

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

NOVEMBER 7, 2018

+ + + + +

The Regular Public Hearing convened in the  
Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441  
4th Street, N.W., Washington, D.C., 20001, pursuant to notice  
at 9:30 a.m., Frederick Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson  
LESYLLEE M. WHITE, Board Member  
LORNA L. JOHN, Board Member  
CARLTON HART, Board Member (NCPC), Vice Chair

ZONING COMMISSION MEMBERS PRESENT:

PETER SHAPIRO, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MAXIMILIAN TONDRO, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEVE COCHRAN  
JONATHAN KIRSCHENBAUM  
KAREN THOMAS  
MAXINE BROWN-ROBERTS

ELISA VITALE

The transcript constitutes the minutes from the  
Public Hearing held on November 7, 2018.

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

9:38 a.m.

CHAIRPERSON HILL: All right, good morning. The meeting will please come to order. We're located in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, Northwest. This is the November 7th public hearing of the Board of Zoning Adjustment of the District of Columbia.

My name is Fred Hill, Chairperson. Joining me today are Carlton Hart, Vice Chair, Leslie White and Lorna John, Board Members, and representing the Zoning Commission is Peter Shapiro.

Copies of today's hearing agenda are available to you and located in the wall bin near the door.

Please be advised that this proceeding is being recorded by a court reporter and is also webcast live. Accordingly, we must ask you to refrain from any disruptive noises or actions in the hearing room. When presenting information to the Board, please turn on and speak into the microphone, first stating your name and home address. When you are finished, please turn your microphone off, so that your microphone is no longer picking up sound or background noise.

All persons planning to testify either in favor or in opposition must have raised their hand been sworn in by the Secretary. Also, each witness must fill out two

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1 witness cards. These cards are located on the table near the  
2 door and on the witness table. Upon coming forward to speak  
3 to the Board, please give both cards to the reporting sitting  
4 at the table to my right.

5           If you wish to file written testimony or  
6 additional supporting documents today, please submit one  
7 original and 12 copies to the Secretary for distribution.  
8 If you do not have the requisite number of copies, you can  
9 reproduce copies on an office printer in the Office of Zoning  
10 located across the hall. Please remember to collate your set  
11 of copies.

12           The hearing procedures for special exceptions,  
13 variances, and appeals are also listed as you come walking  
14 in through the door.

15           The record shall be closed at the conclusion of  
16 each case, except for any materials specifically requested  
17 by the Board. The Board and the staff will specify at the  
18 end of the hearing exactly what is expected and the date when  
19 the person must submit the evidence to the Office of Zoning.  
20 After the record is closed, no other information shall be  
21 accepted by the Board.

22           The Board's agenda includes cases set for  
23 decision. After the Board adjourns, the Office of Zoning in  
24 consultation with myself will determine whether a full or  
25 summary order may be issued. A full order is required when

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1 the decision it contains is adverse to a party, including an  
2 affected ANC. A full order may also be needed if the Board's  
3 decision differs from the Office of Planning's  
4 recommendation. Although the Board favors the use of summary  
5 orders whenever possible, an applicant may not request the  
6 Board to issue such an order.

7           The District of Columbia Administrative  
8 Procedures Act requires that the public hearing on each case  
9 be held in the open before the public pursuant to Section  
10 405(b) and 406 of that Act. The Board may, consistent with  
11 its Rules of Procedures and the Act enter into a closed  
12 meeting on a case for the purposes of seeking legal case on  
13 a case pursuant to D.C. Official Code Section 2-575(b)(4)  
14 and/or deliberating on a case pursuant to D.C. Official Code  
15 Section 2-575(b)(13) but only after providing the necessary  
16 public notice and in the case of an emergency closed meeting,  
17 after taking a roll call vote.

18           The decision of the Board in cases must be based  
19 exclusively on the public record. To avoid any appearance  
20 to the contrary, the Board requests that persons present not  
21 engage the members of the Board in conversation.

22           Please turn off all beepers and cell phones at  
23 this time so as not to disrupt the proceeding.

24           Preliminary matters are those which relate to  
25 whether a case will or should be heard today, such as

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1 requests for postponement, continuance or withdrawal, or  
2 whether proper and adequate notice of the hearing has been  
3 given. If you are not prepared to go forward with a case  
4 today or if you believe that the Board should not proceed,  
5 now is the time to raise such a matter.

6 Mr. Secretary, do we have any preliminary  
7 matters?

8 MR. MOY: Good morning, Mr. Chairman and members  
9 of the Board. We have a few.

10 As to today's docket, for the record, there are  
11 two case applications that have been postponed and  
12 rescheduled to December 12, 2018. Those two cases are  
13 Application numbers 19847 of Elton Investment Group and  
14 Appeal number 19861 of Station Townhouses LLC.

15 Case Application number 19760 of Rhode Island  
16 Condos LLC has been withdrawn by the applicant.

17 Other than that, there are a few preliminary  
18 matters but the staff would suggest the Board address those  
19 when I call the case.

20 CHAIRPERSON HILL: Okay, great. Thank you.

21 All right, good morning, everybody. I hope your  
22 candidates won and if not, that's too bad.

23 Let's see. If you could, please stand and take  
24 the oath administered by the Secretary if you plan on  
25 participating or giving testimony.

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1 Mr. Secretary.

2 (Whereupon, all witnesses were sworn.)

3 CHAIRPERSON HILL: Okay so one last thing.  
4 Also, we are going to file the agenda and the docket the way  
5 it is in the bin.

6 (Whereupon, the above-entitled matter went off  
7 the record at 9:44 a.m. and resumed at 10:16 a.m.)

8 CHAIRPERSON HILL: Okay, Mr. Moy, whenever you  
9 like.

10 MR. MOY: Thank you, Mr. Chairman. I see that  
11 the parties are already at the table.

12 All right, this is case Application number 19845  
13 of Potomac Electric Power Company, as amended, for a special  
14 exception under Subtitle C, Section 703.2 from the vehicle  
15 parking requirements of Subtitle C, Section 701.5; Subtitle  
16 C, Section 807.1 from the bicycle parking requirements of  
17 Subtitle C, Section 802.1; and under Subtitle U, Section  
18 320.1(a) from the utility use requirements of Subtitle U,  
19 Section 203.1(p), which would construct an electrical  
20 substation in an RF-1 Zone at premises 1000 1st Street,  
21 Northwest, Square 559, a portion of Lot 82.

22 Mr. Chair, two other administrative things.  
23 First is there is a request for expert status under Exhibit  
24 9. Also in terms of filings in the record, which are not in  
25 the record as yet because there were three filings that were

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1 filed electronically after 9:00 this morning -- so I have  
2 hard copies for the Board. One is from the Department of  
3 Energy and Environment. The second one is from the principle  
4 of the Greentel Group, G-R-E-E-N-T-E-L Group. The third is  
5 from Keith Silver of -- who is he with -- ANC Commissioner.  
6 Okay.

7 And finally, what should be in the record but  
8 may not be uploaded but I made a hard copy for the Board  
9 anyway, at 12:50 this morning there was an entry, a filing  
10 from Robert Robinson, who is the chair of the D.C. Consumer  
11 Utility Board. And I believe the applicant, this morning,  
12 has handed me copies of the letter from Elena Anderson de  
13 Lay, a representative of the Mount Vernon Triangle Community  
14 Improvement District.

15 And I believe that's it. I think I did mention  
16 DOE. That's it, Mr. Chair.

17 CHAIRPERSON HILL: Okay, great. Thank you.

18 If you could please introduce yourselves from my  
19 right to left for the record.

20 DR. BAILEY: William Bailey.

21 CHAIRPERSON HILL: Mr. Bailey, I'm sorry. Where  
22 do you live?

23 DR. BAILEY: I am employed by Exponent and its  
24 office are at 17000 Science Drive, Bowie, Maryland.

25 CHAIRPERSON HILL: Okay, great. Thank you.

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1 MR. BATTLE: Good morning. Marc Battle, Pepco  
2 Regional Vice President. Pepco's at 701 Ninth Street,  
3 Northwest.

4 MS. SHIKER: Good morning, Members of the Board.  
5 I am Christine Shiker with the law firm of Holland and  
6 Knight, representing the applicant.

7 MR. GAON: Joe Gaon, Holland and Knight,  
8 representing the applicant.

9 MR. WANG: Good morning. Erik Wang from  
10 McKissick and McKissick, the architect, located on 901 K  
11 Street, Northwest.

12 CHAIRPERSON HILL: Okay, great. Thank you.

13 So Ms. Shiker, I assume you are going to be  
14 testifying to us -- before us?

15 MS. SHIKER: Yes, I will be doing the  
16 presentation.

17 CHAIRPERSON HILL: Okay.

18 MR. MOY: Mr. Chair?

19 CHAIRPERSON HILL: Yes, sure.

20 MR. MOY: Excuse me but I believe there is  
21 someone else in the audience who has not taken the oath. So  
22 I just wanted to bring that to your attention.

23 CHAIRPERSON HILL: All right so if there's  
24 anybody here who plans on testifying, either in favor or  
25 opposition, and hasn't taken the oath yet, if you could just

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1 please stand and Mr. Moy will administer the oath over here  
2 to the left.

3 (Whereupon, all witnesses were sworn.)

4 CHAIRPERSON HILL: Is the ANC here, by any  
5 chance? Okay, all right.

6 So, Ms. Shiker, I think that as far as like the  
7 experts in your presentation, I thought the only one that we  
8 hadn't had approved yet was Mousa Hejazi. Is that right?

9 MS. SHIKER: That's correct. He is an expert in  
10 electric engineering. And in the past we have had -- we had  
11 had a previous expert but he has now retired --

12 CHAIRPERSON HILL: Okay.

13 MS. SHIKER: -- and Mr. Hejazi has taken his  
14 place.

15 CHAIRPERSON HILL: And is he here?

16 MS. SHIKER: He is here.

17 CHAIRPERSON HILL: Okay.

18 MS. SHIKER: He will be available for questions.

19 CHAIRPERSON HILL: Okay, we'll see.

20 MS. SHIKER: He's not part of our panel. So if  
21 we bring him up for questions, I would like to qualify him  
22 as an expert.

23 CHAIRPERSON HILL: Okay. I just kind of -- I  
24 mean I've read his resume and unless the Board has any  
25 objection, I'd go ahead and qualify him as an expert now.

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1 Okay.

2 So just, we can go ahead and take care of that.

3 MS. SHIKER: Thank you.

4 CHAIRPERSON HILL: Let's see. So that's that.

5 I suppose, Ms. Shiker, as you're kind of going  
6 through your presentation, as always, if you could kind of  
7 go through what the standard of review is and how you are  
8 meeting the criteria for us to approve your application.  
9 There is a lot of testimony in the record, as you know, both  
10 some in favor and quite a few in opposition, and they bring  
11 up a variety of different points so perhaps if you can go  
12 ahead and touch on some of those. We'll probably also have  
13 further questions from you after we take testimony.

14 And then also, if you could speak to the  
15 conditions that the ANC you know they have submitted a letter  
16 of approval and support, however, they had some conditions  
17 and if you could kind of speak to those. And so again, hit  
18 the standard of review for us, how you are meeting the  
19 criteria, and then all the other items I mentioned.

20 And I'm going to put 15 minutes on the clock  
21 just so I know where we are but I think we're going to go  
22 longer than that.

23 In fact, Mr. Moy, just go ahead and put 25  
24 minutes up there just so I know.

25 And you can begin whenever you like.

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1 MS. SHIKER: Thank you, Chairman and Members of  
2 the Board. Again, I'm Christine Shiker with the law firm of  
3 Holland and Knight and we are here to present the proposed  
4 Mount Vernon substation.

5 As you can see on the slide before you, this  
6 site is located at 1000 1st Street, Northwest. It's on the  
7 west side of First between K and L Street. It is part of  
8 record Lot 82 but only a portion of that lot, which is  
9 currently being subdivided, will be devoted to substation  
10 use. And it is the portion of the lot that is zoned RF-1.  
11 So it is the rectangle on the east half of the square.

12 In the RF-1 zone, substations are permitted by  
13 special exception, subject to requirements or setbacks,  
14 screening, or other requirements that the Board may deem  
15 necessary for the protection of the neighborhood. We have  
16 set forth in detail how we met this standard and we do  
17 believe we comply with both the specific standard and the  
18 general special exception standard.

19 Specifically, the substation has been designed  
20 to integrate well within the context of the neighborhood.  
21 It is set back significantly from each of the rights of way.  
22 There was an extensive community outreach process for the  
23 last two years to take comments on the design and the  
24 placement within the neighborhood. The substation is within  
25 the height and density permitted in the RF-1 zone so,

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1 therefore, it is consistent with the intent of the zone plan.

2           In addition, as was noted, we have amended the  
3 application to remove two areas of variance relief and,  
4 instead, put in their place special exception relief. This  
5 came about upon further discussion with both the Office of  
6 Planning and DDOT that the relief that we needed could fall  
7 within that more specific special exception standard. Under  
8 both of those standards, the Board may grant flexibility from  
9 the requirement in those situations when there is a lack of  
10 demand for either the vehicular parking or for the bicycle  
11 parking.

12           Because the proposed substation will be an  
13 unmanned substation, the seven parking spaces that are  
14 proposed on the west side of the site will be more than  
15 sufficient to accommodate the demand, which is very low for  
16 an unmanned substation.

17           Furthermore, because Pepco employees are  
18 required to go to the substation in Pepco authorized  
19 vehicles, there is no need for long-term bicycle parking and  
20 there will be no visitors to the substation, again, given its  
21 nature as a substation. So there is no demand for that long-  
22 term bike parking space. No short-term parking spaces are  
23 required for utility uses.

24           DDOT has agreed that there is no demand and that  
25 both of these areas of relief can be granted. And they have

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1 also concluded that, given the nature of the use, no  
2 transportation demand management measures would be required.  
3 And so therefore, those special exception standards are met  
4 based on the provisions.

5 I will note that we did withdraw an area of  
6 relief and that was for a requirement for a trash room. Upon  
7 further discussion with the Office of Planning and with the  
8 Zoning Administrator, we were able to locate a trash room  
9 within the substation that is compliant with the regulations  
10 and the Zoning Administrator did confirm to us that we did  
11 not need that relief. So we have withdrawn that relief.

12 Pepco has engaged in a very extensive community  
13 outreach project to design this substation because the  
14 property was acquired for the purpose of locating the  
15 substation here and Mr. Battle is going to walk through what  
16 that community outreach process was. As a result of that  
17 community outreach process, we are pleased to have unanimous  
18 support of ANC 6E. There were significant numbers of  
19 meetings and work, substation visits with those ANC  
20 commissioners, education that came through to start to  
21 address many of the concerns that you see in the record  
22 today.

23 The ANC did file the letter with the conditions  
24 that were noted and Pepco agrees to all of these conditions  
25 and will fulfill its obligations. I will note that some of

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1 the conditions are not necessarily related to the relief  
2 requested and, therefore, may not be appropriate to include  
3 in the Board order but Pepco has agreed to each of these  
4 conditions and will fulfill its requirement for each of those  
5 conditions, whether or not it is included in any Board order  
6 if it was to approve the case.

7           We've also, as part of this process, worked  
8 closely with the district agencies. The Office of Planning,  
9 as it is noted in this report, does support the areas of  
10 relief, as well as the special exception for utility use.  
11 DDOT, as noted, had no objection to the application and also  
12 did not believe that any transportation demand management  
13 measures were necessary for the areas of relief.

14           The Department of Health has indicated that it  
15 does not have comments and that this isn't applicable to its  
16 mission.

17           And the Department of Energy and Environment was  
18 noticed with this case. They initially submitted a response  
19 saying they had no additional comments compared to what they  
20 filed in the Public Service Commission. And in summary,  
21 those comments in the Public Service Commission case are  
22 whether or not there is a need for the substation, which is  
23 within the Public Service Commission's jurisdiction to  
24 decide. Upon further discussions with the Department of  
25 Energy and Environment, they submitted another letter this

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1 morning addressing the concerns that are set forth in the  
2 record with respect to EMF and public safety issues. That  
3 letter is fairly detailed and it is consistent with Dr.  
4 Bailey's testimony that will be coming in just a few minutes  
5 to provide additional information to the Board.

6           As the Chairman noted, there are concerns that  
7 are expressed in the record and so we're going to go through  
8 our presentation to address each of those. We are going to  
9 start with Mr. Battle, who is going to give you information  
10 about Pepco, substations, how they work, where they are  
11 located, why they're located there, and the community  
12 outreach. We will then go to Mr. Wang, who is going to talk  
13 about the design, how it has been built to or designed to fit  
14 within the community. And then we'll finish with Dr. Bailey  
15 to talk about that EMF concern that has been raised in the  
16 record.

17           Mr. Battle.

18           MR. BATTLE: Thank you.

19           So we know that the Board is familiar with  
20 substation projects, in general, but I'll state for the  
21 record a substation is not a power plant. The slide before  
22 you shows that Pepco imports electricity from outside of the  
23 District. We stopped generating electricity many years ago.  
24 We have power plants that have been in Buzzard. Now all of  
25 our electricity comes from outside of the city through

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1 transmission lines. It comes into a substation, which  
2 decreases the voltage and allows it to be properly routed to  
3 various communities.

4 The Mount Vernon substation is part of a larger  
5 project called the Capital Grid Project. It's intended to  
6 just bolster the resiliency of the electric grid system  
7 within Washington, D.C. We're doing that by installing a new  
8 transmission line through the city and upgrading three  
9 substations: Takoma Substation, which is right outside the  
10 District, Champlain Substation, which is near Adams Morgan,  
11 just north of Florida Avenue, and the Harvard Substation,  
12 which is at Sherman Avenue and Harvard. And the Mount Vernon  
13 Substation is part of that project being built there.

14 The reason -- next slide please.

15 VICE CHAIRPERSON HART: Actually before you go  
16 to the next slide --

17 MR. BATTLE: Sure.

18 VICE CHAIRPERSON HART: -- could you explain?  
19 I mean this is kind of dichromatic. So I'm not exactly sure  
20 where these other -- I'm not exactly sure that this  
21 particular site is -- can you describe how you got to this  
22 particular site --

23 MR. BATTLE: Sure.

24 VICE CHAIRPERSON HART: -- because what the  
25 information that we received is in the pre-hearing statement

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1 was a diagram that shows kind of where all of the substations  
2 are located in the District, which I appreciate.

3 MR. BATTLE: Sure.

4 VICE CHAIRPERSON HART: Some of the numbers are  
5 a little off. The total is right but the numbers per board  
6 are -- they were just off and I'm not exactly sure why.

7 MR. BATTLE: Okay.

8 VICE CHAIRPERSON HART: But this was a little  
9 bit confusing to me because I wasn't sure -- I mean this  
10 looks like there's a straight line and that's what you have  
11 but I don't think that's actually the case. And I don't know  
12 exactly know why this particular location was the only site  
13 to be able to use. I understand that you own the site now.  
14 That part I get but I just don't know what the decision was  
15 to place it here, as opposed to I don't know a half mile to  
16 the west or -- I mean what is special about this site?

17 MR. BATTLE: Sure. Very good question. So the  
18 way this substation was sited and the way the NE Substation  
19 is sited is based on the load needs of a given area. And so  
20 -- can we move to the next slide?

21 And so if you look at the particular area, this  
22 area of Ward 6 is among the fastest growing areas in all of  
23 Washington, D.C. And so in doing our distribution planning,  
24 we look at an area. We determine whether it can be served  
25 by the existing substations. We look at whether there is

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1 capacity to build out those additional substations. We look  
2 to whether we can shift load from one substation to another.  
3 We look at a number of different things. And we went through  
4 that analysis and determined that a new substation was needed  
5 to serve both the existing residents and businesses, as well  
6 as those who are coming online.

7 VICE CHAIRPERSON HART: So if you could stop  
8 there for a second. In the prehearing statement, one of the  
9 things that you said in the statement is indicated that this  
10 is kind of looking forward to the next 20, 30, whatever  
11 years. It's a forward-looking plan. But in my mind, there  
12 should have been like a plan 20 years ago or 30 years ago  
13 that was kind of looking forward to this and understanding  
14 what that demand might be.

15 And so that the determination of where the site  
16 is -- and I'm just trying to understand how you got to this  
17 particular point.

18 MR. BATTLE: Right.

19 VICE CHAIRPERSON HART: And you've given some  
20 fairly general reactions or responses and I don't quite  
21 understand how we've gotten to where we are. And I'm just  
22 trying to understand that so I can kind of say okay, this  
23 kind of makes sense. I just don't know.

24 MR. BATTLE: Sure.

25 VICE CHAIRPERSON HART: And I'm going from a

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1 point of I don't know what that decision process was.

2 MR. BATTLE: Right. Well, in our distribution  
3 planning we have to keep up with where and how fast  
4 development is coming in the District in the areas that we  
5 serve. I don't know that you could do that -- you know if  
6 you look at Washington, D.C. 20 years ago, it's vastly  
7 different. One might not have predicted that people would  
8 live where they are now, whether it be the southwest  
9 waterfront or other areas that are growing very quickly.

10 So what we do is we keep tabs on where  
11 development and growth is happening in the District and we  
12 have to be there in advance of that actual development. When  
13 people move in, when businesses start electricity has to be  
14 there. Sufficient capacity has to be there to provide for  
15 reliable service.

16 And so while this is a forward-looking plan, it  
17 is also looking at immediate needs now in the next couple of  
18 years, which is why we're looking for a time line of around  
19 2023.

20 VICE CHAIRPERSON HART: So this is more about  
21 what is existing here. I mean I understand that.

22 MR. BATTLE: It is both existing and what's  
23 coming online.

24 VICE CHAIRPERSON HART: Within the next five  
25 years?

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1 MR. BATTLE: Yes.

2 VICE CHAIRPERSON HART: Okay, you can go ahead.

3 MR. BATTLE: Go to the next slide.

4 So you mentioned the map that we talk about  
5 where the substations are and that's very important because  
6 it shows that we don't put substations just where it might  
7 be convenient to do so or where there happens to be an  
8 available plot of land. We put them where they are needed  
9 to serve customers and so they are allocated in all eight  
10 wards of Washington, D.C. They are in residential  
11 neighborhoods. They are in the downtown corridor. They are  
12 in every possible socioeconomic area within Washington, D.C.  
13 because, again, we put them where people live, where  
14 businesses are, where electricity needs to go.

15 VICE CHAIRPERSON HART: So you wouldn't need one  
16 along New York Avenue? I mean because to me, that's a  
17 growing area. That's what I'm trying to understand. What  
18 is specific about this particular area that is saying oh, we  
19 need to do one here? This map is helpful to kind of see it.  
20 Don't get me wrong.

21 And I understand where the concentrations are of  
22 development kind of now but it still is there are kind of  
23 large areas that don't have anything. And I understand that  
24 some of that might be the residential areas. Again, I'm just  
25 trying to get to the we thought this was a good location

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1 because -- for this reason.

2 MR. BATTLE: Right. I think I would turn to one  
3 of our experts, probably Mousa Hejazi, to speak more about  
4 exactly how the substations are sited and where -- you know  
5 our substations, they come in a variety of sizes and  
6 capacities and it really depends on, again, what customers  
7 are being served. That's a very technical question that I'm  
8 going to actually ask Mousa to address, if that's okay.

9 CHAIRPERSON HILL: Okay. First of all, could  
10 you introduce yourself, sir?

11 MR. HEJAZI: Good morning. Mousa Hejazi,  
12 Manager of Substation Engineering and a PHI. The address is  
13 701 9th Street, Northwest, Washington, D.C.

14 CHAIRPERSON HILL: Okay, before you answer the  
15 question, if you've been listening -- Ms. White has a  
16 question.

17 MEMBER WHITE: As you go through the  
18 presentation, because there are so many questions that are  
19 being raised about what you've done with other substations,  
20 does your presentation include like pictures of those actual  
21 substations, in terms of where they fit within that  
22 particular community? I see there's a lot here on this  
23 particular slide but I'm just curious. Do they all kind of  
24 you know fit a certain profile or is it just a mixture?

25 But as you go through it, that's something I

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1 might be interested in seeing as well.

2 MR. BATTLE: It is a mixture. We're showing a  
3 slide now that shows examples of various substations. And  
4 these are all different but this doesn't even depict the wide  
5 variety of substations because they are generally built to  
6 fit the character of the neighborhood in which they are  
7 located. And in some cases, many cases, especially in the  
8 downtown corridor, you would not even know that a substation  
9 existed. I'm looking at L Street right now and I Street.

10 So we can talk more about that later but we do  
11 have pictures in the appendix.

12 MEMBER JOHN: Mr. Battle, could you also point  
13 out, as you go along, whether any of these substations are  
14 close to an elementary school?

15 MR. BATTLE: Sure. I can say Champlain  
16 Substation is very, very close. It's right across the street  
17 from Marie Reed Elementary School. That is actually  
18 significantly closer than where the proposed Mount Vernon  
19 Substation would be in relation to the Walker-Jones School.

20 We also have a substation, our 8th Street  
21 Substation, which actually is part of the downtown corridor  
22 and actually shares a wall with the BASIS School. And so  
23 we're talking about a distance of a couple of feet.

24 There are other substations around the District,  
25 as you can imagine, with 49 of them that are in proximity to

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1 schools as well but those are the first two that come to  
2 mind.

3 I would also add, I'm sorry, Florida Avenue  
4 substation is about a half a block from the Meridian Public  
5 Charter School as well.

6 MEMBER JOHN: So is that equally applicable to  
7 other wards as well, Ward 4, for example, Ward 3, Ward 2,  
8 Ward 1?

9 MR. BATTLE: I would have to look to see where  
10 those are allocated but it certainly I mean you know Mount  
11 Vernon would be Ward 6 -- I'm sorry? Meridian is Ward 1.  
12 Champlain is Ward 2. So there is a variety. Champlain is  
13 Ward 1. I'm sorry.

14 VICE CHAIRPERSON HART: And these are, the  
15 substation that we're looking at now is the only one that is  
16 the new substation. The other ones that you just spoke of  
17 are existing ones.

18 MR. BATTLE: That's correct.

19 CHAIRPERSON HILL: All right, Mr. Hejazi, if you  
20 could answer the question.

21 MR. HEJAZI: So you asked the question about why  
22 this site in here and is located with a substation in here.  
23 When we site the substation we need, we would take a look at  
24 the load, basically, in the area. And that's one of the  
25 major components. With distribution, you want the substation

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1 to be very close to the load because the distribution feeder,  
2 they cannot go for a long distance because you would  
3 dissipate the energy out of those distribution feeders when  
4 you get to the customers. So you need the substation to be  
5 in the load area.

6 So the question to Mount Vernon, basically, the  
7 load growth is basically in the Mount Vernon triangle area.  
8 What you would look at for locating a substation, we take a  
9 look at the lot size access, how we can get the transmission  
10 line, distribution lines out of it. We need to have a lot  
11 more frontage, as much as we can into those substations.

12 Part of this application, we've looked at  
13 actually four different, five different sites in the same  
14 area here and this was the site that was selected when we  
15 selected the best site to be able to fulfill our needs and  
16 basically be able to have reliability to the customers in  
17 here.

18 And what makes it is actually unique in here.  
19 This area is basically surrounded by 395 and 50 in the area.  
20 So basically a lot of the load growth that basically goes has  
21 to cross 395. There are certain routes that we have to  
22 select, for example, H Street, K Street. Those are very  
23 difficult to get into with the 395 tunnel in there.

24 So we would select as just basically how we can  
25 get distribution feeders out of this substation into the

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1 customers in there to make sure it is feasible. It's not  
2 just because of this is the vacant property in here and  
3 that's the location for it in here.

4           And the beauty of this site, it has frontage on  
5 three public roads. It has a frontage on L Street, on 1st  
6 Street, and K Street and that gives us the ability to make  
7 sure we can have the distribution features out of substation  
8 and to be able to go to those customers and bring the  
9 transmission feeders to energize the substation in there  
10 because transmission feeders, they always have a special  
11 radiuses. They have special manholes or vaults to be able  
12 to splice this cable. And we need a special square footage  
13 area to be able to work on them.

14           So when you look at all these criteria is  
15 basically this is the site that was selected. And then the  
16 docket of the Public Service Commission, we've actually put  
17 all the information in there and it's actually a public  
18 document but I do not recall the four locations that we did  
19 comparing to this site.

20           VICE CHAIRPERSON HART: And actually, if you  
21 could go back to that -- yes, this one.

22           So what I'm looking at on this image is the  
23 black dots or the red dot are the substations themselves.  
24 And then the area in color is the area that they serve?

25           MR. HEJAZI: Correct.

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1           VICE CHAIRPERSON HART: Okay. And so that area  
2 is -- so if you don't have the red dot block there, then that  
3 means that area doesn't -- it's serviced by the substations  
4 that are around it currently?

5           MR. HEJAZI: Okay, so there is existing load and  
6 there is a new load that you have in the substation. So what  
7 you want to do is basically these substations, even though  
8 sometimes they do share different geographic areas basically  
9 serving, what you are trying to do when you add the  
10 substation is basically to have the best location of  
11 substation to be able to divide that load between the two  
12 substations.

13           It's not just be able -- I can give you an  
14 example, maybe not specifically for this one here. If I have  
15 to rebuild Harvard Street Substation, I have to transfer the  
16 load to other substations to be able to rebuild the  
17 substation. There is a lot of thinking process that goes  
18 into how to add a substation at the location and how you can  
19 transfer a load between substations temporarily to be able  
20 to build the substation.

21           Do I know the exact of which substations serve  
22 what area? I don't know that. There is a distribution  
23 analysis in there. But in terms of why the substation in  
24 here, there will be some load transfer from other substations  
25 into the Mount Vernon substation to better serve the

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1 customers and be closer to the customer that is basically in  
2 the area. That's on the existing load but also Mount Vernon  
3 will be supplying a lot of new load into this area.

4 VICE CHAIRPERSON HART: Thank you. And how does  
5 the Capital Grid Project connect into what we're seeing here?

6 MR. HEJAZI: The Capital Grid Project, it's not  
7 impacting the existing substation in there. There is  
8 basically the Capital Grid Project -- the way the  
9 transmission, I think Mr. Battle mentioned, but the  
10 transmission lines come from outside the District.

11 You have four major corridors that basically  
12 bring the electricity into the city but all of them are on  
13 the radial fashion and each of them, I would say, serves one  
14 corridor of the city and Montgomery County and Prince  
15 George's County in there. The loss of one corridor is  
16 basically the loss of the entire thing in there and some of  
17 this stuff is basically, we'll say -- for publicity we don't  
18 announce this information for security reasons.

19 VICE CHAIRPERSON HART: No, no, what I'm trying  
20 to get to --

21 MR. HEJAZI: So --

22 VICE CHAIRPERSON HART: Hold on. What I'm  
23 trying to get to is there was an image that Mr. Battle showed  
24 which was a fairly simple graphic that was a line that showed  
25 where these things are. So I'm just trying to figure out how

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1 what we just saw, the image that we showed on that kind of  
2 microscale kind of connects to this macroscale. I don't  
3 quite understand why. You know why do you have to have this  
4 dot here when you already had substations already existing?  
5 That's the part I'm trying to get at.

6 MR. HEJAZI: I will get to that in a minute. So  
7 that's what we're saying about transmission load has  
8 basically entered the city.

9 So what we did for upgrading these substations,  
10 these substations, some of them exist, they are coming with  
11 different features that come from different substations.  
12 What this plan in here is basically reconfigure some of the  
13 supply and how it is going to enter those substations in  
14 there so that the transmission lines that basically connects  
15 from Takoma all the way to the waterfront, it actually goes  
16 by those substations and enter and goes in and out, creating  
17 basically a loop that goes from Takoma all the way to the  
18 waterfront, to be able to still energize the substation and  
19 give you the reliability or give the District of Columbia the  
20 reliability of the network configuration versus all these  
21 substations previously, they were radial fed. And basically  
22 if you lose the feed to those substations, you have lost the  
23 substation. With this in here, the beauty of it is basically  
24 you can get the load from the north and the south and connect  
25 all these substations into it.

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1           Now the other point that can count in there, the  
2 existing substations are fed from the same corridors. So  
3 when you enhance that corridor in there, then the impact on  
4 the other substation is actually getting better by having  
5 this plan.

6           VICE CHAIRPERSON HART: Thank you. We can go  
7 ahead. I just wanted to kind of understand it a little bit  
8 more.

9           MS. SHIKER: Thank you. So we will go back to  
10 Mr. Battle to continue with his presentation.

11           MR. MOY: So I'll just speak a bit about the  
12 outreach. As Christine noted, we have been engaging the  
13 community on this project for the last two years. There have  
14 been dozens of meetings, really significantly more if you  
15 count the entire Capital Grid Project, but even specific to  
16 the Mount Vernon Project, there has been very, very  
17 intentional engagement. We actually built in an extra year  
18 into our planning just to make sure that we could get in  
19 front of the ANCs, the different churches in the area, the  
20 residents, the buildings' civic associations to make sure  
21 that there was a lot of input on as many issues as possible.

22           And when we talk about the renderings in a few  
23 minutes, you will see that the input that we received from  
24 the community has been reflected in the final product that  
25 we plan to build there.

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1 I'll stop there.

2 MS. SHIKER: Okay. With that, I will ask Mr.  
3 Wang to talk through the design that we are presenting today.

4 CHAIRPERSON HILL: Excuse me one second. Ms.  
5 White has a question.

6 MEMBER WHITE: Yes, go back to that other slide  
7 you just showed about the community input. I just wondered  
8 whether or not -- there was one school that has voiced some  
9 opposition to the substation. I wondered if they were a part  
10 of that community outreach.

11 MR. BATTLE: So I think you're referring to  
12 Walker-Jones.

13 MEMBER WHITE: Yes.

14 MR. BATTLE: We have engaged Walker-Jones on  
15 multiple occasions, both the teachers and the principal, and  
16 we've not heard much opposition from them.

17 MR. WANG: In the architectural design of the  
18 substation, there are some key points that were considered  
19 in the design process: to contain and screen the substation  
20 equipment used within the zoning requirements to create a  
21 pleasing design that is appropriately scaled with materials  
22 that complement the surrounding neighborhood and to engage  
23 with the community with public art and development, inviting  
24 public streetscape.

25 So what you see in front of you is a bird's-eye

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1 view of the substation. To give you some reference, K Street  
2 is on the left bottom and it's also bounded by 1st Street on  
3 the long side. On the top will be the L Street.

4           This is a -- the next two slides will be a  
5 planned view of the substation and I will go through a couple  
6 of the key elements of the substation. On the roof, there  
7 is an open roof transformer base that are shown on the west  
8 side, which on the slide you see it's on the bottom of the  
9 substation, on the west side of the building. Above that  
10 would be some low-profile solar panels, which are not visible  
11 on the street level.

12           On the east side of the substation, there are  
13 screen, mechanical areas that has a one-to-one setback so  
14 that it is also not visible on the street level.

15           To the loading area, we are providing seven  
16 parking spaces, as mentioned. We also are providing two  
17 loading berths, two loading platforms and one loading space.  
18 Again, there are no parking -- sorry -- there are no bicycle  
19 parking provided.

20           On the -- sorry, can you go back?

21           On the east side where the green area is  
22 showing, that is a 12,500 square feet of green area, along  
23 with two bioretentions both on the north and the south side  
24 of the substation.

25           The main entrance will be located on the L

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1 Street, what you see on the left side. That will be the main  
2 entrance to the substation with a new curb cut. Along with  
3 that, there will be several row curbs along L Street and  
4 along K Street.

5 The security fence, what you see surrounding the  
6 property is shown in red. They will be surrounded by the  
7 property. And there will be also low shrubberies to  
8 basically hide and soften the fence, the security fence.

9 On this plan, you will see the actual front yard  
10 is on the L Street side on the north side of the substation.  
11 The rear yard has a 24-foot dimension clearance.

12 Oh, let me go back. Sorry. The one important  
13 thing I would like to mention is the landscaping on K Street.  
14 So that is the public streetscape. That is a significant  
15 component of the K Street design what you see on the right-  
16 hand side. Guidelines were developed and recommended by the  
17 Office of Planning and we have incorporated that into the  
18 design. There are double sidewalk base and the center island  
19 with trees and seating situated on K Street.

20 The same concept basically goes along the 1st  
21 Street and L Street.

22 So in the facade design that is responding to  
23 the surrounding residential community that includes the  
24 District Public Library and the RH Terrell Recreation Center.  
25 As shown on this elevation here, you can see that we are

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1 using high quality materials, including the use of brick  
2 veneer, traditional brick detailing, metal panels, limestone  
3 banding, and opaque window openings.

4           The massing of the building has been divided  
5 into integrals into residential scale and the window openings  
6 will provide illumination and also reduce the overall  
7 massing.

8           In front of the substation, as you can see,  
9 there is the seven-foot high security fence with the  
10 shrubbery.

11           This is the K Street side. The same design  
12 concept wraps around to the K Street side. What you see also  
13 here we have integrated some of the graphics that you see on  
14 the fence also on the facade. We will be coordinating with  
15 the community to come up with the design and the concept for  
16 that.

17           Here is a perspective of what you see when  
18 you're standing on K Street and 1st Street. So you can see  
19 the materials that has been used and also the vegetation and  
20 the vegetation on the public street scape.

21           This is wrapping around to the front, to the  
22 north side of the substation. This, again, the same concept  
23 with the mural design opportunity and also the entrance that  
24 is to the right of the substation.

25           Lastly is the back or the west side of the

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1 substation. We are proposing to have multiple mural  
2 opportunities at each of the transformer base.

3 And this is the last rendering. You can see  
4 that for a reference the scale and the massing reference with  
5 the SeVerna across the street.

6 MS. SHIKER: Thank you. And I will note again  
7 that the height, the density, the different requirements for  
8 the RF-1 for how the size of the substation should be  
9 designed, that we complied with all of those requirements in  
10 the RF-1 district.

11 I will now ask Dr. Bailey to walk you through  
12 some of the questions that have come up about EMF.

13 DR. BAILEY: Good morning, Members of the Board.  
14 My name is William Bailey and I have been involved in  
15 research in electric and magnetic fields for over 30 years.

16 Electric and magnetic fields are found wherever  
17 we use electricity, such as at home, at work, parts of the  
18 energy grid like a substation. Other common sources include  
19 appliances, electrical wiring, nearby distribution and  
20 transmission systems, currents flowing on building ground  
21 systems and water pipes, electronic equipment, office  
22 equipment, and power tools.

23 Now the common abbreviation EMF describes both  
24 electric and magnetic fields but I point out here for the  
25 substation and for the interconnecting lines, electric fields

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1 are basically not present. And the reason for that is that  
2 electric fields are easily blocked by ordinary materials.  
3 And so the walls of the substation will block electric fields  
4 and the lines are buried underground and so the earth also  
5 blocks electric fields. So even though in general parlance  
6 we may talk about EMF, with regard to this project, we're  
7 really only focusing on magnetic fields.

8           Pepco is aware that some customers and members  
9 of the public have concerns about magnetic fields and health.  
10 Pepco takes these concerns seriously and they have addressed  
11 this in a variety of ways. The proposed substation  
12 incorporates designs that minimize magnetic fields.

13           Pepco asked our firm to measure existing levels  
14 of magnetic fields around the site and to assess the levels  
15 of magnetic fields associated with the substation after  
16 construction. The levels of magnetic fields are far below  
17 international guideline levels and are in the range that  
18 people are exposed to every day at very low levels and health  
19 and scientific agencies like the World Health Organization  
20 have said that electric and magnetic fields do not affect our  
21 health.

22           This slide shows the measured and calculated  
23 fields around the site and note that the operation of the  
24 substation does not appreciably change the existing levels  
25 of magnetic fields in the neighborhood or at the nearest

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1 school.

2           On the left-hand side of the slide shows the  
3 magnetic fields that were measured in streets. That is the  
4 -- and you notice at the upper right-hand corner of the  
5 substation, in the street there is a measurement of 46  
6 milligauss. That is over an underground duct bank. The  
7 other colored numbers reflect what the calculated values are  
8 in the streets. You can see in the upper right-hand corner  
9 5 milligauss, 19 milligauss. On the lower part of the slide,  
10 there are lower numbers there and 7 milligauss in the corner.

11           Now magnetic fields have a property that they  
12 diminish quickly in their intensity with distance. Could you  
13 go back one slide, please? And so as you go from the  
14 streets, where the underground cables are that exist today  
15 and will be supplying the substation, you can see when you  
16 go just a few feet away to the sidewalks, that both the  
17 existing values of the magnetic fields and the modeled  
18 magnetic fields drop considerably. So we expect that after  
19 construction and operation of the substation, the fields  
20 would be less than or equal to 14 milligauss.

21           Next slide.

22           VICE CHAIRPERSON HART:     And what is the  
23 acceptable range?

24           DR. BAILEY:   It's going to come up in just two  
25 slides.

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1           Now a lot of attention is focused on the  
2 adjacent Walker-Jones school. And this slide shows the  
3 magnetic field as a function of distance from the substation  
4 fence, going across L Street towards the school. As you can  
5 see, the field is highest at the fence and diminishes as it  
6 crosses L Street. And by the time you get to the school,  
7 approximately 250 feet to the north, the field level is  
8 approximately 1 milligauss or less, the kind of level that  
9 you could measure in any residence.

10           And so the fact that the substation design and  
11 the distance from the schools means that the substation  
12 itself is not going to be altering the existing levels of  
13 magnetic fields at the school.

14           Next.

15           Now down at the bottom of this slide, you see  
16 the values that have been predicted for the magnetic field  
17 in the street and the sidewalk, basically both less than 19  
18 milligauss. Just above that, you see values that have  
19 measured around office equipment, power tools, appliance in  
20 our home that can range to lower values to much higher  
21 values, into the thousands of milligauss.

22           And at the top are the magnetic field level that  
23 are recommended by two international organizations. The  
24 first is the International Commission on Non-Ionizing  
25 Radiation Protection. Their guideline for exposure of the

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1 general public to magnetic fields continuously, there is no  
2 time limit on it, is 2,000 milligauss. The International  
3 Committee for Electromagnetic Safety also has published  
4 guidelines for the general public, which are higher, 9,040  
5 milligauss. So you can see that whether we are talking about  
6 sources within the home or we are in close proximity to them  
7 where the fields are highest in the single digits to  
8 thousands of milligauss, or to the magnetic fields in the  
9 streets and the sidewalk around the substation, they are very  
10 far below the magnetic field levels in these international  
11 guideline limits.

12           Next slide.

13           Over the past 40 years, a large body of  
14 scientific research on electric power, electric and magnetic  
15 fields has been reviewed by many leading public health  
16 agencies, such as the U.S. National Cancer Institute and the  
17 World Health Organizations. These authorities find that EMF  
18 in our power system have not been shown to cause or  
19 contribute to adverse health effects either in adults or  
20 children. For example, here is a quote from the National  
21 Cancer Institute. Their explanation is no consistent  
22 evidence for an association between any source of non-  
23 ionizing EMF and cancer has been found.

24           The World Health Organization, which has done  
25 its own reviews and also reviewed previous agency reviews by

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1 the International Agency of Cancer concludes that despite  
2 extensive research, to date there is no evidence to conclude  
3 that exposure to low level electromagnetic fields is harmful  
4 to health.

5 VICE CHAIRPERSON HART: Mr. Bailey, just one  
6 quick question on this. The U.S. National Cancer Institute  
7 had no consistent evidence; what is that -- why do they use  
8 the word consistent?

9 DR. BAILEY: Okay.

10 VICE CHAIRPERSON HART: I mean that kind of  
11 tells me that there is some evidence, they just couldn't find  
12 something that was conclusionary -- conclusive.

13 DR. BAILEY: Conclusive, okay. We have several  
14 types of evidence that we review in making decisions about  
15 public health. We have studies of populations in which we  
16 try and look for relationships between exposures or  
17 characteristics of populations and their health.

18 So for example, the idea that people who live in  
19 Mediterranean countries appear to have a lower risk of heart  
20 disease, does that have to do with something in their  
21 environment? Does it have to do with genetics? What factors  
22 might account for that?

23 We have epidemiology studies that have been done  
24 of electric and magnetic fields, both in communities and  
25 occupational environments but we've looked for similar

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1 statistical associations between the fields coming from  
2 different sources and our health and is there a difference  
3 in exposure. Do people with cancer have higher exposures,  
4 for example, to magnetic fields than people without cancer?

5           And so as you can guess, when you are doing  
6 studies in many different countries and many different places  
7 and you're doing these observational studies in which you  
8 don't have a controlled environment, some studies will show  
9 an association going in one direction or another or parts of  
10 a study may show an association and another part of the study  
11 may show no association.

12           So the way that the health agencies look at  
13 these data is to examine all of these studies and examine the  
14 strengths and weaknesses of the studies and then come to a  
15 conclusion as to what is the overall weight of the evidence  
16 from this.

17           So like any body of evidence, all of the  
18 evidence does not always point in the same direction. And  
19 so it is their job to sort of evaluate the quality of this  
20 evidence and come to an overall conclusion. And what they  
21 have said is that yes, we have observed in some of these  
22 studies the statistical associations but we can't determine  
23 whether it is due to some kind of a factor of exposure, or  
24 it's due to chance, or it's due to confounding by some other  
25 factors, or some kind of systematic error in this study.

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1           They also look at laboratory studies in which  
2 animals have been exposed over their entire lifetime to  
3 magnetic fields. The U.S. National Environmental Health  
4 Sciences did studies in which they exposed animals, both rats  
5 and mice, over their lifetimes to levels that were up to  
6 10,000 times higher than the average magnetic field in a home  
7 and did not find excess cancer. Similar studies have been  
8 done in Canada and Japan at similar or even higher levels.

9           And then finally we have in vitro studies, that  
10 is studies of isolated cells in tissues in which we look to  
11 see do they indicate a mechanism by which magnetic fields  
12 could be harmful.

13           Putting this all together, we conclude or these  
14 agencies concluded that there is no conclusive evidence for  
15 a health effect of these exposures.

16           CHAIRPERSON HILL: Dr. Bailey, I'm sorry. Ms.  
17 White has a question for you.

18           DR. BAILEY: Sure.

19           MEMBER WHITE: So one question. I'm thinking  
20 about exposure to these types of fields. Do you have any  
21 data on statistics on Pepco employees that work on these  
22 substations in terms of do they tend to have higher -- I'm  
23 assuming they have higher levels of exposures to these types  
24 of substations. Is there any data that says that you know  
25 there have been no instances of cancer? You know I just

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1 wondered if you've looked at that or if there is some data  
2 out there that would kind of give me pause in terms of  
3 exposure that Pepco employees have had to these substations.  
4 So if they are the ones that are going to be closest to these  
5 stations, even though they are kind of unmanned stations but  
6 they would be doing service on those stations and when they  
7 are doing service, what type of protective gear are they  
8 wearing?

9 DR. BAILEY: Well Pepco can respond with respect  
10 to its own practices. I don't know of any health studies,  
11 per se, that have been conducted with Pepco. The body of  
12 literature that the World Health Organization and other  
13 agencies have looked at have included studies that have been  
14 done of different utilities in Europe, in Canada, and the  
15 United States.

16 So for example, a study was done in which they  
17 looked at utility workers at five electric utilities in the  
18 United States. In Canada, they did studies looking at three  
19 -- two electric utilities in Canada and all of the electrical  
20 utility workers in France. There has been no consistent  
21 pattern that suggested workers at electric utilities, that  
22 would include substations and doing underground work or  
23 climbing poles, have excesses of any disease. And that is  
24 part of the evidence that these agencies have reviewed.

25 MEMBER WHITE: And any special protective gear

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1 that they wear in order to -- just curious.

2 DR. BAILEY: Not with regard to the fields, per  
3 se. Obviously, if you are working near electrical equipment,  
4 you have to take precautions to not contact the equipment to  
5 be shocked and that is the main precaution that you have to  
6 observe, whether you are in a substation or whether in your  
7 own home. Obviously, if you stick something into a light  
8 socket, you may get a shock. And so you want to do things  
9 to avoid that contact and those utilities take those  
10 precautions for their workers.

11 CHAIRPERSON HILL: Dr. Bailey, I'm going to stop  
12 you just one second because Ms. John has a question also.

13 DR. BAILEY: Sure.

14 MEMBER JOHN: So Dr. Bailey, I just wanted to  
15 draw your attention to page 4 of the WHO article that was  
16 provided in the documents. And I noted that there is a  
17 significant caveat that the WHO made which says that there  
18 are some gaps in knowledge about the biological effects that  
19 need further research. So they are not saying with 100  
20 percent certainty that there is no possibility that there are  
21 any long-term health benefits, which is where the debate  
22 appears to be.

23 So we don't really know because even the WHO is  
24 not saying yes, full speed ahead.

25 DR. BAILEY: Well I mean there are different

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1 levels of knowledge. There are questions about whether we  
2 know a lot or whether we know a little. And what the WHO has  
3 also said is that we know more about EMF than we know about  
4 the 50,000 chemicals that are in everyday use.

5 This area has been under study for many decades.  
6 Even after all of this research on this environmental  
7 exposure that you find everywhere in the developed world, we  
8 still have not concluded from all of this research that these  
9 fields are harmful.

10 Now the question about why is more research  
11 being done, that has to do with the fact that since everyone  
12 basically has exposures to electric and magnetic fields, we  
13 want to make absolutely sure that even the smallest  
14 possibility of a risk has not been overlooked. So despite  
15 a vigorous search over many decades, we haven't concluded  
16 that these fields are harmful, and that there is some  
17 research going on not sponsored by the U.S. Government  
18 currently because they have completed their evaluations, and  
19 that they have, in different places in the world, are still  
20 looking at this research to make sure that we haven't  
21 overlooked something.

22 I will give you a quick example. In the U.K.,  
23 they did an epidemiology study looking at whether children  
24 who lived near overhead high-voltage transmission lines had  
25 a greater -- children with cancer lived closer to high-

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1 voltage overheard transmission lines than children without  
2 cancer. And in 2005, the investigators reported that it did  
3 appear that within a couple hundred meters of overhead  
4 transmission lines that there were more children with cancer  
5 living in that area, were born to addresses in that area,  
6 than other children.

7           The investigators at the Oxford continued their  
8 research and what they found is as they extended this  
9 research over decades, this association that they had first  
10 reported that went back to the 1960s and 1970s has completely  
11 disappeared.

12           So here is a research that has covered the  
13 period from 1960 up into the current 2000s and while there  
14 was a statistical association in those early years, as time  
15 has gone by and they have increased the size of the  
16 population that they have looked at to all of the United  
17 Kingdom, including Wales and Scotland, and for a much longer  
18 period of time, their current analysis does not show any  
19 statistical association between living near a high-voltage  
20 transmission line and childhood cancers.

21           CHAIRPERSON HILL: Okay, Dr. Bailey, I'm just  
22 going to catch up one second. Ms. Shiker, we've gone  
23 significantly over what I kind of started. And so maybe if  
24 the Board, we can hold some more questions as we kind of move  
25 through the hearing.

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1 I'm going to go -- do you have anything else at  
2 this point?

3 MS. SHIKER: Just a couple of additional points  
4 and we can move to questions.

5 CHAIRPERSON HILL: Sure. Okay.

6 MS. SHIKER: I would like to ask Dr. Bailey two  
7 points. First, have you had an opportunity to review the  
8 District's Department of Energy and Environment Report that  
9 was submitted this morning?

10 DR. BAILEY: Yes, I have.

11 MS. SHIKER: Are the findings of the District's  
12 Department of Energy and Environment consistent with the  
13 findings that you've testified to today?

14 DR. BAILEY: Yes, they are entirely consistent  
15 and both reference the conclusions of international public  
16 health agencies.

17 MS. SHIKER: Okay, thank you. And we are  
18 prepared to move into questions.

19 I'd like to just point out again that the Public  
20 Service Commission is charged under D.C. statute with  
21 determining purpose and need for a substation and the Public  
22 Service Commission is currently reviewing the location of the  
23 substation for the need for that use. They are also -- they  
24 require certain types of environmental reports and studies  
25 to be provided throughout that evaluation. And so as this

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1 Board has determined in the past, the Public Service  
2 Commission is well equipped in evaluating those concerns, as  
3 well as the Board listening to the testimony.

4 I will point out that the zoning regulations do  
5 not require that the Public Service Commission make these  
6 findings before we bring a proposed development to the Board  
7 of Zoning Adjustment. And in fact, the zoning regulations  
8 do require Public Service Commission prior to a BZA  
9 considering any application for a rotating substation. This  
10 is a non-rotating substation. So I want to note that the  
11 zoning regulations do say that in some cases before the Board  
12 of Zoning Adjustment considers a case it needs to have these  
13 findings from the Public Service Commission but for the  
14 special exception that we are seeking for the type of  
15 substation that we have requested approval for, those  
16 processes can go at the same time.

17 And so I just wanted to make sure that the Board  
18 was aware of that. And with that, we would be willing to  
19 answer any other questions you have.

20 CHAIRPERSON HILL: Okay, thanks, Ms. Shiker.  
21 And yes, we're aware of the dual tracks that you guys are  
22 kind of going down right now.

23 So unless the Board has anything else, I'm going  
24 to turn to the Office of Planning.

25 MR. COCHRAN: Thank you, Mr. Chair.

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1 I'm actually a little inclined to stand on the  
2 record because almost anything we would say is repetitive of  
3 what you just said and what the applicant has said. But I  
4 would point out that they withdrew the variances. They  
5 couldn't have supported those.

6 It seems like they meet the criteria for the  
7 setbacks, the screening, the appearance, given that it is an  
8 industrial building, and with all of the artwork, the  
9 appearance looks good. Traffic and loading, DDOT has no  
10 problem with that. It's basically a vacant building, as far  
11 as people occupation goes.

12 The general purpose and regulations, you know  
13 the zoning regulations, it's a special exception. It's  
14 permitted as long as they meet the criteria. They do seem  
15 to be meeting the criteria of the zoning regulations.

16 Now, that's not to address what the Public  
17 Service Commission would look at. We're not looking at  
18 whether the station is needed in this particular location.  
19 We're not even looking at whether the station is needed in  
20 the overall electrical grid, if we're looking at future  
21 energy regulations that DOE might promulgate.

22 To us, it seems like it meets the special  
23 exception criteria. I would be happy to go into it in more  
24 detail but I know that there is a long of list of people that  
25 want to speak today.

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1 CHAIRPERSON HILL: Okay, does anyone have any  
2 questions for the Office of Planning? Okay.

3 Is there anyone here wishing to speak in  
4 support? Okay, support? Okay, come on down.

5 Have you all been sworn in? Were you sworn in?  
6 Okay, all right. Okay, great.

7 If you could just go ahead and you need to push  
8 the microphone button to speak and then turn it off, if you  
9 wouldn't mind, when you're done because when there is more  
10 than one microphone on it feeds back.

11 And then there are clocks in the top corners  
12 there that you can take a look at and you'll each have three  
13 minutes.

14 If you could please introduce yourself for the  
15 record. Let's do that first. Why don't you go ahead and  
16 introduce yourselves, please?

17 MS. SEGERO: Good morning, ladies and gentlemen.  
18 My name is Rosemary Segero. I am a resident of Golden Rule  
19 Apartments on K Street opposite where the station will be  
20 constructed.

21 CHAIRPERSON HILL: Okay, could you spell your  
22 last name for us?

23 MS. SEGERO: S-E-G-E-R-O.

24 CHAIRPERSON HILL: I'm sorry. Say that again.

25 S?

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1 MS. SEGERO: Segero, S-E-G-E-R-O.

2 CHAIRPERSON HILL: Okay, great. Thank you.

3 MS. HARVEY: Good morning, I'm Bernadette  
4 Harvey. I am the President of BConstrux. I live in the  
5 Shepard Park Community and I'm happy to be here today.

6 CHAIRPERSON HILL: Okay, great. Thank you.

7 So as I mentioned, you'll each get three  
8 minutes. And we'll start with you, Ms. Segero.

9 MS. SEGERO: Yes, Segero.

10 CHAIRPERSON HILL: Segero. Segero. And the  
11 clock is up there and you can start whenever you like.

12 MS. SEGERO: Yes, I'm ready.

13 CHAIRPERSON HILL: Please, go ahead.

14 MS. SEGERO: Yes, as I said my name and I've  
15 been living in Golden Rule Apartments for the last 16 years.  
16 And all the new development, housing, and everything have  
17 come while I'm there. And looking at this station, now that  
18 they are bringing in new development, not only the station,  
19 Walmart, everything has come while I'm there. So when I saw  
20 the station being constructed, being planned, and I have  
21 attended most of the events and we talked to many of the  
22 Pepco.

23 First of all, I want to thank Pepco also for the  
24 service they have given us as the community. And they are  
25 great, even if other services are coming in. So that's why

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1 I said let me come and support my long-term server.

2           So when I talked to the Pepco officials,  
3 including the residents, we talked and we said that this  
4 development would be good for the development of the area,  
5 just like any other development. They complain. They say  
6 this. They say that. We say no. What people need in the  
7 community is just to be educated on the effects or how the  
8 development would be for Pepco.

9           We don't see anything wrong with Pepco having  
10 development near our place. As the gentlemen Mr. Bailey has  
11 said, looking at the regulatory healthcare and regulation,  
12 I have gone through it and I have read and I saw there might  
13 be not much of effect looking at the neighborhood and the  
14 development because I also asked many questions.

15           So I talked to many of the neighbors who are  
16 complaining. I said we don't think this is a good  
17 development and I think it could work here. And there are  
18 some fussy ladies inside the development that would help the  
19 community and the children and the families around to go and  
20 stay near the trees just looking at likely development in  
21 town near our place.

22           And also looking at emergencies, sometimes Pepco  
23 calls over the station is far. But when the station is near  
24 and there is emergency, it becomes easier for the residents  
25 around the development which is the station.

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1           So as a person and as a resident who has lived  
2 in this place for a long time, I don't think there would be  
3 a very great bit problem. This is a good development and I  
4 support as a resident of the place.

5           I also do a lot of research what would be the  
6 effect to the children, to the women, to the community. I  
7 for sure so there wasn't so much on healthcare because I was  
8 also contacting the Department of Health there and asking is  
9 this going to bring a problem, hazard, climate, or healthcare  
10 to people, to the children. And I see this as a development  
11 that I could support as a resident.

12           Thank you.

13           CHAIRPERSON HILL: Okay, thank you.

14           Ma'am.

15           MS. HARVEY: Hi, I'm Bernadette Harvey. I'm the  
16 president on BConstrux.

17           CHAIRPERSON HILL: Ms. Segero, if you could turn  
18 off your microphone now. I'm sorry. Thank you.

19           MR. MOY: Mr. Chairman, if she is representing  
20 a group, then she would have five minutes. I just wanted to  
21 remind you.

22           CHAIRPERSON HILL: Yes, thanks, Mr. Moy. That's  
23 really helpful.

24           So you are representing a group, correct?

25           MS. HARVEY: I represent my company. I'm just

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1 saying the name of my company, BConstrux.

2 CHAIRPERSON HILL: Okay, so you're an individual  
3 then?

4 MS. HARVEY: Yes.

5 CHAIRPERSON HILL: So you'll have three minutes.

6 MS. HARVEY: Okay.

7 CHAIRPERSON HILL: But as Mr. Moy has just  
8 pointed out, if you're representing a group, you'll get five  
9 minutes.

10 MS. HARVEY: Okay.

11 CHAIRPERSON HILL: Thanks, Mr. Moy.

12 Please, go ahead whenever you like.

13 MS. HARVEY: Okay, I am a native Washingtonian  
14 and my company has had the opportunity to work on several  
15 projects, both in the District, as well as Maryland and  
16 Virginia.

17 And this substation will provide additional  
18 capacity that exists in this neighborhood. And the area  
19 demographics in the neighborhood have changed significantly  
20 and it requires more power.

21 The project is being proposed as a measure to  
22 accommodate the ongoing expansion that the neighborhood is  
23 experiencing. So it would be prudent to use -- it would not  
24 be prudent to use the current power source to accommodate the  
25 increased density in this neighborhood. We are replacing

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1 vacant lots and single-family homes with condominium towers  
2 and office towers. Different power requirements. Another  
3 benefit of the project will be a platform for other  
4 alternative power sources, such as solar.

5           The Capital Grid Project will create the need  
6 for additional jobs for D.C. residents. And Pepco and Exelon  
7 Company has established a training academy, since its merger,  
8 in D.C. to prepare residents for these occupancies. These  
9 jobs often command salaries above the minimum wage. It has  
10 also created a growth opportunity for small companies such  
11 as mine.

12           Pepco has consistently been a good community  
13 partner and they have invested time, talent, and financial  
14 resources to that end. As a construction company owner, I  
15 recognize the drawbacks that also come with the improvements.

16           I live in Shepherd Park, as I said, and I do  
17 work currently at the Parks at Walter Reed. Our neighborhood  
18 has been reminded of the traffic, the noise, and that existed  
19 when that campus was active prior to the current  
20 construction. I have observed Pepco and they have  
21 demonstrated and share the sensitivity that our company has  
22 about the community and the disruption that it creates.

23           Pepco has been diligent in informing the public  
24 before, during, and subsequent to their projects. BConstrux  
25 has attended several supplier forums conducted by Pepco and

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1 it meets -- they meet with their subcontractors to ensure  
2 that they respect the neighbors and the neighborhood in  
3 completing the projects.

4 I strongly urge approval of the requested  
5 adjustments.

6 CHAIRPERSON HILL: Okay, great. Thank you, Ms.  
7 Harvey.

8 Does the Board have any questions for the  
9 witnesses? Okay.

10 All right, well thank you all very much. Thank  
11 you. Thank you.

12 All right, so is there anyone here wishing to  
13 speak in opposition? If you could, please come forward.

14 Okay, great. Well, welcome. Let's see, so  
15 let's go ahead and introduce ourselves first. Let's see if  
16 we have one more. Okay, great. No problem.

17 All right, sir, if we could just go from my  
18 right to left. Sir, if we could start with you and maybe we  
19 will just introduce ourselves first with your name and  
20 address and then we'll begin. So go ahead first, sir.

21 MR. ROBINSON: Sure. My name is Robert  
22 Robinson. My address is 1631 Newton Street, Northwest,  
23 Washington, D.C. 20010. And I'm with the D.C. Consumer  
24 Utility Board that is an organization incorporated in D.C.

25 CHAIRPERSON HILL: Okay, great. All right, Mr.

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1 Robinson.

2 MS. NOROUZI: I am Parisa --

3 CHAIRPERSON HILL: Mr. Robinson, if you could,  
4 turn off your microphone. I'm sorry. I get feedback  
5 otherwise. Thank you.

6 MS. NOROUZI: I'm Parisa Norouzi. I'm the  
7 Executive Director of a group called Empower DC and our  
8 headquarters is at 1419 V Street, Northwest, Washington, D.C.

9 CHAIRPERSON HILL: Could you spell your name for  
10 me, again?

11 MS. NOROUZI: Sure. Parisa, P-A-R-I-S-A,  
12 Norouzi, N-O-R-O-U-Z-I.

13 CHAIRPERSON HILL: Okay, great. Thank you.

14 MS. THORNDIKE: Hello. My name is Camila  
15 Thorndike. That's C-A-M-I-L-A and the last name is T-H-O-R-  
16 N-D-I-K-E. And I'm here representing the Chesapeake Climate  
17 Action Network or CCAN and my address is 1885 Ingleside  
18 Terrace, Northwest.

19 CHAIRPERSON HILL: Okay.

20 MR. FIRMAND: My name is Nick Firmand. It's F-  
21 I-R-M-A-N-D. And I live at 1516 Marion Street, Northwest in  
22 Ward 6.

23 CHAIRPERSON HILL: Okay.

24 MR. BALAKUMAR: And good morning. My name is  
25 Nikhil Balakumar. The first name is spelled N-I-K-H-I-L.

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1 The last name is spelled B-A-L-A-K-U-M-A-R. It's sort of  
2 long. Sorry.

3 I'm a principle at the Greentel Group, a D.C.-  
4 based clean energy company and my address is 400 K Street,  
5 Northwest, just a couple blocks from the substation.

6 CHAIRPERSON HILL: Okay, just to be clear again.  
7 Are you here representing a group or are you here -- or are  
8 you just saying you have a company?

9 MR. BALAKUMAR: I am representing my company,  
10 which is a local clean energy company.

11 CHAIRPERSON HILL: Okay, so you are -- okay.  
12 All right.

13 MS. AZIZ: Good morning. My name is Tiffany  
14 Aziz -- T-I-F-F-A-N-Y, last name A-Z-I-Z and I'm here  
15 representing the Not in My Community Campaign. I am the lead  
16 community organizer.

17 CHAIRPERSON HILL: Okay.

18 MR. AMIN: Also good morning. My name is Ra  
19 Amin. First name R-A, last name A-M-I-N. I'm here as a  
20 resident but newly elected commissioner in a very diverse  
21 part of the city. And my address is 1007 Hamlin Street,  
22 Northeast, Washington, D.C. 20017.

23 CHAIRPERSON HILL: Okay, great. You're not the  
24 commissioner for this ANC, though.

25 MR. AMIN: I am not the commissioner for this

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1 ANC.

2 CHAIRPERSON HILL: Okay and you just won your  
3 election yesterday?

4 MR. AMIN: I just won my election yesterday.

5 CHAIRPERSON HILL: Okay, congratulations.

6 MR. AMIN: Thank you.

7 CHAIRPERSON HILL: Sir?

8 MR. BEY: Good morning, my name is Zulfekar  
9 Ansar Bey, Z-U-L-F-E-K-A-R, Ansar, A-N-S-A-R, Bey, B-E-Y.  
10 I'm just a concerned aboriginal American totally against  
11 whatever this project is because it's just not right.

12 CHAIRPERSON HILL: Okay.

13 All right, so once again, so we're going to  
14 start back over here with you, Mr. Robinson, and we're going  
15 to go down the line. And those that are representing an  
16 organization, such as yourselves, will get five minutes. And  
17 then individuals will get three minutes.

18 And so the clock is up there on your right and  
19 Mr. Robinson, you can begin -- or there is one on either  
20 side, I think. And you can begin whenever you like.

21 MR. ROBINSON: Thank you. Thank you for  
22 allowing me to appear before the Board today. My name is  
23 Robert Robinson and I chair the D.C. Consumer Utility Board.  
24 It was organized in 1978 and we organized in 2016. It's now  
25 incorporated in D.C. and it's designated by the IRS as a

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1 501(c)(3) nonprofit. Our mission is to educate, organize,  
2 and mobilize D.C.'s residents, ratepayers, and taxpayers  
3 around the impact and policies of the District's four  
4 monopoly utilities, namely, Pepco, Washington Gas, Verizon,  
5 and D.C. Water.

6           What's before the Board today is Pepco's  
7 proposal to build a substation. It's part of a series of  
8 interconnected projects before the D.C. Public Service  
9 Commission, as has been mentioned. They are designated by  
10 the PSC as cases -- formal cases 1150 and 1144 and they are  
11 referred to, as you know, as the Capital Grid Project.

12           If approved by the PSC, the proposed  
13 construction that is being considered here related to this  
14 would cost hundreds of millions of dollars and it would be  
15 rate based. Rate basing means the value of property on which  
16 a public utility is permitted to earn a specific rate of  
17 return in accordance with rules set by, in this case, the  
18 Public Service Commission. In other words, these projects  
19 will become part of a cost borne by the ratepayers.

20           And what really is at stake -- I understand the  
21 issues of location and the way this appears in the community,  
22 as well as the potential health impact but what is definitely  
23 at stake for ratepayers throughout D.C. is that they will be  
24 bearing the cost of this. So the issue for the public and  
25 the public interest, and I realize those are not all your

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1 concerns, but that does bear on what the Public Service  
2 Commission is doing, is whether or not this meets the needs  
3 of the community and what it will actually cost. And I can  
4 tell you that in presenting these issues to the public, Pepco  
5 does not explain that these projects are going to add to the  
6 rates that they pay or what that impact will be.

7           The other thing that I would like to make the  
8 case for is the fact that the PSC has not yet ruled on this.  
9 Our view is that it would be premature at this time for the  
10 BZA to take action on this variance request while it still  
11 has not been -- the disposition of it before the PSC has not  
12 been set.

13           In addition to that, you have information from  
14 the D.C. Department of Energy and the Environment. One of  
15 the things that DOEE and other complainants in the case  
16 before the PSC pointed out was that the load growth figures  
17 that Pepco put forward to justify this particular project and  
18 the scope of it were not substantiated. Additionally, DOEE  
19 has done an extensive study by a group called Synapse that  
20 shows that the costs are not borne out by the way that the  
21 problems of growth could be solved. They basically indicate  
22 that by using things like demand management, energy  
23 efficiency, solar, and battery storage that the same growth  
24 needs that actually exist, not the ones that Pepco claims but  
25 that actually exist, could be met at a fraction of the cost.

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1 I'd also like to point out that I've attached an  
2 article that appeared the day before yesterday in a  
3 publication called Greentech Media. Okay? And it talks  
4 about how utilities use these construction projects to  
5 generate profits because they can but they also do it in such  
6 a way that it prevents the communities from having the  
7 financial power to build the types of things that it needs.

8 For example, our distribution system in D.C. was  
9 built largely in the '30s through the '50s. It's now at the  
10 end of its lifecycle. What we need is different than what  
11 Pepco is building but what it's building is something that  
12 it generates enormous profits for Exelon for. And in fact,  
13 this article identifies Exelon as one of the country's  
14 nationally that is increasing its distribution spending, and  
15 particularly here in Washington, D.C., because they profit  
16 from it. It does not meet the needs of the community. It  
17 does meet their revenue concerns.

18 So for all of those reasons, we feel that  
19 approving this request right now is not in the best interest  
20 of the public. We don't feel like the need is here, that the  
21 figures had been substantiated, and we clearly believe that  
22 the District of Columbia Government has demonstrated that  
23 there are far cheaper ways of getting D.C. the energy that  
24 it needs.

25 Thank you very much.

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1 CHAIRPERSON HILL: Thank you. Okay, if the  
2 Board is okay, I'm going to go through all the testimony and  
3 then we can take questions.

4 Next, please.

5 MS. NOROUZI: Good morning. Again, my name is  
6 Parisa Norouzi. I am the co-founder and executive director  
7 of an organization called Empower DC. We were founded in  
8 2003 and so for the last 15 years we have worked with  
9 communities across the city and a lot of that work has been  
10 on issues related to land use, whether it be related to  
11 affordable housing, community development, city planning,  
12 environmental justice, but a lot of it comes down to land  
13 use.

14 We are unequivocally against the approval of the  
15 Mount Vernon Substation and I echo everything that Rob  
16 Robinson just stated but also want to hammer on the issue of  
17 environmental injustice.

18 Clearly this site -- and there were some  
19 questions earlier about why was this site -- this particular  
20 site chosen. So I think it's important to become familiar  
21 with the community and its surroundings. It was chosen  
22 because it was seen as the site of least resistance. It is  
23 in the lowest income section of the NoMa Community, which is  
24 otherwise becoming a very affluent community. It is  
25 surrounded by not only a low-income elementary school but

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1 also affordable and senior housing.

2           And I want to point out that in Pepco's  
3 presentation about the community input, they didn't show  
4 anything that related to the time period of 2014, when this  
5 land use was actually approved through a land swap with the  
6 City Council. There was no community transparency. There  
7 was no meetings. There was not input. It was done through  
8 a very hurried City Council transaction to make way for the  
9 soccer stadium in Southwest. They did some land swaps with  
10 Pepco and this was one of them.

11           You know before that, though, this land was  
12 slated to be used for affordable housing to replace  
13 demolished public housing. And so that clearly shows you the  
14 pattern of just complete lack of transparency and neglect of  
15 this community and the belief that permeates throughout the  
16 City Government, not just you know on the part of Pepco but  
17 all the complicit agencies, the Department of Planning and  
18 Economic Development, the Office of Planning, and others that  
19 they could just do something without real community input  
20 because this community couldn't fight back. It was not going  
21 to be a community that was able to really voice its  
22 opposition.

23           So I want to commend Tiffany Aziz especially and  
24 the Not In My Community movement for speaking up, and taking  
25 on this fight, and alerting folks like Empower DC so that we

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1 could be supportive of it.

2           The other thing is my understanding is when the  
3 BZA approves an exemption that you have, especially for an  
4 institutional use, that you have a couple of standards. One  
5 is to determine if there is a need and two is to determine  
6 if there is an alternative. And my understanding is that  
7 based on what has been submitted by the Office of Attorney  
8 General, the D.C. Department of Energy and Environment, the  
9 Office of the People's Council, the Consumer Utility Board,  
10 and others who are experts in the energy field, that this  
11 substation is not needed. Not only is this substation not  
12 needed, but the whole Capital Grid Project is not needed and  
13 is being promoted because of the profit motives that Rob laid  
14 out at the cost of the ratepayers, which I appreciate Rob  
15 continuing to remind us of.

16           That also underscores the influence, the undue  
17 influence of a powerful corporation like Pepco. And I wish  
18 I had had the time to do a flow chart to show you the money  
19 that has exchanged hands between the NoMa bid, likely the ANC  
20 and some pet projects, and Pepco. And I say not below you  
21 know not necessarily money like bribes but just they clearly  
22 are partners in a bigger plan of land use in the area.

23           For instance, the City Council gave the NoMa bid  
24 \$50 million of our taxpayer dollars to purchase land and buy  
25 -- to build parks. They bought I think two of the parcels

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1 from Pepco. And so there has been a steady exchange of money  
2 and partnership among these entities for several years to the  
3 exclusion of the low-income residents and the participants  
4 in the elementary school.

5 I think that that makes your job a little harder  
6 because, on the surface, all of these entities are going to  
7 say oh, yes, we partner so well together. You know yes, the  
8 NoMa bid you know they bought one site from Pepco for \$14  
9 million to build a park in NoMa. So clearly, they have a  
10 relationship and they are not going to speak against each  
11 other. So I think you will have to do a little bit -- your  
12 job is a little harder because you are going to have to dig  
13 beyond surface things like ANC approval and support from the  
14 bid to see is this really needed and is there an alternative.

15 And you know I just urge you to look at those  
16 records from the Public Service Commission and do not approve  
17 this. It would be premature and it would be harmful to the  
18 community.

19 Thank you.

20 CHAIRPERSON HILL: Okay, thank you.

21 Next, you will also have five minutes to due to  
22 your representation.

23 MS. THORNDIKE: Great, thanks. So again, my  
24 name is Camila Thorndike and I work for the Chesapeake  
25 Climate Action Network. We have worked in this region for

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1 15 years and I'm currently coordinating a campaign to pass  
2 a clean energy policy here in the District, along with many  
3 partners here in the room.

4           So on behalf of our organization, our 7,300  
5 members here in D.C., we respectfully ask for a delay of this  
6 project at least until the PSC has made a decision and are  
7 leaning towards an outright -- that we suggest that the  
8 project be rejected because of the reasons that have been  
9 stated here today.

10           First I just want to point out, again as people  
11 have, that DOEE, OPC, and the Attorney General do not support  
12 this project on the basis of no demonstrated need and, again,  
13 the failure to really investigate the alternatives.

14           The estimated \$143 million for this substation  
15 is a significant investment and this does have consequences,  
16 as Rob and others have pointed out, for not only ratepayers  
17 who will bear that cost but for our environment, as has been  
18 shown in many examples of unnecessary, outdated  
19 infrastructure development throughout this country, which is  
20 locking in an antiquated system of fossil fuel energy use,  
21 which is leading to not only the extinction of countless  
22 species on earth but billions of deaths across the world,  
23 which we are starting to feel here in D.C., with heat waves  
24 increasing, with catastrophic storm events increasing,  
25 projected food shortages, water shortages, and the untold

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1 consequences of catastrophic climate change, which we are  
2 hurdling towards right now.

3           And I point this out because D.C. presents  
4 itself as a leader on climate action and that's why a project  
5 like this really needs to be taken into that context. We  
6 have our mayor joining the C40 Initiative of mayors across  
7 the world saying that we're still in the Paris Climate  
8 Accord, even as our President pulled us out, committing to  
9 carbon neutrality by 2050, to clean cars, to increasing the  
10 renewable portfolio standard, and all of these measures. If  
11 we continue to lock in infrastructure, distributing dirty  
12 energy, and preventing the expansion of non-wires  
13 alternatives and energy efficiency, they are all just  
14 statements. They are not reflected in the actual use, and  
15 construction, and exchange of energy here in the District.

16           Just to underline the climate risk, which we are  
17 locking ourselves into with projects like this, currently the  
18 globe has warmed 1.8 degree Fahrenheit and we must stay below  
19 2.7 degrees Fahrenheit as the Intergovernmental Panel on  
20 Climate Change or IPCC recently released in a report, which  
21 showed just how dramatically the climate risks have been  
22 underestimated and that will require cutting in half our use  
23 of fossil fuels in the next 15 years and outright giving them  
24 up altogether within 30 years. So that means no use of coal,  
25 oil, gas, tar sands, anything in our homes, our businesses,

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1 our industries within 30 years. And I am sure that this  
2 project intends to serve the District beyond that time,  
3 showing that the climate concerns, again, which our city  
4 presents as taking seriously are not in fact when it comes  
5 to decisions like these and that is your opportunity is to  
6 really show that we mean business when we talk about climate  
7 justice and protecting the health of our residents here.

8 I know others may address this as well but if  
9 the climate concerns themselves don't rise to the surface of  
10 priorities here, just the economics of this, the fact that  
11 we spend \$1.8 billion here in D.C. every year on fossil  
12 fuels, that's money that just leaves the District altogether,  
13 when we could invest in, again, renewable energy and  
14 distributed energy, and energy efficiency solutions which  
15 themselves provide 12,000 jobs here in D.C.

16 So let's take into account that energy  
17 efficiency alone far outstrips the potential for jobs and  
18 local economic development that further development of,  
19 again, this outdated fossil fuel based infrastructure  
20 proposes.

21 So I would respectfully ask that the Commission  
22 -- that the Public Service Commission be given the time it  
23 needs to fully investigate this project and that the BZA take  
24 into account the benefits of alternatives such as rooftop  
25 solar, battery storage, microgrids, and, again, energy

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1 efficiency.

2                   So thank you so much for your time and I'm happy  
3 to answer any questions.

4                   CHAIRPERSON HILL: Thank you.

5                   Sir, you are here as an individual, correct?

6                   MR. FIRMAND: Yes.

7                   CHAIRPERSON HILL: Okay, so you'll have three  
8 minutes and you can begin whenever you like.

9                   MR. FIRMAND: Great. So thank you for the  
10 opportunity to come and testify.

11                   My name is Nick Firmand. I moved to D.C. it was  
12 about seven years ago. I was originally trained as an  
13 architect, and came here to work in the green building  
14 industry and have come to find out about this project through  
15 Tiffany Aziz and through the Not In My Community Project.  
16 I heard about them actually on Taking Action. This is my  
17 first time testifying before a committee like this.

18                   So I think that I want to echo a lot of the  
19 things that have been said already that I think it is  
20 particularly egregious for this project to be ushered through  
21 in a low-income, largely African American community. And I  
22 believe also that it would impact the Community Garden that  
23 is utilized by the school as a learning project. And so I  
24 think there is a lot of value using a community garden as a  
25 tool to teach children about the value of the environment and

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1 also about the value of nutrition and health in their bodies.  
2 And what does it say to the children to see a community  
3 garden get destroyed by a dirty energy project?

4 I think that if it was the case that the only  
5 way to keep the lights on in the city was to have this  
6 substation be built here, then it would make sense to talk  
7 about maybe where we could build it but I don't believe that  
8 is the case. I think that the Department of Energy and the  
9 Environment has come out and said that actually there is no  
10 need to -- you know the peak load calculations were  
11 miscalculated and actually we could meet this through other  
12 alternatives that have not been explored like microgrids,  
13 rooftop solar, other renewable energy projects.

14 And so I know that the D.C. Clean Energy Act is  
15 looking to get 100 percent renewable by 2032 and I think it's  
16 a huge opportunity to have D.C. be a leader in clean energy  
17 and to be able to use what we're doing here as a model  
18 nationwide and I want to be able to champion that idea to  
19 like friends, and family, and colleagues in other parts of  
20 the country. But just to see decisions being made to you  
21 know particularly the equity aspects of it to do this in the  
22 community that it is being done and also to be investing so  
23 much money still in old grid technologies, it makes it really  
24 difficult I think for me to feel like I can be a champion of  
25 the energy planning that's happening in D.C.

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1           So my ask is for this project not to move  
2 forward and for you not to grant the land use exemption to  
3 them. Thank you.

4           CHAIRPERSON HILL: Okay, thank you.

5           Sir, you also have three minutes. I'll put it  
6 on the clock right there. You can begin whenever you like.

7           MR. BALAKUMAR: All right. The group has been  
8 so great at kind of pointing out everything and so I  
9 apologize if I'm being a little repetitive.

10           Thank you for the opportunity to testify today.  
11 My name is Nikhil Balakumar. I am principle at the Greentel  
12 Group, a D.C.-based clean energy company focused on grid  
13 modernization both here in the District and across the  
14 country, also working on various clean energy policies coming  
15 out of the Council, one of which would force mandatory  
16 reviews of alternatives to substations moving forward.

17           I am here today to respectfully request the  
18 Board of Zoning to delay any approval of the development of  
19 the proposed substation until the Public Service Commission  
20 has made a decision on this matter, which we are told will  
21 be expected sometime next year, not to mention we are  
22 expecting two new Public Service Commissioners who may delay  
23 this further.

24           It is our understanding that the review of this  
25 proposal is still ongoing with widespread concerns on the

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1 prudence of such a significant investment from DOEE, Office  
2 of the People's Council, D.C. Councilmembers, a few of which  
3 will be submitting a letter to the Public Service Commission  
4 in the coming weeks in opposition to this, and various local  
5 organizations.

6           Though our energy needs may be increasing in  
7 light of the significant economic development of the  
8 District, it has been proven across the country that  
9 investment in traditional infrastructure, such as  
10 substations, can be unnecessary, placing significant burden  
11 on the ratepayers while doing little to benefit D.C.  
12 residents.

13           As Camila mentioned, we currently export \$1.8  
14 billion of the District's wealth to buy electricity from  
15 outside of the city and building another substation would  
16 continue to build on this number.

17           The Commission is currently considering DOEE's  
18 proposal for non-wires alternatives, which would leverage  
19 cleaner, cost-effective alternatives, potentially including  
20 rooftop solar, battery storage, microgrids, and energy  
21 efficiency projects, all of which would bring local  
22 investment into the city. And rather than spending hundreds  
23 of millions of dollars on a substation, we could redirect  
24 that investment into buildings, into the homes of all these  
25 different residents, which would end up reducing energy

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1 bills, not increasing rates.

2 We hope the Board will delay their decision in  
3 light of these facts and thank you for your time.

4 CHAIRPERSON HILL: Thank you.

5 Ms. Aziz, you will have also five minutes  
6 representing your group.

7 MS. AZIZ: Okay.

8 CHAIRPERSON HILL: So Mr. Moy, if you would put  
9 that on there.

10 And you can start whenever you like.

11 MS. AZIZ: Thank you.

12 CHAIRPERSON HILL: You're welcome.

13 MS. AZIZ: Again, my name is Tiffany Aziz and I  
14 am speaking on behalf of the Not In My Community project  
15 campaign.

16 First I just want to clear up Mr. Keith Silver,  
17 the ANC Commissioner that submitted this morning, he is  
18 actually the former ANC Commissioner for Ward 6. He is also  
19 a resident of Golden Rule Apartments and he also works with  
20 Not In My Community. So I know you probably was thinking  
21 he's current. He's not. He's a former commissioner and he  
22 is in opposition of the substation.

23 But just to echo everything everyone else said,  
24 I totally stand with them. I wanted to point out that I've  
25 been out in the community. We have been talking with the

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1 community residents. We have been talking to DC Greens'  
2 Director of the Garden and a lot of the community residents  
3 are in opposition of what is going on. DC Greens is also in  
4 opposition.

5 I have spoken anonymously to faculty of Walker-  
6 Jones Education Campus due to I guess issues. They cannot  
7 come forward. They are also in opposition.

8 The community was misinformed. A lot of them  
9 they believe that this thing that is coming to the community  
10 is something like a station where they can pay their Pepco  
11 bill or they are thinking that this is a Metro substation.  
12 So I actually took the time to sit down and actually educated  
13 them. And once they knew exactly what was going on, I  
14 received over 300 signatures in opposition on my petition  
15 that I did submit to you all.

16 Also the parents of Walker-Jones Education  
17 Campus, we were not informed. When I spoke with the  
18 Principal at Walker-Jones Education Campus, he was just told  
19 to move the vehicles from the parking lot; you cannot use  
20 them any longer. That is what I was told.

21 I then set up a town hall meeting. I reached  
22 out to Pepco and said hey, I'm setting up a town hall  
23 meeting. I want to educate the community. I want to educate  
24 the parents. Please come and teach us, you know provide us  
25 a presentation. They declined the offer.

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1           The community don't want the substation there.  
2 We don't want our garden removed. The children does not want  
3 that garden removed or that farm. The children as well as  
4 the school utilizes the garden. The cafeteria uses those  
5 vegetables and those garden foods and they also teach the  
6 children how to grow fruits and vegetables and where they  
7 come from. They also get to learn about the animals. You  
8 know one place you can go, you can take your kid down there  
9 and see a chicken that's not wrapped in plastic. I think  
10 that's awesome. We don't want that taken away from us.

11           Also, again to echo what some have said about  
12 the D.C. Sustainability Plan that is coming down the pike,  
13 you know this will not align with what D.C. is trying to  
14 become, which is a greener, nicer, cleaner D.C. There are  
15 also other cheaper and cleaner alternatives.

16           Also just to touch on EMF, I am a former  
17 employee of Children's National Medical Center in the  
18 Radiology Department. EMF, yes, it is dangerous but they  
19 never talked about the levels of EMF. So your house  
20 appliances is like a different level than what this  
21 substation will bring into the community. And as said by  
22 Pepco's own admission, it will release 14 to 19 milligauss  
23 within the community, which is dangerous. It only takes 3  
24 milligauss to cause issues -- health issues in the community.  
25 So if you are bringing in 14 to 19 milligauss a day into the

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1 community, that is pretty dangerous.

2 Also, there was a story in the newspaper at the  
3 end of August, August 29th, where a substation caught on  
4 fire. One of the transformers underground caught on fire and  
5 it causes issue in the community.

6 So I am asking that you hear our voices today,  
7 that you hear the Attorney General's Office who said they  
8 overestimated their need to even have this particular  
9 substation here. I ask that you really pay close attention  
10 to what you are saying. I ask that you hear our concerns.  
11 I ask that you hear the community's concerns. I ask that you  
12 hear the children's concerns, faculty -- I stand on behalf  
13 of many people that said hey, if I speak up, I will lose my  
14 job. I will lose my position. I need my job. So I am  
15 standing here on behalf of faculty of the school, the  
16 teacher's union, DC Greens, many residents of Golden Rule,  
17 SeVerna, the Senior Citizen Living community, as well as the  
18 parents of Walker-Jones.

19 And I ask that you delay your decision or just  
20 stop the substation. We don't want it -- not in my  
21 community.

22 CHAIRPERSON HILL: Okay, thank you.

23 Mr. Commissioner, you have three minutes as  
24 well.

25 MR. AMIN: Yes, thank you very much. Thank you

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1 for this opportunity. Again, my name is Ra Amin. I am  
2 commissioner-elect of 5B04. I am also an urban gardener, a  
3 master -- an urban farmer, a master gardener, and a long-term  
4 -- a native Washingtonian.

5 And I've had a very, very long day. I was out  
6 in the rain all day yesterday so my voice is a little raspy  
7 at this time. And I was out last night celebrating with  
8 other newly elects. But when I heard about this, I knew I  
9 had to show up this morning. So this is why I am here.

10 And everything that was said before me, I can't  
11 say that any better but what I will say is that if Pepco has  
12 provided, I think I heard a number of 85 letters from ANC,  
13 their local ANC. Eight-five letters from a local ANC isn't  
14 reflective of a community. A community -- the ANC and  
15 organizers, the civic associations of a community need time  
16 to get out and educate the people of this choice.

17 What you will see at your ANC meetings, you will  
18 see a very elite group, a group that has the opportunity to  
19 attend nightly ANC meetings. It's wonderful that some of our  
20 older residents really approve of having this station in  
21 their neighborhood but I agree with Tiffany; you need to talk  
22 to some of our children, some of our younger residents, some  
23 of our expecting mothers, those people and see what they want  
24 in their community as well. I think it's very important.

25 We all know that D.C. is on the cutting edge as

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1 being one of the most sustainable cities on the planet, if  
2 not the nation. So why are we going in this direction? We  
3 really have to ask ourself that question. Why? Why is this  
4 being pushed so hard at this time?

5           Everyone talks about creating jobs, creating  
6 jobs. We know the future is in sustainable living, urban  
7 farming, alternative modes to farming, green and renewable  
8 energy. But we talk about creating jobs. Let's talk about  
9 creating opportunities for entrepreneurships for our young  
10 people and for our children. I think that is an important  
11 conversation we should be having. Let's give people that  
12 opportunity. Let's give people the opportunity to make  
13 choices in their life.

14           CHAIRPERSON HILL: All right, thank you, Mr.  
15 Commissioner.

16           MR. AMIN: Thank you.

17           CHAIRPERSON HILL: All right, sir, you also will  
18 have three minutes and you can begin whenever you like.

19           MR. BEY: Good morning. My name is Zulfekar  
20 Ansar Bey, an American Aborigine. And once again, I would  
21 like to state for the record the people who have been  
22 displaced through all these cities are not African Americans.  
23 They are not black. They are not colored. They are not  
24 negroes. Okay, they are Aboriginal. These are indigenous  
25 people of this whole continent called America.

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1           When we look at D.C., we looking at Pepco and  
2 all these places like that, they are just corporations and  
3 they are trying to speak on behalf of the people. You've got  
4 to ask the people what they want. So then the people say  
5 they don't want it. That's the bottom line because that is  
6 a violation of international law. The rights of indigenous  
7 people was signed by President Obama in 2010, which was  
8 highly recommended by 147 countries out of 200 countries that  
9 was already agreed under international law. And these people  
10 have a right to self-determination. So you need to ask them  
11 what they want.

12           So right now I could ask you right now, each and  
13 every one of you where is your delegation of authority order.  
14 Where is your delegation of authority order? Huh? You're  
15 working for a corporation, right? These are live, flesh and  
16 blood, human people -- human beings and they have rights, not  
17 privileges. And you just can't sit up here and give them  
18 some worthless currency. We're talking about 725 million  
19 what? That's a violation itself of Article 1, Section 10 of  
20 the Constitution, which no state shall print nothing but gold  
21 or silver coins. Okay? These are live, flesh and blood  
22 human beings.

23           And to get down to the energy part of it, what  
24 the scientists was saying he didn't find no harm in these  
25 people, well we know that people that is highly melanated

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1 people, they are high frequency people and low frequency goes  
2 against them. And all the his experience of what he was  
3 testing for was with people within European countries and  
4 stuff where it is showing that there was no harm or effect  
5 because they are low frequency people. But that's not the  
6 issue here.

7           The issue is that these people own this land and  
8 this is not Washington, D.C., it is just a corporation. But  
9 what is the land? It's America and we are the ancient  
10 Americans.

11           And with that, I agree with the panel and  
12 everything that what's been said. Everybody might be  
13 misunderstanding what I'm saying but you're going to find out  
14 real soon because all that you're building and all that  
15 you're doing without the consent of these people, and once  
16 these people find out who they really are, guess what? They  
17 have aboriginal entitlement to the land, which you don't.

18           With that, I rest.

19           CHAIRPERSON HILL: Okay, thank you.

20           All right, does anyone have any questions for  
21 the witnesses?

22           MS. THORNDIKE: Would it be possible to add a  
23 clarifying comment to my testimony or is that out of order?

24           CHAIRPERSON HILL: Sure, go ahead.

25           MS. THORNDIKE: I just noticed some sort of

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1 quizzical looks on that \$1.8 billion figure about the export  
2 of energy from D.C. and it took me a little bit of time to  
3 wrap my head around that too. So I just wanted to clarify  
4 that by that we mean the purchase of fossil fuels here in the  
5 District. When we turn on the lights, when use our stoves,  
6 when we fire up a generating station, whatever it is, that  
7 money leaves the District permanently because it wasn't  
8 generated here.

9 CHAIRPERSON HILL: Okay.

10 MS. THORNDIKE: You know it's sent to Saudis and  
11 Texans. That doesn't come back.

12 CHAIRPERSON HILL: Okay.

13 MS. THORNDIKE: Energy efficiency dollars stay  
14 here.

15 CHAIRPERSON HILL: Okay. All right, thanks.

16 I don't have any questions. I guess I'm just  
17 kind of listening to everybody.

18 A couple of things: I guess what we're charged  
19 to do here is basically all of the zoning questions in terms  
20 of like the PSC I know that some of you guys are going to be  
21 presenting to them or have presented to them and I guess we  
22 have a dual track. And so the PSC is completely separate  
23 from what we do. And so we're here, and I just kind of  
24 wanted to point everybody to the standards of review that  
25 we're under is U 203.1(p). Then that's for the special

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1 exception. So it's not a variance. It's a special  
2 exception.

3 And then we're looking also at the vehicle  
4 parking under C 703.2, and C 703.3, C 703.4; as well as the  
5 bicycle parking from C 807.2 and 807.3; and then the special  
6 exception general criteria under X 901. So I just kind of  
7 wanted to point out that's what we are supposed to look at  
8 and that's what we're charged with.

9 And then in addition to everything that you all  
10 mentioned, I mean I appreciate you all coming down and the  
11 Board really does, I mean you know we are volunteers also,  
12 and we are people from the community, and have been here a  
13 long time, and have lived here a long time. I mean we're  
14 also doing this. We're all in the same place in terms of  
15 what we're trying to look at. So I just wanted to kind of  
16 let you know what we're charged with evaluating.

17 But thank you all very much for coming down.

18 And could the applicant come back up?

19 And just to let everybody know, actually, after  
20 we finish this hearing, we're going to take a break. So,  
21 just to let everybody know.

22 Okay, I don't know if the Board has any  
23 questions for the applicant. I've got just a couple.

24 I know that you all did go down to the ANC, and  
25 you did work with the ANC, and obviously, you did get the

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1 ANC's support. And part of the conditions, one of them was  
2 moving the garden. Can you tell me a little bit more about  
3 that and how that works?

4 MS. SHIKER: Yes, I'll ask Marc Battle to do  
5 that, please.

6 MR. BATTLE: Sure, we've been working with the  
7 Community Garden. We actually have a meeting coming up on  
8 Monday to discuss the details of exactly what will be  
9 relocated and what time frame. Preliminarily, we're looking  
10 at March of 2019 just based on when we expect the weather to  
11 break. They're also looking at the final site selection for  
12 the Community Garden. That's not been determined yet and  
13 we'll be talking to them about that in our upcoming meeting.

14 CHAIRPERSON HILL: So you'll be working with the  
15 ANC to figure out where. Is that what you just said? I'm  
16 sorry, I didn't get the beginning part.

17 MR. BATTLE: No, working -- so two things.  
18 We're working with the actual Community Garden to --

19 CHAIRPERSON HILL: Oh, okay. All right.

20 MR. BATTLE: -- talk about the time line for the  
21 relocation, which we expect to be in March and they're  
22 finalizing the location. And we will be --

23 CHAIRPERSON HILL: They are the Community Garden  
24 --

25 MR. BATTLE: Yes.

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1 CHAIRPERSON HILL: -- is going to finalize the  
2 location. Okay.

3 MR. BATTLE: And we, Pepco, will be handling the  
4 expenses associated with the relocation of the garden.

5 CHAIRPERSON HILL: Okay. And then the other two  
6 things, the contributions for the three consecutive years to  
7 multiple neighborhood approximately, some of these things,  
8 again, are not zoning issues and they won't be things that  
9 we could actually probably put in conditions anyway. But you  
10 have agreed to all of the conditions that the ANC had  
11 requested of you.

12 MR. BATTLE: Yes, we have.

13 CHAIRPERSON HILL: Okay. All right, and you're  
14 committed to those?

15 MR. BATTLE: Yes, we are.

16 CHAIRPERSON HILL: Okay.

17 MR. BATTLE: Can I just add something?

18 CHAIRPERSON HILL: Sure, of course.

19 MR. BATTLE: And you know the reason we talked  
20 about a three-year commitment, we work a lot with nonprofit  
21 organizations all over the city and we know that predicting  
22 funding on a year-to-year basis is kind of difficult. And  
23 so we want to make sure that the organizations that we're  
24 working with, Mission First Housing, will be supporting the  
25 D.C. Central Kitchen which also works with Walker-Jones

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1 School and others. We want to make sure that they have some  
2 level of certainty in terms of the funding. And so it wasn't  
3 just a one-time event. We committed to three years' minimum  
4 of funding but these are relationships we plan to extend  
5 onward as well.

6 CHAIRPERSON HILL: Okay. All right, does anyone  
7 have any further questions they would like to ask of the  
8 applicant?

9 VICE CHAIRPERSON HART: Sure. So I was actually  
10 looking through the DDOT, their report, and one of the things  
11 I kind of was just curious about, they requested that -- you  
12 only have one curb cut that you are including in the -- one  
13 entrance, I guess, into the site but you have three other  
14 emergency entrances that have, I guess, a rolled curb to  
15 allow vehicles to kind of go over it. But they ask that any  
16 of the gates be not in public space.

17 MS. THORNDIKE: That is correct that they do not  
18 swing out into public space.

19 VICE CHAIRPERSON HART: Right.

20 MS. THORNDIKE: And I'm looking for confirmation  
21 that that is correct.

22 VICE CHAIRPERSON HART: They all swing. They do  
23 swing into it. So that's what I was curious about.

24 MS. THORNDIKE: Erik or Mr. Wang, do you have  
25 any comment on that?

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1 MR. WANG: Yes, we haven't designed it yet.

2 MS. THORNDIKE: So I don't think that's been  
3 fully designed but we certainly will work with DDOT and will  
4 follow any requirements and rules about what is permitted to  
5 go into public space and what is not. So that's what I'll  
6 say on that.

7 VICE CHAIRPERSON HART: Okay, I'm just saying  
8 that the drawings that we have don't show that.

9 MS. THORNDIKE: Okay.

10 CHAIRPERSON HILL: Okay and then actually, I am  
11 curious about a couple things or just one item.

12 So how does the -- I know it's not in our  
13 purview or anything but how does the Public Service  
14 Commission work? Like what do you guys have to do now?  
15 You're working through with them. Is that correct?

16 MR. BATTLE: Yes, we've filed what's called a  
17 Notice of Construction with the Public Service Commission  
18 which is required for any similar project of this magnitude.  
19 And what the Public Service Commission will do is determine  
20 whether there is in fact a need for the project, for the  
21 substation, and they also deal with health and safety  
22 concerns associated with it. And so that's a process that  
23 is ongoing.

24 As other individuals mentioned, it is an open  
25 case. The Department of Energy and the Environment is

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1 involved in that as well as --

2 CHAIRPERSON HILL: Do they have a public hearing  
3 also?

4 MR. BATTLE: There will be -- well, the  
5 Commission will decide what types of hearings it will have.  
6 Up to this point, I don't believe there's been a public  
7 hearing yet but they often will conduct a public hearing for  
8 something like this that has garnered a lot of attention.

9 CHAIRPERSON HILL: Okay, interesting.

10 All right, anyone else?

11 VICE CHAIRPERSON HART: Yes, you keep on --  
12 early on in the presentation you kind of talked about some  
13 property that is to the west of this. Is that where the  
14 Community Garden is?

15 MS. SHIKER: So we're bringing it up on the  
16 screen. It makes it a little bit easier. There we go.

17 VICE CHAIRPERSON HART: Yes.

18 MS. SHIKER: On the east side of the square  
19 fronting on 1st Street, that is the substation property. The  
20 current record lot is an L shape so it includes the somewhat  
21 rectangular square piece that is at the corner of K and New  
22 Jersey Avenue. Can you see it on the mouse now? Yes,  
23 exactly. That is where the current Community Garden is.  
24 That is a property that is being subdivided out. It is zoned  
25 MU-4 and, as you have seen in the ANC report, Pepco has

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1 committed to engaging with the community on the future use  
2 of that site but it is not included as part of the substation  
3 application. It won't be used for a substation. It will be  
4 used during the construction process for staging but it will  
5 not -- it won't ultimately be part of the substation.

6 VICE CHAIRPERSON HART: And so that could be any  
7 -- it could be a number of -- you're not really sure what's  
8 going to be going there.

9 MR. BATTLE: That's correct. So that parcel of  
10 land has attracted a lot of interest from a lot of different  
11 entities since we've begun this project.

12 What we've committed to do is establish a  
13 Community Advisory Group to advise us on a number of things,  
14 chiefly among them being the disposition of that piece of  
15 property. We have had individuals who have asked for retail  
16 to be developed there. People have talked about low-income  
17 housing, parking. Some people have talked about bringing the  
18 Community Garden back. That's not a decision that Pepco  
19 wants to make in isolation. Since we don't need it for the  
20 substation, we want to make sure it's put to the best use of  
21 the community. And so we will be establishing a Community  
22 Advisory Group and that will be a body that we'll consult  
23 with on an ongoing basis in terms of just how we relate to  
24 the community but we're going to establish that CAG probably  
25 in early 2019 and use that as the process for determining how

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1 to dispose of that piece of property.

2 MS. SHIKER: And all zoning calculations for  
3 density, all of that has been done only solely on the RF-1  
4 portion of the lot, which will exist once this is taken away.  
5 So they have been treated as two separate lots for purposes  
6 of this application.

7 MEMBER JOHN: Yes, can you address the comments  
8 from Ms. Aziz concerning her attempts to meet with Pepco and  
9 have Pepco meet with community members to explain and educate  
10 some members of the community who were not part of the whole  
11 ANC process and what efforts were made in that regard?

12 MR. BATTLE: Sure. So Pepco, we were not able  
13 to attend the meeting that Ms. Aziz proposed because our  
14 experts were not available. I think some were out of town.  
15 Others were otherwise engaged.

16 Now we've had several dozens of meetings in the  
17 community about this project and we will continue to engage.  
18 I have actually engaged directly with Ms. Aziz as well after  
19 one of the ANC meetings in some follow-up communication and  
20 offered to continue that. But that was one meeting that we  
21 were not able to attend.

22 We offered to meet with her and her group on  
23 other occasions and that offer has not been accepted to date.

24 MEMBER JOHN: How about responses from the  
25 parents of Walker-Jones Elementary School, were they engaged

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1 in any way?

2 MR. BATTLE: I'm not sure if parents were in  
3 attendance at the various meetings that have been held. We  
4 welcome them. Again, when I talk about the outreach that  
5 we're doing, it's not something that is going to stop now or  
6 even as the substation moves forward, if it does move  
7 forward. This is ongoing communication engagement that we  
8 plan to do. And so we're perfectly happy to meet with the  
9 parents at Walker-Jones. Again, we've met with the school.  
10 We've met with the principal. We've met with the teachers.  
11 We look for every opportunity to meet with all of the various  
12 people who make up that community.

13 MS. SHIKER: And I think if you note in the  
14 slide that we have here and then the next page, the meetings  
15 that Pepco held were not just with the ANC but with  
16 surrounding residents, stakeholder meetings. There were a  
17 significant number of meetings other than just presenting it  
18 to the ANC.

19 MEMBER JOHN: Thank you for that but you know  
20 we've had applicants who have come before the Board and they  
21 have said we've gone to these apartments nearby, and handed  
22 out fliers, and talked to residents. So it's that kind of  
23 direct engagement that I was looking to see if Pepco had done  
24 anything like that because many times residents don't always  
25 get to attend some of these ANC meetings and other meetings

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1 like that. But through direct communication, maybe meetings  
2 in the apartment complex or something like that, other  
3 developers have done that because many times it's just a  
4 question of educating the community about what Pepco is  
5 doing.

6 MR. BATTLE: So we have done a lot of outreach  
7 in that regard. We have charted the individual buildings.  
8 We have met with the churches, which also are comprised many  
9 of the residents.

10 Some of the buildings have preferred that we not  
11 do say door-to-door leafletting. But again, we have engaged  
12 residents in a variety of different ways and we stand ready  
13 to continue in that outreach.

14 CHAIRPERSON HILL: Sure, Ms. White.

15 MEMBER WHITE: Okay so there are some really  
16 good testimonies that we got from a number of residents a few  
17 minutes ago. So obviously, we have to pay attention to  
18 issues as it relates to potential adverse impacts on  
19 communities.

20 So before I was asking about like health-related  
21 issues. Now I'm more interested in one, whether or not any  
22 other sites were considered. That's a pretty big site. I  
23 know the site pretty well. There's a lot of development  
24 going on there. So one question is were there any other like  
25 Option B in terms of some other areas that you were looking

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1 at that would still allow you to meet the goals that you were  
2 trying to meet in terms of connectivity that you were kind  
3 of testifying to.

4           And then two, I wanted, too, to kind of address  
5 the whole environmental justice issue in terms of the thought  
6 that these types of sites. Just for the record, these types  
7 of sites often end up in areas that are heavily populated by  
8 lower income minority communities. So I just wanted you to  
9 kind of address that in terms of Pepco's view with respect  
10 to that because there is a lot of opposition with respect to  
11 it coming into the community, even though you've gotten buy-  
12 in from the ANC. But I thought it would be appropriate for  
13 you to kind of address some of the comments that you just  
14 heard a few minutes ago.

15           MS. SHIKER: I think we'll have Mr. Battle start  
16 to answer your first question about the site selection.  
17 Then, we'll go over to Mr. Hejazi. And then we will come and  
18 answer your second question second back to Mr. Battle.

19           MEMBER WHITE: And that's fine because it goes  
20 directly to the criteria.

21           MS. SHIKER: Sure.

22           MEMBER WHITE: So that's the main reason why I'm  
23 asking it.

24           MR. BATTLE: Right, so I will turn to Mr. Hejazi  
25 in a moment. But as you indicated, you know we look first

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1 at trying to locate the substation in what we consider the  
2 load center. There were other sites that were evaluated but,  
3 for a variety of reasons that Mr. Hejazi will go through  
4 again, this was determined to be the optimal site.

5 And then, as Christine mentioned, I am going to  
6 come back to the issue of environmental justice because that  
7 is very, very closely related. It's one that I feel very  
8 strongly about. I want to make sure that we hit that point  
9 very directly.

10 So, Mousa.

11 MR. HEJAZI: Thank you. So yes, we looked at  
12 different sites. And just basically, again, we refer to the  
13 term of the load center in here. The load is basically where  
14 the load is existing in this area around the substation.

15 So the load in this area goes from North Capitol  
16 Street all the way to 6th Street and goes from H/K Street all  
17 the way to O/P Street in there. And the beauty of this plan  
18 in here is actually looks at the existing, you know the past,  
19 existing, and the future. So you've mentioned about the  
20 generation of power and everybody knows Pepco does not delay  
21 power. The transmission lines actually does not discriminate  
22 against where power is coming from, whether it is coming from  
23 fossil, nuclear, or basically renewable energy.

24 But the good thing about those transmission  
25 lines, we know that basically they are transmitting lines

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1 from renewable resources, when basically the District has  
2 basically invested outside the area.

3 To be able to have a grid that is basically  
4 resilient in terms of transmission distribution and utilize  
5 this renewable energy, you have to have a system that  
6 basically has the capability of that. This plan of the  
7 Capital Grid has the capability of bringing power, wherever  
8 it is generated, via wind, solar, and from solar farms or  
9 wind farms, to carry that load and bring it into the  
10 District.

11 And if you have generation within the District  
12 from you know renewable energy or basically battery storage,  
13 or solar, the beauty of this distribution grid is going to  
14 be able to take that load from the community where generated  
15 from the houses back into the substation and put it back into  
16 the grid.

17 In the old days it basically one way, it would  
18 go from the substation to the houses or basically to the  
19 load. Now this, the modern grid, that's basically what we  
20 are building with the Capital Grid, is going to allow it to  
21 go both ways in there.

22 So you've heard a lot of these concerns in their  
23 opinion. The Capital Grid actually answers a lot of those  
24 questions, actually takes a lot of these things into  
25 consideration.

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1           And with the ten sites that we've looked at, you  
2 know I told you from the beginning like basically we look  
3 into the access, which is a major issue. How are we going  
4 to respond to basically emergency or basically any situation  
5 that we have to do in terms of replacement of some major  
6 equipment. How do we do that work and how are we going to  
7 be able to do that? And how we can get the transmission  
8 distribution again at the substation, the lot size in there?

9           When we looked at the different lots in there,  
10 there was a lot of them with limited access. Some of them,  
11 they were not in the load area, which that is very important  
12 because for distribution it cannot travel long distances like  
13 transmission. Transmission is like the highway of the  
14 transportation and distribution is like the local roads in  
15 there.

16           We looked into the lots size were small and  
17 actually some of them were very expensive. And that's  
18 basically, as a utility company, we don't want to go and buy  
19 a property that is basically four or five times the cost of  
20 basically what it is supposed to be in terms of price. That  
21 would not be fair our ratepayers.

22           For all these reasons, this site got selected.

23           MR. BATTLE: Now if I could turn to the issue of  
24 environmental justice, it goes to site selection but I want  
25 to -- we're back on the slide of where the Pepco substations

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1 are and that's very important because what that really  
2 demonstrates is that they're distributed throughout the city  
3 without regard to socioeconomic status without regard to the  
4 character of a neighborhood. It's in regard only to where  
5 electricity is needed by people or businesses who are located  
6 there.

7           And so we can't really zoom in on this. We have  
8 a substation located down on Georgetown Waterfront, some of  
9 the most expensive property in the city. We have a  
10 substation located on Wisconsin Avenue down the street from  
11 Mazza Gallerie, some of the most expensive property in the  
12 city.

13           I mentioned earlier that this was a very  
14 important issue for me, personally. I actually went through  
15 and I looked at every single substation in the District. I  
16 plotted the level of income and the racial characteristics  
17 of the surrounding area just to make sure that I was sure  
18 that there was real equity. And what it demonstrated is what  
19 we probably already know, if you know Washington, D.C. And  
20 I know there was a comment earlier made about the numbers  
21 might not add up. We'll take a look at that but I'm fairly  
22 sure that the majority of substations in Washington, D.C. are  
23 in Wards 2 and 3. Wards 2 and 3 are the most affluent and  
24 they are the most -- it has the highest concentration of  
25 white citizens in Washington, D.C., just to put it very

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1 bluntly, if we're talking about racial justice.

2           And so when we're told that this site is  
3 selected because it's the path of least resistance, it's  
4 because it's a low-income community of color, I think that  
5 the facts by the map and the data behind it really refute  
6 that.

7           CHAIRPERSON HILL:    Okay.    All right, anyone  
8 else?

9           Sure, Mr. Shapiro.

10          COMMISSIONER SHAPIRO:  Thank you, just a brief  
11 question picking up on Chairman Hill's question about the PSC  
12 and the process and if you could just educate us a bit.

13                 What do you imagine the time line will be?  I  
14 imagine that could be three months to three years but if  
15 there is a sense based on your past experience, what do you  
16 see?

17                 MR. BATTLE:  You know I don't want to get into  
18 predictions with the PSC.  They are going through a change  
19 of one or more commissioners towards the end of the year.  
20 I'm not sure how that might impact their schedule.  So I  
21 don't want to try to predict what their time line might be.

22                 There is no statutory deadline for them to  
23 render a decision.  In some jurisdictions, the Commission has  
24 to render decisions within X number of days or X amounts.  
25 That's not the case within the District and so I don't want

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1 to speculate on the time line of their decision.

2 COMMISSIONER SHAPIRO: Okay, that's fair. Thank  
3 you.

4 VICE CHAIRPERSON HART: How long have they been  
5 reviewing this so far? When did PSC get the case file or  
6 report of the --

7 MR. BATTLE: I'll have to check the date. June  
8 29th is when it was filed.

9 VICE CHAIRPERSON HART: Of this year?

10 MR. BATTLE: Yes.

11 VICE CHAIRPERSON HART: When it was filed. So  
12 have you been before that Board already?

13 MR. BATTLE: Well there has not been formal  
14 hearings before. It's all been documents, so far.

15 VICE CHAIRPERSON HART: Okay and you're set to  
16 be before that Commission when, exactly?

17 MR. BATTLE: I don't know that we have a -- yes,  
18 the Commission has not given us a date for a hearing at this  
19 time. Sometimes the Commission will resolve Notices of  
20 Construction just based on the pleadings alone, sometimes  
21 they will entertain testimony. It's up to the Commission.

22 VICE CHAIRPERSON HART: Okay.

23 CHAIRPERSON HILL: Okay. All right, well I  
24 don't have any more questions and I'm going to go ahead and  
25 close the hearing, unless you guys have anything else you

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1 want to add in conclusion.

2 MS. SHIKER: No, we would just again reiterate  
3 that the zoning regulations for this type of use do not  
4 require a Public Service Commission decision prior to the  
5 Board rendering its decision.

6 We also believe that through the testimony and  
7 the pleadings in this case that we have fully complied with  
8 the standard for the special exception use, as well as the  
9 special exceptions from the vehicular and bicycle parking  
10 requirements and we would ask the Board to take it under  
11 consideration at their earliest time.

12 Thank you.

13 CHAIRPERSON HILL: Okay. Well, I don't know  
14 about -- so I'm going to close the hearing. And I don't know  
15 what you guys think but I need to take a little time, I  
16 think, in terms of deliberations. Like I'm not going to be  
17 able to decide today. I would want to take a look at least  
18 about all of the testimony that is in the record.

19 And then again, as I pointed out during when we  
20 were listening to the witnesses, kind of pointing out to  
21 where the standard of review is which we are going to be  
22 looking at. So I would ask, unless the Board has -- unless  
23 you guys are all ready, to postpone for a decision at another  
24 time.

25 MEMBER WHITE: I agree with you, Mr. Chair.

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1 CHAIRPERSON HILL: Okay, when? How much time do  
2 you guys need?

3 VICE CHAIRPERSON HART: This would just be for  
4 a public meeting. I mean it wouldn't be a --

5 CHAIRPERSON HILL: A decision.

6 VICE CHAIRPERSON HART: A decision?

7 CHAIRPERSON HILL: Yes.

8 VICE CHAIRPERSON HART: Yes, I don't know what  
9 our schedule is for the next couple, two weeks.

10 CHAIRPERSON HILL: Okay. You had a question?

11 I suppose like when are you back?

12 And you guys, as far as your time line, you  
13 don't know. The PSC is going to be whenever they are going  
14 to be. So you are not in any great rush to get a decision  
15 one way or the other.

16 MR. BATTLE: No, we would like a decision as  
17 quickly as possible.

18 CHAIRPERSON HILL: Okay well, he's back on  
19 December 12th. That's what I just heard. That's actually  
20 not that far away.

21 So then I would put this on for December 12th,  
22 Mr. Moy, unless there is --

23 MS. SHIKER: That will be fine. Thank you.

24 MR. MOY: That's doable, Mr. Chair.

25 CHAIRPERSON HILL: Okay, doable means what?

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1 That means there's a lot of things on December 12th?

2 MR. MOY: Well, the upcoming hearings, we have  
3 quite a few.

4 CHAIRPERSON HILL: Probably because of the end  
5 of the year?

6 MR. MOY: It's not going to make that much  
7 difference.

8 CHAIRPERSON HILL: Okay. All right. Okay, then  
9 we'll put it on for decision on December 12th.

10 And then everybody, we are going to take a five-  
11 minute break or we're going to take a break and figure out  
12 what we're going to do before lunch. So, thank you all very  
13 much.

14 (Whereupon, the above-entitled matter went off  
15 the record at 12:28 p.m. and resumed at 12:44 p.m.)

16 CHAIRPERSON HILL: Okay, let's get started  
17 again. We're going to actually do things in a different  
18 order here, depending upon if the people are here. We're  
19 going to go in reverse order for a little while.

20 And so I just want to know is 19856 here? Is  
21 Case 19856 here? Okay, that's all right. We'll see what  
22 happens. You have to come forward now. That sounded  
23 complicated.

24 So then, Mr. Moy, we can go with -- let's go  
25 ahead and go with 19855 next and then we'll come back to --

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1 well, actually hold on a second.

2           Go ahead. Can 19856 come forward? I just want  
3 to hear what you just were trying to say. You have to speak  
4 into the microphone and you have to introduce yourself.

5           AMBASSADOR KIRBY: My name is Michael Kirby.

6           CHAIRPERSON HILL: Okay.

7           AMBASSADOR KIRBY: My wife Sara and I are  
8 planning on renovating our home.

9           CHAIRPERSON HILL: Okay, no that's all right.  
10 I asked if you were here and ready.

11           AMBASSADOR KIRBY: We're here but our architect  
12 is not because he was at the end of the day. He came earlier  
13 and he left. I mean we could get in touch with him.

14           CHAIRPERSON HILL: Okay, that's all right. I  
15 tell you what, why don't we go ahead and hear your  
16 application?

17           Okay, so Mr. Moy, if you could officially do  
18 whatever you need to do to call this application.

19           MR. MOY: Yes, thank you, Mr. Chairman. The  
20 Board is back in session. It is about 12:45 p.m.

21           So to the table is Case Application number 19856  
22 of Michael and Sara Kirby, captioned and advertised for a  
23 special exception under Subtitle E, Section 205.5 and 5201  
24 from the rear addition requirements of Subtitle E, Section  
25 205.5 to construct a three-story rear addition on the same

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1 footprint as the existing two-story rear addition of a  
2 principal dwelling unit, RF-1 zone. This is at 210 9th  
3 Street, Southeast, Square 944, Lot 73.

4 CHAIRPERSON HILL: Okay, great. Thank you.  
5 Could you now please introduce yourselves again for the  
6 record?

7 AMBASSADOR KIRBY: My name is Michael Kirby.

8 CHAIRPERSON HILL: And your address?

9 AMBASSADOR KIRBY: My current address is in  
10 Fairfax, 3329 Mantua Drive. We plan to move back to the  
11 house that we bought in 1985.

12 CHAIRPERSON HILL: Okay, that's all right.

13 And you, ma'am?

14 MS. KIRBY: My name is Sara Kirby.

15 CHAIRPERSON HILL: Okay and at the same address?

16 MS. KIRBY: Residing at the same address, 3329  
17 Mantua Drive, Fairfax, Virginia.

18 CHAIRPERSON HILL: Okay. I don't know why we  
19 ask for the address, actually.

20 Okay, so Mr. Kirby I guess -- I understand that  
21 you had stated that your architect had left. And so I don't  
22 really have a lot of particular questions. I mean if we did  
23 or if the Board needed to, we could wait for your architect  
24 to come by. So, in general, could you please tell us what  
25 you are trying to do?

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1                   AMBASSADOR KIRBY: In 1985 we bought this home  
2 on Capitol Hill and we lived there for three years when our  
3 kids were born. And then I was in the Foreign Service and  
4 I spent most of the next 35 years abroad, 30 years abroad.

5                   And now that I've retired, we want to move back  
6 to the Hill. So we've hired an architect and we are redoing  
7 the home. The front part is historic and so we hired  
8 somebody who works on the Hill to respect that and we've had  
9 approval from the ANC.

10                   And now we just are wanting to build something  
11 that we can grow old in and so that's what we've been trying  
12 to do.

13                   CHAIRPERSON HILL: Okay. All right, great.  
14 Thank you, Mr. Kirby. Mr. Kirby, thank you for your service.  
15 I'm sure you're glad you're retired now.

16                   AMBASSADOR KIRBY: I am, indeed. I was  
17 Ambassador to Serbia in my last tour.

18                   CHAIRPERSON HILL: Oh, that's fantastic.

19                   AMBASSADOR KIRBY: And after that, I worked on  
20 this small email issue that the State Department had.

21                   (Laughter.)

22                   CHAIRPERSON HILL: All right. Okay, all right,  
23 Mr. Kirby, I'm going to stop you right there.

24                   AMBASSADOR KIRBY: And so I'm glad I'm retired  
25 after this.

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1 CHAIRPERSON HILL: Okay. There you go. There  
2 you go. Wow, I didn't know -- you open doors and you have --

3 All right, so does the Board have any questions  
4 for the applicant? No. Okay, thank you.

5 I'm going to turn to the Office of Planning.

6 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman  
7 and Members of the Board. Maxine Brown-Roberts from the  
8 Office of Planning.

9 The applicant has requested a special exception  
10 from the Section 205.5, which is the rear yard that extends  
11 further than ten feet beyond the adjacent -- the adjoining  
12 property. Currently, the extension is 20 feet. The addition  
13 would be built within this same footprint and remain at 20  
14 feet. So there is no additional impact. On one side of the  
15 building, the extension would remain the same. There are  
16 approximately the same distance.

17 Section 205 outlines the requirement for not  
18 affecting the light and air of the adjacent properties. And  
19 as outlined in our report, you would see that the addition  
20 within the existing footprint would not severely affect the  
21 light and air available to the adjacent residences. Neither  
22 will the privacy be affected.

23 The file has included all the drawings and  
24 facts. I think that was sufficient to address the special  
25 exception. The property would remain within the 60-foot lot

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1 occupancy requirement. They are at 48 percent. We did not  
2 recommend any special treatment.

3 And the property is also within the Capitol Hill  
4 Historic District, which recommended approval for, and also  
5 within the Capitol Hill Restoration Society also recommended  
6 approval of the proposal.

7 And I will -- and that's it. And therefore, we  
8 are recommending approval and I'm available for questions.

9 CHAIRPERSON HILL: Okay, does the Board have any  
10 questions for the Office of Planning? Okay.

11 Does the applicant have any questions for the  
12 Office of Planning?

13 AMBASSADOR KIRBY: No. No, I do not.

14 CHAIRPERSON HILL: Okay. Is there anyone here  
15 wishing to speak in support of the application?

16 Is there anyone here wishing to speak in  
17 objection to the application -- opposition to the  
18 application?

19 All right, Ambassador Kirby, do you have  
20 anything else you would like to add?

21 MR. KIRBY: No, thank you.

22 CHAIRPERSON HILL: Okay. All right, so I'm  
23 going to close the hearing.

24 I thought that it is a pretty straightforward  
25 request and I understand how they are meeting the criteria

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1 for us to be in favor -- or I'm in favor of the request. I  
2 thought the Office of Planning's report was very thorough.  
3 I thought the design was actually pretty interesting and the  
4 fact that they got through ANC 6B ten to zero. I mean  
5 they've got a ten-member ANC. I thought that was actually  
6 pretty supportive.

7 I also saw that the adjacent owners were in  
8 support and I have no issues or concerns.

9 Does anyone else have anything they would like  
10 to add?

11 Okay, I'm going to go ahead and make a motion to  
12 approve Application number 19856, as captioned and read by  
13 the Secretary and ask for a second.

14 VICE CHAIRPERSON HART: Second.

15 CHAIRPERSON HILL: Motion made and seconded.  
16 All those in favor, say aye.

17 (Chorus of aye.)

18 CHAIRPERSON HILL: All those opposed?

19 The motion passes, Mr. Moy.

20 MR. MOY: The staff would record the vote of  
21 five to zero to zero based on the motion of Chairman Hill to  
22 approve the application for the relief requested. Seconding  
23 the motion is Vice Chair Hart. Also in support is Ms. White,  
24 Ms. Johns, and Mr. Peter Shapiro. The motion carries.

25 CHAIRPERSON HILL: Okay, great. Thank you very

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1 much.

2 MR. KIRBY: Thank you.

3 CHAIRPERSON HILL: So Mr. Moy I think let's go  
4 ahead and try, when you do call it, the 19855.

5 MR. MOY: Thank you, Mr. Chairman. So if we  
6 could have parties to the table to Case Application number  
7 19855 of Metropolitan Community Church, captioned and  
8 advertised for a special exception under the residential  
9 conversion requirements, Subtitle U, Section 320.2. This  
10 would convert an existing flat to a three-unit apartment  
11 house, RF-1 zone. This is at 472 Ridge Street, Northwest,  
12 Square 513, Lot 167.

13 CHAIRPERSON HILL: Great. Thank you, Mr. Moy.  
14 Could you please introduce yourselves for the  
15 record?

16 MS. MOLDENHAUER: Good afternoon. Meridith  
17 Moldenhauer from the law firm of Cozen O'Connor representing  
18 the applicants.

19 MR. PANKNIN: Good afternoon, Knut Panknin,  
20 representing Metropolitan Community Church at 474 Ridge  
21 Street, Northwest. My name is Knut, K-N-U-T, Panknin, P-A-N-  
22 K-N-I-N.

23 Thank you.

24 REV. JOHNSON: Dwayne Johnson, Senior Pastor of  
25 Metropolitan Community Church. I live at 460 L Street,

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1 Northwest.

2 CHAIRPERSON HILL: Great, thank you.

3 Ms. Moldenhauer, I assume you are going to  
4 present to us.

5 MS. MOLDENHAUER: We can present the full  
6 application but we also believe the record is full. If the  
7 Board would wish us to present a full application, we will  
8 do so. We will do so then.

9 CHAIRPERSON HILL: I understand. So actually,  
10 if you could just kind of summarize what it is you are trying  
11 to do and how you are meeting the standard, and we'll see if  
12 we have any questions for you.

13 MS. MOLDENHAUER: The property is located in RF-  
14 1 zone. It's an --

15 CHAIRPERSON HILL: Could you pull that  
16 microphone just a little bit closer to you?

17 MS. MOLDENHAUER: Sure. The property is located  
18 in an RF-1 zone. It is abnormally shaped.

19 I will turn it over the Reverend to just quickly  
20 go through just a quick review of some of the church's  
21 missions.

22 REV. JOHNSON: Yes, we have 47 years of service  
23 to Washington, D.C., started out on Capitol Hill downtown,  
24 now in the Mount Vernon Triangle neighborhood, where we have  
25 provided a voice for the vulnerable. We have offered a lot

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1 of programs that really have enhanced the neighborhood and  
2 the community. Longstanding support to the LGBTQ plus  
3 community, one of the leaders in the '80s around support for  
4 HIV and AIDS. One of our highlight projects is Backpack for  
5 Kids fundraiser with Channel 4 NBC News, one of the top  
6 fundraisers this year.

7 We host meetings, as requested, for the ANC,  
8 memorial services for the homeless. We have recovery groups  
9 that meet every week, impacting between 100 and 150 people  
10 weekly, sponsor neighborhood cleanups.

11 And our plan around this project is to develop  
12 increased resources to help bring positive impact to the  
13 community.

14 CHAIRPERSON HILL: All right, Pastor Johnson,  
15 thank you.

16 MR. PANKNIN: So the plan for the project itself  
17 is we would like to convert an existing residence to a three-  
18 unit apartment building on the property by adding a dwelling  
19 unit within the cellar of the existing row house. The rent  
20 for that dwelling unit will be utilized by us for our mission  
21 and programming.

22 There are no exterior changes proposed except  
23 the creation of a window well that is for egress purposes and  
24 also to allow light into the cellar level for the apartment.  
25 The window well will not result in any additional building

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1 bulk and will not be visible to the neighboring properties.

2           Maybe on the community outreach you have seen we  
3 have presented the case before the ANC 6E Development Zoning  
4 Committee at the end of August and it was positively  
5 received. We got full support after the meeting on September  
6 4th. So ANC voted unanimously to support the BZA case and  
7 we also received two letters in support from direct  
8 neighbors.

9           CHAIRPERSON HILL: Okay, great.

10          MS. MOLDENHAUER: So --

11          CHAIRPERSON HILL: Go ahead, Ms. Moldenhauer.

12          MS. MOLDENHAUER: This is a picture of the  
13 existing condition and proposed demo. It is going to be a  
14 proposed one-bedroom unit in the cellar. And we are seeking  
15 special exception under U 320.2 for a conversion and we  
16 believe we satisfy -- there is multiple (a) through (m)  
17 special conditions. We believe we satisfy all of those, as  
18 well as the fact that this would be harmony with the intent  
19 of the zoning regulations.

20               The property is currently two units. So we  
21 would just be adding that third unit in the cellar location  
22 and there would be no adverse impact to the use of  
23 neighboring properties as, again, there would be no changes  
24 to the exterior layout and we meet the 900 square foot per  
25 unit requirement.

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1 CHAIRPERSON HILL: Okay. All right, does the  
2 Board have any questions for the applicant?

3 VICE CHAIRPERSON HART: No, sir.

4 CHAIRPERSON HILL: Okay, we are going to turn to  
5 the Office of Planning.

6 MS. FOTHERGILL: Good afternoon. I'm Anne  
7 Fothergill with Office of Planning and we rest on the record  
8 in support of the application and I am happy to take any  
9 questions.

10 CHAIRPERSON HILL: Okay, does the Board have any  
11 questions for the applicant -- I mean for the Office of  
12 Planning?

13 Does the applicant have any questions for the  
14 Office of Planning?

15 MS. MOLDENHAUER: No questions, thank you.

16 CHAIRPERSON HILL: Is there anyone here wishing  
17 to speak in support?

18 Is there anyone here wishing to speak in  
19 opposition?

20 Is there anything you would like to say in  
21 conclusion, Ms. Moldenhauer?

22 MS. MOLDENHAUER: No. Thank you for your time  
23 today.

24 CHAIRPERSON HILL: Okay. I'm going to go ahead  
25 and close the record.

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1           Is the Board ready to deliberate? Okay, I can  
2 start. I think -- we're trying to kind of work efficiently  
3 here to get through so we can have lunch, perhaps.

4           But Pastor Johnson, it sounds like a lovely  
5 organization -- Johnson?

6           REV. JOHNSON: Yes.

7           CHAIRPERSON HILL: Johnson -- and really just a  
8 tremendous amount of work that you are doing for the  
9 community and I wish you all the best.

10           In terms of the criteria, I believe that they  
11 meet the criteria and the standards for us to grant this  
12 application. I thought that, again, the analysis of the  
13 Office of Planning has supported, which is in the record, is  
14 thorough and I would be in agreement with that also that ANC  
15 6E was in support seven to zero to zero. DDOT had no  
16 objection.

17           There were, as the applicant had mentioned, two  
18 letters of support. But again, I thought that they the  
19 criteria for us to grant the application.

20           Is there anything anyone else would like to add?

21           MEMBER WHITE: I just concur, Mr. Chair. I  
22 think the Metropolitan Church is doing an admirable job. But  
23 obviously going through the residential conversion criteria  
24 for a special exception, I think they met that criteria and  
25 the record is full.

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1 CHAIRPERSON HILL: Okay.

2 MEMBER WHITE: I would support is as well.

3 CHAIRPERSON HILL: Okay, great. Then I'll go  
4 ahead and make a motion to approve Application number 19855,  
5 as captioned and read by the Secretary and ask for a second.

6 VICE CHAIRPERSON HART: Second.

7 CHAIRPERSON HILL: The motion has been made and  
8 seconded.

9 All those in favor say aye.

10 (Chorus of aye.)

11 CHAIRPERSON HILL: All those opposed?

12 The motion passes, Mr. Moy.

13 MR. MOY: The staff would record the vote as  
14 five to zero to zero. This is on the motion of Chairman Hill  
15 to approve the application for the relief requested.  
16 Seconding the motion was Vice Chair Hart. Also in support,  
17 Ms. White, Ms. John, and Mr. Peter Shapiro. The motion  
18 carries.

19 CHAIRPERSON HILL: All right, thank you, Mr.  
20 Moy.

21 So we're probably going to try to do one more  
22 and then we'll probably break for lunch or depending on how  
23 the mood is of the Board. I will poll them after we do this  
24 next case, Mr. Moy.

25 But again, we're working backwards in order now.

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1 So whenever you get an opportunity, you can call our next  
2 one.

3 MR. MOY: Okay, if I could have parties to the  
4 table. This is to Application number 19854 of 824 13th  
5 Street LLC, captioned and advertised for a special exception  
6 under Subtitle C, Section 703.2 from the minimum parking  
7 requirements of Subtitle C, Section 701.5 and pursuant to  
8 Subtitle X, Chapter 10 for variances from the lot occupancy  
9 requirements of Subtitle E, Section 304.1; rear yard  
10 requirements, Subtitle E, Section 306.1; side yard  
11 requirements, Subtitle E, Section 307.1. This would  
12 construct a new flat, RF-1 zone at 824 13th Street,  
13 Northeast, Square 1003, Lot 145.

14 CHAIRPERSON HILL: Oh, Mr. Moy, I guess somebody  
15 hasn't been sworn in, if you want to swear them in.

16 If anybody else is here that needs to testify  
17 that hasn't been sworn in, you can be sworn in now.

18 (Whereupon, all witnesses were sworn.)

19 CHAIRPERSON HILL: God, I just can't -- I know  
20 I make that joke all the time. I just can't get over that  
21 that really is supposed to work.

22 And Mr. Moy, do you do that at home or anything?

23 MR. MOY: Not in the daytime.

24 CHAIRPERSON HILL: Oh, my God, I love that.  
25 This is just old school. We've got one regular attorney and

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1 the ex-regular attorney.

2 So let's go ahead and introduce ourselves from  
3 right to left, please.

4 MR. SCHNECK: My name is Ron Schneck. I am with  
5 Square 134 Architects.

6 MR. SULLIVAN: Good afternoon. Marty Sullivan  
7 with Sullivan and Barros on behalf of the applicant.

8 MS. WILSON: Alex Wilson from Sullivan and  
9 Barros on behalf of the applicant.

10 MS. ROTTMAN: Emily Rottman from Square 134  
11 Architects.

12 MR. PACHALLA: Dominic Pachalla, owner of 824  
13 13th Street, Northeast.

14 CHAIRPERSON HILL: All right, Mr. Sullivan, is  
15 it you that's going to present?

16 MR. SULLIVAN: Yes, sir.

17 CHAIRPERSON HILL: Okay. So in general, Mr.  
18 Sullivan, I don't have a lot of particular questions. I  
19 think that I do see that -- well, anyway, so I don't have a  
20 lot of particular questions about the application. So you  
21 can go ahead and just, if you would, just take us through  
22 what you are trying to do and how you are meeting the  
23 standards.

24 I do see that there is at least one person in  
25 opposition or the group in opposition and so we'll see what

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1 happens with that.

2           But in general, just go ahead, if you can tell  
3 us about, again, the project and how you are meeting the  
4 criteria. I'm going to go ahead and throw ten minutes up on  
5 the clock, just so I know where we are. And you can begin  
6 whenever you like.

7           MR. SULLIVAN: All right, thank you, Mr. Chair  
8 and Members of the Board. My name is Marty Sullivan with the  
9 law firm of Sullivan and Barros on behalf of the applicant.

10           The applicant is proposing to construct a new  
11 three-story flat at the property. To do so, because the  
12 property is small and shallow, we are requesting relief from  
13 the lot occupancy requirements, rear yard requirements, and  
14 side yard requirements -- those are all variance, area  
15 variance relief -- also seeking special exception relief from  
16 the parking requirement.

17           A quick summary. All three adjacent neighbors  
18 are in support of this. There is a neighbor across the  
19 alley, and there is a neighbor to the west, and there is a  
20 neighbor to the north, all up against this building -- this  
21 proposed building and they are all in support.

22           We have unanimous ANC support and we have strong  
23 support from the Office of Planning and from DDOT.

24           Some quick background and I will go through this  
25 quickly. It is in the RF-1 zone. It is a very small lot.

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1 The lot size is only 693 square feet but more importantly,  
2 the depth is only 21 feet because this faces the side street,  
3 13th Street.

4 The lot was created in its current configuration  
5 in 1888. So the lot has been there as a record lot for a  
6 long time. And there used to be a structure on there. The  
7 structure went away we think about 20 years ago. And then  
8 since then, the lot has sat there as a vacant lot and several  
9 people, including the adjacent owners have expressed their  
10 satisfaction that the vacant lot will go away because they  
11 have seen it as a bit of a nuisance.

12 We are Lot 145 and so the owners of Lot 131,  
13 144, and 118 have all submitted letters in support of the  
14 application.

15 There is a photo of the existing lot. A lot of  
16 this is public space. The property line is along the line  
17 of that yellow building, which is the building next door.

18 We are blocking over a window. They are closing  
19 that window and they have an agreement -- the owner has an  
20 agreement with that owner on that and they are happy about  
21 that.

22 So we can have the architect go over the plans  
23 briefly. Go ahead, Emily.

24 MS. ROTTMAN: Okay, thank you very much.

25 So the design intent is really to try to have

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1 the building be nested in with the two adjoining neighbors.  
2 The building to the north is two stories and the building to  
3 the south is three stories. So the design intention was to  
4 use masonry to sort of carry across the existing two-story  
5 building to the north and then provide a third floor in a  
6 metal panel to kind of carry over and bring down the massing.

7 We are also looking at using reveal patterns in  
8 the masonry to sort of tie into the windows for the design.

9 We are going to be proposing two units and each  
10 unit will have two bedrooms and two and a half bathrooms.  
11 It's a fairly straightforward layout and we don't really know  
12 if there is much more to say about them but we can just go  
13 through the plans quickly.

14 So yes, again, each unit will have the two  
15 bedrooms, two bathrooms, and an open floor plan for their  
16 main living space.

17 The top floor unit will also have a private  
18 rooftop deck.

19 CHAIRPERSON HILL: Okay, Mr. Sullivan.

20 MR. SULLIVAN: Would you like us to go through  
21 the criteria for the special exception and the area variance  
22 relief or it's all in the record. So I didn't know if --

23 CHAIRPERSON HILL: If you could briefly go  
24 through it, yes, please. Thank you.

25 MR. SULLIVAN: Sure. So we're requesting

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1 special exception relief for the parking. And as you know,  
2 there are several criteria available for that and we have  
3 relied on principally, due to the physical constraints of the  
4 property, the required parking spaces cannot be provided  
5 either on the lot or within 600 feet of the lot in accordance  
6 with 701.8. The property obviously is very small and if a  
7 parking space were provided, you could not do much else with  
8 the property. It's also, this location is also particularly  
9 well served by mass transit, shared vehicle, and bicycle  
10 facilities.

11 And we have several pages in the PowerPoint  
12 explaining that and I won't go into detail on those but just  
13 to point out that we've included those.

14 Areas of variance relief -- lot occupancy is  
15 limited to 60 percent. Due to the small lot size, and other  
16 potential difficulties associated with narrow open areas  
17 between buildings, the applicant is proposing to occupy 100  
18 percent of the lot.

19 The rear yard is a 20-foot minimum and the lot  
20 is only 21 feet deep. So the difficulties are obvious in  
21 that regard.

22 And the same with the side yard, proposing to  
23 construct a new flat, the building to the north of the  
24 property extends to the common lot line and so they will  
25 share a common division wall.

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1           And the southern line abuts an alley. We would  
2 be required to provide a five-foot side yard on the southern  
3 lot line, at this point, although that regulation I think had  
4 just been changed, I know it is not effective yet, to where  
5 a side yard would not be required anymore.

6           And the primary exceptional condition of this  
7 property is the shallowness and the size. And we have an  
8 analysis in the record and I think it's in the Office of  
9 Planning report too, talking about the size and shallowness  
10 of this lot in comparison to the other lots on the block.

11           I think it is important that it was a record  
12 lot. It wasn't a lot that was divided anytime recently with  
13 the owner to the north. It has been a record lot like this  
14 for -- since prior to 1900. And it did have a structure on  
15 it and that structure was eventually demolished.

16           And relief can be granted without substantial  
17 detriment to the public good and without impairing the intent  
18 and purpose or the integrity of the zone plan. We obviously  
19 have a very unique situation and that protects the integrity  
20 of the zone plan.

21           And the project itself and the relief is  
22 strongly supported by the unanimous support of the ANC and  
23 by the three neighbors.

24           And regarding the Capitol Hill Restoration  
25 Society, I don't -- I mean I think their letter speaks for

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1 itself. They thought for some reason we didn't meet the  
2 variance test.

3 CHAIRPERSON HILL: Okay.

4 MR. SULLIVAN: Thank you.

5 CHAIRPERSON HILL: All right, does anybody have  
6 any questions for the applicant?

7 Okay, we'll turn to the Office of Planning.

8 MR. KIRSCHENBAUM: Good afternoon, Board  
9 Members. Jonathan Kirschenbaum with the Office of Planning.  
10 I will be recommending approval of the three variances and  
11 the one special exception.

12 And I'll be resting on the record. Please let  
13 me know if you have any questions.

14 CHAIRPERSON HILL: Okay, does the Board have any  
15 questions for the Office of Planning?

16 Is there any -- does the applicant have any  
17 questions for the Office of Planning?

18 MR. SULLIVAN: No, thank you.

19 CHAIRPERSON HILL: Is there anyone here wishing  
20 to speak in support?

21 Is there anyone here wishing to speak in  
22 objection?

23 Okay. Does the applicant have anything they  
24 would like to add at the end?

25 MR. SULLIVAN: No, thank you.

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1 CHAIRPERSON HILL: All right, I'm going to close  
2 the hearing.

3 Is the Board ready to deliberate? Would  
4 somebody else like to do it?

5 VICE CHAIRPERSON HART: Yes, so for this case,  
6 the applicant has provided -- is looking for variance relief  
7 for a variety of things, as well as some special exception  
8 relief for the parking space minimum -- parking space  
9 requirements.

10 And after reviewing the record, and hearing the  
11 testimony of the applicant, and reviewing the Office of  
12 Planning report, I would be in support of the application.  
13 I believe that they have shown and provided sufficient  
14 information for us to be able to support it, showing how they  
15 can meet the three prongs of the variance test.

16 This is an exceptionally small lot and they are  
17 looking to develop on this lot, which would require -- well,  
18 the building is somewhat larger than the other buildings.  
19 They are not looking at anything that is higher than what is  
20 allowed under the zoning regulations or the number of stories  
21 that are allowed in the zoning regulations.

22 And so I think that we should -- the BZA should  
23 be in support of this application.

24 CHAIRPERSON HILL: Okay, does anyone else have  
25 something they would like to add? Ms. John.

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1           MEMBER JOHN: Just to add briefly that I believe  
2 the record is quite full and that the applicant has met the  
3 test for the variances and the special exception.

4           I did note there was one letter of opposition in  
5 the record from the Capitol Hill Restoration Society and  
6 because they are not the ANC, I don't believe their  
7 opposition and their issues and concerns are entitled to  
8 great weight. I believe those were, primarily, with regard  
9 to the size of the building.

10           And so based on the testimony of the applicant  
11 today and OP's recommendation, which is fairly thorough, and  
12 the complete record, I am in support -- oh, and ANC support,  
13 which we will give -- which I will give great weight, I can  
14 support this application.

15           VICE CHAIRPERSON HART: And just adding one  
16 piece about the Capitol Hill Restoration Society, their  
17 letter stated that the committee believes -- that their  
18 committee believed that the applicant can easily build a one-  
19 unit house with indoor parking and garbage storage access  
20 from the alley.

21           While I think that the applicant would probably  
22 do a one-unit building, they would still need variance relief  
23 and this is because they have -- they need variance relief  
24 for the rear yard. They have a 20-foot minimum. The lot is  
25 not -- they said 21 feet. So, it would be a really, really

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1 tiny house.

2           So anyhow, I just think that while I understand  
3 the Capitol Restoration Society, they've got their mission,  
4 I think the applicant has shown that they provided  
5 information for us to support it.

6           So I will make a motion to approve Application  
7 number 19854 of 824 13th Street LLC, as read and captioned  
8 by the Secretary. Do I have a second?

9           MEMBER WHITE: Second.

10           CHAIRPERSON HILL: Motion made and seconded.  
11 All those in favor say aye.

12           (Chorus of aye.)

13           CHAIRPERSON HILL: All those opposed?

14           The motion passes, Mr. Moy.

15           MR. MOY: The staff would record the vote as  
16 five to zero to zero. This is on the motion of Vice Chair  
17 Hart to approve the application for the relief requested.  
18 Seconding the motion, Ms. White; also in support, Ms. John,  
19 Chairman Hill, Mr. Peter Shapiro. The motion carries.

20           CHAIRPERSON HILL: All right, thank you, Mr.  
21 Moy.

22           Thank you all very much.

23           All right, I think there's two left but we're  
24 going to have to take a lunch break. And so we will come  
25 back after lunch for the last two cases.

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1                   Probably -- let's shoot for 1:45. Okay? All  
2 right, thank you.

3                   (Whereupon, the above-entitled matter went off  
4 the record at 1:15 p.m. and resumed at 2:00 p.m.)

5                   CHAIRPERSON HILL: All right, Mr. Moy, I know  
6 we're kind of going out of order here but let's do that other  
7 case now.

8                   MR. MOY: Thank you, Mr. Chairman. The Board is  
9 back in recess -- from recess. I clearly had too much for  
10 lunch.

11                   Okay so anyway, with that, then the next case  
12 application before the Board is Application number 19844.  
13 This is of Richard Gbolahan. This is a special exception --  
14 well, let me know --

15                   Well I tell you what. Let me read what I  
16 believe is the correct caption for this application, Mr.  
17 Chairman, as amended. Special exceptions from the penthouse  
18 requirements of Subtitle C, Section 1500.4; and the penthouse  
19 setback requirements of Subtitle C, Section 1502.2; and  
20 pursuant to 11 DCMR Subtitle X, Chapter 10 for variances from  
21 the front setback requirements of Subtitle B, Section  
22 315.1(c); lot width and lot area requirements, Subtitle E,  
23 Section 201.1; side yard requirements, Subtitle E, Section  
24 307.1 to construct a new flat in an RF-1 zone at premises  
25 1033 16th Street, Northeast, Square 4074, Lot 828.

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1 Mr. Chairman, there have been some clarification  
2 among several agencies as to the relief for this application.  
3 So I would ask the applicant to confirm the relief that is  
4 before the Board now. I believe there is a revised self-  
5 certification in the record. So, we'll go from there.

6 CHAIRPERSON HILL: Okay, can the applicant come  
7 forward, please?

8 If you could please just introduce yourselves.

9 MR. GBOLAHAN: My name is Richard Gbolahan. I  
10 am the owner of the lot.

11 CHAIRPERSON HILL: Can you spell your last name,  
12 please, sir?

13 MR. GBOLAHAN: G-B-O-L-A-H-A-N.

14 CHAIRPERSON HILL: And you, sir?

15 MR. SALLAH: Alex Sallah, S-A-L-L-A-H. I am a  
16 structural engineer registered in the District of Columbia.  
17 I am the designer of the project.

18 CHAIRPERSON HILL: Okay and so I'm sorry,  
19 pronounce your name again, Gbolahan?

20 MR. GBOLAHAN: The G is silent. Gbolahan.

21 CHAIRPERSON HILL: Gbolahan.

22 MR. GBOLAHAN: Yes, sir.

23 CHAIRPERSON HILL: Okay, great. Thank you.  
24 That is helpful.

25 So Mr. Gbolahan, I guess we're a little bit

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1 confused and hope that -- I had hoped that we were going to  
2 get to you earlier because I'm not terribly sure we're going  
3 to be able to hear this today the way it is.

4           If you want to go ahead and explain to us what  
5 exactly you currently think you are in front of us for, like  
6 what is the relief that you're asking for. And I guess there  
7 is some confusion between like what the Zoning Administrator  
8 had and then like the self-cert that you provided. And then  
9 I think the Office of Planning had to clarify some things.

10           And then if you are here now for a variance,  
11 then kind of the argument that you made didn't seem to be  
12 enough for us to go ahead and even hear the case.

13           So I will start first with why -- what do you  
14 think you're here in front of us for. What are you asking  
15 for? What exactly are you asking for? And we'll go from  
16 there.

17           MR. GBOLAHAN: I am here for five reliefs. One,  
18 special exception to allow the construction of the penthouse;  
19 special exception to allow the construction of a penthouse  
20 that does not meet the minimum required setback; number  
21 three, variance of a lot with a lot area that do not meet the  
22 minimum lot width and minimum lot requirements; number four,  
23 a variance from the minimum side yard requirements; number  
24 five, variance for the front setback requirements.

25           CHAIRPERSON HILL: Okay and you got all of that

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1 from the Zoning Administrator?

2 MR. GBOLAHAN: Yes. Yes, sir.

3 CHAIRPERSON HILL: Okay and then when you  
4 presented in front of the ANC, what did you present? They  
5 didn't know about these other variances, correct?

6 MR. GBOLAHAN: Yes, they know about three of  
7 them, the penthouse, the lot side yard, front yard.

8 CHAIRPERSON HILL: Okay.

9 MR. GBOLAHAN: The only one they didn't know  
10 about is the minimum required setback for the penthouse.

11 CHAIRPERSON HILL: Okay and there was also  
12 something, as I recall now, that one of the side yard relief  
13 might go away or be unnecessary if the Zoning Commission  
14 takes action on something but we wouldn't be able to vote on  
15 that until the Zoning Commission actually did take it up and  
16 take action on it. And then there is some time that has to  
17 go by before -- but you're here asking for the side yard  
18 relief anyway, correct?

19 MR. GBOLAHAN: Yes, sir.

20 CHAIRPERSON HILL: Okay. All right, so let me  
21 just try to walk through this a little.

22 I'm going to turn to the Office of Planning and  
23 see if -- I got the impression that there was a little bit  
24 of confusion as to what the applicant was here for and  
25 whether or not an argument had been made to grant the

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1 request.

2           So can the Office of Planning help clarify if  
3 you and the applicant are on the same page?

4           MS. THOMAS: Good afternoon, Mr. Chairman and  
5 Members of the Board. Karen Thomas with the Office of  
6 Planning.

7           At this time I would say that we recently wrote  
8 to the applicant to the Zoning Administrator, with the help  
9 of the Zoning Administrator, to clarify the types of relief  
10 that he needed.

11           The second letter that the Zoning Administrator  
12 submitted and that we gave to him had -- did not have the --  
13 they didn't have one area of relief included and we had --  
14 subsequently we asked the Zoning Administrator to make the  
15 relief noted in their referral, which is what he needed. So  
16 that helped clarify that because the initial referral letter  
17 wasn't correct and it wasn't clear. It didn't have all the  
18 areas of relief that was necessary, including the minimum lot  
19 dimension.

20           Subsequent to our writing the report, we also  
21 got additional information from the surveyor with respect to  
22 how this lot was created because there was some confusion as  
23 to you know it wasn't part of a record lot originally.  
24 That's what we thought.

25           Going back to the surveyor, the surveyor

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1 determined that -- pulled some records and helped us sort  
2 through what is the issue with this lot in terms of why did  
3 it need relief, how did it come to be, and just the situation  
4 surrounding the lot altogether.

5           So that was clarified with the surveyor's  
6 information, which we gave to the applicant. I think he  
7 submitted it to the record but from what we understand, this  
8 lot was a record lot originally. In 1932, it was acquired  
9 by the District to widen the alley portions of it. It was  
10 acquired by the District to widen the alley to each of those  
11 lots, the one closest to the alley, the subject lot, and the  
12 lot to the south of it.

13           So what happened was that you got this situation  
14 where it became a tax lot and it was never re-recorded. The  
15 portion that remained was never re-recorded as a record lot.  
16 So it became -- it stayed lot -- which lot it is -- 832, I  
17 think. Let me get a correct number -- 828. But it was  
18 originally 131.

19           So we had to clarify that to be sure because you  
20 just can't construct -- do construction on a lot that is not  
21 a record lot and could not be made into a record lot. So we  
22 had to find out what was the history of this lot. And it  
23 wasn't sufficient.

24           If it were part of a -- our analysis is further  
25 supported by the fact that we -- the facts that we found

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1 through the surveyor in that this lot originally was not re-  
2 recorded as a record lot, the portion that remained for  
3 development. So if it wasn't, this would create a practical  
4 difficulty in developing the lot going forward, as the  
5 applicant is having now. So we had to clear that up.

6 So with that, we had to correct all these areas  
7 of relief. What he had -- what he came to us with was side  
8 yard, and front side back, and just the penthouse that it  
9 wasn't permitted. We had to clarify that he needed setback  
10 relief and the minimum lot dimension relief, a variance from  
11 that, and continuing to special exception relief for the  
12 penthouse because it was not set back one-to-one, as  
13 required.

14 CHAIRPERSON HILL: Okay so I'm still a little  
15 unclear but thanks, Ms. Thomas.

16 MS. THOMAS: Well no, I can help you.

17 CHAIRPERSON HILL: No, no, no, so I am clear as  
18 to -- are you and the applicant on the same page?

19 MS. THOMAS: As of today, yes, we are on the  
20 same page.

21 CHAIRPERSON HILL: As of today?

22 MS. THOMAS: Yes, as to the nature of the relief  
23 that is involved.

24 CHAIRPERSON HILL: Okay and the report that you  
25 submitted into the record, however, is not -- is lacking some

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1 areas of discussion?

2 MS. THOMAS: The only part I would say was  
3 lacking is the minimum lot dimensions and the request for  
4 minimum lot dimension, which is further supported by the  
5 relief -- with the information that we got from the surveyor.

6 CHAIRPERSON HILL: Okay. So now the Office of  
7 Planning is in support of this application?

8 MS. THOMAS: We always were in support of the  
9 application but we feel more comfortable having that  
10 information having that information from the surveyor to  
11 support the minimum lot dimensions. So it is further  
12 buttressed. Yes, but we are in support of the application.

13 CHAIRPERSON HILL: Okay.

14 MS. THOMAS: And we had to work a little bit  
15 with the applicant because, admittedly, we didn't think that  
16 the record, his submission was full enough. So we had to go  
17 back and forth with him orally through phone contact and  
18 email to get additional information to help us write the  
19 report.

20 But admittedly, his initial submission wasn't  
21 sufficient.

22 CHAIRPERSON HILL: Okay. So Mr. Moy, in terms  
23 of the caption now, so was this captioned properly?

24 MR. MOY: Not originally. Not originally. So  
25 what I read into the record is the amended version and that's

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1 why I had to ask for the applicant to confirm that.

2 CHAIRPERSON HILL: Okay. So I just wanted to  
3 understand.

4 So again, what we're here for again was special  
5 exceptions from the penthouse requirement of Subtitle C  
6 1500.4; and the penthouse setback requirements of Subtitle  
7 C 1502.2; and variances from the front setback requirements  
8 of Subtitle B 315.1(c); lot width and lot area requirements  
9 of Subtitle E 201.1; and side yard requirements of Subtitle  
10 307.1. Okay?

11 MR. MOY: Yes.

12 CHAIRPERSON HILL: And so all that has been  
13 noticed properly?

14 MR. MOY: Well, yes and no. It depends on with  
15 regards to the variance now -- because originally, all of  
16 this was in the form of special exception relief. So what  
17 we are reading now are the other portions, which requires  
18 variance relief.

19 So one of the questions is whether or not when  
20 the applicant with the ANC, we thought the ANC was aware that  
21 the burden of proof was higher for a variance relief because  
22 originally, my understanding is when they met with ANC, it  
23 was all special exception relief.

24 CHAIRPERSON HILL: Okay, Mr. Gbolahan, you are  
25 doing better than I thought you were doing but still, I don't

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1 know if you're there yet. Okay?

2 So you did -- when you presented in front of the  
3 ANC, the reason why it's different is because, again, a  
4 variance is a higher standard for us to have to evaluate  
5 through. And so the ANC did not know about the variance  
6 standard on one of the variances, correct? Is that what you  
7 were saying?

8 MR. GBOLAHAN: Yes, sir, but I got an email from  
9 the chairman this morning.

10 CHAIRPERSON HILL: Okay.

11 MR. GBOLAHAN: I have copies here for you.

12 CHAIRPERSON HILL: Okay. Can you give those to  
13 the Secretary and he can pass them out? Right up here, over  
14 to my left.

15 It says see memorandum attached. Do you have a  
16 memorandum?

17 And then it said this matter will be considered  
18 at our November 13th public meeting. So they are going to  
19 go -- it's going to go back before the ANC on the 13th. Is  
20 that correct? Is that you're -- you can talk in the  
21 microphone.

22 MR. GBOLAHAN: I just got that this morning.

23 CHAIRPERSON HILL: Okay. Well do you know what  
24 the -- it says see memorandum attached. Did you see the  
25 memorandum that is attached or is there a memorandum

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1 attached?

2 MR. GBOLAHAN: No.

3 CHAIRPERSON HILL: Okay.

4 VICE CHAIRPERSON HART: It seems like to me,  
5 Chairman Hood that -- look, I got it, too -- Chairman Hill,  
6 excuse me, that the ANC -- the SMD has submitted this email  
7 or letter to say that he is supportive of that but that the  
8 actual full -- the revised project would not come, as you  
9 just said, before the full ANC until a week from today, if  
10 I am -- yes, or next Tuesday.

11 CHAIRPERSON HILL: Okay and then the revised  
12 burden of proof, Mr. Gbolahan, that you submitted, which  
13 again seems to be kind of cutting and pasting from the Office  
14 of Planning's report, you submitted that when?

15 MR. GBOLAHAN: Yesterday.

16 CHAIRPERSON HILL: Yesterday, okay. All right.  
17 Okay, so I'm back to I don't know. So I still  
18 think --

19 MEMBER WHITE: Mr. Chairman?

20 CHAIRPERSON HILL: Yes, sure, go ahead.

21 MEMBER WHITE: I believe Office of Planning has  
22 a further clarification of what the memorandum is.

23 CHAIRPERSON HILL: Okay, great. Thank you.

24 MS. THOMAS: Just on the point of the question  
25 of the memorandum, I believe that the memorandum is the

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1 Zoning Administrator's latest memo referral letter. So it  
2 would clarify exactly what they were looking at.

3 CHAIRPERSON HILL: And is that letter in --  
4 okay, so it is in Set 44?

5 MS. THOMAS: Yes.

6 COMMISSIONER SHAPIRO: Mr. Chair?

7 CHAIRPERSON HILL: Yes.

8 COMMISSIONER SHAPIRO: Thank you. Even as the  
9 parties are getting closer and closer, I think this email  
10 from this morning states quite clearly that the ANC has not  
11 taken a position yet. I think it is incumbent upon us to  
12 follow our process and give the -- even if it's pretty clear  
13 that the ANC is going to be supporting this, and with respect  
14 to Mr. Gbolahan, I think that we need to wait until the ANC  
15 has actually heard that.

16 CHAIRPERSON HILL: Yes, I would agree.

17 COMMISSIONER SHAPIRO: I don't think there is a  
18 lot of difference. I'm not sure there is going to be a whole  
19 lot of movement on the substance but that the process is  
20 clear and it is hard for me to suggest we consider it.

21 CHAIRPERSON HILL: Okay, this is what I suggest  
22 happens, okay? So and I tried to get you up here earlier but  
23 it just didn't work out. I was trying to get it all  
24 straightened out.

25 I think, Mr. Gbolahan, what we are going to do

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1 is wait until the November 13th meeting has happened. And  
2 then the Office of Planning can submit a supplemental report  
3 based upon now what you understand the relief to be. Okay?  
4 And so if we can get that from the Office of Planning.

5 Mr. Gbolahan, if you want to submit something  
6 more in terms of your revised burden of proof, or this may  
7 be enough. I just haven't had a chance to kind of go over  
8 it because it came in yesterday and, to be quite honest, I  
9 review the cases on the weekend. And so you know like that  
10 doesn't even have enough time for anybody to -- but if you  
11 want to, after talking with the Office of Planning, try to  
12 update your burden of proof again, that's fine. Otherwise,  
13 I guess maybe it would be okay. I don't know. I would just  
14 have to take a look.

15 And then if you can get something from the ANC  
16 that confirms that they are still in support of this  
17 application with the new relief requested or the revised  
18 relief requested, then we can get from the ANC.

19 And then I think, Mr. Shapiro, you said you're  
20 back here on the 12th again?

21 COMMISSIONER SHAPIRO: Of December.

22 CHAIRPERSON HILL: And so we'll come back and  
23 review this on December 12th, which is when Mr. Shapiro will  
24 be back here again.

25 VICE CHAIRPERSON HART: Mr. Chairman, I also

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1 have a question about the Affidavit of Posting, just the  
2 posting. Because we've made changes to the relief that  
3 you're requesting, the poster that you put on the property,  
4 it wouldn't include the variance relief in it, correct?

5 MR. GBOLAHAN: No.

6 VICE CHAIRPERSON HART: Okay so I don't know  
7 from OAG what we need to -- Mr. Tondro, I don't know what  
8 they need to do for if they are changing the zoning.

9 I mean typically, when we have changes from  
10 special exception to variance, we need to have something that  
11 shows that on the building itself because right now we  
12 haven't had it. It wasn't mailed to them and it wasn't on  
13 the poster. So since we have a little bit of time now, maybe  
14 we request that they have an Affidavit of Posting for that  
15 as well.

16 MR. TONDRO: Yes, Vice Chair Hart, I would agree  
17 with that, given the fact that there is going to be this  
18 extra additional time, that the posting be corrected, that  
19 the posting that is on the site be corrected to show the  
20 relief that is being requested.

21 I will also note, Chairman Hill, that the Zoning  
22 Commission is due to take action on the side yard relief  
23 issue on December the 3rd. So it may be that if this is  
24 continued to December the 12th that that side yard relief  
25 requirement may not be needed at that point but that can also

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1 be evaluated at that time.

2 CHAIRPERSON HILL: Commissioner Shapiro.

3 COMMISSIONER SHAPIRO: I think Mr. Tondro is  
4 correct that the Zoning Commission may take action. But I  
5 don't think, and correct if I am wrong, it won't go into  
6 effect in the right time frame. I may be wrong with that but  
7 my understanding is that it will be a matter of weeks before  
8 that goes into effect.

9 MR. TONDRO: It is true that it is likely to  
10 take about two weeks before it's published in the D.C.  
11 register but there would also be time for the applicant --  
12 there is time that is required for the BZA's decision to  
13 publish and order before it becomes effective. That's likely  
14 to be at least the same amount of time. And then the  
15 applicant would only need that relief when they submit their  
16 building permit application, which may be a little bit  
17 further down.

18 So in other words, by the time they actually  
19 need that relief for the building permit application,  
20 presumably the Zoning Commission action might be effective.  
21 But again, that could be evaluated as of the December 12th  
22 meeting.

23 VICE CHAIRPERSON HART: I think we just have  
24 given Mr. Gbolahan a migraine at this moment.

25 CHAIRPERSON HILL: No, that's all right. I

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1 think he's giving me a migraine so I don't feel so bad about  
2 it.

3 No, so but Commissioner Shapiro, so we tried  
4 this once before in terms of like voting before the thing  
5 actually happened and we kind of decided we're not going to  
6 do that, meaning took effect.

7 So the Office of Planning is in support right  
8 now of the side yard relief, correct?

9 MS. THOMAS: That's correct.

10 CHAIRPERSON HILL: But I'm saying the side yard  
11 relief that is going to go away, they have already made a  
12 case for it anyway.

13 So you can keep the side yard relief and go to  
14 the ANC with everything that you have in front of us right  
15 now. Make sure they understand the variances and everything.  
16 Go ahead and repost. Put your placard -- post your placard  
17 correctly for all of the different requests that you have.  
18 It's right there in the agenda. Actually, the agenda is  
19 right there on the -- you know as you came walking into the  
20 room and yours is now correctly posted on that agenda. Make  
21 sure you have all those items listed on your placard.

22 Do that right away and then submit -- I'll let  
23 you talk in a second -- and then submit verification that you  
24 have done that into the record.

25 And your question was?

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1 MR. GBOLAHAN: Am I going to write on the  
2 placard or I come and get a new one here?

3 MR. MOY: Mr. Chairman, I would suggest that  
4 before Mr. Gbolahan leaves that he go across the hall to  
5 reception area to pick up the new signs. The staff can make  
6 new signs for you before you leave here.

7 MR. GBOLAHAN: Thank you, sir.

8 CHAIRPERSON HILL: You're lucky. They're really  
9 helpful. That's great.

10 Okay, so do you understand everything?

11 MR. GBOLAHAN: Yes, I do but do I still need him  
12 here because of the penthouse?

13 CHAIRPERSON HILL: Do you still need him here  
14 because --

15 MR. GBOLAHAN: Of the penthouse.

16 CHAIRPERSON HILL: Yes.

17 MR. GBOLAHAN: I still need him?

18 CHAIRPERSON HILL: You still need the penthouse  
19 relief.

20 MR. GBOLAHAN: Okay, do I still need him?

21 CHAIRPERSON HILL: Oh, wait, the Office of --  
22 maybe I'm not understanding.

23 Office of Planning?

24 MS. THOMAS: Yes, he is asking if he would still  
25 require the architect to be present at the hearing, the next

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1 hearing, to discuss the --

2 CHAIRPERSON HILL: I understand. Okay, that's  
3 fine.

4 MS. THOMAS: OP advised that he has the --

5 CHAIRPERSON HILL: The architect.

6 MS. THOMAS: -- the architect.

7 CHAIRPERSON HILL: Right, okay.

8 So does the Board have any questions of the  
9 architect now concerning the penthouse relief or any other  
10 relief? I suggest that -- well, actually, I guess the  
11 architect can go ahead and give his presentation for the  
12 penthouse relief. Okay and/or does the Board have any  
13 questions of the architect?

14 VICE CHAIRPERSON HART: None here.

15 CHAIRPERSON HILL: Okay, if the Board doesn't  
16 have any questions of the architect, then hold on.

17 Does anybody have any questions for the  
18 architect? I mean you're an architect.

19 MR. TONDRO: Chairman Hill?

20 CHAIRPERSON HILL: Yes.

21 MR. TONDRO: I'm sorry. I believe the reason  
22 for the presence of the architect may have been in order to  
23 address the variance relief that was needed, the various  
24 different prongs. That may have been why the Office of  
25 Planning thought it was appropriate.

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1 MS. THOMAS: That's correct because I don't  
2 think the applicant was clear in distinguishing between  
3 special exception relief and variance. And it was just  
4 getting a little bit muddled on that count.

5 CHAIRPERSON HILL: Okay, I still don't have any  
6 questions of the architect. Does anybody have any questions  
7 of the architect?

8 VICE CHAIRPERSON HART: I don't.

9 CHAIRPERSON HILL: Okay. I appreciate the  
10 clarification.

11 So you don't have to bring the architect when  
12 you come back.

13 MR. GBOLAHAN: Are you sure? It is difficult.

14 CHAIRPERSON HILL: No, no, no I understand.

15 MR. GBOLAHAN: Thank you.

16 CHAIRPERSON HILL: And so I don't -- I mean I  
17 don't know for sure. I guess I can't tell you for sure. I  
18 can't tell you until we are doing the presentation here as  
19 to whether or not the Board would have any questions for the  
20 architect.

21 VICE CHAIRPERSON HART: Actually, Mr. Chair, I  
22 do have a question.

23 CHAIRPERSON HILL: Okay, great.

24 VICE CHAIRPERSON HART: One of the drawings that  
25 you submitted to us, it's Exhibit 30. I think those were the

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1 most up-to-date drawings. You have a section in this drawing  
2 A-006 and it's the eighth page in your drawings -- drawing  
3 set, number A-006.

4 MR. SALLAH: I did not bring that page with me  
5 today.

6 VICE CHAIRPERSON HART: It is a page that shows  
7 a section of the building and it shows actually two sections  
8 -- Section 1 and Section 2. Do you remember the drawing that  
9 I'm talking about?

10 The question I had was there is what I think is  
11 the penthouse structure on top, yes? But as I'm looking at  
12 it I'm trying to figure out how does the penthouse work. It  
13 is eight feet, six inches long but, as you are walking up,  
14 I'm just not sure. Are you bending your head down so you are  
15 not hitting the ceiling? Because you're like four feet  
16 between where the stairs are and where the -- if you  
17 understand what I am saying, where the stairs are and where  
18 the ceiling is is a very short place. And I'm not exactly  
19 sure how you get up the stairs without hitting your head on  
20 the -- you know typically what they will do is they will have  
21 a rectangle which is showing that and then they will have a  
22 slanted part that is where you are actually walking because  
23 you have to have eight feet as you are walking up, right?

24 So these drawings don't show that. That's why  
25 I'm trying to understand how that works.

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1 MR. SALLAH: Well originally we had the  
2 penthouse bigger than that so that your headroom was okay.  
3 But then he came back saying that the penthouse has to be  
4 reduced. So we reduced it and we'll be working on how to get  
5 the headroom clearance later.

6 We may -- we could -- we thought we could use a  
7 roof hatch so that we would not have that problem but --

8 VICE CHAIRPERSON HART: I mean I think you may  
9 want to look at that pretty -- focus on that because right  
10 now, this is not going to work. Just functionally it won't  
11 work because you won't be able to walk up the stairs without  
12 hitting your head, unless you are a very short person,  
13 without hitting your head on the ceiling as you are walking  
14 up the stairs. You need to have some sort of head clearance  
15 to allow you to do that.

16 So you need to update that drawing to show that.  
17 I understand that someone may have said to reduce the size  
18 of it, but that's not how you do it because this will cause  
19 a huge problem for -- I mean it will be an unusable roof, if  
20 you want it to be a roof, roof deck that you can access.

21 So now you have actual time to figure that out  
22 as well.

23 And actually, I'm not even sure --

24 COMMISSIONER SHAPIRO: Which means you may need  
25 your architect when you come back.

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1 VICE CHAIRPERSON HART: Yes, well, I'm also  
2 looking at the floorplan as well. And I'm not exactly sure  
3 what I'm looking at with that.

4 For the roof deck, how do you access the deck  
5 itself?

6 MR. SALLAH: On Sheet A-001, the third floor  
7 plan, you walk in the hallway towards the front and then you  
8 climb up.

9 VICE CHAIRPERSON HART: And the front is towards  
10 the bottom of the --

11 MR. SALLAH: The sheet.

12 VICE CHAIRPERSON HART: Yes but if I go to the  
13 roof deck, it looks like the door is on the -- unless you  
14 changed this. I can't quite tell. The door looks like it  
15 is on the back of the stairs. That's what I couldn't quite  
16 understand.

17 Am I reading that correctly? Am I missing  
18 something?

19 MR. SALLAH: No, because you're walking -- the  
20 back of the building is at the top of the page.

21 VICE CHAIRPERSON HART: The back of the building  
22 is on the top of the page on both pages, correct?

23 MR. SALLAH: Correct.

24 VICE CHAIRPERSON HART: Okay.

25 MR. SALLAH: So the door shows in the rear

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1 elevation.

2 VICE CHAIRPERSON HART: Yes, I mean -- okay, I  
3 got it but it still is the problem of where the stairs are  
4 and where the ceiling is because that won't work.

5 I mean you can see the other drawings have the  
6 stairs. That's why stairs are usually above stairs it's  
7 because then you have the clearance to be able to get there.  
8 And right now, there is nothing to keep the person from  
9 hitting their head as they are walking up the stairs.

10 So you need to figure out how to deal with it.

11 MR. SALLAH: Yes, sir, we will change the  
12 drawings.

13 VICE CHAIRPERSON HART: Thank you.

14 CHAIRPERSON HILL: Okay, then to follow-up with  
15 Commissioner Shapiro, it sounds like you may need the  
16 architect when you come back. So you can see if December  
17 12th works but that's when -- and if you don't bring him,  
18 then he is not here to answer questions and we'll just see  
19 how it goes.

20 Okay, so do you understand now everything that  
21 you need to do?

22 MR. GBOLAHAN: Yes, I do, sir. And I do  
23 understand that the penthouse can go up to ten feet, which  
24 he knows that, too.

25 CHAIRPERSON HILL: Okay, okay. I will start

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1 again.

2           You talk with the Office of Planning about  
3 anything you change. Okay? Because whatever drawings we see  
4 at the end are the ones that we are going to be approving or  
5 not approving. And any drawings that you take to the ANC are  
6 the ones that they are going to be approving or not  
7 approving.

8           So after you change something after you've  
9 presented to the ANC, you might as well start all over again.  
10 Okay? So just make sure that whatever you present to the ANC  
11 is what the Office of Planning has seen and is in obviously  
12 approval of, if you can. Otherwise, you have to make your  
13 own argument as to why you should be getting something that  
14 the Office of Planning does not agree that you should be  
15 getting. Okay? And go across the hall and you can get  
16 another placard so you can repost. Okay?

17           And so we will go ahead and do this on the 12th  
18 again, okay, December 12th, which is when Mr. Shapiro will  
19 be back. And as I mentioned before, if you want to revise  
20 your burden of proof, you can go ahead and do that or not.  
21 It's up to you. But it seems like you're getting closer is  
22 what I'm also trying to say. You just have to go through the  
23 process here and then make your case before the Board.

24           So, do you have any other questions?

25           MR. GBOLAHAN: No, sir.

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1 CHAIRPERSON HILL: Okay. All right.

2 Okay, then we will see you on December -- oh,  
3 and it looks like OAG has a comment.

4 MR. MOY: Yes, well -- you want to go first?  
5 Yes, let me go over it for the benefit of the applicant.

6 So the hearing will be continued on Wednesday,  
7 December the 12th. And I will go back a week that if Office  
8 of Planning would like to submit a supplemental, let's say  
9 a week before, which would be December 5, okay?

10 And if the applicant would care to update or  
11 strengthen your burden of proof, as well as revise drawings,  
12 as just now have been discussed with the Board, that you can  
13 submit that into the record. Well you're probably going to  
14 need that before to use at the ANC meeting, which is November  
15 the 13th.

16 Yes, so maybe you can submit the -- well, the  
17 Board wouldn't need to see that until let's say November  
18 15th, Friday, you can submit that to the BZA into the record.  
19 Okay.

20 Oh and then of course, although we didn't have  
21 it today, you need to remember that five days prior to the  
22 hearing you need to submit an affidavit of posting with a  
23 photo -- with a picture of the sign.

24 CHAIRPERSON HILL: Five days prior to the  
25 hearing.

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1           Okay, is that it? Okay.

2           And then I would try to catch the Office of  
3 Planning on the way out and just see if you can get a little  
4 more clarification.

5           All right, do you have any other questions? Do  
6 you understand everything?

7           MR. GBOLAHAN: Yes, sir.

8           CHAIRPERSON HILL: Okay, great. We'll see you  
9 on December 12th.

10          MR. GBOLAHAN: Thank you very much, sir. Thank  
11 you.

12          CHAIRPERSON HILL: Thank you.

13          All right, Mr. Moy, let's hear the last one.

14          MR. MOY: Thank you, Mr. Chairman. So if we can  
15 have the applicant to the table -- come to the table. This  
16 is Case Application number 19820 of Cambridge Holdings LLC,  
17 captioned and advertised for a special exception under the  
18 residential conversion requirements, Subtitle U, Section  
19 320.2 to convert an existing principal dwelling unit to a  
20 three-unit apartment house in an RF-1 zone. This is at 1128  
21 Buchanan Street, Northwest, Square 2918, Lot 113.

22          MS. AKINSAN: May I be sworn in?

23          CHAIRPERSON HILL: Oh, we have to swear you in.  
24 Mr. Moy.

25                 (Whereupon, the witness was sworn.)

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1 CHAIRPERSON HILL: Okay, please introduce  
2 yourself.

3 MS. AKINSAN: My name is Olivia Akinsan. I am  
4 the designer for the project.

5 CHAIRPERSON HILL: Okay, Ms. Akinsan. So this  
6 is a continued hearing from the last time you were here,  
7 right? And I suppose, if you could kind of -- why don't you  
8 go ahead and start by telling us what's happened since the  
9 last time you were here, what you submitted into the record?  
10 Also, there were some conditions that the Office of Planning  
11 had set forth and you could speak to those.

12 I'm going to go ahead and put 15 minutes on the  
13 clock, just so I know where we are, and you can begin  
14 whenever you like.

15 MS. AKINSAN: Per the request of the Board, we  
16 have submitted a shadow study, as well as a financial  
17 analysis. I believe Office of Planning did approve with  
18 conditions, which mainly refer to the rear and rooftop decks  
19 which we have opted to still remain in place, mainly because  
20 if this was to be units instead of three, the bulking of the  
21 building would still be the same.

22 CHAIRPERSON HILL: Okay, I love it. So you  
23 waited here all day. Is that what you're saying? And so  
24 you're here but you are opposed to the Office of Planning's  
25 conditions.

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1 MS. AKINSAN: My client is.

2 CHAIRPERSON HILL: Okay, sorry. So your client  
3 is opposed to -- that's great. So your client is opposed to  
4 the Office of -- so the Office of Planning is only in support  
5 if those conditions are made. And if those conditions are  
6 made, we would have to see drawings about those conditions.

7 Okay so tell me again. Go over again what  
8 you've done since -- you did the shadow study and you  
9 submitted the financials.

10 MS. AKINSAN: Correct.

11 CHAIRPERSON HILL: And did you guys go back to  
12 the ANC?

13 MS. AKINSAN: No, we did not. No.

14 CHAIRPERSON HILL: Okay, I'm going to turn to  
15 the Office of Planning real quick here, just so I understand  
16 a couple of things. And I did have a -- okay, so go ahead.  
17 Let's hear from the Office of Planning, if we could.

18 MS. VITALE: Sure. Good afternoon, Mr. Chair,  
19 Members of the Board. Elisa Vitale for the record.

20 And as you indicated, the Office of Planning did  
21 submit a supplemental report. We are recommending approval  
22 of this special exception relief for conversion of an  
23 existing residential building to a three-unit apartment house  
24 in the RF-1 zone.

25 We do recommend that approval subject to

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1 conditions and that includes removal of the proposed roof  
2 deck and spiral stair that provides access to that roof deck.  
3 We believe that would mitigate the impact of the proposed  
4 conversion by lessening visual and privacy impacts. And we  
5 also recommend a reduction in the width of the rear decks or  
6 a provision of screening on the east and west sides to,  
7 again, mitigate impacts to privacy of use and enjoyment to  
8 the adjoining property owners.

9 I believe there were a few questions that were  
10 raised at the October 10th public hearing. OP provided  
11 responses to those. I'm happy to provide additional  
12 information if the Board has any questions.

13 The applicant did provide a shadow study. The  
14 ANC has also provided a supplemental report indicating that  
15 it is still opposed to the request for the conversion.

16 I'm happy to answer any other questions you  
17 might have at this time.

18 CHAIRPERSON HILL: Okay, does the Board have any  
19 questions for the Office of Planning?

20 VICE CHAIRPERSON HART: So it is -- the Chairman  
21 said a few minutes ago that if the Office of Planning -- the  
22 Office of Planning's approval is conditioned -- conditional.  
23 And if those conditions were not met then you would then be  
24 in opposition to this still?

25 MS. VITALE: That is correct.

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1 VICE CHAIRPERSON HART: Okay.

2 MS. VITALE: And I think the applicant was  
3 starting to get the issue of the point. The applicant is  
4 here before you today because this is a conversion to go from  
5 a two-unit flat property, which is a matter of right  
6 permitted use in the zone, to a three-unit apartment  
7 building.

8 The applicant does not need relief for the ten-  
9 foot rule. They don't need relief for rooftop architectural  
10 elements. So the only relief they need is for the  
11 conversion.

12 Should the applicant decide to go forward with  
13 two units and not seek relief for the conversion, they would  
14 have a matter of right project, at which point OP's  
15 recommended conditions about the roof deck, the spiral  
16 stairs, the applicant wouldn't be able to proceed. They'd  
17 go to DCRA and pull permits if they stayed with the two-unit  
18 development versus the three-unit development that they are  
19 requesting today.

20 CHAIRPERSON HILL: So just to be clear, and I  
21 understood this, and that was a lot of the feedback that we  
22 got from the community was about the conversion and the  
23 family units. And thank you for the definition of family  
24 again, at least what the regulations say.

25 And so but this could be done with the spiral

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1 stair and the other item that the Office of Planning was  
2 opposed to as a matter of right, if it were two units.  
3 Correct?

4 MS. VITALE: That's correct.

5 CHAIRPERSON HILL: Okay. So we're just here for  
6 the conversion. And the Office of Planning is opposed to  
7 those items because of the adverse impact they could have if  
8 it were three units.

9 MS. VITALE: That is correct.

10 CHAIRPERSON HILL: All right. So does anybody  
11 else have anything else for the Office of Planning?

12 COMMISSIONER SHAPIRO: Thank you. The question  
13 for the Office of Planning is your conditional approval is  
14 based upon drawings you haven't seen, though.

15 MS. VITALE: Our conditions, we believe, would  
16 mitigate the impacts. Obviously, the applicant hasn't  
17 revised -- the applicant is not agreeing to those conditions  
18 and they haven't revised the plans to reflect those  
19 conditions. So no, I haven't seen it drawn up but I believe  
20 our recommendation by removing the roof deck and the spiral  
21 stair that accesses that roof deck, you know I do think that  
22 we can imagine that and how that could reduce impacts to the  
23 adjoining properties, as well as the second condition that  
24 relates to decreasing the width or providing some sort of  
25 screening on the sides of the rear decks.

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1           COMMISSIONER SHAPIRO: I think the direction is  
2 clear but it feels unusual for us to be considering something  
3 that we haven't seen a final version of.

4           So maybe that's less of a question for OP and  
5 more of a thought for my colleagues.

6           Thank you, Mr. Chair.

7           CHAIRPERSON HILL: Okay.

8           MEMBER JOHN: Mr. Chairman?

9           CHAIRPERSON HILL: Sure.

10          MEMBER JOHN: I had a quick question. I am  
11 having difficulty connecting the rationale. So if the  
12 applicant kept the bulk the same and they could do this as  
13 a matter of right for two units, I'm not sure why they would  
14 be prohibited from having a roof deck and stairs because  
15 there is an additional -- another apartment. That's where  
16 I'm having some difficulty.

17          MS. VITALE: It's not so much that it's  
18 connected directly. It's before us. They are requesting  
19 relief for the conversion so we are reviewing that  
20 application and looking at potential impacts.

21          If they weren't doing a conversion, we wouldn't  
22 be looking at it. We wouldn't be assessing the impact. It  
23 would be matter of right. It doesn't mean that the impact  
24 wouldn't be there if it was two units, it just means that it  
25 wouldn't be within the purview of review by the Office of

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1 Planning.

2           They could go to DCRA and pull permits for a  
3 matter of right project for two units.

4           MEMBER JOHN: And that would include -- could  
5 include a roof deck and stairs?

6           MS. VITALE: Provided that it met all zoning  
7 requirements, yes.

8           MEMBER JOHN: Okay, thanks. That's helpful.

9           COMMISSIONER SHAPIRO: One more question, Mr.  
10 Chair, for the applicant, if that's appropriate at this time.

11           CHAIRPERSON HILL: Sure, of course.

12           COMMISSIONER SHAPIRO: So I just want to be  
13 clear. What's before us, what you are presenting on behalf  
14 of your clients is something that OP is not supporting. And  
15 you are not changing -- you're not changing what is before  
16 us.

17           What is before us is the three-unit conversion  
18 with the roof deck, and the spiral staircase, and the wider  
19 back.

20           MS. AKINSAN: Well, we want to be given the  
21 opportunity to present the shadow study because during the  
22 last hearing, the neighbors' concern mostly was about the  
23 shading and lack of light during the day. And we feel that  
24 our shadow study has shown that the lack of lighting is not  
25 really going to be an issue.

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1           So we want to be given the chance to present the  
2 shadow study and show that we don't feel the impact would be  
3 as severe as the adjacent neighbors might have thought they  
4 would be.

5           COMMISSIONER SHAPIRO: Okay, thank you for that.

6           Thank you, Mr. Chair.

7           CHAIRPERSON HILL: Okay. Anybody else have any  
8 questions for the Office of Planning?

9           MEMBER WHITE: Just one question --

10          CHAIRPERSON HILL: Sure.

11          MEMBER WHITE: -- whether or not Office of  
12 Planning is interested in reviewing a shadow study for this.  
13 I mean I hear her point. So I just wondered what your  
14 position was on that.

15          MS. VITALE: We did receive the shadow study.  
16 We reviewed the shadow study. Our concerns about impacts  
17 were more related to privacy and views and less related to  
18 like shading impacts from the addition.

19          MEMBER WHITE: Thank you.

20          CHAIRPERSON HILL: Okay, does the applicant have  
21 any questions for the Office of Planning?

22          MS. AKINSAN: No, I don't.

23          CHAIRPERSON HILL: Okay. I'm going to ask is  
24 there anyone where wishing to speak in support?

25          Is there anyone here wishing to speak in

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1 opposition?

2                   Okay, I don't know what to say, Ms. Akinsan --  
3 Atkinson -- Akinsan. You're not Australian, are you?

4                   MS. AKINSAN: I'm from East London.

5                   CHAIRPERSON HILL: Oh, okay, because I have  
6 friends that are Akinsan in Australia.

7                   So I mean I know I'm not going to be able to be  
8 in favor of the application the way it is, in terms of the  
9 project. I mean I appreciate that you put in the shadow  
10 study. And really the big community concern was of the  
11 conversion. And so -- I'm sorry. Yes, it was primarily  
12 about the conversion.

13                   And I do appreciate that the bulk of the home --  
14 oh, I'm sorry -- the bulk of the proposed project is the same  
15 as it would be as a matter of right but you are here before  
16 us for the conversion. And therefore, since you are here  
17 before us for the conversion, the Office of Planning and the  
18 Board is able to look at whether or not there are some  
19 privacy issues that might be mitigated due to this particular  
20 project.

21                   And so I suppose I'm just kind of offering it  
22 up. I don't know if -- you know your client is not here so  
23 I guess it would be kind of difficult to talk to the client  
24 but I don't see how -- this probably isn't -- you know you're  
25 just remaining the way you're remaining is what my question

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1 is, I suppose.

2 MS. AKINSAN: Well, again, we wanted to give you  
3 the opportunity to look at the shadow study and see if that  
4 would make a difference.

5 CHAIRPERSON HILL: Sure.

6 MS. AKINSAN: And I guess, obviously, it hasn't.  
7 So in that respect, the client is willing to reduce -- I  
8 don't know. I would have to talk to them but they are  
9 willing to make some changes. But we wanted to see what you  
10 guys thought about the shadow study.

11 CHAIRPERSON HILL: Yes, well the problem I have  
12 with that is that's a little dangerous is that if we reject  
13 you here right now, then you can't come back before us for  
14 a year. Right? And so your client is taking a pretty big  
15 roll of the dice here in terms of -- I mean I don't know.  
16 And we'd have to see drawings and we'd have to understand the  
17 items that the Office of Planning has put forth before you.

18 And I guess also, Ms. Akinsan, I'm sorry that  
19 you're the only one here in this whole room right now. So  
20 your client's not even here. But like you know we're busy.  
21 And so like we could just easily have this discussion and be  
22 done with this case but I don't know if the Board wants to  
23 provide the applicant with any further opportunity to go back  
24 to your client, revise the drawings, and see if you can --  
25 because still you haven't necessarily made the case before

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1 us that the issues that the Office of Planning is bringing  
2 up is going to be mitigated by whatever they have asked you  
3 to do, in terms of the privacy screening, for example, and  
4 losing the staircase that is going up to the roof deck. We  
5 then, the Board, still get to review it.

6 So I don't even know whether or not -- I guess  
7 what I'm trying to get at, I don't even know if we would  
8 agree with the Office of Planning yet because we don't have  
9 any drawings to take a look at. So I can't even say for sure  
10 that you would necessarily get approved anyway.

11 But that is a long way of going about saying do  
12 you want to work with the Office of Planning or do you want  
13 us to go ahead and move through this application?

14 MS. AKINSAN: We would prefer to work with the  
15 Office of Planning.

16 CHAIRPERSON HILL: Okay. What would the Board  
17 like to do?

18 COMMISSIONER SHAPIRO: Mr. Chair?

19 CHAIRPERSON HILL: Yes.

20 COMMISSIONER SHAPIRO: I mean I think we'd be  
21 well within our rights to evaluate the case on the merits  
22 right here and make a decision. But I also, if the applicant  
23 is willing to work with the Office of Planning and there is  
24 a roadmap towards agreement, I am okay with giving them more  
25 time.

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1 CHAIRPERSON HILL: Okay, I got one more time.

2 MEMBER JOHN: Mr. Chairman, my only concern is  
3 that the bulk of the project will not change, whether or not  
4 it is two units or three units, the privacy issues will still  
5 be there.

6 And I'm not sure -- because that's factually  
7 true, I'm not sure how that affects whether or not we allow  
8 the conversion. That's what I'm struggling with.

9 CHAIRPERSON HILL: So are you --

10 MEMBER JOHN: I mean that's just how I'm  
11 thinking of it, Mr. Chairman. I could be persuaded otherwise  
12 but that's where I am today.

13 CHAIRPERSON HILL: No, I understand. What I am  
14 saying is do you want to give the applicant more time.

15 MEMBER JOHN: I'm okay with whatever my  
16 colleagues decide.

17 CHAIRPERSON HILL: Okay, we've got a whatever.  
18 And so Vice Chair Hart and Ms. White?

19 MEMBER WHITE: Yes, I'm okay with it but you  
20 know I would just caution that we need to get some closure  
21 on this as soon as possible. But I'm okay with giving the  
22 applicant some additional time in this case.

23 CHAIRPERSON HILL: Okay, Mr. Hart?

24 VICE CHAIRPERSON HART: No further time.

25 CHAIRPERSON HILL: Okay, even though I had like

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1 I was against -- I was ready to vote on this today, which is  
2 really interesting that I am going to be the curmudgeon.

3 So I would go ahead -- so we're going to have a  
4 continued hearing again. We're going to continue this  
5 hearing -- I guess no. We can do a decision, right, or we'd  
6 have a continued hearing probably?

7 MR. MOY: I think it's up to the Board. Well of  
8 course, it's always up to the Board but it's hard to  
9 forecast.

10 CHAIRPERSON HILL: That's fine. So we're going  
11 to have a continued hearing. And you can let your client know  
12 I don't think I've ever continued a hearing twice.

13 So I would suggest working with the Office of  
14 Planning. We definitely have to see whatever it is that  
15 we're evaluating in front of us. So we need to see new  
16 drawings. And now that I am just kind of frustrated, I hope  
17 that it really -- the drawings are really good in how they  
18 are going to address the issues that the Office of Planning  
19 is bringing up. Okay?

20 So, Ms. Akinsan, we're going to do this I guess  
21 on the 12th again.

22 Oh, I'm sorry, Mr. Shapiro.

23 COMMISSIONER SHAPIRO: So this needs to be --  
24 depending on what the decision is, does this need to go back  
25 to the ANC?

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1           CHAIRPERSON HILL: I don't think that -- I don't  
2 know if they want to take it back. The ANC submitted -- the  
3 ANC will have an opportunity to again put comments in for any  
4 other -- anything that is put before the Board. So I guess  
5 we would have -- the ANC would have an opportunity to  
6 respond.

7           The ANC is clearly opposed to the conversion and  
8 that's kind of what they've stated, it seems like, over and  
9 over again. I mean my -- and I'd be happy -- if the ANC were  
10 here, I'd be happy to tell them I mean the bulk of the  
11 project is not changing. You know the envelope of the  
12 building is not changing. Whether or not, and this would  
13 have been in -- and we still haven't deliberated yet so we  
14 don't know what might have happened, but again, the  
15 additional unit that would be created from this -- I mean  
16 I've always now -- I'm having more and more a struggle with  
17 what the term family is. You know what is a family unit?  
18 You know because I don't have children, I'm not a family, or  
19 whatever that is? So I struggle with that concept, although  
20 I do appreciate the people that did come down.

21           And I do very much appreciate the people that  
22 came down. And I thought that the neighborhood sounds like  
23 a lovely neighborhood. You know then they told of the people  
24 that have been living there for as long as they have been  
25 living there. And I'm not trying to diminish the concept of

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1 the way they like their neighborhood to look but my  
2 discussion with this was again kind of the third unit and  
3 that the bulk and the massing of the building isn't changing,  
4 whether it is three units or whether it is two units.

5 And so the adverse impact, again, that we are  
6 now struggling with, I believe, is kind of what the Office  
7 of Planning has brought up, which is the privacy issues for  
8 the roof deck and the side screenings.

9 So I don't think -- I mean you could try to go  
10 back to the ANC and see if, given the removal of the spiral  
11 stair and the privacy screenings that you may try to put  
12 forward, if that would change the opinion of the ANC. You  
13 are welcome to go ahead and go talk to them and see if that  
14 would. However, they will have an opportunity, the ANC --  
15 correct me, Mr. Moy -- they will have an opportunity to  
16 respond to anything that the applicant submits.

17 MR. MOY: That's true, Mr. Chairman. The only  
18 concern I might have is the time line because based on the  
19 ANC's last report, it sounds like the ANC meets the second  
20 week of the month on a Wednesday.

21 And if that's true, then their next meeting  
22 would be next week on the 14th. Okay, if the Board were to  
23 move forward to hearing the continued hearing on the 12th of  
24 December because their next meeting in December, I'm guessing  
25 would be on the 12th of December.

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1 CHAIRPERSON HILL: But Mr. Moy, what I'm trying  
2 to understand is that like for example the submittal that we  
3 got from the ANC on October 31st, that was to the shadow  
4 studies and that was after one of their meetings? I don't  
5 know.

6 MR. MOY: I don't know. I would have to ask.

7 CHAIRPERSON HILL: Okay. So if you can get to  
8 the ANC -- so in two weeks, the ANC is going to be meeting  
9 again, right? I mean the drawings aren't going to take very  
10 long to go ahead and do what's trying to be done. I would  
11 again try to suggest meeting with OP on the way out and  
12 making sure that you're on the same page in terms of what we  
13 would be expecting in terms of the drawings. And then try  
14 to get in front of the ANC and then let us know how that  
15 goes, okay, one way or the other. All right?

16 MS. AKINSAN: Yes.

17 CHAIRPERSON HILL: And then I think we would be  
18 having a continued hearing, Mr. Shapiro, to also kind of like  
19 as I am speaking out, thinking this through, it's a public  
20 hearing. I mean the ANC can show here on the 12th or can  
21 submit evidence and everything for the hearing on the 12th.  
22 So they would have that opportunity.

23 So I guess we'll do that then. So we're going  
24 to come back on the 12th, continued hearing.

25 And Mr. Moy, can you give us some dates on

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1 things when you think we should try to get stuff back and  
2 then also get a supplemental from the Office of Planning?

3 MR. MOY: Okay. Well, working backwards from  
4 December 12th, then perhaps a week prior to the 12th, the  
5 Office of Planning with a supplemental report, which would  
6 be December 5th. And then perhaps the applicant file all  
7 your updated materials, just to make it simple, by the end  
8 of November. Let's say Friday, November 30th.

9 Now I'm assuming all along you will be in  
10 coordination with the Office of Planning --

11 MS. AKINSAN: Absolutely.

12 MR. MOY: -- because that would help with your  
13 time line.

14 MS. AKINSAN: Yes.

15 MR. MOY: Okay.

16 CHAIRPERSON HILL: Okay. All right, then we  
17 will see you back here on the 12th.

18 MS. AKINSAN: Thank you very much.

19 CHAIRPERSON HILL: Sure.

20 Mr. Moy, does the Board have anything else we  
21 are supposed to do?

22 MR. MOY: Not from the staff, sir.

23 CHAIRPERSON HILL: Okay, then we are adjourned.

24 (Whereupon, the above-entitled matter went off  
25 the record at 3:01 p.m.)

**NEAL R. GROSS**

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C E R T I F I C A T E

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In the matter of: Public Hearing

Before: DC BZA

Date: 11-07-18

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



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