big swatch of glass 12 feet high would be a
8 little extensive.

9 COMMISSIONER MAY: It's like
10 having townhouses across a little narrow
11 driveway things.

12 MR. ESOCOFF: Right. Yeah,
13 townhouses usually don't have sheets of glass
14 and lighting, swimming pool.

15 COMMISSIONER MAY: That's true.
16 But even at 30 feet, townhouses are quite
17 revealing.

18 MR. ESOCOFF: Yeah.

19 COMMISSIONER MAY: Okay. The -- I
20 don't think I have a lot of other questions.
21 I think we just needed to have this, you
22 know --

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1 MR. ESOCOFF: Yeah.

2 COMMISSIONER MAY: -- discussed
3 tonight. So I am -- I don't have any other
4 architectural questions, put it that way. On
5 the -- explain again on the amenities package
6 the Office of Planning is recommending tying
7 the completion of the park to getting the
8 building permit for which building?

9 MR. TUMMONDS: Any of them.

10 COMMISSIONER MAY: Any of them.
11 And you are suggesting that it be one of them,
12 but not --

13 MR. TUMMONDS: No. I think what
14 we are more saying is that the problem we have
15 is that it's very difficult, we don't have to
16 look much farther than today's financial
17 market, to say that our ability to go and get
18 a construction loan to construct the new south
19 building, which is intended to be the first
20 building, we, the developer, needs to be able
21 to say to the construction loan committee, we
22 have all the approvals we need. We can go get

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1 a building permit.

2 If we have to go and explain, we
3 can get a building permit as soon as we
4 construct this park to the north, that's
5 problematic.

6 COMMISSIONER MAY: Um-hum.

7 MR. TUMMONDS: In addition to the
8 idea that the notion that the economy is at
9 scale, we intend to have the same landscape
10 workers, the same workers that are doing our
11 project itself, will do the project to the
12 north. We think that the Zoning Commission is
13 protected in that you can be rest assured when
14 this building, the new south building is up
15 and completed and they want to start leasing
16 and they can't lease any -- or they can't get
17 people into their units, because they don't
18 have a C of O, because the construction work
19 on that park hasn't been completed, there is
20 incentive to get that work completed.

21 We think the more appropriate tie
22 is to have it we will have the park completed

1 by -- prior to issuance of the C of O versus
2 prior to issuance of a building permit.

3 COMMISSIONER MAY: Um-hum. And
4 have you discussed that with the Office of
5 Planning and are they still saying -- still
6 insisting?

7 MR. TUMMONDS: We have not. And
8 truly this is an issue that just kind of
9 popped up in the last couple of weeks when --
10 the first time that we really saw that was
11 when the Office of Planning report came in.

12 COMMISSIONER MAY: Okay. Okay.

13 COMMISSIONER TURNBULL: I just had
14 one question about the amenities building. If
15 the pool goes to the outside, the amenity
16 building is still two stories tall, two
17 stories?

18 MR. ESOCOFF: Yes, it's two
19 stories tall and the second floor would have
20 like a health club, exercise equipment.

21 COMMISSIONER TURNBULL: Okay.

22 MR. ESOCOFF: So that also gave me

1 pause, because I thought looking into a lot of
2 empty exercise equipment is probably one of
3 the most depressing things. Not only is it
4 intrusive, but it also makes you feel guilty
5 that you are not working out.

6 So I think glass is a little
7 overrated. We've got a lot of glass buildings
8 now.

9 COMMISSIONER TURNBULL: Yeah.

10 MR. ESOCOFF: And we get to see
11 what interior designers do. This is what you
12 see instead of a facade designed by the
13 architect. You see what ever interior
14 designer thought the ceiling pattern ought to
15 be.

16 COMMISSIONER TURNBULL: Okay. And
17 the first floor has meeting rooms?

18 MR. ESOCOFF: The first floor has
19 like a little lounge space, a fireplace and
20 embedded in it a couple little bathrooms that
21 serve the swimming pool outside. It has a
22 little catering --

1 COMMISSIONER TURNBULL: Kitchen or
2 something?

3 MR. ESOCOFF: -- kitchen and a
4 bar, so they can have like activities there in
5 the little conference room you can rent out.
6 And then upstairs is like a yoga room and then
7 an exercise area and some other like
8 cybercafe.

9 COMMISSIONER TURNBULL: Okay.
10 Thank you.

11 MR. ESOCOFF: They do better off
12 with individual windows.

13 CHAIRMAN HOOD: All right. I'm
14 sorry, your name again, sir?

15 MR. GRAHAM BROCK: It's Graham
16 Brock.

17 CHAIRMAN HOOD: Graham. Mr.
18 Brock, as I look at the amenities issue,
19 especially with the Deputy Mayor for Planning
20 and Economic Development, the Shuttle Bug, the
21 Office of Planning's proposal if the Shuttle
22 Bug does not go forward, I believe they asked

1 you to come back to the Zoning Commission.
2 Hopefully that is just not -- just for the
3 Shuttle Bug, but maybe other issues may arise
4 at the time.

5 But I'm wondering if you could --
6 have you looked at giving some alternative?

7 MR. GRAHAM BROCK: As of right
8 now, the Shuttle Bug is moving forward.

9 CHAIRMAN HOOD: Oh, okay.

10 MR. GRAHAM BROCK: It has been
11 financed. On D.C.'s side there is a grant in.
12 I know my developers to the east side are
13 ready to cut their check. We actually have a
14 check request in right now for our portion
15 just trying to make that thing go as quickly
16 as possible, since we are shutting down that
17 super block already.

18 CHAIRMAN HOOD: Okay. So that's
19 not even an issue so far.

20 MR. TUMMONDS: It is to the extent
21 of the issue of -- Mr. Brock's peers are
22 asking for evidence of why do we have to cut

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1 this check? Do we have some sort of order
2 that says we have to do it? So I think it's
3 the city wants their money, we want to give
4 them their money.

5 CHAIRMAN HOOD: Okay. All right.
6 Any other -- and let me ask you, the pool is
7 moved around. Be it as it may, I liked it
8 where it was previously, but anyway, nobody
9 asked me for my architectural opinion.

10 Okay. Any other questions? Okay.
11 Let's move to the Office of Planning's report.
12 Mr. Lawson?

13 MR. LAWSON: Thank you, Mr. Chair
14 and Members of the Commission. I'll make this
15 really brief. My name is Joel Lawson. I'm
16 with the D.C. Office of Planning. First, just
17 to very briefly summarize our report, as was
18 stated by the applicant, we are generally okay
19 with the changes to the building design that
20 are being proposed.

21 With regards to the amenity
22 package, our report notes the major issue that

1 we feel the Commission needs to address and
2 that's the issue of the value of the original
3 amenity package. We feel that we were fairly
4 -- had a clear understanding that the amenity
5 package regarding the condominium units were
6 \$400 per square foot per unit subsidy. But
7 the applicant is proposing that their
8 intention was something -- somewhat different
9 from that.

10 We don't believe that is reflected
11 in the order that was approved necessarily,
12 but we just think that the Commission needs to
13 weigh in and that's the major issue with
14 regards to the amenity package in our minds.

15 I just want to reiterate with
16 regards to the Shuttle Bug. We also are --
17 have the clear understanding from the Deputy
18 Mayor's office that the Shuttle Bug Program is
19 moving forward. Our concern was more with the
20 alternative that had been raised by the
21 applicant in the original submission that it
22 was a little bit too open ended, that it

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1 probably wasn't acceptable as an alternative.

2 And finally, the applicant -- with
3 regards to the design of the park, I think OP
4 is probably actually okay with the requirement
5 being at the issuance of a C of O. We would
6 be much more comfortable if it said prior to
7 the issuance of a C of O for either of the
8 proposed new towers. And that's to make sure
9 that the park is built, you know, after or
10 during the construction of the first of the
11 two new towers that are going to be built.

12 And I think that's the applicant's
13 intention as well. Now, we just simply close
14 up that potentially small loop hole. We are
15 also okay with the change to the financial
16 contributions to the community groups, which
17 are relatively minor and seem to make perfect
18 sense. And with that, I'll close down and be
19 available for questions. Thank you.

20 CHAIRMAN HOOD: Okay. Any
21 questions? Commissioner May?

22 COMMISSIONER MAY: Could you just

1 reiterate what changes to the proposed
2 amenity? I mean, they have their changes and
3 then you have certain modifications that were
4 in your report. Could you go through them
5 again for me a little bit more slowly? I have
6 got too many projects in my head at the
7 moment.

8 MR. LAWSON: Absolutely. I'd be
9 happy to. I think the major changes that we
10 had proposed were with regards to the
11 construction of the park.

12 COMMISSIONER MAY: Okay.

13 MR. LAWSON: And we proposed two
14 major changes, not just one. The first one
15 was, which I have explained, had to do with
16 when the park would be constructed. And I
17 think we're fine with accepting what the
18 applicant has said now. Again, we would be
19 more comfortable if instead of saying that it
20 be required to be completed before Certificate
21 of Occupancy for the south tower, that it be
22 -- that the condition state be required to be

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1 done prior to the issuance of a Certificate of
2 Occupancy for either of the two new towers.
3 Just to clear up that.

4 There is also an issue with
5 regards to the amount of the amenity package.
6 Again, because we are not sure what kind of
7 other funding sources may be available for the
8 park, when it is actually built it could
9 become years from now, the construction, the
10 cost could be more, it could be less, but it
11 could be more than what the current amount is.

12 The applicant has proffered up a
13 very defined amount in today's dollars. We
14 would be much more comfortable, obviously, if
15 that amenity item was for the cost of those
16 improvements to the park at the time that the
17 park is done. In other words, having the
18 commitment by the applicant to simply make the
19 improvements as opposed to providing a set
20 amount of dollars. That would make sure that
21 the amenity item changes, alterations to the
22 park, are actually completed in a satisfactory

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1 way and we will know that they are funded.

2 Given the changes to the amenity
3 package overall and what we consider to be
4 potentially a weaker package, depending on
5 what the opinions of the Commission is
6 regarding the affordable housing amenity
7 package item, we think it's not unreasonable
8 to request that change in that amenity item.

9 And I can't think of any other
10 changes that we had proposed, so I'll leave it
11 at that.

12 COMMISSIONER MAY: Thanks.

13 CHAIRMAN HOOD: Mr. Turnbull, do
14 you have any questions?

15 COMMISSIONER TURNBULL: No, I just
16 wanted to reiterate that gets back to the \$100
17 per square foot item you were talking about
18 previously.

19 MR. LAWSON: That's correct. And
20 I think the question was what was in the
21 Commission's minds when they accepted that
22 amenity item? What was your expectation and

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1 what was your -- well, what was your
2 expectation for that amenity item, you know,
3 given what was submitted by the applicant,
4 what was written up in the order, as well as
5 what testimony was given at the hearing.

6 And that again directly relates to
7 what was the anticipated value of that amenity
8 item? I know from our standpoint, I don't
9 think that we understood that to be an item
10 that if housing prices went down, it could
11 simply evaporate. That certainly wasn't our
12 understanding at the time.

13 However, there certainly was
14 testimony at the hearing from the applicant
15 that could lead to that interpretation.

16 COMMISSIONER TURNBULL: Thank you.

17 CHAIRMAN HOOD: Mr. Lawson, are
18 you looking -- and I have the order in front
19 of me and it's behind Tab A, dated September
20 22nd. It's in the decision and it's No. 4.
21 It says -- and I want to make sure this is
22 where the sticking point is. "Prior to the

1 sale of the first condominium unit, the
2 applicant shall establish a Condominium
3 Discount Purchase Program whereby existing
4 Marina View Towers' tenants may purchase a
5 condominium at a discount of no less than \$100
6 per square foot."

7 MR. LAWSON: Well, that's the item
8 that we were looking at as well, obviously.

9 CHAIRMAN HOOD: So that is the
10 item that you raised in your report, the
11 issue?

12 MR. LAWSON: That's correct. And
13 we fully understand that the, you know,
14 project isn't going condo any more. So that
15 amenity item is no longer relevant to this
16 case. However, in terms of evaluating what
17 the replacement item should be, a clear
18 understanding of what that order item was
19 intended to convey, was it intended to be an
20 amenity item that could evaporate or was it
21 intended to be an amenity item that could be
22 evaluated as much as \$3.2 million or something

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1 in between, which is also being discussed in
2 our report.

3 We feel that's the question that
4 the Commission will need to address in order
5 to evaluate the replacement amenity item
6 amount.

7 CHAIRMAN HOOD: Okay. Any other
8 questions of the Office of Planning? Okay.
9 Thank you very much. Let's move. We don't
10 have any other reports of other Government
11 agencies. ANC-6D, I didn't see a letter from
12 ANC-6D.

13 MR. TUMMONDS: Yes, the letter was
14 submitted prior to the July minor modification
15 hearing, if you will.

16 CHAIRMAN HOOD: Oh, was it when we
17 took up the consent item?

18 MS. SCHELLIN: Yes.

19 MR. TUMMONDS: So this letter is--

20 CHAIRMAN HOOD: For the record,
21 was that in support?

22 MR. TUMMONDS: Yes, it was.

1 CHAIRMAN HOOD: Okay. Yeah, that
2 was prior when we took up the consent. It's
3 probably not in the package.

4 COMMISSIONER MAY: I have my --

5 CHAIRMAN HOOD: Oh, you have? Oh,
6 okay. We've got somebody up here on the ball.
7 I don't have mine, so Commissioner May, if you
8 could?

9 MR. TUMMONDS: It's dated June 10,
10 2008. It is -- I'm trying to find what in
11 your record.

12 CHAIRMAN HOOD: We actually have
13 that package. Commissioner May has that
14 package and it doesn't seem to be in there.

15 COMMISSIONER MAY: It was not in
16 your submittal. It was a separate letter that
17 came to the record?

18 MR. TUMMONDS: That is correct.

19 COMMISSIONER MAY: Yeah.

20 MR. TUMMONDS: I mean, I didn't
21 submit it.

22 COMMISSIONER MAY: Right.

1 MR. TUMMONDS: The ANC did.

2 MS. SCHELLIN: For some reason, we
3 do not have it in our files. But the letter
4 that Mr. Tummonds provided us to say that "On
5 Monday, June 9, 2008, at a regularly scheduled
6 meeting of ANC-6D, the ANC voted 5-1-1, four
7 Commissioners comprising a quorum, to support
8 the application of Marina View Towers, LLC for
9 a minor modification for PUD, which was
10 originally approved on October 26, 2007. We
11 write to urge your support of that
12 application."

13 CHAIRMAN HOOD: Can we accept that
14 colleagues into the record? Because I don't
15 know whether it was late or we didn't get it
16 or what the issue was. But at this point,
17 what I would like to do -- ANCs are volunteers
18 and they got a quorum and they even took a
19 vote and it meets our requirements. So I
20 would move that we accept ANC-6D's resolution
21 and ask for a second.

22 COMMISSIONER MAY: Second.

1 CHAIRMAN HOOD: Moved and properly
2 seconded. Any further discussion? All those
3 in favor?

4 ALL: Aye.

5 CHAIRMAN HOOD: Any opposition?
6 So would the staff record the vote?

7 MS. SCHELLIN: The staff records
8 the vote as 3-0-2 to accept the letter from
9 ANC-6D that the applicant provided this
10 evening. Commissioner Hood moving,
11 Commissioner May seconding, Commissioner
12 Turnbull in support, Commissioners Etherly and
13 Jeffries not present not voting.

14 CHAIRMAN HOOD: Okay. On my list
15 I have -- I know Mr. Esocoff has already gave
16 us his presentation, so I'm not going to call
17 his name, but I'm not sure of Jean-Paul Petit,
18 Lesar Group? That's another -- is that
19 another case?

20 COMMISSIONER TURNBULL: Previous
21 case.

22 CHAIRMAN HOOD: Previous case.

1 Okay. Okay. Let me go down the list. I want
2 to make sure I call everyone. I see some
3 people may be missing, but I'm going to call
4 anyway. In opposition, anyone here that would
5 like to testify in support of this
6 application? Okay. Let's go to opposition.

7 Mr. Paul Greenberg, Mr. Michael
8 McGovern and Ms. Ruth Herman. Anyone else who
9 would like to testify in opposition on this
10 case? Okay. If you all could -- Mr.
11 Tummonds, if you all could maybe step back?

12 Ms. Schellin, I think all of them
13 -- oh, there's only two. What we'll do is
14 we'll give both of them 5 minutes. Okay. Ms.
15 Herman, I know, Mr. McGovern is going to let
16 you go first. Ladies first, right? Ladies
17 first, Mr. McGovern?

18 MR. MCGOVERN: I just wanted to
19 introduce Ms. Herman. She is not intending to
20 speak. She is the Vice President of the --

21 MS. HERMAN: Treasurer.

22 MR. MCGOVERN: Treasurer of the

1 Tiber Island Cooperative Homes, Inc. Mr.
2 Greenberg and the president of the
3 association, of the cooperative, could not be
4 here tonight because of a religious holiday,
5 Rashashana. And also, I have been informed by
6 Mr. Litsky, Mr. Andy Litsky and Max Skolnik of
7 ANC-6D, they as well would have liked to be
8 here, but could not be here because of the
9 religious holiday. That's why they were not
10 here.

11 CHAIRMAN HOOD: Let me ask you
12 this. Let me ask you this.

13 MR. McGOVERN: Ms. Herman is just
14 here to -- there was an issue --

15 CHAIRMAN HOOD: Well, let me ask
16 you this. Ms. Herman, let's get your role
17 clear now. You have -- somebody wrote down
18 that you are the vice president.

19 MS. HERMAN: I'm the treasurer.

20 CHAIRMAN HOOD: You're the
21 treasurer?

22 MS. HERMAN: Treasurer.

1 CHAIRMAN HOOD: Okay. All right.
2 Okay. Ms. Schellin, let's start Mr.
3 McGovern's time over again. Mr. McGovern, you
4 may begin.

5 MR. McGOVERN: Yes. First of all,
6 thank you for finally letting me speak. I'm
7 going to be very brief. I do want to submit
8 for the record two letters. Should I give
9 these to -- two letters from -- that deal with
10 -- both dated September 18, 2008, both of
11 which deal with the authorization of me to
12 represent Tiber Island Cooperative Homes,
13 signed by the secretary of Tiber Island, and
14 also a personal letter from Mr. Greenberg, as
15 an individual and as president to the same
16 effect.

17 If I might give those? And I have
18 extra copies if you would like extra copies.
19 Now, the letters just go to the authorization.
20 There was an argument by Mr. Tummonds,
21 attorney for the applicant, that as in the
22 previous hearing in 05-38A, the prior Marina

1 View Towers case, that we had not submitted
2 any statement that we were authorized to
3 represent.

4 In Mr. Greenberg's case, the Board
5 and in my case, Mr. Greenberg and the Board.
6 I don't think it is called for by the rules,
7 but we have done it nevertheless.

8 The main point I want to point out
9 is that we, Tiber Island Cooperative Homes and
10 its residents through their management office,
11 were given notice as being property owners
12 within the required 200 feet of the subject
13 property. And there is a suggestion by the
14 Chair, I guess concurred in by two other
15 Members here tonight, that we did not show
16 specific agreement in order to make our case,
17 prima facie case, I guess, you would call it
18 as persons aggrieved.

19 I believe that we are within the
20 zone of interest that the Zoning Regulations
21 and the Administrative Procedure Act expects.
22 When we are singled out among all the

1 residents in the whole area as getting special
2 notice and an invitation to participate as a
3 party, I believe the mere proximity gives us
4 the right to be here. And in conjunction with
5 what I'm about to say, gives us party status.

6 I should point out that in Case
7 No. 02-38, which was -- 02-38A, which was the
8 Waterfront PUD project, Mr. Greenberg and my--
9 and Tiber Island represented by myself had
10 party status. So there's inconsistency -- and
11 fully participated in those proceedings. So
12 there's an inconsistency between how this
13 Commission is handling the Marina View Towers
14 case from the Waterside case.

15 The same proximity to the project
16 right next door. We're across from M Street.
17 I just thought I would point that out.

18 But our specific aggrievement that
19 brought us here tonight is that we have spent
20 time and money appealing the ruling of this
21 Commission in Case No. 05-38, the PUD approval
22 and Zoning Map Amendment. And briefs have

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1 been filed by both sides, a record has been
2 submitted from this Commission and a Joint
3 Appendix was filed and other exhibits to the
4 Court of Appeals.

5 We are awaiting oral argument, if
6 such shall be set and may be set in the next
7 few months. The fact that we are petitioners
8 on review before the D.C. Court of Appeals,
9 the highest court in this jurisdiction, on an
10 order that runs 22 -- of this Commission that
11 runs 22 pages and has very specific findings
12 and conditions and so forth, that is on
13 appeal. It's unlike any other case where you
14 may say well, there is no stay granted.

15 This -- what we want to do is
16 preserve the order that we are appealing, so
17 that it can be appealed on the merits.
18 Apparently, as recently as three months ago or
19 five months ago, this applicant was prepared--
20 or filed this covenant and had no intention,
21 apparently, of coming back here. And suddenly
22 on June 6th they filed the instant

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1 modification.

2 I don't believe my review of the
3 regulations and the law --

4 CHAIRMAN HOOD: Mr. McGovern, you
5 have one minute.

6 MR. McGOVERN: I have one minute.

7 CHAIRMAN HOOD: For your closing
8 thought.

9 MR. McGOVERN: I'm going to say
10 this then to sum up, that you have denied our
11 party status motion and I think that's
12 incorrect. I think, in fact, it's arbitrary
13 and capricious. But as to the argument that
14 Mr. Jacob Ritting mentioned, that because we
15 don't have a stay, you are permitted to
16 totally modify an existing order. It's wrong.

17 Every case where there is not a
18 stay is a situation where the applicant,
19 Marina View Towers, is seeking to enforce the
20 existing order and go forward with the
21 existing order. Now, they want to change the
22 existing order. They are totally changing it.

1 And the regulations don't address the
2 situation where an appeal is pending and a
3 great effort has gone into that, you know,
4 appeal before the court.

5 And I don't think the Court of
6 Appeals would appreciate it either that at
7 midstream after almost a year of appellant
8 proceedings, that this Board would suddenly
9 say oh, we're changing the order. I mean, it
10 just doesn't make any sense and it would be
11 arbitrary and capricious to do so under the
12 Administrative Procedure Act section --

13 CHAIRMAN HOOD: Thank you very
14 much, Mr. McGovern.

15 MR. McGOVERN: -- 1510(a).

16 CHAIRMAN HOOD: Thank you very
17 much.

18 MR. McGOVERN: Thank you.

19 CHAIRMAN HOOD: Okay. Any
20 questions of Mr. McGovern? I would just add
21 while you spent most of the time on party
22 status how unfortunate, we should have been

1 talking about the case that is germane in
2 front of us tonight. We will go on your
3 submittal.

4 You want to read our regulations
5 30. -- 3022 and make sure you are -- from now
6 on, make sure you address it and that's all
7 I'm going to say on that. Make sure your
8 submission that you address it and use your
9 time better spent to testify, it's better to
10 talk to us about the case than what the issues
11 were, as opposed to party status.

12 MR. McGOVERN: I wanted to --

13 CHAIRMAN HOOD: Everybody has five
14 minutes. I didn't make the time up. It was
15 five minutes before I got here. It will be 5
16 minutes long after I'm gone. Okay. Thank
17 you. Any questions? The applicant have any
18 questions? Thank you very much.

19 Okay. I guess we will have
20 rebuttal and closing remarks, Mr. Tummonds.

21 MR. TUMMONDS: Just real briefly.
22 First, we believe that the post-changes to the

1 buildings themselves are minor and are truly
2 consistent with the intent of the Zoning
3 Commission's original approval of this
4 application. As Mr. Lawson said, they do have
5 the approval of the office of Planning and the
6 Historic Preservation Office.

7 With regards to the evaluation, I
8 think the interesting thing to note, too, is
9 that we are forgetting the possibility that
10 there was what if the purchase price had gone
11 up? We locked in to a purchase price with our
12 tenants at \$425, \$100 a square foot. If the
13 market rates price would have gone up the way
14 that Mr. Lawson is reading this, is that we
15 would have been able to have \$100 off a square
16 foot of that market price. That was not our
17 intention. That certainly was not the
18 intention of the Marina View Towers'
19 residents.

20 If we would have gone back and
21 told them while we originally thought it was
22 going to be \$525, you are getting \$425, it's

1 now \$550, you've got to pay \$450, they would
2 not have agreed that that was the intention of
3 that underlying order.

4 The intention was we needed to
5 kind of peg a price that they felt comfortable
6 with in order to make their decision as to
7 what was a good deal for them, that price was
8 \$425. We think the most important thing we
9 wanted to convey today was is that there has
10 not been a financial windfall to this
11 applicant.

12 They have not taken -- decided to
13 pocket all this money. This money has
14 evaporated. They are excited to move forward
15 with this project. It is going to be a great
16 project. Thank Chairperson Mitten, at the
17 time, noted how this was a special project.
18 We think it is today.

19 We would agree with the Office of
20 Planning's amendment to the condition about
21 the C of O, as long as it is tying the
22 completion of the work to the C of O of either

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1 or actually it should probably be the first,
2 I think, just to be consistent. So it's the
3 first one will have it done.

4 And it is important just as we
5 discussed about the ability to tell the
6 construction lender this is what is it going
7 to cost. We need to peg that price at
8 \$178,500. We think that is a price that is
9 based in fact. We have detailed estimate of
10 where that money is going to go and we think
11 it will be consistent with the Wallace Robert
12 Todd Study calling for the improvements to
13 that park.

14 With that, we believe that the
15 record -- there is significant information in
16 the record and that we would request a
17 decision on this application this evening.
18 Thank you very much.

19 CHAIRMAN HOOD: Okay. I think due
20 to the opposition of the nature and other
21 issues, I think we possibly may need to
22 clarify, at least I know that I would like to

1 have the \$100 per square foot revisited and
2 looked at and clarify, so I can make sure I
3 get a full understanding of exactly, this is
4 off the cuff for me, what is going on.

5 Commissioner May?

6 COMMISSIONER MAY: Yeah. Yeah, I
7 think I'm comfortable with understanding what
8 happened with the \$100 a square foot. I mean,
9 it was -- no, it's -- I can understand it's a
10 substantial discount for, you know, a select
11 group of people. It's not quite, you know,
12 the affordable housing kind of model that we
13 would normally see for a PUD, but that's
14 neither here nor there.

15 It's a rental project now, so, you
16 know, the proffered alternative, which is the
17 improvements to the park, makes sense to me.
18 I guess the question I'm a little bit confused
19 about is whether the applicant is agreeing to
20 both of the post-modifications from the Office
21 of Planning, the one being the C of O tied to
22 the occupancy of the first building, the other

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1 one being the completion of the park project
2 and not just a specific dollar amount.

3 Maybe you covered that, but I just
4 kind of -- I was confused.

5 MR. TUMMONDS: I'm sorry. We
6 agree with the idea of the C of O.

7 COMMISSIONER MAY: Yeah.

8 MR. TUMMONDS: But we do not agree
9 with paying for the open ended completion of
10 the park. We want to stick in this notion
11 about sticking to a defined number, the number
12 that we have proposed \$178,500. So in that
13 regards, we are not agreeing with OP's
14 recommendation of do the work that is outlined
15 in the Wallace Robert Todd Study.

16 COMMISSIONER TURNBULL: Does that
17 number -- is that number tied to a specific
18 number of items within the park? And I think
19 it is.

20 MR. TUMMONDS: Yes.

21 COMMISSIONER TURNBULL: Or it was.

22 MR. TUMMONDS: Exhibit B to the

1 June 5th statement details where we came up
2 with that number.

3 COMMISSIONER TURNBULL: So I guess
4 I am trying to -- I'm reading into what OP is
5 fearing is that if these items are costing
6 more, how are you -- what is being prorated
7 within that plan then? What of those items
8 will be done and what won't be done, I guess?

9 MR. TUMMONDS: Right. And I --

10 COMMISSIONER TURNBULL: If the
11 cost is more.

12 MR. TUMMONDS: Right, right. And
13 I think my answer to that would be is that if
14 in two years we show that we can't do all
15 this, I think we would have to come back to
16 show we could do this, we couldn't do this.

17 COMMISSIONER TURNBULL: Okay.
18 Well, I don't know how the Office of Planning
19 feels, but it's --

20 COMMISSIONER MAY: You know, I
21 would think that that proposal needs a little
22 more thought. In other words, I'm not totally

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1 comfortable and ready to say yippee let's go
2 \$178,000.

3 MR. TUMMONDS: Right.

4 COMMISSIONER MAY: I would be
5 ready to say yippee let's go if we got
6 something closer to what OP is suggesting.
7 But if there is some ground in between --

8 COMMISSIONER TURNBULL: Well,
9 that's what I'm thinking.

10 COMMISSIONER MAY: -- that would--

11 COMMISSIONER TURNBULL: We have
12 OP's stand. I think I know where the
13 applicant is coming from.

14 MR. TUMMONDS: Yeah.

15 COMMISSIONER TURNBULL: But I can
16 also see OP's point of view that we have a
17 park we want to get completed and if we can't,
18 where are we?

19 MR. TUMMONDS: Yeah.

20 COMMISSIONER TURNBULL: So I think
21 -- and your comment is can we find some common
22 ground.

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1 COMMISSIONER MAY: Yeah, I would--
2 I mean, yeah, I would hope that we could find
3 some common ground on that modification to the
4 proposed amenity between Office of Planning
5 and the applicant.

6 CHAIRMAN HOOD: So common ground
7 and clarification from my standpoint. How do
8 we want to proceed? Do we want to wait for --

9 COMMISSIONER MAY: Well, I guess
10 my question --

11 CHAIRMAN HOOD: -- the next
12 meeting?

13 COMMISSIONER MAY: -- yeah, I
14 mean, I think I would be more comfortable
15 going to the next meeting to make a decision
16 on this, assuming that that could be done in
17 relatively short order. How quickly can that
18 actually happen?

19 COMMISSIONER TURNBULL: So not
20 proceeding to final action?

21 COMMISSIONER MAY: Or not -- no,
22 not proceeding tonight.

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1 COMMISSIONER TURNBULL: Not
2 proceeding.

3 COMMISSIONER MAY: They have asked
4 for a Bench decision. I'm not -- I don't know
5 that I'm ready to go to a Bench decision
6 tonight.

7 COMMISSIONER TURNBULL: Okay.

8 CHAIRMAN HOOD: One thing that is
9 different about tonight than any other time,
10 there's only three of us, so we need to --

11 COMMISSIONER TURNBULL: We need to
12 -- right.

13 CHAIRMAN HOOD: We'll just go to a
14 meeting.

15 COMMISSIONER TURNBULL: Okay.

16 CHAIRMAN HOOD: And hopefully we
17 can work it out and give a comfort level.

18 MR. TUMMONDS: We can do that in
19 short order.

20 COMMISSIONER TURNBULL: Okay.

21 CHAIRMAN HOOD: Okay. And I'll
22 just say, you mentioned Chair Mitten, she and

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1 I disagreed all the time, so that might not
2 look like it. Okay.

3 MR. TUMMONDS: With that in mind,
4 I might add because we haven't had that much
5 discussion or I think there hasn't been any
6 concern about the proposed changes, one of the
7 lead items we do have is the 10 foot sections
8 of glass that Mr. Esocoff noted. Obviously,
9 those are not standard and so we -- it would
10 be helpful to us if we had some indication
11 that the 10 foot -- the changes to the Pei
12 lobbies are appropriate or something that you
13 can deem appropriate, so that we can order
14 that glass and move on, for lack of a better
15 word.

16 COMMISSIONER MAY: I really don't
17 have any architectural anxiety about anything
18 that has been proposed here. I got plenty of
19 other architectural anxieties, but not in this
20 project.

21 CHAIRMAN HOOD: So, Mr. Tummonds,
22 you got the nod. Whatever that means, you got

1 the nod.

2 MR. TUMMONDS: More importantly,
3 my client got the nod.

4 CHAIRMAN HOOD: Okay.

5 MR. TUMMONDS: Thank you.

6 CHAIRMAN HOOD: All right.

7 Anything else? Ms. Schellin, do we have some
8 takes of when we're going to take this up?

9 MS. SCHELLIN: Are we just going
10 to need something from the applicant and then
11 have OP respond to it?

12 CHAIRMAN HOOD: Yes, the applicant
13 work with OP and then we'll get a
14 supplemental.

15 MS. SCHELLIN: And just have one
16 document?

17 CHAIRMAN HOOD: Right.

18 MR. TUMMONDS: Right, a joint
19 submittal.

20 CHAIRMAN HOOD: Right.

21 MS. SCHELLIN: Okay.

22 CHAIRMAN HOOD: And then find a

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1 common ground in which my colleagues --

2 MS. SCHELLIN: Our next meeting is
3 October 20th. So if they could provide
4 something to us by 3:00 October 14th?

5 CHAIRMAN HOOD: Okay. Is
6 everybody on the Office of Planning? Okay.
7 Okay. This -- do we need to take a break,
8 gentlemen? Okay. This Case No. 05-38A, the
9 record is closed with the exception of what we
10 have asked for and I thank everyone for their
11 participation tonight. And this first case is
12 adjourned.

13 (Whereupon, the Public Hearing was
14 concluded at 8:21 p.m.)

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