

BEFORE THE  
DISTRICT OF COLUMBIA ZONING COMMISSION

GEORGE WASHINGTON UNIVERSITY ) FOGGY BOTTOM CAMPUS PLAN )	Z.C. No. 06-11
GEORGE WASHINGTON UNIVERSITY ) FIRST-STAGE PLANNED UNIT DEVELOPMENT ) APPLICATION )	Z.C. No. 06-12

**SUBMISSION OF  
THE FOGGY BOTTOM ASSOCIATION**

1. Statement of George H.F. Oberlander, AICP, on planning issues.
2. Summary statement of Joe Mehra, PE, on traffic issues.
3. *Growth and Expansion of Private Universities in the District of Columbia, The Case of George Washington University: An Economics Primer*, by Sol S. Shalit, MBA, Ph. D, Professor Emeritus of Economics & Finance, The University of Wisconsin-Milwaukee, School of Business Administration.
4. Memorandum regarding inadequacy of reporting of student enrollment data, with chronology discussing audit.

ZONING COMMISSION  
District of Columbia

CASE NO. 06-4

EXHIBIT NO. 188

ZONING COMMISSION  
District of Columbia  
CASE NO.06-11  
EXHIBIT NO.188

Statement  
Of  
GEORGE H.F. OBERLANDER, AICP  
On behalf of  
THE FOGGY BOTTOM ASSOCIATION  
On  
George Washington University Campus Plan 2006-2025  
And related first-stage PUD and map amendments  
(DC Zoning Case Nos. 06-11 and 06-12)  
Before the  
Zoning Commission for the District of Columbia  
September 25, 2006

Madam Chairman and members of the Commission, my name is George Oberlander, an urban planning and zoning consultant, having retired in 1996 as the former Associate Executive Director, DC Affairs, of the National Capital Planning Commission. I have testified as an expert witness before this Commission on several zoning cases and my complete resume is on file.

I appear on behalf of the Foggy Bottom Association, a citizens' organization of property owners and residents in the immediate area around George Washington University (GWU). My statement deals with **why the new Campus Plan and related first-stage PUD and map amendments should be denied.**

#### **1. EXISTING GWU CAMPUS PLAN (Year 2000-2010)**

As you know, the DC Board of Zoning Adjustment approved the current Campus Plan on January 23, 2002, with numerous conditions, under BZA Order 16553-I. **The time duration of the Plan will not expire until June 30, 2009.** The Order authorizes the University to construct an additional 950,000 sq. ft. of gross floor space. **To date the University has not constructed all the floor area allowed under the provisions of the current BZA order.** The current Campus Plan superseded the previous plans approved by BZA in 1970 and in 1985 which allowed considerable campus expansion and development to its present magnitude of over 5 million sq. ft. of gross floor area (GFA) (5,613,986 sq. ft.). (The 1970 Plan provided for GWU to add 3.6 million sq. ft. GFA; the 1985 Plan provided for up to 2.5 million sq. ft. GFA).

**To visualize the existing 5.6 million sq. ft. of GFA, compare it with the size of average downtown office buildings built in Washington DC (@ 200,000 sq. ft.). This GFA amounts to 28 average size downtown office buildings. The activity generated by this magnitude is very substantial and witnessed in the Foggy Bottom area every day.**

The current Plan BZA order, allowing the University to build new space, indicated the area was at **"the tipping point"** of becoming solely a University area, thereby eliminating the existing residential area **that the Regulations are intended to protect.** Any additional building space authorized under the new Campus Plan will become

objectionable to the neighborhood property because of additional intensified noise, traffic, number of additional students and expanded University and student activities.

## **2. PROPOSED GWU CAMPUS PLAN (Year 2006-2025)**

The Office of Planning recommended Campus Plan (with 25 conditions), before you, accommodates an additional 1,732,590 sq. ft. of gross floor space, or for visualization purposes, **8-9 additional typical office buildings**. If built out to the maximum, this Plan would increase the current campus development to 7,346,576 sq. ft. Please note this 7 million plus sq. ft. does not include any development of the entire Sq. 54, the former site of the GWU Hospital and Site A in Sq. 80, the School Without Walls, **which are not part of this proposed Campus Plan application**. From a professional planning assessment, to exclude two major activity nodes in this Campus Plan **is not acceptable**.

**How can OP and the Commission examine the total development and traffic impacts on the neighborhood without considering the interrelationship of all the parts of the campus activities?**

**The University indicates it would like to develop an additional 900,000 to a million sq. ft on Square 54, and provide additional activities on Site A Sq. 80.** The Sq. 54 development concept comes from the University commissioned **May 2005, Urban Land Institute Strategy report**. (Applicant Exhibit F of the new plan). However **Sq. 54 is not in the current application**. It has been testified to by the applicant as an **investment development** and is still within the campus boundaries. The application is unclear. Are Sq. 54 and Sq. 80 in the Campus Plan or not? Is Sq. 54 driving the application?

Page 10 of the OP April 21, 2000 earlier report to BZA also made the same point about Sq. 54. **“This uncertainty about future use (of Sq. 54) makes it difficult to fully evaluate the role of this key site in the Campus Plan.”**

In my opinion, **the OP analysis of the new Campus plan is incomplete** and should not have been recommended. The Campus Plan **as submitted encourages piecemeal, patchwork and incremental planning** not customary and worthy of Zoning Commission consideration.

**If the Commission approves this new Campus Plan, with whatever number of mitigating conditions, it will violate the “campus as a whole” provision of Section 210.4.**

## **3. APPLICATION AS SUBMITTED**

**The several applications raise many issues, and if acted upon favorably, will set a far reaching precedent** for other University Campus Plans, the current PUD process and possibly, for other future large-scale private developments.

- The first issue is the existing Campus Plan pending until June 30, 2009. Of course approved plans can be amended, but that is not what is recommended here. Since

the current plan was approved with numerous conditions, is it not appropriate to consider amending some of the existing conditions which could meet the new development needs?

- The Office of Planning recommends moving forward most of the pending current Plan conditions as conditions for approving the new Plan and also suggests an overall PUD for the entire Campus area.
- Since there are questions regarding the enforcement of several conditions in the current Plan - questions which will continue if the new Plan is approved with the same conditions - **would it not be more reasonable for the Commission to examine how the University has progressed under the current Plan thereby upholding or encouraging the BZA order for the next several Plan years?**
- The current Plan was approved under the Colleges and Universities “Special Exceptions” provisions of the regulations (Section 210) allowing academic uses within certain residential zones. The PUD application proposes further reducing the residential zoning by requesting commercial zoning. Section 210.3 cautions “it is the intent of this subsection to prevent unreasonable campus expansion into improved low-density districts.”
- Consideration of the new applications before the expiration of the current Plan will not be consistent with the purpose of Chapter 24, Plan Review Procedures, of the Zoning Regulations. Using a campus-wide PUD rather than the Special Exceptions procedure, is using the PUD process to circumvent the intent and purpose of the Regulations (Section 2400.4 Title 11).
- In the BZA final order dated January 23, 2002, the BZA found that “the University’s aggressive expansion into Foggy Bottom and the West End area has brought those neighborhoods to the ‘tipping point’, if not beyond. Large swathes of Foggy Bottom/West End have effectively been transformed into an expanded campus at the expense of the prior variety of uses.”
- The BZA further found that “the University’s use of its residentially-zoned property within the campus boundaries for non-residential uses has become objectionable to the surrounding neighborhoods.”
- In discussions about the current and any future GWU Campus Plan, this “tipping point” also had been referred to by the previous DC Director of Planning, Andrew Altman. It is difficult to understand that the current Director of Planning, who was the deputy to Mr. Altman at that time, now has a different potential development perspective. Mr. Altman’s April 21, 2000 report to BZA indicated (page 3),

**“Reaching this tipping point in this area of the District is particularly easy since Foggy Bottom is small and geographically constrained to essentially five squares south of the campus and a constrained area west of 24<sup>th</sup> Street to the freeway, plus the Columbia Plaza and Watergate complexes.”**

- These applications are using the PUD process to rezone R-5-D residential areas to C-3-C mixed use commercial; again **contrary to the intent and purpose of the Regulations.**
- **There is no context for mapping C-3-C for the PUD locations.**

In light of these and other issues regarding the applications before you, the **Commission has the opportunity and/or responsibility to enforce the current BZA-approved and Court-tested 2000 Campus Plan, before further consideration of a more intensive new Plan with the same or similar conditions contained in the earlier Plan.**

#### **4. OFFICE OF PLANNING FINAL REPORT, September 5, 2006**

- OP indicates that the new campus Plan “commits” to a longer than the **traditional 10-year term of previous plans.** There is no such “tradition” in the DC Campus Planning efforts. The 1985 GWU Campus Plan had a 15 year duration till 2000. The 1970 GWU Campus Plan also had a 15 year timeframe associated with it. The 2000 Campus Plan was labeled for a 10 year timeframe.
- The dates associated with a Campus Plan are a projection of the possible timeframe for constructing the development proposed. **It is not and cannot be a commitment.**
- The slogan “**Grow Up, Not Out**” has no officially adopted planning policy rationale or basis in the current Comprehensive Plan for the National Capital, nor the current Zoning Regulations. **It is simply a slogan** and only has possible public relations impact. Building taller buildings in the center of the campus does not reduce their impacts on surrounding lower density residential uses. The combined total land use intensity and activities, of both higher and lower heights, create impacts. The Regulations require that any such development “**not likely become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions**”. (Section 210.2 Title 11).
- Commitment and condition 1 of The OP Report (page 8) states that the increased development in the new Plan “was considered as a build-out potential”. “The message that OP has consistently sent to the University has been that the University is reaching its maximum capacity, in terms of development and enrollment.” It further states “This plan attempts to define that capacity.” However, **the Report never defines the “maximum capacity”.** How could it if **Sq. 54 and Sq. 80 Site A are not included in the planning analysis.** **Has not the current Plan established the maximum?**
- OP Report Commitment/Condition 2 indicates that “The Applicant will not initiate litigation regarding the Commission actions or stipulated conditions of approval.” How is this to be enforced? In the explanation of this condition, OP says “It is the **intent of OP** that all plan conditions will be agreed to by GW... for final approval, and thus subject to this commitment” (Emphasis added). **This**

**implies that the University has not yet, at this stage, agreed to the conditions presented in the OP Report. Giving Commission preliminary approval with conditions is no assurance that the University will agree since they have not completed the current Plan.**

- **OP Condition 3 deals with the Campus Boundaries of the new Plan being identical to the current Plan boundaries. How about 1922 F Street, the “Old Main” building? Is it not shown outside of the boundaries? In addition, the University sold, to the International Monetary Fund (IMF), the large building on Sq. 119. Will this IMF land area be allowed to be counted for total campus FAR calculations? These technicalities are important in maintaining the integrity of the Campus Plan and PUD processes.**
- **Condition 4 deals with new development and “minor renovation project”. This condition is vague and does not define minor. The new retail corridor developments are income producing not academic uses. Are they to be allowed under the overall PUD/C-3-C classification? What about the remaining R-5-D zoning along I Street? Is that to be changed to some commercial zone also?**
- **Condition 5 requires the University to notify OP, the ANCs and the Advisory Committee (to be established) “of its intent to develop a specific site on Campus...” and allow ample preparation time for review of projects. The Report states no standard as to what “ample time” is and how this “notification” is to take place.**
- **Condition 6 leaves resolution of all the current development issues and non-compliance with the current Campus Plan for a later time when 2<sup>nd</sup> stage PUDs are applied for. The main issue of maximum development beyond the current plan is again left to future uncertainty.**
- **Condition 7 deals with “substantial compliance” with all the Conditions identified in the new Plan. The Zoning Commission now has the best compliance mechanism if it does not consider the new Plan until the current Plan is in “substantial compliance” and built-out. The OP Report mentions in the discussion of Condition 7, that “the Commission has the authority to deny or decline hearing any application”. Why not do this now, during the life of the current plan?**
- **Condition 8 provides that the University “will not purchase additional residentially zoned properties outside of the (defined) Campus Plan boundaries”. The Condition does not indicate how this would be enforced since the University is “not precluded from purchasing any properties for investment purposes”.**
- **Condition 9 requires the University to “work with community representatives to form an Advisory Committee...” This condition is a good intention, however, there is no indication how this group would be administered, chaired or who it would be responsible to. The current Campus Plan also had such provisions, but**

**the effort did not reach the objective of agreement on proposing solutions to development problems.**

- **Conditions 10 & 11 do not resolve** the issues associated with student and faculty headcounts, as I explained more fully in my affidavit. The full-time equivalent method of counting does not demonstrate the **total daily population activity** on, and to and from the Campus. Also, the University omits “continuing education” students who may not have to be reported under IPEDS criteria, but who have an impact on the campus and the neighborhood. Only a complete **headcount of all persons** associated with the University on a daily basis **related to building trip generation rates and transit trips**, can provide the evidence of impact on the neighborhood. Then, if needed, mitigation can be attempted by setting maximum population limits. **The same issue of enforcement continues with the proposed new Campus Plan headcount conditions.** The revised definitions only partially improve the counting situation.
- **Conditions 12, 13 & 14 maintain** the existing on-campus undergraduate housing requirements. There is no strengthening of the enforcement or monitoring of this carried forward Condition. The new provision of future “effective dates” for vacating certain identified buildings can only be enforced by not approving any proposed PUD until after vacating such buildings. The University intends to use the undergraduate vacated sites for faculty and/or graduate students. No impact analysis has been undertaken to measure the impact of this population shift and/or increase. No definition of commute distance is provided in the exemption of Condition 13.
- **Conditions 15-19 “are updated versions of conditions of the 2000 Campus Plan”.** How can the Advisory Committee “review and monitor” these conditions if the Commission gives 1<sup>st</sup> stage PUD approvals? Does the Commission commit itself (at the 2<sup>nd</sup> stage PUD applications) to following/enacting an “advisory” finding of non compliance of any of these conditions?
- **Condition 20 (a new condition) states “Prior to public hearings...the University...will initiate...a process that provides for the historic designation of properties...architecturally or historically significant”.** The Report is silent on the status of this requirement as of this public hearing. The University presented a Historic Preservation Plan to the Historic Preservation Review Board, July 27, 2006. Does that presentation meet this Condition? **The PUD development proposal(s) have not been found compatible with the proposed Historic Preservation Plan.**
- **Will the commission accept the Preservation Plan as a public amenity? How will the individual historic resources be enhanced as part of the overall PUD?**
- **Condition 21 requires the University to prepare a “detailed streetscape plan applicable to the entire Foggy Bottom campus”.** The Condition also states that “A proposed draft streetscape plan will be submitted to the Commission prior to

**public hearings...on the Campus Plan”** (emphasis added). The Report states that “OP expects to have a written DDOT report on the latest draft **prior to the public hearings”** (emphasis added). **Such a draft streetscape plan has not been made available, for review and comment, by the Foggy Bottom Association.** No mention has been made as to the funding of and responsibility for the implementation of the Plan. (Is the verbal cross-examination testimony of the University’s Executive Vice President and Treasurer agreeing to an unspecified amount of money adequate?)

- Conditions 22 & 23 are updates and repeats of the language dealing with parking and traffic contained in the current Plan. Monitoring the data and enforcing the Management Plan continue to be serious issues.
- Conditions 24 & 25 deal with University Compliance Reports. These conditions are all prospective and deal with the substantive features of the current Plan as well. Condition 24 c.i. provides a **new definition** for full-time Foggy Bottom undergraduate students. The definition **excludes** from the count “graduate students, first professionals (JDs and MDs), and undergraduates taking fewer than 12 credit hours at the Foggy Bottom campus, non-degree students, full-time undergraduate study abroad students, undergraduate continuous enrollment students, and full-time undergraduate students who reside at the Mount Vernon Campus”. The **fewer than 12 credit hours exclusion** is not reasonable. It is also not reasonable to exclude any student and/or professionals, undergraduates or graduates, who visit the campus on a regular basis, any day of the week. **The total body count on a day-to-day basis related to trip generation rates is the more accurate method to establish limits.**
- What assurance is provided that the more detailed elements of Condition 25 will produce compliance when there has been a lack of and questioned compliance with the current Plan?

The OP Report does not identify any public amenities or economic benefits to the City from the PUDs or the new Campus Plan. The current Campus Plan had been examined by Professor Emeritus of Economics & Finance of The University of Milwaukee Sol S. Shalit, MBA, Ph.D. His June 2001 report entitled “**Growth and Expansion of Private Universities in the District of Columbia”** the case of George Washington University, an economic primer, was introduced into the BZA hearing. We are submitting it for this record.

Professor Shalit concludes his analysis as follows:

“There was a time when any real estate acquisition in the District by anyone, for any purpose, was hopefully deemed “economic development” and held to be grounds for generous concessions. But times have changed. Many hope that a new era has finally dawned on the city. There are signs

that Washington is increasingly asserting itself against projects which offer no long-run benefits while foreclosing other economic opportunities (e.g. tech hotels).

The growth and expansion of private universities is not simply a narrow issue of local zoning, but of District land-use planning. The manner in which the District ultimately decides to deal with it is a referendum on the future of Washington as a viable city. Will Washington claim its rightful place among the nation's top livable cities, or continue to be known primarily as a city of institutions, museums and monuments for tourists, visitors and students? At stake is whether untaxed private institutions shall be allowed, chiefly for their own benefit, to continue to expand without limit into scarce land to accommodate visitors and short-term residents, or whether the city would be better served by laying down the groundwork for a healthy core of commerce and a tax-paying base of permanent residents. The outcome, however, is nothing short of a litmus test of who actually runs this city – its elected officials, or powerful institutions acting in their own self-interest.”

Professor Shalit's main point at the September 24, 2000 BZA hearing was **“Constraints on growth and expansion are never going to originate from within the University, but must come only from the regulatory bodies set up for that very purpose.”** He went on to explain that **“Growth is surely not a University right; it is a privilege. Zoning boards and planning commissions evince no hostility to higher education—and need not feel guilty—when they curb the appetite of urban universities and impose strict limits on their expansion. They are just doing their job.”**

A major omission in the OP Report, as well as in the Traffic Consultant's analysis, is no attention or concern for the performing arts, art galleries and sporting activities on campus. **Lisner Hall (2000+ seats), Marvin Theatre (435 seats), CNN Productions in the Media & Public Affairs Building and the Smith Athletic Center, to mention a few, provide adverse impacts on the neighborhood; each having numerous of performances and events each month. They all generate considerable traffic/noise and parking impacts. The Campus Plan does not address these major University activities and events and resultant traffic congestions.**

## **5. THE PUD PROCESS**

The OP Report (page 19) indicates **“One of the most significant aspects of this (new) plan is that...GW has committed to the City and the neighborhood that no development will take place outside of the proposed sites”.** The Report further indicates that the current plan allows further processing applications”. **We see no difference in the new Plan. We only see excessive building activity.** The so-called University commitment may still be intensified by requesting changes at the next PUD stage or later.

Creating an entire campus-wide PUD, as suggested by OP, is not the intent of Chapter 24, Plan Review Procedures. There is no provision in Chapter 24 which suggest such a large-scale PUD approach. **Section 2400 deals with “specific development proposals”.** In

**any event, the PUD application before the Commission identifies five (5) lot assemblages or development sites, which would be rezoned from R-5-D to C-3-C. Including the entire rest of the area, within the Campus boundaries, would create the largest PUD in the District (43 acres) and would include more than a dozen private properties and DC properties not owned by the University.**

**The application states that it only covers the properties owned by the University. Have all the other private property owners agreed to have their property included into the campus-wide PUD?**

The overall PUD approach is referred to as being similar to the approach allowed by the Commission for the Washington Hospital Center Master Plan. If you compare the two geographic areas objectively, one will find there are numerous differences. The Hospital Center is a self-contained enclosed, single access road, uptown or mid city planning area with roadways to serve the interior individual medical use buildings. All traffic is Hospital Center local traffic. (See Map 1 & 2 attached).

The GWU Campus Plan covers an area **that is not separated from the rest of the city** but is set in a central residential and adjoining central employment area. Access to the area is provided by a historic integral street grid system serving a much larger area than only the University. The local traffic is mixed with major regional traffic. (See Map 3&4 attached).

**In my professional opinion there is very little similarity between the two areas either geographically or in land use activity. The comparison is not valid.**

The 1<sup>st</sup> stage PUD procedure does not “provide certainty to all sides about how the plan will be fulfilled”. OP states (page 19) “the campus Plan related PUD process is intended to ensure that the development potential exists for the University to accommodate the space needs for its current student enrollment on the existing campus.” OP then recommends “that the university be required to complete a substantial majority of its development plan **prior to the expiration** of the Campus Plan before the 1<sup>st</sup> stage PUD would become permanently vested”. **The Commission should apply this recommendation to the current Plan.**

The Report further suggests that the exact percentage and measurement tool for the PUD’s should be determined by the Commission. **The Report does not give the Commission any guidance or suggestion that this as an additional condition.**

**There exists a simpler method of measurement, and that is holding the University to its current Plan and not proceeding with considering the new proposal.**

## **6. DENSITY CHANGES AND THE COMPREHENSIVE PLAN**

Very little justification is provided in the OP Report for the location of the “concentrated density” suggested for the more central portions of the campus. Looking at the proposed Zoning Map for the Campus, that map demonstrates the substantial further encroachment

of C-3-C zoning from Pennsylvania Ave., K and L Streets into the R-5-D residential zone.

The main guidance the current Comprehensive Plan for the National Capital, Land Use Element provides (Comp. Plan) is that the area under discussion is designated for **generalized Institutional use**. It does not address density. The OP conformance reference to Comp. Plan Section 1340.2, dealing with George Washington University and Georgetown University provides **only general guidance** as compared with is the Ward 2 Element, Section 1358 (page 13-52), which states **“The expansion of the University has resulted in the diminishment of housing... This and other commercial usage is of grave concern to the Foggy Bottom residential community”** (Emphasis added). This Section also makes reference to **“the impact of University- generated traffic (which) has had a negative effect on residential Foggy Bottom”**. **These last two Comp. Plan references should give the Commission direct guidance in this case.**

Increasing the density over what has already been approved **will only further increase the gravity of the current conditions and impacts**, regardless of whether it is placed in the center or on the edge of the campus. **The main issue is the proposed additional density and academic intensity of use on the campus and their impacts on the surrounding neighborhoods.** The OP Report does not address this issue. OP has not reported on the differences between the development magnitudes of the current zoning, within the campus, compared to the proposed PUD zone changes. Building out the **“unused density around the periphery of the campus”** would further intensify the development issues in this area. **The basic problem is that the area is already at the earlier BZA mentioned “tipping point”.** (OP Report to BZA April 21, 2000).

The OP report does not examine the proposed FAR increase in relation to traffic trip generation factors for the various uses. This, of course, needs to include the entire campus area including Sq. 54 and Site A in Sq. 80.

Furthermore, taller and denser structures in the center of the campus must be evaluated with regard to their possible adverse impacts on the historic resources in the area. This analysis has not taken place and is not considered in the GWU’s **“Historic Preservation Plan”**.

## **7. OP REPORT COMMUNITY ISSUES**

- There are no **“significant new commitments”** in the 2006-2025 Plan.
- We support the ANC request for the University’s compliance with the current approved Plan.
- **We believe the 3.65 FAR proposals (for the residential zoned land) requested in the over-all PUD exceeds the maximum stipulated in Section 210.**
- The C-3-C map amendments, for each of the Pods, **circumvents** Section 210.
- The current valid Plan, without amendment, has **“capped University development”**, until June 30, 2009, to the magnitude provided in the current Campus Plan approval.

- Any questions regarding the provisions or interpretation of the current Plan can be rectified by the Commission and or the Zoning Administrator.
- Allowing nearly 2 million additional square feet of University development, will transform the limited existing residential character into a complete University area, completely eroding and changing the character of this section of the District.

In my former professional life, at NCPC, I have witnessed, since the 1970's, the growth of this urban University in an unremitting endless fashion. It looks like a way of life with growth itself as the goal.

Thank you. I will be pleased to answer any Commission questions.



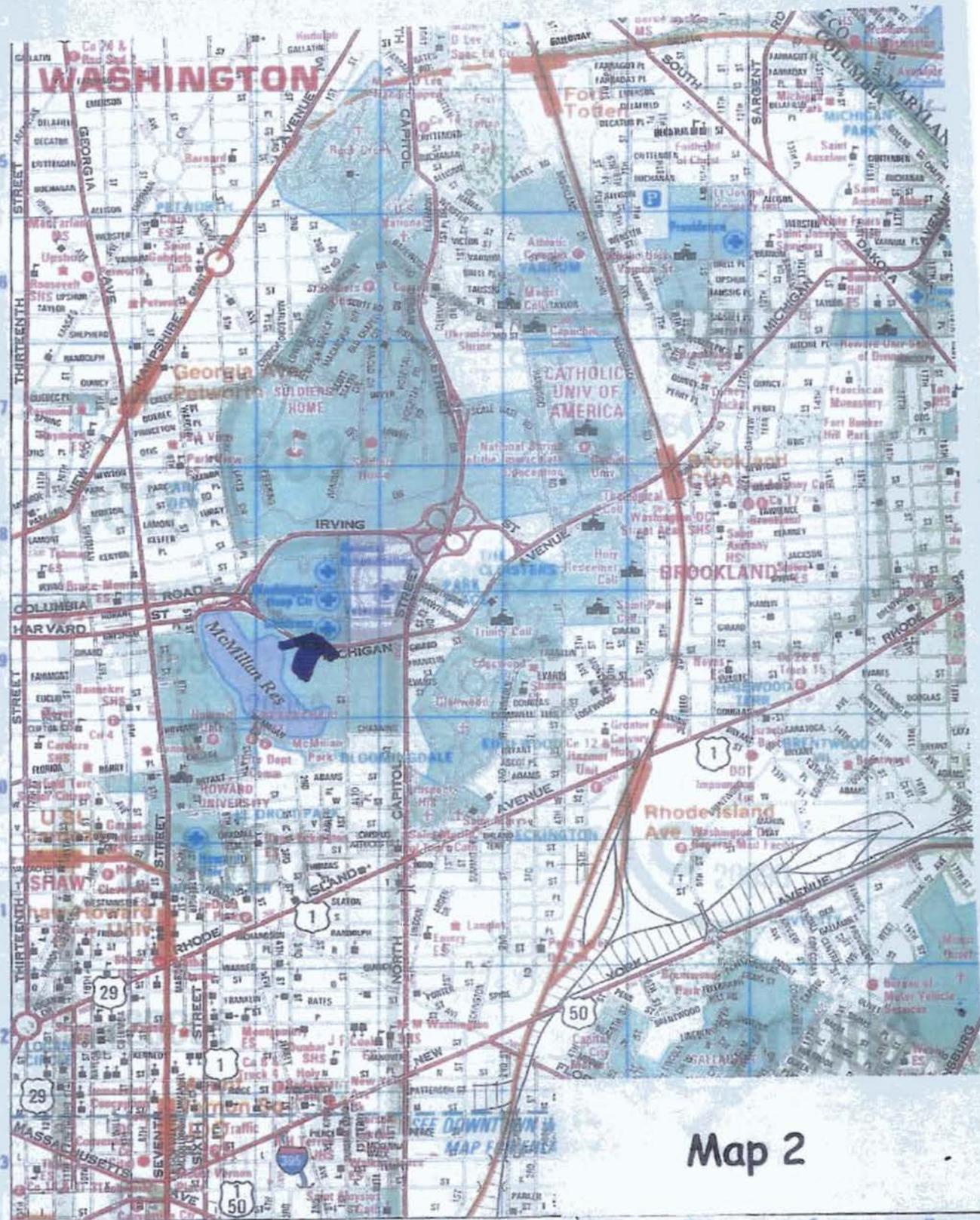
Map 1

Joins Map 4

400,000 FT

38° 15' 00"

1/2 GRID 390,000 FT



Map 2



Before the Zoning Commission for the District of Columbia

**GEORGE WASHINGTON UNIVERSITY  
CAMPUS PLAN APPLICATION AND  
FIRST-STAGE PLANNED UNIT DEVELOPMENT PROPOSAL  
Zoning Commission Case Nos. 06-11 and 06-12**

**Summary of Traffic Issues  
Related to GWU Campus**

**Testimony of Joe Mehra, P.E.  
on behalf of the Foggy Bottom Association  
September 2006**

• This report will analyze the applicant's traffic and parking reports from Wells & Associates, LLC that presented as exhibits to the two applications, as well as additional material provided.

**Response to Wells Analysis of Existing Conditions**

- Truck data not provided (deliveries, trash, etc.). This can impact levels of service.
- Existing queues are also not provided
- Spillback onto adjacent intersections not provided for existing conditions – this too can impact levels of service.

**Response to Analysis of Existing Traffic Data**

- Observed counts do not match data used to compute levels of service.
- For example: 21<sup>st</sup> Street at Eye Street.  
The observed volume is 634 in PM peak hour.
- The LOS analysis used 434.
- This results in better levels of service.

**Response to Analysis on Peak Hour Determination**

- Wells report states that the Street peak is 8:30-9:30 AM and 5:30-6:30 PM; GWU peak is 8:00-9:00 AM and 5:00-6:00 PM, for a half-hour overlap only.
- Wells data shows that 23 out of 31 intersections have street peak earlier than 8:30-9:30 AM.
- Wells data shows that 21 out of 31 intersections have street peak earlier than 5:30-6:30 PM.
- Inference – Street peak and GWU peak are at about the same time.

## Existing GWU Trip Generation

<u>Peak Hour</u>	<u>Based on Parking</u>	<u>Based on Travel Survey</u>	<u>Based on ITE Report</u>
AM Peak	804	1522	3948
PM Peak	909	862	3948

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### **Existing GWU Trip Generation Possible Reasons for Discrepancies**

- 25% factoring to account for on-street parking is too low.
- Report states that about 2,500 travel survey responses received; Table 3-2 shows 2,470 responses, Table 3-3 shows 3,080 responses.
- Faculty/Staff generates only 1 trip for 13.6 employees in PM versus 1 trip for 3 employees in AM.

### **Future Traffic Projections**

- Wells report assumed 0.5% per year Background Growth; DDOT Study used 1% per year growth.
- GWU growth in trips based on incorrect assumptions.
- GWU growth in vehicle trips does not include non-GWU bus travel from other campuses.
- Total trips forecasted as much as 400 vehicles per hour less for some movements.

### **Levels of Service**

- 9 out of 37 intersections analyzed are failing today (LOS E or F).
- With GWU expansion, 16 out of 37 intersections will fail, based on Wells Report.
- Using corrected data, an additional 6 intersections may fail.
- After mitigation, 15 out of 37 intersections still fail.

- Mitigation results in loss of curbside parking.

### **Transportation Management Plan**

- The TMP is very generic.
- No specific or binding actions are presented.
- It may not result in any vehicle trip reductions.

**GROWTH AND EXPANSION OF PRIVATE  
UNIVERSITIES IN THE DISTRICT OF COLUMBIA**

**The case of George Washington University**

**AN ECONOMICS PRIMER**

**By**

**Sol S. Shalit, MBA, Ph.D.**  
**Professor Emeritus of Economics & Finance**

**June, 2001**

**THE UNIVERSITY OF WISCONSIN - MILWAUKEE**  
**School of Business Administration**

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## I. EXECUTIVE SUMMARY

Washington has never had an effective mechanism to deal with university growth. Instead, it has attempted to manage university expansion through a combination of ad hoc zoning decisions and costly litigation. This February, after years of neglect, the DC Board of Zoning Adjustment did finally place some long overdue conditions on the expansion plans of George Washington University (GWU)). The University responded by filing two lawsuits and an injunction against the District, asserting that Washington's entire body of campus-plan regulations was unconstitutional and void. This tutorial-style paper aims to contribute to an understanding and public discussion of the economics of university growth and its implications for public policy, with a particular focus on GWU. Among its highlights:

1. GWU's has grown beyond optimum size and its net economic impact on the District is negative. While the cost of hosting the university is born by the District alone, the University's educational benefits flow largely outside the District to other jurisdictions.
2. GWU has a built-in growth bias that knows no limits and recognizes no boundaries. Its continuous expansion shifts costs from the University to the District and harms the surrounding residential communities.
3. The University's rationale for growth does not stand scrutiny and its expansion is in conflict with its professed quest for quality.
4. At considerable opportunity cost, the District has been generous to GWU, but its benevolence has not been recognized.
5. The existing campus-plan review process is seriously flawed. It does not work. Student enrollment is an appropriate, legitimate, and by far the most effective way of regulating university growth.
6. Ultimately, policy makers have to make a judgment as to whether the District is getting its money's worth by continuing to subsidize a private university occupying some 43 acres of the city's choice residential real estate for educating students from throughout the United States and 87 foreign countries.

## II. INTRODUCTION

The growth and expansion of private universities in the District, a decades-old process that has been operating steadily and quietly with little discussion, has finally caught the public eye. As university campus plans come under growing public scrutiny, the shortcomings of the review process become increasingly apparent. There is wide dissatisfaction with the campus-plan approval process, and awareness that the issue goes beyond just local university-neighborhood disputes, or Town-Gown skirmishes. The sheer magnitude of university presence in the city makes it clear this is no longer an issue of local zoning, but of land-use planning. One outcome of this recognition has been the recent transfer of campus plan review from the Board of Zoning Adjustment (BZA) to the DC Zoning Commission.

This paper attempts, in readable non-technical terms, to contribute to an understanding and public discussion of the economics and policy implications of university growth and expansion. Obviously, there are legal, administrative and jurisdictional issues governing the relationships between the District and the universities. But these are beyond the scope of this paper, which deals only with the policy considerations themselves.

While the analysis pertains to all Washington's private universities, the paper has a particular focus on George Washington University (GWU), the District's largest. While perhaps not a representative prototype for all the District's universities, GWU is nonetheless a good case study as it distills the issues, bring them into sharp focus, and provides some useful insight into the economics and finance of a private university.

This paper was not sponsored or funded by any group or organization and its author is solely responsible for its contents, as well as for any errors remaining therein.

### III. ECONOMICS OF UNIVERSITY GROWTH

#### 1. The University and the Neighborhood.

Any private university located in the heart of a metropolitan urban area ("Urban University") recognizes it has entered into a bargain: accepting the advantages of ease of operation, city amenities, and an edge in recruiting students and faculty, in exchange for the disadvantage of strict limitations on its size and operations, when compared to an open countryside campus. These limitations and restrictions are a fundamental necessity of urban reality, where land is scarce and location crucial, and where density heightens neighborhood effects, competing claims, and transformation of existing and potential land uses.

Consequently, the expansion of universities into their surrounding urban neighborhoods generally falls into one of two very different categories: One welcome, the other resisted. When located near a hopelessly blighted neighborhood, a university expansion is appreciated for the considerable risk it takes in property acquisition and rehabilitation. It is well-received because the results often change the neighborhood for the better. A successful example is The University of Chicago's projects in the Kenwood and Hyde Park communities of Chicago's South Side.

The second category includes universities located in the midst of well-functioning, stable residential neighborhoods -- for example, Northwestern University in Evanston, Illinois. Once the university has reached an optimum size, further expansion is invariably -- and rightfully -- viewed first with concern, and eventually with alarm. Restrictions are soon placed on any further encroachment. In the District, George Washington University clearly falls into this category.

#### 2. Campus Plans.

District universities are required to file campus plans with the Board of Zoning Adjustment (now with the Zoning Commission) and obtain its approval. The arguments advanced in support of expansion plans rest mainly on the premise that universities contribute to the District's economy -- the mantra of "economic development," which is our main interest here. Also mentioned are contributions to higher education, knowledge and

scholarship, and to the cultural life of the city and the community.

### 3. What Constitutes Economic Development?.

Without quibbling about a precise definition of economic development, it usually connotes a synergistic, sustained growth of multiple lines of enterprises out of a seminal investment in business, industry and commerce. At the very least, economic development is an undertaking that leaves the economy (neighborhood, city) better off because the project's long-run benefits exceed its costs -- broadly defined to include all costs and benefits (economic and social) affecting the District. To obtain District approval, the university itself must carry the burden of showing that its expansion meets this fundamental and overriding test.

Indeed, Washington's relevant laws and regulations recognize that a university's expansion imposes costs on the community and have specifically provided for neighborhood protection against objectionable impact (see p. 17, #12 below).

### 4. The Incidence of Costs and Benefits.

Campus plans are characteristically deficient in conveying their full impact on the District; they detail the benefits, but omit the costs altogether. While most of the *benefits* flow to the Washington Metro area and beyond, the *costs* are imposed entirely on the District itself, and specifically on the affected neighborhoods. Indeed, the general disparity between the placement of costs and the distribution of benefits is at the core of the District's economic and political predicament. It is a classic case of what is known in economics as "Diffused Benefits and Concentrated Costs." This being the nation's capital, Washington is likely already a "net benefits exporter" in its balance of trade with the rest of the world. University expansion only further aggravates this imbalance.

The correct unit for the costs/benefits data must always be the community, the District -- not the university, not Metro Washington, not the nation, not the visionary cause of higher education. The applicant ultimately must carry the burden of showing how and why the plan is a net benefit to the *District*. Yet campus plans sidestep this issue altogether.

## 5. University Optimum Size.

A university's entire existence is not at issue -- it is here to stay -- only its size. Thus, the central issue for public policy is: What is a university's optimum size? In other words, a size beyond which further expansion is deemed harmful to the District's long-run interests and, in principle, ought not be granted. Obviously, this optimum size would be greatly affected by a university's particular location and circumstances. If one is unwilling to accept the notion of optimal size, it would follow that a university ought to continue expanding ad infinitum into the city's limited land with no constraints or regard for consequences.

How does one arrive at the optimum size? Who should determine it? How does one measure it?

## 6. University to Determine its Own Size?

It is tempting to think that university officials are in the best position to settle these issues, much as General Motors' own management decides what's good for GM. But universities are very different. While GM buys its resources at market prices and pays taxes, university use of the city's scarce resources is tax exempt, highly subsidized, and does not reflect the true opportunity costs of taxpaying forgone alternatives. Whereas the optimum size of a business is determined by the discipline of the capital market -- based on performance in the market place as reflected in profits and share prices -- there are no such constraints on the size of a university.

## 7. University Growth Bias.

It is a common misconception to view university growth plan as a "project" akin to a voyage or a military campaign, having a particular aim in mind, and coming to an end once the destination has been reached. In contrast, with exceptions noted below, university growth is an unremitting, endless process, a way of life, with "growth" itself as the goal. From its own point of view, there is literally no upper limit to a university's size. A university does not attempt to optimize its size, only to maximize it. Unlike a business, for which growth is often a do-or-die proposition, the growth of a university is highly optional, with most opting not to grow in size, but consolidate quality instead.

The pressures for university expansion need to be properly understood, but they can only be briefly sketched here. University growth bias stems fundamentally from its nonprofit structure and absence of well-defined ownership. In the corporate world, owners (stockholders) hire management, reward/discipline them based on performance, and keep (own) the residual (profits), after all contractual claims (employees, suppliers, bondholders) have been paid. A superior corporate executive can be monitored by company profits and properly compensated with higher pay and incentive stock options. That is the fundamental reason why corporate management wants to maximize company profits, not size. They have the incentive to economize and run things efficiently; they get neither pay nor glory for presiding over a company with huge assets, large payroll and many employees -- only for company profits.

In contrast, a university has no stockholders, but what is termed "stakeholders" -- various constituent groups pulling in different directions, often resulting in larger size. More importantly, the bottom line of a nonprofit is to show no profit. If there is one, it has to be expensed in construction projects, higher executive pay and perks, amenities to employees, more assistants to ease the work load, heavier carpeting, finer architecture, pleasing surroundings, and the like. Finally, there is no way for university executives to share with owners (stockholders) part of the bottom line "residual," because there isn't one. The consequence is what is known in economic jargon as: Expense preference, rent-seeking behavior, and the pursuit of non-pecuniary benefits.

That's why university officials generally love size; they love a big operation, growth and expansion, more programs and large payroll -- the bigger the better: Pay is higher, perks larger. Non-pecuniary compensation, such as higher visibility, social standing in the community, media impact and political influence -- are ways of getting at the "residual" when cash and stock options are not a choice.

Only at distinguished universities and top liberal arts colleges, can one observe a balanced distribution of power between the Board of Trustees and the administration, on the one hand, and faculty governance on the other hand. These institutions can better resist these entrepreneurial growth pressures because their output has better quality controls: The university's reputation for excellence dictates self-imposed constraints for maintaining high standards of research,

scholarship, and quality educational programs. They aim at an optimum, not maximum.

#### 8. Growth Constraints Must Come from Outside.

For other universities, however, constraints on growth and expansion are never going to originate from within, but must come from without, from the regulatory bodies set up for that purpose. Once optimum size has been reached, university expansion is neither an imperative, nor a right; it is a privilege. Universities do not have to grow, they simply choose to. Zoning boards and planning commissions across the nation evince no hostility to higher education -- and need not feel guilty -- when they impose strict limits on the expansion of urban universities. They are just doing their job.

#### 9. The Need to Formulate Policy.

Sooner or later, at the highest legislative and policy echelons, this city will be forced to decide what it intends to do, if anything, about the continuous expansion of private universities in the District. Recent zoning hearings and court filings provide ample evidence that this trend is likely to continue unabated, if not to accelerate. The District has Zoning Regulations and a Comprehensive Plan, but no mechanism to deal effectively with such growth. In its absence, the long run is being shaped by fits and starts through a combination of ad hoc zoning decisions and costly litigation, while university expansion continues unabated. As time goes by, universities accumulate more political and economic clout and the District is increasingly put at a disadvantage at curbing their further expansion. One university (GWU) alone has been allowed to become already the largest private employer in the District -- a dominance not boding well for economic and political balance. Moreover, by combining resources to form The Consortium of Universities of the Washington Metropolitan Area, District universities have been able to speak in one voice as a unified group, take concerted action, and lobby further to advance their interests.

It has been said that unpaid community volunteers were no match for the universities' economic and political resources, their full-time professional management, outside legal counsel and publicity machine. The day may soon arrive when the District itself will be no match for them.

## 10. Some Public Policy Considerations.

The one paramount, overriding criterion is: Considering all advantages and disadvantages, does a university campus plan leave the District better off on balance? Is the net impact positive or negative? Consider the case of GWU as an illustrative example.

### a. Negative Economic Impact.

(i) Benefits: GWU's expenditure on goods and services has been cited as evidence of its economic benefit ("Economic Development"). However, this spending can count as a benefit if, and only if, it flows primarily to businesses and employees residing in the District. This most definitively is not the case as an overwhelming share of its expenditure on goods and services flows outside the District (primarily to Maryland and Virginia).

Although precise figures are lacking, according to GWU's own commissioned study (for 1998), only 31% of its employees were DC residents, and over 52% of the latter were students. Of GWU's \$267 million payroll, less than 21.5% was paid to DC residents. According to its recent lawsuit, the University's income tax withholdings for the District were only 13% of total withholdings. A *Washington Post* estimate of August, 2000 cites 19.5% as the DC's portion of GWU's spending on goods and services. Thus, about 80%-87% of GWU's "economic development" flows out of the District to other jurisdictions. The benefits are widely diffused.

Even if these benefits were to be concentrated fully in the District, the economic development generated by the University's expenditures is very different in nature and quality from that resulting from, say, Boeing selecting Washington (instead of Chicago) as the site of its headquarters. Economic development is not an event, but a growing, self-sustaining process of proliferation of new economic activity sparked by the initial investment; it results in attracting additional taxpaying permanent residents who want to live in the city. This sharply contrasts with GWU which largely supports the retail trade of hotels, restaurants, entertainment and gift shops serving students, short-term visitors and tourists, of which this city has already an abundance. What this town needs is more taxpaying permanent residents. But the University's expansion has soaked up scarce residential land that could otherwise be available for them.

(ii) Costs: In contrast, it is the District alone that bears the entire cost due to GWU's presence, with particular impact on the adjacent communities (Foggy Bottom/West end). The costs are highly concentrated. They include:

- (a) The cost of providing municipal public services (police, fire, traffic, street work, lights, utilities, etc.).
- (b) The cost of GWU-owned, tax-exempt properties for University use removed from the District's tax base and the resulting loss of income and sales tax revenue generated by the economic activity displaced by GWU's real estate acquisitions.
- (c) The costs imposed on the neighborhood and on the District at large by changing the character of a stable residential community now beset by congestion, nuisance, rowdiness and other facets of student life, and their impact on property values, population shifts, and on the need to preserve a healthy mix of institutional versus residential housing in a city already dominated by the former.
- (d) The opportunity costs of foreclosing -- possibly forever -- alternative private development (residential and commercial) of land occupied by a permanent monolithic institution.

Irrespective of the precise figures, the very nature of diffused benefits and concentrated costs and their relative order of magnitudes are sufficient to conclude that the GWU's net economic impact on the District is decidedly negative.

One must fully appreciate the nature and magnitude of the District's fiscal loss of revenue due to GWU's expansion. It is a considerable sum of money in the budget of a struggling city besieged by numerous problems -- including a deteriorating infrastructure -- when it is already shackled with \$64 billion worth of tax-exempt properties costing it \$1.3 billion a year in property tax revenue. GWU has been reducing the city's tax base in two ways:

- (a) Purchasing large numbers of properties and converting them for university use, thereby costing the city the loss of property taxes, corporate taxes, food & beverage taxes and

hotel taxes, as well as income taxes (DC's largest tax revenue category) from DC residents GWU has displaced.

- (b) Through its deliberate policy of not housing its growing number of students within campus boundaries, GWU has been able to convert for its own use a very significant volume of housing by forcing its students on the neighborhood's limited stock of townhouses, apartment buildings, condominiums and co-ops -- turning them into virtual university dormitories and causing an exodus of taxpaying permanent residents. This has decimated large chunks of a prized residential community -- the lifeline of any healthy city.

Although no precise numbers are available, a December 1998 ANC-2A document (updated 4-12-00) prepared in connection with the DC Comprehensive Plan cites yearly figures of \$50 to \$60 million as a conservative estimate of District tax revenue loss due to GWU. The tax revenue collected -- directly and indirectly -- from all university operations was only a small fraction of the tax loss to the District. Thus, the University's net fiscal impact on the District is also decidedly negative.

Therefore, from the District's viewpoint of strict economics, GWU is a net cost, not a net benefit. Ultimately, policy makers have to make a judgment as to whether the District is getting its money's worth in subsidizing a private university occupying some 43 acres of the city's choice residential real estate for the "education of 16,000 students from throughout the United States and 87 foreign countries?" (figures from GWU's lawsuits, see Appendix below, reference on p. 20, #2).

#### b. Education as a Benefit.

The District may wish to take a hard look at what precisely is the university intellectual contribution to the production and dissemination of knowledge, and to research and scholarship. Here, national reputation and ranking play a pertinent role.

It must be acknowledged that many urban universities are not among the distinguished centers of research, scholarship and education. Most of what they do is teach, launch appealing educational programs, grant degrees and diplomas, and -- capitalizing on their advantageous urban location -- draw students. Most of what they offer is readily available elsewhere in the country at hundreds of other similar colleges and universities. Should any one of them close down, it would hardly

leave a mark on higher education. Whether GWU falls into this category is a question that hasn't been studied.

However, it would be hard to argue that GWU has done for Washington what Harvard and MIT have done for Boston, or Northwestern for Evanston. Anyone looking at its spectacular growth, whether measured by square footage, dollars or enrollment, cannot escape the conclusion that this city has been receptive, indeed quite generous, to the GWU. There is little doubt that University's growth fortunes and high student appeal would have been very different had it been located, say, in Peoria, Illinois, instead of in a peaceful and stable neighborhood of an exciting city, at the heart of the nation's capital, with a Metro station right in the middle of campus. While the University's contribution to Washington's economy has been widely publicized, the city's benevolence -- at considerable opportunity cost -- and its pivotal impact on the University's economic well-being have not been similarly recognized or acknowledged.

#### c. Contribution to Culture and Community Life.

To distinguish the rhetoric of service to the community from the service itself, the District might wish to assess the quantity, quality, and extent of GWU's commitment and its involvement in contributing to the cultural life of this city, over and above recreational programs that universities normally provide their students. University service to, and relationship with, its immediate community are also of particular interest. It is pertinent to examine community service and outreach programs which some universities offer, but GWU avoids. A case in point: non-degree, non-certificate programs of continuing education. Although not generally considered among the great money-makers for universities, they nonetheless represent a genuine service to the community as they cater to the city's adult residents -- not to outsiders -- and make a substantial contribution to the city's life.

An assessment of GWU's contribution to culture and community life means examining the quantity and quality of its offerings, as well as their incidence. Some of these contributions (culture and service) have a local component, but the bulk of them (knowledge and education) are widely diffused and serve the nation (and the world) at large, but are of no direct benefit to the District itself.

#### IV. THE UNIVERSITY POSITION

"We can't bring in more students or professors unless we have buildings. If we don't grow, we will fall and die."  
(Stephen Joel Trachtenberg, President GWU, in The Northwest Current April 25, 2001).

##### 1. Perpetual Growth.

The University is acknowledging that its expansion is an endemic, ongoing process with no end in sight, and with no particular aim in mind. But do-or-die -- the growth imperative invoked in defense of its quest for continued expansion -- is a novel argument, by no means an established doctrine in the annals of university development. Most universities do not subscribe to it. GWU has never explained why and how simply staying at its present, rather large, size could harm students, the cause of higher education, or the District -- let alone inevitably lead to its own demise.

##### 2. Financial Exigency.

With reference to the above mentioned quote, for what purpose or objective does GWU want to "bring in more students and more professors"? Presumably, the answer is: "so it can grow," or "so it can buy more real estate and build more buildings," or "because the District can't stop it." During its campus plan hearings, the University justified the quest for growth not by specific programmatic needs, educational philosophy, or institutional mission, but bluntly as fiscal expediency: By professing a small endowment and claiming that it must, therefore, increase student enrollment to generate money. This rationale is revealing; it raises a number of questions:

- (i) Does the University, in fact, have a small endowment?
- (ii) For what specific objectives does it want now a large endowment?
- (iii) As one of the nation's oldest universities, why doesn't it rely more heavily on fund raising from foundations and alumni, as other universities do?
- (iv) Why has it constantly relied, and continues to rely, instead, on increased enrollment?

(v) Is the university, in fact, facing a fiscal problem?

### 3. Internal Finances.

This is not to imply that the District ought to be running this private university. Ordinarily, it isn't the District's business to concern itself with a university's internal finances. However, for its own financial reasons, GWU is now asking the District to allow and approve the University's expansion, which, in turn, affects the District. Thus, university finances becomes a matter of keen interest to the District. This issue, however, was not even raised during the campus plan hearings.

### 4. The District's Stake.

The District cannot be indifferent to GWU's financing choice: Fund-raising imposes costs on the *University*, while enrollment-raising imposes the costs on the *District* and the neighboring community. Even if one accepts the University's position that it, indeed, faces fiscal problems, is it sound public policy to allow it to solve them by exporting its own problems to the District?

### 5. Quality Education.

While considering itself as "one of the nation's leading universities," GWU recognized that at least 50 other universities ranked ahead of it (by U.S News & World Report). Accordingly, the University's campus plan declared that its number-one goal was to elevate its rank from second-tier to a first-tier university.

It is pertinent to point out that enrollment-raising as an easy substitute for *fund-raising* clearly contradicts this goal. The road to first-tier status is one of *raising admission standards* and *lowering enrollment*, not the other way around. If GWU is indeed serious about its stated goal of attaining first-tier status (not necessarily limited to U.S. News & World Report's popular ranking), it must know that it would need to change significantly its priorities and redirect its resources, since the conventional wisdom is to invest in research & development, library and laboratory facilities -- not in real estate, and to raise admission standards, reduce student enrollment and class size -- not increase them. In short, growth in stature rather than in size, quality rather than quantity, consolidation rather

than sprawl. This stands in stark contrast to the perpetual expansion policy the university has been pursuing until now.

#### 6. The BZA Decision.

As the BZA hearings' record shows, over the past fifteen years GWU has been relentlessly pursuing a systematic, acquisitive and expansionist real estate drive, both inside and outside its prescribed campus boundaries, in violation of the stipulations and commitments of prior planning documents, and in conflict with zoning regulations and the DC Comprehensive Plan. Unable to stop the University's real estate acquisitions and absent any other compliance/enforcement mechanism, the BZA earlier this year finally approved GWU's campus plan subject to conditions linking its student enrollment to on-campus student housing. The University's response to this attempt to regulate its expansion was the filing of two lawsuits and an injunction against the District.

In its pending lawsuits, the University claims the above-mentioned conditions are an unconstitutional taking of property without due compensation; a denial of equal protection for being treated differently than other landlords; a violation of its academic freedom; a violation of its right to expand and house its students outside campus boundaries, and of its right to conduct its operations in accordance with its educational mission. It argues that its ability to function will be severely and irreparably impaired, and is claiming damages in the millions of dollars through lost tuition and the increased need to borrow funds. In essence, the university claims that its growth and expansion is not a privilege, but a right. The courts will ultimately have to weigh the University's rights and interests, against the rights and interests of the District and its residents.

Overall, the University's rationale for eternal growth has been somewhat contradictory and hard to follow. GWU has justified its continuing expansion drive because: (a) it simply must grow (do-or-die), (b) it needs the money enrollment growth brings (hardship), (c) its growth drains money (real estate acquisitions), (d) it is good for the District (economic development), and -- if you like none of the above -- (e) because it has a right to do it anyway (Constitution).

## 7. Expansion as Leveraged Growth.

The central policy issue here is a university's optimum size -- optimal for the District, not necessarily for the university.

The record of the BZA campus plan hearings provide ample evidence that GWU had some time ago surpassed its optimum size and that its continuous expansion has damaged the adjoining historic neighborhoods and continues to pose a threat to the small stock of residential housing this city is so eagerly trying to preserve and revitalize.

The University's success in obtaining District approval for successive campus expansions has been coupled with its deliberate policy not to house its growing number of students within campus boundaries, but to force them on the neighborhood. This has been an ingenious and powerful use of the principle of leverage (operational and financial).

The number of students plays a dual role in GWU's economics: (1) as the primary source of revenue, and (2) as the base, fulcrum, for leveraging the physical campus (real estate, buildings). The campus then serves as the base, a fulcrum, for the further leveraging of more students, who in turn, are the fulcrum for more campus, and so on. This infinite cycle of perpetual expansion must soon come to an end -- as it does for most universities -- when students are housed within campus boundaries. But when they are housed outside campus (with city's acquiescence) -- this can go on forever until, theoretically, the university takes over the entire city. If students are to campus as a motor is to a car, imagine the magic of inventing an automobile that need not carry its own motor, which can be detached and conveniently left with the neighbors to operate and maintain while you drive away..

## 8. Campus Boundaries: The Tail that Wags the Dog.

GWU first creates facts on the ground *beyond its boundaries*, then lets the zoning authorities try to catch up with it. When the latter find themselves either unable or unwilling to do so, the BZA finally expands the campus boundaries in order to gain ex post jurisdiction. Ironically, the University objects (see GWU's lawsuits). The paradox of the existing system is that the BZA cannot gain full control over campus expansion beyond its existing boundaries without *expanding* these very boundaries, which in itself means failure to control. Absurdly, the BZA can

have full control over campus expansion only if and when campus boundaries are enlarged so as to encompass the entire District. And the University would still object! Nothing can better illustrate the pathological character of the exiting campus-plan review process. The system simply does not work.

#### 9. Regulating University Growth.

If the city ultimately decides to get serious about regulating university growth, what might be the policy parameters?

It is rather inefficient, and ultimately futile, to regulate incrementally, in piecemeal fashion, the conduct of an institution by focusing on its *behavior* (community service, student rowdiness, traffic congestion, and the like). The most effective approach is to regulate its *structure* (student enrollment, campus boundaries, square footage, etc.), monitor compliance, and enforce it by a system of rewards and punishments. Structure drives behavior. It is self-defeating to leave the structure largely unregulated and focus on behavior, much less expect good behavior when the structure provides no incentive for it. The antitrust folks learned this simple truth long ago.

Failure to do so dooms the regulatory authorities to continually deal with consequent *behavior*, rather than address *structure*. They will forever continue to hear about university "endeavors" and "commitments" to change student conduct and ameliorate the adverse impact on the community. They would be substituting the rhetoric of *effort* for the efficacy of *results*. Regulating behavior puts the onus on the *District*, while regulating structure put the onus on the *University*.

The foregoing is no more than an application of the well-established economic principle of "Rules versus Authorities," which posits that in carrying out public policy, it is far preferable to have a stable set of established rules, rather than delegate to regulatory bodies the interpretation of vague objectives and empower their authorities with considerable discretion and judgment.

#### 10. Size as the Sole Focus.

What drives structure? One variable -- size. Once an optimal size has been determined, that is all public policy needs to focus on. Needless to say, university's optimum size would vary depending on its location. To wit, GWU's optimum size for a

campus in Anacostia or North Capitol would be very different from the one in Foggy Bottom/West End.

What is the appropriate measure of a university's size? Enrollment? Acres of land? Total square footage of real estate properties owned in and out of campus boundaries? The number, frequency, and severity of residents' complaints? This is not the place to discuss all this, but merely to point out that GWU's measure of size is crucial to the solution.

#### 11. Measurement of Size - Enrollment.

The measurement of size is a complicated problem of economics and statistics. To simplify matters, the answer depends on the purpose at hand and, plainly stated, it means: "size is as size does." Since a university's size and its impact on the community are driven by the number of students, it follows that enrollment is a legitimate and appropriate measure of university size. The number of students -- in totals, not ratios -- is ultimately the only effective policy parameter for regulating the growth and expansion of the District's private universities.

#### 12. The Legal Framework.

Recent experience shows that enrollment is, indeed, a very good measure of a university's size and an effective instrument in controlling its expansion. For decades now, GWU has been accustomed to BZA's "approval with conditions" of its campus plans, and has adapted well to getting around them when it wished to expand. These weak and un-enforced (behavioral) conditions -- motivated more by a desire to placate an irate community than to constrain the university -- proved to be totally ineffective, as GWU's uncontrolled expansion clearly proves. All this has suddenly changed with the BZA's recent ruling, which for the first time linked the university's behavior to its structure, i.e., student enrollment. The university was finally faced with real prospects of having to change its conduct. Therein lies the significance of the BZA ruling and the university lawsuits; they attest to the effectiveness of enrollment as a measure of control.

DC Zoning Regulations and the DC Comprehensive Plan both recognize the necessity for controlling university expansion and mandate that campus plans can be approved only if the plan "is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions" (11 DCMR 210.2, emphasis supplied).

The underlined phrases seems to provide proper grounds for the natural requirement that universities file an "economic impact statement" as part of their campus plans. One major flaw of the campus-plan review process is that, oddly, they were never required to do so. Most importantly, the language of the law makes a specific reference to the "number of students." Thus, the law requires effective control and provides the instrument to do so; what remains is the will to implement it.

## V. CONCLUSIONS

There was a time when any real estate acquisition in the District by anyone, for any purpose, was hopefully deemed "economic development" and held to be grounds for generous concessions. But times have changed. Many hope that a new era has finally dawned on the city. There are signs that Washington is increasingly asserting itself against projects which offer no net long-run benefits while foreclosing other economic opportunities (e.g. tech hotels).

The growth and expansion of private universities is not simply a narrow issue of local zoning, but of District land-use planning. The manner in which the District ultimately decides to deal with it is a referendum on the future of Washington as a viable city. Will Washington claim its rightful place among the nation's top livable cities, or continue to be known primarily as a city of institutions, museums and monuments for tourists, visitors and students? At stake is whether untaxed private institutions shall be allowed, chiefly for their own benefit, to continue to expand without limit into scarce land to accommodate visitors and short-term residents, or whether the city would be better served by laying down the groundwork for a healthy core of commerce and a tax-paying base of permanent residents. The outcome, however, is nothing short of a litmus test of who actually runs this city -- its elected officials, or powerful institutions acting in their own self-interest.

## VI. READINGS

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2. Armen Alchian and Reuben A. Kessel, "Competition, Monopoly and the Pursuit of Money," Aspects of Labor Economics, Princeton University Press, Princeton, N.J., 1962, pp.157-183.
3. Sol S. Shalit, and U. Sankar, "The Measurement of Firm Size," The Review of Economics and Statistics, LIX, No. 3, pp. 290-298, Harvard University, August 1977.
4. Sol S. Shalit, "The Mathematics of Financial Leverage," Financial Management Journal, IV, No. 1, pp. 57-66, Financial Management Association, State University of New York at Albany, Spring 1975
5. Henry C. Simons, "Rules versus Authorities in Monetary Policy," Economic Policy for a Free Society, Chicago & London; The University of Chicago Press, 1949, Sixth printing, 1969; pp. 160-183.

## VII. APPENDIX

### Point - Counterpoint

Following are some arguments (condensed and paraphrased) made in defense of university expansion in the District, followed by the counter-arguments. Emphasis is on the underlying economic reasoning.

#### 1. University as Rescuer.

The university did not help destroy the neighborhood; it rescued it from decline. The neighborhood was not thriving.

GWU has often defended its expansion by presenting itself as a rescuer of Foggy Bottom/West End, pointing out the latter's humble real estate origins. The argument is erroneous as real estate markets invariably experience periods of boom and decline, followed by change and recovery. But they do so only when real estate ownership is widely diffused, thus enabling properties to circulate and exchange among competing uses. This opportunity for the marketplace to do its work is entirely foreclosed, however, if ownership of large and contiguous parcels is accumulated and concentrated in one monolithic entity, a permanent institution like a university; it would then be occupied in perpetuity. This is the fundamental rationale for having a campus plan to begin with, and why such a plan must include well-defined boundaries. It is precisely the reason why zoning regulations rightly treat universities differently from other potential users -- because they are permanent and monolithic.

#### 2. University as Victim of Discrimination.

"There is no rational basis for the BZA's Decision to impose greater restrictions on the University's ability to use its property than are imposed on other persons who own or use land in areas zoned for residential or special purpose uses." (GWU's lawsuit 4-26-01, U.S. District Court; IV. Denial of Equal Protection, p. 29).

"The District regulatory scheme, adopted by the Zoning Commission pursuant to D.C. Code #5-424, applies different, more exacting standards for approval of land use by universities based in the District of Columbia than are

applied to land use by other similarly situated landowners. Including commercial users, private developers of high density residential property, and even colleges and universities based in other jurisdictions but operating in the District of Columbia." (GWU's lawsuits, *ibid.* p.30).

As explained in (1) above, the economic and real estate implications of a permanent monolithic institution are very different from those of other land users, requiring as they do a legitimate government interest in the service of public policy.

### 3. University Fund Raising.

The university must increase enrollment to raise money for its operations and relying on fund raising is not a substitute as most grant money is restricted and earmarked for specific purposes.

Under the circumstances, it is difficult to understand a university's reluctance to accept foundation and corporate funding just because it is restricted to specific programmatic and research goals (what's wrong with that?), and does not allow much leeway in pursuing, say, real estate acquisitions.

### 4. Sharing the Cost of Municipal Services.

The university pays for many of the campus municipal services (light, landscaping, police) out of its own budget.

These expenditures should properly be viewed as customizing municipal services for a university's own needs. They do not lighten the burden on the District any more than when people install a water filtering system in their kitchen faucet.

### 5. Killing the Goose that Laid the Golden Egg?

Tough new campus plan review policies could prove disastrous because universities would be forced to leave the city if new regulations raise considerably their cost of operating in the District.

The goose is the universities and the golden egg is the District's economy, at least according to the DC Consortium of Universities, which claims that universities have remained loyal while other industries (banking, insurance) have left; "but

their devotion to the District cannot continue should the cost grow substantially." (Northwest Current, 11-22-00.)

Are we in any danger that a university will pack up and go elsewhere? Hardly! They can, and will, absorb the higher cost of compliance, should it come to pass. Unlike banking and insurance, whose resources are mobile, universities -- just like electric utilities -- are here to stay, no matter what. Having acquired local concessions over a long period of time, their fixed resources are immobile and attached to their locale; the value of their franchise is close to zero anywhere else. Economists call it a case of "inelastic supply."

#### 6. Insignificant Opposition.

"Despite GWU's sensitivity to the concerns of the local community, there remained a small group of neighborhood activists who clearly, and unjustifiably, object to GW." (GWU's lawsuit, *ibid.* p.30).

The BZA hearings' record attested that far from being small and isolated, the opposition was pervasive, substantial and consequential. GWU's campus-plan controversy was not about a handful of leaflet-waving gadflies resisting the forces of change and progress, but of an irate community let down by a system that was designed to protect it. It is tempting, but risky, to belittle community grievances as just one more local zoning dispute. Since the immediate neighborhood is the first to absorb the impact, its opposition often augurs future ramifications of larger scale and consequence. Its grievances can serve as an early warning system, not unlike the proverbial canary in the mine shaft.

\* \* \*

**MEMORANDUM OF THE FOGGY BOTTOM ASSOCIATION  
REGARDING GWU'S UNRELIABLE ENROLLMENT DATA**

A major shortcoming in measuring headcount is the lack of consistent and detailed data provided by the University as to compliance with the 2000 Campus Plan. Any Campus Plan should require more detailed data than is currently being provided, consistent with the goal of measuring and limiting objectionable impacts that are caused by GWU's activities in Foggy Bottom and the West End.

The Foggy Bottom Association viewed as one of the gains in the 2000 Plan the BZA's decision to use an objective numerical criterion, namely, "headcount." This was intended to avoid the definitional ambiguity in terms of who is enrolled and to more accurately reflect the impact on the campus and the neighborhood of students.

Unfortunately, the University has not provided accurate data that would permit the Commission, the Zoning Administrator or the Office of Planning to assess the true number of students using the Foggy Bottom campus.

The 2000 Campus Plan required the filing of certain data relating to undergraduate enrollment and the number of beds on campus. GWU has done so on a biennial basis, in February and August of each year.

Attached are the GWU reports dated February 28, 2003 and February 28, 2005. As you can see, there is no information there that is comparable to the data in Exhibit Q of GWU's Campus Plan Application (also reproduced for convenience), which is entitled "Enrollment Methodology" and shows the "total universe" of GW students, subtracts roughly 4000 students to determine the "FM/MV Total Student Body," which is just over 20,000, and then subtracts another 1500 students in the "study abroad," "continuous enrollment," and "Mount Vernon" resident categories, thus bringing the total down to below 20,000.

The following comments are pertinent to the Commission's consideration of these matters, particularly as the Association has not had the benefit of such data previously.

1. There is still too little information being disclosed about student enrollment. Most notably, GWU lops off 4000 students off the overall total reported to the Department of Education under IPEDS, but it does not specify how many students fall within each category.

2. GWU's treatment of these data is inconsistent. GWU argues for omitting students counted under the IPEDS method on the theory that it counts too many students not associated with the Foggy Bottom campus.

– This understates the impact of the Foggy Bottom campus on the

neighborhood, most notably, by permitting GWU to omit students who may be housed on the Mount Vernon campus, but who come regularly to Foggy Bottom for classes and other activities.

– GWU's use of data is selective. For example, GWU omits students in "continuing education" programs who *do* use the Foggy Bottom campus and who do have an impact on the neighborhood, even though they do not have to be included in IPEDS data reported to the Department of Education.

3. GWU's methodology has shifted over time. The February 2003 and February 2005 reports both contain a section entitled "Procedures Used in Compiling GWU Data." Both state that GWU is omitting "full-time undergraduates assigned to other campuses," *e.g.*, the Mount Vernon campus," as well as "study abroad" students (although neither category was explicitly cited in the 2000-01 hearings before the BZA). However:

– The 2003 report makes no reference to omitting "continuous enrollment" students.

– The 2005 report indicates that these "continuous enrollment" students are now being omitted.

– There are approximately 325 "continuous enrollment" students in each semester for the 2005-06 school year (see Ex. Q).

– GWU has not explained why, if these are students who have finished course work and are being maintained on the books until they can graduate in the spring, there were so many students in the fall semester.

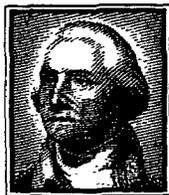
4. Given the uncertain and shifting methodology, the ANC and the Association urged District officials in the winter of 2005-06 to conduct an audit not just of student enrollment, but also of faculty and staff figures, which are way over the limits established by the BZA, as discussed in the Oberlander affidavit.

The Zoning Administrator and the Office of Planning ultimately agreed as to the need for an audit. However, the audit process was tainted in several respects:

– GWU was provided an opportunity to edit the "Scope of Services" provided to the contractor, and the Zoning Administrator accepted many of GWU's edits. Neither the ANC nor any neighborhood group was given a comparable opportunity for input.

– The "Scope of Services" was limited solely to student enrollment. As soon as the ANC learned of this fact, it repeated its prior position that the audit should cover more than student enrollment and should extend to faculty/staff numbers, which were also way over the limit. However, the Zoning Administrator did not see fit to examine those figures.

We attach after the GWU reports and Exhibit Q a chronology demonstrating that community associations sought to raise the faculty/staff issue at an early opportunity, but the Zoning Administrator did not include that issue in the audit.



February 28, 2003

Ms. Jerrily R. Kress  
Director, Office of Zoning  
441 Fourth Street, NW, 2<sup>nd</sup> Floor  
Washington, D.C. 20001

Mr. Robert Kelly  
Zoning Administrator  
Department of Consumer and Regulatory Affairs  
941 North Capitol Street, NE, 2<sup>nd</sup> Floor  
Washington, D.C. 20002

Mr. Andrew Altman  
Director, Office of Planning  
801 North Capitol Street, NE, 4<sup>th</sup> Floor  
Washington, D.C. 20002

Ms. Dorothy Miller ✓  
Chair, ANC 2A  
c/o St. Mary's Court  
725 24<sup>th</sup> Street, NW  
Washington, D.C. 20037

Ms. Barbara Spillinger  
Advisory Committee  
2500 Virginia Avenue, NW  
Washington, D.C. 20037

Re: Biannual Reports Required for GW Foggy Bottom Campus Plan BZA  
Application No. 16553F

Dear Gentilepersons:

The George Washington University has been filing reports pursuant to Conditions 9(d) and 17 of the BZA Order in the above-referenced application that provided information for the immediately preceding semester. University officials believed that, given the dates such reports were due, this system was the best way to provide complete and accurate data for the information requested. The Zoning Commission, however, in its meeting of February 24, 2003, interpreted the BZA Order as to require information current as the date of the report. Accordingly, GW hereby submits the following.

Revised August, 28, 2002 Report

GW filed a report on August 28, 2002 that provided information for Spring 2002. Enclosed is the "Revised August 2002 Report" that provides data for Fall 2002. Please note that much of the information provided in this report would not have been available on August 28, 2002. By the end of August each year, the University simply does not have complete numbers on enrollment or bed occupancy required by

Condition 9(d). Indeed, there is significant fluctuation in enrollment between that date and the end of the sixth week of classes, when the University takes its official enrollment count for the semester. Similarly, there is fluctuation in occupancy numbers in University housing in the first few weeks of classes. Finally, the information required by Condition 17— the reporting of student addresses in the Foggy Bottom/West End Area, the District of Columbia, Maryland and Virginia – is not close to becoming available by the end of August. Not only are student addresses not finalized at that time, but the arduous process of collecting, reviewing, correcting and verifying local addresses, necessary for a process undergoing audit as required in Condition 17, is too time consuming to be completed close to the August time frame.

The Revised August 28, 2002 Report enclosed is as complete as University officials can make it at this time. This is because GW officials have had the time necessary to collect most of the relevant data for last semester. Under the Commission's interpretation of the BZA Order, however, future August reports will not afford the University the time necessary to report all of this data for Fall semesters.

#### February 28, 2003 Report

The February 28, 2003 Report, enclosed, covers the information for Spring 2003, current as the cut-off date of February 24, 2003. The University had to rush this report into production based on the Zoning Commission's interpretation last Monday evening. Most of the Spring numbers for enrollment and bed occupancy, however, are current. The University has not, however, had time to gather new information required for Condition 17, i.e., local student addresses for Spring 2003. It has been the University's experience that the addresses reported in the Fall (reported in the Revised August 28, 2002 Report) do not change significantly in the Spring. Thus, we have repeated this information for the February 28<sup>th</sup> report, because this is the information that is currently available. The University will continue to collect, review and verify local addresses for Spring 2003, and report final results in the next report.

#### Increase in On-Campus Beds

Since the issuance of the BZA Remand Order, the University has moved aggressively to develop more beds on-campus. In the past year, the University has added some 238 beds on-campus. Currently, approximately 1,073 beds are under development. (See Section 2 in the response to Condition 9(d).) Most of the beds are under construction, while some will be added by reconfiguring existing on campus residential facilities. The University is committed to moving as quickly as it can to complete all beds under development. While construction of new residential facilities by necessity takes time, the University is well on its way to significantly increasing the number of on-campus beds.

Sincerely,



Charles K. Barber

RECEIVED  
3-1-03

**FEBRUARY 28, 2003 REPORT  
For Spring 2003**

February 28, 2003

**Information Required By Condition 9(d) Of BZA Remand Order  
For Spring 2003**

- 1) Number of full time undergraduates enrolled in Spring 2003: 7353  
Average for Fall and Spring 2002: 7,709
  
- 2) Number of beds on campus: 4,534
  - a. University supplied beds: 4,358
  - b. Other beds on campus:<sup>1</sup> 176
  - c. Occupied by full time undergraduates: 4,137
 Number of beds under development:<sup>2</sup> 1,073
  
- 3) Number and location University-supplied beds outside of the Foggy Bottom/West End area.<sup>3</sup>
  - a. Occupied by full time undergraduates: 0
  - b. Made available to full time undergraduate: 0
  
- 4) Number and location of University-supplied beds (a) occupied by and (b) made available to its full time undergraduates students within Foggy Bottom/West End:

Hall	Address	Total Undergraduate Capacity	Total Undergraduate Occupancy
The Aston	1129 New Hampshire Avenue, NW	219	192
Hall of Virginia Avenue	2601 Virginia Avenue, NW	453	443
Pennsylvania House	2424 Pennsylvania Avenue, NW	216	161
City Hall	950 24 <sup>th</sup> Street, NW	533	411
2144 F Street	2144 F Street NW	4	4
Columbia Plaza <sup>4</sup>	Virginia Avenue, NW between 23 <sup>rd</sup> & 24 <sup>th</sup> Streets	219	211
<b>TOTAL</b>		<b>1644</b>	<b>1422</b>

<sup>1</sup> Total of all beds occupied by full time undergraduates in on-campus facilities not owned by GW, including those owned by fraternities.

<sup>2</sup> Includes approximately 923 beds under construction and 150 additional beds to be provided for Fall 2003 through reconfiguration of existing on-campus facilities.

<sup>3</sup> This count excludes beds on the GW Mount Vernon campus, which is the subject of a separate campus plan order. GW continues to explore the acquisition of beds outside of the Foggy Bottom/West End Area.

<sup>4</sup> The University owns a minority interest in the partnership that owns the Columbia Plaza Apartments. This bed count includes the number of beds in Columbia Plaza that full time undergraduate students lease directly from the owner, but to which the University directed those students pursuant to its agreement with the owner. The figures provided above do not, however, include beds occupied by any graduate students or staff, nor any student who may lease rooms directly from the owner, rather than being directed by GW.

February 28, 2003

PROCEDURES USED IN COMPILING GW DATA

In compiling the data reported in the February 28, 2003 report in response to Condition 9(d) of the BZA Order for the Foggy Bottom Campus Plan, dated January 23, 2002, the following methods, assumptions and sources were employed.

1. The number of full time undergraduates enrolled for Spring semester 2003 was provided by the Office of Institutional Research, the GW office charged with the responsibility of tracking student enrollment and other University statistics. Pursuant to standard University procedure, the enrollment count was taken at the conclusion of the sixth week of classes, or February 21, 2003. This count excludes
  - a. Full time undergraduates assigned to other campuses, e.g., the Mount Vernon Campus.
  - b. Foggy Bottom full time undergraduates who were away for the entire semester on study abroad programs.
2. The numbers of University-supplied beds occupied and available to full time undergraduates on and off campus were supplied by the Office of Residence Life, the GW office charged with managing such beds. The number of occupied beds was determined effective as of February 24, 2003. In determining the number of occupied beds, the University excluded graduate students and undergraduates assigned to other campuses. Full time undergraduates who live in a residence hall and who work as staff were included, but other residence hall staff (graduate students and non-students) were excluded.
3. The University has included in the on-campus bed count those beds occupied by Foggy Bottom full time undergraduates in facilities not owned by the University. This information was provided by the report of local student addresses. Included in this category are on-campus facilities owned by fraternities and private parties. The University is refining the process of identifying and collecting data on these beds.
4. The bed count for Columbia Plaza, in which the University has a minority ownership interest, includes the number of beds to which GW directed its full time undergraduates to the Columbia Plaza management company for leasing. The count does not include beds occupied by graduate students or staff, nor beds occupied by any student who leases beds from the Columbia Plaza management company directly, without University involvement.

**STATEMENT UNDER OATH**

I, Charles K. Barber, Senior Counsel for The George Washington University, do hereby swear that the report dated February 28, 2003, submitted in response to Condition 9(d) of the Board of Zoning Adjustment Order for the GW Foggy Bottom Campus Plan, dated January 23, 2002, as interpreted by the Zoning Commission on February 24, 2003, was prepared in accordance with the methods, assumptions and sources identified in the summary attached hereto.

2/28/03  
Date

C. K. Barber  
Charles K. Barber

Subscribed and sworn to before me this 28<sup>th</sup> day of February, 2003.

[ Official Impression  
Seal ]

Vicki Baker  
Notary Public

My commission expires Sep 14 2004

Vicki J. Baker, Notary Public  
2033 K St, NW, Suite 220  
Washington, DC 20052  
My Commission Expires:  
September 14, 2004

February 28, 2003

**Information Required By Condition 17 of BZA Remand Order,  
For Fall 2002**

- 1) Number of full time undergraduate students residing in Foggy Bottom/West End outside the campus plan boundaries: 1376 (See attached chart.)<sup>1</sup>
- 2) Number of full time undergraduate students residing in the District of Columbia outside the campus plan boundaries and Foggy Bottom/West End, organized by postal zip codes: See attached chart.
- 3) Number of full time undergraduate students residing in Maryland: 147 (See attached chart.)
- 4) Number of full time undergraduate students residing in Virginia: 439 (See attached chart.)

Good faith estimate of the number of married students and students with children encompassed in each category: 25, not broken down by category.<sup>2</sup>

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<sup>1</sup> A few students have not yet reported acceptable local addresses. Pursuant to GW policy, these students have a hold placed on their Spring registration until they fully comply with the reporting requirement.

<sup>2</sup> While married students and students with children are ineligible for University supplied housing, GW does not track the residencies of such students.

<b>Total Number of Foggy Bottom Students Residing Outside Foggy Bottom/West End</b>	
<b>State</b>	<b>Total Fall 2002</b>
<b>Virginia</b>	<b>439</b>
<b>Maryland</b>	<b>147</b>
<b>District of Columbia</b>	<b>304</b>
20001	20
20002	10
20003	8
20004	1
20005	22
20006	3
20007	43
20008	22
20009	56
20010	15
20011	7
20012	1
20015	3
20016	18
20017	3
20019	1
20020	1
20024	6
20027	2
20032	3
20036	25
20037	32
20038	0
20050	0
20052	0
20056	1
20057	1
<b>Total Students Outside Foggy Bottom/West End Area</b>	<b>890</b>
<b>Total Number of Foggy Bottom Students Living Inside FB/WE Outside Campus Boundary</b>	
<b>Zip Code</b>	<b>Total Fall 2002</b>
20006	357
20036	18
20037	1001
<b>Total Students Residing Inside Foggy Bottom/West End Outside Campus Bc</b>	<b>1376</b>



**TO:** C. Barber, Senior Counsel  
**FROM:** K. Maronski, Assistant Vice President for Financial and Systems Auditing  
**DATE:** February 27, 2003  
**SUBJECT: REPORT OF FULL-TIME, UNDERGRADUATE STUDENTS LIVING OFF CAMPUS FOR FALL 2002 (Audit Report 03-15)**

One requirement of The George Washington University's (GW) 10-year Campus Plan (Condition 17 of Board of Zoning Adjustment (BZA) Remand Order) is to submit an audited report of full-time, undergraduate students living off campus every semester to the Washington, DC BZA. Accordingly, you asked the Internal Audit Department (IAD) to review the Fall 2002 report prepared by the University to be submitted to the BZA on February 28, 2003.

The data was compiled using downloaded information from SCT Banner, GW's student data and records management system. We performed an independent verification of student addresses in this system to determine completeness and accuracy of the Fall 2002 report.

In our opinion, the report to be submitted presents fairly, in all material respects, the address information of GW, full-time, undergraduate students living off campus for Fall 2002.

If you have any questions or if we can be of further service, please contact Mr. Novistiar Rustandi, MBA, MSIST, Internal Auditor, at 202-994-3154 or [rustandi@gwu.edu](mailto:rustandi@gwu.edu) or me at 202-994-3183 or [maronski@gwu.edu](mailto:maronski@gwu.edu).

cc: M. Beamer, Project Manager, Strategic Partnerships  
M. Cohen, Assistant Vice President, Institutional Research  
D. Geyer, University Registrar  
C. Hamilton, Associate Vice President for Finance  
L. Katz, Executive Vice President  
C. Rouse, Associate Comptroller  
T. Russell, Comptroller

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February 28, 2005

Ms. Jerrily R. Kress  
Director, Office of Zoning  
441 Fourth Street, NW, 2<sup>nd</sup> Floor  
Washington, D.C. 20001

Mr. Toye Bello  
Zoning Administrator  
Department of Consumer and Regulatory Affairs  
941 North Capitol Street, NE, 2<sup>nd</sup> Floor  
Washington, D.C. 20002

Ms. Ellen McCarthy  
Acting Director, Office of Planning  
801 North Capitol Street, NE, 4<sup>th</sup> Floor  
Washington, D.C. 20002

Mr. Vincent Micone  
Chair, ANC 2A  
1099 22<sup>nd</sup> Street, NW  
Apt. 1005  
Washington, D.C. 20037

Ms. Barbara Spillinger  
Advisory Committee  
2500 Virginia Avenue, NW  
Washington, D.C. 20037

Re: Biannual Reports Required for GW Foggy Bottom Campus Plan;  
BZA Application No. 16553F

Dear Gentilepersons:

Enclosed please find copies of the reports required by Conditions 9(c) and 17 of the BZA Second Remand Order in the above-referenced application. Attachment A is the information required under Condition 9(c), i.e., data on enrollment, number of beds available in various locations, and the number of full time undergraduates occupying those beds for the Spring 2005 semester, current as of February 18, 2005. Please note, as we have previously advised, that the final census for the Spring enrollment will not be available until the sixth week of classes, after the required reporting date.

Included as Attachment B is the data required by Condition 17 on the local addresses of full time undergraduates outside of University residence halls. As we have previously advised, reliable local address information is only available at this time for the previous semester. Thus, data for Fall 2004 is included in Attachment B. While we have made progress in expediting the process of collecting, verifying and correcting local student addresses, it still takes considerable time to produce data that can be verified by an outside auditor, as required.

Pursuant to the BZA Second Remand Order, the University will file its next report on August 28, 2005.

Sincerely,

A handwritten signature in black ink that reads "C. K. Barber". The signature is written in a cursive style with a large initial "C" and a long horizontal stroke at the end.

Charles K. Barber

**Attachments**

February 28, 2005

**Information Required By Condition 9(c) Of BZA Second Remand  
Order  
For Spring 2005**

- 1) Number of full time undergraduates enrolled in Spring 2005: 7726<sup>1</sup>  
Average for Fall 2004 and Spring 2005: 8178
  
- 2) Number of beds on campus: 5522
  - a. University supplied beds: 5454
  - b. Other beds on campus:<sup>2</sup> 68
  - c. Number of beds occupied by full time undergraduates: 5152Additional bed capacity:<sup>3</sup> 150  
Number of beds under development:<sup>4</sup> 379
  
- 3) Number and location of University-supplied beds outside of the Foggy Bottom/West End area<sup>5</sup>: 0
  
- 4) Number and location of University-supplied beds (a) occupied by and (b) made available to its full time undergraduates students within Foggy Bottom/West End:

Hall	Address	Total Undergraduate Capacity	Total Undergraduate Occupancy
The Aston	1129 New Hampshire Avenue, NW	233	185
Hall on Virginia Avenue	2601 Virginia Avenue, NW	453	453
Pennsylvania House	2424 Pennsylvania Ave. N.W.	0	0
City Hall	950 24 <sup>th</sup> Street, NW	543	421
2144 F Street	2144 F Street NW	4	4
Columbia Plaza <sup>6</sup>	Virginia Avenue, NW between 23 <sup>rd</sup> & 24 <sup>th</sup> Streets	228	154
<b>TOTAL</b>		<b>1461</b>	<b>1213</b>

<sup>1</sup> This enrollment is taken as of February 18, 2005.

<sup>2</sup> Total of all beds occupied by full time undergraduates in on-campus facilities not owned by GW based upon Fall 2004 survey of local addresses.

<sup>3</sup> The estimated number of additional beds identified by the University to date that can be accommodated in existing on campus residence halls.

<sup>4</sup> Beds in dormitory proposed for Square 103, recently approved by the Zoning Commission.

<sup>5</sup> This count excludes beds on the GW Mount Vernon campus, which is the subject of a separate campus plan order.

<sup>6</sup> The University owns a minority interest in the partnership that owns the Columbia Plaza Apartments. This bed counts include the number of beds in Columbia Plaza that full time undergraduate students lease directly from the owner, but to which the University directed those students pursuant to its agreement with the owner. The figures provided above do not, however, include beds occupied by any GW graduate student, faculty or staff, nor any undergraduate student who may lease rooms directly from the owner, rather than being directed by the University.

February 28, 2005

**PROCEDURES USED IN COMPILING GW DATA**

In compiling the data reported in the February 28, 2005 report in response to Condition 9(c) of the BZA Second Remand Order for the Foggy Bottom Campus Plan, dated April 26, 2004, the following methods, assumptions and sources were employed.

1. The number of full time undergraduates enrolled for Spring semester 2005 was provided by the Office of Institutional Research, the GW office charged with the responsibility of tracking student enrollment and other University statistics. This count was taken on the Friday before this report was compiled, February 18, 2005. The Foggy Bottom full time undergraduate enrollment count includes all full time undergraduates enrolled and taking courses for the semester, and excludes
  - a. Full time undergraduates assigned to other campuses, e.g., the Mount Vernon Campus.
  - b. Foggy Bottom full time undergraduates who were away for the entire semester, e.g., on study abroad programs.
  - c. Foggy Bottom full time undergraduates who take no courses but are "enrolled" for administrative purposes as a prerequisite to graduation.
2. The numbers of University-supplied beds occupied and available to full time undergraduates on and off campus were supplied by the Office of Residence Life, the GW office charged with managing such beds. The number of occupied beds was determined effective as of February 25, 2005. In determining the number of occupied beds, the University excluded residence hall staff consisting of graduate students and non-students, while full time undergraduates who live in a residence hall while working as staff (i.e., "community facilitators") were included.
3. The University has included in the on-campus bed count those beds occupied by Foggy Bottom full time undergraduates in facilities not owned by the University. This information was provided by the report of local student addresses. Included in this category are on-campus facilities owned by fraternities and private parties.
4. The University has identified space in existing residence halls which could house additional on-campus beds. These spaces consist of residence hall units used for administrative or other non-residential purposes, or occupied by community facilitators with fewer beds than the units can accommodate.
5. The bed count for Columbia Plaza, in which the University has a minority ownership interest, includes the number of beds to which GW directed its full time undergraduates to the Columbia Plaza management company for leasing.

**The count does not included beds occupied by graduate students, faculty or staff, nor beds occupied by any undergraduate student who leases beds from the Columbia Plaza management company directly, without University involvement.**

February 28, 2005

**Information Required By Condition 17 of BZA Remand Order,  
For Fall 2005**

- 1) Number of full time undergraduate students residing in Foggy Bottom/West End outside the campus plan boundaries: 1210 (See attached chart .)<sup>1</sup>
- 2) Number of full time undergraduate students residing in the District of Columbia outside the campus plan boundaries and Foggy Bottom/West End, organized by postal zip codes: See attached chart.
- 3) Number of full time undergraduate students residing in Maryland: 151
- 4) Number of full time undergraduate students residing in Virginia: 401

Good faith estimate of the number of married students and students with children encompassed in each category: 25, not broken down by category.<sup>2</sup>

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<sup>1</sup> This number does not include full time undergraduate students residing in GW's off campus residence halls (Hall on Virginia Avenue, City Hall, Aston, and 2144 F Street) in Fall 2005, nor full time undergraduates assigned by GW to Columbia Plaza. Bed capacity and occupancy numbers for these facilities are included in the response to Condition 9(c). (See Attachment A). Also not included are 15 students who have not yet reported acceptable local addresses. Pursuant to GW policy, these students have a hold placed on their Fall registration until they fully comply with the reporting requirement.

<sup>2</sup> While married students and students with children are ineligible for University supplied housing, GW does not track the residencies of such students.

<b>Current Addresses: Fall 2004 Current Address Summary</b>	
<b>Total Number of Foggy Bottom Students Residing Outside Foggy Bottom/West End</b>	
<b>State</b>	<b>Total Fall 2004</b>
Virginia	401
Maryland	151
District of Columbia	248
20001	13
20002	6
20003	4
20004	2
20005	23
20006	0
20007	42
20008	20
20009	50
20010	6
20011	5
20012	1
20015	1
20016	15
20017	2
20018	1
20019	1
20020	3
20024	3
20027	0
20032	2
20036	11
20037	37
20051	0
20056	0
20078	0
<b>Total Number of Foggy Bottom Students Residing Outside Foggy Bottom/West End</b>	<b>800</b>
<b>Total Number of Foggy Bottom Students Living Inside FB/WE Outside Campus Boundary</b>	
<b>Zip Code</b>	<b>Total Fall 2004</b>
20006	350
20036	18
20037	842
<b>Total Students Residing Inside Foggy Bottom/West End Outside Campus Boundary</b>	<b>1210</b>

**EXHIBIT Q**  
**Enrollment Methodology**

	<u>Fall 2005</u> <u>Census Data</u> <sup>1</sup>	<u>Spring 2006</u> <u>Census Data</u>
<p><b>I. <u>Determine the Universe of GW Students (“Total GW Student Body”)</u></b></p> <p><i>The “Total GW Student Body” consists of all students, full time and part time, undergraduate, graduate, and non-degree, enrolled at GW at the Foggy Bottom Campus, the Mount Vernon Campus, the Virginia Campus, and other locations or via distance education. This is the number of students reported to the Department of Education under the Integrated Postsecondary Education Data System (“IPEDS”), the standard reporting mechanism for student enrollment for United States institutions of higher education.</i></p>	24,099	23,295
<p><b>II. <u>Determine the On Campus (Foggy Bottom/Mount Vernon) Total Student Body (“FB/MV Total Student Body”)</u></b></p> <p><i>The FB/MV Total Student Body consists of all students of the Total Student Body who take courses at the Foggy Bottom and Mount Vernon campuses. The FB/MV Total Student Body does not include the “Virginia Campus” (located in Loudoun County), or “Off Campus” (which includes other locations in the metropolitan area, Tidewater Virginia, distance education, and contracts with the military at off campus locations). Campus location is determined by the geographic designation for each course in which a student is enrolled.</i></p>	20,318	19,370

<sup>1</sup> - The source of the data on GW student enrollment is the University’s Banner information management system. The data reported is taken from the Banner extracted file, frozen as of the date of Census. Census is the official University reporting date, which takes place in the fall and spring semesters at the end of the sixth week of classes.

**Fall 2005**  
**Census Data**

**Spring 2006**  
**Census Data**

**III. Determine Foggy Bottom Total Student Body Headcount**

*The Foggy Bottom Total Student Body headcount consists of all students of the FB/MV Total Student Body who are taking courses on the Foggy Bottom Campus. The Foggy Bottom Student Body is derived by subtracting from the FB/MV Student Body the following categories of students, as follows:*

***FB/MV Total Student Body*** 20,318 19,370

**Subtract:**

- **Study Abroad:** *Students who are enrolled in a study program outside of the United States for the semester. Such students are denoted in Banner by the course designation "EXCH".* 262 674
- **Continuous Enrollment:** *Students who are taking no courses but are "enrolled" for administrative purposes that allows the student to maintain good standing for graduation.* 329 325
- **Mount Vernon Students:** *Students accounted for under the Mount Vernon Campus Plan Order (BZA Order 16505), including both resident and non-resident students.* 925 848

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**Foggy Bottom Total Student Body Headcount** 18,802 17,523

## Audit Chronology

February 2006 – ANC, Foggy Bottom Association meet with Zoning Administrator to discuss GWU headcount methodology, urge Zoning Administrator to conduct audit of student enrollment, as well as faculty and staff numbers.

March 2006 – ANC transmits resolution re instructions for independent audit of enrollment figures. Receipt acknowledged, but no indication that views given “great weight.”

July 2006 – Draft “Scope of Services” for a student-only audit is prepared.

7/10/06 – E-mail from Charles Barber, GWU, to Bill Crews with comments and edits on Scope of Services.

7/13/06 – Crews e-mail states that “Charles Barber and I have agreed on a scope of work for the GWU Student headcount audit.” Crews states that he has “run this by the ANC Chair and he is satisfied with the scope.” (ANC Chair denies ever having seen the scope of work in a subsequent e-mail.)

7/26/06 – E-mail from Michael Thomas, ANC, to Bill Crews urging that faculty and staff be counted as well as students: “In order for the audit to provide a full and accurate measure of that activity and impact, it has to include people being educated by GW, and those educating, and those administering, whether or not they are in programs that the feds are interested in.”

August 2006 – Text of Scope of Services showing that Zoning Administrator accepted GWU changes on 4 of 6 suggested items to be covered (included in 8/8/06 email from Bill Crews to Dorothy Miller)

8/16/06 – Michael Thomas, ANC, to Bill Crews, following up on a community meeting “to confirm my understanding of what you agreed to do in the course of that meeting, “ including: “After reviewing the terms of the remand order and the plan conditions for which compliance needs to be determined, you agreed to instruct the auditors to add those items not included in the current scope of work, *to include faculty and staff caps and parking, to the scope of the audit*” (emphasis added).

8/29/06 – Ellen McCarthy, OP, letter to Joy Howell, FBA, asserts that, notwithstanding prior communications to the contrary, that the audit was not envisioned as including faculty and staff.

9/7/06 – Vice Micone, ANC, to Patrick J. Canavan, DCRA, correcting the record that Micone was “satisfied with the scope” of the audit. Micone states: “I did not agree to the scope of work. It was never shared with me, nor where my

comments – or those of the Commission – ever solicited.”

9/13/06 – E-mail from Bill Crews to Michael Thomas – ZA is “finalizing my report and hope to have it and the audit available later in the day.” The audit was not provided, however, until the following day, several hours before the start of these hearings.

2501 M Street NW, Apt 611  
Washington, DC 20037  
28 February 2006

Mr. William Crews  
Zoning Administrator  
Department of Consumer and Regulatory Affairs  
941 North Capitol Street, NE – Second Floor  
Washington, DC 20002

Dear Mr. Crews:

We met last month concerning GWU's compliance with the conditions of its current campus plan. I was there with Joy Howell, Elizabeth Elliott and Mike Hannon, and we greatly appreciated that beginning effort to talk through some of the issues you are dealing with. You provided us a memo that GWU had given OP, laying out the university's arguments for carve-outs from its enrollment in order to get it under the limit set by Condition 8 of the plan.

Since that meeting, I've become the commissioner for ANC-2A02, and I've given some thought to the enrollment count. I know that you are undertaking to oversee an audit and to determine GWU's compliance with enrollment-related conditions including Condition 8. I am circulating a resolution for the ANC to consider at its next meeting, setting out our reading of Condition 8, but our meeting is not until 15 March and I am not sure how far along your process is. This letter is to set out my thoughts, as the former Foggy Bottom president who was deeply engaged in these issues together with other community leaders (and Andy Altman and Ellen McCarthy), and as a current ANC commissioner. My thoughts are of course not entitled to the "great weight" of an ANC resolution, but only the weight they earn by dint of my experience and the persuasiveness of the arguments.

The arguments are essentially two: (1) There being no inherent ambiguity in Condition 8, it should be given a plain language interpretation, which means a headcount of every person being educated by the university at any given time. (2) To the extent there is any latitude for interpretation, the language should be read to give full effect to the purpose of the limitation as clearly set out by the BZA in Order No. 16553.

Condition 8 stipulates that the limitation is on headcount, and that the full-time equivalent limitation is additional, not alternative, to the headcount limit. The DC Court of Appeals described Condition 8 as meaning that "[d]uring the ten-year life of the plan, total student enrollment, both full and part-time may not exceed 20,000 at any one time." GWU vs. DCBZA, 831 A.2d 921, 937 (D.C. 2003). The plain meaning, then, is that every person being educated by GWU is to be counted. There are no carve-outs for those present only part-time, or those bussed in from Mount Vernon or commuting, or those going elsewhere for part of the year. GWU having reported to federal authorities, and having

conceded in their submissions to OP, that their enrollment has consistently exceeded 20,000, there is no calculation to be made.

If there were room for interpretation, however, that would not help GWU. The condition was clearly imposed by a BZA that had been convinced by Mr. Altman and the community that the Foggy Bottom residential neighborhoods were at a "tipping point" brought about by the escalating impacts of growing GWU enrollment. The purpose of Conditions 8 and 9 was to rein in that growth, and those impacts. Reading Condition 8 in light of that purpose, every person being educated at the campus, whether full time or part-time, resident or non-resident, who adds to the human activity on the campus and thus to the cumulative impacts on the community, must be included.

Thus the carve-outs argued for by the university are without merit. Perhaps the easiest case is that of the students GWU wants to count only against Mount Vernon. Those students are bussed throughout the day to and from the Foggy Bottom campus. That is where they take courses and participate in many of the student activities for which they have paid tuition. Their impacts are comparable to those of students who reside on campus; but even if their impacts were less, the test is whether they are among those who cause the impacts that cumulatively were of such concern to the BZA. If they can exclude these students, the potential for evasion of the intended limitation is vast. The same argument applies to commuting students, those abroad for limited periods, and those "administratively enrolled" but entitled to services as students.

The above arguments are made on the basis of GWU's submissions. I submit that you cannot limit yourself to what GWU has voluntarily disclosed, even if the numbers track what they are telling federal departments or the consortium of universities. Consistent with the purpose of Condition 8, it is incumbent on you to probe whether there are other categories of persons being educated or trained at the Foggy Bottom campus that are not reported to other entities for purposes different than that of Condition 8. For example, has GWU included foreign exchange students? Have they included those attending English as a Second Language courses? Have they included persons being trained for the District of Columbia, or any students from the School Without Walls who are entitled to take university classes and use university facilities? Are there educational conferences and seminars that regularly add to the total population of those being educated on campus, and thus add to the cumulative impacts of campus-based activities? Such persons need to be enumerated, and included in the headcount.

As we said at the meeting last month, these matters will consume many more meetings and a lot of effort over a long time. I look forward to working with you.

Sincerely,

Michael Thomas

**DRAFT-not for release or dissemination**

**SCOPE OF SERVICES**

**AUDIT OF**

**THE GEORGE WASHINGTON UNIVERSITY STUDENT ENROLLMENT**

**GOAL OF AUDIT:** Auditor is to verify statistics generated by or submitted by The George Washington University (GW) used to report student enrollment present at the GW Foggy Bottom Campus, to analyze categories of Foggy Bottom enrollment included in the report, and to review the methodology used by GW to determine Foggy Bottom student enrollment.

**Rationale:** Changes made to include the specific language of Condition 8 of the Foggy Bottom Campus Plan Order.

1. Evaluate sub-categories used by GW to determine Foggy Bottom student enrollment. Review categories of 'Continuous Enrollment' and 'Study Abroad' students. Clarify how visiting or foreign-exchange students are included, as well as students enrolled in special or limited courses offered by GW. Determine if there are any other categories of GW students not included in overall enrollment counts or students attending GW classes on Foggy Bottom Campus that are not included in "Foggy Bottom Total Student Body Headcount."

**Rationale:** Clarification of focus on GW students and courses, per the Campus Plan Order.

2. Further break out the students in the "Mount Vernon Resident" and "Mount Vernon Commuter/Nonresident" categories by calculating the percentage distribution of courses taken by such students on the Mount Vernon Campus and on the Foggy Bottom Campus.

**Rationale:** Clarifications to provide a more comprehensive analysis of the percentage of courses taken on each campus by these categories of students.

3. Deleted in its entirety.

**Rationale:** This request is covered by # 1, above.

4. Identify the definition of key terms used by GW in reporting student enrollment, including but not limited to 'student', 'enrollment', Full Time Equivalent (FTEs),

**Rationale:** The auditor should not be tasked with defining key terms, because such a task is beyond the auditor's expertise. The auditor can, however, identify the definitions of key terms GW has used in reporting student enrollment.

5. Provide enrollment statistics broken down by all sub-categories included in the Foggy Bottom student enrollment, and totals for the Foggy Bottom student enrollment for the Fall 2005 and Spring 2006 terms as of the official census dates.

**Rationale:** Clarification of task. GW's official census date comes at the end of the sixth week of classes and is the date used for making official reports on student enrollment.

**Audit Due:** TBD (estimate of 4 weeks) completed report due in paper and electronic formats (MS Word and/or Excel).

**Rationale:** This task, with GW's cooperation, can be accomplished in four weeks. The shorter time is needed in order to stay on track for a timely report from the Office of the Zoning Administrator.

**Administrative Procedures:**

The auditor shall conduct an entrance and exit conference with GW representatives. The entrance conference will establish the tasks to be performed and the timeframes for performance. The exit conference will provide a review of the draft findings with the opportunity for making any necessary corrections, clarifications, or additions. The auditor shall designate one contact person to handle substantive communications and will request GW to do the same.

**Rationale:** It is important to establish basic procedures to allow for an efficient and timely process.

File as of 5-5-06

**Parker, Travis (OP)**

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**From:** Crews, Bill (DCRA)  
**Sent:** Monday, July 10, 2006 7:49 PM  
**To:** LeGrant, Matt (DCRA); Parker, Travis (OP)  
**Subject:** FW: Draft Audit Services



GWU Audit Scope of Services Ma...  
GWU Audit Scope of Services Cl..

FYI, please review and provide comments. Thanks

Best regards,

Bill Crews

Zoning Administrator for the District of Columbia Department of Consumer and Regulatory Affairs  
941 N. Capitol St. NE Suite 2000  
Washington, DC 20002  
202.442.4576 Office  
202.442.4871 Fax  
bill.crews@dc.gov

-----Original Message-----  
From: Charles Barber [mailto:cbarber@gwu.edu]  
Sent: Friday, June 30, 2006 7:13 PM  
To: bill.crews@dc.gov  
Subject: Draft Audit Services

Bill:

Thanks for the opportunity to comment on the draft Scope of Services for the GW student enrollment audit. Attached are copies of the draft, one marked to show suggested changes and a second incorporating those changes in a clean version. On each, we have included a "rationale" for the changes suggested.

We have tried to track as closely as possible to the language of Condition 8 of the BZA Campus Plan Order. We are all on solid footing if our focus remains on that condition.

We are most anxious to get this process started. Even with the four week time table we suggest for the auditor to work, you will need time to review the auditor's analysis and complete your report, and to submit it well in advance of the scheduled zoning hearings. GW is ready to do whatever is necessary to get the process moving. Let me know if you want the University to pay for the audit, or whether DCRA will be able to contract for these services on a timely basis.

I will be in Monday and Wednesday of next week if we need to talk. I will be out of the office on Friday.

Happy fourth of July.

Charles

**DRAFT-not for release or dissemination**  
**SCOPE OF SERVICES**  
 AUDIT OF  
 THE GEORGE WASHINGTON UNIVERSITY STUDENT ENROLLMENT

**GOAL OF AUDIT:** Auditor is to verify statistics generated by or submitted by The George Washington University (GW) used to report student enrollment present at the GW Foggy Bottom Campus, to analyze categories of Foggy Bottom enrollment included in the report, and to review the methodology used by GW to determine Foggy Bottom student enrollment.

**Rationale:** Changes made to include the specific language of Condition 8 of the Foggy Bottom Campus Plan Order.

- Deleted: to best determine the
- Deleted: population
- Deleted: facilities,
- Deleted: persons
- Deleted: student count
- Deleted: statistics

1. Evaluate sub-categories used by GW to determine Foggy Bottom student enrollment. Review categories of 'Continuous Enrollment' and 'Study Abroad' students. Clarify how visiting or foreign-exchange students are included, as well as students enrolled in special or limited courses offered by GW. Determine if there are any other categories of GW students not included in overall enrollment counts or students attending GW classes on Foggy Bottom Campus that are not included in "Foggy Bottom Total Student Body Headcount."

Deleted: of 'Continuous

**Rationale:** Clarification of focus on GW students and courses, per the Campus Plan Order.

2. Further break out, the students in the "Mount Vernon Resident" and "Mount Vernon Commuter/Nonresident" categories by calculating the percentage distribution of courses taken by such students on the Mount Vernon Campus and on the Foggy Bottom Campus.

Deleted: down

- Deleted: to separate
- Deleted: attending classes
- Deleted: both
- Deleted: or from students attending only the Mount Vernon Campus

**Rationale:** Clarifications to provide a more comprehensive analysis of the percentage of courses taken on each campus by these categories of students.

**Rationale:** This request is covered by # 1, above.

3. Deleted in its entirety.

Deleted: 3. Distinguish student enrollment from other users of campus, such as attendees of seminars and conferences who are not enrolled. Investigate whether adult education is offered. Provide counts, if possible, for these users.]

4. Identify the definition of key terms used by GW in reporting student enrollment, including but not limited to 'student', 'enrollment', Full Time Equivalents (FTEs),

- Deleted: 4
- Deleted: .
- Deleted: Define
- Deleted: determining

**Rationale:** The auditor should not be tasked with defining key terms, because such a task is beyond the auditor's expertise. The auditor can, however, identify the definitions of key terms GW has used in reporting student enrollment.

5. Provide enrollment statistics broken down by all sub-categories included in the Foggy Bottom student enrollment, and totals for the Foggy Bottom student enrollment for the Fall 2005 and Spring 2006 terms as of the official census dates.

Deleted: 5  
Deleted: Summary  
Deleted: .

Rationale: Clarification of task. GW's official census date comes at the end of the sixth week of classes and is the date used for making official reports on student enrollment.

Audit Due: TBD (estimate of 4 weeks) completed report due in paper and electronic formats (MS Word and/or Excel).

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Deleted: 6

Rationale: This task, with GW's cooperation, can be accomplished in four weeks. The shorter time is needed in order to stay on track for a timely report from the Office of the Zoning Administrator.

**Administrative Procedures:**

The auditor shall conduct an entrance and exit conference with GW representatives. The entrance conference will establish the tasks to be performed and the timeframes for performance. The exit conference will provide a review of the draft findings with the opportunity for making any necessary corrections, clarifications, or additions. The auditor shall designate one contact person to handle substantive communications and will request GW to do the same.

Rationale: It is important to establish basic procedures to allow for an efficient and timely process.

**Parker, Travis (OP)**

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**From:** Crews, Bill (DCRA)  
**Sent:** Thursday, July 13, 2006 6:58 PM  
**To:** Canavan, Patrick (DCRA)  
**Cc:** Stanley, Neil (DCRA); LeGrant, Matt (DCRA); Jackson, Richardlee (DCRA)  
**Subject:** GWU Student audit

Patrick,

Charles Barber and I have agreed on a scope of work for the GWU Student headcount audit. I have run this by the ANC Chair and he is satisfied with the scope.

We have an audit firm ready to go for a quoted price to not exceed \$6,000. Conrad has given us numbers to put this in PASS tomorrow.

And we can brief you on this at your convenience.

Best regards,

Bill Crews

Zoning Administrator for the District of Columbia  
Department of Consumer and Regulatory Affairs  
941 N. Capitol St. NE Suite 2000  
Washington, DC 20002  
202.442.4576 Office  
202.442.4871 Fax  
bill.crews@dc.gov

8/3/2006

From: M Thomas - ANC2A02 <mthomas.anc2a02@earthlink.net>  
 To: "Crews,Bill (DCRA)", ANC 2A  
 Cc: "LeGrant,Matt (DCRA)" <Matthew.LeGrant@dc.gov>, asavage@wcanmiller.com, d.lehman@att.net, dorothismiller5@aol.com, jasmorris@earthlink.net, vnm3@earthlink.net, bspill@erols.com, lethcbafb@yahoo.com, rtc888888@hotmail.com, EEofDCFBA@aol.com, EdwardBGable@aol.com, joy@cambridgestrategicpartners.org, jglemire@aol.com, mgn9@hotmail.com, jillnevius@metronets.com, jr.oleary@verizon.net, waterloo2415@verizon.net

Subject: RE: GWU audit

Date: Jul 26, 2006 10:26 PM

Bill,

Thanks for the scope of work document. I'm struck by the fact that it doesn't set out any standard of compliance, which means that you can announce a standard later and apply it to the numbers reported by the auditor.

If you have determined what the appropriate standard is, please disclose that determination.

If you have not determined a standard, please consider my earlier submissions on that subject, and also the following:

1. OP's setback report for the GW campus plan application, 2006-11 and 06-12, dated April 10 of this year, states at page 12: "The existing plan limited student enrollment to control the effects of the Foggy Bottom campus on the surrounding neighborhood. Based on that assumption, it is logical and important to count all students living on or traveling to Foggy Bottom Campus to take classes. Conversely, it would not make sense to count anyone not creating an effect on the Foggy Bottom campus toward a student enrollment number designed to limit negative effects." And on page 22: "The intent of the student headcount is to account for every student living on or traveling to the Foggy Bottom campus for classes." In fact, there is no limitation in the language of the Plan condition in terms of students' presence for classes in Foggy Bottom. It is an overall enrollment headcount cap. Further, for purposes of quantifying persons contributing to cumulative impacts, it makes no logical difference whether they are there for classes, attendance at sports events, visits to medical clinics, student activities, or carousing with their friends. But even crediting OP's faulty reasoning, the count has to include all persons being educated by GW who are on the campus for classes, whether they live there or not, and thus all student who live at Mount Vernon and are bussed to FB for part or all of their course load.

2. GW starts from figures compiled for Federal reporting purposes, having to do with eligibility for various programs. That purpose is not the same as the purpose of the condition imposed by the BZA, which was to provide a measure of student (and faculty and staff) presence, hence activity, hence impact. In order for the audit to provide a full and accurate measure of that activity and impact, it has to include people being educated by GW, and those educating, and those administering, whether or not they are in programs that the feds are interested in. In other words, the federal report count is underinclusive, and therefore an erroneous starting figure.

I continue to have every confidence you are going to hold GW to the appropriate standard. But this is critical stuff, and your first shot out of the box, so of course we'll do our best to make a record.

Thanks.

Michael Thomas

-----Original Message-----

>From: "Crews, Bill (DCRA)" <Bill.Crews@dc.gov>  
 >Sent: Jul 26, 2006 9:43 AM  
 >To: ANC 2A <anc2a@earthlink.net>, M Thomas - ANC2A02 <mthomas.anc2a02@earthlink.net>  
 >Cc: "LeGrant, Matt (DCRA)" <Matthew.LeGrant@dc.gov>  
 >Subject: RE: GWU audit

**Joy Howell**

---

**From:** Crews, Bill (DCRA) [Bill.Crews@dc.gov]  
**Sent:** Tuesday, August 08, 2006 8:29 AM  
**To:** Dorothy Miller  
**Subject:** GWU Audit scope of work

## **SCOPE OF SERVICES**

### **AUDIT OF THE GEORGE WASHINGTON UNIVERSITY STUDENT ENROLLMENT**

**GOAL OF AUDIT:** Auditor is to verify statistics generated by or submitted by The George Washington University (GW) used to report student enrollment present at the GW Foggy Bottom Campus, to analyze categories of Foggy Bottom enrollment included in the report, and to review the methodology used by GW to determine Foggy Bottom student enrollment.

1. Evaluate sub-categories used by GW to determine Foggy Bottom student enrollment. Review categories of 'Continuous Enrollment' and 'Study Abroad' students. Clarify how visiting or foreign-exchange students are included, as well as students enrolled in special or limited courses offered by GW. Determine if there are any other categories of GW students not included in overall enrollment counts or students attending GW classes on Foggy Bottom Campus that are not included in "Foggy Bottom Total Student Body Headcount."
2. Further break out the students in the "Mount Vernon Resident" and "Mount Vernon Commuter/Nonresident" categories by calculating the number of students and percentage distribution of courses taken by such students on the Mount Vernon Campus and on the Foggy Bottom Campus.
3. Explain how the University distinguishes student enrollment from attendees of seminars and conferences who are not enrolled. Investigate whether adult education is offered. Provide counts, if available, for these uses.
4. Further break out the number of students included in the Foggy Bottom student enrollment count who are also employees (faculty or staff) of GW.
5. Identify the definition of key terms used by GW in reporting student enrollment, including but not limited to 'student', 'enrollment', Full Time Equivalents (FTEs),
6. Provide enrollment statistics broken down by all sub-categories included in the Foggy Bottom student enrollment, and totals for the Foggy Bottom student enrollment for the Fall 2005 and Spring 2006 terms as of the official census dates.

**Audit Due:** TBD (estimate of 4 weeks) completed report due in paper and electronic formats (MS Word and/or Excel).

#### **Administrative Procedures:**

The auditor shall conduct an entrance and exit conference with GW representatives. The entrance conference will establish the tasks to be performed and the timeframes for performance. The exit conference will provide a review of the draft findings with the opportunity for making any necessary

corrections, clarifications, or additions. The auditor shall designate one contact person to handle substantive communications and will request GW to do the same.

Best regards,

Bill Crews

Zoning Administrator for the District of Columbia  
Department of Consumer and Regulatory Affairs  
941 N. Capitol St. NE Suite 2000  
Washington, DC 20002  
202.442.4576 Office  
202.442.4871 Fax  
[bill.crews@dc.gov](mailto:bill.crews@dc.gov)

From: M Thomas - ANC2A02 <mthomas.anc2a02@earthlink.net>  
To: Bill.Crews@dc.gov  
Cc: asavage@wcanmiller.com, d.lehrman@aui.net, dorothymiller5@aol.com, jasmorris@earthlink.net, vnm3@earthlink.net, bspill@erols.com, lethebafb@yahoo.com, rtc888888@hotmail.com, EEofDCFBA@aol.com, EdwardBGable@aol.com, joy@cambridgestrategicpartners.org, jglemire@aol.com, mgm9@hotmail.com, jillnevius@metronets.com, jr.oleary@verizon.net, waterloo2415@verizon.net  
Subject: GW Audit  
Date: Aug 16, 2006 11:05 AM  
Dear Bill,

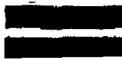
Thank you for meeting with community representatives concerning the audit of GWU's compliance with the conditions of its current campus plan. I wanted to confirm my understanding of what you agreed to do in the course of that meeting.

1. After reviewing the terms of the remand order and the plan conditions for which compliance needs to be determined, you agreed to instruct the auditors to add those items not included in the current scope of work, to include faculty and staff caps and parking, to the scope of the audit.
2. I gave you a copy of the NCES standards document by which GW (according to their attorney Sherry Rutherford) determines the initial enrollment count from which they then compute enrollment for purposes of the campus plan conditions. We reviewed the provisions for including only certain students (those pursuing certain defined programs) and excluding various groups of students (e.g., those not enrolled in a degree program and residents and others who had received a first degree) from that count. You agreed that students should be counted whether or not initially captured by, or excluded by, the NCES standard, given that they added to the intensity of campus use and attendant impacts, the relevant standard for purposes of the campus plan conditions according to OP's own representations.
3. We discussed the fact that the "Banner" software used by the University and relied upon to produce numbers for the auditor is probably designed to track GWU's federal reporting of enrollment, and would therefore be underinclusive to the extent that the NCES standard does not capture, or explicitly excludes, categories of persons being educated. You agreed to instruct the auditors to determine what categories of persons being trained or educated were not captured by the software, and to determine and report the counts of such persons.
4. You will prepare an Amended Scope of Work document to instruct the auditor in accordance with the above points. That will be a public document, which you will provide us contemporaneously with its issuance to the auditor. You intend that it be prepared by the first of the week.
5. We asked that community representatives be given an opportunity, comparable to that given the University under the Scope of Work document, to meet with the auditors to discuss their draft report before it is submitted as a final report, and to note needed corrections and additions. You promised to consider that request carefully. I would urge that failure to give the community an opportunity comparable to that of GWU to correct errors before the report is given to you for your compliance determination would taint the product, detract from your ability to reach a fair and accurate determination, and improperly and unfairly put the community at a substantial disadvantage immediately before the Zoning Commission takes up the pending applications.

Again, thank you for meeting with us. I think the meeting was very helpful, and we look forward to the implementation of the tasks identified.

Michael Thomas

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF PLANNING



Office of the Director

August 29, 2006

Joy Howell, President  
Foggy Bottom Association  
2560 Virginia Avenue N.W., Suite 195  
Washington, D.C. 20037

~~Dear Ms. Howell:~~

Thank you for your letter to the Mayor dated August 21, 2006, regarding the student enrollment audit of the George Washington University. As you are aware, my office has also been eagerly awaiting the results of the audit.

I understand that you have come to the conclusion that George Washington University has unduly influenced the Zoning Administrator's process in completing his audit. I believe your conclusion is based on incomplete information. My staff has worked closely with the Zoning Administrator (ZA) throughout this process and is completely satisfied with both the scope of services and the process to date. Mr. Crews met with parties on both sides of this issue, including your organization, and has a thorough understanding of his task in this matter.

Several statements in your letter appear to be misinformed. Mr. Crews drafted the scope of services prior to meeting with GW, based solely on information from FBA and the Office of Planning. It was only then that the draft was sent to GW for comment both as an affected party and as the subject of the audit. You are incorrect that the final scope of services incorporated all of Mr. Barber's comments. While some of his proposed changes were accepted, Mr. Crews alone wrote the final scope of services, and not all of Mr. Barber's requested changes were made.

Prior to this letter, the primary concerns that this office had heard from the community related to the number of students; we cannot recall any mention of auditing the number of faculty and staff. As a result, the audit initiated by this office, as stated to the community in public meetings as well as by the Zoning Commission in the April setdown report, was intended to confirm student enrollment numbers and was never envisioned to encompass faculty and staff.

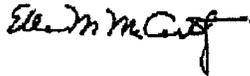
Moreover, under the current campus plan, the Zoning Administrator has never been required to perform, nor GWU submit to, an audit of any kind. The Zoning Commission has repeatedly found, through approval of further processing cases, that the University is in conformance with its required conditions. The current audit of student enrollment has been undertaken by the ZA at the request of my office and with the agreement of GWU in the interest of full community participation in the campus planning process. Please also note that the proposed campus plan

would require a yearly audit of the University's enrollment by the ZA, using well-defined terms and methods.

With this audit and the new proposed campus plan, we hope to turn a new page in GWU's relationships with its neighbors in the Foggy Bottom community, with strict controls to prevent adverse impacts of the University on the neighborhood. I strongly encourage your organization to take an active role in the hearings for the new campus plan so that your concerns may be considered by the Zoning Commission in formulating the conditions and methodology for any future compliance audits.

Please do not hesitate to call me or Travis Parker of my staff if you have any questions or concerns.

Sincerely,



Ellen McCarthy  
Director, DC Office of Planning

EM/tp/cgb

cc: Bill Crews, Zoning Administrator



**Foggy Bottom and West End  
Advisory Neighborhood Commission (ANC-2A)**

c/o St. Mary's Court 725 24th Street, NW Washington, DC 20037 (202) 736-1775

September 7, 2006

Patrick J. Canavan  
Director, Department of Consumer and Regulatory Affairs  
941 North Capitol St., NE, Room 2200  
Washington, DC 20002  
Deliver via Facsimile: (202) 442-9445

RE: Independent Headcount Audit of The George Washington University

Dear Dr. Canavan:

The purpose of this letter is to express my concern about the process by which your staff has used to conduct an "independent" audit of the headcount of The George Washington University (GWU or University).

As you know, the Foggy Bottom and West End Advisory Neighborhood Commission (ANC 2A or Commission) requested that the Zoning Administrator conduct an independent audit of the headcount to ensure compliance with BZA Order 16553-I. The Commission requested this action by two resolutions. This matter is of significant consequence as Condition 20 of BZA Order 16553-I, the current campus plan for GWU, provides that no special exception application filed by the University may be granted unless the University first proves it has remained in substantial compliance with Conditions 1 through 19 of the Order, which includes limitations on headcount. This matter is of significant consequence as the University has submitted several applications which are currently pending before the Zoning Commission.

Many in the Foggy Bottom and West End community were encouraged when the Zoning Administrator agreed to conduct an audit of the University's headcount and that such audit would be conducted independently and with government funding. However, actions which have recently come to light have dramatically impacted both the veracity of the independent audit and the integrity of the Department in this matter.

Recently, I learned that a draft version of the scope of work for the independent audit was shared with University officials for comment and their input was incorporated into the final version. ANC 2A, which requested the audit, was provided no such opportunity. Further, it was suggested in an email about this subject that, as Chairperson, I consented to the document and this process. Specifically, an email to you from Bill Crews dated July 13, 2006, 6:58 pm, states, "Charles Barber and I have agreed on a scope of work for the GWU Student headcount audit. I have run this by the ANC Chair and he is satisfied with the scope."

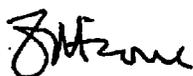
I must correct the record. I *did not* agree to the scope of work. It was never shared with me, nor were my comments—or those of the Commission—ever solicited.

Frankly, I am shocked by the misrepresentation made on this matter. I first learned that an auditor had been secured through a representative of GWU. I am also stunned that the Department would share the scope of work for consent by the entity to be audited. This is particularly disturbing considering the

considerable weight that the community, ANC 2A, and the Zoning Commission places on the veracity and independence of Zoning Administrator. It is suggestive of collusion and a pre-determined outcome related to matters of extraordinary importance to my neighborhood and the District as a whole. You must take immediate action to rectify this issue. Further, the pending zoning matters must be postponed until a truly independent audit is conducted.

Please note that in my many years on an ANC, I have never taken action such as represented by this letter. Various requests for information by ANC 2A commissioners related to the audit have gone unanswered, as have FOIA requests. Further, Mr. Crews committed to neighbors to revisit the scope of work and he indicated a response to community concerns was forthcoming. This was weeks ago. We are waiting. Your prompt response to this matter is of critical importance. Your prompt attention to the FOIA requests submitted by Commissioner Michael Thomas is also requested.

Sincerely,



Vince Micone  
Chairperson

cc: Councilmember Jim Graham, (202) 724-8109  
Alfreda Davis, Chief of Staff to the Mayor, (202) 727-0505  
Inspector General Charles J. Willoughby, (202) 727-9903  
Carol Mitten, Chairperson, Zoning Commission, (202) 727-6072

Attachments: ANC 2A Resolution #0306-RA4

## Con Hitchcock

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**From:** "Crews, Bill (DCRA)" <Bill.Crews@dc.gov>  
**To:** "M Thomas - ANC2A02" <mthomas.anc2a02@earthlink.net>; <Matthew.LeGrant@dc.gov>; <ellen.mccarthy@dc.gov>  
**Cc:** <asavage@wcanmiller.com>; <d.lehrman@att.net>; <dorothymiller5@aol.com>; <jasmorris@earthlink.net>; <vnm3@earthlink.net>; <bspill@erols.com>; <lethebafb@yahoo.com>; <rtc888888@hotmail.com>; <EEofDCFBA@aol.com>; <EdwardBGable@aol.com>; <joy@cambridgestrategicpartners.org>; <jglemire@aol.com>; <mgm9@hotmail.com>; <jillnevius@metronets.com>; <jr.oleary@verizon.net>; <waterloo2415@verizon.net>; <donkreuzer@aol.com>; <conh@hitchlaw.com>  
**Sent:** Wednesday, September 13, 2006 8:54 AM  
**Subject:** RE: Request for documents on GWU Audit

Commissioner Thomas,

I apologize for the delay in responding. We are finalizing my report and hope to have it and the audit available later in the day.

As far as the FOIA request, This should be directed to Deborah Britt, DCRA's FOIA official in the Office of General Counsel.

Best regards,

Bill Crews

Zoning Administrator for the District of Columbia  
Department of Consumer and Regulatory Affairs  
941 N. Capitol St. NE Suite 2000  
Washington, DC 20002  
202.442.4576 Office  
202.442.4871 Fax  
[bill\\_crews@dc.gov](mailto:bill_crews@dc.gov)

-----Original Message-----

**From:** M Thomas - ANC2A02 [<mailto:mthomas.anc2a02@earthlink.net>]  
**Sent:** Wednesday, September 13, 2006 7:38 AM  
**To:** [Bill.Crews@dc.gov](mailto:Bill.Crews@dc.gov); [Matthew.LeGrant@dc.gov](mailto:Matthew.LeGrant@dc.gov); [ellen.mccarthy@dc.gov](mailto:ellen.mccarthy@dc.gov)  
**Cc:** [asavage@wcanmiller.com](mailto:asavage@wcanmiller.com); [d.lehrman@att.net](mailto:d.lehrman@att.net); [dorothymiller5@aol.com](mailto:dorothymiller5@aol.com); [jasmorris@earthlink.net](mailto:jasmorris@earthlink.net); [vnm3@earthlink.net](mailto:vnm3@earthlink.net); [bspill@erols.com](mailto:bspill@erols.com); [lethebafb@yahoo.com](mailto:lethebafb@yahoo.com); [rtc888888@hotmail.com](mailto:rtc888888@hotmail.com); [EEofDCFBA@aol.com](mailto:EEofDCFBA@aol.com); [EdwardBGable@aol.com](mailto:EdwardBGable@aol.com); [joy@cambridgestrategicpartners.org](mailto:joy@cambridgestrategicpartners.org); [jglemire@aol.com](mailto:jglemire@aol.com); [mgm9@hotmail.com](mailto:mgm9@hotmail.com); [jillnevius@metronets.com](mailto:jillnevius@metronets.com); [jr.oleary@verizon.net](mailto:jr.oleary@verizon.net); [waterloo2415@verizon.net](mailto:waterloo2415@verizon.net); [donkreuzer@aol.com](mailto:donkreuzer@aol.com); [conh@hitchlaw.com](mailto:conh@hitchlaw.com)  
**Subject:** Request for documents

Dear Bill, Matt, and Ellen,

This will repeat my request, made yesterday by telephone to Bill and Matt, for the following documents to be sent by electronic means as soon as possible to the above address. The request is made also to Ellen McCarthy.

1. The report of the outside auditors concerning GWU's compliance with the conditions of its current campus plan.
2. Mr Crews's report based on the audit, determining the state of such compliance.
3. All documents responsive to my FOIA request of 23 August 2006.

Refusal to provide these documents immediately will result in a further crippling of the efforts of the ANC and civic parties to prepare properly for the Zoning Commission proceedings which begin tomorrow night. As there appear to be no grounds for such refusal, you would be adding to a record of conscious efforts to impede a full, open and fair proceeding.

Michael Thomas