

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF: :
  
:
  
Vision McMillan Partners, : Case No.
  
LLC : 13-14
  
:
  
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Tuesday,
  
May 27 2014

Hearing Room 220 South
  
441 4<sup>th</sup> Street, N.W.
  
Washington, D.C.

The Public Hearing of Case No. 13-14 by
the District of Columbia Zoning Commission
convened at 6:32 p.m. in the Jerrily R. Kress
Memorial Hearing Room at 441 4<sup>th</sup> Street, N.W.,
Washington, D.C., 20001, Anthony J. Hood,
Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman  
MICHAEL G. TURNBULL, FAIA, Commissioner  
(AOC)  
PETER MAY, Commissioner (NPS)  
ROBERT MILLER, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

MAXINE BROWN-ROBERTS

DISTRICT DEPARTMENT OF TRANSPORTATION STAFF  
PRESENT:

ANNA CHAMBERLIN

The transcript constitutes the  
minutes from the Public Hearing held on May 27,  
2014.

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

(6:32 p.m.)

CHAIRMAN HOOD: Good evening, ladies and gentlemen. This is a public hearing of the Zoning Commission for the District of Columbia for May the 27th, 2014. My name is Anthony Hood.

Joining me are Commissioners Miller, Turnbull and May. We're also joined by the Office of the Zoning staff, Ms. Sharon Schellin, the Office of Planning staff, Ms. Brown-Roberts, and the District Department of Transportation, Ms. Chamberlin.

This proceeding is being recorded by a court reporter. It's also Webcast live. Accordingly, we must ask you to refrain from any disruptive noises or actions in the hearing room, including display of any signs or objects.

Notice of today's hearing was published in the DC Register, and copies of that announcement are available to my left on the

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wall near the door.

This evening's hearing is a continuation of our May 13th hearing. The hearing will be conducted in accordance with provisions of 11 DCMR 3022 as follows, preliminary matters, testimony from the remainder of organizations and persons in opposition.

The witness list was taken up at the last hearing. So we will only hear from those who signed up as of the last hearing, rebuttal and closing by the applicant.

The following time constraints will be maintained in this meeting, organizations, five minutes, individuals, three minutes. The Commission intends to adhere to the time limits as strictly as possible in order to hear the case in a reasonable period of time.

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

All persons appearing before the

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Commission are to fill out two witness cards. These cards are located to my left on the table near the door. Upon coming forward to speak to the Commission, please give both cards to the reporter sitting to my right before taking a seat at the table.

When presenting information to the Commission, please turn on and speak into the microphone, first stating your name and home address. When you are finished speaking, please turn your microphone off so that your microphone is no longer picking up sound or background noise.

The decision of the Commission in this case must be based exclusively on the public record. To avoid any appearance to the contrary, the Commission requests that persons present not engage the members of the Commission in conversation during any recess or at any time.

In addition, there should be no direct contact whatsoever with any

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Commissioner concerning this matter, be it written, electronic, or by telephone. Any materials received directly by a Commissioner will be discarded without being read, and any calls will be ignored.

The staff will be available throughout the hearing to discuss procedural questions. Please turn off all beepers and cell phones at this time so not to disrupt these proceedings.

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

MS. SCHELLIN: Yes, please raise your right hand. Do you solemnly swear or affirm the testimony you'll give this evening will be the truth, the whole truth, and nothing but the truth.

(Chorus of Ayes)

MS. SCHELLIN: Thank you.

CHAIRMAN HOOD: At this time, the Commission will consider any preliminary

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matter. Does the staff have any preliminary matters?

MS. SCHELLIN: No, sir.

CHAIRMAN HOOD: Okay. Again, we already have the list. So we're going to go with the list that we have. We're not going to change any rules, because if we do, that would not be fair to those who were here at the last meeting or the meeting prior.

So we're going to end with this. We're going to do cross examination, we're going to hear those in opposition. We're going to have rebuttal, and then we're going to do cross from rebuttal. And then we'll have closing statements, okay, in that fashion.

Okay, let's work with the list here. Martha Dunlap? Christine Morgan? Is that Morgan, Morgan, Christina Morgan? Okay. Sam Shipley? Ali Farrington, or is that Harrington? Farrington? If it sounds close, you can just come on up. Betsy McDaniel? C. Derry Keller Cheryl Wagner? One twenty-two,

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I just cannot make out. Can anybody make out 122? We all have the list now, so they can help me. Can anybody make out 122 out of this? Is it Bher?

(Off the record comments)

CHAIRMAN HOOD: Okay, we'll come back to that. It looks like the last name is B-H-E-R. Okay, we'll put a question mark there. Okay, Elizabeth Merritt? Did you sign to testify? Okay, thank you. What about Bernard Quartrell, Quartell, Bernard Quartell?

(Off the record comments)

CHAIRMAN HOOD: Is her name on the list?

(Off the record comments)

CHAIRMAN HOOD: Oh, okay. Okay, Joyce Robinson-Paul? Okay, it wasn't nothing marked, where this opponent list. Okay. Okay, Victoria North? No, I'm sorry. Victoria North? Okay. Victoria North? Is that Todd V., I can't, Craig? Is it Todd V. Craig? Cruise?

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Cruise? Todd V.? Okay. All right. Jerry Pelaquin?

Yes, I saw Mr. Pelaquin. Angela Ray? Okay. We have two more seats. Katherine Young and Don McKinnon?

(Off the record comments)

CHAIRMAN HOOD: Okay, so Mr. McKinnon needs to be in the first seat. Okay. Ms. Robinson-Paul, could you let, Mr. McKinnon's going to be showing something on the laptop. So if you'll just move over one seat, that'd be good. Thank you.

(Pause)

So we still can call somebody else. Okay.

Did I call Michelle Webster?

FEMALE PARTICIPANT: You called Allie Therington. And she just walked in the door.

CHAIRMAN HOOD: Okay. But did I call Michelle, okay.

(Off the record comments)

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CHAIRMAN HOOD: Who? Okay, Michelle Webster? Okay. And you were saying I called somebody and they came?

MS. SCHELLIN: Yes, Allie Therington.

CHAIRMAN HOOD: Okay. Well, let's remember that. Everybody help me remember that when we come back. Her name is on the list. All right. We're ready to get started. Let's start to my left, your right. You may begin.

MS. MORGAN: Hi, my name Christina Morgan. And I'm a resident of 3371 23rd Street SE, Ward 8. And I'm here to express my opposition to the development of McMillan Park. And my criteria for this stance are twofold, aesthetic and environmental concerns.

First of all, coming from a beautiful and green and historic area of southeastern Virginia myself, when I moved to DC three years ago I felt that McMillan Park was one of the most beautiful and eye catching

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aspects of DC.

Not being particularly used to the concrete jungle at that time, McMillan's castle like towers and rolling grasses were literally a breath of fresh air and a glimpse within my lifelong environmentalist heart that this new city of mine had a heart, that it too, like me, valued our planet, preservation and felt strongly enough about these matters to spare some green spaces in its boundaries from urban development, to spare some nature in the face of the ever coming drums of progress as defined by the capitalistic economy.

I've now learned that McMillan has not stayed green or been spared through the years for these reasons per se, but that rather communities of the city have seemed to have been battling the development of the site for years, wanting to see the fences torn down and access to the green living ground be restored.

As an environmentalist and now three year DC resident, I would like to see

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McMillan restored as a public park in its entirety, part of the emerald green necklace of scenic and community building parks that were envisioned for this city so long ago, as well as utilized for a flood preventative facility in the years to come.

With the debate on the global future of humans facing climate change long since over, we as intelligent and loving beings have responsibilities to take on.

Science has educated us that green spaces of all sizes, when spared from development and safeguarded for communities and tourists alike, serve not only to lower artificially elevated city temperatures which will be ever growing in the years to come but also reduce the odds of severe weather events like thunder storms and related flooding within city boundaries. So I have more than I was going to be able to say, I guess.

COMMISSIONER TURNBULL: No, you have another minute left.

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MS. MORGAN: So science has been warning us and Mother Nature too that preserving the earth's lands from future human impacts is vital to our survival today and into the future.

And so it's important that we act now in every way and through every opportunity that we're granted to ensure that you children and grandchildren will be able to come into this world and be able to drink and breathe clean elements and enjoy beautiful historic sites without the fear of cataclysmic climate events.

Swimming pools, retail stores and new cement buildings for the profit of a select few parties in this development plan do not qualify as a fair exchange for the sacrifice of a beautiful historic site in a highly important green space in this city.

Our future children and children's children would tell us the same if they could. Therefore, in summary I repeat, please look at the importance of more green spaces, not fewer,

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in the City and reject the VMP's plan for McMillan Park. Thank you.

CHAIRMAN HOOD: Great. Thank you. And let me just say that the first buzzer means that you need to wind up. You have a minute after that. And then when the second buzzer, if you can wind up, okay? Thank you. Next.

MS. WAGNER: Good evening, members of the Zoning Commission. Before I begin, in the interest of full disclosure and in reference to the last hearing, I wanted to tell you I make excellent catfish. Do you remember that discussion? Okay.

CHAIRMAN HOOD: But you're not offering us any, are you?

MS. WAGNER: Okay. My name is Cheryl Wagner. I'm a member of the MAG, representing Park Place. I lived across the street from McMillan Park for 25 years.

And I've biked to work in downtown DC for 12 years in increasingly heavy traffic on North Capitol Street. As a matter of fact,

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I was hit by one of those cars illustrated by Mr. Ramirez=s animated traffic studies.

The planned VMP development for the McMillan site will bring an additional 6,000 to 10,000 cars per day to this residential area which has no subway or street car service and has narrow residential streets that barely accommodate traffic for three hospitals on Michigan Avenue.

This large planned development, featuring thousands of new housing units and two million square feet of retail and office space, is being forced onto a quiet residential community that does not have the transportation capacity or the parking resources to accommodate it.

While developers love to develop car-free communities, such places need public transportation and bike lanes. And there won't be space for bike lanes in this new development or on North Capitol Street.

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This beautiful historic site was originally a park in the early 1900s and could be a tremendous asset as a destination site for Northeast Washington.

I urge you to disapprove turning McMillan into a dense metropolis in this quiet residential neighborhood. Thank you very much.

CHAIRMAN HOOD: Thank you. Next?

MS. RAY: Chairman Hood and Zoning Commissioners, good evening. My name is Angela Ray, and I reside several blocks south of McMillan on First Street NW.

Let me first say that I want to see McMillan developed and, like most of my neighbors, I want to see a grocery store and have a place where children can play. However, if office space of this scale goes in, children won't be safe on the sidewalk.

As a child, I played hopscotch on the sidewalk. Instead of playing dodge ball, our kids will be dodging cars. The major issue

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here is vehicular traffic generated by employees and visitors to a medical center that no one has signed up to rent and that we do not need.

This new onslaught of traffic to an already taxed infrastructure is not merely inconvenient. Vibrations from current traffic and construction on First Street now has resulted in damage to our homes. And I show a picture of how the walls are cracking and the bricks are loose. So take a look at that.

Having 1,900 employees at the medical center use First Street as their only entrance threatens to damage our stately, over 100 year old historic homes and increases safety risk.

Currently, Maryland and Virginia drivers weave their way through our streets from New York Avenue. I want to celebrate development at McMillan, but I don't think we need to endure damage to our homes or sacrifice our quality of life because of it.

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The solution, I believe, is simple. Limit the scope of what may or may not be a medical center. Traffic is the central issue. And the size of the medical center that we do not need will drive a significant increase in traffic.

Consider, we have six hospitals within walking distance. Washington Hospital Center is building on their own property. With all the planning, no one has signed up to rent it.

And at a Prince George's County District 6 meeting, it was stated that 25 percent of their residents use DC hospitals. This demand will drop when the new medical facilities open in Largo Town Center.

There is available vacant space all over the City, NoMa included. And basically, I'm not aware of any study proving a need for it. Yet it threatens to destroy our lives.

After approval of less than a fully defined plan to build it, we believe the only

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traffic mitigation strategy will be to convert First Street from a residential street to a major commuter freeway.

Coincidentally, DC Water has proposed to remove parking and take out tree boxes on the sidewalks on First Street to run traffic right up to our doorsteps during a two year construction project, coincidentally.

The traffic study published by DDOT in January of this year recommended traffic calming. This flies in the face of that. We need to have a traffic study that encompasses beyond the four walls of McMillan that reflects the true impact to the community.

Simple solution, please do not write VMP a blank check by approving a variance to allow a structure of height and density that is incompatible with the community and will literally leave most of the development in the dark. Thank you.

CHAIRMAN HOOD: Thank you. Next?

MS. ROBINSON-PAUL: My name is ANC

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CHAIRMAN HOOD: Let me make sure your light is lit up on the little bulb.

MS. ROBINSON-PAUL: -- ANC Commissioner, Joyce Robinson-Paul. I reside at 16 N Street which is several blocks from McMillan Reservoir. And I am also on the ANC Commission.

My community is opposed to several things on this VMP plan. Number 1, they talk about affordable housing. I think they really need to take that word out, affordable, and just say housing.

Because, Number 1, affordable housing, nobody has put the 30 percent AMI on here that would make it available to low MR income people. The affordable housing that they're speaking of, like 80 percent AMI for the multi-family units, who would qualify for these?

You have a, in the City we have a HPAP program that pre-qualifies residents for

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home ownership in the city. Now over the years, we have used this tool to get many of our DC residents into home ownership.

However, we keep seeing these developers go all the way up to 80 percent AMI which brings the housing up to a large amount which can't qualify for the HPAP program and several other programs that are available to people in this city.

If the gist is to bring 1,000 new people into the neighborhood, we do not think our \$9.3 million that we spent on this project, where we purchased it from Federal Government, should be used this way.

Also, some of the ANC Commissioners met with VMP concerning the Community Benefits Package. It sucks. We asked for \$11 million, and they wanted to give us \$3.9 million and said the community needs to move on. That's what we were told on the conference telephone call.

Well, we don't think we should move on. We think they should move on. And we

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asked for \$1.2 million for the neighborhood beautification.

We feel that beautification is very important, but we don't want to see landscape designs all up and down the block. We like when our neighbors come out and beautify our neighborhood.

So we don't think that it was an unreasonable request to ask for \$1.2 million to go through the ANC, the whole ANC which is 5E. But they only will commit to \$250,000. Well, we feel like this. Then, the other thing is the playground.

CHAIRMAN HOOD: Ms. Robinson-Paul, your time is up. Let me ask you, do we have your testimony?

MS. ROBINSON-PAUL: No. I'm just ad-libbing, because at first I had testimony. Because I've come down here twice and stayed until almost 11 o'clock. But the last time I spoke with VMP I was just flabbergasted by their arrogance and --

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CHAIRMAN HOOD: Well, what I want to do is, because I'm interested in some of the things I'm hearing you say. I'm going to come back, and we'll have some questions for you. And I want to make sure we get a copy. But let us go through and then we'll come back. Mr. Pelaquin?

MALE PARTICIPANT: Mr. Pealquin's next.

MR. PELAQUIN: Can you go? I'm still pulling up these things?

CHAIRMAN HOOD: He's working on his. Okay.

MR. PELAQUIN: My name is Jerome J. Pelaquin. I live at 717 Lawrence Street NE, Washington, D.C. That's Edgewood.

Opposition to PUD 1314 has been overwhelming in testimony before this Commission. Who are the pro-development advocates? A handful of people listed in this Fontaine strategic document, they're the same people who have testified over and over again,

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Rashida Brown, Barrie Daneker, Cheryl Cork.

The Coalition for Smart Growth, and who's that? The smallest coalition in the world, the smallest coalition in the world, VMP, Trammell Crow and Jair Lynch. They're known as the create McMillan Park, a fraudulent organization created by a conspiracy between VMP and the City. I have proof here in my hands.

Their stated purpose is to quote, "provide political cover for politicians." Created by a conspiracy between the city and VMP, their other intention is to create community organizations with the resources to support VMP plans, in other words, to subvert the political process.

Their strategic planning document and specific invoices obtained under FOIA that prove these allegations, and I have them here, invoices marked paid with Jeffrey Miller's signature -- Mr. Miller lied in open testimony before Councilwoman Bowser's VMP oversight

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committee. His integrity has been compromised, and I believe he should resign.

It should be clear to all of us who oppose this travesty of social and environmental justice that we are being patronized by the city government at all levels.

The system -- this includes the free press, everyone in DC Government wants this VMP project -- is the united intention of the Zoning Commission, the Office of Planning and certainly DMPED to make this happen.

Every single agency board and special agent would turn themselves inside out to find the rationale for occluding this theft of public land. It is an organized and spontaneous cabal, set in place by money and the expectations of money.

The ANCs, the non-profits, the salaried workers in the agencies and departments, no one will stand up to the Mayor and the VMP lobbyists.

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All have been suborned by the fearful combination of money and power, and understandably so.

They fear for their jobs, they seek the strong inducements that power, the power they can provide, e.g. job, investment, political advantage and all the other inducements money could provide.

It does not matter that this project violates almost every facet of the Comprehensive Plan, that it's clearly in violation of the Secretary of the Interior's Historic Preservation Guidelines required by covenants agreed to by DC on the sale of this land in 1986.

It has been based upon dishonesty, subterfuge, that they misled the Office of Zoning on their traffic study, that their paid consultant misled and represented the conditions of the cabins, that Jeffrey Miller actually lied during oversight hearings conducted by Councilwoman Bowser denying

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direct payments made by DMPED to the Fontaine Group. We have them here.

The Fontaine Group was hired to create a phony community support organization whose stated objective was to help get this project through.

Not one of the organizations tasked with protecting our property will stand against this cabal, this growth conspiracy. Why? Because hundreds of millions of dollars are involved, billions in fact. We have only one force in this city that can thwart this conspiracy. And that is a Federal Judge. Thank you.

CHAIRMAN HOOD: Thank you. Next?

MS. YOUNG: Commissioner Hood, members of the Zoning Committee, distinguished invited guests, my name is Katherine Young. I've lived at Number 16, the unit block of Franklin Street NE since 1987. Every day I walk onto North Capitol Street across from McMillan Park.

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Although I'm not a 200 footer, I'm a 250 footer. I'm also a DC former Stronghold Civic Association Vice President and a founding member of the McMillan Park Committee in 1989. I'm a native Washingtonian, and my family has lived in Washington D.C. continuously since 1916.

The impaired hearing and vision of the DMPED officials and their consultant, VMP, requesting a CR and C-3-C zoning along with their accompanying hubris, greed, and obliviousness to National mandates and local creative solutions from our community appall and offend me.

The deaf ears of our Council member from Ward 5 and our ANC representative for Stronghold sadden me even more. Our Council member, as recently as Friday, told a radio audience that the Zoning Commission was finished with its hearings.

I will address the Applicant's CR zoning request for a 13 story building on the

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McMillan Park eastern part of the Sand Filtration Park and site, a building with its own burden of cars which will impact the already severe traffic crashes and/or its near misses on North Capitol Street, of which I've been a near miss.

A 13 story building will also impact our collective need to protect a historic vista in our Nation's Capital and block this vista of American history which is a National treasure, part of an aesthetic asset belonging to all Americans.

Every day I take one of the H buses to and from work. Along Michigan Avenue, I make sure to look south taking in reminders of our history, the Adams Building's vaulted roof at the Library of Congress, the Capitol, the Post Office Pavilion, the Washington Monument and beyond to the shores of Virginia, a former slave state.

I then sweep my eyes over to Howard University's Founder's Hall Tower, situated

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nobly above McMillan Reservoir. I was amazed to see this vista on family trips to New York at the end of the 1950s when I was six years old, accompanied by a great-grandmother born during the Civil War who was then still alive.

This is the only clear horizon vista drivers and pedestrians have along the East/West corridor of Michigan Avenue from which they can appreciate our Capitol from this side's high ground.

This is also the only publicly accessible high ground vista in our neighborhood. We are barred from higher and private ground at the Soldiers' and Airmen's home, the VA Hospital and Catholic University.

A 13 story building and other high-rises on McMillan Park will block this view for my fellow citizens and future generations of Americans and international visitors.

Why does the city and its consultant impair our vision and our history? Do not

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destroy this vista. Give us back our public land. Let us descend the still existing steps into the park designed by Frederick Law Olmsted, Jr. into cabins that could be creatively reused for a variety of cultural, recreational, low-density commercial and civic purposes. Thank you.

CHAIRMAN HOOD: Thank you. Next?

MS. WEBSTER: Hello. My name is Michelle Webster. I reside on the 100 block of Adams Street NW, approximately one quarter of a mile from the site.

I purchased my home in 2009, and I thought how fortunate I was to live next to this ginormous green space that was so beautiful and had these beautiful historic towers. And all I wanted was to be able to take down those fences and to enjoy that space. I spent many miles running around that space and enjoying it.

And you don't live in Bloomingdale very long before you are inundated with information about McMillan. And all it

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sounded to me was that this was a done deal, that this was something none of us had any say in.

And I thought, oh, well then building should start tomorrow or maybe the next day. And I've lived in this neighborhood for over five years and nothing has been done. And I felt very powerless.

And now when I see that it's being proposed to be done, it's offensive to people that live in the neighborhood. It doesn't take into account our quality of life.

You want to throw so many cars onto our streets when we are a neighborhood that is growing and changing. There are more children walking, and running, and playing and learning to ride bikes on the streets of Bloomingdale than I think there probably have been in decades.

And now we're going to force them to dodge vehicles to go to a gigantic behemoth of a building on the top of a hill that affords gorgeous, amazing vistas of our city.

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I walked up to McMillan this weekend and enjoyed looking out and thinking I can see the Capitol Building, I can see the Washington Monument. How many people are this lucky to live in a place this amazingly beautiful.

And at what cost, for a high-rise that might be, it might have tenants from a medical building where we are already so inundated with traffic from Washington Hospital Center or Children's Hospital, the VA, the National Rehabilitation Center. We are already dealing with all of that. We don't need more of it.

We do need a grocery store. I'd be happy to see a little supermarket so that people don't have to shop at Corner Stores. I would be happy to see some limited retail space. But we need nothing to this magnitude. We need nothing that takes up that much green space.

We already have flooding. Right now you might say that there's impervious surface area up there, because of the sand

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filtration cells. But that's covered by grass. And that keeps water from running down into our neighborhood that is very, very flood prone.

Also, this building doesn't afford for what our city desires. This is a Silver LEED program. It doesn't have green roofs, or solar panels or wind turbines. If you're going to do something, do it to the best way possible that serves our City in the best way possible.

This is not that. This is not something that we need. This is not something that we really want, as you can see. There's been a lot more opposition than this. And there's been proponents.

I urge you to take into deep consideration the neighbors that are going to be affected the most by this. Thank you for your time and your consideration.

CHAIRMAN HOOD: Thank you. Hand it to staff and she'll pass it out. And you can go ahead and get started.

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Before we start, do we need, is that part of your presentation, the board there?

MR. MCKINNON: Yes, sir.

CHAIRMAN HOOD: And the slide presentation?

MR. MCKINNON: Yes, sir.

CHAIRMAN HOOD: Okay.

MR. MCKINNON: And is this on?

CHAIRMAN HOOD: Yes. Oh, no, it's not on. I'm sorry.

MR. MCKINNON: The painting is courtesy of Elaine Johnson who is an artist who was here from Ann Arbor, Michigan. And there are two landscapes that she paints in DC. One of them is the McMillan Sand Filtration site. And the other is the Georgia Avenue, it looks like the Eiffel Tower, the big tower that's up there by the police station on Georgia Avenue.

My name is Don McKinnon. I live on 2429 First Street NW, the corner of First and Channing. I live across the street from the property. I've lived in the City since 1986.

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The EYA people know me as adjacent neighbor Number 1.

I have the only driveway that opens onto Channing Street. And I can tell you before any of this started I could tell you exactly when rush hour is because I can't get out of my driveway. If it's quarter to 7:00, quarter to 8:00, quarter to 9:00, I have to wait for someone to let me in. This is before all of this.

It's also the intersection where this transportation study that was paid for by the taxpayers, I guess, but the contractor was chosen by EYA, the hand-picked transportation people, the first thing they decided that they would base their study on was getting rid of the three-way stop sign on my corner.

They did the transportation study based on that very dangerous proposal which, as soon as it was brought to their attention, they immediately took back. But they never re-did the study.

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So, I mean, even if you look their own study, traffic goes up, you know, something like 30 percent if you believe their numbers. But my neighbors and I, you know, there's plenty of traffic. It was our Number 1 concern that we brought to the first meeting that we went to.

And I've heard Tanya and other EYA people say that, oh, we've had 200 meetings with the neighbors. Yes, and you've never given us one good answer on what you're going to do with the transportation.

So, you know, being paid \$2 million to hold meetings and come up with what they've come up with is nothing I don't think they should be proud of. And we've been saying the same thing since the first meeting which is that we already know we have a traffic problem there.

And if you look at a map, you know, you'll see why there's a traffic problem there. There's the Armed Forces Retirement Home, there's the reservoir, there's Howard, there're the cemeteries.

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It's a bottleneck going north and south. And it's a bottleneck going east and west. Just the geography of these huge blocks that are in the grid, you know, that's where you find yourself.

But let me just go through these slides that I have quickly, very quickly. And I do this because I was here at the last meeting, and someone up there asked about lines of sight and, mathematically, he asked.

So this is the Basilica, the National Shrine of the Immaculate Conception that you can see very clearly. This is Joe Lavesque model scale of how the towers are going to disappear. This is looking over the reservoir.

And I don't have a pointer, but over on the left is the National Cathedral that you can see. The next slide is, sorry, so that's facing west. This is facing just about due south.

You can see the Capitol right in the

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middle. You can see the Washington Monument over on the right. You can see the fireworks from here, you know, during the Fourth of July. And this is a closer look at Howard. And then you can also see the National Cathedral making an appearance right there in the middle. And all these pictures --

CHAIRMAN HOOD: I want to be fair to everyone else. So why don't you wrap it up? We may have some questions.

MR. MCKINNON: Okay. And all these pictures, the last thing I would say was when someone was talking about this being Olmsted Park, they described it as walking among the clouds. And that is what it's like up there. It's a special place.

And I don't think does it justice. But from a zoning point of view, the traffic has always been our concern. And because there's no Metro station there, people are going to drive there. There's no other way to get there.

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CHAIRMAN HOOD: Okay. Let me just start off, what's your name again?

MR. MCKINNON: McKinnon, Don McKinnon. Mr. McKinnon, I was one of Commissioners that asked for that view. But I was more interested in the view showing me something like what you have here that was presented. And I'm not sure if we have an exhibit number. But it was handed in.

MR. MCKINNON: All right.

CHAIRMAN HOOD: I was looking, how would it look, how would the project look sitting only on that parcel of land from the residents' homes? That's what I was looking for. And I'll tell you this and, you want to comment?

MR. MCKINNON: Well, the people that are paying the biggest price in terms of what you just asked are the people in Stronghold and Park View who, that's where those grotesque buildings are planned to go. And they are going to use lose their sunsets. They are

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going to lose quite a bit of sky.

CHAIRMAN HOOD: Now, I'm going to make a statement. And I want maybe one or two people, Commissioner Paul, Robinson-Paul --

MS. ROBINSON-PAUL:  
Robinson-Paul.

CHAIRMAN HOOD: Robinson-Paul. I'm going to make a statement. And I want you to be one of the people that's going to respond. Now, this doesn't say which way this Commission, I'm actually doing this because usually Commissioner May goes first. So I'm going first this time, at least the first two questions.

But I'm going to make a statement, and it doesn't say that Commissioner Hood is either way. I'm just going to make a statement, something that's been tested from the Zoning Commission through the Courts.

The Courts have given the opinion or the ruling many times that no one buys a view. What would your comment be to that in this case?

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Because I've heard about what we're looking at, the vistas.

The Courts, it's already been proven and tested to this Commission, see there're a lot of things we have to kind of work with within the regulations. The Courts say no one buys a view. What would be your comment? And someone else mentioned about the vista.

MS. ROBINSON-PAUL: Well, my comment will be --

CHAIRMAN HOOD: Now, the Courts have already said it. I didn't say it.

MS. ROBINSON-PAUL: Okay. My comment will be the taxpayers prevail.

CHAIRMAN HOOD: Well, I think so far, since I've been on the Commission, when it comes to the view the Courts have already ruled. And that's been the ruling, at least the way I've interpreted. Ms. Ray?

MS. RAY: Chairman Hood, I do remember from some zoning code that I read quite a bit, that alerted about, there was an issue

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about blocking light. Because light has impact on not only plants and growth but people's psyche. And blocking the light is really the issue, not just because you can't see the fireworks. You know that's --

CHAIRMAN HOOD: Can't see the fire -- okay. And I appreciate it, because you're exactly right. There are some other things that says adverse impacts when it comes to light and air. But I heard a lot about views.

And I just know that views is, at least from the Courts, the way I interpret it, the way we have over the years on the Commission, we grapple with that. Because the Courts have already made a decision. And the Courts can overturn us.

MS. ROBINSON-PAUL: If I may, there was a person who gave testimony, a woman who showed the shade that it would cast. And that's why I say that big medical center on the corner would leave us in the dark. It's going to cast a really big shadow.

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CHAIRMAN HOOD: I think most of your testimony, you were concerned about the medical center and the height of it, right? But let me ask you --

MS. ROBINSON-PAUL: Height and density, because that's going to drive traffic.

CHAIRMAN HOOD: Then let me ask you this. After that, for the rest of the project, any major concerns?

MS. ROBINSON-PAUL: Even though I have concerns, I'm realistic. I want to see something done. I was raised in this neighborhood. And I think we're not going to get 100 percent, but I do think the towers are the historic piece, are critically important, and the green space. But I could live with some minor modifications and no variance to build a sky-rise.

CHAIRMAN HOOD: Okay. And I noticed a lot of people -- and I'm asking these questions because, you know, I know there's a lot of people are, I'm not going to justify why

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I'm asking the question. I noticed a lot of people said, well, there are so many people in our position. But if I was to count the number, I would say it's probably 50/50.

No, because -- well, let me just say this. That's because we have, let me just, I'm just talking to this panel now. I'm not talking to everybody in the audience, understand.

But I will preface my remarks with this is not a popularity contest. That's not how we -- I'm really talking, Ms. Ray, and I'll come to you Mr. Pelaquin. You know, I'll come to you too. But what I'm saying is it's not a popularity contest.

And I'm putting that out there because I want to make sure that people understand that we have a lot more that we have to deal with as a Commission besides, we have to look at what the Courts have ruled in the past, we have to see if we're within the regulations of whatever decision we make when we delegate.

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And I'm not explaining what we do. I'm trying to help you understand it. We have more to look for than just 50 percent of the people said yea, 50 percent of the people said no.

MS. ROBINSON-PAUL: Chairman Hood, I'm glad you asked that question. You asked people to raise their hands once before. And you thought it was 50/50. But the 50, more than 50 percent of the 50 that was in favor are paid members of the VMP team or their subcontractors.

(Applause)

MS. ROBINSON-PAUL: I run a business all day. And I come down here and stay until 11 o'clock at night. And I don't get paid a dime. I'm here out of passion. They're here because it's their project, it's their job.

CHAIRMAN HOOD: And I appreciate that. I appreciate you letting me know that. I hope the developer didn't raise their hand. I'm not sure. Did I ask that question or was

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it Vice Chair Cohen?

MS. ROBINSON-PAUL: You asked that question. And all of the nice people in the first three rows raised their hand in favor.

CHAIRMAN HOOD: Oh, okay. Well, I want to admonish the raising your hand. You all tried to trick me, okay. But I don't get tricked easily. Okay, Mr. Pelaquin, you've been biting, you want to get on me about something. Go right ahead.

MR. PELAQUIN: Well, I cut my testimony a bit. The point is that this is a decision that has been made before this Commission started, in my opinion. How many PUDs has this Commission turned down?

CHAIRMAN HOOD: Let me just tell you this.

MR. PELAQUIN: I asked you a question --

(Simultaneous speaking)

CHAIRMAN HOOD: We're going to switch around. You're going to be the Chairman

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right now, and I'm going to be a witness.

MR. PELAQUIN: Excellent, thank you.

CHAIRMAN HOOD: So let me ask it. Can I ask something, Mr. Chairman?

MR. PELAQUIN: Please.

CHAIRMAN HOOD: Okay. The Zoning Commission, since I've been here, and you can look at my record, I don't mind voting against things. But what the Commission has done, we massage and make things right and compatible for the neighborhood. That's what this Commission has done, at least the way I see it.

A lot of people may not agree with it. One of the active residents in this city remember us taking a floor off of a medical center at Sibley. So the Commission has massaged some of these issues.

We don't sit down, whatever the applicant brings us, unless we deliberate and what we decide is how we proceed. So basically, if you're trying to infer that we rubber stamp, we

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don't do that, never have.

And I think if you come down here enough you'll see that a lot of stuff gets actually torn up. We take it and tear it up, and then we put it back together.

MR. PELAQUIN: But, Chairman --

CHAIRMAN HOOD: No, you're the Chairman. Can I finish, Mr. Chairman?

MR. PELAQUIN: Very well.

CHAIRMAN HOOD: And I think what you'll see, and I'm not going to say that's what's going to happen in this case, because I don't know what's, I never know what's going to happen up here, honestly. I never know what's going to happen.

But to infer, I'm not saying you did, but I think you were trying to infer that --

MR. PELAQUIN: No, sir --

(Simultaneous speaking)

CHAIRMAN HOOD: -- nothing, okay.  
Okay, Mr. Chairman. Nothing's never done,

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okay, until it's done. And I'll leave it at that. Did I answer your question?

(No audible response)

CHAIRMAN HOOD: Okay, now I'm going to go back to being the Chairman. Do you have anything else?

MR. PELAQUIN: You've heard what I have to say, sir.

CHAIRMAN HOOD: Okay. We have your testimony, right?

MR. PELAQUIN: You do.

CHAIRMAN HOOD: Okay. Ms. Robinson-Paul, I got it right this time, you had some points. But we did not get your testimony. I want you to just, if you can take about two minutes and finish up some of the points you were making, I would like to have a copy of your testimony.

MS. ROBINSON-PAUL: Okay.

CHAIRMAN HOOD: Because I do have -- let me ask my question first, let me ask my question. You're sitting on the District,

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what area, are you in this area, part of the single --

MS. ROBINSON-PAUL: Okay. My single member district is near Dunbar Senior High School. But when people come off of 395 into First Street to go up to MacMillan, and it is a nightmare, it is a traffic nightmare that we've dealing with for the last two years as a Commissioner.

And I've been a Commissioner for 16 years. But this has really been a nightmare for us trying to work on traffic coming in off of 395 going up to all of the hospitals, all of the areas up there. Now we have MacMillan. And we think it's a nightmare.

We even asked VMP, since we're going to have so much traffic and even if my neighbors want to go up there, that we have a shuttle. They've decided that they would give us half of what we want or one fourth of what we want.

We're not wrangling for crumbs from the table, you know, from VMP. Because we've

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already invested, we invested \$9.3 million in this site anyway. So we come to the table spending money as taxpayers.

So for you to say to us, like the \$1.2 million that we want for the neighborhoods, that you're going to give us \$250,000, well, we think that you're not working, you're not being a very good neighbor to work with us.

CHAIRMAN HOOD: Is all that in your testimony?

MS. ROBINSON-PAUL: Yes, it is.

CHAIRMAN HOOD: Okay. Could you make sure that we -- do we have it already, because I --

MS. ROBINSON-PAUL: No. You don't have my testimony, mainly because, like I said, when we met with VMP over the weekend on a conference call, I was absurd.

CHAIRMAN HOOD: Okay. Now, let me ask you a question.

MS. ROBINSON-PAUL: Yes.

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CHAIRMAN HOOD: Who met with VMP over the phone?

MS. ROBINSON-PAUL: Well, our chairperson, our vice chair, it was a six or seven Commissioners. We held a conference call trying to finish our little community benefits package.

CHAIRMAN HOOD: Okay. How far did we get? Are we finished?

MS. ROBINSON-PAUL: Well, we can't get them to budge, you know, on anything. Matter of fact, they've taken some things down to almost nothing, you know.

As I said, beautification is something that we do in the neighborhood. It gives us the pride to say that we have made First Street look good. But they have taken \$1.2 million down to \$250,000. And that's ridiculous. You know, how dare you decide that we should get crumbs from the table for this project?

CHAIRMAN HOOD: Okay. Ms.

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Schellin, if you can keep a note that I want Ms. Robinson - Paul's testimony and also Mr. Pelaquin. I think we had Mr. Pelaquin. Did we get your testimony.

MR. PELAQUIN: If you don't, we'll have it by the end of the evening. I'll submit it, make sure the Attorney, see that he gets it.

CHAIRMAN HOOD: All right. I'm talking about what you presented tonight.

MR. PELAQUIN: Thank you.

CHAIRMAN HOOD: Okay.

MS. ROBINSON-PAUL: And may I say one more thing about affordable housing? We're having these developers coming here saying that they're providing affordable housing for our neighbors, for the District residents and then others who come into the city.

Affordable housing, Number 1, as a housing counselor, I was a certified housing counselor for about 15 years. As a certified housing counselor, we prepare residents for

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home ownership.

But by bringing your AMIs up to 80 percent, you just knocked every pre-qualified person who's trying to buy a home in the District who lives here out of the process. And we think that you need to look at that very seriously.

What's the purpose of having a program that prepares persons for home ownership and all of these things where they're going 80 percent versus 30 percent AMI, they are knocking us out the ballpark. That's not fair. We're paying too much to live in this city to be knocked out the ballpark.

CHAIRMAN HOOD: I thought they were offering some at 50 percent.

MS. ROBINSON-PAUL: Well, there's a few.

CHAIRMAN HOOD: I think this Commission, because I even went to 30 percent.

MS. ROBINSON-PAUL: That's the senior --

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CHAIRMAN HOOD: I was trying to make sure this was the hearing.

MS. ROBINSON-PAUL: -- yes, senior rental, yes, that's the senior renters, 50 to 60 percent. But come on. They can do better than that. You know, we want the residents who've been sitting here on a list waiting to buy a home, already pre-qualified, to move into these houses.

We do not want 1,000 new people coming to the city that have side tracked the people who live here and who have vested in our neighborhoods.

CHAIRMAN HOOD: Okay. All right, thank you. Let's do this. I know everybody wants to clap, and we get emotional. Let's settle our emotions, let's not demonstrate in the hearing room, okay. I get emotional too. So let's just reason and let's not clap and applaud, whether you like it or not. Just hold it to yourself and, you know, think in your mind how you're clapping, how you agree with the

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person said. Let's not demonstrate.

Okay. Commissioners, any questions? Let me open it up, give somebody else some time. Okay, Commissioner May?

COMMISSIONER MAY: Ms. Ray, you had the photos of the cracking?

MS. RAY: Yes.

COMMISSIONER MAY: Can you explain again what that was from?

MS. RAY: Washington Gas and Pepco was given instruction by DC Water to move their utilities in preparation for the tunnel project. It's 28 feet wide, 100 feet deep.

So we've been living under construction for about a year with all of the heavy equipment and the trucks that are barreling up and down. And for the most part, it's the heavy hauling trucks that vibrate. And they literally shake you out of bed in the morning.

COMMISSIONER MAY: So this is all about vibrations from that construction

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project.

MS. RAY: That heavy traffic.

COMMISSIONER MAY: Okay.

MS. RAY: We've also had neighbors who've had their cars knocked up on the sideway from cars coming through. And most of them are not local vehicles.

COMMISSIONER MAY: But from cars?

MS. RAY: Cars?

COMMISSIONER MAY: Yes.

MS. RAY: Cars and trucks. We get vibration, we don't have mortar in those houses, it's sand. So we get a lot of vibration. They're old houses, so they're not built with the latest technology. So there's --

COMMISSIONER MAY: It was probably a lime mortar a long time ago, and the lime just leeches out. I mean, I have the same thing in my house. I understand what you're going through. Every time the wall shakes you get a little bit of sound of that sand flowing down

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the walls.

MS. RAY: Exactly.

COMMISSIONER MAY: Yes.

MS. RAY: You feel like me.

COMMISSIONER MAY: You've got to be repointed every once and awhile. But, yes, that's life in an old house.

MS. RAY: I don't mind repointing, I just want it to be standing at the end of day.

COMMISSIONER MAY: Well, right. And, you know, if there're going to be vibrations that are going to affect you, then there should be protections, and measurement and all part of a construction management plan that helps protect the neighboring properties, so say if you are, you know, very close to where they're digging large holes and de-watering and things like that.

MS. RAY: They're digging on three sides of my house. I can't get any closer.

COMMISSIONER MAY: Not this project though, that's --

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MS. RAY: Not McMillan, I'm sorry.

COMMISSIONER MAY: Right.

MS. RAY: But I was making that point about the --

COMMISSIONER MAY: Right.

MS. RAY: -- traffic.

COMMISSIONER MAY: Right, I understand. Okay. Now, I'm trying to find my notes on these things. I've forgotten who it was. Someone testified about Washington fireworks from the hillside across from the plant. That was you. Can you explain to me where you are when you do that?

MS. YOUNG: Actually, that's in my written testimony. I didn't have time to put it in --

COMMISSIONER MAY: Got it. Okay, so --

MS. YOUNG: I'm sitting on the edge of the slope that goes down to Michigan Avenue.

COMMISSIONER MAY: So on the north side of Michigan Avenue --

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MS. YOUNG: At the VA Hospital.

COMMISSIONER MAY: At the VA Hospital and that's --

MS. YOUNG: And across the street is where that building would be built. And that's the main --

COMMISSIONER MAY: I understand how it would block the view. I think that goes to the Chairman's point about how you can't own a view, okay.

MS. YOUNG: Right. I'm just giving illustration as somebody who lives there as a Stronghold resident that would be affected by it.

COMMISSIONER MAY: One of the things that I was really interested in, and I haven't seen anything yet, is what the view will be like from the Armed Forces Retirement Home. Because there was testimony that that view would be blocked.

And I'm hoping, I mean, people are telling me this, but nobody's getting, you

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know, I'm kind of looking, that's what I'm looking for in terms of a view shed being blocked.

Yes, I mean, if you are sitting across Michigan Avenue and sitting on the hillside, you know, a 50 foot building is going to block the view.

MS. RAY: Yes. I'd like to just point out that we have no access to public space where we live. We can't go to Catholic, we can't go to --

COMMISSIONER MAY: I understand that. I know there's a real deficit in that area.

MS. YOUNG: All right, thank you.

COMMISSIONER MAY: I absolutely understand that.

MS. RAY: May I? I volunteer at the VA Hospital. Their view will be blocked. Depending on whether they were in the high tower, especially those in the lower tower in the village, their view would be blocked.

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COMMISSIONER MAY: The VA Hospital, which is immediately north on Michigan Avenue?

MS. RAY: Right.

COMMISSIONER MAY: And I don't doubt that. That's not what I'm asking about.

MS. RAY: Oh.

COMMISSIONER MAY: I'm asking about the Armed Forces Retirement Home which is further up the hill. And the historic view from like the Lincoln cottage, that's the particular question that I have about views.

I mean, I know they're going to impacts on views. Anytime you build a building there's going to be an impact on views. We understand that. And that's not something that I'm looking for evidence about. What I'm looking for evidence about is the view from the Armed Forces Retirement Home.

MS. YOUNG: I can't even get in there.

COMMISSIONER MAY: Well, no. But,

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I mean, I guess the Applicant also was, implied that they could answer this question as well and demonstrate it.

We have a view analysis that was submitted that's part of old evaluation of the site. But it's just a plan with lines drawn across it. Nothing shows us how things are in elevations. So that's kind of the piece I'm looking for.

You don't necessarily have to go up there and take photos of it. Somebody could do a drawing of it, not necessarily one of you in the Pelquin. It should be the Applicant's responsibility. And if we don't get it in testimony we'll get it from them.

MS. YOUNG: Thanks.

COMMISSIONER MAY: Yes.

CHAIRMAN HOOD: Finished?

(No audible response)

CHAIRMAN HOOD: Any other questions of this panel? Commissioner Turnbull?

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COMMISSIONER TURNBULL: I don't have a question for the panel, per se. I just wanted to get back to a couple of comments that you were getting into, Mr. Chair, about there have the PUDs that we have rejected, parts of PUDs.

But more significantly, there have been PUDs that have been, I think, significantly altered by this Commission with comments by opposition, and with the neighborhoods and fueling that input.

And it's a very iterative process that we go through. In fact, I think I've done it, it's gone on for a couple of nights where things have come back, and we're not satisfied.

Sibley Hospital is one, but there are innumerable others that have been significantly changed. And I invite you to come tonight when we sit down to debate this. Because there are significant issues that are facing this PUD. And we will go through all of them very carefully.

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MR. PELAQUIN: Commissioner, may I ask you a question?

COMMISSIONER TURNBULL: Sure.

MR. PELAQUIN: Thank you. I testified against the CUA, Bozzuto project. I was not a 200 footer, I was a 25 footer. I was across the street from it. And that went up just as it was planned. There were a few minor modifications, a billion dollars= worth of construction.

Now the people across the street from me look into my bedroom window. In fact, they look three stories above me into my bedroom window.

So you don't have here a person who has a lot of confidence in that kind of outcome. If there are changes to this PUD, I feel confident they will be minor and will not affect the profitability of it very much.

COMMISSIONER TURNBULL: I'll invite you to come down here.

MR. PELAQUIN: I shall, sir.

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Thank you for the opportunity to respond.

CHAIRMAN HOOD: Any other comments?

Okay. Oh, cross examination. Does the Applicant have any cross?

MS. BROWN: I have one question.

CHAIRMAN HOOD: Sure. Is it for any particular person? Well, if somebody could just -- okay.

MS. BROWN: I think it's Mr. Pelican. Did I get the --

MR. PELAQUIN: Pelaquin, ma'am.

MS. BROWN: Pelaquin, okay. Then I got the wrong witness. I'm sorry. The slides and the photographs that we saw, Mr. McKinnon.

Would you be able to provide information for the record on the vantage point of those photographs, where you're standing and the direction? You don't have to describe it now, just be able to submit them for the record.

MR. MCKINNON: Yes. Can I ask you

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some -- okay.

CHAIRMAN HOOD: This is not redirect. She just asked you a question.

MR. MCKINNON: Sure.

MS. BROWN: Thank you.

CHAIRMAN HOOD: Okay. All right, ANC, Commissioner Barnes, do you have any cross?

COMMISSIONER BARNES: No cross.

CHAIRMAN HOOD: Okay. Ms. Ferster? I think I saw her. Ms. Ferster, do you have any cross?

(No audible response)

CHAIRMAN HOOD: Okay. I want to thank this panel. We appreciate your testimony. And those who I've asked to provide something, if you could do that, that would be most appreciative, appreciate it.

Okay. Next we have Robert Hardison, Robert Hardison?

Okay, well thank you. I'll take your time. Hugh Youngblood? Gwen

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Southerland? Ms. Alma Gates? That's all I have on the list. Was one young lady --

Ms. Therington?

(Off the record comments)

CHAIRMAN HOOD: What's his name?

(Off the record comments)

CHAIRMAN HOOD: He was called last time. His name is not on the list for this time where we closed, cut it off? And apparently he must have left. Okay, he can submit his testimony in writing. I do remember calling his name twice actually.

Okay, so we're into this panel, and then we'll go into rebuttal. Ms. Therington, are you here? For some reason we have you, is Ms. Therington down to testify?

(Off the record comments)

CHAIRMAN HOOD: Your name is on here.

MS. THERINGTON: For tonight?

CHAIRMAN HOOD: For tonight.

Which number is it?

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(Off the record comments)

CHAIRMAN HOOD: Yes, your name is on here. Did you already testify?

FEMALE PARTICIPANT: I believe it was Number 5 on the list.

CHAIRMAN HOOD: He was called twice. His name is on the list twice. I remember calling his name.

COMMISSIONER MAY: Ms. Therington, you already testified though, didn't you?

MS. THERINGTON: I did.

CHAIRMAN HOOD: In this case? Was it a different hearing or was it for the --

COMMISSIONER MAY: We heard this case in several parcels.

MS. THERINGTON: Right.

COMMISSIONER MAY: Was it for one of the other parcels, or was it on the Master Plan parcel?

MS. THERINGTON: I'm not quite positive.

CHAIRMAN HOOD: I tell you what, to

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make sure, just if you say it, just say it again. That's all, because we want to make sure. Because you could have been here for the other part of the case. And I want to make sure. And I think you were here for the other part, not for the Master Plan. So, okay.

Okay. And let's go back to the person's name. Commissioner May has identified that person. Can you tell us whose name it is, since you pointed it out --

COMMISSIONER MAY: I can't necessarily pronounce it. But it looks like it begins with an L, first initial is L. And the last name begins with a B, B-H-E-R, something like that?

CHAIRMAN HOOD: Bher.

COMMISSIONER MAY: Bher.

CHAIRMAN HOOD: Yes.

COMMISSIONER MAY: B, anybody who had signed up to testify late?

CHAIRMAN HOOD: All right.

COMMISSIONER MAY: No? Okay.

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CHAIRMAN HOOD: We're going to start with you. You may begin.

MS. SCHELLIN: Okay. For my testimony, I would like to read from Exhibit Number 167 which is Matthew Bader's prepared testimony.

CHAIRMAN HOOD: But we're not, I thought you wanted to testify. Mr. Bader, that's not fair to the others. Mr. Bader had his opportunity --

MS. SCHELLIN: Okay.

CHAIRMAN HOOD: He didn't come testify. I thought you wanted to testify with your testimony.

MS. SCHELLIN: There was just a question. Because we know Commissioner Robinson-Paul also had to leave early last time. And so we were just kind of wondering why she --

CHAIRMAN HOOD: I don't know how that worked. I was running the hearing. But her name was on this list.

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MS. SCHELLIN: Okay.

CHAIRMAN HOOD: You might want to find out what she did. But her name is on the list. She probably signed up on her way out. Okay. But we will look at Mr. Bader's testimony, okay?

MS. SCHELLIN: Okay. I think there's a lot that you would be interested in there.

CHAIRMAN HOOD: Okay.

MS. SCHELLIN: I'm going to sit here or you want me to -- either way.

CHAIRMAN HOOD: All right. No, you're good, you're good. You can go back to your seat. Okay, Ms. Gates?

MS. GATES: I am Alma Gates, 4911 Ashby Street NW, testifying in opposition to certain aspects of the first stage and consolidated PUD and related map amendment for the McMillan Sand Filtration site.

Previously submitted written testimony submitted into the record addresses

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a number of questions that remain unanswered in the Applicant's submission and questions whether the Office of Zoning Independence Act needs revision.

Currently, the McMillan site is un-zoned. The residential zones that abut the site are zoned R-3 and R-4 with two and three story row houses. And it is against those residential zones that the scale and massing of the proposed CR PUD and C-3-C PUD should be considered.

In reaching its decision, the Zoning Commission must be mindful that currently the development site is an open 25 acre green space which the Comprehensive Plan future land use map designates, as matter of right, medium density residential and moderate density commercial development.

The Comprehensive Plan seems to take a back seat in certain cases. Although it is the conscience that must be obeyed and sets out the policies meant to direct planning and

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development decisions, it seems to get in the way and too often is simply acknowledged and then ignored.

The zoning regulations re-enforce the Comprehensive Plan's prescriptive policies when setting out the PUD review process and reference that zoning approval shall not result in action that is inconsistent with the Comprehensive Plan.

Height on Parcel 1 of the VMP proposal does not relate directly to Children's Hospital or the Washington Hospital Center. Rather, it is the lower scale Veteran's Affairs Complex that would directly face the proposed ten story MOB across Michigan Avenue.

The Stronghold community to the east will look north across North Capitol Street into 130 feet of building mass. The difference in height between the residential neighborhood of Stronghold and the proposed MOB is a whopping 90 feet.

Even the historic 32 foot sand bins

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along North Capitol, excuse me, along the north service court would be overwhelmed and appear more like bollards when up against the 130-foot tall structures.

Overall, the proposed zoning for the McMillan site is incompatible with the existing built environment in terms of height, density and intensity of use.

Under the VMP development plan, the existing vacant site would be substantially occupied with office, retail and residential uses and buildings that increase from two stories up to ten and from 26 feet up to 130 feet in height.

Each segment of the proposed three-part plan has its own architectural identity, is self-contained and isolated. The VMP plan lacks cohesiveness and connectivity between the existing neighborhoods and institutional uses it is meant to compliment.

In conclusion, unanswered questions remain in the VMP application. Does

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the Office of Zoning Independence Act of 1990 need revision?

The Comprehensive Plan generalized policy maps show the site surrounded by a neighborhood conservation area which anticipates maintenance of existing land uses and community character for the next 20 years.

The Comprehensive Plan future land use map shows the McMillan site developed with moderate density residential parks, recreation and open space and some institutional uses.

The proposed 3-C-3 PUD would permit height of 130 feet. The MOB would tower over the R-3 Stronghold residential area as well as the Veteran's Affairs Complex, the abutting institutional neighbor it is meant to compliment.

The central CR zone, with proposed 110 foot in height, would also far exceed the height found in surrounding residential areas, generally commercial zoned districts adjacent to R-3 and R-4 neighborhoods citywide, R-C-2-A,

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which the zoning code describes as medium density development.

Overall, the scale, density and the intensity of use proposed for the VMP development is inappropriate for the 25 acre McMillan site. A less intense and more appropriate starting point for establishing zoning for the historic site would be R-4, C-2-A and a C-2-A PUD.

CHAIRMAN HOOD: Okay. Thank you.  
Next?

MR. YOUNGBLOOD: Good evening, Mr. Chairman. My name is Hugh Youngblood, former advisory neighborhood Commissioner of city member district 5Z03 in Bloomingdale, downstream from McMillan Park Reservoir historic district.

I also serve on the board of directors at Friends of McMillan Park. I chair the board of the Sierra Club, DC Chapter, and am an active member of the Bloomingdale Civic Association, testifying tonight in opposition

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to the Master Plan proposed in Case Number 13-14, because the adverse impacts of the proposed project on the surrounding communities would be completely unacceptable and would greatly exceed any proposed benefits.

Specifically, the unresolvable transportation issues, the loss of historic resources, the loss of open space and the environmental impacts of the proposed project, especially storm water management, would cripple our community's aging infrastructure and vastly erode our lovely quality of life.

Furthermore, our neighborhood is already gentrified enough, and replacing our National landmark public park with a bunch of million dollar condos and a private country club campus would certainly only exacerbate the problem.

But the fundamental problem about this plan is privatization. The Applicant is asking this Commission to play a complicit role in a scheme to pilfer public assets for private

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gain.

This is wholly unacceptable, and this Commission should reject this plan on that substantive ground alone before we even consider all of the gross inconsistencies with the Comprehensive Plan and the multitude of other technical merits that oblige you to reject this application.

Friends of McMillan Park looks forward to working with the community and this Commission to achieve a plan for rehabilitating McMillan Park into the grand public space that it was from the early 1900s until its tragic closure in 1941.

In doing so, we should focus on three high level design requirements, Number one, 100 percent public park on the surface. The existing 20 acre green roof is critical to maintaining our community's delicate storm water management balance. And with a baby boom now underway, we need a place for the kids to play.

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Number 2, 100 percent reuse of the parks underground filtration caverns. We strongly support the DC Water storm water storage project which will likely need to expand in capacity as climate change intensifies.

The remaining dozen or more caverns could easily accommodate a full size grocery store and any other types of cultural, commercial and light industrial uses.

Number 3, 100 percent public ownership. McMillan Park is a valuable public asset that should be retained as a local and national resource and should never be treated as surplus public property or sold to any private developer.

As Commissioners Gwen Southerland and Tony Norman exemplify, our community is firmly committed to protecting McMillan Park from the types of privatization and destruction schemes like the one before you today.

I assure you that our growing

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coalition of preservationists and environmentalists will continue to fight until we cleanse our community of this Applicant's divisive and hateful poison.

Once we stop the Applicant's reckless, destructive and arrogant train we will commence a process that will result in the preservation, restoration and transformation of historic McMillan Park for the benefit of the public. Thank you.

CHAIRMAN HOOD: Thank you. Commissioners, do we have any questions of this panel? Okay, Commissioner Miller.

COMMISSIONER MILLER: Okay. Thank you, Mr. Chairman. Good to see both. Ms. Gates, you said that a -- it was your view of the Comprehensive Plan and how it will relate to zoning that the starting point, a more appropriate starting point for establishing zoning would be R-4, C-2-A and a C-2-A PUD.

You have a view of what the range would be for appropriateness, in your view,

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C-2-A PUD is a starting point. Would there be a range that you would view as still, that may be a higher density zoning that would still be more consistent with the Comprehensive Plan?

MS. GATES: Well --

COMMISSIONER MILLER: Something less, I guess it's something that you think is less than what's in the code.

MS. GATES: When I looked at the citywide zoning map, and I spent a considerable amount of time going over it, I looked at Capitol Hill, I looked at Glover Park, I looked at Georgetown. These are areas that are zoned R-4. And they're surrounded by C-2-A zoning.

So that appears to be the appropriate zone. And whatever the height is allowed, I believe it's 50 feet and 65 feet for a PUD, would be a good starting point.

COMMISSIONER MILLER: Right. And I understand why, I understand that statement. I just wanted to know if --

MS. GATES: And also --

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COMMISSIONER MILLER: -- there was a range that you think would still be appropriate even if you think that C-2-A would be the most appropriate.

MS. GATES: What height do I think would be appropriate?

COMMISSIONER MILLER: No, the zoning or the height, you can --

MS. GATES: I would never answer that question. I'm sorry.

COMMISSIONER MILLER: Okay.

MS. GATES: I've given you what I feel is the range in terms of zone districts, but within that I'm not going to go into height.

COMMISSIONER MILLER: Okay.  
Thank you.

CHAIRMAN HOOD: Are there any other questions? Okay. Ms. Gates, in your testimony, let me walk through your testimony. Because I looked at the one we had previously. And I know you condensed it. Was it because of the time?

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MS. GATES: Yes.

CHAIRMAN HOOD: Okay. And I also noticed some of the questions were missing. And I check point some of the questions which I thought were within our realm. And some I actually thought may not have been in our realm. So let's look at your, do you have your previous testimony with you?

MS. GATES: Yes.

CHAIRMAN HOOD: Let's look at that one. Because that's the one I --

MS. GATES: Page 3?

CHAIRMAN HOOD: That's the one I studied. Yes. Well first, I was unclear on the -- and I think you had it in both testimonies, previous submitted written testimony addresses a number of questions.

You talk about, I was unclear. Is there a clear and sufficient bright line between DMPED and the Office of Zoning? I was unclear that whole discussion.

MS. GATES: I think there's been a

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lot of discussion about the role of the Deputy Mayor in this particular project. He is the person bringing forward this proposal to the Zoning Commission.

I don't know, I can't think of another case where that has happened. Perhaps you know. But it just seems that you have a city agency doing business with another city agency. And perhaps the line of demarcation is a little fuzzy here.

CHAIRMAN HOOD: Well, this is the  
--

MS. GATES: So much so that it has raised a lot of questions.

CHAIRMAN HOOD: So, but let me just say this from my perspective on the Commission. And I don't want the Government officials to think that we're hard on them. But a lot of this stuff gets sent back.

And the Deputy Mayor, I'm not sure if it was this one, but there has been one or two, at least that I know of, one Deputy Mayor

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that this Commission considered more than once. We kept sending it back. So I can tell you that has happened.

MS. GATES: Good. I'm glad to hear that.

CHAIRMAN HOOD: But then again, is that the, that's not the -- we're not trying to prove anything here. We're just trying to get it right.

Just because I'm telling everybody, oh yes, we sent it back to the Deputy Mayor, it doesn't mean that we're trying to prove anything. What we're saying is that this Commission, we try to do things right.

But some of the questions, okay, I just wanted to make sure. Because I was wondering where that was coming from.

MS. GATES: May I just respond to what you just said?

CHAIRMAN HOOD: Sure.

MS. GATES: I am the person who brought Sibley Hospital to your attention in

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that submission.

CHAIRMAN HOOD: I know.

MS. GATES: And for all those who do question whether the Zoning Commission changes PUDs, yes, you do. And neighborhoods that had the potential to be very, very impacted appreciate that. So I'm sorry to interrupt you. I think you have another question.

CHAIRMAN HOOD: No, I was just going to go down this list. Because I'm going to ask Ms. Brown to answer some of these questions. But I have to make sure that, I want her responses to some of your questions. But I want to make sure it's pertaining to, like one of them, pertaining to what we need to deal with.

I thought we answered the question earlier about who will own the, let me see if I can find it right quick. It was something about the final, was it the final transfer? I thought I had outlined it.

Has the Zoning Commission seen a

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document that reveals partial ownership at the end of the approval process? You know, we answered that at the, I think it was this hearing, at the very first hearing. We answered that question. Well, I thought we got an answer.

We deal with a lot of cases before things are transferred, and the final ownership is in place. And I think we mentioned that earlier at the first hearing.

Because that was, I forgot one of the parties that asked us to, or someone had made a request that we delay any hearings before that is done. And I think that was one of the questions that was answered at the previous hearing through our legal Counsel and us.

MS. GATES: I was here. I'm sorry. I didn't hear the answer, which is why it appeared in here.

CHAIRMAN HOOD: Okay. And what I'm doing, Ms. Gates, I'm going through here because I know there're some questions that Ms.

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Brown is probably going to say that they're not within our jurisdiction.

So I am going to ask her to respond. I've marked a few questions that I would like for them to respond to. I have actually one, two, three, four.

"The Zoning Commission thoroughly addressed this issue prior to granting an approval for the re-use of the 25 acres." Will the zoning, okay, yes, and that's what I wanted to make sure that we had already answered that question.

MS. GATES: Okay.

CHAIRMAN HOOD: Okay. Any other questions, Commissioners? Mr. Youngblood, do we have your testimony.

MR. YOUNGBLOOD: Yes.

CHAIRMAN HOOD: Okay.

MR. YOUNGBLOOD: I passed out copies.

CHAIRMAN HOOD: Okay.

MR. YOUNGBLOOD: Mr. Chairman, may

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I ask a quick question?

CHAIRMAN HOOD: Sure.

MR. YOUNGBLOOD: Another lady who testified in opposition, Ms. Carol Lewis Anderson, she testified a long list of questions that you then directed the Applicant's Counsel to answer. When can we expect to get answers to those questions?

CHAIRMAN HOOD: I'm sure they'll have it for you. If they don't have it tonight, they'll have it before we vote.

MR. YOUNGBLOOD: Thank you, sir.

CHAIRMAN HOOD: Before we do a proposed vote, if we get to that point.

MR. YOUNGBLOOD: Thank you.

CHAIRMAN HOOD: Okay. Oh, I'm sorry, we have cross examination. Ms. Brown, any cross? Hold on, let me see. Commissioners, did --

MS. BROWN: Again, a clarification. I think it's going to be resolved for me right now.

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CHAIRMAN HOOD: Hold on one second, Ms. Brown.

MS. BROWN: I didn't get the correct --

CHAIRMAN HOOD: One second, one second. Commissioners, did I ask you all? Did you all have any -- Oh, I'm sorry. Go ahead, Ms. Brown. I'm sorry.

MS. BROWN: Ms. Gates just clarified my question. I did not have a copy of the testimony that had the questions. I only had the abbreviated version. And she's now given me a copy that has the questions that completes it. Thank you.

CHAIRMAN HOOD: Okay. Thank you. Hold your seat, Ms. Gates. You had quite a bit. You might have some questions, you and Mr. Youngblood.

Ms. Barnes, do you have any cross, either one? Okay. Ms. Ferster, do you have any cross examination of either one? Come up to the microphone and identify yourself and

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then ask the question from the mic.

MS. FERSTER: Andrea Ferster. I just wanted to know if you had another copy of your testimony.

MS. GATES: I don't. It's in the record. I think it's in the record.

CHAIRMAN HOOD: Okay. I think we're good. Thank you all for your testimony. We appreciate it.

Okay. Ms. Brown, if you all want to come forward, we can start with rebuttal. About how much time do you think? And if you don't have a time don't worry about it. We'll just go through it.

MS. BROWN: Mr. Chairman, for the record, Carolyn Brown. We did time it this afternoon. And it's probably between 40 and 45 minutes. We tried to keep it as tight as possible, given we have three hearing nights to cover.

CHAIRMAN HOOD: Okay. And I know this is on the cuff, some of the things you've

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heard tonight that need to be responded to.

MS. BROWN: Many of these things we would be submitting our written responses into the record. But we want to highlight some of the issues that we've heard over the past several nights and then again tonight.

CHAIRMAN HOOD: Okay, good. Okay. Thank you.

MS. BROWN: And if you like, I can go ahead and get started --

CHAIRMAN HOOD: Do we have a slide presentation?

MS. BROWN: We do.

CHAIRMAN HOOD: Do we have copies of it? Yes, we want to clear that. Let's take about three minutes and get everything situated and everybody get moved around.

MS. BROWN: Thank you.

(Pause)

MS. BROWN: Is Mr. McKinnon still here?

(No audible response)

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CHAIRMAN HOOD: I was going to tell you, you might want to turn your mic off. But I waiting to hear what you were going to say about me.

(Pause)

CHAIRMAN HOOD: You know, Ms. Brown, if you can just indulge me for one moment. Ms. Southerland? I'm not going to tell you what time we start. I'm not going to do that to you. I'm just going ask you to come on up and give us your testimony right quick.

(Off the record comments)

CHAIRMAN HOOD: I know, Ms. Southerland. Ms. Southerland, just you, because you're the only person that was on the list. Your name was on the list. Who else is with you? Is their name on the list?

(Off the record comments)

CHAIRMAN HOOD: Okay. Ms. Southerland, if you can just give me the name of the person that's with you? Ms. Schellin, can you see if that person's name is on the list?

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Okay, okay. What's the young lady's name that's with you? Is this you on the list? You already testified, right, Ms. Holliday?

MS. HOLLIDAY: Yes.

CHAIRMAN HOOD: Okay. Ms. Southerland, your name is on the list. And we'll take your testimony, and then we'll go right into rebuttal. Yes, you have three minutes.

MS. SOUTHERLAND: Good evening. My name is Gwendolyn Southerland. I've submitted my written testimony, however, I did have some changes for the first page which I will submit to the clerk.

My name is Gwen Southerland and I oppose this plan. I am asking the DC Zoning Commission to either reject the planned unit development application for CR and C-3-C zoning before you this evening.

If not, I would sincerely request an extension, or continuation or a continuance of

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this PUD application in order to allow unfettered input from the McMillan Advisory Group, MAG, the community group that was created to encapsulate community input and ideas regarding the development of McMillan.

MAG's recommendations on behalf of the community have been totally and notably under represented in these zoning hearings. Particularly, timeless hours have been spent in crafting the community benefits agreement which has basically been ignored by our ANC.

To a certain extent, MAG has been blind-sided by a watered down version of a community benefits agreement that has been or will be presented to this Commission this evening by ANC 5E.

It is not the complete agreement that was proposed by MAG. And as a note, I have submitted a version of the MAG's CBA agreement. Also I understand that they did submit the agreement to the Commission.

I do have a letter from Mr. Norman.

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If I could get one more minute to read briefly. Because you instructed him to work with Commissioner Barnes, who was also the MAG chair, I believe, at our last session that we met.

CHAIRMAN HOOD: Stop the clock for a second. I think I received, I read something from Mr. Norman.

MS. SOUTHERLAND: Okay.

CHAIRMAN HOOD: We already have that.

MS. SOUTHERLAND: Okay.

CHAIRMAN HOOD: And we read it.

MS. SOUTHERLAND: Because basically he's expressing his objections to the disconnect between MAG and the ANC and that the document that ANC 5E, that they've presented, is not the complete community benefits agreement that MAG has been working on for the last three months. Thank you very much.

CHAIRMAN HOOD: Let's see if there're any questions for you. I'm glad you

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made it through the storm.

MS. SOUTHERLAND: Lightning was everywhere. It was quite frightening.

CHAIRMAN HOOD: Okay. Commissioners, any comments? Does the Applicant have any cross? Ms. Barnes, do you have any cross?

MS. BARNES: Probably not.

CHAIRMAN HOOD: Okay. And Ms. Forrester, do you have any cross?

MS. FERSTER: Ferster. No, I don't.

CHAIRMAN HOOD: Ferster, I'm sorry. What'd I say, Forrester. Ferster, I'm sorry. Okay. Again, Ms. Southerland, I wanted to you to testify, because I know the years that you've been working on the project as an ANC Commissioner. So thank you.

MS. SOUTHERLAND: Yes. An ANC Commissioner.

CHAIRMAN HOOD: I wanted to allow you that time.

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MS. SOUTHERLAND: I've been involved in every activity involving MAG.

CHAIRMAN HOOD: Okay.

MS. SOUTHERLAND: I mean McMillan. I am in love with McMillan.

CHAIRMAN HOOD: Okay, great. Thank you. Okay, Ms. Brown. Thank you all for indulging us. Let's go ahead and go to rebuttal.

MS. BROWN: Thank you. Commissioners, this hearing process has been a long one. And we very much appreciate the time, effort and patience of everyone involved and particularly the members of the public who have taken the time to come down here, both even in support and opposition.

We'd like to address several of the issues raised by the Commission and opponents. And then I would guess we would go through the long list of items from all the three hearing nights with the Commission and Ms. Schellin to make sure that we don't miss anything that we

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should include in the record. We'll have nine of our witnesses speaking tonight.

And we have one new one that I'd like to qualify as an expert, and that's Mr. Mark Stiers of Wellman Consulting. His resume was submitted today, and you should have it in front of you. And he will be testifying about storm water management.

CHAIRMAN HOOD: He has not been proffered previously?

MS. BROWN: Mr. Stiers, have you been qualified as an expert before the Zoning Commission or the Board of Zoning Adjustment?

MR. STIERS: Previously, but it was awhile back.

CHAIRMAN HOOD: Yes. Well, we don't usually take back our credentials, your credentials, and disqualify you. So you've still been working on the projects that will uphold your resume, right?

MR. STIERS: Yes.

CHAIRMAN HOOD: Any objections,

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Commissioners? Okay. So he's proffered as expert.

MS. BROWN: Thank you. Before we get started with our witnesses, I'd like to provide you a very quick update on the HPRB review process and to clarify some other legal issues.

First, on May 22nd, the Historic Preservation Review Board reviewed the Ray's application for the project and determined that the demolition would be inconsistent with the purposes of the act.

That action allows us now to go forward to the Mayor's agent for historic preservation. We have requested a hearing date, and we have not yet been assigned a hearing date. But we're hoping to get that in July.

Second, the Office of Planning and the Historic Preservation Office filed a supplemental report regarding the Historic Preservation Office's interpretation of the

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preservation covenants on the property and whether there's a need to go back to the Advisory Council.

The HPO indicated that the project would be heard by the Mayor's agent and that there is no disagreement over the plan and thus no need to refer it to the Advisory Council. And that's Exhibit 776 in the record.

Third, we heard testimony at the last hearing from the Bloomingdale Civic Association. We heard more of it tonight regarding a community benefits agreement and that it's required by law. And that was in the slide deck that was presented at the other hearing.

I just wanted to clear up that mis-perception that a community benefits agreement is not a requirement of law.

Of course, we all know that the Applicants will often work with community groups and the ANC to try to work out differences in exchange for support for the

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project. And we've been working very hard toward that. And you're going to hear testimony from our project director about that tonight.

But the public benefits and amenities offered through a PUD, we know that they can make a great difference to a community.

But the flip side is that not, a PUD can't be everything to everyone. And it can only be limited. It can't provide the benefits for all of the city, and it can't solve the social ills for all of the city either. So we have to make sure that public benefits and amenities are geared toward the project before us for McMillan.

And as you heard tonight, the ANC and the Applicant really did take to heart the instructions of this Commission to go back and meet. And you heard there're at least, I think, two meetings and a telephone conference call. And then ANC took its vote over the weekend. So the applicant has listened to the

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Commission on this.

COMMISSIONER MAY: Can I ask a question? We got a letter from ANC. But I am personally quite confused by it.

MS. BROWN: I think that there is confusion, yes.

COMMISSIONER MAY: Okay. So you're going explain what's been agreed to and what's not?

MS. BROWN: Yes.

COMMISSIONER MAY: All right.

MS. BROWN: And with that, I'll just tell you briefly that we've organized our testimony tonight, a rebuttal testimony, in the order that the hearings occurred.

So we'll be focusing on the Master Plan issues and then get into the individual buildings. So with that, I'll turn it over to our first witness, Mr. Aakash Thakker.

MR THAKKER: Good evening, Commissioners. My name is Aakash Thakker, Senior Vice President of EYA.

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I'd like to start by saying that, while we are often on different sides of the table, folks like Tony Norman and Gwen Southerland have been working on this project for a long time.

And as long as I've been working on it, we've become friends. So, you know, this shouldn't be personal, and we do value everyone's views and perspective as we try to move this project forward.

We thank the community, and supporters and opponents for sharing their views. I also thank the MAG, and ANC Commissioners and our own team for spending many hours since we last met here working through Memorial Day Weekend and continuing to work on the community amenities for the site.

And Ms. Corbett will provide some more detail that Commissioner May just asked for.

Many residents, along with the Commission, have discussed the process up to

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this point. Commissioner Turnbull, in particular, asked some opponents if and how we've listened to them.

My comments will focus on the way the District and Vision McMillan Partners have listened to the community and all stakeholders throughout this process and as important, maybe more important how, time and time again, we have tried to respond to the best our ability, always with a focus of creating a great plan but also a sustainable place that will thrive for years to come.

Let me provide an example. I use the park and the grocery store. As Commissioner Hood has said, the park and the grocery store have been important to many in the community, supporters and opponents, from the start.

The park, the grocery store, in particular, and the other retail cannot survive and thrive without the presence of medical office buildings, or other office buildings or

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other daytime uses which provide the traffic and the jobs that the grocery store, the other retailers and the parks must have to stay viable.

So we want this grocery store to succeed. We want the daytime traffic to be there in addition to the jobs that this medical component will create.

This model is no different from Canal Park or Yards Park, new District parks that are vibrant and vital as a result of the mix of uses and density that are around them.

I would like to provide some specific examples of how we have listened and responded to key leaders and stakeholders, some of whom I know will never support the project. And that's okay. Despite that fact, we listened, we learned and we improved our plan.

Former Commissioner Salatti, so you heard him testify. I think his phrase was do you honestly believe. And, you know, we've worked with him. At a conference four years

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ago at Catholic University he said the one thing he wanted was great world class architecture and a great world class park.

Since that time and past that, and I remember that discussion vividly, we hired a best in the class team, Matt Bell of EEK, Warren Byrd of Nelson, Byrd, Woltz, and Emily Eig, to plan and design the project.

We also hired Anne Corbett as project director, known throughout this city for her steadfast commitment to creating great public art and great public places. And I think they've succeeded in attempting and actually creating a great plan and place.

We listened to Commissioner Salatti. We didn't address all his concerns, but we positively responded.

Former Commissioners Tony Norman, and Mark Mueller and Friends of McMillan Park have long been requesting a larger park. The request, at one point in time, was for at least one more acre of park when the size of our park

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was three acres. And this is an important point. Because our park is now six acres.

Through the process, we doubled the size of the park, increasing it by three-plus acres and, in the process, also moved the location of the park creating a larger buffer from Bloomingdale to the community.

So if I could ask you just to look at the plan on the screen, the park is now the full southern portion of the tripartite.

And the goal was a straight forward one, to provide a larger buffer for the communities around the site and also to provide the park, and sort of the intersection of Stronghold and Bloomingdale where the park would not feel private.

And, for the record, the park will be owned in perpetuity by the District of Columbia. So it will never be private.

But the location and size of that park was in direct response to community concerns. In fact, with regard to this

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discussion around fireworks, our hope, frankly, is that for the first time McMillan can be open.

The park is on a high elevation, about 170 because of the berm, and the result of that is it will be high, and it'll have a great view of those very fireworks that community residents are hoping to see. So we hope to be able to provide that as quickly as possible. But we did listen, and we did respond.

Commissioner Barnes, the ANC Commissioner who, as you all have seen, has been a trooper, been here every night, and Council member McDuffy, who at the time was a Stronghold resident living across the street from the project, came to us and said we want a first class community center. We want affordable senior housing. And we want to save Cell 14.

Now Cell 14 is that cell on the corner of North Capitol and Michigan in front of the medical office buildings.

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We worked with the District quickly and positively responded to include all three of those aspects in our plan.

The District's investment in the community center and the park is sizeable, exhibiting a real desire to address community concerns.

Cell 14, that cell on the corner of Michigan and North Capitol, was commandeered by DC Water after we decided to save it. And we think their use, frankly, to capture storm water, is a perfect ode to the original intent of the sand filtration site. Again, we listened and responded and addressed all three of those concerns.

HPRB, the Historic Preservation Review Board, the Office of Planning and Friends of McMillan Park all requested more preservation and cohesive architecture.

Over a rigorous 18 month HPRB process, we revised our plans to preserve all 20 silos, all four regulator houses, two

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underground cells and a recreated Olmsted Walk, resulting in strong and unanimous HPRB support.

And to Commissioner Turnbull's comment with regard to an iterative process, I must tell you that the HPRB process was one of the most rigorous that I and we have been through. And we think we came out the better for it. Again, we listened to all parties and responded.

As I said, Ms. Corbett will talk more about the community benefits. But again, we're trying, we listened, we responded, and we're putting our best foot forward.

This Commission has requested us to re-examine components of our plan, and our responses this evening will continue to show our desire and ability to listen and positively respond.

As an example, with regard to affordable housing, it was actually brought up just tonight again, the Commission and the community requested town homes priced lower

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than 80 percent of AMI.

And we conferred with the District quickly, because it does have an impact on land value and our project specifics with the District, and promptly made 50 percent nine of the 18 affordable town homes, affordable at 50 percent of AMI.

I will let the Commission know that we worked on a project, Chancellor's Row, with very similar affordability, 50 and 80 percent of AMI. And the majority of our purchasers, I believe, did use the HPAP program.

And we worked very diligently with them to ensure we are connecting them to the right programs such that they can afford, you know, homes at the 50 and 80 percent of AMI price range.

Each time we listened, and we tried our best to deliver. I would be remiss if I did not thank the District and Deputy Mayor. Each of these revisions reduce density and increase the cost of the project. And the District

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worked with us with partners every step of the way, keeping in mind that the community has a voice and a right to be involved.

While I wish that I could win over all of our opponents and, you know, I certainly will continue to try, the issue in my view is a philosophical issue at this time.

Friends of McMillan Park and others truly believe that the site should be largely a park, and the plan presented by Professor Gusevich showed exactly that.

Many members of Friends of McMillan Park, and we respect their views immensely, are part of the MAG and the Bloomingdale Civic Association. And our differences have resulted in us putting our best foot forward but not always being willing or able to meet all of their demands.

We have listened, we have worked and compromised over seven years and many, many meetings to the best of our ability.

Our charge, and the District's

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intent with regard to this property since it purchased it in 1987 was for mixed use development. And I think therein lies part of the philosophical challenge.

Some folks, again we understand it, don't think that's the right concept for the site. But we've tried to put forth a plan that includes both world class preservation and economic development. And we believe that is exactly what we've done.

As documented for the record, the State Historic Preservation Office, the HPRB, Office of Planning, DMPED, the most affected ANC, Save This Community Benefits discussion that we're going to have and a Ward 5 Council Member are all firmly supportive of this project.

And not just because of the project attributes, I think that's probably, you know, maybe half the reason why, but because of the long deliberative, collaborative and engaging process of the past seven years.

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As Council member McDuffy stated, we'll have our LDA in front of the DC Council this fall. As Carolyn Brown stated, we're moving through the historic process as well. We've listened and made great progress. And we hope to earn this Commission's support.

In response to a perceived lack of clarity and assertions that the park will not be public, I again want to say for the record that the park will be public. It will never come into the control of the hands of the private development partner. It will always stay under the ownership of the District of Columbia.

And to sort of further amplify this point, I want to walk through a chart that we put together that outlines the various roles and responsibilities of the District, which is one entity, and the chart --

COMMISSIONER MAY: Do we have that in your submittal?

MR THAKKER: You do. Did we submit

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that for the record? So you do have that?

MS. BROWN: It should be in the materials submitted today. And they handed out the seven --

COMMISSIONER MAY: We have like six of them. So let's see if I can find out, six of them from you guys. Oh, got it. I got it. Got it, thank you.

MR. THAKKER: Should I continue? Just making sure everyone has the -- go ahead? Okay. So the chart you're looking at on the top covers the party responsible, either the District, Vision McMillan Partners or the McMillan non-profit.

We've called this the project association or the BID, but a similar non-profit structure would be sort of the three principal entities if you will. And the responsibilities are in the column on the left hand side. So I'll just start from the top.

The current land owner is the District of Columbia. And the financier of the

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park community center and historic assets is also the District of Columbia.

We will be the builder of the, as part of the overall project, like we'll be overseeing the building of the parks and the historic assets, the Olmsted Walk, et cetera. But the District, as I said, is both the owner of the park, the community center and the historic assets and the financier.

And what that gives the District the right to do is ensure that the park is public in perpetuity. And that was always the objective of all the public spaces, not just the park but the historic assets as well.

Next, we have Vision McMillan Partners. And what is our role? We play what I would call the traditional developer role. We are the master planner, we are responsible for securing all approvals, the HPRB approval, the Zoning Commission approval, the Mayor's agent approval and working with the executive and the Council through the LDA process.

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We are the purchaser, and financier and developer of the housing, office and retail components. So those components will be privately developed in conjunction with the development of the public spaces.

And the last point is with regard to offsite community benefits. And there were just questions around, you know, what is VMP's role, what is the District's role.

To be clear, the offsite community benefits, those benefits that a developer can offer at its discretion and work with the community to try to achieve, the District doesn't have a role in that.

They were clear, and that clearly is a number of onsite community benefits. But it is our role as a developer to work as best we could to offer appropriate offsite community benefits.

With regard to the third party and the final party, the McMillan non-profit, again, this is the Business Improvement

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District, or similar non-profit association that we will start with the District, with community input.

And that association has a couple of uses. It will own and manage the onsite streets. This is another issue that came up. What is the situation with the streets?

The streets will be owned and managed by this non-profit. However, they will have public use easements on them such that the public can use them just as anybody living on this site or working on this site can use them, period.

We've done this in many projects, Chancellor's Row is an example, other projects such as Southwest, down in Southwest by the Safeway were mentioned. So not only will they have public use easements, but our plan is, and we do have to work through this, is that the District police can enforce the rules for these roads as well. So it's seamless between the roads around McMillan and the roads within

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McMillan.

And again, that's a model we have used at Chancellor's Row just down the street very effectively. All the policing is done by the District Police Department.

And then the final piece with regard to the non-profit is the managing of the park. And so there's been discussion or talk around privatization.

The BID will, in effect, manage the park, program the park, in a very similar fashion to what you see at Canal Park, what you see at Yards Park. And this is really done just to ensure that there are boots on the ground, that the upkeep for the park, the programming for the park is done is in a first class way.

Again, to be clear, the District, if you will, calls the shots on all this stuff. So they ensure that it is public. They're simply creating a non-profit that will have the best interests of the park at hand.

And so that is all I have. I'm

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happy to answer any questions as we move through this process. And I will turn it over to Ms. Anne Corbett. Thank you.

MS. CORBETT: Thanks, Aakash. Again, my name is Anne Corbett. I'm the project director for Vision McMillan Partners. I want to touch on a collection of issues.

First, with regard to the site plan and site-wide ADA accommodations, the site will provide full ADA accommodation including the Olmsted Walk.

This diagram shows the ADA plots in blue, including sidewalks, crosswalks and ramps. We have, in fact, amended all of our renderings to show the curb cuts for pedestrian accessibility. And all of those renderings will be submitted post-hearing. This is just one example.

It's also worth noting that the Olmsted Walk will be smooth, not intended as a bike path, and signed accordingly. We will however maximize the width of perimeter

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sidewalks to accommodate both pedestrians and cyclists.

Second, there's discussion of LEED certification. So this is our Master Plan scorecard which we've now submitted for the record, and it was an oversight on my part with the 20 day submission.

We will be evaluated for LEED neighborhood development. And given design choices, we can meet gold status. And the scorecard shows that.

Next, I'd like to comment on our community engagement effort. In our 20 day submission, VMP provided a log of our community engagement efforts that documented dedicated effort with MAG, three ANCs and numerous civic associations.

Specifically, the community engagement in both the finalization of the Master Plan as approved by HPRB and the PUD application as proposed in these hearings, began with a conversation with MAG on February

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21st, 2013.

So that's when we showed what is the plan that we're presenting tonight. And I'm happy to provide more details that describe that process. Because I'm very confident in and very proud of the ways we have incorporated community input into our physical Master Plan and our programming.

The concerns, needs and requests are as diverse as the residents of the surrounding communities. From Bloomingdale, we've heard concerns about existing traffic on First Street, storm water management, new visitors parking on their streets.

Specifically from Channing Street, we've heard folks concerned about keeping the berm and putting new townhouses across the street that are taller than theirs.

From Stronghold, we've heard concerns about traffic, being able to get out of their neighborhood, keeping others from cutting through their neighborhood or parking

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in their neighborhood, a desire for building heights and setbacks to preserve views westward from their houses and concerns about the grocery store and whether it might generate additional pests in the community.

We've also heard from Stronghold things like a desire to buy a derelict piece of property in their neighborhood, a triangle for a park.

From others, we heard the desire to better connect to new development, including transportation connectivity and access to jobs created on site.

We've heard expectations that this development should dedicate ongoing operating revenue to provide ongoing offsite amenities in the form of millions of cash payments to community advised funds for everything from job training to tree boxes, overpass parks to storefront improvements.

We are confident in the way we've communicated about the PUD submission and our

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willingness to provide additional community benefits. We made a formal request for a wish list of additional community benefits at the ANC 5E meeting on December 17th, 2013. Then we visited every area civic association, the other affected ANCs, and met numerous times with the MAG.

In April, the MAG proposal was published, what is Exhibit 79 on the record, and several people have referred to it as the MAG CBA. We reviewed that MAG document, we also reviewed the requests of multiple civic associations.

The negotiation faces the challenge of a fundamental disconnect between what some members of the community feel are appropriate in both form and content. We really appreciate those points of view.

While many concerns and requests in that document were expected, it is clear that we are worlds apart on the full balance of additional amenities desired.

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After numerous meetings these past two weeks involving both MAG representatives and ANC Commissioners, up through this past Saturday morning, we could not reach an agreement.

In fact, the agreement that I believe the ANC has submitted is a resolution that they passed on Saturday morning that we reviewed with them over the past two weeks and could not agree to.

So consequently, this Sunday after that meeting, we published a full list of the public benefits and amenities that we are prepared to submit, that we do expect to be conditions of approval for the PUD application, including additional proffers that we made over the course of the past two weeks, about an additional \$500,000 worth of proffers over the proposal that I presented May 1st at our first hearing.

And we submitted that to the record today. Hopefully you have that copy. It's a

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four page document, Applicant's Commitment to ANC 5E.

As said before, VMP and the District have been engaging the community for seven years now on the redevelopment of this site, an ongoing challenge that some residents disagree with the policy decision made in 1987 to redevelop, or they disagree with the conditions under which the District of Columbia has asked us to propose a redevelopment plan, that is to balance historic preservation and economic development.

We believe, however, that we have struck the right balance for the development on this site, consistent with the Comprehensive Plan and the City's goals.

Thank you again. I'm happy to answer any further questions. I hand it off to Dan VanPelt of Gorove/Slade.

MR. VANPELT: Good evening, Commissioners. For the record, my name is Dan VanPelt. I'm a principal with Gorove/Slade

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Associates. And I'm going to brief and just make some comments in response to some of the transportation related items we've heard throughout these hearings.

This is a very significant project with significant transportation implications. So we spent a lot of time developing our transportation analysis that concludes there must be new transit capacity to serve this project and existing community needs.

This project will be a catalyst for new transit in the neighborhood. And Vision McMillan has agreed to work with DDOT and WMATA to encourage plans for future transit to become a reality.

A shuttle plan will be developed in the interim should the necessary transit capacity not be in place when needed.

DDOT has concurred with our methodology and our findings in our transportation report, and they do have several recommendations. And as we've stated in

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previous testimony, we agree in general with all their suggestions.

You heard Ms. Chamberlin say in our last hearing that DDOT is comfortable with the transportation plan as long as the proposed mitigation measures, including trip caps and monitoring, are implemented.

I'm pleased to say that we've continued our dialogue with DDOT, and we will be submitting to the record an official response to the DDOT staff report. This response will include a final set of recommended zoning order conditions that reflect a collaborative effort and will detail all the transportation improvement commitments that Vision McMillan is making.

During these hearings, you've heard Joe Merritt question our transportation analyses and assumptions. You saw his simulation analysis. Let us be clear, that is not our analysis, and it's not an analysis we believe is correct.

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The same traffic simulation tool he showed may be acceptable for less urban conditions, we do, in fact, use it on our own projects. But it's not appropriate for this portion of the city where we have closely spaced intersections and multiple modes to consider. And I am confident that DDOT would agree with me on that.

We stand by our work. In the report and supporting technical appendix, there's detailed documentation of the scope and effort we've performed to determine such things as mode split, trip generation and overall analysis assumptions.

I'd be remiss if I didn't point out that our entire analysis was scoped with DDOT. And we only proceeded after months of scoping discussion, because we wanted to get it right.

We'll be submitting documentation to the record rebutting Mr. Merritt's comments and demonstrating why our methodologies are correct. And we believe our conclusions are

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still valid.

We understand that this project will bring new trips to a neighborhood with already congested roads and transit lines. But what is better, creating new vibrancy and amenities within the District, or favoring Maryland/Virginia commuters that just want to get through this part of the District as quick as possible?

This project takes an existing super block, and it weaves it into the city's fabric. And by doing so it will create more options for all modes of circulation through the area.

It'll create a porous pedestrian and cycling network, inviting more people to come inside. It'll greatly improve pedestrian accommodations crossing North Capitol Street to transit stops into the site by way of new traffic signals and ADA accessible curb ramps.

It'll catalyze improved transit, help bring premium service to a portion of the

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District where it's very much needed. It'll create retail and medical services where errands can be conducted without the need for driving. It'll employ a robust transportation management plan to keep new trips to a minimum and modulate how traffic is dispersed.

It will include multiple bike share stations, bike racks and car sharing spaces for use by everyone. Overall, we believe strongly that the positive impacts far outweigh the negative, and this includes transportation.

When creating what is essentially a new neighborhood within the city, there will be some adjustment, adjustment which we think will cause new local traffic to displace commuter traffic traveling through the area over time.

Although our study takes a conservative approach, it doesn't assume that this happens. Based on our professional opinion, the project impacts are capable of being mitigated pursuant to the PUD standards.

We've developed a set of measures

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working with DDOT to mitigate the project impacts and create community benefit. This incorporates feedback we've received from the community with the goal of creating a balanced approach. We believe we have, and we will continue to do so as the project moves through future phases into the implementation.

I hope the transportation testimony and supporting documentation will lead to the same conclusions. I appreciate your time to hear my testimony. And I'd now like to pass it on to Mark Stiers with Bowman Consulting.

MR. STIERS: Mr. Chairman, members of the Commission, my name is Mark Stiers. I'm a professional engineer registered in the District of Columbia. I'm a principal with Bowman Consultants.

I've been working on this project for over six years. During that time, the regulations have changed and evolved. We met early on with various agencies such as DC Water and DDOE to discuss design parameters and

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issues associated with the redevelopment of the property.

Our current design and plans incorporate the parameters and criteria dictated by the District and in cooperation with various agencies such as DC Water with the temporary storm water storage project and their long term control project.

Regarding our onsite storm water management, we propose to meet the latest storm water regulations that have been recently implemented by the District Government.

The onsite systems proposed will consist of many different types of low impact design, LID techniques.

The proposed palette of LIDs will consist of and not be limited to impervious pavement and sidewalks, roadways, alleys, parking spaces, bioswales, bio tree pits and inlets, cartridge filters, oil grid separators, rain gardens, green screens, detention vaults and cisterns.

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The large open space park and the service corridors will allow us to apply many of these and other cutting edge techniques.

Currently, the site has no storm water management facilities included or connected to it. The proposed condition will significantly improve water quality, reduce the volume of runoff and control the release and safe conveyance of all storm drainage.

The existing storm sewer within First Street NW shall be the storm drainage outfall location. At this location, the storm sewer is 72 inches in diameter and located over 15 feet below the street. It is a separate storm sewer and will provide a safe and reliable connection point.

It is my professional opinion that the outfall is more than adequate. In closing, it is my opinion that the proposed development conditions will provide levels of storm water management that not only meet but exceed the latest regulated conditions and will be a model

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of innovative design for all to be proud of in years to come.

I am happy to answer any questions at this time. I would like to introduce Mr. Kirk Mettam of Robert Silman Associates.

MR. METTAM: Good evening. My name is Kirk Mettam, and I'm a principal with Robert Silman Associates, structural engineers. Tonight, I'll be responding to a specific question raised by the Friends of McMillan Park.

Friends of McMillan Park noted that documents on record show that underground vaults can be adaptively retrofit to build four story structures on top without destroying the historic filtration cells. And they asked me to comment on that.

I'd like to offer a little bit of background of our study and a summary of their findings and then our critique.

Robert Silman Associates was hired to investigate the McMillan Sand Filtration

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Plant. And as part of that effort, we reviewed a draft of the report prepared by C.C. Johnson and Malhotra, PC that was prepared for the DC Department of Housing and Community Development.

A final version of this report was never provided. The CCJM report, as we refer to it, presents an option to build four story office buildings above the existing cells.

The CCJM report did note, as we had in ours, that the column, and this is a quote, "Since the column and dome ceiling concrete is made of non-reinforced concrete, it has little capacity to resist tension loads in the concrete caused by either unbalanced vertical load or horizontal forces caused by possible super structure above the ground. It also performs poorly under dynamic loads caused by vehicular traffic."

The report recommended that a concrete slab be used, and I'm going to point it, Figure 65. These are the original cells.

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And the CCJM report recommended that, in any case, a concrete slab be placed over the entire top surface of this element and vertical reinforcing dowels be placed into the existing cells to, in essence, to restrain any large portions of the vaults against falling into the space beneath.

The CCJM report also presents a scheme for adding loads to the existing structure to support up to four stories of office building. This is also shown in Figure 65.

Every alternating column is shown with a retrofitted existing column making this a very large column and a retrofit of the existing footing.

Our analysis of the existing structure also showed that the unreinforced vaults are very susceptible to brittle failure due to settlement, both vertical and lateral movement of the surrounding soils. And we quantified those numbers.

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Structural failures have already led to collapse on the site, as you know. And our report noted, in addition, that the soils at the site are highly variable, and their strength and settlement are a limiting factor for any reuse of the existing structure.

The report, specific comments related to the recommendation for four story office buildings really hinged on two primary concerns. The first is that the analysis presented in the CCJM report did not consider specifically the effects of settlement.

As such, the proposed schemes would impose significant differential settlement predicted to be at the level that would cause failure of the existing cells.

Our analysis showed that the instability or collapse is reached at settlement values of three-quarters of an inch to an inch and a half, which is typical for settlement of new structures.

This proposed concept of adding

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four stories to the existing structure will result in failure of the existing structures. And the hanging remnants of the cell structure from a new slab above would subject the building to movements that will cause great distress and precipitate internal hazards.

The second issue, the CCJM report did not include an analysis of the existing footings. I'm sorry, can we back, go back one. This zone right here was never analyzed.

We did look at this. Based on the allowable bearing pressures presented by CCJM, the existing structure cannot support its own weight, let alone the weight of these massive slabs that have been proposed on top.

In summary, this structure, I've spent a fair amount of time talking about it, but it is too unstable for future use as is. We cannot just take down the fence and make it a park. There's significant required just to get the top side of the structure to be used.

We cannot preserve cells as

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proposed here while building multi-story construction above. The deformations would lead to unsafe conditions, and the remnant would be hanging, literally hanging from the ceiling in a very distressed state.

The interior space of these cells, just as a point of reference, if we're sitting in this room with a 30 foot bay would consist of -- there's actually, forward two images -- these columns are spaced at about 14 feet. If that was in this room, we'd have a column in the middle of those two columns. And we'd have three columns in this space, just to give a sense of the scale.

It becomes a barely usable space and certainly not one where we've got 4,000 of these columns under the entire footprint of the cells at McMillan.

The proposed scheme, in our professional opinion, balances preservation and adaptive reuse of selected cells while permitting the use of the remaining property by

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the community.

That's all I have. And I'm happy to answer any questions. And I'm going to turn this over to Emily Eig at EHT Traceries.

MS. EIG: Good evening. My name is Emily Eig, and I'm an architectural historian and preservation specialist with EHT Traceries.

I was retained by Vision McMillan Partners in 2007. And over the course of the last seven years, I have helped shape the preservation component of the Master Plan.

My work entailed extensive research into the history of the entire landmark site and documentation of the evolution of the specific sand filtration site from a significant portion of an active industrial waterworks to an obsolete utilitarian plant that has been romanticized in its abandonment.

You have received a copy of the final draft of the report that we prepared which includes extensive original documentation of

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the site.

Over these years, I've looked at many ways of approaching the preservation. What I've learned is that strict preservation of the site would mean its continued isolation.

The site was never meant to support public activities on its surface or within. Its design limited its use to a specific function, and its longevity was inextricably linked to the continuation of that function.

Unfortunately, the prospect, however attractive, of adaptively reusing the cells as museums, galleries, restaurants, grocery stores, or residences, or fisheries, et cetera, is not realistic.

Unlike buildings that are designed to support human occupancy, this industrial site was not meant to serve those functions. The viable character of the unreinforced concrete challenges the site's preservation for it is simply not stable enough to support activities above or within.

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Next slide. You will see here images of the site where DC Water has attempted stabilization of the above and below ground resources as they construct the First Street Tunnel. These photographs are from May 14th of this year, just a couple of weeks ago.

In fact, to retain the cells as proposed in the VMP project will require extensive and costly structural intervention to avoid ruining their elegant growing vaults. In many cases, it may likely require reconstruction.

In very simple terms, none of the stabilization solutions of the cells or the top layer of concrete that forms the plinth needed to allow for public use, as detailed the Silman report, provide good preservation solutions.

The work necessary to make the site safe and code compliant by modern standards will basically destroy its historic integrity.

I see the cells as sand castles. They appear solid and sturdy and, for a layman

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like myself, appear like they have great opportunity. But in reality, they will eventually crumble and do so without notice.

Next slide. As determined by the HPRB when it voted to support the design guidelines of architectural concepts of the plan, the sand filtration site will remain many character defining features.

Overall, the site will continue to read as a whole, its form, organization, topography, including the berm, and almost all above ground historic built features will be retained and rehabilitated to the Secretary of Interior's standards and guidelines.

If we retain the historic tripartite organization and horizontal plinth of the roof of the cells that is so critical to the interpretation of the historic operations of the filtration plant, it will recreate site defining Olmstead Walk.

It will stabilize and rehabilitate two underground cells in a manner that will

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allow for public use. Importantly, it provides a concentration of public experience in the southern third of the site, where the plane is most distinct and ones experience on this plane is the most special, by retaining the visual and physical connection between the site and the reservoir across First Street and by allowing the southern portion of the original plane to be read from the recreated Olmsted Walk at its original height very closely to how it was perceived originally.

I would like to respond just briefly to historic views that are on Page 60 through 64 of the report that we did. We looked at historic views from the site.

And you can see that in the southern portion where the park is proposed, those views would be maintained. The views to the north have already been compromised beginning in the 1950s with the hospitals directly across Michigan Avenue. And I think that there's a study being entertained to show that we'll

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submit about the view from the Armed Forces Retirement Home.

I would like to address the claim that the filtration site was intended for public use. This is not true, I'm sorry. This is not true.

The working sections of McMillan were not open to the public, while the park area west of First Street was. Frederick Law Olmsted Jr. saw the McMillan complex as three distinct areas, reservoir, plane and park.

In his report, an outline of a general plan for the landscape treatment of McMillan Park, because he referred to the whole thing as McMillan Park, even the working sections, in 1908, he defined three distinct areas.

The plane he described as the area including the covered reservoirs, the filter bed, sand washers and their appurtenances. The plane is what we refer to as the McMillan Sand Filtration site today.

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The second section was the reservoir. It was the spacious and impressive open reservoir with the enclosing banks and hillsides, including the curvilinear banks of the filter beds which face toward it. Treat the whole landscape as a whole, and form it picturesquely was his plan.

The third part with the public park was, "The southerly part, lying in the main below the dam of the reservoir. It is a separate appendage serving no practical function in the operation of the water works and presenting a distinct landscape unit. It can be shaped into an agreeable and consistent piece of informal park landscape with provision at the westerly end for a children's playground."

This analysis was confirmed by the annual reports of the Chief of the Corps of Engineers which described two separate areas. The first is the Washington Aqueduct, District of Columbia filtration plant. And the second

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is the "Parking grounds, McMillan Park Reservoir."

While people may have used the top of the filtration plant for recreational purposes, as was stated by the opposition, it was never designed for this purpose nor were these activities sanctioned or safe.

In these images, we see people utilizing the park area west of the First Street for recreation. You can see the McMillan fountain sculpture. That was the prominent feature that was removed by the Federal Government when they changed the filtration plant from slow to a rapid filtration plant.

I would like to say, however, that the McMillan Park may have been and probably was the first "de facto integrated park in DC," but not the working areas of the larger site.

Photos here show Lillian Evanti, a Black opera singer and her son at McMillan Park circa 1930. William Henry Jones, in his book, Recreation and Amusement Among Negroes in

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Washington, D.C., A Sociological Analysis of the Negro in the Urban Environment", published in 1927, states, "McMillan Park, located east of Howard University and surrounding the new reservoir has not been taken over almost exclusively by Negroes."

This statement refers to the open area that hugged the actual reservoir to the north, south and west that was designed and programmed for the public's use as a recreational park. It does not refer to the industrial sections of the landmark site.

In conclusion, I would like to state that I believe that a balance has been created between the various competing interests. And these interests are great in the competition for how this site should be used, with preservation holding a key role in the site's future.

It will retain the above ground features, it will retain some of and rehabilitate somehow these two cells that'll be

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preserved. And the proposed preservation meets the Comprehensive Plan for both above and below grade preservation.

It is my professional opinion that this proposal will result in the revitalization of public enjoyment and public understanding of a significant site that has an important story about our city's history that deserves to be properly understood and enjoyed.

This is a place where we finally will be able to take down the gates and the walls of the fence and allow people to enjoy the site for the first time. Thank you.

MR. MCLAURIN: Good evening. For the record, my name is Jack McLaurin with Lessard Design. And I'd like to speak to three issues that were brought up with the row homes at PUD Hearing Number 2.

The first issue is the material cladding the bay windows on the front and sides of the row homes. The proposal was to have a cementitious HardiePanel on the bays with a

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reveal system.

This is a color and material board which includes our materials. Item Number 3 is this cementitious panel. It's a HardiePanel. What we created was a finishing system that would give it a high gloss finish.

We actually prepared a mockup of a building corner to bring in here. It had an outside reveal corner on it. After doing that mockup, consideration of Commissioner May's comments, which we appreciate, and consideration of the design of the row homes that we are trying to achieve from a stylistic standpoint, and material working in compatibility with the brick veneer and the metal panel which is being held up behind me right now -- that's the metal panel that goes up on the loft level -- and after doing that mockup, we have determined that the HardiePanel is just not appropriate to use on our bay windows. So we have actually switched our material and our cladding method.

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CHAIRMAN HOOD: I'm going to ask you to pass that up so --

MR. MCLAURIN: This one here?

CHAIRMAN HOOD: Yes, everything.

MR. MCLAURIN: Okay.

CHAIRMAN HOOD: Everything that you're showing us.

MR. MCLAURIN: Would you like it at the end or as we go through this.

CHAIRMAN HOOD: As you're talking, you can keep talking. We can do both.

MR. MCLAURIN: So what we have here that we've switched to, the cladding on the bay windows on the fronts and sides of the home, it's still a cementitious product, but it's produced by Nichiha. And it is a concealed clip system.

So that's significant difference, Number 1. When we did the mockup, we just weren't happy, even though the finish came out nice, we weren't happy with the fasteners and the potential expansion and contraction that's

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going to go along with that type of construction.

This Nichiha system is expandable, it's a rain screen system. And it's meant for this specific application, typically found in more commercial or multi-family projects.

If you can switch the slide? The three images on the right hand side represent what this would look like in a built environment. And you can run them in a running bond pattern or a stack pattern as you see on the right hand side. This is an image on the left of the bays that we're talking about.

Can we go to the next slide? These are some construction details of the Nichiha rain screen system.

And I know it's difficult to read up there, but the details have been submitted for the record. So I welcome you to take a look at those, next slide please, resulting in a street scape that we believe now is consistent in terms of quality and style from the ground all the way

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up to the loft level.

The second issue which we'd like to discuss is the issue of rear yard flexibility as it relates to the alleys and specifically the environments of the alleys.

Next slide. And just to refresh you, what we're talking about is the area in red here. The requirement of a rear yard is 12 feet to the line of the building or other architectural feature.

Next slide. Technically speaking, we have nine feet to a cantilevered deck, just to refresh you. Our alley is 28 feet wide. We have 14 feet from the center of the alley to the building face which would constitute our rear yard. And again, we have five foot cantilevered decks and rooftop terraces.

Next slide. And we were asked to really try to give you an idea of what that environment is going to feel like. This is a rear elevation of a typical building.

One thing to note, again, it's very

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difficult to make out, but we have our cantilevered decks here in the stained wood.

The end units are brick that wraps from the front, to the sides to the rears on this side and on this side. And then we have cementitious HardiPanel in the field. The metal cladding on the loft does wrap all the way around.

The other thing you'll notice are the locations of trees that we are able to put into the alleys where we have some of our more narrow units.

If we go to the next slide, this is an enlargement of a typical block where you can see the location of about three trees per alley. The idea there is to try to soften it up.

Next slide. This is a rendering of the alley which illustrates those trees. It illustrates landscaping which we believe is achievable in the driveway islands.

But it also illustrates the functionality of the alleys. We have utility

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meters, we have gas meters, we have electric meters. These alleys are utilitarian and functional.

But the building the back of the image there is the end cap of the building that faces the south service corridor where there will be brick on the ground level from the grade all the way up to the bottom of the deck in this location.

Because as you come down, as you enter that alley from Evarts Street, you feel like that is a visible facade from a public realm standpoint. So we are wrapping brick around the sides and the ends, the rears of the end units as well as the back of this building here.

Next slide. And then the last issue, that I believe it was specifically Commissioner Hood just wanted to get in the record, was the location of the air conditioning units which are on the upper rooftop.

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As you can see here from the section in the sight line study, those rooftop units will not be visible from the public street. And the bottom left hand image is a roof plan which shows you the location of those rooftop units.

Please note that we do locate those. We have flexibility to locate them to make sure on an end unit they're not outboard on the end of the building. We move those interior to maintain the fact that you cannot see those from the street. That concludes, and I'll be happy your questions. Thank you.

MR. LYNCH: For the record, my name is Jair Lynch of Jair Lynch Development Partners. And I am providing rebuttal testimony in response to specific issues raised by the Commission in regard to Parcel 4 which includes the multi-family, grocery and affordable senior components.

We clearly heard the Commission's concern raised regarding urban design and

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programmatic issues related to the mixed use building on Parcel 4.

Firstly, we are committed to delivering the affordable senior housing and will work with our partners and the District to do so, as this program element is vital to the entire site. Because of this commitment, we are no longer seeking flexibility in terms of affordable housing on Parcel 4.

We continue to believe that the affordable senior component is most appropriate at the southern end of the mixed use building, as this location provides the best access to the amenities of our senior residents who will hopefully use the most, the grocery, the community center and park.

The affordable senior component will continue to function as a distinct building with its own lobby and amenities as is necessary to meet the senior housing exemptions to the Fair Housing Act.

We also realize that our senior

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residents will require a high bar in terms of accessibility and walkability. We will create a strong pedestrian experience for everyone, especially our senior residents, which includes a clear separation of vehicular traffic from lobbies and the nearby amenities.

I'm pleased to inform the Commission that our team has made substantial progress in revising our design to address these concerns.

We have developed a modified concept that achieves a more balanced ground floor plan that improves the experience for our residents within the context of the existing McMillan Master Plan while ensuring maximum flexibility for a full service grocer and the associated parking.

A draft of this concept is being presented here tonight to show you the direction we're taking. We will also be reviewing this plan in detail with the Office of Planning, DDOT, ANCs and other neighborhood

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stakeholders.

Jim Voelzke will present the plan in a moment that will illustrate how to relocate the parking entrance to Evarts Street allowing for a significantly improved pedestrian experience on Porter Street and an improved senior lobby and additional amenity space. We will submit a final version of this revision as part of our post-hearing submission.

I would also like to clarify for the record that we fully intend to bring a full service grocery store to the McMillan site.

A full service grocery, especially a large format grocer, encompasses 35,000 to 55,000 square feet of floor space. Examples that are active in the DC market include Harris Teeter, Safeway, Giant and Whole Foods, among others.

During our testimony to the Commission on May 5th, we presented an alternative retail plan. But to be clear, the alternative plan is intended for a grocer, just

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a small format full service grocer.

We did this to address an uptick of small format grocers in the region that are actively meeting market demand. Examples with 15,000 to 30,000 square feet of floor space that are active in the DC market include Trader Joe's, Yes Organic, My Organic Market, Fresh Market and Mrs. Green's.

I reiterate, our primary objective is to develop a full service grocery store. And I apologize for any confusion.

We have worked for years and continue to work diligently to pursue a full service grocer tenant and have engaged in negotiations with several.

However, the grocery market is rapidly evolving with a number of large format grocers undergoing corporate mergers and reorganizations.

We request the flexibility for a small format option if necessary to allow Parcel 4 to proceed in conjunction with the

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towns and the medical office buildings on Parcel 5 and 1 in the summer of 2016.

Additionally, we acknowledge that the ultimate retail plan with a small format grocer presented on May 5th will require revisions to address urban design concerns regarding the senior lobby, amenities and loading raised by the Commission. We will address these issues further as part of the proposed hearing submission.

Lastly, we understand the Commission's concern that this type of flexibility is not typical and often the subject of an amendment to a PUD.

We are requesting this flexibility to avoid delays in the project and a gap in delivery of the first phase of the McMillan redevelopment but will defer to the Commission's judgement in response to this request. Thank you. Jim?

CHAIRMAN HOOD: Now, let me just ask this, let me interrupt right quick. Mr.

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Lynch, you mentioned about the repositioning of the multi-family unit, right? Isn't that what you said, because of the concerns you've heard from the community and from us?

MR. LYNCH: Correct. Specifically regarding the urban design and the ground floor plane as it relates to the loading docks as well as the parking garage entrance. So we have a plan that we'd like to present to you tonight.

CHAIRMAN HOOD: Okay. So that's a change?

MR. LYNCH: Correct.

CHAIRMAN HOOD: Okay. Mr. Pelaquin, Mr. Pelaquin, is Mr. Pelaquin still here?

(No audible response)

CHAIRMAN HOOD: Okay, we'll pass that on to him. Okay, you all may continue.

MR. LYNCH: Okay. Jim?

MR. VOELZKE: Good evening. For the record my name is Jim Voelzke of MV and A

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Architects. And I am providing rebuttal testimony in response to issues raised by the Commission on the street level plan of the grocery mixed use building.

In response to the Commission's legitimate questions regarding access to and from the senior building, we have revised the street level plan to eliminate all curb cuts on Quarter Street. Seniors will have unencumbered access to the grocery store, the medical office buildings and the other amenities in the north service court. Walking paths to the north and south will encounter no curb cuts.

This change allowed us to increase the area of the senior lobby at grade to provide additional amenity space. Regarding senior amenities, I want to clarify that the seniors will also have unencumbered access to the large amenity courtyard above shared with the multi-family building.

Access to the parking will be via a

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new curb cut on Evarts Street. Separately, we have reduced the widths of the loading curb cuts on Evarts Street by reconfiguring the docks slightly.

Below grade levels will continue to provide bicycle parking, bike facilities and parking counts similar to the original plan.

I want to note that in inclement weather, seniors and multi-family residents can access the grocery store through a vestibule at the store parking level and a short walk to the grocery vestibule.

We will resubmit a final version of this plan as part of our post-hearing submission. And I'd like to turn it over Adam Weers of Trammell Crow.

MS. BROWN: Excuse me. Before we turn it over to Adam, I know that we had some material samples for the community center that we wanted to submit to the record, and Mr. Bell is presenting them now. We wanted to make sure that you saw the them instead of just having

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pictures of them in the record.

(Pause)

MR. BELL: Matt Bell, EEK, Perkins Eastman. We're using concrete in the building. We're using a terracotta system as a surround for the entry. We're using high performance glazing and metal panels. This is a sample of the metal panels. We've articulated where each of those go in the little rendering.

You had asked for these, Commissioner May. And I also have a sample for the multi-family building base if you want to see that as well.

MS. BROWN: Yes.

CHAIRMAN HOOD: The parties are looking. We can continue.

MS. BROWN: Okay. Mr. Weers, if you could proceed with your testimony.

MR. WEERS: Sure. Good evening. My name is Adam Weers with Trammell Crow Company. And on behalf of Vision McMillan

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Partners, I'd like to thank the Commission, the District Government officials and all of the organizations and individuals who have participated in this process thus far.

There's been a lot of discussion about McMillan over the past few months, weeks and years, lots of conversations.

What has become abundantly clear in this time is that nearly everyone involved wants to see progress at McMillan in some form and that most of us care enough about seeing that progress to acknowledge that a balanced approach is the best possible way to move forward, to get that fence to come down.

When completed, the new McMillan will be a unique and magnetic place where one can recall the majesty and grandeur of the site's original incarnation while enjoying its new and fantastic public spaces woven thoughtfully and artfully into the fabric of the site for everyone to enjoy.

When completed, the new McMillan

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will be home to institutions pushing the envelope of world class treatment and research, saving lives, curing diseases and leading a vanguard of an industry whose impact on the District cannot help but to rise in importance throughout the next century.

And could there be a more appropriate place for such efforts than McMillan, a piece of land located just on the other side of the reservoir from the one time professional home of Dr. Charles Drew, a son of the City, a giant, whose contributions to the healthcare profession literally changed the world?

It is true that the seven years this development team has been crafting our vision for this site is but one chapter in the epic of McMillan.

This part of the story that we have been living has been, at times, both disappointing and inspirational, incredibly frustrating and fantastically exciting,

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physically tiring and literally invigorating.

This PUD has forced us as a development team to listen, consider, incorporate, and solve the problems, perspectives and ideas that we simply could not have generated on our own.

As clever, creative and successful as we may think ourselves to be, we were only able to reach an optimal solution when we accepted our role as but one voice in a chorus of stakeholders.

An underlying desire for greatness is something that we recognize, see and hear in nearly every McMillan conversation we have. But conversations will only get us so far.

Eventually, the season for talking must end, replaced by a season of action. It is our belief that this new season, this time for creation at McMillan has finally come, bringing this site full circle more than 100 years after its original creation.

It was McMillan that allowed this

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city to stretch its limits past Boundary Street. It was McMillan that allowed the Washington Hospital Center to flourish. And it was McMillan that spurred the expansion and growth of an entirely new quadrant of the District that the 74,000 residents of Ward 5 call home today.

It is through this lens that we view the importance of this site and its re-imagination as a catalyst for development once again.

Having been taken out of commission in the 1980s, McMillan served its original purpose with dignity for the better part of 80 years. And it now stands on the precipice of serving a new purpose, no less important or impactful than its original mission.

It has been 27 years since the District Government had the foresight to see the immeasurable benefits that would flow from the redevelopment of this site. A quarter century of debate and planning is long enough.

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The current development plan includes a stellar line up of amenities and assets which residents of this city want, need and deserve.

We believe that our PUD application and our testimony and evidence submitted to the record, along with the additional materials we will be filing at the request of this Commission, fully support our application. And we thank you again for your time and consideration.

MS. BROWN: Mr. Chairman, that concludes our rebuttal testimony. And we're available for questions.

CHAIRMAN HOOD: Okay. Thank you all very much for the rebuttal presentation. Commissioners, any questions on rebuttal? I know there're still some things that we're expecting. Okay. Any questions? Okay. We're going to take a five minute break. And we'll be back in five minutes.

(Whereupon, the above-entitled

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matter went off the record at 9:03 p.m. and resumed at 9:08 p.m.)

CHAIRMAN HOOD: Okay, we would like to go back on the record. We're going to all get in position. We would like to start back so we can get through our questions. Okay Commissioners, we have questions on rebuttal. Who would like to start us off?

COMMISSIONER MAY: I have just a few.

CHAIRMAN HOOD: Sure.

COMMISSIONER MAY: So there was, that image there. I just have a question about that. So it's sort of fuzzy when you get beyond the view of the site. But I'm wondering what I'm seeing here.

So all the way to the west of, I guess, the rows of townhouses I see a building right there. That's an imaginary building, right?

I mean, I know it's not on your site, but I'm trying to understand the context. So

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somebody imagined a building being built on the rest of the McMillan site? Is that what I see?

That large building is part of the existing reservoir?

MR. BELL: Hi, Matt Bell. Commissioner May, are you talking about that?

COMMISSIONER MAY: Yes.

MR. BELL: There's a building on the site across the street from our site there.

COMMISSIONER MAY: Okay.

MR. BELL: I can't honestly say that I did it, that I know exactly the height of it there, but there is a filtration, part of the filtration complex there. It may be exaggerated in that rendering.

COMMISSIONER MAY: Okay.

MR. BELL: It's not on our site.

COMMISSIONER MAY: And then what are we seeing beyond the site over in the other corner over there? Is that part of the existing hospital complex, or is that an imagined building right there?

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MR. BELL: I don't think there is a building there.

COMMISSIONER MAY: Okay, so --

MR. BELL: I think it's a trick of the drawing there.

COMMISSIONER MAY: Yes. So what this pointed out to me is that I don't really have a good sense of the rest of the context. I mean, I understand it's easy enough for me to imagine townhouses to the east of Stronghold and to the south of Bloomingdale, but it's hard for me to imagine how this relates to the hospital complex to the north.

So I'm not sure how to do it in a drawing, but if you can submit some sort of a drawing that relates this development to the rest of that complex in terms of the heights and bulk and massing.

And you might even want to do two different versions of it. One is the current circumstance and then one is what is going to happen in the future, or what you imagine is

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likely to happen in the future.

Maybe the Office of Planning can help guide you in that. I don't know what's intended for the sites to the north. But it would be helpful to understand this in the overall context.

CHAIRMAN HOOD: And let me just add, that goes along with we asked for, we're still looking for, Ms. Brown, as far as the views where the medical office building. So you can put all that in one package.

MS. BROWN: Yes, sir. We've got it on the list.

COMMISSIONER MAY: Okay. So I appreciate your taking on the grocery question. That was a question in my mind. But just to clarify, I mean, one way or another there's going to be a grocery here.

And it may wind up being a small format, but preferably it's going to be the full 35 to 55 square foot full service grocery?

MR. BELL: Yes, correct.

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COMMISSIONER MAY: Okay. So the gentleman from Silman Associates who testified about the structural report, if you don't mind coming up. Mr., is it Mettam? Yes.

Mr. Mettam, after receipt of your study and what you submitted, it's a little more than I could review and absorb in the time that we've had it. But I do have one question which is that, you know, there was this original study done by CCJM or whatever it was, and now you've done your study and you've come to some different conclusions.

And what I'm wondering is whether you've had any outside input on your study, whether there has been any kind of peer review of that study or whether there are other resources that we can look at to, you know, to bolster the fact that you concluded that there's not a way to really save much in the way of the cell structures.

MR. METTAM: No, there hasn't been an independent peer review, even though we do

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as a matter of the course in our practice, we do interior, internal peer reviews.

COMMISSIONER MAY: Yes, right. Okay.

MR. METTAM: There's been a lot of internal debate about the technical treatment of the structure because it's so unusual.

COMMISSIONER MAY: Right. But I assume that internally the consensus view was what's been presented in this, what you've given us today. Okay, I think that's really the only question I had for you.

Mr. McLaurin, I appreciate the fact that you looked closely at the system and have decided to make some changes to make sure that it looks good from the outside, or from the street side.

My question is when you go to the Nichiha system, is there going to be a change in the panelization that's noticeable or significant from terms of what we see in the drawings that you've provided?

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Is there going to be some different joint patterns or what have you, because I see that there are, the system, the sample that you sent us shows, you know, 18 by 6 foot panels. And I think that some of what we saw with the Hardy panel version of it might have been longer spans than that.

MR. MCLAURIN: That's correct. So if you look at the construction detail, there's an elevation on that construction detail, and the plan is to use the 18 foot by 6 foot panels. And then they also have a --

COMMISSIONER MAY: So they have an 18 foot by 6 foot panel?

MR. MCLAURIN: No, excuse me, 18 inch by 6 foot panel.

COMMISSIONER MAY: Okay, 18 inch. Okay.

MR. MCLAURIN: Yes, and then there's a 4 inch by 18 inch tall corner board that goes along with it. So the elevation, partial elevation shown on the construction

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document reflects that, and we're actually excited about that's exactly the look we were going for.

COMMISSIONER MAY: Okay. And is that reflected in the, I guess we don't see those, we're not to supposed to really read those joints in some of those other perspective views that you've shown us?

MR. MCLAURIN: You just can't pick it up.

COMMISSIONER MAY: Yes, okay. All right.

MR. MCLAURIN: I mean, you know --

COMMISSIONER MAY: It's a tight butt is basically what it comes down to.

MR. MCLAURIN: Not a reveal or painted or anything like that.

COMMISSIONER MAY: No reveal or anything.

MR. MCLAURIN: It's just tight seam, right.

COMMISSIONER MAY: Okay.

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MR. MCLAURIN: And it's beveled so, you know, there's no hard shadow line or anything.

COMMISSIONER MAY: Right, okay. So there were a handful of other questions that were raised in the earlier hearings that I assume that we'll get some more information on. I know you hit on some of those.

I guess that's all that I have to ask you on the rebuttal, thank you.

CHAIRMAN HOOD: Okay, any other questions on rebuttal? Mr. Turnbull?

COMMISSIONER TURNBULL: Thank you, Mr. Chair. I guess my biggest questions are still on transportation, and your submittal tonight. I guess for something that you're saying is, I guess I'm concerned about being moderate density and medium density.

And we've got a site that for the most part is under served. And one other thing is you're going to incentivize on-site residents and tenants to use public transit,

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which is right now under served.

You talk about recommended improvements to nearby bus routes. You talk about recommendation to accelerate planning and development of the plan use. You talk about the provision of an interim shuttle service, blah, blah, blah, for five years.

And the applicant -- I guess why I'm saying all this, this is just a lot of fluff. I'm really concerned. I don't see a plan, a positive plan. What if it goes beyond five years?

What if your partner says we can't do it? What if your partner says we're not going to do it for ten years? Who's going to do it? The residents in this area are stuck.

I would like to see a definite plan with your partner on how you're going to provide transportation. You need to provide something that will tell this new community and the community there that they're being served.

You got a lot of great plans and the

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research, you know, I can talk to you, you can talk until you're blue in your face, but you've got to provide the nuts and bolts of the infrastructure to make this work.

You've got to be able to promise people -- flexibility is nice. Well, we don't know what our partner's going to do yet. But you've got to get some commitment. Somebody's got to commit somewhere along the line as to what they're going to do. And we don't have that.

And I know you're smiling, Ms. Corbett, and I think that's fine. But we need some answers. We need some kind of a specific thing for this transportation features that will address the community and the neighborhood. Mr. VanPelt's got all the answers.

MR. VANPELT: Well, no. I can speak to what the transportation analysis said and the additional capacity that's needed. And we have articulated the mitigation measures

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that we believe need to be put into place.

There still is some ambiguity about exactly how do we get to those additional transit trips?

COMMISSIONER TURNBULL: I want to forget the ambiguity. We need to go beyond ambiguity. You're asking for a PUD which is structuring the whole idea of moderate density commercial.

You're asking for heights that go way beyond what people would normally think of. Explain to me how you're going to fix this. Explain to this Zoning Commission and this community what you're going to do.

We need some answers, not just well we think we can do this, well there's ambiguity here. Mr. VanPelt, we're beyond that.

You're asking for some answers, you're wanting us, I just heard, Mr. Weers just said it's time for action. Well, it's time for action. Give us something that we could act on and make us feel positive that we can go forward

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on this.

If we don't have it, you've got a problem, a serious problem for this community. We really need some answers.

The other thing that I'm concerned about is the height. There are some heights, especially on North Capitol. You've got row houses, you've got homes across the street that are, like, two stories high, two and a half stories high.

And yet we've still got the grocery store and the multi-family at 75 feet. No one's talked about a set back or trying to ameliorate that condition. You've got the 45 foot homes along there.

But I would like to see some better, or thought made for trying to take away the big, I know it's got a little set back at, like, two stories. But I'm just really concerned at what that impact is going to look like along North Capitol.

FEMALE PARTICIPANT: Can I?

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COMMISSIONER

TURNBULL:

Absolutely.

FEMALE PARTICIPANT: The face of the back to back townhouses and the grocery store is set back about 67 feet from the curb. It's a self-imposed set back in order to create the public space for the Olmsted Walk.

That is about twice the distance that the houses across the street are set back.

COMMISSIONER TURNBULL: I'm just looking at the overall impact along that street of that building, and I'm concerned about it. I think you need to think about it.

FEMALE PARTICIPANT: We have evaluated the impact --

COMMISSIONER TURNBULL: Well, think about it some more. From my standpoint, think about it some more.

FEMALE PARTICIPANT: Yes, sir.

COMMISSIONER TURNBULL: Now, Cell 14 is going to have a use by WASA for how many years?

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FEMALE PARTICIPANT: Until 2022.

COMMISSIONER TURNBULL: And then it stays apart in perpetuity from then on?

FEMALE PARTICIPANT: Correct.

COMMISSIONER TURNBULL: Okay. Okay. I'm just really concerned that this transportation issue, this whole trafficking thing has been just glossed over. And I'm really concerned about the impact that this is going to have.

And you've heard it from the people in the neighborhood. And it's like, I don't think it's sunk in yet that they live there. And I think you've really got to hit home with this. You've really got to do a little bit more planning on this. Thank you, Mr. Chair.

CHAIRMAN HOOD: Mr. Miller?

COMMISSIONER MILLER: Thank you, Mr. Chairman. So, you know, I think there have been a lot of different changes throughout the planning and development of this project.

And I think your presentation, in

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one of your hearings you did, maybe it was the first one, you went through some of them.

But I think it would be helpful as part of your post-hearing submission to include a chart or summary of the various changes that have been made, including the ones in the last two weeks as the result of discussions with ANC 5E and others that have been made.

I think you made a reference to \$500,000 being added to something. But I think that would be helpful. Which gets to the Chairman's point that he was trying to make earlier that there are changes that are made throughout this process. And then when we get to our deliberations, if we get to our deliberations, there will be further changes.

I think I would like to see as part of the post hearing submission also, I was doing it up here myself and, like, a red lined version or some kind of commentary version of I was looking at the community benefits agreement, not the community benefits agreement, excuse

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me, the Applicant's commitments to ANC 5E on public benefits and amenities that you're offering to be part of the PUD order that would be binding commitments upon the Applicant.

And I had ANC 5E's public and community benefits agreement. But I think it would be helpful if you maybe used one of the document, maybe the ANC 5E document in one case, or maybe the MAG CBA in another case just to say how you have addressed each of them because I think, as I'm looking at some of them, I see where you have addressed it maybe not as much.

But in many cases they are addressed in one way or the other. And so I think it just would be helpful as part of the record to, rather than me going back and forth between the documents, to have a document that just shows on the 5E document what you've done.

You know, you did 250,000 not 500,000, or you did 500,000 not 5 million. Or that you said you would use best efforts to get the McMillan Fountain, that you couldn't commit

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to doing something that you don't have control over at this time.

FEMALE PARTICIPANT: I do have that very document. And we marked up for the ANC's benefit and delivered it to them, I guess, Thursday of last week. And so I would obviously be happy to submit it to you. But we commented on each one of the ANC's requests.

COMMISSIONER MILLER: And if you're able to do that for the Brickland or the MAG drafts, their draft CBAs or their CBAs, that would be helpful, I think, as well just so we can get a picture as to what the distance is between the various communities and the Applicant on these issues.

I mean, I think it was helpful to see this, well, it doesn't really show it. But it was helpful to have the testimony that six acres of the six acre park is going to have vistas to the fireworks.

This publicly accessible park, this area on site that hasn't been accessible for

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decades is going to have vistas, beautiful vistas in a beautiful setting to the fireworks, to the Capitol, to the Washington Monument. I'm assuming you can see the Cathedral looking a different direction. So --

FEMALE PARTICIPANT: Commissioner

--

COMMISSIONER MILLER: -- to the extent that that structure on the McMillan Reservoir isn't blocking the view. Commissioner May, so I think it might be helpful to show those vistas from the park, from the publicly accessible six acre park.

FEMALE PARTICIPANT: Can I add that you cannot see the Capitol Dome from this site.

COMMISSIONER MILLER: Okay.

FEMALE PARTICIPANT: You can see the Capitol Dome --

COMMISSIONER MILLER: From the park part of the site?

FEMALE PARTICIPANT: No, sir. You can see the Capitol Dome from the center of

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North Capitol Street if you're standing in the median.

COMMISSIONER MILLER: Right.

FEMALE PARTICIPANT: But there is significant street trees --

COMMISSIONER MILLER: The monument, though?

FEMALE PARTICIPANT: No, there's --

COMMISSIONER MILLER: You can't see the monument?

FEMALE PARTICIPANT: You can see the Washington Monument.

COMMISSIONER MILLER: Yes, okay.

FEMALE PARTICIPANT: And you will still be able to see the Washington Monument. And hence the reference to the fireworks.

COMMISSIONER MILLER: Right.

FEMALE PARTICIPANT: I mean, right now it's a D.C. -- you can't see it today. But you could see it when completed.

COMMISSIONER MILLER: Right.

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That's the --

FEMALE PARTICIPANT: You cannot see the Capitol.

COMMISSIONER MILLER: Okay, I take back the Capitol.

FEMALE PARTICIPANT: And all the other views to other significant landmarks surrounding are landmarks that were built after the McMillan sand filtration site was built itself in 1905.

So there are some of those views, but those views didn't necessarily exist historically when the site came on line.

COMMISSIONER MILLER: Okay. I appreciate that. And the views that the Chairman was referring to, and Commissioner Turnbull maybe was referring to across North Capitol Street to the 130 foot building to the multifamily building.

I don't think you provided those views from, like, the steps of the town or what's across the street, what's across North

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Capitol. Have you provided those views? I think it might be useful to have some views of that just to --

FEMALE PARTICIPANT: I thought, my understanding was Commissioner May wanted to see a study of the views from the Armed Forces retirement home --

COMMISSIONER MILLER: Yes, I wasn't talking about what --

FEMALE PARTICIPANT: -- southward across the site and what our development, how our development might impact --

COMMISSIONER MILLER: Right, I wasn't referring to his request.

FEMALE PARTICIPANT: Okay.

COMMISSIONER MILLER: I was referring to --

FEMALE PARTICIPANT: I'm sorry.

COMMISSIONER MILLER: -- Chairman Hood's previous request for the views from town homes. I don't know if they're on First Street --

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CHAIRMAN HOOD: I think the --

COMMISSIONER MILLER: -- or all across North Capitol, either way, to show the scale of the McMillan Development with the surrounding --

FEMALE PARTICIPANT: Certainly.

COMMISSIONER MILLER: -- from the lower scale surrounding neighborhood. And I would like to see as part of your post hearing submission additional written supplementary material of what you presented orally tonight and throughout the hearing as to how the 130 foot C3CPUD is not inconsistent with the comprehensive plan.

I think it would be just helpful because I think many of us are struggling with, and I realize the overall density of the site, and it's a big site that is spread out and you're trying to preserve, you doubled the size of the park from one of the earlier versions.

So, I mean, you're trying to do a lot of different things. But how just that

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northern parcel with all those caveats, how it is not inconsistent with the moderate density commercial designation. I think that would be helpful.

I think there's some, you know, the lead goals status you said that's a correction that in what we have in the document before us that where it says silver in the --

FEMALE PARTICIPANT: The commercial buildings themselves can achieve lead silver. The master plan, which will be evaluated under the lead neighborhood development standard can achieve gold.

And then the residential buildings are evaluated using green community's standards.

COMMISSIONER MILLER: Okay. So if you can clarify that in the post hearing submission, that would be helpful as well because I got confused. I thought the whole thing was going from silver to gold.

So that's useful to know. I think

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that's about -- oh, and I also appreciate the increase in the 50 percent AMI, the number of percent AMI units that you're going to do on the site.

And I look forward to looking more carefully at the revised design for the multifamily building to show how you're addressing the parking and loading issue, not making that as much of a problem for the seniors that are entering and exiting.

I think if you can put in writing what, Mr. Lynch, what you articulated tonight verbally as to why you think it's still important that the affordable seniors be concentrated in the southern wing and away from the non-affordable, the market rate seniors.

I'm still having trouble understanding how it is closer to the grocery store, although I see that the lobby entrance to the other part of the building and the senior are right next to each other. So maybe that's why they're both virtually same distance to the

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grocery store for one.

FEMALE PARTICIPANT: So is it the location issue, or the segregation issue?

COMMISSIONER MILLER: Both.

FEMALE PARTICIPANT: Okay. So we will be submitting for the record some information from the Fair Housing Act so we can't --

COMMISSIONER MILLER: Right. I look forward to not looking at the entire Fair Housing Act or all its regulations, but just the portion that you're complying with.

I still find it hard to believe that the Housing Act requires you to segregate. I can see that you're trying to --

FEMALE PARTICIPANT: It doesn't require --

COMMISSIONER MILLER: -- if you're segregating if you meet certain criteria, you would still be in compliance. I can see why that and you're going to show how your development meets that criteria that allows you

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to segregate.

It commits you to segregate if you do certain things. I can't believe that it would require you. But if it does, I would like to have that information. Okay.

MALE PARTICIPANT: We will provide it.

COMMISSIONER MILLER: Okay.

MALE PARTICIPANT: It's something we ask for.

COMMISSIONER MAY: It should already be on the list.

COMMISSIONER MILLER: I'm sure it is.

FEMALE PARTICIPANT: It is.

COMMISSIONER MILLER: So thank you. I think that's it for now. Thank you very much for your rebuttal testimony.

CHAIRMAN HOOD: Commissioner May?

COMMISSIONER MAY: Yes, I just wanted to underscore something that Commissioner Miller brought up and it

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resonates, I think, with what Commissioner Turnbull said which is I think that the really heavy lift here, the thing that's most difficult is this notion that the C3C zone, and even the CR zone to some lesser extent, are actually compatible with the comp plan.

I mean, this is where we get our guidance on how the property should be appropriately zoned. I understand the two arguments that have already been made, that the overall zone is compliant and that the C3C is necessary to provide the height for the medical office building because you need high floor to ceiling.

However, at the same time, you're still battling the fact that it's a development with a huge amount of parking, particularly for the medical office building, which goes to Mr. Turnbull's point.

And you're dealing with very, very large buildings. And the density, when it's considered at the comp plan level, doesn't get

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into the intricacies of how you do the calculations and things like that, and I guess more about, you know, bulk and density.

And that's really the most troubling thing that I'm dealing with here. You know, it's nice that the details have worked out on the phase of the townhouses, but that's really not what this hinges on.

MS. BROWN: And we fully are prepared to supply that for the record.

CHAIRMAN HOOD: Okay. Let me just echo what I've heard actually. This may be a record, you also record it. I'm going to echo everything I heard from my colleagues.

I'm going to be specific, and I do have an issue with the density and the height of the medical office building. So that goes along with one of my colleagues, Commissioner Miller.

And I do associate myself with all of my colleagues comments. Mr. Turnbull, I'm being specific. I'm very concerned about

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First Street. And what concerns me the most, here's what I don't want.

McMillan has been like that for so long, I want us to make sure whatever is done there is done right, not done just because we want to see something there because it impacts a lot of people will be gone and the impacts will be the folks who live in the area.

I'm not sure who submitted this and I don't know if we have an exhibit number, but this really troubles me. This troubles me. And again, you know, I see people smiling as Mr. Turnbull mentioned. But I hope you're smiling after we vote.

So I would just tell you, we're looking at those kind of things. And I think we're going to take this, at least from this, my perspective, I don't have a problem turning it down. I really don't.

And we'll go home and sleep real good at night. But I think that what we need to do is try and massage it. And I'm sorry Mr.

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Pelaquin left because what he heard here tonight was some changes that my colleagues would like to see.

And I don't want us to get wrapped up into having nothing been over there for so long. We finally got somebody to come by and let's put something there.

No, what we need to do, we need to do it right. Okay? I think this is a good start, but I think we need some massaging because I'm going to tell you, I'm really troubled by the view, but I would really like to have the view on North Capitol. I mean, not North Capitol, Michigan Avenue.

And I would tell you that, Ms. Brown, we may need to, when we deliberate because we don't have some of that information, and this would go out of form of what we normally do, we may have questions while we're deliberating.

So when we deliberate, everybody needs to be here because we don't have the privy

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to having that tonight by the view that I have. I may want to ask some questions. So we may go out of the norm, okay?

MS. BROWN: Yes, sir. So we'll make sure to be here. And I guess the rest of the parties would be here as well.

CHAIRMAN HOOD: Just in case we have some questions.

MS. BROWN: Thank you.

CHAIRMAN HOOD: Comments? Do you all disagree with that? There are some things we don't have in front of us tonight that we may ask some questions.

Not that we're going to have another hearing --

COMMISSIONER MILLER: We'll have a better idea after the post hearing submission.

CHAIRMAN HOOD: Right. But I want to make sure they available just in case we have some questions.

MALE PARTICIPANT: Sure.

COMMISSIONER MAY: I mean, the

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alternative is that they're not available to questions, we're going to have a whole lot of questions and we're not going to make a decision. And it's just going to take longer.

CHAIRMAN HOOD: And we don't have any action. Okay. So I think that without me getting -- I'm very concerned about the medical office building, I'm very concerned about First Street.

And even as, I think, Commissioner Miller has already mentioned about red line and putting it all in one place, and I know there's some disagreements in the public amenities versus what the civic, I mean, I'm sorry, the ANC.

And I appreciate the work because you all actually did what I asked and you all went right up until Saturday. Saturday? Maybe you all went until Monday which was Memorial Day. No, I wouldn't ask you to do that. I wouldn't ask you to do that.

Oh, you did? Okay. Okay. Well

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thank you all for trying. But while we doing this, keep trying. Okay? Because if not, we're going to make a decision.

And as Commissioner Miller mentioned, kind of red line them because I didn't understand some of what the ANC -- I tried review this tonight while sitting up here, but I didn't really understand it. So you all help us out, see where we all are.

And I would tell you, make sure you take heed of what all my colleagues said because I support 100 percent of everything they said. Okay? And normally I don't do that. But I do this time.

COMMISSIONER TURNBULL: Mr. Chairman, if I could just add one more thing.

CHAIRMAN HOOD: Yes.

COMMISSIONER TURNBULL: In going along with what Commissioner May has said about the comp plan. I didn't really get into it, but I red lined the heck out of Mr. Sherr's summary statements that he's given us time and time

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again.

And I went through this and it really doesn't hold water in a lot of areas as far as I'm concerned. They really need to go back and do a better job at presenting how they feel, as Commissioner May had said, their arguments.

CHAIRMAN HOOD: But I will, on a positive note I'm glad to hear that the grocery store is there's no more alternative and want to pull it out. I'm glad to hear about the grocery because I know for a fact that folks like to see grocery stores and have a grocery there.

But you know, I'm not sure who it was, I'm trying to recall. Someone mentioned to us that if the medical office building wasn't a certain way, then the grocery store wouldn't thrive or survive. Was that you? I didn't understand that analysis.

MR. THAKKER: Sure. So part of the analysis of every grocery store, as you can

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imagine, is a demand study. And part of that demand study is to look at in the plain and simplest form is rooftops.

And we have a lot of institutional uses that are surrounding the McMillan site with Catholic, Howard, Washington Hospital Center and others.

So in order to bolster the demand studies, the proximity of having several thousand employees at the site, that will replace what they would need to have, which is several more thousand rooftops in the area to justify a store at this location.

So we've consistently heard from each one of the grocers is that they are looking for demand any way they can get it, whether from rooftops or from adjacent tenants in office buildings, and having that adjacency across the street, across the north service court specifically, will hopefully have several of those employees come across the street before they leave the area and shop at that grocery

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store and make it successful.

CHAIRMAN HOOD: Or maybe even while they're in the area, okay. I think I understand it now.

COMMISSIONER MILLER: Can I? As part of what you're saying in terms of rooftops, I mean, you've reduced the number of residents on the site from what was originally proposed.

Is part of what you're saying that there wouldn't have had to been as large a medical office building if you had more residents? I think you had doubled the number of residents at one point.

MR. THAKKER: The demand studies from most grocery stores will move beyond just the site. They'll look at several thousand people in a mile or two mile radius.

And the issue is when we go outside the McMillan footprint and look at some of these other larger institutions that don't have many full time daytime or evening residents.

COMMISSIONER MILLER: Well, I just

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want to end on a positive note, as well, and say that I still love all of the materials, the variety of materials and the different materials that have been proposed for this project. I think they're very exciting.

CHAIRMAN HOOD: Okay, any other questions up here?

(No audible response)

CHAIRMAN HOOD: Okay. Do we have any cross examination from Ms. Barnes, you have any cross? Cross on rebuttal? Come forward. You're sharp with that hat, I have to tell you that. So come right over.

MS. BARNES: Since I constantly hear about the cells, now we heard tonight that we definitely don't have any cells that's usable except for those two that we plan on using, correct, because someone keeps telling me, oh we can use cell, we can use the cell.

So what I heard tonight is that these cells are not usable except for the two that they are actually going to use, is that

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correct?

CHAIRMAN HOOD: Who commented on the cells?

MS. BARNES: Ms. Emily?

CHAIRMAN HOOD: Oh, come forward. Ms. Barnes, identify yourself. Even if I call your name, you have to identify yourself.

MS. BARNES: Diane Barnes, ANC 5E. Commissioner, yes I asked a question about the cells. I know that the developers are using one and a half cells.

But as far as the other cells that's there and cannot be used, they cannot be used, period, correct? They are not usable because I need to go back and tell someone that, or maybe they'll see a video or whatever. But talk about the cells.

MS. EIG: I'm sure I have this, understand. The cells in their current condition, it is my understanding that they are not usable at all right now.

MS. BARNES: Okay.

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MS. EIG: Regardless of what development or not development, in their current condition, you could not use them.

They are not meant to be, you know, habitable for just to walk in and establish something in there. And you might want to ask Mr. Mettam that question as well, as the structural engineer.

MR. METTAM: So I hesitate to get into too much detail. But all of the cells require a significant amount of work in order to make them usable in any form.

The simplest form of use would be to allow the top surface to be used in some sort of recreation. That would require, and we've outlined in our report what that would require.

But it's an expensive proposition. My testimony tonight was pointing towards or responding to a question about building multi-story units on top of these cells. And we disputed what was presented in a prior report produced in 2000, but noted that it was also a

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draft report.

I think it may be unfair to say that we differ in our conclusions because I'm not sure I'm looking at a conclusion. The only report we've been provided here was a draft.

MS. BARNES: Thank you.

CHAIRMAN HOOD: Okay. Ms. Ferster, do you have any cross on rebuttal?

MS. FERSTER: Okay, I would like to start with Ms. Corbett. Okay, and my first question is you did testify in response to questions about what you believe to be the visual impact or the impact on viewsheds to the U.S. Capitol.

And a few questions about that. One is do you have any expertise in performing visual impact assessments in your professional background?

MS. CORBETT: No. But I have stood on site on all four corners of the site and looked for the Capitol.

MS. FERSTER: Okay. And I'm going

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to show you a photograph which depicts, was taken from Cell 18.

CHAIRMAN HOOD: Are you going to be able to turn that photograph in?

MS. FERSTER: I could. I would be happy to turn it in.

CHAIRMAN HOOD: Okay, because typically anything that's being showed that's identified we have to put into the record. Is that an iPhone?

MS. FERSTER: An iPhone, yes. We can certainly put it in later.

CHAIRMAN HOOD: Yes, we might take that. We might take the iPhone. You missed that.

MS. FERSTER: Not the iPhone.

CHAIRMAN HOOD: You don't --

(Simultaneous speaking)

MS. FERSTER: -- certainly can send you a copy of the photograph. So that photograph was taken from Cell 18. Can you see the U.S. Capitol in that photograph?

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MS. CORBETT: I can.

MS. FERSTER: Okay, thank you.

MS. CORBETT: But I have no proof of the authenticity of this photo or --

MS. FERSTER: Okay.

MS. CORBETT: -- how it was generated. Again, I know that I've walked the site, and I don't know when that photo was taken. I've walked the site probably ten times in the past two years, and I've never been able to see --

CHAIRMAN HOOD: Ms. Corbett, let me help you. You answered that question a long time ago.

MS. FERSTER: Okay. And I would say that actually this photograph is in the record, as it turns out, with Betsy McDaniel's testimony.

CHAIRMAN HOOD: Okay.

MS. FERSTER: When she testified to that.

CHAIRMAN HOOD: Okay.

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MS. FERSTER: I'm not sure to the actual photo is --

CHAIRMAN HOOD: But we've seen a couple, so --

MS. FERSTER: -- that she, yes.

CHAIRMAN HOOD: We have it. I mean, if we have that one, that's fine. I thought it was something different. If it's in there, it's fine.

MS. FERSTER: Okay, thank you. And that's all for Ms. Corbett. Mr. Lynch, I just had a couple follow up questions for you. Now you testified about the grocery store and how it was dependent on, you know, the customer traffic generated by the medical office building.

And you indicated that you had done some demand studies. Are those demand studies in the record that you've submitted to the Zoning Commission?

MR. LYNCH: I did not testify.

MS. FERSTER: Oh, I'm sorry. Who

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testified on that, I got your names wrong, in response to questions about the grocery store and whether it was dependent on the medical office building. Was there one of you who testified on that issue?

MR. LYNCH: I mean, I testified it is not dependent. I gave clarity on a demand study that is done by a grocer, which is proprietary information to them, and we've simply received information from the grocers as feedback of new interest in the site.

MS. FERSTER: Okay. So these demand studies that are not in the record, is that correct?

MR. LYNCH: Correct.

MS. FERSTER: Okay. And these demand studies that you conducted, did they evaluate --

MS. BROWN: I've got to object. He did not generate any demand studies. He just testified that it was the grocery stores that were generating the demand studies.

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MS. FERSTER: Okay, so you testified that you reviewed some demand studies and you made some assumptions in response to a question from the Commission about --

MS. BROWN: That wasn't his testimony. He testified that the grocery store does demand studies and that they conveyed information to him based on their demand studies. But he --

CHAIRMAN HOOD: I'm actually going to overrule that, Ms. Brown. And Mr. Zakar was the one who first mentioned it, and then Mr. Lynch basically helped me understand what it is. He said demands study.

He did say demand study. So you did talk about a demand study, but he didn't say he had a demand study. That's what he's talking to different grocers, that's what he said they based their analysis on.

MS. FERSTER: Oh, okay. Well, I'll refrain then. So your testimony is based on information about the need for the medical

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office building and its connection to the grocery store is based on information that was proprietary information that was provided to you from grocers, is that correct?

MR. LYNCH: I did not testify on any demand study as it relates to the need for a grocery store.

MS. FERSTER: Okay.

CHAIRMAN HOOD: I think my question was, let's just make sure we clarify. My question was I'm glad to see that the grocery store was there and the alternative was taken out.

Now you did mention something about the demand, right? So what did we say? I don't want to misquote you. I understood it, but I don't want to misquote you.

MR. LYNCH: To be clear, there was a question about the connection between the office buildings and a grocery store. To provide some color without doing a demand study, I provided some feedback from the

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grocery stores of how they look at demand in the areas.

We did not conduct a demand study, we do not feel as though -- we did not conduct a demand study. We're providing some color of feedback from grocers as it relates to demand in the area and the ways in which they look at demand.

CHAIRMAN HOOD: Okay. Now Ms. Ferster, at the bottom line is the grocer --

(Simultaneous speaking)

MS. FERSTER: -- yes?

CHAIRMAN HOOD: Oh, you're ready to move to the next question?

MS. FERSTER: Oh, yes.

CHAIRMAN HOOD: Okay, let's move to the next question.

MS. FERSTER: Thank you. Okay, so I have a couple questions for Mr. Mettam from Silman. Okay, so you testified that the underground cells could not be reinforced without destroying the historic integrity of

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the cells, is that correct?

MR. METTAM: I don't think those are the exact words.

MS. FERSTER: No, generally though? Did you make --

MR. METTAM: No, I would not say that.

MS. FERSTER: -- any opinion about historic integrity of the cells?

MS. BROWN: I don't believe that was his testimony. May have been another witness, but not his.

MS. FERSTER: Okay, I'm going to quote then from your report then on Page 43 since I think that my notes are probably not as reliable as your report.

If you would turn to Page 43, Option 6, Overbill/Interior Program. Is this option is an option that you evaluated that would involve some construction over the cells, is that correct?

MR. METTAM: Correct.

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MS. FERSTER: Okay. And you indicated, the last sentence of that first paragraph says, "Should this strategy be pursued, consideration should be given to the impact of this new structure and foundation on the historic integrity of the interior of the existing building."

So question based on that sentence. First of all, your background is as a structural engineer, is that correct?

MR. METTAM: That's correct.

MS. FERSTER: Okay. Do you have any background as an expert in assessing impacts on historic properties?

MR. METTAM: Yes, I do.

CHAIRMAN HOOD: Ms. Ferster, did he talk about all his background stuff in rebuttal? This is cross on rebuttal only.

MS. FERSTER: And my notes did indicate, and I wrote it down, perhaps we can go through the transcript. But he did indicate something, and I did not write it down

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specifically, about the historic integrity of the filtration cells.

So I just wanted to get on the record what his expertise in saying that.

CHAIRMAN HOOD: Ms. Brown, didn't we qualify him as an expert?

MS. BROWN: We did qualify him previously.

CHAIRMAN HOOD: We've already qualified him as an expert, so that question, I'm going to overrule that next question.

MS. FERSTER: The question doesn't go to his expertise --

CHAIRMAN HOOD: Okay, but that -- I want you to go to the next question.

MS. FERSTER: Okay, so you were overruling my question about whether he has any expertise in historic preservation?

CHAIRMAN HOOD: You didn't say it that way, you're asking structural questions.

MS. FERSTER: I'm simply going to --

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CHAIRMAN HOOD: Okay, just do me a favor, go --

(Simultaneous speaking)

MS. FERSTER: -- I'm simply going to make it --

CHAIRMAN HOOD: Hold on, hold on, hold on for a second. Hold on for a second. Both of us can't talk at the same time. Ask the question about his engineering, structural engineering. Ask the question.

MS. FERSTER: Okay, I will note for the record that I would have liked him to answer the question about his expertise in assessing the impact on the historic integrity of the interior --

CHAIRMAN HOOD: That's not what you asked earlier.

MS. FERSTER: I'm just noting that for the record.

CHAIRMAN HOOD: Well let me just tell you this. Ask the question. Go ahead and ask your question.

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MS. FERSTER: I'm just noting that for the record.

CHAIRMAN HOOD: No. I'm asking you to ask the question.

MS. FERSTER: I'm asking you a question about your testimony which you talked about the CCJM report. And is that report in the record?

MR. METTAM: As I understand it, it is.

MS. FERSTER: Okay. And can you provide the exhibit number now or subsequently?

MR. METTAM: I don't know. Yes.

MS. FERSTER: Okay.

MR. METTAM: This was the report that was referenced by you in your questioning. It was referenced in my report.

MS. FERSTER: I haven't questioned you yet. But yes, we have questioned you about it because it's referenced in your report --

CHAIRMAN HOOD: Here's the way it runs. We have questions when they did their

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presentation. Comments would come in. Then there was a rebuttal.

The rebuttal came in and now there's cross examination on rebuttal only. That's the process, that's the procedure.

MS. FERSTER: And again, if the CCJM report is in the record, that's great. That was my question, is it in the record? And the answer was yes, thank you. Okay Mr. VanPelt?

MS. BROWN: Can I make a clarification? I don't know if that is in the record or not. And I want to just make sure that Mr. Mettam makes sure that he's aware of what's in the record or not. I think we need to check what's in the record.

MR. METTAM: I think that's fair. My report certainly makes reference to it. It should be in the record along with that report.

MS. FERSTER: We would appreciate the clarification because we were not able to find it.

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CHAIRMAN HOOD: Do you know exactly where it is so you can point it to her?

MR. METTAM: We can certainly provide a copy.

CHAIRMAN HOOD: Okay. Could you get that information and point Ms. Ferster and the party to it. Or you can just submit it in the post hearing submission if we don't have it.

MS. BROWN: I don't know that we need to submit it. It was our understanding that it was in the record or that the opponents did testify it and that's one of the reasons why he was bringing it up tonight.

But we'll check the record ourselves and --

CHAIRMAN HOOD: Let's just check it and make sure it's available.

MS. FERSTER: Okay. And we of course would ask if it's not in the record, we would like it to be in the record since you were responding to it.

Okay, and a question about the

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reinforcement of, in Option 6 you talked about what would be required in order to reinforce the cells in order to allow some above ground construction.

So while you concluded that it would require new columns, so I'm reading this testimony in your subsequent statements that it is indeed possible to reinforce the underground cells in order to withstand some construction over the vault, is that correct?

MR. METTAM: No, it's not. Option 6 specifically describes a system where an independent foundation is constructed to isolate from the vaults themselves, which is very different than that that was presented in the CCJM report.

MS. FERSTER: Okay. So but if you did construct this independent foundation along with these new interior column footings, it would be possible to build above the vaults, is that correct?

MR. METTAM: That's what we

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described in the report.

MS. FERSTER: Okay. Thank you. Okay, and you're aware that Cell 14 has been preserved? That was a cell that I believe that you characterized in your report as moderately damaged, that's correct?

MR. METTAM: Correct.

MS. FERSTER: And you're aware that it's being preserved and rehabilitated to a certain extent?

MR. METTAM: Well, it's currently being used.

MS. FERSTER: And used, and used. And what is it being -- and are you aware that it's being used by WASA to hold 12,000 tons of storm water?

MR. METTAM: I have no specific knowledge of its current use.

MS. FERSTER: Okay. Okay. Okay, thank you. Now Mr. VanPelt, I have a couple questions for you. So you testified specifically that you would be submitting a

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rebuttal report to Mr. Marrow's report subsequently?

MR. VANPELT: We will be.

MS. FERSTER: Okay. And we would ask that our expert be given an opportunity to respond to that report. So I can't really ask any questions based on that.

MS. BROWN: If I could just briefly say normally the Applicant gets the last rebuttal. So if Mr. Marrow does comment on it, then we would like to have the opportunity to then have final rebuttal.

CHAIRMAN HOOD: Here's what we're going to do, because you know we're going to go back and forth. And then who's turn is it next? So what we're going to do, Ms. Brown, let's do this since Ms. Ferster has asked that.

Once we do the rebuttal, they'll be able to comment. And then we'll cut it off at that, okay? And then you all are going to want to comment, and they're going to want to comment again.

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And we will be dealing with McMillan case for another 25 years. So let's, we're going to have to cut it off somewhere. I'll give them a chance. And let me just tell you, these guys up here, not me included, but these guys are pretty savvy. They can get it, okay? All right? Are we all right, Ms. Brown on that?

MS. BROWN: Yes, sir. We'll follow your lead on that.

CHAIRMAN HOOD: Thank you.

MS. FERSTER: Okay, thank you. Okay, so you estimated that there will be about 24,000 transit trips in this site. Do you know of any single development that has generated 24,000 transit trips that are not within a walkable distance from a Metro?

MR. VANPELT: I'm sure that we could come up with some examples. Right off the tip of my tongue, no. I don't necessarily have examples to share with you this evening.

MS. FERSTER: Okay. And do you know which Metro Stations in the Metro area

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exceed 24,000 transit trips in capacity?

MR. VANPELT: I don't have that information right off of the top of my head, no.

MS. FERSTER: Okay. And there was some discussion about the mitigation that you're proposing in terms of trip caps and monitoring so that if, for example, transit use is less than you estimate and there are more vehicle trips that are generated by this development, the trip caps will deal with that.

So what is your plan if, in fact, you exceed the trip caps? What do you propose for mitigation if, in fact, your monitoring plan reveals that your trip caps are exceeded?

MR. VANPELT: I think there's really two parts to that. And one of the things I probably didn't do a great job of answering Commissioner Turnbull's question earlier, there's some minimum amount of transit seats that need to be met for each parcel that comes online, and that's been articulated in our submittal, our supplemental filing.

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So the first thing that needs to happen, granted there's some flexibility, there's some ambiguity about how we actually get to that, is it Circulator, is it WMATA, is it a shuttle?

But there's a certain number of transit seats that must be provided per parcel. And then on top of that is, the next mechanism is the monitor.

So if those transit seats which are necessary to achieve the most that we looked at in our study, then monitoring is going to look at, you know, what next above that do we need to do, what other transportation management measures?

We feel pretty confident that it's achievable. And that's been, you know, what we have discussed with DDOT and their review of our study and our assumptions.

MS. FERSTER: Okay. But my question was that assuming that you do provide the transit that you've committed to, or you

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plan to provide, your flexible transit, and you still exceed the trip cap in terms of the vehicle trips, so what are you going to do?

Are you going to arrange for more transit, are you going to more shuttle busses? How are you going to commit to keeping those trips down to the trip cap if one is imposed?

MR. VANPELT: It would have to be additional transportation demand management measures and additional incentives put in place, additional transit capacity if that's what's needed.

But again, we go back to our assumptions. We feel like we have made the appropriate assumptions working in coordination with DDOT to determine what those assumptions need to be.

MS. FERSTER: Okay. So what additional transportation demand measures that you're not already going to be implemented just to get your trips down to the trip, would you then -- what are you holding back, I guess I

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would say, that you would then implement if you exceed the trip caps?

MR. VANPELT: Well, I think one of the things when we set those caps, we actually think that those caps are a bit high. We probably won't achieve those because our transportation assumptions have a tendency to be very conservative.

So while, and that's just how we do our trip generation. We want to err on the conservatively high side, not on the conservatively low side because we want to look at a worst case scenario. So it's very unlikely that we're going to get to those trip caps.

MS. FERSTER: Okay. So your plan for if you exceed your trip caps is you're not going to exceed those trip caps?

MR. VANPELT: No, that's not necessarily the plan. But I'm saying that realistically, it's unlikely we'll reach those trip caps. But if we do, we'll be looking at

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other demand management measures, which could be a variety of things.

There's not necessarily one exact thing that you can point to. The TDM plan that's currently in place looks at, one of the major things is the commitment for the additional transit capacity. It has to be there.

Then there's the Capitol Bike Share, there's the transportation incentives that are a part of the plan. And there's a whole host of things that can be looked at --

MS. FERSTER: So just getting to specificity --

CHAIRMAN HOOD: Next question. We got it.

MS. FERSTER: -- you already have Capitol Bike Share and you already have some transit that you plan to do, you'll just add more? More bike spaces, more busses, more shuttles?

MR. VANPELT: If you need more

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capacity, you have to provide more capacity.

MS. FERSTER: Okay. And so okay. Thank you. Okay. Some questions for Ms. Eig.

MS. BROWN: While she comes up, we were able to find in the record that the CCJM report is part of the record at Exhibit 93.

CHAIRMAN HOOD: Okay.

MS. FERSTER: Okay, thank you. Okay, Ms. Eig. So part of your testimony, you indicated that you do not believe the underground cells could structurally support any additional construction, but you also indicated, and I quote you, I think you said laymen like me, for example.

So is that your way of saying that you have no background in structural engineering or assessing structural condition?

MS. EIG: That is correct. I relied on my interpretation of the structural report, which I read in great seriousness.

MS. FERSTER: Okay. So that was based on the Silman report?

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MS. EIG: Yes.

MS. FERSTER: Okay. And you also testified that in terms of the ability to adapt and reuse the underground cells, that you did not think that it could be done in a matter that would not, I think you, would not, I think did you say destroy the historic integrity of the underground cells?

MS. EIG: I said it would be difficult to avoid destroying it.

MS. FERSTER: Oh, okay.

MS. EIG: And that would be our effort, to avoid destroying it. But it would be difficult.

MS. FERSTER: And you also testified that there would be some reconstruction?

MS. EIG: I said possibly some reconstruction.

MS. FERSTER: Okay. And also some additional columns that you feel would be somehow incompatible with the features of the

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site?

MS. EIG: I believe that introducing additional columns within the spaces that are there will change the spacial orientation of the groined vaults. And also it effects the bottom, it's like a sandwich of concrete and concrete with the vaults, the columns between it.

But they're all integrally constructed. It's not like a sandwich which is in effect something different in the center. They're all like a web or a honeycomb.

And to introduce another column is going to change the perception of that and potentially it would not meet one's interpretation of the Secretary of Interior's standards for an approach to protecting the integrity.

MS. FERSTER: Okay. And so the Secretary of the Interior standards, of course, have a hierarchy in terms of going from repair to reconstruction with reconstruction being

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the least desirable preservation treatment, is that correct?

MS. EIG: I think that you might be -- I don't want to answer that question exactly the way you're asking it because I think it's the way you're saying it is incorrect.

MS. FERSTER: Okay.

MS. EIG: There are four types of treatments that the Secretary of Interior provides for preservation, which includes preservation rehabilitation, reconstruction, and the reconstruction is assumed to be something that is typically not existing, like a missing feature would be reconstructed.

It is not allow in its interpretation for you to demolish something in order to then make it again. That's not a standard interpretation of the standards, a typical interpretation.

MS. FERSTER: Right. But a reconstruction is indeed a preservation treatment in the Secretary of Interior

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standards, isn't that correct?

MS. EIG: A treatment when the element is missing. It's very specific. If there is a missing, the birthplace is missing and you reconstruct it based on an understanding of what was there. It is not to take something down and then reconstruct it. That is not the correct interpretation of the standard.

MS. FERSTER: Okay. And in terms of reconstructing specific features though, that happens all the time, isn't that correct?

MS. EIG: Missing features are reconstructed, yes.

MS. FERSTER: Or deteriorated features, roofs for example, or other?

MS. EIG: Then that's --

MS. FERSTER: They're reconstructed with similar materials and that doesn't destroy the historic character?

MS. EIG: They're replaced, yes.

MS. FERSTER: Yes.

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MS. EIG: They don't label it reconstruction. That's very specific.

MS. FERSTER: Okay. And was it your testimony that the reconstruction of the cells would require the destruction of every feature of the cells, every element of the underground cells?

MS. EIG: That's not what I said, no. I didn't testify that.

MS. FERSTER: Just some of them would be required to be reconstructed.

MS. EIG: I said I thought that it is possible that there might need to be reconstruction because you could see in my presentation of the work that's been done by D.C. Water in their effort to stabilize the cells, everything that we saw was to try to protect the cells.

The cracks that have appeared and that is evidence of how difficult this is going to be. This is very friable, very brittle and subject to crumbling, the unreinforced

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concrete.

And it is not the typical way we would like to see that structure be something that would be, let's say a good candidate for to be reused. We know that it's going to have a problem.

MS. FERSTER: So in order to reinforce those underground cells, not every feature would require reconstruction?

MS. EIG: I don't think we know. I think it's impossible for us to know.

MS. FERSTER: Okay, thank you. Let's see. I have a couple questions about the issue of the park use. Are you familiar with the National Register Nomination form for the McMillan Park Reservoir Historic District?

MS. EIG: Yes.

MS. FERSTER: Okay, so isn't it correct that the National Register Nomination Form specifically talks about the McMillan Reservoir and sand filtration plant as a key linkage to the planned system of parks, is that

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correct?

MS. EIG: I didn't testify to the National Register Nomination.

CHAIRMAN HOOD: You didn't, not in rebuttal. Next question.

MS. FERSTER: Okay. Do you agree that the sand filtration plant is a key linkage to the planned system of parks?

MS. BROWN: Again, I think we're going beyond her rebuttal testimony.

CHAIRMAN HOOD: -- testify to --

(Simultaneous speaking)

MS. FERSTER: I believe her rebuttal testimony had addressed extensively that park use was not one of the uses that the site was historically, or the sand filtration component was required, was designed for.

MS. EIG: This infiltration, the site that is east of First Street was designed to be a working sand filtration plant. It has the walk, the Olmsted Walk where the public was invited to walk along that edge. And that is

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its role in the Park System.

But when you say Park System, you're referring to a very large area and different components. But the actual people being allowed to go to recreate on a park was not what we're talking about here.

MS. FERSTER: Okay. So that's very helpful. So your reference to that McMillan was not historically, the sand filtration piece or area was not designed as a park, you meant designed as recreation area? But not --

MS. EIG: Just the, okay --

MS. FERSTER: -- the park as in open space, green space, emerald necklace of a park --

MS. EIG: Okay, first --

(Simultaneous speaking)

MS. FERSTER: -- McMillan --

MS. EIG: May I just state that the McMillan Sand Filtration Plant Reservoir was originally intended as a working facility. It

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was only subsequently that Frederic Law Olmsted Jr. was brought on to beautify it.

It was not originally intended to be a park. He was invited to do that subsequently.

MS. FERSTER: Okay. And so, but you do acknowledge that there were some informal and quite extensive park uses of the Sand Filtration site?

MS. EIG: No, I do not. I do not.

MS. FERSTER: The baseball diamond, the --

MS. BROWN: I think she answered the question.

MS. FERSTER: Okay. So I'm going to refer you then to your report, your 2010 report which says that there was a, when you talk about the playground area, accommodated community activities, soccer games, basketball games, baseball games, folk festivals, marble tournaments, Halloween parties, children exhibits. It's on Page 11. What portion of

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the site are you referring to?

MS. EIG: The portion that is west of First Street.

MS. FERSTER: Okay, you mean off the site, off --

MS. EIG: Correct. Within the McMillan Park landmark, but not on the sand filtration site that is east of First Street.

MS. FERSTER: And did you see the photographs that were shown of the baseball diamond and, you know, use of the park, the sand filtration plant?

MS. BROWN: This was not on rebuttal.

CHAIRMAN HOOD: I'm going to allow that question because I think she did surface that. And even she's acknowledging it.

MS. EIG: Right. I saw that photograph. That photograph is from my report. And as I stated in my rebuttal, and I think as I stated in the report, that while activities may have taken place there, they

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were not sanctioned activities, they were not public recreation activities that were allowed. It was a working, industrial site.

MS. FERSTER: Okay. So there were unsanctioned recreation --

MS. EIG: If they occurred, yes. All we saw was a photograph.

MS. FERSTER: Okay. And in terms of, you know, adaptive reuse issues, wouldn't you agree that a site could be adaptively reused for use that's not necessarily the use it was originally intended for, say a train depot could be used as a shopping center and that would be an appropriate preservation solution, isn't that correct?

MS. EIG: Yes, I do.

MS. FERSTER: So if McMillan Park Historic Site were adaptively reused for park purposes, that would be fully consistent with the historic character of the park, is that correct?

MS. EIG: If the, would you ask that

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question again? I just want to make sure I understand it.

MS. FERSTER: If there was an adaptive reuse alternative that provided for extensive park use of McMillan Park, would you agree that that was a preservation appropriate solution?

MS. EIG: If the McMillan Sand Filtration Park could be made safe, that could be an adaptive reuse, yes.

MS. FERSTER: Okay. I'm going to ask you some questions that go to the visual analysis that I think you discussed in your testimony.

And particularly, you know, you talked about how the view of the view was partially blocked by the office buildings, the view from the Armed Forces retirement home to the site or from the site were partially blocked by the hospital complex children's hospital that were built in 1950, is that correct?

MS. EIG: That is correct.

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MS. FERSTER: Okay. And are you familiar with the, or are you aware that the National Capitol Planning Commission in its 1990 Visual Impact analysis indicated that the, and I'm quoting, the 1950's hospital buildings are "sited somewhat to the side of the main view lines." Do you agree with that?

MS. EIG: Actually no, I don't because you are not aware, but I served as Cultural Resource Manager for the Armed Forces Retirement Home for seven years.

And during that time, prior to that as part of the Master Plan, extensive studies were done with the National Capitol Planning Commission and in the effort to get the Master Plan approved.

And great effort was made to actually propose the site for buildings on the Armed Forces Retirement Home. And there was objection until it was determined that they actually, the location of the hospital did in fact block views of the McMillan site.

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MS. FERSTER: You're saying the McMillan Reservoir site or the McMillan Sand Filtration site, or both?

MS. EIG: The McMillan site was what was looked at at that time.

MS. FERSTER: The whole time, the whole thing?

MS. EIG: Yes, that's what they looked at, yes. Those buildings were not subsequently approved for the Master Plan, though.

MS. FERSTER: And would you consider that the main site line?

MS. EIG: The main site line that was used at that time was based on the statue of General Scott, which is at a high point. And that it was looking towards, you know, that was the vista that the statue had been placed at by the soldier's home at the time.

And that was considered to be the main place, and that was what was used as the basis for that.

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MS. FERSTER: Okay. So I'm going to read you a couple of other statements from the NCPC's visual analysis.

CHAIRMAN HOOD: I'm not seeing the relevance in her testimony. You need to go to relevance of her rebuttal.

MS. FERSTER: Her rebuttal specifically went to the views of the site. And she had a partial indication, she partially said --

CHAIRMAN HOOD: But how's the NCPC report tying into her rebuttal?

MS. FERSTER: I'm simply going to ask her some questions reading from it. I don't have to tie it to the report. I can just read you sentences and --

CHAIRMAN HOOD: Then let's go to the questions of her rebuttal.

(Simultaneous speaking)

MS. FERSTER: -- not from the NCPC report. Okay, so I'm going to read you a sentence, okay, and I'm going to ask you if you

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agree with that.

If in fact this sentence is from the NCPC 1990 Visual Impact Analysis. It says, "McMillan Park occupies a strategic position and a special street character along North Capitol Street and in the reciprocal views between Capitol Hill and Soldier's Home." Do you agree or disagree with that statement?

It also says these axial relationships have been a fundamental design feature of Washington.

MS. EIG: Okay, I would like to clarify that what I stated in my testimony is that from the southern third, the views were not disturbed.

I didn't speak of the entire site. I spoke of the southern third. I was very specific about that, where the new park was proposed because it is at the same plain in terms of height as the existing.

CHAIRMAN HOOD: Ms. Ferster, let me just say that a lot of questions I've allowed

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because I figured it would be quicker. A lot of those questions that you're asking the way I view it, and I don't know about my other colleagues, were due to direct testimony, not in rebuttal.

I've allowed it. Mr. Posen might have asked some of those questions the nights you weren't here. So let's stick to rebuttal cross examination.

And also I noticed that you're not, are you paying me any attention?

MS. FERSTER: I am, yes.

CHAIRMAN HOOD: Okay, because what rebuttal does, and your comments are supposed to help us, okay? So be mindful of that as you ask cross examination questions on rebuttal.

MS. FERSTER: Absolutely, thank you. Appreciate that. Okay, now Ms. Brown did make some mention of the covenants and a document that had been submitted in the record.

And I had assumed that there would be some testimony about you had offered an

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interpretation of those covenants. Are you going to provide that?

MS. BROWN: It sounds like, yes. This is way beyond what she testified to and --

MS. FERSTER: That's my question. Is it just, is there, so there's going to be no testimony --

MS. BROWN: You heard her rebuttal testimony and either she testified to it --

CHAIRMAN HOOD: Her rebuttal's already done. Next question.

MS. BROWN: -- or she did not.

MS. FERSTER: Yes, and you did not mention the covenants --

CHAIRMAN HOOD: Next question. Hold on, hold on.

MS. FERSTER: -- correct?

CHAIRMAN HOOD: Next question. Next question.

MS. FERSTER: Okay. Okay. Almost done here. So okay, I think, Ms. Eig, that's it for you. Thank you. Oh no, I had one

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other question.

You had indicated that there would be some follow up submission of visual impact studies or something that would be provided later on. Specifically what is this document that you're going to provide?

MS. EIG: I'm not providing it, no. I just stated --

MS. FERSTER: Some site lines or --

MS. EIG: I was told that there would be a study from the Armed Forces retirement home across the McMillan site.

MS. FERSTER: Okay, it's one that's not prepared that had been -- and that's going to be provided as part of your post hearing submission?

MS. EIG: That was just my understanding, yes.

MS. FERSTER: Okay. Okay, so that --

MS. EIG: In other words, I could not address that was my point.

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MS. FERSTER: Okay. Okay. So you did not prepare any, you personally didn't prepare any visual impact studies or site lines relating to this, you know, the views on this site?

MS. EIG: From Soldier's Home, from the Armed Forces retirement home?

MS. FERSTER: No, from the McMillan Park site.

MS. EIG: Yes, I did. And Pages 60 through 64 of the report we did an analysis of historic sites prior to, you know, any proposal of --

MS. FERSTER: You mean the 2010 report?

MS. EIG: Yes.

MS. FERSTER: Yes, okay. Thank you.

MS. EIG: It did not discuss the development. It was just generally identifying those sites, those views I mean.

MS. FERSTER: But in terms of the

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impact of the development on those views, have you done a visual impact of the development on those views?

MS. EIG: I have not done a formal assessment of that.

MS. FERSTER: Okay, thanks. Okay. I have a question for Mr. Stiers. So in terms of the existing conditions on the site, isn't it correct that there is currently no water runoff on the site? It's all contained by the underground cells and the features on the site, is that correct? Storm water runoff.

MR. STIERS: No.

MS. FERSTER: So you believe that there's currently some unmanaged storm water runoff on the sites?

MR. STIERS: Yes.

MS. FERSTER: Okay. And is that in your report? Did you evaluate the existing conditions on the site?

MR. STIERS: It's in the material that we submitted as part of the PUD.

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MS. FERSTER: Okay. Thank you. Okay, and then I have just a couple questions for the, sorry. Give me one minute to get my notes. You know, I'm sorry. I did not write your name down. The person who testified from EYA? Thank you.

Okay, so in terms of the affordable, you talked about the affordable housing units on the site?

MR. THAKKER: I spoke about the row homes, in particular.

MS. FERSTER: Okay, yes. And you know, actually I'm good with you. Thank you. I'm good with you.

All right. Okay, Mr. McLaurin? You have a visual presentation. I'm wondering if you could just pull it up because I would like you to demonstrate where the green space is in the new town homes that you mentioned.

(Off microphone comment)

MR. MCLAURIN: The ground level green spaces are located in the driveway

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islands in these locations here between the garage doors. And then go to the prospective. And then you can see them here, these are the driveway islands.

So in some cases they're low lying vegetation to try to screen the utility meters. In some cases we have trees which will grow up through decks that have been shortened to allow the trees to come up through them.

MS. FERSTER: Okay. So are they in the alley or just next to the alley?

MR. MCLAURIN: They're not in the drive lane end of the alley.

MS. FERSTER: Not in the driveway --

MR. MCLAURIN: Drive lane.

MS. FERSTER: Drive lane, okay. Thank you. Okay, I'm done. Appreciate your indulgence, your patience.

CHAIRMAN HOOD: Sure, okay. Thank you. Commissioners, any follow up questions up here?

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(No audible response)

CHAIRMAN HOOD: Okay. Ms. Schellin and Ms. Brown, can we work on some dates? Oh, you want to do closing?

MS. BROWN: I think based on the information that you want us to submit to the record, I think it's best to submit that later to the record.

I think that we heard your comments loud and clear that we need to do some additional work, Mr. Turnbull, on the traffic and, from the several comments, giving further explanation of consistency with the comp plan issue, ensuring that the project is not inconsistent with the comp plan.

And based on that, I think that we can go straight to picking dates and going through the list.

CHAIRMAN HOOD: Okay. Let's go through the dates and let's go through the lists.

MS. SCHELLIN: Do you want me to

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give dates first? I was looking at, based on the list being pretty long, typically we do two weeks. So I thought maybe four weeks, which would put us at June 23rd.

And typically per the regs, the parties have one week to respond, but I thought two weeks, July 7th for responses. And draft findings of facts, conclusions of law would also be due July 7th.

And then the Commission could take this up at their last meeting before recess, which would be July 28th.

CHAIRMAN HOOD: We usually, typically in the past we have a lot of stuff on the last meeting of July. I guess we don't, do we know? We don't know now what we have.

MS. SCHELLIN: No idea at this stage. It depends on how many hearings we have between now and then.

CHAIRMAN HOOD: We have quite a few.

MS. BROWN: If it's appropriate, I

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mean, I don't know how much, I'll consult with my team about how much time we need. But if, I think you have the earlier date of July 14th --

MS. SCHELLIN: We do.

MS. BROWN: -- that we could target, and then --

MS. SCHELLIN: The earlier meeting?

MS. BROWN: Do you think, yes.

MS. SCHELLIN: Okay.

MS. BROWN: We can get our materials in to hit those deadlines.

MS. FERSTER: Do you want the opponents to bring their witnesses in on July 14th as well as the Applicant's witnesses for questions?

CHAIRMAN HOOD: Okay, let me just state this. We cannot do the 14th.

MS. SCHELLIN: Oh yes, that's right.

CHAIRMAN HOOD: Yes, we can't do

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the 14th. So we need to try to either squeeze it in for our last meeting, which --

MS. SCHELLIN: July 28th, yes.

CHAIRMAN HOOD: What is the last one?

MS. SCHELLIN: July 28th.

CHAIRMAN HOOD: 28th?

MS. SCHELLIN: Yes.

CHAIRMAN HOOD: Okay.

MS. SCHELLIN: The dates I gave. To answer Ms. Ferster's questions, there's no testimony at meetings, so no need for witnesses.

MS. FERSTER: No, I think the Commissioner, the Chairman indicated he wanted witnesses to be available at the decision day to answer questions. And I just wanted to know did you want our witnesses too, or just the Applicant's witnesses?

CHAIRMAN HOOD: Basically the Applicant's, it's their proposal. But if you or somebody wants to come in and listen, that

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will be great. Just because we have some questions because of what we're going to be getting from the Applicant for our last meeting.

We didn't have a chance today to comment on any of it, and we may have some further clarification we need.

MS. FERSTER: Okay, so we will not have our witnesses available then.

CHAIRMAN HOOD: Okay.

MS. FERSTER: You will not want --

CHAIRMAN HOOD: That --

MS. FERSTER: Unless you want them to be, and then you can let us know.

CHAIRMAN HOOD: No, no. They don't necessarily need to be here. I mean, you're always welcome, but we don't necessarily need your witnesses.

MS. FERSTER: But if you have questions, we will certainly want to have them there.

CHAIRMAN HOOD: Well, most of them

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are going to be our questions to the Applicant, as you've heard tonight our comments to the Applicant tonight.

MS. SCHELLIN: Okay. I've got quite a few things listed. And I know that they have provided some of these things already. But going through the list. And of course, these are some things also that the Friends of McMillan OP. So I'm just going to go down the list.

Provide your safety plan. This is for the Applicant. Provide your safety plan for the stairways on the silos and safety for people walking along the path from the people hiding in the silos. That was from Commissioner Cohen.

Commissioner May asked for the First Source Agreement. Commissioner Hood asked that they provide the CBE agreement and something regarding the jobs for Ward 5 residents per the testimony by Mr. Weers.

A larger printout of the image on

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Page 21 of the PowerPoint presentation, Commissioner Hood asked for that. Commissioner Hood asked that you submit the full sand filtration report.

Commissioner May, this was from the second hearing, asked for details on what the joints would look like for Parcels 4 and 5.

MALE PARTICIPANT: I think that was addressed. Right?

MS. SCHELLIN: Right. I said some of these things have already been addressed.

MALE PARTICIPANT: Okay.

MS. SCHELLIN: Commissioner May asked for a drawing of what the alley will look like for Parcels 4 and 5. Commissioner May stated he was disappointed with what's been done on Porter Street and Evarts Street.

Commissioner Turnbull asked for a statement on the impact on the seniors in the senior building with the parking garage in one direction and the loading dock on the other, Parcels 4 and 5.

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Commissioner Turnbull asked for an accessibility drawing. I think that was provided tonight.

CHAIRMAN HOOD: Some of those things, I think, are going to change.

MS. SCHELLIN: Right.

CHAIRMAN HOOD: Let's just go ahead and ask for them. I don't need to see the presentation unless somebody else wants it. I think we already have it. Well, I have enough of it, the report. So I'm good with that. We don't need that. At least, I don't.

MS. SCHELLIN: The correct drawing showing the ramp to the Olmsted Walk Parcels 4 and 5, Commissioner Turnbull asked for that. A list of other PUDs where dockmasters are working Parcels 4 and 5. Commissioner Hood asked for that.

Commissioner May asked for a sample of the Finn and HardiePlank materials Parcels 4 and 5. Commissioner Hood asked that they provide parking enforcement information for

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Parcels 4 and 5.

Commissioner Hood asked that they look into what was done at Rhode Island Row. Commissioner Hood asked that they respond to Mr. Norman and Ms. Anderson's testimonies at rebuttal.

Commissioner Hood asked for a picture showing the AC units on the town houses. Commissioner Hood asked for a track record for hiring District residents.

Commissioner Hood asked that they work out how the community space will be used. Commissioner May asked how the private ownership will maintain the streets.

Commissioner Miller asked that they confirm the management entity will be part of the declaration of covenants and the LDA and asked for information on the timing of that.

Commissioner May asked for more details on how they will be managing and programming the large fields. Commissioner May asked for exact wording of the conditions

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in the agreement between the City and the GSA relative to Section 106 compliance.

Commissioner Cohen said she was concerned about safety issues with the open cells, kids climbing on them, pedestrians harm by hidden perpetrators. I think that was the same issue from before.

Commissioner Miller, provide information on the Fair Housing Act and how it relates to the senior building being separate. Commissioner Cohen wanted a detailed landscape plan to include the size of the trees to be planted.

Commissioner Cohen, precise measurements of the distances from the site to the doctors to the north. Commissioner Hood, full engineering report. Commissioner May, details on the curb management program.

Commissioner Cohen, details on what's left to be negotiated between the Applicant and DDOT, for example, the berm on the North Capitol Street.

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Provide information, this is from Mr. Hood, provide information on the other modes people are using to get to healthcare appointments. Commissioner May, provide information from the facility across the street that says they are underparked if available.

Commissioner May, take a look at the Olmsted walking path and think about bikes accessing it. Commissioner May, views of First Street and Half Street. Commissioner Hood, view on Michigan Avenue both directions.

Commissioner Hood, view of North Capitol Street, what people across the street are going to see. Commissioner May, the effect of the bus line on numbers per Mr. Mayor's testimony.

Commissioner Hood, respond to Ms. Ray's submission. That was regarding Parcel 1. Commissioner Hood, an update on the meeting with MAG. Commissioner May, drawing that relates to the rest of the height bulk in the area.

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Commissioner Turnbull would like to see a definite plan with the partner regarding the transportation plan. Commissioner Turnbull, take a look at the setback on North Capitol Street where the grocery store will be located.

Commissioner Miller, include a chart showing the various changes as a result of discussions with the ANC and/or community. Commissioner Miller, how the 130 foot C3CPUD is not inconsistent with the comp plan with regard to the northern parcel.

Commissioner Miller, clarify the lead achievements to be reached. This is for the ANC 5E05, Ms. Robinson-Paul I think it is, for her to submit her testimony from this evening.

OP to provide the schedule for the Mayor's Agent hearing. Friends of McMillan to provide views from the Old Soldier's homes. They were going to do that.

MR. VANPELT: Or the applicant can

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do that.

MS. FERSTER: Yes, we're not in a position to do any visual analysis.

MS. SCHELLIN: That came out of one of the hearings, that's where it came out of. They were going to do that.

Commissioner Turnbull asked that Ms. Schellin provide information on other vistas. She was going to follow up. That was Friends of McMillan.

Commissioner May asked Mr. Mayor to provide sample of traffic report chart showing a.m./p.m. peaks to arrive at numbers that he testified to.

Commissioner May asked the Friends of McMillan, I think that's the same thing, the effect of the bus line on the numbers that Mr. Mayor provided. And that is all I have.

CHAIRMAN HOOD: And what I asked tonight was also the Applicant to respond to some of the things in Ms. Gates' letter.

MS. SCHELLIN: Okay.

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CHAIRMAN HOOD: We kind of went through that when I had Ms. Gates up. I know I had Ms. Gates, I had Mr. Arden and it was one other person, things that are germane to zoning that I would like for you to respond to. I forgot who the other person is.

FEMALE PARTICIPANT: I believe it was Ms. Carol Anderson, Carol Anderson --

MS. SCHELLIN: Carol Lewis Anderson. I already said Ms. Anderson, yes.

CHAIRMAN HOOD: Okay, I missed that.

FEMALE PARTICIPANT: Anderson, Otten, Ms. Ray as well as --

CHAIRMAN HOOD: Ms. Gates.

MS. SCHELLIN: Ms. Gates, all right.

CHAIRMAN HOOD: I remember Ms. Gates because she's sitting behind me. Okay, is there anything else? Mr. Turnbull?

COMMISSIONER TURNBULL: Well, excuse me Mr. Chair. There was one thing that

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came up on the testimony recently and I'm just wondering on Cell 14, when WASA turns it over to the Applicant and it becomes part of the development, it's listed as having moderate damage. Is there a plan for repairs, or is it you're just simply accepting it as is and if it falls apart, it falls apart?

I'm not sure what the moderate damage is. It simply is noted in the Silman report as it has moderate damage.

MS. CORBETT: So all of the cells were graded in the Silman report. And moderate damage was actually the highest quality grade, I suppose. Like, that was the best condition.

Yes, we must accept the cell in the condition that D.C. Water delivers it to us. But as Mr. Mettam testified, regardless, there will need to be intervention to stabilize the cell.

COMMISSIONER TURNBULL: So you're committed as part of your order to stabilizing and repairs as needed?

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MS. CORBETT: Yes, definitely.

COMMISSIONER TURNBULL: Okay,  
okay.

CHAIRMAN HOOD: Commissioner  
Miller?

COMMISSIONER MILLER: Yes, I'm  
sorry to prolong this. But you're going to  
provide a comparison, a red line of what the ANC  
and community requested versus what the  
Applicant's public benefits.

But one thing, if you could focus  
on, one of the many, one of the things was  
active, on the park, some active uses such as  
tennis courts and basketball court, and  
volleyball court. That would cover at least  
three of the commissioner's needs up here.

But no, if you could just respond  
to, and I assume this will be part of your line  
by line responses of not only about the  
differences but why you are or are not, how you  
are or are not addressing the why. So that's  
all I'm, I'm not asking for a response now.

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That was just an example.

MS. CORBETT: Yes, we will respond with our management and activation plan for the public space.

COMMISSIONER MILLER: Great, thank you.

CHAIRMAN HOOD: Okay, do we have anything else up here? Ms. Schellin?

MS. SCHELLIN: I just want to make sure that the dates again, these responses, anybody who needs to respond, that they're due by 3 o'clock p.m. June 23rd. The parties, that would be the ANC, Friends of McMillan, would be due by 3 o'clock p.m. July 7th.

Draft findings of facts, conclusions of law would also be due by 3 o'clock p.m. July 7th. And then we'll put this on the Commission's July 28th Agenda for consideration and proposed action. Other than that, the record is closed to everyone else.

CHAIRMAN HOOD: Okay. Anything else?

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(No audible response)

CHAIRMAN HOOD: Okay, again, only for what we asked for, the record is closed. We're closing this case other than, only things that are open for are acceptance of what we have asked for. Anything else?

(No audible response)

CHAIRMAN HOOD: Okay. So with that, I want to thank everyone for their participation, and this hearing is adjourned.

(Whereupon, the hearing in the above-entitled matter was concluded at 10:43 p.m.)

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