GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

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TUESDAY

SEPTEMBER 5, 2000

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The Public Meeting convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:30 a.m., Sheila Cross Reid, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

SHEILA CROSS REID	Chairperson
ANNE M. RENSHAW	Board Member

ZONING COMMISSION MEMBER PRESENT:

HERBERT M. FRANKLIN	Commissioner
JOHN G. PARSONS	Commissioner

OFFICE OF ZONING STAFF PRESENT:

Jerrily R. Kress	Director
Sheri Pruitt	Secretary, BZA
Beverly Bailey	Zoning Specialist
Paul Hart	Office of Zoning
John Nyarku	Zoning Specialist

D.C. OFFICE OF CORPORATION COUNSEL:

Mary Nagelhout, Esq.
Marie Sansone, Esq.

C-O-N-T-E-N-T-S

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

(9:40 a.m.)

CHAIRPERSON REID: Good morning. The meeting will please come to order.

This is the September 5th meeting of the BZA. Mr. Hart?

MR. HART: Good morning, Madam Chair, Board members. Before you, the first item on your agenda is the minutes for July 5, 2000, July 11, 2000, July 18, 2000, and July 25, 2000, all for public hearings.

MS. KRESS: We might begin with July 5. Does anyone have any comments?

CHAIRPERSON REID: I have none.

MR. HART: July 11th?

MS. PRUITT: Sometimes they do them all at once.

MR. HART: Together?

MS. KRESS: July 11th?

CHAIRPERSON REID: No, I have none.

MR. HART: July 18th?

CHAIRPERSON REID: I had one question on the 18th. On page 2 on the minutes of the 18th where it states that the document from Peter Pulsifer, ANC 2E concerning the statutory requirement for the Board not to give "Great Weight" to an ANC, even though the ANC held a public meeting and a quorum was present.

I didn't understand that. I need some clarification.

MR. HART: Madam Chair, my understanding was that some information was sent out in error, and the information -- the testimony was given on the incorrect information. So we were asked to strike it.

This was submitted to us -- The explanation I am giving was given to me by the ANC Commissioner that it should be struck, because it was incorrect information.

A staff member sent some information out incorrectly. So there is this confusion here. That why it was asked not to be given great weight in that what we had before us was not correct.

CHAIRPERSON REID: I'm sorry. Repeat that.

MR. HART: What was submitted to us was inaccurate.

CHAIRPERSON REID: Oh, it was inaccurate. Okay.

MR. HART: Yes.

MS. KRESS: What was sent out in error? Do you know?

MR. HART: At this point, I couldn't say.

MS. KRESS: Was it information that was not supposed to have gone into the record, because the record was closed?

MR. HART: That is correct.

MS. KRESS: WE have had several of those things we

are trying to clean up, and that would make sense that that was information that came in after the record was closed and was put into our files erroneously, and then the ANC responded to it.

MR. HART: That is correct.

CHAIRPERSON REID: Okay. I think, basically, my confusion was in the wording of it. I think we could probably better word it so that you can dispel any other confusion someone else may have in reading it.

MS. KRESS: Would you make a note of that? We'll make sure we do some clarifying language before you get it back, Madam Chair.

CHAIRPERSON REID: Okay. Now on the 5th and the 18th --

MR. HART: And July 25th.

CHAIRPERSON REID: Now before we go there, on the 5th and the 18th, as far as being able to vote on the minutes, Ms. Kress, the persons who -- does it matter -- Did we get a proxy from Mr. Sockwell or from Moulden?

MS. KRESS: Regarding the minutes, I think you can go ahead and take your vote and, if we don't have the proxy, we'll get it.

MR. HART: Both were notified, and both have copies of the minutes. It's actually Mr. Moulden, and there is one for Mr. Hood, and they were both notified. They both have copies of the minutes, and they had indicated that they would have submitted

proxies, which we haven't received.

CHAIRPERSON REID: All right. Just make sure that they do so, just for the record. Okay, is it the last one, on the 22nd?

MR. HART: Twenty-fifth.

CHAIRPERSON REID: Twenty-fifth, I meant to say. I have no problem with the 25th. Okay. Any discussion on any of the minutes, anyone? All right. Then all in favor.

BOARD MEMBER RENSHAW: Aye.

CHAIRPERSON REID: Aye. All opposed? Okay.

MR. HART: Who seconded?

BOARD MEMBER RENSHAW: I second.

MR. HART: You made a motion.

CHAIRPERSON REID: I second it.

MR. HART: Staff would record the vote on approval of the minutes as three to zero, Ms. Renshaw, Ms. Reid, and Mr. Parsons, with corrections as noted.

The second agenda item, Madam Chair, is on the cases to be decided. It is Application No. 16636 for Determination of Special Questions, pursuant to an Order of the Hon. Rhonda Winston, in Molm v. Butera, No. 99CA 2029. This was June 14, 2000, concerning three air conditioning compressors located within the side yard setback of premises 4901 Quebec Street, NW. That is Square 43, Lot 1475.

Two documents have been submitted to the Board.

One is a proposed situation by the applicant describing the case, and the second is a responding order by Corporation Counsel.

MS. KRESS: There may be other information in your package that came in after we had put together the public meeting agenda, but everyone should have the same information. It is now open for your motion and discussion, and Corporation Counsel, Ms. Mary Nagelhout, who drafted this is here, if you have any questions of our Corporation Counsel.

CHAIRPERSON REID: All right. Ms. Nagelhout, could you just give us a brief overview and a recommendation. I think that we have all read the record, and we are all fairly clear as to the elements of the particular case, but could you please just give us an overview?

MS. NAGELHOUT: Sure. As was mentioned, this case involves two next-door neighbors. The plaintiffs brought an action in Superior Court alleging that air conditioners installed at the defendant's residence violate the zoning regulations.

The defendant asked Superior Court to stay the action in Superior Court while they came here to the Board asking for an interpretation of whether the placement of defendant's air conditioning units violates any zoning ordinance or regulation.

The application asserts that the Board has the power to review and construe such special questions as might be raised that implicate the zoning code. However, there is no specific zoning regulation authorizing such review by the Board.

Instead, I think, in light of the statutory and administrative scheme, zoning scheme, in place in the District of Columbia, this question is properly before the Zoning Administrator. The plaintiffs could have gone there in the first instance. They didn't. The defendants, the Buteras, should go there now before coming to the Board, and in that question, if either party disagrees with the Zoning Administrator's determination, either party could appeal that decision before the Board.

CHAIRPERSON REID: So, basically, although it is on the agenda, it is really not properly before us to make a decision per se.

MS. NAGELHOUT: That's correct.

CHAIRPERSON REID: Other than to recommend -- make a recommendation to either the defendant or the plaintiff that they seek the approval or the position from the Zoning Administrator first.

MS. NAGELHOUT: That's correct, yes.

CHAIRPERSON REID: And if they then decide -- Then if the Zoning Administrator deems it necessary, he will direct it to come to the BZA?

MS. NAGELHOUT: Well, the Zoning Administrator can make a decision on whether or not these air conditioners violate the zoning regulations, and then if one or the other parties might be aggrieved by that decision, and the aggrieved party can come

before the Board to appeal. Right.

CHAIRPERSON REID: All right. Thank you. So then we just basically make the recommendation that they go to the Zoning Administrator's office.

MS. KRESS: I think you need to make a motion in this case to make a formal decision and adopt an order that this is not properly before you, if that's your intention here, and I believe you do have a draft order in front of you. If that is comfortable for you, I would suggest you make a motion that it is inappropriately before you, and adopt the order in front of you.

CHAIRPERSON REID: I so move that the motion is inappropriately before the BZA and that we would adopt the order that has been presented to us by Corp. Counsel.

COMMISSIONER PARSONS: I second that motion. What it effectively does is dismisses the case. Correct?

MS. KRESS: Yes.

CHAIRPERSON REID: Right. All in favor? Opposed?

MR. HART: Staff would record the vote as follows: The Board moves to adopt an order that this case is inappropriately before them in a vote of three to zero: Ms. Reid, Mr. Parsons and Ms. Renshaw.

Application of Tosha Walker, pursuant to 11 DCMR 3107.2 for variances from Section 2001.3(a) and (c), to allow an addition to a non-conforming structure, Section 401.3 from the

minimum lot size, and Section 404.1 from the rear yard setback requirements for proposed addition and conversion of an existing private garage to a single family dwelling located in an R-4 District at premises 439 15th Street, S.E. (Square 1062 Lot 804).

This application was filed on May 21, 1999, and heard by the Board of Zoning Adjustment on September 29, 1999. The Board ruled that the case be continued and that the applicant work with BZA staff to develop her presentation. Staff provided appropriate assistance. There was no response from the applicant. In a letter dated January 14, 2000, the Office of Zoning requested that the applicant respond in writing by January 31, 2000, indicating whether or not she intended to proceed or withdraw the application.

The applicant was further cautioned that, if there was no response by the indicated date, the application would be placed on the Board's February 2, 2000, public meeting agenda with the recommendation that it be dismissed. There was no response by the given date. However, the application was not put on the February 2, 2000, public meeting agenda, as indicated.

In a letter dated August 11, 2000, the Office of Zoning requested that a response be made by August 28, 2000, as the application would be put on the Board's September 5, 2000, public meeting agenda with the recommendation that it be dismissed.

MS. KRESS: And there was no response.

MR. HART: As of now, there has been no response. The cutoff date was August 28. This is before the Board today.

CHAIRPERSON REID: Thank you, Mr. Hart. We are very familiar with that particular case. Given the fact that there has not been any response to the many overtures you have made to try to have her to submit additional information, I would recommend to the Board members that we dismiss this case.

BOARD MEMBER RENSHAW: Second.

CHAIRPERSON REID: And also, Mr. Parsons, although he did not sit on the case initially, is familiar with the case and understands or knows the ramifications thereof. So, therefore, he would be familiar to make a vote for the dismissal, if he so chooses.

All in favor? Opposed?

MR. HART: Staff would record the vote as three to zero to dismiss, Ms. Reid, Ms. Renshaw and Mr. Parsons.

Next case: Application Bertha Tucker/Tucker's Day Care Center, pursuant to 11 DCMR 3104.1, for a special exception under Section 205 to increase the number of children in an existing child development center to a total of 65 students, 6 infants, and 59 other children, ages 2 through 12, and 8 staff members in an R-5-A District at premises 3215 11th Place, S.E. (Square 5944, Lot 800).

The Board postponed a decision on the application to allow the applicant to resolve pending issues with the

Department of Health. Representatives from the Department of Health informed the Board that there are childcare violations at the site. That's on the DCMR title 29).

The Board requested that the Office of Zoning contact the Department of Health to find out if the pending case against the Applicant could be expedited. Also, employees from the Department who testified at the public hearing were asked to assist in expediting review of the case within the Department of Health. The Department of Health's report was to have been filed with the Board prior to this meeting.

Contact by the Applicant and the Department of Health has determined the following:

The Applicant and the Department of Health representatives have not met and will not be able to meet before September 28, 2000.

After that proposed meeting, the Department of Health will need a minimum of 30 days to assess the case and produce a report. That is necessary for this Board to make its decision.

Given this information, staff recommends that a decision on this application be postponed to the Board's public meeting on November 8, 2000.

CHAIRPERSON REID: Thank you, Mr. Hart. Board members, I would recommend that we -- I move that we accept the recommendation of the Board to postpone this particular case to

November 8, Year 2000, public meeting.

BOARD MEMBER RENSHAW: Second.

CHAIRPERSON REID: All in favor?

MR. HART: Staff would record the vote as three to zero to postpone this case to the November 8 meeting of the Board.

CHAIRPERSON REID: Just for the record, Mr. Parsons has familiarized himself with the elements of this case as well, so as to be able to vote on the postponement.

MR. HART: The next case, Madam Chair, is Number 16599, Application Tia Cudahy, pursuant to 11 DCMR 3104.1, for a special exception under Section 223 for additions to the side and rear of an existing single family dwelling in an R-3 District at premises 1521 31st Street, NW. That's Square 1269, Lot 370.

The application was amended to indicate that the Applicant is seeking approval to establish an accessory apartment use at the site.

The Board approved the proposed addition, but did not approve the portion of the project that would have enabled the Applicant to establish an accessory apartment. The Board ruled that the record be left open for Advisory Neighborhood Commission 2E to provide a report on the accessory apartment use. The Applicant should file a response to the ANC's report by August 28, 2000.

The ANC's letter is in your record, Madam Chair, and the applicant's response is also in your package.

CHAIRPERSON REID: Okay, Board members, discussion? Ms. Renshaw, do you want to start off the discussion?

BOARD MEMBER RENSHAW: We have in our file, Madam Chair, a letter from ANC 2-E dated August 2, 2000, signed by Peter Pulsifer, the Chair, stating that ANC 2-E has a long established policy of rejecting special exceptions to allow for additional dwelling units in single family homes, and stating that these units create competition for parking, add to urban density, change the residential character of an R-3 neighborhood, and therefore, the Commission objects to the applicant's request for the BZA approval of an accessory apartment at 1521 31st Street, NW.

They mentioned in the letter that at its regularly scheduled meeting on August 1, which was duly noticed and which all commissioners were present, the following motion was passed, and the vote was 5-1-1.

CHAIRPERSON REID: Well, my question is: Other than the ANC letter of opposition, I don't remember there being any other correspondence in regard to this case, and my question is whether or not, if in fact the zoning regulations allow accessory apartments in R-1 development, and when we are charged with complying with zoning regulations specifically, then if in fact the ANC takes the position that it is in opposition to that, is that a legitimate position?

MS. PRUITT: Madam Chair, in your packet you have a letter dated August 21 from the applicant, actually indicating

responding to the ANC letter, and the last --

CHAIRPERSON REID: I'm sorry.

MS. PRUITT: I can give you my copy.

CHAIRPERSON REID: Yes, but just summarize for me.

MS. PRUITT: It says, in summary, ANC does not address whether or not the applicant meets the particular requirement.

CHAIRPERSON REID: Oh, yes, I have that. No, no, I'm sorry, I do have that. So what are you saying?

COMMISSIONER PARSONS: I think that's very pertinent. What they've got is a blanket policy that says the zoning regulations in R-1 related to this use should not apply to Georgetown.

CHAIRPERSON REID: That's what I'm asking.

COMMISSIONER PARSONS: So they don't deal with the issue of this specific case. They don't come forward and address this piece of property. Of course, we have indication that the neighbors on either side have no objection to it.

So they haven't come forward with something that we can really deal with and give great weight to as it applies to this specific case.

CHAIRPERSON REID: That's exactly what my question is.

COMMISSIONER PARSONS: I would move that we approve this aspect of this application and move forward.

CHAIRPERSON REID: I second it.

BOARD MEMBER RENSHAW: I have no objection. I really commend the applicant for coming forth and requesting this permission, because so many accessory apartments in the city are done by, what shall we say, stealth of night. So I would vote with my colleagues to approve.

CHAIRPERSON REID: All in favor?

MR. HART: Staff would record the vote as three to zero to approve: Mr. Parsons, Ms. Renshaw and Ms. Reid.

MS. KRESS: Madam Chair, you requested that perhaps -- Next on the agenda was the 16559, the Field School, but you requested earlier that we perhaps move then next to 16566, the application of Georgetown University. So we will be doing that, and I would like to turn this back over to Mr. Hart.

Do we need to wait until Commissioner Franklin is here?

CHAIRPERSON REID: Yes.

MR. HART: Case 16566, application of Georgetown University, pursuant to 11 DCMR 3104.1, ANC-2E for a special exception for the review and approval of the University Campus Plan - years 2000-1010 -- under Section 210 in the R-3 and C-1 Districts at premises bounded by Glover Archbold Parkway to the west, National Park Service along the Chesapeake & Ohio Canal and Canal Road to the south, 35th Street, N Street to 36th Street, and 36th Street to P Street to the east, and Reservoir Road to the

north. (Square 1222, Lots 62, 801 and 802; Square 1223, Lots 85, 86, 804, 805, 807-810, 812, 815, 821, 824, 826, 827, 831, 843, 846, 847, 852, 853, 855 and 857; Square 1226, Lots 91, 94-101, 104, 105, 803, 804, 806, and 811-815; Square 1248, Lots 122-125, 150-157, 800-802, 804-806, 829-831, 834 and 835; Square 1321, Lots 815 through 817).

The Board requested that the following materials be submitted into the record:

Report from the Zoning Administrator discussing (a) the campus' FAR requirements; (2) matter-of-right development within the R-3 District.

Report from Lt. Patrick Burke, Metropolitan Police Department, providing (1) crime statistics on the surrounding neighborhood; and (2) discussing the approximate cost to the city, within a year, for the surveillance of group homes by the Police Department.

Document from Peter Pulsifer, Chairperson of ANC 2E, concerning the statutory requirement for the Board not to give "Great Weight" to an ANC, even though the ANC held a public meeting and a quorum was present.

The Board invited the parties to submit proposed Findings of Fact.

Letter of authorization from Guy Gwynne, Federation of Citizens Associations of the District of Columbia.

The Applicant is to provide (1) written closing

arguments; (2) a plan for addressing the off-campus housing issues, and (3) proposed Findings of Fact.

All submissions were due by August 10, 2000, with responses due by August 17, 2000. Findings of Fact were due by August 24, 2000.

MS. KRESS: Were these received? One was not received, I believe.

MS. PRUITT: All except for the very first one from the Zoning Administrator.

CHAIRPERSON REID: Okay.

MS. KRESS: And this is including, but not limited to. There were a few other things, but these were the major issues.

CHAIRPERSON REID: I think that the Board has taken the time to read over the voluminous amount of material that has been submitted subsequent to the hearing date. Nonetheless, I think that we are willing to open discussion today in regard to whether or not we feel that we have received an appropriate or sufficient amount to allow us to be able to proceed with making a decision. Mr. Franklin?

COMMISSIONER FRANKLIN: Thank you, Madam Chair. First of all, let me thank my colleagues for indulging me in not being able to be present on July 18th. I had to be out of town, but I have read the record and have read the transcript of the July 18th hearing.

I'm going to make some suggestions, Madam Chair, which I believe, judging from the transcript, will probably reflect, I think, the judgment of a majority of the Board, if not the entire board.

Obviously, Georgetown University is a world class institution which provides tremendous benefits not only to the District of Columbia and the entire region but to the neighborhood itself.

It, of course, antedates -- and its operations antedate the residents who are now living there, and I am sure many of those residents chose to live within the environs of the University, because they expect to benefit from its presence, but they also expect to have the quiet enjoyment of their homes.

Father O'Donovan, by coming to the hearing that I attended, obviously, showed that not only he was a man of faith but a man of good faith, but we have to take recognition of the fact that Father O'Donovan is leaving, and we don't know who is going to be replacing him.

Jean Lord who runs the off-campus student housing program, is obviously a very dedicated and committed employee with the best interests of the community at heart, and she has done well with the resources available to her. The question is whether those resources are sufficient.

The students who are causing the adverse impact on the community are a minority. I think everyone recognizes that

they are a minority, but the fact that they are a minority is very cold comfort to those people who have to suffer from the adverse effects of their behavior.

The community presentations that we heard, that I heard and that I saw on the record, I thought, were thorough and reasonable and very well prepared, and it is striking that there are many facets of agreement between the community and the University on these tough issues.

I think that there is general agreement on the new spatial planning philosophy that guides the development of the campus, although frankly, in my judgment, it doesn't appear to leave much additional room for on-campus housing after the ten-year plan. We may want to revisit that issue.

The transportation management program seems to be one that is well thought out and, by and large, adequate.

The plans for on-campus cultural activities seem to be regarded as reasonable, although we may wish to take a look at whether, in fact, those activities will always be University related or directly University related.

The plans for dealing with the Reservoir Road issue seems to be, in my mind, reasonable. Helicopter flights serve a broad regional need and seem reasonable, if they are not abused. I think we would have to put in the specific control on those helicopter flights that they must be exclusively for emergency medical purposes, and they will need to be monitored, as I think

everyone has agreed will be done.

The fact that MedStar is involved in the North Campus does not change the fact that the University is still required to conform to the campus plan and to the uses that are approved. So the fact that MedStar is leasing the hospital seems to me to be something that does not change the nature of what we are about.

In my judgment, graduate students are not likely to cause adverse impacts. There is nothing in the record to indicate that they themselves are responsible for the adverse, except for a few cases a year which, in my judgment, does not lead us to rationally control the University's increase in graduate student enrollment.

So that brings us down, in my judgment, to undergraduate enrollment and the off-campus housing program as the core of the issue that the Board has to deal with in terms of an approval of any campus plan.

I would recommend, Madam Chair -- and I think that judging from the record most, if not all, of the Board would agree with this, that there be no approval of any campus plan whatsoever until the Board is convinced that the standards of the off-campus program are comprehensive enough, that the sanctions are adequate enough, that the students are fully committed and knowledgeable about these standards, and that that commitment and knowledge not be deferred until 2001 but be immediate; that

resources are committed that are adequate to make that off-campus housing program effective.

Secondly, I would recommend that the Board not approve any increase whatsoever in undergraduate enrollment at Georgetown until it is convinced that the off-campus housing program has been effectively implemented to reduce to a minimum, if not eliminate altogether, the adverse effects that the Board has been apprised of in terms of the behavior of students.

That will require an agreement on the appropriate indices that can actually measure the effectiveness of that program. Therefore, it seems to me, the campus plan, even if approved, cannot be approved for a period as long as ten years, but must be approved for a period substantially less than that, to be determined by the Board after it has looked at what the campus plan -- excuse me, off-campus housing program is and how effective it is being implemented.

So that kind of sums up where I am, Madam Chair, on this particular issue. I think that, you know, the University has told us for probably good reasons, legal and otherwise, that it can't act in loco parentis with the students, but I think it should be required to act in loco communitas with respect to student behavior.

Until it does so, and does so effectively, I don't think we can approve a campus plan for a ten-year period, and certainly, even if we are satisfied that they come up with a

housing program that we think has the capability of being implemented effectively, that that approval ought to be for a period of very substantially less than a ten-year period.

CHAIRPERSON REID: Thank you, Mr. Franklin. I have one question for you. In regard to the indices that you mentioned, are you saying that you would like to see contained within their revised or updated comprehensive off-campus housing plan a reflection of periodic reporting of the effect or the success or failure of the plan, how many complaints and how the complaints were handled or something like that, along those lines?

COMMISSIONER FRANKLIN: Yes, exactly so, Madam Chair, and the community has made a number of suggestions as to what those indices ought to be. I have the impression the University is agreeable with many of them. But it has to be a program whereby it's not simply a case of calling up a hotline after something has occurred, but --

CHAIRPERSON REID: More proactive?

COMMISSIONER FRANKLIN: -- more proactive where the sanctions are severe enough so that the students understand that the University means business.

It seems to me the Board can only show that it means business by saying to the University that your desire for increase in revenue by increased enrollments will not be approved until it is apparent that there is some teeth to this off-campus housing program and its sanctions.

Now the indices should, I think, address all the data that would normally be required to determine that, when adverse effects become apparent, that the students are immediately aware of the sanctions that will be imposed. The sanctions should include, you know, the notification of parents under circumstances that can be permitted by law and, if need be, since off-campus housing, we understand from the record, is a privilege granted to students that can be revoked, to the extent that there is some legal impediment to notification of parents of disciplinary infractions, that maybe students can be required to waive their rights under that Federal law so that the parents can be notified.

Presumably, if they are paying the bills, they would be concerned that students are engaged in behavior that is not in accord with the community standards or the University standards.

I think that that may mean, Madam Chair, that we have to keep the record open for more information to be presented to the Board as to what specifically students are being informed of as to the standards that they are to be expected to comply with, that resources are to be allocated to the off-campus housing program sufficiently so that the Georgetown University police can be beefed up, and to the extent that they don't have arrest authority, they can at least be required to be on the scene and be able to identify those students who are engaged in the unwarranted behavior, that off-campus housing will be not listed as

appropriate by the University unless it meets the D.C. standards, that they will cooperate fully with the DCRA to make sure that there is adequate inspections of those housing, that the cooperation with the Metropolitan Police will be thorough, and that everyone will understand that names will be taken and data kept with respect to what infractions have been.

Then they can come back to the Board and indicate that this program is -- or try to indicate that this program is working adequately, so that we don't feel that we have to control the increase in undergraduate enrollment that they are requesting.

CHAIRPERSON REID: Thank you. Ms. Renshaw?

BOARD MEMBER RENSHAW: Yes, Madam Chair, Mr. Franklin, on the issue of Georgetown University, neighborhood confidence in Georgetown University to monitor its off-campus students has diminished. Unfortunately, this has a great bearing on the BZA's decision concerning the University's campus plan renewal.

The University remedies to neighborhood problems with the University, such as student behavior, noise, parking, traffic, the great number of students living off-campus in nearby housing, seem to flower only at BZA hearing time. It is hoped that this time such a problem berating as we have heard from the community has made a necessary and lasting impression on this venerable academic institution.

The significant derailment of town/gown

relationship here is not fatal, but I, too, feel that the BZA should not reward Georgetown University for such inadequate and incomplete management of off-campus students and other vexing issues that have surfaced during the hearings.

So I propose that the BZA cut back on the campus plan term and the number of years to be determined by this Board, if that is the direction this Board ultimate takes. I also would agree to a cap on University enrollment for a number of years at the existing level, and again the number of years to be determined by the vote of the Board.

I would like to see more detailed information on the sanctions that the University will put in place or has in place now, and how the University's Board of Review operates. I would like to request that G.U. or the community -- and/or the community, request of the Second District Metropolitan Police Department to have coverage as handled by Lieutenant Burke, who is no longer on that detail.

I would also request, to augment what Commissioner Franklin has said, that the BZA require or suggest or recommend heartily, heavily, the registration of student vehicles, so that we can or MPD can monitor those vehicles in the neighborhood.

Those are several of my suggestions, and I look forward to the Chair's recommendations.

COMMISSIONER FRANKLIN: I agree with Commissioner Renshaw's suggestions.

CHAIRPERSON REID: Thank you. Ms. Renshaw and Mr. Franklin, my position is that I concur with you both and, obviously, from the hearing, I think that we made it very clear as to what our feelings were as a result of the various testimony that we had heard over a long period of time.

What it did was signal to us that there was a very serious problem in regard to the adverse impact issue which we are charged with, being able to make a decision based on how the -- or what type of an adverse impact may come as a result of our passing the campus plan.

Now what concerned me -- The other thing was the fact it has not yet, first, complied with the 1990 campus plan in which there was a proffer of a cut-back in enrollment or the number of beds, and there were issues that were raised then in regard to off-campus student housing that were not addressed. There were promises made. The promises have not been met.

I think that it's very important that the community as well as Georgetown University understand that we take very seriously conditions that we put in the orders, because our job is to make sure that there is a balance between the interests of the University as well as the community that has the -- in this instance, has the misfortune of having the students living among them.

The complaints were numerous. It was not as if we just heard one person or two people, you know, bellyaching about

the students. It was just an incredible amount of complaints that came in, and they were complaints that affected the quality of living of the people who had to contend with such things as noise, drunkenness, profanity, urinating in the yards, and cars parked illegally and trash thrown all over the place.

I contend that I would not want to live like that, nor do I think that anyone should have to live under those kind of conditions, particularly when it's something that can be remedied, and very easily, if in fact the University would only take the responsibility of making sure that this did not happen.

As a result of that, I think that I don't feel that the University has gone far enough, and the comprehensive off-campus housing plan they submitted, to me, was still -- it fell short of what I felt was necessary. I find that a bit irritating, because I don't think we could have made it any clearer that we were very serious about there being some changes made over there.

Now I agree with Mr. Franklin, in that I don't think that we could or that we should make a decision today, because the problems still have not been sufficiently addressed. I think that, until the time that they are, that we will basically withhold such a decision.

In regard to the types of -- the plans that were proffered to us for addressing some of the issues were not proactive enough. I think that the operative word is proactive wherein you have penalties, sanctions that are imposed, that are

enforced, so that -- and I do mean stiff penalties, so that there will be no question in the students' minds as to whether or not or what is or is not expected of them, as far as behavior is concerned.

Unfortunately, Georgetown -- and it's not just Georgetown; it's other universities as well across the city, if not the nation. They have the same problem. We are seeing a proliferation of it, and I think that it saddens me to see that, particularly in that I myself have a nine-year-old who will very shortly, in a few years, be going to college, and I don't want -- I would not like to see my child be put into an off-campus housing situation without the proper type of direction or discipline to make sure that she has been appropriately taken care of.

Put an 18- or 19-year-old in a house with other kids and to allow them to, you know, wreak havoc on the neighborhood and there to be no type of control or sanction, I think, is just utterly ridiculous, in particular, as far as this drunkenness is concerned. I think that's a very serious problem that has far reaching repercussions, go way beyond what we are dealing with here. But, obviously, it seems to be a mindset on the campus.

What I found to be really appalling was some of the testimony that came to us from some of the students, which in my opinion did more detriment than it did good; because they talked about the fact that there was a survey of a certain amount

of kids, that almost 50 percent of them were drunk. I could not understand -- I couldn't fathom why they would come here to tell us something like that, and how could they feel this was proper or something that could be acceptable.

I see that there is a lot of work to be done, even with conditioning and talking to and instilling within the student body itself an ethic for a moral value system, a discipline of what is and what is not acceptable, and not acceptable or proper/improper behavior.

I think that I would like to see from the -- as Mr. Franklin said and also that was addressed by Ms. Renshaw, the code of conduct paper that is presented to each student when they come to Georgetown University, so they will understand very clearly what is expected of them. This is not just for the off-campus housing kids. This is for all the Georgetown students, because the ones that go to the houses that have the parties, that are getting drunk and making all the boisterous noise and what have you -- all of them don't live in the housing, but they go to Georgetown -- that they understand clearly what is expected of them from the school as well as from the community.

I'd like to see a position paper, something along the neighborhood of a good neighborhood requirements or something that would -- from the ANC perhaps which would lay forth what they would consider to be appropriate behavior or inappropriate behavior for the kids to also follow and be given a copy of when

they are leasing these houses in Georgetown.

Also, I'd like to see from the student council -- because I think that one of the few kids who testified before us was the President of the student council, and I think that the peer pressure or the peer influence would also be helpful in them coming with a position paper where they -- something creative where they would be able to suggest what they would consider to be acceptable or unacceptable behavior as well.

I think that I would have rather -- getting back to those students who testified, I would rather have heard them come forth and say something like, well, gee, we realize there is a serious problem, and we at the student council would like to try to work out something to assist the students to understand the significance of or importance of conducting themselves properly, dah, dah ,dah, dah, but not saying only fifty percent -- only half of us, you know, get drunk. That does not make any sense to me.

Now in that regard, from both Ms. Renshaw and Mr. Franklin I think I heard you say that you do not want to -- that you want to keep the cap as it is.

BOARD MEMBER RENSHAW: Yes.

CHAIRPERSON REID: And I think I heard you say that you want to withdraw -- I mean withhold the decision as to what the cap should be until a time certain in the future wherein there has been an opportunity to be able to make an assessment as to what, in fact, we feel Georgetown has done or is doing in order to

ameliorate the negative impact.

COMMISSIONER FRANKLIN: Right. My understanding, Madam Chair, is that there are still 111 students that could be enrolled under the existing 1990 campus plan, and I don't propose, at least in my present state of mind, to revoke that.

Ms. Renshaw may be of a different mind on that, but I certainly don't feel that I'm comfortable increasing the enrollment above the 1990 cap until there is some indication that the adverse impact is being brought under control.

If I could add a few more points, Madam Chair, to what I had said earlier: There has been much made of the fact that students are a protected class under D.C. law, and I frankly regard that as basically irrelevant to what we are talking about.

Any standards that are imposed on students by the University that make them behave in accordance with civilized norms is not a violation of that particular law. So I think it's kind of a red herring to even talk about it at this stage.

The University has also indicated that a change in administration is sort of irrelevant to what we are talking about. I don't think so. I agree that every administration is subject to the standards set by the governing body.

Therefore, it strikes me that it would be very desirable, if not essential, that we receive a statement from the governing body of the University that embraces the standards of the off-campus housing program and that also clarifies that

resources will be allocated to that program that are adequate to make it effective; in other words, that the governing body has to recognize the centrality of that program to the approval of a campus plan.

That would go a long way to providing at least me some comfort in knowing that a change in administration will not make a difference to how that program is carried out.

MS. KRESS: Madam Chair, it appears from what I'm hearing that you are not prepared to go ahead with a decision today, but that you are looking for some additional information.

If I could suggest that you may wish to reopen the record for certain definitive information. If you would like, I'll give a try at a few of those items, and then perhaps you can add to it, to help move things along.

The first item I have made a note of is that you are looking for more definitive standards of behavior for the off-campus student housing, and those to be approved by the governing body of Georgetown.

Also, you are looking for more definitive sanctions for on- and off-campus housing and on- and off-campus students and adverse effects that they may bring to the community.

CHAIRPERSON REID: And the sanctions not to include expulsion, possible expulsion.

MS. KRESS: I was going to go on with the next item of not to exclude expulsion, but also then in conjunction, as I

heard you, what resources will be brought to effect or implement the off-campus/on-campus student program, housing program, as it relates to the adverse effects to the community.

I have also written down a request of the ANC to submit a paper on what they consider to be the appropriate behavior of students as they interact in the community.

Then heading a different direction, I have an item that you are looking for a more definitive program regarding future on- and off-campus housing as it relates to a possible increase in its student population.

BOARD MEMBER RENSHAW: Also, information about how the Board of Review operates. That would come under the first item, the standards of behavior on and off-campus, a statement by the governing body, and also information on how the Board of Review operates.

Also, we requested that the community reach out to the -- or to you, reach out to MPD, asking for the reinstatement of MPD PSA coverage as handled by Lieutenant Burke.

MS. KRESS: So that would be their proposal as to how they would do that outreach.

BOARD MEMBER RENSHAW: Proposal, and also we have made, or I had made, a recommendation on the registration of vehicles, that the University keep a record. Perhaps that could be addressed --

COMMISSIONER FRANKLIN: And a record of

infractions.

BOARD MEMBER RENSHAW: And a record of infractions.

MS. KRESS: So you would like to have a proposal from them, how they would --

BOARD MEMBER RENSHAW: Handle the vehicles and the infractions.

MS. KRESS: Registration and infractions.

COMMISSIONER FRANKLIN: Also, Ms. Kress, the expansion of the Georgetown University police role itself seems to me to be relevant. Obviously, the MPD has got limited resources, and I understand there may be some limitations on what the Georgetown University police themselves might be empowered to do in terms of arrest authority and the like. But they certainly, it seems to me, be empowered to make sure that the identification of students that are causing trouble is made plain.

MS. KRESS: I would make that a subheading under the resources that they are willing to bring to effect or implement the program.

COMMISSIONER FRANKLIN: Yes. And I suppose we should agree that, if somebody is expelled from the University, that they can be replaced in terms of the new enrollment. In fact, I'm almost inclined to say they could enroll two or three in place.

CHAIRPERSON REID: Ms. Kress, did you also mention my recommendation regarding the involvement of the student

council?

MS. KRESS: No, I didn't, and I didn't because I think -- I don't know -- depending on how long you want to leave the record open, realistically I don't know how quickly the student council could get together and take action to get information back. But if you would like, I will put that on the list.

CHAIRPERSON REID: Well, you know, my thought was that the development of the off-campus housing management plan be done in conjunction with the student council so that many of the recommendations and sanctions would come from the students, from the student body.

MS. KRESS: I think that's excellent. You're asking for a program of how that could be effected and how they could be included, and I think that's a better way of perhaps getting it.

CHAIRPERSON REID: Exactly. Yes.

BOARD MEMBER RENSHAW: I just want to make a comment here. What I would love to see, and a turnaround for Georgetown University, is for the student government to take the lead forming a consortium of student government entities with all the universities within the city to address the similar problems that these universities are facing.

We know about them, because we have to deal with these campus plans.

CHAIRPERSON REID: And we also see them on television.

BOARD MEMBER RENSHAW: And we see it on television and read about it in the newspaper. So we pick up and read a headline, and we think it is perhaps the campus plan that is before us and, lo and behold, it's another university. But wouldn't it be a wonderful effort of this university to show that it has reached out to the other universities, the student government leaders are coming together, and they are going to address such things as student housing in the community, drunkenness, vehicles parked illegally, all bad behavior, student conduct; and put the charge on those student government leaders to come up with something that's meaningful for every university within the city.

CHAIRPERSON REID: Now I don't know if we can --

MS. KRESS: That's a suggestion, I think.

CHAIRPERSON REID: -- go that far, but nonetheless, I think that --

BOARD MEMBER RENSHAW: Loaded.

CHAIRPERSON REID: -- your point is well taken, Ms. Renshaw, and I think that the governing bodies at Georgetown hear you and, as such, can make the appropriate decision as to where they want to go with that.

So I think that it's something that certainly should be -- that they may want to take in consideration, however,

not necessarily a part of this particular order or recommendation from this Board directly, but as an individual suggestion that perhaps they will take in consideration. However, I do want to make sure that the recommendation we did kind of formulate here in regard to the students being the owners of responsibility we put on the student themselves to come up with these sanctions and penalties and so on be done with the university, so that they will not be too lenient, that once they have done it that the university will step in.

I think the university understands the seriousness of the campus plan being in jeopardy if, in fact, this is not being addressed appropriately.

Now only one other thing that I had wanted to mention was this hotline business, which I felt was like really ludicrous in that you have an answering machine answering a hotline that reminds me of like a suicide hotline.

If someone called and no one is there, so if you have a problem with someone yelling and screaming out in front of your house or urinating in your yard, you want someone to respond immediately. So perhaps they could make sure that line is manned 24 hours a day by someone, you know, a physical individual rather than the answering machine, so that it won't come across as being a joke, that it will be someone who can dispatch appropriate action as necessary as the calls come in.

This is something that I feel that, once it's taken

up and it becomes a reality, that it's probably something that will not have to be continued over a long period of time. Once they implement it and have it in place for a while, then my guess would be -- my judgment would be that the number of complaints and calls would decrease such that they don't have to necessarily have someone there physically answering the telephone but could have some type of apparatus in place where the call could be forwarded to an appropriate individual who could take care of the problem 24 hours.

You know how they have at the hospital, doctors on call -- have someone on call or something like that. But, nonetheless, like I said before, George Washington University is a great university with some of the greatest minds in the world. So I'm sure that they would be able to work this out.

MS. KRESS: Madam Chair, I'd like to suggest, because I know you have still a busy morning, that we perhaps set -- We need -- I would think everyone would like to get this transcript, because this has been a very packed hearing -- I mean meeting, and to allow for that and to allow a time for the response to the questions, I feel that we need at least a month, the decision to be in November. But do you want to -- Do you have some tentative dates on when the applicant needs to submit the responses and then when the amount of time for the other parties to be able to respond, please?

MS. PRUITT: Certainly. We are at the fifth now.

It usually takes us at least two weeks, two and a half weeks, to get a transcript which would put us about the 20th or, let's say, the 22nd.

So I would suggest that the --

MS. KRESS: And then the applicant needs at least two weeks.

MS. PRUITT: Right. I would say two weeks would make it October 6th for the applicant to get information in to us, and then why not give two weeks to respond, which would be the 20th. That would still give us enough time to put the package together for November, for the November 7th meeting.

MS. KRESS: Eighth.

MS. PRUITT: Eighth, because of election. Excuse me.

MS. KRESS: Thank you.

MS. PRUITT: Okay. Excuse me.

CHAIRPERSON REID: Then I think that it should be made very clear to all persons involved that there will be no decision today and that there will not be any decision made, period, until such time that the Board is convinced that -- in that they ever are convinced that these issues have been addressed to our satisfaction.

MS. KRESS: But tentatively, it will be on your November 8th agenda to review the materials you have.

BOARD MEMBER RENSHAW: Yes, and I'd like to request

that the University submit an up-to-date count of undergraduate, graduate, nontraditional and foreign students in the University, please, so that we have -- We have a count from last spring, but I'd like it brought up to date.

MS. KRESS: We'll put that on the list as well.

CHAIRPERSON REID: Mr. Franklin?

COMMISSIONER FRANKLIN: The only thing I have to add, Madam Chair, is that I think that the University and the community should understand that I don't think we are taking these measures in a punitive frame of mind.

It's really mostly a plea for the reallocation of resources to the off-campus housing program, so that within the existing revenue stream of the University it can become effective before we, in effect, open up that revenue stream for further enrollment.

CHAIRPERSON REID: Thank you. All right.

MS. KRESS: Thank you, Madam chair.

MS. PRUITT: I just wanted to make it clear for the audience, too, that the record is only open for those items that the Board requested. So it's not taking in any additional letters or anything in reference to the University.

MS. KRESS: It's a limited reopening of the record. Thank you. Do you want to go ahead with Field School, Paul? Oh, you want to break? Oh, that's right. You wanted to break right now.

CHAIRPERSON REID: Okay. We will take a recess at this time. We will be back shortly.

(Whereupon, the foregoing matter went off the record at 10:58 a.m. and went back on the record at 11:26 a.m.)

MR. HART: Madam Chair, the final application of the morning: 16559, application of The Morris and Gwendolyn Cafritz Foundation/The Field School, pursuant to 11 DCMR 3104.1 for a special exception to establish a private school under Section 206 for a maximum of 320 students and a maximum of 74 faculty and staff in the R-1-A District at premises 2301 Foxhall Road, NW (Square 1341, Lots 856, 861, 878 and 879).

The Board discussed the application at its March 15, March 29, May 10 and July 25, 2000, public hearing sessions. The Board completed hearing the case and indicated that the following submissions be made:

The results of further dialogue between the Applicant and the parties in opposition, including Sylvia Shugrue.

Written closing arguments from the Applicant.

Findings of Fact from the Applicant and parties.

Submission from James Long, Delon Hampton & Assoc. Mr. Long is to provide a summary of intersections he has designed in the Washington Metropolitan Area.

Submissions were due by August 10. Responses were due by August 17. Findings of Fact were due by August 24.

CHAIRPERSON REID: All right. Board members, the

case before us, the Field School, is a case that is a very important case, and it has -- It's a complicated case in that there are a lot of various elements that have to be decided upon by the Board individually to get a composite in order for us to make a decision that would be in the best interest, hopefully, of everyone involved there.

As such, we find that today we have three members, one of which has to leave, which would then not allow us to have a quorum in order to go into the sufficient amount of discussion that we feel are necessary for this particular case, as well as the fact that we would like to have a full quorum with the other Board members, Mr. Sockwell and Mr. Moulden, who wouldn't be here today present, before we could render a decision.

So at this time, I don't feel that we can go forward with a decision and would have to postpone it until the next decision date, which would be approximately when?

MR. HART: October 3rd.

CHAIRPERSON REID: October 3rd?

MR. HART: Yes.

CHAIRPERSON REID: We do apologize for having to postpone it, but we feel very strongly that we would do an injustice to the merits of the case as well as the people involved to try to hurry through it and to make a half-hearted effort to have it completed today.

Any other comments, Board members?

BOARD MEMBER RENSHAW: Madam Chair, it's a necessity to have enough time for debate and, since one of our members, Mr. Parsons, has to leave, we are not going to have that opportunity to air our opinions. They may be differing opinions, and we want the opportunity to lay them out in as much detail as is necessary to support our view.

CHAIRPERSON REID: That's it, Mr. Hart.

MR. HART: Also, Madam Chair, the missing Board members all read the record, you know, making their import just as important. They have read the record, the transcript.

CHAIRPERSON REID: Yes. They were either here, actually physically present, or will read the record as appropriate.

COMMISSIONER PARSONS: Do we need a motion to postpone?

CHAIRPERSON REID: I move that we postpone a decision on Field School, Case Number 16559, until October 3rd to give us an opportunity to devote the ample time necessary to come to a decision.

BOARD MEMBER RENSHAW: Second.

CHAIRPERSON REID: All in favor? Thank you.

MR. HART: The Board has moved to postpone Case 16559, the Field School, to October 3rd public meeting. The motion was made by Ms. Reid, Ms. Renshaw and Mr. Parsons.

CHAIRPERSON REID: Thank you. I would conclude this morning's session. But before we leave, I just wanted to take a moment to thank staff for the Herculean job they have done over the summer in preparing these cases which have just snowballed, and especially to Ms. Kress who has the added chore of redoing the regulations and for all of the direction that she has given to the staff, and for everyone who has put in the extra time and devotion and dedication for making sure that we are able to continue with our hearings and our meetings adequately.

Thank you very much.

(Whereupon, the foregoing matter went off the record at 11:32 a.m.)