

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA  
2 Zoning Commission

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9 Limited Scope Public Hearing

10 Case No. 13-14 [Vision McMillan Partners, LLC and the  
11 District of Columbia - First-stage and Consolidated  
12 PUDs and Related Map Amendment at 2501 First Street,  
13 Northwest, Square 3128, Lot 800.]

14  
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16  
17 6:31 p.m. to 11:06 p.m.

18 Thursday, March 23, 2017

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21  
22 Jerrily R. Kress Memorial Hearing Room  
23 441 4th Street, N.W., Suite 220 South  
24 Washington, D.C. 20001

25  
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1 Board Members:

2 ANTHONY HOOD, Chairman

3 ROBERT MILLER, Vice Chair

4 PETER MAY, Commissioner

5 MICHAEL TURNBULL, Commissioner

6

7

8 Office of Zoning:

9 SHARON SCHELLIN, Secretary

10

11 Office of Planning:

12 JENNIFER STEINGASSER

13 MAXINE BROWN-ROBERTS

14

15 Department of Transportation:

16 ANNA CHAMBERLIN

17

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

1  
2 CHAIRPERSON HOOD: Okay. Good evening,  
3 ladies and gentlemen. This is a limited scope public  
4 hearing of the Zoning Commission for the District of  
5 Columbia for March 23rd, 2017, to consider the issues  
6 remanded by the District of Columbia Court of Appeals  
7 pertaining to Zoning Commission Case No. 13-14,  
8 Vision McMillan Partners, LLC and the District of  
9 Columbia.

10 My name is Anthony Hood. Joining me this  
11 evening are Vice Chair Miller, Commissioner May, and  
12 Commissioner Turnbull. We're also joined by the  
13 Office of Zoning staff Ms. Sharon Schellin, as well  
14 as the Office of the Attorney General, Mr. Bergstein,  
15 Office of Planning staff, Ms. Steingasser and Ms.  
16 Brown-Roberts.

17 This proceeding is being recorded by a court  
18 reporter and is also webcast live. Accordingly, we  
19 must ask you to refrain from any disruptive noises or  
20 actions in the hearing room, including the display of  
21 any signs or objects.

22 Notice of today's hearing was published in  
23 the D.C. Register and copies of that announcement are  
24 available to my left on the wall near the door. On  
25 Monday, March 20th, the Commission voted to modify

1 the usual order of testimony so that tonight's  
2 hearing will be limited to public testimony and  
3 agency reports. If the Commission is unable to hear  
4 from all members of the public present, or from an  
5 agency, the portion of that hearing will continue on  
6 April the 3rd. The presentation by the parties will  
7 occur on April, is it the 6th or the 5th?

8 UNIDENTIFIED SPEAKER: It's the 6th.

9 CHAIRMAN HOOD: Okay. April the 6th. The  
10 Commission also requested that the friends of  
11 McMillan Park submit a written statement responding  
12 to the remaining issues as identified in a notice  
13 which may be accompanied by exhibits it may wish to  
14 introduce; they may wish to introduce.

15 Therefore, tonight's hearing will be  
16 conducted as follows, preliminary matters,  
17 organizations and persons in support, organizations  
18 and persons in opposition. And as you've signed up,  
19 whether you're a proponent or opponent, I'm just  
20 going to go straight down the list. Reports of the  
21 Office of Planning and other government agencies.  
22 All persons wishing to testify before the Commission  
23 in this evening's hearing who did not preregister are  
24 asked to register at the witness kiosk. It looks  
25 like some people have done that. You can continue,

1 for those who come in. These cards are located to my  
2 -- again, to my left, and all witnesses are asked to  
3 fill out two witness cards. These cards are located  
4 to my left on the table near the door.

5           Upon coming forward to speak to the  
6 Commission, please give both cards to the reporter  
7 sitting to my right before taking a seat at the  
8 table. When presenting information to the  
9 Commission, please turn on and speak into your  
10 microphone, first stating your name and home address.  
11 When you are finished speaking, please turn your  
12 microphone off so that your microphone is no longer  
13 picking up sound or background noise.

14           The following time constraints will be  
15 maintained in this meeting, organizations five  
16 minutes, individuals three minutes.

17           Prior to speaking, each witness is required  
18 to identify by number the remand issue or issues  
19 being addressed. Any testimony that goes beyond  
20 those issues will be disregarded, which means I'm  
21 going to stop you. We need to stick to the issues  
22 that are on remand only.

23           Please give your testimony to the staff  
24 before taking a seat at the table. The decision of  
25 the Commission in this case must be based exclusively

1 on the public record. To avoid any appearance to the  
2 contrary, the Commission requests that persons  
3 present not engage the members of the Commission in  
4 conversation during any recess or at any time. In  
5 addition, there should be no direct contact  
6 whatsoever with any commissioner concerning this  
7 matter, be it written, electronic, or by telephone.

8 Any materials received directly by a  
9 commissioner will be discarded without being read,  
10 and any calls will be ignored. The staff will be  
11 available throughout the hearing to discuss  
12 procedural questions.

13 Please turn off all electronic devices at  
14 this time so not to disrupt these proceedings. Would  
15 all individuals wishing to testify please rise to  
16 take the oath? Ms. Schellin, would you please  
17 administer the oath?

18 MS. SCHELLIN: Yes. Please rise and raise  
19 your right hand.

20 [Oath administered to the participants.]

21 CHAIRMAN HOOD: Okay. Ms. Schellin, do you  
22 have any preliminary matters?

23 MS. SCHELLIN: I just wanted to advise that I  
24 just taped to each of the four tables, a list of the  
25 five remand issues to help assist the witnesses when

1 they come to the table if they've forgotten what  
2 number the remand issue is that they want to speak  
3 about. That will be in front of them there.

4 CHAIRMAN HOOD: Okay. And, Ms. Schellin, can  
5 we get the one-minute warning? So, when you hear the  
6 first warning, it doesn't mean you have to stop.  
7 It's when you hear the second warning I would ask  
8 that you stop. Okay? So, I think you have a minute  
9 between the first warning and the next buzzer.

10 Okay. Let's go to the list. And again, I'm  
11 just going to call in the order. I'm going to just  
12 call it in order.

13 Brown Irving (sic). If I mess your name up  
14 and it sounds close, just come on up. I'm in the  
15 ballpark.

16 Bronwyn. Bronwyn, I think, Irving. What is  
17 it? Bronwyn?

18 MS. SCHELLIN: I think it's Bronwyn.

19 CHAIRMAN HOOD: Bronwyn Irving. Pasha  
20 Fedorenko. That's close enough? Come on up. Lola  
21 Peres. G. Lee Aikin. Melissa, Mel, Peffers. Come  
22 on. Anne Sellin. Tony Norman. Rob Ramson.  
23 Elizabeth Floyd. Andrea Rosen. Katelyn VandenBerg.

24 PARTICIPANT: [Speaking off microphone.]

25 CHAIRMAN HOOD: Can you turn your mic on?

1 MS. SCHELLIN: Turn your mic on.

2 CHAIRMAN HOOD: Oh, I'm sorry. I have you  
3 cut off. I don't need this right now so I'll turn it  
4 back on. Okay.

5 MS. FERSTER: Andrea Ferster, counsel for  
6 Friends of McMillan Park. I think a number of  
7 opponents who had wished to testify did so,  
8 understanding that opposition witnesses would  
9 probably, based on the order that you just announced  
10 and also in the regulations, be after agency  
11 witnesses. So, if you are changing that order, if  
12 you could just maybe loop back at the end of the  
13 hearing and allow those opposition witnesses who had  
14 assumed that their testimony would come later, to  
15 give that opposition testimony?

16 CHAIRMAN HOOD: Okay, that order -- all I've  
17 changed is opponent and proponent. If they come in  
18 late, Rob Ramson, most of them I know. So, if they  
19 come in late we will hear from them. But let me just  
20 say this, the order was -- we put the order out  
21 Monday. Whether it be proponent or opponent, that's  
22 the only thing that I've changed tonight. I haven't  
23 changed the order after agency witnesses. That was  
24 not the order.

25 MS. FERSTER: Uh-huh.



1 CHAIRMAN HOOD: Okay?

2 MS. FERSTER: No, I think they were relying  
3 on the rules that basically say agency witnesses come  
4 before --

5 CHAIRMAN HOOD: We set out a set of rules on  
6 Monday.

7 MS. FERSTER: Okay.

8 CHAIRMAN HOOD: And I think you were here in  
9 attendance, correct?

10 MS. FERSTER: Yes.

11 CHAIRMAN HOOD: Okay. I thought I saw you.

12 MS. FERSTER: Yes, I don't -- but I don't  
13 control the opponents. I mean, what they see are  
14 what they hear.

15 CHAIRMAN HOOD: Okay. Thank you for that.

16 CHAIRMAN HOOD: All right. Where did we  
17 leave off at, Ms. Schellin?

18 MS. SCHELLIN: [Speaking off microphone.]

19 CHAIRMAN HOOD: Okay. Well we know that --  
20 okay. I've been advised that also Friends of  
21 McMillan were very helpful. They put out the order  
22 in which we were going to do, so I'm hoping Rob and  
23 all the rest of them got the --

24 MS. SCHELLIN: And we need to remind the  
25 witnesses, in case they were not here when you first

1 made the announcement, that they need to give their  
2 witness cards before they sit at the table, to the  
3 court reporter. So, they need to fill out two cards  
4 before they sit at the table.

5 UNIDENTIFIED SPEAKER: [Speaking off  
6 microphone.]

7 MS. SCHELLIN: That does not make a  
8 difference. These are cards for the court reporter.  
9 They are separate from what we did. So, it was sign  
10 up and fill out two cards. Two different things.

11 CHAIRMAN HOOD: Okay. Where did we leave  
12 off? We have two more seats.

13 MS. SCHELLIN: [Speaking off microphone.]

14 CHAIRMAN HOOD: Number 13. Okay. Katherine  
15 Young.

16 MS. YOUNG: Katherine.

17 CHAIRMAN HOOD: Katherine. David  
18 Schwartzman.

19 [Discussion off the record.]

20 CHAIRMAN HOOD: All right. Let's begin, to  
21 my right. We'll begin with you.

22 And again, I would ask that you identify  
23 which remand issues you're talking about and be  
24 cognizant of the clock. Thank you. You may begin.

25 MR. FEDORENKO: All right. I will speak to

1 issues number 1, 3, and 5. My name is Pasha  
2 Fedorenko. I live in Bloomingdale with my wife and  
3 one-year old daughter, just two blocks from the  
4 McMillan site. I am here to voice my support for the  
5 McMillan redevelopment project.

6 We have heard about this project for the last  
7 four years, since moving to the neighborhood. And  
8 every time we get excited something derails it. I  
9 understand the opponents desire to has as much green  
10 space as possible in the neighborhood, and I  
11 appreciate their efforts. However, I also appreciate  
12 the efforts of the development partner and this  
13 Commission in making a well thought out development  
14 plan that I believe takes into account interest of  
15 all the neighborhood residents.

16 McMillan Development as outlined today, will  
17 give a major boost to the neighborhood by providing a  
18 number of things that Bloomingdale needs, which I  
19 don't believe would be possible without this mixed  
20 development. First, we'll get a real grocery store  
21 within walking distance for the neighborhood  
22 residents. Second, we'll get improved safety of the  
23 neighborhood driven by higher pedestrian traffic and  
24 retail. Third, we'll get a large safe park in a  
25 community center that are open to the public.

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1 Fourth, we will get additional tax revenue for the  
2 city which is still needed to support our public  
3 schools and law enforcement. Fifth, we'll get new  
4 well-paying jobs. And finally, we'll get elimination  
5 of the industrial eyesore behind barbed wire fence  
6 that has been McMillan's sand filtration site for  
7 over 30 years.

8           This plan is the result of careful  
9 preparation, a number of public hearings, and  
10 substantial amount of back and forth among all  
11 stakeholders. Of course, no plan is perfect and can  
12 ever achieve 100 percent satisfaction for everybody.  
13 But let's not make perfectionism get in the way of  
14 significant improvement to the neighborhood. This  
15 process has lasted years and I believe the time to  
16 compromise and move forward is now.

17           I urge the Commission to approve the plan and  
18 remove the last roadblock to its implementation.  
19 Delaying this project will ensure the industrial site  
20 will remain as is, blocked off from the public, a  
21 burden on city's finances, and a source of ongoing  
22 hearings about intricate legal details for another 30  
23 years.

24           Speedy approval of the project will turn the  
25 blocked off large industrial site into a thriving

1 addition to the neighborhood which will provide tax  
2 revenue, employment opportunities, new homes,  
3 recreation and shopping spaces to the neighborhood  
4 residents, and a number of other tangible and  
5 intangible benefits which I don't believe we will be  
6 able to achieve by just having the park alone.

7           Let's do this now to make sure we and our  
8 families have the opportunity to enjoy this space in  
9 our lifetimes. Thank you.

10           CHAIRMAN HOOD: Thank you. Next. Turn your  
11 mic on, you may begin.

12           MS. PERES: Okay. That's in. I too am on  
13 issues 1, 3, and 5.

14           My name is Lola Peres, and I live in  
15 Bloomingdale, just two blocks from what I hope in my  
16 lifetime will be the McMillan project. I'm here to  
17 voice my support for Vision McMillan, believe it's  
18 long overdue.

19           I was born and raised in Northeast Washington  
20 in an immigrant family in Brentwood Village. As far  
21 back as we can remember we always wondered what was  
22 the abandoned place in the middle of the city.

23           Today, 50 years later, I think we're on the  
24 precipice of an amazing revitalization of this long-  
25 neglected space. Over the past several years,

1 however, groups who are clearly ideologically driven  
2 have done everything in their power to derail and  
3 undermine any real progress towards eventual  
4 construction. It seems as though every opportunity  
5 to create roadblocks have been the goal. Many do not  
6 even live here and their vision for this large space  
7 is not based in reality or the needs of the  
8 community.

9           When my husband and I finally realized our  
10 dream to own a home and live in this neighborhood, it  
11 was our hope to live in an urban, walkable part of  
12 the city. Sadly, I believe if McMillan project is  
13 not built due to legal battles, we will all lose out.  
14 I truly believe that I am giving voice to a major  
15 portion of residents throughout the area who want to  
16 see this happen but have either been worn down by the  
17 process or intimidated not to speak up.

18           The city and the developers of McMillan have  
19 achieved through a long and arduous journey what I  
20 believe to be the right mix to make this a really  
21 special place; a place with a real park to walk, a  
22 real recreation center for families and children to  
23 play, and exercise and enjoy themselves, a place to  
24 shop for groceries and restaurants to go to without  
25 getting into a car, a place to that will make this

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1 region truly walkable, and most importantly takes  
2 into consideration the economic and environmental  
3 needs of this region while still retaining some of  
4 the features of the original sand filtration system  
5 that have come to represent this area.

6 Over 100 years ago, when Bloomingdale was  
7 first built, it was the highest density project in  
8 the city at that time. If opponents had been around  
9 at that time, they would have opposed the density of  
10 the very homes we live in and so admire today.

11 It's my hope that the city and the developers  
12 do not lose their resolve in this commitment to  
13 Vision McMillan that ultimately will enhance our  
14 quality of life and provide more housing, services,  
15 commercial and medical, as well as much needed jobs  
16 and revenue for the city.

17 I also hope this message is received by the  
18 Courts. Friends of McMillan do not represent our  
19 community's best interest, and that's been made  
20 clear. All across the city we've seen the benefit of  
21 this type of mixed zoning communities, and have also  
22 been able to learn from mistakes where the results  
23 were not always optimal. It's my sincere hope that  
24 this new round of legal challenges do not adversely  
25 affect the construction schedule, or the plans for

1 making Vision McMillan a reality. Thank you.

2 CHAIRMAN HOOD: Thank you. Next.

3 MS. PEFFERS: Hi and welcome. Hi. Welcome.  
4 Thank you for allowing me here. My name is Mel  
5 Peffers. I haven't been here since May of 2014.

6 I am a neighbor. And I'm also an environment  
7 health scientist. My day job is environmental -- at  
8 Environment Protection Agency and George Washington  
9 School of Public Health. I teach environmental  
10 health scientist.

11 So, I'm here tonight to be opposed to the  
12 current plan. And I guess it's issues to and  
13 specifically for a -- maybe I can get to B. But  
14 basically I'm here tonight to just express -- I'm not  
15 in any way representing the EPA or George Washington  
16 School of Public Health, just to give you a  
17 background of my expertise.

18 And I looked at the -- and a lot of times  
19 I've worked with project folks in New York and  
20 Columbia University and their expansion project, as  
21 well as Lower Manhattan after 9/11. And we want to  
22 make sure clean air is delivered with any kind of  
23 property. And so, that's my background and focus. I  
24 just saw, literally on Monday, the May 2016  
25 environment assessment and it does not meet my

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1 standards, and I could go into all of the science  
2 geeky stuff.

3           But when I work with politicians and decision  
4 makers like yourself, they're like, I'm not a  
5 scientist, I'm not an expert so I'll turn to you and  
6 hopefully use your experience. And so -- and they  
7 often say, would you put this in your backyard?  
8 Would you do this? And right now I would say no. I  
9 hope in the future we could work together and look  
10 for things that could reduce the air pollution and  
11 specifically as the DDOE -- the Environment  
12 Department noted in their summaries. We need to cut  
13 down on the diesel pollution in some of the areas  
14 with the traffic pollution.

15           So, basically the key points are that I don't  
16 think this should go forward right now. It doesn't  
17 really connect and mesh and harmonize with the  
18 Comprehensive Plan. Nor does it assess or deal with  
19 the pretty serious environmental problems that will  
20 come up. And so, I just would say, read my report.  
21 I've got quite a few pieces they missed, say for  
22 example, I need more data from the transportation  
23 impact studies to run models. I think there's noise  
24 -- there's no mention of noise pollution issues. The  
25 air pollution stuff only modeled the CO. They need

1 to model particulate matter, PM2.5, as well as what  
2 we're not in attainment right now, ozone. And there  
3 are reasons we do that even though it's a more area  
4 problem.

5 But there's hot spots, which tie into the  
6 environment justice issues that we're completely  
7 missing. They misapplied the environmental justice  
8 screening tool that they used called, you know, EJ  
9 screen. My boss invented that one. I can help with  
10 that one. We have BEN (phonetic) maps, which is a  
11 great way to get the health impacts assessed from  
12 this project, and we have a community example of that  
13 and it's online. And I put some resources for that  
14 as well.

15 But right now, the transportation impacts, as  
16 well as the air pollution impacts, not just for the  
17 end product but all the way through construction, I  
18 can't support this. Thank you very much for letting  
19 me come here and I also put suggestions of how to  
20 work together, community benefits agreements,  
21 transfer development rights. Thanks.

22 CHAIRMAN HOOD: Thank you. Next.

23 MS. FLOYD: Good evening, and thank you. My  
24 name is Elizabeth Floyd. I am an architect and a  
25 neighborhood, but I'm here tonight to represent the

1 McMillan Advisory Group as an organization. We offer  
2 this testimony in the spirit of fulfilling our  
3 obligation to the District of Columbia and our  
4 constituent communities.

5 I plan to address issues 2, 3, and 5. The  
6 MAG was formed in 2006 under District Government  
7 Auspices to foster consensus based development.  
8 According to the founding charter, MAG, quote, "Acts  
9 as a voice for the community and its interaction with  
10 the development partners, communicates the  
11 community's perspective, and serves as a mechanism  
12 for shaping the creation of the master plan by  
13 participating in the on-going discussion with  
14 development partners." End quote.

15 Throughout years of proposals and community  
16 engagement the MAG has witnessed and recorded a  
17 consistent desire by most residents that the  
18 development of the site comply with the  
19 recommendations of the Comprehensive Plan and the  
20 McMillan Sand Filtration Site Summary Recommendations  
21 for Site Revitalization.

22 The following comments address these specific  
23 points in the remand called for in this hearing.  
24 Issue 2, do these or other Comprehensive Plan  
25 policies cited, weigh against approval of the PUD?

1 In the MAG's opinion, yes.

2 The proposed PUD is inconsistent with the  
3 following recommendations of the Comprehensive Plan.  
4 And arguably this weighs against the approval of the  
5 proposed PUD. In general, the recommendations of the  
6 Comprehensive Plan are consistent with the scale and  
7 the character of development that the local community  
8 has expressed interest in seeing.

9 Three important mid-city elements of policy  
10 follow with some response. MC-2.6.1 concerning open  
11 space at McMillan states that, quote, reuse plans for  
12 McMillan dedicated a substantial, pardon me,  
13 contiguous portion of the site for recreation and  
14 open space, end quote. The park, while welcomed by  
15 the MAG community, has been touted as amenity  
16 provided by the development team. However, given the  
17 park is D.C. Government owned land, and the community  
18 center built on it is to be built and maintained with  
19 D.C. tax dollars, how in this -- how can this in any  
20 sense be an amenity accepted as provided by the  
21 developer? This should not be allowed to substitute  
22 as a requirement for private development, open space.

23 MC-2.6.3 mitigating reuse impact states,  
24 quote, "Development on the site is designated -- is  
25 designed to reduce parking, traffic, and noise

1 impacts on the community and improve transportation  
2 options to the site and surrounding neighborhood."  
3 End quote.

4 Unmitigated traffic increase is the most  
5 consistent concern voiced by the MAG member  
6 communities. The MAG believes that the proposed  
7 development has not provided solutions that would  
8 convincingly mitigate the increased traffic burden.  
9 MC-2.6.4, involving community involvement and reuse  
10 planning states the development process, quote, "Be  
11 responsive to community needs and concerns in reuse  
12 planning." End quote.

13 As prior MAG documents illustrate, the MAG  
14 made consistent efforts to fully engage with the  
15 development team during each stage of this process.  
16 VMP and DMPED did not engage with the MAG during  
17 critical periods of the PUD development. In  
18 particular, the lack of engagement during development  
19 of the community benefits agreement weighs against  
20 fulfillment of the policy for community involvement  
21 in reuse planning.

22 Issue three, is the high development -- a  
23 high density development proposed the only feasible  
24 way to retain substantial space and make the site  
25 usable for recreational purposes. In MAG opinion,

1 the development team has not demonstrated that high  
2 density is mandatory for the successful project, or  
3 that the PUD is in accordance with MC-2.6.5,  
4 concerning the scale and mix of new uses.

5 MC-2.6.5 states that quote, "Where  
6 development takes place, it should consist of  
7 moderate to medium density housing, retail, and other  
8 compatible uses. Any development on the site should  
9 maintain view sheds and vistas." End quote.

10 The proposal that -- the proposed high  
11 density is the only way for a successful project is  
12 an unsubstantiated argument. Initial proposals from  
13 the development team included less dense, less tall  
14 versions of the plan which argues for less density.

15 The development team has shown the ability to  
16 rework plans when confronted with needed change, such  
17 as the D.C. First Street Tunnel Project, and the MAG  
18 is optimistic that the development team will be able  
19 to address this question satisfactorily, with some  
20 modification to proposed density.

21 Issue four was involving the PUD and  
22 environmental problems, destabilization of land  
23 values based on repeated past opinion of MAG members,  
24 the MAG believes that adverse impacts in terms of  
25 traffic burden and housing destabilization are

1 anticipated and of great concern. A comprehensive  
2 study of traffic for current approved development  
3 within a radius of one mile of the site is necessary  
4 to estimate actual traffic impact. This has not been  
5 done and the MAG asserts that this is a key element  
6 of adverse environmental impact of the proposed  
7 development.

8 CHAIRMAN HOOD: Okay. Thank you. Next.

9 MS. ROSEN: I'm Andrea Rosen. I'm speaking  
10 on issue 4. I'm opposed to the plan.

11 VMP has hired RCL Co., to provide assurance  
12 that high density PUD abutting century old low-rise  
13 communities, Bloomingdale and Stronghold, would cast  
14 no displacement ripples. RCL Co. implicitly  
15 acknowledges that gentrification means steep property  
16 assessment hikes and displacement, but implies that  
17 there's no role for nuanced mediating response by  
18 government planners. What's more, they argue that  
19 because land values in Bloomingdale are rising at a  
20 faster rate than those in long affluent  
21 neighborhoods, the McMillan PUD won't make any  
22 difference.

23 I'd argue that instead, on fire tax hikes  
24 means there's plenty of kindling in those woods, and  
25 the loss of habitat in the burning. Aside from those

1 being a conclusory argument, how cavalier. For the  
2 many long-time residents who moved to Bloomingdale  
3 and Stronghold, specifically because they were  
4 affordable, the fast-rising tax assessments come at a  
5 greater cost to them than to residents of long-  
6 affluent areas.

7 I wanted to explore whether in D.C. the  
8 arrival of a massive PUD might affect nearby land  
9 values, which would in turn raise property taxes for  
10 nearby residents who had not upgraded their  
11 properties. To explore this I looked at Chancellor's  
12 row, the first big PUD in Brookland, approved in 2008  
13 and built in 2011 to '12. I had hoped to track the  
14 real property assessments prior to and after the PUD  
15 for a set of residential squares and lots proximate  
16 to the site, but unfortunately OTR has taken  
17 assessment histories offline. So, as I work around I  
18 analyze tax payments for the period 2012 to '17.

19 Property owners in Edgewood have seen their  
20 property tax bills increased an average of 11 percent  
21 annually since Chancellor's row was built. Which  
22 brings me to Stronghold, an enclave consisting of  
23 about 270 single-family row houses built across from  
24 McMillan Park. Most property owners are residents.  
25 They are long-timers, medium-timers, and newbies. A



1 few row houses have been remodeled to the teeth.  
2 Most have not.

3 A friend who lives there recently challenged  
4 the nearly eight percent increase in his tax bill,  
5 and learned from the assessment office that  
6 Stronghold's land valuations have also been raised in  
7 response to Chancellor's Row, about a mile distant.  
8 Indeed, since 2012 Stronghold residents have paid an  
9 average nine percent higher property taxes each year,  
10 and Stronghold's land valuation is to increase by  
11 10.8 percent next year.

12 The high density PUD on McMillan, with its  
13 650 units of housing, 86 percent at or near market  
14 rate, will likely trigger another round of land  
15 revaluations that will buffet the 270 households in  
16 Stronghold. Costly land and high tax assessments  
17 will exert tremendous displacement pressure on many  
18 residents, and in the long-term, on the neighborhoods  
19 themselves as developers press the city for up zoning  
20 that will enable them to exploit the air rights  
21 around McMillan. Thank you.

22 CHAIRMAN HOOD: Thank you. Next.

23 MS. VANDENBERG: Hi. I'm Katelijjn  
24 VandenBerg. I live in Bloomingdale, and I'm here to  
25 oppose the projects. I will be speaking to Issue

1 Number 1, 3 and 4.

2           Regarding the first issue, whether there are  
3 other (garbled speech) that could be -- in the order  
4 could be advanced even when the development will be  
5 medium and moderate density use, I would certainly  
6 argue that this is the case. There is in fact no  
7 documented evidence, financial evidence from the  
8 developer, let alone independently verified evidence  
9 that medium and moderate density is not feasible at  
10 this site.

11           In actuality the entire medical officers, we  
12 haven't seen, they can be removed because there is no  
13 tenants for these buildings. To destroy a historic  
14 landmark and its open space for high-rise speculative  
15 buildings is really unjustifiable. The medical  
16 officers can be realized at the parking lot, which is  
17 immediately north of this historic landmark, which is  
18 about the same size as the northern part of the  
19 McMillan site.

20           In additional advance of that, people would  
21 not have to cross Michigan Avenue, which is almost a  
22 highway, in order to get to them.

23           The courts also found that the Zoning  
24 Commission failed to adequately -- for the provision  
25 in the Comprehensive Plan, which is discouraging the

1 placement of large buildings near low-density  
2 neighborhoods. And I'm sure you're familiar, but the  
3 extent a DCMR-305.11, 309.10, 309.15.

4           Regarding the preservation of open space, the  
5 policy to protect the historic landmark and save the  
6 open space character of the landmark should be given  
7 more weight. The Department of Parks and Recreation  
8 annual report, which is called Play D.C., states that  
9 the District has to lease park space for inhabitants  
10 of all major U.S. metropolitan areas. More  
11 specifically, the area east of Georgia Avenue and  
12 north of New York Avenue is a green desert.

13           A key priority for the 21st Century is to  
14 acquire parklands under D.C. jurisdiction. The area  
15 within half a mile around the McMillan site is  
16 recognized as being deficient in access to parks.

17           Issue Number 3 is the high-density  
18 development proposed for the site is the only  
19 feasible way to retain the substantial part. In  
20 order for any such conclusion to be reached, analysis  
21 of alternatives would have to really be analyzed that  
22 show also, the financial details of such lower  
23 density, and more open space for really proper  
24 evaluations, and more open space for really proper  
25 evaluations. Statements for a developer that less

1 density is not feasible without submitting evidence  
2 really should be qualified now a days as fake news  
3 and alternative facts.

4           In terms of adverse issues, the traffic  
5 impacts will be catastrophic for the neighborhood,  
6 from all the traffic flowing down south from North  
7 Capital. This really should be done by proper  
8 traffic studies that also take into account the  
9 developments from the armed forces retirement home  
10 development, which is just a block away, the Monroe  
11 Street development, Catholic and Trinity University  
12 projects, and not only analyzing east/west traffic,  
13 but also north/south.

14           Already, the number of intersections on North  
15 Capital, as everybody knows, are failing and there  
16 are no significant and meaningful mitigation options.  
17 Neither the District nor VMP have investigated the  
18 potential impact on emergency response times with  
19 access to the largest medical center in the District.

20           I was in contact with staff members in the  
21 emergency room and they are extremely concerned. And  
22 I really want to know, should people die in  
23 ambulances stuck in traffic on their way to the  
24 emergency room due to greed of developers and the  
25 city, irresponsible city governments? And I really

1 hope that this can be avoided. Thank you.

2 CHAIRMAN HOOD: Okay. Thank you very much.  
3 Let me say this. Let me be respectful. I want us to  
4 be respectful of everyone's time. Make sure again,  
5 I'm going to repeat it again, the first buzzer means  
6 you have one minute left. After that you hear the  
7 second buzzer, you need to cut it. Okay? Even if  
8 you're in the middle of a sentence. Because if you  
9 turn around and look behind you, you have some other  
10 people who want to testify too, on these issues.

11 Okay. Next.

12 MS. YOUNG: Sorry. Mr. Chairman, I'm reading  
13 on behalf of the President of the Stronghold Civic  
14 Association, and you've got a letter right there.  
15 Ms. Jackson wasn't able to be here tonight, due to a  
16 family emergency. My name is Katherine Young and I'm  
17 a former Vice President of the Stronghold Civic  
18 Association and I live in Stronghold on Franklin  
19 Street.

20 The Stronghold Civic Association is in  
21 opposition to the plan, and I want to speak on --  
22 this is our president's language from here on. This  
23 Stronghold Civic Association testimony addresses  
24 issue No. 4 A, and B of the order calling this  
25 hearing, or the PUD, answering the question, will the

1 PUD result in environmental problems, destabilization  
2 of land values, or displacement of neighboring  
3 residents, or have the potential to cause any other  
4 adverse impacts identified by the Friends of McMillan  
5 in the record of this case.

6 Traffic. Stronghold, which is located  
7 directly across North Capital Street from the  
8 McMillan site has long expressed concerns about the  
9 height and the density of proposed development and  
10 the traffic problems such density would cause for our  
11 neighborhood. See Exhibit 146 to ZC Case 13-14,  
12 testimony of the Stronghold Civic Association  
13 concerning specific adverse impacts of the proposed  
14 PUD on our neighborhood.

15 Stronghold has long noted the development  
16 density consistent with the recommendations of the  
17 Comprehensive Plan would be appropriate for this site  
18 and has argued that exceeding that recommended  
19 density and height would cause traffic problems that  
20 likely could not be mitigated at this location over a  
21 mile from the nearest Metro rail station.

22 The Stronghold Civic Association has also  
23 asked for a Comprehensive traffic survey to more  
24 thoroughly study current traffic conditions.  
25 Testimony in Exhibit 696 by a traffic engineer with

1 accepted expert credentials lays out the case that  
2 the proposed traffic mitigation measures are  
3 inadequate. Yet, both the protest of the Stronghold  
4 Civic Association and the recommendations of this  
5 traffic expert were ignored in improving this case.

6 As DMPED, the developer, is a not for profit  
7 institution and the so-called medical center has no  
8 tenant, where are the arguments arguing reducing the  
9 offensive height and density of that building, or all  
10 the commercial buildings in order to make a  
11 development consistent with realistic traffic  
12 mitigation measures?

13 B, destabilization, displacement. The  
14 assessed value of homes in Stronghold is going up by  
15 eight percent. Inquiries challenging this  
16 unprecedented rise in assessed value reveal that this  
17 increase is primarily due to the value of the 237  
18 townhomes in the nearby Chancellor's Row development  
19 located within the same real estate tax clusters,  
20 Stronghold.

21 The larger number of new residences planned  
22 for McMillan would exacerbate this concern further,  
23 while long-term Stronghold residents who wish to sell  
24 their homes and move away may enjoy the increased  
25 value of their homes. Those who wish to stay are

1 confronted with an increased real estate tax  
2 obligation beyond their control, that's an unexpected  
3 burden for those on fixed incomes while local incomes  
4 are not increasing at nearly this rate, potentially  
5 causing the destabilization or displacement the D.C.  
6 Court of Appeals asked the Zoning Commission to  
7 examine. Thank you.

8 CHAIRMAN HOOD: Thank you. Next.

9 MS. SCHWARTZMAN: My name is David  
10 Schwartzman. I'm a professor emeritus Howard  
11 University and an environmental scientist. I taught  
12 there for 39 years so I'm familiar with the site.  
13 However, the first time I got into the site was I  
14 believe the last public tour in 2011, led by Tony  
15 Norman.

16 I will focus my testimony on Issue No. 4A.  
17 Will the PUD result in environmental problems? This  
18 is sort of my area of expertise.

19 I join with friends of McMillan Park, D.C.  
20 for Reasonable Development and others, in the  
21 community imposing -- in opposing the present plan  
22 VMP to develop McMillan Park. And I've already  
23 testified in this respect to the D.C. Council in  
24 2014, 2015, and I submitted written testimony at the  
25 end of 2015 to the Zoning Commission.



1           So, I was -- let me get into the meat of the  
2 matter. The highly probable increase in traffic  
3 along North Capital Street will amplify, that is  
4 increase, an already existing disbursal of vehicular  
5 air pollutants as well as carbon emissions. I note  
6 the important testimony on this very serious adverse  
7 health impacts of air pollutants by Mel Peffers. And  
8 I thank her for her previous testimony too, who was  
9 not only a Bloomingdale resident but also a  
10 scientist.

11           I would only emphasize the recent studies  
12 pointing to a link to dementia, Alzheimer's disease,  
13 the link of air pollution to dementia. And this was  
14 highlighted in a leading journal, science, just this  
15 year. And I have the citation in my written  
16 testimony.

17           Jone Mehra, from MCV Associates has already  
18 provided testimony to the Zoning Commission with  
19 documentation showing that the traffic impact of the  
20 PUD will be likely twice the magnitude of the  
21 Gorove/Slade studies by VMP. Both to protect the  
22 health of our residents and commutists, and to reduce  
23 carbon emissions promoting climate change, which is  
24 of course getting worse and worse, which is  
25 consistent with the goal of Sustainable D.C.,

1 vehicular traffic powered by a combination of  
2 gasoline and diesel fuel must be radically reduced in  
3 the very near future. A proven alternative already  
4 exists. The shift to electrified public transport  
5 supplemented by electric cars, both powered by  
6 electricity generated by wind and solar energy.

7           And if I have time I'll get back to this  
8 regard to the WMATA plan, which is terrible and goes  
9 the opposite way.

10           I was an active participant in the Green  
11 Economy Working Group of Sustainable D.C. There are  
12 alternative proposal, of course, to keep McMillan  
13 Park as an historic site with truly green  
14 development. And I thought that Sustainable D.C.  
15 participating in it actively to create the plan was a  
16 very promising signal that our elected government was  
17 rethinking economic development to promote a just and  
18 green economy for our community.

19           But keeping VMP as a developer would make  
20 Sustainable D.C. vision a mirage. Therefore, in  
21 taking action that would facilitate opening up a new  
22 competitive process, the Zoning Commission should  
23 insist on explicit criteria for green space and  
24 historic character in sharp contrast to the existing  
25 VMP plan.

1 I point to the Washington Post article by  
2 Jeffrey Anderson, who conclude that city leaders are  
3 determined to see McMillan develop like NoMa or City  
4 Center D.C., but without vision or respect for  
5 history. They put commerce before culture, which is  
6 not what great cities do.

7 And I would also point to the letter from  
8 Katherine Patterson, D.C.'s auditor to Chairman  
9 Mendelson in October 2015, which found that although  
10 in its early stages, the plan included a competitive  
11 process -- that's a first buzz -- that resulted in --

12 CHAIRMAN HOOD: That's actually the second,  
13 the second buzz.

14 MR. SCHWARTZMAN: -- the selection of VMP --

15 CHAIRMAN HOOD: Excuse me. Excuse me.

16 MR. SCHWARTZMAN: -- as the land development  
17 team --

18 CHAIRMAN HOOD: Excuse me. That's the second  
19 buzz.

20 MR. SCHWARTZMAN: Oh, is that the second?

21 CHAIRMAN HOOD: That's the second buzz.

22 MR. SCHWARTZMAN: I'm sorry.

23 CHAIRMAN HOOD: But I'm going to allow you to  
24 finish your sentence, since you stopped to tell me it  
25 was the first one.

1 MR. SCHWARTZMAN: Okay.

2 CHAIRMAN HOOD: Just, give me your last  
3 sentence. Just give me your last sentence.

4 MR. SCHWARTZMAN: Okay. Well, my last  
5 sentence that --

6 MS. SCHELLIN: Turn your mic on.

7 MR. SCHWARTZMAN: That Kathy Patterson called  
8 for rebidding, competitive bidding. That's my last  
9 sentence.

10 CHAIRMAN HOOD: All right. All right. Thank  
11 you all for your testimony. Hold your seats, please.  
12 Let's see if we have any questions. Hold your seats,  
13 please. Let's, yeah, let's see if we have any  
14 questions. Any questions up here?

15 I do have two quick questions, to my right.  
16 What ANC are you in?

17 MR. FEDORENKO: 5E.

18 CHAIRMAN HOOD: What about you?

19 MS. PERES: 5E.

20 CHAIRMAN HOOD: Let's keep going.

21 MS. PEFERS: 5E. 5-1. 5E.

22 CHAIRMAN HOOD: 5E.

23 MS. PEFERS: 3-4G, I think it is.

24 MS. VANDENBERG: I don't know the number.

25 I'm in 69 V Street at Bloomingdale. But I'm not sure

1 which number --

2 CHAIRMAN HOOD: Okay. That's okay.

3 UNIDENTIFIED SPEAKER: 5E.

4 CHAIRMAN HOOD: 5E.

5 MR. SCHWARTZMAN: 4A.

6 CHAIRMAN HOOD: 4A. All right. And to the  
7 scientist, do you work in ORD? What program office?

8 MS. PEFER: I used to be an ORD in the  
9 National Center for Environmental Research and  
10 National Center for Environmental Assessment, NCEA.  
11 And now I'm in the Office of Policy.

12 CHAIRMAN HOOD: Office of Policy. Okay.  
13 Thank you. Let's see, any other questions?  
14 Commissioner May?

15 MR. MAY: Yeah, just a couple quick ones.  
16 All right. So I'm -- now I've gotten my names all  
17 mixed up, but you testified for the MAG.

18 MS. FLOYD: Yes.

19 MR. MAY: So, you referred in the testimony  
20 to the development as being high-density. Are you  
21 referring to the entirety of the development, or are  
22 you referring just to the tall buildings at the north  
23 end?

24 MS. FLOYD: Well, I would say in aggregate,  
25 it is pretty high. Mainly due to the development at

1 the north end.

2 MR. MAY: Okay. So, have you -- I mean, have  
3 you looked at the applicant's submissions that do the  
4 calculations on how high the density is.

5 MS. FLOYD: The FAR. Yes.

6 MR. MAY: I mean, in terms of FAR because it  
7 falls in the -- it's not high-density if you just  
8 look at the FAR.

9 MS. FLOYD: The height of the building in  
10 addition to the FAR has been increased many times.  
11 One of the last increases --

12 MR. MAY: Not since it came to the Zoning  
13 Commission. It's gone down since they came to the  
14 Zoning Commission.

15 MS. FLOYD: That's fair enough.

16 MR. MAY: Right.

17 MS. FLOYD: But initially they started with a  
18 shorter development at the north end. It got  
19 increased over and over one time for -- because it  
20 was a medical use. There was additional height added  
21 to each floor.

22 MR. MAY: Right. That's part of their  
23 argument now. I'm just asking why you are using the  
24 characterization of high-density because it's, I mean  
25 it is -- I mean, I can see how you would characterize

1 -- if you're looking at that single block at the  
2 north, it might seem like it's high. But the  
3 applicant's argument is that overall it's not, and --

4 MS. FLOYD: If you take the D.C. owned and  
5 operated public space to the south, I would say that  
6 overall the density would look moderate. But that's  
7 a D.C. owned, operated --

8 MR. MAY: Yeah, they actually do some  
9 analysis of it, everything short of the park too, and  
10 they argued that it falls within the medium, moderate  
11 to medium density. So.

12 MS. FLOYD: And I would say that also the  
13 views and the vista piece of the issues comes into  
14 play.

15 MR. MAY: Uh-huh.

16 MS. FLOYD: So, while that may not be, by  
17 definition, high-density, there's a relationship.

18 MR. MAY: Right. And that -- and that's a  
19 different point which I wasn't asking about, so  
20 that's okay.

21 So, Ms. Peffers, about your testimony, I'm  
22 curious. Many of the things that you say in terms of  
23 what assessment is done on this project, I mean, we  
24 don't normally get involved in the --

25 MS. PEFFERS: Yeah, that's --

1           MR. MAY: -- EISF process and what happens in  
2 evaluating the environmental components of any  
3 development project. Many projects don't even come  
4 to us, right? They're matter of right. So, but I'm  
5 wondering what's different about this project to  
6 compare it to any other project. So, did you look at  
7 other projects to know that this is somehow different  
8 in their treatment?

9           MS. PEFFERS: I haven't had the chance to do  
10 that analysis, for D.C.

11          MR. MAY: Right.

12          MS. PEFFERS: I literally, I was told that  
13 documents were uploaded to the public docket. I  
14 don't know if you call it the public docket.

15          MR. MAY: We know what you're talking about.

16          MS. PEFFERS: Okay. I'm used to the federal  
17 register. So, I was aware of the environmental  
18 assessment as of Monday, so I haven't had a chance.  
19 But that's a good point to check it and compare it  
20 against --

21          MR. MAY: Well, and I mean, we --

22          MS. PEFFERS: -- D.C.'s appropriate and the  
23 DDOE.

24          MR. MAY: Right.

25          MS. PEFFERS: Your Department of the



1 Environment.

2 MR. MAY: Right. And when you're looking at  
3 the -- interested in this issue before the remand? I  
4 mean, is this something? I don't recall. I know you  
5 testified before --

6 MS. PEFFERS: I testified in May, twice.

7 MR. MAY: -- but it was --

8 MS. PEFFERS: The second testimony focused  
9 more on the traffic transportation air pollution  
10 because at that time --

11 MR. MAY: Right.

12 MS. PEFFERS: -- that's all I had was the  
13 transportation impact study that was commissioned.

14 MR. MAY: Right.

15 MS. PEFFERS: And I was looking at it from  
16 that perspective, and I did use the same graphic on  
17 that about traffic hotspots around that.

18 MR. MAY: Right.

19 MS. PEFFERS: So, my testimony back then  
20 focused on that. This is my first chance to look at  
21 the other components of what they put together in  
22 their May 2016 environmental assessment and I just  
23 noticed some pretty quick glaring things.

24 MR. MAY: Right.

25 MS. PEFFERS: You know, about the noise not

1 even being mentioned and et cetera. I could get  
2 details, but it's in the report.

3 MR. MAY: Right.

4 MS. PEFFERS: And also the green space --

5 MR. MAY: We'll look at it.

6 MS. PEFFERS: -- issue was not covered as  
7 well, because there's public health benefits to that  
8 as well as environment effects, and I have a  
9 begeezers load of little references in there if you  
10 want to go, as well as the health impacts. There's a  
11 lot of health impacts. The dimension is just the  
12 most recent one, but cardiovascular mortality is the  
13 biggest one with particulate matter.

14 MR. MAY: Right.

15 MS. PEFFERS: And that's what we're talking  
16 here, and the diesel, and you probably know all that.  
17 No?

18 MR. MAY: Yeah. Well, no, I touch a lot of  
19 that in --

20 MS. PEFFERS: Okay. Yeah.

21 MR. MAY: -- the various roles that I have so  
22 I --

23 MS. PEFFERS: And the construction sites.  
24 You know, we always worry about the construction  
25 sites of the --

1 MR. MAY: Right.

2 MS. PEFFERS: Yeah, diesel pollution, off-  
3 road vehicles. They're still the dirtier flight.

4 MR. MAY: Right. Okay. I was just curious  
5 about how this compares to other developments --

6 MS. PEFFERS: Yeah, I haven't had that  
7 chance.

8 MR. MAY: -- and that's --

9 MS. PEFFERS: I'd love to work with the DDOE  
10 folks and ask them some questions. That would be  
11 great if they're open.

12 MR. MAY: Well, you can talk to them about  
13 that. They don't work for us.

14 MS. PEFFERS: Super. Okay. For zoning, what  
15 do you all need from me?

16 MR. MAY: Well, I think you've given us a  
17 lot.

18 MS. PEFFERS: Okay.

19 MR. MAY: To work on. I was just curious  
20 about the rest of the context so --

21 MS. PEFFERS: Absolutely.

22 MR. MAY: -- I appreciate it.

23 MS. PEFFERS: And I could follow up with you  
24 all if you want to compare it to some other  
25 environmental assessments when I get a chance.

1           MR. MAY: You know, it's really up to you and  
2 I'm not sure what will happen from here in terms  
3 of --

4           MS. PEFFERS: Okay.

5           MR. MAY: -- additional testimony.

6           MS. PEFFERS: All right.

7           MR. MAY: But we took what you've got right  
8 now and work from there. Thank you.

9           MS. PEFFERS: Well, thanks for that redirect,  
10 though. Gives me something to do.

11          MR. MAY: Thank you.

12          CHAIRMAN HOOD: Any other questions up here?  
13 Let me ask you, do you work with Region 3?

14          MS. PEFFERS: Sometimes. I used to work more  
15 with Region 2 and Region 10. Those are the two  
16 regions I used to work most with.

17          CHAIRMAN HOOD: Because Region 3 actually  
18 has, under its jurisdiction, the District of  
19 Columbia. Not headquarters. So, sometime, I'm sure  
20 they may have all that data. Since you're at EPA,  
21 you might want to check with Region 3 and see what's  
22 going on and what they may have in their inventory.  
23 That's just my suggestion.

24          MS. PEFFERS: Inventory of what, sir?

25          CHAIRMAN HOOD: Of what Commissioner May was

1 talking about, about (simultaneous speech).

2 MS. PEFFERS: They usually wouldn't do  
3 environmental assessments. EISs, yes. When it goes  
4 up to a full blown environmental impact statement,  
5 that would be Region 3.

6 CHAIRMAN HOOD: Well, let me just tell you  
7 that -- well, I won't go there.

8 MS. PEFFERS: I don't think this would -- I  
9 don't think this would go up to an EIS.

10 CHAIRMAN HOOD: Trust me. Just check it out.

11 MS. PEFFERS: But, I'll check with my --

12 CHAIRMAN HOOD: Check it out.

13 MS. PEFFERS: You have friends at Region 3  
14 EPA? I could check out with --

15 CHAIRMAN HOOD: I also work at EPA, so --

16 MS. PEFFERS: All right.

17 CHAIRMAN HOOD: So, I'm just helping you out  
18 a little bit.

19 MS. PEFFERS: Sure. I'll check at --

20 CHAIRMAN HOOD: Just helping you out a little  
21 bit. Check with Region 3.

22 MS. PEFFERS: -- friends at Region 3.

23 CHAIRMAN HOOD: Just check with your friends  
24 and see the jurisdiction that they have over the  
25 District. They may have some of that information in

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1 the inventory.

2 MS. PEFFERS: Absolutely.

3 CHAIRMAN HOOD: Okay? All right.

4 MS. PEFFERS: Thank you, Commissioner Hood.

5 CHAIRMAN HOOD: You're welcome. Vice Chair.

6 MR. MILLER: Thank you, Mr. Chairman. I just  
7 wanted to thank each of you for your testimony and  
8 not to continue to focus on Ms. Peffer, but did you  
9 see the DOEE report from I think March of 2017?

10 MS. PEFFERS: I haven't seen that yet.

11 MR. MILLER: March 9, 2017. I think it's a  
12 recent exhibit, 894 in the --

13 MS. PEFFERS: I'll look for that.

14 MR. MILLER: -- record. You can look at  
15 that. But we will ask DOEE to respond to your  
16 testimony as well, in addition to whatever dialog you  
17 have offline and --

18 MS. PEFFERS: Thank you, Commissioner Miller.  
19 I appreciate that. What was it again? Eight --

20 MR. MILLER: Exhibit 894.

21 MS. PEFFERS: Thank you, sir.

22 MR. MILLER: March 9th, 2017.

23 CHAIRMAN HOOD: Are there any other questions  
24 up here?

25 Let's see if we have any cross from ANC 5E.

1 ANC 5A? ANC 1B? And Friends of McMillan? Any  
2 cross?

3 [No audible response.]

4 CHAIRMAN HOOD: Okay. Why don't you --  
5 whoever, you're probably not going to ask a question,  
6 can you just take their seat, and then they can go  
7 back? Okay.

8 I think the rest of you all can -- she may  
9 have questions for you. Yeah, everybody stay. She  
10 may have some questions for you.

11 MS. FERSTER: Okay. Thank you. So, let me  
12 start with Ms. Peffers.

13 MS. PEFFERS: Peffers. Yeah, that's good.

14 MS. FERSTER: Peffers.

15 MS. PEFFERS: Close.

16 MS. FERSTER: So, you're -- since you  
17 indicated that your work -- work at EPA?

18 MS. PEFFERS: Yeah, but I'm not here in an  
19 official capacity for EPA.

20 MS. FERSTER: I understand. I understand.

21 MS. PEFFERS: I also teach environmental  
22 health sciences in a sustainable world at George  
23 Washington University for Public Health. So, it's  
24 public health meets environment, is my background as  
25 a scientist.

1 MS. FERSTER: Thank you.

2 CHAIRMAN HOOD: Let me just say this. I  
3 missed the applicant. I forgot we had an applicant.  
4 But anyway, I missed the applicant. And you're  
5 right, you better make sure you state that you're not  
6 representing --

7 MS. PEFFERS: I'm not representing --

8 CHAIRMAN HOOD: -- the agency.

9 MS. PEFFERS: -- either of those --

10 CHAIRMAN HOOD: You messed up.

11 MS. PEFFERS: Not my university. I'm not  
12 representing that.

13 CHAIRMAN HOOD: Okay.

14 MS. PEFFERS: I'm not representing EPA.

15 CHAIRMAN HOOD: Okay. I'm going to come back  
16 to the applicant if you don't mind. I missed you  
17 all. I'm sorry.

18 Okay, you may continue. I'm sorry.

19 MS. FERSTER: Okay. So, as an EPA employee  
20 you have some experience probably, with the Federal  
21 National Environmental Policy Act.

22 MS. PEFFERS: NEPA. Yeah.

23 MS. FERSTER: Yeah. Good. So, I'm just --  
24 I'd like your opinion on this. If as an EPA employee  
25 with some familiarity with NEPA, a project came to



1 you that was a development of a 25-acre grassy vacant  
2 site that was entirely a historic landmark, and that  
3 the proposal that included you know, significant  
4 traffic and the development proposal included the  
5 kind of significant development on this historic  
6 site, 25-acre historic site, plus the traffic impacts  
7 and all the other impacts that you have identified,  
8 wouldn't this normally require a full environmental  
9 impact statement?

10 MS. PEFFERS: Is that a dangerous -- I'd need  
11 to check with my NEPA friends, but all of those  
12 things make me want to check. Make me want to go  
13 through the NEPA checklist and make sure we get it  
14 right. And it's always best to defer with the high  
15 conservative option and assume a full EIS is needed,  
16 and you look through the criteria and then take it  
17 off the list should it not warrant the full-blown  
18 EIS. If that is the case, I would absolutely, at a  
19 minimum, require a, at least a good comprehensive  
20 equivalent whether, you know, currently the  
21 environmental assessment material I have right now is  
22 just not even close to that.

23 But, I would prefer to defer to a NEPA expert  
24 on that. I'm more of the public health person and  
25 environmental person. But that would, you know, be

1 my take as a personal citizen with experience with  
2 some of these acts, like NEPA, Clean Air Act. Most  
3 of my testimony was focused on that because of the  
4 National Ambient Air Quality Standards, so.

5 MS. FERSTER: Okay. Thank you.

6 MS. PEFTERS: Thank you.

7 MS. FERSTER: Thank you. Okay. So, I'm  
8 sorry. I did not catch your name at the very end.

9 MR. FEDORENKO: That's all right. It's  
10 Pasha. It's fine.

11 MS. FERSTER: Pasha, okay. So, you indicated  
12 that you lived in the Bloomingdale neighborhood?

13 MR. FEDORENKO: I do.

14 MS. FERSTER: And could you give your actual  
15 street address?

16 MR. FEDORENKO: Yes. It's 126 Bryant Street  
17 Northwest.

18 MS. FERSTER: Okay. And so, you are roughly  
19 one block from the McMillan site?

20 MR. FEDORENKO: Yeah. Probably one and a  
21 half.

22 MS. FERSTER: All right.

23 MR. FEDORENKO: To the nearest corner.

24 MS. FERSTER: And how long have you lived  
25 there?

1 MR. FEDORENKO: Four years.

2 MS. FERSTER: And do you know anything about  
3 the prior owner of your home?

4 MR. FEDORENKO: I do not.

5 MS. FERSTER: Okay. And what did you pay for  
6 your home?

7 MR. FEDORENKO: Is this necessary? If you  
8 explain to me what you're going to do with that  
9 information, I'll be happy to provide it.

10 MR. MAY: How does this relate to his  
11 testimony? I mean, all he did was tell us he lived  
12 nearby.

13 MS. FERSTER: I think one of the issues is  
14 gentrification and displacement and I think that --

15 MR. MAY: But he didn't testify about  
16 gentrification. He testified about the value of the  
17 project.

18 MS. FERSTER: Okay. That's fine.

19 MR. FEDORENKO: Thank you.

20 MS. FERSTER: So, let me ask you a question.  
21 You did talk about how much you supported the  
22 project. And, primarily you're very close to this  
23 six-acre open space park area with a community  
24 center, et cetera. That would be a terrific amenity  
25 for you --

1 MR. FEDORENKO: Sure.

2 MS. FERSTER: -- because you are so close to  
3 that.

4 MR. FEDORENKO: Yes, it would.

5 MS. FERSTER: And, so let me ask you a  
6 question, just hypothetically. If the design of the  
7 project were changed and for some reason the eight-  
8 story medical office building, medical facility were  
9 shifted over and to the south so that basically --  
10 and the park were up in the north side of the  
11 segment, and you were faced, when you were walking  
12 down Channing Street with a, basically a very, very,  
13 very large building with a lot of traffic coming out  
14 of First Street, perhaps cutting through on Bryant  
15 Street, would you still support this development with  
16 the park up there on the north side?

17 MR. FEDORENKO: I would.

18 MS. FERSTER: Okay.

19 MR. FEDORENKO: I would still support it  
20 because I do believe that even though the values are  
21 rising and the taxes are going up, I believe the city  
22 actually needs those taxes.

23 MS. FERSTER: Okay. So, this is because  
24 you're public spirited, because you -- how would  
25 you --

1 MR. FEDORENKO: I would prefer for my  
2 daughter to go to a public school in D.C., and I  
3 believe the city needs those taxes to actually afford  
4 decent public schools.

5 MS. FERSTER: Okay. Good. And how old is  
6 your daughter?

7 MR. FEDORENKO: She is one.

8 MS. FERSTER: Oh, okay. So, if the park were  
9 just located on the very north parcel, would it be a  
10 little -- how would you get to that north end if  
11 you're --

12 MR. FEDORENKO: I would walk to it.

13 MS. FERSTER: Walk. Okay, good. Okay.  
14 Good.

15 Okay. So, Ms. Perez, same couple questions  
16 for you. You said you lived in North Bloomingdale.  
17 What is your street address?

18 MS. PEREZ: [Speaking off microphone.] I live  
19 on Bryant Street.

20 MS. FERSTER: Also on Bryant Street. And how  
21 long have you lived there?

22 MS. PEREZ: I've lived there for four years.

23 MS. FERSTER: Okay.

24 MS. PEREZ: I've lived in the house for two  
25 years, I've owned it for four years.

1 MS. FERSTER: Uh-huh. And what do you know  
2 about the prior owner, if anything?

3 MS. PEREZ: My house has an interesting  
4 history. I was once owned by a church. Prior than  
5 that, it was built by and lived in by a doctor and  
6 his family for close to 25 years. And then it went  
7 into disrepair and it went into conservancy to the  
8 city and was redeveloped by someone, and I -- my  
9 family purchased it from the person who redeveloped  
10 it.

11 MS. FERSTER: An invest -- so, you basically  
12 bought it from an investor.

13 MS. PEREZ: Yes.

14 MS. FERSTER: Okay. Okay. So, and same  
15 question about the shifting of the park. If it,  
16 again, the scenario where the park use is actually  
17 shifted to the north --

18 MS. PEREZ: You flip the project.

19 MS. FERSTER: And then --

20 MS. PEREZ: Am I familiar with the --

21 MS. FERSTER: Yeah.

22 MS. PEREZ: -- project. You're talking to  
23 the wrong person because I'm a hiker, and it would it  
24 be no problem for us. And I'm, for one, wondering if  
25 the traffic analysis that we have has quantified how

1 many people it could help become more pedestrian, and  
2 the fact that so much traffic is already coming by  
3 that project, how much of the people that are already  
4 traversing those roads are really going to be the  
5 people coming to these amenities, commercial and  
6 otherwise?

7 I would have no problem with the park being  
8 on the North Capital Street, Michigan Avenue side.

9 MS. FERSTER: And the eight-story, 115-foot  
10 medical office building on the south side?

11 MS. PEREZ: I see Children's Hospital from my  
12 house windows and it's perfectly beautiful in the  
13 reflection on the reservoir.

14 MS. FERSTER: Okay. Good. Good to see you  
15 would like that. Okay. One last question for you  
16 because you particularly said something about my  
17 client, Friends of McMillan Park, that you thought  
18 Friends of McMillan Park would oppose the -- if  
19 Bloomingdale, if they had been around when  
20 Bloomingdale were developed, they would oppose the  
21 development at Bloomingdale, which is, you know, a  
22 residential neighborhood consisting of, you know, two  
23 to four-story properties. That was your statement,  
24 that you thought Friends of McMillan Park would  
25 oppose that kind of development.

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1 MS. PEREZ: Narrowly based on the issue of  
2 density. If you put yourself back in a time period  
3 where a new project was being built at the highest  
4 density at that time, I don't think it's an unfair  
5 assumption to say that there would have probably been  
6 a degree of opposition to it.

7 MS. FERSTER: I'm --

8 MS. PEREZ: It's a speculative thing. I  
9 can't say for --

10 MS. FERSTER: -- it's speculative because you  
11 don't know. Nobody that -- are you aware of the fact  
12 that Friends of McMillan Park has in fact supported  
13 development of moderate to low-density housing on the  
14 McMillan site? Has never opposed that kind -- the  
15 kinds of housing that is in North Bloomingdale on the  
16 McMillan site?

17 MS. PEREZ: A hundred years ago is what my  
18 statement was. Bloomingdale was called the highest  
19 density project the city had seen.

20 MS. FERSTER: Okay.

21 MS. PEREZ: So, if you're switching --  
22 compare apples to apples.

23 MS. FERSTER: Well, perhaps -- how would you  
24 define density?

25 MS. PEREZ: The numbers that were stated



1 historically when I read up on Bloomingdale,  
2 surprised me because when you see Bloomingdale by  
3 your standards today it doesn't seem like a very  
4 highly dense area.

5 MS. FERSTER: So, you equate density with the  
6 number of buildings as opposed to the size of  
7 buildings?

8 MS. PEREZ: Number of buildings per square  
9 foot or --

10 MS. FERSTER: Okay.

11 MS. PEREZ: -- space per square foot.

12 MS. FERSTER: Would it be helpful for you to  
13 understand that density, from a zoning capacity,  
14 takes into account more than the number of square --  
15 the space occupied by buildings, and in fact includes  
16 the number of stories that a building occupied? Does  
17 that help you under -- clarify, perhaps?

18 MS. PEREZ: Well, yeah. I'm sure that of  
19 course that's part of -- it's the volume, it's not  
20 just the --

21 MS. FERSTER: That's right. And North  
22 Bloomingdale doesn't really have any seven-story  
23 buildings, or eight-story buildings. Is that  
24 correct?

25 MS. PEREZ: Well, North Bloomingdale, does

1 that include Children's Hospital and the buildings  
2 across the street from Michigan Avenue?

3 MS. FERSTER: No, it does not. It does not.  
4 North Bloomingdale is basically south of McMillan  
5 site.

6 MS. PEREZ: In Bloomingdale, in the  
7 residential section there are no high-rises.

8 MS. FERSTER: Okay. Thank you. That's all I  
9 have.

10 CHAIRMAN HOOD: Okay. Thank you. Does the  
11 applicant have any cross? None? Okay. All right.  
12 We thank you all. We appreciate your testimony.

13 Now, I saw Tony Norman come in, so I am  
14 working with what you mentioned earlier. I also see  
15 Rob Ramson. They need to be sworn in. Those are --

16 [Discussion off the record.]

17 CHAIRMAN HOOD: Okay. I'm going to ask Tony  
18 Norman and Rob Ramson to come up. I know them and I  
19 see them. Make sure you fill out your cards and give  
20 your testimony to Ms. Schellin before you have a  
21 seat.

22 Okay. Now, I'm going back to the list. Ms.  
23 Jefferson. Cheryl Cort. Bradley Thomas. Jerome  
24 Peloquin. Peter Perry. So, we can move  
25 expeditiously. I'm going to go back to my list that

1 show -- okay, Ms. Aikin.

2 All right. Okay. I think I have one more  
3 seat left. Yeah. I have one -- no, wait a minute.  
4 There's a seat. Okay. I have two seats left.

5 [Pause.]

6 CHAIRMAN HOOD: Yeah, I have one more seat  
7 left. I called -- I thought I saw him, Jerome  
8 Peloquin.

9 UNIDENTIFIED SPEAKER: He's sick. He's just  
10 walked out sick.

11 CHAIRMAN HOOD: Oh, he's sick. Okay. Is  
12 Peter Perry? Okay. Kaitlyn -- she testified.  
13 You've already testified. Okay. Carole Lewis-  
14 Anderson.

15 And, Ms. Schellin, I guess I'm going to have  
16 to go back to the beginning.

17 MS. SCHELLIN: Yes.

18 CHAIRMAN HOOD: Oh, I see it now. It's in  
19 gray, the names.

20 MS. SCHELLIN: [Speaking off microphone.]

21 CHAIRMAN HOOD: Okay. We have a few more  
22 people. Okay. Has everyone been sworn in?

23 Okay. Mr. Ramson, Mr. Norman, if you all can  
24 stand and be sworn in, please? And everybody who  
25 hasn't been sworn, if you can stand to be sworn in?

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1 MS. SCHELLIN: Please raise your right hand?  
2 Is there anyone else who is planning to testify  
3 that's not been sworn in? Please raise your right  
4 hand. Stand and raise your right hand. Mr. Otten,  
5 are you testifying? Mr. Otten?

6 [No audible response.]

7 MS. SCHELLIN: Chris Otten.

8 CHAIRMAN HOOD: That's all right. Ms.  
9 Schellin, let's move on. I'm not going to -- we're  
10 not going to disrupt this proceeding.

11 MS. SCHELLIN: Please raise your right hand.

12 [Oath administered to the participants.]

13 MS. SCHELLIN: Couldn't get his attention.

14 CHAIRMAN HOOD: Mr. Perry, we're going to  
15 start with you since Mr. Ramson comes in here with  
16 this cowboy stuff on. You can go ahead, Mr. Perry.

17 MR. PERRY: Good evening, Commissioners.  
18 D.C. is my home. I was born here and especially in  
19 the last two decades we've seen -- I've seen my city  
20 change rapidly. We have fewer and fewer open spaces.  
21 What we have are larger and a higher number of  
22 buildings. We have increased density throughout the  
23 city.

24 We also have widespread gentrification  
25 throughout the city. The dynamics of the city have

1 dramatically changed in my 45 years of life here in  
2 D.C. And in this time we must, in this cluttered and  
3 increasingly congested environment, hold on to and  
4 preserve our precious green spaces. I was a history  
5 major in college and the famous urban  
6 designer/architect extraordinaire, Olmstead, this was  
7 one of his parks. This is Olmstead of Stanley Park  
8 in Vancouver and of course Central Park in New York  
9 City.

10 We have a gem here in the center of our city,  
11 and it should be celebrated and accentuated, not  
12 given away to private developers, when it is a D.C.  
13 property belonging to the people of the District of  
14 Columbia.

15 Again, there hasn't been, I think from what  
16 I've read, sufficient transportation study to take  
17 into account increased traffic volumes, particularly  
18 ambulances, emergency vehicles that have to get to  
19 the hospitals in the area. And there's the real  
20 concern of air pollution and so forth in that  
21 neighborhood.

22 It is clear the co-applicant in the McMillan  
23 Park giveaway and demolition, DMPD has asked agencies  
24 to provide pro forma answers in support of the  
25 proposed PUD mega-project. So, I urge the Zoning

1 Commission to reject the PUD. I'm in full agreement  
2 with D.C. Residents for Reasonable Development, and  
3 that really this PUD is not in compliance with the  
4 Comprehensive Plan. Thank you for your time,  
5 commissioners.

6 CHAIRMAN HOOD: Thank you. Next.

7 MR. THOMAS: Good evening, commissioners. My  
8 name is Bradley Thomas. I am the Chair of ANC 5E,  
9 and I'm here to provide this Commission with ANC 5E's  
10 position, specifically with respect to Issue No. 4,  
11 parts A and B.

12 ANC 5E generally supports the VMP proposal,  
13 but we do have some serious reservations regarding  
14 the traffic impact and whether the developer has  
15 offered sufficient amenities to mitigate those  
16 impacts.

17 So, in the interest of time I will simply  
18 read the resolution that the ANC passed on Tuesday of  
19 this week.

20 Whereas the subject of Zoning Commission Case  
21 13-14, the McMillan Sand Filtration site, lies  
22 squarely within the boundaries of ANC 5E, Single-  
23 Member District 5E-09, and whereas any future  
24 development at McMillan will impact in some respects,  
25 positively and in some respects, negatively, not only

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1 the residents of SMD 5E-09, but also in varying and  
2 lesser degrees the residents of many other  
3 neighborhoods located within the ANC 5E Commission  
4 area, and whereas in response to appeals brought by  
5 several community organizations, the District of  
6 Columbia Court of Appeals on December 8th, 2016,  
7 vacated the final order of the Zoning Commission in  
8 Zoning Case No. 13-14 and the final orders of the  
9 Mayor's Agent on historic preservation, and remanded  
10 the case to the Zoning Commission and the Mayor's  
11 Agent for further proceedings, and whereas in light  
12 of the court's December 8th, 2016 ruling the Zoning  
13 Commission has scheduled limited scope hearings to  
14 commence on March the 23rd, focused on five issues,  
15 whereas, while ANC 5E and its pre 2012 redistricting  
16 predecessor in interest, ANC 5C, have passed several  
17 resolutions of support for the McMillan project over  
18 the past several years, including resolutions of  
19 support for the Vision McMillan Partners' revised and  
20 modified first-stage and second-stage PUDs.

21           ANC 5E does retain some unresolved concerns  
22 that are germane to the limited scope hearings  
23 pending before this Commission. Whereas, chief among  
24 ANC 5E's concerns are estimates that once fully  
25 developed, the McMillan site may add as many as

1 30,000 motor vehicular trips per day to the already  
2 congested main thoroughfares traversing the ANC  
3 commissioned area, and fears that the amenities  
4 package now being offered to ANC 5E residents may not  
5 go far enough in mitigating the adverse effects of  
6 the increased traffic.

7           Now therefore, be it resolved that ANC 5E  
8 hereby requests that the Mayor of the District of  
9 Columbia direct the District Department of  
10 Transportation in conjunction with the Office of  
11 Planning, to conduct a comprehensive traffic study of  
12 the likely and potential impacts of the McMillan PUDs  
13 on the north/south, as well as the east/west  
14 corridors adjacent to and flowing out of the McMillan  
15 site, including but not limited to North Capital  
16 Street, First Street Northwest, and Michigan Avenue  
17 Northwest and Northeast. And on the neighboring --  
18 and around the neighborhoods from which traffic from  
19 the site is likely to flow.

20           And, be it further resolved that ANC 5E  
21 hereby requests that the DDOT/OP study focus not just  
22 on identifying problems, but also on developing  
23 proposed solutions to alleviate adverse impacts  
24 identified in the study. And be it further resolved  
25 that ANC 5E hereby requests that insofar as DDOT and



1 OP's study determines that certain adverse impacts of  
2 the McMillan development cannot be avoided, or  
3 sufficiently reduced, that developers be required to  
4 work with ANC 5E and its respective neighborhood  
5 civic associations to offer increased community  
6 benefits, specifically directed to benefit the  
7 residents of those neighborhoods where adverse  
8 traffic impacts are otherwise unmitigable.

9 This resolution came before Advisory  
10 Neighborhood Commission 5E at a duly noticed and  
11 called public meeting of the Commission held at  
12 Friendship Armstrong Public Charter School on March  
13 21st, 2017. ANC 5E consists of 10 commissioners, the  
14 presence of six of which constitutes a quorum.

15 On March 21st, 2017, with nine commissioners  
16 present, by a vote of seven in favor, one opposed,  
17 and with one abstention, ANC 5E voted to adopt this  
18 resolution and to authorize the chair or the vice  
19 chair of ANC 5E to present its position consistent  
20 with this resolution before the Zoning Commission or  
21 other appropriate administrative forum.

22 It's signed by myself, Bradley A. Thomas,  
23 Chair ANC 5E, and by Horatio Sierra (phonetic),  
24 recording secretary of ANC 5C. 5E, I'm sorry.

25 CHAIRMAN HOOD: Okay. Thank you. Next.

1 MS. LEWIS-ANDERSON: Zoning Board, my name is  
2 Carole Lewis-Anderson. I submit this testimony as a  
3 participating member of both D.C. for Reasonable  
4 Development and Friends of McMillan Park. Their  
5 concerns are and reflect my own.

6 McMillan Park is a high, unobstructed 25-acre  
7 site. One of the most organically beautiful in D.C.,  
8 it has views of the monuments of Federal Washington,  
9 it has historic significance. I walk the perimeter  
10 imagining a fenceless, restored, and repurposed park.  
11 I think McMillian is a place of respite, apart from  
12 the tourist dominated mall. And then I'm shocked  
13 back to reality considering the monoliths that the  
14 VMP plan would erect, juxtaposed with the low-raised  
15 residences nearby.

16 VMP would privatize public land. It would  
17 destroy views, would strain water systems and  
18 infrastructure, would erect nonsustainable buildings,  
19 and would exacerbate a traffic nightmare. The  
20 environmental impact alone, I understand there are  
21 very little, if any, requirements for sustainability.  
22 Not a LEEDs commitment, no mandated green roofs, no  
23 solar and wind energy source, and nonpermeable  
24 streets.

25 The tactics used by the developers in concert

1 with this government is alarming. Specifically,  
2 those intended to silence the voice of the people.  
3 Transparency is not a political instrument, it is a  
4 required tenant of democracy.

5 I come from the corporate world. Decisions  
6 made at the board tables where I have sat were based  
7 on fact, on law, and were dictated by our  
8 determination of the best interests of our  
9 stakeholders. This government should be similarly  
10 driven. But McMillan has stood derelict for 30  
11 years. Not one mayor has proffered a plan which  
12 represented the best interest of the community.  
13 Isn't it clear that developers' interest still drive  
14 development decisions in the District, instead of the  
15 other way around?

16 We have a Comprehensive Plan. One  
17 unforgivable breach of the plan would be to dishonor  
18 the concept of a linear system of parks and open  
19 space. Just to find the meager six acres would  
20 require navigating through newly privatized streets  
21 that is not linear, that does not constitute a  
22 central park, and it certainly is not the gem  
23 envisioned as part of the Emerald Necklace.

24 We have a massive -- we have massive corridor  
25 on Mass Avenue, of high buildings. Not a tree in

1 sight. Not sustainability feature in site. In fact,  
2 not a person in site. Just cars. We have another  
3 monolithic strip of buildings in Southwest. Even  
4 worse because they've taken the Potomac River side.

5 Here is my want; to make McMillan be  
6 different. I want the best designed 25 acres in the  
7 District. I want the community to plan its day  
8 around McMillan. A morning walk in the promenade, a  
9 latte in the split-level coffee shop, painting time  
10 in the center, or a seat to watch action on the ice  
11 rink or the ball diamond, shopping in the new  
12 underground grocery store.

13 Here is my ask; we need to create a public  
14 conservancy. That entity will do the rest at zero  
15 cost to the city. Imagine that, a best use outcome  
16 for the people at no cost to the city, much like a  
17 real central park.

18 CHAIRMAN HOOD: Thank you. Next.

19 MS. JEFFERSON: Good evening. My name is  
20 Naima Jefferson and I'm testifying in my individual  
21 capacity as a member for D.C. for Reasonable  
22 Development. My statements herein are an abbreviated  
23 version of my written testimony, and I would just  
24 first and foremost like to encourage the Commission  
25 to take a very hard look at the record and the

1 documents that were submitted. I have grave concerns  
2 about the credibility of the reports that were  
3 provided. I don't think that they align with the  
4 Comprehensive Plan.

5 I'm specifically going to speak about Issue  
6 Number 4. I have a spouse and child with severe  
7 health problems. We spent a lot of time around the  
8 Washington Hospital Center, and I'm really concerned  
9 about the report and the transparency, or the lack  
10 thereof, that exists.

11 Specifically, when I read the report from  
12 DDOE, it was erroneous and contained multiple  
13 omissions and was seriously flawed. One of the main  
14 factors that I noticed was that in some instances in  
15 this report, they included the Veterans Affairs  
16 Medical Center, Armed Forces Center, and Howard  
17 University with respect to air quality, but yet  
18 excluded those very same projects and plans as it  
19 related to water shed protection, water quality,  
20 vegetation and wildlife, and environmental justice.

21 In any environmental assessment that occurs  
22 must be performed, it must be scientific, it must  
23 have a common scope, and you must explain the  
24 rationale within the differences. The cumulative  
25 impact from those various projects would ensure that

1 the environment quality is properly assessed and  
2 adequately mitigated. With respect to major actions  
3 for the environmental impact screen form, DDOE  
4 erroneously referred to Section 7201.1, and several  
5 subparagraphs within there, which is nonexistent.  
6 I've actually attached that as an exhibit. When in  
7 fact they should have referred to Section 7201.2,  
8 which would have triggered a full environmental  
9 impact study.

10 I'm also concerned because DDOE performed its  
11 own air quality study, and actually has a site at the  
12 McMillan filtration site, yet ignored that and took  
13 data from a third-party. That's highly concerning.  
14 Clearly this lack of consistency and transparency  
15 exists. That data that I referred to was within the  
16 control, knowledge, and custody of DDOE.

17 And so with that I also would like to just  
18 add that I've included the American Lung  
19 Association's estimates for childhood asthma, as it  
20 affects with respiratory impacts. DDOE's 2014  
21 report, which I have included, talks about air  
22 quality trends, and in fact mentions the McMillan  
23 site as one of their centers for testing. They cite  
24 that air pollution impacts asthma. Thank you.

25 CHAIRMAN HOOD: Thank you. Next.

1 MS. CORT: Good evening, Commissioners. My  
2 name is Cheryl Cort. I'm with the Coalition for  
3 Smarter Growth. We're working to make the case for  
4 smart growth to create inclusive walkable  
5 communities.

6 And, I've testified many times before, and  
7 this is specific to the issues that are before you.  
8 In terms of Issue Number 1, why not a medium and  
9 moderate density use? I don't think that this  
10 qualifies as a high-density use. It is a mixed  
11 density across a very large site that achieves that  
12 moderate medium density level. But the medical  
13 office building on the north part of the site at  
14 Michigan Avenue is a taller building and so that's  
15 considered high-density.

16 The medical office building faces the  
17 Children's Hospital, which is actually taller than it  
18 and the other major hospitals there, and overall,  
19 without the medical office building, the finances of  
20 the project wouldn't work and we wouldn't be able to  
21 realize the outstanding public benefits that we get  
22 out of this project.

23 The taller medical office building provides  
24 that essential value along with daytime users that  
25 can support community oriented retail. Especially

1 the grocery store. In order to achieve these  
2 outstanding benefits that include more than 100 units  
3 of affordable housing, creation of a large new park  
4 and recreation center, historic restoration,  
5 neighborhood serving retail, these are the amenities  
6 that have been called for by the community and  
7 supported by the Comprehensive Plan.

8 Issue 2 is -- well, I'm going to skip Issue  
9 2.

10 Issue 3, preservation of open space with the  
11 high-density or the high density or taller building  
12 on the north side of the site is what makes this  
13 feasible for the open space that we achieve on the  
14 useable recreation that we get out of this. Yes, the  
15 site is unused and has been under-used and unused and  
16 unusable for decades. The costly effort to bring  
17 back usable open space and a recreational amenity  
18 does require this taller office building on the north  
19 side where it faces other taller buildings in the  
20 hospital center site. And the expansion of the open  
21 space and recreational facilities here, through the  
22 development review process, demonstrate that the PUD  
23 has achieved the greater open space benefit that  
24 really is only possible through a PUD process.

25 Number 4, regarding adverse impacts. First



1 of all, the environmental benefits of this PUD first  
2 are storm water management. The site is converting  
3 an area that doesn't have any particular storm water  
4 management, has uncontrolled runoff, and is being --  
5 will be redeveloped with modern, rather stringent  
6 storm water management requirements under D.C. law,  
7 and also, this will help to address the flooding  
8 problems that communities to the south have  
9 experienced.

10           Also, we need to address the smart growth  
11 environmental benefit of reuse of existing in-fill  
12 sites next to a major hospital complex, surrounded by  
13 urban neighborhoods, commercial districts, job  
14 centers, and served by transit, and planned better  
15 transit and bicycling and walking routes. This is a  
16 tremendous benefit to the city and the region as a  
17 whole, rather than reduced air and water pollution  
18 because we are redeveloping and reusing existing  
19 sites in very urban places rather than pushing growth  
20 out to the exurbs where we will substantially  
21 increase the air and water pollution and increased  
22 traffic from long commutes.

23           The question of change and land values and  
24 displacement, the surrounding area is obviously  
25 booming in terms of a run up in land values. I think

1 that's with or with -- I mean, we could be looking at  
2 a chain link fence for another two decades and we  
3 would still have these very high prices running.

4           The displacement question, it's clearly  
5 documented that renters really face the biggest  
6 threats, displacement. D.C. has put in place a  
7 number of protections for homeowners who are low-  
8 income, or seniors. But renters face the biggest  
9 challenges, and that's where this project actually  
10 has a really important contribution with more than  
11 100 units, mostly of rental housing to help provide  
12 new quality affordable homes for people to live in  
13 the neighborhood.

14           Issue 5, impact on city services. Again, I'd  
15 go back to the importance of the storm water  
16 management improvement that's going to be done  
17 through this and the recreation facilities. Thank  
18 you.

19           CHAIRMAN HOOD: Thank you. Next. Mr.  
20 Norman, you want to turn your mic on.

21           MR. NORMAN: Okay. On?

22           CHAIRMAN HOOD: Yeah.

23           MR. NORMAN: All right. Excuse me.

24           CHAIRMAN HOOD: There you go.

25           MR. NORMAN: Thank you to Mr. Chairman and

1 the Zoning Commission for this opportunity to speak.  
2 My name is Tony Norman. I've been involved with this  
3 project for over 20 years, 25 years. And, I'm going  
4 to summarize my testimony. You should have the  
5 written testimony.

6 But also, first, I want to formally object to  
7 this particular hearing the way it's organized  
8 because we as a community will not have an  
9 opportunity to respond to the applicant as well as  
10 the parties in interest when they give their  
11 testimony. So, we will not have an opportunity to  
12 respond to their oral testimony. So, I want to  
13 object to the way the hearing is organized.

14 The solution to that is, maybe those who want  
15 to testify after the applicant and the parties in  
16 interest, then we can come back and respond to it.  
17 But we are losing our opportunity to respond to that  
18 oral testimony. So, I want to first put that on the  
19 record of objecting to it.

20 And then I want to hit -- we don't have the  
21 time to go over everything, but I want to hit on the  
22 things that haven't been talked about that I think is  
23 important. Related to -- I'm going to speak to the  
24 issue of 1, 2, 3, and 4. But particularly, the issue  
25 of housing, because I think it relates to the benefit

1 and the density, can this site be developed without  
2 the high density.

3 And yes, it is high density, Mr. May,  
4 according to the court, that this commission  
5 envisioned that this would be a high-density site.

6 MR. MAY: That's not what I was questioning.  
7 I was asking her description.

8 MR. NORMAN: Okay. But yes, it's high  
9 density. And relative to granting this high density,  
10 what are the benefits or the exchanges that the city  
11 is getting out of this?

12 When you look at the housing, I think the  
13 city is woefully inadequate in terms of the  
14 affordable housing. They are requesting, according  
15 to them, 20 percent of the units will be affordable  
16 housing. I mean, that's technically true. But when  
17 you look at only a few of those are going to be below  
18 50 percent, and when you look at they're also getting  
19 double credit here, they're counting those senior  
20 citizen housing, which I don't think they should  
21 count as part of their affordable housing quota,  
22 because the city's policies that deal with the lack  
23 of affordable housing, you're really getting double  
24 credit. They're saying, we're doing senior housing,  
25 and we're doing affordable housing, but they're

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1 counting the senior housing as part of the affordable  
2 housing. So, I think the city is getting a short end  
3 of the stick on that.

4           When you look at the fact that the city owns  
5 this site, a 25-acre site, the city has put aside 25  
6 million in capital budget. The city is paying for  
7 the entitlement cost, meaning for the attorneys to  
8 come to the Zoning Commission and all of the  
9 entitlement process. The city is paying for that.  
10 The city is paying for the attorney. Over \$2 million  
11 now as far as I know, for the attorney to represent  
12 the applicant in this case.

13           The city is also paying for infrastructure on  
14 this site. So, when you look at all of the things  
15 that the city is providing here, I think the city is  
16 getting short-changed in terms of its policy. And  
17 they're not even providing an -- I don't even want to  
18 mention the term, the forbidden term of low-income  
19 housing. It's not even doing anything about that,  
20 and we know there's a waiting list of over 37,000  
21 families or people. Nothing about low-income or  
22 public housing is on there, and I know that's a  
23 dangerous word and people get riled up to hear that.  
24 But the city is not providing anything on this large  
25 publicly owned site in terms of that.

1           But I'm simply making the case in terms of  
2 balancing the equities. The city is not really  
3 getting what it's getting in exchange for the high  
4 density for this particular site.

5           I also want to touch upon the -- also, in  
6 terms of the open space. We're not even sure the  
7 public access to this public space. They're counting  
8 the park and other open space characters. Now, of  
9 course the park the public will have access to. But  
10 the other open spaces they're getting credit for, we  
11 don't even know if the public will be -- it would be  
12 accessible to the public.

13           So, if you're going to grant them this high-  
14 density and all this other thing, we ought to make  
15 sure that the open space is truly open space and the  
16 public have access to it.

17           And then I want to touch upon the  
18 gentrification issue. The city denies that it's  
19 going to have a negative impact, or very little  
20 impact on that. Even though if you look at the  
21 letter in the record from the housing director, I  
22 think she says that it might have a -- there would be  
23 some negative impacts. But they simply saying that  
24 because gentrification has already started, it's not  
25 going to -- it's going to have a minimal effect.

1           You would think that the mitigating factor,  
2           gentrification, is to put more affordable housing on  
3           the site to retain the people that are there. That's  
4           the mitigating factor that you can do for this  
5           particular site, project, to mitigate it. But they  
6           do not propose any mitigating except for the general  
7           city policy that you know, gentrification is expected  
8           and there's nothing we can do about it.

9           No, there is something they can do about it  
10          as it relates to this project. One is increase  
11          affordable housing to retain those people who will be  
12          displaced. And it's not just renters. It's also  
13          owners. Thank you, Mr. Chair.

14          CHAIRMAN HOOD: Thank you. Next.

15          MS. AIKIN: Yes, I'm G. Lee Aikin, D.C.  
16          Statehood Green Party.

17          CHAIRMAN HOOD: Is your microphone on?

18          MS. AIKIN: Oh. Okay. That's working. Yes.  
19          My name is G. Lee Aikin, D.C. Statehood Green Party.  
20          And the question before us is, how best to achieve  
21          smart growth and meet the needs of the people?

22          I believe my testimony touches on all issues,  
23          number 1 through 5, as they are complex and  
24          interrelated. This testimony will present a people  
25          oriented plan for adaptive reuse of McMillan Park in

1 Ward 5. Although this park is in Ward 5, it should  
2 be considered a resource for the entire city, like  
3 Central Park is up in New York.

4 In its recent unanimous ruling the D.C. Court  
5 of Appeals vacated and remanded various portions of  
6 the VMP plan for large office buildings and  
7 destruction of almost all the 20 acres of underground  
8 space at the park. The court specifically stated  
9 that VMP's plan did not reach a level of special  
10 merit required to permit destroying this historic  
11 park and the 25 acres of green space and 20 acres  
12 below ground.

13 I would also like to call your attention to  
14 the following items found at DCMR Title 10. Visitor  
15 attractions, provide new and enhanced visitor  
16 attractions and entertainment venues in the District,  
17 particular attractions that complement the  
18 traditional museums and monuments and draw more  
19 international visitors and young adults to the city.  
20 And I might add, keep them here.

21 New attractions should create a clear  
22 identity for the District as the region's major  
23 entertainment center, number 709.6.

24 Amenities beyond the mall. Promote the  
25 development of cultural amenities beyond the mall in



1 an effort to more fully capitalize on the economic  
2 benefits of tourism, number 709.7. And if Trump  
3 succeeds in destroying our federal employment base  
4 we'll need it even more.

5           The testimony that follows, a finer vision  
6 for McMillan Park, and Food, the Soul of the City,  
7 addresses the above policy concerns. As a further  
8 concern I would like to state that allowing VMP to do  
9 a 300-item document dump, if that's true, last week,  
10 and not allowing us time to review these items is  
11 grossly unfair and prejudicial to equal treatment  
12 under the law. This limited scope hearing fails to  
13 give proper attention to these complexities and seems  
14 to violate the spirit of the court ruling.

15           A finer vision for McMillan Park, which is an  
16 idea I came up last summer when I was running for At  
17 Large and gave it a lot more thought from a technical  
18 perspective. For seven years, we in D.C. have paid 1  
19 million a year to subsidize a no-bid developer to  
20 plan destruction of this historic site to turn it  
21 into another Tyson's Corner. Community action,  
22 pleading to our council, and other efforts have  
23 failed to stop this juggernaut. Our prepaid D.C.  
24 Government wants development at all cost so we now  
25 need to consider better development and smart growth

1 that will provide the tax revenues they demand.  
2 Since one strong argument against the current plan is  
3 that the intersection of North Capitol and Michigan  
4 Avenue is already a rush-hour traffic nightmare, a  
5 better plan should focus on off-peak hours. The  
6 plans suggested here respond to those concerns. Why  
7 not have Wolf Trapp and Glenn Echo type events here  
8 to enhance them and provide more revenue? Why not  
9 have a mix of high and lower-end restaurants, wine  
10 cellars, rat cellars, in the underground spaces with  
11 their 15-foot ceilings? D.C. already has a thriving  
12 custom brewery business, and Maryland and Virginia  
13 can offer more and finer vintages from wineries.

14 Custom foods like mushrooms, culinary herbs,  
15 and other specialties could be grown underground to  
16 supply them, and ceilings painted in spectacular art  
17 can attract visitors and paying customers while  
18 providing a venue for our artist.

19 Food, the Soul of the City, unfortunately I'm  
20 not going to have time to go over that. But I'd like  
21 to say the end paragraph.

22 Other cities have had the vision to  
23 adaptively reuse their undergrounds spaces. In  
24 Houston, an underground reservoir, one tenth the size  
25 of our space, collects admission for the art they

1 display there. Underground Atlanta is 12 acres of  
2 basements abandoned when street levels were raised  
3 and now adaptively reused. London has converted an  
4 old bunker into a farm using hydroponic technology to  
5 help feed the city. Throughout the world abandoned  
6 subterranean spaces ranging from gold to salt mines  
7 have been reclaimed as theme parks, health spas for  
8 asthmatics, data centers, cathedrals, and even the  
9 world's largest underground bike park.

10           The Turda Salt Mines in Romania feature a  
11 playground, ferris wheel, mini golf course, sports  
12 arena, and other entertainments. Surely we in D.C.  
13 can be as creative with our own 20 underground acres  
14 instead of destroying them when we could be using  
15 them. What a waste.

16           CHAIRMAN HOOD: Thank you. Next. Next.

17           MR. RAMSON: You know, first, good evening.  
18 First of all, I'm testifying in opposition to the  
19 McMillan development as it is applied for, and I  
20 support McMillan developing McMillan into a better  
21 utilized space with low to low-moderate density so  
22 that we could actually have something that is more  
23 conducive to what your community needs.

24           I'm going to piggyback really quick here on a  
25 couple of items dealing with traffic and studies. I

1 don't know if anyone has touched on it prior, but  
2 there are a lot of other developments.

3 CHAIRMAN HOOD: Mr. Ramson, let me interrupt.  
4 You. While I know your name, nobody else does, so go  
5 ahead and just give us your name and let me let you  
6 continue.

7 MR. RAMSON: My name is Robindranauth Ramson.  
8 I live in Ward 5.

9 So, as far as traffic, we have -- and I'll  
10 supply my testimony for the rest of the  
11 commissioners. But we have quite a few other  
12 developments that are coming along the pipeline that  
13 would suffice as far as medical space which -- or  
14 office space, which is one of the reasons why they're  
15 asking for this extended height.

16 I do not agree with the young lady over here  
17 that we needed the support, the type of park space  
18 that needs to be developed. When you're going to get  
19 in a contract to buy any piece property, you purchase  
20 it with the expectation of it being a profitable  
21 development based on the current FAR. If you do have  
22 concerns about that, that it wouldn't be profitable,  
23 you have a clause in there that says that it's  
24 dependent on what the Zoning Commission says or if  
25 you're allowed to get a higher FAR.

1           So, it's quite obvious that this developer is  
2 not the right developer for this particular piece of  
3 land because if their approach is that they can't  
4 develop it with these other three spaces, then they  
5 shouldn't accept it. So, common sense says that --  
6 common sense says that it shouldn't be part of what  
7 the reasoning for them asking for the -- or being  
8 able to develop this piece of land.

9           Going back to traffic, we have Washington  
10 Hospital Center and Children's Hospital Center in the  
11 center of maybe about eight or 10 other developments  
12 coming along. Soldier's Home is applying for 77  
13 acres which can supply medical, and all of them that  
14 are on my list will supply -- or can supply for  
15 medical office space if required, but shouldn't be  
16 required because I think the hospitals are moving to  
17 some of their office spaces, or need for office  
18 spaces towards Georgia Avenue, and definitely towards  
19 Southeast where the United Medical Center is being  
20 developed. Matter of fact, they are looking --  
21 they're looking at the two sites now. I believe it's  
22 St. Elizabeth's and the current Washington -- current  
23 hospital in order to develop, and so we'll have less  
24 need for office space or office suites for medical  
25 offices on this side.

1           So, other than Soldier's Home, Catholic  
2 University has 49 acres between North Capital,  
3 Michigan, Irving, and Harewood Road, which is going  
4 to -- which they're planning on developing, which can  
5 also supply some access to office, medical office if  
6 needed.

7           And all these facilities that are being  
8 developed, all these Soldier's Home, Catholic  
9 University, any of the other sites I will mention,  
10 they're going to also be bringing along a lot of  
11 retail space. I think we're going to have way too  
12 much retail, way too much office, way too much  
13 residential space, that we need for any amount of  
14 gentrifying that's coming in, along with the rest of  
15 retail, commercial retail, residential space that's  
16 being developed all around the city.

17           CHAIRMAN HOOD: Okay. Thank you. Let me  
18 see. Do we have any questions up here? Let me just  
19 say --

20           [Discussion off the record.]

21           CHAIRMAN HOOD: Okay, Commissioner Turnbull.

22           MR. TURNBULL: Yeah, I just had a question  
23 for Ms. Aikin. You mentioned, and I'm -- why not  
24 have Wolf Trapp and Glenn Echo type events, and I'm  
25 just confused if you're competing with Virginia and

1 Maryland, why we would want to increase that amount  
2 of traffic of people of Virginia and Maryland to come  
3 to a Glenn Echo Wolf Type event.

4 MS. AIKIN: Well, I think the -- first of  
5 all, my emphasis here was having things scheduled so  
6 they did not interfere with the god awful rush hour  
7 that I have crossed many times on the way to Fort  
8 Totten. And, you know, if you have ever tried to  
9 drive out to Wolf Trapp, it's horrendous. Why can't  
10 we have something similar here in town so people  
11 don't have to go all the way out there? And, you  
12 know, and create a whole lot more traffic over there  
13 in Northern Virginia. And why should they be making  
14 the income out there and not earning the money in  
15 town and paying taxes in D.C.? I mean, that was the  
16 whole point of what I'm saying.

17 If you have shops, restaurants, other  
18 creative things underground, you're going to have --  
19 you're going to have employment taxes, you're going  
20 to have business taxes, you're going to have 10  
21 percent sales taxes. You're going to have all kinds  
22 of revenue for the city, which if their only excuse  
23 is, they've got to have a 13-story building there,  
24 it's ridiculous. There's lots of other ways to have  
25 revenue that don't destroy the park and create a lot

1 of tourist potential, not to mention all the  
2 enjoyment people who live in town can have. Does  
3 that answer your question?

4 MR. TURNBULL: Well, it gives an answer. I'm  
5 just, you're going to have the reverse effect,  
6 though, then people from Maryland and Virginia coming  
7 into D.C. You're not just going to have local people  
8 coming. If you're making this a successful venue,  
9 there's always the option for things to go the  
10 reverse of what you just said.

11 MS. AIKIN: Well, as I said, the point is to  
12 try to schedule things so they don't primarily  
13 interfere with the peak of rush hour. And  
14 furthermore, don't you want that revenue coming into  
15 the District?

16 MR. TURNBULL: Yeah, but do you want that  
17 amount of people coming in? It's a double-edge --  
18 all I'm saying, it's a double-edge sword to have to  
19 deal with.

20 MS. AIKIN: Yeah. Well, I was going by what  
21 DCMR 10 was saying some of its goals were. And  
22 certainly, what I'm proposing is addressing some of  
23 those goals.

24 CHAIRMAN HOOD: I do want to make a statement  
25 because I think it needs to be clear for the record.



1 I always like for the facts -- and we don't do  
2 alternative facts down here. So, I want to make sure  
3 the facts are straight. The rationale, and the  
4 reason we got here, is not whether the applicant went  
5 first, or the parties went first, or the community  
6 went first. There are five issues in which the court  
7 remanded back to this Commission.

8 Traffic, actually, was one of the exceptions.  
9 So, you know, we didn't get it all right, but there's  
10 some things that they remanded back to us and there  
11 were five issues.

12 Now, nobody is here to respond to anybody  
13 else's -- what your testimony is on those five  
14 issues. That's not what this is about. This is  
15 about addressing the five issues for us, to get us,  
16 so we can make sure that we add more information to  
17 what the courts have asked this Commission to do.  
18 This is not the first time we've had a remand.

19 So, the order and having -- I'm particularly  
20 responding to my good friend, Mr. Norman. The order  
21 was put this way for a reason, and I think the party  
22 can attest to why we did this. They were here on  
23 Monday when we did this. And it was in -- and a lot  
24 of it was due to things that they had asked for in  
25 their submission to us. So, again, nobody is here to

1 respond to anyone else's presentation. What it is,  
2 is these five issues were remanded back to us. We're  
3 gathering information. We open it up, because really  
4 it could have probably just been to the parties, but  
5 we opened it up to the public because we wanted to  
6 hear from everyone.

7           So, I wanted to make sure we set the record  
8 straight. I don't know if my colleagues want to add  
9 on that or just leave it where it is. Vice Chair  
10 Miller?

11           MR. MILLER: Thank you, Mr. Chairman. Yeah,  
12 I hesitate to get into that because I think you did a  
13 great job of explaining it. But I would also say  
14 that there is an -- the applicant did submit 10 days  
15 in advance of this hearing, a submission which -- and  
16 we're not having the next hearings until April 3rd or  
17 April 6th. So, there's sufficient time to respond in  
18 writing to what the applicant has submitted. The  
19 party in opposition has yet to submit anything that  
20 -- and they don't have to.

21           But we'll look forward to whatever they want  
22 to submit, whatever they want to submit, and we'll  
23 look forward to their testimony. But there is an  
24 opportunity to respond to the applicant's submission  
25 in this case, in this remand.

1           CHAIRMAN HOOD: Okay. Again, we're here to  
2 give their own -- we're dealing with these five  
3 issues and there are no responses. Okay?

4           MR. MILLER: I'm being advised by the  
5 staff --

6           CHAIRMAN HOOD: Right. Right.

7           MR. MILLER: -- that there are no responses.

8           CHAIRMAN HOOD: That's fine.

9           MR. MILLER: That the hearing notice said  
10 that this is the --

11          CHAIRMAN HOOD: This is it.

12          MR. MILLER: This is the opportunity.

13          CHAIRMAN HOOD: We too sometime -- we're  
14 human. We too make mistakes. Okay? I make plenty  
15 of them. All right. We're all human. And even the  
16 people that just laughed at us, they make mistakes.  
17 They probably make more than we do. But no, I'm just  
18 playing. Okay. Where are we? Any other questions  
19 up here?

20           All right, any cross-examination by the --  
21 let me go to the applicant this time first. ANC 5E.  
22 ANC 5A. ANC 1B. And Friends of McMillan. Friends  
23 of McMillan, you have any cross?

24           Okay. Whoever you're not going to ask  
25 questions to, you can just take their seat.

1 MS. FERSTER: Great. Thank you. I have a  
2 couple questions to start out with for the Coalition  
3 for Smarter Growth, represented, Ms. Cort.

4 So, I went on your website and I saw  
5 something that you have something called the Smart  
6 Growth Business Council advertised, which it  
7 indicates that you have a place for businesses who  
8 support your agenda to contribute, and that corporate  
9 support comprises 25 percent of the Coalition for  
10 Smarter Growth revenue. And it also indicates that  
11 Trammel Crowe and EYA are part of your corporate  
12 business counsel. So --

13 MR. NORMAN: Mr. Vice Chair, she didn't  
14 testify to any of that.

15 MS. FERSTER: I think her credibility is at  
16 issue here.

17 MR. MILLER: Could you just get to the  
18 question, please?

19 MS. FERSTER: Well, my question is, so you --  
20 EYE (sic) and Trammel Crowe are financial supporters  
21 of your organization. Isn't that correct?

22 MS. CORT: Correct. We accept donations from  
23 them. We've also appreciated the donations you've  
24 given to us as well.

25 MS. FERSTER: I -- me personally, yes. And I

1 assume that EYA's donations are larger than my  
2 donations. Isn't that correct?

3 MS. CORT: Yes, but individual donations make  
4 up a larger share than our corporate contributions.

5 MS. FERSTER: So can you -- do you know how  
6 much EYA and Trammel Crowe have contributed to  
7 Coalition for Smarter Growth, either directly or  
8 through your fiscal agent?

9 MS. CORT: I couldn't -- I mean, I couldn't  
10 say off the top of my head. I mean, they have been  
11 contributors. I mean, EYA had contribution, you  
12 know, EYA for a long time.

13 MS. FERSTER: Okay. And how much does a  
14 corporate supporter need to give in order to be one  
15 of your --

16 MR. MILLER: Ms. Ferster.

17 MS. FERSTER: -- part of your business  
18 council?

19 MR. MILLER: Ms. Ferster, could you move on  
20 to another --

21 MS. FERSTER: I'd like to just ask this one  
22 question and then I will move on.

23 MR. MILLER: Okay. It's just not helpful to  
24 us.

25 MS. CORT: I mean, I think several thousand

1 dollars would be the beginning.

2 MS. FERSTER: Okay. The beginning. Okay.  
3 Okay. And, let me also ask whether or not the  
4 Coalition for Smarter Growth has ever opposed a  
5 Trammel Crowe or EYA development, and if so, what  
6 that development was.

7 MS. CORT: We have not commented on very many  
8 Trammel Crowe projects. We supported the Central  
9 Armature Works, Trammel Crowe project, last year. We  
10 have been big supporters of the Tacoma Metro Station  
11 proposal, which was an EYA proposal -- since 2000,  
12 basically.

13 MS. FERSTER: But you support the EYA  
14 developments in the past?

15 MS. CORT: We have, yes. We have.

16 MS. FERSTER: Okay. You don't recall any of  
17 those relevant (simultaneous speech).

18 MS. CORT: I don't recall. I don't recall.  
19 I mean, we certainly have you know, commented, made  
20 recommendations different than what was proposed.

21 MS. FERSTER: General support. Okay. Okay.  
22 Now, I also have in my hand a report that the  
23 Coalition for Smarter Growth has done that you were a  
24 principle author of it. It's called, Public Land for  
25 Public Good, Making the Most of City Land to Meet

1 Affordable Housing Needs.

2           You're generally familiar with this report  
3 since you were a principle author?

4           MS. CORT: Correct.

5           MS. FERSTER: Okay. So, I find it  
6 interesting that your report has a number of  
7 recommendations for public land development projects.  
8 And one of the key recommendations is that public  
9 development should set aside at least 30 percent of  
10 residential units as affordable, and another is that  
11 there should be a substantial number of units set  
12 aside for low-income residents. That would be under  
13 30 percent area mean income, and also under 50  
14 percent of the area mean income. That's correct?  
15 That's part of your recommendations?

16           MS. CORT: Yes, but I mean, it's a little bit  
17 more specific than that.

18           MS. FERSTER: Okay. Do you want to  
19 elaborate?

20           MS. CORT: Well, I don't have -- so basically  
21 what we were able to accomplish about two or three  
22 years ago at the D.C. Council, was passing a law that  
23 establishes 20 to 30 percent set-asides for  
24 affordable -- for public land dispositions,  
25 basically. And McMillan -- and so, going forward,

1 starting with the Bowser administration she started  
2 to, started to phase in that law a little bit early.  
3 I think the 965 Florida Avenue was the first project  
4 where she went back and asked for a higher affordable  
5 under the new law. Grimke (phonetic) Project was  
6 sort of maybe an example where the request was too  
7 much for kind of the new transition.

8           And so, McMillan has a 20 percent set-aside.  
9 And you know, it does predate the passage of that  
10 law. So, we are you know, we are supportive of this  
11 project. We want to see these affordable units  
12 built.

13           MS. FERSTER: Right. Okay. So, none of the  
14 -- but this particular project does not meet the  
15 recommendations that your report identifies for  
16 ensuring that there is affordable housing,  
17 substantial affordable housing for people who are  
18 actually low-income, because McMillan has no low-  
19 income housing. Isn't that correct?

20           MS. CORT: No, that's not correct. I mean,  
21 the definition of low -- I mean, HUD's definition of  
22 low-income is 80 percent AMI. This has a substantial  
23 share of 60 percent AMI.

24           MS. FERSTER: Isn't it true you said you were  
25 involved in the McDuffie Bill. Isn't it true that



1 the McDuffie Bill actually defines low-income housing  
2 as 30 percent, or under AMI?

3 MS. CORT: Well, that would be extremely low-  
4 income under HUD definitions. I mean, I think  
5 there's different definitions and like inclusionary  
6 zoning is about to change its definitions in terms  
7 of --

8 MS. FERSTER: Okay.

9 MS. CORT: -- 60 or 50 moderate and low. And  
10 so, I think it's important to actually state the  
11 specific income targeting that we're trying to reach,  
12 rather than, you know, different terms because  
13 they're changeable. The low, moderate, medium --

14 MS. FERSTER: Okay. Well, okay.

15 MS. CORT: -- income.

16 MS. FERSTER: So, your report also notes that  
17 80 percent AMI, which is the bulk of the rental  
18 housing, the non-senior rental housing in this  
19 project. Isn't that correct?

20 MS. CORT: Well, it's not the -- no, most --  
21 I mean, I believe that most of it is at 60 percent.

22 MS. FERSTER: I'm putting aside the senior  
23 housing.

24 MS. CORT: Why?

25 MS. FERSTER: Well, just for hypothetical.

1 Let's put aside for a moment the senior housing on  
2 the site, right? So, the rental housing and the  
3 multifamily parcel, most of it is for 80 percent AMI.  
4 Isn't that correct?

5 MS. CORT: The senior housing is rental  
6 affordable housing. So, it's part of the affordable  
7 housing --

8 MS. FERSTER: I understand. I'm asking you  
9 to just --

10 MS. CORT: -- package.

11 CHAIRMAN HOOD: Do this. Why don't we do  
12 this?

13 MS. CORT: We could do it parcel by parcel.

14 CHAIRMAN HOOD: Hold on. Hold on. Let me  
15 say something. Why don't we do this? When you ask a  
16 question, give her a chance to answer. When you  
17 finish your answer, then you ask your next question,  
18 because we can all sign together as we all know, but  
19 we sure can't all talk together. And we want to make  
20 sure we understand the conversation.

21 MS. FERSTER: Okay. Well, let me reframe my  
22 question since you don't want to answer my  
23 hypothetical about excluding the senior housing.

24 Are you aware that the demographics in the  
25 census tracts of the neighbors surrounding the

1 McMillan site show that much -- there's a much  
2 smaller and decreasing percentage of seniors in that  
3 neighborhood? Are you aware of that?

4 MS. CORT: I live somewhat nearby, and that's  
5 certainly -- I've seen --

6 MS. FERSTER: Plausible.

7 MS. CORT: Seen that kind of, you know,  
8 neighborhoods go through generational cycles so I'm  
9 not surprised that that would be the case, as you say  
10 it is.

11 MS. FERSTER: And are you aware that many of  
12 those senior citizens live in owner occupied homes?

13 MS. CORT: That makes sense to me, yes.

14 MS. FERSTER: Okay. So, would you -- so,  
15 okay. So, there are going to be 85 units of senior  
16 housing. Isn't it therefore likely that this senior  
17 housing is not going to provide housing for people in  
18 this immediate neighborhood?

19 MS. CORT: Why? It could. Why not.

20 MS. FERSTER: Okay. That's fine. Let me ask  
21 you a question about your report. It indicates some  
22 skepticism about the 80 percent AMI and whether or  
23 not that's a valid indicator of you know, whether or  
24 not that is truly affordable housing since basically  
25 that is an area mean income that includes the

1 wealthier suburbs and that in fact area mean income,  
2 you know, at 80 percent of you know, District of  
3 Columbia, would be a much lower income level. Isn't  
4 that correct?

5 MS. CORT: Well, actually if you look at all  
6 of our submissions on Inclusionary Zoning, we were  
7 able to establish that rentals at 80 percent AMI  
8 simply are not really contributing to the affordable  
9 housing stock, basically. So, we were successful in  
10 lowering income targeting --

11 MS. FERSTER: Okay.

12 MS. CORT: -- to 60 percent for rentals, and  
13 having it be 80 percent for sale. There's more of an  
14 argument at the for-sale level --

15 MS. FERSTER: Right.

16 MS. CORT: -- for 80 percent AMI to be  
17 serving a need that isn't being met on the market.

18 MS. FERSTER: So, when you say over 100 units  
19 of affordable housing are being provided, that  
20 excludes the approximate 20-something rental units  
21 that are being available to people at 80 percent AMI,  
22 then.

23 MS. CORT: No, I would, you know, I would  
24 include it though, those are obviously as we've  
25 learned more about 80 percent AMI, we've really

1 landed on that this is really not where we want to  
2 see the city focusing its investments, basically.

3 MS. FERSTER: Right. Yes.

4 MS. CORT: For rentals.

5 MS. FERSTER: And that's reflected in your  
6 report because it's -- your report indicates in fact  
7 there's a surplus of housing for people at 80 percent  
8 AMI. That's not where the critical need is.

9 MS. CORT: That's correct.

10 MS. FERSTER: Okay. And then, just in some  
11 of your -- you also indicate that there is a big  
12 surplus of what they call workforce housing city-  
13 wide. Isn't that correct? That's, I'm looking at  
14 your report.

15 MS. CORT: We'd find it like 80 to 120  
16 percent --

17 MS. FERSTER: Right.

18 MS. CORT: -- median family income. Yeah,  
19 and we published a separate report on that basically  
20 saying that we see no justification for ever getting  
21 to subsidies above 80 percent median family income.

22 MS. FERSTER: Okay. So, and I -- the case  
23 studies that you provided of the District-public  
24 private partnerships, like the Hines School  
25 Development and the West End Library Development, all

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1 of which were, you know, on public land, isn't it  
2 correct that virtually all of them include some units  
3 at 30 percent AMI?

4 MS. CORT: Yes, I believe so.

5 MS. FERSTER: Unlike McMillan. And isn't it  
6 also correct that most of these developments have  
7 substantially higher percentages than 20 percent  
8 like, it looks like Hine is 29 percent. Let's see.  
9 Yeah, 29 percent affordable housing. And it looks  
10 like, oh, it looks like --

11 MS. CORT: I think Hine is the highest.

12 MS. FERSTER: Right. No, there was another  
13 one that I can't remember if it had 43 --

14 MS. CORT: Maybe the one that wasn't built,  
15 the Tentleytown Friendship --

16 MS. FERSTER: Looks like West End Library.

17 MS. CORT: Library, was --

18 MS. FERSTER: Yeah, West End Library looks  
19 like it's 40 percent.

20 MS. CORT: Well, the --

21 MS. FERSTER: Are any of them as low as --

22 MS. CORT: -- fire station.

23 MS. FERSTER: Okay. Let's see. And when you  
24 exclude you know, the 80 percent AMI from the  
25 affordable housing calculation as the D.C. Department

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1 of Housing and Community Development pointed out in  
2 its letter in the record, that leaves 14 percent what  
3 you would consider affordable housing, which would  
4 be, you know, for people who are 50 to 60 percent at  
5 the AMI. Isn't that correct?

6 MS. CORT: For the 50 to 60 percent AMI?

7 MS. FERSTER: For this particular -- uh-huh.  
8 For this particular project.

9 MS. CORT: That's, I think that's about  
10 right.

11 MS. FERSTER: Okay. And are there any  
12 projects that you've studied that have that low  
13 amount of affordable housing that have these kinds  
14 of --

15 MS. CORT: Well, those are inclusive of 80  
16 percent AMI as well.

17 MS. FERSTER: Well, actually, I --

18 MS. CORT: and in fact, I mean, the Wharf,  
19 the Southwest waterfront actually goes up to 100  
20 percent AMI, which we really disagree with that  
21 decision by the D.C. Council.

22 MS. FERSTER: All right. So, in terms of  
23 your -- okay, you had made a statement in your  
24 testimony, and let me see if I wrote it down  
25 correctly. But you said that you know, you felt that

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1 this medical office building was critical to the  
2 finances of the project. So, what data have you  
3 reviewed that allows you to reach that conclusion?

4 MS. CORT: The testimony from the applicant  
5 has talked about the finances.

6 MS. FERSTER: Okay. But that's sort of  
7 conclusory, right? I mean, did they actually do any  
8 you know, comparison of costs. For example, of how  
9 their rate of return would be lower if they  
10 eliminated two floors of the medical office building?

11 MS. CORT: Well, I think they already lowered  
12 the height of the building. So --

13 MS. FERSTER: Yeah, but any other -- now, now  
14 they're suggesting -- and they did, apparently, they  
15 did lower the height without any impact on the  
16 financing of the project because they seem to have  
17 been able to do it. So, what data were you relying  
18 on in now saying that they cannot go a little further  
19 and reduce it by two floors?

20 MS. CORT: Well, I would rely on the  
21 testimony of the --

22 MS. FERSTER: Okay. So you just --

23 MS. CORT: -- builders.

24 MS. FERSTER: That's just what they say,  
25 basically. You haven't reviewed anything in



1 particular?

2 MS. CORT: Just in terms of their testimony,  
3 yes.

4 MS. FERSTER: Okay. All right. Their  
5 testimony previously.

6 MS. CORT: Yes.

7 MS. FERSTER: Okay. Let's see. And, you  
8 know, I'm curious in terms of the case studies that  
9 you did of the other public/private partnerships. Do  
10 you know whether any of these other public/private  
11 land development project involved, you know, paying  
12 developers' attorneys? Let's see. I think we have  
13 three partner level attorneys in the audience today,  
14 and probably a couple of associates, plus architects  
15 and planners and designers and other sorts of  
16 experts. Did that involve D.C. taxpayers making  
17 those payments to developers? Do you know?

18 MS. CORT: Not to my knowledge. This is sort  
19 of the longest standing --

20 MR. GLASGOW: Chairman, this is way beyond  
21 the scope of her testimony. Plus it's [Speaking off  
22 microphone].

23 CHAIRMAN HOOD: Okay. Mr. Glasgow, could you  
24 get on the mic and give your objection?

25 MR. GLASGOW: Yes, sure.

1 CHAIRMAN HOOD: Want everything to be  
2 recorded.

3 MR. GLASGOW: Yes. I'm interposing an  
4 objection because this is not within the scope of the  
5 testimony of the witness.

6 CHAIRMAN HOOD: Okay. Ms. Ferster, what was  
7 your question? I'm sorry.

8 MS. FERSTER: I was --

9 CHAIRMAN HOOD: Can you move up? Or even  
10 move your mic closer --

11 MS. FERSTER: -- querying Ms. Cort about the  
12 case study.

13 CHAIRMAN HOOD: Ms. Ferster, can you move  
14 your mic closer so we can -- everybody can hear you?

15 MS. FERSTER: I was querying Ms. Cort about  
16 the case studies and her public land for public good  
17 report, and the comparisons between those  
18 public/private developments and McMillan.

19 CHAIRMAN HOOD: Okay. Let's move on to the  
20 next question.

21 MS. FERSTER: So, you're sustaining the --

22 CHAIRMAN HOOD: Yeah, I'm sustaining his  
23 objection.

24 MS. FERSTER: Thank you. I take exception to  
25 that, for the record.

1 CHAIRMAN HOOD: Okay.

2 MS. FERSTER: Okay. So you testified about  
3 how bikable this project is going to be. So, okay.  
4 So, where -- you know, in terms of the bikeability,  
5 are there bike lanes on North Capital Street?

6 MS. CORT: No, but they're going to put in a  
7 bike climbing lane on First Street, and you know, it  
8 is a common bike route. I mean, basically, as a  
9 cyclist you don't bike on the biggest baddest street,  
10 basically. You choose a route that might be parallel  
11 to major streets that don't have good cycling  
12 accommodations now. So.

13 MS. FERSTER: How about Michigan Avenue?  
14 Bike lanes on Michigan Avenue?

15 MS. CORT: Again, I've ridden my -- you know,  
16 I've had to ride my bike on the sidewalk rather than  
17 on Michigan. Michigan is a real problem. But there  
18 is an east/west transportation study that's going to  
19 look at addressing some of these things because this  
20 whole area has major challenges in terms of the bike  
21 and walk access. And this is something that the city  
22 really needs to step up and address.

23 MS. FERSTER: Right. And there are a number  
24 of pedestrian and bicycle -- pedestrian and traffic  
25 improvements that have been recommended. But isn't

1 it correct that none of them are funded?

2 MS. CORT: Well, I mean, we also just have a  
3 big site that's, you know, chain link fenced off. I  
4 mean, we haven't been able to move on this, this  
5 redevelopment either.

6 But I mean, I think those things are probably  
7 coming. The timing -- I mean, the study was  
8 completed about maybe nine months ago, I think. So,  
9 I mean, these things sort of get into the, into the  
10 cue, basically, for funding.

11 MS. FERSTER: I see. You have some  
12 information that suggested all the traffic  
13 improvements to the street grids, the signals, et  
14 cetera, that are going to make this surrounding site  
15 more pedestrian friendly are all going to be funded.  
16 You have some information on that?

17 MS. CORT: Well, I think that they would be  
18 done in part in conjunction with increased use with -  
19 - when we actually move forward with this  
20 development.

21 MS. FERSTER: Okay. Okay. So, I think --

22 MS. CORT: But, like the transit improvements  
23 are -- that's where it is identified as a priority  
24 bus corridor and we need to continue to work on  
25 getting those in place, and the circulator plan as

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1 well.

2 MS. FERSTER: Uh-huh.

3 MS. CORT: But a lot of times the kind of bus  
4 improvements don't occur until you really sort of  
5 increase the generation of demand for those, the  
6 ridership for that.

7 MS. FERSTER: Okay. Okay. So, that's all I  
8 have. Thank you.

9 I have a question for (garbled speech).  
10 Okay. Okay. There you are. Okay. And I don't want  
11 you to take offense when I ask this question but I  
12 have a reason for asking it.

13 MR. THOMAS: I'm a lawyer too. I don't take  
14 offense to anything.

15 MS. FERSTER: Okay. So, are you aware -- oh.  
16 Are you aware that -- sorry. That allegations have  
17 been made that various Advisory Neighborhood  
18 Commissioners, not necessarily in your ANC, but  
19 possibly, have received things of value, gifts, in  
20 return for the ANC support of the Vision McMillan  
21 Project?

22 CHAIRMAN HOOD: Ms. Ferster. Ms. Ferster,  
23 cross-examination if you testified -- did you testify  
24 to that?

25 MR. THOMAS: No, I did not.

1           CHAIRMAN HOOD: Okay. So, what is the  
2 context of this question because this question is out  
3 of scope of his --

4           MS. FERSTER: Again, credibility.  
5 Credibility.

6           CHAIRMAN HOOD: But that's out of the scope  
7 of his testimony. I'm not a lawyer, you are. Cross-  
8 examination is supposed to be germane and pertaining  
9 to his testimony.

10          MS. FERSTER: Okay. So you do not, not want  
11 to know whether he is aware of any ANC commissioners  
12 that have basically been attempted --

13          CHAIRMAN HOOD: How is that germane -- the  
14 court has given me instructions. They have five  
15 things that we need to be looking at. And they did  
16 not come back and say, did anybody get any monetary  
17 gifts, or did anybody get any gifts. I didn't see  
18 that. Did you see that?

19          MS. FERSTER: Mr. Hood, I don't want to argue  
20 with you if you've made your ruling.

21          CHAIRMAN HOOD: I'm not arguing.

22          MS. FERSTER: I would just simply say that  
23 it's standard to test the credibility of witnesses.

24          CHAIRMAN HOOD: I'm trying to get you -- I'm  
25 trying to get you a context. That's all I'm trying

1 to do. We're not arguing. I don't argue.

2 MS. FERSTER: And my context is credibility.

3 CHAIRMAN HOOD: I do this all the time. I  
4 don't argue, I listen.

5 MS. FERSTER: Okay.

6 CHAIRMAN HOOD: Okay?

7 MS. FERSTER: Well, I don't want to argue, so  
8 again, I'll just simply explain that it questions  
9 credibility.

10 CHAIRMAN HOOD: Okay. Next question.

11 MS. FERSTER: Okay. That was all.

12 CHAIRMAN HOOD: Okay. All right. Thank you.

13 But I do have a question for you, Mr. Chairman. I  
14 notice in your submission, and I was just wondering,  
15 I didn't recall seeing this. I think it's actually a  
16 good idea, but I didn't recall seeing this during the  
17 case. They said, be it further resolved that ANC 5E  
18 hereby requests that insofar as DDOT/OP study  
19 determines, that certain adverse impacts of the  
20 McMillan development cannot be avoided or  
21 sufficiently reduced that the development be required  
22 to work with ANC 5E, and respective neighborhood  
23 associations to offer increased community benefits.  
24 I didn't see that. I'm seeing it now. But was that  
25 asked for earlier during our regular case?

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1 MR. THOMAS: Well, I know that there was a  
2 community benefits package that was offered and there  
3 was some give and take and I believe that part of it  
4 was reduced for whatever reason. And so, the request  
5 is that based on the determination of what these  
6 impacts can be mitigated, that there should be some  
7 quid pro quo, there should be some something that the  
8 community receives to offset those impacts.

9 CHAIRMAN HOOD: But I guess my question is,  
10 and you can help me. Did the ANC mention that  
11 earlier in the case, or did they -- or are you just  
12 mentioning it on a remand? Where I think it's a  
13 great idea. I wish I had known it earlier. I'm just  
14 trying to see if this was mentioned earlier. If it  
15 is, I need to check the record.

16 MR. THOMAS: You mean in terms of the  
17 exchange for impacts versus mitigation?

18 CHAIRMAN HOOD: Yeah. The way it's worded  
19 here, it's that if these cannot be dealt with.

20 MR. THOMAS: Right.

21 CHAIRMAN HOOD: Then you want some additional  
22 things. Was that asked for earlier?

23 MR. THOMAS: I don't recall if it was.

24 CHAIRMAN HOOD: Okay.

25 MR. THOMAS: I've only been chair for three



1 months so.

2 CHAIRMAN HOOD: Three months.

3 MR. THOMAS: Yeah.

4 CHAIRMAN HOOD: Who was your predecessor?  
5 I'm just --

6 MR. THOMAS: Terry Janine Quinn was the  
7 previous chair.

8 CHAIRMAN HOOD: Oh, Terry. That's right.  
9 Okay. Okay. All right. But, were you on the  
10 Commission?

11 MR. THOMAS: I was on the commission -- I've  
12 been on this particular commission since January of  
13 2015.

14 CHAIRMAN HOOD: Okay. All right. Okay.  
15 Well, thank you very much.

16 MR. THOMAS: It may have happened in 2013,  
17 2014 when I was not on the commission.

18 CHAIRMAN HOOD: Got you. Okay. All right.  
19 Thank you all very much. Mr. Norman? Yes.

20 MR. NORMAN: Mr. Chair.

21 CHAIRMAN HOOD: Go right ahead.

22 MR. NORMAN: I just want for the record to  
23 know, I was not agreeing with your assessment about  
24 the hearing; that I'm still objecting to it.

25 CHAIRMAN HOOD: Okay.

1 MR. NORMAN: Because if you --

2 CHAIRMAN HOOD: I didn't expect you would.  
3 I've been knowing you a long time.

4 MR. NORMAN: I just want for the record to  
5 say that because I didn't say anything doesn't mean  
6 that I -- because when you open it up for rehearing,  
7 you also open up for rules of engagements and I think  
8 it violates that. But that's just on the record,  
9 which still, I'm still objecting to that.

10 CHAIRMAN HOOD: Let me just say this; I knew  
11 you wasn't going to agree when I said it. So, I knew  
12 that. I already knew that. Any other questions up  
13 here? Thank you all very much. We appreciate it.

14 MR. THOMAS: Thank you, Commissioner.

15 CHAIRMAN HOOD: Ms. Schellin, can you help me  
16 where we are? Okay. So, apparently we're at 22. Is  
17 that where we are?

18 MS. SCHELLIN: Broawyn Irwin is now here.  
19 She was one.

20 CHAIRMAN HOOD: Okay. He can come forward.

21 MS. SCHELLIN: She.

22 CHAIRMAN HOOD: Okay, Mr. Irving is now here?  
23 Oh, Ms. Irving. I'm sorry.

24 MS. IRWIN: It's Ms. Irwin.

25 CHAIRMAN HOOD: Ms. Irwin. I'm sorry. I'm

1 sorry.

2 MS. SCHELLIN: We're at number 22.

3 CHAIRMAN HOOD: Mr. Ramson got me all  
4 distracted. Okay.

5 MS. SCHELLIN: Annabeth.

6 CHAIRMAN HOOD: Okay. Where are we at?

7 MS. SCHELLIN: Number 22, Annabeth.

8 CHAIRMAN HOOD: Twenty-two. Okay. Annabeth  
9 Roeserly (sic).

10 MS. SCHELLIN: Roeschley.

11 CHAIRMAN HOOD: Roeschley. Bertha Holliday.  
12 Chris Otten. Yasmina Mrbet.

13 MS. SCHELLIN: Mrbet.

14 CHAIRMAN HOOD: Mrbet. Robert Robinson.  
15 Robin Diener.

16 [Discussion off the record.]

17 CHAIRMAN HOOD: Remember witness cards and  
18 testimony needs to be handed in.

19 MS. SCHELLIN: Cards go to the court  
20 reporter.

21 CHAIRMAN HOOD: And the last name I have down  
22 here is Patricia Ortman. Oh, okay. Some more have  
23 been added. It looks like we have more names on the  
24 list than I see in the audience that are going to  
25 testify. How many more people are left to testify?

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1 Please raise your hand? Well, where did all those  
2 names come from on the list? The one thing I can't  
3 do is math. I might get stuff remanded back, but one  
4 thing I can't do is math. I see two names, but I see  
5 15 names on the list.

6 MS. SCHELLIN: David Hargrove I think was one  
7 that -- is he here? David Hargrove.

8 CHAIRMAN HOOD: That's okay. Let's go  
9 with --

10 MS. SCHELLIN: Sigmund Wright. I don't think  
11 he got sworn in.

12 CHAIRMAN HOOD: So, we have two more chairs,  
13 Ms. Schellin.

14 MS. SCHELLIN: Is there anybody at the table  
15 that was not here to be sworn in earlier? Could you  
16 please stand and raise your right hand?

17 Ms. Holliday, were you here earlier? You  
18 were. Okay.

19 [Oath administered to the participants.]

20 CHAIRMAN HOOD: Okay. Do we have any -- who  
21 else would like to testify, if you'd raise your hand?

22 Okay, Mr. Schulman, come on to the -- anybody  
23 else who's here who'd like to testify? Raise your  
24 hand.

25 Okay. I need one more person who would like

1 to testify tonight. Okay, I think that's it. I'm  
2 not going to even call all those names that up there  
3 because they're not even here, obviously. Anyone  
4 else who's here who would like to testify? Okay.  
5 Come forward. Come forward. Is there anyone else?  
6 I'm going to do one last call after this.

7 You can take the seat to my right. Did  
8 everyone take the oath?

9 [Oath administered to the participants.]

10 CHAIRMAN HOOD: Okay. Mr. Schulman, we're  
11 going to start with you, to my left.

12 MR. SCHULMAN: Dear Chairman Hood and Zoning  
13 Commission members, my name is Jim Schulman. I'm a  
14 registered D.C. architect and I currently serve as a  
15 board member and treasurer of the Building Materials  
16 Reuse Association, an organization very much in  
17 support of adaptive reuse.

18 I'm a member and supporter of both the  
19 Friends of McMillan Park and D.C. for Reasonable  
20 Development. Thank you for this opportunity to let  
21 me share my views regarding the McMillan Park  
22 project.

23 My understanding of the ruling of the D.C.  
24 Court of Appeals in this case can be summarized as  
25 follows. The Court said, Zoning Commission and

1 Mayor's Agent, have the applicants go back and  
2 explore alternatives. This call for the District to  
3 reevaluate this project represents a huge opportunity  
4 to reset a flawed process and build a much more  
5 successful project; a project that could be an  
6 international tourist destination on par with the  
7 UNESCO World Heritage site, or the Highline in New  
8 York, instead of a prosaic and poorly serviced town  
9 center.

10 Here is how I read the applicant's March 13th  
11 response to the Court of Appeals. VMP says, there is  
12 no alternative. Of course, it is in the developer's  
13 pecuniary interests to say that. But the position  
14 does not hold water. Holland and Knight offer not a  
15 single piece of evidence that the project would be  
16 made financially unviable by, for instance, reducing  
17 building heights, providing more affordable housing,  
18 providing substantially more open space, or  
19 preserving and restoring more of the underground  
20 cathedral vaulted caverns.

21 Their only attempt, that I can see, is their  
22 argument that with two stories less the medical  
23 offices will fail to attract a tenant. But that  
24 fails to qualify as evidence. Have they produced  
25 economic studies that show they can attract tenants



1 I still believe that the current design  
2 dishonors the historic role in highest and best use  
3 for the site. Demolishing 94 percent of the  
4 underground vaults is based on a mistaken presumption  
5 that the site has to bear the dynamic weight of heavy  
6 vehicles. As has been demonstrated by the structural  
7 engineering analysis of Susan Burmeister, a  
8 professional engineer of S2B Structural Consultants,  
9 in her testimony before the Mayor's Agent, repairing  
10 and utilizing more of the existing cavern vaults is  
11 feasible.

12 And interestingly enough, VMP argues that the  
13 proposed PUD will be successful in addressing  
14 environmental impacts covered in the land use  
15 elements of the Comprehensive Plan because it uses  
16 extensive low-impact development techniques.

17 I'll just finish by saying, the irony is that  
18 the existing sand filtration plant is already a  
19 massive cistern. I encourage you to prevent a train  
20 wreck resulting from limited scoping. Thank you.

21 CHAIRMAN HOOD: Okay. Thank you. Next.

22 MS. IRWIN: Good evening. My name is Broawyn  
23 Irwin High. I am a resident of the Bloomingdale  
24 community and I live on First Street between Adams  
25 and Bryant, one block and a half from the proposed



1 development site.

2           The thing about this project, which has  
3 always confused and concerned me, is that the cost  
4 benefit of the proposed plan is not in favor of the  
5 city, and it's not in favor of the community, but it  
6 is in favor of the developers.

7           The pack created by the government -- by the  
8 Mayor's development supporters last year only  
9 confirmed what I suspected all along, which is that  
10 the politicians in the City of D.C. and those  
11 appointed by them, have pushed this plan forward as a  
12 favor to the developers who fund their campaigns and  
13 keep them in office. The number of people involved  
14 in supporting this effort that have received  
15 financial benefits from the developer is astonishing  
16 and disgusting. And I include the Coalition for  
17 Smarter Growth in that, and if the implications  
18 raised recently are true about the ANC, and it would  
19 not surprise me, them as well. It's disgusting.

20           My comments relate to the second clause of  
21 the Court's finding, specifically looking at the  
22 balance between the benefits and the incentives,  
23 which is not right. The City has paid tens of  
24 millions of dollars to the developer to cover their  
25 costs in developing the site. They have agreed to

1 sell the property to the developers at a rate well  
2 below market value, and the city is not getting the  
3 benefit that it should be getting from this  
4 development.

5           This funding provided to developers even  
6 included funding to hire a PR firm to discredit  
7 community dissent according to their own records.  
8 And I know that those funds were later reimbursed,  
9 but the original intention was to pay for their PR  
10 firm.

11           So, why are our politicians and those  
12 appointed by them supporting this plan? The only  
13 answer I can get, is from personal gain. The city  
14 also is weak on the benefits side. If it had  
15 followed its own Office of Planning 2002 report,  
16 McMillan Sand Filtration Site Summary Recommendations  
17 for Site Revitalization, which was developed after a  
18 significant surveying of people in favor of and  
19 against development, we would have a very different  
20 situation. That report recommended for 50 percent of  
21 the area being preserved as park. Not happening.  
22 The recommendation was for low to moderate use. Not  
23 happening. The recommendation was for no more than  
24 five stories and no medical office buildings. Not  
25 happening. The recommendation was for preservation

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1 of all four stable cells and reuse of all eight  
2 moderately damaged cells. Not happening. And the  
3 recommendation was for the preservation of the  
4 vistas. Not happening.

5           These are all the city's own recommendations  
6 which have been flaunted by the developers. I demand  
7 that the committee rejects the PUD and opens up an  
8 international -- which will allow for an  
9 international design competition for this very  
10 important site in the City of D.C. Thank you.

11           CHAIRMAN HOOD: Okay. Thank you. Next.

12           MS. HAN: Excuse me. I am here tonight to  
13 speak [Speaking off microphone]. Oh, sorry. I'm  
14 speaking tonight for Robin Diener, who is head of the  
15 Library Renaissance Project, and she could not  
16 appear. In the interest of time I will just give a  
17 precis of her testimony which was initially the city  
18 said that this area should and did -- should deserve  
19 a library, and yet no steps were ever taken to  
20 include a library in this massive development.

21           I do want to mention some of her testimony  
22 not meeting the recommendations of local citizens to  
23 build a library as part of the redevelopment, is  
24 particularly poor planning, as it could have been co-  
25 located with the planned recreation center. DCPL has

1 co-located four libraries, highly successful, as part  
2 of its transformation. Northwest One with the school  
3 Parklands Turner, in a shopping center, and two  
4 libraries, Rosedale and Deanwood with recreation  
5 centers.

6           Libraries uniquely serve all populations at  
7 all ages and all economic and education levels. The  
8 digitalization of information has altered our  
9 dependency on physical books, newspapers, and  
10 encyclopedias and other information resources  
11 traditionally housed in libraries, yet libraries  
12 remain highly popular. In fact, they're used and  
13 growth continue to increase. Libraries have always  
14 been places for passive cultural activities like  
15 lectures and viewing displays of art and photography,  
16 as well as civic meetings that have become, in recent  
17 years, alternative locations for meeting friends and  
18 even working as people increasingly teleport or work  
19 from portable digital devices.

20           The library has become a workplace, a lounge,  
21 and even a creative outlet through access to  
22 recording studios, musical instruments, and lessons,  
23 and maker space with access to tools and 3D printers.  
24 Everyone benefits from access to libraries, but those  
25 citizens who are less financially secure, or even

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1 homeless rely on libraries for much house, safe  
2 space, a bridge across the digital divide with free  
3 computer access, literacy, and GED training,  
4 including citizenship and language lessons for new  
5 residents, lifelong learning for seniors, health  
6 screenings, prenatal information, and even  
7 opportunities for families of the incarcerated to  
8 Skype with relatives in the D.C. Jail.

9           Building a substantial new development  
10 without access to a library, especially one that met  
11 DCPL requirements for location, and one that could  
12 have been integrated into an ongoing library planning  
13 and funding process, if only planning agencies had  
14 carried out the coordination called for in the  
15 Comprehensive Plan, it's a missed opportunity that  
16 affects everyone.

17           However, the lack of a library is free access  
18 to so many resources from safe space to music  
19 lessons, to college scholarship application access  
20 will much more severely affect those at the lower end  
21 of the economic scale.

22           Respectfully submitted, Robin Diener.

23           I would like to make two personal comments if  
24 I may. The order in which you appear has enormous  
25 impact on the effectiveness of what you have to say,

1 and coming first diminishes our impact. And the  
2 other people coming second gives them much more --  
3 they gain much more from the placement. We all know  
4 that, so I just want to mention that.

5           And secondly, historically, I would like to  
6 mention the very tragic history here of the fence  
7 going down after Second World War, and then coming  
8 back up, because the white families in that  
9 neighborhood did not want an integrative park. We  
10 have a very terrible racist history here, and we keep  
11 talking about, well if the fences stay up it's a --  
12 well, I don't know who's responsible for allowing  
13 that to continue all these years, but let's stop it  
14 now, take the fences down, step back, and let people  
15 on the property. I mean, I don't understand why that  
16 is so difficult, except there's a great deal of money  
17 to be made and we all know that and that is what's  
18 holding up those fences coming down. Thank you very  
19 much.

20           CHAIRMAN HOOD: Thank you. Next. Mr. Otten,  
21 you might want to -- turn your mic off.

22           MR. OTTEN: I'm sorry.

23           CHAIRMAN HOOD: Okay. Ms. Holliday. Yeah.

24           MS. HOLLIDAY: Is it on? Yeah, okay. Good  
25 evening to all of the Zoning Commission members. My

1 name is Bertha Holliday and I'm a resident of  
2 Bloomingdale for over 25 years. I'm also an ANC 5E  
3 Commissioner. I'm Second Vice President of  
4 Bloomingdale Civic Association, and I'm that  
5 association's -- one of that association's delegate  
6 to the McMillan Advisory Group. However, tonight I  
7 am simply speaking as a Bloomingdale resident, as  
8 informed as a result of my participation in various  
9 deliberations related to the development of the  
10 McMillan site during the past five years.

11 My remarks are directed to Issue 4, related  
12 to adverse impacts. In particular, I want to talk  
13 about the valuing of public and community benefits  
14 relative to the valuing of the developer request.  
15 And second of all, I'd like to provide a few  
16 recommendations for increasing the value of the  
17 McMillan site's community benefits. These remarks  
18 are offered in hopes that they might serve to one,  
19 strengthen the McMillan site's PUD's community  
20 benefits, and by so doing, be -- effect a greater  
21 balance between development and incentives requested,  
22 and those benefits are, I think, conservatively  
23 estimated at \$100 million. And public and community  
24 benefits received, which are currently valued at  
25 about \$3.2 million.

1           In terms of the valuing of the project's  
2 benefits and everything, I think that's something  
3 that's very difficult to do. And it's primarily  
4 difficult to do because of what has been termed the  
5 economic engine of the project, which is the 860,000  
6 square foot medical office building. This medical  
7 office building has gone through a series of proposed  
8 use.

9           First, it was going to be used for in-patient  
10 services. Then it was going to be used for out-  
11 patient clinics. Then it was going to be used for  
12 research laboratories. Then it was going to be used  
13 for medical staff personnel offices. It's gone  
14 through all these iterations of proposed uses, and  
15 yet there has not been one formal letter of interest.  
16 Not commitment, just interest in the use of this  
17 building to date, that the public is aware of.

18           Alternatively, the building could conceivably  
19 be used for commercial or government office space.  
20 Okay. The point is, is that in the absence of  
21 knowing the use, the specific use of this economic  
22 engine, you cannot talk about, with any confidence,  
23 the various benefits and impact because the benefits  
24 and impact of the building are driven by the uses.  
25 Okay?



1           So, that depending upon how the building is  
2 going to be used, you, you know, how -- that's going  
3 to drive how many daily auto trips there are, how  
4 much space is going to be required, how much height  
5 is needed, what kind of tax revenue. So, you don't  
6 know. It's hard to value them.

7           CHAIRMAN HOOD: Ms. Holliday, give us your  
8 closing thought.

9           MS. HOLLIDAY: Well, I don't -- I got. Okay.

10          CHAIRMAN HOOD: We got your testimony and we  
11 can --

12          MS. HOLLIDAY: Okay, well -- okay. But, I  
13 talk about three recommendations in terms of  
14 increasing the value of the community benefits. One  
15 is review and respond to the ANC 5E's prior request  
16 for reprogramming of \$1.7 million in community  
17 benefits that was deleted when the Office of the  
18 Attorney General said those weren't really benefits.

19          CHAIRMAN HOOD: Okay. We see --

20          MS. HOLLIDAY: The second one --

21          CHAIRMAN HOOD: I see them all here. Require  
22 additional 200,000. And then also --

23          MS. HOLLIDAY: Yeah. The second one is --

24          CHAIRMAN HOOD: So, give us your closing  
25 thought.

1 MS. HOLLIDAY: Well, my closing thought is,  
2 you need to require an additional \$200,000 in  
3 community benefits of this north/south traffic study.  
4 And finally, there is the issue of the -- what  
5 appears to be the socially and racially separated and  
6 segregated senior housing.

7 CHAIRMAN HOOD: Okay.

8 MS. HOLLIDAY: Building. The Commission, ANC  
9 Commission 5E asks that a hearing be held that was  
10 just an informational hearing so that, you know,  
11 people could further understand why this building is  
12 configured the way it is and you know, so those are  
13 the three major ways I think you could strengthen the  
14 community benefits package --

15 CHAIRMAN HOOD: Okay.

16 MS. HOLLIDAY: -- and effect greater balance  
17 between that community package and the incentives  
18 that the developer has requested. Thank you.

19 CHAIRMAN HOOD: Okay. Thank you. Next.  
20 You're next.

21 MR. ROBINSON: Thank you, very much, Mr.  
22 Chairman. My name is Robert Robinson, Chair of the  
23 D.C. Consumer Utility Board. I'm a Ward 1 resident,  
24 but I commute through this area every day for my  
25 health. I go to the Trinity Gymnasium gym on a daily

1 basis. But I'm here to testify in my personal  
2 capacity about the problems with this project. I've  
3 testified about this before.

4 I'd like to address issues 3 and 4, that are  
5 adduced in the order. Issue Number 3 is about -- is  
6 the high density development proposed for this site.  
7 The only feasible way to retain part of the  
8 property's open space.

9 Absolutely not. This issue has been  
10 discussed all of those of us who are interested in  
11 the District Government or worked in the council or  
12 in the District Government, know that this has been  
13 discussed for decades. Mr. Norman discussed that.

14 Unfortunately, the people that are  
15 responsible for making decisions have repeatedly  
16 failed to listen to the community's concerns about  
17 how to use this site.

18 The second issue has to do with adverse  
19 impacts and whether or not here are going to be  
20 adverse impacts in terms of displacing residents.  
21 The District Government seems to believe that there  
22 will be no adverse impacts, and it will not take any  
23 steps to address them. D.C. has proven city-wide, in  
24 its attempts to put little developments like this,  
25 there are two of them by the way on Rhode Island



1 policy with the Comprehensive Plan. One of them is  
2 whether or not we're going to improve transportation  
3 plans around this. D.C. Government has stopped doing  
4 transportation planning around these developments.  
5 We live in the neighborhood next to D.C. USA. They  
6 did not do a transportation impact plan, and in many  
7 cases they had to replace the sidewalks around those  
8 areas three and four times.

9 The traffic that is caused by the increased  
10 congestion on 14th and 16th Street has had absolutely  
11 no plans to prevent the traffic that bleeds on to the  
12 commuter streets, on to the side streets as a result  
13 of that. The city just doesn't do planning in these  
14 areas.

15 So, really, that's it. I just think that  
16 there has been no attempt to show that this deal is  
17 responding to the community, or it's going to create  
18 a better gateway for D.C. Thank you very much.

19 CHAIRMAN HOOD: Thank you. Next.

20 MR. SIGMUND: Good evening. My name is  
21 Wright Sigmund. I'm a resident of Stronghold. I  
22 live on North Capital, directly facing the proposed  
23 project. And I'm here tonight on behalf of myself  
24 and fellow neighbors that are on North Capital and  
25 arguably the most affected by development who are for

1 this development and who support this going forward.

2 We formed a group called Build McMillan.  
3 It's dedicated to sensible development of the former  
4 McMillan Sand Filtration site. We're individuals who  
5 live in the community and believe that development of  
6 the site will result in a multitude of benefits that  
7 serve the interest of all stakeholders.

8 Basically, what we believe in is that  
9 public/private partnerships generally work. This  
10 deal is meant to help the community and also to allow  
11 for benefits to the greater city. Long ago, this  
12 site was parceled away to be developed. That was  
13 always the plan. We believe now that this is the  
14 chance for this development to actually happen.  
15 Every day I look outside my window, I'm right on  
16 North Capital. I see the fence. I see the site  
17 sitting there. I'm tired of looking at that.

18 I can tell you, many of my neighbors and  
19 people who are here tonight also, feel just as I do  
20 and we together want this to happen. We want  
21 development in a sensible way. We believe the Vision  
22 McMillan Plan, it's not perfect. Nothing is. But  
23 you know what? It does a great job. It gets what we  
24 need, which is a grocery store, retail amenities, new  
25 housing. It gives medical space which everyone seems

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1 to think is terrible, but there's an aging  
2 population. There's going to be more medical needs.  
3 There's nothing wrong with that.

4           And to the actual points at order, you know,  
5 will there be some problems resulting from  
6 development? Yes, there always are. We can't say  
7 that there won't be issues. It's just the nature of  
8 what is going to go on.

9           But the positives from this, we believe, are  
10 superior to any of the negative impacts that could  
11 happen. We think that, would we like it if the  
12 medical building were not as tall? Sure. I'm sure  
13 everyone likes smaller buildings and that's great.  
14 But, if one were to ask me if you could either have a  
15 smaller building or no development, I would want the  
16 development to happen and have a taller building.

17           I can speak for my neighbors and myself, who  
18 again are some of the most impacted by the  
19 development since we live on North Capital and in the  
20 surrounding area of Stronghold, that this is  
21 something that in the long term we all -- a lot of us  
22 came to this neighborhood because we wanted -- we saw  
23 this potential development happening, and we felt  
24 like it would be great to be near a town center near  
25 something that really served as a central place for

1 our entire neighborhood.

2 And so, we want to provide a voice that's for  
3 the neighborhood that's not just saying, we don't  
4 want development. We would like something, and we'd  
5 like something sooner than later. Thank you.

6 CHAIRMAN HOOD: Okay. Thank you. Next.

7 MR. OTTEN: Chris Otten, D.C. for Reasonable  
8 Development.

9 I need to understand logistics. Tonight, the  
10 public has been prevented from submitting things  
11 electronically, so I had to print out testimony from  
12 people who tried to submit stuff on the record but  
13 were denied. Mr. Miller, to your point, we've not  
14 been able to get stuff to the record. And in that  
15 sense, D.C. for Reasonable Development, who I'm  
16 presenting on behalf of tonight, fundamentally  
17 objects to the posture of the Zoning Commission to  
18 limit the scope of these rehearings on McMillan Park.

19 We want to thank the court, not this  
20 Commission, for having us here tonight. We believe  
21 the constitutional rights of due process are  
22 seriously challenged by the Commission, preventing  
23 the public and our members from submitting testimony  
24 electronically while the public record is open. The  
25 public record is not even open. We're asking tonight



1 that we would like to move that the Commission defer  
2 this hearing and keep the record open until the last  
3 hearing date, which is April 6th, electronically.

4 The applicant gets -- why does the applicant  
5 get to put all their stuff on the record  
6 electronically, but we have to come down here and  
7 print out reams of paper to present. Now, I want to  
8 put on the record, I have 238 pages that I just hand-  
9 wrote for the record.

10 We've been denied the ability to file  
11 procedural motions in this case in a most capricious  
12 way, and we've been denied the right to seek party  
13 status. I don't know what the Office of Attorney  
14 General lawyers are telling you, but the Court  
15 vacated this. Your ruling, they have vacated it.  
16 It's not remanded. It has been vacated wholly.

17 That means, we start over. That means people  
18 get to file party status requests. People get to  
19 file, the public gets to file electronically on the  
20 record. The Court said, did not tell the Commission  
21 to limit the scope of this hearing. The Court did  
22 not tell the Commission to limit the scope to this  
23 hearing on four or five issues. They recognized the  
24 interrelated, interconnected planning, policies, and  
25 issues at play here and how they cascade and flow

1 with each other.

2 In fact, the Court said and pointed to a case  
3 by opening up this hearing the Commission may  
4 actually decide a different decision if we get more  
5 stuff on the record. I just want to put that out  
6 there. We have been prejudiced distinctly by this,  
7 and unfairly by this. And it has been tilted in  
8 favor of the applicant unfairly, and we're putting  
9 that on the record.

10 I also would like to point out, we're paying  
11 for the folks behind us here, from Holland and  
12 Knight. Mr. Glasgow. Mr. Dettman here, who used to  
13 work for NCPC. In fact, he is the gentleman who  
14 presented to NCPC that the concerns from the  
15 Lincoln's Cottage about view sheds will no longer be  
16 affected. Well, as soon as he presented that set of  
17 lies, he got a job with Holland and Knight.  
18 Interesting.

19 And we can go down the list here. Akash  
20 Takar (phonetic) is here, being paid to give away our  
21 public property. It's outrageous.

22 The D.C. Auditor has pointed out  
23 unequivocally, that this project needs a design  
24 competition, a competition for the vertical  
25 development. To claim that we have no feasible

1 alternatives without actually entertaining a design  
2 competition to actually get to alternatives, where  
3 are we left?

4 I just want to point out very quickly that  
5 the affordable housing on publicly owned sites is  
6 supposed to be a substantial percentage. Substantial  
7 by Miriam Webster's Dictionary says, "Being largely,  
8 but not wholly, that which is specified."

9 Largely means, in large matter or to a large  
10 extent. As discussed earlier, a percentage of 15  
11 percent of affordable housing on this public property  
12 is not anywhere near substantial. Fails that  
13 Comprehensive Plan policy and it fails the hopes and  
14 dreams of an inclusive city which is center and  
15 foremost in the Comprehensive Plan.

16 We're putting on the record, and this list of  
17 names are the folks who tried to testify tonight.  
18 They couldn't make it tonight. They tried to put  
19 stuff on the record. They were told by the secretary  
20 and the Office of Zoning that their testimony would  
21 not be accepted in this case. All of these names  
22 that you see here, tried to put information on the  
23 record and were denied. Okay. Just so that's clear,  
24 Mr. Hood.

25 We're asking the Commission to deny this PUD.

1 The Office of Planning has failed wholeheartedly, and  
2 so has Mr. Bergstein. Thank you.

3 CHAIRMAN HOOD: Thank you. Next.

4 MS. MARTIN: Hi. My name is Dierdre Martin  
5 and I've lived in D.C. for about seven years, and I  
6 just wanted to be here so I could speak out for all  
7 my neighbors who couldn't come here, who do not  
8 support this development and especially just -- I  
9 just wanted to touch note on, actually, what you just  
10 said about affordable housing and how 15 percent is  
11 just nowhere near substantial.

12 And also, I just wanted to say to that, the  
13 idea of having a design competition or something like  
14 that just would actually do justice; would actually  
15 honor the past that's just an ugly past that has  
16 kept, you know, so many places in D.C. segregated.  
17 And the fact that this is one of D.C.'s, or D.C.'s  
18 first nonsegregated park, I just think is an  
19 incredible thing that we could actually celebrate.  
20 And I just don't see that reflected in what the  
21 developers and you know -- in anything that's  
22 happened. So, thank you.

23 CHAIRMAN HOOD: Okay. Thank you all very  
24 much. Let's see if we have any questions up here.

25 I do have one for Mr. Otten. Mr. Otten, you

1 said you had some names of some people who could not  
2 make it tonight. Did those people preregister, or  
3 did you put their names on that list? How did their  
4 names get up there?

5 MR. OTTEN: Those names are the people who  
6 tried to submit testimony to the public record in  
7 this case, this vacate case, which restarts  
8 everything, and were denied. They asked me to --

9 CHAIRMAN HOOD: Okay, but my question --

10 MR. OTTEN: They asked me -- yes.

11 CHAIRMAN HOOD: Let me -- my question is, are  
12 those people -- typically when you use the kiosk for  
13 me to be able to call names of people who are in  
14 attendance. You stated that those people were not  
15 here. So, who put their -- how did their names  
16 get -- did they preregister?

17 MR. OTTEN: Chairman Hood, as I understand  
18 your posture, you said that if there's any people  
19 that is not here tonight, they may be able to get to  
20 testify on April 3rd. If their names are not on that  
21 list, then they won't be able to testify on April  
22 3rd.

23 CHAIRMAN HOOD: The opening statement -- were  
24 you here when I read the opening statement?

25 MR. OTTEN: Yeah. I understand the

1 prejudiced posture of this Commission.

2 CHAIRMAN HOOD: Let's go back to my original  
3 question. The peoples' names who are on this list  
4 that I obviously had counted who was here, the  
5 peoples' name who are on this list, did they  
6 preregister, or how did their names get on this  
7 kiosk?

8 MR. OTTEN: What difference does that make?

9 CHAIRMAN HOOD: It makes a lot of difference  
10 to me but --

11 MR. OTTEN: Why?

12 CHAIRMAN HOOD: Because it respects the  
13 process. Are they here?

14 MR. OTTEN: Respects the process?

15 CHAIRMAN HOOD: Are they here?

16 MR. OTTEN: You're not respecting the process  
17 right now.

18 CHAIRMAN HOOD: Mr. Otten, are those  
19 people --

20 MR. OTTEN: The Appeals Court never asked you  
21 to do a limited scope hearing.

22 CHAIRMAN HOOD: How did those names -- Mr.  
23 Otten, how did those names get on there.

24 MR. OTTEN: Look, you're asking me to respect  
25 the process that has biased the public in this case.

1 And one of the most fundamental --

2 CHAIRMAN HOOD: No further questions.

3 MS. SCHELLIN: Cross.

4 CHAIRMAN HOOD: Okay. Cross-exam? Okay.

5 Okay, no further questions. Cross-examination,  
6 applicant. ANC 5E, any cross? Not here, no cross.

7 ANC 5A? ANC 1B? Friends of McMillan?

8 MS. FERSTER: One very quick question for  
9 Ms. --

10 MS. IRWIN: High.

11 MS. FERSTER: Hi.

12 MS. IRWIN: That is my last name.

13 MS. FERSTER: Okay.

14 MS. IRWIN: And I'm saying hello.

15 MS. FERSTER: Okay. Okay. So, you mentioned  
16 in your testimony that a 2002 study by the Office of  
17 Planning, called summary of recommendations for  
18 McMillan discouraged and did not indicate that  
19 medical facilities or office buildings were preferred  
20 uses. Would you be willing to accept a friendly  
21 correction for the record that that report was  
22 actually from the D.C. Department of Housing and  
23 Community Development, but said what you accurately  
24 said?

25 MS. IRWIN: Absolutely. I was looking at a

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1 presentation based on that report.

2 MS. FERSTER: Okay. A question for, let's  
3 see, Mr. Sigmund?

4 MR. SIGMUND: Yes.

5 MS. FERSTER: Okay. So, how long have you  
6 lived in the neighborhood?

7 MR. SIGMUND: Three years.

8 MS. FERSTER: Okay. And, do you know  
9 anything about who you bought your house from?

10 MR. SIGMUND: I met the individual, yes.

11 MS. FERSTER: Okay. Can you --

12 MR. SIGMUND: It was actually a person,  
13 previously the house was rented.

14 MS. FERSTER: Uh-huh.

15 MR. SIGMUND: So, the person who actually  
16 owned it did not live there.

17 MS. FERSTER: Okay. And what is your  
18 profession?

19 MR. SIGMUND: What do I do for a living?

20 MS. FERSTER: What do you do for a living,  
21 yeah.

22 MR. SIGMUND: I am in the real estate  
23 business.

24 MS. FERSTER: Okay. And --

25 MR. MAY: I'm sorry, did he testify about



1 what his profession was?

2 MS. FERSTER: No, but I'm just --  
3 credibility.

4 MR. SIGMUND: I'm not ashamed of what I do.

5 MR. MAY: But it's not relevant to our --

6 MR. SIGMUND: Oh, right, right.

7 MR. MAY: -- our proceeding. I mean, --

8 MS. FERSTER: I have one follow up question.  
9 Do you have a fine possibility of actually selling  
10 any real estate or benefitting in any way from the  
11 development --

12 MR. SIGMUND: No.

13 MS. FERSTER: -- in McMillan, or the housing  
14 in McMillan?

15 MR. SIGMUND: No.

16 MS. FERSTER: So, your business interest are  
17 elsewhere?

18 MR. SIGMUND: Yes, we own -- it has nothing  
19 to do with Washington, D.C. really at all, actually.

20 MS. FERSTER: Okay. Thank you.

21 CHAIRMAN HOOD: Okay. I want to thank you  
22 all for you -- hold on for a second. Again, let me  
23 say, before anyone moves, is there anyone else here  
24 who would like to testify? Okay.

25 There will be no more -- somebody -- one. Do

1 I have anyone else?

2 MS. JACOBS: [Speaking off microphone.]

3 CHAIRMAN HOOD: She would like to ask a  
4 question. You know, what? Come on up and ask your  
5 question. Is it to me. You can ask your question to  
6 me? Typically we don't do this.

7 MS. JACOBS: [Speaking off microphone] except  
8 for saying that old people don't ride bikes, because  
9 old people do ride bikes. [Speaking off microphone.]

10 CHAIRMAN HOOD: Sit at a mic because --

11 MS. JACOBS: Oh, sorry.

12 CHAIRMAN HOOD: -- I want to hear about this  
13 bike discussion. Let's take a minute.

14 MS. JACOBS: Okay. All right. So --

15 CHAIRMAN HOOD: Hold on.

16 MS. JACOBS: -- basically, so I mean --

17 CHAIRMAN HOOD: Tell us your name.

18 MS. JACOBS: My name is Carol Jacobs.

19 CHAIRMAN HOOD: Ms. Jacobs. Go ahead, and  
20 let's talk about bicycles for a minute.

21 MS. JACOBS: I was kidding you. But I have a  
22 serious question.

23 CHAIRMAN HOOD: Okay.

24 MS. JACOBS: Given the fact that this mess  
25 has gone on, and on, and on at every -- as far as I

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1 know, the last thing that happened that made it not  
2 be able to go back was Phil Mendelson saying, we  
3 don't care how much scar tissue it has on it, the  
4 process is the process.

5 No, it's not funny. And, my tax money is  
6 being eaten up, and this stuff that keeps going on  
7 and on, and it's the same stuff over again, newbies  
8 come in and say, well, I didn't know about this. And  
9 this has been going on for years.

10 Can you please -- what DMPED did in the first  
11 place was incredibly irregular. Then, after they  
12 chose IAA, then a former DMPED guy got hold of him on  
13 behalf of Trammel Crow and said, well, it's 2009,  
14 we're having a recession, we won't be able to get  
15 financing if we don't do some Trammel Crow scale  
16 thing on the north side. And all of that stuff has  
17 changed. I just don't see how that can be fixed.  
18 Every single little school in this city, that's city  
19 property, that's going to be redone, has competition.  
20 They talk about programming. They talk about what  
21 the site plan would be. And this is big, and  
22 everybody is getting so nasty with one another.

23 So, can you just put your -- can you just say  
24 to whomever, Phil Mendelson, we want this to start  
25 again?

1 UNIDENTIFIED SPEAKER: Yes.

2 CHAIRMAN HOOD: Okay. Thank you.

3 UNIDENTIFIED SPEAKER: [Speaking off  
4 microphone.]

5 CHAIRMAN HOOD: Thank you. Now I need you to  
6 do me a favor. I allowed that, now I need you to do  
7 me a favor. I need you to fill out two witness  
8 cards. Okay? If you could do that.

9 And let me also tell you, I've been around  
10 too. I didn't just start --

11 MS. JACOBS: I know.

12 CHAIRMAN HOOD: -- riding past McMillan.

13 MS. JACOBS: I know.

14 CHAIRMAN HOOD: I was small. I couldn't even  
15 drive a car. So, let me just tell you, there are a  
16 lot of people, and I think about this when I hear the  
17 discussion, there are a lot of people that I knew who  
18 were involved with McMillan when a lot of people  
19 weren't around and a lot of them are dead and gone  
20 now.

21 MS. JACOBS: I know.

22 CHAIRMAN HOOD: So, I can tell you, and  
23 that's just my point of view on McMillan. Okay?  
24 That's my point of view. And I know some people --

25 MS. JACOBS: But wait.

1 CHAIRMAN HOOD: Let me just say this.

2 MS. JACOBS: If you're not --

3 CHAIRMAN HOOD: Let me just say --

4 MS. JACOBS: Sometimes I (simultaneous  
5 speech).

6 CHAIRMAN HOOD: -- I know some people.

7 MS. JACOBS: You can say to the city,  
8 please --

9 CHAIRMAN HOOD: No. I have to stay within my  
10 jurisdiction. But let me just say this; I know a lot  
11 of people who are no longer with us, who worked on  
12 McMillan. That's how long it's been around.

13 UNIDENTIFIED SPEAKER: Many of us.

14 CHAIRMAN HOOD: A lot of people. A lot of us  
15 know that. So, that's what I'm saying. So, I want  
16 you to know, this is not new to me. I've been there  
17 too.

18 MS. JACOBS: I know that.

19 CHAIRMAN HOOD: Okay.

20 MS. JACOBS: But it was never a coherent  
21 concept to begin with.

22 CHAIRMAN HOOD: Okay. But I just need those  
23 two witness cards, and let me move on with the  
24 hearing. Okay?

25 MS. JACOBS: Sorry.

1 CHAIRMAN HOOD: But I allowed it. I thought  
2 we were going to talk about bicycles. You must be  
3 watching. You know I like to hear about bikes.

4 MS. JACOBS: No, you told me -- you've told  
5 us that old people didn't ride bicycles, and that's  
6 true.

7 CHAIRMAN HOOD: No, I never said --

8 MS. JACOBS: We didn't (simultaneous speech).

9 CHAIRMAN HOOD: I never said that.

10 MS. JACOBS: You said it. I've got -- it's  
11 on the record --

12 CHAIRMAN HOOD: Okay. Okay.

13 MS. JACOBS: -- for history, my hearing  
14 (simultaneous speech).

15 CHAIRMAN HOOD: I knew you probably was  
16 around for my bicycle discussion. What I said was,  
17 people didn't go to the grocery store and carry 10  
18 bags of bicycles. The press got it wrong and  
19 everybody else got it.

20 Now, somebody in here who has 10 bags of  
21 groceries, I've got one person --

22 UNIDENTIFIED SPEAKER: [Speaking off  
23 microphone.]

24 CHAIRMAN HOOD: She has 10 bags of groceries  
25 and she rides her bike to the grocery store. Okay,

1 great. But is Mr. Cort still here? Ms. Cort knows I  
2 go to the bicycle day every year purposely.

3 Okay. So, let me get back. Seriously, let  
4 me get back to the hearing. Did we do cross-exam?

5 MS. SCHELLIN: Yes.

6 CHAIRMAN HOOD: Okay, again, there will be no  
7 testimony moving forward as my -- I mean, no public  
8 testimony moving forward. As we stated earlier, we  
9 laid out the plan and I want to say this, and I'm  
10 going to go back to what I read earlier for those who  
11 may have come in a little late.

12 On Monday, March the 20th, the Commission  
13 voted to modify the usual order of the testimony so  
14 that tonight's hearing will be limited to public  
15 testimony and agency reports. If the Commission is  
16 unable to hear from all members of the public  
17 present, or from the agency, the portion of the  
18 hearing will continue on April the 3rd. I believe  
19 we're going to finish to night. Well, we'll see.  
20 But we'll see where we are. But I believe we're  
21 going to hear the agency reports and we're going to  
22 finish this evening.

23 So, I'm projecting that we will be coming  
24 back on April the 6th. Is that safe to say? I'm  
25 looking to my colleagues.

1 MS. SCHELLIN: Depends on -- if we finish  
2 tonight, yes.

3 CHAIRMAN HOOD: If I stop talking and keep  
4 moving. Okay. Thank you all very much, we  
5 appreciate your testimony.

6 MR. OTTEN: Chairman if I could --

7 CHAIRMAN HOOD: Did you testify once?

8 MR. OTTEN: Chris Otten, I'm submitting 238  
9 pages to the record right now.

10 CHAIRMAN HOOD: Okay.

11 MS. SCHELLIN: You're not. We're not  
12 taking --

13 MR. OTTEN: What's that?

14 CHAIRMAN HOOD: We're not going to have it.

15 MS. SCHELLIN: We're not taking them.

16 MR. OTTEN: What do you mean you're not  
17 taking them?

18 CHAIRMAN HOOD: Okay.

19 MS. SCHELLIN: They're not here to testify,  
20 therefore we will not take them.

21 MR. OTTEN: No, this is my testimony and  
22 these are my attachments with D.C. for Reasonable  
23 Development.

24 MS. SCHELLIN: We're not taking them.

25 MR. OTTEN: Excuse me.



1 MS. SCHELLIN: They were the letters that  
2 were submitted by e-mail and I will not accept those.

3 MR. OTTEN: No, I'm sorry. This is -- hold  
4 on. Can somebody rationally explain what I'm hearing  
5 right now? I have 238 pages to submit to the record.

6 CHAIRMAN HOOD: Okay, we're going to take a  
7 two-minute break.

8 MR. OTTEN: Chair, I'd like to --

9 CHAIRMAN HOOD: And we're going to take --  
10 no.

11 MR. OTTEN: -- get clarity on that.

12 CHAIRMAN HOOD: We've already finished.  
13 We're going to take a two-minute break.

14 MR. OTTEN: Does the notice -- does the  
15 notice say you're not taking testimony tonight?

16 CHAIRMAN HOOD: And we're going to take a  
17 two-minute break and what I'm going to do --

18 MR. OTTEN: Written testimony.

19 CHAIRMAN HOOD: -- when I come back -- we're  
20 going to take a two-minute break. When I come back  
21 we're going to hear from the Office of Planning.

22 MR. OTTEN: Does the notice say that we're  
23 not taking written testimony tonight?

24 CHAIRMAN HOOD: And the District Department  
25 of Transportation.

1 Every time, Mr. Otten --

2 MR. OTTEN: This is a ridiculous --

3 CHAIRMAN HOOD: -- let me tell you something.

4 MR. OTTEN: -- administrative process.

5 CHAIRMAN HOOD: Mr. Otten, every time you  
6 come down here you talk over me. I'm starting to  
7 take it very personal.

8 MR. OTTEN: I printed these out.

9 CHAIRMAN HOOD: I don't think you don't have  
10 any respect for me.

11 MR. OTTEN: I don't have respect for --

12 CHAIRMAN HOOD: You don't --

13 MR. OTTEN: -- a pure administrative process  
14 where I'm --

15 CHAIRMAN HOOD: You don't have any respect  
16 for me. I'm --

17 MR. OTTEN: How many hours did I spend on  
18 this?

19 CHAIRMAN HOOD: It's not about my other  
20 colleagues who don't -- it's about me.

21 MR. OTTEN: Mr. Miller thought that we were  
22 going to have other hearings and people would be able  
23 to put -- you're not even going to take my testimony?

24 CHAIRMAN HOOD: Let me say this. Let me just  
25 say this to you, Mr. Otten --

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1 MS. SCHELLIN: Your testimony but not --

2 CHAIRMAN HOOD: Hold on, Ms. Schellin. I'm  
3 going to take care of this.

4 MR. OTTEN: This is a community organization  
5 that I'm representing that I got voted to bring down  
6 here tonight.

7 CHAIRMAN HOOD: We're going to take a two-  
8 minute break and when we come back we're going to go  
9 to the agency. If this continues --

10 MR. OTTEN: I don't understand that.

11 CHAIRMAN HOOD: If this continues, Mr. Otten,  
12 you know what I'm --

13 MR. OTTEN: Chairman, you're out of order.

14 CHAIRMAN HOOD: -- going to do. You know  
15 what I'm going to --

16 MR. OTTEN: You're out of order. You have  
17 biased and prejudiced --

18 CHAIRMAN HOOD: You know what I'm going to  
19 do.

20 MR. OTTEN: -- the public in this.

21 CHAIRMAN HOOD: I'm going to have you  
22 removed.

23 MR. OTTEN: Oh, great.

24 CHAIRMAN HOOD: The regular thing that we  
25 normally do.

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1 MR. OTTEN: Well, and we'll keep going back  
2 to court, and we'll keep taking it and showing --  
3 CHAIRMAN HOOD: That's fine.  
4 MR. OTTEN: -- how biased you are.  
5 CHAIRMAN HOOD: That's fine.  
6 MR. OTTEN: Okay?  
7 CHAIRMAN HOOD: That's fine.  
8 MR. OTTEN: I am submitting --  
9 CHAIRMAN HOOD: That's --  
10 MR. OTTEN: -- 238 pages to the record.  
11 CHAIRMAN HOOD: I respect the process,  
12 because you take it to court --  
13 MR. OTTEN: I expect Mr. Bergstein --  
14 CHAIRMAN HOOD: -- and you go to court.  
15 MR. OTTEN: -- and Ms. Schellin [Speaking off  
16 microphone].  
17 CHAIRMAN HOOD: Okay. Let's take a two-  
18 minute break. We're going to take a two-minute  
19 break.  
20 MR. OTTEN: [Speaking off microphone.]  
21 [Off the record from 9:34 a.m. to 9:41 a.m.]  
22 CHAIRMAN HOOD: Okay. We're going to go back  
23 in session. At this point we're going to now go to  
24 the Office of Planning. Ms. Brown-Roberts.  
25 MS. BROWN-ROBERTS: Okay.

1           CHAIRMAN HOOD: And also, after that we will  
2 hear from Ms. Chamberlin from the District Department  
3 of Transportation.

4           MS. BROWN-ROBERTS: Okay. Good evening, Mr.  
5 Chairman and members of the Commission. My name, for  
6 the record, my name is Maxine Brown-Roberts. My  
7 presentation this evening will follow the order of  
8 the issues identified in the public hearing notice.

9           Issue Number 1, could other policies cited in  
10 the order be advanced, even if the development on the  
11 site were limited to medium and moderate density use?  
12 And if not, which policy should be given greater  
13 weight?

14           The Office of Planning has concluded that the  
15 other policies cited in the order would not be fully  
16 advanced if development of this --

17           CHAIRMAN HOOD: Hold on for a second, Ms.  
18 Brown-Roberts. I'm going to ask if you have a  
19 conversation, if you have a conversation I will ask  
20 you to take that out of the hearing room. We  
21 appreciate it. So we can all listen and get on the  
22 same page. Okay. I'm sorry.

23           MS. BROWN-ROBERTS: Okay. The Office of  
24 Planning has concluded that the other policies cited  
25 in the order would not be fully advanced if the

1 development on the site were limited to only medium  
2 and moderate density buildings. The overall  
3 development is at moderate and medium densities.  
4 However, the health care facility would be taller  
5 than the typical 90 feet associated with the medium  
6 density PUDs.

7           The PUD regulations, along with the land use  
8 element of the Comprehensive Plan, allows for the  
9 necessary flexibility to further policies of the  
10 Comprehensive Plan. These policies are for guidance  
11 for an overall development that is consistent with  
12 the moderate to medium density use.

13           If there is no flexibility to cluster  
14 buildings on the site, the range of public benefits  
15 would not be provided and the policies cited in the  
16 order would not be fully advanced. The general  
17 commercial density of the site was established  
18 through the land disposition agreement and the city's  
19 strategic economic plan of 2012, which specifically  
20 calls for the development of a medical office hub on  
21 the northern portion of the site to provide needed  
22 expansion space and to be focal point for medical  
23 institutions in that area.

24           The additional high proposed would allow for  
25 the fulfillment of this plan. The additional height

1 is due to taller floors to ceiling height required to  
2 accommodate the operational needs of a medical  
3 facility, and the need to locate the facility near  
4 the existing hospital center.

5           If the building densities were to be reduced  
6 -- were to be reduced to a PUD height of 90 feet, the  
7 additional space needed to create the medical hub  
8 would need to be relocated elsewhere on the site,  
9 resulting in a reduction in the area used for  
10 housing, public park, open space, and recreational  
11 center.

12           The party in opposition identified polices  
13 which they claimed weighed against approval of the  
14 PUD. The policy identified related to new  
15 neighborhoods and urban fabric, conservation of  
16 single-family neighborhood, multifamily  
17 neighborhoods, and health and human services.

18           OP disagrees that these policies should be  
19 weighed against approval of the PUD, as a PUD is  
20 consistent with, and reinforces these policies. The  
21 development would be integrated into the existing  
22 street grid with new street connections, with a  
23 public open space, public park, recreational center,  
24 and with compatible heights and massing.

25           We note that all the surrounding residential

1 neighborhood identifies as moderate density  
2 residential on the future land use map, and are  
3 developed with attached row houses or low-rise  
4 apartments, and not low-density single-family homes.  
5 However, the proposal is consistent with the policy  
6 to protect established family oriented neighborhoods.  
7 The organization of residential and nonresidential  
8 new uses, intermixed use, mixed income neighborhood,  
9 with complementary commercial uses, would serve the  
10 new residents as well as the surrounding  
11 neighborhood. The proposed healthcare facility would  
12 serve multiple functions and would not preclude the  
13 distribution of public facilities across the city.

14           Issue Number 2. Do these or other  
15 Comprehensive Plan policies cited by the party in  
16 opposition weigh against approval of the PUD? The  
17 party in opposition identified policies in relation  
18 to protecting existing assets on large sites, other  
19 significant open space networks, the north central  
20 open space network, and open space on the McMillan  
21 Reservoir Sand Filtration site has been inconsistent  
22 with the PUD.

23           OP finds that the PUD as it furthers, are not  
24 inconsistent with these polices. The proposal would  
25 preserve a significant amount of the historic



1 elements, revive the historic Olmstead Park, and  
2 retain important north/south and east/west vistas  
3 through the site. The park plan design extends the  
4 open space network around and through the site, thus  
5 continuing the open space network.

6 All the open space areas and recreational  
7 facilities would be open to residents of the  
8 development, the surrounding community, and the  
9 general public.

10 Issue Number 3. Is the high density  
11 development proposed for the site the only feasible  
12 way to retain a substantial part of the property as  
13 open space and make the site usable for recreational  
14 purposes. The mid-city element of the Comprehensive  
15 Plan repeatedly recommends the preservation of open  
16 space and the provision of recreational facilities to  
17 serve the community as an important component of any  
18 development of this site.

19 To have a balance and economical or viable  
20 development, the inclusion of the healthcare facility  
21 is an important component, and it's special  
22 requirements are accommodated in a building with  
23 additional height.

24 As stated before, the general commercial  
25 density, as established through the LDA, would see a

1 reduction of density, would not need to be relocated  
2 elsewhere on the site, resulting in a reduction of  
3 land use for housing, public park, open space, or  
4 recreation center.

5 Issue Number 4. Will the PUD result in  
6 environmental problems, destabilization of land  
7 values, or displacement of neighborhood residents, or  
8 have potential to cause any other adverse impact  
9 identified for the record in this case?

10 The project would include mitigation  
11 measures, including D.C. Water long-term control  
12 project, and a new storm water management systems on  
13 the site that would limit off-site discharge.  
14 Further, an overall LEED Gold or equivalent utilizing  
15 low-impact development strategies across the site  
16 would serve the proposed development as well as the  
17 surrounding neighborhood.

18 New streets and access points would connect  
19 to the surrounding community and distribute traffic  
20 through various access point. Various TDM measures,  
21 as well as transit hub would discourage the  
22 individual vehicle uses. The other facilities  
23 detailed in the DDOT report would save the site, as  
24 well as adjacent institutional and residential uses.

25 The Comprehensive Plan identifies the

1 displacement and increase in land values take place  
2 across the city, but does not recommend that no  
3 development is the remedy. Data from the State Data  
4 Center were analyzed and there was no indication of  
5 destabilizing land values. In fact, in general, the  
6 growth in population is significantly less than the  
7 rest of the District. The growth in total household  
8 is less than total growth for household district  
9 wide. The poverty rate decrease in the neighborhood  
10 at a faster rate than district wide. Median home  
11 values have increased at a rate relatively comparable  
12 to the District by value, and the area is becoming  
13 culturally more diverse.

14           This area, along with most of the District,  
15 has already undergone changes without the development  
16 of the McMillan site. The provision of new  
17 residential opportunities in a walkable mixed use  
18 development in close proximity to a state of the art  
19 medical facility provided, would provide  
20 opportunities that are currently lacking in the  
21 neighborhood.

22           Issue number 5. Will the PUD have a  
23 favorable impact on the operation of the city  
24 services and facilities, and if not is the impact  
25 capable of being mitigated or acceptable given the

1 quality of public benefits in this project.

2           The provision of a community center and open  
3 space, affordable housing, historic preservation,  
4 connectivity through and around the site, improved  
5 medical service, would impact the neighborhood in a  
6 favorable way. Other impacts and city services, such  
7 as park and recreation, storm water management, and  
8 transportation would all provide infrastructure  
9 improvements to mitigate to acceptable levels, any  
10 impacts that may result in the -- in many public  
11 benefits to the city and the neighborhood.

12           Thank you, Mr. Chairman, and I'm available  
13 for question.

14           I'll also like to let you know that there are  
15 also representatives from DPR, DHCD, fire and EMS,  
16 who are present and available to answer any questions  
17 you may have.

18           CHAIRMAN HOOD: Okay. From those agencies,  
19 if you're here, if you can just come up because we're  
20 going to put on the record, first of all that you  
21 were here, and second of all we want to ask you -- we  
22 may have some questions about impacts and what your  
23 opinion is on this project.

24           Okay. Ms. Chamberlin.

25           MS. CHAMBERLIN: Thank you. Good evening.

1 OP did a quite thorough job even covering some of our  
2 issues. With that I'll keep mine brief.

3 As we testified in the past and per all our  
4 submitted reports on this case, a comprehensive  
5 transportation review was completed in 2014, which  
6 DDOT agreed to and found that a significant number of  
7 new vehicle and transit trips would be generated. As  
8 such, a transportation performance plan, which  
9 included a comprehensive list of mitigations were  
10 developed in close coordination with DDOT, which we  
11 agreed to would adequately satisfy and mitigate the  
12 expected transportation impacts.

13 If you have any questions, thanks.

14 CHAIRMAN HOOD: Okay. Thank you, Ms.  
15 Chamberlin and Ms. Brown-Roberts.

16 I would just ask, let me start to my right.  
17 If you can just identify yourself and what agency  
18 you're with? Turn your mic on. You want to turn  
19 your mic on.

20 MR. FALWELL: Tony Falwell, D.C. Fire and  
21 EMS.

22 MS. FAULKNER: Ella Faulkner, D.C. Department  
23 Parks and Recreation.

24 MR. SISCO: Brent Sisco, D.C. Parks and  
25 Recreation.

1 MS. LADD: Allison Ladd, Department of  
2 Housing and Community Development.

3 MR. UPDIKE: And Bill Updike with the  
4 Department of Energy and Environment.

5 CHAIRMAN HOOD: Okay. All right. Let's open  
6 it up, colleagues, for any one of the agencies. Any  
7 questions or comments?

8 I will start, Ms. Brown-Roberts. And the  
9 court remanded back to us, Issue 5, will the PUD have  
10 a favorable impact on the operation of city services  
11 and facilities. Could you just expound a little more  
12 or refresh my memory of what you said? You said  
13 quite a bit and I just want to make sure that --

14 MS. BROWN-ROBERTS: We talked about the other  
15 impacts on city services, such as park and  
16 recreation, storm water management, and  
17 transportation, would all provide infrastructure  
18 improvements to mitigate to acceptable levels, any  
19 impacts that may result and many other public  
20 benefits to this city and the neighborhood.

21 CHAIRMAN HOOD: So, the way I interpret that,  
22 and I'm glad we have the agencies here, especially  
23 the DPR and others, if this development was to go  
24 forward, would we offset some of the things that are  
25 lacking in the area? Would that increase, as what

1 I'm hearing from Office of Planning? Or will it --  
2 what will the residents in that area see? Will  
3 services and DPR and the fire department, will those  
4 things increase, and especially the infrastructure  
5 and whatnot? Will those things increase, or just  
6 explain that to me? How would that work?

7 MS. FALKNER: So, currently we have two  
8 recreation centers within about a mile of the  
9 McMillan site. And the proposed community center at  
10 McMillan would definitely be a benefit to the  
11 community because we'll be adding an aquatic center  
12 that doesn't currently exist in the area, as well as  
13 a playground and much needed meaningful green space.

14 CHAIRMAN HOOD: Okay. And let me ask DOE, is  
15 it? I get it all mixed up now. DOEE, is that it?  
16 Okay. I think did Tommy Wells change the name of  
17 that?

18 But anyway, let me ask this question. You  
19 heard from one of my colleagues who works in -- even  
20 though she was not here on that behalf, who is a  
21 scientist. And she started going down the road of  
22 data, of EIS, environmental impact statements,  
23 studies, and what, as far as this project, what did  
24 DOEE do as far as this project? I mean, as far as  
25 looking at the environmental impact issues in that

1 area?

2 MR. UPDIKE: Yeah, I mean, I'm not an expert  
3 in the regulatory side of the agency, but my  
4 understanding is that the environment assessments  
5 were done in proper order and per the letter that we  
6 submitted, they found that in general no apparent  
7 significant adverse impact or likelihood of  
8 substantial negative impact on the environment as a  
9 result of this proposed project.

10 CHAIRMAN HOOD: Okay.

11 MR. UPDIKE: And that was sort of the outcome  
12 of the analysis.

13 CHAIRMAN HOOD: So, is it safe to say that  
14 DOEE did capture and did do an extensive study on  
15 this project in that area?

16 MR. UPDIKE: Yes.

17 CHAIRMAN HOOD: Okay. And you work at DOEE,  
18 correct?

19 MR. UPDIKE: Correct. Yes.

20 CHAIRMAN HOOD: Okay. Now, let's talk about  
21 the displacement issue. I'm going to go to DHCD.  
22 Can you help me expound on the displacement issue?

23 MS. LADD: Good evening, Chairman and members  
24 of the Commission.

25 In our Department of Housing and Community



1 Developments letter we talked a little bit about  
2 displacement. And part of what we stated is we did  
3 not foresee any direct displacement. And what we  
4 meant more by that was, was that the property is  
5 currently vacant. And so, we were thinking more  
6 about displacement for some of the projects that the  
7 department finances. We have families that might be  
8 living in them, and sometimes families have to move  
9 due to various reasons.

10 And so, that was one of the reasons why we  
11 did not consider displacement. It was more site-  
12 specific.

13 CHAIRMAN HOOD: Okay. And let me go to,  
14 maybe Ms. Steingasser, you and Ms. Brown-Roberts can  
15 help me with this. The Comprehensive Plan, is that a  
16 document that this Commission -- do we have to follow  
17 it to the T, or is that a, I'm not going to say  
18 fluid, because we're not supposed to be inconsistent  
19 with the Comp Plan. Do we have to live by the strict  
20 application of the Comp Plan?

21 But let me start -- let me back up. As  
22 someone who has been on the Comprehensive Plan Task  
23 Force previously, I know there are some things in the  
24 Comp Plan that you, on one page it says do this, and  
25 on another page it contradicts what it says on the

1 other page. But I know we're working through those  
2 things now and those things were put in for a reason.  
3 I guess that was the process. Maybe it's improved  
4 since I've been working on it.

5           But is the Comprehensive Plan a document in  
6 which we have to go by the strict application of it,  
7 or does it give this Commission leeway as long as we  
8 just don't -- as long as we're not inconsistent with  
9 the Comp Plan? I know we tackle sometimes whether to  
10 change it, what was it, not inconsistent or to be not  
11 consist -- I can't remember what we -- that was a  
12 major discussion. But it's not inconsistent. I  
13 forgot what the other word was. Maybe I don't even  
14 want to bring that up.

15           But, is that a strict application for us to  
16 go by, or is that something that's flexible? And I  
17 think I heard Ms. Brown-Roberts kind of allude to  
18 that.

19           MS. STEINGASSER: The Comprehensive Plan does  
20 carry many, many policies and action items and  
21 narratives that are often in conflict, or they may  
22 not align perfectly. And in cases like this the  
23 guidance is one of balance. This Commission should  
24 look at all of the polices and balance them in terms  
25 of how the project fulfils them.

1           The phrase you're looking for is when D.C.  
2 got home ruled the charter changed the phrase that  
3 the previous commissioners were charged with, which  
4 was, "Zoning shall be consistent." The home rule  
5 charter changed it to, "Zoning shall be not  
6 inconsistent," creating a much more flexible  
7 application of the -- and reading of the  
8 Comprehensive Plan. And I can't tell you why they --  
9 what the legislative history is on that, but that's  
10 when it was done.

11           But it is not a self-effectuating, it is not  
12 regulatory, and it is not requirements. It is  
13 policies, action items that are set forth that the  
14 Commission, when looking at a discretionary zoning  
15 item action, would look to balance.

16           CHAIRMAN HOOD: Okay. All right. Let me  
17 open it up. I've probably asked a few. Mr.  
18 Turnbull.

19           MR. TURNBULL: Thank you, Mr. Chair. I just  
20 wanted to -- one of the items that came back during  
21 the hearing and we talked about, and although, Ms.  
22 Brown-Roberts, you've got it in your OP report, but  
23 it's also transportation, it was, we talked about we  
24 weren't going to get street car. The street car was  
25 not going to be around. We talked about

1 transportation. And one of the things that came up  
2 was the private shuttle service and the amount --  
3 there was a concern whether there was one, and it was  
4 going to be all through phase one.

5 I wonder if you could maybe refresh me on  
6 that and go back and cover the private shuttle  
7 service to accommodate a lack of transportation on  
8 the site?

9 MS. CHAMBERLIN: So, I'll go ahead and answer  
10 that. Our preferred option would be to have transit,  
11 public transit services and not the private shuttles.  
12 And the applicant had committed to that, to providing  
13 those seats in the absence of WMATA or circulator or  
14 street car provided services in the private --  
15 through private shuttles. But we would prefer that  
16 they were not through private shuttles.

17 MR. TURNBULL: Is that just through phase 1,  
18 or --

19 MS. CHAMBERLIN: No.

20 MR. TURNBULL: -- longer?

21 MS. CHAMBERLIN: So, the 1,100 seats that we  
22 identified was at full buildout, and that would be  
23 essentially pro-rated. So, in order to get their  
24 certificate of occupancy for their first building,  
25 they would have to meet that pro-rated amount of the

1 1,100 seats.

2 MR. TURNBULL: Okay. And what routes would  
3 that cover? Do you recall how that was being worked  
4 out?

5 MS. CHAMBERLIN: Ideally it would be to the  
6 Brookland or Columbia Heights Metro station.

7 MR. TURNBULL: Okay. All right. Thank you.

8 CHAIRMAN HOOD: Any other comments or  
9 questions up here? I do want to -- I'm sorry, Vice  
10 Chair.

11 MR. MILLER: Thank you, Mr. Chairman. Yeah,  
12 I wanted to ask Office of Planning, I've read your  
13 report a couple times. I just wanted you to  
14 reiterate or go over, do you -- reiterate the point  
15 that your report that you've recently submitted,  
16 addresses the court's remand that we as a Commission  
17 should weigh the policies, should evaluate the  
18 policies, all of the policies in the Comprehensive  
19 Plan that relate to this project, including the ones  
20 raised by the party in opposition, and explain why we  
21 are favoring ones over the other, or balance -- while  
22 in the balancing of them, we are saying that overall  
23 it's not inconsistent.

24 Do you think your report adequately addresses  
25 the Court's argument on that -- conclusion on that

1 point that we needed to do a better balancing, a  
2 better acknowledgement of the policies that on their  
3 face seem to be inconsistent, such as discouraging  
4 high density buildings adjacent to low density  
5 residential neighborhoods, or dispersion of  
6 encouraging the dispersion of -- geographic  
7 dispersion of healthcare facilities. I may not be  
8 restating them exactly. I'm doing this from memory,  
9 from the court's decision and from your own report.

10 But, do you think that we've -- you and your  
11 report have adequately acknowledged those policies  
12 that on their face are inconsistent and why we are in  
13 the balancing of them with other policies, this  
14 project is overall not inconsistent with the  
15 Comprehensive Plan?

16 Was that articulate, or inarticulate enough  
17 for you to understand?

18 MS. STEINGASSER: We kept our report tied to  
19 the issues as they were advertised. We do conclude  
20 and determine that the project is not inconsistent  
21 with the Comprehensive Plan on balance, and that the  
22 policies that favor the project definitely outbalance  
23 those that might appear, on their face to be  
24 inconsistent, the ones that were cited in the notice  
25 as we went through, we actually found that they --

1 the PUD actually favored those policies and those  
2 policies should be weighed in the positive in favor  
3 of the PUD.

4 So yes, we think that our analysis does bring  
5 -- does lead to a conclusion of support.

6 MR. MILLER: All right. Thank you.

7 CHAIRMAN HOOD: Any other questions or  
8 comments up here?

9 I do want to ask my friend, the deputy fire  
10 chief, and I've never been good on rank so I don't  
11 know if you're deputy or whatever. But let me just  
12 ask, have you had a chance to look at this  
13 development and look at the makeup of what's being  
14 proposed?

15 MR. FALWELL: Yes. Yes.

16 CHAIRMAN HOOD: In your expert opinion, and I  
17 know the firetrucks and the emergency apparatus, will  
18 the ingress and egress create any drawbacks to be  
19 able to service that area if that facility is -- if  
20 the project goes forward?

21 MR. FALWELL: I would say no. That's why  
22 when we review these projects, such as this, we  
23 always answer in the neutral. We want to make sure  
24 the developers comply with the fire code in terms of  
25 fire department access requirements and things of

1 that nature. So, when we look at these plans and  
2 things like that, we make sure that the line item by  
3 line item is touched based upon.

4 And that's why, if you see from my response  
5 in my written statement here that we have no problem  
6 with the development, but we need to make sure that  
7 it complies with Section 503 of the Fire Code as laid  
8 out so that, because of such a mixed use of  
9 occupancies, because the way we operate we have to be  
10 able to have access. And we operate both front and  
11 rear of properties. So, fire access roads are going  
12 to be very important here, with this project.

13 CHAIRMAN HOOD: Now, do you all -- in typical  
14 projects like this, something of this magnitude, do  
15 you all kind of follow it as it's developed?

16 MR. FALWELL: Yes, we do.

17 CHAIRMAN HOOD: Okay. All right.

18 MS. FALKNER: Yes, we do.

19 CHAIRMAN HOOD: All right. I think I've  
20 covered all my questions. Any other questions up  
21 here?

22 I want to thank the agencies for coming in  
23 this evening, and also Office of Planning and DDOT  
24 and all the agencies. We appreciate you all coming.  
25 All right. But let me see if I have any cross. Do



1 I? Are we doing cross?

2 Okay. Sometimes I forget what I'm supposed  
3 to do. Yeah. Let's see if we have -- does the  
4 applicant have any cross? Okay. Does ANC 5E have  
5 any cross? ANC 5A? ANC 1B? And Friends of  
6 McMillan. Do you have any cross?

7 And that's of everybody, everybody here.  
8 Okay. No, they didn't have any cross.

9 MS. FERSTER: Okay. I have a number of  
10 questions for everybody.

11 CHAIRMAN HOOD: Hold on one second. Hold on  
12 one second.

13 MR. MILLER: I'm sorry, Mr. Chairman, before  
14 Ms. Ferster begins, I'm sorry to interrupt, I just  
15 wanted to ask one question of DOEE, which I have  
16 forgotten about that I mentioned earlier. When we  
17 heard the testimony from Mr. -- Ms. Mel Peffers from  
18 the environmental testimony, I had said to her that I  
19 was going to ask DOEE to look at her testimony and  
20 provide some kind of response.

21 If you are able to do that and supplement  
22 your report, and just as a response to her testimony.  
23 Now, she admitted that she did not see your most  
24 recent, March 2017 report. She was basing her  
25 analysis on your previous report, I think back in --

1 I don't know when that was. It was a long time ago.  
2 A while ago.

3 So, if you could just look at that testimony  
4 and the Office of Zoning can get you a copy of it if  
5 you need to, and provide some kind of just written  
6 short -- doesn't have to be lengthy. But respond to  
7 her main points. That would be helpful.

8 MR. UPDIKE: Yeah, we'd be happy to do that.

9 MR. MILLER: Thank you very much.

10 CHAIRMAN HOOD: Okay, Ms. Ferster. Sorry.  
11 You may begin.

12 MS. FERSTER: Okay. Maybe I'll start on,  
13 with Mr. Falwell.

14 MR. FALWELL: Yes.

15 MS. FERSTER: So, thank you for your report.  
16 I have a couple of questions. You indicated that you  
17 had no objection to the development as long as fire  
18 access to all relevant reference lots and squares or  
19 adjacent properties, lots or squares, is not  
20 compromised and maintained and developed.

21 So, what access points do you view as the  
22 critical access points to the site for purposes of  
23 fire and emergency response vehicles?

24 MR. FALWELL: Well, based on this development  
25 site you have North Capital Street that runs north

1 and south, Michigan Avenue on the -- you have First  
2 Street and you have Channing Street that encompasses  
3 that site there.

4 And any developed streets that they plan on  
5 developing, even though with -- along with the site  
6 itself.

7 MS. FERSTER: Okay. And so, but to access --  
8 Channing Street doesn't have any access points to  
9 this site, so are there particular -- there are a  
10 limited number of accessed entry streets to the site.  
11 Are there any particular entry points that you have  
12 identified as being appropriate for emergency  
13 response?

14 MR. FALWELL: Don't have the plans in front  
15 of me exactly, but as you can see in that testimony,  
16 in the writing there, no matter what roadways are  
17 there, they expect it to be developed the way the  
18 fire codes says they should be developed.

19 MS. FERSTER: And so, does that fire code  
20 require certain widths?

21 MR. FALWELL: Yes, it does.

22 MS. FERSTER: And have you determined -- I  
23 mean, the developer has prepared plans for all these  
24 roadways. Have you reviewed these roadway widths and  
25 determined that they are the appropriate widths?

1 MR. FALWELL: I don't quite remember. I  
2 don't quite remember all of them, but as I stated for  
3 the record here, I could say these fire access roads  
4 need to be 20-feet wide, minimum, 13 and a half feet  
5 vertical clearance, and that's what we're expecting  
6 here, and that's what the plan --

7 MS. FERSTER: Uh-huh.

8 MR. FALWELL: That's what should be expected  
9 when this goes to the review process.

10 MS. FERSTER: Okay. And are there any more  
11 specifications, other than the width and the vertical  
12 clearance?

13 MR. FALWELL: There are a lot more. But it's  
14 too extensive to sit here and go through. What my  
15 advice would be, to grab a copy of Chapter 503 and  
16 also references Appendix D of the Fire Code as well,  
17 which extensively explains out fire department access  
18 roadways.

19 MS. FERSTER: Okay. So, there are some very  
20 extensive access requirements that need to be met.

21 MR. FALWELL: Yes.

22 MS. FERSTER: And have you reviewed all these  
23 access points and determined that the development  
24 does in fact meet all these requirements?

25 MR. FALWELL: The developer is expected to

1 make sure that he's in compliance with the fire code.

2 MS. FERSTER: Okay. So, what do you do? Do  
3 you inspect it at some point?

4 MR. FALWELL: That's going to come through  
5 new construction in Department of Consumer and  
6 Regulatory Affairs.

7 MS. FERSTER: That would be during the  
8 building permit phase.

9 MR. FALWELL: Yes.

10 MS. FERSTER: Okay. And so, if a roadway is  
11 not wide enough or doesn't otherwise meet the  
12 specifications, you'll require them to change the  
13 configuration?

14 MR. FALWELL: They have to meet the  
15 requirements of the fire code to be considered to be  
16 compliant.

17 MS. FERSTER: Okay. And, you indicated that  
18 you thought North Capital Street would provide a --  
19 there are several access points on North Capital  
20 Street, so those would also provide entry points for  
21 emergency response vehicles?

22 MR. FALWELL: Well, North Capital Street is a  
23 main throughway for emergency response vehicles,  
24 period.

25 MS. FERSTER: Uh-huh.

1 MR. FALWELL: Everyone here probably knows  
2 that. You know, you have the hospital complex on the  
3 other side of this development there, that we have to  
4 get through. So, we travel up and down that roadway.

5 MS. FERSTER: Okay.

6 MR. FALWELL: Probably hundreds of times a  
7 day.

8 MS. FERSTER: Okay. Good. And has D.C.  
9 Department of Transportation or anybody else shared  
10 with you the increased traffic volumes that will be  
11 carried on North Capital Street after full buildout  
12 for this project, apparently roughly doubling the  
13 traffic volume? Are you aware of that?

14 MR. FALWELL: I have not seen that.

15 MS. FERSTER: Okay. So, you did not factor  
16 in the increased traffic on North Capital Street in  
17 assessing the ability of emergency response vehicles  
18 to access the site?

19 MR. FALWELL: I have not seen anything  
20 dealing with the increased traffic.

21 MS. FERSTER: Okay. And do you -- are you  
22 aware of the fact that the ultimate plan for the  
23 development actually called for some traffic control  
24 devices on North Capital Street, you know, lights to  
25 limit movement? And if they are put in, do you have

1 any concerns about, you know, cueing up of traffic,  
2 making those turning movements, that they might  
3 impede emergency response vehicles? Have you  
4 considered that?

5 MR. FALWELL: No, I haven't talked about  
6 that.

7 MS. FERSTER: Okay. Is D.C. Department of  
8 Rec, recreation. Thank you. Okay. So, as I read  
9 your letter for the record that you believe that the  
10 parks portion of this project is consistent with your  
11 parks master plan because there is a need for  
12 additional parks and park facilities in this  
13 particular area.

14 MS. FALKNER: Correct. The vision framework  
15 does say that we do need some additional meaningful  
16 green space within that area. Uh-huh.

17 MS. FERSTER: And is it -- are you aware,  
18 isn't it correct that the District, when this park is  
19 developed, the District of Columbia will own that  
20 parkland and be responsible for its maintenance?

21 MS. FALKNER: Sure. Uh-huh.

22 MS. FERSTER: And then there's a community  
23 center as well, and the District of Columbia will be  
24 responsible for constructing, and then maintaining  
25 and operating that community center.

1 MS. FALKNER: Correct. So, the Department of  
2 General Services will be the one actually  
3 constructing and implementing the project, and DPR is  
4 going to be programming the space.

5 MS. FERSTER: Okay. So, given the fact that  
6 this is D.C. land, why couldn't this -- and the site  
7 has been owned by the District of Columbia since,  
8 well, 1986 or so, what is there stopping DGS and D.C.  
9 Department of Recreation from implementing that  
10 aspect of the plan now, independently of Vision  
11 McMillan?

12 MS. FALKNER: I think I'll actually leave  
13 that over to DMPED to respond to that. We're only  
14 responsible for actually programming the actual  
15 community center.

16 MS. FERSTER: Okay. So, in terms of the park  
17 space the rest of the park space, you won't be  
18 maintaining or being responsible for maintaining that  
19 as a park?

20 MS. FALKNER: Correct. Correct. The  
21 Department of General Services is going to be  
22 actually maintaining the green space, as well as  
23 maintaining the community center as well. We will  
24 only be providing programming space, or programming  
25 operations for the community center.



1 MS. FERSTER: Okay.

2 MS. FALKNER: So, permitting, allowing for  
3 birthday parties, that sort of thing.

4 MS. FERSTER: So, this will be created --  
5 treated quite differently, then, from any normal D.C.  
6 Parks and Recreation park?

7 MS. FALKNER: No. Uhn-uh. No.

8 MS. FERSTER: Because don't you normally  
9 control the whole -- the green space, as well as the  
10 actual park facility if --

11 MS. FALKNER: No. So, actually DPR is the  
12 program provider of all of our recreation spaces.  
13 And that also includes parks.

14 The Department of General Services is  
15 responsible for maintaining those spaces for us.

16 MS. FERSTER: Okay. Okay. So, this will be  
17 operated, essentially, exactly like any other --

18 MS. FALKNER: Absolutely the same. Uh-huh.  
19 Correct.

20 MS. FERSTER: -- DPR park around the city.

21 MS. FALKNER: Correct.

22 MS. FERSTER: Okay. So, then my question is,  
23 is there any reason why DPR and DGS could not create  
24 this as a park, or you're saying this is a question  
25 for somebody else?

1 MS. FALKNER: Correct.

2 MS. FERSTER: And because that's just sort of  
3 out of your paygrade.

4 MS. FALKNER: Correct.

5 MS. FERSTER: Okay.

6 MS. FALKNER: Well --

7 MS. FERSTER: Or out of your area of  
8 responsibility.

9 MS. FALKNER: Correct. Uh-huh.

10 MS. FERSTER: Okay. Okay. So, but you did  
11 indicate that there will be a community center that  
12 you will be responsible for programming for.

13 MS. FALKNER: Uh-huh.

14 MS. FERSTER: And do you have a budget for  
15 that?

16 MS. FALKNER: No.

17 MS. FERSTER: Okay, and do you know whether  
18 the community center is budgeted for construction by  
19 DGS?

20 MS. FALKNER: I believe it is.

21 MS. FERSTER: Okay. So, in what budget are  
22 funds for constructing the community center?

23 MS. FALKNER: So, I think also DMPED could  
24 provide that information for you.

25 MS. FERSTER: And will DMPED be testifying

1 today?

2 MS. FALKNER: I'm not sure.

3 MS. FERSTER: Yeah, okay. Maybe later.

4 Okay. Okay. Okay. Are we -- D.C., you're also DPR?

5 MR. SISCO: Yes, ma'am. DPR. Uh-huh.

6 MS. FERSTER: Thank you. Okay. So, your  
7 name?

8 MS. LADD: Allison.

9 MS. FERSTER: Okay. Thank you. You're with  
10 D.C. Department of Housing and Community Development,  
11 yes?

12 MS. LADD: Yes, ma'am.

13 MS. FERSTER: Okay. So, are you aware of the  
14 2002 summary of recommendations prepared by the D.C.  
15 Department of Consumer -- Housing and Community  
16 Development that provided a set of recommendations  
17 for what would be the recommended uses for the  
18 McMillan site?

19 MS. LADD: No, I am not.

20 MS. FERSTER: Okay. So, how long have you  
21 been at D.C. --

22 MS. LADD: For about two years.

23 MS. FERSTER: Okay. So, but your agency has  
24 some responsibility or involvement in affordable  
25 housing policy in the District of Columbia?

1 MS. LADD: Yes.

2 MS. FERSTER: Okay. And are you familiar  
3 with the Mayor's Strike Force on Affordable Housing?

4 MS. LADD: The Preservation Strike Force?

5 MS. FERSTER: Preservation Strike Force, yes.

6 MS. LADD: Yes, ma'am.

7 MS. FERSTER: Okay. So, the Preservation  
8 Strike Force report by the mayor characterizes the  
9 need for affordable housing as a critical need in the  
10 District of Columbia. Isn't that correct?

11 MS. LADD: Yes.

12 MS. FERSTER: And most critical is the need  
13 for housing for low income people, people at 30  
14 percent of the area mean income. Is that correct?  
15 That's a critical need?

16 MS. LADD: I would agree. I would not know  
17 if it's exactly what the Strike Force report says, as  
18 I don't have it in front of me. I will say that the  
19 Strike Force was meant to look at properties that  
20 were for preservation, so often times those  
21 properties are already occupied.

22 MS. FERSTER: Okay.

23 MR. MAY: Can I interrupt for a second? Do  
24 you actually testify in your testimony or in your  
25 submission about this Strike Force?

1 MS. LADD: No, sir.

2 MR. MAY: So, I would suggest that, Ms.  
3 Ferster, you should focus on what was actually  
4 testified to.

5 MS. FERSTER: Sure. I would be happy to do  
6 that.

7 Your testimony did deal with a concern about  
8 displacement. Isn't that correct? And I understand  
9 that you describe the displacement issue in two ways.  
10 One of course, that a vacant site doesn't involve any  
11 active displacement. But you also did address the  
12 fact that a development like McMillan, and you say  
13 can result in housing affordable pressures on renters  
14 and property tax pressures on owners, thereby playing  
15 a role in residents moving out of the neighborhood.

16 Can you elaborate on that concern?

17 MS. LADD: I would say that it was more of a  
18 statement related to how development of communities  
19 occurs. It was not a direct statement related to the  
20 project in specific.

21 MS. FERSTER: Okay. But your statement  
22 indicates you think it's possible that the McMillan  
23 development could have that effect.

24 MS. LADD: I think that as all cities and all  
25 communities grow and change, sometimes that does

1 occur.

2 MS. FERSTER: Okay. So, and have you -- so,  
3 then you haven't made a particular study of the  
4 particular neighborhoods that surround McMillan, what  
5 their demographics are and what the pressures on  
6 homeowners or residents in terms of being able to  
7 continue to afford living in their homes?

8 MS. LADD: No, we did not.

9 MS. FERSTER: Okay. This is just a general  
10 statement. Okay. Okay. Thank you.

11 MS. LADD: Sure.

12 MS. FERSTER: Okay. So, you're with D.C.  
13 Department of Environment and Energy?

14 MR. UPDIKE: Yes, Energy and Environment.  
15 Yes.

16 MS. FERSTER: Energy and Environment. Can I  
17 get your name again?

18 MR. UPDIKE: Yeah, it's Bill Updike.

19 MS. FERSTER: Okay. And what's your title?

20 MR. UPDIKE: I am the chief of the green  
21 building and climate branch in the urban  
22 sustainability administration.

23 MS. FERSTER: Okay. And so there is an  
24 environmental assessment that's been prepared that's  
25 part of the applicant's submission in this case.

1 Were you involved in the preparation and review of  
2 that document?

3 MR. UPDIKE: No, not me personally.

4 MS. FERSTER: Okay. Can you knowledgably  
5 comment on it at all?

6 MR. UPDIKE: No.

7 MS. FERSTER: Okay.

8 MR. UPDIKE: Other than by saying that, you  
9 know, what is said here in the record about it, you  
10 know, meeting the requirements of the regulations.

11 MS. FERSTER: Okay. But you did not -- you  
12 personally cannot attest to the adequacy of that  
13 document's assessment of the various impacts for the  
14 project.

15 MR. UPDIKE: Other than by saying that that's  
16 what it states in the record from the agency, no, I  
17 cannot. Yes.

18 MS. FERSTER: So, I can't ask you any  
19 questions about that. Okay, I can ask you some  
20 general questions about the environment impact  
21 statement process, then. Are you familiar with that  
22 process, the environment assessment process, a  
23 process by which that environmental document was  
24 prepared?

25 MR. UPDIKE: I'm not on the regulatory side

1 of the agency, so I don't know as much in that space.  
2 So, I'm not sure how much I could help you out.

3 MS. FERSTER: Okay. So, you don't even --  
4 you're not even familiar with how that document --  
5 how those sorts of documents generally are prepared.  
6 So, do you know whether or not, you know, this  
7 relied, for example, in information provided by the  
8 applicant or did your office, somebody in your  
9 office, undertake all the analysis that were  
10 contained in that document?

11 MR. UPDIKE: No, sorry. I don't have that  
12 answer.

13 MS. FERSTER: Then, I can't ask you any  
14 questions.

15 MR. UPDIKE: Oh, well, that's nice. That's  
16 helpful.

17 CHAIRMAN HOOD: Here's what I'm going to do.  
18 Here's what I'm going to do. We're going to be  
19 meeting again on, and Ms. Schellin, help me with  
20 this. We're going to be meeting on the 6th. Vice  
21 Chair Miller has already asked for something from  
22 your office. No offense to you.

23 MR. UPDIKE: Yeah. Yeah.

24 CHAIRMAN HOOD: Have them to send us somebody  
25 that can answer the question.



1 MR. UPDIKE: Yeah. Yeah. I mean, I can  
2 answer the other questions that are laid out here  
3 around green building and other pieces in the  
4 document, but we can certainly send somebody who  
5 is --

6 CHAIRMAN HOOD: Right. Right.

7 MR. UPDIKE: -- you know, in the trenches on  
8 the environmental --

9 CHAIRMAN HOOD: And if you could take back --

10 MR. UPDIKE: -- impact process.

11 CHAIRMAN HOOD: And if you could take back  
12 the submission we got from the young lady earlier as  
13 the Vice Chair mentioned, and he can get it from you,  
14 Ms. Schellin. I can't think of her name, begin with  
15 a P. Peppers (sic). Peffers. Yeah. So, if you can  
16 take back and we need you all to analyze that. We're  
17 going to start off on the 6th with just limited, I  
18 don't like to use this word too much, Mr. Forrester  
19 (sic), so you can ask your questions of somebody from  
20 DOEE.

21 MS. FERSTER: Ferster.

22 CHAIRMAN HOOD: Yeah, what did I call you?

23 MS. FERSTER: Something else.

24 CHAIRMAN HOOD: Must be getting late. Well,  
25 Ms. Ferster, so you can ask your questions. Okay?

1 MS. FERSTER: Thank you. Okay. So, I have a  
2 -- I have the bulk of my questions for the Office of  
3 Planning, so perhaps I will ask some questions of  
4 DDOT first, because I have a number of questions for  
5 the Office of Planning, and they are pretty lengthy  
6 because it's a pretty dense report.

7 But let me just ask a couple questions for  
8 DDOT about the project. So, just to rereview, you  
9 kind of summarized, you know, DDOT's review of the  
10 project over a number, you know, of hearings that  
11 preceded this particular hearing. And it was part of  
12 that testimony that the PUD project and the traffic  
13 generated by the PUD project would likely double on  
14 the traffic on some of the area roadways. Isn't that  
15 correct?

16 MS. CHAMBERLIN: I didn't say double. I'm  
17 not -- I mean, I would have to look up the numbers to  
18 see.

19 MS. FERSTER: Significantly increase.

20 MS. CHAMBERLIN: There were going to be, we  
21 said, significant trips, yes. Vehicle trips.

22 MS. FERSTER: Okay. And this site is more,  
23 maybe approximate a mile from the Metro, and so you  
24 indicated that 1,100 bus seats are necessary in order  
25 to accommodate what you project to be the transit

1 split.

2 MS. CHAMBERLIN: Correct.

3 MS. FERSTER: Of this -- these new users.  
4 And the understanding is the applicants will use  
5 shuttle vans that will pick up people from the  
6 various metros and shuttle them back and forth to the  
7 site?

8 MS. CHAMBERLIN: No, ideally they'll help  
9 contribute to increasing WMATA services.

10 MS. FERSTER: Oh, okay. So, it would be  
11 then, regular buses that the applicant would find for  
12 the regular fleet of WMATA vehicles?

13 MS. CHAMBERLIN: Correct.

14 MS. FERSTER: Okay. And this seems to be a  
15 change because in the order previously approved by  
16 the Commission, the understanding was the applicant  
17 would provide shuttle bus service assuming that  
18 DDOT --

19 MS. CHAMBERLIN: In the absence.

20 MS. FERSTER: -- was unable to get  
21 independent District of Columbia funding for enhanced  
22 transit service. So, has that changed now, from now  
23 the -- is that a change?

24 MS. CHAMBERLIN: No, that's not a change.

25 MS. FERSTER: Okay. So, it was --

1 MS. CHAMBERLIN: So it's in the absence of  
2 public seats.

3 MS. FERSTER: Uh-huh.

4 MS. CHAMBERLIN: Then they would provide the  
5 private shuttle. But the preference is always for  
6 public seats.

7 MS. FERSTER: Okay. So, the plan, the first  
8 plan is that the applicants, and that would be  
9 obviously the private developers in this case, they  
10 would actually provide funding for Metro buses. So,  
11 who decides whether or not they can or cannot  
12 actually fund Metro buses as distinguished from  
13 shuttle vans? I'm confused.

14 MS. CHAMBERLIN: So, when they're ready, I  
15 guess for the certificate of occupancy, and these  
16 conversations have been on hold because they haven't  
17 been ready, they're nowhere near, the conversation  
18 would have to happen with WMATA. So, there would  
19 WMATA, DDOT, and the developer.

20 MS. FERSTER: Okay. And under what  
21 circumstances would they have to resort to the  
22 shuttle vans as distinct from actual Metro buses?  
23 What is the condition that would bring those shuttle  
24 vans into being?

25 MS. CHAMBERLIN: If they are unable to

1 provide, or if the city or WMATA, or they are unable  
2 to provide those required seats, then it would have  
3 to be private.

4 MS. FERSTER: Okay. So, it's basically  
5 you're saying that if VMP can't come up with enough  
6 money to fund what your preferred transit, which  
7 would be more Metro buses, then the less expensive  
8 option would be for them to provide shuttle vans and  
9 that they would have to do that?

10 MS. CHAMBERLIN: No, there's nothing --  
11 there's nothing saying that one would be more  
12 expensive, or that private is less expensive or  
13 they're -- no.

14 MS. FERSTER: Well, why don't you just  
15 require them to provide funding for Metro buses,  
16 then, if expense is not the issue? Aren't they --

17 MS. CHAMBERLIN: We can't force --

18 MS. FERSTER: If you said there's a better --

19 MS. CHAMBERLIN: We can't force WMATA to add  
20 services. So, this isn't -- we, the DDOT and the  
21 developer can't force WMATA to provide services.

22 MS. FERSTER: Uh-huh.

23 MS. CHAMBERLIN: We can have a conversation  
24 with WMATA, we can discuss opportunities. WMATA also  
25 won't -- they're only going to add services if it's

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1 viable for them financially, operationally, et  
2 cetera, et cetera. So, there's no way you can put a  
3 condition saying, you have to fund WMATA. WMATA  
4 could say no.

5           So, I mean, we're not -- they're not under  
6 this jurisdiction. So, the idea is we're all going  
7 to come together and ideally that's the preferred  
8 alternative. If WMATA for one reason or the other  
9 isn't interested in providing additional services for  
10 whatever reason, then yes, there would be a private  
11 shuttle necessary.

12           MS. FERSTER: But I mean, is there any reason  
13 why WMATA would -- if somebody else is willing to pay  
14 the full cost of enhanced Metro bus services, why in  
15 the world would WMATA turn it down? I mean, you  
16 know, they let the baseball stadium, you know, pay  
17 them to keep the Metro open later hours too. They  
18 say yes to that.

19           MR. GLASGOW: Mr. Chairman, I'll just  
20 interpose an objection at this point. The same  
21 question has been answered and asked about four times  
22 now.

23           CHAIRMAN HOOD: Ms. Forrester (sic), have you  
24 finished that question? Did you get your answer?

25           MS. FERSTER: Well, I would actually like an

1 answer to that question. It just, you know, this is  
2 just logic to me that I don't understand why WMATA  
3 might turn down somebody paying for the full cost.

4 CHAIRMAN HOOD: Hold on, Mr. Glasgow.

5 MS. FERSTER: So, I just would like DDOT's  
6 view on that, why they would.

7 CHAIRMAN HOOD: I was actually hoping nobody  
8 would get up, because I was hoping she would get  
9 through that process before I had to cut her off. I  
10 really think that --

11 MS. FERSTER: That's my last question about  
12 transit.

13 CHAIRMAN HOOD: But I really think that  
14 question, I'm going to allow it, but I think that  
15 question is totally out of line.

16 MS. FERSTER: Okay. Well, that's my last  
17 question about transit, but thank you for allowing  
18 that. So --

19 MS. CHAMBERLIN: I can't speak on behalf of  
20 WMATA and what they are willing or not willing to do.  
21 I'm not WMATA.

22 MS. FERSTER: Okay.

23 CHAIRMAN HOOD: That was her answer.

24 MS. FERSTER: Okay.

25 CHAIRMAN HOOD: Earlier. Okay.

1 MS. FERSTER: Good. Good. So, let me ask  
2 you a couple of other questions. You're familiar  
3 with VMP's traffic impact study, I presume. They --  
4 and it recommends a number of roadway improvements,  
5 like installing new traffic signals at Michigan  
6 Avenue and Half Street, at North Capital Street, and  
7 the north service court, at the North Capital Street  
8 and Evert Street Northwest, and the First Street and  
9 north service court.

10 So, are these improve -- are these traffic  
11 improvements budgeted currently?

12 MS. CHAMBERLIN: It's for the applicant to do  
13 those improvements, not for DDOT.

14 MS. FERSTER: Okay. So, you mean somebody  
15 besides DDOT has the ability to install a traffic  
16 signal in an intersection?

17 MS. CHAMBERLIN: Oh, all the time. That's  
18 what require developments to do to mitigate their  
19 impacts.

20 MS. FERSTER: Okay. Thank you. Thank you  
21 for your patience, I'm just you know, unfamiliar with  
22 what DDOT does.

23 So, the applicant is -- are they going to be  
24 required to actually pay for and install a traffic  
25 signal, then?



1 MS. CHAMBERLIN: Yes.

2 MS. FERSTER: Okay. And when do you expect  
3 these traffic signals to be installed and paid for by  
4 the applicant?

5 MS. CHAMBERLIN: Again, it's in the zoning  
6 order, so in order for them to get their certificate  
7 of occupancy they need to comply with the conditions  
8 of the order.

9 MS. FERSTER: Okay. And so, the developer  
10 will actually do the construction too. I mean,  
11 purchasing the construction --

12 MS. CHAMBERLIN: Yes.

13 MS. FERSTER: -- independent of any of your  
14 procurement standards or your whatever.

15 MS. CHAMBERLIN: Absolutely.

16 MS. FERSTER: It's all the developer who is  
17 going to do this?

18 MS. CHAMBERLIN: Yes.

19 MS. FERSTER: Okay. Interesting. So, how  
20 about the pedestrian improvements that are identified  
21 in the traffic impact study? Do you understand that  
22 the developer, VMP, will also be paying for all of  
23 those?

24 MS. CHAMBERLIN: Yes.

25 MS. FERSTER: Okay. And that will occur

1 when?

2 MS. CHAMBERLIN: Again, it's a condition. It  
3 needs to be completed before they receive their  
4 certificate of occupancy.

5 MS. FERSTER: Okay. Okay. What's an average  
6 cost of a traffic signal?

7 MS. CHAMBERLIN: I think it's 300. About  
8 300,000.

9 MS. FERSTER: Okay. Okay. So, did -- let's  
10 just assume that all these traffic improvements  
11 are -- traffic signals are put in on North Capital  
12 Street. Has your -- have you studied the actual  
13 traffic impact then, of how that would impact the  
14 flow of traffic on North Capital Street, or did you  
15 focus on the evaluation without those signals?

16 MS. CHAMBERLIN: No, as part of the  
17 comprehensive transportation review, you do a review  
18 of the existing conditions. You then layer on the  
19 background developments that are expected to come in  
20 the area, and then you layer the expected trip  
21 generation from the project. And then from that, you  
22 identify the mitigations. And then you identify --  
23 you redo the model with the mitigations in it to see  
24 what are the impacts of the mitigations. So, yes.

25 MS. FERSTER: Okay. So, you've done that.

1 MS. CHAMBERLIN: Yes.

2 MS. FERSTER: Okay. Thank you. And I do  
3 appreciate your patience with somebody who is not a  
4 traffic expert with these questions.

5 So, are the roads around the PUD site  
6 considered evacuation routes or emergency routes?

7 MS. CHAMBERLIN: I don't know that off the  
8 top of my head, but I'm assuming North Capital  
9 probably is.

10 MS. FERSTER: Okay. Okay. I think that's  
11 all I have for you.

12 Okay. So, I'm going to turn to the Office of  
13 Planning now. And I have -- I hope, Ms. Brown-  
14 Roberts, you will bear with me because your report  
15 has got a lot packed into it, and so I'm going to  
16 drill down a bit into the details.

17 So, I just want to start you know, a little  
18 bit with just the terminology that you used. I was a  
19 little confused by it, because your report now calls  
20 the building on -- the medical building on parcel 1,  
21 you call it a healthcare facility throughout the  
22 report now.

23 And, in fact your prior Office of Planning  
24 reports all refer to this building as a medical  
25 office building. Isn't that correct? So, you have

1 shifted your terminology.

2 MS. BROWN-ROBERTS: I'm sorry, I wasn't aware  
3 of that.

4 MS. FERSTER: Okay. Is there no significance  
5 to your using the term, healthcare facility now in  
6 this particular report when all of your past reports  
7 referred to it as a medical office building?

8 MS. BROWN-ROBERTS: No.

9 MS. FERSTER: Okay. So, do you still  
10 understand this building to be a medical office  
11 building?

12 MS. BROWN-ROBERTS: I'm sorry. In the order,  
13 on the decision number 3, it does call it out as a  
14 healthcare facility.

15 MS. FERSTER: Okay. But you know, you're  
16 aware that under the zoning regulations a healthcare  
17 facility is a very carefully defined use that is  
18 different from an office building use. Isn't that  
19 correct?

20 MS. BROWN-ROBERTS: Yes.

21 MS. FERSTER: And healthcare affects  
22 specifically, the zoning regulations now define it as  
23 a facility that is licensed under the D.C. Healthcare  
24 and Community Residents Facility Hospital and  
25 Homecare Licensure Act of 1983. So, when you use the

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1 term, healthcare facility, were you using it in the  
2 definition in the zoning regulations?

3 MS. BROWN-ROBERTS: No, I think that it was  
4 something that was in -- that's how the applicant  
5 term -- you know, that is how the applicant described  
6 it.

7 MS. FERSTER: Okay. But your understanding  
8 in terms of use and zoning, et cetera, is that it is  
9 an office building?

10 MS. BROWN-ROBERTS: It's a healthcare  
11 facility.

12 MS. FERSTER: Okay. Is it a health -- does  
13 that mean that it needs to be licensed by the zoning?  
14 You know, I understand you use the term healthcare  
15 facility because that's what they used. But as a  
16 zoning professional, would you consider the use in  
17 this building to be a healthcare facility, like a  
18 hospital that's licensed, have to have a certificate  
19 of need, all that kind of stuff by the D.C.  
20 Government, or is it an office building? It's --

21 [Pause.]

22 MS. FERSTER: It is not a healthcare facility  
23 as that term is defined in the zoning regulations.

24 MS. BROWN-ROBERTS: I will go back and take a  
25 look at it, and then I will get back to you on that.

1 MS. FERSTER: Okay. So, let's put that aside  
2 for a minute because I think there is a lot of  
3 consequences that flow from, as you would probably  
4 know, a use that -- different use, a medical office  
5 building versus a healthcare facility. And so, that  
6 really, I would have a whole line of questions that,  
7 you know, I would want to ask if in fact the Office  
8 of Planning understands this to in fact be a  
9 healthcare facility. So, perhaps that would be  
10 something that we may need to take up on April --

11 CHAIRMAN HOOD: Let me see. So, before --  
12 because we're getting ready to have -- we're getting  
13 ready to make that a long hearing. Let me see. Can  
14 we get -- that's all right. Keep asking the  
15 questions.

16 MS. FERSTER: Okay. So, you also talked  
17 about the additional height in this -- well, I'm just  
18 going to call it a healthcare facility because that's  
19 what you call it. I don't know what to call it. But  
20 maybe I'll call it an office building because that's  
21 what you used to call it.

22 You said the office building --

23 MS. STEINGASSER: Ms. Ferster, I'm going to  
24 object. The application and the order all call it  
25 and represent it as a medical care facility. So,

1 that's how we would rather it be referred to in these  
2 questions, and we'll be glad to get back with you  
3 with additional information on that.

4 MS. FERSTER: Okay. Well, good. So, you  
5 would rather that I refer to it as a medical care  
6 facility.

7 MS. STEINGASSER: That's how it's represented  
8 in the application and in the order.

9 MS. FERSTER: Okay. So, explain to me why  
10 every one of your previous reports, and you did many,  
11 all referred to it as a medical office building.

12 MS. STEINGASSER: We're focusing on our  
13 testimony in this application, which was in response  
14 to the public hearing notice, which referred to it.

15 MS. FERSTER: Okay. Okay. So, but do you  
16 understand that this use has somehow changed in any  
17 way?

18 MS. STEINGASSER: As I stated, we would -- if  
19 you have a specific question about why we referred to  
20 it in one way we'll get back with --

21 MS. FERSTER: Okay. Good.

22 MS. STEINGASSER: -- additional information.

23 CHAIRMAN HOOD: Hold on. Ms. Steingasser,  
24 what are we referring it to? What is it? Because I  
25 don't want us to go into this on whatever day that

1 is.

2 MS. STEINGASSER: It is a medical care  
3 facility as represented in the application and  
4 accepted by the Zoning Commission in the order.

5 CHAIRMAN HOOD: So those are the questions  
6 you can ask towards that use.

7 MS. FERSTER: Medical -- okay. So, you're  
8 describing this as a medical care facility now?

9 MS. STEINGASSER: I'm not describing  
10 anything. It's represented in the application and  
11 accepted in the order as a medical care facility.

12 MS. FERSTER: Okay. So, it is a medical care  
13 facility.

14 MS. STEINGASSER: It is represented by the  
15 applicant and accepted in the order as a medical care  
16 facility.

17 MS. FERSTER: Okay. All right. So, I'm  
18 confused, but I'll carry on here.

19 So, a medical care facility then, as you  
20 understand it, doesn't it need to be licensed by the  
21 D.C Government and have a certificate of need?

22 MS. STEINGASSER: Can you draw our attention  
23 to where we testified to that issue in our report?

24 MS. FERSTER: Well, I'm just -- no, I'm just  
25 trying to understand the use. So, you would prefer



1 not to answer that question?

2 CHAIRMAN HOOD: Mr. Glasgow, what is it?

3 MR. GLASGOW: With respect to the facility in  
4 the application, the applicant is going to be  
5 testifying to all of that on April 6th.

6 CHAIRMAN HOOD: Can you reserve your  
7 questions for the applicant so you can get to the  
8 bottom of it?

9 MS. FERSTER: Okay. I would like to know  
10 what the Office of Planning thinks this is, but I  
11 will, you know, if you're overruling this line of  
12 questioning --

13 CHAIRMAN HOOD: I'm not overruling it, I  
14 asked you. I'm not overruling because we do need  
15 clarification but I'm just asking you, I think that  
16 might be better advised because -- and any time  
17 you're doing as much as what we're doing, things get  
18 kind of turned around sometime, and it's more clear  
19 to get it from the people who are going to possibly,  
20 maybe doing it.

21 MS. FERSTER: It is, but it's also very  
22 important to understand what the Office of Planning  
23 thinks this use is. So, I would like to, at some  
24 point, query the Office of Planning about what they  
25 consider this use, and if they're not prepared now, I

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1 would like to do it later. And if you do not want me  
2 to do it now, I'd simply reserve my objection for the  
3 record.

4 CHAIRMAN HOOD: I did not -- I haven't put  
5 any words in your mouth, so don't do me. Okay? I'm  
6 not denying you anything.

7 MS. FERSTER: Okay.

8 CHAIRMAN HOOD: I'm just trying to get it  
9 clear tonight so what happens on the 6th, we won't  
10 get bogged down, because that's when you're going to  
11 make your presentation and that's when the applicant  
12 is going to make their presentation.

13 MS. FERSTER: Right.

14 CHAIRMAN HOOD: Those are the ones that I'm  
15 really going to be trying to be focused on, on the  
16 6th. So, I would like to try to get it clarified  
17 tonight so we don't have to deal with it on the 6th.  
18 But if we can't, but if we can't, we'll deal with it  
19 on the 6th.

20 MS. FERSTER: Well, sure. But I would like,  
21 you know, Office of Planning to answer those  
22 questions because I think it is important to know  
23 what the Office of Planning understands this building  
24 to be, since they believe that it can't be modified  
25 and it's important to be on this site because it

1 fulfills comprehensive plan policies, et cetera. So  
2 clearly, it's use is relevant to their analysis and I  
3 think it's important that we understand what the  
4 Office of Planning understands this use to consist  
5 of.

6 CHAIRMAN HOOD: Okay. And they said they  
7 weren't able to. Are you all able to answer that  
8 tonight?

9 MS. STEINGASSER: No, sir, we did not testify  
10 to the details of the use itself. We testified only  
11 to the issues raised through the public hearing  
12 notice.

13 CHAIRMAN HOOD: Through the court. Okay.

14 MS. FERSTER: Okay. So, are you -- I would  
15 still like to pursue those questions.

16 CHAIRMAN HOOD: No, don't put -- don't put it  
17 in -- don't go there. Don't put it in that.

18 I'm going to hold that in abeyance until,  
19 what day is this? The 6th of April. And I would ask  
20 that we come prepared, Office of Planning, to ask  
21 those two or three questions.

22 MS. FERSTER: Well, there's a number of  
23 questions, but sure.

24 CHAIRMAN HOOD: Okay. Five or six questions.

25 MS. FERSTER: Maybe more.

1 CHAIRMAN HOOD: Okay. Nine or 10. All  
2 right. Let's go forward.

3 MS. FERSTER: Okay. So, okay. You, Ms.  
4 Brown-Roberts, you testified that you believe that  
5 the additional floor to ceiling heights on the first  
6 two floors of this -- and what am I supposed to call  
7 it? Building. I'm just going to call it a building.  
8 This building on parcel 1, the large building on  
9 parcel 1, is necessary because -- hold on, I want to  
10 get you the specific language in front of me. To  
11 accommodate the operational needs of a medical  
12 facility.

13 Can you describe those operational needs that  
14 need to be accommodated on those first two floors?

15 MS. BROWN-ROBERTS: Can you tell me what page  
16 that is?

17 MS. FERSTER: That was on page 2 of your  
18 report. Bottom of the page.

19 [Pause.]

20 MS. BROWN-ROBERTS: I'm sorry. You said on  
21 the bottom two floors?

22 MS. FERSTER: Yes. The sentence says, "The  
23 additional height is due to taller floor to ceiling  
24 height requirements needed to accommodate the  
25 operational needs of a medical facility." And I'm

1 actually also assuming, from the applicant's  
2 prehearing submission, which they indicated that it  
3 would be on the first two floors where those larger  
4 floor to ceiling heights would be needed. You didn't  
5 say that in your testimony.

6 MS. BROWN-ROBERTS: No, I think you'd have to  
7 ask the applicant what would be the uses on those two  
8 floors.

9 MS. FERSTER: Okay. So, you just accepted at  
10 face value, their statement that that's what they  
11 needed?

12 MS. BROWN-ROBERTS: I'm sorry, there was  
13 nothing there about the first two floors, so I don't  
14 know.

15 MS. FERSTER: Okay. So, let's just assume  
16 that two floors somewhere in this eight-story  
17 building then, need to be -- have a higher floor to  
18 ceiling height to accommodate the operational needs  
19 of the medical facility, and you don't know which two  
20 floors they are. Is that correct?

21 MS. BROWN-ROBERTS: No.

22 MS. FERSTER: Okay. So, what, again, what  
23 operational needs do those two floors need to  
24 accommodate?

25 MS. BROWN-ROBERTS: I would refer to the

1 applicant on those.

2 MS. FERSTER: So you don't know?

3 MS. BROWN-ROBERTS: No.

4 MS. FERSTER: Okay. Okay. So, I'm going to  
5 turn to page 6 of your report. At the bottom of the  
6 page you indicate -- and I am actually having trouble  
7 understanding this sentence, so the first thing I  
8 want to do is have you explain what this means.

9 You say, "The Class A building and many of  
10 the functions and services the proposed facility  
11 would provide are not generally found in small  
12 community healthcare facilities because of their  
13 specialized nature."

14 So, just starting first, what are there --  
15 what are the functions and services of a specialized  
16 nature that this building will be providing that are  
17 not normally found in small community healthcare  
18 facilities?

19 MS. BROWN-ROBERTS: I think you'd ask the  
20 applicant which -- what are the -- what are each of  
21 the functions that are going to be provided.

22 MS. FERSTER: So you don't know?

23 MS. BROWN-ROBERTS: No.

24 MS. FERSTER: You don't know that answer to  
25 that question.

1           CHAIRMAN HOOD: Ms. Ferster, can you do me --  
2 as you ask your questions, can you do me a favor?  
3 Can you tell me which one of the issues that you are  
4 addressing at the beginning of your question? That  
5 would help me so I can take my notes that I'm taking  
6 on your questions.

7           MS. FERSTER: Okay. Well, this appears in  
8 the Office of Planning report under issue --

9           CHAIRMAN HOOD: Right. I know you, I know  
10 you --

11          MS. FERSTER: -- one.

12          CHAIRMAN HOOD: Okay.

13          MS. FERSTER: Issue number 1.

14          CHAIRMAN HOOD: But from now on, if you can  
15 just help me because I don't have that open.

16          MS. FERSTER: Okay.

17          CHAIRMAN HOOD: I have my notes and stuff.

18          MS. FERSTER: Yeah. That's under Issue  
19 number 1.

20          CHAIRMAN HOOD: Okay.

21          MS. FERSTER: Okay. So, turning to page 9 of  
22 your report, which is under issue number 3.

23          CHAIRMAN HOOD: Thank you.

24          MS. FERSTER: You indicate that the proposed  
25 healthcare building would address the need for

1 additional healthcare and research space by the  
2 adjacent medical facilities by the provision of  
3 needed state of the art Class A healthcare and  
4 research space. Can you describe this research space  
5 in a little more detail?

6 MS. BROWN-ROBERTS: I don't have that  
7 information either.

8 MS. FERSTER: Okay. Do you know whether or  
9 not this research space is the space that requires  
10 those higher floor to ceiling heights or not?

11 MS. BROWN-ROBERTS: I don't know?

12 MS. FERSTER: Okay. Okay. So, turning back  
13 to page 7, which is still issue number 1, back to  
14 issue number 1. And I apologize, I'm skipping around  
15 because I'm just trying to get all the questions  
16 about the medical building in you know, one space,  
17 even though they're addressed in different remand  
18 topics.

19 But okay. So, you say that some of the  
20 existing -- you say that these -- some of the  
21 existing hospitals, such as Children's Hospital,  
22 provide community healthcare services throughout the  
23 city and the proposed facility could complement some  
24 of those services.

25 So, are you saying -- have you ascertained



1 whether or not these services that are already  
2 provided by the Children's Hospital, these community  
3 health service, what are they anyway? Are they  
4 for -- what are these community health services that  
5 are going to be accommodated in the building?

6 MS. BROWN-ROBERTS: I don't know.

7 MS. FERSTER: Okay. So, you're really also  
8 not in a position to assess whether or not in fact  
9 Children's Hospital could also supply these community  
10 services. Is that correct?

11 MS. BROWN-ROBERTS: That's correct.

12 MS. FERSTER: Okay. Okay. Okay. So, one of  
13 the things that you also mention on page, let's see,  
14 six of your testimony, is that you know, the new  
15 building would relieve some of the space demands of  
16 the facilities in the Washington Hospital Center, so  
17 it would sort of help that there's a need for this  
18 building because of -- for what you say, the  
19 physician's research facilities and other healthcare  
20 users that are, you know, would otherwise be at the  
21 Washington Hospital Center. So, that's your --  
22 correct? Is that some of those, the need for this  
23 healthcare facility is basically space that would  
24 otherwise be -- is basically needed space by the  
25 Washington Hospital Center?

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1 MS. BROWN-ROBERTS: The applicant would be  
2 able to address that further.

3 MS. FERSTER: You don't know that question.  
4 Okay. So, you indicate that you know, that part of  
5 the reason why you think that this medical building  
6 is, you know, located on this particular parcel is  
7 that it is near the Washington Hospital Center.  
8 Isn't that correct? So, that is helpful to have this  
9 medical facility hub, I think you call it. To have a  
10 medical facility located near the facilities at the  
11 Washington Hospital Center complex. That's part of  
12 the reason why you think it's consistent with the  
13 Comprehensive Plan?

14 MS. BROWN-ROBERTS: The economic strategic  
15 plans mention having it --

16 MS. FERSTER: Okay.

17 MS. BROWN-ROBERTS: -- in that portion. That  
18 location.

19 MS. FERSTER: And so -- okay.

20 CHAIRMAN HOOD: Ms. Ferster, do you think you  
21 have additional questions for our other agencies?  
22 Because I can let them, they can go.

23 MS. FERSTER: No, I don't.

24 CHAIRMAN HOOD: Okay. So, you all, if you  
25 need to go.

1 MR. MILLER: And I wanted to thank the  
2 District agencies for coming tonight, and for  
3 submitting the reports that you did.

4 CHAIRMAN HOOD: Yeah, we appreciate it.

5 MR. MILLER: Including the agencies that are  
6 still with us.

7 CHAIRMAN HOOD: Okay. Hold on for a second.

8 MR. GLASGOW: With respect to the agencies,  
9 there were some questions that weren't fully  
10 answered. In order for the expediency of the  
11 process, we're probably going to be ordering daily  
12 transcripts, and by the 6th be in a position to  
13 supplement any of the questions and answers so that  
14 the Commission could have that prior to the April 6th  
15 hearing.

16 CHAIRMAN HOOD: Okay.

17 MS. FERSTER: I mean, I think we have April  
18 3rd as our continuation date for agency testimony.  
19 Wouldn't it be more appropriate to have that  
20 testimony on April 3rd?

21 CHAIRMAN HOOD: Have what testimony on April  
22 3rd?

23 MS. FERSTER: The agency officials who were  
24 going to supplement their testimony today.

25 MR. GLASGOW: I said we'd supplement for the

1 record.

2 CHAIRMAN HOOD: We're going to deal with  
3 everything on April the 6th.

4 MS. FERSTER: So you could finish everything  
5 tonight, all the agency witnesses and then if there's  
6 any carryover these --

7 CHAIRMAN HOOD: Yeah, well I think the  
8 carryover, I think the carryover, depending --  
9 because we have some things that you need from DOEE.

10 MS. FERSTER: Uh-huh.

11 CHAIRMAN HOOD: And that we actually need  
12 also. And I think you can finish your question of  
13 Office of Planning. We do that on the 6th. There's  
14 no sense in coming back down here on the 3rd.

15 MS. FERSTER: In what order will that be,  
16 then?

17 CHAIRMAN HOOD: We're going to start with --  
18 wherever we leave off --

19 MS. FERSTER: Okay.

20 CHAIRMAN HOOD: -- if we don't finish this,  
21 that's where we're going to start.

22 MS. FERSTER: And will the docket -- will  
23 there be documents provided before that date then?

24 CHAIRMAN HOOD: I think we set a schedule for  
25 the -- did we ask --

1 MS. FERSTER: I know our documents are  
2 supposed to be filed on the 3rd by 3:00 p.m. But how  
3 about any additional documents from --

4 CHAIRMAN HOOD: I'm not sure. I'm not sure  
5 how the transcript, how does that work? I'm not  
6 sure --

7 MS. SCHELLIN: If they're asking for an  
8 expedited transcript the applicant is obviously going  
9 to pay for that. And so, if they're doing that then  
10 you know, it would be on them to do that and they  
11 would work with --

12 CHAIRMAN HOOD: Let me ask this.

13 MS. SCHELLIN: -- the other agencies.

14 CHAIRMAN HOOD: Let me ask this. Ms.  
15 Forrester (sic), what do you need that we -- Ferster?  
16 Well, it's getting -- it's almost 11:00, so I can  
17 make mistakes. Ferster. Let's make sure I pronounce  
18 your name. Is it Ferster?

19 MS. FERSTER: It is.

20 CHAIRMAN HOOD: Okay.

21 MS. FERSTER: Well done.

22 CHAIRMAN HOOD: Thank you. Is that the first  
23 time I got it right tonight?

24 MS. FERSTER: Yes.

25 CHAIRMAN HOOD: Okay. I see. Okay. So,

1 what is it that you need, that you need, other than  
2 the DOEE, that we need other -- that you think we  
3 might need to meet on the 3rd? I'm just trying to  
4 understand.

5 MS. FERSTER: Well, the expedited transcript  
6 for sure. I mean, if in fact there are documents  
7 that the agencies are going to provide on the record,  
8 or explanations or supplements, I think everything  
9 should come in by April 3rd, like we have to bring  
10 everything in.

11 CHAIRMAN HOOD: Can we have -- I don't know  
12 how the transcript is going to work. Do you think we  
13 can have everything by the 3rd, because I really  
14 don't -- here's what I don't want. I don't want us  
15 to come down here on the 3rd for an hour. You know,  
16 that's a waste of everyone's time, and especially us.  
17 We're here all the time anyway. So, we can finish  
18 your cross-examination if we don't finish tonight, on  
19 the 6th.

20 So, I don't know how the transcript is going  
21 to work.

22 MS. SCHELLIN: I thought that they were just  
23 going to supplement in writing, their testimony, the  
24 follow up to the questions that didn't get answered.

25 CHAIRMAN HOOD: See, that's what I'm saying.

1 That comment that was made, that's why I had to look  
2 at the Vice Chair to understand it myself. So, I  
3 think that's where Ms. Ferster is coming from.

4 So, we could have probably just done without  
5 that. We could have done without that. That might  
6 not have confused everything. So, what is the issue?  
7 Are they just going to supplement the record, or -- I  
8 don't understand. I don't understand why we need the  
9 transcript.

10 MS. SCHELLIN: Well, I think that the  
11 applicant was volunteering to pay for an expedited  
12 transcript to make sure that they captured all of the  
13 questions that were left, that they said they would  
14 follow up on. That was the only reason.

15 CHAIRMAN HOOD: She hasn't even asked her  
16 questions for DOEE. So, I don't understand what  
17 that's about.

18 MS. SCHELLIN: No, for the other agencies, I  
19 think is what --

20 CHAIRMAN HOOD: Okay.

21 MS. SCHELLIN: -- they were asking for.

22 CHAIRMAN HOOD: Right now, the only other  
23 agency that I believe that you have questions of,  
24 DOEE. Am I not correct? Other than the ones you're  
25 asking Office of Planning.

1 MS. FERSTER: I think that's right.

2 CHAIRMAN HOOD: Okay. So, I don't understand  
3 the rest of it. I really don't. I was following  
4 everything until then. So, let's go back to your  
5 cross-examination. If you all -- you all can leave.  
6 Thank you.

7 MS. FERSTER: Okay. So, just a point of --  
8 or just a scheduling question. How late do you plan  
9 on going tonight?

10 CHAIRMAN HOOD: That's going to depend on  
11 you.

12 MS. FERSTER: Well, I have a lot of  
13 questions. I just want to -- fair warning here.

14 CHAIRMAN HOOD: Well, I've been here after  
15 12:00.

16 MS. FERSTER: Uh-huh. Okay.

17 CHAIRMAN HOOD: I've left one time at 1:00.

18 MS. FERSTER: Okay. Good. Okay.

19 CHAIRMAN HOOD: But I'm actually not going to  
20 do that. I was just seeing where you was going.

21 Let me also again thank the agencies as well.  
22 Ms. Forrester (sic), I think -- let's you and I --

23 MS. FERSTER: Ferster.

24 CHAIRMAN HOOD: Ferster. Ferster. Well,  
25 when I come back and well rested, I'll get it



1 correct.

2 Ms. Ferster, it's 10:47 now. How much more  
3 time would you like to go for tonight, and then we  
4 can finish up on the 6th.

5 MS. FERSTER: Well, I would like -- you know,  
6 if I have a lot of questions so I could easily go  
7 until after midnight. So, you can cut it off  
8 whenever you want.

9 MR. TURNBULL: Well, Metro is not going to go  
10 that late.

11 MS. FERSTER: Oh, that's a good point. When  
12 does Metro stop? Midnight?

13 CHAIRMAN HOOD: It's a little after 12:00.  
14 If we don't wait until the last train it might not  
15 run.

16 MS. FERSTER: So, I would like to get home --  
17 get on the Metro before it closes, for sure.

18 CHAIRMAN HOOD: Okay. So, why don't we do  
19 this, because a lot of us are getting tired and I  
20 keep mispronouncing your name as well, why don't we  
21 just go to 11:00? That's 10 more minutes. And that  
22 will cut down on some of the questions for the 6th.  
23 Okay? All right.

24 MS. FERSTER: Okay. Okay. So, okay. So, we  
25 were talking about the Washington Hospital Center and

1 the fact that you had mentioned the mayor's strategic  
2 plan as, you know, viewing as desirable, this  
3 location of this medical building near the Washington  
4 Hospital Center. So, I guess I have -- I do have a  
5 question. You know, if in fact, you know, the  
6 services being offered in this medical building are  
7 pretty much an extension of the services and needs of  
8 the hospitals and medical facilities on the  
9 Washington Hospital complex, why wouldn't the  
10 appropriate planning way to deal with the medical  
11 facility be to essentially amend the Comprehensive  
12 Plan to make the northern portion of the McMillan PUD  
13 site an institutional zone, and deal with it as part  
14 of the Washington Hospital campus planning?

15           Doesn't that make sense as a way to deal with  
16 that given what you tell me about the relationship  
17 between the Washington Hospital Center complex and  
18 the McMillan medical building?

19           MS. BROWN-ROBERTS: I have no comment on  
20 that.

21           MS. FERSTER: So, you don't have an opinion  
22 on that? No opinion. Okay.

23           MS. BROWN-ROBERTS: No comment.

24           MS. FERSTER: Okay. I'm asking for your  
25 opinion as an expert planner. Do you have -- you

1 don't have an opinion on that?

2 MS. BROWN-ROBERTS: No comment.

3 MS. FERSTER: I don't want to badger you but  
4 I don't think no comment is an acceptable answer in  
5 these kinds of proceedings. It's either no opinion  
6 or I don't know.

7 MS. BROWN-ROBERTS: I don't know.

8 MS. FERSTER: Okay. Okay. So, let's just  
9 assume, hypothetically -- well, actually, you don't  
10 know the answer to this -- what is your understanding  
11 about the use of the first two floors of this medical  
12 building? Isn't it correct that your prior plans  
13 indicate that that's for retail, right?

14 MS. BROWN-ROBERTS: There is retail but I'm  
15 not sure if it's the two floors. But I know there is  
16 ground floor retail.

17 MS. FERSTER: Okay. And on the ground floor.  
18 You're sure that there is going and continues to be  
19 ground floor retail as part of this project building.  
20 Are you aware? Can you comment on that? Do you  
21 know?

22 MS. BROWN-ROBERTS: There is retail on the  
23 ground floor.

24 MS. FERSTER: Okay. Okay. So, your report  
25 talks about your concern about the possible removal

1 of the two floors of the medical building, which  
2 would be what is required to make it conform to  
3 moderate density designation, zoning designation,  
4 because you said that -- your report said, or maybe  
5 that's Ms. Steingasser's report, not yours, but I --  
6 the report says that it would have a ripple effect by  
7 occupying land that is to be otherwise used for  
8 housing, public park, open space or recreation  
9 center.

10 So, I guess I'd like to ask you a little bit  
11 about that. Why does your report assume that it's  
12 not possible to just eliminate two floors of this  
13 medical building and not expand elsewhere into the  
14 site? What is the basis of that assumption?

15 MS. BROWN-ROBERTS: I think it's the density  
16 that was established by the LDA on the site. So,  
17 that's you know, it looked at all the different uses  
18 and how to distribute it across the site.

19 MS. FERSTER: Okay. So, your testimony is  
20 that because of the land disposition agreement,  
21 that's what LDA stands for? Is that correct? Okay.

22 MS. BROWN-ROBERTS: Correct.

23 MS. FERSTER: That basically, the applicant's  
24 hands are now tied and they absolutely have to have  
25 860,000 square feet of medical building uses. Or

1 actually over 1 million square feet of medical uses,  
2 because that's what's in the LDA. Is that correct?

3 MS. STEINGASSER: Is that what we said?

4 MS. FERSTER: I think that's what Ms.  
5 Brown --

6 MS. STEINGASSER: I think that's what you're  
7 interpreting. What she said is that's where we got  
8 the general commercial densities, were established  
9 through the land disposition agreement.

10 MS. FERSTER: Okay. So, my question was, you  
11 know, those general densities are established in the  
12 LDA. But is there anything that prohibits the  
13 applicant from sort of changing its mind and  
14 deciding, well you know, if the Zoning Commission  
15 really really doesn't like those eight stories and  
16 really feels like it should be moderate density, and  
17 two floors ought to come off, is there anything in  
18 the LDA that says somehow the applicant has to have  
19 that amount of commercial density on this site?

20 MS. STEINGASSER: I think you'd have to talk  
21 to the applicant about that.

22 MS. FERSTER: Okay. But that's what your  
23 report suggests, and that's what you just suggested.  
24 That's the basis for your statement.

25 MS. STEINGASSER: I'm happy to read it and

1 clarify it in our words. The general density,  
2 commercial density of the McMillan site was  
3 established through the LDA, with the city council  
4 and by Resolution 20-707.

5 MS. FERSTER: Okay. So, it is your opinion  
6 that this LDA, establishing this general density  
7 somehow constrains the ability of the Zoning  
8 Commission and prevents it from improving the  
9 project?

10 MS. STEINGASSER: No, that's your  
11 interpretation. What we -- we didn't say anything  
12 about constraining the Zoning Commission.

13 MS. FERSTER: Okay.

14 MS. STEINGASSER: Unless you can point to  
15 that.

16 MS. FERSTER: Okay. No, I'm just asking you.  
17 I'm just -- I'm asking you. So, do you think it  
18 constrains the developer, then? The developer can't  
19 come back with a project with lower density unless  
20 the Zoning Commission says no?

21 MS. STEINGASSER: And that, you would have to  
22 talk to -- ask the developer.

23 MS. FERSTER: Okay. But this is your report,  
24 okay?

25 MS. STEINGASSER: This explains why it's our

1 position and our understanding that if two floors  
2 were removed they would have to be accommodated  
3 elsewhere on the site, that area.

4 MS. FERSTER: And you say it's because the  
5 LDA says -- specifies a certain amount of square feet  
6 of commercial development.

7 MS. STEINGASSER: The general commercial  
8 density of this site was established through the LDA.

9 MS. FERSTER: Okay. But so, then you are  
10 saying that somehow this LDA constrains either the  
11 developer or the Zoning Commission --

12 MS. STEINGASSER: I don't --

13 MS. FERSTER: -- or you.

14 MS. STEINGASSER: I'll be honest, I don't  
15 know why you feel the need to restate every answer.  
16 Our answer is what our answer was.

17 MS. FERSTER: I'm just confused, that's all.

18 MS. STEINGASSER: I can tell.

19 MS. FERSTER: Okay. And again, I don't --

20 CHAIRMAN HOOD: One or two -- Ms. Ferster,  
21 one or two more questions and we'll probably call it  
22 a night.

23 MS. FERSTER: Okay. So, what's the date of  
24 this LDA?

25 MS. STEINGASSER: It's Resolution 20-707.

1 MS. FERSTER: And when was this LDA adopted?  
2 Isn't it --

3 MS. STEINGASSER: I don't know. That's not  
4 in our report.

5 MS. FERSTER: Okay. Well, isn't it correct  
6 they waited until after the Zoning Commission  
7 approved the particular density?

8 MS. STEINGASSER: I don't know.

9 MS. FERSTER: You just don't know. Okay.  
10 So, when the applicant was here previously, in  
11 response to a great deal of concern by the Zoning  
12 Commission, they actually dropped one story from the  
13 height of the building, and actually reduce the size.  
14 Is it your understanding that that had a ripple  
15 effect throughout the project, that that density that  
16 was lost when they dropped the height of the  
17 building, was somehow spread out elsewhere?

18 MS. STEINGASSER: Can you point me to the  
19 discussion of the previous version?

20 MS. FERSTER: Excuse me?

21 MS. STEINGASSER: Can you point me to where  
22 we discussed the previous version of --

23 MS. FERSTER: I'm just --

24 MS. STEINGASSER: -- the --

25 MS. FERSTER: I'm wondering, I'm just trying



1 to probe your assumptions about this ripple effect  
2 that will inevitably occur if two stories were  
3 dropped; that inevitably this additional density  
4 would have to be accommodated elsewhere in the site.  
5 Did this ripple effect occur last time they dropped a  
6 story?

7 MS. STEINGASSER: We didn't talk about last  
8 time in this testimony. This testimony is focused  
9 very tightly on the issues.

10 MS. FERSTER: I think your counsel needs to  
11 object to the scope of my testimony, not you.

12 MS. STEINGASSER: But I'm going to. So, our  
13 answer is in that paragraph, the general density was  
14 established through the LDA.

15 MS. FERSTER: Uh-huh.

16 MS. STEINGASSER: And through a signed term  
17 sheet.

18 MS. FERSTER: Well your testimony, I'm  
19 looking at this report and it says that you -- the  
20 testimony was reduced to 115 feet. So, it is --

21 CHAIRMAN HOOD: Ms. Ferster, let me ask this  
22 question. Is that part of the remand, what you just  
23 read?

24 MS. FERSTER: This is part of their  
25 testimony.

1           CHAIRMAN HOOD: Or is it something -- are you  
2 going back to our previous report?

3           MS. FERSTER: You know, part of the remand is  
4 a key question, obviously, is whether or not the  
5 Comprehensive Plan policies could be furthered by,  
6 you know, reduced density on this project.

7           CHAIRMAN HOOD: Okay, now you're making --  
8 that part made sense to me. So, keep it germane to  
9 that.

10          MS. FERSTER: Okay. Well, that's the  
11 context. And so, that is why the Office of Planning  
12 presumably talked about why they couldn't drop two  
13 floors out of the site because somehow that it would  
14 spread out elsewhere, that somehow density could not  
15 be reduced. And I'm trying, and I'm not having any  
16 success in getting the Office of Planning to explain  
17 the basis for why they don't think that they couldn't  
18 -- the applicant just couldn't drop two floors, other  
19 than the fact that the LDA, which was passed after  
20 the Zoning Commission approved the current density,  
21 understandably specified the current density.

22          CHAIRMAN HOOD: Okay.

23          MS. FERSTER: But if the Zoning Commission  
24 order is now vacated, you know, I don't understand  
25 how the LDA somehow you know, means that they can't

1 just drop two stories off of the office building.

2 CHAIRMAN HOOD: Let me say this, I notice  
3 everybody really puts a lot of emphasis on -- and let  
4 me just say, that's part of the process. That's part  
5 of the process. If you don't like what's done down  
6 here, then you go to the court.

7 MS. FERSTER: And we will.

8 CHAIRMAN HOOD: And then the court turned  
9 around and sends it back to us and tell us to rectify  
10 this. We have no problems with that. Yeah, it's  
11 vacated, remanded, call it what you want. We have  
12 some things that we're going to send back to them,  
13 and we're going to see if they accept that.

14 MS. FERSTER: Uh-huh. Okay.

15 CHAIRMAN HOOD: So I'm not -- I have no --  
16 that's part of the job.

17 MS. FERSTER: And I understand you.

18 CHAIRMAN HOOD: So, what I want you to do  
19 now, though, is just ask the question.

20 MS. FERSTER: Okay.

21 CHAIRMAN HOOD: If she answers the question,  
22 then we move on. They do that in the court, because  
23 when you're in the court some of this dialog doesn't  
24 happen.

25 MS. FERSTER: Okay. So, I'm just going to

1 say that, you know, I've explained the relevance of  
2 my question in terms of Issue number 1, which is a  
3 remand issue identified in your order, which talks  
4 about why the Comprehensive Plan policies could not  
5 be achieved with the moderate density development.

6 CHAIRMAN HOOD: Don't testify. Restate your  
7 question and I'm going to ask them to answer it.  
8 Restate your question, the Issue 1.

9 MS. FERSTER: Okay. So, my question again,  
10 is why do you believe that the applicant cannot just  
11 simply reduce the height of the building to a  
12 moderate density appropriate height without causing  
13 this ripple effect without having that density have  
14 to be -- what requires the developer to have 1  
15 million square feet of medical -- of commercial  
16 development?

17 MS. STEINGASSER: The general commercial  
18 density was established through the LDA in the term  
19 sheet.

20 MS. FERSTER: Okay. So, you're saying then,  
21 that the LDA legally prevents --

22 MS. STEINGASSER: I'm not making any  
23 interpretation -- I'm not going any further. That's  
24 what I'm saying.

25 CHAIRMAN HOOD: Okay. That's --

1 MS. STEINGASSER: General commercial retail  
2 established there.

3 MS. FERSTER: Okay.

4 CHAIRMAN HOOD: That's her answer.

5 MS. FERSTER: So, the --

6 CHAIRMAN HOOD: That's her answer.

7 MS. FERSTER: Okay. So, the Office of  
8 Planning has the ability, isn't that correct, to ask  
9 the Office of General Counsel for legal opinions.  
10 Isn't that correct? You are -- you have the ability  
11 to do that.

12 MS. STEINGASSER: Again, is that -- I'm  
13 trying to focus on our testimony.

14 MS. FERSTER: And again, I just am -- there  
15 are some -- the LDA is a legislative -- it's a  
16 legislative document. So, you're referring to  
17 basically an act of the D.C. Counsel as somehow  
18 constraining your authority. Did you ask --

19 MR. MAY: I think she said repeatedly --

20 MS. FERSTER: -- (simultaneous speech).

21 MR. MAY: -- that it's not constraining.  
22 Right? They're not saying that it's constraining.  
23 They're just saying, that's where the number came  
24 from. You're concluding repeatedly, that it is  
25 constraining.

1 MS. FERSTER: Well, I don't --

2 MR. MAY: We're going around in circles and  
3 it's not really helping us in informing us.

4 MS. FERSTER: Then I certainly -- I'm  
5 certainly not informed either, I assure you.

6 So, okay. So, I do not understand what  
7 you're referring to about the LDA, then, and why that  
8 somehow, why you say in your report, and that the LDA  
9 -- and I have to get the language here. Here is what  
10 you say. "The general commercial density of McMillan  
11 site was established through the LDA with the D.C.  
12 Counsel by Resolution 2704, and through a term sheet  
13 signed by the developer and the mayor. If building  
14 density were to be reduced to a common medium density  
15 PUD height of 90 feet, two floors would need to be  
16 removed and the square footage would need to be  
17 relocated elsewhere on the site."

18 Well, I don't understand why it would need to  
19 be relocated elsewhere on the site. That's, I just  
20 don't understand why the LDA somehow requires that.  
21 And that's my question and I still don't understand  
22 that.

23 I think we're at your 11:00 time.

24 CHAIRMAN HOOD: No, I want you to finish  
25 asking your question because I didn't understand your

1 question. That was more like a comment.

2 MS. FERSTER: Okay. So, I read that language  
3 and I would like an explanation from the Office of  
4 Planning in why they believe, other than just simply  
5 referring to the LDA, why two floors of the -- the  
6 square footage on those two floors would need to be  
7 located elsewhere on the site. I don't understand  
8 what in the LDA requires that.

9 MS. STEINGASSER: I don't know how to restate  
10 the sentence any additional way.

11 CHAIRMAN HOOD: Okay.

12 MS. FERSTER: Okay.

13 CHAIRMAN HOOD: All right. So, that's her --

14 MS. FERSTER: And that's the answer.

15 CHAIRMAN HOOD: That's her answer.

16 MS. FERSTER: That's the answer.

17 CHAIRMAN HOOD: Okay. You have any more  
18 questions?

19 MS. FERSTER: I have a lot of more -- a lot  
20 more questions.

21 CHAIRMAN HOOD: Okay. Ask one more. And  
22 let's leave with a fine question, a finetuned  
23 question. Let's leave so we can start off on a good  
24 note.

25 MS. FERSTER: Okay. Well, sure. I'll get

1 you a good question.

2 CHAIRMAN HOOD: That's germane to the remand  
3 and to their testimony.

4 MS. FERSTER: Yeah. Let's see if I can find  
5 a good one.

6 So, your report basically agrees with the  
7 Zoning Commission and the Court of Appeals that the  
8 proposed medical building on parcel 1, as a result of  
9 its height, would be considered a high-density use.  
10 Isn't that correct?

11 MS. STEINGASSER: Where did you find that  
12 conclusion?

13 MS. FERSTER: You talk about, in your report,  
14 about high-density, that it's high-density.

15 MS. STEINGASSER: Where? I don't believe we  
16 called the building high-density.

17 MS. FERSTER: I didn't write it down. You're  
18 probably more familiar with it than I am.

19 Well, okay. I'll just ask you, then, since I  
20 can't find it right now. Do you consider the medical  
21 facility on parcel 1 to be a high-density use as a  
22 result of its height?

23 MS. STEINGASSER: A high density use, or a  
24 high-density building?

25 MS. FERSTER: High-density building.



1 MS. STEINGASSER: Because of its height  
2 alone? No.

3 MS. FERSTER: Okay. So, you believe that the  
4 height of the building is consistent with heights  
5 for --

6 MS. STEINGASSER: No. I don't even know  
7 where you're doing with that, but no.

8 MS. FERSTER: Okay. Okay, good. I'm glad  
9 that you certainly can answer questions of mine  
10 before I ask it. That's remarkable.

11 CHAIRMAN HOOD: Okay. I think that's  
12 probably going to do it.

13 MS. FERSTER: That's a good one.

14 CHAIRMAN HOOD: Because we all are getting  
15 tired and getting testy. I just wanted to have a  
16 good question.

17 I would ask that, Ms. Ferster, that we come  
18 prepared to ask the questions that we need to ask.  
19 Let's get to the question, let's get to the answer.  
20 I think the only thing is Office of Planning, I'm  
21 going to ask that we have the Government agency,  
22 Department of the Energy and Environment, someone who  
23 can answer the questions that Ms. Ferster has, so we  
24 can make sure that those two agencies, Office of  
25 Planning will be here, as well as DOEE. And we will

1 convene back in this room at 6:30 on April the 6th.

2 Any questions? With that, this hearing is  
3 adjourned. Postponed. I mean, not postponed.

4 Adjourned.

5 [Whereupon, the Limited Scope Public Hearing  
6 adjourned at 11:06 p.m.]

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