

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

PUBLIC HEARING

+ + + + +

```

=====┐
IN THE MATTER OF:           :
                               :
Fort Lincoln/Gateway       :
Village, LLC - PUD         :
Modification at Square 4325 :
=====┘

```

Monday,
February 1, 2010

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

The Public Hearing of the District of Columbia Zoning Commission convened in the Office of Zoning Hearing Room, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 6:30 p.m., Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD	Chairman
WILLIAM WARREN KEATING	Vice Chairman
PETER MAY	Commissioner (NPS)
KONRAD SCHLATER	Commissioner
MICHAEL G. TURNBULL	Commissioner FAIA, (AOC)

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

Board of Zoning Adjustment
District of Columbia
CASE NO. Transcript
EXHIBIT NO. null

TABLE OF CONTENTS

WELCOME:

Anthony Hood..... 4

ZC CASE NO. 06-08B - FORT LINCOLN/

GATEWAY VILLAGE, LLC - PUD MODIFICATION:..... 4

Paul Tummonds..... 8

William Collins..... 9

Kyle Oliver..... 15

OFFICE OF PLANNING:

Matt Jesick..... 22

CLOSING REMARKS:

Paul Tummonds..... 23

MOTION TO APPROVE ZC CASE NO. 06-08B:..... 24

VOTE TO APPROVE ZC CASE NO. 06-08B:..... 25

ADJOURN:

Anthony Hood..... 25

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 the Public
5 Hearing of the Zoning Commission of the
6 District of Columbia for Monday, February 1,
7 2010.

8 My name is Anthony Hood. Joining
9 me are Vice Chairman Keating, Commissioner
10 Schlater, Commissioner May and Commissioner
11 Turnbull.

12 We are also joined by the Office of
13 Zoning staff, Ms. Sharon Schellin and Ms.
14 Donna Hanousek. Also the Office of Planning,
15 Mr. Lawson and Mr. Jesick.

16 This proceeding is being recorded
17 by a Court Reporter and is also webcast live.

18 The subject of this evening's hearing is
19 Zoning Commission Case 06-08B. This is a
20 request by the applicant for approval of a PUD
21 Modification for property located at Square
22 4325.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Notice of today's hearing was
2 published in the DC Register on December 11,
3 2009 and copies of that announcement are
4 available to my left on the wall near the
5 door.

6 This hearing will be conducted in
7 accordance with the provisions of 11 DCMR 3022
8 as follows: Preliminary matters; applicant's
9 case; report of the Office of Planning; report
10 of other Government agencies; report of ANC-
11 5A; organizations and persons in support;
12 organizations and persons in opposition;
13 rebuttal and closing by the applicant.

14 The following time constraints will
15 be maintained in this meeting: The applicant
16 10 minutes; organizations 5 minutes,
17 individuals 3 minutes.

18 The Commission reserves the right
19 to change the time limits for presentations,
20 if necessary, and notes that no time shall be
21 ceded.

22 When presenting information to the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Commission, please, turn on and speak into the
2 microphone, first, stating your name and home
3 address. When you are finished speaking,
4 please, turn your microphone off, so that your
5 microphone is no longer picking up sound or
6 background noise.

7 To avoid any appearance to the
8 contrary, the Commission requests that persons
9 present not engage the Members of the
10 Commission in conversation during any recess
11 or any time. The staff will be available
12 throughout the hearing to discuss procedural
13 questions.

14 Please, turn off all beepers and
15 cell phones, at this time, so not to disrupt
16 these proceedings.

17 Would all individuals wishing to
18 testify, please, rise to take the oath? Ms.
19 Schellin, would you, please, administer the
20 oath?

21 MS. SCHELLIN: Yes.

22 (Whereupon, the witnesses were

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 sworn.)

2 MS. SCHELLIN: Thank you.

3 CHAIRMAN HOOD: Okay. At this
4 time, we will consider any preliminary
5 matters.

6 Does the staff have any preliminary
7 matters?

8 MS. SCHELLIN: Just to advise that
9 we have received the Affidavit of Maintenance
10 and it is in order.

11 CHAIRMAN HOOD: I'm just trying to
12 get a total for who we have in the audience.
13 Do we have anyone here who would like to
14 testify in support? No one? Anyone who would
15 like to testify in opposition? Okay.

16 All right. Mr. Tummonds, I guess
17 if you can begin? I'm not sure what our
18 arrangements were, but I think we have more
19 questions.

20 MS. SCHELLIN: An expert witness.

21 CHAIRMAN HOOD: You have one
22 witness?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. SCHELLIN: Or just a witness?

2 MR. TUMMONDS: No, no.

3 MS. SCHELLIN: Okay.

4 MR. TUMMONDS: I believe that --
5 Paul Tummonds, Law Firm of Pillsbury Winthrop.

6 I believe we have a full record in front of
7 you and we have representatives of the
8 applicants and also our civil engineer
9 appeared this evening to ask any questions.

10 And with that, we would rest on the
11 record and be available for questions.

12 CHAIRMAN HOOD: Sounds good. I see
13 we have our former DPW Director. Anyway,
14 let's open it up for questions. I think the
15 submission is very good. We may have a few
16 questions for you.

17 Okay. Who would like to start off?
18 We may not have any questions. I think we
19 have one or a couple. Commissioner May?

20 COMMISSIONER MAY: I was just
21 trying to give somebody else a chance to go
22 first.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 So as I understand it, originally,
2 the distribution of units, if I look at the
3 Boards that you have right there, the far
4 right is the original and then the middle is
5 what was changed in 2007. And then the far
6 left is what is proposed now.

7 MR. TUMMONDS: That's correct.

8 COMMISSIONER MAY: Okay. Now, just
9 repeat for me what the logic is of why it is -
10 - why it went that whole path.

11 MR. COLLINS: Yes. My name for the
12 record is Will Collins, 15713 Sycamore Grove
13 Court, Rockville, Maryland 20853. I'm co-
14 manager of Fort Lincoln/Gateway Village, LLC.

15 Commissioner, the reason we have
16 asked for the modifications, the first
17 modification came about and we were working
18 with a builder here in town who wanted to
19 intersperse the units. That builder
20 subsequently, after modification, made a
21 decision not to pursue the project.

22 We subsequently are now working

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 with a large public builder, Ryan Homes, which
2 is a publicly traded company under NBR. And
3 the reason we are asking for the modification
4 is twofold. One, to react to current market
5 conditions and, secondly, in terms of Ryan
6 would prefer to build uniform stick in terms
7 of whether it be 16 foot wide townhomes and
8 one stick of townhomes and 20 foot wide
9 townhomes in one stick.

10 So it's really a builder preference
11 and that is the reason for the modification.
12 The other reason, obviously, is market
13 conditions. The reduction in units was a
14 reduction from the number of stacked townhome
15 condominiums and that is truly a reaction to
16 market. The desire that we have seen out at
17 Fort Lincoln is for more fee simple townhome
18 products.

19 I hope we have answered that
20 question.

21 COMMISSIONER MAY: Sorry about
22 that. Thank you. There is an affordable

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 component to this development, right?

2 MR. COLLINS: Yes, sir.

3 COMMISSIONER MAY: How many units?

4 MR. COLLINS: 30 units.

5 COMMISSIONER MAY: And where are
6 they within the overall plan?

7 MR. COLLINS: They will be
8 interspersed and the majority of them are
9 within what we will call the first two phases
10 and they are within the stacked townhome
11 condominiums in a three-bedroom unit that is,
12 approximately, 1,642 square feet in addition
13 to -- that's just livable square feet, plus an
14 interior garage.

15 And if you would look at the board
16 on your left, they are located within the
17 green colored building sticks. So they are
18 located throughout the project.

19 COMMISSIONER MAY: A building
20 stick, I assume that is a row?

21 MR. TUMMONDS: Yes, sir.

22 COMMISSIONER MAY: Okay. I never

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 heard that term until I read this
2 presentation. And I can't tell you how many
3 dozens of presentations like this I have seen.

4 So I figured it out though.

5 Anyway, let's see, the affordable
6 units are -- were, according to the previous
7 order, going to be marketed to DCPS employees.

8 Is that still the case?

9 MR. TUMMONDS: Yes, sir.

10 COMMISSIONER MAY: And is that in
11 process already? Is it going well?

12 MR. TUMMONDS: We would hope to get
13 it in process within the next two months. We
14 are working right now with the Office of the
15 Deputy Mayor for Economic Development. And
16 they are working with us to establish the
17 program.

18 And what we hope is that we have a
19 nice long list of folks that are interested,
20 that is our hope.

21 COMMISSIONER MAY: Okay. Thanks.
22 That's it for my questions.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRMAN HOOD: Any other
2 questions? Commissioner Turnbull?

3 COMMISSIONER TURNBULL: Yes, I just
4 wanted to clarify. You say that all the
5 affordable housing are in the green units?

6 MR. COLLINS: Yes, sir.

7 COMMISSIONER TURNBULL: And the
8 builder is determining the design of the
9 sticks?

10 MR. COLLINS: Yes, sir.

11 COMMISSIONER TURNBULL: Not design
12 principles or guidelines. The builder is
13 telling you what he is going to give you?

14 MR. COLLINS: No. We have
15 significant design guidelines. The front of
16 all the units will be brick. The majority of
17 all side units will be brick. No, we have
18 very tight architectural controls that we are
19 working with with the builder and they will be
20 -- we will have architectural guidelines that
21 will be within our Homeowner Association
22 documents as well.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER TURNBULL: Well, I
2 guess my only, and Mr. May was getting into
3 this point, is that from the standpoint of
4 mix, I like your middle design best, because
5 you have interspersed the two different sizes
6 of units that creates a little bit more viable
7 and livable neighborhood.

8 Seeing everything the same size is
9 just a little bit disturbing. It sounds like
10 it is an attractive development that the
11 builder is trying to put in. And it just
12 bothers me that -- I like the creativity that
13 went into that second design.

14 I understand you are going back to
15 the first design from the standpoint of what
16 it was, but I think that the middle design
17 really kind of peaked the creativity of it
18 all. But that's just one Commissioner's
19 thoughts on this.

20 CHAIRMAN HOOD: I actually would
21 agree with you, Mr. Turnbull. But we are as
22 well looking at it, but I would definitely

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 agree with you.

2 Any other questions? Commissioner
3 Schlater?

4 COMMISSIONER SCHLATER: A couple of
5 quick questions. First, have any of the
6 roadways changed in terms of their location?
7 It looks like maybe they have and just wasn't
8 mentioned.

9 MR. COLLINS: Slight modification,
10 maybe by a couple of feet, but that would be
11 it.

12 COMMISSIONER SCHLATER: Okay. I
13 see that you have got a driveway bisecting the
14 stick of towns in the last plan, whereas it
15 was not the case in the second to the last
16 plan. And I just wonder if there are other
17 ones. It's hard to compare.

18 MR. OLIVER: My name is Kyle Oliver
19 with VIKA Capitol, 21579 Goodwin Court in
20 Ashburn, Virginia. I'm a civil engineer. The
21 only significant change is this road here, is
22 what you are referring to right here.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER SCHLATER: Yes.

2 MR. OLIVER: A majority of the
3 roads are changed, you know, a couple of feet
4 depending on the width of the stick.

5 COMMISSIONER SCHLATER: Okay.

6 MR. OLIVER: Based on the unit
7 changes, because, obviously, we have gotten
8 some narrower larger units there. We have
9 gone to a stick that is now a wider unit in
10 certain areas. So this is the only major
11 change to the roadway.

12 COMMISSIONER SCHLATER: Okay. Then
13 I have a math problem and it is a confusing
14 one. The math problem is this: Reduce the
15 number of 2/2 units by 52, which if they just
16 weren't 2/2 and were transformed into regular
17 old townhouses, I could see how that would
18 increase the number of townhouses by 26 units.

19 But it looks like the overall
20 number of townhouses have increased by 39
21 units. And so does that mean your -- I'm just
22 trying to figure out what is going on, because

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 it also seems like the townhouses are getting
2 wider, which would make me think that the
3 number of townhouses would go down or you are
4 using more of the site for putting the homes
5 on and they are a little bit more densely
6 packed.

7 MR. COLLINS: Commissioner, my
8 numbers that we have been using reflect an
9 addition of 39 fee simple townhomes, which
10 you're correct, I think we are reducing the
11 202 stacked townhome kind of mini units by 62
12 units from 174 units previously to 112, that's
13 where we're coming with the 62 units. That's
14 how we arrived at the 334.

15 COMMISSIONER SCHLATER: How wide
16 are the 2/2 units?

17 MR. COLLINS: They are 24 feet
18 wide.

19 COMMISSIONER SCHLATER: Okay. So
20 they are relatively -- when you get rid of the
21 2/2 units and replace them with regular
22 townhome units, you are able to fit more

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 townhomes into the space where the 2/2s were?

2 MR. COLLINS: That's correct.

3 COMMISSIONER SCHLATER: Okay. I
4 also note that you are looking for a change in
5 the time lines in this request. So not only
6 is it a modification of the layout, but also
7 the timing under which the proposal has to be
8 built. Can you just talk more about why that
9 request was made?

10 MR. COLLINS: The board that was
11 just put up reflects the phasing project that
12 will -- that we hope to proceed with, subject
13 to your approval. The reason for the phasing
14 is that it allows us to do two things. One,
15 to develop the project and put the
16 infrastructure in in a fashion, a reasonable
17 fashion and, as well, react to current market
18 conditions in terms of sales absorption.

19 And that is the purpose for the
20 phasing. Needless to say, I think the good
21 news for this project is it is subject to your
22 approval. It is ready to go. It will be

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 internally financed by both ourselves as well
2 as the builder, not dependent upon third-party
3 financing.

4 But it is critical for us to phase
5 the infrastructure. The first, to give you
6 approximate numbers, phase of infrastructure
7 will be, approximately, \$4 million. The
8 second phase is, approximately, \$4 million.
9 And then the third phase, the infrastructure,
10 is, approximately, \$8 million.

11 With current conditions, it is just
12 too difficult to try to finance all of that at
13 one time. And we are fortunate enough the way
14 the site lays out that we are able to phase it
15 over a threefold process. And that's the
16 reason for our request for the phasing.

17 MR. TUMMONDS: Mr. Collins, could
18 you give the number of units in each phase?

19 MR. COLLINS: Yes. The phase
20 contains 85 homes. The second phase contains
21 80 homes. And then the third phase is,
22 approximately, 167 homes.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER SCHLATER: Great. I
2 appreciate that explanation. I have no
3 problem with the time line itself. I
4 understand that big projects like this don't
5 come out of the ground all at once. And so I
6 just wanted to understand the rationale behind
7 it.

8 There are other townhomes for sale
9 as part of the overall Fort Lincoln
10 development right now. Is that correct?

11 MR. COLLINS: We have a project
12 that is currently at the final stages of
13 development that is called Dakota Crossing.
14 It is a project that we did with Pulte Homes.

15 There are 209 fee simple homes. It has been
16 an extremely well-received project. We have
17 great homeowners, great residents.

18 We are down to our last two homes
19 remaining for sale as of today. It has been
20 really well-received. We are very proud of
21 the community and we think this is -- there is
22 an awful lot of exciting things that will be

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 happening in Fort Lincoln over the next year.

2 And this is our next step.

3 COMMISSIONER SCHLATER:
4 Congratulations. I look forward to seeing it
5 move forward.

6 MR. COLLINS: Thank you.

7 CHAIRMAN HOOD: Okay. Any other
8 questions? Let me just ask, we voted on a
9 number of things, including Dakota Crossing.
10 My question is I'm trying to remember is this
11 the site where the proposal that came in front
12 of the Zoning Commission some years back of 92
13 single-family homes?

14 MR. COLLINS: Yes, sir.

15 CHAIRMAN HOOD: And I'm going to
16 say it again. That was so unfortunate that
17 that project didn't move forward. I know that
18 is maybe eight years out, but still that was
19 very unfortunate.

20 Okay. Any other questions,
21 comments? Okay. Let's go to the Office of
22 Planning.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. JESICK: Good evening, Mr.
2 Chairman, Members of the Commission. My name
3 is Matt Jesick. The Office of Planning is
4 happy to rest on the record in support of the
5 project. And we would be available for any
6 questions that the Commission has on this.

7 CHAIRMAN HOOD: Thank you, Mr.
8 Jesick, for the very detailed report, written
9 report. And thank you for standing on the
10 record.

11 Mr. Lawson, did you want to add
12 something? Okay. Any questions of the Office
13 of Planning? Does the applicant have any
14 questions of the Office of Planning?

15 MR. TUMMONDS: No questions.

16 CHAIRMAN HOOD: Let's see, do we
17 have any report of any Government agencies?
18 Report of ANC-5A? And I think at that time
19 they had not responded. Okay.

20 Organizations and persons in
21 support? Organizations and persons in
22 opposition? Mr. Tummonds, we'll do closing by

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the applicant.

2 MR. TUMMONDS: Great. As noted in
3 the materials within the record and our
4 testimony here this evening, the applicant
5 believes that the proposed modifications to
6 the approved plan and the time extension
7 request are consistent with the Zoning
8 Commission's intent in approving the original
9 PUD.

10 And we believe that approving these
11 proposed modifications and time extension
12 request will not substantially impair the
13 intent, purpose or integrity of the Zone Plan.

14 And with that, we are done.

15 CHAIRMAN HOOD: Okay. Thank you
16 very much, Mr. Tummonds.

17 Commissioners, I would propose, and
18 it has already been said by most of my
19 colleagues, that we move forward with this.
20 And I'm just trying to understand. I think we
21 need to move the time extension first and then
22 do the modification or do I have them in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 reverse?

2 Okay. I thought it was one you had
3 to do one first. Maybe that was another case.

4 They all run together. So anyway, okay.

5 With that, I would move approval of
6 Zoning Commission Case No. 06-08B for these
7 modification and time extension requests as
8 proposed in submittals with the time extension
9 being broken up in phases, which I think will,
10 and Mr. Tummonds will correct me, be a total
11 of five years in phase.

12 MR. TUMMONDS: That's correct.

13 CHAIRMAN HOOD: Okay. And also the
14 modification request. And I would ask for a
15 second.

16 VICE CHAIRMAN KEATING: Second.

17 CHAIRMAN HOOD: Any further
18 discussion? Did we leave anything out?

19 All those in favor?

20 ALL: Aye.

21 CHAIRMAN HOOD: Not hearing any
22 opposition, Ms. Schellin, would you record the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 vote?

2 MS. SCHELLIN: Yes. Staff records
3 the vote 5-0-0 to approve proposed action in
4 Zoning Commission Case No. 06-08B,
5 Commissioner Hood moving, Commissioner Keating
6 seconding, Commissioners Schlater, May and
7 Turnbull in support.

8 CHAIRMAN HOOD: Well, I want to
9 thank everyone for their participation
10 tonight.

11 Ms. Schellin, do we have anything
12 else? Is Thursday going to be like this?

13 MS. SCHELLIN: It's going to be
14 much worse.

15 CHAIRMAN HOOD: Okay. So let's
16 enjoy this one while we have it.

17 Okay. With that, I want to thank
18 everyone and good night. This hearing is
19 adjourned.

20 (Whereupon, the Public Hearing was
21 concluded at 6:56 p.m.)
22

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701