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GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Zoning Commission

Special Public Meeting  
1465th Meeting Session [16th of 2017]

7:17 p.m. to 8:50 p.m.  
Thursday, June 29, 2017

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

1 Board Members:

2 ANTHONY HOOD, Chairman

3 ROBERT MILLER, Vice Chair

4 PETER MAY, Commissioner

5 MICHAEL TURNBULL, Commissioner

6

7

8 Office of Zoning:

9 SHARON SCHELLIN, Secretary

10

11 Office of Planning:

12 JENNIFER STEINGASSER

13 JOEL LAWSON

14

15

16 Office of the Attorney General:

17 ALAN BERGSTEIN

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

2 CHAIRPERSON HOOD: This meeting will please  
3 come to order. This is a special public meeting of  
4 the Zoning Commission. Good evening, ladies and  
5 gentlemen, this is the special public meeting of the  
6 Zoning Commission for the District of Columbia.

7 My name is Anthony Hood. Joining me are Vice  
8 Chair Miller, Commissioner May, and Commissioner  
9 Turnbull, as well as Office of Zoning Secretary, Ms.  
10 Sharon Schellin, Office of Attorney General, Mr.  
11 Bergstein, Office of Planning, Ms. Steingasser, and  
12 Mr. Lawson.

13 Copies of -- well, this is a remand case for  
14 Zoning Commission Case 13-14, and this is for the  
15 purpose of the Zoning Commission deliberations only.  
16 We're being recorded, and we ask that you -- webcast  
17 live, and we ask that no one in the audience be  
18 disruptive as we continue our deliberations.

19 So, with that, I would ask Ms. Schellin, do  
20 we have any preliminary matters?

21 MS. SCHELLIN: No, sir.

22 CHAIRPERSON HOOD: Okay. Commissioners, what  
23 I would like to do is go down some of the issues that  
24 have been remanded back to us by the Court. We have  
25 a guide that we can kind of go by to discuss some of

1 these issues as we move forward. Any opening  
2 comments from anyone?

3 [No audible response.]

4 CHAIRPERSON HOOD: Okay. One of the -- there  
5 were issues that we have numbered the whole time  
6 through this process. Issue 1A, could the other  
7 policies cited in the order be advanced if  
8 development on the site were limited to medium or  
9 moderate density use? And I think that's in the -- a  
10 lot of this was pointed out on page 2 of the Office  
11 of Planning's report, dated March 13th, 2017.

12 Okay. So, let me go through some of the  
13 assertions that were made. And I'll just read them  
14 all and we can talk about them, or we can do one at a  
15 time. Which is your preference? Go through all of  
16 them?

17 Okay. Let me do the whole list and then we  
18 can talk about it. The project would not be viable  
19 without at least 860,000 square feet of office or  
20 healthcare facility uses. A 90-foot tall office  
21 building with a typical floor to ceiling heights  
22 could accommodate 860,000 square feet of gross floor.  
23 And the office building on parcel 1, would be  
24 unmarketable. Healthcare facility buildings have  
25 specialized floor to ceiling requirements due to

1 requirements for the large insential (phonetic)to  
2 accommodate mechanical, electrical, and plumbing  
3 components.

4           The healthcare facility building could only  
5 achieve a height of 90 feet by eliminating 190,000  
6 square feet of gross floor area. Recapturing the  
7 190,000 square feet of lost gross floor elsewhere on  
8 the site would significantly reduce the quality and  
9 quantity of the Comprehensive Plan policy's advance,  
10 including historic preservation, open space,  
11 affordable housing, and retail opportunities.

12           Do you agree that these assertions -- anyone  
13 disagree with any of the assertions by the applicant  
14 or want to discuss any one of those that I just  
15 mentioned?

16           [No audible response.]

17           CHAIRPERSON HOOD: Do we agree with the  
18 assertions? Commissioner May?

19           MR. MAY: No. So, I think that we heard  
20 substantial and credible testimony on these  
21 assertions, I think generally. And but I think that  
22 there -- I don't feel like the question is fully  
23 satisfied. But let me back up just one second. I  
24 think that one of the reasons why this is a pivotal  
25 question to be addressed has to -- it goes to the

1 court's question or assertion of the importance of  
2 the Mid-City element in the statement that -- in that  
3 policy that wherever, or where development occurs,  
4 that the development should be limited to moderate --  
5 medium and moderate density use.

6           And there are lots of different ways to look  
7 at that, I think. And, you know, some of that has to  
8 -- well, the medium moderate density use that  
9 actually is, I think, largely consistent with that,  
10 the issue here is that in order to achieve this  
11 particular type of use, the building had to be  
12 taller.

13           I understand that, I understand the rationale  
14 for that. I think the thing that's a bit missing for  
15 me is that the applicant kind of jumped from the --  
16 you know, this is what we've designed and it's 115  
17 feet tall, to the question of dropping it down to 90  
18 means losing 190,000 square feet of gross floor area,  
19 and then we give us some ways that that might be  
20 solved.

21           You know, I think again, we heard good  
22 information on that, but I don't know that the --  
23 what we received is as exhaustive as I would like. I  
24 mean, granted, we cannot ask the applicant to run  
25 every conceivable scenario for redeveloping the

1 property and limiting it to a, you know, no more than  
2 a medium density development because the, you know,  
3 the range of alternatives is too big and things like  
4 this should be developed through a public planning  
5 process. And that's in fact how this -- we wound up  
6 with the scheme that we have.

7           But I think that there are some -- there is  
8 some further examination of that building that could  
9 be done that would at least give me comfort that --  
10 on this question of whether it's possible to do a  
11 building with medium density. I mean, okay, we've  
12 looked at the question of whether you take off two  
13 floors what happens. But I don't know that we've --  
14 that ever possible manipulation in that building or  
15 every reasonable manipulation of that building has  
16 been examined. And okay, if they come to the  
17 conclusion that 190,000 feet doesn't work. Well,  
18 what if it's a, you know, a 90,000 square foot  
19 reduction in the building. What if they took off  
20 only one floor? What if they manipulated the  
21 footprint a little bit? What if they, you know,  
22 expanded the building in certain parts?

23           I mean, I think there actually is more that  
24 can be done to examine solutions that we need to see.  
25 And again, I'm not looking for -- I'm not suggesting

1 that there needs to be an exhaustive examination of a  
2 wide range of alternative configurations, but I think  
3 more work would be helpful for us to answer this  
4 question because I think that we have to answer it  
5 with absolute confidence if we're going to say, yeah,  
6 the only way this can be done is to have a building  
7 that is taller than would be allowed under the medium  
8 density zone.

9 CHAIRPERSON HOOD: Vice Chair Miller.

10 MR. MILLER: Thank you, Mr. Chairman. Yeah,  
11 I would agree that we should explore whether reducing  
12 the height, what's before us, could result in a  
13 viable project that still advances all of the  
14 Comprehensive Plan policies for parks, recreation,  
15 and open space on a third of the space, affordable  
16 housing on a lot of the housing, grocery store  
17 requirement that this Zoning Commission required when  
18 it was only aspirational, when it was first presented  
19 to us.

20 So, and I think we should remember that it  
21 was this Zoning Commission that requested a look at  
22 what was presented to us originally as a 130-foot  
23 building, saying that you need to take a floor off of  
24 that. And the applicant came back with a viable  
25 project at 115. These are floor to ceiling heights

1 that are more than normal because of the medical  
2 office building requirements. But they went from 130  
3 to 115 because this Zoning Commission, at one of the  
4 public hearings, one of the 20 hours of public  
5 hearings that we held on this project, said that it  
6 needed to be a lesser height.

7 So, I -- yeah, I'd be open to saying --  
8 asking the applicant to come back to say if they can  
9 do a viable project with another floor, reduced,  
10 which is what the party opponent is requesting,  
11 basically, although they have provided submissions in  
12 our most recent hearings as to why that would have a  
13 domino effect as to not advancing all of those other  
14 affordable housing, parks, recreation, and open  
15 space, and other preservation policies that are  
16 important for this site and the land-use element in  
17 the Comprehensive Plan.

18 But I could, if we want to see if they can  
19 produce something that says it could be viable with  
20 another floor off, I mean, we can give more time to  
21 do that. So, I guess that's it for me for right now.

22 CHAIRPERSON HOOD: Okay. Anyone else? Mr.  
23 Turnbull?

24 MR. TURNBULL: Oh, thank you, Mr. Chair. I  
25 would agree with my colleagues. I think, even though

1 I know the -- I think there's a significant amount of  
2 issues that we're looking at here, and I know that  
3 the applicant in its material sort of gave a -- one  
4 of its presentations gave a block massing of what a  
5 whole building would look like and then they sort of  
6 showed how it -- showed how they got to where they  
7 were with our help.

8 As we continue to go through this thing, and  
9 then we've taken the time to go back and look at what  
10 was presented to us when we did, and maybe we should  
11 have been a little bit more adamant in asking the  
12 questions about, have you really massaged that one  
13 site, and can that building be really looked at in  
14 more depth to see if it could accommodate some of the  
15 concerns that we were getting at the first time, and  
16 see if we could even go a little bit further in that  
17 analysis.

18 So, I don't want to repeat what everyone else  
19 has said, but I would agree with Commissioner May and  
20 the Vice Chair. There was a lot of elements on this  
21 site that are very critical. There is the open  
22 space, the housing, the grocery store. But I really  
23 think that we need to take another key look at the  
24 medical building. I mean, the drawing that was shown  
25 at one point showed some very specific floor heights,

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1 whether it was 18-6 on the first floor to going to 13  
2 feet, and then suddenly 14 feet, floor heights at the  
3 upper floors, you begin to question well, someone has  
4 looked at this somehow, but how did you get to there  
5 and is there some way that can be massaged into a  
6 more meaningful building and placement on the site  
7 that would get us to where we think we need to be?

8           So, I would agree that I would like to have  
9 the applicant try to take another look at this, and  
10 knowing program needs of medical healthcare are  
11 different than office building, but I'd like to have  
12 them take another look at this and see if something  
13 can be massaged on that site a little bit more.

14           CHAIRPERSON HOOD: While I agree with all of  
15 my colleagues, I do think, though, that the  
16 information that was supplied to this commission,  
17 dealing with floor to ceiling heights, and the  
18 rationale of the height that we came, and as the Vice  
19 Chair mentioned, the rationale of us questioning the  
20 floor to be taken off to begin with, came from this  
21 commission.

22           I do think programmatic ways of the  
23 healthcare facility brings some rationality to what  
24 was presented to us by the applicant. I sat on  
25 another case where they were asking for a certain

1 amount of space and rooms in healthcare, which was  
2 the Washington Hospital Center. I've been around  
3 long enough for that part of it. But I can tell you  
4 that I know there's certain pieces of equipment to  
5 make things marketable, the way I see it, for  
6 healthcare. And I'm not an expert in healthcare and  
7 I'm not going sit here and profess to be one. But I  
8 do know there are certain pieces of equipment and  
9 things that need to go -- and I think the applicant  
10 kind of eluded to that in that whole discussion, as I  
11 recall. If you don't believe me, wait until you need  
12 it.

13           So, I agree with the comments that I've heard  
14 from my colleagues. We can ask the applicant to look  
15 at maybe taking 90,000 square feet, or whatever, off  
16 and see if it's still viable. But one of the things  
17 that I know that the community, who supported this  
18 moving forward was, one of the things that I heard  
19 was green space. And we probably could lose a whole  
20 lot of height, but we'll lose the green space.

21           So, we're gaining one thing and losing  
22 something else, and I think this was, for the most  
23 part, I know everybody didn't agree, but for the most  
24 part the way I saw it and it was presented here, in  
25 front of me, was that this was partially also a

1 community driven project. Because I noticed I didn't  
2 see the ANCs come back. That's not who took us --  
3 took it further. A lot of folks in the neighborhood  
4 want to see this moving forward, and I thought that  
5 there was a -- I don't want to necessarily use the  
6 word balance, but a compromise with community input,  
7 the applicant's input, because I heard a lot about  
8 green space and I think there was a concession made  
9 for that.

10 But I'm in agreeance with, let's look and see  
11 what happens again. But some of those other elements  
12 I think are very critical to this project moving  
13 forward. So, we'll see what happens if we send it  
14 back in that direction. Vice Chair?

15 MR. MILLER: Thank you, Mr. Chairman. Yeah,  
16 I just wanted to add that I agree with everything  
17 you've just said and note that, I mean, this is a  
18 project that has gone through the mayor and council  
19 process many times and has been approved many times  
20 in this configuration. And the ANC.

21 So, those are the elected representatives of  
22 the people, and the ANC has recommended approval.  
23 So, I think we just should take note of that fact  
24 that this is supported by the elected representatives  
25 of the people.

1           Of course, there is opposition but there is a  
2 lot of support for this project in the community, and  
3 the green and open space in the community center has  
4 grown throughout the project. The affordable  
5 housing, and the grocery store requirement has been  
6 strengthened throughout this process. And I just  
7 think we need to be cognizant of that.

8           And yeah, you could -- there are -- we did  
9 step downs and setbacks of the height when we did the  
10 -- when we took the floor off. So as to not  
11 adversely impact the adjacent lower density  
12 neighborhoods, as called for in the Comprehensive  
13 Plan. So, that's why there were the setbacks and  
14 scale downs. So, it just -- we just need to be  
15 cognizant that there has been a balancing that has  
16 already occurred of all of the Comprehensive Plan  
17 policies which are divergent and competing and  
18 important. But this is an important mixed use, mixed  
19 income housing and economic development project that  
20 the city has been trying to develop for over 30  
21 years. And it's important that it move forward at  
22 some point.

23           CHAIRPERSON HOOD: Okay. Anything else on  
24 this? Let's move to Issue 2, which was, and I'm  
25 going to read what I have. Do the other

1 Comprehensive Plan policies cited by the Friends of  
2 McMillan Park in the record of this case weigh  
3 against approval of the project.

4           And there are some issues that were raised by  
5 -- do we call them FOMP? I don't want to -- what do  
6 we call them? Friends of McMillan Park. I thought  
7 we called them -- okay. Do so many acronyms and  
8 shortcuts. No disrespect to them, but I want to make  
9 sure that I call people by their -- or did we call  
10 them FOMP? I can't remember. We've got so many  
11 cases down here. But anyway, Friends of McMillan  
12 Park.

13           One of the things that they talked about was  
14 the inconsistency of the application with the  
15 following Comprehensive Plan and policies, weigh  
16 against approval.

17           And I'm going to cite some and if I leave  
18 anything out, please let me know. Mid-City, 2.6.5  
19 scale and mix of new uses. Basically, they say the  
20 PUD fails to maintain view sheds and vistas and fails  
21 to minimize impacts on historic resources in adjacent  
22 development. The Commission prior findings to the  
23 contrary, was based upon false testimony by NCPC  
24 planner who subsequently, hired by attorneys for the  
25 applicant. The issue should be referenced to NCPC.

1           For me, that last part that I read is very  
2 speculative. I don't know if I even want to go down  
3 that road. I don't think I want -- I, personally, am  
4 not going to engage in that because you know, I  
5 wasn't in the room and that's very speculative. So,  
6 but if anyone else wants to comment they can.

7           The PUD fails to maintain view sheds and  
8 vistas and fails to minimize impacts on historic  
9 resources in adjacent development.

10           And I guess, does that weigh against the  
11 approval of our first approval of this project?

12           On the same order. Commissioner May. Okay.

13           MR. MAY: I'm happy to shake things up, but  
14 I'll go on this one first, too.

15           So, we did look very carefully in the initial  
16 case and in consideration of -- in our  
17 reconsideration about whether views and vistas were  
18 taken into consideration and whether -- well, so,  
19 let's just talk about views and vistas.

20           And I think that the project has been  
21 developed to maintain views and vistas, and I mean,  
22 granted, we're building buildings where there is  
23 currently nothing, and so that will affect the view  
24 depending on where you're standing.

25           But, I think that we looked at some of the

1 important views from further north in the city, and  
2 honestly, I don't think that there is -- I think that  
3 the project has been modeled sufficiently to address  
4 that and to minimize impacts on historic resources.  
5 And certainly, in terms of the adjacent development,  
6 you know, the project steps down towards the south,  
7 as you approach one area of row houses, and then it,  
8 you know, the taller buildings across where we have  
9 the tall building in Parcel 1, it's set back  
10 substantially from North Capitol Street to minimize  
11 its potential impact on the houses across the street  
12 there.

13           And then the rest of the development is of a  
14 scale that's -- that I think works well with what's  
15 across the street. So, I think that views and vistas  
16 are appropriately addressed in the project.

17           Impacts on historic resources, I mean,  
18 there's a -- I think we'll go into historic resources  
19 a little bit later in a different policy. But I  
20 think that the project has been very carefully  
21 planned and has changed over its development in order  
22 to minimize the impacts on historic resources. That  
23 doesn't mean that there aren't impacts on historic  
24 resources, but I believe that they have been  
25 substantially minimized. And to the extent that

1 there are impacts, they're being mitigated by some of  
2 the approaches to making those historic resources  
3 into actually usable and enjoyable resources for the  
4 community that will be created here.

5 I agree with you that we don't have any  
6 evidence in the record that the testimony that offers  
7 -- that was offered to us was influenced in any way  
8 by the NCPC planner who, you know, worked for NCPC  
9 and studied this project and then subsequently went  
10 to work for the attorneys for the applicant. I just  
11 don't see that connection, and I think we have  
12 testimony from the planner that indicate that there  
13 was no connection. I don't see any reason to second-  
14 guess that, and I don't think that there's any reason  
15 to refer this again, back to NCPC.

16 CHAIRPERSON HOOD: Okay. We'll just keep the  
17 same order. Vice Chair Miller. You have anything on  
18 -- nothing? Commissioner Turnbull?

19 MR. TURNBULL: Oh, thank you, Mr. Chair. I  
20 would agree with Commissioner May. I think I mean,  
21 the principle access, or the North Capitol Street and  
22 1st Street, you've also got a major opening in the  
23 middle of the site going north and south. And I  
24 think that the applicant in its way, when it had  
25 studied the plans and showed the layout how this

1 thing grew and changed, show the access and how this  
2 thing interplayed, and the historical elements that  
3 are being preserved. I don't think really, from the  
4 standpoint of vistas and views, if you had a third --  
5 a three-story building, or a four-story building on  
6 Michigan Avenue it's changed. But I don't think  
7 there was any testimony given that showed to me,  
8 convinced me that from any other historic sites,  
9 looking toward the view of the capital, I think were  
10 severely impacted.

11 I mean, the testimony that I heard said that,  
12 again, we're relying on NCPC's original report, but  
13 again, I have no reason at this point in time, to  
14 doubt that. So, I think it was a fairly genuine  
15 report and I'm satisfied with that.

16 So, I feel that the view and the view sheds  
17 have been maintained.

18 CHAIRPERSON HOOD: Okay, I won't say too much  
19 more than what my colleagues have already said. But  
20 I would say that I agree that the views have been  
21 respected. I think the crafting of the positioning  
22 of different things that were placed on this site, on  
23 this large site, as far as development was concerned,  
24 I think that it was respectful of the surrounding  
25 area. And I think that the record will -- the record

1 still, I think, upholds that. I think the record is  
2 complete, the merits of the case show that the views  
3 and the view sheds have been respected. And as was  
4 mentioned by Commissioner May, there's nothing there  
5 now. So, it will be touched some, but I think for  
6 the development that's being proposed, I think it was  
7 dealt with.

8           And again, I go back to the community wanting  
9 that open space. And that's part of why we have some  
10 of the areas more dense or something than we have  
11 others because the community wanted open space.  
12 Okay. Anything else?

13           All right. Let's move on to MC 2.6.3,  
14 mitigating reuse impacts. The PUD, I'm going to read  
15 both. The PUD will not reduce parking, traffic, and  
16 noise impacts on the community, but will increase  
17 those impacts, and fails to increase connectivity  
18 between Northwest and Northeast neighborhoods, as  
19 well as the hospital complex to the north.

20           Do you, or do you agree that that weighed  
21 against our approval? Commissioner May?

22           MR. MAY: Okay. So, you know, this is -- one  
23 of the things to keep in mind here is that the PUD  
24 itself is not going to reduce traffic, and parking,  
25 and noise. Right? I mean, right now it's

1 essentially vacant, unused land with, you know, some  
2 historic features on it. But, so it's not generating  
3 a lot of -- I mean, there is no significant parking.  
4 It's not generating traffic as it is. This is really  
5 about the reuse. And so, you know, what kind of  
6 reuse occurs here is going to determine the potential  
7 of such impacts.

8           And, you know, the question before us was  
9 whether this project does a good job of you know,  
10 creating the right kind of development that actually  
11 you know, really gives an opportunity for minimizing  
12 some of those impacts.

13           And I think that the project does a very good  
14 job of reducing potential traffic and parking impacts  
15 because of the way it has been designed. And I think  
16 that part of that is you know, making sure that there  
17 is a range of uses in the property, and that there is  
18 a certain significant density within the project,  
19 right? I mean, it may seem counterintuitive to say  
20 that more density might actually reduce traffic. But  
21 with some greater density you have greater  
22 efficiencies associated with the things like the  
23 shuttle buses that are planned for the project right  
24 now. They wouldn't make sense if this was all just  
25 developed as apartment, you know, low-rise apartment

1 buildings or townhouses, or something like that.

2           So, I think that there are certainly ways  
3 that the site could have been developed that would  
4 have been, you know, consistent with the  
5 Comprehensive Plan that would have actually had  
6 substantially more traffic impacts, and created more  
7 potential parking impacts for the neighborhood. You  
8 know, if it were all built out as townhouses then  
9 we'd have, you know, lots of people parking in the  
10 streets and that would spill over into the  
11 neighborhood.

12           And so, I think there you know, of course  
13 we're reacting to what is presented to us, but I  
14 think that what was presented to us was a reasonable  
15 approach and as we reviewed the project it improved,  
16 and the potential impacts on parking and traffic were  
17 mitigated, or were minimized and then mitigated. And  
18 I think that there are some other features to it  
19 having to do with how the crossings are handled and  
20 how the intersections are handled that further help  
21 in that regard.

22           So, you know, again, this is a question of  
23 you know, assuming it is going to be reused and  
24 redeveloped, how do you keep those kind of impacts as  
25 minimal as possible, and I think that this project

1 does a good job of addressing that.

2 CHAIRPERSON HOOD: Vice Chair Miller.

3 MR. MILLER: On the traffic and parking, I  
4 would just note that from my perspective, that was  
5 one of the areas that the Court didn't seem to have a  
6 problem with how we handled that issue. When they  
7 were talking about how we didn't address  
8 sufficiently, other adverse impacts and how they were  
9 being mitigated, which I think we have addressed  
10 them, and now, and we can go into that and how  
11 they're being mitigated. But on the traffic and  
12 parking area, we did have substantial testimony from  
13 citizens and from DDOT as to the mitigations and the  
14 shuttle buses that were going to be provided, and  
15 other measures to try to address those issues. So,  
16 that was one -- the parking and traffic, from my  
17 perspective, was one area where the Court did not  
18 seem to have a problem with how we had handled that,  
19 and I'm happy that there was one area that they  
20 seemed to not have a problem with, with what we had  
21 done in the original decision.

22 So, I don't think we need to do anything  
23 further on that point.

24 CHAIRPERSON HOOD: Okay. Commissioner  
25 Turnbull.

1           MR. TURNBULL: Yeah, I guess I'm not going to  
2 add much more to that. I would agree with everything  
3 that's been stated. I think one of the things that  
4 the site plan did do is that it did provide new  
5 connections that integrated the site with the city  
6 fabric. I think the street patterns that were  
7 developed, both east and west, and north/south, I  
8 think helped to contain traffic within the site, I  
9 think by continuing the street pattern per se, of the  
10 city, I think it did a great job of integrating the  
11 development with the street network.

12           So, I am more than happy -- I didn't see any  
13 issues with that and as the Vice Chair said, I think  
14 it was an excellent job of working with that site.

15           I think, again as I said, the east/west  
16 connections are very closely replicating the street  
17 pattern that already exists within the neighborhood.  
18 So, I think it was respectful of the existing  
19 pattern.

20           CHAIRPERSON HOOD: All right. I would  
21 definitely agree with the Vice Chair. I'm not sure  
22 how much the D.C. Court of Appeals sent back to us as  
23 far as traffic, and I think that's one thing that we  
24 were able to -- and I know we harped on it. I know  
25 specifically I harped on traffic. Especially on

1 Michigan Avenue and North Capitol, for sure. I know  
2 I harped on that.

3 But one of the things I think, though, that I  
4 want to make sure that we don't lose sight on, it was  
5 not necessary that the Zoning Commission, who came up  
6 with some of the push that we had on making sure of  
7 some of this traffic is mitigated, it was due to the  
8 help of even the Friends of McMillan, the ANC, the  
9 community again. Again, a community driven project,  
10 that we made sure that some of those things were  
11 mitigated.

12 So, I don't want to take all the credit for  
13 dealing with traffic because I want to give that to  
14 everybody, because I think collectively, as a unit,  
15 we moved in the direction of where we came down on  
16 traffic. So, I don't -- maybe that's probably why we  
17 didn't get as much of that back as some other things.  
18 And as far as the connectivity, I would associate  
19 myself with Mr. Turnbull.

20 I think it was respected, I think it was well  
21 thought out. And whatever project eventually goes  
22 there, and I think it's going to be similar to what  
23 we have now, and I don't think you're going to get  
24 too much more, or better of what we have there,  
25 because -- and I'll just leave it at that because

1 I've got something else I want to say when we get to  
2 historic. Anything else on this?

3 Okay. All right. Let's go to the MC 2.6.2,  
4 Mid-City 2.6.2, Historic Preservation at McMillan  
5 Reservoir. We'll just keep the same order.  
6 Commission. Somebody else want to go first?  
7 Commissioner May.

8 MR. MAY: So, I'll start off and there's  
9 certainly -- I'm sure this will have things to say.

10 So, I mean, this -- the project absolutely  
11 has an effect on the historic structure that exists  
12 on the site. But it, I think, goes a long way to try  
13 to preserve some component of that, some  
14 understanding of what was there. And I think  
15 especially goes a long way with the above-ground  
16 elements. I mean, I think that actually what they  
17 did with the above-ground elements is really quite  
18 remarkable, and it's going to be a terrifically  
19 interesting place to be.

20 Would it also be interesting if they  
21 preserved more of it? Conceivably, but again,  
22 it's -- there is, the essential challenge of this is  
23 trying to come up with a project that is both viable  
24 in all senses of the word, not just financially  
25 viable, but actually creates a real community and

1 makes a good place within the city. And you know,  
2 also preserves substantial components of this  
3 historic fabric.

4 I mean, I think when you compare this to many  
5 other developments where they're basically working  
6 with a blank slate, you don't have this gift of  
7 historic fabric to work with that makes it into a  
8 truly interesting and exciting place. And I think  
9 that they've done a good job of integrating that. I  
10 mean, the notion that it -- the project destroys the  
11 spacial relationship between the open space and the  
12 towers and structures to the north and south service  
13 courts, yeah, I mean, there's going to be buildings  
14 there.

15 But the fact that there are buildings there  
16 doesn't mean that those things are destroyed. And,  
17 in fact, the notion that there is as much open space  
18 on the site as there is, again, as a result of the  
19 community's involvement and the push for more open  
20 space. I mean, I think that all further mitigates  
21 that impact.

22 So, I think that those issues have been well  
23 addressed in the project.

24 CHAIRPERSON HOOD: Okay. Vice Chair Miller.

25 MR. MILLER: Thank you, Mr. Chairman. I

1 would agree with Commissioner May. And the creation  
2 of the Olmstead walk around the site, and the  
3 enormous amount of open space, parks, recreation,  
4 open space on the southern third of the site with the  
5 community center there, is a very important element  
6 which I think the medical office building and other  
7 vertical development is helping support all that  
8 historic preservation.

9 CHAIRPERSON HOOD: And, Mr. Turnbull?

10 MR. TURNBULL: Thank you, Mr. Chair. I would  
11 just want to echo with the Vice Chair on the Olmstead  
12 walk. I mean, here you're dealing with a site where  
13 the grade changes considerably. I mean, it's a very  
14 -- it's a big change and you've got this elevated  
15 plinth. And they're putting -- they're restoring  
16 this elevated plinth. And if you look at the  
17 drawings, what they're proposing with all the trees  
18 lining this, you're looking at, it's going to be  
19 accessible. They're working with a site that's got  
20 variations in grade and yet making it accessible to  
21 people of all walks of life.

22 And even by the community center, opening up  
23 that community center so you have a walkway directly  
24 in to it, and then having a bridge across it, the  
25 continuation of the walkway, I think they did a

1 remarkable job of working with this site with the  
2 elevated plinth, and getting that Olmstead walk back  
3 to where it would be a very significant feature of  
4 the site. And I think that was a very excellent job  
5 of site planning. And I would also echo Commissioner  
6 May's comments as well.

7           But I think working with that plinth and  
8 trying to really, really get that integrated with the  
9 site and the development that is being proposed, is  
10 really significant.

11           CHAIRPERSON HOOD: I would agree. Especially  
12 with those, the towers. And when I first saw this  
13 site and what was being proposed, I'll be frankly  
14 honest. I got very nervous when I saw those towers.  
15 For the most part they were being reserved, because  
16 long before I got on the Zoning Commission in 1993, I  
17 too did a tour of McMillan, and while I was in one of  
18 them the gentleman told me that they were not  
19 structurally sound. So, you should have saw me  
20 trying to get out of there.

21           So, I think this is a very serious concern,  
22 and I think it's admirable for the amount of money at  
23 92 that would -- I think it was '92 or '93, there was  
24 a call to shore these up. So, I think that as far as  
25 preserving the historic fabric, I think this

1 applicant, what's proposed in front of us, has done a  
2 yeoman's job as far as doing that. Especially from  
3 what I've heard in '92. Now, we're talking years  
4 later now and I'm looking to -- and I looked at this  
5 site, and I see some of those spirals and down under  
6 being preserved for the most part. There was another  
7 point.

8           Okay. Did I read this point, destroys  
9 majority of the architecture or distinctive portals  
10 to the cells? I didn't read that. Okay. Anyone  
11 want to comment on that? I think I did to a point.  
12 Okay. All right. That's all I have.

13           And the last one was 2.6.4, community  
14 involvement in reuse planning. The development was  
15 an assertion from FMOP was the development was not  
16 responsive to community needs and concerns in reuse  
17 planning for the site. Any comments on that?

18           I really think that I totally disagree with  
19 that. I think while everybody didn't get what they  
20 want, it might not have went what they want. Some  
21 people wanted all open space. Some people wanted  
22 something else. Some people -- so, I think that the  
23 record will show that for the most part, even though  
24 everybody is not happy with it, obviously because it  
25 went to the D.C. Court of Appeals, which is fine.

1 But it shows that this community worked together to  
2 come up with it, especially those frontline elected  
3 officials, and the green space. I'm looking at how  
4 much green space is on this site. I'm looking at the  
5 grocery store as you mentioned, that's on this site.  
6 So, to say that it lacked community involvement, I  
7 think the record is sufficient. I think it shows by  
8 at least the amount of people that we've seen, and  
9 it's not a popularity contest, but there are a lot of  
10 people in that surrounding neighborhood who wants  
11 this to move forward. They want to walk across the  
12 street in the connectivity to go to the grocery  
13 store, instead of going out to, I'm not going to call  
14 it Ward 9, but Maryland, to do their grocery  
15 shopping.

16 So, and this whole project reminds me of what  
17 can happen in my neighborhood at the old Hex  
18 warehouse. So, I can tell you, these are some of  
19 those places that people never go at night, and I'm  
20 sure that this community would benefit sufficiently,  
21 and I know that this community, whether you disagree  
22 with it or you've been against whatever is ongoing  
23 here or not, I think that this is a community drive  
24 project.

25 And I think if the Court looks at the record,

1 I think they will see the merits of this case shows  
2 that the community had a lot to say so in this  
3 project. Anybody else? Commissioner May?

4 MR. MAY: I would agree strongly, and I think  
5 we saw good evidence in the testimony of the  
6 applicant, which we did not have the first time  
7 around in the case, which showed, at least not in the  
8 same level of detail, showed the development of the  
9 plan over time, and what the various iterations were  
10 and how it evolved and how it clearly was changed by  
11 the input from the community as the plan was  
12 developed. I mean, I thought that was very  
13 compelling. So, I'll leave it at that.

14 CHAIRPERSON HOOD: Okay. Anybody else? Vice  
15 Chair Miller?

16 MR. MILLER: I would agree with Commissioner  
17 May on the evolution of the project based on  
18 community input. We had 20 -- oh, I think we had  
19 over 20 hours of hearings before we had the remand  
20 hearing. And I know there have been probably that  
21 many hours of hearings, if not more, at the council  
22 as well. So, this project, for decades, has been  
23 trying to be responsive to community concerns.

24 And finally, this major space will be  
25 accessible to the public and will benefit the public.

1 And I think all of us will benefit, and including the  
2 adjacent neighborhood, from that.

3 CHAIRPERSON HOOD: Okay. Commissioner  
4 Turnbull.

5 MR. TURNBULL: Yeah, thank you, Mr. Chair. I  
6 would agree with my colleagues. I think it -- I  
7 don't think we really understood the amount of the  
8 input until the most current hearing that we had, and  
9 the applicant presented the whole setup of plans  
10 showing how it had developed from almost very little  
11 open space on the site, and I think there was like  
12 six or seven iterations that that went through, and I  
13 think that was -- again, we did not get that in the  
14 original set down and in the hearing that evolved  
15 after that. But I think it was very telling to see  
16 those plans afterwards to know what the applicant had  
17 done in meeting with the various -- with the ANCs and  
18 the neighborhood groups.

19 And so, I would -- again, I guess I was  
20 pleasantly surprised to see that. I think we almost  
21 want that presented earlier. I think that would have  
22 made it a little bit easier for us to understand.  
23 But I'm glad we did get it when we got it. It really  
24 shows that there was a process, and the process was  
25 followed through, and that the applicant did listen

1 to the neighbor's request.

2 CHAIRPERSON HOOD: All right. Let's move to  
3 Issue 3. Is the high density development proposed  
4 for the site the only feasible way to retain a  
5 substantial part of the PUD site, is open space and  
6 make this site usable for recreational purposes.

7 For the most part, I think we answered that.

8 MR. MAY: Well, Issue 3, I think is something  
9 that we'll have to take up further when we see  
10 further information from the applicant.

11 CHAIRPERSON HOOD: Right. And that's what I  
12 was going to, I think --

13 MR. MAY: Yeah, okay.

14 CHAIRPERSON HILL: I think we did that when  
15 we dealt with the first issue, 1A. So, I was kind of  
16 going there. I might not have said it the same way.  
17 Anybody else want to comment on that, because I think  
18 we dealt with that already. Vice Chair Miller?

19 MR. MILLER: Only, I think Commissioner May  
20 has a good way of articulating, as -- not to put you  
21 on the spot, as to how even Parcel 1, with its --  
22 although its height is somewhat -- is out of scale  
23 with the medium density, but the density designation  
24 itself is not necessarily -- do you want to -- I  
25 don't want to put you on the spot, but --

1           MR. MAY: Well, you know, you know, I think  
2 that again, I think that this is something that we  
3 should discuss further when we see what the applicant  
4 can do. But as you know, as you note, and as I  
5 alluded to earlier, I have a hard time calling what  
6 happens on Parcel 1, in itself, high density  
7 development. Yes, the height of it is consistent  
8 with what you would find in a high density zone. But  
9 every other aspect of it is consistent with a medium  
10 density zone. Or, you know, be granted the high end  
11 of the medium density zone, but still. You know, if  
12 it weren't for the fact that it were a medical office  
13 building and it needs additional floor to floor  
14 heights for the equipment, it would be consistent  
15 with the medium zone. So.

16           MR. MILLER: Thank you. That's why I  
17 appreciate you providing that information.

18           MR. MAY: Okay.

19           CHAIRPERSON HOOD: He just liked to hear you  
20 elaborate on that.

21           MR. MILLER: It's more credible coming from  
22 you than me.

23           CHAIRPERSON HOOD: All right. Let's go to  
24 Issue 4A. Okay. Will the project result in  
25 environment problems, destabilization of land values,

1 or displacement of neighboring residents, or have the  
2 potential to -- or will have the potential to cause  
3 any other adverse impacts identified by the Friends  
4 of McMillan Park in the record for this case?

5           So, I guess one of the questions, do you  
6 agree that -- do we all agree that the -- does  
7 anybody agree that the applicant -- with the  
8 applicant that the project will have no substantial  
9 environmental impacts, and in fact includes the  
10 potential environmental benefits in this case? In  
11 the record of this case.

12           Vice Chair Miller.

13           MR. MILLER: Well, I'll start off by saying  
14 that we did get a report from the District Department  
15 of the Environment and Energy, DOEE, which we didn't  
16 have, I think, in the original case. So, it's  
17 important that we had that report, and that report  
18 said that there were no adverse impacts that could  
19 not be mitigated by what was being provided, and it  
20 wasn't out of the ordinary. But I just would note  
21 that for the record, that we -- that was an important  
22 report that maybe we should have had originally, and  
23 we do have it now and I think that addresses the  
24 concerns that was in the Court's decision.

25           CHAIRPERSON HOOD: Commissioner May.

1           MR. MAY: Yeah. So, I agree it was helpful  
2 having that more detailed report. You know, I think  
3 normally in the PUD process we do take into  
4 consideration substantial environmental aspects of  
5 every case. And it is an important thing. I mean,  
6 certainly, you know, we even modified the zoning  
7 regulations to incorporate a green area ratio a few  
8 years ago because of those sorts of concerns, and  
9 this project satisfies the GAR requirements under the  
10 zoning regulations.

11           You know, what's clear from the Court's  
12 consideration of this is that when concerns about  
13 environmental impacts are raised by an opponent to  
14 the case, they are things that we actually have to  
15 consider, and the applicant has to address. I mean,  
16 I imagine some of them -- there are going to be  
17 limits on what gets addressed, and in the past, we  
18 have relied on the DCRA process for screening  
19 projects, the EISF process, to make sure that all of  
20 those requirements are met. And, you know, I have  
21 some experience with having to go through this, go  
22 through that for projects, and certainly have to  
23 meet, you know, even in the federal government we  
24 have to meet certain requirements for when it comes  
25 to water, local requirements for water. So, we deal

1 with DOEE on things like that.

2           So, you know, those are all projects, or  
3 aspects of the project that, you know, came up in  
4 this case, and I think the first time around we  
5 didn't necessarily have all the information to be  
6 able to address that, and I think that now that we've  
7 had further testimony on the topic, I am convinced  
8 that those concerns have been addressed. I mean,  
9 simply having some information on the EISF process,  
10 as it has been done for this case, having that  
11 further analysis that was done by DOEE, understanding  
12 how things like air quality are considered in their  
13 process and whether this project would actually have  
14 a measurable impact on air quality, and I think we  
15 heard compelling testimony that it would not have  
16 measurable impact on air quality. And you know,  
17 there are other aspects of what they do which go far  
18 beyond what we have addressed typically in zoning  
19 cases, and go beyond what we have addressed in the  
20 zoning regulations.

21           You know, again, zoning regulations now are  
22 stronger and with regard to concerns about  
23 environmental impacts. Even you know, District law,  
24 with the tree protection statutes and so on, is  
25 stronger in this regard than it was 20 years ago, or

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1 you know, let's go back 30 years to when this, you  
2 know, project was first envisioned. It's you know,  
3 it's a lot better. It's addressed more clearly. And  
4 I think that there is a very strong commitment, not  
5 just by the city but by you know, all of -- I mean,  
6 not just by city, by politicians, by you know, the  
7 broader city objectives. But in the actual operation  
8 of government by DCRA, by DOEE, by DDOT and the you  
9 know, the Urban Forestry Administration, and as I  
10 said, certainly by the Zoning Commission, in  
11 regulation and in reviews.

12 So, I mean, I think this has been a highly  
13 educational experience for us and will shape how we  
14 consider future projects. But I think that the case  
15 has been very clearly made that the concerns raised  
16 by the opponents to the project have been addressed  
17 in the further testimony by the applicant, and more  
18 importantly by DOEE. So, thanks.

19 CHAIRPERSON HOOD: Okay. Anyone else? Mr.  
20 Turnbull?

21 MR. TURNBULL: Thank you, Mr. Chair. I was  
22 trying to remember, I don't know when the last time  
23 on a PUD that we actually saw an EISF report. I  
24 can't recall when that's actually -- it usually comes  
25 later after the -- in the process. So, for us to see

1 it at this point in time is, it is unusual to say the  
2 least. Although, it's nice to have.

3 I think the other thing is that we rely on  
4 the regulatory agencies for their input, and I know  
5 the Friends of McMillan wanted these agencies to do  
6 additional, or further analysis. But you know, at  
7 some point the agencies do their job. I mean, and I  
8 think that's what we have to rely on. I mean, I  
9 think we rely on the standards that they have, and as  
10 Commissioner May says, you know, we've helped the  
11 process too, along the way, by increasing the zoning  
12 regulations to further environmental regulations.

13 But I think when we get something from DOEE,  
14 and I think after hearing their testimony, these are  
15 very serious individuals doing their jobs. And I  
16 think they're very serious about what the care that  
17 they do, and in looking at the aspects. And so, when  
18 they were looking at the -- assessing the  
19 environmental aspects, I felt very good at looking at  
20 the reports, and I have no question that other things  
21 should have been done beyond what they had done  
22 already, which is again, something that the Zoning  
23 Commission rarely gets into, or we rarely see the  
24 follow-up that they've done.

25 So, I at this point in time, whether it's the

1 GAR and everything else, I'm quite satisfied that  
2 we've seen a substantial environmental analysis, and  
3 I'm satisfied with it.

4 CHAIRPERSON HOOD: Okay. One of the things  
5 that I will credit the community, and especially  
6 friends of McMillan Park, we really pushed for those  
7 agencies to make sure, and I think, you know, that's  
8 again, another learning experience for us to make  
9 sure that we had a response. At first, we didn't get  
10 a whole lot of input, a whole lot of response. So  
11 again, this is a community driven project due to  
12 their efforts of having some issues with the project  
13 that made us push a little harder and get some of the  
14 information that we needed.

15 Now, as far as the environmental impacts,  
16 it's like any other project in this city. I'd like  
17 to say we -- if there is a problem, we remedy it, we  
18 rectify it, and then we reassure. So, that's the way  
19 I look at it. This is nothing different, nothing  
20 unique than what we do, and everything else we build  
21 in this city, or build probably in the country. And  
22 I know the country is not being under scrutiny here.  
23 It's the McMillan project right now.

24 But I think that as far as the environmental  
25 issues, I think that -- I think it's been responded

1 to, I think it's been taken -- and like anything  
2 else, like I said, if it comes up and there are some  
3 issue there, we'll remedy it, we'll rectify it, and  
4 we'll reassure ourselves. And I think that's done  
5 all the time. This is no different. As far as that  
6 goes, McMillan is not unique. It's done all over the  
7 city.

8           Anything else on this? All right. Let's go  
9 to the stabilization of land values or displacement  
10 of neighboring residents.

11           On the same order? Commissioner May?

12           MR. MAY: Okay. So, first of all,  
13 destabilization of land values, I think actually, you  
14 know, it's a big ironic that we'd be talking about a  
15 project like this destabilizing land values when in  
16 fact the 30-year abandonment, if you will, of the  
17 property, is probably more destabilizing than  
18 anything else.

19           So, this is a stabilizing project. Now,  
20 stabilizing you know, can have its negative effects  
21 as well. You know, there's been this incredible  
22 awakening in the last 15 years or so in the city  
23 about what a great place this is to live. And, that  
24 is driving a renaissance of so many neighborhoods  
25 across this city, but that renaissances also drives

1 the potential for displacement.

2           And I think we saw good testimony in the  
3 record about the way, you know, property values have  
4 been increasing substantially within the  
5 neighborhoods that are around McMillan. And you  
6 know, it is just -- I cannot conceive of how a  
7 project that has been you know, kind of lumbering  
8 along for years is somehow driving this dramatic  
9 rise. What's driving this dramatic rise is the same  
10 factor that's driving the dramatic rise across the  
11 city. It is happening across the city, and it has  
12 the most substantial effect in neighborhoods that  
13 were substantially undervalued in the first place.

14           You know, we've seen prices rise across the  
15 city, but prices are rising less in Georgetown and  
16 Capitol Hill than they are on places like  
17 Bloomingdale or Eckington or Trinidad where, you  
18 know, the prices have been so low and they're being  
19 driven up by this, again, this recognition that  
20 Washington is a great place to live. So, I don't see  
21 how this project contributes to that in any way,  
22 shape, or form. And I think, again, going back to my  
23 original statement, this is going to stabilize land  
24 values in the area more than it will destabilize.

25           So, I think that you know, it was helpful to

1 hear the range of testimony that we heard. But I  
2 mean, this is a -- it's a long-standing phenomenon  
3 that prices, you know, home values change and you  
4 know, displacement has been an issue in the city for  
5 a long time. I mean, I don't know if I mentioned  
6 this in prior discussions, but I wrote my  
7 undergraduate thesis in 1984 on the topic of  
8 revitalization of neighborhoods in Washington and  
9 displacement. It was big issue back then. It is not  
10 -- it was not nearly as big an issue as it is now,  
11 and the city has to address it, but stopping a  
12 project like this isn't going to help that.

13 CHAIRPERSON HOOD: Okay. Any other comments  
14 on that? Vice Chair Miller? We'll go in the same  
15 order.

16 MR. MILLER: Thank you, Mr. Chairman. I  
17 would agree with everything Commissioner May has  
18 said. You didn't -- so, your thesis didn't solve --  
19 didn't have the solution how this --

20 MR. MAY: No, and I --

21 MR. MILLER: -- all the displacement and  
22 gentrification problem --

23 MR. MAY: And I even tried to look at it with  
24 my graduate thesis 10 years later, and I didn't fix  
25 it there either.

1           MR. MILLER: Yeah, well, there you go. Yeah,  
2 it's a city-wide phenomenon all over the city because  
3 it's a valuable city. And one project can't solve  
4 it, or cause it. Then there are other city-wide  
5 policies which attempt to try to ameliorate the  
6 adverse effects upon longtime residents in terms of  
7 rising property values, whether it's tax abatements  
8 or other measures, and I think the city puts hundreds  
9 of millions of dollars into that effort, and  
10 obviously needs to continue to do so.

11           But, so I don't think this project alone is a  
12 cause of displacement or gentrification. That is a  
13 city-wide, nation-wide phenomenon for urban  
14 attractive areas, and we just need to have other  
15 policies that protect long-time existing residents so  
16 they can maintain their homes where they've been for  
17 years, and I think the city is trying to do that.

18           CHAIRPERSON HOOD: Okay. Commissioner  
19 Turnbull.

20           MR. TURNBULL: Thank you, Mr. Chair. I can  
21 remember even 20 years ago on Capitol Hill, when I  
22 can remember I hired a project manager from  
23 University of Texas, and he moved up and was able to  
24 get a place on Capitol Hill back then. And I'm sure  
25 he would be surprised. He eventually moved back to

1 Texas when he was finished with what he had to do.  
2 But I can imagine what he would do if he came back  
3 now and tried to look at the prices 20 years later.  
4 I mean, you're right, it's a phenomena throughout the  
5 city. It's neighborhoods catch on and they start to  
6 change, and it shifts. It shifts from one area of  
7 the city to the other, and it's going to continue to  
8 happen. It happens in every city.

9           So, and I can't see that this project, per  
10 se, is doing anything to affect that. I think it's  
11 just a phenomena of neighbors. People come into a  
12 neighborhood, they see it, and they go hey, I think  
13 it's either close where I want to live, it's close to  
14 where I want to go to school, it's close to a lot of  
15 other things, and this is when I want to move to  
16 there.

17           So, I can't see that people are moving out of  
18 this neighborhood because of this project. And as  
19 Commissioner May had said, you know, it's empty right  
20 now. So, more than anything else, it is a  
21 stabilizing -- it will be a stabilizing factor. So,  
22 I can't see that it's causing anything like that.

23           CHAIRPERSON HOOD: I would agree. I don't  
24 see where this project has any bearing whatsoever on  
25 destabilizing land values and displacement of

1 neighbors. This is just a small scintilla of maybe  
2 adding credence to that, whether this project -- even  
3 if it stayed like it does now, I believe and I'm not  
4 an acknowledge or analysis, or I'm not an expert on  
5 gentrification, but even like it stays as it is now,  
6 and has already been stated, these trends are already  
7 happening.

8 But one of the things that the city does have  
9 to do, and I'm going to take a line out of Vice Chair  
10 Miller's first -- you probably didn't think I watched  
11 it, your first confirmation hearing, where you said,  
12 protect the past and prepare for the future. That's  
13 what needs to happen here.

14 Now, can the Zoning Commission do that?  
15 We're just a scintilla, a piece of it as you said.  
16 So, you probably didn't think I listened to your  
17 first confirmation hearing, but I did.

18 MR. MILLER: I think I stole that from your  
19 confirmation hearing.

20 CHAIRPERSON HOOD: Oh, well, I knew it  
21 sounded good so -- but no, but it's a reality.  
22 Seriously, it's a reality of that. And that's all I  
23 can say on that. I'm sorry. This is going to happen  
24 regardless. It's happening now, whether you put  
25 something over there and it's going to happen. And I

1 think the record is sufficient, and I think the  
2 record is complete on that. And I think the way the  
3 city is moving, it's going, and I forgot how many  
4 people, the mayor, and I don't want to misquote her,  
5 said the other night I was at a meeting with her and  
6 she mentioned how many people were coming to the  
7 city. So, I don't want to get that all fouled up and  
8 misquoted. But we do have to prepare for that. We  
9 have to get ready for that.

10 So, anyway. Anything else on this? All  
11 right.

12 Let's go to -- give me one moment, please.

13 [Pause.]

14 CHAIRPERSON HOOD: I kind of think this next  
15 -- yeah. Hold on. Mr. Bergstein.

16 [Pause.]

17 CHAIRPERSON HOOD: All right. I'm going to  
18 read Issue 4B. But unless my colleagues want to  
19 comment, and I think this is another one we can wait  
20 and see what the applicant comes back for what we  
21 asked for previously.

22 [Discussion off the record.]

23 CHAIRPERSON HOOD: If so, how should the  
24 Commission -- okay. 4B is, if so, how should the  
25 Commission -- okay. So, how should the Commission

1 judge, balance, and reconcile a relative values of  
2 the project amenities and public benefits offered to  
3 the degree of the development incentives required,  
4 and the potential adverse impacts? That was 4B.

5 MR. BERGSTEIN: And, Mr. Chair.

6 CHAIRPERSON HOOD: Yes.

7 MR. BERGSTEIN: Let me put it out there, that  
8 that is the basic PUD standard. That's really,  
9 although as part of the remand consideration that you  
10 do this at the end, these two last questions are the  
11 standard PUD questions, are the ultimate PUD  
12 questions.

13 And so, you should just treat it as not  
14 particularly special to this particular project, but  
15 as you would do for any PUD. Just basically this  
16 wraps up the entire PUD process.

17 CHAIRPERSON HOOD: Okay. So, I can just go  
18 on to 5A. Five. Will the PUD have favorable impact  
19 on operation of city services and facilities? And  
20 then we will answer, if not, is the impact capable of  
21 being mitigated or acceptable given the quality of  
22 public benefits in the project.

23 So, we can wait, Mr. Bergstein, I'm making  
24 sure we can wait until we get the information back  
25 from the applicant.

1 MR. BERGSTEIN: If you care to. I mean,  
2 the --

3 CHAIRPERSON HOOD: I think that would be a  
4 better --

5 MR. BERGSTEIN: Okay.

6 CHAIRPERSON HOOD: Better deliberation. So,  
7 we can make sure we have -- now, let me ask, do --  
8 never mind. Well, you know what? I'm going to ask  
9 it. Does the party in opposition respond to what we  
10 get back in this remand case?

11 MR. BERGSTEIN: I think you should allow  
12 them --

13 CHAIRPERSON HOOD: Okay.

14 MR. BERGSTEIN: -- to respond. Yes.

15 CHAIRPERSON HOOD: All right.

16 MR. BERGSTEIN: Because if they come back and  
17 say they just can't do it, I think it would be very  
18 appropriate to allow friends of McMillan Park to  
19 suggest reasons why they could.

20 CHAIRPERSON HOOD: Okay. And I wanted to do  
21 that because I didn't want to get to that point and  
22 then we have to do that part and keep moving and  
23 moving so we can kind of know what we're expecting as  
24 we move along.

25 All right. Anything else? Any other

1 comments colleagues?

2 Ms. Schellin, do we have some dates? Or, do  
3 we need to put together some dates? I would ask Mr.  
4 Glasgow and Ms. Ferster.

5 MS. SCHELLIN: How much -- did you have a  
6 date of when you guys wanted to take this back up?

7 CHAIRPERSON HOOD: Well, we're used to being  
8 called names, so --

9 MS. SCHELLIN: Somehow or another somebody  
10 was calling through. Anyway, sorry about that. I  
11 have no idea.

12 CHAIRPERSON HOOD: Were they trying to reach  
13 me? I've been called a lot of names.

14 MS. SCHELLIN: Maybe it was calling you, but  
15 that was weird. Anyway.

16 When did the Commission want to take this  
17 back up?

18 MR. MAY: So, I think that we need to allow  
19 the applicant substantial time given that we're at  
20 the end of June and you know, this is not a two-week  
21 turnaround kind of thing.

22 MS. SCHELLIN: Right.

23 MR. MAY: I don't see how we can take this up  
24 again in July. So --

25 MS. SCHELLIN: In July?

1 MR. MAY: I don't think we can take it up in  
2 July, so I think that we have to allow the applicant  
3 time so that we could take it up in September.

4 MS. SCHELLIN: September. Okay.

5 MR. MAY: That's my thought. I mean --

6 CHAIRPERSON HOOD: I would like to take it up  
7 the first, soon as possible, the first week of  
8 September, while it's fresh.

9 MS. SCHELLIN: The first meeting? Okay.

10 CHAIRPERSON HOOD: The first meeting.

11 MS. SCHELLIN: That would be September 11th.  
12 So, asking the applicant how much time they'll need.  
13 How much time do you need to respond?

14 CHAIRPERSON HOOD: But you know what, for  
15 this case, you know, and I know we've done this in  
16 the past and I know I'm getting ready to get in  
17 trouble now but I'm used to it, even if we had to do  
18 something in August for this case, because we've had  
19 done that first, because I just, you know --

20 MS. SCHELLIN: The first week, we have.  
21 Yeah.

22 MR. MILLER: This is a very important case,  
23 Mr. Chairman, and so I would support whatever  
24 expeditious scheduling that you can do.

25 CHAIRPERSON HOOD: But, you know what?

1           MR. MILLER: But, we've got to get it right.  
2 We've got to get it right.

3           CHAIRPERSON HOOD: But I'm going to take that  
4 statement back because now I'll be accused of doing  
5 stuff when everybody is on vacation. So, let me take  
6 that statement back. September. I'm sorry. I was  
7 just trying to move this thing.

8           MR. MAY: So, Ms. Schellin, can we work  
9 backwards from the 11th? I mean, I'm not sure how  
10 much time the party in opposition will need, but you  
11 know, giving them time to respond and then so you  
12 know, we'd need to have that a few days before the  
13 11th, so --

14          MS. SCHELLIN: We also have the ANC, since  
15 their parties to the ANC are ANCs. So, that becomes  
16 an issue because they don't meet in August.

17           [Discussion off the record.]

18          CHAIRPERSON HOOD: Hold on for a second. Ms.  
19 Ferster, could you come to the table as well? And  
20 give us some time. We're trying to get some dates  
21 straight.

22           [Pause.]

23          CHAIRPERSON HOOD: I understand the 14th is  
24 available, Ms. Schellin. September 14th.

25          MS. SCHELLIN: We have a hearing on that

1 date.

2 CHAIRPERSON HOOD: So, you need to put that  
3 on your calendar. Your calendar is --

4 MR. MAY: Have you sent us that one yet,  
5 because that was one I'm not sure --

6 MS. SCHELLIN: Yes. Unless you want to start  
7 it at 5:00 on that day.

8 CHAIRPERSON HOOD: No, do we have -- is the  
9 18th open?

10 MS. SCHELLIN: No, we're going to have a  
11 hearing on that day too.

12 CHAIRPERSON HOOD: Can you send Mr. May the  
13 updates?

14 MR. MAY: Yeah, I mean, I --

15 MS. SCHELLIN: Those are two that just got --  
16 they're being scheduled this week. They were just  
17 set this week, so they're not on that schedule, no.  
18 But the 14th was on the schedule.

19 MR. MAY: So, the 18th and the 21st, we've  
20 got something.

21 MS. SCHELLIN: The 18th. Right. The 21st,  
22 we do not have anything, but it's a continuation of  
23 the Jewish holiday so I was asked not to put anything  
24 on there.

25 MR. MAY: On the 18th?

1 MS. SCHELLIN: On the 21st.

2 MR. MAY: On the 21st. So, I mean, the one  
3 on the 18th just got scheduled this week. Can we  
4 bump them to the following week?

5 MS. SCHELLIN: No, because that week is taken  
6 up also.

7 CHAIRPERSON HOOD: Why don't we just do a --  
8 since, I understand -- yeah, why don't we just do it  
9 on a Wednesday?

10 MS. SCHELLIN: Do it on the second meeting.

11 CHAIRPERSON HOOD: Everybody seems to want to  
12 come in on Wednesday, but for some reason, Ms.  
13 Schellin, they don't want to do it the first of  
14 second meeting, they want to do it by itself.

15 Do you think we need that much time, by  
16 itself?

17 [Discussion off the record.]

18 CHAIRPERSON HOOD: I think we can do it  
19 before another hearing.

20 MS. SCHELLIN: Okay.

21 MR. MAY: 5:00?

22 CHAIRPERSON HOOD: Yeah, 5:00. So, do we  
23 have a shorter one?

24 MS. SCHELLIN: 5:00 on the 14th. That one  
25 would be very short. I think it's the vesting one.

1 CHAIRPERSON HOOD: Okay, let's do the --

2 MS. SCHELLIN: Which, you guys took emergency  
3 action on.

4 CHAIRPERSON HOOD: Okay, let's do the 14th.  
5 Does the 14th work? Okay.

6 MS. SCHELLIN: You want to do it after,  
7 because it will probably be a half an hour hearing.  
8 Do it after?

9 CHAIRPERSON HOOD: We're going to do it  
10 before and then that way -- I don't know, whatever  
11 you all decide this time.

12 MR. MAY: I don't think it makes much  
13 difference because I don't think we'll have a big  
14 crowd in the audience for the vesting hearing.  
15 Unless of course, we'd keep all these people around  
16 for it, you know, kind of like television  
17 programming. You've got that dud of a show and  
18 you --

19 CHAIRPERSON HOOD: Do, if we do it after --  
20 so, it will be 7:00. Okay. Well, why don't we just  
21 do that?

22 MS. SCHELLIN: Okay. So, 7:00, special  
23 public meeting for the 14th of September, and we  
24 would need to have let's see, the responses. How  
25 much time do you need those responses before?

1 [Discussion off the record.]

2 MS. SCHELLIN: Okay. So, then if we could  
3 have the responses from the parties by September 5th,  
4 3:00 p.m., that's a Tuesday, since Monday is a  
5 holiday. And then we would have the applicant  
6 provide their submissions by August 28th, 3:00 p.m.

7 CHAIRPERSON HOOD: Okay. I see everyone came  
8 to the table. Let me start with you, Ms. Ferster,  
9 first. You have any issues with the schedule? To --  
10 oh, hold on for a second. I'm sorry. Can you  
11 identify yourself and speak into the mic?

12 MS. FERSTER: I am Andrea Ferster, counsel  
13 for Friends of McMillan Park, and we do not have an  
14 issue with the schedule.

15 CHAIRPERSON HOOD: Okay. Thank you. Mr.  
16 Glasgow.

17 MR. GLASGOW: We certainly can meet that time  
18 frame very easily, because of the economic modeling.  
19 We can -- that has already been prepared over a  
20 significant period of time for this project. We can  
21 move much faster than that if the Commission is  
22 amenable.

23 MR. MAY: This is about more than economic  
24 modeling, this is about design.

25 MR. GLASGOW: Oh, we understand and I had

1 that discussion also with Mr. Wears. He said that we  
2 will get people in around the clock to deal with  
3 this.

4 MR. MAY: I'm not sure I want a 24-hour  
5 architecture charrette kind of product on this. I  
6 think that this needs full consideration. So, you  
7 know, putting more bodies on it doesn't necessarily  
8 yield the best product.

9 MS. FERSTER: Can I interrupt? I completely  
10 misspoke because I wrote -- did I write down  
11 correctly that August 28th is their submission, and  
12 ours would be September 5th, which would basically  
13 give us two working days to respond? I don't think  
14 that's reasonable. I didn't -- I was not focusing on  
15 the fact that we would only have two working days to  
16 respond to that.

17 MS. SCHELLIN: No, that's not --

18 MS. FERSTER: Did I write that down  
19 incorrectly?

20 MS. SCHELLIN: It's the following week you  
21 would have.

22 MS. FERSTER: Okay, August 28th to September  
23 5th.

24 MS. SCHELLIN: Is a Monday. And then the  
25 following Monday is a holiday. So, you would have

1 that Tuesday, the 5th, to respond.

2 MS. FERSTER: All right. So, I'm counting  
3 the 28th gives us what, three days? Three working  
4 days, then?

5 MR. MAY: I'm sorry. Ms. Ferster, can we go  
6 back to the discussion?

7 MS. FERSTER: Four days.

8 MR. MAY: Ms. Ferster, can we go back to the  
9 discussion with the applicant because they were  
10 debating whether they -- I mean, clearly they're  
11 pushing for July.

12 MS. FERSTER: Right. I just want to make  
13 sure that I clarify --

14 MR. MAY: And we'll come back to that.

15 MS. FERSTER: -- I clarified it.

16 CHAIRPERSON HOOD: We'll come back to that.

17 MR. MAY: Do you have an alternate date you  
18 would suggest that you could meet?

19 MR. GLASGOW: We're suggesting that we could  
20 do what we think we need to do in a month, and that's  
21 what we're thinking. We didn't think we needed two  
22 months.

23 MR. MAY: Got it, okay.

24 MR. GLASGOW: Yeah, we can do it in a month.

25 MR. MAY: So, that would put us into August,

1 right, because you do your part in 30 days. We're at  
2 July 29th. And so, we'd have to take it up -- you  
3 know, I mean, we could take it up earlier in  
4 September, but --

5 CHAIRPERSON HOOD: It's only going to be  
6 about a three-week difference because we couldn't do  
7 it the first two weeks of August because all of us  
8 are not going to be here. And I don't know who's  
9 going to be here the third week of August because  
10 August is really our month off. So, we want to make  
11 sure we at least have four. Well, that's all we need  
12 is four. We don't want to end up with three. We're  
13 already short.

14 MS. SCHELLIN: Right. And just, we can't do  
15 anything other than if it were the first couple days  
16 in August because we have work being done in this  
17 room, and also the first week of September. So,  
18 that's our issue. This hearing room is not  
19 available.

20 MR. MAY: I'm sorry. Ms. Schellin, you had  
21 said that the hearing on the 14th was the vesting  
22 provision?

23 MS. SCHELLIN: Correct.

24 MR. MAY: So, I have that on the 7th. Did it  
25 get moved?

1 MS. SCHELLIN: It was changed on the last  
2 schedule that --

3 MR. MAY: So, is there nothing on the 7th?

4 MS. SCHELLIN: There's nothing because the  
5 hearing room is not available.

6 MR. MAY: Oh, got it. Got it. Okay. So,  
7 the earliest -- the only real opportunity for us to  
8 do it, the earliest would be the week of the 11th.

9 MS. SCHELLIN: Correct.

10 MR. MAY: So, we might as well do it on the  
11 14th.

12 MS. SCHELLIN: Correct.

13 MS. FERSTER: May I be heard?

14 CHAIRPERSON HOOD: Let's give it one second.  
15 We're going to come to the 28th and the 5th, we're  
16 going to come to that. But let's make sure that  
17 we're on schedule for the 14th for September. It  
18 looks like that's -- we're going to have to do it  
19 because we don't have a full commission for the first  
20 two weeks in August anyway. We don't have a full  
21 commission. We only have three people.

22 So, all right. Well, we tried, and then the  
23 room is out of order. Well, not out of order, but  
24 it's going to have some work done for a couple of  
25 weeks.

1 All right.

2 MS. JOHNSON: I'm Kimberly Johnson on behalf  
3 of the District. Just one suggestion. Are there any  
4 other hearing rooms in this building that the  
5 Commission could potentially borrow? I mean, this is  
6 a very important case for the District and for the  
7 citizens. And as you've indicated, this case has  
8 been around for a very long time. And so, we were  
9 very hopeful that we had come to the end, and to now  
10 push it off even longer is something that --

11 CHAIRPERSON HOOD: What I'll do is ask you  
12 that question because the last time we tried to get  
13 the hearing room downstairs some years ago, I don't  
14 recall the person's name that gave us a hard time,  
15 but it was like pulling teeth. So, and it wasn't  
16 this administration, it was a couple back. So, I  
17 mean, I don't know -- I wouldn't have the first clue  
18 of who to talk to. Well, I know who to talk to but I  
19 don't know if they would give me a hearing room. Do  
20 you have a way we can get a hearing room?

21 MS. JOHNSON: I don't know. I certainly  
22 don't have any problems trying. So, given the  
23 magnitude of this case and the desire of everybody to  
24 have this matter resolved --

25 MS. SCHELLIN: Well, excuse me, but the

1 problem with that, we have tried a few times before  
2 to get that and it's just never guaranteed. We've  
3 been told they will bump us. So, if we schedule for  
4 that room, we can be bumped at the last minute. It  
5 is never guaranteed. So, it's never safe to use that  
6 room.

7 CHAIRPERSON HOOD: That's the one downstairs.

8 MS. SCHELLIN: Downstairs.

9 CHAIRPERSON HOOD: Yeah, well that person is  
10 retired so I --

11 MS. SCHELLIN: No, that's --

12 CHAIRPERSON HOOD: Oh, it's somebody else?  
13 Oh, okay.

14 MS. SCHELLIN: That's been even recent.

15 CHAIRPERSON HOOD: Okay.

16 MR. MILLER: And the council is --

17 MS. SCHELLIN: This, within the last --

18 MR. MILLER: The council is on recess until  
19 September 15th.

20 MS. SCHELLIN: Yeah.

21 MR. MILLER: Those are the Wilson Building  
22 hearing rooms are available.

23 MS. FERSTER: Mr. Chair.

24 CHAIRPERSON HOOD: Yes, Ms. Ferster.

25 MS. FERSTER: And I apologize for being not

1 comprehending that the schedule that you previously  
2 suggested only gives us, I guess four working days.  
3 But since the applicants are willing to, and able to  
4 provide their submittal on July 29th, I would ask  
5 that we get a month to respond. That's what we would  
6 like. This is a very substantial response.

7 CHAIRPERSON HOOD: They're responding June --  
8 July 29th, and you're asking for August -- or, you're  
9 asking to respond in August?

10 MS. FERSTER: That's correct.

11 MR. MAY: They were willing to do it in a  
12 month. I was not convinced that they have the --  
13 that it would really be a good --

14 CHAIRPERSON HOOD: The quickest thing I can  
15 do, and I know everybody wants this off their plate,  
16 including me, but I think what we can do is -- but we  
17 want it off right. But I think what we can do is we  
18 can just have the first week in September. We can't  
19 do -- oh, that's right. The hearing room.

20 MS. SCHELLIN: The room is not available.

21 CHAIRPERSON HOOD: And here's the thing, I  
22 have to announce a hearing room tonight. I can't do  
23 that, and I don't have the latitude, or know how to  
24 get a hearing room.

25 MR. BERGSTEIN: You don't actually have to -

1 this is not a hearing. You don't have to announce  
2 the continuation date of this.

3 CHAIRPERSON HOOD: Oh, okay.

4 MR. BERGSTEIN: Okay. I mean, the only thing  
5 that the Open Meeting Act requires is that, and our  
6 regulations require four days' notice of the agenda.  
7 And if you're going to have it as a regular public  
8 meeting, then it just gets added to the agenda. So,  
9 I mean, I know you normally like to accommodate the  
10 public and indicate when the next date would be, but  
11 there's no legal requirement that you do that. It's  
12 something that could be worked out as time allows.

13 CHAIRPERSON HOOD: Okay.

14 MR. BERGSTEIN: Okay. Just so you know.

15 CHAIRPERSON HOOD: So, let me ask, who all  
16 will work on finding a hearing room? I know you will  
17 help us.

18 MS. JOHNSON: I'll certainly make efforts to  
19 do that, yes.

20 CHAIRPERSON HOOD: Okay. Okay.

21 MS. FERSTER: I would object to that. I  
22 think that, you know, the Office of Zoning, if they  
23 want to make efforts to look for another hearing  
24 room, they should do that. I don't think that the  
25 applicant should be assisting the Office of Zoning in

1 doing that sort of thing.

2 CHAIRPERSON HOOD: Okay. So noted. So, do  
3 you want to look for a hearing room?

4 MS. SCHELLIN: Chairman Hood, if we could --  
5 yeah, I don't know that we'll be able to find one.  
6 We can try.

7 CHAIRPERSON HOOD: We might not be successful  
8 now, but we'll try.

9 MS. SCHELLIN: Yeah. If we could just -- if  
10 Ms. Ferster wants to back up the date, we could just  
11 have the applicant make their submission on the 23rd.  
12 I mean, I was given the date per the regulations  
13 which allows for seven days for responses from the  
14 parties. But I think if we just give another week,  
15 if the applicant would make their submission by the  
16 21st, and then the parties would have still, until  
17 the 5th to make it, to give them a little extra time.

18 Mr. Glasgow, do you have an issue with that?

19 MR. GLASGOW: No, it seems like that's as  
20 fast as we can go, given the schedule of the  
21 Commission, when we would have four members there.

22 MS. SCHELLIN: Okay. September 5th for  
23 responses.

24 MR. BERGSTEIN: Okay. So, I think that sort  
25 of moots out the hearing room issue anyway.

1 CHAIRPERSON HOOD: Yeah, the hearing room  
2 issue is gone.

3 MR. BERGSTEIN: You might as well just put  
4 the place marker at the 14th.

5 MS. SCHELLIN: Keep it where it is. Yeah.

6 CHAIRPERSON HOOD: So, what day is it? We  
7 done been so I don't even know the date myself.

8 MR. BERGSTEIN: Sorry.

9 MS. SCHELLIN: To the 14th at 7:00 p.m.

10 CHAIRPERSON HOOD: So, we're going to have to  
11 go with September the 14th at 7:00 p.m.

12 MS. SCHELLIN: Yes.

13 CHAIRPERSON HOOD: And we will have four  
14 commissioners, hopefully. That's the goal.

15 All right, Ms. Ferster, are you all right  
16 with the schedule now?

17 MS. FERSTER: I will accept this.

18 CHAIRPERSON HOOD: You will accept it.

19 MS. FERSTER: I will accept it. I would  
20 prefer 30 days, but I'll accept what you've offered,  
21 since I don't have any choice.

22 CHAIRPERSON HOOD: How many days does she  
23 have, Ms. Schellin?

24 MS. SCHELLIN: 15 calendar days, 14 minus the  
25 holiday.

1           CHAIRPERSON HOOD: Okay. All right. She  
2 says she'll accept it. So, are we all -- is  
3 everybody on the same page? We will reconvene --  
4 well, I guess reconvene, let's remand and finish on  
5 September the 14th at 7:00 p.m. in this room. Any  
6 other -- anything else?

7           [No audible response.]

8           CHAIRPERSON HOOD: With that, thank you and  
9 this remand will continue on September 14th.

10           [Whereupon, the regular public meeting  
11 adjourned at 8:50 p.m.]

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