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GOVERNMENT OF THE DISTRICT OF COLUMBIA

Zoning Commission

Limited Scope Public Hearing

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

6:44 p.m. to 9:16 p.m.

Thursday, April 06, 2017

Jerrily R. Kress Memorial Hearing Room

441 4th Street, N.W., Suite 220 South

Washington, D.C. 20001

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1 Board Members:

2 ANTHONY HOOD, Chairman

3 ROBERT MILLER, Vice Chair

4 PETER MAY, Commissioner

5 MICHAEL TURNBULL, Commissioner

6

7 Office of Zoning:

8 SHARON SCHELLIN, Secretary

9

10 Office of Planning:

11 JENNIFER STEINGASSER

12 MAXINE BROWN-ROBERTS

13 JOEL LAWSON

14 ART RODGERS

15 JOY PHILLIPS

16

17 Department of Energy & Environment:

18 JAY WILSON

19 BRAITNI BULLO

20 LAUREN MAXWELL

21 STEPHEN OURS

22

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

2 CHAIRPERSON HOOD: We are continuing
3 Zoning Commission Case Number 13-14. I'm going to
4 forego most of opening statement, and I'm going to
5 ask that the previous hearing that we had a few
6 days ago be incorporated -- also be incorporated
7 for this continuation.

8 My name is Anthony Hood. Joining me are
9 Vice Chair Miller, Commissioner Turnbull, and
10 Commissioner May. We're also joined by the Office
11 of Zoning staff, Sharon Schellin, as well as the
12 Office of the Attorney General, Mr. Bergstein,
13 Office of Planning staff, Ms. Steingasser, Mr.
14 Lawson, Ms. Brown-Roberts, Mr. Rogers. And we
15 want to welcome Dr. Phillips.

16 Again, this is the continuation of a
17 remand, and I think where we left off -- first let
18 me do this: Do we have any preliminary matters?

19 MS. SCHELLIN: We do. There was a motion
20 from -- that was filed by Ms. Ferster on behalf of
21 her client, the Friends of McMillan Park. If the
22 Commission would consider that -- I don't have the

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1 exhibit number in front of me, but it was filed on
2 Monday. Basically, I believe, that she's asking
3 that the Commission consider further public
4 testimony and some written submissions. So if the
5 Commission would consider that motion this
6 evening.

7 CHAIRPERSON HOOD: Okay. I -- and I
8 think that's -- is that Exhibit -- is that Exhibit
9 9-25?

10 MS. SCHELLIN: I'm going to look that up.
11 I'm sorry. I don't have that in front of me. I
12 thought it was right in my list.

13 CHAIRPERSON HOOD: It's 9-25. I think
14 it's 9-25. Ms. Schellin, correct me. While she's
15 working on that, I think we have already read
16 submission, and what I would like to do is to give
17 the parties an opportunity, if they wish, to
18 respond to this. I'm hoping everyone is -- it's
19 9-25? Great.

20 So I'm hoping that everyone has viewed
21 it. Have we shared that? Was that shared with
22 all the parties?

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1 MS. SCHELLIN: She actually served the
2 other parties. Yes.

3 CHAIRPERSON HOOD: Thank you. So I'm
4 going to ask the ANC if they have any response, as
5 well as two -- it's two ASEs.

6 MS. SCHELLIN: Actually, I think there's
7 three --

8 CHAIRPERSON HOOD: Three.

9 MS. SCHELLIN: -- 5G, 5A, 1B.

10 CHAIRPERSON HOOD: 5G, 5A, and 1 -- 1B?

11 MS. SCHELLIN: Yes.

12 CHAIRPERSON HOOD: And then that's it?
13 Mr. Glasgow.

14 MR. GLASGOW: Mr. Chairman is my mic on?

15 Thank you. For the record, my name is
16 Norman Glasgow, Jr. of the law firm of Holland &
17 Knight.

18 We do not have any objection for opening
19 the record for the submission of any written
20 comments from the public after the applicant has
21 presented its case.

22 We object to affording individuals and

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1 organizations the opportunity to testify following
2 the parties' presentations in their respective
3 cases because individuals and organizations that
4 aren't parties, non-parties don't have any right
5 to cross-examine. So we do not believe that there
6 is any prejudice to anyone by not being able to
7 give verbal testimony to the Commission.

8 With respect to the motion, I think that
9 the part that's the operative piece of the motion
10 is at the top of page 3, and it talks about
11 irregularities being rectified. And I think there
12 are two requests affording individuals and
13 organizations an opportunity to testify following
14 the parties' presentation in their respective
15 cases and opening the record for the submission of
16 written comments from the public.

17 And if there's any citations needed with
18 respect to only parties can cross-examine, that's
19 Subtitled Z, Section 403.3 Subtitled Z Section
20 408.6.

21 CHAIRPERSON HOOD: Okay. Thank you,
22 Mr. Glasgow.

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1 Let me see. Is there anyone here also
2 from ANC 5E who would like to respond to this
3 motion?

4 Is there any one here from 1B who would
5 like to respond to this motion?

6 And I've been assured that everyone has
7 been served the motion on this first one.

8 Okay. Colleagues, let me open it up.

9 MS. FERSTER: May I briefly respond?

10 CHAIRPERSON HOOD: Sure. You want to
11 respond to your motion?

12 MS. FERSTER: Just to respond to their
13 response to my motion. Very brief though.

14 CHAIRPERSON HOOD: Okay.

15 MS. FERSTER: I'm Andrea Ferster for
16 Friends of McMillan Park. Just one point I wanted
17 to make is that it's not the issue of opposing
18 party -- non-parties not having the right to
19 cross-examine. The order procedure reflects a
20 burden of proof, and the reason why the order of
21 procedure is that parties in opposition or persons
22 in organizations in opposition are last and come

1 after agency report and after the applicant's case
2 is because they can't -- all parties and persons
3 can do is respond. They don't have an obligation
4 to come forward with their own testimony. They
5 can only respond to what the applicant presented.

6 And I think Ms. Peffers testimony was a
7 perfect case in point where she had to, you know,
8 sort of theoretically think about what the
9 environmental impacts might be that DC should
10 consider without having had an opportunity to
11 actually hear the testimony that was presented by
12 Department of the Environment or the applicant
13 that actually addressed that issue.

14 So I think it is important that persons
15 and organizations have an opportunity, not just to
16 sort of generally present their issues about the
17 project, but actually have a responsive
18 opportunity because that's the only order that
19 appropriately reflects what the burden of proof is
20 in these proceedings.

21 CHAIRPERSON HOOD: Ms. Ferster, let me
22 ask you a question. March the 20th you were

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1 present, correct?

2 MS. FERSTER: It was a meeting, so I was
3 not presented with an opportunity to speak; or I
4 would have.

5 CHAIRPERSON HOOD: But on March 20th we
6 knew what the process was, and I watch you in
7 action. And actually even after the hearing when
8 your PUD representative thanked us for doing it in
9 that order, and we did it in order. Let me back
10 up. Are you aware why we did it in that order?

11 MS. FERSTER: I'm aware that my motion
12 requested that the entirety of these proceedings
13 be postponed. If you were to -- and had you asked
14 me, which you did not, before you made a decision
15 on March 20th, about the order that you would
16 present it, I would have said that it is
17 appropriate, if you want to bifurcate the
18 proceedings, to allow the applicant to go first
19 but not reverse the order and require parties --
20 or persons or organizations in opposition to go
21 forth first.

22 CHAIRPERSON HOOD: Well, typically in a

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1 remand case, there are a number of ways in which
2 we can proceed. We can just do briefs. We can
3 just operate on what the court gave us back, but
4 this Commission, as we always do, we wanted to
5 hear from everyone. So we found a way that we can
6 be inclusive, and as a result of what you give us
7 on your motion previously on the 20th because of
8 the, I guess, miscommunication, not sure of being
9 able to file exhibits, you needed additional time.
10 That's why we had this process and then this
11 order. We didn't just -- on your motion is how we
12 got to this order. I want to make sure that, that
13 doesn't get lost.

14 MS. FERSTER: With all due respect, my
15 motion never suggested that the order of
16 proceedings be reversed so persons and
17 organizations in opposition go first.

18 CHAIRPERSON HOOD: But you're
19 representing -- and we're not going to belabor
20 this. We need to move on, and we're not going to
21 go back and forth, Ms. Ferster. But in the
22 proceeding we specifically spelled it out so we

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1 can allow you all more time in which you
2 requested. That was our way of doing our due
3 diligence, which you asked for. So I don't want
4 to that to get lost.

5 MS. FERSTER: No. But it was -- you have
6 to understand. I only represent Friends of
7 McMillan Park, okay. So I don't have the capacity
8 to waive anybody else's rights to the proper order
9 of proceeding, and so I recall objections were
10 immediately raised by persons in opposition about
11 the order; and I agree with those objections and -
12 -

13 CHAIRPERSON HOOD: There were two
14 objections.

15 MS. FERSTER: That's correct.

16 CHAIRPERSON HOOD: Two objections by two
17 people of the order.

18 MS. FERSTER: Indeed. That said, there
19 are two issues before you. One is are you going
20 to allow persons and organizations an opportunity
21 for in-person testimony after the -- after Friends
22 of McMillan Park presents its case at the end of

1 the proceeding during the normal course of how the
2 order should go?

3 And the second issue is, since the
4 applicants have no objection to opening the record
5 for additional submissions, will you allow that to
6 occur?

7 CHAIRPERSON HOOD: Well, let me just make
8 one thing clear, we're going to deliberate right
9 after this. Just because the applicant says
10 something one way, that's not how the Commission
11 moves. We don't --

12 At first Mr. Chairman, I thoroughly
13 understand that.

14 CHAIRPERSON HOOD: Okay. All right. Mr.
15 Glasgow, I don't think there's anything else that
16 needs to be added.

17 MR. GLASGOW: All right.

18 CHAIRPERSON HOOD: I really don't. Okay.
19 So thank you both.

20 All right, Commissioners -- did anybody
21 else have any questions?

22 Then let's open it up. We have motions

1 before us. Let me hear what my colleagues have to
2 say on this.

3 COMMISSIONER TURNBULL: Mr. Chair.

4 CHAIRPERSON HOOD: Yes.

5 COMMISSIONER TURNBULL: I will start off.
6 I think we -- as you expressed earlier in your
7 discussion, when we were given the task to do the
8 remand, I think we laid out very clearly what we
9 were trying to achieve. And I think you stated
10 very clearly to the Plaintiff that this is a
11 remand, and we have been told by the court to look
12 at several issues; and that's what we're doing. I
13 don't think at this point in time after following
14 the instructions that we gave out that we allow
15 additional testimony to be added beyond what we're
16 doing tonight and what we did before.

17 I think it's very clear what we're trying
18 to achieve and how we're going to go forward, and
19 I think that to keep going back and forth and
20 having more questions raised is money in the water
21 for presentation of the parties involved. And I
22 think I would rather stick with the procedure that

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1 we have set in place and let it go at that.

2 CHAIRPERSON HOOD: Thank you,

3 Mr. Turnbull.

4 Vice Chair Miller?

5 VICE CHAIR MILLER: Thank you,

6 Mr. Chairman. I'm reading from my notes on Ms.

7 Ferster's submission of April 3rd just to make

8 sure that no one thinks that I was influenced by

9 whatever the applicant said. And my notes say I

10 favor written submissions from the public on

11 remand issue, which I think is consistent with

12 what I thought -- I was confused about the

13 procedure earlier anyway, so I had no problem with

14 written submissions from the public at a certain

15 time it's appropriate after tonight's

16 presentations.

17 CHAIRPERSON HOOD: Okay. Commissioner

18 May?

19 COMMISSIONER MAY: So I understand that

20 the procedure that we're -- the steps in the

21 process that we're going through right now are a

22 little different from the normal course of events

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1 in a hearing, but this is not a normal proceeding.
2 And it is one which the Zoning Commission has
3 discretion to request certain submissions, or
4 activities, or to not request such, that we can
5 act, you know, without further input and simply
6 review the existing record.

7 I've also generally of mind that I'd
8 rather hear more than less, so I'm not generally
9 trying to limit testimony. But there are limits,
10 just from a practical perspective, on what we can
11 do. We can't let -- you know, continue to let in
12 new testimony or new submissions endlessly because
13 someone thinks something is unresolved.

14 So at this point I think I could see --
15 certainly I'm not interested in having more
16 testimony after the applicant makes their
17 presentation. I think that's pretty clearly
18 inconsistent with what we have asked for and what
19 we need to do further -- to do further
20 deliberation.

21 The notion of accepting additional
22 materials into the record, I would be persuaded of

1 that. I also think that it would not be improper
2 or irregular for us to simply say no. We're just
3 going to hear what we said we're going to hear
4 from the beginning. I'm sorry if it was unclear
5 to a number of people. It wasn't entirely clear
6 to me either, but it was -- it was a rational
7 decision that was made at that time. So I'm
8 comfortable.

9 So I'm sorry, Mr. Chairman. I'm not
10 giving you clarity one way or the other. I think
11 I could go either way. I'm willing to be
12 persuaded one way or the other on the subject of
13 accepting additional submissions.

14 CHAIRPERSON HOOD: For me, we laid out a
15 procedure, and this is the way I am with
16 everything I do, whether the zoning commission or
17 in life. I like things to be predictable, and I
18 think the residents of the city also agree. They
19 like for things to be predictable. When the city
20 council say they going to start at 10 o'clock and
21 if they start at 11 o'clock at night, operated
22 like that, then people get upset. If we said

1 we're going to do something one way -- there are a
2 lot of people that we're not hearing from because
3 of the way we threw things out there, and that's
4 okay, but I don't have an issue with that.

5 So for me, I believe that we need to be
6 consistent, and we need to be predictable. That's
7 just where I am. I mean, hindsight is 20/20. I
8 can go back and say, well, maybe we should have
9 just dealt with the parties because we're trying
10 to follow the direction of what the courts have
11 given us. But the process was laid out. We had a
12 special meeting to lay out the process, and we
13 need to be predictable, you know.

14 I would like to hear from everybody, but
15 this is a different scenario. This is not like
16 our regular proceedings. We have done a whole
17 lot. This Commission has even went out to the
18 wards to hear from people, so can't nobody say
19 that this Commission does not want to hear from
20 the residents of the city because we're residents
21 also; and we also want to hear from people, but
22 this is a different proceeding.

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1 We laid out the ground, so we shouldn't
2 change the rules or change the procedure in the
3 middle of the game. If you're competitive in
4 athletics, you don't change it at half-time and do
5 something different. That's just where I am.

6 Vice Chair Miller?

7 VICE CHAIR MILLER: Mr. Chairman, I don't
8 agree with -- I don't disagree with anything that
9 any of my colleagues, including you, have said
10 regarding changing procedures in the middle of the
11 game. But in this case the parties, when it comes
12 to the written submissions after the record,
13 agree. There's no problem with changing that
14 particular procedure, and I see no harm in
15 changing that procedure because since there was
16 some confusion about it, even in my own mind at
17 the earlier hearing. So I would encourage my
18 colleagues to allow the written submissions on the
19 remand issues, which is what -- there was no
20 confusion on that. That is what all of the
21 testimony was supposed to address, but I would
22 encourage my colleagues to allow written

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1 submissions from the public on the remand issues.

2 COMMISSIONER TURNBULL: My only question
3 is who's going to decide if the submissions are
4 dealing with the remand issues?

5 VICE CHAIR MILLER: We can decide whether
6 their relevant to our decision. That's us.

7 CHAIRPERSON HOOD: Okay. So the way I
8 count it now, I guess, I just think we need to be
9 predictable. I'm sorry.

10 Is Commission Shapiro prepared to read
11 the records?

12 VICE CHAIR MILLER: Thirty hours
13 of hearings.

14 COMMISSIONER MAY: Mr. Chairman, you
15 know, I was on the fence. I wasn't deciding one
16 way or the other. So you should go ahead and make
17 your motion.

18 CHAIRPERSON HOOD: So we discussed both
19 of them, right. We're good with everything.
20 Okay. I would move that -- would this be a
21 denial?

22 VICE CHAIR MILLER: Can you bifurcate the

1 -- because I'm okay with -- I agree with
2 everything at not allowing public oral testimony
3 afterwards. If you can -- I don't --

4 CHAIRPERSON HOOD: So you're fine with
5 written testimony.

6 VICE CHAIR MILLER: Yeah.

7 CHAIRPERSON HOOD: But you're not fine
8 with oral testimony.

9 VICE CHAIR MILLER: Right. So if you're
10 going to make motions that we have to vote on, I
11 would support you on not allowing further oral
12 public testimony. But if you want to do it that
13 way, otherwise can we make it a combined motion?
14 I'm for one and against one if you did it in a
15 bifurcated way.

16 CHAIRPERSON HOOD: To me, it's still --
17 to me it's all one in the same, to me. I mean,
18 I'm just saying. I'm trying to figure out how I
19 can make that motion, but we're still allowing
20 something written. So I just don't see the
21 difference, and I'm not trying to be
22 uncooperative. I always try to balance it out

1 with everybody's thing, but I just don't see a
2 difference.

3 VICE CHAIR MILLER: That's okay. I just
4 wanted to put on the record that I agree with you
5 on the point that we should not be allowing it,
6 even though I may be voting against you on the
7 motion. I do agree with you that we should not be
8 allowing -- we should not be allowing verbal
9 testimony after the testimony.

10 CHAIRPERSON HOOD: Okay. I move that we
11 deny FOMP's motions, two motions that were
12 provided to us on April 3rd, and I ask for a
13 second.

14 COMMISSIONER TURNBULL: Second.

15 CHAIRPERSON HOOD: Move that it be
16 seconded. Any further discussion?

17 All those in favor, aye.

18 (Chorus of ayes)

19 Any opposition?

20 VICE CHAIR MILLER: No.

21 CHAIRPERSON HOOD: So ordered. Ms.

22 Schellin record the vote.

1 MS. SCHELLIN: Separate votes, vote three
2 to one to one to deny FOMP's motion to allow
3 further testimony from the public and written
4 submissions after the hearing. Commissioner Hood
5 moving, Commissioner Turnbull support of denied.
6 Commissioner -- I'm sorry -- Commissioner Turnbull
7 seconding. Commissioner May in support of denial.
8 Commissioner Miller opposed. Commissioner Shapiro
9 not present, not voting.

10 CHAIRPERSON HOOD: Do we have any other
11 preliminary matters?

12 MS. SCHELLIN: No, sir. I believe that -
13 -

14 CHAIRPERSON HOOD: Could you help me?
15 What's the order now?

16 MS. SCHELLIN: The Office of Planning --

17 CHAIRPERSON HOOD: Office of Planning --

18 MS. SCHELLIN: -- cross-examination.

19 CHAIRPERSON HOOD: -- cross-examination.

20 Going to finish the cross-examine of Office of
21 Planning. Department of Energy and Environment,
22 is there a representative here?

1 MS. SCHELLIN: They are.

2 CHAIRPERSON HOOD: Okay.

3 MS. SCHELLIN: They'll come to the table
4 after OP's cross-examination is finished.

5 CHAIRPERSON HOOD: All right. And then
6 after we do cross --

7 MS. SCHELLIN: The applicant's
8 presentation.

9 CHAIRPERSON HOOD: Applicant. And then
10 after that the ANCs.

11 MS. SCHELLIN: Yes.

12 CHAIRPERSON HOOD: The ANCs if they're
13 here.

14 MS. SCHELLIN: Right.

15 CHAIRPERSON HOOD: There seems to be a
16 strong signal they're not here. Then after that
17 we'll hear from the party in opposition.

18 MS. SCHELLIN: Right.

19 CHAIRPERSON HOOD: Now, I'm wondering --

20 MS. SCHELLIN: And then rebuttal and
21 closing by the applicant.

22 CHAIRPERSON HOOD: Rebuttal and closing

1 by the -- I'm wondering. I know Ms. Ferster has
2 already mentioned that she -- at the last meeting
3 she has a number of questions, and I'm wondering
4 if we need to put a date out already, even though
5 I know it's only, what, 6:00 -- 7:05. Do we need
6 to put a date out already for continuation?

7 And, Ms. Ferster, I'm going to actually -
8 - and I'm not trying to limit you. I'm just
9 trying to get a feel because the impression I got
10 was that you had plenty of questions, and we might
11 be awhile.

12 MS. FERSTER: Indeed. Many questions for
13 the Department of Energy, Environment as well.

14 CHAIRPERSON HOOD: Okay. So can we come
15 up with a date right now for those, and I don't
16 know how far we want to get. We'll do an
17 assessment about, what, about 9 o'clock, Ms.
18 Ferster. We'll do an assessment and see where we
19 are.

20 MS. SCHELLIN: I think that we, first of
21 all, make sure that our Commission with the date.
22 As we discussed earlier, we have nothing on normal

1 hearing dates. So because I'm not that familiar
2 with the holidays, does Passover carry over to
3 Tuesday also?

4 VICE CHAIR MILLER: Yes, the 11th.

5 MS. SCHELLIN: Somebody else already --
6 okay.

7 CHAIRPERSON HOOD: So we'll be off -- it
8 won't be Monday and Tuesday of next week.

9 MS. SCHELLIN: Okay. I forgot the
10 Chairman Hood is going to observe those days too.

11 CHAIRPERSON HOOD: I observe holidays
12 also.

13 MS. SCHELLIN: So does it carry over to
14 the 12th?

15 VICE CHAIR MILLER: No.

16 MS. SCHELLIN: No?

17 CHAIRPERSON HOOD: No. I don't think we
18 have anything on the 12th. That's on -- what day
19 is the 12th?

20 MS. SCHELLIN: A Wednesday.

21 (Cross talk)

22 It's a light day.

1 VICE CHAIR MILLER: No.

2 MS. SCHELLIN: It's not a light day.

3 Okay. How about the 18th?

4 CHAIRPERSON HOOD: 18th?

5 MS. SCHELLIN: April. It's a Tuesday
6 because Monday is a holiday.

7 CHAIRPERSON HOOD: A holiday?

8 MS. SCHELLIN: For us it is.

9 CHAIRPERSON HOOD: Okay.

10 MS. SCHELLIN: You can observe it if you
11 want.

12 CHAIRPERSON HOOD: The 19th. Do we have
13 anything the 19th?

14 MS. SCHELLIN: I will not be here, but
15 you guys could.

16 CHAIRPERSON HOOD: Do we have any hearing
17 on the 19th?

18 MS. SCHELLIN: It's a Wednesday, BZA.
19 That's why I put Tuesday the 18th.

20 UNIDENTIFIED MATE: I'm on PTA that day.

21 MS. SCHELLIN: The 26th is not BZA day.

22 CHAIRPERSON HOOD: So we can do the 19th.

1 That's a Wednesday, right?

2 MS. SCHELLIN: It is. Donna could -- I
3 have to see if Donna can --

4 CHAIRPERSON HOOD: What about the 18th?

5 MS. SCHELLIN: The 18th we could do.

6 CHAIRPERSON HOOD: Who has a problem with
7 the 18th?

8 (Pause)

9 Okay. What about the -- ?

10 UNIDENTIFIED MALE: I can't do the 26th.

11 MS. SCHELLIN: The 26th.

12 CHAIRPERSON HOOD: What about a Saturday?
13 Is anybody available?

14 MS. SCHELLIN: Not me.

15 CHAIRPERSON HOOD: We'll go ahead with
16 the 18th. I'll deal with all the consequences.

17 UNIDENTIFIED MALE: Okay.

18 CHAIRPERSON HOOD: I usually do. Is
19 everybody else fine with 18?

20 MS. SCHELLIN: Yes, that works.

21 CHAIRPERSON HOOD: Everybody is fine with
22 18. I see somebody is not fine with 18.

1 MS. SCHELLIN: Okay. What's the issue
2 with the 18th?

3 CHAIRPERSON HOOD: Commissioner, can you
4 come forward.

5 Ms SCHELLLIN: Because ANC will be
6 presenting tonight.

7 UNIDENTIFIED FEMALE: ANC is presenting
8 tonight?

9 UNIDENTIFIED FEMALE: He should be.

10 CHAIRPERSON HOOD: Turn your mic on -- Barns

11 MS. BARNES: I thought the ANC presented
12 at the last meeting.

13 MS. SCHELLIN: Well, the one ANC gave
14 testimony. Yes.

15 UNIDENTIFIED FEMALE: Right.

16 CHAIRPERSON HOOD: ANC is an automatic
17 party, so we need to hear from the ANCs --

18 MS. BARNES: All right.

19 CHAIRPERSON HOOD: -- if we get there.
20 We don't know what day we coming back, so we --

21 MS. BARNES: And that's what I was going
22 to say, ANC 5E meets on the 18th, and this project

1 is within 5E.

2 CHAIRPERSON HOOD: Okay. Well, it looks
3 like we're going to just move it to the 19th
4 because I'm going to make sure that ANC,
5 especially Garrett is here.

6 MS. BARNES: Yes.

7 UNIDENTIFIED MALE: May 1st.

8 CHAIRPERSON HOOD: I'm hearing May 1st.

9 Everybody is here. Don't nobody want to
10 do May 1st. We'll just do the 19th, okay.

11 MS. BARNES: Okay.

12 CHAIRPERSON HOOD: So, Schellin, I hope
13 you can have us teed up and ready for the 19th.

14 Reason why I don't think we're going to
15 finish tonight. It's almost 7:30, and we haven't
16 even started. And I know Ms. Ferster has a lot of
17 questions.

18 UNIDENTIFIED MALE: Well, let's see. If
19 we finish tonight, it won't be an issue.

20 CHAIRPERSON HOOD: You're right,
21 Ms. Schellin, but we got to get started.

22 MS. SCHELLIN: Okay.

1 CHAIRPERSON HOOD: Let's get started.

2 We'll do an assessment by 9 o'clock.

3 MS. SCHELLIN: That's what I was just
4 saying --

5 CHAIRPERSON HOOD: Mrs. Barns is going to
6 be here with us all night.

7 MS. SCHELLIN: Because if we would finish
8 tonight, then the ANC would have presented
9 tonight, and it wouldn't have made a difference.
10 That's all I was saying.

11 CHAIRPERSON HOOD: Well, let's see how it
12 goes. So we'll look at the 19th if possible.
13 Okay.

14 Ms. Ferster.

15 MS. FERSTER: Okay. Well, good evening,
16 Office of Planning. So let me just ask you to
17 start out with is it okay if I just address my
18 questions generally to the Office of Planning, and
19 then you choose which of you is the most
20 appropriate person to answer?

21 MR. LAWSON: That's fine. Thank you.

22 MS. FERSTER: Okay. And let me also

1 start out with saying how much I respect the work
2 of the Office of Planning and the fact that I do
3 have many questions tonight does not -- should not
4 convey any disrespect for your work. Thank you.

5 Okay. So when we last met, I think we
6 left the questioning at -- the question that I
7 asked about whether or not OP considered the
8 medical building on Parcel 1 to be high-density,
9 and there was some confusion. So I'm going to
10 rephrase that question and ask it one more time.

11 So the way I'm going to rephrase it is
12 that the Zoning Commission's remand order
13 characterized its prior order as finding, and I'm
14 quoting, "The Commission agreed to permit high-
15 density development on the northern portion." Do
16 you disagree with that statement?

17 MS. STEINGASSER: I'd like to take a
18 moment and step back. At the last meeting,
19 Chairman Hood, you had asked the Office of
20 Planning to come back with a little bit of
21 clarification on the healthcare facility and what
22 exactly we were talking about because of this

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1 issue of constantly trying to rephrase what it
2 was. I had mistakenly referred to it as a medical
3 care facility. It is indeed a healthcare facility
4 as defined in the comprehensive plan, which is
5 different. I'm going to read that definition into
6 the record just for clarification.

7 "So a healthcare facility as defined in
8 the comprehensive plan under glossary of terms,
9 page G-19. Any facility used for the delivery of
10 health services including hospitals, clinics,
11 medical offices, rehab centers, and long-term care
12 facilities such as nursing homes." That's how the
13 applicant has presented the application, and
14 that's how it's referred to and analyzed in our
15 report and in the Zoning Commission court. Thank
16 you for that clarification.

17 CHAIRPERSON HOOD: Thank you.

18 Ms. Ferster, do you need to repeat your
19 question?

20 MS. FERSTER: Yes. So the question that
21 I asked first was that when we last met I'd asked
22 you about whether you considered the medical

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1 building on Parcel 1 to be high-density, and I'm
2 re-asking that question again this way. The
3 Zoning Commission's remand order characterized its
4 decision -- and I'm quoting -- "the Commission
5 agreed to permit high-density development on a
6 northern portion of the site." So I'm asking, do
7 you agree with the Commission's characterization
8 of the development on the northern portion of the
9 site?

10 MS. STEINGASSER: That's in the Zoning
11 Commission's order?

12 MS. FERSTER: Yes. The remand order.

13 MS. STEINGASSER: So that's the court's
14 conclusion, or is that the Zoning Commission's
15 words?

16 MS. FERSTER: That's the Commission's
17 characterization of its prior decision.

18 MS. STEINGASSER: And that's in the
19 public hearing notice?

20 MS. FERSTER: It's in the remand order.

21 MS. STEINGASSER: So the order is issued
22 by the court not the order --

1 MS. FERSTER: The order issued by the
2 Zoning Commission.

3 MS. STEINGASSER: Can you tell me what
4 pages that's on?

5 MS. FERSTER: I think I got it from your
6 report actually. So it would be --

7 MS. STEINGASSER: Our testimony in our
8 report focused on the issues advertised in the
9 public hearing notice. We're trying to respect
10 the request of this Commission that, that be where
11 we focused our responses. So is it in one of the
12 --

13 MS. FERSTER: On page 1, sorry. Page 1A
14 in your March 13th report, line -- the first box
15 it says A, line 1, 2, 3. It says, "The Commission
16 agreed to permit two" -- it says two -- "high-
17 density development on the northern portion of the
18 site."

19 So do you disagree with that
20 characterization of what the Commission did?

21 MS. STEINGASSER: If the Commission wrote
22 that; if that came from the Zoning Commission as

1 part of their public hearing notice? We don't
2 have an opinion on whether we agree or disagree
3 with that statement.

4 MS. FERSTER: Well, it appears to be your
5 characterization of what the Commission did. It
6 doesn't actually quote the Commission's order.

7 MS. STEINGASSER: Coming from the public
8 hearing notice then?

9 MS. FERSTER: Yes. It does come from the
10 Commission's remand order. It says, "In response,
11 the Commission found that permitting the high-
12 density development was a critical and essential
13 part," et cetera.

14 MS. STEINGASSER: We don't have an
15 opinion. We're not even sure what you're looking
16 at.

17 MS. FERSTER: Okay. Let's just look at
18 your report, okay. You have a page 1 of your
19 hearing report.

20 MS. STEINGASSER: Right.

21 MS. FERSTER: You say on line 3, and you
22 don't attribute it to anybody other than your

1 interpretation of what the Commission did.

2 MS. STEINGASSER: I believe it comes from
3 the public hearing notice.

4 MS. FERSTER: Okay. Well, you said it,
5 so I'm -- the question is do you agree or disagree
6 with that?

7 MS. STEINGASSER: And I think --
8 everything inside the boxes is an excerpt directly
9 from the public hearing notice, and we have no
10 opinions on it. It just simply --

11 MS. FERSTER: You're just repeating it?
12 Okay.

13 MS. STEINGASSER: The public hearing
14 notice.

15 MS. FERSTER: Okay. So you don't have an
16 opinion on that issue?

17 MS. STEINGASSER: (No audible response)

18 MS. FERSTER: Okay. So I asked -- I also
19 asked you a number of questions about various
20 statements in the Office of Planning report
21 regarding the need to accommodate various
22 services, or functions, or operational needs that

1 needed to be accommodated in the medical building.
2 And you weren't able to provide any more specific
3 information at that time. Have you gotten some
4 clarity on that? Are you able to provide some
5 more information about what you were talking about
6 at that time?

7 MS. STEINGASSER: What we were the
8 questions we were responding to?

9 MS. FERSTER: I asked you a whole bunch
10 of questions, you know, about the operational
11 needs, you know, the function space you're
12 referring to, what actually -- what equipment was
13 being used that needed to be accommodated by the
14 higher floor-to-ceiling heights that the applicant
15 wants. So I'm just questioning. And you and
16 Ms. Brown-Roberts, neither of you were able to
17 provide any clarity on that. So --

18 MS. STEINGASSER: Well, I think the
19 definition I just read into the record of what a
20 healthcare facility could encompass would be the
21 uses that would be anticipated. And then, of
22 course, the additional space would be mechanical.

1 MS. FERSTER: Okay.

2 MS. STEINGASSER: That's consistent with

3 --

4 MS. FERSTER: Well, if you could reread
5 that definition then so that I could know what
6 specific services you were referring to.

7 MS. STEINGASSER: The definition of a
8 healthcare facility in the comprehensive plan
9 glossary, page G-19, "Any facility used for the
10 delivery of healthcare services, including
11 hospitals, clinics, medical offices, rehab
12 centers, and long-term care facilities such as
13 nursing homes."

14 MS. FERSTER: Okay. So is it your
15 understanding that there is going to be all of
16 these functions within the healthcare facility or
17 just a few of them?

18 MS. STEINGASSER: It could be any of the

19 --

20 MS. FERSTER: But do you know which ones?

21 MS. STEINGASSER: No.

22 MS. FERSTER: You don't? Okay. You

1 don't know if it's a hospital, clinic, rehab
2 center, or --

3 MS. STEINGASSER: It could be any
4 combination of those facilities.

5 MS. FERSTER: But this particular one,
6 you don't know which combination?

7 MS. STEINGASSER: I've answered the
8 question.

9 MS. FERSTER: Okay. So you don't know
10 that.

11 CHAIRPERSON HOOD: Ms. Ferster --

12 MS. FERSTER: I'm sorry. Pronouns
13 confused me.

14 CHAIRPERSON HOOD: Okay. Ms. Ferster,
15 she answered the question.

16 MS. FERSTER: Right.

17 CHAIRPERSON HOOD: We don't have to say
18 she doesn't know. I mean, that's -- and I
19 understand -- we don't have to be. I'm not going
20 to say you're being antagonistic, but we don't
21 need to do that.

22 MS. FERSTER: I would do --

1 CHAIRPERSON HOOD: And assume somebody
2 doesn't know something. Just ask the question.
3 Allow her to answer, and once she answer, that's
4 her answer. Okay.

5 MS. FERSTER: Sure. I'll do my best.

6 CHAIRPERSON HOOD: Please do your best.

7 MS. FERSTER: And I understand that
8 they're doing their best as well. And -- but I
9 did get a little confused by the pronoun "it,"
10 because when you say it doesn't say, the question
11 was does the definition of healthcare facility in
12 the comprehensive plan. Are you talking about
13 that -- is that the "it," or are you talking about
14 the medical building on Parcel 1?

15 MS. STEINGASSER: I'm not sure what
16 you're talking about right now. I'm sorry.

17 MS. FERSTER: You said you don't know
18 which of these different functions - hospital,
19 clinic, rehab center are including because it
20 doesn't specify. Was the "it" referring to the
21 medical building?

22 MS. STEINGASSER: I'm not sure exactly

1 that I said "it," but the application refers to a
2 medical care facility. So the application and the
3 building could accommodate any of these
4 facilities, okay, theoretically?

5 So did you have a conversation with
6 anybody in which you understand which of these
7 are, in fact, accommodating --

8 MS. STEINGASSER: It said -- no. The use
9 could include any of these uses.

10 MS. FERSTER: Okay. So I won't say you
11 don't know.

12 MR. GLASGOW: Mr. Chairman, I'm just
13 going to interpose a standing objection. Cross-
14 examination. Ask a question, get an answer, you
15 go on to the next question.

16 MS. FERSTER: Understood.

17 CHAIRPERSON HOOD: Okay. You know, I'm
18 not going to ask the question. I'm not going to
19 ask Ms. Ferster when I just said exactly similar
20 to what Mr. Glasgow said. You didn't understand
21 it when I said it, but you understand it when he
22 said it. And I have a problem with that, so just

1 ask the question. Allow her to answer, and then
2 ask your next question.

3 MS. FERSTER: Okay.

4 CHAIRPERSON HOOD: We not going to do I
5 don't know. We not going to do that.

6 MS. FERSTER: You mean, we're not going
7 to do you don't know.

8 CHAIRPERSON HOOD: Next question, please.

9 MS. FERSTER: Okay. So did you review
10 the applicant's prehearing submission that they
11 submitted for the record?

12 MS. STEINGASSER: For this case?

13 MS. FERSTER: For this case?

14 MS. STEINGASSER: Remand hearing?

15 MS. FERSTER: Yeah. For the remand
16 hearing.

17 MS. STEINGASSER: No.

18 MS. FERSTER: Okay.

19 MS. STEINGASSER: I'll clarify further.
20 We did not review it prior to issuing our report,
21 and our testimony is on the record.

22 MS. FERSTER: Okay. Have you had an

1 opportunity to review it now?

2 MS. STEINGASSER: Our testimony is
3 relevant to the public hearing notice, and we're
4 happy to answer questions about our testimony.

5 MS. FERSTER: Okay. So on page 9, you
6 mentioned the medical building will also provide
7 research space, and I don't think that was one of
8 the functions that you identified in the
9 definition of healthcare facility that you read.
10 So can you elaborate what research space is going
11 to be provided?

12 MS. STEINGASSER: I believe the
13 definition of healthcare facility says any
14 facility used for the delivery of healthcare
15 services. Research is consistent with the
16 healthcare services.

17 MS. FERSTER: Okay. But you don't know
18 whether this building will provide research space;
19 it just could?

20 MS. STEINGASSER: I believe I've answered
21 that question.

22 MS. FERSTER: That's your testimony.

1 Okay. Let's see. Your previous report on the
2 healthcare building -- I'll call it that -- never
3 mentioned the need that you now identify for --

4 MR. GLASGOW: Mr. Chairman, I'm going to
5 interpose another objection. This is argument.
6 If she wants to ask a question, please ask a
7 question.

8 MS. FERSTER: -- isn't that correct?

9 MS. STEINGASSER: Is that in our
10 testimony of March 13th relevant to the public
11 hearing --

12 MS. FERSTER: No. I'm asking you if --

13 CHAIRPERSON HOOD: Hold on. Let me rule
14 on -- I'll overrule that. I'd like you to
15 continue to ask your question, please.

16 MS. FERSTER: Okay. Is this reference in
17 your current testimony regarding the apparent need
18 for addition floor-to-height ceiling, is this a
19 change from your prior reports issued in the prior
20 zoning proceeding because I did not see them in
21 there?

22 MS. STEINGASSER: This testimony in our

1 report filed on March 13th is relevant to the
2 public hearing notice for the remand issues only.

3 MS. FERSTER: Right.

4 MS. STEINGASSER: So we're happy to
5 answer any of the questions. So if you can --
6 we'd like to focus on the remand.

7 MS. FERSTER: Well, I am looking at your
8 report, okay, and your report does mention that
9 you think that the additional height is required
10 because of these additional floor-to-ceiling
11 heights. And if you haven't read the applicant's
12 prehearing submission that discussed that, what is
13 the basis for your assumption that now that they
14 need these additional floor-to-ceiling heights?

15 MS. STEINGASSER: There is an application
16 on file.

17 MS. FERSTER: Right. Where in the on-
18 file application it talks about the need for
19 additional floor-to-ceiling heights?

20 MS. STEINGASSER: I'm not sure. We'll be
21 happy to track that down and get back to you.

22 MS. FERSTER: If you could, yes, because

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1 I did look, and I couldn't find it.

2 So you don't necessary see that this is a
3 change in the design of the healthcare facility?

4 MS. STEINGASSER: No.

5 MS. FERSTER: Okay. So understanding
6 that this facility could, in fact, be a hospital
7 because that's one of the uses that would be
8 allowed for a healthcare facility, if it's a
9 hospital, wouldn't it need to be licensed under
10 the DC Healthcare Community Residents Act?

11 MS. STEINGASSER: Again, I'm going to ask
12 where in our written testimony we talked about
13 hospitals?

14 MS. FERSTER: Well, that was in your
15 answer --

16 MS. STEINGASSER: --

17 MS. FERSTER: The cross-examination
18 question. You said it could be a hospital because
19 that's the definition.

20 MS. STEINGASSER: I read the definition.
21 That's correct.

22 MS. FERSTER: Okay. So if it's a

1 hospital, wouldn't it need to be licensed?

2 MS. STEINGASSER: I will note on the
3 record that is beyond the scope of our testimony,
4 but I'm happy to say that, yes, it would need to
5 be licensed. But that is beyond the scope of any
6 of our testimony.

7 MS. FERSTER: Okay. And so generally,
8 you know, from your perspective as, you know, a
9 planner, somebody who is familiar with it, the
10 application and planning principles to zoning,
11 would you agree that hospitals generally have
12 different land use impacts?

13 CHAIRPERSON HOOD: I think that's --

14 COMMISSIONER MAY: She didn't testify
15 that it was going to be a hospital or that it
16 could be a hospital. The information on the
17 records says it's a medical office building, and
18 she provided the definition so that she could
19 explain what would be considered a healthcare
20 facility. So technically it's a healthcare
21 facility. There's no testimony anywhere that it
22 would ever be a hospital. It's not really

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1 relevant, and they certainly didn't testify to
2 that in their testimony the other day. So I mean,
3 the speculation about what would have to be needed
4 if it were a hospital, that doesn't really have
5 any bearing.

6 MS. FERSTER: Well, I mean, obviously,
7 we'll get to that when, you know, the applicant,
8 who has really talked about things like operating
9 rooms. But perhaps --

10 COMMISSIONER MAY: You know, have you
11 been to a medical office building lately? Do you
12 know -- I mean, there's plenty of outpatient
13 facilities that have operating facilities.

14 MS. FERSTER: Uh-huh (affirmative).

15 COMMISSIONER MAY: I mean, I don't know
16 how old you are, but, you know, at a certain age
17 you have to go for a mandatory procedure; and
18 that's considered surgery, and you go into the
19 room. And you get sedated and everything else,
20 and it's all in the medical office building. I
21 mean, it happens all the time.

22 MS. FERSTER: I don't understand the

1 point you're making.

2 COMMISSIONER MAY: The point being that a
3 surgical suite does not make it a hospital.

4 MS. FERSTER: Is that your interpretation
5 of the zoning regulations?

6 COMMISSIONER MAY: It's not relevant.
7 That's not what they said, what they testified
8 about.

9 MS. FERSTER: Okay.

10 COMMISSIONER MAY: I mean --

11 MS. FERSTER: Are you testifying about --

12 COMMISSIONER MAY: No. I'm trying to
13 clarify issues that are clear from the record.

14 MS. FERSTER: Okay.

15 COMMISSIONER MAY: I am not testifying.
16 I'm trying to help you communicate to us things
17 that are relevant to the case before us, and what
18 you're chasing down on hospitals does not appear
19 relevant because nobody testified that it was
20 going to be a hospital.

21 MS. FERSTER: Well --

22 COMMISSIONER MAY: If you want her to

1 testify that as a medical office building it could
2 have impacts that were not anticipated, you know,
3 you could ask questions about that. But --

4 MS. FERSTER: I think I just did ask that
5 question.

6 COMMISSIONER MAY: No, you didn't. You
7 asked about hospitals.

8 MS. FERSTER: Uh-huh (affirmative).

9 COMMISSIONER MAY: It's not a hospital.
10 Nobody ever said it was a hospital.

11 MS. FERSTER: Okay.

12 COMMISSIONER MAY: So if you want to ask
13 questions that relate to specific facilities
14 within it, sure, go ahead. They may not be able
15 to answer it. It all depends on what they
16 testified to.

17 MS. FERSTER: I think I just did about --

18 COMMISSIONER MAY: No. You did not ask
19 about that. Why don't you try to rephrase it
20 again without the word hospital in it? Maybe
21 you'll get to what you want.

22 MS. FERSTER: Do you know what specific

1 facilities are in the medical -- the healthcare
2 facility, what specific services and facilities
3 are being provided?

4 MS. STEINGASSER: I think for the fifth
5 time, no. It's a healthcare facility consistent
6 with the definition as reflected in the
7 comprehensive plan.

8 MS. FERSTER: That was my recollection
9 that you had asked that question, but Chair --
10 sorry, you're not the chairman. Mr. May had --
11 didn't believe you had asked that question.
12 Otherwise, I wouldn't have reasked it.

13 And just for clarification, when you say
14 that this is not relevant, I believe the witness
15 indicated that it was beyond the scope of her
16 testimony, not that it wasn't relevant. That was
17 her --

18 COMMISSIONER MAY: And I'm not talking
19 about what she testified to. I'm trying to help
20 you ask questions that will be helpful and will
21 provide information that's helpful to us.

22 MS. FERSTER: Well, with all due respect,

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1 I'm trying to create a record. So I have to do my
2 job. You have to do your job.

3 So -- so on page 67 of your report, you
4 say that the healthcare building will provide
5 specialized community services not normally
6 provided in small community healthcare facilities.
7 And what functions were you referring to?

8 MS. STEINGASSER: It would be any of the
9 functions permitted under the definition and
10 consistent with the definition of a healthcare
11 facility.

12 MS. FERSTER: And do you know whether any
13 of those functions are currently provided by
14 Children's Hospital or the Washington Hospital
15 complex across the street?

16 MS. STEINGASSER: Well, if it's a
17 hospital, then the hospital is the healthcare
18 facility, so I would say --

19 MS. FERSTER: Probably, yes?

20 MS. STEINGASSER: The hospital facility
21 would qualify as a hospital facility. Children's
22 is a hospital, and hospital is a use permitted as

1 a healthcare facility.

2 MS. FERSTER: So they -- so you're saying
3 that they would also provide community health
4 services?

5 MS. STEINGASSER: I'm not saying that at
6 all. I'm saying -- you asked if Children's
7 Hospital would provide the services of a
8 healthcare facility, and since hospital is one of
9 those uses --

10 MS. FERSTER: Uh-huh (affirmative).
11 Okay. So your report also expressed concerns
12 about the possible removal of two floors of the
13 medical building because you said, and I'm
14 quoting, "It would have a ripple effect by
15 occupying land that is otherwise used for housing,
16 public park, open space, or recreation center."

17 And what's the basis for this statement?

18 MS. STEINGASSER: I believe we went
19 through this at the last hearing. It has to do
20 with the amount of density that was reached
21 through the land disposition agreement with the
22 city council.

1 MS. FERSTER: Uh-huh (affirmative). Have
2 you -- so it's not based on any feasibility
3 studies that you've seen that looked at
4 alternative designs that would reduce the density
5 of the medical building?

6 MS. STEINGASSER: No. Our focus -- our
7 testimony is consistent with the advertised public
8 hearing notice.

9 MS. FERSTER: Okay. So regarding the
10 land disposition agreement, have you received any
11 legal advice or counsel from the Office of General
12 Counsel about the extent to which the land
13 disposition agreement legally constrains your
14 office or the Zoning Commission?

15 MS. STEINGASSER: No. I --

16 MR. GLASGOW: Yeah. We're going to
17 object on that. That gets into attorney-client
18 privilege.

19 CHAIRPERSON HOOD: Sustained. Go on.
20 And make sure we stick with the five issues that
21 were remanded by the court.

22 MS. FERSTER: And so just following up on

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1 the land disposition agreement in your report,
2 which is the --

3 CHAIRPERSON HOOD: He had an objection.
4 I've sustained it.

5 MS. FERSTER: His objection was based on
6 my question that the framing is attorney-client
7 privilege.

8 CHAIRPERSON HOOD: Okay. So what is your
9 -- well, I'm -- I want you to go to the next
10 question.

11 MS. FERSTER: My next question is --
12 yeah. I moved on. My next question in the Zoning
13 Commission's original order in this case, the
14 Zoning Commission stated, and I'm quoting, that
15 "the transfer of ownership through the LDA would
16 have no bearing on the Commission's proceeding or
17 decision." Do you disagree with this?

18 MS. STEINGASSER: We didn't testify to
19 the Zoning Commission's order. We focused solely
20 on the advertised issues in the public hearing
21 notice.

22 MS. FERSTER: Okay. You just mentioned

1 land disposition agreement though.

2 MS. STEINGASSER: Uh-huh (affirmative).

3 MS. FERSTER: Okay. So I think you've
4 opened the door for the question about the land
5 disposition agreement.

6 MS. STEINGASSER: No, no. I don't think
7 so. We mentioned why we thought the density --

8 MS. FERSTER: I would ask the -- okay.
9 And then in response -- I would ask the Commission
10 to simply rule on this on whether or not this is -
11 - this line of questioning is relevant because I
12 can't -- you know, I can't make a witness respond
13 to a question. So if you could simply rule on
14 whether the witness will answer that question that
15 I framed, then we can move on.

16 CHAIRPERSON HOOD: I think she -- I
17 think, with all due respect, she answered it.

18 MS. FERSTER: No. She said she would not
19 answer because it was beyond the scope of her
20 report.

21 CHAIRPERSON HOOD: So that's her answer.

22 MS. FERSTER: Okay. And that's her

1 interposing her own objection during testimony,
2 which is not what witnesses do.

3 CHAIRPERSON HOOD: Okay.

4 MS. FERSTER: If you want to --

5 CHAIRPERSON HOOD: That's --

6 MS. FERSTER: -- decide what she should
7 do, you should decide. You're the presiding
8 officer.

9 CHAIRPERSON HOOD: That was a long time.
10 I made a whole lot of decisions, and I'm going
11 with that was her answer. Okay. Next question.

12 MS. FERSTER: Okay. So I'm asking if you
13 could rule specifically on the relevance of my
14 question and whether my question was relevant or
15 not.

16 MR. GLASGOW: Question was asked and
17 answered, objection.

18 CHAIRPERSON HOOD: I'm assuming --

19 MS. FERSTER: I'm actually asking a
20 question of the Chairman, so that's -- that's the
21 question.

22 CHAIRPERSON HOOD: There's a lot of

1 chairmen in here tonight.

2 MS. FERSTER: Okay.

3 CHAIRPERSON HOOD: What I said, she's --
4 I've already ruled on. I said she's answered the
5 question. Move on. Next question. Take it for
6 what it's worth.

7 MS. FERSTER: Huh? Excuse me?

8 CHAIRPERSON HOOD: Take it for what I
9 just said. I've already said, she's answered the
10 question, so let's move on.

11 MS. FERSTER: Okay. I'm going to take it
12 for what it is.

13 CHAIRPERSON HOOD: Okay. Thank you.
14 Next question.

15 MS. FERSTER: So -- when you talk about
16 the ripple effect of occupying land that would
17 otherwise be used for housing, public park, or
18 open space, or recreation center, have you
19 considered the possibility that an alternative
20 design might allow the, you know, reduced density
21 of an office building to result in more housing,
22 and particular more affordable housing?

1 MS. STEINGASSER: Yeah. We've looked at
2 the application, and we addressed the questions
3 consistent with the public hearing notice.

4 MS. FERSTER: Uh-huh (affirmative). So,
5 okay, let's -- let me ask you a question about
6 consistency with the company's plan, which is an
7 issue that you addressed in your report. Your
8 report notes that you believe that high-density
9 zoning is appropriate given -- for Parcel 1 --
10 given the proximity to the Washington Hospital
11 complex. And the Washington Hospital complex is
12 designed in the comprehensive plan as an
13 institutional use; isn't that correct?

14 MS. STEINGASSER: Yes.

15 MS. FERSTER: So I guess, my question is
16 if you view, you know, the Parcel 1 as more
17 relating and essentially an expansion of the
18 Washington Hospital complex center why wouldn't
19 the appropriate zoning mechanism be to require a
20 formal amendment to the comprehensive plan?

21 MS. STEINGASSER: We did not say it was
22 an expansion of the hospital center.

1 MS. FERSTER: My apologies. If you view
2 the McMillan site as relating, I think, you know,
3 given its proximity to the Washington Hospital
4 Center, wouldn't the appropriate zoning mechanism
5 or planning mechanism be to -- and zoning to amend
6 the comprehensive plan to include that piece in
7 the institutional use designation in the
8 comprehensive plan?

9 MS. STEINGASSER: No. It's not
10 necessary. A hospital and a medical care
11 facility, as defined in the comprehensive plan,
12 allows as a matter of right in many -- both mixed
13 use and several high-density residential settings.

14 MS. FERSTER: Uh-huh (affirmative). But
15 we're talking about high-density here. Is high-
16 density --

17 MS. STEINGASSER: We're not talking about
18 high-density. We're talking about a tall
19 building.

20 MS. FERSTER: Uh-huh (affirmative).

21 MS. STEINGASSER: The building is part of
22 an overall PUD.

1 MS. FERSTER: Uh-huh (affirmative).

2 MS. STEINGASSER: PUD, as established in
3 Chapter 24 of the DCMR at the time of this filing,
4 allows for that movement of height and density
5 across the site.

6 MS. FERSTER: Okay. So in your report,
7 you are very clear in your opinion that the Zoning
8 Commission does have the authority to adopt the
9 C3C Zone District, and that is not inconsistent
10 with the comprehensive plan; is that correct?

11 MS. STEINGASSER: As part of the planned
12 unit development, the zoning regulations clearly
13 give the Zoning Commission permission and
14 authority to approve a project that's consistent
15 with the elements of the comprehensive plan and
16 allow for flexibility in high-density across the
17 site.

18 MS. FERSTER: Right, right. That I
19 understand. And that would include the
20 flexibility about the high-density C3C Zone in
21 this case?

22 MS. STEINGASSER: No. It's not a

1 standalone C3C Zone. It's part of a planned unit
2 development. It's a PUD-related -- what we call a
3 PUD-related rezoning.

4 MS. FERSTER: Uh-huh (affirmative).

5 MS. STEINGASSER: So but for this planned
6 unit development, the zoning would not exist.

7 MS. FERSTER: Okay. So in terms of the -
8 - your articulation of the Zoning Commission's
9 authority in the context of a PUD, would you say
10 there are any limits on the Zoning Commission's
11 authority then to adopt --

12 MS. STEINGASSER: I think it's beyond the
13 scope of our testimony.

14 MS. FERSTER: Well, I would ask that the
15 Chair rule on whether or not that is or is not
16 beyond the scope of your testimony.

17 CHAIRPERSON HOOD: Finish your question,
18 and I'll rule. Restate it and finish it.

19 MS. FERSTER: My question was do you
20 believe that there are any limits on the authority
21 of the Zoning Commission to adopt a higher-density
22 zone district than is reflected in the future land

1 use map. Mr. Lawson, perhaps you would like to
2 answer this question?

3 CHAIRPERSON HOOD: Let me help you with
4 building a record on your case you're trying to
5 build. That question is very general, and it
6 actually goes well beyond the -- if they're going
7 to answer it, then I'll let them answer.

8 MS. STEINGASSER: It's not a matter of my
9 belief of the Office of Planning's belief. The
10 zoning regulations clearly set out that through a
11 planned unit development in Chapter 24, 11 DCMR at
12 the time of this case, that the Zoning Commission
13 had the authority to grant flexibility for PUD.
14 And consistent with that is the phrase or actually
15 the quoting from the Chapter 24, it says that the
16 -- "The Commission may approve a PUD application
17 with or without modification. In carrying out the
18 purposes of this chapter, the Commission may
19 establish general standards and, in individual
20 cases, set standards and conditions for height
21 bulk lesser or greater than the standards
22 established for the effected districts in the

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1 chapter or elsewhere in this title."

2 MS. FERSTER: Thank you. Are you aware
3 of the change that's being proposed in the current
4 comprehensive plan scenario, which instead says
5 that, "Through the comprehensive plan, the
6 District should affirm that the Zoning Commission
7 has the purview to allow increased density for
8 planned unit developments that supersedes the
9 levels in the comprehensive plan's maps in
10 exchange for community benefit.

11 MS. STEINGASSER: I'm sorry. That is --

12 CHAIRPERSON HOOD: That is really way
13 outside. You're talking about something that's
14 being proposed?

15 MS. FERSTER: That's correct.

16 CHAIRPERSON HOOD: Okay. I'm going to
17 rule. We need to move on to the next question.
18 The question is out of order.

19 MS. FERSTER: Okay. In your report, you
20 cite a 2012 five-year economic development
21 strategy in the District of Columbia as support
22 for the use of McMillan as a medical facility. It

1 talks about using McMillan hub. That's correct?

2 MS. STEINGASSER: Doesn't say use the
3 entire, but it does reference. Yes. You are
4 correct.

5 MS. FERSTER: Is that strategic economic
6 plan a policy of the comprehensive plan?

7 MS. STEINGASSER: No. It's not.

8 MS. FERSTER: But doesn't carry the same
9 weight. What weight does it have then in terms of
10 your consideration of cost plan consistency?

11 MS. STEINGASSER: It identifies policies
12 of the administration at the time.

13 MS. FERSTER: Okay. And are you aware
14 that there's a new economic plan that was issued
15 in March 2017?

16 MS. STEINGASSER: Yes.

17 MS. FERSTER: Okay. And that doesn't
18 mention McMillan being medical hub; isn't that
19 correct?

20 MS. STEINGASSER: That was not relevant
21 at the time the application was filed for a
22 division date.

1 MS. FERSTER: I'm not sure I understand.

2 MS. STEINGASSER: This was the five-year
3 economic development strategy that was relevant at
4 the time the application was filed.

5 MS. FERSTER: Okay. So -- oh, okay. So
6 you're saying the new strategy is not relevant?

7 MR. GLASGOW: Objection.

8 MS. FERSTER: And what's your objection?

9 MR. GLASGOW: The objection is that's not
10 what she said.

11 MS. FERSTER: Well, I'm trying to
12 understand it.

13 MS. STEINGASSER: We're not commenting at
14 all on the current five-year economic development
15 plan.

16 MS. FERSTER: Okay. There's a place in
17 your report where you cite the relevant policies.
18 I think it's on page 1 actually as the policy that
19 you believe are policies that should be evaluated
20 as part of this remand order. And one of those
21 policies that you cite was the housing element, H-
22 1.2.4. And I believe this element says that a

1 substantial percentage of housing and publicly
2 owned sites should be preserved for low and
3 moderate income households. And so you believe
4 that, that is a relevant policy in this
5 proceeding?

6 MS. STEINGASSER: We determined that to
7 be a relevant policy. Yes.

8 MS. FERSTER: And isn't it correct that
9 this development has no housing for low income
10 households?

11 (Pause)

12 There are units that qualify at 50
13 percent AMI.

14 MS. FERSTER: Okay. Are there any units
15 that qualify 30 percent AMI?

16 MS. STEINGASSER: No.

17 MS. FERSTER: Okay. And are you aware
18 that, that is the definition of low income housing
19 in the relevant legislation?

20 MS. STEINGASSER: Thirty percent is low
21 income?

22 MS. FERSTER: Yes.

1 MS. STEINGASSER: I would take that as
2 your testimony.

3 MS. FERSTER: You don't know?

4 MS. STEINGASSER: I don't know. I don't
5 have that. That's not relevant.

6 MS. FERSTER: My apologies. So your
7 report does not make a finding on consistency with
8 this policy. Is that -- I'm just noting that.
9 But that's correct; isn't that correct that
10 there's nothing in your report that makes a
11 significant finding that is consistent with this
12 policy?

13 MS. STEINGASSER: We determined it to be
14 one of the relevant comprehensive plan sections,
15 and we made a determination that project was
16 consistent with the comprehensive plan level.

17 MS. FERSTER: Okay. But you didn't
18 specifically address this particular -- I mean,
19 you address a number of other particular policies
20 in your report, but not this one?

21 MS. STEINGASSER: We did not.

22 MS. FERSTER: Okay. I would like to turn

1 to your -- part of your testimony where you talk
2 about issue number four, gentrification and
3 displacement. And I'm looking particularly at the
4 chart that you've done on page 12. So you
5 indicate that you've done selective comparative
6 data for census track 33.01 and census track
7 92.03. And you indicate -- I mean, you don't --
8 your little map that you provide -- and I think
9 that's on page 5, it looks to me -- and you can
10 perhaps corroborate that -- census track 92.3
11 covers what's called the Stronghold neighborhood
12 right across North Capitol Street, and census
13 track 33.1 looks like it covers what we call the
14 North Bloomingdale neighborhood, which is right
15 across Channing Street. Is that correct?

16 MS. STEINGASSER: That is the map that we
17 have. That's on page 11 of our report? Yes.

18 MS. FERSTER: Okay. Do you know whether
19 33.01 is the Bloomingdale neighborhood?

20 MS. STEINGASSER: I believe it does cover
21 parts of Bloomingdale. Yes.

22 MS. FERSTER: And do you know -- and 92.2

1 covers Stronghold?

2 MS. STEINGASSER: Yes, it does.

3 MS. FERSTER: Okay. And they're distinct
4 neighborhoods, right, with distinct zoning,
5 according to your map? One is zoned for lower
6 density. Stronghold is zoned for lower density,
7 R-3, while North Bloomingdale is zoned for a
8 higher density, RF-1. That's again your -- I
9 think your map.

10 MS. STEINGASSER: You're correct that
11 they have separate zoning. They have different
12 zoning. They have the same moderate density land
13 use.

14 MS. FERSTER: And would you also agree
15 that these neighborhoods have a very different
16 relationship to the McMillan development in terms
17 of accessibility? For example, Stronghold, you
18 know, they -- it's across from North Capitol
19 Street, a very busy street, versus North
20 Bloomingdale is across from Channing Street, a
21 much smaller street. So it's a different
22 relationship to the site; is that correct?

1 MS. STEINGASSER: I'll take that as your
2 testimony. Yes.

3 MS. FERSTER: But you agree with it?
4 It's a question.

5 MS. STEINGASSER: I'm not weighing.
6 Their proximity, yes, one is across the street
7 from -- on North Capitol. The other is across
8 Channing Street.

9 MS. FERSTER: And when -- so when you
10 assembled this chart on page 12, it looks like you
11 lumped the data from both of those census tracks
12 together, reflecting those two different
13 neighborhoods. Are you able to provide the
14 separate demographic information in these charts
15 for both of the neighborhoods?

16 MS. STEINGASSER: I'm going to ask
17 Dr. Phillips, who is the director of the state
18 data center, to answer that question.

19 DR. PHILLIPS: And the answer is yes. We
20 can separate that if that's what you prefer.

21 MS. FERSTER: That's terrific. I would
22 love to ask you some questions that get this

1 information in terms of the change in population
2 for each of these census tracks instead of having
3 them lumped together.

4 For example, the 65 plus population, you
5 show that both of those census tracks combined
6 have 3.2 decrease over the last -- in the two
7 census periods that you compared. So what would
8 that decrease be for each of those census tracks?

9 DR. PHILLIPS: Well, since we did not
10 provide the data for each of the census tracks,
11 then I couldn't answer that question right now.

12 MS. FERSTER: Okay. Would you be able to
13 provide that information later?

14 DR. PHILLIPS: That would not be a
15 problem.

16 MS. FERSTER: Thank you.

17 CHAIRPERSON HOOD: Ms. Ferster let me ask
18 you, I think she answered it twice, but let me ask
19 you this: Why are we -- where are you trying to
20 go with this? Why do you want to separate them,
21 and what are we trying to achieve out of this in
22 building the case?

1 MS. FERSTER: The reason why I would like
2 to see that data separated is that the
3 neighborhoods are very different and are
4 experiencing very different impact in terms of
5 gentrification and displacement. And their
6 demographics, who lives in this neighborhood, the
7 number senior citizens, the number of families
8 reflects the differences in neighborhoods in terms
9 of their -- the effects of McMillan on
10 displacement of residents. So that's why it would
11 be relevant is that they're just very different
12 neighborhoods.

13 I don't know of you -- well, you do know.
14 You do know that North Bloomingdale is zoned for a
15 higher density and has a different proximity to
16 the site, and therefore, it's looking like it's
17 going to have greater attractiveness to -- and
18 greater property value increases for a whole
19 variety of reasons. And if you combine those two
20 tracks together, you don't get a clear picture of
21 what the displacement impacts are for Stronghold,
22 which is a much different neighborhood, lower

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1 density, less --

2 CHAIRPERSON HOOD: Okay. I think I get
3 it. I don't necessarily say I agree with it, but
4 I think I get it. Okay. So your next question.

5 MS. FERSTER: So ultimately you conclude
6 in this study that there have been significant
7 changes without the development in the filtration
8 site. And I'm just curious, the period that
9 you're comparing this to, 2011 to 2015, during
10 that period, isn't it correct that at that point
11 the plans for the McMillan development were very
12 publicly known in terms of, you know, broadly the
13 public, you know, potential investors, potential
14 real estate agents; isn't that correct?

15 MS. STEINGASSER: I believe it was known
16 even back in 2005 that the McMillan site was going
17 to be developed.

18 MS. FERSTER: Well, but the -- isn't it
19 correct that in 2009 was really -- in 2010 is when
20 the Vision McMillan Partners plan began to advance
21 more as opposed to generally the idea of
22 developing McMillan. It's been generally under

1 development since 1986, as I -- yeah, since the
2 district purchased it, but the
3 specific plan we're talking about.

4 MS. STEINGASSER: I would have to check
5 the record if the Commission wanted that
6 information. We'd be happy to provide that to the
7 record, but I don't know when the plan -- the
8 Vision McMillan Plan dates were released.

9 MS. FERSTER: Well, can you -- would it
10 be possible that some of this significant change
11 that you've seen in the period that you're
12 comparing it to, that's 2011 to 2015, may be
13 driven in part by the fact that the McMillan
14 development plans were well known at that point?

15 MS. STEINGASSER: That's a conclusion
16 we're not prepared to make.

17 MS. FERSTER: Okay. So what was the
18 basis of your conclusion that -- that these --
19 that the area had experienced significant changes
20 without the development of the McMillan and Bilker
21 (phonetic) site. Why do you believe that this
22 neighborhood would have changed without them, the

1 plans for that McMillan site?

2 MS. STEINGASSER: I don't think that's
3 quite what our summary says. Our summary says
4 that like most of the district has already
5 undergone significant change, not that it would or
6 would not have done so, and that's based on a
7 review of the selective comparative data in that
8 table.

9 MS. FERSTER: Okay. And it also says
10 without the development of the McMillan sand
11 filters site. So I'm curious what did you mean by
12 that, "without the McMillan sand filter site?"

13 MS. STEINGASSER: Meaning that the sand
14 filter site is not -- has not been developed, and
15 yet there is still significant change.

16 MS. FERSTER: Okay. So in terms of your
17 cumulative data, lumping the two census tracks
18 together, it looks to me that the greatest loss in
19 terms of -- that there's been a significant
20 reduction in the number of -- well, more of a
21 decrease in the number of families that -- in
22 these neighborhoods as compared to the change

1 citywide; is that correct?

2 DR. PHILLIPS: Family data is not
3 presented here.

4 MS. FERSTER: Okay. Well, children then,
5 shall I say, under 17, 42 percent decreased as
6 compared to 14 percent increase.

7 DR. PHILLIPS: That's correct.

8 MS. FERSTER: And did you -- in
9 undertaking this look at gentrification and
10 displacement, did you also look at different home
11 values for the two different neighborhoods?

12 DR. PHILLIPS: I believe the last
13 indicator on that chart shows median home value.

14 MS. FERSTER: Uh-huh (affirmative).
15 Right. But for the neighbor separately?

16 DR. PHILLIPS: I'm not sure I understand
17 your question.

18 MS. FERSTER: For Stronghold and North
19 Bloomingdale as separate in the state?

20 DR. PHILLIPS: As we said earlier, this
21 chart presents both census tracks combined.

22 MS. FERSTER: Uh-huh (affirmative).

1 DR. PHILLIPS: And I believe earlier you
2 were asking for the separate census tracks, the
3 data that refers to that, and we promised that if
4 you need those, we can provide those at a later
5 date.

6 MS. FERSTER: Okay. Thank you. And the
7 median home value, but you don't get that though
8 from the census data; you get that from somewhere
9 else?

10 DR. PHILLIPS: All the data provided in
11 this chart came from the census bureau and the
12 source as indicated is the American Community
13 Survey 2005 compared to the American Community
14 Survey 2011 to 2015.

15 MS. FERSTER: So one of your conclusions
16 is that you believe that the 22 affordable row
17 house units as well as the senior citizen housing
18 and the -- and the other affordable units provided
19 in this project, that they will -- no. Because
20 you don't say that. There's no question.

21 So you -- so the affordable units that
22 you mention on page -- in this report, do you

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1 believe that, that has some relevance to your
2 conclusions about gentrification and displacement?

3 MS. STEINGASSER: Which unit discussion?

4 MS. FERSTER: There's a paragraph right
5 below your chart on page 12 where you talked about
6 how the proposed development will include more
7 homes and including affordable units. I'm just
8 curious. How is that relevant to any conclusions
9 you might draw about the effects of the McMillan
10 development on gentrification?

11 MS. STEINGASSER: I'm going to ask Art
12 Rodgers, our senior housing analyst and planner,
13 to respond.

14 MR. RODGERS: Yeah. My name is Art
15 Rodgers, for the record. I'm the senior housing
16 planner. Could you restate the question?

17 MS. FERSTER: My question is you, in your
18 discussion about issue four, you talk about the
19 housing being provided on the site, including the
20 portable units. And is that -- did you provide
21 that discussion because it was somehow relevant to
22 your conclusion about the possible displacement

1 impacts, destabilization of land values, et cetera
2 that could result from the development? I'm just
3 trying to connect the dots.

4 MR. RODGERS: Well, mixed income projects
5 are a policy of the comprehensive plan, and the
6 comprehensive plan recognizes that rising house
7 values are having problems for many different
8 types of households. And so the project provides
9 a fairly wide range of affordability.

10 MS. FERSTER: Okay. So -- and will that
11 affect possible displacement in the surrounding
12 neighborhood?

13 MR. RODGERS: The provision of affordable
14 housing? No.

15 MS. FERSTER: Okay. Thank you. Okay.
16 So turning to page 5 in the report, you describe
17 Stronghold neighborhood in which is across from
18 Capitol Street as a moderate density zone
19 neighborhood. Would you agree also that this
20 neighborhood is predominately a single-family home
21 neighborhood of row houses?

22 MS. STEINGASSER: The R-3 zoning does

1 establish single-family homes.

2 MS. FERSTER: Thank you. And you, in
3 addressing the land use policy 2.1.5, you seem to
4 make a distinction or suggest that, that policy,
5 which talks about conservation of single-family
6 neighborhoods isn't relevant because these
7 surrounding neighbors, particular Stronghold are
8 not low density. A row house neighborhood is
9 considered moderate density. So are you saying
10 that row houses are not protected under land use
11 policy 2.1.5?

12 MS. STEINGASSER: No. That's quite the
13 jump. We disagree that the policy should be used
14 to weigh in against approval of PUD ,
15 as our first statement says. The reason we talked
16 about this is because it is not a low-density
17 neighborhood. It is a moderate-density
18 neighborhood, and it has all kinds of implications
19 through the comp plan. But as we concluded, the
20 sentiment of the policy to protect the established
21 family-oriented neighborhoods, the PUD is very
22 consistent with that policy.

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1 MS. FERSTER: So on page four of your
2 report, you state your opinion that the
3 development would be integrated into the existing
4 street grid through the construction of two east-
5 west streets connecting North Capitol to First
6 Street. So I just want to ask you a couple
7 questions about that. Do you view -- when this
8 policy uses the word "street grid," do you also
9 view the street grid as including not just North
10 Capitol and First Street, which are the north-
11 south streets, but also the east-west streets?
12 There's Girard, Franklin, Everett, and one other -
13 - Douglas, I think.

14 MS. STEINGASSER: I'm sorry. I don't
15 understand the question.

16 MS. FERSTER: You seem to view the street
17 grid as meaning the two -- the connection to the
18 street grid referring to the east-west streets
19 connecting to North Capitol and First Street. And
20 I'm not a planner, but just, you know, English
21 language question perhaps. My view of the word
22 street grid, neighborhood street grid would also

1 include, not just North Capitol and First Street,
2 but also the intersecting streets. I believe it's
3 east of North Capitol, which would be, you know,
4 Franklin, Girard, Douglas, Everett.

5 MS. STEINGASSER: Well, in this case
6 we're reviewing how the PUD integrates into the
7 street grid, not the broader street grid
8 throughout the whole city. So those street grid -
9 - the street grid that was most important to this
10 PUD was the North Capitol, First Street, Channing
11 and Michigan.

12 MS. FERSTER: Okay. So you didn't
13 evaluate connectivity to Franklin, Girard, or
14 Douglas?

15 MS. STEINGASSER: DDOT evaluated the
16 overall connectivity and mobility of the site. We
17 looked at the extension of the street grids to the
18 site.

19 MS. FERSTER: Just the site, okay. Okay.
20 So on page 4 in your discussion --

21 MS. STEINGASSER: Ms. Ferster, I'm sorry
22 to interrupt. Mr. Rodgers has to leave. Are

1 there any more questions that you would have for
2 him relative to the housing?

3 MS. FERSTER: I'm actually almost done.

4 MS. STEINGASSER: Okay.

5 MS. FERSTER: So I just have one -- one
6 more question.

7 So on page 4 of your report in the
8 context of policy -- land use policy, 1.2.6, you
9 indicate your -- your finding, I guess, with the
10 location of buildings was designed to complement
11 the adjacent community through use of setbacks,
12 height, and masking. And I'd actually like you to
13 look particularly at the Stronghold row houses
14 across from North Capitol Street on the east side
15 of North Capitol Street. They directly face a
16 six-story multi-family building and an eight-story
17 healthcare facility; isn't that correct? Are
18 there any setbacks, particularly that would
19 protect them?

20 MS. STEINGASSER: Technically they face
21 North Capitol Street --

22 MS. FERSTER: Right.

1 MS. STEINGASSER: -- which is -- I'm not
2 sure how wide it is, but it's an extremely wide,
3 major north-south thoroughfare. Then adjacent to
4 that would be Homestead Walk, which creates the
5 landscape buffer, and then there's some buildings.
6 I believe this density between the tallest
7 building, the healthcare facility, is upwards of
8 260 feet.

9 MS. FERSTER: Okay. Including the street
10 you mean?

11 MS. STEINGASSER: Yes.

12 MS. FERSTER: Okay. That's -- that's it.
13 Thank you.

14 CHAIRPERSON HOOD: Okay. Ms. Ferster,
15 this will be comment on Department of Energy &
16 Environment. You all - can - guess , Mr Wilson and
others.

17 Ms. Ferster, let me just before you
18 start, do you have -- how many questions do you
19 think you may have? How much time you figuring
20 you need?

21 MS. FERSTER: count them -- I mean, I
22 have a lot.

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1 CHAIRPERSON HOOD: Fifty to sixty
2 questions, I can see that. It might be 100.

3 MS. FERSTER: More than 40. Might be
4 like over 80, maybe close to 100.

5 CHAIRPERSON HOOD: Close to 100. Okay.
6 So we have 100 questions on the remand, correct?

7 MS. FERSTER: On the environmental
8 impact, environmental assessment.

9 CHAIRPERSON HOOD: From the remand, okay.
10 It looks like April 19th is going to work. So how
11 far --

12 Colleagues, let me ask this: How long do
13 we want to go tonight? I would like to try to at
14 least have those go to the applicant's case. I'll
15 tell you what. Let's do another assessment about
16 9 o'clock, and then we'll make a decision at that
17 point because I don't want to keep everybody if
18 you don't have to be here tonight. It would be
19 good to listen and see what's going on. If you
20 don't have to be here, I don't want you to have to
21 say all night. Of course, I'm good to go to
22 11:30.

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1 MS. FERSTER: Okay.

2 MS. STEINGASSER: At least before the
3 Metro closes so everyone can get home.

4 MS. FERSTER: Sure. So perhaps it would
5 be helpful if everybody would introduce
6 themselves.

7 MS. MAXWELL: Yes. Good evening. My
8 name is Lauren Maxwell. I am an assistant general
9 counsel for the Department of Energy and
10 Environment. So I'm here in a legal capacity.

11 MR. WILSON: Good evening. My name is
12 Jay Wilson. I'm in the Urban Sustainability
13 Administration with the Department of Energy and
14 Environment, and I'm a green building expert.

15 MR. OURS: Good evening. My name is
16 Stephen Ours. I'm the chief of air quality
17 permitting for the District of Columbia Department
18 of Energy & Environment.

19 MR. BULLO: Hi. My name is Abraham
20 Bullo, and I'm the environmental review
21 coordinator for the Department of Environment.

22 MS. FERSTER: Okay, great. So would it

1 be okay with you if I did the same thing that I
2 did for the Office of Planning and sort of threw
3 some general questions and the most appropriate
4 person answer them?

5 MR. WILSON: Yes. That would be fine.
6 Thank you.

7 MS. FERSTER: So which of you of if all
8 of you did had some involvement in the preparation
9 of the environmental assessment that's been
10 provided by the applicant in Exhibit F? This is
11 an environmental assessment. It says it's
12 compiled by Mr. Bullo.

13 MR. BULLO: Yes.

14 MS. FERSTER: Which suggests that others
15 of you had some involvement.

16 MR. WILSON: So the environmental
17 assessment process is referred to eight different
18 departments within the Department of Energy &
19 Environment. So there are a great number of
20 employees that work on that process and weigh in
21 at the process. Here at the table, Mr. Bullo and
22 Mr. Ours works on that and not large.

1 MS. FERSTER: Okay. And you?

2 MR. WILSON: I did not. I often come to
3 Zoning Commission hearings and interface with the
4 Office of Planning on planning and developing
5 projects. One of -- go ahead. Continue with your
6 questions.

7 MS. FERSTER: So -- so this environmental
8 assessment was prepared in order to comply with
9 the requirements of the DC Environmental Policy
10 Act; is that correct?

11 MR. WILSON: Yes, that's correct.

12 MS. FERSTER: And so you're generally
13 familiar with the law and the implementing
14 regulations? So if I ask you some specific
15 questions about them, you will be able to answer

16 MR. WILSON: Our staff is -- yes. As
17 long as they're relevant to this planned unit
18 development case. The EISF was actually filed
19 after the initial hearing for this project, as is
20 typical within the department.

21 MS. FERSTER: Uh-huh (affirmative).
22 Okay. So the -- your environmental impact

1 statement regulations is correct that you're not
2 required to examine alternatives, unless a
3 decision is made for air -- EIS; is that correct?

4 MR. BULLO: Yes.

5 MS. FERSTER: Which is why your report
6 doesn't examine alternatives?

7 MR. BULLO: Yes.

8 MS. FERSTER: And if the full -- and also
9 your report indicates, I think, that you didn't
10 receive any comments from the public. And is that
11 because you're not required to distribute this for
12 public review, comment, public hearing?

13 MR. BULLO: We're not required to
14 circulate for public comment.

15 MS. FERSTER: Okay. Only until the
16 environmental impact phase, and then public
17 hearing would be held?

18 MR. BULLO: Right.

19 MS. FERSTER: And under your regulations
20 -- okay. Hold that for a minute. So I'm turning
21 to a report now, and it indicates a number of
22 documents that were reviewed by you in preparing

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1 this report, which includes what you called EISF,
2 an environmental impact screening form, and a
3 number of other documents that you list on page 2.
4 And so are these documents available for review by
5 the public?

6 MR. BULLO: Yeah. Each division within
7 the department has those documents, sure.

8 MS. FERSTER: Okay. Would you be willing
9 to put them in the record here?

10 MR. WILSON: If requested as part of this
11 case. Some of -- the EISF is generally -- it's a
12 regulatory process, so it's not something that we
13 prepare as a document that is typically reviewed
14 to see if a project is consistent with the
15 comprehensive plan of the city. Our contribution
16 in the PUD is in relation to the comprehensive
17 plan. If you wanted to request those documents
18 from our agency, that may be a separate process.

19 MS. FERSTER: Okay. But if the Zoning
20 Commission chose to request them, you would have
21 no trouble in terms of confidentiality or anything
22 else about providing them in the record?

1 MR. WILSON: No.

2 MS. FERSTER: So the environmental -- so
3 this EISF form that you were talking about, that's
4 a self-certified document that the applicant
5 submits, and it's a lot of yes or no questions; is
6 that correct?

7 MR. BULLO: Not only yes or no questions
8 but also some calculations in it.

9 MS. FERSTER: Right. And then in some of
10 the questions, depending on the answer, they have
11 to do calculations and submit some supporting
12 documentation?

13 MR. BULLO: Yes, ma'am.

14 MS. FERSTER: And so that's a self-
15 certified document, correct?

16 MR. BULLO: Yes.

17 MS. FERSTER: So if I wanted to
18 understand the basis for some of the answers in
19 the environmental impact screening form, I would
20 need to look at those documents, right? I mean,
21 let's say you. You would need to, if you're doing
22 the environmental assessment.

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1 MR. WILSON: Sure. So as part of the
2 environmental screening form -- it's a nine-page
3 document. So to characterize it as a list of yes
4 or no questions is a little bit unfair, but it's a
5 nine-page document with supporting document,
6 including environmental assessments, storm water
7 management plans, erosion assessment control
8 plans, and other documents that are reviewed by
9 the agencies within -- or the divisions within the
10 agency.

11 MS. FERSTER: Uh-huh (affirmative).

12 MR. WILSON: So --

13 MS. FERSTER: But those documents
14 obviously -- I mean, I'm asking you, were
15 important for you to review in preparing this
16 environmental assessment; is that correct?

17 MR. WILSON: Absolutely. Those are
18 critical to preparing an environmental assessment.

19 MS. FERSTER: Okay. And then in terms of
20 whether or not you went to outside sources, all
21 those outside sources that you used to verify
22 information from the -- that the applicant

1 provided in the form and in their supporting
2 documents, those are listed on B? Wait, sorry.
3 Yeah. We listed a number of databases in B and
4 in-house reference materials. So that's what you
5 reviewed, those reference materials?

6 MR. WILSON: As documented in the EISF.
7 All of that information is here. Yes.

8 MS. FERSTER: Okay. And those are more
9 general databases; isn't that correct? So if they
10 said there are no underground storage tanks on
11 this site, you have a database that you can go
12 through and check that information, but it's not
13 site-specific evaluations of this project?

14 MR. WILSON: It's very site-specific. So
15 our underground storage tank division within the
16 agency keeps track of underground storage tank and
17 can verify that information for a specific site.

18 MS. FERSTER: And so for those things
19 that you have those databases and that's -- you do
20 have an ability to verify that information?

21 MR. WILSON: Yeah.

22 MS. FERSTER: But if you don't have a

1 database, then you have to rely on the applicant's
2 self-certified document in report? Because you
3 didn't engage your own contractor to do an air
4 quality analyses and that sort of thing?

5 MR. WILSON: I will say that we don't
6 hire our own contractor. There are times where we
7 might look at -- I mean, we might redo
8 calculations or things like that to check things,
9 certainly.

10 MS. FERSTER: Okay. So I'm looking at
11 what your regulations say should be addressed in -
12 - as part of the environmental screening
13 processing, and one of the things that it says
14 should be addressed is noise, but I don't see any
15 reference to noise in your environmental
16 assessment. Why don't your environmental
17 assessment address the potential for this project
18 to have noise impacts?

19 MR. BULLO: Our department does not --
20 the noise part is part of DCRA, ma'am.

21 MS. FERSTER: Okay. But your form asks a
22 question. Your environmental impact screening

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1 form asks --

2 MR. BULLO: But that form -- that form --

3 MS. STEINGASSER: I'd like to object. I
4 think he's answered the question.

5 MR. BULLO: Yeah.

6 MS. FERSTER: Okay. And I apologize. I
7 did interrupt you before you finished your
8 question, and that's my error. If you could just
9 finish the answer that you were answering so I can
10 --

11 CHAIRPERSON HOOD: Wait a second on your
12 question. Let me --

13 MS. FERSTER: Well, the objection was
14 based --

15 CHAIRPERSON HOOD: Hold on a second.

16 MS. FERSTER: -- on that he answered it.

17 CHAIRPERSON HOOD: I'm talking.

18 MS. FERSTER: I just didn't hear it.

19 CHAIRPERSON HOOD: You've been talking
20 all evening. I haven't said anything. So let me
21 talk for a moment. Your objection. I would like
22 for her to redo the question. I'm not going to

1 overrule or sustain. I need to hear the question
2 first. The question was not fully answered before
3 he was interrupted. Okay. So, Ms. Ferster, could
4 you ask the question and give him a chance to
5 answer?

6 MS. FERSTER: Yeah. So the environmental
7 impact screening form asks a question about noise
8 impacts. So my question was why didn't your
9 environmental assessment include any analysis of
10 noise impacts?

11 MR. BULLO: In terms of the environmental
12 assessment part, as it relates to Department of
13 Energy & Environment, noise is not part of it.
14 The form itself has questions for other agencies.

15 CHAIRPERSON HOOD: Okay. Thank you. I
16 actually wanted to know the answer to that too, so
17 thank you for finishing your answer.

18 Next question.

19 MS. FERSTER: So that would be a question
20 then for somebody else, not anybody here at this
21 table? I mean, I guess, my question is I should
22 ask -- which agency is responsible for providing

1 that information then?

2 MR. BULLO: My understanding is DCRA's
3 responsible for noise.

4 MS. FERSTER: Okay. And in the
5 environmental impact screening form that the
6 applicant provided, do you remember what they
7 checked in response to the question about noise?

8 MR. WILSON: That wouldn't be something
9 that our agency reviewed.

10 MS. FERSTER: Okay. So we don't -- but
11 you don't remember what they said. I suppose if
12 you put the environmental impact statement
13 screening form in the record, then we would know,
14 right? I wouldn't have to ask you that one.

15 MR. WILSON: It's not up to us to put the
16 environmental impact screening form into the
17 record because typically it's not something
18 reviewed as part of a PUD application.

19 MS. FERSTER: Okay. I'm just going to --
20 I believe one of the regulations under your law or
21 environmental impact's statement law and -- let me
22 see. One of your regulations says that you need

1 to evaluate whether the action might create a
2 public -- a potential public health hazard or pose
3 a hazard to people, animal, or plant populations
4 in the area. And did your environmental
5 assessment evaluation that? Any issues pertaining
6 to that public health?

7 MR. BULLO: That section is contained in
8 our fishes and wildlife , but let me check again.

9 MS. FERSTER: Which page is that?

10 MR. WILSON: Are you specifically asking
11 about environmental impacts to fish and wildlife?

12 MS. FERSTER: No. Public health hazard
13 to people actually is what I'm really particularly
14 asking about.

15 MR. WILSON: So the environmental impact
16 statement form, screening form in this process is
17 evaluating environmental impacts generally. That
18 would include impacts to human health,
19 environmental health, et cetera. It's a
20 regulatory process that we go through for a
21 project.

22 For a PUD application, we evaluate and

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1 look at a project at a much higher level --

2 MS. FERSTER: Okay.

3 MR. WILSON: -- as being consistent with
4 the comprehensive plan and the environmental
5 impacts and policies in the plan.

6 MS. FERSTER: Okay. And this
7 environmental assessment was prepared for the PUD
8 application then?

9 MR. WILSON: No. It was not. It was
10 prepared after the PUD application as part of the
11 regulatory process.

12 MS. FERSTER: Okay. So then it shouldn't
13 have -- because it was prepared as a result of the
14 regulatory process, I guess the question is does
15 it evaluate the public health impacts of this
16 project?

17 MR. WILSON: It would. Yes.

18 MS. FERSTER: And where in this document
19 does it do that?

20 MR. WILSON: So it evaluates hazardous
21 wastes and the impact to public health on
22 hazardous wastes.

1 MS. FERSTER: Uh-huh (affirmative).

2 MR. WILSON: And the environmental
3 consequences.

4 MS. FERSTER: Okay. And turning also to
5 your environmental impact screening form
6 regulations and particularly 7201.2N. It says
7 the, "Environmental screening form should evaluate
8 whether the action might cause a significant
9 adverse change in the existing level of noise in
10 the vicinity of the action." So you just
11 disregard that regulation?

12 MR. WILSON: I'm sorry. Can you clarify
13 that question?

14 MS. FERSTER: I'm reading your -- a
15 regulation, which is -- identifies the different
16 effects that are evaluated in your screening
17 process in 7201.2N, specifically deals with the
18 evaluation of noise levels in the vicinity of the
19 action.

20 MR. WILSON: So I'm not an expert in
21 noise -- noise is a regulated issue by the
22 Department of Consumer Regulatory Affairs. Yeah.

1 I can't --

2 MS. FERSTER: Okay.

3 MR. OURS: If you don't mind, I might be
4 able to clarify a little bit here. This is a
5 process where the Department of Consumer
6 Regulatory Affairs and the Department of Energy &
7 Environment are both involved in the EISF process.
8 We review the parts that are -- that are covered
9 by the Department of Energy & Environment, and
10 noise is not part of that.

11 MS. FERSTER: So there's another document
12 that evaluates the noise impacts that DCRA has
13 prepared?

14 MR. OURS: I don't know that.

15 MS. FERSTER: Okay. So one of the
16 screening criteria also appears to be whether the
17 proposed action considered in its entirety would
18 have accumulative impact on the -- that would be
19 significant. That's -- that's 7201.2P. And do
20 you consider cumulative impacts then -- did you
21 consider cumulative impacts in this environmental
22 assessment?

1 MR. WILSON: Yeah. The whole document is
2 the evaluation of the environmental impact of this
3 development project.

4 MS. FERSTER: Uh-huh (affirmative).

5 MR. WILSON: So it is considered.

6 MS. FERSTER: Okay. So and what place in
7 this document -- and I see that you've evaluated
8 separated a whole host of separate impacts, air,
9 hazardous waste, not noise but other impacts.
10 Where do you look at all these individual impacts
11 and decide whether or not they are cumulatively
12 significant in this document?

13 MR. WILSON: The entire document looks at
14 all the impacts.

15 MS. FERSTER: And that's your -- that's
16 how you define cumulative impact?

17 MR. WILSON: (No audible response)

18 MS. FERSTER: So I would like to return
19 to your air quality assessment. So who would be
20 the appropriate person to address this?

21 MR. OURS: I'm Stephen Ours. I'm
22 probably the appropriate person for most of those

1 questions.

2 MS. FERSTER: Okay. So you have
3 undertaken an assessment of air quality impacts,
4 and you indicate that the air quality analysis was
5 undertaken to determine whether the project would
6 violate any ambient air quality standard. So this
7 is something you do under the Clean Air Act or
8 Clean Air Act compliance.

9 MR. OURS: We determine -- the way we
10 determine if there is an impact or a significant
11 impact is by comparing what the effects of this
12 project cumulatively on top of background levels
13 and such. How that compares to what a national
14 ambient air quality standard establishes, which a
15 national ambient air quality standard is a health-
16 based federal standard that determines what is
17 healthy air and what is not.

18 MS. FERSTER: Sure. And the purpose is
19 to, you know, make sure that you don't exacerbate
20 pollution, and that the entirety of this area has
21 been classified as what you call non-attainment;
22 is that correct?

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1 MR. OURS: I'm not sure I entirely
2 understand your question.

3 MS. FERSTER: Okay.

4 MR. OURS: What I think you're trying to
5 say is that --

6 MS. MAXWELL: Can you clarify the
7 question, please?

8 MS. FERSTER: Yeah. I'm not -- you know,
9 I don't even think I can make it clearer because
10 I'm not an environment -- let me try and ask it a
11 different way and break it down a little bit. And
12 again, be patient with me because I am not -- I do
13 not -- I'm not an environmental scientist, but --
14 you list, I guess, four -- one, two, three, four
15 particular pollutants that are emitted by cars
16 because that's -- it's vehicle -- or vehicles
17 basically because it's vehicle emissions that
18 you're primarily evaluating in terms of air
19 quality; is that correct?

20 MR. OURS: Vehicle emissions are the
21 primary. Yes.

22 MS. FERSTER: Yeah. And so you -- and

1 then you said -- but you're not going to evaluate
2 or do any site-specific monitoring for any of
3 those pollutants, except for carbon monoxide,
4 because you said the other -- well, you said the
5 three -- the three other pollutants that you
6 identified, nitrogen oxide, lead, and fine
7 particulate matter were -- DC was in attainment.
8 So you didn't need to do any site-specific
9 monitoring for that.

10 MR. OURS: First of all, let me clarify
11 monitoring --

12 MS. FERSTER: Or modeling, modeling.

13 MR. OURS: -- versus modeling.

14 MS. FERSTER: Yes. I'm sorry.

15 MR. OURS: We're talking about modeling.

16 MS. FERSTER: Yeah.

17 MR. OURS: Yes. The modeling was related
18 to carbon monoxide. There are reasons that we
19 stated in the report about -- for not -- not
20 requiring modeling for nitrogen dioxide, ozone,
21 which is -- has precursors of oxides of nitrogen
22 or NOX --

1 MS. FERSTER: Uh-huh (affirmative).

2 MR. WILSON: -- and volatile organic
3 compounds or VOCs and lead as well.

4 MS. FERSTER: Uh-huh (affirmative). And
5 the answer you gave was that because DC as a whole
6 is attainment for those pollutants, you didn't
7 need to do any modeling for the impacts -- any
8 increases in the level of those emissions that
9 would be experienced in the surrounding
10 neighborhood as a result of the increased traffic?

11 MR. OURS: Maybe I can clarify a little
12 bit more with those items. First of all, for
13 lead, that's a fairly simple one because the lead
14 concentrations are extremely low. The effect of
15 traffic on lead now that we have unleaded gasoline
16 is minuscule, and so we don't see a need to do
17 modeling in that circumstance because it's -- it's
18 so far removed of a possibility to exceed the
19 National Ambient Air Quality Standard that's not a
20 reasonable requirement to require it.

21 For ozone and its precursors, oxides of
22 nitrogen and volatile organic compounds, it's a

1 little bit different reasoning. The reasoning for
2 ozone is that ozone is a regional pollutant. You
3 get -- we worry about the precursors NOX and VOCs
4 being emitted. You generally don't omit ozone
5 directly. And it takes quite a while in the
6 atmosphere for the precursors in the presence of
7 sunlight to produce ozone.

8 So while we are a non-attainment area for
9 ozone, the effect of a project like this, it
10 doesn't -- it doesn't concentrate in a hot spot.
11 It's more a regional problem for all the different
12 sources in the entire region, and it can be even
13 outside of the region. You get a lot of transport
14 from the Midwest, and the South, and that sort of
15 thing. So that's our reasoning for not modeling
16 that.

17 As far as nitrogen dioxide, which has its
18 own specific thing, that is a situation where,
19 again, sort of similar to lead, we are not only
20 just attainment, and there generally isn't a
21 requirement to do it if we're in attainment; but
22 we're also so far below the standard, that -- and

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1 I will also note. We're not just so far below the
2 standard at that location. We do have a
3 monitoring site at McMillan, at the McMillan area.
4 We happen to be lucky in that case to have that
5 kind of data. But we have even put in place a
6 near road monitor next to the Anacostia Freeway,
7 which is less than 10 meters from the traffic
8 lanes, and we're seeing barely above half of the
9 standard even right next to that with large, large
10 amounts of vehicles. So we don't see the effects
11 of this being an issue here, and therefore, again,
12 it doesn't seem reasonable to require that
13 additional level of evaluation when the
14 possibility is so unbelievably remote.

15 As far as particulate matter, fine
16 particulate matter, that's the remaining pollutant
17 that was mentioned, PM2.5 is another term for it.
18 That issue is really only an issue when you're
19 dealing with large amounts of diesel traffic.
20 Gasoline vehicles generally have very, very little
21 particulate matter emissions.

22 And what we did look at, we did look at -

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1 - and I believe there's information in our report
2 about that, although there's more detail in what
3 we actually looked at than what we wrote in our
4 report. But what we looked at was whether there
5 was a significant amount, and we compared that to
6 EPA's references on what is significant, and what
7 we're seeing in this case is they had estimated
8 potentially up to 100 round trips of shuttles and
9 approximately 30 other vehicle -- diesel delivery
10 type trucks and that sort of thing, possibly
11 another 14 -- I believe that's the number I'm
12 remembering -- van trips, although those are
13 primarily gasoline, so probably not a
14 consideration. So we're talking in the matter of
15 a couple hundred trips at most compared to the
16 EPA's standard for a significant thing of
17 approximately 10,000 trips. Again, this is very
18 far below what would be considered a significant
19 number that would require additional modeling.

20 MS. FERSTER: Okay. So let me break that
21 down a little bit. So let's just take, you know,
22 the nitrogen dioxide. And that is the -- the

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1 issue that you said because the Anacostia Freeway
2 involves so much more traffic and doesn't have an
3 excessive amount of nitrogen dioxide, that you're
4 assuming that the traffic that's going to be
5 generated by McMillan plus the baseline and any
6 background traffic will, therefore, also not be
7 excessive and --

8 MS. MAXWELL: I'd like to object. Is
9 there -- what's the question?

10 MS. FERSTER: I just asked that question.
11 The reason why you didn't feel like you needed to
12 do protocol hot spot modeling for McMillan is
13 because you know from the Anacostia Freeway that
14 much higher levels of traffic don't create
15 excessive amounts of nitrogen dioxide?

16 MR. OURS: We have -- we have two bits of
17 information. We have the information from the
18 existing McMillan site to see where it is as a
19 background, and we also see -- we can compare that
20 to where there is a lot more traffic at the
21 Anacostia site. And there's not a large
22 difference between those, given the -- and the

1 comparison of traffic, there's a significant
2 difference there.

3 MS. FERSTER: Okay. But your assumption
4 then in terms of what is excessive and what isn't,
5 it really does depend on excessive in terms of the
6 levels that you consider -- you identify certain
7 levels as being potentially too high, excessive.
8 And are those hot spot levels that you're talking
9 about? I mean, if you didn't -- okay. Let me
10 just back up here for a -- you'll have to be
11 patient with me.

12 The carbon monoxide, you did a hot spot
13 analysis, and then you concluded that the modeling
14 that you did indicated that the levels of carbon
15 monoxide would not be excessive in terms of a
16 standard for human health; is that correct?

17 MR. OURS: That's correct. The standard
18 we compare to is the National Ambient Air Quality
19 Standard --

20 MS. FERSTER: Okay.

21 MR. OURS: -- or multiple standards in
22 the case of carbon monoxide.

1 MS. FERSTER: But I guess National
2 Ambient Air Quality Standard doesn't necessarily
3 measure what somebody -- it's a bigger impact
4 area. So if somebody were living right next door
5 to the Anacostia freeway, even if that freeway had
6 levels that were within an acceptable standard
7 under the national for air quality, isn't it
8 possible that individuals who live there might
9 experience some health impacts as a result of that
10 level of traffic?

11 MR. OURS: The National Ambient Air
12 Quality Standard is a health-base standard. The
13 intent of a National Ambient Air Quality Standard
14 is to set a level that is healthy for people that
15 are under that. It's healthy for people to be
16 breathing. So if somebody were living next to a
17 monitor that showed attainment for given pollutant
18 that should be, by the EPA definitions of a
19 National Ambient Air Quality Standard, that should
20 be a safe location for that pollutant.

21 MS. FERSTER: Okay. And there was -- you
22 also -- you didn't mention this, but -- yeah,

1 yeah. You did. Okay. So when you said
2 particulate matter, you didn't measure this
3 because that's where you got into the fact that
4 you didn't believe, because of your evaluation of
5 the vehicles, the mix of vehicles that would be
6 likely to, you know, increase as a result of this
7 development, that they would not -- they would not
8 appreciably affect air quality, but you didn't do
9 any modeling; is that correct?

10 MR. OURS: That is correct.

11 MS. FERSTER: I'm trying to understand
12 how you know that -- particularly when you say
13 that a high level of vigilance is needed with
14 respect to particulate matter. How do you know
15 that -- that the numbers in increased vehicles
16 that are using this -- that will be generated by
17 the McMillan development that might emit fine
18 particulate matter, how do you know that it's not
19 going to be a problem if you don't model it?

20 MR. OURS: It's because there is -- we
21 follow basically -- we follow a federal standard
22 that establishes what a significant effect would

1 be, and that's why -- and when we look at it and
2 it's that far below, that's how we make that
3 determination.

4 MS. FERSTER: Okay. So basically saying
5 that District of Columbia wide, or is this for
6 McMillan monitoring that at McMillan you are so
7 far below that fine particulate level that would
8 be deemed unsafe that it couldn't possibly result
9 in a potentially unhealthy air quality for the
10 people living there; is that -- was that your
11 testimony?

12 MR. OURS: Basically, yes. We feel that
13 was -- that was the determination was that it
14 wasn't needed in that case.

15 MS. FERSTER: So my understanding is that
16 vehicles - cars, trucks, buses, also emit other
17 potentially hazardous or even carcinogenic
18 chemicals like volatile organic compounds,
19 polycyclic, aromatic hydrocarbons, PM-10, which is
20 larger particulate matter, as well as the ones you
21 specifically identify, and these are -- all those
22 chemicals that I just mentioned are byproducts of

1 combustion basically; is that correct?

2 MR. OURS: I think at least some of them
3 are. I don't know all the details of every
4 byproduct of combustion.

5 MS. FERSTER: And so your environmental
6 assessment does not address whether or not those
7 emissions of those chemicals or combustion
8 byproducts would have a significant impact on the
9 health of the people around the neighborhood? Why
10 is that you don't address those?

11 MR. OURS: We only address ones that have
12 established National Ambient Air Quality
13 Standards.

14 MS. FERSTER: Okay. But isn't it
15 possible that even if you're -- it's not a problem
16 in terms of the larger area air quality, that
17 individuals who live near a site that emits these
18 hazardous chemicals could be -- have adverse
19 health effects.

20 MS. MAXWELL: I'd like to object,
21 Mr. Chairperson. Mr. Ours isn't an expert on
22 health effects. He's an expert on air quality

1 standards and air quality analysis.

2 MS. FERSTER: Okay. Is there somebody
3 here who is an expert on health?

4 MS. MAXWELL: Not within this agency.
5 No.

6 MS. FERSTER: Okay. Because you're --
7 you know, we went through the environmental impact
8 screening form, and we did note that the
9 environmental impact screening form does require
10 you to evaluate the impacts on human health. So
11 your analysis didn't deal with that issue?

12 MR. OURS: We determined whether it met
13 the health-based federal standards.

14 MS. FERSTER: Okay. In part of your
15 report, I think you did express some concern about
16 the particulate matter levels around the transit
17 hub.

18 MR. OURS: We did ask further questions
19 of the applicant.

20 MS. FERSTER: Right. So even though you
21 didn't do any particular modeling around the
22 transit hub, there was something about the number

1 of buses that you thought would be generated by
2 this project that could potentially create a
3 problem at that particular location?

4 MR. OURS: The reason we asked that is
5 originally I saw a map of the site, saw a
6 reference to a transit hub.

7 MS. FERSTER: Uh-huh (affirmative).

8 MR. OURS: And I wanted to determine if
9 there was -- if there was a significant number of
10 diesel vehicles. And so seeing that there was a
11 transit hub, I wanted to get further information,
12 and I got that information from the applicant.

13 MS. FERSTER: And that information,
14 according to your report, is that because shuttles
15 would be providing most of that transit, that they
16 didn't emit fine particulate matter, so it
17 wouldn't be a problem at --

18 MR. OURS: It wasn't that they don't emit
19 fine particulate matter. It's that there aren't a
20 large enough number of them to be of significant
21 concerns.

22 MS. FERSTER: The shuttle vans, yeah.

1 The larger emitter of fine particulate matter
2 would be diesel-fueled vehicles; is that correct,
3 Metro buses?

4 MR. OURS: Buses or any diesel vehicle.
5 Now, I don't think there was an assertion that
6 those shuttles would not be diesel.

7 MS. FERSTER: Right.

8 MR. OURS: But there weren't large enough
9 -- we reviewed them as if they were diesel. We
10 made that assumption.

11 MS. FERSTER: Okay. Because it say here
12 -- it says, "Metro bus traffic will not enter the
13 site." And then it says, "The transit hub is a
14 pick up or drop off serving taxi shuttles and
15 patient -- it's expected that shuttle buses or
16 vans will be used rather than bus-sized vehicles."
17 And then -- so I -- and then it said, "Applied
18 Environmental also indicated that many providers
19 of this types of service use gasoline rather than
20 diesel vehicles." So I read that sentence as
21 you're assuming that the shuttle vans -- you're
22 making an assumption that the -- not assuming

1 that, you know, the same emissions for a diesel
2 vehicle would be made by these shuttle vans.

3 MR. OURS: It actually could be either
4 way. They made that statement that many are --
5 many do have -- are gasoline-based, but it's still
6 -- whether you treat it as -- whether you assume
7 they're gasoline or whether you assume they're
8 diesel, they're still below, far below that 10,000
9 number that I provided before from the EPA
10 guidance.

11 MS. FERSTER: Somehow I thought that
12 10,000 number was for NOX.

13 MR. OURS: No. That's diesel vehicle
14 trips.

15 MS. FERSTER: And so are you saying that
16 if you -- if we -- you assume that basically all
17 these shuttle van trips would, in fact, be Metro
18 buses?

19 MR. OURS: It would be reasonable to
20 assume. It would be reasonable to assume that,
21 although I don't -- I don't think that was the
22 assertion that they made, but it would still be a

1 safe assumption if we did that. I don't think
2 that was the intent of the applicant to say that
3 they would be though.

4 MS. FERSTER: Okay. So I would really
5 need to see the applicant's report to understand
6 what they've represented then in terms of the --
7 their assumptions about diesel versus gasoline.

8 MR. OURS: Their report or the
9 information that they provided us as a follow up
10 to that report.

11 MS. FERSTER: Okay. All right. I had
12 some questions relating to health, but there's
13 nobody here that can answer that. So that will
14 make this a little easier. So since -- there's
15 nobody here dealing with health assessments, but
16 I'm just curious, as a general matter when you do
17 environmental assessments, do you do a health
18 impact assessment?

19 MR. OURS: My understanding is that a
20 health impact assessment can be done in some cases
21 by the Department of Health. Health impact is a
22 very specific study. We are talking about the

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1 environmental impact assessment, which is a
2 separate regulatory process that our agency files.

3 MS. FERSTER: Okay. So you're not the
4 agency that assesses impacts on health? And how
5 do you get the Department of Health to do a health
6 impact? What triggers that?

7 MR. OURS: I don't know that information.

8 MS. FERSTER: Okay. This is making it go
9 quicker. So let's talk about environmental
10 justice issues that are addressed in your report.
11 What makes a community environment justice
12 community?

13 MR. OURS: So as part of the EISF
14 process, all projects are examined for potential
15 adverse impacts to communities where the projects
16 are sited, especially communities in low income or
17 at-risk communities. So those -- and -- that is
18 what triggers an environmental justice assessment.

19 MS. FERSTER: Uh-huh (affirmative). And
20 so you did that in this case based on what
21 factors?

22 MR. OURS: So as stated in the EISF

1 document and the environmental assessment --

2 MS. FERSTER: Uh-huh (affirmative).

3 MR. OURS: -- it was reviewed for
4 environmental justice.

5 MS. FERSTER: Uh-huh (affirmative). And
6 one of the factors that you considered, would one
7 consider the degree to which a particular
8 community is excessively burdened by something
9 that would have health impacts or environmental
10 impacts?

11 MR. OURS: So the entirety of the
12 document is what determines if there are
13 environmental impacts due to a specific project.

14 MS. FERSTER: Yeah. Let me clarify my
15 question. Not the specific project, but wouldn't
16 an environmental justice community be somebody who
17 is already burdened, you know. So that -- the
18 fact that they already have excessive burden, this
19 community already has excessive burdens of
20 facilities that are considered, you know,
21 potentially environmentally problematic, that
22 makes them an environmental -- that contributes to

1 their environmental justice status?

2 MR. OURS: That contributes to them being
3 an at-risk community, and then we would evaluate
4 the environmental justice and impacts to that
5 community.

6 MS. FERSTER: Uh-huh (affirmative). And
7 would you consider the fact that the neighborhood
8 surrounding the McMillan site already experienced
9 a pretty high level of traffic to be one of those
10 existing factors that excessively burdens this
11 community?

12 MR. OURS: I mean --

13 MS. FERSTER: Baseline factors I mean.

14 MR. OURS: I don't know that we would
15 analyze traffic. That's not really under our
16 purview. We analyze the air quality impacts of
17 traffic --

18 MS. FERSTER: Okay.

19 MR. OURS: -- as we discussed.

20 MS. FERSTER: Okay. So you have a
21 particular -- you have a series of monitoring
22 stations around the McMillan area. Why did you

1 pick that particular area for monitoring air
2 quality? Is that just random, or does it have to
3 do with the traffic on North Capitol and other
4 area streets?

5 MR. OURS: I can partially answer that
6 question, but I don't have all of the information
7 on that. There are federal guidelines for where
8 you site -- where you site various monitors. We
9 actually have a very dense monitoring system here
10 in the District of Columbia. I don't know why
11 specifically McMillan was set up as a location for
12 a monitor in the past, but it has remained there.

13 There are numerous reasons why you might
14 site things. Like, for example, our monitoring
15 station that is the -- what is called the Near
16 Road Station by the Anacostia Freeway was set up
17 specifically because we needed a station next to a
18 high-volume roadway. There are reasons for the
19 other locations, but I don't know the specific
20 reason for the McMillan station.

21 MS. FERSTER: Okay. But it could -- be
22 one of the factors is the volume of traffic, so

1 that could be a reason possibly?

2 MR. OURS: I don't know the answer.

3 MS. FERSTER: Okay. Maybe you can
4 provide that?

5 MR. OURS: I don't know if we can provide
6 that. I think we probably could provide that if
7 the Zoning Commission wants that information.

8 MS. FERSTER: Okay. All right. So
9 there's one issue that I'm having trouble
10 understanding. So the EA indicates that 80
11 percent of the site is impervious, but I don't
12 understand this because when I look at the site it
13 looks like it's mostly 80 percent of the site is
14 grassy area.

15 MR. OURS: Yeah.

16 MS. FERSTER: So why do you describe it
17 as impervious?

18 MR. OURS: Sure. So impervious area
19 means that rainwater can't permeate into the
20 groundwater and lower levels of the Earth's
21 surface. The McMillan site is built up on top of
22 the vaults.

1 MS. FERSTER: Uh-huh (affirmative).

2 MR. OURS: And so just because a site is
3 grass doesn't necessarily mean that it's pervious.
4 You can have compacted soil underneath that grass,
5 which means that the rainwater would run off into
6 other areas. So just because it's grass, doesn't
7 mean it's impervious.

8 MS. FERSTER: Okay.

9 MR. OURS: And this site is built up on
10 top of vaults, and so even the grass is on top of
11 concrete structure.

12 MS. FERSTER: Uh-huh (affirmative).

13 MR. OURS: Meaning that it's impervious.

14 MS. FERSTER: Okay. So what you're
15 saying is when the rainwater comes and it filters
16 through the grass, it has to -- it runs off?

17 MR. OURS: Yes.

18 MS. FERSTER: Because it hits that
19 concrete?

20 MR. OURS: So it runs off into the storm
21 water system.

22 MS. FERSTER: Okay. Got you. Thank you.

1 So and you also indicate that there's going to be
2 increased storm water protections as part of this
3 plan as a result of the green roofs and different
4 storm water systems that are in place as a result
5 of the project. And so did you quantify what
6 level of protection that would provide?

7 MR. OURS: So this site is required to
8 meet the District's storm water regulations, which
9 is to capture and maintain storm water up to the
10 90th percentile storm or 1.2 inch rain event. So
11 by meeting the regulations, yes, it's quantified.

12 MS. FERSTER: Okay. And so there's a
13 question that I wanted to ask you about -- I guess
14 a question on page 9, okay. You say that there's
15 no natural surface water within 100 feet of the
16 project. And did you -- I guess they talked about
17 surface water. So that's probably why they didn't
18 say anything about Tiger Creek, which is a
19 subterranean body of water below the site. And
20 I'm wondering, did the applicant disclose the fact
21 that under McMillan site there is a subterranean
22 body of water, creek?

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1 MR. OURS: Yeah. So if it's okay. I'm
2 going to ask our colleague Kidon Cho, who is a
3 water quality expert.

4 CHAIRPERSON HOOD: Okay. If he can just
5 identify himself.

6 MR. CHO: My name is Kidon Cho, and I
7 mean, I can show you -- the
8 environment.

9 MS. FERSTER: So I'll repeat the
10 question.

11 MR. CHO: Yes. Can you restate your
12 question, please?

13 MS. FERSTER: So the environmental
14 assessment indicates that there's no natural
15 surface water within 100 feet of the site, but in
16 fact, there is a subterranean. So you only looked
17 at surface water, but there's a subterranean
18 creek. Were you aware that there is a creek,
19 subterranean creek under the site, and was that
20 disclosed by the applicant?

21 MR. CHO: The surface water indicating
22 the -- indicate the major stream

1 -- the creeks. It doesn't encounter any
2 subterranean.

3 MS. FERSTER: I'm sorry. Can you repeat
4 that answer?

5 MR. CHO: The subsurface means the
6 subsurface water bodies -- main streams.

7 MS. FERSTER: So it only applies to
8 surface?

9 MR. CHO: Yes, surface.

10 MS. FERSTER: Okay. Thank you. So why
11 does your environmental impact screening form then
12 ask a question about subsurface drains? I don't -
13 - you cited in your report, part 2, question 45
14 and 15 of the environmental screening form. No.
15 That's not right -- it said -- okay, 31. "Will
16 the surface area of an existing water body be
17 increased?" So you're -- so you're saying that
18 you don't evaluate impacts on subterranean streams
19 as part of your review?

20 MR. CHO: No.

21 MR. WILSON: So that's actually -- I
22 think it may be a different regulation, so our

1 agency does evaluate environmental impacts and,
2 you know, contamination of below grade water
3 bodies, but I think you're referencing the surface
4 water evaluation of the EISF?

5 MS. FERSTER: Okay. So the McMillan
6 Reservoir would be a surface water body near the
7 site. Did you evaluate any potential impacts of
8 the project on the McMillan Reservoir?

9 MR. CHO: I don't evaluate any surface
10 water bodies within 100 feet of the McMillan project
11 site.

12 MS. FERSTER: Okay.

13 MR. CHO: Based on the -- of the EISF.

14 MS. FERSTER: Okay. So the ESF didn't
15 disclose that?

16 MR. WILSON: This discloses -- it says
17 the project is more than 100 feet away from the
18 nearest hydraulic surface water body.

19 MS. FERSTER: And you didn't verify
20 whether it was more than 100? Or did you verify
21 if it was more than 100 feet away from the
22 McMillan Reservoir?

1 MR. WILSON: I assume that they did.

2 MS. FERSTER: The applicant?

3 MR. WILSON: The applicant did.

4 MS. FERSTER: Okay.

5 MR. WILSON: And we can look at a map and
6 verify that information.

7 MS. FERSTER: Did their environmental
8 impact screening form indicate whether the project
9 was located within the 500-year flood plain?

10 MR. CHO: This is not my -- not my
11 --.

12 MS. FERSTER: Does anybody else?

13 MR. WILSON: The project is not in the
14 500-year flood plain.

15 MS. FERSTER: Okay. So the District of
16 Columbia has done some work with climate change
17 modeling and resiliency; isn't that correct?

18 MR. WILSON: Yes, that's correct.

19 MS. FERSTER: And did you undertake any
20 review in your assessment to evaluate the project
21 vis-à-vis the climate change modeling and
22 resiliency studies.

1 MR. WILSON: Those are two separate
2 processes.

3 MS. FERSTER: Okay. When was that done?

4 MR. WILSON: So we have recently released
5 the climate-ready DC plan, which documents the
6 modeling that the agency has done relative to
7 climate change.

8 MS. FERSTER: Uh-huh (affirmative).

9 MR. WILSON: That's not part of the
10 environmental impact study form or screening form.

11 MS. FERSTER: Okay. So do they -- you do
12 that -- when do you do that then for a project
13 like McMillan?

14 MR. WILSON: It's done citywide.

15 MS. FERSTER: It's not done project-
16 specific?

17 MR. WILSON: It's not project-specific.
18 No.

19 MS. FERSTER: So did you do any
20 evaluation of the project's vulnerability to
21 climate change hazards in the surrounding
22 community then?

1 MR. WILSON: Not specifically to this
2 project. I can talk about climate change and
3 hazard mitigation in general.

4 MS. FERSTER: But not project-specific?

5 CHAIRPERSON HOOD: I actually hate to
6 interrupt, but I think -- I said I was going to do
7 an assessment at 9 o'clock, and it's actually
8 9:08. So I want to make sure I'm fair to -- or
9 hold true to what we said we were going to do.
10 And a lot of these environmental questions, when I
11 look at what the court has remanded, I think
12 they're germane, so that's why I'm not -- you
13 know, clarification is needed, but that's one of
14 the things that we were really asked to look at,
15 environmental problems and issues. And I keep
16 referring back to the statement. I keep hearing
17 questions, and I think for me all that's germane
18 to what we were asked to look at.

19 But let's go to the timing issue. I
20 believe that my assessment, Ms. Ferster, you have
21 probably -- we haven't gotten halfway through the
22 100 questions because --

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1 MS. FERSTER: Actually I've made a lot
2 more progress because of the fact that they didn't
3 -- weren't able to address the health issues.

4 CHAIRPERSON HOOD: So give me kind of a
5 reference of how many more we have because you
6 said 100. I only had 40 with the ones in between.

7 MS. FERSTER: Five -- five more. I did
8 eliminate a lot.

9 CHAIRPERSON HOOD: Oh, okay. Well, keep
10 right on going then.

11 MS. FERSTER: Okay. So have you done any
12 thermal mapping or any other calculations that
13 show sort of pre and post-project heat island
14 effects or surface temperature at the hub site and
15 the surrounding areas?

16 MR. WILSON: So the agency performed a
17 heat island -- urban heat island study in 2013,
18 2014, and that's published on our website. It
19 talks about the health impacts for the heat island
20 effect.

21 MS. FERSTER: Generally?

22 MR. WILSON: Generally.

1 MS. FERSTER: Uh-huh (affirmative).

2 MR. WILSON: A lot of what would be
3 installed on this site are high albedo concrete
4 materials, screen roofs, and other things that can
5 help to mitigate that urban heat island effect,
6 including trees by retention and other matters.

7 MS. FERSTER: And did you -- so is there
8 any assessment of that actually articulated in
9 this environmental assessment or in the supporting
10 documents?

11 MR. WILSON: As I stated previously,
12 that's a separate -- that's not something
13 considered as far as environmental impact
14 statement.

15 MS. FERSTER: Okay.

16 MR. WILSON: That's the regulatory
17 requirement that we use for this.

18 MS. FERSTER: Okay. And it's not done
19 elsewhere on a project-specific basis, is it, by
20 any other agency?

21 MR. WILSON: It is one of the things that
22 we often comment to the Zoning Commission on are

1 how these development projects can help to
2 mitigate effects of climate change and have an
3 effect on other matters.

4 MS. FERSTER: Okay. But you didn't
5 include any in this case?

6 MR. WILSON: In the statement that we
7 filed --

8 MS. FERSTER: Right.

9 MR. WILSON: -- we discussed some
10 strategies that could help to benefit -- how this
11 project could benefit the community in terms of
12 solar, and green roofs, storm water, and other
13 things that have climate change and environmental
14 benefits.

15 MS. FERSTER: Okay. You know, I think
16 I'm going to conclude my questioning at this
17 point. Thank you for your patience with me.

18 And also at this point I would like to
19 request the Commission ask the agency to supply
20 the documents that it reviewed that were the basis
21 for the conclusions in the environmental
22 assessment as part of the record of this case.

1 CHAIRPERSON HOOD: Okay. Thank you.

2 Hold on a second.

3 Commissioners, we've heard the discussion
4 and the cross-examination. Is there anything that
5 anyone here is interested in? Anyone interested?
6 Okay. I don't hear an interest.

7 All right. We're not interested. We're
8 not going to ask for that.

9 All right. Let's see. Now, we're going
10 to have the applicant's case. Let me ask -- how
11 long is the applicant on the remand?

12 MR. GLASGOW: Our presentation is one
13 hour. The question that we have is we would like
14 to have our presentation the same day that the
15 opponents have theirs.

16 CHAIRPERSON HOOD: Okay. Well, actually,
17 if it was 30 minutes, I would probably keep the
18 seating, but since you said you had an hour
19 presentation -- and I know Ms. Ferster is going to
20 have many questions -- so that's probably two
21 hours and a half. And I'm looking at the time
22 now, and that would be around 11:30, and I can't

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1 predict it. So I don't want the Metro to close on
2 us.

3 So I think what we'll do is this will be
4 the ending point and April 19th, Ms. Schellin?
5 Let me ask you this: Do we need to come up with
6 another date that is closest to April 19th as
7 possible? Let's just put -- let's just put a date
8 out there.

9 Yeah. April 19th. And let's just put
10 another date out there. The 19th is on a
11 Wednesday. Did we have anything on the 20th?

12 MS. SCHELLIN: You do. How about the
13 26th?

14 CHAIRPERSON HOOD: I can't do the 26th.
15 So let's do something close so everybody can think
16 about it.

17 MS. SCHELLIN: And the 18th was out,
18 right? So I was going to say the 18th and 19th,
19 but that's out. May 1st?

20 CHAIRPERSON HOOD: Why was the 18th out
21 again? That's right. Let's do the 19th, and I
22 guess the next day May 1st. I'm hoping that all

1 we have is the applicant's case, cross-
2 examination, the FOMP's case -- or the ANC's case,
3 if they are going to present them, yeah, and then
4 FOMP and then cross. And then rebuttal and cross
5 --

6 MR. GLASGOW: Rebuttal and closing.

7 MS. SCHELLIN: Rebuttal, cross, and then
8 closing.

9 CHAIRPERSON HOOD: Okay. And closing.
10 All right.

11 So let's just go with the 19th for now,
12 and let's try -- let's -- what about May 1st.

13 MS. SCHELLIN: The 26th was bad, right?

14 CHAIRPERSON HOOD: 26th was bad. We on
15 commission.

16 MS. SCHELLIN: Oh, wait a second. I
17 believe May 1st was bad for Ms. Ferster, right?

18 CHAIRPERSON HOOD: What's bad for
19 Ms. Ferster?

20 MS. SCHELLIN: May 1st. Wasn't that --
21 was that bad for you, May 1st?

22 MS. FERSTER: If needed. I have

1 something. It is rearrangeable.

2 MS. SCHELLIN: If we don't finish on the
3 19th --

4 MS. FERSTER: Yeah.

5 MS. SCHELLIN: -- for the carryover.

6 MR. GLASGOW: The 1st is good. Deputy
7 Mayor is available on the 1st also.

8 CHAIRPERSON HOOD: Right, okay.

9 Everybody is available on the 1st also, but we
10 want to try to finish on the 19th. That's the
11 goal, but I don't know how the cross-examination
12 is going to go.

13 And I would like to start at 6 o'clock.
14 Is that a problem, 6 o'clock? I really would like
15 to start at 5:00, but 6 o'clock. I don't know
16 what everybody else's other schedules are, so 6
17 o'clock. I think we should be here at 6:00.

18 MR. GLASGOW: Uh-huh (affirmative).

19 CHAIRPERSON HOOD: So we're going to
20 start at 6 o'clock on those dates.

21 MR. GLASGOW: Both dates? Both dates 6
22 o'clock?

1 CHAIRPERSON HOOD: Both dates at 6
2 o'clock. That 30 minutes might do us some good.
3 Or if there is anybody that would like to start
4 earlier than that. I don't mind. How about 5
5 o'clock? Some help, please.

6 MS. SCHELLIN: Court reporter has an
7 issue.

8 THE REPORTER: If we assign somebody else
9 for this case. I might not be able to come back.

10 MS. SCHELLIN: Okay. So the court --
11 they can send somebody else?

12 THE REPORTER: Yes.

13 MS. SCHELLIN: Okay. That's fine.

14 CHAIRPERSON HOOD: In the past, this
15 Commission has met at 12 noon. No. We actually
16 have some years ago to try to get through this.

17 MR. GLASGOW: 5:00 is also good for the
18 Deputy Mayor.

19 CHAIRPERSON HOOD: 5:00 is good? Okay.
20 So I'm just trying to move on. I would like to
21 finish on the 19th. I would even -- since we're
22 doing so good, anybody want to go for 12:00?

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Toll Free: 888-445-3376

1 MS. SCHELLIN: DCA.

2 CHAIRPERSON HOOD: DCA?

3 MS. SCHELLIN: Can't meet at 12 o'clock
4 on that day.

5 CHAIRPERSON HOOD: Okay. Let's stick
6 with 5:00.

7 MS. SCHELLIN: 5 o'clock.

8 CHAIRPERSON HOOD: Let's stick with 5
9 o'clock on the 19th.

10 MS. SCHELLIN: Yes. And the 1st, if
11 needed, we'll start at 5:00 also.

12 CHAIRPERSON HOOD: We can -- if BZA
13 can't be there - that day . Okay. I'm sure they
14 probably heard that. All right. So 5 o'clock on
15 the 19th. We all -- everybody is good, right?
16 Ms. Ferster, we're all good.

17 MS. FERSTER: The 19th is good.

18 CHAIRPERSON HOOD: 5 o'clock. Everybody
19 is great. Okay. So 5 o'clock on the 19th.

20 All right. Ms. Schellin, do you have
21 anything for us?

22 MS. SCHELLIN: That's it.

1 CHAIRPERSON HOOD: Okay. We will rehear
2 this -- continue this hearing on the 19th at 5
3 o'clock. Bye-bye.

4 (Whereupon, the Limited Scope Public
5 Hearing adjourned at 9:16 p.m.)

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