

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON

MATT JESICK

The transcript constitutes the minutes from the Public Hearing held on July 19, 2012.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

T-A-B-L-E O-F C-O-N-T-E-N-T-S

INTRODUCTION:

Chairman Anthony J. Hood 4

PRELIMINARY MATTERS:

Ms. Schellin 7

PRESENTATION BY APPLICANT:

Paul Tummonds 10

William Collins 13

OFFICE OF PLANNING REPORT:

Mr. Matt Jesick 25

PERSONS IN OPPOSITION:

Cynthia Kincaid 30

Mike Jewell 31

Lee Kincaid 34

Enjoli DeGrasse 36

Phillip Parson 38

REPORT OF THE ANCS:

Postponed 27

APPLICANT'S CLOSING REMARKS:

William Tummonds 58

CLOSING:

Chairman Anthony J. Hood 61

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

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

2 6:36 P.M.

3 CHAIRMAN HOOD: Good evening,
4 ladies and gentlemen. This is a public hearing
5 of the Zoning Commission for the District of
6 Columbia for Thursday, July 19, 2012. My name
7 is Anthony Hood. Joining me are Vice Chair
8 Cohen, Commissioner May, and Commissioner
9 Turnbull. We're also joined by the Office
10 Zoning Staff, Ms. Sharon Schellin, the Office
11 of Planning Staff, Mr. Lawson and Mr. Jesick.

12 Tonight, we have two hearings in
13 front of us. What I'm going to do is, at the
14 end of the first hearing, I am going to just
15 read the pertinent information for the second
16 hearing, but not all of the formalities and who's
17 joining us and on and on. So just bear with
18 me.

19 This proceeding is being recorded
20 by a court reporter. It's also webcast live.

21 Accordingly, we must ask you to refrain from
22 any disruptive noise or actions in the hearing

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 room.

2 The subject of the first hearing,
3 this evening, is Zoning Commission Case Number
4 0608-C. This is a request by Lincoln Gateway
5 Village, LLC, for approval of a PUD modification
6 for property located in Square 4325. Notice
7 of today's hearing was published in the D.C.
8 Register on May 15, 2012, and copies of that
9 announcement are available to my left on the
10 wall near the door.

11 The hearing will be conducted with
12 the provisions of 11 DCMR 3022, as follows:
13 preliminary matters; Applicant's case; Report
14 of the Office of Planning; Report of other
15 Government Agencies; Report of ANC-5A;
16 Organizations and Persons in Support;
17 Organizations and Persons in Opposition. Then
18 we will have rebuttal and closing by the
19 Applicant.

20 The following time constraints will
21 be maintained in this meeting: the Applicant,
22 five minutes; organizations, five minutes;

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 individuals, three minutes. All persons
2 appearing before the Commission are to fill out
3 two witness cards. These cards are located to
4 my left on the table near the door. Upon coming
5 forward to speak to the Commission, please give
6 both cards to the reporter sitting to my right
7 before taking a seat at the table.

8 The decision of the Commission, in
9 this case, must be based exclusively on the
10 public record. In addition, there should be
11 no direct contact, whatsoever, with any
12 Commissioner concerning this matter, be it
13 written, electronic, or by phone. You can
14 contact Staff for any procedural questions.

15 Please turn off all beepers and cell
16 phones at this time, so as not to disrupt these
17 proceedings. Would all individuals wishing to
18 testify, please rise to take the oath? And this
19 is the oath for both cases if everyone is here.

20 MS. SCHELLIN: Please raise your
21 right hands. Do you solemnly swear or affirm
22 the testimony you will give this evening will

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 be the truth, the whole truth, and nothing but
2 the truth? Thank you.

3 CHAIRMAN HOOD: At this time, the
4 Commission will consider -- thank you, Ms.
5 Schellin. At this time, the Commission will
6 consider any preliminary matters. Ms.
7 Schellin, do we have any preliminary matters?

8 MS. SCHELLIN: Yes. Very quickly,
9 the Affidavit of Maintenance was filed this
10 afternoon and it was in order. And then DDOT
11 filed their report a couple days late, and so
12 they did file a motion -- or, I'm sorry, a request
13 for waiver for filing late. And that's all we
14 have.

15 CHAIRMAN HOOD: Okay. Thank you,
16 Ms. Schellin. And Commissioners, first we have
17 a request from the District Department of
18 Transportation to accept their filing which was
19 less than 14 days. Any objections?

20 VICE CHAIRMAN COHEN: No.

21 CHAIRMAN HOOD: Okay. No
22 objections.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 MS. SCHELLIN: Chairman Hood, if I
2 may, I spoke to ANC-5A today. And they were
3 having some issues getting the -- I believe it's
4 the Chairman to sign the report to get it in
5 today. And they asked if the record could be
6 left open until 3:00 p.m. on Monday, to allow
7 them to submit that. They will not be here this
8 evening.

9 CHAIRMAN HOOD: Okay. What I would
10 really like to do on that -- thank you, Ms.
11 Schellin -- is give them a little more time than
12 Monday. But I would like to leave the record
13 open. Because Monday -- if they don't get it
14 Monday -- if they don't get it to us by Monday,
15 then we're going to have another issue of asking
16 to waive our rule that we're going to waive.
17 So I think we should probably allow them a few
18 more days than Monday. But let them think
19 that's it's coming in Monday.

20 MS. SCHELLIN: Okay. They did
21 indicate they were filing it tomorrow. But I
22 said until Monday. So whatever the Commission

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 wants to do.

2 CHAIRMAN HOOD: Yes. Okay. I
3 just know how those things work.

4 COMMISSIONER MAY: Does anybody
5 know what it says?

6 MS. SCHELLIN: I don't. Other than
7 my understanding is that they voted to support
8 the recommendations that OP put forward.

9 COMMISSIONER MAY: Okay.

10 CHAIRMAN HOOD: I would just like
11 to give them a little more time -- not a hard
12 fast rule for Monday. Because things do happen
13 and that is a volunteer organization and I would
14 do that for any of them -- even though I live
15 in that area, I would do that for any ANC. And
16 I don't know what equipment they're working
17 with. And, you know, all things come into play.

18 So we'll figure it out. Maybe we'll give them
19 until Wednesday. By Wednesday, they could walk
20 and then we'll have it. But let's open it up
21 in terms of how we move forward. I would suggest
22 maybe Wednesday, unless my colleagues

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 disapprove.

2 Okay. Ms. Schellin, anything else?

3 MS. SCHELLIN: No, sir.

4 CHAIRMAN HOOD: Okay. Mr.

5 Tummonds, introduce everyone and you can get

6 started. I think you all asked for five

7 minutes?

8 MR. TUMMONDS: Yes. That's

9 correct.

10 CHAIRMAN HOOD: You don't want 60?

11 MR. TUMMONDS: We can do this in

12 five.

13 CHAIRMAN HOOD: Okay. Go ahead.

14 MR. TUMMONDS: Good evening Mr.

15 Chairman and members of the Board. I'm Paul

16 Tummonds with Goulston & Storrs, along with Will

17 Collins, Fort Lincoln Gateway Village, LLC.

18 We are here this evening to highlight the

19 modifications that the Applicant is seeking to

20 the PUD project approved by the Zoning

21 Commission in Zoning Commission Cases Number

22 06-060-A-B. Since this PUD modification was

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 originally filed with the Zoning Commission,
2 on March 15, 2012, the Applicant has worked hard
3 to address the issues that were raised by the
4 Office of Planning and the Zoning Commission,
5 and has made a number of refinements to this
6 application, in order to address those issues.

7 As a result, the PUD modification application
8 we are now proposing only seeks three changes
9 to the approved PUD.

10 First, the Applicant requests the
11 flexibility to market the workforce affordable
12 units to all members of the general public.
13 Second, the Applicant requests the ability to
14 satisfy the 30-workforce-affordable housing
15 units with the 16-foot town home model, which
16 has the ability to be a both two or three bedroom
17 model. And, in addition, less than 40 percent
18 of any individual town houses in a stick of
19 16-foot town homes will be dedicated as
20 workforce affordable housing units, as noted
21 in the OP report.

22 I would also like to note that one

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 change to the June 20th supplemental statement
2 that we had made was -- on the June 20th
3 statement, we said that -- we'd request that
4 all of the affordable units be the 16-foot town
5 home models. Since June 20th and this evening,
6 we have -- the Applicant has been able to find
7 potential purchasers of the condominium units
8 to satisfy that. So I think we're now -- tonight
9 -- and Mr. Collins will discuss it -- we would
10 like to request the original flexibility, which
11 we had requested, which is the workforce units
12 will be satisfied by either the two-over-two
13 condominium units or the 16-foot town home
14 model. Again, just the notion of having the
15 flexibility to find people who can satisfy this
16 requirement.

17 And then, finally, the last area of
18 flexibility we're requesting is the ability to
19 replace some or all of the two-over-two
20 condominium units approved for phases two and
21 three of this project with the approved 16-foot
22 and 14/22-foot town home types.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 We note that the Office of Planning
2 supports the proposed modifications with a
3 couple of recommendations regarding the pricing
4 of the three-bedroom, 16-foot town home, and
5 the total number of workforce units provided
6 in the project. Mr. Collins will address both
7 of those issues. The Applicant notes that the
8 Department of Transportation, as you -- as we
9 discussed earlier, has filed a report in support
10 of this case. And Mr. Collins will also be able
11 to discuss the ANC report, which we expect to
12 see next week. Mr. Collins?

13 MR. COLLINS: Good evening. My
14 name is Will Collins. I'm the manager of Ft.
15 Lincoln Gateway Village. Members of the
16 Commission, I want to thank you for your time
17 tonight and the consideration of this request.
18 I'd also like to thank the Office of Planning,
19 their Staff for the work on this modification,
20 and the support of the application.

21 We're here before you tonight
22 because, after marketing for a period of over

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 a year, we have found that the demand for our
2 fee simple townhome product greatly exceeds the
3 interest we've received to date and, as opposed
4 to the stacked townhome condominium product.
5 Due to this reason, we're before you tonight,
6 requesting your approval to provide this
7 flexibility in future development phases, to
8 offer either the 16-foot, three story, fee
9 simple townhome, or the stacked townhome
10 condominium.

11 The workforce homes will be marketed
12 to households who have incomes up to 80 percent
13 of the average median income for the Washington
14 Metropolitan area. The homes can be sold to
15 households which have two to six individuals.

16 We will be offering the homes at a price of
17 \$329,000, which is \$45,000 below the base sales
18 price allowed in the Inclusionary Zoning
19 Regulations. In addition to the price, we will
20 also be providing up to six percent of the sales
21 price in closing costs assistance to the home
22 buyers.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 The townhome product offers either
2 a two bedroom or a three bedroom layout. We
3 are in full agreement with Staff's
4 recommendation that the purchase price will
5 remain the same, regardless of the bedroom
6 configuration. We are also in agreement with
7 Staff's recommendation that no more than 50
8 percent of any one row house stick of homes will
9 be dedicated to workforce units. We are also
10 in agreement that the workforce homes will
11 remain in the affordable program for a period
12 of ten years, as stipulated in the original
13 zoning order.

14 I want to thank you for your time
15 this evening and I welcome any questions you
16 may have regarding this modification.

17 CHAIRMAN HOOD: I see Mr.
18 Bernardino has joined us. Is he going to say
19 anything? Or are you just doing the
20 presentation? Okay.

21 MR. COLLINS: Mr. Bernardino, on
22 behalf of the Applicant, is also here to answer

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 any questions you may have.

2 CHAIRMAN HOOD: Is here in support
3 or opposition? Oh, okay. Support. Okay.
4 Actually, I knew that. Okay. Anyone have any
5 question? Vice Chair Cohen?

6 VICE CHAIRMAN COHEN: Okay. Thank
7 you, Mr. Chairman. I want to just confirm a
8 few things to make sure I understood. You said
9 that the workforce housing is up to 80 percent
10 of median income?

11 MR. TUMMONDS: That is correct.

12 VICE CHAIRMAN COHEN: Okay.
13 Because that is an unusual definition. The
14 affordability definition is usually up to 80
15 percent. And then workforce goes from 80
16 percent up to, in most cities, 110 percent.

17 You had a difficult time marketing
18 those units, you said. What is your plan now?

19 MR. TUMMONDS: We've found that
20 just there are -- I should say this about the
21 project -- we're having very good success with
22 our market rate homes. Our traffic is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 excellent. Our sales are very strong. We've
2 got great residents in the community. We've
3 just found, as far as the buyer profile we have,
4 which is really a two-four individuals in
5 families, with the location that we have, just
6 the desire for the fee simple townhome is, I'd
7 say ten fold, as opposed to the number of people
8 we have looking at our stacked townhome
9 condominiums. It is significant.

10 We are working directly with DHCD.

11 We're working with community organizations,
12 with the Urban League. Really, we're in D.C.
13 Housing Search with our units. We're in MLS
14 with our units. We're doing an awful lot of
15 internet advertising. As I said, the traffic
16 that we're seeing on the project is tremendous.

17 We average somewhere between 55-60 individuals
18 coming to the job every week. It is -- probably
19 from a traffic generator -- best job we've ever
20 encountered.

21 It's just, I think, with the
22 location that we have, folks want the fee simple

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 townhomes. And that's really what we've seen.

2 And we -- you know, we want to make this
3 workforce housing program work. We want to
4 attract eligible buyers. And just the folks
5 coming in the door really want the option of
6 having the townhomes. So that's why we're
7 asking for the request.

8 VICE CHAIRMAN COHEN: Could you put
9 a --

10 CHAIRMAN HOOD: You need a
11 microphone.

12 MR. BERNARDINO: We did market
13 directly to D.C. School system employees. And
14 then expanded that to District Government
15 employees, District wide. And we did not get
16 any interest in the condo product.

17 CHAIRMAN HOOD: Even though I
18 identified you, can you identify yourself for
19 the rest?

20 MR. BERNARDINO: I'm sorry. Sal
21 Bernardino, Vice President fo Fort Lincoln New
22 Town Corporation, which is part of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 development team.

2 VICE CHAIRMAN COHEN: I would think
3 that there's another issue with condos, because
4 there's no control over the condo fee increase.

5 And people don't know what they're going to
6 be spending on a monthly basis. So I think the
7 flexibility is necessary. I think that --
8 again, you will be continuing to build the
9 townhomes, though? Or do you want to just
10 market them? I'm sorry, the condos anyway?
11 Are you --

12 MR. BERNARDINO: We have one
13 building, right now, in the first phase, that
14 we intend to build. We have two buildings of
15 condominiums in the first -- we have one building
16 that is sold. Another building, we have a
17 number of units still remaining. Mr. Tummonds
18 spoke of, we hope we have one buyer now that
19 meets the affordability for the condominium.
20 So we would like to have the flexibility. I
21 think, you know, the flexibility is just
22 critical to us. If we -- were going to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 continue to have models for the townhome
2 condominiums. So, I think, once models get up,
3 we're hoping that we'll be able to sell some
4 more of those and they'll be attractive, and
5 that they can offer even a lower price to our
6 workforce homes. Because we have one model
7 there that we can sell for in the \$280,000 range.

8
9 So I -- what's critical to us is that
10 we want to make this program work. And we want
11 to find 30 great home buyers for this. It's
12 just, with the preponderance of the people
13 wanting the fee simple town, we feel like we
14 need to offer the flexibility, in order to
15 fulfill the requirement, as stipulated in the
16 original zoning order.

17 VICE CHAIRMAN COHEN: All right.
18 Just, you know, based on my former life, which
19 was in affordable housing, there are a lot of
20 people, as long as they know that there is
21 something -- there's a product out there. So
22 what you need to do is really -- I mean, you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 said DHCD is the right place to go. But I also
2 suggest you might want to -- and you said you
3 went to the city. I don't know how you
4 communicated. But a lot of union members in
5 the city are looking for places. So you may
6 want to get in touch with the largest union in
7 town. And they can spread the word, as well.

8 MR. TUMMONDS: We've had some
9 interest from D.C. Government employees. But
10 when they got to the project, they -- you know,
11 they really were more excited about the
12 townhomes. So, subject to approval, we feel
13 as though we can capture some of that market.

14 And we certainly hope to, here in -- you know,
15 we still have homes in our first phase, which
16 consists of 85 homes. And we're really hoping
17 to have at least two or three or maybe even four
18 sales that meet the workforce requirements.

19 Obviously, one of the things that's
20 -- that -- that you do deal with when you're
21 selling these homes, that you have to get the
22 folks a little bit over the hump, a little, when

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 we're selling them is, they get excited about
2 the price and they get excited about the closing
3 cost concessions. Where we feel pushback is
4 when we tell them that, you know, this home has
5 to stay in this workforce program for ten years.

6 So they have a lot of other options in the
7 marketplace, in terms of resales and other
8 things. And, while the price is real
9 attractive, it's difficult to get them to
10 understand that, you know, these homes are
11 different than our market rate homes. They have
12 to stay in the program. And, as you know, with
13 this program, any time they sell, within the next
14 ten year period, the only increase they get is
15 some -- it's not even 100 percent of inflation
16 factor. It's roughly about a 75 percent of
17 inflation factor.

18 So there's just an awful lot of other
19 choices available, particularly in the resale
20 market, for them right now. They're -- some
21 of them are looking for short sales. So we have
22 to overcome that. But we think we can. We have

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 a great product. And it's more of an education
2 process. So that's one of the things we have
3 to overcome. But we believe having the
4 flexibility in the product, that we'll be able
5 to do that.

6 And, you know, we recognize we're
7 going to be out here and we're going to have
8 models out here for at least another three years.

9 And we do believe we'll fill the requirement
10 by showing great product and getting people to
11 recognize it's a good value. So, you know,
12 we're relatively optimistic. I hope -- we hope
13 we can move some units here soon.

14 MR. BERNARDINO: And we will talk
15 to the unions.

16 CHAIRMAN HOOD: Okay. Any other
17 questions? Commissioner Turnbull?

18 COMMISSIONER TURNBULL: Yes. When
19 you were talking about the two and three
20 bedrooms, how do you see the sale of those,
21 proportionately? The --

22 MR. TUMMONDS: Our buyer profile

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 has been that 70 percent of our buyers are two
2 person households. So what they've elected is
3 to go with the two larger bedrooms, and then
4 turn the space into the three bedroom -- that
5 would be the third bedroom into what I'll call
6 like a recreation area. I think what's
7 critical here is that we -- we hope that we can
8 get some smaller -- you know, younger families
9 that have one or two children. And, you know,
10 we'll offer that three bedroom unit. And
11 there's absolutely no charge for us to build
12 out that three bedroom unit. So -- but I have
13 to say, to date, 70 percent have been the two
14 person household. It's just the demographic
15 that we're seeing in the community at this time.

16 COMMISSIONER TURNBULL: Okay.

17 Thank you.

18 CHAIRMAN HOOD: Any other
19 questions? Okay. I don't see anyone here from
20 ANC-5A, so we don't have any cross. I don't
21 see anyone -- hold on one second. Okay. I
22 don't see anyone here from ANC-5A for cross

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 examination. We are very familiar with the
2 Mayor for Life, who's in Fort Lincoln. We're
3 very familiar with the longest serving ANC.
4 We've been doing this a long time. So just hold
5 tight. Let's go to the Office of Planning.
6 Mr. Jesick?

7 MR. JESICK: Thank you, Mr.
8 Chairman and members of the Commission. The
9 Office of Planning recommends approval of the
10 proposed modification. We have no objection
11 to the slight change that the Applicant proposed
12 this evening, to allow workforce units in either
13 the 16-foot townhomes, or the two-over-two
14 units. We're supportive of that request, as
15 long as those units are geographically
16 distributed throughout the development, as much
17 as possible. And we can work with OAG and the
18 Applicant on the language in the order to insure
19 that happens.

20 But we appreciate the Applicant
21 working to resolve all our issues. And again,
22 we recommend approval of the Application.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Thank you.

2 CHAIRMAN HOOD: Thank you, very
3 much, Mr. Jesick. Commissioners, any questions
4 of the Office of Planning? Also, we did have
5 a DDOT report that we received this evening,
6 which we did the waiver for. If you look at
7 page two, they have their recommendation. It
8 says there should be no material changes to trip
9 characteristics. And they basically respond
10 to what we approved previously. And they say
11 the proposed modification sought by the
12 Applicant does not substantially alter the site
13 plans. And it goes on to talk about how the
14 proposal will have no negligible impact on the
15 transportation network. So, I guess, with all
16 of that being said, they are in support of the
17 modification, also.

18 That's the only other report, I
19 think Ms. Schellin, that we have from any other
20 Government agency?

21 MS. SCHELLIN: That's it.

22 CHAIRMAN HOOD: Okay. Report of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 ANC-5A, we've already dealt with that earlier.

2 We're going to allow them until Wednesday of
3 next week to give their report. Chairperson
4 Grant -- Janet Grant will provide the report.

5 Under the recommendation, I'm sure, of
6 Commissioner Bob King, who is the longest
7 serving ANC Commissioner at this time, in this
8 city. And that's from 5A.

9 Do we have any organizations or
10 persons in support who are here? Any
11 organizations or persons in opposition who are
12 her? Okay. If you all will come forward. I'm
13 not sure. Was everybody sworn in? Okay. Ms.
14 Schellin, could you administer the oath. If
15 people will rise and take the oath.

16 MS. SCHELLIN: If you would please
17 rise and raise your right hand, please. Do you
18 solemnly swear or affirm the testimony you are
19 about to give this evening will be the truth,
20 the whole truth, and nothing but the truth?
21 Thank you.

22 CHAIRMAN HOOD: Okay. I don't have

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 a witness list. So what I'm going to do is I'm
2 going to start to my right, your left. And what
3 I'm going to ask you to do is introduce yourself,
4 give your address, and we're going to come all
5 the way down and hear from everyone before we
6 ask our questions. We want to make sure that
7 it's lit up -- it looks like it's lit up. It's
8 the lighting. That's the lighting. Yes.
9 That's lit. But is that light on? Could you
10 turn it on?

11 PARTICIPANT: This light's on.

12 CHAIRMAN HOOD: Yes. Could you
13 turn that off, please?

14 PARTICIPANT: Turn that off?
15 Okay.

16 CHAIRMAN HOOD: Because the lights
17 go out at night at 11:00 p.m. and we have to
18 use that to read our materials.

19 MS. KINCAID: Cynthia Kincaid. I
20 presently live at 29623 Tallulah Lane in Easton,
21 Maryland. I purchased 2535 Hurston Lane in
22 Washington, D.C. in the Dakota Villages.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 CHAIRMAN HOOD: Okay. Now, you
2 actually can go ahead with your testimony. You
3 may begin.

4 MS. KINCAID: We just found out
5 that, you know, they're requesting to have the
6 Hepburn model, which is the two to three bedroom
7 townhouse, you know, for the affordable housing.

8 I have concerns about that because of all the
9 extras we put in. We had to pay \$5000 extra,
10 because it was the second building in this phase.

11 And the extras that we put in, you know, were
12 at a cost to us that we thought would be very
13 good for somebody else, in the future, for sale.

14 They didn't have a coat closet, for example,
15 on the first floor. We paid \$500 for a coat
16 closet. Bathroom issues. We put all hardwood
17 floors, ceramic floors in, fans in three areas.

18 Everything else was an extra. So now we're
19 over \$400,000 for our particular townhouse --
20 actually \$408,000 and I forget a couple of
21 hundred after that. So it's a little concerning
22 as to when they're offering affordable housing,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 what our resale will be and what we'll actually
2 get out of it.

3 CHAIRMAN HOOD: Okay. Thank you.

4 Next. Turn your microphone on. And if you
5 could turn yours off, yes.

6 MR. JEWELL: Mike Jewell. I live
7 in 7018 Gig Harbor, Washington, and was
8 relocated here to the District. And I looked
9 at the homes and I want to say that I love
10 affordable housing and I -- we started this
11 process -- my wife and I -- back in February.

12 And the affordable housing was one unit, the
13 Matisse and the Rubin, which was fine with us.

14 We were going to buy the Hepburn. That's what
15 we've done. And now, in mid stream, all of a
16 sudden, they -- my problem is that they go well,
17 we're going to sit there and put affordable
18 housing in the same unit that you have. And,
19 as Ms. Kincaid just said, that after I paid for
20 the extras, that I'm looking at and I'm going
21 wow, it's going to not value my home. It's going
22 to start, as I just heard the gentleman sit there

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 and say, that he doesn't have to pay for an extra
2 bedroom. The three bedrooms or two bedrooms,
3 whatever those people want to come in and buy
4 the house. And I -- I look at that and I go
5 well, that -- you're -- you're changing my
6 contract in mid stream. And -- and I wish he
7 could market better. I wish he would go out
8 there. And I know there has to be people out
9 there that want that townhouse and -- and the
10 condominium. And I look at that going well,
11 wait a second. Don't change us in mid stream.
12 You know, if you do, then -- then maybe they
13 should compensate us. I'm -- I'm not sure.
14 But there are people out there that I'd love
15 to have them in the community because I think
16 they add value to the community too. And I truly
17 believe in affordable housing. And I'm looking
18 at, you know, that -- that he said his starts
19 at \$329,000. Mine started at \$350,000. I'm
20 right at \$400,000 because I chose what I --
21 what I wanted to do. And now I'm thinking that
22 this is not a good thing if he's to sit there

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 -- and I'm asking not to change the -- the horse
2 in mid stream and -- and keep it the way it is.

3 Thank you.

4 CHAIRMAN HOOD: Thank you. Next?

5 MR. KINCAID: Good evening,
6 Commissioners and -- and thank you for taking
7 the time to -- to hold this hearing. My name
8 is Lee Kincaid. You've met or just heard from
9 my wife, Cindy. Again, we reside on the eastern
10 short. We committed to purchase a 16-model
11 townhouse in February. And, at that time, we
12 made specific inquiry. And -- and it was very
13 specific at that time, the affordable housing
14 units would be the two-over-two townhouse. And
15 we based our purchase, believing that that's
16 what was going to happen in the community.

17 Again, I'd be the first advocate
18 that we need to provide housing, you know, for
19 the average person. I mean, I consider myself
20 as an average person. I work hard for my money.

21 It's not been easy, especially in this downturn
22 in th economy. And I'm very concerned -- very,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 very concerned about my investment and to
2 protect my investment and asset. I mean, I put
3 -- we put hard earned money -- we've struggled
4 to be able to put -- put the money down for this
5 house.

6 The reason we did put -- put the
7 upgrades in the house is, again, to look in the
8 future of what would be more marketable if we
9 had to resell. We don't know what tomorrow will
10 bring, or next week. So we may have to relocate
11 again. So I'm asking you to deny the request.

12 You know, I don't think any of us can depend
13 on, you know, market rate appraisals. We've
14 just gone through the biggest down turn in the
15 U.S. economy. And look at the housing market.

16 I mean, again, as Mr. Jewell stated, to change
17 the rules in mid stream, since -- since we
18 contracted in February, and then for all of a
19 sudden, in mid stream -- we haven't settled on
20 our house yet. We should be settling on it
21 possibly as early as next week. I don't think
22 it's fair. Again -- fair to us who have already

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 committed for the 16-foot models.

2 Now, it was interesting to hear from
3 the gentleman before, that there's only two
4 models available right now, the 16-foot and the
5 22-foot. They've not even put a model up for
6 the two-over-two townhouse. So, to come before
7 you and argue that we just can't find people,
8 I -- I think that's kind of a lame excuse and
9 an early excuse, by not even having a model
10 available. And I agree. I mean, you've got
11 -- there's -- there are working people out there,
12 union people out there, that need good
13 affordable housing. And I -- I think, if they
14 try a little harder, they can find the people
15 that will fit that two-over-two model. So
16 again, I thank you for your time and appreciate
17 your consideration.

18 CHAIRMAN HOOD: Thank you. Next.

19 MS. DeGRASSE: Hi. My name is
20 Enjoli DeGrasse, 2515 Hurston Lane, NE,
21 Washington, D.C. 20018. I'm a current resident
22 of the Villages at Dakota Crossing. I apologize

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 for the earlier outburst. It's my first time
2 at this type of thing.

3 I spoke with Mr. King earlier and
4 he wanted to -- me to tell you that he supports
5 the -- the changes, as long as they -- you keep
6 the ten-year housing restriction in. And he
7 told me to say that on his behalf.
8 And also that -- to insure that the record keeps
9 open until Monday. So that's just his side of
10 it.

11 My personal side of it is the same
12 of what my future residents or neighbors have
13 said. In addition, that I think that the models
14 that are currently built do help show the
15 product. So I do think that a model of the
16 two-by-two home can help further show the
17 product and drive interest. Because we bought
18 or signed our contract back in last year, like
19 May of last year. And they gave us a whole bunch
20 of incentives, because it's hard to buy a product
21 site unseen. And that's why sales start to pick
22 up when you have models. And so, if they build

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 the model of the townhome and also are able to
2 open it up to the general community, besides
3 DCPS, then I think that interest -- you'll find
4 a greater interest for that product, as well.

5 So I agree with what they said, in addition
6 to what I added.

7 CHAIRMAN HOOD: Okay. Thank you.

8 Next.

9 MR. PARSON: Phillip Parson, 2515
10 Hurston Lane, NE, Washington, D.C., 20018.
11 This is my wife here. Personally, I don't have
12 a problem with them offering the units. It's
13 the way in which it's being done. I work over
14 in Southeast, by the Department of
15 Transportation. And I saw what was being done
16 over in Capitol Quarter and in that area. And
17 what happened was the buyer was responsible for
18 a portion of the regular asking price. The
19 District was responsible for the remaining, as
20 a loan to the buyer. And that kept the asking
21 price equivalent to the regular asking price,
22 to the market rate. And so, what happened then

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 was the -- the -- the purchaser was then
2 responsible to the Government for staying in
3 that house for 30 years. That kept everybody's
4 property at the same value, while also offering
5 property to affordable dwelling units. And,
6 if that's the way you want to proceed with that,
7 I'm totally fine with that.

8 However, you know, doing it the
9 other way, and especially keeping that ten year
10 requirement up, drops the property value of
11 everybody sitting at these tables. And that's
12 all I have to say. Thank you.

13 CHAIRMAN HOOD: Okay. Than you.
14 Let me start off. Do any of you go to the ANC
15 meetings? Okay. You two do? Have any of you
16 all been to an ANC meeting? Was this taken up
17 at one of the ANC meetings?

18 MS. DeGRASSE: The last one we went
19 up -- went to, no it wasn't. We've only been
20 to one. We just moved in. I think they've only
21 had one meeting. We discussed Costco then.

22 CHAIRMAN HOOD: Costco? So you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 went to that one. Something else that we deal
2 with. Yes. I'm aware of that one. I have some
3 more questions. But let me open it up. Anybody
4 else? Commissioner May?

5 COMMISSIONER MAY: Just so I'm
6 perfectly clear on this, everyone here bought
7 the market rate units? Right?

8 MS. DeGRASSE: Correct.

9 COMMISSIONER MAY: And so -- so
10 there are, in addition to the market rate units,
11 we have the subsidized units. And you're
12 concern is that the subsidized units are going
13 to be selling for a lower price, but they are
14 more or less identical to yours?

15 MS. DeGRASSE: Correct.

16 COMMISSIONER MAY: Okay.

17 MS. DeGRASSE: Because, before they
18 said that the subsidized units would just be
19 the -- the condo style units. And so, now, the
20 flexibility is opening up for it to be a townhome
21 style unit, which is the same -- everybody here,
22 I guess, bought the Hepburn. And so it would

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 be the model that we have, the Hepburn, minus
2 a powder room, I think, and something else that
3 the other gentleman told me at an earlier date.

4 But, generally, if I was concerned that it would
5 be a comp to my house.

6 COMMISSIONER MAY: Right. So --
7 but they -- if they sell within -- within ten
8 years --

9 MS. DeGRASSE: Right.

10 COMMISSIONER MAY: They're going to
11 be sold at a discounted rate again. And they're
12 going to be selling at a lower price again.
13 But they're going to be selling only to qualified
14 buyers -- people who's income is low enough.

15 MS. DeGRASSE: Yes.

16 COMMISSIONER MAY: Right? So,
17 once they -- once you reach that ten years,
18 though, and I guess what happens is that they
19 become -- they can be sold at market rate, once
20 they've been in there ten years. So, regardless
21 of what was paid for it, I mean, they would still
22 be competing against the same buyers. And your

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 -- your properties, because you had some extras,
2 would be more valuable than those and would sell
3 better. I mean, you are afraid that the fact
4 that they're coming in -- you know, at one point,
5 they were lower in price, I mean it -- you know,
6 the comparable situation, in my mind, is that
7 well, you know, it's as if somebody bought their
8 house ten years earlier and the price was lower
9 when they bought it. And now it's -- you know,
10 they've appreciated to the point. And if it's
11 -- if they're identical and they're next door
12 to each other, the market is going to pay the
13 same for both of them. And, unless that
14 property is significantly different in
15 appearance and sort of brings down the quality
16 of the neighborhood, I'm not sure how it affects
17 the market rate of your property.

18 I mean, I guess the other question
19 I have about this is that, I mean, are you
20 familiar with sort of the -- I don't know how
21 current it is, but I guess, the policy or the
22 philosophy of having affordable housing looking

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 and being more or less identical to the market
2 rate housing. And the importance of doing that
3 so that it's not -- so that you don't have sort
4 of a block of where the poorer people live, and
5 then you've got the block where the rich people
6 live. I mean, that it's all mixed in together.

7 Are you familiar with that concept?

8 MS. DeGRASSE: Yes. The
9 two-by-two condos look exactly like the
10 townhomes.

11 COMMISSIONER MAY: Okay.

12 MS. DeGRASSE: They just have split
13 levels in them.

14 COMMISSIONER MAY: So how do they
15 -- they've got to have two doors, though.
16 Right? How do they have two doors? Do they
17 have two doors in the front? So they're not
18 really identical? They are different.

19 MR. PARSON: They also have units
20 in there that are not affordable dwelling units,
21 as well.

22 COMMISSIONER MAY: Right. So

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 okay. So those are mixed units?

2 MR. PARSON: Yes.

3 COMMISSIONER MAY: They have a
4 two-over-two condo that's market rate or a
5 two-over-two that's --

6 MR. PARSON: Correct.

7 COMMISSIONER MAY: All right.
8 Yes. I mean, what you're -- what you seem to
9 be arguing for is something that's contrary to
10 what we're accustomed to, in terms of any kind
11 of affordable housing project. We actually go
12 to some length to make sure that they affordable
13 units really are indistinguishable from the
14 market rate units, when we see a project like
15 this. And I'm sure -- you know, it's hard to
16 remember -- I'm not even sure what approvals
17 I've been in on, in this project before. But
18 I've seen many similar projects and it's always
19 an issue of making sure that they all kind of
20 look the same.

21 MR. JESICK: What happens if he's
22 right next to my townhouse and he pays \$330,000

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 and it's in year seven. So it's only going to
2 be there for three more years. And he puts say
3 \$15,000 into his home and makes it look even
4 better in the inside. And he turns around --
5 he's going to sell it for the same price that
6 I'm going to sell mine. He's going to make a
7 heck of a lot more profit than I'll ever make.

8 VICE CHAIRMAN COHEN: No.

9 COMMISSIONER MAY: Well, but -- I'm
10 not sure how the ten-year requirement -- I mean,
11 is it ten years, based on the individual owner?

12 So, when that owner moves in, I'm getting a
13 nod from the -- Mr. Collins, behind you, that
14 it's the -- then ten-year requirement applies
15 for any owner. And you have to hold it for ten
16 years, in order to be -- to pass over that
17 requirement. So you can't just buy it in year
18 eight or seven, and then sell it at year ten.

19 He'd have to buy it at year seven and hold it
20 until year 17.

21 MR. JESICK: Okay. What happens if
22 I -- if somebody defaults on the loan? He can't

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 do it, so that -- the new person comes in and
2 it goes --

3 COMMISSIONER MAY: It has to be
4 somebody who qualified -- they would have to
5 meet the affordability requirements and would
6 have to be there for ten years.

7 MR. KINCAID: I guess, Mr. May,
8 again, I go back to my original concern here.

9 I mean, we may not have put an extra \$50,000
10 of upgrades into this unit, fully knowing that
11 every unit is going to look identical from the
12 outside. But, in the inside, they're not the
13 same. One is going to be cheaper. Mine's going
14 to be a lot more expensive. I just think it's
15 unfair that I got caught mid stream in a rule
16 change, not knowing this back in February, and
17 I probably would not have invested that extra
18 money, had I known that. I mean, again, believe
19 me, I'm the first advocate to allow affordable
20 workforce housing. I think it's a great thing.

21 I'm just asking, and I think, you know, if --
22 if they -- the original proposal -- I think they

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 need to put a model up and do a little more work
2 in trying to market that. Because the
3 two-over-two unit is a -- is a super unit.

4 PARTICIPANT: Bigger than ours.

5 MR. KINCAID: It's a -- it's really
6 bigger, when it comes down to it. And it's a
7 great unit for workforce housing. And I guess
8 that's -- I --

9 COMMISSIONER MAY: I don't disagree
10 that you have some issue with -- you know, in
11 terms of your contract and when you bought and
12 the change in the rules and all that sort of
13 stuff. The question is what's relevant for our
14 consideration and whether this is a substantial
15 change to the PUD. And I'm not sure that this
16 really is a substantial change to the PUD. It
17 doesn't mean that you wouldn't have things to
18 talk about with the folks that you're buying
19 your home from. I mean, it sounds like you do.

20 Whether or not, contractually, you have, you
21 know, basis for getting it changes, that's --
22 that's well outside of what we're doing here.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

So, I mean, in other words, I'm sympathetic to the issue, but it doesn't necessarily mean that we should not consider this change, because of the way it's being portrayed to us is that this is essential to the overall success of the project, which I'm sure you also support.

MR. KINCAID: Absolutely. But again, I guess, could we ask and at least look at an extension of the current -- current rules to see if they market and -- and -- and increase the interest in that particular unit? And then they wouldn't have to go back and modify it.

CHAIRMAN HOOD: Let me ask this. This has come before us as -- wasn't this on a consent calendar months ago? So we had an extension. This was on our consent calendar.

And, because of the concerns that we had, I don't know how many months this allowed, but it allowed for some more time. So this is actually in an extension phase. While you may

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 not -- it may be blind to you or you don't see
2 what we've done, this Commission here had some
3 concerns on some of the affordable issues, some
4 of the transfer over to -- but, if this is the
5 same project -- Let me just say this. If this
6 is the same project that came before this
7 Commission back in the early 2000s as a single
8 family home, I was sorry when it came back to
9 what you all are -- what you have now. Because,
10 originally, this was in front of us as 92 single
11 family homes, I believe. And when they came
12 back, proposing what you all are looking at,
13 that was detrimental to me. But, as
14 Commissioner May said, in the early '90's --
15 I mean, in the early 2000's we had to look at
16 the overall project.

17 I thought single family homes in
18 that -- 92 single family homes that were approved
19 by this Commission, on which I was on at the
20 time, still on, I thought that was great. But
21 I had to look at the success of the overall
22 project. I just want you all to know that.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Did you all know that was scheduled for 92 single
2 family homes, which was the best thing that could
3 happen to Ward 5?

4 MR. KINCAID: No, sir. I didn't.

5 CHAIRMAN HOOD: Okay. And I don't
6 know if you had. I think you, Mr. Collins, you
7 all might have had control of that. But I can
8 tell you, that was detrimental to me. But, as
9 Commissioner May said, we had to look at the
10 overall success of the project. Okay. All
11 right. Anybody else? Commissioner Cohen
12 leaving? Okay?

13 MS. KINCAID: Originally, when we
14 looked at the homes, we were interested in either
15 the Rubens or the Matisse. And we were told
16 my husband made too much money, because the limit
17 was \$84,500. So that's why we chose the
18 Hepburn. And, just putting -- you know, we --
19 the extras, like a simple connection for a
20 ceiling fan, we put three in. Each one is \$175.
21 So that's how the little costs keep getting
22 built up. Another thing, we just knew about

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 this meeting -- there's one small green sign
2 in this whole development right now that says
3 public zoning meeting. One. And we passed it.

4 It was just put up, I would say, about two and
5 a half, three weeks ago. And it was just the
6 other night we talked with our neighbors down
7 there and they explained more. That's how we
8 found out about it.

9 CHAIRMAN HOOD: Well, what you just
10 told me, shows me that our notifying system
11 works. While you may have seen the small sign,
12 some people read the Federal Register. While
13 you don't do that, somebody reads the notice,
14 then somebody else goes to the ANC meeting.
15 So I think it works, from what you just told
16 me.

17 MS. KINCAID: How -- shouldn't they
18 put a little more signage up so people can see
19 it?

20 CHAIRMAN HOOD: They have three
21 ways to notify you. Is it three ways? Ms.
22 Schellin?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 MS. SCHELLIN: Yes, sir.

2 CHAIRMAN HOOD: It changed so much.

3 I think it's three or four

4 MS. SCHELLIN: Notices are mailed
5 to property owners within 200 feet. It's
6 published in the D.C. Register, it's sent to
7 the ANC, it's published on our website, and they
8 are required to post all street frontages.

9 MS. KINCAID: Okay. Well, we're
10 property -- well, we will be property owners.
11 We're not right now. So, of course -

12 MS. SCHELLIN: Right. So you
13 didn't get that.

14 MS. KINCAID: -- we didn't receive
15 that.

16 CHAIRMAN HOOD: You didn't get
17 that. You will be.

18 MS. SCHELLIN: As property owners.

19 MS. KINCAID: And I'm on the eastern
20 short, so I'm already at a deficit for the --
21 like, I just know now about the ANC. So I'm
22 more aware. If it wasn't for that one little

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 green sign, you know, and we got out of the car
2 to read it. Because you have to really get up
3 close to read the small print.

4 CHAIRMAN HOOD: Okay. All right.

5 MS. KINCAID: But the people who
6 were selling it never said anything, either.
7 Nor any of our -- the mortgage company who, by
8 the way, I just talked with today and had no
9 idea about it. My husband and I were the ones
10 who informed them. And they said we don't know
11 what's going on with that.

12 CHAIRMAN HOOD: Okay. We do a lot.
13 Some things are within our jurisdiction.
14 While we're sympathetic, and I would associate
15 myself -- I don't need to rehash everything that
16 Commissioner May said -- I think that there are
17 some concerns. And, hopefully, you can talk
18 to them and work all that out with the developer.
19 He's nodding his head. So it looks like he's
20 willing. And one thing about it, we want them
21 to work those things out because we see him
22 again. And we remember things. Right? Okay.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 And I'm not being a microphone --
2 what do they call me, a microphone bully or
3 something? I don't know. I don't know. But
4 we're hoping that that could be worked out.
5 But again, within what we can do, I have to
6 associate myself with my colleague,
7 Commissioner May.

8 MR. KINCAID: And Mr. Hood, that
9 would be -- I think we'd be willing to work with
10 the developer too. I mean, I'm just -- if
11 they're willing to work, I think we're willing
12 to work too. Again, to see the project succeed.

13 CHAIRMAN HOOD: But I know what you
14 all got. But I can tell you what was planning
15 -- those 92 single family homes. I hate the
16 fact that that went away. But I had to do --
17 we had to do what we had to do.

18 Okay. Anybody else? Commissioner
19 Cohen? Vice Chairman Cohen?

20 VICE CHAIRMAN COHEN: Yes. I know
21 that a lot of us have lost faith in our real
22 estate industry. But I have read a lot about

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the value of -- you know -- appraising of
2 affordable housing. And, as long as the
3 neighborhood is kept up, your property, even
4 though there's somebody who has a restricted
5 cost of their housing, your property will be
6 looked at for comparable and the interior is
7 taken into account of your upgrades. So I think
8 banks have really gotten burnt. I think that
9 appraisers are being a little bit -- are being
10 much more careful. They have to. They could
11 lose their licenses. So I do believe that you
12 will not be harmed in the appraisal process,
13 should you want to sell your property. Because
14 people go into your property, as well. You
15 probably already know that. And look for the
16 comparable and similarities. So any
17 affordability does not impact negatively on your
18 property value.

19 MS. DeGRASSE: Is there a -- I
20 guess, the ten year waiting period that's in
21 I guess a covenant or a right or whatever, that's
22 a part of this package. And that can never go

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 away, like regardless of what happens, that
2 stays in the package. Right? Okay. So,
3 because that's the -- I mean, being agreeable
4 with the changes and stuff that's made, even
5 with the Hepburns and stuff, it's that they have
6 to stay in there the ten year period, then that
7 prevents them from selling in two years, that
8 would definitely affect the property value.
9 So the ten year, and then if they foreclose or
10 move out or whatever, or what if the developer
11 bankrupts or something? It's still there, or
12 not? Or does all that go out the window? Well,
13 I guess they'd be not building any homes if they
14 bankrupt. But I'm just, you know --

15 VICE CHAIRMAN COHEN: It goes with
16 the unit -- the ten years.

17 MS. DeGRASSE: Yes. Okay. And
18 then, if they foreclose, the next person to come
19 in, is that ten years extended, or do they just
20 have to fulfill the initial ten years?

21 MR. COLLINS: What is the --

22 COMMISSIONER MAY: I think the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 indication from the Applicant was that it's the
2 ten year starts again.

3 MS. DeGRASSE: Oh.

4 COMMISSIONER MAY: You know, we're
5 probably going to have some follow-up questions
6 for the Applicant. And we'll get confirmation
7 on that question then.

8 MS. DeGRASSE: Okay. Thank you.

9 CHAIRMAN HOOD: Okay. Anything
10 else? All right. Let me --

11 COMMISSIONER TURNBULL: I think one
12 -- just to -- I think one of the -- well, both
13 my colleagues were trying to say is that there
14 are some safeguards in there that someone --
15 someone who is going to be looking at your unit
16 is not going to jump and look at a workforce,
17 because he's not going to qualify for it within
18 the time period. So, when he looks at that,
19 and everything else, he'll say well -- and then
20 if he's got -- if you've got granite counter
21 tops and they've got formica, you know, it's
22 going to make -- they're going to be looking

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 at units. So there is a -- there is a little
2 bit of difference again. It's marketability
3 and buyability in what people are going to be
4 looking at.

5 CHAIRMAN HOOD: Okay. And I would
6 encourage all of you, whether you stay on the
7 property or not, to get involved with your ANC.
8 Okay? All right. Thank you, very much. We
9 really appreciate it. Okay. Mr. Tummonds, I
10 guess you're going to do some rebuttal and
11 closing. I don't know if you have any rebuttal.

12 MR. TUMMONDS: Yes. We do not have
13 any rebuttal. I think that, based on the
14 testimony this evening, the reports of the
15 Office of Planning, and the District
16 Department of Transportation, that we believe
17 this proposed modification is appropriate and
18 we would ask for your approval of this
19 modification application.

20 CHAIRMAN HOOD: Okay.
21 Commissioners, any questions?

22 COMMISSIONER MAY: I do have a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 question. I would just like to get
2 clarification about what happens with the ten
3 years.

4 MR. COLLINS: Commissioner May, I
5 -- I have to say, I've got to educate myself
6 on that. We received the -- the deed and the
7 convenient language directly from DHCD, that they
8 use in their inclusionary zoning regulations.

9 So I have not done this before and so I was
10 under the assumption it was a ten year period.

11 I don't know what happens after it's sold in
12 year five. So I've got to get clarification.

13 I just don't have an answer for you. I
14 apologize. I -- it's the first time I've
15 actually worked with this covenant.

16 COMMISSIONER MAY: Okay. By any
17 chance, does the Office of Planning -- are you
18 familiar with the regs on this? I mean, I'm
19 sure this is an issue that was considered when
20 the case was first -- when we understood what
21 the rules were when the case was first approved.

22 But it's been a while.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRMAN HOOD: It has been a while.
2 I do remember us having a major discussion up
3 here about that. So maybe somebody can help
4 us remember. It's only been 400 cases since
5 then.

6 MR. JESICK: I'm sorry. We're not
7 familiar with the exact covenant language. But
8 we can get that from DHCD if the Commission
9 requires it.

10 VICE CHAIRMAN COHEN: I do think the
11 Commission would appreciate that.

12 COMMISSIONER MAY: Yes. We'd like
13 to get clarification one way or another, either
14 from OP or from the Applicant.

15 CHAIRMAN HOOD: All right. We are
16 going to put this off -- the decision. We're
17 going to wait on the ANC report.

18 MR. TUMMONDS: And we will be able
19 to provide this information by the same date
20 -- by Wednesday, July 12.

21 CHAIRMAN HOOD: You're going to get
22 it in my Wednesday?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 MR. TUMMONDS: Yes.

2 CHAIRMAN HOOD: Do we want to try
3 to take this up at our last meeting in July,
4 or wait until September? Let's try to deal with
5 this in our last meeting in July if we can.
6 Do we have a lot of stuff on the agenda? I ask
7 that question all the time. Don't tell me.

8 MS. SCHELLIN: Not a whole lot.
9 Not any more than usual, unless OP has a lot.

10 CHAIRMAN HOOD: That's all right.
11 We'll take this up. This shouldn't take us
12 30 minutes. Okay. We're going to take this
13 up our last meeting in July, which is -- what's
14 the date and the time of that meeting?

15 MS. SCHELLIN: July 30.

16 CHAIRMAN HOOD: July 30? Okay.

17 MS. SCHELLIN: Yes. So those
18 documents would be due by 3:00 p.m. on July 25.

19 There's only two things. So it's not a big
20 deal in getting those. No. It's a meeting.
21 And, if we could have the Applicant provide us
22 a draft order or draft finding specs,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 conclusions of law, by August 8, 3:00 p.m.?

2 MR. LAWSON: Yes.

3 MS. SCHELLIN: Thank you.

4 CHAIRMAN HOOD: Okay. Is
5 everybody on the same page? Okay. All right.

6 With that, the first hearing is adjourned.

7 Let's go to the second hearing.

8 (Whereupon, the hearing was
9 adjourned at 7:26 p.m.)

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com