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**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 06-11B/06-12B**

Z.C. Cases No. 06-11 and 06-12

**Applications of The George Washington University for Special Exception Approval of a
Campus Plan and for Approval of a First-Stage Planned Unit Development and
Related Zoning Map Amendments for the Foggy Bottom Campus**

**Order on Remand
[Date]**

This proceeding concerns two applications submitted by The George Washington University ("Applicant" or "University") concerning its Foggy Bottom campus: Z.C. Case No. 06-11, an application for special exception approval of "The Foggy Bottom Campus Plan: 2006-2025" ("Campus Plan") and Z.C. Case No. 06-12, an application for review and first-stage approval of a planned unit development and related amendments to the Zoning Map of the District of Columbia applicable to University-owned properties within the campus boundaries ("First-Stage PUD"). The Zoning Commission for the District of Columbia (the "Commission") consolidated the applications and considered Case No. 06-11 pursuant to §§ 210, 3035, and 3104 of the Zoning Regulations, and Case No. 06-12 pursuant to chapters 24 and 30 of the Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations. By order effective October 26, 2007, the Commission approved the applications subject to conditions (Z.C. Order No. 06-11/06-12).

Parties to this proceeding, in addition to the applicant, are Advisory Neighborhood Commission ("ANC") 2A, the Foggy Bottom Association ("FBA") and the West End Citizens Association ("WECA"). FBA appealed the Commission's decision to the District of Columbia Court of Appeals ("Court of Appeals" or "DCCA"). By decision dated September 3, 2009, the Court of Appeals affirmed the Commission's decision except to remand "for further proceedings with respect to the method of counting students." *Foggy Bottom Association v. D.C. Zoning Commission*, 979 A.2d 1160, 1176 (D.C. 2009).

The pertinent portion of the Court of Appeals ruling that resulted in this remand is as follows:

One of the more contentious issues during the hearings was the method of calculating the number of students using the Foggy Bottom campus, for the purpose of enforcing limits. . . The University proposed a "primary relationship" test, which would, in general, count all students who either live or take classes on the Foggy Bottom campus, but exclude those students who either reside or take all their classes at GW's satellite campus, Mount Vernon. FBA advocated an "intensity of use" test, whereby all students using the Foggy Bottom campus would be included, regardless of whether they were also counted in a

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**ZONING COMMISSION
District of Columbia**

CASE NO. 06-11

EXHIBIT NO. 269A

ZONING COMMISSION
District of Columbia
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different campus's plan. The Commission adopted GW's "primary relationship" test without much analysis

...

The Commission did not address FBA's argument that all students coming to the Foggy Bottom campus add to the strain on the neighborhood, and therefore should be counted in the campus plan, regardless of whether those students are also accounted for in the Mount Vernon plan.

...

Because the Commission did not demonstrate a rational connection between its findings of fact and its conclusion, we remand to give the Commission the opportunity to articulate its reasoning.

979 A.2d at 1173-1174.

PRELIMINARY MATTERS

Three of the Zoning Commission members who are to decide the case on remand, Peter May, William Keating, and Konrad Schlater, were not members of the Commission at the time of the hearing on the application. Pursuant to 11 DCMR § 3005.12, these members read the transcript and reviewed the complete record in order to participate and vote in the remand proceedings.

Pursuant to the Court of Appeals' limited instruction to the Commission that it "articulate its reasoning" for adopting the University's methodology for counting students, the Commission determined it would issue a written order that sets forth its explanation as to why the primary relationship proposed by the Applicant should be used with respect to the method of counting students rather than the intensity of use test proposed by FBA, based on the evidence in the record of Case No. 06-11/06-12.

To assist the Commission in its proceedings on remand, and mindful of the Court of Appeals' limited instruction to "articulate its reasoning" for its decision, the Commission requested that the University, as the prevailing party on the issue, provide the Commission with a proposed order that cures the deficiencies found by DCCA. Specifically, the Commission asked the Applicant to propose findings of fact based on the exclusive record of Case No. 06-11/06-12, and conclusions of law that flow from those findings of fact.

The Commission also provided FBA, ANC 2A, and WECA the opportunity to submit a revised version of the proposed order for the sole purpose of making such corrections to the Applicant's characterization of their respective positions or the Commission's rationale as each considers necessary. Again, the Commission directed the parties to base any additional or revised factual finding on the exclusive record of the case.

Since the majority of the Commission members did not personally hear the evidence in this case, section 1509(d) of the District of Columbia Administrative Procedure Act, D.C. Code § 1-1509(d), requires the Commission to send a proposed order to the parties and to afford each party adversely affected the opportunity to present exceptions and present arguments, which may be

either oral or in the form of briefs or memoranda. See *Palisades Citizens Ass'n, Inc. v. District of Columbia Zoning Comm'n*, 368 A.2d 1143, 1145 n.6 (D.C. 1977). At its _____ public meeting, the Commission determined to allow the parties __ weeks from the date of mailing of the proposed order to file written exceptions and arguments. At its public meeting on _____, the Commission reviewed the written comments received from the parties, [made several minor modifications to the proposed order,] and voted to adopt it as the final order on remand.

The Commission makes the following finds of fact and conclusions of law in response to the sole question presented on remand:

Findings of Fact

GW's Argument

1. The University proposed a comprehensive set of conditions as a part of its 2007 Foggy Bottom Campus Plan. *See* Exhibit 31 at 13 (GW Pre-Hearing Submission); *see also id.* at Exhibit Y (Pre-Hearing Submission: Proposed Conditions).¹ These conditions included enhanced definitions to provide additional clarity and specificity to the University's commitments and promote transparency with respect to issues of Campus Plan compliance. *Id.*
2. As a part of these enhanced definitions, the University proposed a detailed methodology for determining what constitutes a "Foggy Bottom student" under the student head count and student full-time equivalent count. *See* Exhibit 31 at Exhibit Q (Pre-Hearing Submission: Enrollment Methodology). The University explained that, in order to determine whether a student enrolled in a creditable course at GW was a "Foggy Bottom student," it separated the categories of students that have a "primary relationship" with the Foggy Bottom campus from those categories of students that were either "associated with other campuses" or "otherwise not present or active on the Foggy Bottom campus." *See* Ex. 99 at 5-6 (GW Supplemental Submission). The University asserted that this approach would appropriately measure student impact at the location where the students had a "primary relationship" while promoting the continued use of satellite campuses as a means to accommodate the space and growth needs of the District's universities. *See id.*
3. In response to questions raised by the Commission and FBA during the first night of hearings and to provide guidance as to which students had a "primary relationship" to the Foggy Bottom campus and therefore should be counted as "Foggy Bottom students," the University prepared a detailed submission that, in part, described the categories of students enrolled at GW and articulated why each category was, or was not, a "Foggy Bottom student" the rights, privileges, and practices of each category of student with respect to the Foggy Bottom campus. *Id.* at 6; *see also id.* at Exhibit B.

¹ All citations are to the record for Case No. 06-11.

Mount Vernon Students

4. GW operates two campuses that are located in the District of Columbia: the Foggy Bottom campus and Mount Vernon campus. Both campuses are located in residential zone districts and are therefore subject to the requirements of Section 210 of the Zoning Regulations. These two campuses are the only GW locations that offer traditional undergraduate classes, residence halls and student support and recreational facilities. *Id.* at Exhibit B p.1-2; *see also* Exhibit B at p.5.
5. As a part of the 2007 Foggy Bottom Campus Plan, the University re-evaluated the relationship between the Foggy Bottom and Mount Vernon campus plans. Under the 2000 Foggy Bottom campus plan, the University had consistently excluded all students counted under the Mount Vernon Campus Plan; that is, Mount Vernon residents and non-resident/commuter students. Students at the Mount Vernon campus are subject to their own enrollment limitations, *see id.* at Exhibit B. p.6, and the University noted that the practice of excluding all students enrolled at the satellite campus was consistent with other institutions that exclude students on satellite campuses completely from the enrollment counts associated with their main campus. *See Ex. 99 at 5 n.3; see also id.* at Exhibit B p.6 n.8.
6. Under the 2007 Foggy Bottom Campus Plan, the University agreed to include all Mount Vernon nonresident or commuter students who also take Foggy Bottom classes as “Foggy Bottom students.” *Id.* at Exhibit B p.6. Only students who reside on the Mount Vernon campus or take all of their classes at Mount Vernon would be excluded from the definition of “Foggy Bottom students.” *Id.*
7. With regard to the students who reside at the Mount Vernon campus, the University explained that the primary impacts from these students are on the community in which they reside; that is, the residential neighborhood surrounding the Mount Vernon campus, not the residential neighborhoods surrounding the Foggy Bottom community. *Id.* The University also presented evidence that these students were unlikely to generate objectionable impacts on the Foggy Bottom campus due to their limited contact with the Foggy Bottom campus as well as GW initiatives such as the shuttle bus that minimize the traffic and parking impacts of travel between the Foggy Bottom and Mount Vernon campus. *Id.* at 6-7.
 - a. The University presented evidence that, while the students who reside at the Mount Vernon campus or take all of their classes at Mount Vernon do use certain facilities at Foggy Bottom, these impacts are similar to the impacts of other visitors to the campus; they have limited contact and do not impose significant impacts. *See id.*
 - b. The University also provided evidence that Mount Vernon residents were unlikely to impose traffic or parking impacts, since such students did not enjoy reciprocal parking privileges at the Foggy Bottom campus and, in any event, were likely to come to campus using a GW-operated shuttle bus between the two campuses. *Id.*

- c. Finally, the University stated that while Mount Vernon residents could travel to Foggy Bottom to participate in student activities, the Mount Vernon campus provides a “full panoply” of student-oriented programming, and technological advancements limited the need of such residents to travel to Foggy Bottom for course-related materials such as textbooks and library research materials. *Id.* at 5-6.

Other Off-Campus Students

8. The University also presented evidence regarding the locations other than Foggy Bottom where it offers education programs.
 - a. The University described its third campus in Ashburn, Virginia, which generally offers graduate degree and certificate programs as well as research centers. *Id.* at Exhibit B p.2. The University explained that its Loudoun County campus serves a different set of nontraditional students pursuing executive and other part-time programs as well as graduate students engaged in research. *See Ex. 99* at 5.
 - b. The University also described its education centers, which offer graduate degree programs targeted to working adult professionals that live nearby, and its corporate/government sites, which are similar to those offered at the education centers, but are more limited because they are keyed toward the hosting government or corporate institution. *Id.*
 - c. Finally, the University described its distance learning programs and courses. *Id.*
9. The University explained other categories of students at the locations above are considered to be “off-campus students” that lack a “primary relationship” to the Foggy Bottom campus, but instead have a primary relationship with the location that directly provides their education.
 - a. The University presented evidence that these off-campus students have limited rights and privileges of such students to use Foggy Bottom campus facilities or participate in Foggy Bottom campus activities. *Id.* at Exhibit B p. 3.
 - b. The University presented evidence that these off-campus students are not eligible to live in GW housing, do not have any rights to use the Lerner Health and Wellness Center, are not permitted to participate in organized intercollegiate athletics or student government, and generally do not participate in other student activities. *Id.*
 - c. The University presented evidence that while these off-campus students are permitted to access and use the main library at Foggy Bottom as well as the student bookstore, modern technologies and University policies, as well as a branch library at the Loudoun County campus, eliminate the need for these students to travel to the Foggy Bottom campus. *Id.* at 3-4.

Office of Planning Report

10. In its report, the Office of Planning (“OP”) agreed with the University’s proposed definition, which it found was “intended to count every student having an individual effect on the [Foggy Bottom/West End] neighborhood.” Exhibit 51 at 12 (OP Report). OP agreed with the exclusion of students “living at or attending ALL of their classes at [the] Mount Vernon Campus.” *Id.*

Zoning Administrator Audit

11. At the request of the D.C. Office of Planning as well as FBA and ANC 2A, the Office of the Zoning Administrator (“ZA”) conducted an audit of GW’s student enrollment to assess GW’s compliance with the 2000 campus plan as well as to “request Zoning Commission guidance in conducting future student counts in the District of Columbia.” Ex. 81 at 1 (ZA Audit). The audit report explained GW’s enrollment methodology and its definitions, including how students at the Mount Vernon campus and other locations are counted, and the ZA accepted this explanation. *See id.* at 2-3; *see also* Tr. Oct. 11, 2006 at 29-30 (testimony of then-ZA Bill Crews stating “we accepted the university’s methodology of how they’re counting students”); Ex. 81 at Appendix A p. 3-8. According to the ZA, the audit report also confirmed that GW was in compliance with its then-current campus plan condition regarding student enrollment. Ex. 81 at 2-4.
12. Based on the audit results, the ZA recommended that the Zoning Commission further “refine and clarify the definition and methodology for conducting future head counts.” *Id.* at 4. Specifically, the ZA also recommended that Mount Vernon students who attend classes at Foggy Bottom should be included in the Foggy Bottom head count, even if they are already counted under the Mount Vernon campus plan. However, at the hearing, the ZA clarified that this was his recommendation only, and that the ultimate decision was a “policy decision” left up to the Zoning Commission. *See* Tr. Oct. 11 at 31-32 (“So whatever the Commission determines, the more specific the better, of what they consider to [be] a person having an impact on the neighborhood, the better off we all are.”).

FBA Argument

13. FBA proposed that a “Foggy Bottom student” should be defined as either all students enrolled at GW or “the number of persons being educated by GW who at any given time attend classes or have the right to use facilities at the Foggy Bottom campus” since “all such persons add to the intensity of uses” at Foggy Bottom. *See* Ex. 207 at 3-4 (FBA and ANC 2A joint submission regarding GW’s Proposed Conditions); *see also* Ex. 187 at 7-9 (FBA Powerpoint); Ex. 188 at Tab 4 (FBA Memorandum regarding Enrollment Data). Essentially, FBA argued that GW should count students based on its total enrollment, as reported to such agencies as the Department of Education. Ex. 207 at 3-4; Ex. 188 at Tab 4. FBA argued that GW should not be

permitted to deduct students such as from the Loudoun County campus and other off-campus students, students studying abroad, continuous enrollment students and Mount Vernon students. Ex. 188 at Tab 4.

14. With regard to Mount Vernon students, FBA stated that these students come to the Foggy Bottom for class and other activities and should be counted as Foggy Bottom students. *Id.*
15. FBA called for a definition that “realistically measures the impact of usage of the Foggy Bottom campus” and “to the extent that the Commission uses headcount, the standard should be objective, clear and enforceable.” Ex. 187 at 9. Under cross-examination, FBA’s president concurred with the University’s position that those who imposed limited incidental impacts on the Foggy Bottom campus should not count within the Foggy Bottom campus cap because those students would be “hard to quantify.” *See* Tr. Sept. 28, 2006 at 145-46. At the hearing, the ZA also stated that FBA’s proposed definition of “persons being educated at any given time” was too vague and he would need “much more clarification” on how to count the number of Foggy Bottom students under that definition. Tr. Oct. 11 at 30.

Analysis

16. The Commission agrees with the University and OP that the determination of whether a student that is enrolled in a creditable course at GW should be counted in the definition of Foggy Bottom student enrollment should be based on whether that student maintains a primary relationship with the Foggy Bottom campus. The Commission finds that GW’s definition actually conforms to FBA’s stated goal, which was to “realistically measure[] the impact of usage of the Foggy Bottom campus” with an “objective, clear and enforceable” standard. *See* Ex. 187 at 9. The Commission finds that the University presented sufficient evidence that the categories of students enrolled at GW but excluded from the definition of “Foggy Bottom students” have, by virtue of their primary relationship with another campus, limited contact with the Foggy Bottom campus. Therefore, the Commission finds that the categories of students excluded by GW are not likely to impose objectionable impacts on the Foggy Bottom Campus due to noise, traffic, number of students, or other impacts and should logically be excluded from the definition of a “Foggy Bottom student.”
17. The Commission finds that the impacts of students who reside at the Mount Vernon campus or take all of their classes at the Mount Vernon campus are not likely to generate objectionable impacts at Foggy Bottom due to noise, traffic, number of students, or other impacts. *See also* Tr. Mar. 12, 2007 at 117 (concluding that students who live at Mount Vernon should not count towards the Foggy Bottom campus housing requirement). These students do not reside on the Foggy Bottom campus or in the residential neighborhoods surrounding Foggy Bottom, and are unlikely to impose noise or other impacts related to student conduct. Furthermore, the University provides a shuttle bus between the two campuses and imposes parking

policies that minimize the traffic and parking impact of Mount Vernon residents who come to the Foggy Bottom campus. The impacts of these students are primarily experienced at the Mount Vernon campus, where they reside, and are accounted for under the Mount Vernon campus plan.

18. The Commission finds that the other categories of off-campus students are appropriately excluded from the Foggy Bottom count because “they have extremely limited impact—if any at all—on the Foggy Bottom campus.” *See* Ex. 99 at 4. These categories of students are generally not entitled to the full rights and privileges afforded to Foggy Bottom students, such as the right to live in University housing, use certain facilities, or participate in certain activities, and in any event are not likely to need or desire to come to Foggy Bottom. Furthermore, the Commission finds that to the extent that any off-campus student is enrolled in a class at the Foggy Bottom campus as well as at the Loudoun County campus—and therefore more likely to impose impacts on the Foggy Bottom campus—GW counts those students toward the Foggy Bottom student headcount and FTE count. *See id.* at Exhibit B p. 2.
19. For these reasons, the Commission affirms the Foggy Bottom student enrollment methodology set forth by the Applicant and endorsed by OP.

Conclusions of Law

The Zoning Regulations specify that the number of students is one factor that the Commission must take into account when assessing whether a university use in a residential zone is likely to become objectionable to neighboring property. 11 DCMR § 210.2. The Applicant has proposed a Foggy Bottom campus enrollment methodology that is based upon whether a student enrolled in a creditable GW course maintains a primary relationship with the Foggy Bottom campus. The proposed methodology does not count students who reside at the Mount Vernon campus, even if they take classes at the Foggy Bottom campus; moreover, it does not count students who take all of their classes at the Mount Vernon campus. The proposed methodology also does not count off-campus students, including those students enrolled at the Loudoun County campus, at other learning sites, and through distance learning, unless they are also enrolled in a course at Foggy Bottom.

The Commission concludes that the Foggy Bottom student enrollment methodology set forth by the Applicant provides the appropriate standard by which to measure student impacts associated with the Foggy Bottom Campus Plan, because it accounts for all students who have a primary relationship with the Foggy Bottom campus and are therefore likely to generate impacts due to noise, student conduct, traffic and parking. The Commission also concludes that the students not counted under this enrollment methodology are unlikely to generate impacts due to noise, student conduct, traffic and parking. In particular, the Commission concludes that students who reside at the Mount Vernon campus are unlikely to impose objectionable impacts on the Foggy Bottom campus because the Mount Vernon campus features its own facilities, services, and programming for these students and the University provides a shuttle service between the two campuses that ensures these students will not cause objectionable impacts due to traffic or parking. The Commission notes that this determination is consistent with the

treatment of other institutions of higher education in the District of Columbia with satellite campuses, which do not count the students at such satellite locations within the applicable population counts for the main campus.

The Office of Planning Report, which agreed with the Applicant's proposed methodology and concluded it was "intended to count every student having an individual effect on the [Foggy Bottom/West End] neighborhood" is entitled to great weight under D.C. Code § 6-623.04 (2001)

The ANC's recommendation is also entitled to great weight. However, for the reasons stated in Z.C. Order No. 06-11/06-12, as supplemented in this order, the Commission does not find the ANC's reasoning persuasive.

Decision

Based upon the above Findings of Fact and Conclusions of Law, the Zoning Commission for the District of Columbia hereby orders Zoning Commission Order No. 06-11/06-12, effective October 26, 2007, shall be supplemented by the addition of the above Findings of Fact and Conclusions of Law.

The proposed order on remand was approved by the Zoning Commission at its public meeting on _____, by a vote of _____.

This final order on remand was approved by the Zoning Commission at its public meeting on _____, by a vote of _____.

In accordance with the provisions of 11 DCMR § 3028, this order shall become final and effective upon publication in the D.C. Register; that is, on _____.

EXHIBIT 31 of the Record [excerpt]

THE GEORGE WASHINGTON UNIVERSITY

FOGGY BOTTOM CAMPUS PLAN: 2006 – 2025

JULY 13, 2006

officially affiliated with the University), and (d) effective July 1, 2016, GW shall not house undergraduate students in City Hall.

2. The University will not purchase additional residentially-zoned properties outside of the Campus Plan boundaries in the Foggy Bottom/West End area (as defined in the existing Campus Plan Order) for university use. This commitment would not preclude the purchase of any properties for investment purposes; however, it would restrict the University from purchasing a residentially-zoned property within the above-defined area and changing its use to one limited to the GW population (e.g., a student residence hall).
3. The University will not initiate litigation challenging Zoning Commission action which approves the *Foggy Bottom Campus Plan: 2006 – 2025* as submitted by the University, so long as such approval is not contingent on conditions beyond those included in the existing Campus Plan Order as they are intended to be modified and updated as agreed upon by GW and the Office of Planning, or such other conditions to which GW later agrees.
4. The University will commit to maintain reasonable enrollment definitions and regular reporting and certification procedures as set forth in the proposed Campus Plan conditions (see Section 4.2 below).
5. GW will commit to maintain the existing minimum Campus Plan parking requirement, and in the event it is determined necessary, the University will also agree to establish an appropriate maximum parking capacity.

4.2 Campus Plan Conditions

It is contemplated that all of the applicable conditions imposed by the Board of Zoning Adjustment in connection with the existing Foggy Bottom Campus Plan will continue to be enforced with respect to this Campus Plan, including the student enrollment and undergraduate student housing requirements. The University and the Office of Planning have worked closely together to update the language of the existing conditions to appropriately reflect the changes in this Campus Plan and to ensure that the conditions are clear, well-defined, and reflect the appropriate level of specificity necessary to provide assurance of continued University compliance. Furthermore, at the direction of the Office of Planning, additional conditions have been added to address concerns raised by members of the Foggy Bottom and West End communities. These updated conditions were individually detailed in the Office of Planning's April 10, 2006 setdown report and are also included as Exhibit Y.

SECTION 5: ZONING PROCESS

GW has worked closely with the Office of Planning to identify the appropriate zoning mechanism to achieve the University's proposed development plan. The Office of Planning ultimately recommended that a new Campus Plan, coupled with the two-stage PUD process and a text amendment to the Campus Plan Regulations to permit an increase in aggregate FAR in R-5-D and R-5-E zones from 3.5 to 4.0, would provide an effective means to implement the University's "*Grow Up, Not Out*" strategy, while maintaining reasonable controls on future development. This approach accommodates GW's forecasted academic and student housing

EXHIBIT 31 of the Record – Exhibit Y

EXHIBIT Y
Proposed Campus Plan Conditions

GENERAL CONDITIONS

1. The Applicant's proposed campus plan replaces the George Washington University Foggy Bottom Campus Plan: Years 2000 through 2009. This campus plan is approved until June 30, 2025, subject to the following conditions, or until such time prior to June 30, 2025 as the Zoning Commission determines that conditions warrant submission of a campus plan amendment or an updated campus plan.
2. The Applicant will not initiate litigation challenging Zoning Commission action which approves the Foggy Bottom Campus Plan: 2006 – 2025 as submitted by the University, including these Conditions 1-25, so long as such approval is not contingent on additional conditions to which the Applicant has not specifically agreed.
3. The campus plan boundary for the Foggy Bottom Campus Plan: 2006 – 2025 shall remain consistent with the campus plan boundary established by the Board of Zoning Adjustment with respect to the Foggy Bottom Campus Plan: Years 2000 through 2009 (Order No. 16553-1). The properties included within the Foggy Bottom Campus Plan boundary are depicted in Exhibit I of the proposed Foggy Bottom Campus Plan: 2006 – 2025 and are specifically identified and listed in Appendix 1 attached hereto.
4. New development on campus resulting in additional density or change in use shall substantially conform with the approved campus plan (as set forth in Condition 1), with the exception of minor renovation projects including those necessary to address building code compliance.
5. The University shall notify the Office of Planning, ANC 2A, and the Advisory Committee (established pursuant to Condition 9) of its intent to develop a specific site on campus, following approval of the development proposal by appropriate University committees and the University's Board of Trustees, and prior to preparation of final detailed plans and specifications.
6. The University shall submit a second-stage Planned Unit Development application for each new development the University proposes over the term of the Foggy Bottom Campus Plan: 2006 – 2025. Each application shall include the following:
 - a. Demonstration of compliance with applicable provisions of the zoning regulations and the contents of the approved Foggy Bottom Campus Plan: 2006 – 2025;
 - b. A showing that the use, height, bulk, and design (including the location of any means of ingress and egress) of the proposed structure is sensitive to and compatible with adjacent and nearby non-University-owned structures and uses;

- c. An indication of any need for, amount of, and proposed locations of interim leased space necessary to accommodate housing and/or activities displaced by construction and/or activities intended to be located permanently in the completed structure;
 - d. A report recalculating the University's total FAR within the campus plan boundaries, which shall also be submitted directly to the Office of Zoning and the Zoning Administrator. Information included in the report shall be broken down by zoning district and include the following: existing FAR, FAR under development pursuant to Commission approval, and FAR upon completion of proposed structure;
 - e. The most recent Foggy Bottom Campus Plan Compliance Report (as set forth in Condition 24) evidencing compliance with the approved Foggy Bottom Campus Plan: 2006 – 2025, including the most recent reported counts of Foggy Bottom student headcount, Foggy Bottom student full-time equivalent, Foggy Bottom faculty and staff headcount, Foggy Bottom faculty and staff full-time equivalent, full-time Foggy Bottom undergraduate students, on-campus beds, and full-time Foggy Bottom undergraduate students residing in the Foggy Bottom/West End Area outside of the campus plan boundaries;
 - f. A progress report on the implementation of the streetscape plan required by Condition 21;
 - g. The number of off-street parking spaces within the campus plan boundaries as set forth in Condition 22(b) as of 30 days prior to the application date, including documentation and an explanation of the methods and assumptions used in counting the parking spaces;
 - h. A status report on the Transportation Management Program required by Condition 23; and
 - i. Demonstration that the project has been presented to the Advisory Committee (as the Committee is defined in Condition 9 herein) for consideration.
7. No PUD application filed by the University for second-stage review under the Foggy Bottom Campus Plan: 2006 – 2025 may be granted unless the University is in substantial compliance with Conditions 1-25 set forth herein as demonstrated by the most recently filed Foggy Bottom Campus Plan Compliance Report submitted to the Zoning Administrator. Further, any violation of these Conditions shall be grounds for the denial of any building permit or certificate of occupancy applied for by the University for any University building or use, and may result in the imposition of fines and penalties pursuant to the Civil Enforcement Act, D.C. Code §§ 6-2701 to 6-2723.
8. The University will not purchase additional residentially-zoned properties outside of the Campus Plan boundaries in the Foggy Bottom/West End area (defined as the area bounded by the Potomac River and Rock Creek Park to the west, N Street to the north, 19th Street to the east, and Constitution Avenue to the south) for university use. This commitment would not preclude the purchase of any properties for investment purposes; however, it would restrict the University from purchasing a residentially-zoned property within the above-

defined area and changing its use to one limited to the University population. The University shall not include any such investment property in its undergraduate student housing program or otherwise directly refer undergraduate students to any such property.

ADVISORY COMMITTEE

9. The University will work with community representatives to form an Advisory Committee for the purpose of fostering consistent communication between the University and the Foggy Bottom and West End communities, discussing issues of mutual interest and proposing solutions to problems that exist or arise in implementing the approved Foggy Bottom Campus Plan.
 - a. Key functions of the Advisory Committee include:
 - i. reviewing the University's compliance reporting;
 - ii. working with the Office of the Zoning Administrator to monitor compliance with the conditions of the Foggy Bottom Campus Plan; and
 - ii. reviewing new University proposals to develop sites on the Foggy Bottom Campus.
 - b. Composition, Administrative Procedures & Meeting Format
 - i. The Advisory Committee shall consist of ten members: five representatives of the University to be selected by GW and five representatives of the community to be selected by ANC 2A. The ANC shall select no more than three ANC commissioners and shall select at least one member to represent Foggy Bottom and at least one member to represent the West End.
 - ii. The quorum for Advisory Committee meetings will be five members.
 - iii. The first Advisory Committee meeting shall take place within two months of the adoption of the Campus Plan and include adoption of specific administrative procedures (subject to the terms of this Condition) that govern the operation of the body.
 - iv. The Advisory Committee shall schedule quarterly meetings open to the public, and shall keep minutes of each meeting.
 - v. Upon request and at least on a semiannual basis, the University will report to the Advisory Committee data relevant to campus planning that includes, but is not limited to: report on student enrollment, planned development projects included in the University's capital program, historic preservation, implementation of the streetscape plan, public space permits, and reports on all conditions and commitments adopted as part of the Campus Plan.

FOGGY BOTTOM CAMPUS POPULATION

10. For the duration of this Plan, Foggy Bottom student headcount shall not exceed 20,000 students, and Foggy Bottom student full-time equivalent shall not exceed 16,553.
 - a. Definition. For the purposes of these Conditions, "Foggy Bottom student headcount" shall be defined as the number of GW students in the "Foggy Bottom/Mount Vernon Campus Total Student Body"¹, minus: study abroad students, continuous enrollment students, students that reside at the Mount Vernon

¹ The "Foggy Bottom/Mount Vernon Campus Total Student Body" is compiled by the GW Office of Institutional Research (OIR) and is currently reported on the OIR online "GW Factbook" available at www.gwu.edu/~ire/.

Campus, students that take all of their courses at the Mount Vernon Campus, and Foggy Bottom faculty and staff accounted for pursuant to Condition 11 herein who are also enrolled in one or more courses at the Foggy Bottom campus.

- b. Calculation of full-time equivalent. For the purposes of these Conditions, “Foggy Bottom student full-time equivalent” shall be determined by assigning a fraction to part-time students included in the Foggy Bottom student headcount number based on the number of credits they are taking compared to a full-time course load and adding the number of full-time students. Currently, the full-time course load for undergraduates is 12 credits, and the full-time course load for graduate and professional students is 9 credits. Formulas for determining full-time equivalents may change over the term of the proposed Foggy Bottom Campus Plan depending on program requirements or the restructuring of the academic calendar.
- c. An audit of the Foggy Bottom student headcount and Foggy Bottom student full-time equivalent reported pursuant to Condition 24 herein shall be conducted in a manner and by a firm previously approved by the Zoning Administrator and reported to the Advisory Committee. The audit shall be completed by January 10 of the year following each report submitted pursuant to Condition 24 herein.

All Foggy Bottom student counts shall be reported biannually as specifically set forth in Conditions 24 and 25.

- 11. For the duration of this Plan, the Foggy Bottom faculty and staff population shall not exceed a total of 12,529 on a headcount basis, and 10,550 on a full-time equivalent basis.
 - a. For the purposes of these Conditions, “Foggy Bottom faculty and staff headcount” shall include: regular full-time faculty and staff; regular part-time faculty and staff; wage account staff that are not Foggy Bottom students accounted for pursuant to Condition 10; temporary part-time faculty (excluding part-time clinical faculty who are not paid employees of the University); and visiting instructional and research faculty. For the purposes of these Conditions, Foggy Bottom faculty and staff shall not include faculty and staff whose primary office locations are not on the Foggy Bottom campus; employees of non-GW owned or controlled entities which are located on the Foggy Bottom campus; and contractors that provide ancillary campus-related service functions who are not employees of the University².
 - b. For the purposes of these Conditions “Foggy Bottom faculty and staff full-time equivalent” shall be determined by assigning a fraction to part-time employees included in the Foggy Bottom faculty and staff headcount number based generally on the number of hours worked as compared to the standard full-time 40 hour work week.

ON-CAMPUS UNDERGRADUATE STUDENT HOUSING

- 12. For the duration of the Plan, the University shall make available on-campus beds for full-time Foggy Bottom undergraduate students equivalent to 70% of the full-time Foggy

² Non-GW employee contractors have historically provided certain campus-related services (including managing and staffing the GW bookstore, mailroom services, and housekeeping management services). This population is currently estimated to include approximately 400 workers. The employment of these individuals is not under the control or management of GW, and thus their numbers cannot be tracked and reported with the level of specificity and accuracy required under these Conditions.

EXHIBIT 31 of the Record – Exhibit Q

EXHIBIT Q
Enrollment Methodology

	<u>Fall 2005</u> <u>Census Data</u> ¹	<u>Spring 2006</u> <u>Census Data</u>
<p>I. <u>Determine the Universe of GW Students (“Total GW Student Body”)</u></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>	<p>24,099</p>	<p>23,295</p>
<p>II. <u>Determine the On Campus (Foggy Bottom/Mount Vernon) Total Student Body (“FB/MV Total Student Body”)</u></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>	<p>20,318</p>	<p>19,370</p>

1 – 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.

	<u>Fall 2005</u> <u>Census Data</u>	<u>Spring 2006</u> <u>Census Data</u>
III. <u>Determine Foggy Bottom Total Student Body Headcount</u>		
<i>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:</i>		
<i>FB/MV Total Student Body</i>	20,318	19,370
<u>Subtract:</u>		
• <i><u>Study Abroad:</u> 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".</i>	262	674
• <i><u>Continuous Enrollment:</u> Students who are taking no courses but are "enrolled" for administrative purposes that allows the student to maintain good standing for graduation.</i>	329	325
• <i><u>Mount Vernon Students:</u> Students accounted for under the Mount Vernon Campus Plan Order (BZA Order 16505), including both resident and non-resident students.</i>	925	848
Foggy Bottom Total Student Body Headcount	18,802	17,523

Fall 2005
Census Data

Spring 2006
Census Data

IV. Determine Foggy Bottom Total Student Body Full Time Equivalent

16,243

15,025

The Foggy Bottom Total Student Body headcount number counts each student once, whether they are full time or part time. The Foggy Bottom Total Student Body Full Time Equivalent ("FTE") number counts each full time student once, and each part time student as a fraction of full time. The formulas for determining the appropriate fraction are governed by the number of credit hours constituting a "full time" program for each classification of students. For undergraduates, a full time program is 12 credit hours. (Thus, a student taking six credit hours is counted as .5.) For graduates, a full time program is nine credit hours. For first professionals in the Law School, a full time program is 12 credit hours. (All first professional students in the School of Medicine and Health Sciences [MD candidates] are full time.)²

Fall 2005
Census Data

Spring 2006
Census Data

V. Determine the Foggy Bottom Full Time Undergraduate Total Student Body

The Foggy Bottom Full Time Undergraduate Total Student Body consists of those students of the Foggy Bottom Total Student Body who are undergraduates enrolled in degree programs on a full time basis. The Foggy Bottom Full Time Undergraduate Total Student Body is derived by taking the On Campus (FB/MV Total Student Body) and subtracting the following:

<i>FB/MV Total Student Body</i>	20,318	19,370
<u>Subtract</u>		
• <i>All graduate students</i>	7,332	6,853
• <i>All first professionals (JD's and MD's)</i>	2,318	2,272
• <i>All part time undergraduates (i.e., those taking fewer than 12 credit hours)</i>	247	382
• <i>Non-degree students (i.e., students who take a course or more for credit, but not in degree programs, such as staff and working professionals taking courses for enrichment)</i>	756	666
• <i>Full-Time Undergraduates Study Abroad</i>	259	660
• <i>Undergraduate Continuous Enrollment</i>	75	104
• <i>Full-Time Undergraduates accounted for under the Mount Vernon Campus Plan Order (BZA Order 16505), including both resident and non-resident students.</i>	792	713
<hr/>		
Foggy Bottom Full Time Undergraduate Total Student Body	8,539	7,720

EXHIBIT 99 of the Record [excerpt]



September 21, 2006

By Hand Delivery

Carol J. Mitten, Chairperson
District of Columbia Zoning Commission
Office of Zoning
441 4th Street, NW
Suite 210
Washington, DC 20001

Re: Zoning Commission Case Nos. 06-11 and 06-12
The George Washington University Foggy Bottom Campus Plan: 2006 –
2025 and related First-Stage PUD and Map Amendment
Response to Requests for Additional Information

Dear Chairperson Mitten and Members of the Commission:

During the course of the September 14, 2006 public hearing regarding the above-referenced applications, the Commission requested that the Applicant file additional information to further clarify several of the proposed conditions included in the University's Campus Plan application, including the following:

- Discussion of the standards for a determination of "substantial compliance" as set forth in proposed Condition 7;
- Clarification of the University's commitment not to acquire residentially-zoned properties in the Foggy Bottom/West End area for university use as set forth in proposed Condition 8;
- Additional documentation on the categories of student enrollment set forth in proposed Condition 10, the rationale for determining Foggy Bottom student enrollment, and the rights, privileges and practices associated with various student categories;
- Additional documentation on the categories of faculty and staff (including clarification of the categories of contractors that provide "ancillary" services) set forth in proposed Condition 11, the rationale for determining Foggy Bottom faculty and staff counts, and the rights, privileges and practices associated with various faculty and staff categories;

- Listing of fraternities, sororities and further clarification of the term “other programs” as it relates to proposed Condition 12;
- Description of the University’s reporting procedures for student conduct incidents, including the follow up action taken by the University as described in proposed Condition 16; and
- Clarification of the implementation of the streetscape plan described in Exhibit X of the Campus Plan and referenced in proposed Condition 21, and the sharing of costs between the University and the District.

In addition, the Commission also requested the University provide information regarding sustainable design issues with respect to the Square 103 PUD (Potomac House residence hall).¹

In response to the Commission’s request, the University provides the following discussion and attached exhibits.

Condition 7 – Substantial Compliance

The proposed text of Condition 7 provides that “No PUD application filed by the University for second-stage review under the Foggy Bottom Campus Plan: 2006 – 2025 may be granted unless the University is in substantial compliance with Conditions 1-25 set forth herein as demonstrated by the most recently filed Foggy Bottom Campus Plan Compliance Report submitted to the Zoning Administrator.” This proposed condition carries forward language from Condition 20 of the existing 2000 Campus Plan, which provides that “No special exception application filed by the University for further processing under this plan may be granted unless the University proves that it has consistently remained in substantial compliance with Conditions 1 through 19 set forth in this Order.” BZA Order No. 16553-I, at 11. This term is also used in similar provisions in other campus plans. *See, e.g.*, The American University Campus Plan Order No. 949, dated July 19, 2001.

Legal Standards

The term “substantial compliance” is a common legal term that ensures the purpose of a statute or regulation is achieved by compliance with its essential provisions. The term articulates a legal standard where compliance is subject to agency or judicial discretion, based on whether the purpose of the regulation or statute has been achieved. *See, e.g.*, *Wheeler v. District of Columbia Bd. of Zoning Adjustment*, 395 A.2d 85, 90 (D.C. 1978)

¹ On a related but broader issue, as the University plans to address the Commission’s direction that the Campus Plan include discussion of sustainable development planning principles at the September 28, 2006 public hearing.

(citing *In re Opinion of Justices*, 275 A.2d 558, 562 (Del. 1971) (“[Substantial compliance means] ‘such compliance with [the] essential requirements of the . . . provision as may be sufficient for the accomplishment of the purposes thereof.’”)); *Wolf v. District of Columbia Bd. of Zoning Adjustment*, 397 A.2d 936, 945 (D.C. 1979) (same); see also *In re Opinion of Justices*, 275 A.2d at 562 (“[T]here has been substantial compliance, we think, when there has been a partial compliance and when it is reasonable to conclude that the objective sought by the . . . provision has been as fully attained thereby, as a practical matter, as though there had been a full and literal compliance.”)).

Further, courts have stated that substantial compliance “means actual compliance in respect to the substance essential to every reasonable objective of the statute. But when there is such actual compliance as to all matters of substance then mere technical imperfections of form or variations in mode of expression . . . should not be given the stature of noncompliance and thereby transformed into a windfall . . .” *Stasher v. Harger-Haldeman*, 372 P.2d 649, 652 (Cal. 1962). Rather, substantial compliance “involves conduct which falls short of strict compliance with the . . . requirements, but which affords . . . the same protection that strict compliance would offer.” *Jones v. Short*, 696 P.2d 665, 667 (Alaska 1985).

Indeed, the Zoning Regulations permit the Zoning Administrator to exercise discretion in the enforcement of strict numerical requirements in the Regulations. Section 2522 authorizes the Zoning Administrator to permit certain deviations if the Zoning Administrator determines that the deviation “will not impair the purpose of the otherwise applicable regulations.” 11 DCMR § 2522; see also 11 DCMR § 407 (providing similar discretion in residential zones); 11 DCMR § 2409 (providing similar discretion for minor modifications to PUD plans as approved by the Commission). Under the above-cited provisions of the Zoning Regulations, the Zoning Administrator is permitted to deviate up to 2% from various requirements enumerated in the Zoning Regulations.

The University believes that the Commission’s continued use of the “substantial compliance” requirement as a prerequisite for approval of further processing applications in campus plan orders indicates an intent to grant the Zoning Administrator the appropriate level of flexibility that is consistent with the above-described standards. **The requirement of substantial compliance in Condition 7 and similar conditions clearly indicates that the purpose of the condition is at its heart: *the University must consistently strive to maintain compliance with all conditions of the Plan in order to minimize the potential for any objectionable land use impacts on surrounding communities.***

Condition 8 – Residentially-Zoned Properties

The University’s position is clear—it does not intend to acquire, either as purchaser or contract purchaser, any residentially-zoned properties outside the Campus Plan boundaries in the Foggy Bottom/West End area for university use, and accordingly, the University will add the term “contract purchaser” to proposed Condition 8. This is a real

and significant commitment by the University that directly responds to concerns raised by the community, and, specifically, the Advisory Neighborhood Commission (ANC) 2A during the 2000 Foggy Bottom Campus Plan proceedings. See Statement of ANC-2A, at 3, dated Sept. 13, 2000, attached as Exhibit A.

Condition 10 – Student Enrollment

Background

Modern institutions of higher education are complex, organic institutions that evolve over time, serving as open centers of learning for the exchange of ideas. While the modern university still includes core constituencies of full-time undergraduate, graduate, and professional students as well as the full-time faculty and staff that participate in the day-to-day operations of the university, it also includes a number of ancillary constituencies—including researchers, visiting faculty, and private professionals with full-time jobs off-campus—that play an important role in enhancing the educational experience delivered by the University. These constituencies often have limited, and in some cases no physical impact on the campus itself. Also, as part of the educational experience, both faculty and students often leave the campus for extended periods of time—for study abroad, sabbaticals, and research in other locations—which removes their impacts altogether.

The manner in which education is delivered in today's marketplace is in many respects place-oriented. For example, the broader GW population includes students studying not only at other campuses (e.g., Mount Vernon and the Virginia Campus in Loudoun County), but also at various learning centers as well as on-site private corporate and government locations. In fact, by program design and practicality, students studying in many of these programs—for example, at GW's Naval School of Health Science in San Diego, California—have no physical relationship or impact on the Foggy Bottom campus whatsoever. Their studies and activities are focused at their on-site location, their coursework and resources materials are provided on-line through the Bb@GW (Blackboard) system², and they are not entitled to various privileges associated with the Foggy Bottom campus (such as use of the Lerner Health & Wellness Center).

The George Washington University, as an urban institution integrated into the fabric of the District of Columbia, is, to a large degree “open to the public”. In particular, the Foggy Bottom Campus is an important center of economic and intellectual capital and improves the city with numerous public benefits merely by carrying out its mission. The University operates two additional campuses that have particular relationships with the

² Bb@GW is an on-line course management system based on the Blackboard Learning System™. It enables students to access syllabi, course-related materials, assignments, assessments, and communication features provided by their instructors.

Foggy Bottom campus.³ The Mount Vernon campus, which is governed by a separate campus plan, operates as a full-service college campus, providing academic, residential, and recreational opportunities, which accordingly removes a significant set of potential impacts from the Foggy Bottom campus. The Loudoun County, Virginia campus serves a different set of students. It consists primarily of nontraditional students pursuing executive and other part-time programs, and graduate students engaged in research.

Foggy Bottom Campus Student Enrollment

In order to assist the Commission in its consideration of proposed Condition 10 of the Foggy Bottom Campus Plan: 2006 – 2025, additional documentation on student enrollment is attached as Exhibit B.

The starting point from which the broad “universe” of GW students is determined (i.e. the **Total GW Student Body Head Count** reported annually to the U.S. Department of Education) is based upon the definition of student enrollment established by the Integrated Post-Secondary Education Data System (IPEDS), the standard reporting mechanism for United States institutions of higher learning. The IPEDS definition of student enrollment includes: “students enrolled in courses creditable toward a degree or other formal award; students enrolled in courses that are part of a vocational or occupational program, including those enrolled in off-campus centers; and high school students taking regular college courses for credit.” Introduction to the Integrated Postsecondary Division, at <http://nces.ed.gov/ipeds/AboutIPEDS.asp>.

The IPEDS test is whether that student is enrolled in a creditable course. As detailed more fully in Exhibit B, this test includes many students that do not have a primary relationship with the Foggy Bottom campus, and therefore have limited physical impacts on the Foggy Bottom campus. Accordingly, as detailed in the enrollment methodology included in Exhibit Q of the Campus Plan application and disclosed in numerous compliance filings made by GW under the existing Foggy Bottom Campus Plan, various

³ Most of the universities in the District of Columbia have multiple campuses, both within DC and in the surrounding jurisdictions, and the BZA and Zoning Commission orders for those universities provide enrollment and faculty/staff caps for each of the campuses. Howard University, for example, has four campuses, three in the District of Columbia (Central Campus, West Campus and East Campus) and a 108-acre Beltsville Campus in Prince Georges County. The enrollment cap for Howard’s Central Campus does not include students at the other campuses. The impacts from students and faculty who may visit other campuses is addressed in the same way as are the impacts from other visitors to the campus, such as persons attending meetings on campus, parents and prospective students visiting the campus, and even community residents who use the campus facilities. Cars coming to the campus are limited by the availability or cost of parking, and other modes of transportation such as Metro and university-operated shuttle buses provide convenient access with limited impact. Indeed, the draft Comprehensive Plan includes, as one of its Educational Element policies, the promotion of satellite campuses (EDU-3.31).

categories of students are deducted from the broad IPEDS definition to determine the **Foggy Bottom Total Student Body Headcount**.

In response to the request of the Commission, Exhibit B includes information regarding the various locations where students are educated by GW. In addition, information is provided on the categories of students enrolled at GW, as well as each category's rights, privileges and practices with respect to the Foggy Bottom campus, to provide guidance as to why certain categories are included in the proposed Foggy Bottom campus enrollment methodology. The information indicates those categories of students that are primarily associated with the Foggy Bottom campus, those categories associated with other campuses or educational centers, and students who are not otherwise present or active on the Foggy Bottom campus. This information supports the definitions proposed by the University in Condition 10 to reflect the appropriate land use impacts associated with the Foggy Bottom campus.

It is important to note that for all other GW locations, including the Mount Vernon Campus, the need to physically travel to the Foggy Bottom Campus to access Gelman Library or academic information housed at other campus facilities is greatly reduced by GW's comprehensive use of the Bb@GW (Blackboard) system, as well as branch libraries offered at the Mount Vernon and Loudoun campuses. Furthermore, texts and journal articles at Gelman may also be accessed electronically and, where a physical text is necessary, such resources can be delivered to educational centers around the metropolitan area through a comprehensive inter-library loan system. The growing use of computer-based learning systems that disseminate knowledge to remote locations on a 24-hour basis obviates the need for much travel to the Foggy Bottom campus. Indeed, the main function of the Gelman Library facility is as a physical repository for printed texts and as a quiet place for students to study.

Condition 11 – Faculty and Staff

Faculty and Staff Categories

In order to assist the Commission in its consideration of proposed Condition 11 of the Foggy Bottom Campus Plan: 2006 – 2025, additional documentation on faculty and staff is attached as Exhibit C. The University has provided information on the categories of GW faculty and staff, as well as each category's rights, privileges and practices with respect to the Foggy Bottom campus, to provide guidance as to why certain categories are included in the proposed Foggy Bottom campus faculty and staff methodology. The information indicates those categories of faculty and staff that are primarily associated with the Foggy Bottom campus and those associated with other campuses and educational centers, as well as those whose status indicates that they are otherwise not present or active on the Foggy Bottom campus. The information also includes a description of the contractors that provide ancillary services on the Foggy Bottom campus. This information supports the methodology proposed by the University in

Condition 11 to reflect the appropriate land use impacts associated with faculty and staff on the Foggy Bottom campus.

Also detailed in Exhibit C is a proposed modification to the University's current methodology which would include affiliated faculty employed by the Medical Faculty Associates in the Foggy Bottom campus faculty and staff population.

Condition 12 — Fraternities, Sororities, and Other Programs

In order to assist the Commission in its consideration of proposed Condition 12 of the Foggy Bottom Campus Plan: 2006 – 2025, additional documentation regarding fraternities and sororities is included as Exhibit D. Specifically, this Exhibit includes a listing of all fraternities and sororities recognized by the University, and a notation indicating which of the above-referenced organizations that maintain residential facilities (e.g., fraternity and sorority houses) within the Campus Plan boundary.

The language in proposed Condition 12 referring to “other programs recognized by or affiliated with the University and located within the campus plan boundary” is intended to include residential programs that could be established on campus by affiliated organizations that are not fraternities or sororities. For example, if Hillel at the George Washington University (an organization affiliated with but not part of the University) operated a residential facility on campus in which full-time Foggy Bottom undergraduate students resided, such a program would be included within the scope of proposed Condition 12.

Condition 16 — Incident Reports and Disciplinary Interventions

In order to assist the Commission in its consideration of proposed Condition 16 of the Foggy Bottom Campus Plan: 2006 – 2025, the following information regarding student incident reporting is provided by the University. Copies of the University's Neighborhood Request for Service Form (also referred to as the “Incident Report”) and the “*discover GW*” booklet, which is distributed by the University to the Foggy Bottom/West End community are both included as Exhibit E. Further, the University provides the following information on its incident reporting procedure:

- Community concerns are captured by calls to the University Police Department at both the 994-6110 line for immediate response and the 994-TIPS line for anonymous calls as set forth in the 2000 Foggy Bottom Campus Plan order. These numbers have been published in University guides, GW's neighborhood website (www.neighborhood.gwu.edu), the *Foggy Bottom Current*, Councilmember Jack Evans' newsletter, and notices to Advisory Neighborhood Commission 2A and the Foggy Bottom Association. In addition, community concerns are captured by calls made to other senior University officials, as well as calls received from the Metropolitan Police Department and Columbia Plaza management thought to involve

GW students. All of these concerns are transferred to a *Neighborhood Request for Services Form* (the "Incident Report") for tracking and response.

- The forms are forwarded to the Dean of Students Office, the Office of District of Columbia and Foggy Bottom/West End Affairs, and University Relations. When valid contact information is provided, University officials follow up with 100% of the community residents who initiate calls.
- GW has engaged in extensive tracking of community concerns during the 2004 – 2005 and 2005 – 2006 school year. For school year 2004 – 2005, the University received 144 concerns and in school year 2005 – 2006, the University received 215 concerns.⁴ In each year, approximately 80% of the concerns involved complaints of noise.
- Of those incidents where the University was able to verify that a GW student was engaged in misconduct, 100% of these students were subjected to University disciplinary action. The Student Code of Conduct provides for a range of possible disciplinary actions in order to ensure appropriate and just treatment. The selection of a specific sanction will depend on the facts of each case and will take into account such factors as the nature of the offense, the presence or lack of a record of prior discipline, the demeanor of the student, and other mitigating or aggravating factors. The progressive disciplinary actions imposed by the University include:
 - a warning letter where only general information of misconduct is available without specific facts to warrant additional discipline;
 - a censure, consisting of an official written reprimand for specific acts of misconduct, including a warning that repeated acts of misconduct will be cause of additional disciplinary action;
 - disciplinary probation, which excludes a student from participation in privileged or extracurricular activities for a specified period of time and provides that any violation of the terms of the probation, or any further acts of misconduct, will result in suspension or expulsion;
 - suspension, which excludes a student from classes and other privileges and activities, including access to the University, for a period of time; and
 - expulsion, which terminates the student status and excludes the student from University privileges and activities, including access to the University, in perpetuity.

⁴ Part of this increase can be attributed to the University's concerted efforts to publicize the call in lines as well as increase the number of ways a community complaint might be captured.

With respect to issues raised through the community concern response program, in academic year 2004 – 2005, the University meted out 126 disciplinary actions and in 2005 – 2006, the University meted out 115 disciplinary actions. Importantly, the number of repeated acts of misconduct reported through the community concern response program dropped dramatically after the initial discipline imposed by the University. In 2004 – 2005, for example, only three students initially disciplined for off-campus behavior issues were found to have engaged in repeated acts of misconduct off-campus. In 2005 – 2006, the number was only two.

Condition 21 – Streetscape Plan

In order to assist the Commission in its consideration of the Streetscape Plan component included as Exhibit X and further addressed in proposed Condition 21 of the Foggy Bottom Campus Plan: 2006 – 2025, the University has provided the following additional information.

The Streetscape Plan identifies various streetscape elements which are detailed in the “Kit of Parts” set forth in Section 5.2 of the Plan. Of those elements, many will be paid for exclusively by the University, including:

- building identifiers (*e.g.*, flags, awnings, and placards);
- street furniture (*e.g.*, benches, trash receptacles, bike racks and emergency call stations);
- way-finding elements (*e.g.*, campus maps, directional signage, and location symbols);
- street banners (*e.g.*, pedestrian, vehicular and thematic banners often mounted on street light posts); and
- distinctive design elements (*e.g.*, public art, plaques, busts, clocks, paving medallions, mid-block crossing treatments).

The costs and resources associated with the implementation of other streetscape elements—including sidewalk paving materials, street lighting fixtures, and certain plantings (particularly street trees)—may be allocated among the University, DDOT, and, as appropriate and available, other outside sources (including organizations or foundations such as Casey Trees for campus street trees). The University will continue to work with DDOT with respect to planning for future District streetscape improvement projects that impact the Foggy Bottom campus, and the specific allocation and contribution of costs associated with such improvement projects will be made on a project by project basis. Streetscape improvements associated with development projects identified in the Campus Plan and first-stage PUD will be funded by GW and will be specifically addressed as part of the second-stage PUD application for each project.

Section 5 of the Streetscape Plan proposes a framework for the implementation of various streetscape elements over the twenty-year term of the Foggy Bottom Campus Plan: 2006 – 2025, as specific development projects are completed and as funding becomes available.

Square 103 PUD: Sustainable Design Elements

The Commission asked the University to verify any assurances made with respect to sustainable design elements associated with the Square 103 residence hall PUD which was approved by this Commission in Order No. 03-29. (A copy of the order is attached as Exhibit F.) The University did in fact design the building in an environmentally sensitive matter as a public benefit of the PUD. See Z.C. Order No. 03-29, at 5. During the development process, the University discussed various amenities that matched the zoning relief originally sought. As the required zoning relief was scaled back, the amenities package was adjusted accordingly. At the zoning hearing on the application, the University offered specific sustainable design elements that would be incorporated into the building, and the Commission found the project “acceptable in all proffered categories of project amenities and public benefits” as reflected in the Order. In constructing the building, the University included all of the sustainable design elements required by the Order.

Conclusion

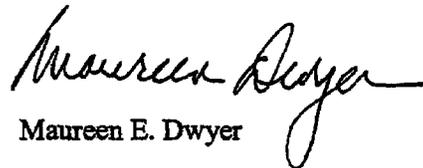
The proposed conditions submitted as part of GW’s Foggy Bottom Campus Plan: 2006 – 2025 application address a wide range of issues and will appropriately measure and limit the potential objectionable impacts associated with the University’s location within Foggy Bottom and West End neighborhood. The spirit in which the conditions were drafted also reflect the nature of the University itself—a complex and diverse institution that delivers education in a myriad of locations and evolving methods driven by advances in technology—with the overarching goal of creating a truly world-class university in the nation’s capital.

The carefully balanced and detailed development plan and proposed conditions respond directly to many issues of concern raised by members of the community throughout the comprehensive planning process. Continued discussion regarding the terms and definitions included in the Plan and proposed conditions is useful and beneficial to try to avoid confusion, misunderstanding and conflict in the future. However, none of the parties involved can predict with certainty all of the issues that may emerge with respect to future implementation of the Campus Plan. For these reasons, the University is committed to continuing its cooperation with District agencies and the community to foster ongoing discussion, exchange of ideas, and resolution of issues related to the Plan. Indeed, the University continues to believe that the most appropriate forum for dialogue regarding these issues of mutual concern is the Advisory Committee called for in the existing Campus Plan and also specified in proposed Condition 9.

September 21, 2006
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We appreciate this opportunity to provide additional information to the Commission and look forward to continued discussion of these important matters.

Very truly yours,



Maureen E. Dwyer



David M. Avitabile

Enclosures

cc: Travis Parker, Office of Planning
David Maloney, Historic Preservation Office
ANC 2A
Cornish F. Hitchcock, Counsel for Foggy Bottom Association and ANC 2A
Barbara Kahlow, West End Citizens' Association

EXHIBIT 99 of the Record – Exhibit B

EXHIBIT B

Student Enrollment

I. Determine the Universe of GW Students

A. *Defining Student Enrollment: IPEDS*

The George Washington University defines the universe of GW students, i.e. the **Total GW Student Body Head Count**, as all students, full-time and part-time, undergraduate, graduate, and non-degree, enrolled in a creditable course at any of its campuses, educational centers, and other sites, as described in greater detail below. This total is reported to the U.S. Department of Education through the Integrated Post-Secondary Education Data System (IPEDS), the standard reporting mechanism for United States institutions of higher learning.

IPEDS defines student enrollment as: “students enrolled in courses creditable toward a degree or other formal award; students enrolled in courses that are part of a vocational or occupational program, including those enrolled in off-campus centers; and high school students taking regular college courses for credit.” Introduction to the Integrated Postsecondary Division, at <http://nces.ed.gov/ipeds/AboutIPEDS.asp>.

The IPEDS test is whether a student is enrolled in a creditable course. As a result, this test includes many students beyond the traditional student attending classes in the pursuit of a degree. For example, doctoral candidates who are solely engaged in completing their theses or dissertations are required to enroll in a one-credit continuing research registration and are therefore included in the reported universe of GW students, even though they are not enrolled in any traditional classes. By contrast, students who take leaves of absence to address health and personal issues, and do not take any class for credit, are not included within the universe of GW students, consistent with IPEDS, until such time as they re-enroll in a course for credit.

B. *Centers for Learning: Campuses, Education Centers, and other Sites*

The George Washington University delivers education in various forms at a number of sites and locations in addition to the Foggy Bottom campus. Students enrolled at GW generally have a primary relationship to one specific location (e.g., in the case of locations with residential facilities, the primary relationship is established by where the student resides). The information that follows is provided to clarify and distinguish between these various centers for learning, including the rights, privileges and practices associated with the students enrolled at the respective locations.

1. Campuses of The George Washington University

The George Washington University operates three campuses: the Foggy Bottom campus, which is the subject of this application; the Mount Vernon campus, which is governed by BZA Order No. 16505, and the Loudoun County campus, which is located in Ashburn, Virginia. The Foggy Bottom and Mount Vernon campuses offer traditional undergraduate classes, residence halls and

student support and recreational facilities. The Foggy Bottom campus is also the location of key graduate and professional programs, such as the School of Medicine and Law School.¹ (The Mount Vernon campus currently offers only one graduate program, in interior design.)

At its Virginia campus, the University offers graduate degree and certificate programs in engineering, education, management, and technology, as well as one undergraduate program in pharmacogenomics, which is a specialized cooperative venture operated in conjunction with Shenandoah University. The Virginia campus is also the location of research centers in transportation safety and security, public health and homeland security, and information technology and telecommunications. Students enrolled in classes at both the Foggy Bottom and Virginia campuses are included in the Foggy Bottom student enrollment counts.

2. Education Centers

In addition, the University offers programs at three “education centers” in Alexandria, Arlington, and Newport News, Virginia. University operations at these sites are conducted in leased space that is not owned by the University. Various graduate degree programs are offered at these centers, often through night and weekend classes that are tailored to appeal to working adult professionals that live nearby.

3. Corporate/Government Sites

The University also educates students in various corporate/government sites located throughout the United States and abroad. Currently these sites include, among others, Hickory High School in Chesapeake, VA, Fort Sam Houston in San Antonio, Texas, and Singapore Institute of Management in Singapore. In the District, GW currently operates five corporate/government sites at the following locations: Walter Reed Army Medical Center (6900 Georgia Avenue, NW), The Shakespeare Theatre (450 7th Street, NW), Metro Transit Police Headquarters (600 5th Street, NW), American Association for the Advancement of Science (1200 New York Avenue, NW) and the Hall of States Building (444 North Capitol Street, NW).

Programs offered at these sites are generally more limited than those offered at the education centers described above, as the program offerings are keyed toward the hosting government or corporate institution.

4. Distance Learning

Finally, the University offers programs and courses via distance learning for those students who are not in close proximity to its campuses, education centers or corporate/governmental sites. Distance learning programs are conducted over the Internet and are offered in a number of disciplines at both the undergraduate and graduate levels.

¹ The University also conducts courses in leased classroom space at 1776 G Street, NW and 2020 K Street, NW. Students enrolled in creditable courses in these locations are included in the Foggy Bottom student enrollment counts.

II. Determine the On Campus (Foggy Bottom/Mount Vernon) Total Student Body

The University distinguishes between “on-campus” Foggy Bottom and Mount Vernon students and “off-campus” students, which includes all other categories of students. The rights, privileges and practices associated with these categories are described below in order to further explain the University’s methodology for determining Foggy Bottom student enrollment.

A. Foggy Bottom/Mount Vernon Students

Students who take courses at either Foggy Bottom or Mount Vernon are within the **Foggy Bottom/Mount Vernon Total Student Body**. Only these students have rights to access the University’s Lerner Health & Wellness Center² and Mount Vernon Athletic Complex, and participate in organized intercollegiate athletics and student government. Foggy Bottom and Mount Vernon students also are able to participate in a host of other traditional student activities, from intramural sports and Greek life to community service and performing arts programs. These students also have privileges that enable them to use the Gelman and Eckles Libraries (at Foggy Bottom and Mount Vernon, respectively). These students also use the GW Bookstore and dining facilities, as well as the Marvin Center and academic buildings on the Foggy Bottom campus—all of which are also open to members of the general public.

B. “Off-Campus” Students

The **Off-Campus Student** population includes Virginia campus students, students taking courses at educational centers or corporate/government sites, as well as students enrolled in distance learning. Given their relationship with locations other than the Foggy Bottom and Mount Vernon campuses, students included in the Off-Campus Student category are not included in the Foggy Bottom/Mount Vernon Total Student Body. Off-Campus Students are not eligible to live in University housing, do not have any rights to use the Lerner Health & Wellness Center, and are not permitted to participate in organized intercollegiate athletics or student government. Off-Campus Students could hypothetically participate in other student activities; however, such participation is practically nonexistent, as these activities are oriented to undergraduate and graduate students within the Foggy Bottom/Mount Vernon population.

Off-Campus Students are entitled to privileges of access to and use of the University library system. However, the University incorporates modern technologies that eliminate the need to physically visit the library at Foggy Bottom in order to access its collections and undertake course-related research.³ And while the students could conceivably visit the GW Bookstore to procure their textbooks, an online sales system similarly eliminates the need to come to Foggy

² Students that are enrolled for at least one credit at the Foggy Bottom campus are eligible to use the Lerner Health & Wellness Center.

³ Students are able to search the University’s substantial collection online and request the checkout and delivery of any needed books, texts, and studies. Further, students can search for and print out the text of magazines, journals, and dissertations through comprehensive online databases. Professors are able to post links to all relevant course reading through an online service known as the Blackboard system. Indeed, students are able to email, phone, and even instant message the librarians for any additional assistance. Additionally, the Virginia Campus has its own library facilities where books can be transferred via inter-library loan for the convenience of students.

Bottom. The online bookstore provides a listing of all required texts, sorted by class, and offers delivery directly to the student.

In summary, the Off-Campus Student population does not have a primary or significant relationship to the Foggy Bottom campus. They do not have the right to access the Lerner Health & Wellness Center and other athletic facilities. In principle they share the right to participate in student activities, but in practice they rarely do. Both modern technology and University policy eliminate the need to physically visit the Foggy Bottom campus library and bookstore; rather, required reading and research can be undertaken remotely and delivered to any off-campus site or home address. Off-Campus Students are therefore appropriately excluded from the Foggy Bottom/Mount Vernon Total Student Body because they have extremely limited impact—if any at all—on the Foggy Bottom campus.

III. Determine Foggy Bottom Total Student Body Headcount

The University subtracts three categories—study abroad, continuous enrollment, and Mount Vernon students—from the Foggy Bottom/Mount Vernon Total Student Body to arrive at the **Foggy Bottom Total Student Body Headcount**. These categories, as well as their associated rights, privileges and practices, are described below.

A. *Study Abroad*

Most students participating in **Study Abroad** programs enroll in an affiliated GW study abroad program. While these students retain the same rights and privileges to the facilities on the Foggy Bottom campus during the time they study abroad, they lack the ability, for obvious reasons, to use those facilities while living in a foreign country. Study abroad students maintain an administrative connection to the University because they intend to return to the Foggy Bottom campus upon completion of their studies abroad; during their time away from campus, however, they do not have any impacts and are therefore appropriately excluded from the Foggy Bottom Total Student Headcount.

Foreign students visiting GW on study abroad who are enrolled in a credit-bearing course at the University are specifically included in the GW “universe” of students under the IPEDS definition. Accordingly, if a foreign student is enrolled in a course at the Foggy Bottom or Mount Vernon campuses, they will be included in the Foggy Bottom/Mount Vernon Total Student Body.

B. *Continuous Enrollment*

Students in the category of **Continuous Enrollment** include undergraduates who received a grade of “incomplete” or “in progress” and must complete their outstanding coursework. Continuous enrollment students are ineligible to live in University housing and do not have access to the Lerner Health & Wellness Center. While they are entitled to access to the library system, as noted above, use of the University’s libraries does not generally correlate with visits to Gelman Library at Foggy Bottom, particularly if a student is not actively attending classes or otherwise present on the Foggy Bottom campus. Continuous Enrollment students maintain their

relationship to the University only for the administrative purpose of avoiding a break in their status within a specific academic program of study, and are, by definition, not enrolled in any classes. Accordingly, these students are appropriately excluded from the Foggy Bottom Total Student Body Headcount.⁴

Further, to clarify responses made at the public hearing on September 14, the “continuous enrollment” category is not primarily comprised of students who have completed their coursework and are awaiting graduation. The University holds graduation three times a year—generally in May, September and January—and requires that students complete their degree requirements and register for graduation prior to the actual graduation date. A small number of students who fulfill their degree requirements *after* the graduation deadline for a given term maintain continuous enrollment until the next graduation date. These individuals are not receiving any credit for academic activities and therefore, are not students within the meaning of IPEDS and are therefore not counted within the “universe” of GW students.

The University notes that, in contrast to the limited exclusion of Continuous Enrollment students from the Foggy Bottom Total Student Body Headcount, students in **Continuing Research** status are included in the Foggy Bottom Total Student Body Headcount. This category of students typically includes masters and doctoral candidates that are completing their theses or dissertations, respectively, but who no longer take any classes. They are required to enroll in a one-credit course that reflects their continuing research and writing activities related to their thesis/dissertation. Although these activities often result in minimal impacts on the Foggy Bottom campus for the reasons set forth above with respect to remote access to University library resources, etc., nevertheless, they are included in Foggy Bottom Total Student Body Headcount, as they are enrolled for credit at the Foggy Bottom campus.

C. Mount Vernon Students

The Mount Vernon Campus, which is subject to its own campus plan (*See* BZA Order No. 16505, February 8, 2000), provides a full-service undergraduate-focused living and learning campus. The Mount Vernon campus includes several academic facilities, Eckles Library, a dining facility, residence halls, and a number of student recreational facilities (e.g., tennis courts, softball and soccer fields, and a swimming pool), many of which have been substantially upgraded since 1998. The University operates a regular shuttle service between the Mount Vernon and Foggy Bottom campuses.

Undergraduate students at Mount Vernon share the same rights and privileges as Foggy Bottom undergraduates with respect to University library facilities and the Lerner Health & Wellness Center⁵. Both Mount Vernon and Foggy Bottom undergraduate students may participate in the same clubs, activities, and student organizations. However, Mount Vernon students need not

⁴ By definition, students in the Continuous Enrollment category are not enrolled in a class for credit, and ordinarily would fall outside the IPEDS definition of student. However, the University maintains their status as “enrolled students” in order to satisfy the requirement that students be continuously enrolled every semester until a degree is conferred. By remaining in this administrative category, continuously enrolled students are subject to the academic requirements and regulations that were in effect when the student first matriculated at the University.

⁵ Mount Vernon students who take one or more credits at the Foggy Bottom campus are eligible to use the Lerner Health & Wellness Center.

travel to Foggy Bottom to participate in student activities as the campus itself provides a full panoply of events, concerts, and student oriented programming. Furthermore, Mount Vernon students are able to access the full resources of Gelman Library through the services noted above, are able to access their coursework and information online through the Blackboard system⁶, and are also able to purchase books online from the GW bookstore and have them shipped to their Mount Vernon residence halls.

The Mount Vernon Campus Plan is subject to its own enrollment limitations (specifically, 1,000 students on a full-time equivalent basis and 1,500 headcount), which includes both (a) undergraduates who are residents of Mount Vernon and (b) students who do not reside at the Foggy Bottom campus and take courses at Mount Vernon.⁷ The University has consistently excluded students counted under the Mount Vernon Campus Plan (including Mount Vernon resident students and non-resident/commuter students) from the Foggy Bottom Total Student Body Headcount.⁸ However, after extended review and evaluation of various GW student enrollment categories with the Office of Planning, the University agreed and as proposed in Condition 10, to include all Mount Vernon non-resident/commuter students who also take classes at the Foggy Bottom campus in the Foggy Bottom Total Student Body headcount. Students who reside or take all of their classes at Mount Vernon will continue to be counted as Mount Vernon students and be excluded from the Foggy Bottom Total Student Body Headcount. See OP Final Report at 12, September 5, 2006 and Campus Plan Exhibit Y, proposed Condition 10(a).

The primary relationship of students who reside at the Mount Vernon campus is with the Mount Vernon campus. As described above, these students are part of a full undergraduate living and learning community at the Mount Vernon campus, and their potential impacts are addressed in the Mount Vernon Campus Plan. It is appropriate that the Mount Vernon campus is governed by its own separate campus plan, as the surrounding neighborhood impacted by activities at the Mount Vernon campus is completely different from that of Foggy Bottom.

The University acknowledges that residents of the Mount Vernon campus use certain facilities at the Foggy Bottom campus and conversely, residents of the Foggy Bottom campus use facilities at Mount Vernon. Impacts from students and faculty who visit other campuses are addressed in the same way as impacts associated with other visitors to the campus (such as persons attending meetings on campus, parents and prospective students visiting the campus, and even community residents who use the campus facilities). Further, Mount Vernon residents are not granted reciprocal parking privileges on the Foggy Bottom campus and are required to pay the student daily/occasional rate in the event they do choose to drive to the Foggy Bottom campus. The vast

⁶ Bb@GW is an on-line course management system based on the Blackboard Learning System™. It enables students to access syllabi, course-related materials, assignments, assessments, and communication features provided by their instructors.

⁷ As noted above, the Interior Design graduate program, including its faculty and facilities, is located at Mount Vernon. These graduate students are commuters and do not reside on either campus.

⁸ This is not an unusual practice; most of the universities in the District of Columbia have multiple campuses, and the BZA and Zoning Commission orders for those universities provide enrollment and faculty/staff caps for each of the campuses. Howard University, for example, has four campuses, including three in the District of Columbia (Central Campus, West Campus and East Campus), and the enrollment cap for the Central Campus does not include students at the other campuses.

majority of students who travel from one campus to the other use the University-operated shuttle buses, which provide convenient connections between the campuses with limited impact.

In addition to Mount Vernon resident students, students that do not live in University housing in Foggy Bottom and attend all of their classes at the Mount Vernon campus are also considered Mount Vernon students and are excluded from the Foggy Bottom Total Student Body Headcount. Like residents of Mount Vernon, these students share a primary relationship with the Mount Vernon campus and their impacts are accounted for by the Mount Vernon Campus Plan. They do not impose any direct impact on the Foggy Bottom campus through residence in Foggy Bottom student housing or classroom attendance and, for the various reasons set forth above, have minimal, if any, need to use the facilities at Foggy Bottom.

IV. Other Categories of Students

A. *School Without Walls Students*

According to the IPEDS definition, “high school students taking regular college courses for credit” are included in official student enrollment counts. Under a long-standing relationship between the University and the School Without Walls, a District of Columbia public high school located within the boundaries of the Foggy Bottom campus, students from the School Without Walls are permitted to take courses at the University. These students are included as part of the Foggy Bottom Total Student Body Headcount even though they would be present within the campus boundaries whether or not they take GW courses.

B. *University Faculty and Staff*

Under its existing enrollment and faculty and staff methodologies, the University in effect “double counts” regular Foggy Bottom full-time and part-time faculty and staff who also take one or more courses on the Foggy Bottom campus, by including the same individual in both the Foggy Bottom Total Student Body Headcount and Foggy Bottom Faculty or Staff counts. The University has proposed that going forward, the Foggy Bottom Total Student Body Headcount no longer include faculty and staff who take courses on less than a full-time basis on the Foggy Bottom campus.⁹

V. Conclusion

The University’s methodology for determining Foggy Bottom Total Student Body Headcount as set forth in proposed Condition 10 is fundamentally premised on the established IPEDS definition of student enrollment, i.e. whether a student is enrolled in a *creditable course*, regardless of location. This broad and inclusive enrollment standard is adjusted to identify students whose primary relationship is with the Foggy Bottom campus. As a result, the methodology proposed in Condition 10 appropriately balances the considerations of District

⁹ Specifically, the University has proposed that regular full and part-time faculty and staff who also take courses on the Foggy Bottom campus on less than a full-time basis continue to be counted as faculty/staff of the institution, as their primary relationship to the University is that of an employee. Faculty/staff taking a full-time course load would continue to be counted in both the student and employee categories.

zoning law with the realities associated with the delivery of education by a complex, modern university.

EXHIBIT 51 of the Record [excerpt]

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING



Office of the Director

Memorandum

TO: District of Columbia Zoning Commission

FROM: Ellen McCarthy, Director
Office of Planning

DATE: September 5, 2006

SUBJECT: Final Report for George Washington University Campus Plan 2006-2025 ZC #06-11 and related first-stage PUD and map amendment - ZC #06-12

APPLICATION

The George Washington University has petitioned the Zoning Commission for approval of a new twenty year campus plan. Future developments on the George Washington University campus would be subject to a first-stage PUD filed in conjunction with the campus plan. All subsequent development (i.e. further processing) on the campus for the life of the plan will be filed as second-stage PUDs subject to the plan and first-stage PUD. While filed under separate application numbers, the PUD is dependent upon the campus plan and the two will be heard together.

SUMMARY RECOMMENDATION

OP has continued to work with GWU and the surrounding community on the specifics of this plan. OP recommends that the applications be approved subject to the conditions set forth in this report.

DESCRIPTION OF THE CAMPUS AND SURROUNDING AREA

The GW campus is located in northwest Washington between 19th Street on the east, 24th Street on the west, E Street to the south and Pennsylvania Avenue to the north. First relocated to the area in 1912, the campus saw its largest growth in the 1920s, 30s, and 40s with many of its existing buildings constructed during this time period. The present campus boundaries were established through the campus plan process in 2001.

The campus sits at the east end of the historic Foggy Bottom neighborhood, an area characterized by late nineteenth century two-story townhouses and early twentieth century mid-rise apartment buildings. To the east of campus are several international financial institution buildings, including buildings for World Bank and the International Monetary Fund. Across Pennsylvania Avenue to the northeast is the Golden Triangle business district. Across Washington Circle to the northwest of campus is the West End neighborhood. Finally, to the south of GW is an area of federal buildings known as the Northwest Rectangle.

- iv. *The Advisory Committee shall schedule quarterly meetings open to the public, and shall keep minutes of each meeting.*
- v. *Upon request and at least on a semiannual basis, the University will report to the Advisory Committee data relevant to campus planning that includes, but is not limited to: report on student enrollment, planned development projects included in the University's capital program, historic preservation, implementation of the streetscape plan, public space permits, and reports on all conditions and commitments adopted as part of the Campus Plan.*

This commitment is important for the success of this plan. Community relations have often been strained and this commitment would reopen lines of communication. The Advisory Committee is intended to represent both the university and community and foster discussion and, ideally, resolution of issues prior to any Zoning Commission meetings. The Advisory Committee should review all projects prior to PUD submission and will have access to all compliance review information. While the Zoning Administrator will maintain sole responsibility and authority to enforce campus plan compliance, the Advisory Committee should work closely with the Office of the Zoning Administrator in monitoring compliance. This condition sets the quorum for any meeting at five members so that the absence of either side at the meeting will not prevent the university from fulfilling its commitment.

10. *For the duration of this Plan, Foggy Bottom student headcount shall not exceed 20,000 students, and Foggy Bottom student full-time equivalent shall not exceed 16,553.*
- a. *Definition. For the purposes of these Conditions, "Foggy Bottom student headcount" shall be defined as the number of GW students in the "Foggy Bottom/Mount Vernon Campus Total Student Body", minus: study abroad students, continuous enrollment students, students that reside at the Mount Vernon Campus, students that take all of their courses at the Mount Vernon Campus, and Foggy Bottom faculty and staff accounted for pursuant to Condition 11 herein who are also enrolled in one or more courses at the Foggy Bottom campus.*
 - b. *Calculation of full-time equivalent. For the purposes of these Conditions, "Foggy Bottom student full-time equivalent" shall be determined by assigning a fraction to part-time students included in the Foggy Bottom student headcount number based on the number of credits they are taking compared to a full-time course load and adding the number of full-time students. Currently, the full-time course load for undergraduates is 12 credits, and the full-time course load for graduate and professional students is 9 credits. Formulas for determining full-time equivalents may change over the term of the proposed Foggy Bottom Campus Plan depending on program requirements or the restructuring of the academic calendar.*
 - c. *An audit of the Foggy Bottom student headcount and Foggy Bottom student full-time equivalent reported pursuant to Condition 24 herein shall be conducted in a manner and by a firm previously approved by the Zoning Administrator and the Advisory Committee. The audit shall be completed by January 10 of the year following each report submitted pursuant to Condition 24 herein.*
- All Foggy Bottom student counts shall be reported biannually as specifically set forth in Conditions 24 and 25.*

Condition 10 carries forward the existing limits on student enrollment. It is not contemplated by the university or the city that these numbers will ever be increased on the Foggy Bottom Campus.

Subconditions A and B are clarifying language missing from the 2000 Campus Plan. The existing plan limited student enrollment to control the effects of the Foggy Bottom campus on the surrounding neighborhood. Based on this 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.

This condition will create a biannual count measuring enrollment on Foggy Bottom Campus each semester. The definition provided here is intended to count every student having an individual effect on the neighborhood. It starts by including all students at both the Foggy Bottom and Mount Vernon Campuses. It then subtracts any students not affecting the Foggy Bottom Campus including, students studying abroad, students paying the university but not enrolled in any classes, students living at or attending ALL their classes at Mount Vernon Campus, and GW staff taking classes as a benefit of their position. Students taking classes at both Mount Vernon and Foggy Bottom but not living at either are counted in the enrollment number.

Subcondition C requires an independent audit of the enrollment numbers for the fall semester of each year. Fall semester numbers are always higher than the spring semester and therefore would be out of compliance first should enrollment be too high.

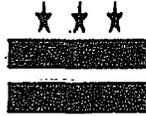
11. *For the duration of this Plan, the Foggy Bottom faculty and staff population shall not exceed a total of 12,529 on a headcount basis, and 10,550 on a full-time equivalent basis.*
 - a. *For the purposes of these Conditions, "Foggy Bottom faculty and staff headcount" shall include: regular full-time faculty and staff; regular part-time faculty and staff; wage account staff that are not Foggy Bottom students accounted for pursuant to Condition 10; temporary part-time faculty (excluding part-time clinical faculty who are not paid employees of the University); and visiting instructional and research faculty. For the purposes of these Conditions, Foggy Bottom faculty and staff shall not include faculty and staff whose primary office locations are not on the Foggy Bottom campus; employees of non-GW owned or controlled entities which are located on the Foggy Bottom campus; and contractors that provide ancillary campus-related service functions who are not employees of the University.*
 - b. *For the purposes of these Conditions "Foggy Bottom faculty and staff full-time equivalent" shall be determined by assigning a fraction to part-time employees included in the Foggy Bottom faculty and staff headcount number based generally on the number of hours worked as compared to the standard full-time 40 hour work week.*

This condition brings forward the faculty and staff counts from the 2000 Campus Plan. Due to difficulty distinguishing between the two counts, faculty and other staff have been combined into one number for this plan the total of which is the same as the existing plan. The condition defines the faculty and staff population in a way that attempts to count all employees of the University affecting the campus area similar to the student enrollment count.

12. *For the duration of the Plan, the University shall make available on-campus beds for full-time Foggy Bottom undergraduate students equivalent to 70% of the full-time Foggy Bottom undergraduate student population up to an enrollment of 8,000, plus one bed per full-time Foggy Bottom undergraduate student over 8,000. For the purposes of these Conditions, the term "on-*

EXHIBIT 81 of the Record

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR**



**The Zoning Administrator's Report on
The George Washington University's Student Count Audit**

INTRODUCTION

The Department of Consumer and Regulatory Affairs' Office of the Zoning Administrator (OZA) contracted with Walker & Company, LLP to conduct an audit of The George Washington University's (GWU) student head count.¹ Walker and Company recently completed the requested audit and provided its findings to the OZA. The results of this audit are attached as Appendix A to this report.

The purpose of the report below is to:

- 1) provide background on the reasons DCRA commissioned an audit of The GWU student count;
- 2) explain the methodology used in performing the audit;
- 3) share the audit's results;
- 4) assess The GWU's compliance with its approved campus plan²; and,
- 5) request Zoning Commission guidance in conducting future student counts in the District of Columbia.

BACKGROUND

The Board of Zoning Adjustment approved the current GWU campus plan in 2001. Among other things, this campus plan contained a condition that limits GWU enrollment to 20,000 students annually (student full-time equivalents are further capped at 16,553)³. The campus plan also restricts the head count and full-time equivalents for faculty and staff, but, these numbers were not subject to the audit as will be explained below.

The campus plan described above remains in effect for three more years. However, the neighboring community and Advisory Neighborhood Commission 2A (ANC) have raised

¹ The District of Columbia's Zoning Regulations authorize the Mayor to administer and enforce the Zoning Regulations. The Zoning Administrator of the Department of Consumer and Regulatory Affairs (DCRA) is the Mayor Designee to perform this duty. 11 DCMR 3200.1 (2003).

² This portion of the compliance report will address Condition No. 8 and the results of the recently completed audit of the University's figures used in the student head count.

³ BZA Order #16553-I, Appendix. For an explanation of the full-time equivalents (FTE) see the Audit report's explanation in note 1.

ongoing concerns about GWU's impact on the residential neighborhood, especially with regard to the number of students. Based on these concerns, the DC Office of Planning, as well as the ANC and the Foggy Bottom Association⁴ (FBA) have requested that the OZA audit the University's enrollment numbers.

The OZA responded to these audit requests by meeting with Foggy Bottom Association representatives and then reviewing numerous related news articles, correspondence and ANC resolutions to gain a clear understanding of the concerns. OZA staff also met with GWU representatives to understand the University's current student counting strategies and explain why an audit was necessary.

The information collected during these meetings provided the basis for a draft scope of work for use in selecting an auditor. The OZA also discussed the draft scope of work with GWU representatives and carefully considered all comments. All of the responses that we received were instructive; however, the OZA only included recommendations for scope of work changes that would result in a fair, clean, and unbiased audit.

The OZA then included the final scope of work in requests for bids from auditing firms. In selecting an audit firm, the OZA solicited bids from several audit firms which the University had indicated did no work for the University. Two firms submitted bids and the firm of Walker & Company, LLP was awarded the contract to audit the GWU student count. DCRA paid for the audit.

The ANC and FBA asked the OZA to also audit the numbers for faculty and staff. However, the understanding between the OZA, the Office of Planning and GWU was that the audit would only involve the student head count. In addition, the auditor raised practical concerns about how an audit of faculty and staff would be conducted since GWU does not maintain a set record date of employment for faculty and staff as it does for the student count.⁵

METHODOLOGY

The GWU student count audit consisted of two core considerations: 1) what constitutes a 'student' and 2) verification of the student count numbers provided by GWU were accurate?

The approved GWU Campus Plan does not clearly define what constitutes a 'student'. However, a clear purpose of the Campus Plan under the Zoning Regulations is to minimize a university's impact on the use of land in the residentially zoned neighborhood by limiting the number of students.

To determine the total number of students GWU has used the criteria required by the US Department of Education's National Center for Education Statistics (NCES)⁶. GWU then subtracts students that it believes have no impact on the Foggy Bottom neighborhood, such as

⁴ An incorporated membership organization for residents of the Foggy Bottom and West End neighborhoods

⁵ See recommendation section at the end of this report.

⁶ <http://www.nces.ed.gov/ipeds/>

students enrolled at other campuses with no courses at the Foggy Bottom campus. GWU also excludes students counted under its Mt. Vernon College Campus Plan. GWU has used this methodology since the beginning of the current Campus Plan. There is no indication that this methodology has been challenged by the Zoning Commission, the Board of Zoning Adjustment, or previous Zoning Administrators.

The audit report explains GWU's enrollment methodology and its definitions. The audit report also explains how GWU counts students at its Mount Vernon College campus and its faculty and staff who are enrolled in courses at Foggy Bottom.

In the scope of work the Zoning Administrator specifically directed the auditor to determine if there are any other categories of students not included in either GWU's overall enrollment counts or in the Foggy Bottom total student head count. The auditor was also directed to seek numbers of other persons attending educational activities at GWU but who are not enrolled.

Finally, the auditor investigated the source of the numbers of students who are subtracted from the Foggy Bottom Total Student Body Head Count. These include those students counted in the Mount Vernon College Campus Plan⁷, Study Abroad Students and Continuous Enrollment Students. Study Abroad Students are those not on campus and Continuous Enrollment Students are those enrolled only for administrative purposes, but not registered for or taking any creditable courses.

AUDIT RESULTS

Using the NCES methodology described above, the Auditor confirmed that the numbers provided by GWU for the Fall of 2005 and the Spring of 2006 are, with four very minor adjustments,⁸ accurately reflected by GWU in its reports to the DC Office of Zoning.

The Auditor also reported on other possible 'students' not included in the count. As a member of the Consortium of Universities of the Washington Metropolitan Area, GWU allows other member universities' students to enroll in GWU courses. In Fall 2005, 163 non-GWU students (with a full time equivalent of 46) attended classes at the Foggy Bottom campus. In Spring 2006, 143 non-GWU students (with a full time equivalent of 38) attended classes at Foggy Bottom.

The School Without Walls (SWW), a DC public high school located within the boundaries of the campus plan, has a relationship with GWU that allows SWW students and faculty to attend classes at GWU. In the Fall 2005 and Spring 2006, there were, respectively, 28 and 25 SWW

⁷ BZA Order #16505.

⁸ Because of rounding and tabulation errors, the summarization of students accounted for under the Mount Vernon Campus Plan in Spring 2006 resulted in one less student in that category. The rounding in the calculation of the full-time equivalent of part-time students in the calculation of Foggy Bottom Total Full-Time Equivalent resulted in thirteen fewer students in Fall 2005 and twenty-four fewer students in Spring 2006 (reflected in both the upper and lower tables on page 2 of the Audit Report).

students and faculty taking courses on the Foggy Bottom campus. These persons would be in the neighborhood in any event.

The audit also found that continuing or adult education occurs at a commercially zoned area outside the campus plan boundaries.

Alumni and neighbors auditing courses totaled 108 persons (with an FTE of 30) in Fall 2005 and 153 (with an FTE of 45) in Spring 2006.

The use of the NCES methodology is a reasonable standard and has not been questioned by the Board of Zoning Adjustment or the Zoning Commission. The Audit shows that GWU is in compliance with the student number limits contained in Condition #8.

RECOMMENDATION

While the current methodology can be considered reasonable, I recommend the Zoning Commission further refine and clarify the definition and methodology for conducting future head counts. The purpose for the campus plan is to protect the residential neighborhood by limiting the number of students, all students physically present in the neighborhood by attending courses at the Foggy Bottom campus should be counted. On the other hand faculty and staff who are enrolled as students are now counted twice. In clarifying the definition and methodology, the Mount Vernon College students attending classes at Foggy Bottom should be included in the Foggy Bottom head count (even if included in the Mount Vernon College campus plan), while the faculty and staff at the Foggy Bottom campus who are enrolled as students should be counted only once.

Even with the inclusion of numbers based upon this recommendation, the University would be in compliance with the cap on Total Student Body Head Count for both Fall 2005 and Spring 2006. For the full-time equivalent student count, the University would be in compliance for the Spring 2006 count.



Bill Crews, Zoning Administrator

September 14, 2006

The audit report is attached.



Walker & Company, LLP
Assurance. Business and Advisory Services

August 25, 2006

Bill Crews, Zoning Administrator
Department of Consumer and Regulatory Affairs
Government of the District of Columbia
941 North Capitol Street, NE
Washington, DC 20002

Dear Mr. Crews:

Enclosed is our completed report related to our examination of census data for The George Washington University (the University) covering Fall 2005 and Spring 2006.

As we have discussed, our firm has not performed work for the University and we are thus independent in performing our examination. We appreciate the opportunity to be of service to the Government of the District of Columbia. Please let me know should you have any questions or require any additional information.

Sincerely,

Michael D. Ward, CPA
Partner

Enclosures



Apenndix A

**THE GEORGE WASHINGTON UNIVERSITY
FALL 2005 AND SPRING 2006 CENSUS DATA
and
Independent Accountant's Report**



Walker & Company, LLP
Assurance. Business and Advisory Services

**THE GEORGE WASHINGTON UNIVERSITY
FALL 2005 AND SPRING 2006 CENSUS DATA**

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Walker & Company, LLP
Assurance, Business and Advisory Services

Independent Accountant's Report

To the Zoning Administrator
Department of Consumer and Regulatory Affairs
Government of the District of Columbia

We have examined the Fall 2005 and Spring 2006 Census Data submitted by The George Washington University (the University) to the District of Columbia Office of the Zoning Administrator. The University is responsible for the census data. Our responsibility is to express an opinion based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence supporting the classification of students in the enrollment methodology used by the University to report on compliance with the Foggy Bottom Campus Plan Order and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

Four of the amounts shown in the accompanying Census Data were adjusted by the University for rounding and tabulation errors based on the enrollment methodology (see Note 1) as compared to those initially filed by the University. The summarization of students accounted for under the Mount Vernon Campus Plan Order (see Note 3) in Spring 2006 resulted in one less student in that category. The rounding in the calculation of the full-time equivalent of part-time students in the calculation of Foggy Bottom Total Full-Time Equivalent resulted in thirteen fewer students in Fall 2005 and twenty-four fewer students in Spring 2006. We concur with these adjustments.

In our opinion, the Census Data referred to above presents, in all material respects, the classification of students based on the enrollment methodology included in Note I.

Walker & Company, LLP

August 9, 2006

**The George Washington University (GW) Census Data
 Determination of Foggy Bottom Total Student Body Head Count
 for Fall 2005 and Spring 2006 (as adjusted)**

	<u>Fall 2005</u>	<u>Spring 2006</u>
Total GW Student Body Head Count	24,099	23,295
less: Students not enrolled in courses at either the Foggy Bottom or Mount Vernon campuses	<u>3,781</u>	<u>3,925</u>
Foggy Bottom/Mount Vernon Total Student Body Head Count	20,318	19,370
less: Study Abroad Students	262	674
Continuous Enrollment Students	329	325
Mount Vernon Students (see Note 3)	<u>925</u>	<u>847</u>
Foggy Bottom Total Student Body Head Count	<u>18,802</u>	<u>17,524</u>
	<u>Fall 2005</u>	<u>Spring 2006</u>
Foggy Bottom Total Student Body Full-Time Equivalent	16,230	15,001

**The George Washington University (GW) Census Data
 Determination of Foggy Bottom Full-Time Undergraduate Head Count
 for Fall 2005 and Spring 2006 (as adjusted)**

	<u>Fall 2005</u>	<u>Spring 2006</u>
Foggy Bottom/Mount Vernon Total Student Body Head Count	20,318	19,370
less: All Graduate Students	7,332	6,853
All First Professionals (JD's and MD's)	2,318	2,272
All Part-Time Undergraduates	247	382
Non-Degree Students	756	666
Full-Time Undergraduates Study Abroad	259	660
Undergraduate Continuous Enrollment	75	104
Full-Time Undergraduates accounted for under the Mount Vernon Campus Plan Order, including both resident and non-resident students.	<u>792</u>	<u>712</u>
Foggy Bottom Full-Time Undergraduate Head Count	<u>8,539</u>	<u>7,721</u>

See notes to census data and accountant's report

THE GEORGE WASHINGTON UNIVERSITY
NOTES TO CENSUS DATA
Fall 2005 and Spring 2006

1. Enrollment Methodology

The George Washington University (GW) defines the Total GW Student Body Head Count as all students, full-time and part-time, undergraduate, graduate and non-degree, enrolled in a creditable course at GW at the Foggy Bottom Campus, the Mount Vernon Campus, the Virginia Campus and other locations or via distance education. This total is reported to the U.S. Department of Education through the Integrated Post-Secondary Education Data System (IPEDS), the standard reporting mechanism for United States institutions of higher education. IPEDS defines those who are included and excluded from the official student enrollment counts.

GW derives the On Campus (Foggy Bottom/Mount Vernon) Total Student Body Head Count by extracting from the Total GW Student Body Head Count students who take courses at the Foggy Bottom or Mount Vernon campuses. Campus location is determined by the geographic designation for each course in which a student is enrolled.

GW derives the Foggy Bottom Total Student Body Head Count by subtracting from On Campus Total Student Body Head Count (i) students who are enrolled in a study program outside of the United States for the semester ("Study Abroad"), (ii) students who are taking no courses but are enrolled for administrative purposes allowing the student to maintain good standing for graduation ("Continuous Enrollment"), and (iii) students accounted for under the Mount Vernon Campus Plan Order (BZA Order 16505), ("Mount Vernon Students").

GW derives the Foggy Bottom Total Student Body Full Time Equivalent by counting students included in the Foggy Bottom Total Student Body Head Count once for each full-time student and as a fraction of full-time for a part-time student. The part-time student fraction is based on the number of credit hours constituting a full-time program for each classification of students. For undergraduates and non-degree students, a full-time program is 12 credit hours (thus a student taking 6 credit hours is counted as 0.5 FTE). For graduate students, a full-time program is 9 credit hours. For first professionals in the Law School, a full-time program is 12 credit hours. All first professional students in the School of Medicine and Health Sciences (MD candidates) are considered full-time.

GW derives the Foggy Bottom Full-Time Undergraduate Total Student Body Head Count by subtracting from the On Campus (Foggy Bottom/Mount Vernon) Total Student Body Head Count all graduate students, all first professionals (JD's and MD's), all part-time undergraduates (i.e. those taking fewer than 12 credit hours), non-degree students (i.e. students who take a course or more for credit, but are not in degree programs, such as working professionals taking courses for enrichment), full-time undergraduates studying abroad, undergraduates in continuous enrollment, and full-time undergraduates accounted for under the Mount Vernon Campus Plan Order.

THE GEORGE WASHINGTON UNIVERSITY
NOTES TO CENSUS DATA
Fall 2005 and Spring 2006

1. Enrollment Methodology (continued)

Students enrolled at GW and included in the Total GW Student Body Head Count reported through IPEDS are tracked among the elements contained in the Banner system, GW's enterprise-wide database application from which the census data has been drawn. Attendees of any seminars and conferences who are not enrolled in a GW course are not maintained in the database and not reported to the U.S. Department of Education because they are not included in the IPEDS definition of students enrolled in creditable courses. There are no counts available for such attendees and they are thus excluded from the census data presented here and in the semi-annual reports to the Office of the Zoning Administrator.

2. Definitions

Student	An individual enrolled at GW as either an undergraduate, graduate, first professional (JD's and MD's), or any person enrolled in a creditable course offered by GW (e.g. foreign exchange and other non-degree students).
Enrollment	Students who are registered in at least one creditable course at GW are considered enrolled at GW.
Full Time Equivalent (FTE)	The number of full-time students (undergraduate, graduate, first professional and non-degree) and the total credit hours taken by part-time (including continuing research) students in each category divided by the relevant credit hours to be considered full-time (9 for graduate students and 12 for all others). All MD students are considered full-time.
Study Abroad	Students studying outside of the United States during the reporting period who pay full tuition and register for credit courses through GW. These students are considered to be in an affiliated program and are included in the students reported to the U.S. Department of Education. Students studying abroad in a non-GW program who pay only a nominal fee to GW are considered to be in an unaffiliated study abroad program and are excluded from the total student body under the IPEDS definition.
Continuous Enrollment	Students who are enrolled for administrative purposes but are not registered for, or taking any creditable courses.

THE GEORGE WASHINGTON UNIVERSITY
NOTES TO CENSUS DATA
 Fall 2005 and Spring 2006

3. Mount Vernon Campus Plan

In addition to the George Washington University Foggy Bottom Campus Plan, Years 2000 through 2009, the University has a separate campus plan for its campus at the Mount Vernon College. By order of the Board of Zoning Adjustment, the Mount Vernon Campus Plan was approved subject to several conditions, including that the student population shall not exceed 1,000 full-time equivalent students or a total student body head count of 1,500; and that the proportion of non-resident to resident students enrolled in regular day-schedule course will not exceed approximately 50 percent at any time during the life of the campus plan. All students enrolled in a course at the Mount Vernon campus are thus accounted for under the Mount Vernon Campus Plan Order (BZA Order 16505).

Students accounted for under the Mount Vernon Campus Plan Order may attend classes at other campuses as well. The percentage distribution of courses taken by such students on the Foggy Bottom Campus is as follows:

<u>Share of Courses on Foggy Bottom Campus</u>	<u>Fall 2005</u>		<u>Grand Total</u>
	<u>Mount Vernon Commuter/Non-resident *</u>	<u>Mount Vernon Resident</u>	
Over 75%	286	292	578
50-74%	95	105	200
25-49%	22	71	93
Under 25%	41	13	54
Grand Total	<u>444</u>	<u>481</u>	<u>925</u>

<u>Share of Courses on Foggy Bottom Campus</u>	<u>Spring 2006</u>		<u>Grand Total</u>
	<u>Mount Vernon Commuter/Non-resident *</u>	<u>Mount Vernon Resident</u>	
Over 75%	288	253	541
50-74%	72	89	161
25-49%	15	67	82
Under 25%	45	18	63
Grand Total	<u>420</u>	<u>427</u>	<u>847</u>

*Every Mount Vernon Commuter/Non-resident takes at least one course at the Mount Vernon campus

4. University Faculty and Staff

GW Faculty and staff may enroll in courses and are thus included in the student counts based on their degree status and number of credit hours taken. The Foggy Bottom Campus Plan is subject not only to caps on the number of student head count and full-time equivalents but to a maximum number of faculty (1,550 FTE and 2,336 head count) and staff (9,000 FTE and 10,293 head count).

**THE GEORGE WASHINGTON UNIVERSITY
NOTES TO CENSUS DATA
Fall 2005 and Spring 2006**

4. University Faculty and Staff (continued)

Currently, regular Foggy Bottom full time and part time faculty and staff who take one or more courses on the Foggy Bottom Campus are counted as both Foggy Bottom "students" and as Foggy Bottom "faculty" or "staff". GW considers all full time employees and all part time employees who take less than a full time course load to be primarily "employees". On the other hand, any part time employees who take a full time course load are considered primarily as "students". "Student workers", who fall into the category of "temporary employees," are considered primarily as "students," are not included in the staff counts, and should continue to be included in the student enrollment count.

All University Employees Included in Student Enrollment Counts

	Total GW Student <u>Body</u>	Foggy Bottom/ Mount <u>Vernon</u>	Foggy Bottom Student <u>Body</u>	Foggy Bottom <u>FTE</u>	Foggy Bottom FT <u>Undergraduate</u>
Original Fall 2005	24,099	20,318	18,802	16,243	8,539
Deduct Employees	627	578	576	274	4
Revised Fall 2005	23,472	19,740	18,226	15,969	8,535
Original Spring 2006	23,295	19,370	17,507	15,025	7,721
Deduct Employees	644	588	580	273	8
Revised Spring 2006	22,651	18,782	16,927	14,752	7,713

Foggy Bottom Employees Included in Student Enrollment Counts

	On Campus Foggy Bottom/ Mount Vernon	Foggy Bottom Student <u>Body</u>	Foggy Bottom <u>FTE</u>	Foggy Bottom FT <u>Undergraduate</u>
Original Fall 2005	20,318	18,802	16,243	8,539
Deduct Employees	489	489	231	3
Revised Fall 2005	19,829	18,313	16,012	8,536
Original Spring 2006	19,370	17,507	15,025	7,721
Deduct Employees	496	490	228	6
Revised Spring 2006	18,874	17,017	14,797	7,715

THE GEORGE WASHINGTON UNIVERSITY
NOTES TO CENSUS DATA
Fall 2005 and Spring 2006

5. Consortium of Universities

GW is a member of the Consortium of Universities of the Washington Metropolitan Area. Students of any member university may attend classes at other member universities. The U.S. Department of Education requires that such students be counted by the university in which they are enrolled (i.e. the university which confers the degree and receives tuition payments from the student). Students of other Consortium universities taking courses at the GW are thus not included in the Total GW Student Body Head Count. In Fall 2005, 97 GW Foggy Bottom students (with an FTE of 31) attended classes at other Consortium universities and 163 non-GW students (with an FTE of 46) attended classes at Foggy Bottom. In Spring 2006, 141 GW Foggy Bottom students (with an FTE of 45) attended classes at other Consortium universities and 143 non-GW students (with an FTE of 38) attended classes at Foggy Bottom.

6. School Without Walls

The School Without Walls (SWW) is a District of Columbia public high school located on District-owned property within the boundaries of GW's Foggy Bottom Campus. Under a long-standing relationship between GW and SWW, students from the high school are permitted to take courses at GW. SWW students taking such courses are included in the data reported to the US Department of Education and are thus included in the Total GW Student Body Head Count. They have not been subtracted to arrive at the reported Foggy Bottom student counts even though they would be present within the campus boundaries whether or not they take GW courses. In the Fall 2005 and Spring 2006 there were, respectively, 28 and 25 SWW students and faculty taking GW courses on the Foggy Bottom campus.

7. Adult and Continuing Education

GW formerly operated a continuing education program in a commercially-zoned area outside of the boundaries of the Foggy Bottom campus, which it has been phasing out over the past two years. During the time periods covered by the Census Data, GW offered a certificate program in Landscape Design with 17 participants in Fall 2005 and 19 participants in Spring 2006.

A separate certificate program in event management is operated under the auspices of GW's School of Business by an outside firm at the same off-campus location as the continuing education program. The in-class portion of the program consists of two-day courses mostly offered on Friday evenings and Saturdays. The short courses are geared toward professionals in the area who generally do not come to the Foggy Bottom campus during the program. The classes are offered throughout the year and at any given time there are typically no more than 15-20 students present at the off-campus facility.

THE GEORGE WASHINGTON UNIVERSITY
NOTES TO CENSUS DATA
Fall 2005 and Spring 2006

7. Adult and Continuing Education (continued)

These students are not enrolled in creditable courses and are thus required to be excluded from the data reported to the U.S. Department of Education and from the Total GW Student Body Head Count.

8. Alumni and Neighbors Auditing Courses

GW encourages alumni and neighbors from the surrounding community to visit its campus, use its resources, and audit certain courses. Those who audit courses are required to be excluded from the data reported to the U.S. Department of Education and thus are not included in the Total GW Student Body Head Count. There were 108 people (with an FTE of 30) and 153 people (with an FTE of 45) auditing courses on the Foggy Bottom campus in Fall 2005 and Spring 2006, respectively. There was one person auditing a course on the Mount Vernon campus in each period.

TRANSCRIPT Oct. 11, 2006 [excerpt]

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA
+ + + + +
ZONING COMMISSION
+ + + + +
PUBLIC HEARING
+ + + + +

IN THE MATTER OF: :
: :
The George Washington University: Case Nos. :
: 06-11 :
Special Exception for a Campus : and 06-12 :
Plan and First Stage Planned : :
Unit Development & Related : :
Zoning Map Amendment : :

Wednesday,
October 11, 2006

Hearing Room 220 South
441 4th Street, N.W.
Washington, D.C. 20001

The Public Hearing of Case Nos. 06-11 and 06-12 by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room at 441 4th Street, Northwest, Washington, D.C. 20001, Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTHONY J. HOOD	Vice-Chairperson
GREGORY N. JEFFRIES	Commissioner
JOHN G. PARSONS	Commissioner (NPS)
MICHAEL G. TURNBULL	Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN	Secretary
ESTHER BUSHMAN	General Counsel

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 MR. HITCHCOCK: Okay. So they're
2 comfortable with compliance. It doesn't have
3 to be substantial, correct?

4 MR. CREWS: I'll leave that for --

5 MR. HITCHCOCK: Okay. A couple of
6 other questions. You submitted earlier in
7 this proceeding an audit, correct?

8 MR. CREWS: Yes.

9 MR. HITCHCOCK: Okay. And audit
10 deals with issues of head count.

11 MR. CREWS: Right. This one
12 specifically with student head count.

13 MR. HITCHCOCK: Correct. And you
14 rely upon the biennial reports filed by the
15 university for use in compliance, correct?

16 MR. CREWS: Right.

17 MR. HITCHCOCK: There are a number
18 -- there are a number of categories of
19 students as well as faculty -- and we'll stick
20 with students -- that are not broken down
21 specifically, isn't that correct? I mean, for
22 example, the university goes from 24,000 down

1 to 20,000 without breaking out Loudoun County
2 and the others, correct?

3 MR. CREWS: Right.

4 MR. HITCHCOCK: Okay.

5 MR. CREWS: I think so. I don't
6 have it in front of me, I apologize.

7 MR. HITCHCOCK: Yes, that's fine.
8 I can pass one up if that would be helpful.

9 MR. CREWS: Okay.

10 CHAIRPERSON MITTEN: What are you
11 trying to get to? Because his time is --

12 MR. HITCHCOCK: I'm trying to find
13 out --the punchline question is: would you
14 find it helpful, as one who enforces this, to
15 find more detailed breakdowns than are
16 currently provided?

17 MR. CREWS: Well, I think part of
18 that undoubtedly is the more specific we can
19 be, the better off we are. I think that, for
20 example, the -- the -- where am I? Let me
21 think here. I think you all have at -- had
22 suggested -- where am I? 9, 10. Right, on

1 condition 10, you know, rightfully or
2 wrongfully, we accepted the university's
3 methodology of how they're counting students,
4 and I made some recommendations at the end of
5 that audit report to try and help improve
6 this.

7 But, for example, the ANC and
8 Foggy Bottom Association proposal talked about
9 persons being educated at any given time, and
10 it would be -- you know, I would need much
11 more clarification of how you -- how you
12 commented on that, or, you know, how -- how we
13 count that person's being educated.

14 In our audit report, we did ask
15 the university to provide numbers of people
16 that were not students enrolled in a course,
17 in order to try and come up with this type of
18 thing where I think your recommendation goes.
19 And the more specific that we could be, the
20 better off we would be.

21 MR. HITCHCOCK: Okay. Let me ask
22 on that, the audit -- your cover letter with

1 the report stated -- do you have a copy handy,
2 or I can --

3 MR. CREWS: Yes.

4 MR. HITCHCOCK: Okay. At page 4,
5 it states, "All students physically present in
6 the neighborhood by attending courses at the
7 Foggy Bottom campus should be counted." Is
8 that still your view? And later where you
9 say, "Mount Vernon students attending classes
10 at Foggy Bottom should be counted in the Foggy
11 Bottom head count, even if living on Mount
12 Vernon campus"?

13 MR. CREWS: Right. Because I think
14 that the intent -- and, again, this would be
15 a policy decision, but, you know, this is the
16 opportunity I had to -- to interpret this as
17 an enforcement mechanism is that what we're
18 trying to do in a residential neighborhood, as
19 designed by the zoning regulations, is to
20 account for the impact that this particular
21 use as a university has on the neighborhood.

22 So whatever the Commission

1 determines, the more specific, the better, of
2 what they consider to have a person having an
3 impact on the neighborhood, the better off we
4 all are.

5 MR. HITCHCOCK: Yes. I ask,
6 because just in looking at your report before
7 we got going tonight, I didn't see anything in
8 the text and just wanted to make sure that was
9 still your recommendation.

10 Let me ask a question on the
11 faculty and staff. Actually, let me finish
12 up. Your audit report states that using this
13 methodology of counting students taking
14 classes, that GW would be in compliance for
15 spring 2006 term, correct?

16 MR. CREWS: Yes.

17 MR. HITCHCOCK: And is it not also
18 correct that under that methodology GW would
19 have been out of compliance for fall 2005?

20 CHAIRPERSON MITTEN: Okay. Let's
21 not get into that right now. All right?

22 MR. HITCHCOCK: Okay. Let me ask

EXHIBIT 207 of the Record [excerpt]

the streetscape plan, public space permits, and reports on all conditions and commitments adopted as part of the Campus Plan.

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Comment: Condition 3 of the current plan was never formally implemented, although there were multiple avenues of communication between the ANC (and others) and the University, through which many issues were effectively dealt with. GWU has, unfortunately, tended to treat the Advisory Committee issue as a public relations or regulatory "points-scoring" opportunity, and the proposal put forward in this application would exacerbate that problem. Further, we know from email messages produced in response to FOIA requests that some of those who negotiated the proposed new condition saw it as an opportunity to relieve the Zoning Administrator or others of enforcement obligations. The language of paragraphs a.1 and a.2 reflect their intention to make the Advisory Committee (and therefore the ANC) something of an enforcement entity. However, at the same time, the provision, unlike Condition 3 of the current plan, puts GWU firmly in the driver's seat in the operation of the Committee. It does that by having equal numbers of GWU and community members, making a quorum the same number as GWU's members, and having the rules set at a designated meeting. Predictably, GWU's members, who are paid employees for whom attendance will be an obligation of employment, will attend faithfully. Just as predictably, attendance of community members (who are volunteers) will not be as uniform. The result will be that nothing can be done except as GWU wants it done. Such an Advisory Committee will never work, and if GWU gets its way in setting it up as proposed, it will be another issue that inflames as well as burdens the community.

The proposal has been re-written to provide for majority community membership, a higher quorum, and more flexibility.

ANC 2A and the FBA may proffer additional recommendations on Advisory Committee issues.

Student, Faculty and Staff Caps (Current Condition 8, Conditions 10 and 11 in GWU Submission)

~~8. For the duration of this Plan, Foggy Bottom student headcount shall not exceed 20,000 students, and Foggy Bottom student full-time equivalent shall not exceed 16,553. For the duration of this Plan, the Foggy Bottom faculty and staff population shall not exceed a total of 12,529 on a headcount basis, (consisting of no more than 2,336 faculty and no more than 10,293 staff) and 10,550 on a full-time equivalent basis (consisting of no more than 1,550 faculty and no more than 9,000 staff).~~

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- a. Definition. For the purposes of these Conditions, "Foggy Bottom student headcount" shall be defined as the number of persons being educated by GW who at any given time attend classes or have the right to use facilities at the Foggy Bottom campus.
- b. Calculation of full-time equivalent. For the purposes of these Conditions, "Foggy Bottom student full-time equivalent" shall be determined by assigning a fraction to part-time students included in the Foggy Bottom student headcount number based on the number of credits they are taking

Deleted: GW students in the "Foggy Bottom/Mount Vernon Campus Total Student Body", minus: study abroad students, continuous enrollment students, students that reside at the Mount Vernon Campus, students that take all of their courses at the Mount Vernon Campus, and Foggy Bottom faculty and staff accounted for pursuant to Condition 11 herein who are also enrolled in one or more courses at the Foggy Bottom campus. 1

compared to a full-time course load and adding the number of full-time students. ~~The full-time course load for undergraduates is 12 credits, and the full-time course load for graduate and professional students is 9 credits.~~

c. An audit of the Foggy Bottom student headcount and Foggy Bottom student full-time equivalent reported shall be conducted in a manner and by a firm previously approved by the Zoning Administrator and reported to the Advisory Committee. The audit shall be completed by January 10 of the year following each report.

d. ~~For the purposes of these Conditions, "Foggy Bottom faculty and staff headcount" shall include all faculty and staff who are obliged by their employment to discharge any of their duties at the Foggy Bottom campus or who have the right to use any Foggy Bottom campus facilities. For the purposes of these Conditions "Foggy Bottom faculty and staff full-time equivalent" shall be determined by assigning a fraction to part-time employees included in the Foggy Bottom faculty and staff headcount number based generally on the number of hours worked as compared to the standard full-time 40 hour work week.~~

~~Deleted: Currently, the~~

~~Deleted: Formulas for determining full-time equivalents may change over the term of the proposed Foggy Bottom Campus Plan depending on program requirements or the restructuring of the academic calendar. ¶~~

~~Deleted: pursuant to Condition 24 herein~~

~~Deleted: submitted pursuant to Condition 24 herein~~

Comment: For the reasons set out in FBA's motion, in which the ANC joined, the student counts should include every person educated by GWU. At the very least, they should include every person educated by the university who has rights to use the facilities provided students at the Foggy Bottom campus, since all such persons add to the intensity of uses and thereby the impacts on the co-located residential community. The OP Final Report notes that the intent is to "count every student having an individual effect in the neighborhood." (page 12). The Zoning Administrator recommended inclusion of Mount Vernon students who take classes at Foggy Bottom. That moves in the right direction, but still does not account for all persons being educated who have "an individual effect in the neighborhood."

As to proposed Condition 11, it is entirely unclear, even after all of GWU's submissions, whether this provision captures every person employed by GWU whose employment or associated benefits require or permit him or her to be present on the Foggy Bottom campus, e.g., researchers. It does not define the various categories it proposes, and some of them are poorly defined and explained. A much simpler definition would be to count all faculty and staff employed by the university and correct for duplication. The Zoning Administrator noted that the auditor reported practical difficulties in retrieving data about faculty and staff. That provides added support for the argument that the task should be as simple, and inclusive, as possible.

The fact is that there never has been an independent audit of faculty and staff figures, nor has there been a detailed breakdown of how many faculty and staff fall into the various subcategories that GWU proposes to exclude, an omission that is glaring when one considers the disparity between the numbers that GWU reports for present purposes and the numbers that GWU reports to the federal government and posts on its website. Moreover, GWU has offered no compelling reason for combining the two, and there are ways that GWU could increase density of usage, e.g., by outsourcing. A separate limitation

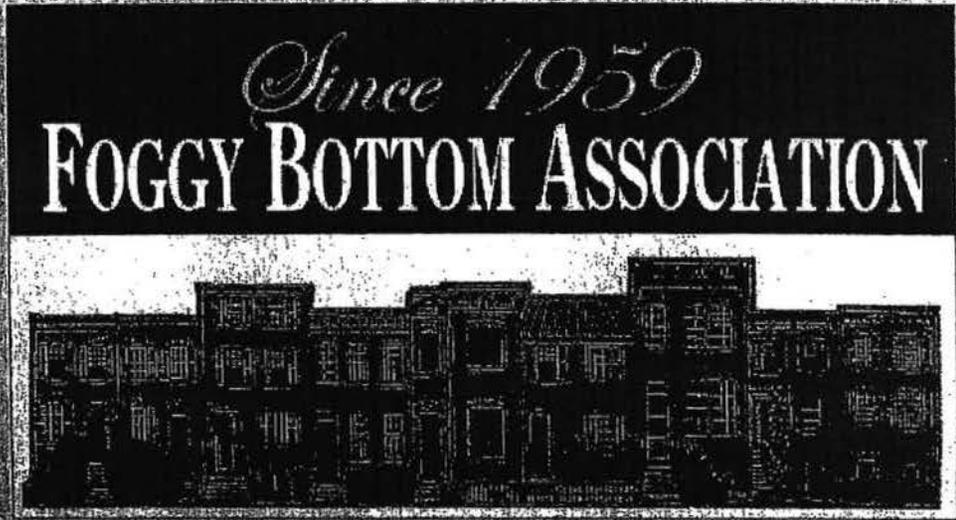
~~Deleted: All Foggy Bottom student counts shall be reported biannually as specifically set forth in Conditions 24 and 25. ¶~~

~~Deleted: 11. For the duration of this Plan, the Foggy Bottom faculty and staff population shall not exceed a total of 12,529 on a headcount basis, and 10,550 on a full-time equivalent basis. ¶~~
~~a. For the purposes of these Conditions, "Foggy Bottom faculty and staff headcount" shall include: regular full-time faculty and staff; regular part-time faculty and staff; wage account staff that are not Foggy Bottom students accounted for pursuant to Condition 10; temporary part-time faculty (excluding part-time clinical faculty who are not paid employees of the University); and visiting instructional and research faculty. For the purposes of these Conditions, Foggy Bottom faculty and staff shall not include faculty and staff whose primary office locations are not on the Foggy Bottom campus; employees of non-GWU owned or controlled entities which are located on the Foggy Bottom campus; and contractors that provide ancillary campus-related service functions who are not employees of the University. ¶~~
~~b. For the purposes of these Conditions "Foggy Bottom faculty and staff full-time equivalent" shall be determined by assigning a fraction to part-time employees included in the Foggy Bottom faculty and staff headcount number based generally on the number of hours worked as compared to the standard full-time 40 hour work week. ¶~~

EXHIBIT 187 of the Record [excerpt]

3291

George Washington University Campus Plan 2006-2025 and PUD Applications



Testimony of the Foggy Bottom Association
September 25, 2006

ibc

COMMISSION
District of Columbia
CASE NO. 06-11
EXHIBIT NO. 187

Over-enrollment still a problem

- Focus should be on total intensity of use of Foggy Bottom campus.
 - Need to count ALL students (and others) using the campus, even if students are housed elsewhere. Otherwise a huge loophole exists.
 - Count faculty and staff separately. No reason to combine the two.
 - Any headcount standard should be clear and simple – and without loopholes.

1/20/07

1/20/07

Over-enrollment still a problem

- GWU's proposed 20,000 cap offers no protection.
- GWU conditions contain several loopholes:
 - GW would omit students who take classes at Foggy Bottom, but live elsewhere. Would be easy to bring in students from Virginia.
 - No enforcement if GWU in "substantial compliance," whatever that means.
 - Limits on GWU buying property are ineffectual.
 - Student discipline program ineffectual.
- If Commission to accept GW's new methodology, it should lower the cap.

Addressing the problem

- Any cap changes should set a limit that realistically measures the impact of usage of the Foggy Bottom campus.
- To the extent the Commission uses headcount, the standard should be objective, clear and enforceable.
- If you are inclined to move to GWU's definition, you should lower the cap.

3/2/99

WCE

EXHIBIT 188 of the Record – Tab 4 [excerpt]

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.

3323.
ZONING COMMISSION
District of Columbia

CASE NO. 06-4
EXHIBIT NO. 188

**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

3369.

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.

TRANSCRIPT September 28, 2006 [excerpt]

1 MS. ELLIOTT: It's on the -- it's in the
2 E Street area.

3 MS. DWYER: All right. Thank you.

4 Ms. Howell, I just have a couple of
5 questions for you. I think -- first of all, I think
6 you mentioned the Georgetown University example and
7 their Law Center as sort of a model to look to in
8 terms of satellite campus. Is that what you would
9 say?

10 MS. HOWELL: Yes.

11 MS. DWYER: And I assume that in that
12 situation the law students wouldn't -- the law
13 students who are at the Law Center campus should not
14 count under the main campus cap.

15 MS. HOWELL: Yes.

16 MS. DWYER: What if those law students
17 came to the main campus and used the Yates sports
18 facility, for example? Would they count in that
19 situation?

20 MS. HOWELL: I think that's really hard to
21 quantify.

22 MS. DWYER: I'm just trying to understand
23 at what point do the faculty and students at another
24 campus begin to count at a main campus.

25 MS. HOWELL: If they use it, I guess they

1 should count in some way. But I think it's very hard
2 to quantify that. I think that the 2000 plan did try
3 to get at the caps on faculty and staff to try to get
4 at that. I think it's really hard to measure if
5 someone goes to the Lizner Auditorium, do they count.

6 MS. DWYER: Well, you mentioned that the
7 university should consider a research facility east of
8 the river. And if there were researchers there that
9 happened to come back to the main campus for a panel
10 program or to use the health and wellness center,
11 would they then count within the cap on the Foggy
12 Bottom campus?

13 MS. HOWELL: I don't see how we could do
14 that, frankly. I really don't. I think this is an
15 imperfect system, but I do think that the bulk of the
16 use and intensity of use would be somewhere else.

17 MS. DWYER: So it's where the primary
18 activities are, the primary use.

19 MS. HOWELL: No, I wouldn't say "primary."
20 I'd say -- I mean, if someone is coming back to take
21 classes at the Foggy Bottom campus, then, yes, I think
22 they should count. If they're coming back to be staff
23 at the Foggy Bottom campus, they should count. If
24 they are teaching, then they should count towards the
25 faculty count.

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TRANSCRIPT March 12, 2007 [excerpt]

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

PUBLIC MEETING
1226th MEETING SESSION (6th of 2007)

+ + + + +

MONDAY

MARCH 12, 2007

+ + + + +

The Public Meeting of the District of Columbia Zoning Commission convened in Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice, at 6:30 p.m., Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTHONY J. HOOD	Vice-Chairperson
GREGORY JEFFRIES	Commissioner
JOHN PARSONS	Commissioner (NPS)
MICHAEL G. TURNBULL	Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN	Secretary
DONNA HANOUSEK	Zoning Specialist
ESTHER BUSHMAN	General Counsel

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1 to delete from the -- from what's subtracted
2 -- West End Citizens wants to delete
3 "undergraduate continuous enrollment students
4 and full-time undergraduate students that
5 reside at the Mount Vernon campus."

6 Okay. So keep in mind that this
7 section is about calculating the on-campus
8 undergraduate student housing requirement. So
9 people that are living at Mount Vernon, I
10 don't know why you would count them in the
11 Foggy Bottom campus housing requirement.

12 And the undergraduate continuous
13 enrollment students, my recollection is those
14 were people that they were going to -- they
15 really had finished all of their credits, but
16 they were going to graduate later, so they
17 were really not attending school. Do you
18 remember that? Mr. Bergstein, do you remember
19 that, what -- no.

20 I'm pretty sure that they were
21 people that were no longer actually actively
22 attending classes. So I don't know why they

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