

MASTER APPEAL FORM

ORIGINAL

City of Los Angeles – Department of City Planning

APPEAL TO THE: CITY COUNCIL
(DIRECTOR, AREA PLANNING COMMISSION, CITY PLANNING COMMISSION, CITY COUNCIL)

REGARDING CASE #: APCW-2012-1698-ZC-ZV

PROJECT ADDRESS: 2011 S. Barry Avenue

FINAL DATE TO APPEAL: December 9, 2013

- TYPE OF APPEAL:
1. Appeal by Applicant
 2. Appeal by a person, other than the applicant, claiming to be aggrieved
 3. Appeal by applicant or aggrieved person from a determination made by the Department of Building and Safety

APPELLANT INFORMATION – Please print clearly

Name: Ricky Hirschfield of the Richard S. Hirschfield Trust

- Are you filing for yourself or on behalf of another party, organization or company?

Self Other: _____

Address: P.O. Box 5718

Santa Monica, CA Zip: 90409

Telephone: 310-628-7272 E-mail: rickyhirschfield@yahoo.com

- Are you filing to support the original applicant's position?

Yes No

REPRESENTATIVE INFORMATION

Name: Same as above

Address: _____

_____ Zip: _____

Telephone: _____ E-mail: _____

This application is to be used for any appeals authorized by the Los Angeles Municipal Code for discretionary actions administered by the Department of City Planning.

JUSTIFICATION/REASON FOR APPEALING – Please provide on separate sheet.

Are you appealing the entire decision or parts of it?

- Entire Part

Your justification/reason must state:

- The reasons for the appeal
- How you are aggrieved by the decision
- Specifically the points at issue
- Why you believe the decision-maker erred or abused their discretion

ADDITIONAL INFORMATION/REQUIREMENTS

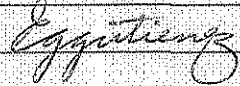
- Eight (8) copies of the following documents are required (1 original and 7 duplicates):
 - Master Appeal Form
 - Justification/Reason for Appealing document
 - Original Determination Letter
- Original applicants must provide the original receipt required to calculate 85% filing fee.
- Original applicants must pay mailing fees to BTC and submit copy of receipt.
 - Applicants filing per 12.26 K "Appeals from Building Department Determinations" are considered original applicants and must provide notice per 12.26 K 7.
 - Appeals to the City Council from a determination on a Tentative Tract (TT or VTT) by the City (Area) Planning Commission must be filed within 10 days of the written determination of the Commission.
 - A CEQA document can only be appealed if a non-elected decision-making body (i.e. ZA, APC, CPC, etc...) makes a determination for a project that is not further appealable.

"If a nonelected decision-making body of a local lead agency certifies an environmental impact report, approves a negative declaration or mitigated negative declaration, or determines that a project is not subject to this division, that certification, approval, or determination may be appealed to the agency's elected decision-making body, if any."
 --CA Public Resources Code § 21151 (c)

I certify that the statements contained in this application are complete and true.

Appellant Signature:  Date: 12-5-13

Planning Staff Use Only

Amount <i>Original</i> \$15,257.17	Reviewed and Accepted by 	Date 12/6/2013
Receipt No. 14264	Deemed Complete by	Date

- Determination Authority Notified *by telephone* Original Receipt and BTC Receipt (if original applicant)

AN APPEAL of the West Los Angeles Planning Commission denial of a Zone Change request from R2 to (T)(Q)RD3 pursuant to Los Angeles Municipal Code Section 12.32D.1

The Planning Commission ERRED in determining that the proposed zone change was INCONSISTENT with the general plan for the following reasons:

- 1) THE RD3 ZONE CHANGE AND DENSITY OF 4 SINGLE FAMILY DWELLING UNITS IS CONSISTENT WITH THE ZONING CLASSIFICATION, THE GENERAL PLAN FOR THIS AREA AND WITH THE PUBLIC NECESSITY, CONVENIENCE, GENERAL WELFARE AND GOOD ZONING PRACTICES.**

The General Plan/West Los Angeles Community Plan adopted by the City Council in July 27, 1999 specifically permits the RD3 Zone in this area which is designated as Low Medium I Residential Density. The City of Los Angeles planning staff report dated September 18, 2013 was detailed and accurately noted that the RD3 Zone was consistent with not only the zoning classification but also the general plan. This original block was subdivided in 1901 into 5 lots, now there are 23 lots all subdivided by deed with the exception of one lot. Twenty two lots were created without the benefit of good zoning practices with respect to uniformity of lot size and lot frontage. This proposed Zone Change DOES NOT intensify the existing density based on lot area for each parcel on this block but conforms to the underlying built density.

The WLAPC findings have no factual basis, the proposed Zone Change and RD3 density conforms to the existing permitted density based on the average lot size fronting both the west and east sides of the block bounded by La Grange Avenue on the North and Mississippi Avenue on the South which includes the subject site. The requested zone change to RD3 would NOT intensify the existing density but maintains the existing density based on dwelling unit per lot area and therefore is NOT in conflict with the plan. Excluding this parcel which is 14,112 SF there are 20 lots fronting Barry Avenue between La Grange Avenue and Mississippi Avenue with an average lot size of 6,971 SF which permits 2 dwelling units per each lot. This parcel is 14,112 SF, is double in size to other parcels fronting this block and IS CONSISTENT with public necessity, convenience, general welfare and good zoning practices which justify this zone change and density of 4 dwelling units for this 14,112 SF lot.

The design and merits of this project were completely ignored by the commission as evidenced by Commissioner Donovan first stating that, *"First of all, I don't have problems with four units on this property. I don't have a problem with a two-story height limit. I don't have a problem with thirty feet"* and then proposing a motion to deny the zone change. In fact, none of the three Commissioners at the hearing had taken any issue with the density of 4 single family dwellings homes with a 30 foot two story height limit on this 14,112 SF lot making the density, neighborhood context, scale and mass argument moot. There was considerable testimony from Commissioner Donovan regarding the City Small Lot Subdivision Ordinance despite the fact that the only planning action before the commission was for a zone change, the parcel map application was not before the commission. It is abundantly clear that the commission's action to deny the Zone Change had nothing to do

with this application and everything to do with how this property would be able to take advantage of the City of Los Angeles Small Lot Subdivision Ordinance. The RD3 Zoning permits individual homeownership of small infill projects an alternative to condominium development. The R2 Zone restricts individual ownership of more than one unit on a property to condominium development.

THE CITY OF LOS ANGELES enacted the Small Lot Ordinance (No. 17354) on January 1, 2005 to allow the construction of fee-simple, infill housing on small lots in multi-family zones. Small lot developments offer a space-efficient and economically attractive alternative to the traditional condominium development. Additionally, the ordinance offers a welcomed smart-growth alternative to the suburban single-family home. In the Low Medium I Residential Density in the West Los Angeles Plan Area this ordinance and individual small lot home ownership is not permitted because of the current R2 zoning. Therefore, if you live in West Los Angeles Community Plan Area with a Low Medium I Residential Density plan designation you are denied this form of home ownership opportunity because of one zone classification (R2) and the WLAPC stated policy of not grant Zone Variances regardless of the merits of the project and individual case. An argument can be made that this WLAPC policy, stated by Commissioner Donovan in his testimony, is a Fair Housing Act violation, discriminating against potential homeowners who wish to buy and live in small lot subdivision projects with the same density and story height as surrounding properties who live in condominium projects.

Excerpt for Planning Staff Report

1. *General Plan Land Use Designation. The subject property is located within the West Los Angeles Community Plan area, which was updated by the City Council on July 27, 1999. The Plan designates the subject site as Low Medium I Residential Density with corresponding zones of R2, RD3, RD4, RZ3, RZ4, RU and RW1. The current zoning for the subject site is R2-1 (Two-Family Zone) The zone change from R2-1 to (T)(Q)RD3-1 IS CONSISTENT with the Low Medium I Residential Density and IS in substantial conformance with the purposes, intent and provisions of the General Plan as reflected in the adopted community plan. The West Los Angeles Community Plan Section on Plan Consistency (page II-4) states that:*

"Each land use category within a Community Plan indicates the corresponding zones permitted unless it is restricted by the Plan text, footnotes, adopted specific plans or other limitations established by discretionary approvals. The Plan permits all corresponding zones designated with each Plan category and also zones which are more restrictive, as referenced in Section 12.23 of the Los Angeles Municipal Code (LAMC)".

2) COMMISSIONER DONOVAN'S INHERENT CONFLICT OF INTEREST AND KNOWN BIAS AGAINST ZONE CHANGE APPLICATIONS AND SMALL LOT SUBDIVISIONS IN THE WEST LOS ANGELES NEIGHBRHOOD COUNCIL AREA SHOULD HAVE BEEN CAUSE ALONE FOR HIM TO RECUES HIMSELF FROM THIS CASE:

During the WLAPC hearing Commissioner Donavan disclosed that he was a current board member of the West Los Angeles Neighborhood Council (WLANC) and that he lived in the neighborhood and that he had no reason to recusing himself from this case. What Commissioner Donovan failed to disclose was that he personally opposes projects involving zone change applications and small lot subdivisions in WLANC area. As a member of the

WLANC and the prior chair of the WLANC Land Use and Management Committee. he has gone on record as opposing zone change application in the area. Commission Donovan also failed to disclose that his law firm, Donovan & Sapienza, represented the Westside Residents Associations that opposed a proposed zone change at 1951-1953 S. Corinth which was used as a the only precedent for denying this zone change application.

In a case reviewed by the West LA Neighborhood Council, Commissioner Donovan recused himself as a West LA Neighborhood Council board member and personally testified as a stakeholder and adjacent property owner before his own neighborhood council opposing a proposed zone change application for 1226-2120 S. Federal Avenue. The zone change and proposed development were adjacent to his condominium 4 unit complex. Ironically, Commissioner Donovan 4 unit condominium complex required a Zone Change that permitted the complex to be built years ago. Clearly this is a case of, my property required and was granted a zone change but now no one else should be granted the same planning entitlement that my property received, no more zone changes, not in my neighborhood. This is an obvious bias and prejudice that mandated Commissioner Donovan recues himself from this case.

Because Commissioner Donovan is an attorney, he should be held to the highest standard when determining whether or not to recues himself from a project. Commissioner Donovan should have recognized that because there was an appearance of a conflict of interest he should have used an abundance of caution and recused himself from this case. All of the documents and prior case history regarding Commissioners Donovan's actions opposing Zone Change in the WLANC area are readily accessible on the internet, which should have been sufficient reason for the City Attorney's office to request that Commissioner Donovan recues himself in this matter. At this hearing, a staff city attorney was present who should have counseled Commissioner Donovan to recues himself. Because there were only 3 commissioners in attendance at this meeting, this Zone Change would have automatically been approved based on the City Planning Staff report, further reason why Commissioner Donovan's actions were prejudiced. Commissioner Donovan motives were apparent; to ensure this zone change was denied.

During the hearing, Commissioner Donovan also provided misinformation stating that the WLANC opposed the project when in fact the proposed WLANC Resolution opposing the project was not adopted. In fact, no motion was adopted to support or oppose the project.

Commissioner Donavan added confusion to this case by stating that the action before the Commission was an appeal when in fact the request was for a Zone Change and not an appeal. Commissioner Donovan, because he is an attorney, had undue influence on the other commissioners who throughout the meeting when they relied on his testimony regarding this case.

3) THE PLANNING COMMISSION ERRED IN DETERMINING THAT THE PROPOSED ZONE CHANGE WOULD SET A PRECEDENT IN THE AREA AND “ENCOURAGE NEW OUT OF SCALE DEVELOPMENT OF OTHER INCOMPATIBLE USES”

Numerous statements made by Commissioner Donovan were factually incorrect including two key issues:

Issue 1) Commissioner Donovan stated: “The only other nearby zone changes were twenty-three years ago and fifteen years ago. In each case, the structures were limited to two stories and thirty feet in height. This APC has rejected zone changes in this area since then, and also have limited the projects to two stories and thirty feet in height.”

Based on review of city records, in the Last 15 years there has only been one Zone Change request denied by the APC in this area and that was in 2006 for a project located at 1951-1953 Corinth Avenue. That project was personally opposed by Thomas M. Donovan who at the time was a member of the WLANC and the Chair of the WLANC PLUM committee. Additionally Mr. Donovan’s law firm, the Law Offices of Donovan & Sapienza, represented the Westside Residents Association which also opposed the project. This 1951-1953 Corinth Avenue project was denied because the proposed project and RD1.5 Density included a 45 foot height limit, which would not have been compatible with the area. The 1951-1953 Corinth Zone Change denial has no relevance to this case because this application is for a much more restrictive zone - RD3 and includes 2 stories and 30 foot height limit.

In 2003 a Zone Change and General Plan Amendment were approved by the Los Angeles Planning Commission from R2-1 to (T)Q)RD2 with 2 stories and 30 foot height limit. The proposed Zone Change for Barry Avenue is for a more restrictive Zone – RD3 and with 2 stories and 30 foot height limit. This pending RD3 Zone Change application is consistent with the prior Commissions 2003 action in approving projects that respect the density and scale of the existing neighborhood.

This project with 4 single family dwellings on a 14,112 SF parcel, 2 stories and 30 foot height limit is consistent with the neighborhood and both the west and east sides of the block bounded by La Grange Avenue on the North and Mississippi Avenue on the South which includes the subject site.

Issue 2) Commissioner Donovan stated “There are lots of other eyes on this neighborhood looking to change the zones, change the density, redevelop it, and a zone change here will set precedent. I believe that it is spot zoning. There are other ways to reaffect the redevelopment of the site without a zone change. The applicant, if he came in with a four unit, two story, thirty foot height limit on a parcel map, I think he'd get it, and I don't even think it would be appealed. And so on those facts, I would say that granting a zone change at the site will violate the community plan, it will set precedent that has a potential to violate the character of the neighborhood.”

Commissioner Donovan made numerous statements regarding the City of Los Angeles, Small Lot Subdivision Ordinance which was NOT before the Commission. The Small Lot Subdivision Ordinance is permitted in the RD3 zone and not permitted in this R2 zoned lot. The Commission in fact went as far as proposing that a new parcel map application should be filed with the same 4 unit density with 2 stories and 30 foot height limit only as a condominium project despite the fact that this would mean starting the process from the beginning. There would be no change in the density mass, height, site plan, etc. only that the type of property ownership would be different, condominium ownership vs owning the home and underlying land fee simple. This obvious bias and discrimination limits the type of housing available in the West Los Angeles area with Low Medium I Residential Density classification by not permitting individual homeownership of small lot housing projects. The WLAPC in effect was advocating requiring all for-sale multifamily housing projects located within the West LA Neighborhood Council district with R2 current zoning be approved only as condominiums regardless of other allowable zoning classifications permitted in the Low Medium I Residential Density classification in the General Plan. The WLAPC in effect would be creating and establishing Planning Policy of what type of housing would be permitted in West Los Angeles rather than the commission's charter role of having jurisdiction of site specific projects requesting a Zone Change. The Fair Housing Act prohibits housing discrimination, which would be exactly the effect of denying all Zone Changes in West Los Angeles from R2 zoned properties to (T)Q)RD3 regardless of each individual case merits.

As evidenced by the attached transcripts of the public hearing, statements made by Commissioner Donovan negatively affected the other commissioners opinion who were differing to Commissioner Donovan on this application due to the project site location being within the boundary of his neighborhood council.

IN SUMMARY, COMMISSIONERS DONOVAN MOTION TO DENY THE ZONE CHANGE CLEARLY DEMONSTRATED HIS INHERENT BIAS AGAINST ZONE CHANGE APPLICATIONS WITHIN HIS WEST LOS ANGELES NEIGHBORHOOD COUNCIL AREA WHICH MADE A FAIR HEARING ON THE MERITS IMPOSSIBLE. THE ENTIRE MOTION WAS NOT BASED IN FACT BUT IN MISSTATEMENTS AND MISREPRESENTATIONS. SEE COMMENTS IN BOLD.

One can question which hat was Commissioner Donovan wearing when he made the motion to deny the zone change: a WLAPC Commissioner, a West Los Angeles Neighborhood Council Member, or the partner of law firm, Donovan & Sapienza that represented the Westside Residents Associations which opposed the 2006 zone change for the 1951-1953 Corinth Avenue project.

COMMISSIONER DONOVAN's MOTION with commentary of factual information highlighted in bold: - *I'm going to be consistent with what I've stated before. I think we should deny the zone change. The facts that I would base upon designing the zone change is that every single structure on both sides of the block are one to two stories. Every single property on both sides of the block are zoned R2. The only other nearby zone changes were twenty-three years ago and fifteen years ago. In each case, the structures were limited to two stories and thirty feet in height. This APC has rejected zone changes in this area since then, and also have limited the projects to two stories and thirty feet in height.*

This proposed project is two stories with a thirty feet in height limitation consistent with APC stated height limit preferences for this area.

The existing density of every single property on the block is consistent with the RD3 proposed Zone, this is not an up zoning . The most current approved zone change was in 2003 not 25 or 15 years ago for a RD2 zone change which required a general plan amendment. This zone change is for a RD3 zone requiring more lot area per dwelling unit that a R2 zone. Based on city records, there has been only one zone change application denied in the last 10 years by the APC and that was in 2006 for a proposed zone change that would have doubled the R2 density of the site with a RD1.5 zone change request and requested a 45 foot height limit.

COMMISSIONER DONOVAN: -- There are lots of other eyes on this neighborhood looking to change the zones, change the density, redevelop it, and a zone change here will set precedent. I believe that it is spot zoning. There are other ways to reffect the redevelopment of the site without a zone change. The applicant, if he came in with a four unit, two story, thirty foot height limit on a parcel map, I think he'd get it, and I don't even think it would be appealed. And so on those facts, I would say that granting a zone change at the site will violate the community plan, it will set precedent that has a potential to violate the character of the neighborhood. And that would be my motion. The only precedent this project might set will be a positive precedent for the neighborhood by requiring 3000 SF of lot are per dwelling unit which is greater than the R2 zone requirement of 2500 SF of lot are per dwelling unit and establishing a two stories and thirty feet height limit precedent which is the proposed story and height limit for this project.

The commission's recommendation and idea of the applicant applying for the same project with the identical design except as a condominium is completely unfair and bias, notwithstanding the additional cost and time necessary to start the process over from the beginning.

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RECORDING OF MEETING
WEST LOS ANGELES AREA
PLANNING COMMISSION

September 18, 2013

Henry Medina West L.A. Parking Enforcement
Facility
11214 W. Exposition Boulevard, Second Floor,
Roll Call Room
Los Angeles, CA, 90064

APCW-2012-1698-ZC-ZV
Related Case: VTT-71929-SL
CEQA: ENV-2012-1699-MND

Location of property:
2011 South Barry Avenue, West Los Angeles

COMMISSIONERS PRESENT:
ERICA TEASLEY LINNICK
THOMAS M. DONOVAN
JOSEPH W. HALPER

COMMISSIONERS ABSENT:
JOYCE L. FOSTER
GLENDA E. MARTINEZ

ALSO PRESENT:
RHONDA KETAY, Commission Executive Assistant
GREG SHOOP, Hearing Officer
West L.A. Planning Commission
JOHN REED, Reed Architectural Group
MR. AND MRS. RICHARD HIRSCHFIELD, Applicants
CAROLE NAKANO, Homeowner Barry Avenue
SHANA BONSTIN, Department of City Planning

1 MS. LINNICK: Okay. Moving right
2 along. We're on item number 5, and this is
3 APCW-2012-1698-ZC-ZV, and its related case
4 VTT-71929-SL, CEQA: ENV-2012-1699-MND. The
5 location is 2011 South Barry Avenue in West
6 Los Angeles.

7 COMMISSIONER DONOVAN: Commissioner
8 Donovan. Before we proceed, I do have to
9 make a disclosure for the record. I am a
10 board member of the West L.A.
11 Neighborhood Council, and this project
12 was within the borders of that
13 neighborhood council. I, at all times,
14 recused myself and left the room when
15 this matter came before the neighborhood
16 council. I have not discussed this
17 matter with any neighborhood council
18 board or committee member. I was unaware
19 of the facts of this matter until I
20 received the appeal documents. I have
21 viewed the property site, and I live in
22 that neighborhood also.

23 COMMISSIONER LINNICK: Thank you.
24 Mr. Shoop is the staff person. Do you
25 want to --

1 MR. SHOOP: Greg Shoop, hearing
2 officer for the West L.A. Area Planning
3 Commission.

4 What we have here tonight is an
5 infill project. We have an area that is
6 drastically undergoing redevelopment of
7 the older single-family homes and
8 duplexes. It's a very interesting
9 neighborhood, in that north of the
10 property we have RD1.5 zone and
11 low/medium 2 density housing. Across the
12 street from that we'd have low/medium 1
13 housing with a maximum density of RD3.
14 We have industrial to the west. We have
15 Sawtelle and its very busy commercial to
16 the east. To the south we have Olympic
17 and high-rise. So it's a little enclave
18 of low density development that is being
19 redeveloped to provide housing
20 opportunities.

21 Currently, it is zoned R2. R2, in
22 our city zoning code, is one of the more
23 restrictive or most restrictive multi-
24 family zone. Regardless of the size of
25 your lot -- you can have an acre lot --

1 you're only allowed two units. You can
2 have a 5,000 square foot lot, you're
3 allowed two units in the R2 zone.

4 So for a lot of developers, you
5 know, if they have a very large lot -- in
6 this case, this lot is 14,112 square
7 feet, and it's developed with three
8 single-family homes. If he was going to
9 tear down these single-family homes and
10 just build on this existing lot, he'd
11 only get two units, even though it's one
12 lot per 250, it's a maximum of two units,
13 two single-family houses or a duplex.

14 If he subdivided the property, he
15 would be able to get a total of two units
16 on each lot, if the lots are over 5,000
17 square feet. They'd be approximately
18 7,500 square feet. Because the lot is
19 only 96 feet in width, and not 100, he'd
20 need a yard adjustment, or some type of
21 variance, from the zoning administrator's
22 office to have reduced lot widths.

23 So the developer has elected to
24 rezone to the RD3 zone. That is
25 consistent and a corresponding zone with

1 the RD1. The RD3 allows more
2 flexibility. With a R2 zone, he could
3 build, again, two duplexes on each lot,
4 rent them out. He could turn them into a
5 condominium development with a shared
6 common driveway, and then you'd have two
7 duplexes where each owner would own half
8 of the common ownership plus their four
9 walls.

10 In this case, the whole entire
11 property would allow four units, the same
12 density as the R2. You would end up with
13 more flexibility. He could build a four-
14 unit apartment building, attached or
15 detached. He could build a four-unit
16 condominium, attached or detached. Or he
17 could build a four-lot subdivision. In
18 this case he's elected to do a four-lot
19 subdivision.

20 We're not looking at the impacts of
21 the four-lot subdivision, because that's
22 a subdivision matter. We're just looking
23 at the corresponding zone change and is
24 it consistent with the general plan, is
25 it consistent with the prevailing

1 density.

2 One of the issues that was raised,
3 that I raised at the hearing, there was a
4 companion zone variance with this case.
5 There was about 2,000 square feet of lot
6 area left over, and the applicant had
7 requested a variance to put the density
8 up to five dwelling units. Discussion
9 during the hearing, having gone out to
10 the property several times, did a survey
11 of the surrounding development potential;
12 I found no compelling reason to ever
13 bring that recommendation forward as an
14 approval to this commission. Five units
15 there would be inconsistent with the
16 prevailing density, inconsistent with the
17 existing development. It would be more
18 of a grant; there was no really hardship
19 there.

20 So he elected, at the hearing, to
21 withdraw the variance. It is in the
22 recommendation as an action item because
23 it was -- some dispensation has to come
24 from the commission regarding the
25 variance, but we put it as a recommended

1 withdrawal, to support the withdrawal.

2 That said, four units are allowed in
3 the R2 zone, with a subdivision. Four
4 units are allowed in RD3 zone. He's
5 elected to do a small lot subdivision at
6 this time. Somebody else could come in.
7 But the issue we wanted, with both how
8 the small lot subdivision works in this
9 neighborhood and the RD3 zone works in
10 this neighborhood; the RD3 zone allows a
11 forty-five foot height limit.

12 We looked at what was submitted in
13 by the applicant, and some conversations
14 I had with the member of the neighborhood
15 council, and looked at a lot of the
16 different zone changes, both subdivision
17 and other zone changes, and most of the
18 density was two stories, thirty feet,
19 thirty-five feet, way below what the
20 forty-five foot. Forty-five feet here,
21 in the surrounding neighborhood, would
22 just be out of scale with these
23 surrounding homes. He's elected to go
24 down to thirty-three feet, which is the
25 maximum height allowed in a R2 zone.

1 The other issue is the small lot
2 subdivision allows smaller setbacks
3 between common property lines. So
4 without the Q condition, if this was a
5 buy right, he could put his property
6 building five feet from his neighbor,
7 instead of the fifteen feet that's
8 required in the RD3 zone.

9 He's elected to allow a Q condition
10 on there that'll put a fifteen foot rear
11 yard. And then as part of the
12 subdivision process, he's agreed to match
13 the prevailing. In this case, his plans
14 show a twenty foot.

15 So in conclusion, this RD3 zone,
16 consistent with the low medium 1,
17 consistent with the footnote that allows
18 any category within the range of low
19 medium 1 to be considered consistent.
20 There is an RD3 across -- down the block.
21 There is an RD2, which was Q'd to RD3,
22 behind this property. It's not what we
23 would consider a spot zone, which was a
24 concern of the neighborhood council. It
25 is a consistent zone change, and it does

1 allow that flexibility to provide
2 alternative housing opportunities, if
3 people want to select a small lot,
4 condominium, owner or rental, they now
5 have that option.

6 I'm open for questions.

7 COMMISSIONER LINNICK: Commissioner
8 Linnick. I just had a quick one. So
9 2015 is not -- is 2015 part of this? Is
10 it 11 and 15, or just -- because I went
11 to see it, and it looked like, from the
12 size of it, and that the driveway from
13 the plan, it looked like --

14 MR. SHOOP: Well, there's a
15 common -- right now the existing
16 development has a common driveway.

17 COMMISSIONER LINNICK: Yeah.

18 MR. SHOOP: If you're looking at the
19 property, you'll see two homes on that
20 side, and then one home on this side --

21 COMMISSIONER LINNICK: Yes.

22 MR. SHOOP: -- of that common
23 driveway.

24 COMMISSIONER LINNICK: Okay.

25 COMMISSIONER DONOVAN: Commissioner

1 Donovan. So there's two homes on the
2 property right now?

3 MR. SHOOP: There should be three
4 total.

5 COMMISSIONER DONOVAN: Three total,
6 okay. And the applicant could get to
7 four units without a zone change on this,
8 by going through another process, right?

9 MR. SHOOP: They'd have to go
10 through a subdivision.

11 COMMISSIONER DONOVAN: Okay.

12 MR. SHOOP: Now, part of the
13 subdivision, because the lot is not 100
14 feet long, and our lot widths for any new
15 lot is a minimum of 50 feet wide, 5,000
16 square feet in area, one lot would either
17 be undersized, one would be 50, and one
18 would be less than -- would be about 46.
19 Or they would just split the 96 in half
20 and each lot would be substandard. There
21 are a few variances in the area that I
22 looked at that had smaller widths that
23 were approved as part of subdivision. So
24 it's not something that is brand new.
25 It's just that it adds a little more risk

1 to the development.

2 COMMISSIONER DONOVAN: Okay. And he
3 could also do a small lot subdivision and
4 just have two units or three units.

5 MR. SHOOP: Yeah, he can elect how
6 many units he wants on there. It's just
7 that the R2 zone doesn't allow the small
8 lot subdivision --

9 COMMISSIONER DONOVAN: And --

10 MR. SHOOP: -- process at all.

11 COMMISSIONER DONOVAN: And regarding
12 the height, I took a long look at the
13 small lot ordinance, and I was also
14 looking at the small lot -- City of L.A.
15 Small Lot Design Guidelines, and there is
16 something in there, on page 1 of the
17 Small Lot Design Guidelines, that say
18 "Adjacent structures and neighborhood
19 context may effectively limit building
20 heights above two stories." So you could
21 have imposed a condition on this small
22 lot subdivision, limiting --

23 MR. SHOOP: Well --

24 COMMISSIONER DONOVAN: -- the height
25 to two stories.

1 MR. SHOOP: -- that is incorrect.
2 The small lot subdivision is a
3 subdivision process. My concern was that
4 if he did a small lot subdivision, then
5 the small lot -- the advisory agency
6 could put a condition, exactly like the
7 guidelines state, that it be two stories,
8 consistent with the neighborhood.

9 If he elected to sell it, and a guy
10 builds an apartment, then I end up with a
11 forty-five foot high apartment building.
12 So my Q condition is recommended to cover
13 whether it's a rental, whether it's a
14 four lot condominium, whether it's a
15 small lot subdivision, that it would be a
16 maximum height of thirty three feet,
17 because that's what an R2 zone would get.

18 COMMISSIONER DONOVAN: Well --

19 MR. SHOOP: You may ask the
20 applicant if he wants to limit it to two
21 stories, within that thirty-three feet.

22 COMMISSIONER DONOVAN: Well --

23 MR. SHOOP: That'll allow for a
24 pitched roof.

25 COMMISSIONER DONOVAN: So in front

1 of us right now, it's --

2 MR. SHOOP: No change.

3 COMMISSIONER DONOVAN: -- this is
4 not a small lot --

5 MR. SHOOP: It was just a zone
6 change, correct.

7 COMMISSIONER DONOVAN: Just a zone
8 change only?

9 MR. SHOOP: Right.

10 COMMISSIONER DONOVAN: Okay.

11 MR. SHOOP: And so we had a joint
12 hearing -- I mean, we had a joint
13 hearing, and part of the joint hearing
14 process, which was very favorable, is the
15 ability to understand, from the
16 subdivision advisory agency, how they
17 look at a small lot. And that tempered
18 my view on saying, well, gosh, if there
19 was going to be a small lot subdivision
20 and the guy withdraws the application,
21 I'm still stuck with now a zone change
22 and development that may not be
23 compatible with the surrounding
24 neighborhood. And that's my task. So
25 whether it's going to be a rental, a

1 condominium project, or a small lot
2 subdivision, the compatibility will be
3 fifteen foot rear yards, a thirty-three
4 foot height limit, and normally in the
5 RD3 zone you'd have a fifteen foot
6 setback in the front. So if it was a
7 rental, that would be okay. If it's
8 condo, those conditions still apply. And
9 as a small lot, according to the city
10 attorney, my Q condition are the
11 recommended Q conditions of this
12 commission and ultimately imposed by the
13 city council, which supersede the
14 guidelines and the small lot waivers.

15 COMMISSIONER DONOVAN: I have been
16 out to see the site, and apparently you
17 have too. And every single structure on
18 both sides of Barry, on this block, are
19 one to two stories.

20 MR. SHOOP: Right.

21 COMMISSIONER DONOVAN: And every
22 single property on this block of Barry is
23 zoned R2.

24 MR. SHOOP: Correct, both sides.

25 COMMISSIONER DONOVAN: Okay. And

1 you have said there's other applications
2 for redevelopment going on in this
3 neighborhood right now.

4 MR. SHOOP: There's a lot of
5 different applications. There's small
6 lot subdivisions on existing RD1.5 and
7 RD2 zones and RD3 zones. There's -- down
8 the street there was a parcel map that
9 predates a small lot subdivision, where
10 they created two individual duplexes with
11 a common driveway, and so that's a two-
12 unit condominium for both.

13 COMMISSIONER DONOVAN: So to make a
14 long story short, a lot of people are
15 looking at redevelopment in this area?

16 MR. SHOOP: Correct, yes.

17 COMMISSIONER DONOVAN: Okay.

18 MR. SHOOP: And --

19 COMMISSIONER DONOVAN: And the other
20 thing is that you cited two nearby
21 projects. One was at 2125 Colby, but
22 that was twenty-three years ago, correct?

23 MR. SHOOP: Right.

24 COMMISSIONER DONOVAN: And then the
25 other one was at 2049 Federal, and that

1 was fifteen years ago. But -- and I
2 looked at these, and both of these have a
3 height restriction of thirty feet and two
4 stories.

5 MR. SHOOP: Um-hum.

6 COMMISSIONER DONOVAN: That's
7 correct too?

8 MR. SHOOP: Right.

9 COMMISSIONER DONOVAN: Okay..

10 MR. SHOOP: That was part of the Q
11 conditions back then. Again, forty-five
12 feet, I think, being too high.

13 COMMISSIONER DONOVAN: And there
14 have been other requests for zone changes
15 in this --

16 MR. SHOOP: Correct.

17 COMMISSIONER DONOVAN: -- last
18 twenty years that have been denied --

19 MR. SHOOP: Yes.

20 COMMISSIONER DONOVAN: -- also.

21 MR. SHOOP: True.

22 COMMISSIONER DONOVAN: Okay. And so
23 that's why when I looked at this, you
24 know, you cited where the zone changes
25 happened, but you didn't cite the

1 projects were zone changes were denied,
2 either by planning or by the planning
3 commission.

4 MR. SHOOP: Right.

5 COMMISSIONER DONOVAN: Okay. Okay.
6 And also, this APC has imposed thirty-
7 feet height limits in this area as well.

8 MR. SHOOP: Correct.

9 COMMISSIONER DONOVAN: Okay.

10 MR. SHOOP: For the small lot
11 subdivisions, and if they come before
12 them on appeal also.

13 COMMISSIONER DONOVAN: And we do
14 have te -- you had testimony in the form
15 of a letter and the opposition from the
16 neighborhood council saying that -- which
17 we hadn't seen before, but I had a chance
18 to scan it real quickly. And they're
19 saying that in the four-block quadrant
20 here, eighty percent of all the
21 properties are two stories or less.

22 MR. SHOOP: Correct, so we could --

23 COMMISSIONER DONOVAN: Okay.

24 MR. SHOOP: -- recommend that and
25 put a two-story limitation. I would have

1 to ask the applicant's representative if
2 that would be agreeable. Again, I didn't
3 want to impose a higher burden than what
4 the person next door gets. So if the
5 person with a standard R2 zone gets to
6 redevelop their site with a thirty-three
7 foot height house, unlimited stories, yet
8 this zone change now is going to be
9 limited to two stories or thirty feet; I
10 didn't want to do that -- I've already
11 dropped them from forty-five feet down to
12 thirty-three feet.

13 COMMISSIONER DONOVAN: I understand.
14 One of the things -- and I'm always
15 concerned about the community plan, and
16 we've been over this community plan many
17 times regarding other projects, about
18 basically making new projects compatible
19 and fit in and all that. And I'm
20 concerned about precedent. You know, if
21 we just change the zoning in the middle
22 of a block on here, and we have all these
23 other eyes looking at this neighborhood,
24 and people tend to use changes as
25 precedent, what about the effect? Are we

1 essentially changing the zoning in the
2 entire neighborhood here by giving a zone
3 change in this instance?

4 MR. SHOOP: No, in this case, as I
5 stated in one of my findings, is that the
6 plan has very general requirements about
7 compatibility, about that you need
8 compatibility with the density,
9 compatibility with the responsibilities.
10 But one of the main overriding
11 requirements -- and I'll quote a little
12 bit from that -- is that when you have
13 your zone change, that within that range
14 of zones -- and in our low medium 1 zone,
15 we have R2; RD3; RD4; RZ3;, which is
16 residential zero lot line 3, which is a
17 predecessor or precursor of the small
18 lot, that was just so we could put a lot,
19 a patio home right on the zero property
20 line and put two units together; RZ4; RU,
21 which was a smaller mobile home type
22 development, manufactured home; and an
23 RW1, which is a water waste zone.

24 Within that category, "Each land use
25 category within a community plan

1 indicates a corresponding zone. This
2 plan permits all those within that zone."
3 So we don't consider that a spot zone.
4 Now, if the gentleman was coming in for a
5 plan amendment and a zone change to come
6 up to an RD1.5, for example, and RD2,
7 that would be considered a spot plan and
8 a spot zone, because that is now putting
9 a higher density right in the middle of a
10 block.

11 COMMISSIONER DONOVAN: But that's
12 not my question. Are we setting the
13 stage for other applicants to come in and
14 ask for an RD3 zone change by doing this?

15 MR. SHOOP: Yes, because that is
16 consistent with the general plan and the
17 development out there.

18 COMMISSIONER DONOVAN: Well, here's
19 the problem. I mean, we've had -- this
20 area was due for a revised community plan
21 in 2008, and it's been shelved. And
22 we've been told that there is not going
23 to be a revision in the foreseeable
24 future. So where the residents could all
25 weigh in on the community plan, and if

1 it's the will of everyone to change it to
2 RD3. So you may not call it --
3 technically it's not spot zoning, but you
4 are putting a different zoning in the
5 middle of a block, surrounded by other
6 kinds of zoning and setting the stage for
7 other ones. So certainly there is
8 precedential effect in doing this.

9 MR. SHOOP: Well, each zone
10 change -- and just like a variance, it
11 could set a precedent for others to
12 follow, but each zone change is
13 different, it's unique. If, for example,
14 the person wanted forty-five feet, they
15 wanted a higher density, each zone change
16 stands or loses by itself. The plan,
17 because you just mentioned the plan,
18 allows this zone change within the range.

19 A footnote that I found in the
20 Wilmington plan limited an area bounded
21 by certain streets to a maximum of R2
22 zones. Now, if that type of footnote
23 exists in the West Los Angeles plan, then
24 you would have your ability to not allow
25 these RD3 zone changes. But what is in

1 this plan is encouragement of people to
2 come in and apply for zone changes within
3 that range to further redevelop the
4 properties.

5 COMMISSIONER DONOVAN: I guess I've
6 read through the plan many times, and I
7 never found that it encourages people to
8 come in for zone changes. What I did
9 see, that the plan's objective is to
10 protect existing single-family
11 residential neighborhoods from new out of
12 scale development of other incompatible
13 uses, to preserve and enhance the
14 residential character, to protect the
15 character and scale of the existing
16 residential neighborhoods. I don't think
17 you can do that and encourage people to
18 come in for zone changes on individual
19 plots of land. That's the problem that
20 I'm seeing there. And you agree it will
21 have precedential effect. So that's the
22 issue I'm having. When you go out there
23 and you see one and two story houses on a
24 block, I just can't see how the plan will
25 encourage -- we would encourage that to

1 change just because it's technically
2 possible to get an RD3 zoning in the R2
3 area.

4 MR. SHOOP: Well, this is a function
5 of why we impose Q condition and have
6 individual zone changes. If the city
7 council decided to rezone this whole
8 property up to RD3, they would probably
9 put very generic conditions on, instead
10 of the site-specific conditions that we
11 get from individual zone changes. We
12 could ask, for example, that if the
13 building was going to be taller, step
14 away, like I added the fifteen foot
15 setback instead of the five foot setback,
16 knowing that they wanted to do a small
17 lot, that we could increase the side
18 yards, we increase the open space
19 required. The individual site-specific
20 zone changes allow us to tailor this
21 development to better fit with the
22 neighborhood. The protection of --

23 COMMISSIONER DONOVAN: But that can
24 also be done --

25 MR. SHOOP: -- single-family

1 neighborhoods has also forced single-
2 family zoned neighborhoods. This is a
3 area that is planned for multi-family,
4 that has a range where one block you're
5 allowed one unit per 1,500 square feet,
6 on another block you're allowed 50
7 percent reduction density at RD3. You go
8 to another block and it's commercially
9 zoned, which allows an R4 zone. So I
10 agree that this is a -- there's a
11 mix-match of land use development and
12 densities in this area, and it is
13 difficult, without an update, to kind of
14 clean that up and make sure that doesn't
15 happen.

16 COMMISSIONER DONOVAN: But clearly,
17 the applicant in this case could get his
18 four -- he would get where he wants to
19 be, essentially, without a zone change.

20 MR. SHOOP: It depends. The
21 question that I would have to raise also
22 is that a city council approv -- he
23 couldn't do a small lot subdivision
24 because the R2 zone only allows a small
25 lot subdivision if you share a common

1 property line with a commercial or
2 industrial zoned property, and this is
3 not the case. So he couldn't do the
4 small lot subdivision.

5 City council created the small lot
6 subdivision to allow a fee simple the
7 ability to buy and own the land as well
8 as your four walls. So now you own a
9 single-family house on maybe, instead of
10 a 5,000 square foot lot, a legal lot, you
11 own it on a 3,000 square foot lot or a
12 1,500 square foot lot. And that allows,
13 what city council thought, is more people
14 the opportunity to experience home
15 ownership. Also --

16 COMMISSIONER DONOVAN: The
17 affordability issue.

18 MR. SHOOP: Well, the affordability
19 issue, and the other big issue is, and
20 why a lot of condominiums stopped in the
21 west side, is the construction defect
22 insurance required, mandated by the
23 state, have maintained insurance for ten
24 years.

25 COMMISSIONER DONOVAN: But the

1 applicant's proposing 2,500 square foot
2 single-family homes.

3 MR. SHOOP: Correct.

4 COMMISSIONER DONOVAN: So how much
5 do you think he would have to charge for
6 a brand new 2,500 foot single-family home
7 in West L.A. to make it affordable?

8 MR. SHOOP: But it's not affordable,
9 more affordable, not affordable in the
10 sense that it's a density bonus situation
11 where we're mandating that he set aside
12 low income units in exchange for more
13 density or more incentives. This is --

14 COMMISSIONER DONOVAN: So
15 affordability is not an issue in this
16 particular project.

17 MR. SHOOP: It's affordable in the
18 sense that it's -- it's a relative
19 affordability, that if you don't have the
20 construction defect insurance that the
21 contractor has to maintain on the
22 property, hopefully they'd pass through
23 that savings for the single-family.

24 COMMISSIONER DONOVAN: But he could
25 knock down the two houses right now,

1 build two 3,000 square foot homes, and --

2 MR. SHOOP: Correct, but again,
3 we're not in the business of deciding
4 their economics; we're in the business --

5 COMMISSIONER DONOVAN: Right.

6 MR. SHOOP: -- of just looking at
7 the planning.

8 COMMISSIONER DONOVAN: Okay.

9 MR. SHOOP: And lastly, whether this
10 would be a fair housing issue, because
11 now we're taking away an opportunity for
12 the community to have a different type of
13 housing product, rental, condominium, and
14 small lot, that could be a concern.

15 COMMISSIONER DONOVAN: Okay, thank
16 you.

17 MR. SHOOP: Thank you.

18 COMMISSIONER LINNICK: Okay. We'll
19 hear from the applicant. Let's see, I
20 have two -- I have a representative and
21 the applicant. So John Reed or Richard
22 Hirschfield.

23 MR. REED: Hi. My name is John
24 Reed, Reed Architectural Group.

25 I want to clarify a couple of

1 things. This is not an appeal hearing;
2 there has been no appeal for this. This
3 is a zone change. We had a hearing
4 downtown and no one showed up.

5 And to clarify something also, the
6 West Los Angeles Neighborhood Council
7 does not oppose this project. There was
8 a resolution suggesting that it be
9 opposed, and that motion failed. For
10 four houses, for five houses, they
11 basically failed. And I have the minutes
12 to the October hearing, if you'd like to
13 read that.

14 What I'd like to do is, since so
15 many questions were asked before I made
16 the presentation, is sort of track the
17 history of what happened with this lot --
18 these lots. In 1901, this entire block
19 was mapped with five lots. So each lot,
20 in 1901, was over thirty some thousand
21 square feet, in some cases almost forty
22 thousand feet. Over -- between 1901 and
23 1962, prior to the Subdivision Map Act,
24 this entire property was just cut up by
25 deed. So what happens is, if you had,

1 you know, 10,000 feet and you wanted to
2 sell your neighbor 5,000 feet, you could
3 do it. So there was no orchestrated
4 subdivisions in this entire block for the
5 first sixty years as it existed. And
6 that's why you have lots fronting, you
7 know, Mississippi, lots fronting Barry,
8 lots fronting Barrington, lots fronting
9 La Grange. So there was no really
10 organized development in terms of lot
11 size. That's why all the lots are
12 different sizes.

13 What we did was is we show where all
14 the different lot sizes -- and in this
15 multiple block area, we are the fifth
16 largest lot. So there's a lot with
17 twenty-two units, nineteen units, sixteen
18 condos, six condos. All the lots are
19 much smaller, and we have over 14,000
20 feet. We want to build four houses. We
21 want to build four houses that are two
22 stories tall, with a thirty foot height
23 limit. We don't want to build forty
24 feet, we don't want to build forty-five
25 feet. We know we have two -- four

1 houses, okay, two fronting Barry and two
2 fronting the back.

3 And by doing that, what we actually
4 do is we actually create a rhythm that's
5 within scale, character, mass of the
6 neighborhood, we create a driveway down
7 the middle, we create open space, we have
8 five-foot setbacks in the front, we're
9 providing a twenty-foot setback on Barry
10 Avenue, which is consistent with the
11 prevailing setback, and we're having an
12 open space between it.

13 If we wanted to develop this as an
14 R2, we could have had a building that was
15 eighty-five feet long, fronting all of
16 Barry, thirty-three feet tall. We're not
17 proposing that. Our project fits in
18 scale and character and mass of the
19 neighborhood. Along Barry we have a
20 house fronting one side, a house fronting
21 the other side, we have a common
22 driveway, lots of open space, we have
23 yards, courtyards, parking, and four
24 houses.

25 If you look at the area and you

1 drive around, we're .6 miles from the new
2 Metro. We are extremely excited about.
3 You could actually walk to the Metro. We
4 are located within -- you know, a block
5 away from the largest industrial area
6 west of the 405 Freeway. We believe that
7 this area will attract people who
8 actually want to walk to work. There's a
9 lot of development going on in the area,
10 mixed-use development, office
11 development, and we think people buying
12 these houses would like to walk to work.

13 A small lot subdivision allows us to
14 sell a house with the land; a condominium
15 doesn't. We don't want to have a
16 homeowner's association where one
17 neighbor wants to have the property
18 assessed, one neighbor doesn't want to do
19 the landscaping, and one neighbor does.
20 We want to have houses where people get
21 to plant their yards, enjoy their
22 property.

23 We're not trying to change the scale
24 or character or mass of the neighborhood.
25 We want to provide four houses, but we

1 want to own the land underneath the
2 houses. We have no problem with Q
3 conditions, two stories, thirty feet, two
4 houses, a driveway.

5 I understand your concerns,
6 Commissioner Donovan, being on the
7 neighborhood council. I had a lot of
8 dialogue with them. I was on the land
9 use and planning committee, talked with
10 Jay Ross. I was told, point blank, just
11 don't submit, don't submit. And I said
12 but we just want to do what's consistent.
13 Don't submit; you won't get it approved.
14 There was a project on Federal; they
15 don't approve that. We don't want you to
16 submit anything. I said, well -- I said
17 this is a really interesting project.
18 We're stepping the building back, one
19 story and two stories, we're in scale and
20 character. I don't see any reason why
21 this precedent issues would be adversely
22 affecting the neighborhood. If anything,
23 if you create 4 lots and these lots are
24 3,500 square feet each instead of 2,500
25 square feet, and you create a 30 foot

1 precedent and a two story precedent,
2 you're going to get what you want. You
3 want that decreased height, you want
4 little houses, you want smaller
5 neighborhoods, this is going to set the
6 precedent for the neighborhood, not hurt
7 the neighborhood.

8 COMMISSIONER DONOVAN: Commissioner
9 Donovan. I guess I'm a little bit
10 confused. So now we're talking about two
11 story houses with a height limit of
12 thirty feet?

13 MR. REED: Yes, I -- there was a
14 proposal for thirty-three feet. I talked
15 to the client, I talked to the planning
16 department, and I said I read through
17 some of the past motions with the West
18 Los Angeles neighborhood council
19 regarding condominium projects. There
20 was a thirty-foot consistency. I see no
21 problem designing a project within thirty
22 feet at all, whatsoever.

23 COMMISSIONER DONOVAN: And at two
24 stories?

25 MR. REED: At two stories.

1 COMMISSIONER DONOVAN: And I guess
2 why staff is here -- I'm also confused.
3 I think applicant's talking about a small
4 lot subdivision and you said that's not
5 before us right now?

6 MR. SHOOP: Well, he -- Greg Shoop,
7 planning department. He has a
8 subdivision map for a small lot
9 subdivision. The RD3 zone allows a small
10 lot subdivision, would allow a four-lot
11 condominium, allow a four-unit rental
12 property. The zone change is necessary
13 if he wants to elect to use a small lot.
14 What the Q conditions would be -- would
15 be tailored towards whatever gets built
16 there. If this project gets sold to
17 somebody else, and somebody just wants to
18 build a four-unit apartment building, the
19 four-unit apartment building would be
20 thirty feet high, two stories, thirty
21 feet, fifteen foot rear yard setback,
22 fifteen foot front yard setback.

23 COMMISSIONER DONOVAN: So he is
24 seeking a small lot subdivision here.

25 MR. SHOOP: Correct.

1 COMMISSIONER DONOVAN: Okay. All
2 right.

3 MR. SHOOP: But that's a separate
4 action. That's not an action before the
5 commission.

6 MR. REED: Not here.

7 COMMISSIONER DONOVAN: Okay. Now I
8 think I understand that. And the other
9 question is, you said something about the
10 neighborhood council, and like I said, I
11 recused myself, I have no idea, but I'm
12 looking at a resolution that was handed
13 to me by planning saying the board voted
14 eight to zero to oppose the proposed
15 development and the associated zone
16 change. So --

17 MR. REED: No, that was the
18 resolution that was never adopted.
19 Here's the motion, failed 5-2, failed to
20 support the project, failed 5-2, and then
21 motion passed, reconsider the project
22 with PLUM. And after I talked with Jay,
23 it's -- and I have the minutes, if you
24 want to see them.

25 COMMISSIONER DONOVAN: I don't need

1 to them now. I'm just -- when I see that
2 the board voted 8-0 to oppose the
3 proposed development, whether you call it
4 a resolution or subject to a motion --

5 MR. REED: But that was the
6 suggested resolution that was never voted
7 on. This never passed. So it's like
8 making a motion and then it fails. Let's
9 say you three make a motion and the
10 motion fails, it was just you made a
11 motion and it wasn't supported. So they
12 made a motion --

13 COMMISSIONER DONOVAN: It says the
14 board voted. I mean --

15 MR. REED: I was at the meeting.

16 COMMISSIONER DONOVAN: Okay.

17 MR. REED: And here --

18 COMMISSIONER DONOVAN: Well, all I
19 can say, that's what I have in front of
20 me, so I --

21 MR. REED: But here --

22 COMMISSIONER DONOVAN: -- I just
23 bring that up.

24 MR. REED: Can I just give you the
25 minutes? Or can someone give you the

1 minutes?

2 COMMISSIONER DONOVAN: You can hand
3 it over there, but -- and I guess, you
4 know, you probably wouldn't have had any
5 opposition at all in front of the
6 neighborhood council if you came in with
7 a two-story height limit and a thirty
8 foot height limit. And frankly, I don't
9 think that that's something that I would
10 oppose either. I guess the issue with me
11 is the zone change. And you have another
12 vehicle upon which to get your four units
13 at two stories and thirty feet.

14 MR. REED: But we can't sell the
15 land. We can't sell the houses. They're
16 condominiums, they're apartments, we
17 can't --

18 COMMISSIONER DONOVAN: No, no,
19 you -- but you can -- I think, through
20 adjustments, you can still get to the
21 small lot subdivision that way --

22 MR. REED: No.

23 COMMISSIONER DONOVAN: -- can't you?

24 MR. SHOOP: No, they're -- it is
25 prohibit -- absolutely prohibited for a

1 small lot subdivision in the R2 zone,
2 unless it meets certain criteria. The
3 criteria would be he would have to have a
4 common property line, either side yard or
5 rear yard, with a commercially zoned
6 property. So if this was directly behind
7 Sawtelle, for example, on R2 zone, then
8 for the first sixty-five weeks could be
9 developed as a small lot subdivision in
10 the R -- without having to change the
11 zone because he's adjacent to a
12 commercial. This is the middle of a
13 block that is surrounded by R2. So the
14 R2 zone is expressly prohibited from
15 small lot subdivision.

16 COMMISSIONER DONOVAN: Okay.

17 MR. SHOOP: That was an intent of
18 city council.

19 COMMISSIONER HALPER: And another
20 question for the applicant. Even if
21 you -- if you have a small lot
22 subdivision and you have a common
23 driveway, you have to have some sort of
24 entity to govern the common driveway. I
25 mean, you have to provide insurance for

1 it, you have to maintain it, correct?
2 MR. REED: Just for the driveway.
3 So you own your house, you can do what
4 you want with your house, you own your
5 land, you own your garden. There's not
6 an association that maintains that. The
7 only thing that we'd be maintaining would
8 be the driveway. So you'd have four
9 people agreeing to pave the driveway as
10 necessary. There are no other issues
11 regarding a small lot sub --

12 COMMISSIONER HALPER: But in a four-
13 unit condominium project, you only have
14 four --

15 MR. REED: Only on your air space.

16 COMMISSIONER HALPER: But you only
17 have four people to make decisions on
18 that too.

19 MR. REED: Only on your air space.

20 MR. SHOOP: Right.

21 MR. REED: And --

22 COMMISSIONER HALPER: Okay.

23 MR. REED: And if there's an
24 assessment and three out of the four
25 don't want it and they want to let the

1 building fall apart, they can do it.
2 I've been doing condominiums for a while,
3 and we stopped doing them ten years ago.
4 It just -- a lot of people do not want to
5 maintain their condominiums, for whatever
6 reason. They don't want the assessments.
7 They don't like the idea of this
8 homeowner's association fee every month
9 going up. So this allows you to buy your
10 house and buy the land. And no one came
11 to our first hearing, and you can see, no
12 one's here for this hearing. And you
13 know, I really think that by creating a
14 precedent for two stories, thirty foot
15 height, with four houses, is not a bad
16 precedent. If anything, people will say,
17 oh my God, why did that guy agree to
18 that.

19 COMMISSIONER LINNICK: Okay. Is Mr.
20 Hirschfield planning to speak?

21 MR. REED: This is Mr. and Mrs.
22 Hirschfield.

23 COMMISSIONER LINNICK: Do you want
24 to --

25 MR. REED: They're the property

1 owners.

2 COMMISSIONER LINNICK: Are you going
3 to come forward? You have two minutes.

4 MR. HIRSCHFIELD: (No audible
5 response).

6 COMMISSIONER LINNICK: Do you want
7 to -- okay, so -- okay.

8 We do have a speaker against the
9 proposal, Carole Nakano. Come forward
10 and state your name and address for the
11 record, please.

12 MS. NAKANO: Carole Nakano, 2106
13 Barry Avenue.

14 I'm confused. I don't understand
15 the planning department's position on
16 this piece of property. As a community,
17 we received signatures against the
18 initial proposal which was, I believe,
19 five units: one story, two story, and
20 then the last one would be three stories.
21 And the community opposed that -- the
22 community opposed that plan. And now
23 today, I'm hearing zone change and four
24 units, two stories. So I'm not -- maybe
25 I'm not sharp enough to understand this

1 whole thing. You know, the community is
2 opposed to zone changing. What you're
3 proposing now, is it a zone change? Is
4 it four units, two stories, and a zone
5 change?

6 MS. BONSTIN: Shana Bonstin, city
7 planning. If you could just -- I'm over
8 here, just not to confuse you. If you
9 could just direct your comments to the
10 commission, and then they can let us know
11 if there is questions that we can answer.

12 MS. NAKANO: Okay. Sure. Zone
13 changing, I'm opposed to the zone
14 changing, because we all have single-
15 family homes. Granted, next door are
16 condos, and I believe they were built, I
17 don't know when, but they are two
18 stories. But I live on the next block,
19 across the street from the Jewish
20 community Temple, and all our homes,
21 except for one, are single-family homes.
22 I believe that the commission or -- this
23 commission needs to think about quality
24 of life for the rest of the community,
25 how does this project add to the quality

1 of existing resident's lives, more air
2 pollution, more traffic. We already have
3 a lot of traffic.

4 COMMISSIONER LINNICK: Thank you.

5 MS. NAKANO: Thank you.

6 COMMISSIONER LINNICK: Okay. Mr.
7 Reed, if you want to come back up for a
8 couple minute rebuttal or summation.

9 MR. REED: So the concept is really
10 ownership of your land. So if we build
11 four units and we design four units that
12 are two stories and thirty feet in
13 height, what difference does it matter
14 what the zoning is, if we're actually
15 reducing the height and reducing the
16 area? So that's really what I don't
17 understand, how, in any way, this project
18 at an RD3 density, which is 3,000 square
19 feet of land per unit, versus R2, 2,500
20 square feet of land per unit, will hurt
21 the neighborhood. I think by creating
22 more open space between the houses, we're
23 actually having more light in there, not
24 less light in there. So I don't
25 understand why allowing someone to own

1 their house and own their land, and if
2 that necessitates a zone change and we're
3 creating a precedence for two stories and
4 thirty feet with lots of open space, why
5 that's something bad.

6 COMMISSIONER HALPER: Question, if I
7 may, by either Mr. Shoop or the
8 presenter. Does this increase the
9 density of the -- your project increase
10 the density of the area?

11 MR. REED: No, not at all. We have
12 a 14,125 square foot lot. We could go
13 through and do a track map with two lots,
14 put two units on each of the lots, but we
15 don't want to do that. That means we
16 still have to do a condominium. We want
17 to be able to have four separate parcels,
18 sell them with a common driveway.

19 COMMISSIONER HALPER: Mr. Shoop,
20 would you agree that it does not increase
21 the density?

22 MR. SHOOP: It does not. He is
23 allowed to -- as part of the subdivision,
24 one unit per 2,500 square feet, so if the
25 14,000 square foot lot was roughly cut in

1 half, it would be about 7,000 and change,
2 so there would be two units maximum on
3 that in the RD3 zone. He's still allowed
4 four, because we don't round up. That
5 was the purpose of the variance. The
6 variance was there to round up and try
7 and get him a fifth unit, which we found
8 would be inconsistent -- definitely
9 inconsistent with this prevailing
10 density.

11 COMMISSIONER HALPER: Thank you.

12 COMMISSIONER LINNICK: Okay. Then
13 we'll go ahead and close the public
14 hearing and begin deliberations.

15 COMMISSIONER DONOVAN: Commissioner
16 Donovan. First of all, I don't have
17 problems with four units on this
18 property. I don't have a problem with a
19 two-story height limit. I don't have a
20 problem with thirty feet. And I have to
21 wonder, this project seems to have
22 changed --

23 COMMISSIONER LINNICK: Yeah.

24 COMMISSIONER DONOVAN: -- along the
25 way. And had it been presented to the

1 neighborhood council, right from the
2 beginning, as a four-unit project, two
3 stories, thirty foot height, you know,
4 maybe they would have done something
5 different. I don't know. Either they
6 opposed it or they didn't oppose it, but
7 we've got something saying they're not
8 happy with it.

9 I get back to being concerned about
10 the zone change, and I know that staff
11 seems to think that well, we just go
12 to -- if we stay within the area of the
13 zone that it's not spot zoning. But it
14 still leaves me with the impression that
15 you have a block of R2 and you're going
16 to dump an RD3 in the middle of it. And
17 I worry about future applications for
18 zone change that may not be as agreeable
19 as this particular applicant in agreeing
20 to limit to two stories and thirty feet.
21 And we have, then, a whole bunch more
22 applications for zone changes, and the
23 neighborhood finds itself even more under
24 siege than it presently is.

25 I am not -- I understand the small

1 lot subdivision ordinance, you know, what
2 it's trying to do as far as provide other
3 opportunities, but I see it in other
4 parts of the city, where they're taking
5 smaller lots and they're doing starter
6 homes, they're making 1,500 square foot
7 homes, things like that. Those are more
8 affordable than the other ones. 2,500
9 square foot homes in West L.A. are not
10 going to be affordable under anybody's
11 definition, I think.

12 So -- and the idea that you won't
13 have to have a homeowner's association,
14 but you will have to have some sort of
15 another association to do what you need
16 done in the common driveway, the
17 perimeter, that sort of thing. You're
18 still going to have to have some kind of
19 organization. And CC&Rs can be written,
20 even if you had a homeowner's
21 association, to provide for different
22 kinds of things.

23 So I just wish that this project was
24 presented to us not as a zone change but
25 as a parcel map, if you will, and with

1 all these -- then I would be a lot more
2 comfortable.

3 MR. SHOOP: Greg Shoop, representing
4 the planning department. The commission
5 would only hear a parcel map if it was
6 appealed. If this property was
7 subdivided into two lots, roughly 7,000
8 square feet, with the substandard side
9 widths, that the yard adjustment, if it
10 was granted by the zone administrator's
11 office and the parcel map was approved by
12 the advisor agency, only on an appeal
13 would the commission see this parcel map.

14 The R2 zone -- there's no conditions
15 on the R2 zone. You would end up with a
16 prevailing setback, which is roughly
17 twenty feet. You would end up with a
18 five foot, fifteen foot rear yard. You'd
19 end up with a thirty-three foot height
20 limit, because that's what's allowed, by
21 right, in the R2 zone. We'd allow
22 probably a five or six foot side yard.
23 So basically, you would be able to fill
24 up more lot with more house --

25 COMMISSIONER DONOVAN: But that's

1 the worst case scenario. And --

2 MR. SHOOP: But they would probably
3 go for the, probably, worst case
4 scenario, because they're trying to
5 develop the property and maximize their
6 development rights.

7 COMMISSIONER DONOVAN: Well, I guess
8 my impression, on most everybody that
9 comes before us, is they're trying to
10 maximize their development rights, no
11 matter what. I don't necessarily see
12 that as a deterrent.

13 But these aren't questions. I'm
14 just telling you my feelings on this, and
15 I am very concerned about doing zone
16 changes. I'm not concerned so much about
17 are there parcel maps, were they appealed
18 or not. This commission has already seen
19 several appeals this year on parcel maps.
20 This is an active community, so if
21 somebody comes in with a parcel map
22 that's going to ask for something more
23 than two stories and thirty feet, I'm
24 sure we'd see that again. So I'm not as
25 concerned about things escaping.

1 What I'm concerned about is setting
2 the precedent with a zone change in the
3 neighborhood, and it's not clear to me
4 that it's absolutely necessary to do that
5 to have a redevelopment of the property.
6 That's what I'm saying on this.

7 COMMISSIONER LINNICK: Commissioner
8 Linnick. I agree. So I guess -- and I
9 hear Mr. Shoop saying that the only way
10 that -- as you said, and I feel the same
11 way, that you know, I'm fine with the
12 four houses or the thirty feet and the
13 two story max on the property. So is --
14 the only way to do that would be to do
15 the R3 with the Q conditions?

16 MR. SHOOP: Yeah, the only way --

17 COMMISSIONER LINNICK: There's no
18 way for us --

19 MR. REED: Yeah, because the
20 right --

21 COMMISSIONER LINNICK: There has to
22 be a zone change?

23 MR. SHOOP: The R2 zone is a buy
24 right zone right. It's what properties
25 currently zone, only through adding the Q

1 conditions with the zone change, do we
2 get the two story, thirty foot height
3 limit, four story (sic). We may want to
4 condition for the future, because
5 remember, I'm not looking at the small
6 lot subdivision; I'm looking at how this
7 lays out. And so we could look at also
8 that it would be, instead of a Q
9 condition, to add detached housing. So
10 if this became a condominium they would
11 physically look like single-family homes
12 instead of trying to jam a fourplex
13 together and form a box on that property,
14 which definitely would be out of scale if
15 you just built a fourplex across that
16 whole lot.

17 COMMISSIONER DONOVAN: Right, but
18 the applicant can do a parcel split and
19 get four units on this property. And --

20 MR. SHOOP: No, they get two units
21 on each lot.

22 COMMISSIONER DONOVAN: Two units,
23 with four units total.

24 MR. SHOOP: Correct.

25 COMMISSIONER DONOVAN: Right, so he

1 gets his four units through that, right?

2 MR. SHOOP: Yes.

3 COMMISSIONER DONOVAN: Okay. So he
4 can do it that way without a zone change.

5 MR. SHOOP: But you don't
6 necessarily get -- the parcel map is not
7 really designed to put in height limits,
8 because it's just redoing the --

9 COMMISSIONER DONOVAN: We've done it
10 before.

11 MR. SHOOP: And whether it is
12 permitted -- you know, it's been done,
13 and they probably accepted it as a matter
14 of just getting something through. But
15 it would be a question of whether you
16 could condition a parcel map for height.

17 COMMISSIONER DONOVAN: We've done it
18 quite recently, and I think that if the
19 applicant came in with a parcel map for
20 four units at thirty feet and two
21 stories, we'd probably never even see it,
22 because the community would probably go
23 for it. That's what this -- the e-mails
24 and the resolution from the neighborhood
25 council says. So I think that we can get

1 there without a zone change.

2 MS. BONSTIN: Shana Bonstin, city
3 planning. If I may, I would like just to
4 add, I know you're weighing the zone
5 change. A Q -- let's see, a QRD3 is
6 different from an RD3, just to be clear.
7 So when Greg is mentioning the
8 conditions, Q conditions are -- travel
9 with the land and actually change the
10 zoning themselves. If that -- I didn't
11 articulate that very well. But it
12 travels with the land; it permanently
13 changes the zoning. So that's not the
14 same thing. So when you're looking at
15 that zone, in terms of --

16 COMMISSIONER DONOVAN: It would be a
17 zone change with conditions. I get that.

18 MS. BONSTIN: Correct.

19 COMMISSIONER DONOVAN: Yeah, sure.

20 MS. BONSTIN: And we often go to the
21 next higher zone and use the Q's to limit
22 development to make it more consistent
23 with what might be the lowest zone after
24 that.

25 COMMISSIONER LINNICK: Mr. Halper,

1 do you have anything to add?

2 COMMISSIONER HALPER: No.

3 COMMISSIONER LINNICK: No? Okay,
4 well, there are just three of us, so we
5 have to --

6 COMMISSIONER DONOVAN: Okay. I can
7 make a motion.

8 COMMISSIONER LINNICK: We've got to
9 agree on something.

10 COMMISSIONER DONOVAN: I'll make
11 a -- all three of us have to agree, or
12 else we don't have a decision. So --

13 COMMISSIONER LINNICK: Yes.

14 COMMISSIONER DONOVAN: -- I'm going
15 to be consistent with what I've stated
16 before. I think we should deny the zone
17 change. The facts that I would base upon
18 designing the zone change is that every
19 single structure on both sides of the
20 block are one to two stories. Every
21 single property on both sides of the
22 block are zoned R2.

23 The only other nearby zone changes
24 were twenty-three years ago and fifteen
25 years ago. In each case, the structures

1 were limited to two stories and thirty
2 feet in height. This APC has rejected
3 zone changes in this area since then, and
4 also have limited the projects to two
5 stories and thirty feet in height.

6 There are lots of other eyes on this
7 neighborhood looking to change the zones,
8 change the density, redevelop it, and a
9 zone change here will set precedent. I
10 believe that it is spot zoning. There
11 are other ways to reaffect the
12 redevelopment of the site without a zone
13 change.

14 The applicant, if he came in with a
15 four unit, two story, thirty foot height
16 limit on a parcel map, I think he'd get
17 it, and I don't even think it would be
18 appealed.

19 And so on those facts, I would say
20 that granting a zone change at the site
21 will violate the community plan, it will
22 set precedent that has a potential to
23 violate the character of the
24 neighborhood. And that would be my
25 motion.

1 MS. KETAY: This is the commission
2 executive assistant. Are you also
3 denying the zone variance?

4 COMMISSIONER DONOVAN: I think
5 that's been withdrawn.

6 UNIDENTIFIED SPEAKER: You have to
7 act on it; you have to accept the
8 withdrawal.

9 COMMISSIONER DONOVAN: Oh, okay.
10 Well, I would move also that we accept a
11 withdrawal on that.

12 COMMISSIONER HALPER: I'll second
13 the motion.

14 MS. KETAY: Commissioner Donovan?

15 COMMISSIONER DONOVAN: Aye.

16 MS. KETAY: Commissioner Halper?

17 COMMISSIONER HALPER: Aye.

18 MS. KETAY: Commissioner Linnick?

19 COMMISSIONER LINNICK: Aye.

20 MS. KETAY: And the motion is
21 carried.

22 COMMISSIONER LINNICK: So we're now
23 on number 6.

24 (End of audio)

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C E R T I F I C A T I O N

I, Sharona Shapiro, hereby certify that the foregoing is a true and correct transcription, to the best of my ability, of the sound recorded proceedings submitted for transcription.

I further certify that I am not employed by nor related to any party to this action.

In witness whereof, I hereby sign this date:
November 6, 2013.

Sharona Shapiro

Sharona Shapiro
AAERT Certified Electronic Transcriber
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