

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

PUBLIC HEARING

+ + + + +

----- :

IN THE MATTER OF: :

2480 16th Street, NW :

Consolidated PUD and Map Amendment - :Case No. 04-36

Dorchester House Associates, LLC :

Kalorama West, LLC :

----- :

Thursday,
April 13, 2006

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

The Public Hearing of Case No. 04-36 by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room at 441 4th Street, N.W., Washington, D.C., Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTHONY J. HOOD	Vice-Chairperson
GREGORY JEFFRIES	Commissioner
JOHN G. PARSONS	Commissioner (NPS)

NEAL R. GROSS

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

PRESENT - (Continued):

OFFICE OF ZONING STAFF PRESENT:

SHARON SCHELLIN, Acting Secretary

OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

This transcript constitutes the minutes
from the Public Hearing held on April 13, 2006.

NEAL R. GROSS

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

A-G-E-N-D-A

Page No.Organizations in Opposition

President, Reed-Cooke Neighborhood Association, 5
 representing Adams Morgan, **SIMI BATRA**

Dorchester Citizens Association,
ELEANOR JOHNSON, President Citizens Association 13
BENOIT BROOKENS 18
LUZETTE KING, Board of Directors 21

Organizations and Persons in Opposition

SCOTT McDERMOTT CARTWRIGHT 31
CAMPBELL JOHNSON 35

Rebuttal Testimony by Applicant

PAUL TUMMONDS 43
JOHN HOSKINSON 44
ERIC COLBERT 51

Closing Remarks by Applicant

PAUL TUMMONDS 68

NEAL R. GROSS

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

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

6:37 p.m.

CHAIRPERSON MITTEN: Good evening, ladies and gentlemen. This is a public hearing of the Zoning Commission of the District of Columbia for Thursday, April 13, 2006. My name is Carol Mitten, and joining me this evening are Vice Chairman Anthony Hood, and Commissioners John Parsons and Greg Jeffries.

This is a continuation of the hearing, the March 30th hearing, on Zoning Commission Case No. 04-36, and I'm not going to read the entire opening statement, since we handled that already, but I will ask, I think we left off at parties in opposition, and then we'll take testimony from anyone who is left in either support or opposition.

And, the parties, there's two parties, because we already heard from the ANC, and they will have a combined 30 minutes. But, I will ask if there's anyone planning on testifying this evening that hasn't already been sworn in, if you'd rise now to take the oath. Is there anybody who wasn't sworn in at the previous hearing who is going to testify? Just let Ms. Schellin get back to her place, she's going to administer the oath to you.

SECRETARY SCHELLIN: Please raise 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 right hand.

2 (Whereupon, participants were sworn.)

3 SECRETARY SCHELLIN: Thank you.

4 CHAIRPERSON MITTEN: Thank you.

5 Okay, Mr. Brookens, would you like to go
6 first? You'll have -- you guys work it out, do you
7 want to go first, okay, Mr. Batra. Okay, you guys
8 divided up the time? Okay, and am I right, you have
9 eight minutes?

10 MR. BATRA: Yes.

11 CHAIRPERSON MITTEN: Okay.

12 MR. BATRA: Noticing the light behind you
13 guys, time has changed since the last time we were
14 here, it's very different.

15 Madam Chair, Members of the Board, my name
16 is Simi Batra, I'm President of the Reed-Cooke
17 Neighborhood Association. We are a 501(c) non-profit
18 representing residents of Adams Morgan, living south
19 of Columbia, north of Florida, and between 16th and
20 18th Streets.

21 One of our primary missions, and more
22 recently it's been the focus of our mission, the
23 preservation of the residential character of our
24 neighborhood. And, one of the primary challenges we
25 continue to face as a neighborhood is the high level

NEAL R. GROSS

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

1 of development and the ensuing pressures that come
2 with it, particularly that, as well as there is a bit
3 of a lack of planning and transportation analysis that
4 has gone along with it. It's all been done case by
5 case.

6 Two weeks ago, Commissioners Roth and
7 Reynolds did an excellent job presenting the
8 neighborhood's view and the ANC's view on this
9 proposal, and we concur with their testimony. And,
10 for that reason I want to summarize very briefly today
11 my testimony and some of the points they already hit
12 on.

13 In addition to the 50 or so names I
14 presented to you last week, or two weeks ago, along
15 with my full testimony, I have today approximately ten
16 more names for the record. I should note that we
17 haven't really gone to great lengths to ask people to
18 write letters, we had a sample letter and we just sent
19 out one or two e-mails. Otherwise, these names have
20 come to us, people just kind of called and e-mailed
21 kind of randomly. This is in addition to people that
22 have faxed and e-mailed you guys directly. And so, I
23 will hand these out right now real quickly.

24 CHAIRPERSON MITTEN: Hand them up to Ms.
25 Schellin and she'll distribute them.

NEAL R. GROSS

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

1 MR. BATRA: I'd also like to note that I
2 think two weeks ago we had about 15, 13-15 folks that
3 showed up to testify in opposition. Many of those
4 folks were unable to come back today, but I think the
5 sign-in list which you reproduced for today's hearing
6 kind of shows that people did come to express their
7 opinion, they were unable to come back, but there is
8 a strong level of commitment from the neighboring
9 residents as well.

10 That actually is more folks than actually
11 showed up at the hearing dealing with the Harris
12 Teeter in opposition and in support combined. It kind
13 of shows that even though that got all the press in
14 Adams Morgan for two years, this proposal is actually
15 generating more neighborhood intensity when it comes
16 down to this hearing than that proposal did.

17 As an organization, we are excited at the
18 prospects of redeveloping this parking lot. The whole
19 block, if you are familiar with that block, all you
20 hear all day long are jack hammers, and construction,
21 and construction trucks, and blocked sidewalks, and
22 everything that goes with new construction. That
23 entire area will soon be full of new homeowners, more
24 pedestrians, and increased energy.

25 As an organization, we welcome new

NEAL R. GROSS

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

1 development that fits in with the character, and the
2 size, and the scale of our neighborhood. However,
3 this project, as proposed, is simply beyond the
4 density, the capacity, what our neighborhood can
5 handle. We can't handle the increased traffic. We
6 can't handle the increased congestion.

7 As part of the testimony, we have attached
8 our formal resolution in opposition to this proposal,
9 but today I'm just kind of summarizing the key points.

10 It's important to note, we don't oppose
11 any use of this property. We are in opposition to
12 this particular use. This particular use is too
13 intensive.

14 In my testimony, I talked about the Reed-
15 Cooke overlay. We are aware that the overlay does not
16 cover this particular parcel. However, it does cover
17 some of the neighboring and nearby parcels. You take
18 that in context, you literally have this building at
19 78 feet plus roof structures, next to buildings that
20 are 40 feet and lower. That's almost twice as high as
21 what the Reed-Cooke overlay permits, which as a matter
22 of right is 40 feet high.

23 We hope that alone, just the intense
24 scale, the difference in the scale of these buildings,
25 might give the Board pause, that just aesthetically

NEAL R. GROSS

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

1 alone this building is simply too big for this block.

2 I think -- I'm not sure who it was, Madam
3 Chair or the ANC, someone noted that basically this
4 proposal seeks 16th Street height variances,
5 allowances, on 17th Street. I think this lot, I
6 believe, has a formal 16th Street address, but we are
7 not -- I think we all very well know this is a 17th
8 Street building. It fronts 17th Street, 17th Street is
9 not 16th Street. 16th is a major artery, 17th is a very
10 narrow residential block. And, that alone also gives
11 us strong pause to have a building of such a scale.

12 The Reed-Cooke overlay was established to
13 safeguard our neighborhood from proposals such as
14 this, that are inconsistent with its residential
15 character and density. It was a visionary proposal,
16 and it was intended to protect the neighborhood by
17 giving local residents the power of law to affect
18 development plans. It also kind of invokes a more
19 holistic consideration, you balance the cost benefits,
20 cost and benefits of each proposal, something that we
21 don't often get to do with development.
22 Unfortunately, the overlay doesn't cover this specific
23 parcel, but again, it does cover everything around it.
24 So, when you make your decision on how to rule on this
25 application, please consider that the overlay does

NEAL R. GROSS

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

1 adjoin many of the parcels next door.

2 And, for better or for worse, depending on
3 your perspective, our organization actually was
4 founded based on a Zoning Board case in 1988, which in
5 effect then created the overlay. So, the overlay was
6 created in this room, or by this body, and your
7 predecessors. We would really hope that the spirit of
8 that overlay kind of invokes with the whole
9 neighborhood, and you view this development proposal
10 as part of that.

11 Officially, it's no secret that Adams
12 Morgan residents are starved for parking, for
13 ourselves, for our guests, for our contractors. That
14 doesn't include the thousands of visitors we get on
15 Friday and Saturday night.

16 This property, located on a small
17 residential street, is in the interior of our
18 neighborhood. We are concerned that very little
19 attention thus far has been focused on the additional
20 impact of parking spaces and traffic in the
21 neighborhood, and not just parking, even if you gave
22 everyone in Adams Morgan a parking spot, the roads
23 couldn't handle it. There's only so many people that
24 can fit in a neighborhood that's, you know, 4/10ths of
25 a mile from the nearest Metro.

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 Despite the numerous developments that
2 were approved in our neighborhood, most of which were
3 many variances and special exceptions, in particular,
4 the proposed Harris Teeter right next door to this
5 lot, there's yet to be a holistic study or
6 transportation analysis of our neighborhood. There's
7 one that's sort of been ongoing, they've had a couple
8 meetings, we are not really sure where that is, but
9 we've yet to have a full transportation study, except
10 what has been done by the developer's paid consultant.

11 This proposal would only add further to
12 the congestion that we have now, and I want to make
13 clear, the additional congestion created by going
14 above what is allowed as a matter of right would make
15 things worse. I think it was also noted two weeks
16 ago, there's a school a block away, there's a
17 children's learning center half a block away, there's
18 another school two blocks away. Kids are walking on
19 these sidewalks all the time. The additional
20 congestion by going over matter of right really makes
21 a big difference.

22 And, you know, taking your admonition at
23 the outset of this hearing, that this just focuses on
24 the zoning, I want to briefly mention I've been
25 directed by a very clear vote of our membership to

NEAL R. GROSS

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

1 mention this ever so briefly, we would encourage the
2 Dorchester to first resolve any ongoing disputes with
3 their current tenants before moving forward, and any
4 regulatory body that has any -- or authority that you
5 would have to compel that we would appreciate you
6 doing so. We do stand in solidarity of the Dorchester
7 tenants, and we'd like to see those issues resolved
8 prior to this application moving forward.

9 CHAIRPERSON MITTEN: I need your closing
10 thoughts. You are about out of time.

11 MR. BATRA: Okay.

12 And, real brief, the amenities that they
13 have offered, we've never really gotten into a
14 discussion of the amenities. We never thought it
15 would go this far, there's no neighborhood support.
16 We thought we'd be negotiating longer.

17 We are not in support of the amenities
18 that they have offered. The folks receiving the
19 amenities haven't come out in support of this
20 development either. Gladly, any non-profit would take
21 a check written to them, but that does not mean they
22 have not come out in support of this development.

23 It's simply, we are not willing to trade
24 height for a check, and that check alone, as they've
25 put forward, is not fair compensation.

NEAL R. GROSS

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

1 So, to close, we do respectfully request
2 that you oppose this application. My full testimony
3 is submitted for the record, and I'll be glad to take
4 any questions.

5 CHAIRPERSON MITTEN: Okay, thank you.

6 Any questions from the Commission for Mr.
7 Batra? Any questions?

8 Mr. Tummonds, any questions?

9 Okay, thank you.

10 MR. BROOKENS: I am Benoit Brookens, and
11 I'm accompanied by Eleanor Johnson, President of the
12 Dorchester Citizens Association, and Ms. Luzette King,
13 a member of the Board of Directors.

14 MS. JOHNSON: Good evening, Commissioners,
15 thank you for giving us this opportunity to speak.

16 In accordance with provision of 45 DC
17 Code, 2502, the purpose of the Rental Housing
18 Stabilization Program is to preserve an affordable
19 housing stock for low and moderate-income residents.

20 The District of Columbia has for some time
21 had rent control since World War I. Today's rent
22 control laws stem from wage and price controls
23 implemented by the President, by President Richard M.
24 Nixon's Administration, in 1972.

25 CHAIRPERSON MITTEN: Okay. I'm just going

NEAL R. GROSS

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

1 to stop you. We don't want to hear a lot about rent
2 control.

3 MR. BROOKENS: This isn't a lot -- okay,
4 thank you.

5 CHAIRPERSON MITTEN: This doesn't have
6 anything to do with land use, okay?

7 MR. BROOKENS: All right.

8 As it set forth, I'm going to summarize,
9 because you'll be able to read this, as is set forth
10 in a PUD there is an opportunity for an affordable
11 housing component. Dorchester is one of approximately
12 rental buildings remaining in the Adams Morgan
13 Reed-Cooke neighborhood that provides housing for low
14 and moderate-income persons.

15 The PUD requirement offers, under Section
16 23--2409, offers a component for affordable housing,
17 and our housing provider has decided to offer
18 approximately \$20 per unit to Jubilee, equaling about
19 \$10,050 a year, while eroding the homes and the afford
20 ability of the existing building.

21 And, whereas the law says that you can
22 provide a component for affordable housing within a
23 quarter mile of the facility, it is in contravention
24 of the comprehensive plan, the recent Inspector
25 General's Report that addresses the housing crises in

NEAL R. GROSS

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

1 the District for low and moderate-income people, that
2 this PUD include and involve the tenants and the
3 residents.

4 Now, myself, I've been a member of the
5 Reed-Cooke Neighborhood Association and served on the
6 Board of Directors until approximately a year ago, I
7 had served or nearly four years as the ANC-1C Zoning
8 Commission Chair. So, I have taken a lot of effort
9 and commitment in my neighborhood. I organize an
10 annual walkthrough that includes agencies such as the
11 Office of Planning, DPW, and DDOT. We are committed
12 to our neighborhood.

13 However, at no time did the housing
14 provider take legitimately our concerns. The
15 Dorchester is occupied by approximately 1,000 persons,
16 and since 1942, according to the Herald Times in the
17 Washingtoniana room, there has been an issue with
18 excessive heat which forced them, at that time during
19 World War II, to install air conditioning on the upper
20 floors. The rent administrator in 1942 had to address
21 that issue.

22 So, we are asking a new approach that this
23 City and our Mayor is moving to, that we take a
24 comprehensive view, rather than by body by body in
25 looking at this development.

NEAL R. GROSS

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

1 In our neighborhood, we've had numerous
2 developments. It's the same traffic study reproduced
3 by the same company, and it has not taken into
4 consideration the traffic burden that we face, both as
5 pedestrians and for automobiles. The pollution, the
6 noise, these things have exacerbated our neighborhood.

7 Now, us at the Dorchester, the residents,
8 have made a long-term commitment to our City. We are
9 the very people that the applicant talks about
10 replacing us with. We would urge you to oppose this
11 application in its entirety.

12 The Dorchester building is a beautiful
13 building that was built for an elite class of persons.
14 There is no water drainage, as in many cheaper
15 constructions of later periods, where you see puddles
16 of water running into the street. As the garden is
17 preserved now, all runoff goes into green spaces and
18 perpetuates green spaces.

19 When we looked at the parking plan, you
20 can see the complete disregard for the tenants and the
21 residents peace, quiet, enjoyment, health and safety,
22 in that you propose putting a parking lot around the
23 building that will only accommodate 52 parkers, and
24 also be required to accommodate the excavation of the
25 parking lot if it were to go two stories down.

NEAL R. GROSS

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

1 I can't tell you what this would do to
2 personal residents. Our housing provider is a rent
3 control expert, so he certainly could come up with a
4 model program, and we encourage Mr. Hoskinson to come
5 up with a model program that embraces the housing
6 needs of the City, and not to put on the Dorchester
7 residents, and our community, this tremendous burden,
8 that what they have offered Jubilee Housing is an
9 equivalent of one year's rent on an efficiency today
10 in the Dorchester House. What is this offering to our
11 community?

12 The PUD program isn't intended to usurp
13 zoning laws, it's intended to foster something that is
14 good for the District of Columbia and the community,
15 and certainly the renters at the Dorchester who make
16 our apartment homes there are worthy of consideration,
17 and we should not be forced out by there being an
18 inadequate plan. There is no construction plan.
19 There is no reasonable traffic plan, and we have not
20 been engaged.

21 Our findings on this subject came from
22 this office, and we relied solely on that. We were
23 able possibly to seek pro bono legal counsel, but they
24 were hindered by the fact that we did not have the
25 filings that were prepared for this Commission and

NEAL R. GROSS

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

1 other stakeholders in the neighborhood, so it left us
2 without counsel.

3 Even our notices to advise our tenants of
4 this hearing this evening have been taken down. Even
5 when Mr. Hoskinson himself sent in a notice, the very
6 person that requested the notice, Mr., I believe his
7 name is Hogan, decided not to place it, because Mr.
8 Hoskinson was attempting to invite, though not
9 formally, persons to participate in this process.

10 The whole process has been usurped by a
11 lack of communication and a lack of involvement.

12 Thank you so much.

13 CHAIRPERSON MITTEN: Who is next?

14 MR. BROOKENS: My big concern is, the
15 zoning regulations were designed to do a couple
16 things. One, they were designed to protect the less
17 denser communities against more dense communities and
18 environments, and that's the first thing, add your
19 rules of interpretation provides that, when you are
20 interpreting your regulations you are to interpret
21 your regulations in favor of more openness and more
22 protectiveness for the less denser areas, and when you
23 have to interpret other regulations they need to be
24 interpreted to benefit their objectives.

25 This particular PUD provision, this

NEAL R. GROSS

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

1 application wants a zoning map change and a PUD
2 development, but it needs to have superior features as
3 your regulations say, that benefit the neighborhood of
4 the community. And, you, in your deliberations, have
5 to consider the balance between the amenities and the
6 vicinities of the development the developer is
7 offering.

8 In this particular proposal, we are
9 offered 145 new resident units, and of that he intends
10 to make 30 of those available for affordable. He
11 identifies what these rent levels are going to be.
12 That would be fine, but he is now encroaching his 45
13 or 30 units into the existing residential property at
14 the Dorchester.

15 We would like to know, what are we getting
16 in exchange for greater density, and waiver of height
17 restrictions, and his proposal is, based on his recent
18 filing, he's going to come in and tell us today how
19 he's going to spend \$100,000, which is not very
20 specific, it's not enforceable, and it goes into the
21 general Jubilee Housing Fund.

22 The second provision is that he's going to
23 provide -- on parking he's going to provide the
24 Dorchester -- he's rescinding his parking proposal,
25 he's going to make \$125 a month available to

NEAL R. GROSS

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

1 Dorchester tenants for 20 months so they can find
2 parking elsewhere.

3 And then, today he's -- yesterday he
4 announced that the units that are going to be affected
5 are six apartments to tear down or reconstruct these
6 units, which are people's homes, so that this project
7 can go through.

8 And then finally, he indicated that the
9 present value of this \$218,000 program is only going
10 to be \$138,000, 60 percent of what's reported is his
11 contribution to the Parks Group and so forth.

12 And then finally, he has not -- he has
13 worked on this project, and he says that there are 45
14 units that are rent control, but they are not going to
15 be encroached by this program, but he has yet failed
16 to identify those so that the tenants who are affected
17 by the construction and community members can
18 participate in these proceedings.

19 Obviously, Mr. Handy from the Consumer and
20 Regulatory Affairs was here at the last hearing, I
21 believe the Zoning and Office of Planning indicated
22 that they would have -- they sent the plan out to the
23 Consumer and regulatory Affairs and Department of
24 Housing. I don't recall seeing their proposals in the
25 package, but that information would have been helpful

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 useful for the residents and the Commission to
2 evaluate how these proposal plans and this affordable
3 housing will impact on what tenants are doing.

4 So, in a nutshell, we think that this
5 program is totally inadequate. It's not in the spirit
6 of the PUD requirements, to exchange the benefits and
7 balance against what we are giving up in exchange for
8 this.

9 If the tenants had bought the building,
10 the tenants would have done some other things, it
11 would be a different plan altogether, and that's part
12 of the overall effort of the housing companies.

13 Thank you.

14 CHAIRPERSON MITTEN: Thank you.

15 MS. KING: Good evening, ladies and
16 gentlemen.

17 My name is Luzette King. I'm a six-year
18 tenant at the Dorchester, and I come here with
19 experience, some experience, as some years ago I would
20 sit in the same seats that you are sitting, looking at
21 your rules and how they guided -- how the land use is
22 guided by those.

23 I understand that to mean that any land
24 use is to benefit the neighborhood -- is for the
25 benefit of the neighborhood.

NEAL R. GROSS

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

1 What I'm going to do this evening is to
2 concentrate and to pull out for your benefit four
3 points that several people have made reference to,
4 including the applicant, and the first is to deal with
5 consultation.

6 I believe that the applicant alluded to
7 some problems we had as tenants, and that in some ways
8 prevented them from talking to us. Now, the problems
9 we had did not deter them from sending us memoranda of
10 all sorts, including rent increases and everything
11 else, and if they wanted to consult with us
12 effectively they have access to us. They did not need
13 a tenants association, an organized association to
14 come to us.

15 And, in fact, the President of our tenants
16 association, Eleanor, did invite the applicant to come
17 to us, and they refused to meet us at home. They
18 would only meet us outside, I can't remember the name
19 of the place. Because of that, only a few tenants
20 turned up, and to date there are people in the
21 building who still wonder it is Mr. Hoskinson is not
22 meeting us.

23 The second point that's been alluded to by
24 the tenants and my colleagues is affordable housing,
25 and I would like you as a body to examine carefully

NEAL R. GROSS

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

1 and to some extent ask the applicant how many
2 affordable units are here currently, because we've
3 been asking these questions and we've never had a
4 straight answer.

5 And, when you have established how many
6 units there are now, then you need to ask how many of
7 those units are included in the new plan. That's
8 important, if the applicant is going to make a big
9 deal about affordable housing, which, in effect, is
10 for the betterment of the neighborhood.

11 The other point I'd like to bring out to
12 is the new proposal, now I'm no technocrat, I'm not
13 even a bureaucrat, but my understanding is that there
14 is an application here to waive something between two
15 zones, an R-5-B and an R-5-D. I'm not convinced that
16 the proposal that is before you actually amounts to
17 one unit, the Dorchester, in fact, it will two
18 buildings with something in between making it into
19 one. I don't know how important that is, but I think
20 -- I would think that's necessary to look at.

21 Lastly, I, some years ago, came to
22 Washington, first of all I wanted to live in New York,
23 and I visited Washington and saw the greenery and
24 decided Washington was going to be my home from
25 London. And, what attracted me was the greenery. When

NEAL R. GROSS

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

1 I went to Dorchester to visit, I visited several
2 apartment buildings, and Dorchester attracted me
3 because I live in Unit 636, and outside my window is
4 a picturesque view of greenery, large trees, beautiful
5 trees. In the morning I look forward to waking up and
6 looking at them.

7 And, from my understanding, that is going
8 to be done away with, and I don't see how that can be
9 bettering the neighborhood. There aren't many trees
10 around there, and to destroy that, for whatever reason
11 I'm not sure, we need to be looking at that, too.

12 In my view, this project hardly enhances
13 the betterment of the Dorchester tenants, and, in
14 particular, the neighborhood in Adams Morgan, and our
15 area, the Reed-Cooke overlay.

16 Thank you.

17 CHAIRPERSON MITTEN: Thank you.

18 Anything else?

19 MS. JOHNSON: Yes. I'd just like to also
20 conclude and use as an example that in the Dorchester
21 House right now, as a result of the protection of rent
22 control being eroded as a result of the highest
23 comparable vacancy units increase, we have Unit 201,
24 an efficiency, in August of 2004 had a rent charge of
25 \$1,000 per month, and a rent ceiling of \$4,544.

NEAL R. GROSS

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

1 CHAIRPERSON MITTEN: Why are you talking
2 about rent control again?

3 MS. JOHNSON: Again, we are talking about
4 this because you are talking about redeveloping a rent
5 stabilized building, where the applicant himself
6 failed to submit that information to you, and failed
7 to tell you the impact that this would have on the
8 neighborhood when the City itself, as I said, the
9 Inspector General recently, in the last few months,
10 issued a report talking about rent stabilization,
11 stabilized buildings, being the greatest tool we have
12 for poor preserving the existing housing stock for low
13 and moderate-income persons.

14 This --

15 CHAIRPERSON MITTEN: Do you have anymore
16 comments on the land use issue?

17 MS. JOHNSON: -- yes, yes, I do -- and as
18 a matter of fact, this PUD application is being used
19 to circumvent the intent and the purposes of the
20 Zoning Regulations, and is inconsistent with the
21 Comprehensive Plan.

22 In addition, it usurps -- the occupants
23 shall have safe harbor, as the applicant says in his
24 own application, ignores our very presence, and his
25 table using a HUD table of market rent undermines rent

NEAL R. GROSS

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

1 stabilization, because HUD rents are rewards of sorts,
2 and usually greater than you would receive in a rent
3 stabilized program.

4 So, these are very important issues,
5 because in this City housing providers are guaranteed
6 a 12 percent return on the assessed value of their
7 property, and this housing provider isn't seeking a
8 hardship, nor are any others in our area. Adams
9 Morgan is filled with expensive buildings and high-
10 priced rental units, whether they are individual
11 condos or whatever, but the Dorchester has the
12 potential of being a rent stabilized building, and
13 that we would suggest that any PUD application use the
14 site as a component of that PUD for creating
15 affordable housing at the existing site, rather than
16 gentrifying the building and making 1,000 people
17 potentially homeless.

18 CHAIRPERSON MITTEN: Thank you.

19 MS. JOHNSON: You are welcome.

20 CHAIRPERSON MITTEN: Questions from the
21 Commission for this panel? Any questions?

22 Mr. Hood?

23 VICE CHAIRMAN HOOD: Madam Chair, thank
24 you.

25 Ms. Johnson, you mentioned about a

NEAL R. GROSS

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

1 construction management plan. In all your discussions
2 with the applicant, in all your discussions with the
3 applicant, was that ever mentioned? And also, its' a
4 two-prong question, was that ever mentioned, and do
5 you think it's needed and why? There's three
6 questions there.

7 MS. JOHNSON: Okay.

8 Let me take it part by part.

9 A construction plan, we mentioned it as
10 tenants, but it was never discussed at all. And, a
11 construction plan at any site like this would be
12 required, to give tenants notice and make them aware
13 of what's going on around them at the place they live.

14 This type of construction, I don't know if
15 you all have ever lived in a potential construction
16 site, I haven't, I've seen caretakers that have, but
17 this will be a new opportunity for us to pay to live
18 in a construction site. I think it will be quite new,
19 with the exception of the Kennedy Warren, and what
20 happens is, no construction plan, that can leave us
21 with pollution, deficiencies in apartments, and other
22 things, and there's no solid plan for handling the
23 maintenance of the current building, the management of
24 that building, and a construction plan that would
25 aggressively include the building.

NEAL R. GROSS

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

1 And, they, quite frankly, haven't filed
2 anything, and nor have we really received any
3 documents. I have to -- we just got one document this
4 evening.

5 VICE CHAIRMAN HOOD: I was just asking, I
6 don't think they proffered that to us, I don't think.
7 Did they?

8 CHAIRPERSON MITTEN: A construction
9 management plan?

10 VICE CHAIRMAN HOOD: Yes.

11 CHAIRPERSON MITTEN: The only thing that we
12 had was a submission at the last hearing, you know, on
13 parking.

14 SECRETARY SCHELLIN: The applicant is
15 indicating that they did proffer.

16 CHAIRPERSON MITTEN: You can get to that on
17 rebuttal.

18 VICE CHAIRMAN HOOD: Okay, because I think
19 I asked that question the last time, I guess this was
20 the hearing.

21 MS. JOHNSON: What were the other two
22 parts, sir?

23 VICE CHAIRMAN HOOD: I was asking why, but
24 I think they are going to deal with my issue.

25 MS. JOHNSON: And, the other issue is that

NEAL R. GROSS

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

1 parking lot. The parking lot right now, about 122 or
2 so residents park on the current parking lot, plus
3 their staff that come in each day, meaning
4 housekeepers, maids, respite care givers, et cetera.
5 All of those persons will be dumped on the surrounding
6 streets.

7 Right now, the office is recommending that
8 persons go to The Envoy, 2400 16th Street, a building
9 in the same block, and rent parking. Now, we don't
10 even know whether or not that's legal to rent one
11 residential property out to other tenants, simply
12 because it may be the same management company.

13 Also, we are very concerned that what
14 happened at 2440 16th Street, the Diplomat, doesn't
15 happen to us, and a management company was brought in
16 that remarketed that building as an under-performing
17 building, and what happened, consequently, is most of
18 our neighbors that we've known for decades were
19 displaced. So, displacement has to be a focus for you
20 folks, because we are so vulnerable.

21 And, unfortunately, this was not addressed
22 in the PUD application, how you would protect our
23 parking, how you would protect us in our apartment
24 home.

25 And, the third part of your question was?

NEAL R. GROSS

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

1 VICE CHAIRMAN HOOD: You've answered it.

2 MS. JOHNSON: All right.

3 VICE CHAIRMAN HOOD: Thank you.

4 CHAIRPERSON MITTEN: And, Mr. Brookens just
5 mentioned that he has gotten some submissions today.

6 MS. JOHNSON: Okay.

7 CHAIRPERSON MITTEN: As did we.

8 Anyone else, questions for the Commission
9 -- I mean questions from the Commission.

10 Mr. Tummonds, any questions?

11 Okay, thank you very much.

12 MS. JOHNSON: Thank you.

13 There are other persons that are here,
14 Madam Chair.

15 CHAIRPERSON MITTEN: We've got a whole rest
16 of our agenda to go through.

17 MS. JOHNSON: Okay, thank you.

18 CHAIRPERSON MITTEN: In case there's anyone
19 here that I didn't pick up the last time, is there
20 anyone who would like to testify in support of the
21 application?

22 Okay, then we'll move to organizations and
23 persons in opposition, and rather than use my list and
24 have a whole lot of -- my list from last time has a
25 whole lot of no shows, I'll just ask people who would

NEAL R. GROSS

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

1 like to testify in opposition to come and take a seat
2 at the table.

3 Anyone?

4 MR. BATRA: Can I ask a question?

5 CHAIRPERSON MITTEN: Sure, go ahead.

6 MR. BATRA: I did get cut off and have two
7 more minutes, is this an appropriate time to finish
8 up?

9 CHAIRPERSON MITTEN: You asked for eight,
10 you got eight. They asked for 22, they didn't use it
11 all, okay.

12 MR. BATRA: Okay.

13 CHAIRPERSON MITTEN: Thanks for being
14 understanding about that.

15 Would you give the witness cards to the
16 reporter before you begin testifying?

17 Were you sworn in at the last hearing?

18 MR. CARTWRIGHT: Yes, ma'am, I was.

19 CHAIRPERSON MITTEN: Okay.

20 Why don't you go first and then we'll
21 swear this gentleman.

22 MR. CARTWRIGHT: All right, Madam Chair,
23 Commissioners, good evening. My name is Scott
24 McDermott Cartwright. I have lived in Adams Morgan
25 coming on eight years now, and it's certainly been an

NEAL R. GROSS

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

1 exciting eight years. I love Adams Morgan. There's
2 been a lot of development, and not once, not ever
3 once, have I stood in opposition to any of it. It is
4 my position and my belief that new development should
5 be given the benefit of the doubt, and when I have
6 spoken on development it has been in support, right up
7 until now.

8 Now I am taking off of work, two evenings
9 running now, sitting with these people in this room,
10 hearing the testimony, and I sit here for the first
11 time asking you please to reject the overly tall,
12 inappropriate building that the Dorchester is
13 proposing.

14 The Height Act says, quite clearly, that
15 if you have a building that is as narrow as 17th
16 Street is, a 50-foot tall building is appropriate, and
17 taller than that becomes oppressive, becomes
18 inappropriate, I hesitate to use the word ugly, but it
19 really comes in there. From New York originally, and
20 I know from oppressive when it comes to buildings, and
21 taller than 50 feet on 17th Street would be it. I
22 think we all agree with that. The Height Act stands
23 to state that a numerical fact.

24 Does the Height Act contain an exception?
25 Of course, even the law must bow to physics and the

NEAL R. GROSS

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

1 Washington Post Building for example cannot be a
2 different height on L Street than it is on 15th, and
3 the Height Act allows for that.

4 This proposal is not that. I'm here today
5 to give testimony, so I'm going to say some things
6 that I know from my own experience. The first I've
7 already stated, I have never opposed development in
8 Adams Morgan until this proposal, and I oppose it
9 vehemently in person and with passion.

10 The second statement or fact that I would
11 like to offer is, none of us live on the sidewalk.
12 The site lines that were presented last time all say,
13 well, if you stand on the sidewalk you can look up at
14 the building, it won't be quite as oppressive as the
15 numbers would suggest. My back door, that I go out of
16 every day, is a full story above the sidewalk on 17th
17 Street, two full stories above the point that they
18 chose to show a site line from. Every day I'm not
19 going to see a 70-foot building, as awful as that
20 would be, I'm going to see the full 90 feet and so
21 will my neighbors in either side, so will their
22 neighbors on either side, so will our neighbors at the
23 Morgan Annex, and down 17th Street, and Euclid News,
24 and so on. We don't live on the sidewalk, we live in
25 our homes, and our homes are going to see this entire

NEAL R. GROSS

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

1 building right across the street.

2 The second statement of fact I would like
3 to offer is that we've performed this experiment once
4 before, and I actually acted in support of the
5 developers, saying give them the benefit of the doubt
6 and see what happens. The house on Ontario Road, just
7 north of Colombia, attempts to do the same thing,
8 don't worry, from the sidewalk it won't look so bad,
9 and certainly if you are standing on the sidewalk
10 looking up at this building on Ontario Road it looks
11 taller than its neighbors, but, you know, oh, well,
12 it's new development, welcome them to the
13 neighborhood.

14 From everywhere else in the neighborhood,
15 from every other spot on Colombia Road, Ontario Road,
16 all over, the thing rises like a beluga whale trying
17 to eat the houses next to it. It is enormous. It is
18 visible.

19 CHAIRPERSON MITTEN: I need you to close it
20 out now.

21 MR. CARTWRIGHT: Yes, understood.

22 I spoke in support of that, and I will
23 even come and speak in support of any 50-foot
24 structure that these gentlemen choose to put on that
25 lot. I wish them all profit and success in that, but

NEAL R. GROSS

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

1 50 feet is appropriate, and more is not.

2 Thank you very much.

3 CHAIRPERSON MITTEN: Thank you.

4 Can you just hold your seat, and then
5 we'll have questions for both of you.

6 MR. CARTWRIGHT: Oh, okay, great.

7 CHAIRPERSON MITTEN: Okay?

8 It's Mr. Johnson, is it not?

9 MR. JOHNSON: Yes.

10 CHAIRPERSON MITTEN: Would you mind
11 standing up and then Ms. Schellin will administer the
12 oath to you?

13 MR. JOHNSON: Certainly.

14 SECRETARY SCHELLIN: Please raise your
15 right hand.

16 (Whereupon, the witness was sworn.)

17 CHAIRPERSON MITTEN: Please proceed.

18 MR. JOHNSON: Good evening, Chairman Mitten
19 and members of the Commission. My name is Campbell
20 Johnson III. First, I thank you for holding this
21 hearing. However, I believe the hearing is premature,
22 because it is only looking at several issues, and I
23 believe you need a balanced comprehensive and broader
24 perspective.

25 If approved, the proposed actions will

NEAL R. GROSS

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

1 cause irreversible harm to a fragile, at-risk
2 neighborhood.

3 In the present context of the
4 neighborhood's development, the proposed project will
5 be totally out of scale for the adjacent streets,
6 neighborhood configuration, the heavy traffic
7 congestion, that also exists there. Despite proposed
8 street re-configurations, and I should pass you a copy
9 of this shouldn't I, that would be, perhaps, a good
10 idea, okay.

11 I don't have the attachments on there yet,
12 but I will provide those to you.

13 Despite proposed street re-configurations
14 and traffic pattern adjustments, this project will
15 deeply undermine the quality of life for all residents
16 living in the neighborhood. Four large apartment
17 driveways enter the streets within one half block of
18 the proposed project. It will conflict with the
19 interests of the neighborhood in maintaining its
20 residential character, and it conflicts with the Reed-
21 Cooke overlay, which was developed in consideration of
22 the residents' desire to remain as a residential
23 neighborhood.

24 Also, before considering approval of the
25 proposal actions, the Commission should also give

NEAL R. GROSS

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

1 serious consideration to the fact that this property
2 abuts a buildings, The Citadel, at 1631 Kalorama Road,
3 that previously included an automobile gas station.
4 Environmentally, neither the applicant nor the prior
5 owners have done anything toward removing the gas
6 tanks that were kept underground. The Citadel
7 building's entire property line abuts the proposed
8 site of the applicant. The only place that
9 underground gas could have been located is under the
10 south side of the parking lot, on which the
11 applicant's building and garage will be located.

12 District Government officials indicated
13 that three 4,000 gallon storage tanks would not have
14 been located in the building itself.

15 CHAIRPERSON MITTEN: Let me just help you
16 out here. You've got six pages of testimony, you are
17 not going to get through it at this rate. So, can you
18 just kind of hit the highlights for us, and then we'll
19 read it in detail?

20 MR. JOHNSON: Certainly, okay.

21 The data that was reported to the
22 Environmental Health Administration, December, 2005,
23 indicated that these tanks were removed at that time.
24 I park on the parking lot, I've parked on the parking
25 lot for 20 years or more, and I didn't see it. The

NEAL R. GROSS

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

1 proprietor of the store right next -- that abuts The
2 Citadel and the Dorchester parking lot, the Dorchester
3 Market, he didn't see it. Policemen in the area, they
4 didn't see anything being moved, whole or in parts.

5 So, I believe that those tanks are still
6 in the ground, and that needs to be addressed. And
7 that, I think, is a critical point here.

8 Another point I think that's of major
9 significance is that notice of the Zoning Commission
10 hearings was only placed at one entrance to the
11 building. This -- I never saw the notice myself.
12 There are four entrances to the building. Many
13 persons who drive or use one of the other entrances
14 were likely not to have seen the official notice, and
15 I didn't.

16 And, it's attached April 4, 2006 notice to
17 the tenants, April 4, 2006, which was placed on the
18 elevators, the applicant claimed to have met with the
19 Tenants Association. This meeting took place no
20 earlier than mid March, 2006, and on that occasion Mr.
21 Hoskinson did not make the presentation in the
22 Dorchester House lobby, where he is familiar with
23 making presentations, where he and others customarily
24 meet, his presentation took place two blocks away
25 where disabled persons and elderly would face

NEAL R. GROSS

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

1 substantial obstacles in attending, and neither Mr.
2 Hoskinson, or his new management company, provided
3 tenants with notice of that meeting.

4 I'll move on to a motion that I would ask
5 the Board to consider, and that is, having applied for
6 party status on three bases I move for a continuance
7 of this hearing until the Commission requests and
8 receives a report from the Department of Environmental
9 Health in regard to the removal of the gas tanks, or
10 abatement of the potential for creating a major health
11 hazard for residents in the neighborhood, and to
12 provide an opportunity for all Dorchester House
13 tenants to be provided with proper notice of such a
14 hearing.

15 Additionally, for reasons regarding
16 credibility identified below, I ask that the
17 Commission not rely on the applicant to provide a
18 Commission or contracted report on the situation.

19 CHAIRPERSON MITTEN: Okay, Mr. Johnson, you
20 are just going to have to give us your final thoughts,
21 and you'll have to trust us to read this.

22 MR. JOHNSON: Okay.

23 I'm a tenant of the Dorchester, been there
24 for 26 years. There's a disregard for tenant safety
25 that Mr. Hoskinson has shown on a continuing basis,

NEAL R. GROSS

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

1 three months without heat and hot water, having no
2 fire alarm system when last year we had a fire that
3 was of great magnitude and the whole building had to
4 be evacuated, no alarm sounded, no smoke detectors
5 were -- and the fire inspectors noted this and cited
6 the building in this regard.

7 Elevators subsequent to that for six
8 months, we had no elevators, and it was only three
9 months afterwards that a firm was contacted with
10 regard to the telephone system, about which the
11 elevators were at issue.

12 This kind of behavior show a blatant
13 disregard for public safety, for the safety of
14 tenants, and it would be an absolutely complete
15 nightmare for tenants to have to endure a construction
16 project with absolutely no construction management
17 plan. If you have a plan --

18 CHAIRPERSON MITTEN: That's going to have
19 to be your closing thought, okay? We'll read the rest
20 of it.

21 MR. JOHNSON: -- there should be a
22 contract, with consequences.

23 CHAIRPERSON MITTEN: Okay, thank you.

24 I just want to address the fact that you
25 have made a motion to the Commission, but you do not

NEAL R. GROSS

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

1 have party status and, therefore, cannot -- you don't
2 have status to make a motion. So, we will not be
3 taking that up.

4 MR. JOHNSON: I'm a Board Member of the
5 Dorchester Tenants Association, and if not present,
6 the Past President and also Urban Housing Alliance has
7 three --

8 CHAIRPERSON MITTEN: Mr. Johnson --

9 MR. JOHNSON: -- Board leadership
10 residents in the building.

11 CHAIRPERSON MITTEN: -- you do not have
12 status as a party, we will not take up the motion. We
13 are not going to discuss it, that is the fact of the
14 matter. Okay?

15 MR. JOHNSON: Why didn't we -- we received
16 no notice about not having status?

17 CHAIRPERSON MITTEN: You need to be here at
18 the beginning of a hearing if you intend to get party
19 status, that's point number one, this was all
20 explained at the beginning of the last hearing. So,
21 we are not going to dwell on that now.

22 Questions for this gentleman from the
23 Commission? Questions?

24 Okay, thank you, and we'll read your
25 testimony in detail.

NEAL R. GROSS

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

1 Thank you.

2 MR. CARTWRIGHT: Madam Chair, I'm very
3 sorry, I just realized my wife, who is represented
4 here, couldn't make it. She was here last time,
5 despite cold and no dinner, but couldn't make it this
6 time. I have her written testimony, how do I --

7 CHAIRPERSON MITTEN: Please submit it for
8 the record, Ms. Schellin will take it.

9 MR. CARTWRIGHT: Thank you very much,
10 appreciate it.

11 CHAIRPERSON MITTEN: Thank you.

12 Okay, anyone else who would like to
13 testify in opposition?

14 Mr. Brookens, who is the spokesperson for
15 your party, so Mr. Brookens, did you have something to
16 say?

17 Mr. Brookens, did you have something to
18 say?

19 Nothing to say? Okay.

20 MS. JOHNSON: Yes, we do have something to
21 say.

22 CHAIRPERSON MITTEN: Then you need to say
23 it now, or you'll need to wait til the end.

24 Mr. Brookens is the spokesperson for your
25 party.

NEAL R. GROSS

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

1 You need to turn on the microphone.

2 MR. BROOKENS: Ms. Johnson has brought to
3 our attention that the fire emergency exits, this
4 construction plan is taking away some of the fire
5 emergency exits that are vacant, but the only ones
6 that were available for the tenants. That's what she
7 wanted to explain to the Commission.

8 MS. JOHNSON: Access to the fire
9 department.

10 CHAIRPERSON MITTEN: All right.

11 Please, go ahead, Mr. Tummonds.

12 MR. TUMMONDS: Sure.

13 Before we start our rebuttal testimony, I
14 would just like to note a couple of things. First,
15 yesterday we filed, for the record, some of the
16 information that was requested at the March 30th
17 hearing, and this evening we filed the remainder of
18 that information that you had requested. So, at this
19 point all the information requested from the March
20 30th hearing is now before you in the record.

21 One thing to point out, in the filing
22 yesterday there was a development and construction
23 plan, and Mr. Hoskinson will talk in detail about that
24 plan.

25 Mr. Colbert will talk about some of the

NEAL R. GROSS

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

1 requests for information that you had with regards to
2 the plan, and I will address issues regarding
3 consistency with the Comprehensive Plan, and the
4 letter and intent of the 1910 Height Act.

5 So, I'll now have Mr. Hoskinson present
6 his rebuttal testimony.

7 CHAIRPERSON MITTEN: Okay.

8 MR. HOSKINSON: Thank you.

9 The plan that you were submitted, which is
10 headed, "Development and Construction Agreement," is
11 basically our submission, because as Commissioner Hood
12 noted we haven't actually had any communication with
13 any of the parties about a construction management
14 agreement. Other issues always seemed to take
15 precedence.

16 But, the construction -- the development
17 and construction agreement is comprehensive and
18 addresses a number of issues. I'm really only going to
19 focus on one of those issues, which is the loss of
20 existing parking spaces during construction.

21 We came to this hearing, the first session
22 of it, with a temporary parking plan that I think was
23 generally recognized as impractical, and as we looked
24 at -- we had prepared it somewhat in haste for the
25 hearing, and didn't think it through clearly, because

NEAL R. GROSS

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

1 we were taking almost as many sidewalk spaces as we
2 were providing on site, and it also did not really
3 solve the problem. And, it was causing problems on
4 site as well, because we were taking up what is,
5 essentially, garden space to make it into parking, and
6 that was a negative for those tenants who faced onto
7 the space.

8 So, essentially, we've thrown that plan
9 out the window, and we've come back to you with a
10 different one, which is set forth in the development
11 and construction agreement, and it's Item 3 in that
12 plan, and we are really going towards a free market
13 solution, which is to say that people who are paying
14 for parking on the lot at the time construction begins
15 will be paid by us at the rate of \$125 a month for the
16 time that those parking spaces are not available.

17 In effect, they are ahead \$250 a month,
18 because formerly they were paying us \$125, and now
19 they will be not paying us, and also getting \$125 from
20 us, so they'll have \$250 to spend on parking, and find
21 it where they may, rent it or otherwise.

22 And, we will attempt, as well, to diminish
23 the demand for parking, and the way we are going to do
24 that is a combination of features. We will -- well,
25 we'll certainly stop leasing spaces in advance of the

NEAL R. GROSS

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

1 start of construction, to minimize the number of
2 people on the lot. We will increase our -- I'm not
3 sure what the generic term is, but Zipcar, Flexcar
4 spaces. We currently have three at the building, and
5 we will increase that number as the demand warrants,
6 and will join with Flexcar and/or Zipcar in a
7 marketing campaign, pointing out to people in the
8 building, along with our announcement of the impending
9 construction and closure of the lot, the benefits of
10 switching to the temporary -- as I say, I don't know
11 the generic term, the short-term rental of --

12 CHAIRPERSON MITTEN: Car sharing.

13 MR. HOSKINSON: Car sharing, thanks.

14 CHAIRPERSON MITTEN: Isn't that it? I
15 think it's car sharing.

16 MR. HOSKINSON: Well, we'll call it car
17 sharing.

18 So, we'll be selling the car sharing plan
19 there, in conjunction with the providers themselves.

20 Now, given the fact that the lot will be
21 out of service for, perhaps, nine months, maybe longer
22 because of excavation and then construction of the
23 garage, there will be some people who will find it,
24 with our subsidy, it's cheaper to take a taxi cab,
25 walk to work, and park the car somewhere else, and

NEAL R. GROSS

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

1 that somewhere else may not be in the neighborhood, it
2 may be with a relative, or a friend in the suburbs, or
3 in a different neighborhood, essentially, not
4 contributing to the problem. Some may actually decide
5 that this is time, I've got a five-year old car, I'm
6 going to sell it, or get rid of it, and then when the
7 parking is available I'll buy one again. So, there
8 will be some suppression of demand, just as a result
9 of the subsidies that we are offering and the
10 incentives that are in with the subsidies, and coupled
11 with the sales of the car sharing program.

12 It's not going to solve the problem in any
13 perfect way, it's a construction site, there's going
14 to be interruption of parking, but I think that's the
15 best solution, is just to give us a free market
16 solution to the problem.

17 The other thing I wanted to address is our
18 affordable housing component, because I think there's
19 a misunderstanding, for which I think, perhaps, we are
20 to blame for not explaining it well enough. But, we
21 are offering affordable housing based on the low
22 income limits of Section 8.

23 Now, those limits are specified as 80
24 percent of the median family income for the
25 Metropolitan Area, but there are adjustments that HUD

NEAL R. GROSS

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

1 makes to the Section 8 low income rents, so that when
2 they get done with their adjustments, and I can't
3 begin to explain to you all the adjustments, the level
4 of income is actually 65 percent, roughly 65 percent,
5 of the area family, median family income for the
6 Metropolitan Area.

7 And, in addition, that's computed on the
8 basis of a four-person household, a four-person
9 family. And, I can understand how Commissioner Roth
10 was misled into interpreting this differently, because
11 we didn't make it very clear. But, in fact, what he
12 was using as 80 percent is really when you go to HUD
13 65 percent of area -- of median family income, and in
14 addition it is adjusted by HUD for family size, so
15 that you have a different income that's lower for a
16 one-person household, slightly larger, and it's only
17 when you get up to a four-person household that you
18 actually use the 65 percent of the area median income.

19 The result of that is that the rents that
20 we are offering, and the incomes necessary to qualify
21 to rent an apartment at those rents, are much lower
22 than was presented to you in the rebuttal -- or the
23 case in opposition by Alan Roth. We've submitted a
24 document which shows that, and I'm going to translate
25 it into a sort of real-life example.

NEAL R. GROSS

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

1 For example, Commissioner Roth introduced
2 examples of policemen and teachers. I'm going to use
3 the same example, because I think it's illustrative of
4 what we are accomplishing here. Police officers, for
5 example, start at -- this is a rookie, right, you
6 know, this is actually when he's in training, gets
7 paid \$44,611 per year, but if he works an evening
8 shift it goes up 3 percent, if he works a night shift
9 it goes up 4 percent, and the police department itself
10 estimates that after 18 months a starting police
11 officer will make \$48,800 a year.

12 Now, in this submission that we sent you,
13 we showed the computation that we made to determine te
14 rents, which was based on 30 percent of income, based
15 on family size, and based on this number of people
16 that would likely be in a unit. So, let's hypothesize
17 the that policeman is living by himself, or maybe he
18 has a non-working spouse. That policeman, starting
19 off, would qualify easily for an efficiency apartment.
20 Efficiency apartments, under the standards set by the
21 Office of Human Rights, is suitable for one or two
22 occupants. So, at the very start of his career as a
23 policeman he would be able to rent an apartment that
24 is one of the apartments that we designate as
25 affordable housing.

NEAL R. GROSS

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

1 And, it goes on, as a few years on the
2 force, he's still in the work force, and I think it
3 was somewhat unfair of Commissioner Roth to only use
4 the starting salaries, because we are talking about
5 work force housing here, but certainly after a few
6 years he could afford a one-bedroom apartment, and
7 that's still with a non, you know, by himself, or a
8 non-working spouse, and the irony is that if his
9 spouse goes out and gets a job that earns half as much
10 as the police officer they would no longer be eligible
11 for the affordable housing, because their incomes
12 would be higher than those that correspond with the
13 rent levels that we have set.

14 Similarly, with school teachers, once
15 again we certainly accept the exhibit that was
16 introduced by Commissioner Roth, which gave a whole
17 array of salaries, and we looked at that, and even
18 teachers who don't get as much as police officers, but
19 they would still qualify for our housing under the
20 affordable program, as we've set forth in this
21 exhibit, because they, once again, you have to adjust
22 by family size, and when you get down to an efficiency
23 apartment, assuming the school teacher is living by
24 his or herself, or with a non-working spouse, that
25 person could qualify. It would be tight in the first

NEAL R. GROSS

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

1 year, but then after that they certainly can afford
2 the housing.

3 And, one thing that this ignores is the
4 fact that when households get larger there's usually
5 two incomes in the household, at least part-time and
6 a full-time, which once again in the case of a school
7 teacher, if you get a school teacher that's been
8 employed for a couple of years by the City, and has --
9 it's based on a lot of credentials, but has a certain
10 level of credentials as well, then that teacher, and
11 a spouse that earns only half as much as the teacher,
12 would once again be above the range of our affordable
13 housing.

14 So, the charge that this is not affordable
15 housing is mistaken, and, unfortunately, I think it's
16 our fault that it was mistaken, because we didn't do
17 a good enough job in presenting it in our initial
18 submission, but I hope that the presentation today,
19 along with the written submission, makes it more clear
20 that the affordable housing is, in fact, affordable.

21 MR. TUMMONDS: Thank you, Mr. Hoskinson.

22 Mr. Colbert?

23 MR. COLBERT: Good evening, Madam Chairman
24 and Members of the Commission. I really appreciate
25 your, you know, coming out again tonight to listen to

NEAL R. GROSS

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

1 this case. I think it's very important, but I also
2 wanted to say that as a lot of you know that my
3 background has been in affordable housing long before
4 we were doing all the upscale residences that you see
5 downtown, we all over the City, Ward 7, Ward 8, we are
6 renovating old buildings.

7 And, it is a fact that there are problems
8 with the buildings, and they need to be addressed.
9 They cannot be addressed piecemeal, because that's how
10 it's been done, and it's not satisfactory. And so, we
11 are getting to the point where we are going to have to
12 embark on a major renovation plan for the existing
13 building, and I've lived through these situations with
14 the tenants in place, and it's extremely challenging
15 and extremely expensive. It probably makes the
16 construction costs at least two to three times of what
17 it would be if you had an empty building that the
18 contractor could work in.

19 So, I believe that it's critical, this
20 PUD, to preserve a significant group of units for
21 people, because the owner's costs are going to go up
22 significantly with this program that we are entering
23 on to correct the deferred maintenances, plumbing
24 risers, new kitchens, things like that, just the
25 building is worn out and it needs to be corrected.

NEAL R. GROSS

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

1 In terms of the height of the building, I
2 believe that the top of the building, as it faces 17th
3 Street, will be lower than the Morgan Annex. One of
4 the things that benefits us is, even though the street
5 right-of-way is 50 feet, the buildings on the other
6 side of the street are all set back at least ten to 12
7 feet, and they are also up on a plateau, and then on
8 our side we are setting our building back six feet
9 from the right-of-way. So, when you take that, you
10 know, typically the right-of-way is from building line
11 to building line, so we actually have an increased
12 width there.

13 And, the fact is that after the last
14 discussion -- after the last meeting that we had, I
15 went back and got out my original of the Height Act,
16 and I believe Paul is going to be speaking to that in
17 more detail, but it was very specific about allowing
18 buildings that front -- have multiple fronts, to use
19 the front that allows it to achieve the highest
20 height, and in that case we would actually -- 16th
21 Street is about 10 feet higher than our front door, so
22 the component of our building that is along the
23 street, closest to the street, would actually fall
24 within the 50 foot height limit, and we are setting
25 back and we go up to 78. But, as you see, the

NEAL R. GROSS

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

1 existing 90-foot Dorchester House, which is measured
2 from a place that's ten feet higher than where we are
3 measuring, it's massive, and I really believe that
4 what we are providing here provides a very smooth
5 transition.

6 17th Street in this block is a mess. This
7 is going to provide a catalyst, and I've been working
8 in this neighborhood for a very long time, and I know
9 that when we first started working there, and doing
10 some major projects, you know, the community was very
11 excited about the new development because nothing
12 really had been done in terms of new residences in,
13 you know, probably 30 years or something. And, what
14 happened is, people live around construction, and that
15 becomes a major irritant, and I understand that, and
16 I vow that I will work with the owners and the people
17 in the community to come up with plans that provide a
18 minimum obstruction to 17th Street and the other
19 streets during construction, so that people will, you
20 know, have a minimal restriction on the street form
21 that perspective.

22 In terms of the green space, as I
23 testified previously, we are actually significantly
24 increasing the green space, the new construction will
25 have several green elements, and Mr. Tummonds has a

NEAL R. GROSS

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

1 handout that we've updated to inform you on that.

2 I'm providing some exhibits. Paul put
3 them up there. One is a list of unit floor plans. We
4 did not have them numbered before, so now they've been
5 numbered. And then, Mr. Hoskinson has created this
6 plan that's tied into the unit number, so that people
7 can be assured that there is a specific location, you
8 know, where we are thinking of providing these
9 affordable units.

10 And then, there's another exhibit that has
11 several drawings in it, and the first one is a
12 revision to the landscape plan, and the reason that
13 I'm resubmitting that is that we were asked to show an
14 existing fence on the top of the sheet along Euclid
15 Street on the north side, and that has been indicated,
16 and then the next sheet is a picture of the Dorchester
17 House taken looking south from Euclid Street showing
18 that fence.

19 Another thing that people were concerned
20 about, Mr. Parsons specifically asked if he could see,
21 and other people wanted to make sure that we could see
22 the actual brick samples, so I brought that, and also
23 in your handout there is a much better color
24 reproduction. But again, if you look at the existing
25 building, it has, you know, it's kind of designed as

NEAL R. GROSS

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

1 kind of the end of the High Art Deco period, but there
2 is similar detail in the windows, the way we have
3 these different colored brick panels between windows
4 helps give the building a sense of radicality, kind of
5 on a smaller scale than the existing Dorchester House.

6 The next exhibit in your handout has to do
7 with actually identifying the location of the bicycle
8 storage areas, and on the lowest level, Parking Level
9 P2, which is shown on drawing number A2.1, in the
10 upper left-hand corner we have dedicated a room that
11 will house 30 bicycles, and then on the next level,
12 Parking Level P1 shown on drawing A2.2, also in the
13 upper left-hand corner, just over one space, there's
14 another bicycle storage room, which will accommodate
15 25 bicycles minimum.

16 And then, the last document is this
17 drawing that was referred to by Mr. Hoskinson, where
18 we have abandoned the idea of using these side yards
19 for temporary parking, and combined his offer to pay
20 folks to find parking elsewhere with these -- I've
21 shown five flex or Zipcars here. We would not have to
22 create a new curb cut, we have plenty of space for
23 this. As a matter of fact, we could even have several
24 more in that location without disturbing any of the
25 existing grounds.

NEAL R. GROSS

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

1 Thank you.

2 MR. TUMMONDS: Finally, I would like to
3 address two issues. The first is the issue of whether
4 or not the proposed zoning map amendment is consistent
5 with the Comprehensive Plan.

6 Commissioner Roth, the ANC representative,
7 raised this concern regarding the existing moderate
8 density residential land use designation of this
9 property.

10 I think it's important to look at the
11 history of the Comprehensive Plan, and what I've
12 submitted for you this evening is a committee report
13 from the Council of the Whole from 1989, when they
14 looked at revisions to the Comprehensive Plan to
15 provide a generalized land use map that included
16 street grids, to provide more incite to the community.

17 As noted in the committee report, the
18 purpose of this land use map is to facilitate
19 readability and understanding of adopted land use
20 policies. However, the committee emphasizes that the
21 inclusion of the street grid does not change the
22 required interpretation that the land use policies on
23 the maps are generalized policies, that reflect
24 predominant uses in the area.

25 We believe that it is that basis for the

NEAL R. GROSS

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

1 generalized land use map that is how we describe the
2 notion of, the generalized land use map is not
3 intended to be a zoning map. The Comprehensive Plan,
4 all of its elements, the generalized land use map, as
5 well as other District elements, are to be read in
6 concert.

7 With that regard, we have included Section
8 112 of the Comprehensive Plan, which provides guidance
9 as to how we are supposed to interpret the contents of
10 the Comprehensive Plan, as noted in Section 112.1.
11 "The primary dynamic of the District elements of the
12 plan is the overlapping of its elements and goals.
13 This overlapping is intentional. District elements of
14 the plan should be studied and executed in concert
15 with each other, and should be interpreted broadly.
16 The interpretation and implementation of any element
17 should necessarily rely upon and be respectful of the
18 objectives and policies of the other elements. The
19 interpretation of the District elements, in turn,
20 should also be guided by the major themes of the
21 Comprehensive Plan." So, what does all this mean?

22 It means that we are not supposed to just
23 look at the generalized land use map, which shows a
24 portion of this property is moderate density
25 residential, but we are to look at that as a

NEAL R. GROSS

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

1 generalized principle, to guide the predominant uses
2 in the area. We are supposed to look at the other
3 District elements that are included in the
4 Comprehensive Plan, including things such as the
5 Comprehensive Plan's themes of stabilizing and
6 improving District neighborhoods, respecting and
7 improving the physical character of the District,
8 promoting enhanced public safety and overall social
9 responsibilities. These are all aspects of the
10 Comprehensive Plan that we have noted in our
11 statements, that we believe we satisfy and make this
12 proposal consistent with the Comprehensive Plan. The
13 Office of Planning has also come to that same
14 conclusion.

15 The other issue I'd like to address is the
16 consistency of this project with not only the letter,
17 but also the intent of the 1910 Height Act. Section
18 7 of the Height Act, which Mr. Colbert alluded to and
19 we have also attached this evening, Section 7 of the
20 Act says, "If the building has more than one front,
21 the height shall be measured from the elevation of the
22 sidewalk opposite the middle of the front that will
23 permit the greater height." If we were to use this
24 distinct, clear language of the Height Act to measure
25 the height of this new addition, as Mr. Colbert said,

NEAL R. GROSS

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

1 our proposed height on 17th Street would be 48 feet,
2 6 inches. We didn't do that here, we said this
3 measure is to give people a sense of what is this
4 building going to measure from 17th Street, and we
5 said it's 58 feet, 6 inches. The intent and letter of
6 the 1910 Height Act would allow us to say that this
7 building is 48 feet, 6 inches tall.

8 We respectfully disagree with NCPC's
9 representative's testimony in this case. If we were
10 to follow the NCPC's representative's call for
11 applying due diligence in our review of the 1910
12 Height Act, we should do just that, and we should read
13 the entirety of the Height Act, including Section 7,
14 which clearly contemplates that buildings with
15 frontage on two streets can use, and often do use, the
16 width of the greater street to measure their height.
17 It does not talk about in the 1910 Height Act this
18 notion of, if a building has a different facade
19 treatment, or a different entrance, you cannot then
20 use Section 7 of the Height Act, which says you get to
21 use the width of the greater street if you so choose.
22 That's not there.

23 If you were to apply NCPC's version of the
24 1910 Height act to this case, I think we would be put
25 in a very problematic situation of, on this site at

NEAL R. GROSS

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

1 what point do we have 17th Street height measurements?
2 We have a significant setback on this building. At
3 what point do we say, the 1910 Height Act, the intent
4 is that halfway through this property you apply 17th
5 Street height, at some point then it shifts over and
6 you can apply the 16th Street height? That's the
7 problem with looking at the notion of, what is the
8 intent of the 1910 Height Act? We don't need to do
9 that here. We can look at the letter of the 1910
10 Height Act, which says we can measure the height from
11 the width of the greater street. So, that's why we
12 believe that our project, this application does
13 satisfy the 1910 Height Act.

14 That concludes our rebuttal testimony. If
15 you have any questions, we'll be happy to answer, and
16 then I will have a brief closing statement.

17 CHAIRPERSON MITTEN: Okay, thank you.

18 Questions from the Commission? Any
19 questions? Okay.

20 Mr. Reynolds, on behalf of the ANC, did
21 you have any questions?

22 MR. REYNOLDS: No thank you, Madam Chair.

23 CHAIRPERSON MITTEN: Okay.

24 Mr. Batra, any cross examination
25 questions? Just keep in mind as you ask questions

NEAL R. GROSS

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

1 that it's on the testimony you just heard and not on
2 things you heard the other day.

3 MR. BATRA: I think in your testimony it
4 was noted that 17th Street is currently a mess, and
5 are you aware, I'm forgetting who this question is
6 directed to, that there are currently five new
7 developments, not including the proposed Harris
8 Teeter, coming on line currently the last couple weeks
9 in the next couple months?

10 CHAIRPERSON MITTEN: Do you mean
11 specifically on 17th Street?

12 MR. BATRA: On 17th Street.

13 CHAIRPERSON MITTEN: Okay.

14 MR. COLBERT: Which block are they in?

15 MR. BATRA: 2400 block and the intersection
16 of the 2500 block.

17 MR. COLBERT: Well, I know that Jubilee is
18 planning to fix up some of their operations.

19 MR. BATRA: Okay.

20 So, when you said 17th Street is a mess,
21 you were referring to the way it is when you started
22 this application, rather than the way it will be when
23 all these five are completed.

24 MR. COLBERT: No, I'm talking about
25 historically, I wasn't actually talking about

NEAL R. GROSS

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

1 construction, I was talking about the fact that it's
2 just been kind of an urban wasteland, because the
3 buildings on the west side of the street are set up
4 off the street. You couldn't use, you've got this
5 wall, so people walking down there, you know, there's
6 no kind of eyes on the street at that location, and
7 then you get further down and you've got, you know,
8 the parking lot, and then you go further down and
9 you've got the Harris Teeter -- well, The Citadel
10 Loading Dock.

11 So, there is kind of a combination of
12 things that just make the street not very friendly for
13 pedestrians. And, I honestly believe that this -- our
14 proposed project is going to be an anchor that will
15 really mean the difference of night or day in terms of
16 presence and a nice feeling on the street.

17 I also feel it's critical in the sense
18 that, I don't know if I made this clear, but they are
19 providing this mechanism to assure the affordable
20 housing is ultimately critical for the neighborhood,
21 because we are going to have to put so much money into
22 the existing building --

23 CHAIRPERSON MITTEN: Just stay focused on
24 the 17th Street question, if you would.

25 MR. COLBERT: Okay.

NEAL R. GROSS

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

1 MR. BATRA: To follow up on that, if your
2 new proposal would bring eyes on the street, wouldn't
3 a much smaller development at that same location also
4 bring the same eyes on the street?

5 MR. COLBERT: Yes, I think the point that
6 we made earlier was that, with construction costs as
7 continuing to go up, we have to have a certain density
8 there for two reasons. One is, initially, just to pay
9 for the ability to, not only replace the parking
10 that's there, but then provide a one-to-one ratio for
11 the new building, but the expense -- the cost of doing
12 an underground parking garage is running about \$50,000
13 per car. The developer isn't making any money off
14 that, it's a break even proposition at best, but it's
15 there as an amenity to the apartment space.

16 The other thing is, you know, this density
17 would help us provide some amenities that will be very
18 beneficial to the folks that live in the area.

19 MR. BATRA: But, I do believe you said the
20 answer to the question was yes, a smaller development
21 would still provide eyes on the street, in general.

22 MR. COLBERT: I think the more apartments
23 there are, the more eyes on the street, and more
24 people actively on the street, to kind of help provide
25 an urban situation that's very pleasing.

NEAL R. GROSS

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

1 MR. BATRA: Can the folks above the 50 feet
2 see the sidewalk?

3 MR. COLBERT: They could.

4 MR. BATRA: From their apartments?

5 MR. COLBERT: That's correct.

6 MR. BATRA: Okay.

7 I believe you testified earlier that from
8 the sidewalk you cannot see those apartments.

9 MR. COLBERT: No, I'm saying that if you
10 are across the street you cannot see the higher
11 portion of our building above the piece that will be
12 the closest to 17th Street, so that we have this 58
13 foot piece on 17th that's set back 6 feet, and then
14 the higher portion is set back about 25 or 30 feet,
15 but given the site lines that we did you actually will
16 not be able to see that from 17th.

17 MR. BATRA: Just to follow up on your last
18 point, you noted that you need this increased density
19 to pay for the parking lot. Are you saying this
20 development will not be profitable, if done to 50
21 feet, a development done to 50 feet at this site would
22 not be profitable?

23 MR. COLBERT: I think the developers will
24 have to answer that question, but I know that this is
25 one of -- I'm not aware of any other significant

NEAL R. GROSS

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

1 development in the area that's going to provide rental
2 housing for people, and there's not as much of a
3 profit margin in that as there is in just selling
4 condos and, you know, getting out of there.

5 But, I think that in terms of actually
6 talking about the economics of it, the developer would
7 probably be more suited.

8 Thank you.

9 MR. BATRA: Well, if someone else could
10 answer that question.

11 MR. TUMMONDS: We didn't testify tonight to
12 that.

13 CHAIRPERSON MITTEN: Well, I think the
14 problem is that Mr. Colbert opened the door with his
15 comments, and I think you do need to back away from
16 the comment that you made or answer Mr. Batra's
17 question, or, perhaps -- I mean, I think the issue is
18 valid, because it's been raised by one of the folks on
19 the panel.

20 MR. HOSKINSON: Based on our budget at the
21 moment, the project at its density is not particularly
22 profitable. It is profitable, we wouldn't be trying
23 to go forward if it weren't, but I think the best
24 testimony to the difficulty of building on that site
25 is the fact that it's been there since 1940, with

NEAL R. GROSS

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

1 nothing built on it. The people that own the
2 building, which includes myself and several others,
3 are not keeping it as a parking lot just because we
4 think that's the highest and best use of the land, it
5 is the best use that we can afford without the
6 increased density. And, that's -- the evidence is
7 there, in the fact that it's remained for 60 some
8 years a parking lot. It has not been economically
9 feasible to proceed, it's only with the -- well, the
10 combination of two factors, the improvement in the
11 Adams Morgan market, plus the increased density that
12 we would get from the PUD and rezoning that we applied
13 for, that would make it economically feasible to
14 proceed. And, that's why we are here.

15 CHAIRPERSON MITTEN: I don't know that you
16 are going to get a definitive answer to your question,
17 Mr. Batra.

18 MR. BATRA: Without trying to belabor this,
19 have you submitted any testimony for the record to
20 show that you need this extra height to make this
21 profitable?

22 MR. HOSKINSON: No.

23 MR. BATRA: And then also, you are -- are
24 you aware that property values in this neighborhood
25 have tripled in the last five years, approximately,

NEAL R. GROSS

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

1 and has that maybe impacted the decision to build now,
2 versus 40 years ago?

3 MR. HOSKINSON: Absolutely yes, that's just
4 what I stated.

5 MR. BATRA: Okay.

6 That's it.

7 CHAIRPERSON MITTEN: Okay.

8 Mr. Brookens, any cross examination on the
9 rebuttal?

10 MR. BROOKENS: No, thank you.

11 CHAIRPERSON MITTEN: Okay.

12 I think we are reading for your closing
13 remarks.

14 MR. TUMMONDS: Thank you.

15 Throughout this process and to this day,
16 the applicant and his development team believe that
17 the proposed project will be a benefit to this
18 community. We believe that the creation of new
19 residential units, including a significant work force
20 affordable housing component along 17th Street, will
21 provide activity and animation to the pedestrian
22 experience, and a greater sense of security to 17th
23 Street.

24 During the public hearings, issues have
25 been raised regarding the addition's height along 17th

NEAL R. GROSS

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

1 Street, the appropriateness of the connection between
2 the existing structure and the new addition, and
3 construction-related and traffic impacts on the
4 existing tenants and the surrounding neighbors. We
5 believe that the written materials, the plans and
6 documents, as well as testimony presented to the
7 Commission, fully and completely address these issues.

8 Mr. Colbert and the Office of Planning
9 have provided testimony and written information to the
10 proposed building height along 17th Street, with a
11 significant setback provided, is appropriate for this
12 area, and is consistent with the letter and intent of
13 the 1910 Height Act.

14 Mr. Colbert and the Office of Planning
15 have also testified that the proposed connection
16 between the addition and the existing building is a
17 substantial and significant connection, and that the
18 construction of additional floors on that connection
19 will not be consistent with the project's goals of
20 maintaining open space on the property and minimizing
21 impacts on the Dorchester residents.

22 A proposed development and construction
23 management plan has been prepared by the applicant and
24 submitted into the record. In addition, Mr. Hoskinson
25 has testified this evening as to the applicant's

NEAL R. GROSS

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

1 proposal to mitigate adverse traffic impacts that will
2 occur during construction activity on this property.

3 Grove/Slade Associates prepared a traffic
4 and parking impact analysis that accounted for eight
5 of the larger development projects in the immediate
6 area of the Dorchester property. This analysis
7 accounted for the vehicular trips of the proposed
8 grocery store adjacent to our site. Included in this
9 analysis was the trips for the patrons of the site, as
10 well as the delivery trucks. In fact, Grove/Slade
11 analysis also accounted for traffic impacts from a
12 proposed office component of that project, which is no
13 longer part of that project.

14 Importantly, DDOT's report in this case
15 agrees with Grove/Slade's methodology in their report,
16 as well as their conclusion, and DDOT recommends
17 approval of this application.

18 It is important to note that the propose
19 one-way traffic circulation system for this area, as
20 far as the applicant, as far as we understand, is
21 moving forward. DDOT is going to move forward with
22 the one-way traffic circulation system, regardless of
23 whether or not this project moves forward.

24 Based on all the information presented in
25 this case, including the qualified support of the

NEAL R. GROSS

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

1 Office of Planning, the unqualified support of the
2 Department of Transportation, the applicant believes
3 that we have met the burden of proof for approval of
4 a consolidated PUD and zoning map amendment
5 application, as outlined in Chapter 24 of the Zoning
6 Regulations.

7 In addition, we believe that the proposed
8 project will, in fact, provide significant public
9 benefits to the surrounding community and to the
10 District as a whole, as well as advancing important
11 governmental policies of the District of Columbia.

12 We thank you for your attention to this
13 application, and look forward to your decision.

14 CHAIRPERSON MITTEN: Thank you.

15 I would like to give the ANC, in
16 particular, a chance to just respond to the additional
17 submittals that you've made, and Office of Planning,
18 to the extent that they feel compelled to.

19 So, if we worked backwards from our May
20 meeting, I don't know if that would give you enough
21 time.

22 MS. SCHELLIN: I believe the ANC Chair
23 asked for a minimum of two weeks for any --

24 CHAIRPERSON MITTEN: Does that work with
25 our May meeting or not?

NEAL R. GROSS

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

1 MS. SCHELLIN: No.

2 CHAIRPERSON MITTEN: Okay.

3 MS. SCHELLIN: Well, if they have two
4 weeks, then if the applicant wants to prepare a
5 proposed findings of fact and conclusions of law, then
6 yes we can, if we can do that all in two weeks.

7 CHAIRPERSON MITTEN: Okay.

8 Does that work for you?

9 MR. TUMMONDS: Sure.

10 MS. SCHELLIN: So, that would put us at the
11 27th of April, and then we could take this up at our
12 May 8th meeting.

13 CHAIRPERSON MITTEN: Okay.

14 Also, what I'd like to do, I think Mr.
15 Johnson had some attachments that you were going to
16 submit for the record, so if we could just leave the
17 record open for two weeks and receive any additional
18 submissions, I know there were folks that had,
19 perhaps, intended to come out tonight that couldn't
20 make it. So, if there's any written submissions that
21 they would like to make that we haven't already
22 received, we can receive that within the two-week
23 period.

24 So, what's the date then for that?

25 MS. SCHELLIN: That would be 3:00 p.m.,

NEAL R. GROSS

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

1 April 27th.

2 CHAIRPERSON MITTEN: Okay.

3 Just so the parties know, they also have
4 the opportunity to prepare proposed findings of facts
5 and conclusions of law, so since you are not
6 represented by counsel, it's a little bit on the
7 technical side, so you shouldn't feel compelled to do
8 that, but it is your right as a party to do that.

9 Okay, so we'll close the record on the
10 27th then, and hope that to the extent that the ANC
11 wants to respond in writing, or the Office of
12 Planning, that they will do that.

13 And then, we will likely schedule the --
14 did you have a question, Mr. Batra?

15 MR. BATRA: I can wait.

16 CHAIRPERSON MITTEN: No, I'm doing my wrap
17 up now, so don't destroy my rhythm.

18 MR. BATRA: When you say the record is open
19 for two weeks, open for anyone to submit testimony?

20 CHAIRPERSON MITTEN: Yes, we are going to
21 leave it open for anyone to submit information.

22 MR. BATRA: We didn't realize last night
23 was Passover, so a lot of folks couldn't come for that
24 reason. They were here the first time, so they would
25 appreciate that.

NEAL R. GROSS

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

1 CHAIRPERSON MITTEN: Sure. We try to be
2 flexible.

3 Ms. Johnson?

4 MS. JOHNSON: Thank you, Madam Chair. I'd
5 like to support the motion of having the move for a
6 continuation of the hearing until the Commission can
7 request and receive a report from the Department of
8 Health in regards to the removal of the gas tanks
9 and/or the abatement, as well as an environmental
10 impact study to protect the community, as well as the
11 residents of the Dorchester.

12 CHAIRPERSON MITTEN: So, that motion is
13 coming from the Dorchester Tenants Association?

14 MS. JOHNSON: Yes.

15 CHAIRPERSON MITTEN: Okay.

16 Mr. Tummonds?

17 MR. TUMMONDS: We would object to such a
18 motion. We don't believe that that would be under the
19 purview of the Zoning Commission.

20 CHAIRPERSON MITTEN: Do you want to weigh
21 in, Mr. Batra?

22 MR. BATRA: No.

23 CHAIRPERSON MITTEN: Okay, that's fine.

24 And, Mr. Reynolds, did you want to weigh
25 in on behalf of the ANC? Parties get to comment.

NEAL R. GROSS

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

1 MR. REYNOLDS: Good evening, Madam Chair,
2 Members of the Commission.

3 This motion is of interest to the extent
4 that I would urge the Commission to consider this,
5 simply from the standpoint that if there is a health
6 issue, if there is a safety issue, it really should be
7 cleared up before this matter moves forward. It would
8 be more expeditious to do it at this time, than
9 waiting until construction commences and then have the
10 issue come up again, which would become much more
11 expensive and grievous to all the parties concerned,
12 especially the people paying the bill for the
13 construction of it.

14 Thank you.

15 CHAIRPERSON MITTEN: Thank you.

16 I have to agree with Mr. Tummonds, it's
17 beyond the purview of the Commission. If there is a
18 legitimate problem, it's definitely of concern, but we
19 have no authority to deal with it. So, I would move
20 to deny the motion.

21 COMMISSIONER PARSONS: Second.

22 CHAIRPERSON MITTEN: Any discussion?

23 All those in favor please say aye.

24 (Ayes.)

25 CHAIRPERSON MITTEN: Ms. Schellin, it's

NEAL R. GROSS

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

1 unanimous.

2 SECRETARY SCHELLIN: Staff would record the
3 vote 4:0:1 to deny the motion for continuance.
4 Commissioner Mitten moving, Commissioner Parsons
5 seconding, Commissioners Jeffries and Hood in favor,
6 Commissioner Turnbull not present, not voting.

7 CHAIRPERSON MITTEN: Thank you.

8 Anything else?

9 MS. JOHNSON: I understand, in addition,
10 I'd like to share with this Commission --

11 CHAIRPERSON MITTEN: No, we're done with
12 testimony now.

13 MS. JOHNSON: -- this is just that we had
14 -- it's in reference to counsel, and you had brought
15 that issue up, the DTA had sought counsel but did not
16 have party status, and the documents necessary, to
17 have pro bono counsel come forward.

18 We had spoken to Mr. Raoul at the D.C. Bar
19 Association, who handles law firm pro bono issues, and
20 he had said that if there were a larger window of
21 opportunity for someone to review this matter, that
22 the zoning is a very complicated issue, they may be
23 able to offer some assistance to us.

24 However, with the short turnaround period
25 from the time of notification to the tenants to the

NEAL R. GROSS

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

1 first meeting with the applicant, it was just not
2 enough time to address such an issue.

3 CHAIRPERSON MITTEN: Okay, thank you.

4 There's no penalty for not being
5 represented by counsel, it's just -- it's just -- I
6 mean, there's no penalty as far as the Commission is
7 concerned. So, I don't want you to feel --

8 MS. JOHNSON: We aren't so much concerned
9 about the Commission, as I said, I chaired the ANC-
10 1C's BZA Commission, and we were able to work with
11 other developers to create affordable housing and
12 other things, and we are coming in the tail end of
13 this, after two years of negotiation in the community,
14 and no involvement for the several hundred people that
15 live at the Dorchester House.

16 CHAIRPERSON MITTEN: Okay, thank you.

17 MS. JOHNSON: Thank you.

18 CHAIRPERSON MITTEN: All right.

19 So, just to pick up my closing, and no one
20 is going to interrupt me now, we'll put this on the
21 schedule -- as it looks right now, we'll put this on
22 the schedule for our May meeting, which is the date of
23 the 8th, May 8th, which is a Monday, and it will be in
24 this room at 6:30.

25 And, if you are interested in just keeping

NEAL R. GROSS

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

1 track of the status, you can always call Ms. Schellin
2 in the Office of Zoning, and we thank you for coming
3 out again tonight, and I'm sorry that we didn't -- we
4 weren't as sensitive as we should have been to a
5 religious holiday.

6 Thanks again. We are adjourned.

7 (Whereupon, the above-entitled matter was
8 concluded at 8:10 p.m.)

NEAL R. GROSS

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