

**BEFORE THE ZONING COMMISSION OF THE DISTRICT OF COLUMBIA**

**Z.C. CASE NO. 10-32**

**GEORGETOWN UNIVERSITY'S WRITTEN REBUTTAL  
TO THE SUPPLEMENTAL SUBMISSIONS**

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ZONING COMMISSION  
District of Columbia

CASE NO. 10-32

EXHIBIT NO. 361

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## INTRODUCTION

The Georgetown University (“Georgetown” or the “University”) 2010-2020 Campus Plan proposes significant and meaningful commitments that are part of a continuum of innovation, collaboration, and result-oriented action by the University in the Georgetown and Burleith communities dating back through the most recent campus plan and beyond. Many of these new commitments grew out of existing measures that were developed in direct response to community concerns and repeatedly praised by community representatives as well as city agencies.

The 2010 Campus Plan’s commitments also directly respond to the concerns raised by community and city agency stakeholders during the 2010 Campus Plan process. They represent a significant commitment of the University’s financial and leadership resources. Many of these measures have already been put in place and have proven to be successful. And the University has committed to implement the remaining measures according to a defined schedule.

The measures offered as part of the Campus Plan are not mere patches or fixes, and to blithely dismiss them as such ignores the seriousness and hard work of all—University, neighbors, and city agencies alike—who have labored to address the challenges that come with living in a vibrant urban neighborhood. For its part, the University has committed extraordinary amounts of time, money and University resources and made difficult tradeoffs that impact the University’s educational mission and address the issues raised during the Campus Plan process.

The result is a consensus plan with durable measures proven to be successful that have been carefully balanced with the competing priorities and realities of the University’s academic mission to reach the reasonable accommodation that is called for under the Zoning Regulations.

### **I. THE 2000 CAMPUS PLAN SUCCESSFULLY MANAGED THE IMPACTS OF THE UNIVERSITY THROUGH EXTENSIVE COMMUNITY ENGAGEMENT AND EFFECTIVE MEASURES**

Contrary to the suggestions of one of the parties in opposition, Advisory Neighborhood Commission 2E (“ANC 2E”), the last ten years have not been “promise land.” Rather, Georgetown University has established a lengthy track record of listening and effectively responding to community concerns. As demonstrated by objective evidence in the record as well as past praise from community representatives (including ANC 2E, the Citizens Association of Georgetown (“CAG”) and the Burleith Citizens Association (“BCA”)), the University’s efforts have been responsive to community concerns and have effectively mitigated objectionable impacts.

**A. Georgetown's 2000 Campus Plan Represents Promises Kept.**

**1. Georgetown has fully complied with the 2000 Campus Plan.**

Contrary to suggestions that Georgetown has not fulfilled its commitments in the 2000 Campus Plan, the University fully complied with 2000 Campus Plan requirements. Exhibit A sets forth in detail the 2000 Campus Plan requirements and the status of the University's compliance.

**2. The 2000 Campus Plan did not impose objectionable impacts.**

The District of Columbia Board of Zoning Adjustment ("BZA") did not find that the 2000 Campus Plan imposed objectionable impacts. In the BZA's own words:

The Board was not persuaded by the parties in opposition that the university use is currently creating adverse impact on neighboring property, or that the proposed increase in enrollment would create objectionable conditions not capable of mitigation through the University's enhanced programs addressing student conduct off-campus. Some students living off campus – albeit a minority of students living off-campus and a small fraction of the University population – may create objectionable conditions in communities surrounding the campus through several causes, including student misconduct. The University's off-campus programs are a reasonable approach that will allow the University to monitor off-campus student activity in a proactive manner to prevent adverse impacts that off-campus student houses or vehicles may otherwise have on the community.

BZA Order No. 16566-F (2005) at 17.

**B. Georgetown's Decades-Long Engagement with the Community Has Been Acknowledged and Praised by the Community – Until Recently.**

Georgetown long has engaged with the community. As reflected in Exhibit B, over more than a decade, Georgetown consistently has communicated with and responded to the community through, among other venues, a series of regular, open community meetings, small group meetings between university and neighborhood leadership, regular engagement with ANCs and community groups, and countless individual conversations. Time and time again, the University implemented measures and then enhanced and improved them. The characterization of recent University efforts as "belated . . . small steps," *see* Exh. 345 of the Record at 3 (CAG/BCA November 8, 2011 Supplemental Submission), is belied by the facts that are set forth in on the timeline included as Exhibit B.

**1. Georgetown's multi-year effort to address off-campus behavior and noise has reduced complaints and has received repeated community praise.**

Total complaints have decreased. Significant programs implemented by Georgetown throughout the past decade have reduced the number of complaints about noise and disorderly conduct. The efficacy of these measures is reflected in:

- the decline of 911 calls, *see* Exh. 354 of the Record at 13 (GU November 17, 2011 Rebuttal Presentation); Exh. 273 of the Record, Tab N (GU June 15, 2011 Rebuttal Submission),
- the low percentage of off-campus students associated with any misconduct report (14% in Fall 2011), *see* Exh. 354 at 12, and
- the far lower percentage of off-campus students with repeated misconduct reports (3% in Fall 2011), *see* Tr. Nov. 17, 2011 at 128-29 (Testimony of Dr. Todd Olson).

Consistent with the statistics, during the last decade the Metropolitan Police Department ("MPD") repeatedly communicated to the University that its efforts, which include SNAP, neighborhood shuttles, the MPD reimbursable detail, and an increasingly effective level of cooperation between MPD and the University yielded successful results.

Non-student complaints are a notable portion of the total. As many as one of every four reports received about noise and other misconduct involve an individual or address that is not affiliated with the University. Tr. Nov. 17, 2011 at 129 (Testimony of Dr. Todd Olson). Indeed, MPD and community representatives have observed that many of the noise complaints relate to young professionals and others in the neighborhood not associated with the University. *See, e.g., Burleith Bell*,<sup>1</sup> February 2007 (praising MPD efforts to resolve noise issue with a number of non-student rental homes).

Efforts continued throughout the past decade. Key initiatives were taken throughout the 2000 Campus Plan period – not just before the Zoning Commission process and not limited to specific 2000 Campus Plan requirements:

- *Student Neighborhood Assistance Program ("SNAP")*. SNAP began in 2001 and was tweaked and improved on several occasions in the middle part of the decade in response to community suggestions at ALL meetings that the University implement a patrol. In 2007, SNAP was enhanced further when the University determined it would be even

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<sup>1</sup> The *Burleith Bell* is BCA's monthly newsletter, available at <http://www.burleith.org/newsletterarchives>

more effective to staff the program with both a professional staff member and a dedicated security officer to drive the patrol car.

- *Neighborhood Shuttles.* Beginning in late 2005, the University commenced late night weekend shuttle service in Burleith and Georgetown to enhance community safety and minimize transient noise on neighborhood streets.
- *MPD Cooperation and Off-Duty Reimbursable Detail.* Beginning in 2005, increased MPD presence in nearby neighborhoods and enhanced communication and follow up on incidents and reports of student misconduct. In 2007, the University partnered with CAG to fund the presence of additional off-duty “reimbursable detail” police officers on weekend nights.

Neighborhood praise. Representatives of Burleith and Georgetown regularly reported on the success of University efforts to reduce noise and disruption.

- In 2005, two ANC commissioners and a local neighbor endorsed the shuttles as an effective means of reducing the noise generated by students on neighborhood streets. See Exhibit D (Minutes of December 14, 2005 ALL Meeting).
- In 2008, BCA “applaud[ed] Georgetown’s continuing efforts . . . to curb noise issues,” *Burleith Bell*, March 2008, and specifically acknowledged a “decrease in complaints about student behavior,” *Burleith Bell*, October 2008. See also *Burleith Bell*, January 2007 (reporting a “decrease in calls and emails regarding nighttime noise”). In 2007, BCA acknowledged that there was a “good system in place” to address nighttime noise. *Burleith Bell*, January 2007; see also *Burleith Bell*, May 2007 (reporting “great success working together with MPD, landlords, tenants and Georgetown”).
- Similarly, in 2007 and 2008, CAG repeatedly praised the success of the off-duty MPD reimbursable detail effort, which initially began as a co-sponsored effort by CAG and the University. See, e.g., *Georgetown Citizens* March 2007 (“[It’s] working!”).<sup>2</sup> CAG also repeatedly acknowledged that the most important role of initiatives such as the reimbursable detail was to proactively prevent and deter potential misbehavior. See *Georgetown Citizens*, April 2007 (“[T]he main goal is to prevent and deter these incidents from ever occurring”); *Georgetown Citizens*, March

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<sup>2</sup> See also April 2007 (“[T]here’s much good news to report”), Summer 2007, March 2008 (“MPD reimbursable details are very good examples” of proactive patrols), and Summer 2008 (“[A] valuable addition . . . made possible by joining with Georgetown University”). *Georgetown Citizens* is CAG’s monthly newsletter and is available at <http://www.cagtown.org/newsletters>.

2008 (“They are out there patrolling the streets in hopes of preventing any incidents”).

- In 2006, ANC 2E endorsed the reimbursable detail effort. *See Georgetown Citizens*, December 2006.
- In 2007, BCA recognized the effectiveness of the improved “coordination and planned effort” among Georgetown, MPD and the ANC. *Burleith Bell*, April 2007. That same year, CAG repeatedly thanked the University not only for the University’s financial commitment to the reimbursable detail but also for University cooperation in working with the community, ANC, and MPD, which was lauded as building a “reservoir of good will.” *Georgetown Citizens*, February 2007.

**2. In past years, the community commended the University’s clean-up and trash pick-up efforts.**

For more than a decade, the University has collected bulk trash during student move-in and move-out periods. To improve effectiveness, the duration of each pickup period was extended in 2003 and again in 2005. In addition, starting in 2004, the University partnered with BCA and CAG to conduct spring and fall community cleanups, involving students and residents. None of these efforts were required by the 2000 Campus Plan.

Following implementation of these enhanced efforts and continuing for much of the latter half of the decade, community representatives consistently praised these trash collection efforts. From 2006 through 2009, the BCA credited both the bulk trash and community cleanups as successes and stated that the neighborhood had “never looked cleaner” as recently as two years ago. *Burleith Bell*, May 2009; *see also Burleith Bell*, April 2006, Summer 2006 and May 2008. CAG similarly lauded the success of the community cleanups. *See Georgetown Citizens*, May 2007 and December 2007.

**3. Georgetown has engaged its neighbors throughout the past decade, again to past community approval.**

Georgetown and neighborhood representatives have consistently engaged in meaningful and constructive dialogue over the past decade:

- Since 1990, quarterly meetings with representatives of neighboring ANCs and community groups to provide regular updates on campus plan issues (see, for example, representative agendas at Exhibit C);
- Since 2000, monthly meetings of the Alliance for Local Living (ALL), formed as an advisory council and community action group focusing on University efforts to address

off-campus impacts (see, for example, representative agendas and minutes at Exhibit D; and

- Starting in 2008, monthly Leadership meetings involving University leadership and the community in anticipation of the 2010 Campus Plan process.

Beyond the formal meetings, University representatives, led by the Office of External Relations and the Office of Off-Campus Student Life, engage in frequent informal communications with representatives of the surrounding ANC's and citizens' associations, individual residents, and Georgetown University students, including those who have served on ANC 2E.

The Leadership meetings were lauded by both BCA and CAG as "groundbreaking," *Burleith Bell*, March 2008, and a "huge step in the right direction," *Georgetown Citizens*, February 2008. BCA and CAG recognized the Leadership meetings as opportunities for frank and productive discussions of substantive issues where "great progress has been made with student issues and Georgetown has implemented many of our suggestions." *Burleith Bell*, October 2008; *Georgetown Citizens*, May 2009 (describing "candid and helpful dialogue" as well as responsive efforts steps by the University). ALL also proved to be a positive forum for a frank exchange of ideas and feedback that has led to meaningful, responsive, and successful improvements to the University's off-campus student life efforts.

The community likewise commended the discussions leading up to the filing of the Campus Plan as "a new day and spirit of cooperation!" *Georgetown Citizens*, December 2008.

#### **4. Georgetown efforts to address landlord issues – beginning early in the past decade – also have been applauded by the community.**

Although Georgetown has limited legal authority over private landlords or private property, for much of the past decade the University has been proactive in working with DCRA, the community and students on landlord issues. Like other University initiatives, these landlord-related measures were not required by the 2000 Campus Plan.

- In 2003, the University created a "Know Your Rights" brochure for students, including input from landlords and the community.
- Throughout the decade, landlord-related issues (including DCRA inspections) were discussed at ALL and quarterly meetings. See Exhibits C and D.
- In 2004, the University launched a "No License, No Lease" campaign to educate students about the importance of ensuring properties they rent were legally compliant and adopted its policy to require any landlord seeking a University website listing to

provide proof of a Basic Business License for the residence. The *Georgetown Current* (which in the words of ANC 2E “covers the community extensively and understands the issues,” *see* Exh. 342 of the Record at 8 (November 8, 2011 ANC 2E Supplemental Submission), extolled the University’s effort:

Georgetown students looking for housing could consider themselves lucky among undergraduates in Northwest. Perhaps out of necessity, Georgetown University’s support for students living off campus rises head and shoulders above other local colleges in protecting them against unsafe housing.

*Georgetown Current*, November 29, 2004.

- In recent years, DCRA has conducted on-campus programs to advise students of their rights and responsibilities and the University sponsored a “Landlord Symposium” on campus to promote safe student rental houses and to involve landlords in the effort.

Georgetown’s current efforts to collaborate with DCRA are just the most recent steps in a consistent pattern of University engagement on the issue over many years.

**5. Georgetown has repeatedly changed bus routes and otherwise responded to community concerns regarding the operation of GUTS buses and neighborhood shuttles.**

In another example of responsiveness to the community over a period of years, the University has altered its bus routes several times in response to neighborhood requests.

- In the years since its implementation, the University has on multiple occasions taken steps to respond to community feedback regarding neighborhood shuttles. The University has appreciated the neighborhood feedback that the shuttles are effective in reducing transient street noise, and has worked to address concerns about the noise and routes of the shuttles themselves by, on several occasions, modifying the routes of the shuttles and changing type of vehicle used.
- In April 2008, in response to requests from neighborhood residents, the University worked to reroute the weekday Dupont Circle GUTS route off of Q Street, a neighborhood street. Because of unacceptable delays on the alternate route during rush hour, the University later restored the use of Q Street but only for rush hour service. Off-peak GUTS buses continued to use the alternate route.
- Similarly, in September 2009, the University routed both weekend routes (Dupont Circle and Rosslyn) off neighborhood streets.

**6. Georgetown has meaningfully amended its Campus Plan in response to neighbor and agency concerns.**

As set forth in Exhibit E, the University has amended its Campus Plan in a number of significant respects to respond to neighbor and agency concerns and over 4,000 individuals have signed a petition in support of these new initiatives and the campus plan. In addition, residents have written letters in support including a letter published in the *Georgetown Current* on October 26, 2011 and signed by representatives of Georgetown, Foxhall, Cloisters, Glover Park, Hillandale, and Burleith. In that letter these residents state:

As residents of the communities near Georgetown University, we want to applaud the recent steps the university has taken to maintain the quality of life in our neighborhoods.

Each of these new initiatives benefits residents who live near the university. But all District residents benefit from the economic development and services that the university provides to the city.

Whether we moved here recently or years ago, we each made a decision to live near Georgetown University, knowing that there are pluses and minuses to living near any large institution. On balance, we continue to think that the benefits of living near the university far exceed any negative impacts.

*Georgetown Current*, October 26, 2011. The full text of this letter is attached as Exhibit E. Also included is an editorial in support of the Campus Plan that was issued by the *Washington Post* on October 24, 2011 as well as related online comments and letters to the editor.

**II. REBUTTING MIS-STATEMENTS AND MISREPRESENTATIONS**

The Supplemental Submissions filed by ANC 2E and CAG/BCA continue to advance a number of inaccuracies, misconceptions, misrepresentations and unsupported assumptions, which are individually addressed below.

**A. Georgetown's Enrollment and Housing Campus Plan Commitments Are Neither Trivial nor Inconsequential; Requiring More On-Campus Housing is Unsupported on the Record.**

In connection with its Campus Plan proposal, the University has agreed—for the first time—to voluntarily freeze traditional undergraduate enrollment at current levels. Also as part of its proposal, the University has agreed to provide an additional 250 beds for those students. For a university that:

- historically has housed – and continues to house – a higher percentage of undergraduate students than virtually every other local university, including other universities located in similarly-zoned areas;
- added over two beds for every additional undergraduate student added over the past 20 years;
- has held undergraduate growth to less than 1% a year over the past 20 years and has volunteered to hold undergraduate enrollment at current levels;
- will spend over \$126 million on 2010 Campus Plan commitments over the life of the plan; and
- has significantly fewer endowment resources than its peers by multiple factors;

a 250-bed commitment – which will result in millions of dollars of conversion expenses and over \$10 million in lost revenue over the term of the Campus Plan – is hardly a “token” undertaking as described by ANC 2E. Exh. 342 at 4.

**1. Georgetown means what it says: Georgetown voluntarily will hold traditional undergraduate enrollment at current levels.**

**Misconception:** Georgetown seeks to increase traditional undergraduate enrollment by 659 students.

**Fact:** Georgetown is committing to voluntarily limit traditional undergraduate enrollment to currently permitted levels. Georgetown will fulfill this commitment and traditional undergraduate enrollment will not increase above current levels.

CAG’s conclusion regarding increased enrollment, *see* Exh. 345 at 4, may reflect a misunderstanding. During the Campus Plan process, Georgetown responded to requests from the community and the Office of Planning by eliminating averaging and by including all students enrolled in traditional undergraduate programs—even those students that are part-time, studying abroad or commute to campus from outside the immediate neighborhood (all categories which previously were subtracted from the total). *See* Exh. 8 of the Record, Tab L (Dec. 30, 2010 Campus Plan). Including these extra categories of students in the count resulted in an increased count for these purposes—but no increase in actual students enrolled.

**Misconception:** Georgetown will reduce the number of students studying abroad to increase its traditional undergraduate enrollment.

**Fact:** Georgetown cannot and does not manipulate the number of students studying abroad. The number of students who apply for study abroad programs fluctuates from year to year, and, if anything, has generally increased in recent years. The popularity of study abroad is entirely a function of student preferences.

**Misconception:** Many non-traditional undergraduate students are young and live off campus in the surrounding neighborhood.

**Fact:** Each category of non-traditional undergraduate students consists of older students who are not likely to live near campus. Specifically:

- **School of Continuing Studies Undergraduates:** Average age is 34 (over half are senior citizens). 5% live in West Georgetown, Burleith or Foxhall.
- **Second Degree in Nursing Students:** Average age is 28. 10% live in West Georgetown, Burleith or Foxhall.
- **Non-Degree Undergraduate Students:** Average age is 25 (includes high school students). 5% live in West Georgetown, Burleith or Foxhall.

**2. Neighborhood conditions are neither “blighted” nor “fragile;” the number of undergraduate students living off-campus has decreased in the past decade and 250 additional on-campus beds will reinforce that trend.**

Contrary to the characterization of the neighborhoods surrounding the University as overwhelmed by adverse impacts associated with student residents and rental properties, publicly-available census-related data reflects appreciating property values and homes increasingly occupied by homeowners and children. This data echoes information previously filed in the record and testified to by the University. Fewer Georgetown undergraduate students lived in the surrounding neighborhoods in 2010 as compared to 2000 and the percentage of the population consisting of students decreased as well.

The addition of 250 new University beds under the Campus Plan will reinforce that trend.

**Misconception:** Blocks of owner-occupied houses have been converted over the past ten years into rental housing for Georgetown students, creating a “blighted neighborhood,” *see* Exh. 345 at 2, overwhelmed by students.

**Fact:** Publicly-available data for Georgetown, Burleith and Foxhall reflects appreciating property values and homes increasingly occupied by homeowners and children. There are fewer Georgetown students living in the surrounding neighborhoods and there are fewer rental properties occupied by Georgetown students than there were a decade ago. *See* Exh. 354 at 27.

In both the applicable Neighborhood Cluster (Cluster 4: Georgetown, Burleith and Hillandale) as well as the relevant Census Tracts (Tract 2.02 (West Georgetown, not including the University), Tract 3 (Burleith and Hillandale), and Tract 8.02 (Foxhall)), the following trends appear:

- Overall population increased from 2000 to 2010;
- Percent of population consisting of children under 18 increased from 2000 to 2010;
- Home ownership percentage increased from 2000 to 2009 (the most recent year for which information is available); and
- Median home sales prices increased from 2000 to 2010, at rates exceeding the DC average.

*See* <http://www.neighborhoodinfodc.org> (prepared by the Urban Institute and Washington, DC Local Initiatives Support Corporation based on the U.S. Census and American Community Survey information) (updated as of September 7, 2011).

In short the incontrovertible public data contradicts community leader assertions. Requiring additional on-campus housing to address student population concentrations and neighborhood conditions thus would lack a substantial basis in fact.

**Misconception:** Every off-campus rental address represents a rental group house.

**Fact:** Many Georgetown students live in basement apartments that, as neighbors have admitted, have no impact. *See Burleith Bell*, January 2011 (“[I]t is noteworthy that such apartments have seldom been the source of loud parties, public drunkenness and associated misdemeanors.”).

3. **The record contains no evidence supporting a conclusion that a substantially increased on-campus housing requirement will eliminate noise, trash and parking concerns.**

**Misconception:** If all (or significantly more) Georgetown students are housed on campus, group houses will revert to single family homes, eliminating noise, trash and parking concerns.

**Fact:** Nothing in the record supports the assertion that requiring the University to provide housing for substantially more students will eliminate rental “group houses” or remedy noise, trash and parking issues.

No evidence has been presented to the Zoning Commission indicating that if the University were required to house all or significantly more students, then:

- Landlords holding investment properties would suddenly choose to sell income-producing properties;
- Georgetown student residents would be replaced by owner-occupants rather than students from other local universities, young professionals or those with similar demographics (who often gravitate toward vibrant urban neighborhoods such as Georgetown and Burleith that are near commercial regional center areas as identified on the Generalized Policy Map of the District of Columbia Comprehensive Plan); or
- Noise, public safety, trash and parking issues would be reduced, particularly without the University’s off campus student life programs, which demonstrably have impacted behavior, and without the additional police officers, twice-daily trash pickup, and other effective resources that benefit the entire community, regardless of ownership.

Imposing additional on-campus housing requirements for these reasons thus would be unsupported by the record.

**4. Consistent with the BZA’s factual finding in the University’s prior campus plan proceedings and as demonstrated by the record in this proceeding, graduate students are unlikely to create adverse impacts in the neighborhood.**

As discussed above, during the 2000 Campus Plan proceedings the BZA found that the proposed enrollment and number of students living off campus was unlikely to generate objectionable impacts. BZA Order 16566-F (2005) at 17. No evidence has been presented with respect to Georgetown’s 2010 Campus Plan that would support a contrary finding now by the Zoning Commission.

The University’s overall enrollment growth over the last twenty years, and the modest growth anticipated over the life of the Campus Plan, is largely in graduate programs that have attracted top students to the District of Columbia, resulted in additional educational opportunities for the District workforce, and helped build the human capital and economic vitality of the District. As recognized by many other municipalities, graduate students are desirable and should be sought rather than deterred.

Although the supplemental submissions filed by CAG/BCA and ANC2E object to graduate student increases, neither submission presents any concrete evidence of adverse impacts created by graduate students.

**Misconception:** Many graduate students live in the neighborhoods surrounding campus and threaten the stability of those neighborhoods.

**Fact:** The vast majority of graduate students do NOT live in the surrounding neighborhoods. In Fall 2010, only about 2% live in each of West Georgetown, Burleith and Foxhall. Again, even as graduate student enrollment has grown, the number of graduate students living in these neighborhoods has remained stable, property values have risen, homeownership rates have risen, and the number of households with families has remained stable or increased.

**Misconception:** Graduate students that live in group houses near campus create objectionable noise and trash impacts.

**Fact:** Graduate students are older, prefer to live alone, and do not tend to cluster in “group houses.” See Exh. 25, Tab F and Tab G (March 31, 2011 Pre-Hearing Submission). And the few graduate students that do live in the surrounding neighborhoods are rarely, if ever, the source of any noise or behavior complaints. See Exh. 25, Tab H.

**Misconception:** Many graduate students are driving to school and creating traffic and parking impacts.

**Fact:** The vast majority (nearly 80%) of graduate students who commute to Georgetown’s Main Campus do not drive to campus. See Exh. 339, Tab A at 13 (October 21, 2011 Final Transportation Report). Most take transit, GUTS, walk or bike to campus. As confirmed by both the University’s traffic consultants and the District Department of Transportation, these students do not generate objectionable traffic or parking conditions.

Furthermore, as a major commitment of this Plan, the University has agreed to locate 1,000 graduate School of Continuing Studies students at off-campus locations, which CAG acknowledges will have a favorable impact. See Exh. 345 at 17.

## **5. More on-campus housing is neither feasible nor necessary.**

Because housing has been a top priority for the University in past years, the University already provides more housing for its undergraduates than virtually every other university in the District of Columbia, and the percentage of undergraduates housed by the University favorably compares with many of Georgetown’s peer institutions. See Exh. 273, Tab O. Over the past two

decades, the University's housing stock has grown at double the rate of its undergraduate growth. As a part of this Campus Plan, the University has committed to provide an additional 250 beds by Fall 2014 with no growth in traditional undergraduates.

In their Supplemental Submissions, CAG/BCA and ANC 2E submit and rely on a generalized overview of student housing alternatives prepared by the Scion Group ("Scion Report"). The Scion Report is fundamentally flawed for the reasons set forth below:

- Scion admits that they did not consult with the University or set foot on the campus, nor did they even read the Campus Plan or familiarize themselves with its constraints.
- Had Scion consulted with the University or read any of the relevant materials included in the Campus Plan, Scion would have learned that the University already had fully explored and considered the options recommended by Scion.
- In addition to Scion's self-admitted lack of knowledge of the physical constraints of the campus and the other priorities and commitments of the Campus Plan, the concepts advocated by Scion also fail to account for financial and programmatic considerations that are highly relevant to evaluating potential student housing options, and that are uniquely within the purview of the University (rather than government entities or community members) to assess and manage.

**Misconception:** The University has not explored alternative models for financing, developing or constructing student housing.

**Fact:** Recognizing the constraints and limitations of the Main Campus, the University has actively explored and pursued a number of alternatives, including:

- *Adaptation of existing buildings.* In the 1990s, the University added over 300 undergraduate beds through renovation of the "LXR" complex and conversion of graduate housing to undergraduate housing. In connection with the 2010 Campus Plan and after the rejection by neighborhood groups of the 1789 block proposal, the University identified the adaptive reuse of the Leavey Center hotel as the leading opportunity for new undergraduate housing, notwithstanding the significant lost revenues that will result.
- *Off-campus properties.* The University twice has attempted to establish satellite housing in off-campus properties. In both cases, despite extensive promotion, the efforts were not successful.
- *Joint ventures with private developers.*

- To finance the construction of the Southwest Quadrangle, the University pursued joint ventures with four potential private developers, including two national companies with expertise in student housing and two developers with local experience. None of the private parties pursued the development opportunity due to insufficient potential returns on investment.
- In the preparation of this Campus Plan, the University again explored joint University-developer opportunities. The 1789 block, which could include a retail component, was identified as the most economically feasible on-campus option. Multiple developers were consulted and one expressed interest in pursuing the option. Community objection, however, resulted in the University's withdrawal of the 1789 block proposal.

**Misconception:** The University could easily develop satellite housing.

**Fact:** Building housing off campus is not simply a matter of additional beds. Successful satellite housing requires extensive on-site academic and student life facilities as well as significant programmatic changes. These are matters at the core of university operations, functions that a university is uniquely qualified to assess and outside of the scope of Zoning Commission authority. As noted above, the University's previous satellite housing efforts were not successful.

**B. Concrete Evidence Does Not Reflect Objectionable Conditions Associated with Magis Row, Which Was Developed With Community Support.**

Misconceptions about Magis Row (a short row of University-owned townhouses along the west side of 36<sup>th</sup> Street, between O and P Streets NW) abound.

**Misconception:** The Magis Row block is consistently loud and raucous.

**Fact:** To the contrary, the Magis Row block is typically quiet, as demonstrated by the testimony of neighbors living across from Magis Row, *see* Tr. June 2, 2011 at 40-41 (testimony of M. Siemietkowski), and by the consistently low and declining number of calls to 911 reporting disorderly conduct on the 1400 block of 36<sup>th</sup> Street NW, which includes Magis Row:

***Disorderly Conduct Calls for the 1400 block of 36<sup>th</sup> Street NW***

|                     |    |
|---------------------|----|
| Fall '06-Spring '07 | 13 |
| Fall '07-Spring '08 | 15 |
| Fall '08-Spring '09 | 10 |
| Fall '09-Spring '10 | 6  |

**Misconception:** The students living on Magis Row are consistently badly behaved.

**Fact:** Not the case – during the fall 2011 semester, students on Magis Row were found responsible for only 2 conduct violations.

**Misconception:** Different, more lenient rules apply to students who live on Magis Row.

**Fact:** Students are subject to the same rules that apply to other students living in University-owned housing.

**Misconception:** Magis Row is just a “party house row.”

**Fact:** Magis Row is an innovative and selective living-learning community that attracts some of Georgetown’s most motivated and engaged students.

- Magis Row is purposefully designed to reflect foster civic engagement and responsible citizenship and to capture the best of Georgetown’s Catholic and Jesuit values. The term Magis comes from Ignatian spirituality; it captures the Jesuit striving for “the more” – for greater service to the community, for the greater glory of God. The idea of Magis Row is to create a community that embodies these goals.
- Students who wish to live on Magis Row develop a theme-based program and propose it, with a related service program, as a part of a competitive application process that considers commitment to mission and service, academic seriousness, connections with faculty members, and a clear and realistic programmatic focus.
- Each Magis Row community must identify a faculty member or administrator who will guide their activities and be a regular presence in the community. Community themes have included Catholic social justice, addressing homelessness in DC, and sustainability.

**Misconception:** The University implemented the Magis Row program without any community consultation.

**Fact:** The Magis Row living-learning community was implemented in part to respond to issues raised by some neighbors about student impacts on 36<sup>th</sup> Street. In fact, neighborhood leaders suggested programming of this type to the University, and the approach was discussed with community groups before implementation. CAG praised the initiative, calling it a “step in the right direction for easing the strain” near campus. *See Georgetown Citizens*, February 2009.

**Misconception:** The University has not addressed community concerns about Magis Row.

**Fact:** The University also listened and responded to neighborhood concerns with additional concrete actions to address noise and trash concerns.

- The University agreed to provide for roaming patrols of the Magis Row block as well as other public streets within the campus by its Department of Public Safety (similar to the off-campus SNAP and off-duty MPD patrols). *See Georgetown Citizens*, May 2009. As shown on the above chart, the number of calls declined.
- The University agreed to privatize the collection of trash and recycling from these properties, even though they are otherwise eligible for trash and recycling collection by the Department of Public Works. This allowed for pickup to take place at the rear of the properties, so that trash would no longer be stored or placed in the front of the houses on the sidewalk.

**Misconception:** The University only recently started housing students on this block.

**Fact:** Undergraduate students have lived on the Magis Row block since the implementation of the 1990 Campus Plan. Significantly, the University added these buildings to its student housing stock at the direction of the Board of Zoning Adjustment. In recent years, in coordination with the community, the University developed the Magis Row program, limiting Magis Row residency to students who were selected for the program after a review of written applications, interviews, and input from faculty advisors.

#### **C. Zoning Commission Campus Plan Authority is Limited to Campus Property.**

**Misconception:** The Commission should approve all off-campus housing locations.

**Fact:** The District of Columbia Court of Appeals has affirmatively ruled that the authority of the Board of Zoning Adjustment (now the Zoning Commission) under Section 210 of the Zoning Regulations does not apply to zones where the university use is permitted as a matter of right. *Spring Valley Wesley Heights Citizens Ass'n v. District of Columbia Board of Zoning Adj.*, 644 A.2d 434, 435 (D.C. 1994) (university uses in commercial zones); *see also Watergate West Inc. v. District of Columbia Bd. of Zoning Adj.*, 815 A.2d 762 (D.C. 2003) (dormitory uses in high density residential zones).

Although The George Washington University's current Foggy Bottom Campus Plan includes a condition that governs the acquisition of off-campus properties, this condition was voluntarily proffered by GW as an amenity of the related First-Stage PUD. Absent GW's voluntary commitment to this condition, the Commission could not otherwise limit GW's rights as an individual entity to use such property in accordance with the Zoning Regulations. *See Spring Valley*, 644 A.2d at 435; *see also Nat'l Black Child Dev. Inst. v. District of Columbia Bd. of Zoning Adj.*, 483 A.2d 687, 691 (1984) ("Personal conditions impermissibly regulate the business conduct of the owner, rather than the use of his property, and are unlawful *per se*.").

**D. University-Owned Student Housing Properties are Properly Licensed and Inspected for Safety.**

**Misconception:** The University rents out University property without required licensing or safety inspections.

**Fact:** University-owned properties are properly licensed and inspected for safety, but are exempt from the basic business licensing ("BBL") requirements.

- Because Georgetown University is licensed by the D.C. Educational Licensure Commission, the University is not required to obtain a BBL for University properties. As stated by the District of Columbia Department of Consumer and Regulatory Affairs ("DCRA") on the DCRA website:

Post secondary educational institutions are not required to obtain a general business license because they are required to obtain an Educational Services license endorsement which is issued by the Educational Licensure Commission.

*See DCRA: Get Answers to Business Licensing Questions*, available at <http://www.dc.gov/DC/DCRA/For+Business/Apply+for+a+Business+License/ci.Get+Answers+to+Business+Licensing+Questions.print>

- The University conducts safety inspections of property used for student residences twice a year, as compared to the single inspection required at the time of issuance of a BBL under DCRA requirements.

**E. The Characterization of Georgetown as Requiring Unique Analysis and Special Considerations is Not Supported.**

Both ANC 2E and CAG/BCA characterize the communities surrounding the University as “fragile” and undergoing “destabilization.” Exh. 342 at 21; Exh. 345 at 16. CAG/BCA also references the Office of Planning report, prior CAG/BCA submissions and an expert report, all of which purport to represent the Georgetown and Burleith neighborhoods as low-density communities overwhelmed by the impacts associated with student residents and rental properties. Exh. 345 at 16.

1. **Neighborhoods near the University are healthy, with increased homeownership rates, appreciating property values, increased numbers of families with children and fewer students than ten years ago.**

**Misconception:** The Georgetown and Burleith neighborhoods are approaching a “tipping point.”

**Fact:** As noted elsewhere in this submission, the absolute number and percentage of student residents in these neighborhoods has declined in the past decade, homeownership is up, the number of children under 18 is up and property values are up.

Furthermore, the United Kingdom-based analysis referenced by CAG/BCA and relied upon by the Office of Planning has not been replicated or supported by comparable studies in the United States.

More importantly, the author of U.K. study, Dr. Richard Tyler, is hardly an unbiased empiricist. He coordinates two organizations in the United Kingdom whose “main aim” is to lobby government to introduce legislation to “preserve communities from destabilization by concentrations of shared housing.” See <http://hmolobby.org.uk/>.

In any event, the “destabilization” about which Dr. Tyler is concerned is not evident in Georgetown based on the trends reflected in Census and other publicly-available data as cited herein.

**2. The Main Campus density is appropriate and in line with other D.C. campuses and applicable zoning.**

By virtue of its location in an urban neighborhood, Georgetown's Main Campus is appropriately dense, particularly as compared to the densities of similar major university campuses in the District of Columbia. The number of students per acre on Georgetown's Main Campus, assuming maximum total enrollment under the proposed Campus Plan (144 students per acre), is significantly below the respective campus densities of The George Washington University's Foggy Bottom Campus (465) and American University (162). *See* Exh. 273, Tab P.

**Misconception:** The zoning and land use character of the neighborhoods surrounding Georgetown University require a higher standard of review.

**Fact:** Section 210 applies the same objective standard to universities located in all residential zone districts. The R-3 zoning of Georgetown and Burleith does not apply a "higher standard" for review.

**Misconception:** Georgetown University's Main Campus is adjacent to a unique low-density neighborhood.

**Fact:** Burleith and Georgetown are among many moderate-density neighborhoods located near major DC universities.

- The Future Land Use Map of the District of Columbia Comprehensive Plan designates the Georgetown and Burleith neighborhoods as moderate density, not low density. (By comparison, American University's main campus is located adjacent to a low density neighborhood, yet AU's campus density is higher than Georgetown's density, even after accounting for the enrollment increases proposed in Georgetown's Campus Plan.)
- GW's Foggy Bottom Campus and Howard University's Main Campus as well as Trinity University, Gallaudet University and The Catholic University of America all are adjacent to similar moderate-density neighborhoods located in the R-3 and R-4 zone districts.
- There is nothing unique about the designation of the Burleith and Georgetown neighborhoods as "Neighborhood Conservation Areas" on the Generalized Policy Map of the District of Columbia Comprehensive Plan. This designation applies to virtually all residential areas in the District of Columbia.

**F. Georgetown's Code of Conduct and Related Policies Effectively Regulate Off-Campus Behavior and Are Comparable to Those Employed by GW.**

The University's Code of Conduct combines with a number of policies and programs that apply only to off-campus behavior to provide effective and, in some cases more stringent regulation of behavior and conduct that occurs off campus as compared to on-campus.

**Misconception:** GW's Code of Conduct states that noise heard outside of a student residence is unacceptable, and Georgetown refuses to change its Code of Conduct to establish the same standard.

**Fact:**

- GW's Code of Conduct identifies "excessive noise inside or outside a building" as unacceptable disorderly conduct. By contrast, Georgetown's Code of Conduct explicitly states "Noise or sound which infringes upon the rights of others to reasonable peace and quiet."
- Georgetown's policy is effectively more stringent than GW's policy; if the noise is heard outside of the house that disturbs or infringes on the rights of others to reasonable peace and quiet, then it is a violation of the Georgetown Code of Conduct.

**Misconception:** The University does not apply its Code of Conduct equally on and off campus.

**Fact:** The Code of Conduct applies to all students, on or off campus. For example:

- Serving alcohol to minors is a violation whether the student is on campus or off campus.
- Excessive noise whether occurring on campus or off campus is a violation.

Any student found in violation is disciplined.

**Misconception:** The University applies more rules on campus than are applied off campus, which pushes social activity off campus.

**Fact:** Off-campus students are also subject to strict, specifically-tailored off-campus policies that do not apply on campus.

- The University has developed a set of conduct policies that are uniquely tailored to affect behavior in the off-campus context, and which allow the University to proactively manage off-campus activity in privately-owned community residences.
- Off-campus students are subject to greater oversight and more layers of supervision than on-campus students. (On any given night, for instance, off-campus students are monitored by SNAP patrols, the MPD RD officers, University administrators out in the community, the private security officers employed by CAG, and community members who are encouraged to report issues to the Hotline.)

**Misconception:** The University does not follow up on reports of, or impose sanctions for, off-campus conduct violations.

**Fact:** To reinforce Georgetown's high expectations for off-campus students, the University has paired tailored and stringent off-campus policies with significant resources and serious sanctions.

- For most students, the educational efforts and outreach are effective. The vast majority of students (86% in Fall 2011) are not the subject of any report of student misconduct. *See* Exh. 354 at 12.
- The University follows up on all reports of misconduct, whether received from the Hotline, MPD referral (including the reimbursable detail), or through a proactive SNAP interaction.
- For the few students who are the subject of a confirmed violation, Georgetown takes action in response, which in the vast majority of cases deters future mistakes. Only 3% of our off-campus students – 13 houses – have had repeated interactions. *See* Tr. Nov. 17, 2011 at 128-29 (Testimony of Dr. Todd Olson).
- In the small number of cases where students repeatedly violate the Code of Conduct as well as those cases where students commit a serious violation, Georgetown now moves more quickly to severe sanctions, which may include:
  - notification of parents and deans;
  - disciplinary probation, which limits the ability to participate in campus activities as well as study abroad;
  - a move back onto campus or separation from the University.

**Misconception:** The University rarely imposes serious sanctions for off-campus conduct and this is proof that the University is failing to enforce its rules and regulations.

**Fact:** The University imposes serious sanctions. Georgetown students are fully aware that violations of the Code of Conduct as well as District of Columbia law come with serious consequences.

- In Fall 2011 to date, the University has imposed 5 serious sanctions for off-campus violations.
- This semester, 12 students have been arrested and 3 students have been suspended.

Focusing solely on sanctions as a metric ignores the continued success of the University's broader educational efforts that ensure most students never face such sanctions.

**G. As CAG Has Recognized, the MPD Reimbursable Detail is an Effective Means of Deterring Potential Noise and Misconduct.**

As described above, when the reimbursable detail was initially implemented in 2007 as a co-sponsored CAG/Georgetown effort, CAG repeatedly praised its effectiveness, including in particular the ability of reimbursable detail to proactively prevent and deter potential misbehavior. At that time, ANC 2E also endorsed the effort.

In the ensuing years, the University increased the effectiveness of the reimbursable detail by adding officers and by engaging in active management of the program and offering tailored orientations and directions to officers. Significantly, the University also has assumed sole financial responsibility for the effort in West Georgetown and Burleith.

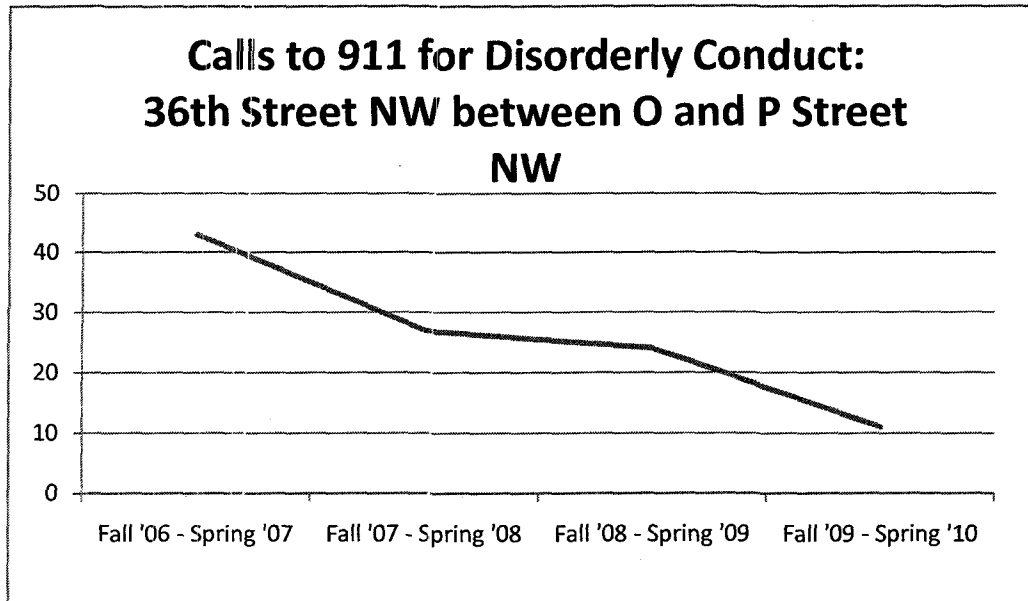
**Misconception:** MPD is unable to provide the promised number of officers each night.

**Fact:** Since the beginning of the enhanced reimbursable detail in late August 2011, MPD has provided the full complement of officers 90% of the nights. See Tr. Nov. 17, 2011 at 229 (Testimony of Rocco DelMonaco.)

**Misconception:** The MPD reimbursable detail officers just sit in patrol cars and do not proactively address noise and misconduct.

**Fact:** MPD officers are assigned to foot and bike patrols in high traffic areas and do proactively stop groups of students and quiet down noise. See, for example, the declining number of calls to

911 reporting disorderly conduct on the 1400 block of 36<sup>th</sup> Street NW and surrounding intersections:



**Misconception:** MPD officers hired for the reimbursable detail are unfamiliar with the neighborhood or with student interactions.

**Fact:** Representatives of the University's Department of Public Safety and Office of Off-Campus Student Life have worked closely with MPD to educate officers participating in the reimbursable detail and make explicit the performance expectations for officers who the University pays to serve on the detail.

- Education:
  - Before officers work on the reimbursable detail, all officers must participate in a mandatory orientation run by Georgetown's Department of Public Safety command staff.
  - Each shift begins with a roll call, where the officers are directed to assigned foot patrol and/or car patrol locations, including specific food and bike patrols in high traffic areas.
- Management:

- Weekend shifts include a sergeant or higher level officer and University public safety and student affairs professionals actively oversee the MPD RD performance during the shifts.
- Each officer prepares and submits written documentation to Georgetown at the end of each shift regarding actions taken.
- Each Monday, the University DPS and student affairs leadership meets with MPD command staff to review prior weekend activity and evaluate how the partnership might continue to improve.

**Misconception:** MPD reimbursable detail is not effective in reducing noise.

**Fact:** Off-duty officers hired as a part of the reimbursable detail have the same authority and discretion as any other MPD officer, including the ability to arrest students and deter potential misconduct:

- With more officers, the University and MPD are able to assign officers to specific patrols that deter noise at high activity locations.
- Since the beginning of the enhanced detail in late August, twelve students have been arrested for a variety of offenses.
- In addition to deterring potential student noise, the reimbursable detail has also improved public safety as a whole. Violent crime is down 38% in 2011 as compared to the previous year.

#### **H. As the Community Long Has Recognized, University Trash Pick-up is Meaningful and Effective.**

As described above, the University first initiated trash-related efforts many years ago, expanding and improving those efforts through fall 2011. As also set forth above, until this Campus Plan process, University trash pick-up was consistently and repeatedly praised by the community. Starting in 2011, the University expanded trash pick-up to two times a day in the West Georgetown and Burleith neighborhoods; it is this expanded trash pick-up that inexplicably now is criticized in the Supplemental Submissions.

**Misconception:** The trash collection only applies to student houses while neighbors are fined by the city for violations of the trash laws.

**Fact:**

- Trash is collected from all properties in the defined patrol area, which includes many blocks that contain few to no students.
- The issuance of fines to non-students (other residents and neighbors) for violations demonstrates that students alone are not responsible for trash violations and related impacts. The University's comprehensive effort to collect trash will reduce the impact from these non-University-related properties as well.

**Misconception:** The trash collection program has not improved conditions.

**Fact:** The program has effectively increased trash pickup from twice a week to twice a day, seven days a week; the program is working and the positive results are plainly evident. Since the pickups have started, over 150 tons of trash have been picked up and the neighborhood appearance is visibly improved.

**Misconception:** The trash collection program discourages students from following proper trash disposal and storage practices.

**Fact:** Students continue to be subject to District of Columbia regulations regarding trash disposal, and community advisors and other University officials continue to issue citations for failure to comply with these regulations. To date in Fall 2011, 29 students have been cited and fined for violations.

**I. Georgetown's M Street and Neighborhood Shuttles Reduce Pedestrian Traffic and Associated Noise.**

In response to suggestions from the community and DDOT, Georgetown added a new weekend shuttle that transports students between Main Campus and restaurants, bars, movie theaters and other Georgetown commercial district destinations on M Street. These weekend shuttle runs supplement the neighborhood shuttles that provide transportation in the West Georgetown and Burleith neighborhoods.

**Misconception:** The M Street shuttle does not run often enough and has not made a positive impact.

**Fact:** The total number of neighborhood shuttle riders doubled in fall 2011 as compared to fall 2010. As a result, on an average Saturday night, 800 to 900 fewer students are walking on

neighborhood streets. Fewer student pedestrians inevitably result in lower levels of related noise.

**Misconception:** The University has not responded to concerns about impacts from students waiting for the neighborhood shuttles.

**Fact:** SNAP and the MPD reimbursable detail regularly patrol the areas where students wait and remind them to keep the noise down if they are being too loud.

- Shuttle drivers are encouraged—and do—make frequent stops to pick up students walking in the neighborhood.
- The University is developing a mobile “app” that will allow students to track the shuttles on their smartphones and reduce time spent waiting outside.

**J. By its Actions, the University Has Demonstrated Consistent and Continual Engagement of and Responsiveness to Community Concerns.**

As described in detail above, the University has consistently engaged in a thoughtful and responsive dialogue with its neighbors and is committed to continue that dialogue.

**Misconception:** The University does not address neighborhood concerns that are presented at meetings.

**Fact:** As set forth above, over many, many years, the University has demonstrated a pattern of responding to community concerns with effective measures. The proposed Campus Plan includes significant and substantial additional measures that further demonstrate the University’s bona fides.

**K. As DDOT Concluded, the Campus Plan as Proposed Will Not Adversely Impact Neighborhood Parking.**

Because of the measures embodied in the University’s proposed Campus Plan, DDOT as well as the University’s consultants and peer review consultant all uniformly concluded that the Campus Plan, including the proposed increases in graduate enrollment, would not generate adverse traffic or parking impacts.

**Misconception:** The proposed population changes will increase the number of University related cars parking on neighborhood streets.

**Fact:** The October 2011 DDOT Report and the October 2011 Gorove/Slade and Wells & Associates transportation reports clearly conclude that the Plan, with its transportation demand management measures, is not likely to create objectionable parking impacts.

- Few students drive to campus, *see* Exh. 339, Tab A at 13, and the University offers multiple parking options that include satellite parking and discounted evening parking rates, *see id.* at 39. Should students park on neighborhood streets, they do so at parking meters outside of campus and must, like any other member of the public, comply with District laws, which are rigidly enforced. *See Exhibit G* (email from DDOT acknowledging that enforcement data reveals “some relatively good numbers”).
- Faculty and staff are also strongly encouraged to use transit or are required to use satellite parking. *See* Exh. 339, Tab A at 37-39.

**Misconception:** The new parking policy will not reduce the number of vehicles in the neighborhood and Georgetown should adopt AU’s policy regarding parking.

**Fact:** The policy changes are working. This fall, more than a dozen students have elected to leave their car at home rather than undertake the required registration policy. *See* Tr. Nov. 17, 2011 at 244-45 (Testimony of Dr. Todd Olson).

Further measures such as AU’s policy are not required. AU’s policy is directed at commuter students from Maryland and Virginia who drive to campus. Georgetown students who reside in the community and register their cars have the same rights as any other resident. Furthermore, Georgetown is located close to a regional commercial center that attracts many drivers that are unaffiliated with the University. All urban neighborhoods with high activity commercial corridors surrounded by residential communities have tight parking. Adams Morgan and Dupont Circle are prime examples of this. To suggest that the parking situation in Georgetown is a student issue ignores the reality of the Wisconsin Avenue and M Street popular shops, restaurants, bars, hotels and tourist attractions.

**Misconception:** Georgetown students obtain reciprocity Zone 2 residential permit parking stickers and park several cars per house on the street.

**Fact:** District law clearly states that students living in ANC 2E may not secure reciprocity stickers. *See* Exh. 158 of the Record (May 19, 2011 DDOT Report). No evidence appears in the record regarding the number of cars parked on neighborhood streets by students.

**L. The Video Submitted by CAG and other Anecdotal Evidence Submitted by ANC 2E Misrepresents Actual Events.**

The video presented by CAG at the June 2, 2011 Zoning Commission hearing purported to show student parties and noise during evening and early morning hours. CAG made no effort, however, to authenticate that the events in the video were what they represented to be, or that the individuals in the video were Georgetown students. The University is aware that one of the most dramatic scenes in the video—a lengthy scene that CAG represented as MPD breaking up a student party—actually depicted a very different occurrence. Discrepancies like this cast doubt about the reliability of the video as evidence of student behavior in the community.

CAG testified that the video showing MPD and SNAP cars at the corner of 35<sup>th</sup> and Prospect was a student party being broken up. Tr. June 2, 2011 at 147 (Testimony of Jennifer Altemus). In fact, the police and SNAP were responding to the attempted abduction of a student as the student walked back to campus. Fortunately, the student was able to run to a neighbor's home; the neighbor called the University's Hotline. SNAP responded, and was shortly followed by MPD. The law enforcement response to an attempted abduction is what the video depicts; not a response to a student party. The SNAP report from that evening, the affidavit of the SNAP responder and the contemporaneous Public Service Announcement sent by Georgetown to the University community are attached as Exhibit H. MPD has also confirmed that such an incident took place that evening, and that similar incident had taken place in Georgetown.

Similarly, the testimony submitted by ANC 2E in Attachment A of its Supplemental Submission is replete with unsupported statements, hearsay and opinions describing the events of a "typical" weekend night, September 24-25, 2011 near the intersection of 36<sup>th</sup> Street NW and O Street NW.

**Misrepresentation:** "After 10 PM . . . hundreds of students and their friends traveling on foot through the community."

**Fact:**

- 10 PM – 11 PM: Hourly SNAP patrol noted no students on Magis Row and just 4 students each hour on the street.
- 11 PM – 1 AM: SNAP present in immediate area between 11 PM and 1 AM and notes one group of about 40 students that quietly walked south on 36<sup>th</sup> Street from O Street to N Street (along a street adjacent to the campus and not in the neighborhood).
- 1 AM – 3 AM. SNAP patrol also notes no students on 36<sup>th</sup> Street between O and P Streets and just 2-4 students each hour on O Street between 35<sup>th</sup> and 36<sup>th</sup> Streets.

**Misrepresentation:** SNAP did not respond to disturbances on O Street NW between 10 PM and 12 AM.

**Fact:**

- 10:38 PM call to 911 re: 3525 O Street NW. SNAP responds to call and confirms no students were home.
- 10:40 PM call to Hotline re 3517 O Street NW. SNAP responds to call; small gathering of 20 people and SNAP addressed issue by asking the students to end their party.
- 11:00 PM re: 3531 O Street NW: SNAP learned that a neighbor had notified Mr. Jones about potential noise; SNAP then investigated and addressed issue.

**Misrepresentation:** No action taken to address “loud, noisy party,” street noise and vandalism, and underage drinking at Magis Row.

**Fact:**

- Shortly after 11:00 PM, SNAP visited house. Students had registered party with the University. No alcohol was present and SNAP determined level of noise was not excessive nor did it create a disturbance outside the house.
- MPD then separately responded to call regarding the same house and took no action because they independently determined the level of noise was not excessive. MPD also verified no alcohol was present.
- DPS also responded to call regarding the same house and similarly found no noise. Despite lack of objectionable impacts, DPS eventually asked students to end the party in response to neighborhood complaints.

**Misrepresentation:** The high volume of students led to two separate incidents (a robbery and an assault) involving non-students because it creates an unsafe environment and attracts others looking to party.

**Fact:** The proximity of the Georgetown and Burleith neighborhoods to a vibrant urban regional commercial center with many bars, restaurants and other nighttime destinations attracts all kinds of individuals for reasons completely unrelated to the University and its students. As CAG and ANC 2E have recognized, efforts such as the reimbursable detail improve the safety and security of the surrounding neighborhood because they increase the number of available police officers that can respond to potential disruptions caused by these individuals.

Here, for example, the response to the robbery included officers present because of the reimbursable detail. Measures such as the reimbursable detail and the twice-daily trash collection clearly represent a tangible and direct benefit to the surrounding communities.

The SNAP logsheet and reports from that evening and the affidavit of the SNAP responder are attached as Exhibit I.

### III. THE ZONING COMMISSION MUST BALANCE THE INTERESTS OF THE PARTIES IN CONSIDERING THE CAMPUS PLAN.

The Supplemental Submissions filed by ANC 2E and CAG/BCA suggest that the Zoning Commission is required to consider only the adverse impacts on neighboring property without consideration of benefits to the community, burdens on the University or other countervailing circumstances. ANC 2E and CAG/BCA also suggest that the legal test requires no adverse impacts whatsoever. *See, e.g.*, Exh. 342 at 13.

The plain words of the regulations, however, are to the contrary:

Use of a college or university shall be located so that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions.

11 DCMR § 210.2 (emphasis added).

The [Zoning Commission] is authorized to grant special exceptions, . . . , where, in the judgment of the [Commission], the special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property.

11 DCMR § 3104.1 (emphasis added).

As confirmed by the District of Columbia Court of Appeals, however, “[t]he Zoning Regulations do not require that the [Zoning Commission] treat the University’s needs as irrelevant.” *Glenbrook Road Ass’n. v. District of Columbia Bd. of Zoning Adjustment*, 605 A.2d 22, 32 (D.C. 1992). Indeed, university uses are “highly favored” and “serve the public welfare and morals in important ways.” *Id.* Careful balancing is needed to make sure the interests of all parties, including the University, are considered. The legal standard, then, is to ensure that the campus plan reasonably avoids the objectionable conditions enumerated in the Regulations, when balanced against the University’s institutional needs and contributions to the public welfare. *See President and Dirs. of Georgetown Coll. v. District of Columbia Bd. of Zoning Adj.*, 837 A.2d 58, 69 (D.C. 2003).

**A. The Zoning Commission Must Consider the Interests of the University.**

In applying the Zoning Regulations, the Zoning Commission is required to balance the interests and rights of both the University and the neighbors:

The University has rights and the neighbors have rights, and a temperate, rational, and balanced approach is called for. The BZA's responsibility is to 'determine whether a reasonable accommodation has been made between the University and the neighbors which does not interfere with the legitimate interests of the latter,' (or we are constrained to add, with the legally protected interests of the former).

*President and Dirs. of Georgetown Coll. v. District of Columbia Bd. of Zoning Adj.*, 837 A.2d 58, 70 (D.C. 2003) (quoting *Glenbrook Road Ass'n. v. District of Columbia Bd. of Zoning Adj.*, 605 A.2d 22, 32 (D.C. 1992)). In so doing, the Zoning Commission must have due regard for the University's needs and prerogatives. See *Spring Valley Wesley Heights Citizens Ass'n v. District of Columbia Zoning Comm'n*, 856 A.2d 1174, 1176 (D.C. 2004).

**B. The Zoning Commission Must Consider Burdens on the University and the Record Must Adequately Support the University's Ability to Achieve the Conditions of Approval.**

Contrary to CAG's assertion that costs to be incurred by the University are irrelevant considerations, *see* Exh. 345 at 7, the Zoning Commission also must consider the burdens on the University imposed by the conditions of the approval of the Campus Plan. Among other things, the record must support a finding that the University can actually achieve the conditions of approval. *George Washington University v. District of Columbia Bd. of Zoning Adj.*, 831 A.2d 921 (D.C. 2003) (record must "adequately" support finding "that it would be possible for the University to accomplish what [the BZA] requires").

Here, with respect to housing, any requirement to house on campus a substantially increased percentage of University undergraduates presents practical challenges (such as the limited availability of land on campus) as well as financial challenges (such as the University's limited financial resources compared to its peer institutions). Taking into consideration all ancillary costs (such as infrastructure improvements, utility plant expansion and additional dining halls in connection with additional on-campus housing and transportation, student life and programming expenses for off-campus housing), securing or constructing housing for a significantly larger percentage of Georgetown's undergraduate student body (whether approaching 100% or some lesser percentage) would be a challenging, if not impossible, endeavor for the University. See Tr. Apr. 14, 2011 at 209 (Testimony of Dr. John J. DeGioia) (noting that Georgetown's endowment is a small fraction of those of peer universities). Were

this coupled with mandatory enrollment decreases if housing goals are not met, the result could be financially and reputationally debilitating for the University (and a severe blow to District employment and the local economy generally).

Similarly, conditions that require the University to take certain actions regarding privately-owned property or ensure compliance with municipal regulations must reasonably recognize the inherent limitations to what the University can accomplish. Although the University has taken substantial measures in connection with the Campus Plan to address landlord obligations, ultimately the University cannot control a third party's use of privately-owned property (as rental property or otherwise) or enforce related legal or regulatory obligations.

#### IV. THE ZONING COMMISSION MAY NOT PERMISSIBLY IMPOSE MANY OF THE CONDITIONS URGED BY ANC 2E AND CAG/BCA.

The Supplemental Submissions filed by ANC 2E and CAG/BCA support Campus Plan requirements that the Zoning Commission is not legally authorized to impose.

##### **A. The Zoning Commission has no authority to approve off-campus housing outside of campus boundaries.**

As discussed above, the Zoning Commission's campus plan-related authority does not apply to zones where the university use is permitted as a matter of right. *Spring Valley Wesley Heights Citizens Ass'n v. District of Columbia Board of Zoning Adj.*, 644 A.2d 434, 435 (D.C. 1994) (university uses in commercial zones); *see also Watergate West Inc. v. District of Columbia Board of Zoning Adj.*, 815 A.2d 762 (D.C. 2003) (dormitory uses in high density residential zones).

##### **B. The Zoning Commission may not legally exclude University students from residing in DC neighborhoods, and may not make residing in Georgetown more difficult for students than for others.**

By supporting a requirement that the University house 100% of its undergraduate students either "behind the gates" or outside of zip code 20007 in their Supplemental Submissions, ANC 2E and CAG/BCA call for a complete exclusion of Georgetown students from the local community. Such a requirement would violate the District of Columbia Human Rights Act ("DCHRA"). *See* D.C. Code § 2-1402.21; *George Washington University v. District of Columbia Bd. of Zoning Adj.*, 831 A.2d 921, 939 (D.C. 2003) ("complete exclusion of students from an entire neighborhood . . . cannot be sustained").

The DCHRA also would prohibit conditions that discriminate against students even if they fall short of a complete exclusion of students from a neighborhood. For example, the DCHRA would apply to conditions that have the potential effect of directing students to different areas because they are students or those that prescribe any condition or requirement that makes residency in the neighborhood more difficult for students because they are students. *Id.* at 940. Conditions “aimed at limiting, and even rolling back, encroachment into [the neighborhood] by the university or, more precisely, its students” treat students differently because of their status as students and are subject to the DCHRA. *See id.* at 941-42 (quotation omitted).

**C. The Zoning Commission may not legally impose mandatory enrollment caps or otherwise interfere with the University’s mission or management prerogatives.**

The ANC 2E and CAG/BCA Supplemental Submissions support mandatory enrollment caps. These parties go a step further, recommending additional enrollment reductions if housing targets are not met. *See* Exh. 342 at 5. These parties err in concluding that the Zoning Commission is authorized to impose involuntary enrollment limits, much less enrollment reductions tied to housing targets.

The Zoning Commission’s authority relates to land use, not to the management or operation of a university. *See President and Dirs. of Georgetown Coll. v. District of Columbia Bd. of Zoning Adj.*, 837 A.2d 58, 74-75, 77 (2003); *see also Nat’l Black Child Dev. Inst. v. District of Columbia Bd. of Zoning Adj.*, 483 A.2d 687, 691 (D.C. 1984) (“[Co]nditions [that] impermissibly regulate the business conduct of the owner, rather than the use of his property, are unlawful *per se*”). To this end, the Court has admonished against the imposition of conditions that intrude into “details and mechanics” such as the University’s enforcement of student discipline and other similar concerns that are outside of the Commission’s expertise. *Georgetown*, 837 A.2d at 77. Similarly, the Court has found that “the imposition by the BZA of an enrollment cap at least approaches (if, indeed, it does not cross) the line between the exercise of legitimate zoning and land use authority and an ultra vires intrusion upon the University’s educational mission.” *Id.* at 74-75.

Here, the University has voluntarily proposed enrollment maximums, additional beds and other measures that have been submitted to the Zoning Commission for consideration in conjunction with all of the other aspects of its Campus Plan. These proposals have been carefully developed and shaped by Georgetown based on an evaluation of the University’s institutional needs and specialized familiarity with its operational constraints and other considerations. Notwithstanding these voluntary proposals, the University continues to maintain its legally protected right to manage the “details and mechanics” of its operation—including its decisions regarding student enrollment—pursuant to its educational mission as an institution of higher education, and these operational considerations remain outside of the Commission’s

authority to regulate the use of land under Section 210. Governmental imposition of conditions on the use of privately-owned property is circumscribed by the Fifth and Fourteenth Amendments and constitutional principles require compensation for related “takings.”

## V. CONCLUSION

As set forth in Georgetown University’s submissions and testimony to the Zoning Commission, the Campus Plan fully satisfies the requirements of the Zoning Regulations. Once the University has demonstrated that the Campus Plan complies with applicable regulations, the Zoning Commission “ordinarily must grant the application.” *French v. District of Columbia Bd. of Zoning Adj.*, 658 A.2d 1023, 1032 (D.C. 1995). The University thus respectfully submits that the Campus Plan, as amended during the process of the proceedings, should be approved as proposed by the University.