

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSIONER

+ + + + +

PUBLIC HEARING

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IN THE MATTER OF:	:	
	:	
THE GEORGE WASHINGTON	:	
UNIVERSITY - SPECIAL	:	
APPLICATION FOR A CAMPUS	:	Case No.
PLAN	:	06-11
	:	06-12
and	:	
	:	
THE GEORGE WASHINGTON	:	
UNIVERSITY - FIRST STAGE	:	
PLANNED UNIT DEVELOPMENT	:	
AND RELATED ZONING MAP	:	
AMENDMENT	:	
-----	:	

Thursday,
November 30, 2006

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

The Public Hearing of Case No. 06-11 and 06-12 by the District of Columbia Zoning Commission convened at 5:00 p.m. in the Office of Zoning Hearing Room at 441 4th Street, N.W., Washington, D.C., 20001, Carol J. Mitten, Chairperson, presiding.

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ZONING COMMISSION MEMBERS PRESENT:

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

OFFICE OF ZONING STAFF PRESENT:

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

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER
TRAVIS PARKER

The transcript constitutes the minutes
from the Public Hearing held on November 30,
2006.

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

(5:08 p.m.)

CHAIRPERSON MITTEN: Good evening, ladies and gentlemen. This is a public hearing of the Zoning Commission of the District of Columbia for Thursday, November 30th, 2006.

My name is Carol Mitten. And joining me this evening are Vice Chairman Anthony Hood and Commissioners Mike Turnbull and John Parsons. And we are expecting Commissioner Jeffries shortly.

The subject of this evening's hearing is Zoning Commission Case Nos. 06-11 and 06-12. And it is a continuation of our October 11th, 2006 hearing, this request by GW for special exception relief and approval of the Foggy Bottom Campus Plan proposed for 2006 through 2025.

And since we have a pretty abbreviated agenda tonight, I'm not going to read the entire opening statement. But I just

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1 want to remind folks that we are being
2 recorded by the court reporter and being
3 webcast live. And so we ask you to refrain
4 from making any disruptive noises and that
5 includes beepers and cell phones. So if you
6 would turn those off right now that would be
7 very helpful.

8 So I think everybody who is with
9 us tonight has been sworn in, I think, who is
10 going to testify. Who do we have here from
11 DDOT? Oh, we have Mr. Jennings. Were you
12 sworn in in this case before? Okay.

13 So this is what I think we are
14 doing. And so if anybody has a different
15 understanding of what we are going, then let
16 me know. But I think what we are going to
17 start with is Ms. Kahlow is going to cross
18 examine Mr. Crews. We will do that first.

19 And then we will have further
20 cross examination of DDOT to the extent anyone
21 wants to ask any questions. And then I think
22 what we had talked about was having the

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1 rebuttal testimony. And then any final cross
2 examination on the additional submissions and
3 the rebuttal. Is that your recollection? Is
4 that --

5 MS. DWYER: We've done our
6 rebuttal. So unless something comes up
7 tonight --

8 CHAIRPERSON MITTEN: Oh, did you
9 do that already?

10 MS. DWYER: Yes.

11 CHAIRPERSON MITTEN: That's great.

12 MS. DWYER: So unless something
13 comes up tonight --

14 CHAIRPERSON MITTEN: Okay, good.

15 MS. DWYER: -- it would just be
16 any cross. Then our submissions. And then
17 our closing statement.

18 CHAIRPERSON MITTEN: Okay. Good.

19 MS. DWYER: One other thing, Jami
20 Milanovich has not been sworn in. So --

21 CHAIRPERSON MITTEN: Okay.

22 MS. DWYER: -- she should be sworn

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1 in just in case she gets asked a question on
2 traffic.

3 CHAIRPERSON MITTEN: Okay. So,
4 Ms. Milanovich if you would just rise and
5 direct your attention to Ms. Schellin, she
6 needs to be sworn in.

7 (Whereupon, potential witness was
8 duly sworn.)

9 CHAIRPERSON MITTEN: Great. Okay.
10 So Mr. Crews is here. And Ms. Kahlow, you
11 are up.

12 CROSS EXAMINATION

13 MS. KAHLOW: I am Barbara Kahlow.
14 I'm representing the West End citizen's
15 Association today. Thank you for returning,
16 Mr. Crews.

17 I have three series of questions.
18 One is only two questions. And that is on
19 the audit. Then I have a series of questions
20 about current conditions. And a series of
21 questions about the markup of proposed
22 conditions, your markup of our proposed

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1 conditions.

2 Let me start with the simple one,
3 the audit.

4 CHAIRPERSON MITTEN: Now just to
5 remind you, and I know you are mindful of this
6 so perhaps your questions are right in line.
7 But depending on the nature of your question,
8 you know, this is really not about exploring
9 how the audit was done and so on and so forth.

10 MS. KAHLOW: I'm not going to ask
11 anything about it.

12 CHAIRPERSON MITTEN: Great. Okay.

13 MS. KAHLOW: Thank you. That's
14 FBAs and ANCs.

15 I want to just understand for
16 myself the timing. Why did you wait until the
17 afternoon of September 14th, the first day of
18 the hearing, to give us the August 9th-dated
19 independent audit account report.

20 CHAIRPERSON MITTEN: Okay. That's
21 not relevant. That part is not relevant.

22 MS. KAHLOW: I was just trying to

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1 understand because I'm going to be talking
2 about other things we get in. But okay.
3 That's fine.

4 All right. And I want to also
5 understand in terms of process one other
6 question which was page two of your audit
7 report says that understanding between Office
8 of Zoning, Office of Planning, and GW was that
9 the audit would only involve the student
10 headcount. When was this understanding
11 reached? And with whom in OP?

12 CHAIRPERSON MITTEN: Okay. That's
13 not relevant either.

14 MS. KAHLOW: Okay. Now we will
15 get to the actual things that are more
16 important.

17 Let's first go to the current
18 conditions. If you'd look at the April 26,
19 '04 order, that's the one that is the most
20 recent one. Let's start with number seven.
21 I'm going to go in order instead of importance
22 in order of the actual conditions.

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1 Number seven is streetscape.

2 MR. CREWS: Could you wait just a
3 moment until I grab that?

4 MS. KAHLOW: Sure. Sure.

5 THE WITNESS: You are basically
6 talking about the appendix on number I -- on
7 BZA I -- the --

8 MS. KAHLOW: Yes.

9 MR. CREWS: Yes? Okay.

10 MS. KAHLOW: It starts with number
11 one and goes to number 20 if that helps. The
12 pages are numbered five through 11.

13 MR. CREWS: And I'm afraid I do
14 not have that with me.

15 MS. KAHLOW: Oh.

16 MR. CREWS: Well, let me just
17 double check. No -- no, I'm afraid I don't.

18 CHAIRPERSON MITTEN: Okay. Can
19 you hand up what you are working off of and
20 we'll make copies for him.

21 MS. KAHLOW: To whom would you
22 like me to hand them off?

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1 CHAIRPERSON MITTEN: Ms. Schellin.

2 MS. KAHLOW: Excuse me. Shall we
3 await those copies, Ms. Mitten?

4 CHAIRPERSON MITTEN: If you can go
5 on without that in another area.

6 MS. KAHLOW: I can try to go in
7 the beginning. Number seven is streetscape.
8 The current condition relates to the ten-year
9 campus plan from 2000 to 2009. And we are in
10 year six of the ten years.

11 And I wanted to know before this
12 further processing equivalent application and
13 the others that were submitted for the whole
14 campus, what was GW's shares of the cost
15 expended to date and what was DC's shares of
16 the cost expended to date? How much has been
17 completed?

18 CHAIRPERSON MITTEN: Say how that
19 is relevant to this proceeding?

20 MS. KAHLOW: Because we are going
21 to go into the new conditions in which we are
22 saying WECA asked for a specific timetable,

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1 specific contribution --

2 CHAIRPERSON MITTEN: Okay.

3 MS. KAHLOW: -- for each of the
4 elements. And we don't have it in the current
5 -- see that is why I separated it.

6 CHAIRPERSON MITTEN: So you want
7 to see what the baseline is?

8 MS. KAHLOW: Exactly.

9 CHAIRPERSON MITTEN: Okay.

10 MS. KAHLOW: I want to know and I
11 want to understand because we were rejected
12 from -- our comment was please have a
13 timetable and specific dollars associated --

14 CHAIRPERSON MITTEN: I understand.

15 MS. KAHLOW: -- with each
16 milestone. Since we didn't have it currently
17 and I want to see how they are currently
18 enforcing it. If they don't have the
19 information, then it should be reasons for us
20 to put it in.

21 CHAIRPERSON MITTEN: Okay.

22 Mr. Crews, do you have that

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1 information?

2 MR. CREWS: I do not. And I
3 believe that since that is a part of the
4 compliance report that perhaps we should work
5 closer with the Office of Zoning to make sure
6 that we obtain a compliance report.

7 I have an August 28th, 2006 letter
8 from Mr. Barber on the biannual reports
9 required by the Foggy Bottom Campus Plan. But
10 it just addresses, I believe, conditions 9C
11 and 17.

12 MS. KAHLOW: And I'm not asking
13 about those conditions.

14 MR. CREWS: Yes, right. Right.
15 Yes. But I think your point is well taken in
16 terms of us working -- myself working closer
17 with the Compliance Officer with the Office of
18 Zoning to discuss, you know, the ability to
19 have an articulation from the University of
20 the compliance with all of the conditions,
21 especially as we, you know, look perspective
22 here that the Commission consider that as a

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1 requirement.

2 CHAIRPERSON MITTEN: Okay. But
3 that's all worthwhile. But to the specific
4 question which is you don't have any
5 documentation regarding the progress of the
6 streetscape plan from the university?

7 MS. KAHLOW: From years one
8 through six of the ten-year period.

9 MR. CREWS: Right. I do not.

10 CHAIRPERSON MITTEN: Okay.

11 MS. KAHLOW: Okay. And now that
12 we are into a new proposal, which overlaps the
13 period, instead of 2000 to 2009, it is 2006
14 through 2025, what percentage of the new
15 streetscape plan overlaps with the remaining,
16 not yet implemented specifics of the current
17 plan?

18 MR. CREWS: That I'm afraid I do
19 not know either.

20 MS. KAHLOW: Okay. Let's go on to
21 number eight. Do you have a copy now of this
22 document?

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1 MR. CREWS: Yes.

2 MS. KAHLOW: Wonderful. Thank
3 you. So we are on page six which is called
4 faculty staff counts. I know the audit didn't
5 deal with it and I just wondered if you have
6 done any research to opine if GW is currently
7 in compliance with the faculty and staff
8 separate counts.

9 CHAIRPERSON MITTEN: Okay. The
10 current compliance --

11 MS. DWYER: Madam Chair, could I
12 just say something for the record?

13 CHAIRPERSON MITTEN: Okay.

14 MS. DWYER: I thought that this
15 was not going to be a compliance hearing where
16 we go back --

17 CHAIRPERSON MITTEN: That's right.

18 MS. DWYER: -- and review that.

19 CHAIRPERSON MITTEN: Right.

20 MS. DWYER: And that the questions
21 were to Mr. Crews's memorandum on the proposed
22 conditions going forward. So I don't know how

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1 any of this is relevant.

2 MS. KAHLOW: Because, again, we
3 asked for something in the proposed conditions
4 that he rejected.

5 MS. DWYER: So why not address the
6 proposed conditions and ask why he rejected it
7 without going back --

8 MS. KAHLOW: Well, I'm going to.

9 MS. DWYER: -- through --

10 MS. KAHLOW: I was trying to first
11 -- I was trying to be logical and non-
12 duplicative. That was my way of approaching
13 this. And if he can say no, then we will get
14 to why can't we please. I mean I think this
15 was easier since they are not in the same
16 order.

17 MS. DWYER: Well, my objection
18 still stands because I think we are wasting
19 time. Some of these issues were already
20 addressed in the hearing as to the fact that
21 there wasn't a streetscape plan that was even
22 approved by DDOT. And I think that in the

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1 interest of time, I would suggest that Ms.
2 Kahlow go forward and not go back.

3 MS. KAHLOW: Now with respect to
4 the faculty staff -- the caps, the WECA
5 recommended that they be separate. And the
6 primary reason for doing so was because of any
7 contracted-out staff.

8 So the question is do you have any
9 baseline on faculty and staff counts
10 separately so if any of the staff functions
11 are contracted out, you will be able to
12 subtract them from the base?

13 Do you have any compliance
14 information in the first six years of the
15 campus plan that is currently in effect on
16 staff headcounts and faculty headcounts? I'm
17 trying to explain the context to do what she
18 wants us to do. I think it will be easier for
19 everybody.

20 CHAIRPERSON MITTEN: We are going
21 to finish tonight, okay? Just everybody know,
22 we are going to finish.

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1 MS. KAHLOW: And I'm trying to
2 expedite it. I was trying to make it non-
3 duplicative so it will be the end of cross.

4 MR. CREWS: Again, I apologize
5 because apparently I did not grab what I
6 should have grabbed in terms of having the
7 letter that the university sent during the
8 audit that indicated why it was impractical
9 and undesirable at this time to do an audit of
10 the faculty and staff.

11 But I believe that they did have
12 numbers in that letter. And I don't know if
13 the university has a copy of that letter with
14 them now or not. But I think we do have
15 information -- again, obviously unaudited but
16 some sort of baseline information. And we
17 could be able to provide that to you
18 afterwards.

19 MS. KAHLOW: For year -- each of
20 the years?

21 MR. CREWS: For the -- I think it
22 is probably -- I can only at this point say it

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1 would be current or within the last school
2 year.

3 MS. KAHLOW: My understanding from
4 GW officials not in the room and who would
5 like some anonymity is that they are already
6 over the faculty cap so that the progression
7 is very important.

8 CHAIRPERSON MITTEN: Okay. This
9 is not a conversation.

10 MS. KAHLOW: No. But I'm trying -
11 -

12 CHAIRPERSON MITTEN: Okay.

13 MS. KAHLOW: -- to get the
14 progression. I would like it each year so
15 that we can see the progression of staff and
16 the progression of faculty.

17 CHAIRPERSON MITTEN: The purpose
18 of this exercise is to find out how Mr. Crews
19 would enforce the conditions that have been
20 proffered or would amend the conditions that
21 have been proffered to make them easier to
22 enforce.

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1 So rather than trying to delve --

2 MS. KAHLOW: Okay.

3 CHAIRPERSON MITTEN: --
4 information that he may or may not have that
5 relates to past compliance or even past issues
6 that are not maybe dealt with directly through
7 compliance, could you focus your --

8 MS. KAHLOW: All right.

9 CHAIRPERSON MITTEN: -- inquiries
10 on --

11 MS. KAHLOW: I'll try to do that.

12 CHAIRPERSON MITTEN: -- the
13 proposal? Thank you.

14 MS. KAHLOW: How will you consider
15 the number of contracted employees providing
16 services within the campus planned boundaries?

17 MR. CREWS: And this is in regard
18 to --

19 MS. KAHLOW: The new -- your new
20 letter number 11.

21 MR. CREWS: -- the new condition
22 11?

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1 MS. KAHLOW: Yes.

2 MR. CREWS: Right.

3 MS. KAHLOW: I know we are moving
4 around but they didn't want us to go in order.
5 And that is what the new one is called, New
6 Eleven.

7 MR. CREWS: Again, from looking
8 at what we've said is that I had recommended
9 because of the difference in terms of
10 determining faculty and staff to consider
11 having them as a whole because it, again, it
12 seems to me that the point is the impact of
13 people in the neighborhood. And that it would
14 be, you know, so the total number was good.

15 I think that the part, if I'm
16 looking correctly at the -- that your
17 suggestion addition was in red here, the
18 annual report shall indicate each company with
19 a contract to provide services --

20 MS. KAHLOW: It is in 6E and 11.
21 We asked in 6E for the headcount of staff and
22 faculty separately. And then in 11 we asked

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1 for it and we asked for the contracted
2 employees within the campus.

3 And what I wanted -- what I asked
4 you is what we want to understand. How will
5 you consider the number of contract employees
6 since they obviously have an impact on our
7 community when those contracts are outsourced?

8 MR. CREWS: Okay, again, it would
9 be up to the Commission to determine whether
10 or not contract employees were part of the
11 count. And it seems to me that then if it is
12 not further defined, that we would just have
13 to ask the university.

14 And I would also hope that, you
15 know, that if the Commission so desires, that
16 we would be able to audit that information,
17 that they would provide the contracts.

18 The auditor or the audit, again,
19 just in -- nothing set in stone now but would
20 have to come up with a way of figuring out is
21 this all the contracts and the contract
22 employees that are on campus so that it

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1 involves the Commission's articulation in the
2 conditions of what is included and then we
3 would work with the university and with the
4 neighbors and the ANC, as I have mentioned
5 before, in terms of designing future audits as
6 we, you know, under continuous improvement
7 mantra, to figure out the way to make sure
8 that we had all of the contract employees.

9 MS. KAHLOW: So my question gets
10 to -- since you don't -- you haven't really
11 figured out what to do -- do you think that
12 the staff cap or combined cap, if you are
13 going to do a combined cap, should be adjusted
14 downward if some functions are contracted out
15 so that there will continue to be the same
16 number of impacted employees in the Foggy
17 Bottom area?

18 MR. CREWS: Well, again, I think
19 that is a policy question for the Commission.
20 But it certainly seems that if the goal is to
21 address the impacts that the university has
22 on the residential neighborhood that the folks

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1 that are there because of the university in
2 whatever capacity should be considered.

3 MS. KAHLOW: Okay. I need to step
4 back on the streetscape. I don't think you
5 answered the question. And maybe I didn't
6 pose it clear enough. Why did you reject the
7 WECA's addition of a timetable for
8 implementation of each streetscape element and
9 the specification of dollars to be paid by GW
10 for each element?

11 MR. CREWS: And what number is
12 that now?

13 MS. KAHLOW: Twenty-one.

14 MR. CREWS: Twenty-one.

15 MS. KAHLOW: I meant to say that
16 when we were having that original discussion
17 and then Ms. Dwyer asked me to combine it. So
18 I meant do that. I'm sorry. Thank you.

19 MR. CREWS: I thought that I said
20 that WECA's suggestion of inclusion of a
21 timetable is appropriate for condition 6F.
22 Implementation can be evaluated by the

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1 Commission then at further proceedings on how
2 they are -- what their comparison of actuality
3 is with the timetable.

4 And, again, then that would be up
5 to the Commission, I think, to then be able to
6 determine if they are in compliance.

7 MS. KAHLOW: Well at the bottom,
8 you don't have it in the text of yours. You
9 didn't take our textual change. In the
10 bottom, you say the WECA's suggestion of an
11 inclusion of a timetable is appropriate. And
12 then you say you do it on a case-by-case
13 basis.

14 I'm saying since this is the
15 campus plan and we had no progress --

16 MR. CREWS: Where was the case-by-
17 case basis?

18 MS. KAHLOW: Can be evaluated by
19 the Commission each further processing in each
20 application. That is your sentence.

21 MR. CREWS: Yes, right. Well
22 what I mean by that is each time they would

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1 come in for some sort of modification or
2 depending on if there is additional Zoning
3 Commission approval required for certain
4 actions in the campus plan that each time it
5 came before the Commission, it seemed like
6 that would be something that could be judged
7 by the Commission in terms of whether or not
8 they are in compliance with that timetable and
9 whatever remarks they might have in terms of
10 why they are or aren't.

11 And then the Commission has the
12 ability to determine if that is satisfactory
13 or not. And so my goal --

14 MS. KAHLOW: Well, Mr. Crews --

15 MR. CREWS: -- was to give the
16 neighborhood another benchmark in terms of
17 compliance with the conditions by suggesting
18 that it would be appropriate at each step
19 along the way, depending on where you were on
20 the timetable, where they were in
21 implementation.

22 MS. KAHLOW: Well, the timetable

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1 is not in the condition as you rewrote it.
2 You didn't accept our language. And I'm
3 asking why you didn't accept it. It is not in
4 the test -- the non-italics text. And, in
5 fact, the further processing applications are
6 only for specific sites. And the streetscape
7 is for the entire campus plan area.

8 So it doesn't make any sense to
9 just do it for the further processing
10 applications. And that is why we asked for a
11 timetable with each. And the question is --

12 MR. CREWS: Okay. Now let me --

13 MS. KAHLOW: -- where is it?

14 Maybe it is --

15 MR. CREWS: -- direct you --

16 MS. KAHLOW: -- somewhere else.

17 MR. CREWS: -- let me direct you
18 to 6F.

19 MS. KAHLOW: Yes. New 6F?

20 MR. CREWS: New 6F where --

21 MS. KAHLOW: I see that there is a
22 timetable there. That was a change. But you

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1 don't have the amount of money and what the
2 plan is. I mean we need to have fuller detail
3 to see if we are getting something. It is
4 especially important because whoever's failure
5 aside, we got nothing in the first six years
6 in the current campus plan.

7 If you could just review that, I
8 think --

9 MR. CREWS: Okay.

10 MS. KAHLOW: -- that would be the
11 easiest way to do that.

12 CHAIRPERSON MITTEN: I guess what
13 I'm hearing is that Mr. Crews is not rejecting
14 your suggestion.

15 MS. KAHLOW: I understand.

16 CHAIRPERSON MITTEN: He might not
17 be embracing your suggestion with the same
18 degree of enthusiasm that you are making it.
19 But I think what he is saying is that has
20 merit.

21 And the one missing piece, I
22 think, is that in the conversation may be that

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1 you are looking for enforcement. If there is
2 a benchmark date that is missed --

3 MS. KAHLOW: Right.

4 CHAIRPERSON MITTEN: -- you are
5 looking for an enforcement when it is missed.

6 MS. KAHLOW: Exactly.

7 CHAIRPERSON MITTEN: Mr. Crews is
8 saying well that would be -- the enforcement
9 would come upon further processing. And that
10 becomes a function, to me, of the manner in
11 which enforcement will be achieved in the
12 existing campus plan, the biggest benchmark
13 which has to do with putting beds on campus
14 when they would get -- the real enforcement
15 would come that you wouldn't get a further
16 processing because of the lack of compliance.

17 So I think that is why Mr. Crews
18 is taking the position that he is taking. So
19 unless I've missed something, that is what I
20 got out of that exchange.

21 MS. KAHLOW: That's fine. I --

22 CHAIRPERSON MITTEN: Okay.

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1 MS. KAHLOW: -- what is difficult
2 is we want to get on the record that some of
3 these things we suggested are valuable and we
4 would like them in the final. And the only
5 way I can do it is if he can't do it in the
6 current because the current condition is not
7 specific enough and he hasn't put it in the
8 next version, I'm asking us to all look at it
9 again.

10 CHAIRPERSON MITTEN: Okay.

11 So, Mr. Crews, you are not
12 rejecting their suggestion?

13 MR. CREWS: Oh, not at all. And
14 matter of fact, it may have been an oversight
15 then in terms of what -- and, again, I
16 apologize because I don't have the -- your
17 proposed draft to see what that language was
18 but the -- in order of checking its
19 enforceability but I would be willing to take
20 another look at that and, you know, in terms
21 of, you know, perhaps in addition, you know,
22 if it doesn't present enforceability problems

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1 to indicate that.

2 What I am understanding what you
3 are looking for is not only the timetable for
4 the implementation but also the funding that
5 goes along with the --

6 MS. KAHLOW: Absolutely.

7 MR. CREWS: And I think that if
8 that was established --

9 MS. KAHLOW: Let me read you the
10 language.

11 MR. CREWS: -- ahead of time, and
12 the Commission included it, that it obviously
13 would be enforceable, I mean in terms of, you
14 know, having those numbers. And, you know,
15 keyed to the time frame.

16 And then the university, I would
17 assume, would be able to provide both the
18 articulation of what has actually been
19 accomplished on the time frame and how much
20 money was used to do it.

21 MS. KAHLOW: Just for the record,
22 let me read you 21 and our suggested changes

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1 you didn't take.

2 "The university shall prepare a
3 detailed streetscape plan applicable to the
4 entire Foggy Bottom campus." We said,
5 "including a timetable for implementation of
6 each element and specification of the dollars
7 prepaid by the university."

8 And then we also list some other
9 areas, sidewalk and pathway materials, et
10 cetera. And that is important to us because
11 of the brick business that we think brick is
12 dangerous. And that is why we asked.

13 So we -- all of our language was
14 not accepted. And I think if you could look
15 at that again.

16 MR. CREWS: Yes. And actually
17 just from reading that I think that the
18 Commission, you know, it would be enforceable
19 either way. That definitely that -- and again
20 it is a policy decision but obviously it could
21 very well be that I was assuming that the
22 timetable included not only the activities but

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1 the funding to go along with it.

2 MS. KAHLOW: Well the current
3 campus plan has neither a timetable or
4 funding. And that is why you are stuck not
5 having an answer. So we want to be sure we
6 don't have that problem in the future.

7 All right. Let's go to another
8 area. And I will try to do the old and the
9 new. Student vehicles -- old --

10 MR. CREWS: Number?

11 MS. KAHLOW: -- 15E.

12 MR. CREWS: Oh, okay. Yes?

13 MS. KAHLOW: I think we are trying
14 to do old and then new.

15 MR. CREWS: Okay. Oh, I'm sorry.
16 Yes?

17 MS. KAHLOW: I think that is the
18 easiest to crosswalk before -- 15E -- I'm
19 hoping you all have a copy -- okay? It is
20 called Student Vehicles. And we made a
21 variety of suggestions. But let me first ask
22 how did you or will you monitor GW's traffic

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1 management plan covering parking and traffic?

2 MR. CREWS: Again, I'm looking at
3 the new 22D, Student Vehicles. Is that --

4 MS. KAHLOW: Yes, I'm going to get
5 to the new.

6 MR. CREWS: Okay.

7 MS. KAHLOW: I want to first get
8 to the old and then the new. I want to
9 understand since there is not enough
10 specificity, the old, how -- did you find also
11 not enough specificity?

12 Was there enough specificity that
13 you could monitor it? Do you have any data on
14 current student vehicles? How did GW "direct"
15 students to go register their vehicles in DC
16 or obtain a reciprocity sticker? Things like
17 that. That is in the current. Do you have
18 data on that?

19 MR. CREWS: No.

20 MS. KAHLOW: Okay. Did you
21 examine if there are any written directives
22 for perspective -- for parents or perspective

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1 students?

2 CHAIRPERSON MITTEN: Okay. Can we
3 -- let's focus on the new one.

4 MS. KAHLOW: Okay.

5 CHAIRPERSON MITTEN: And to the
6 extent it incorporates language that is in the
7 old one --

8 MS. KAHLOW: Okay.

9 CHAIRPERSON MITTEN: -- then he
10 has some direct experience with it. But let's
11 focus on --

12 MS. KAHLOW: Okay.

13 CHAIRPERSON MITTEN: -- the new
14 one.

15 MS. KAHLOW: All right. Okay.

16 So let's go to the new one which
17 is 22D under the new one. Does that help?
18 This is your Student Vehicle one.

19 WECA proposed an enormously
20 different Student Vehicle one. And I'm going
21 to ask you about why you rejected --

22 MR. CREWS: Do you have a copy --

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1 an extra copy of what you have provided?

2 MS. KAHLOW: I don't. I don't.

3 CHAIRPERSON MITTEN: We are
4 actually --

5 MR. CREWS: Could maybe Sharon --

6 CHAIRPERSON MITTEN: -- making one
7 for you right now.

8 MR. CREWS: -- could maybe make
9 one for me?

10 MS. KAHLOW: Thank you.

11 MR. CREWS: Yes.

12 MS. KAHLOW: I only --

13 CHAIRPERSON MITTEN: No, Donna is
14 making one right now.

15 MR. CREWS: Oh, okay. Okay. I'm
16 sorry.

17 MS. KAHLOW: But I'll try to go
18 one by one. Since student vehicles are parked
19 throughout our community, we want to know why
20 you rejected -- and one by one -- A, notice of
21 the restriction, at least one written document
22 mailed to parents and perspective students.

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1 Why did you reject that?

2 At this point, this is the
3 restriction on freshmen and sophomores. And
4 they use the term discouragement for other
5 classes. But the question is why didn't you
6 want that in a written document going to
7 parents and perspective students?

8 MR. CREWS: Again, the more
9 specificity the conditions have, the easier it
10 is to enforce.

11 MS. KAHLOW: Exactly.

12 MR. CREWS: So if that would be --
13 that would be a more specific requirement. So
14 that would be, you know, easily enforceable.

15 CHAIRPERSON MITTEN: The question,
16 though, West End Citizens Association wanted
17 notice -- they wanted evidence of notice going
18 to parents. So how would you enforce that --

19 MR. CREWS: That, the evidence --

20 CHAIRPERSON MITTEN: -- globally?

21 MR. CREWS: -- of notice going to
22 the parents --

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1 MS. KAHLOW: Written notice.

2 CHAIRPERSON MITTEN: Written
3 notice.

4 MR. CREWS: Yes, well first of all
5 we would have a copy of the written notice.
6 And we would have an affidavit stating on how
7 the university distributed that to the parents
8 and what kind of lists they used to distribute
9 it.

10 MS. KAHLOW: Okay. Wonderful. So
11 you had rejected it but you are reconsidering
12 it.

13 The second one --

14 CHAIRPERSON MITTEN: No, he's just
15 -- I do want to make something clear --

16 MS. KAHLOW: Okay.

17 CHAIRPERSON MITTEN: -- is that
18 Mr. Crews was consulted not so that he could
19 make value judgments about what's good -- he
20 understands the difference between the policy
21 questions, if you will, that the Zoning
22 Commission will put in place and his

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1 implementation of the condition.

2 And he is responding to, you know,
3 whether things would be enforceable or not
4 enforceable. Or how they would be
5 enforceable. So it is not a question of him
6 accepting or rejecting as if that is a value
7 judgment on the condition. I just want to
8 clarify that.

9 MS. KAHLOW: Okay. And I just
10 wanted us to have the opportunity to explore
11 some of the proposals we made that we think
12 have great value. And the first was to get a
13 notice of a restriction in at least one
14 written document.

15 The second was -- I'm looking at
16 American University's parking policy and it
17 has freshmen's and sophomores' signatures on
18 the awareness of the parking restrictions.
19 Why did you reject that?

20 I could read you what American
21 University has. Let me read you that
22 sentence. All students must provide a

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1 signature to indicate they have read and
2 understand its terms regardless of whether
3 they drive to school or are eligible to have a
4 car on campus. Signing the policy is a
5 condition of student registration and
6 signifies the student's acceptance of the
7 terms and conditions during his or her entire
8 time at the university.

9 What I did was I went through
10 every university and I'm just giving an
11 example of one. And the question is why did
12 you not include that or mention it or anything
13 else?

14 CHAIRPERSON MITTEN: How do you
15 enforce that?

16 MR. CREWS: I would enforce that
17 very similar in terms of -- again, it could be
18 audited and when I say audited, you know, I
19 hope we are talking about, you know, a
20 statistical audit so we, you know, wouldn't
21 look at every signature. But --

22 MS. KAHLOW: We'd be happy to have

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1 --

2 MR. CREWS: -- if that was
3 included, that would be the process of doing
4 that, right.

5 MS. KAHLOW: Perfect.

6 The third one that doesn't seem to
7 be mentioned in yours is sanctions for
8 violators. And I can read you each of the
9 universities' sanctions if you would like to
10 hear them or at least you'll know that
11 everybody has got it.

12 Sanctions for people that violate,
13 why do we not have that?

14 MR. CREWS: Again, why don't you
15 read me what your --

16 MS. KAHLOW: We had suggested in
17 page Y8 -- oh, I guess you don't have it yet.
18 The university shall appropriately sanction
19 any discovered violators and keep a full
20 accounting of all violations and sanctions.

21 MR. CREWS: Okay. Well the
22 ability to, again, audit the sanctions, the

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1 number of sanctions would be available or
2 doable, I guess. And then the question that -
3 - the one word you had there that
4 appropriately, I think is that the --

5 MS. KAHLOW: Shall appropriately
6 sanction. We wanted to give that flexibility
7 to the university. The other places just say
8 it is going to be sanctioned but we didn't
9 really go that far.

10 MR. CREWS: Okay.

11 MS. KAHLOW: We're happy to have
12 any language you are happy with.

13 Let me read you what AU has just
14 to give an example. In addition to fines
15 listed below, failure to comply with this
16 regulation is a violation of Section 17 of the
17 Housing Agreement. And then it goes on and on
18 from there.

19 Theirs is very specific, their
20 parking policy. And the question is could we
21 be more specific so it is enforceable?

22 MR. CREWS: Other than using the

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1 term appropriately without further definition,
2 and I would assume or would proffer, I guess,
3 that appropriately might be in a written
4 guidance document that the university could
5 provide in terms of what are appropriate
6 sanctions that that would be enforceable,
7 again, the way you have it.

8 I'm just -- if I can read ahead
9 here now that I have a copy of it --

10 MS. KAHLOW: It's that whole
11 section.

12 MR. CREWS: Right.

13 MS. KAHLOW: I'm only mentioning -
14 - I'm going to mention one more -- actually
15 the whole section we would like since we
16 proposed the whole section. But I wanted to
17 understand at least four of the rejections.

18 MR. CREWS: I think the -- so the
19 next one would be the notifying of all
20 undergrad and graduate students that parking
21 is prohibited on the streets?

22 MS. KAHLOW: Well, I was using the

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1 GW Mount Vernon campus and it says parking is
2 prohibited on the streets adjacent to and
3 surrounding the Mount Vernon campus. And
4 Georgetown says it is also not possible to
5 park on the streets outside the main gates.

6 So the question is why would we
7 not have a prohibition on parking? Not the
8 freshmen and sophomores who can't bring the
9 cars but everyone else? A prohibition of
10 parking on the streets adjacent to and
11 surrounding the Foggy Bottom campus, that was
12 our proposal.

13 MR. CREWS: Okay, that part I'm
14 not sure exactly how we would enforce that or
15 who would be responsible for enforcing that in
16 terms of is that something the Department of
17 Public Works Parking Enforcement section does?

18 And I apologize, I'm not familiar if there
19 are residential restriction zones in the
20 neighborhood.

21 MS. KAHLOW: Since you are in
22 charge of the compliance for the Mount Vernon

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1 campus and for Georgetown and they both have
2 it, perhaps your office knows how that is
3 enforced.

4 CHAIRPERSON MITTEN: Well, let me
5 just clarify. It is not that the parking
6 prohibition is enforced. The condition that
7 you are proffering is that the university
8 shall notify. And that is if and fact the
9 prohibition exists. But --

10 MS. KAHLOW: Well, there are four
11 different things.

12 CHAIRPERSON MITTEN: -- the
13 enforceability for the Zoning Administrator is
14 the notification, not anything that flows from
15 it.

16 MS. KAHLOW: First was the
17 notification to the parents and perspective
18 students. Then --

19 CHAIRPERSON MITTEN: No, I'm in --

20 MS. KAHLOW: -- there is this
21 awareness. Then there is the sanction for
22 violators. And then there is the prohibition.

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1 And the prohibition would be something he'd
2 get in a written document. He'd see that
3 there is a prohibition on parking on the
4 streets adjacent to and surrounding the Foggy
5 Bottom campus as I was able to find on
6 everybody's website.

7 CHAIRPERSON MITTEN: Right. But
8 what I'm saying, just for clarity, is that it
9 is not -- it would not -- if that were an
10 accepted condition, it would not be the role
11 of the Zoning Administrator to actually go out
12 and put tickets on cars.

13 MS. KAHLOW: Oh, no, no. That's
14 right.

15 CHAIRPERSON MITTEN: Okay.

16 MR. CREWS: Yes, okay.

17 MS. KAHLOW: He'd be going to the
18 website, as I did, to see that it is a written
19 policy for each of these universities.

20 CHAIRPERSON MITTEN: Exactly.

21 MR. CREWS: Right. And similar to
22 if they would add the notification to the

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1 parents, that they would show the notification
2 and articulate in an affidavit on how they
3 distributed that. And then again, because it
4 is -- the university shall notify, you know,
5 how they notify, how often, you know the
6 different types of languages that might be
7 required, you know, none of that is
8 articulated here.

9 So it would have to be just at
10 this level that they would articulate how they
11 notified it. And then it becomes a compliance
12 issue that I think is best for the Zoning
13 Commission. If the Zoning Commission decides
14 they are out of compliance, then we could work
15 in terms of how we would enforce the lack of
16 compliance.

17 MS. KAHLOW: Okay.

18 If you look at the language you
19 accepted versus rejected, it has some of the
20 repeat language from the last time that says
21 the university shall direct students to
22 register the vehicles in DC or obtain a

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1 reciprocity sticker.

2 Now -- so what happens is they are
3 giving you documents that show they are doing
4 that? That is how you expect that?

5 MR. CREWS: Right. That would be
6 similar to your proposal for notification.

7 MS. KAHLOW: Okay. All right. I
8 think we've beat that dead horse. But we all
9 know how important this is to our community.

10 MR. CREWS: Yes, exactly.

11 MS. KAHLOW: All right. Now I'm
12 moving -- and, as you know, the zoning
13 regulations require no objectionable noise,
14 traffic, or other --

15 CHAIRPERSON MITTEN: Okay. Just
16 let's --

17 MS. KAHLOW: -- so this is why
18 this is so important.

19 CHAIRPERSON MITTEN: -- eliminate
20 the editorializing and just move --

21 MS. KAHLOW: Okay.

22 CHAIRPERSON MITTEN: -- to the

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1 questions.

2 MS. KAHLOW: Traffic management
3 plan, the next one, 23.

4 MR. CREWS: Yes?

5 MS. KAHLOW: New 23 -- let me see
6 the old number for it. Just give me a second
7 since they are out of order. I guess it is
8 new 23. New 23B says measures to discourage
9 travel by private automobile and encourage
10 travel by public transportation.

11 And we, of course, were unhappy
12 with the discourage language. We wanted the
13 restrict language carried forward in the
14 traffic management plan. Now you rejected it.

15 CHAIRPERSON MITTEN: So what is
16 the question for Mr. Crews?

17 MS. KAHLOW: Why did you reject
18 the WECA's restrict language? I'm trying to
19 go before the old and new.

20 MR. CREWS: Well, again, the
21 measures to restrict seem to put the
22 university in the position of parking

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1 enforcement. And I'm not sure exactly how
2 that would occur. In terms of checkpoints or
3 at what level the university's commitment
4 would have to be to restrict. I mean do they
5 have to physically stop them from coming?

6 MS. KAHLOW: Well, what we did is
7 we explained it in 22D and then in 23B, which
8 is transportation, we suggested and you didn't
9 accept measures to restrict freshmen and
10 sophomores from bringing cars to Foggy Bottom
11 West End Area and to discourage travel by
12 private automobiles, by upperclassmen,
13 graduate students, and university faculty and
14 staff.

15 So we separated the restriction
16 from the discouragement and you rejected that.

17 MR. CREWS: Again -- well, again,
18 I think, you know, it's -- again, it is a
19 policy question but the discouragement doesn't
20 involve nearly the -- and this is, I think,
21 probably your point as a matter of fact. But
22 then what will you mean by restrict. What

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1 exactly are they supposed to do to restrict?

2 I think the discourage is, you
3 know it very well may be an easier burden to
4 meet. And that may be your -- certainly your
5 policy concern, I understand, but what exactly
6 would we do to restrict the --

7 MS. KAHLOW: In 22D, you have
8 excepted, in particular, freshmen and
9 sophomores who are not exempted from the Foggy
10 Bottom campus housing requirement are
11 prohibited from bringing vehicles to campus.
12 So in 22D, you have the prohibition. And then
13 you relax it is 23B.

14 We carried it forward. And I want
15 to know why you didn't carry it forward.

16 CHAIRPERSON MITTEN: So what you
17 are saying is -- she's not saying it is
18 inhibit, it is restrict.

19 MR. CREWS: Yes.

20 CHAIRPERSON MITTEN: It is the
21 equivalent of prohibit.

22 MR. CREWS: Right.

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1 CHAIRPERSON MITTEN: So is that
2 something that you could -- that the ZA could
3 enforce?

4 MR. CREWS: Well, I mean -- and,
5 again, I don't know that it is either, you
6 know, how could I enforce their ability to
7 prohibit other than I've mentioned the
8 appropriate -- that the West End Citizens
9 Association's proposal for appropriately
10 sanction any discovered violators and keep a
11 full accounting of all violations and
12 sanctions.

13 But with it articulated what
14 appropriate is --

15 MS. KAHLOW: I guess --

16 CHAIRPERSON MITTEN: Well, I do
17 want to emphasize again --

18 MR. CREWS: Yes.

19 CHAIRPERSON MITTEN: -- that what
20 the ZA would be enforcing is starting up top.
21 It says the transportation management plan
22 shall include the following: A, B, measures to

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1 restrict. You would enforce that there are
2 measures to restrict in the transportation
3 management plan, not the restriction itself.

4 MR. CREWS: Right.

5 MS. KAHLOW: So you would see the
6 letter to the parents and perspective
7 students. You would see the website policies,
8 things like that. You would see the written
9 documents that are behind the restrictions.

10 MR. CREWS: Right.

11 MS. KAHLOW: That is why we wanted
12 to be sure that you specified those
13 requirements.

14 Okay, so we've gone -- going to
15 the next one, I'm trying to do a merge of
16 these two. Old 19, new 6D, they are not
17 exactly parallel but we are trying to do the
18 old one and the new one. And that is
19 aggregate FAR.

20 MR. CREWS: Old 19?

21 MS. KAHLOW: Yes.

22 MR. CREWS: Or old 16, excuse me,

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1 new 19. Yes.

2 MS. KAHLOW: If you look at 19C,
3 recomputation of the university's total FAR.
4 And then you look at the new 6D. I'm sorry to
5 make this -- move it around but I'm trying to
6 make this easier. Report university's total
7 FAR.

8 If you look at the WECA's proposal
9 for 6D, why did you reject the WECA's proposed
10 additional measures of --

11 MR. CREWS: 6D?

12 CHAIRPERSON MITTEN: Turn on your
13 mike please.

14 MR. CREWS: Excuse me. Thanks.
15 For 6D?

16 MS. KAHLOW: Yes.

17 MR. CREWS: I did not reject. I
18 said the proposed changes to the section are
19 policy issues. All are enforceable.

20 MS. KAHLOW: Okay. So you are
21 saying it would be okay to have FAR for all
22 proposed -- I didn't understand that.

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1 MR. CREWS: Oh, yes. We would be
2 able to determine --

3 MS. KAHLOW: FAR for all proposed
4 development.

5 MR. CREWS: -- FAR for all
6 proposed development pending before the
7 Commission.

8 MS. KAHLOW: And aggregate FAR for
9 the campus as a whole?

10 MR. CREWS: Right.

11 MS. KAHLOW: Why did you
12 characterize this as a policy issue? I'm not
13 clear on that.

14 MR. CREWS: Again because that is
15 up for the Commission, in my opinion, to
16 decide what the conditions of the campus plan
17 are. I'm just to decide whether or not, as
18 they are written, whether or not I think I
19 could adequately enforce them.

20 MS. KAHLOW: Do you know what GW's
21 current aggregate total FAR is now?

22 MR. CREWS: I do not.

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1 MS. KAHLOW: So you don't know
2 what it will be with the proposed campus plan?

3 MR. CREWS: Well, I mean it can be
4 determined. Again, I'm not aware that
5 previous Zoning Administrators have gathered
6 and maintained that information.

7 And I think the Commission and all
8 of the parties to this hearing should
9 understand that if I am going to be able to
10 enforce any of these conditions, I'm going to
11 have to have the resources to do the work that
12 will be involved.

13 I mean I probably should have
14 started that out as a caveat. But I mean I am
15 acutely aware of our struggle to provide the
16 services that the residents of the District
17 deserve.

18 MS. KAHLOW: Would you support the
19 establishment of a campus-wide aggregate total
20 FAR for all land in the campus even if
21 upzoned? Then you actually could add it all
22 up.

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1 MR. CREWS: Well, I mean I don't
2 know that -- would I support a -- again, that
3 sounds like a policy decision. I think if
4 that was the decision, I think we would be
5 able, again with the resources, we would be
6 able to track that.

7 MS. KAHLOW: All right. Now let's
8 move on to another area. Moving back again,
9 not being able to catch everything, on 6C,
10 Compliance -- 6E, Compliance Report, the WECA
11 had suggested and you had rejected an addition
12 that said -- this was what they send in on
13 their regular compliance report, the number of
14 freshmen and sophomores sanctioned for
15 violating the parking restrictions.

16 And --

17 CHAIRPERSON MITTEN: Which letter
18 are you on again? I'm sorry.

19 MS. KAHLOW: I'm sorry I didn't
20 mention it earlier but going back and forth is
21 a little harder.

22 CHAIRPERSON MITTEN: Which letter

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1 are you on?

2 MS. KAHLOW: 6E of the new stuff.

3 CHAIRPERSON MITTEN: E what -- 6E?

4 MS. KAHLOW: 6E of the new stuff
5 which is the headcount stuff. I'm not asking
6 about it. It is the end, our proposal at the
7 very end was after all this headcount
8 business, and the number of freshmen and
9 sophomores sanctioned for violating the
10 parking restrictions. Only freshmen and
11 sophomores as set forth in condition 22.

12 MR. CREWS: Again, I would
13 apologize only with the sense that that
14 particular -- that would be obviously, as I
15 mentioned in condition 22, when we discussed
16 that, that that would be enforceable. That
17 they could -- we could determine whether they
18 had provided the number.

19 MS. KAHLOW: Okay. I should have
20 mentioned that earlier. Thank you.

21 Now let's go to new -- I'm going
22 to move to new -- at this point I'll go back

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1 to old because there is no more crosswalk.
2 And you want to do new. So new 6G which is
3 the number of off-street parking spaces.

4 We had put a provision, the West
5 End had put a provision at the end that said
6 as well as descriptions of ancillary
7 commercial services such as car washing,
8 dispatch services of for-hire transportation.

9 Why did you reject that since
10 currently there is signage in GW's parking
11 facilities for these services?

12 MR. CREWS: Well, let me --

13 MS. KAHLOW: And if, in fact, they
14 are -- you said they were not legal. If they
15 aren't legal, will you take an enforcement
16 action to stop the ancillary services?

17 MR. CREWS: If you could email me
18 on that, we will take a look at it.

19 MS. KAHLOW: It's -- what you have
20 --

21 MR. CREWS: I mean in terms now of
22 your complaint, ma'am, we do operate on a

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1 complaint basis in terms of enforcement.

2 MS. KAHLOW: Okay.

3 MR. CREWS: If you have got, you
4 know, a specific enforcement --

5 MS. KAHLOW: We do.

6 MR. CREWS: -- we will do an
7 investigation.

8 MS. KAHLOW: Okay. All right.

9 MR. CREWS: But --

10 CHAIRPERSON MITTEN: Okay. That
11 is not the purpose of this exercise so what is
12 the specific question?

13 MS. KAHLOW: The question is why
14 he rejected it since it is currently in use.
15 And it isn't -- apparently it isn't kosher so
16 we need to ask him to enforce it. And that is
17 why he rejected it. Okay.

18 CHAIRPERSON MITTEN: How much more
19 do you have because one of the things that is
20 hanging us up is you are characterizing what
21 Mr. Crews has written as rejecting. And often
22 he hasn't. He has said it is perfectly

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1 enforceable. So I don't want to have to keep
2 rolling through those.

3 MS. KAHLOW: Well, Chairman, I
4 think when he says it is a policy question, it
5 was unclear if that meant it was enforceable
6 or not. Sometimes he says it, sometimes he
7 doesn't. And that is why I'm asking when it
8 doesn't say it there.

9 CHAIRPERSON MITTEN: I haven't --
10 we haven't stumbled across any of those yet.

11 MS. KAHLOW: All right.

12 CHAIRPERSON MITTEN: So how much
13 more do you have?

14 MS. KAHLOW: I have quite a
15 number.

16 CHAIRPERSON MITTEN: We need to
17 get this a little bit tighter. So --

18 MS. KAHLOW: I'm trying to do what
19 she has to do is going between the two. And
20 I'm trying to do that. And that is a little
21 harder. I had these questions prepared --

22 CHAIRPERSON MITTEN: Okay. I'm

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1 going to help move this along. So ask your
2 question and --

3 MS. KAHLOW: Okay.

4 CHAIRPERSON MITTEN: -- then I'm
5 going to --

6 MS. KAHLOW: Number eight, new
7 number eight. The WECA suggested SP zone
8 properties also and you said that would be
9 enforceable. So that is a case, since he says
10 it is enforceable, it is not rejected. I got
11 it.

12 CHAIRPERSON MITTEN: Okay. That
13 is the kind of thing we just don't even want
14 to talk about.

15 MS. KAHLOW: Okay. I've got it.
16 I got what you just said. Thank you.

17 Okay, Advisory Committee, number
18 9B. Why did you reject the WECA's proposal to
19 continue representation by the WECA?

20 CHAIRPERSON MITTEN: He didn't.
21 It says any changes to the make up and
22 procedures of the Advisory Committee will not

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1 effect enforcement of this condition.

2 Next. He did not reject that.

3 Mr. Crews, if I misrepresent
4 anything that you wrote, you please just jump
5 in.

6 What is your next question?

7 MS. KAHLOW: All right. So you
8 are saying if he says the word policy, before
9 I ask him, let me make sure he doesn't say
10 policy in 10A. And you are probably not going
11 to want this question. I just want to
12 understand why we included continuous
13 enrollment of students and students at Mount
14 Vernon.

15 CHAIRPERSON MITTEN: That is a
16 policy issue for the Zoning Commission.

17 MS. KAHLOW: It doesn't say policy
18 in the bottom. So I didn't know that. So --

19 CHAIRPERSON MITTEN: It's actually
20 not -- it is not a difficult concept whether
21 Mr. Crews called it that or not. There are
22 certain things that are up to the Zoning

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1 Commission to decide. His role is to enforce
2 these restrictions that we put in place. So
3 it is all about enforceability with Mr. Crews.

4 MS. KAHLOW: Okay.

5 CHAIRPERSON MITTEN: As much as we
6 might like to elevate him to being a member of
7 the Commission, he's not there yet.

8 MS. KAHLOW: Number 10C, for the
9 independent audit. The West End suggested
10 that we also have the Inspector General -- DC
11 Inspector General.

12 CHAIRPERSON MITTEN: It says that
13 -- your version of this commitment is
14 enforceable as written -- as you wrote it, it
15 would be enforceable.

16 MS. KAHLOW: I see so even it is
17 not reflected here, okay. All right. A
18 little translation here.

19 22C, new 22C, notice on temporary
20 street closings, we had -- the West End had
21 said that temporary street closings would only
22 be as allowed under the DCMR. And you don't,

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1 I don't believe, mention that at all. So I'm
2 not clear why.

3 MR. CREWS: I think it is a given.
4 You know that is public space. And, you
5 know, if they are going to close public space,
6 they are going to have to get a public space
7 permit to do that. But either way, it is
8 enforceable.

9 MS. KAHLOW: So every time we
10 could ask if there is a street closed to see a
11 public space permit?

12 MR. CREWS: I would hope so, yes.

13 MS. KAHLOW: Thank you.

14 Noise, how many noise complaints
15 are currently pending before DCRA and are
16 still under investigation?

17 CHAIRPERSON MITTEN: That is not
18 relevant to this proceeding.

19 MS. KAHLOW: It is condition
20 number 18.

21 CHAIRPERSON MITTEN: It is not
22 relevant to this proceeding. The number of

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1 noise complaints that are pending is not
2 relevant.

3 MR. CREWS: I might add that we
4 indicated that your change adds clarity on
5 number 18.

6 MS. KAHLOW: Yes. And I was just
7 wondering -- okay. The WECA suggested adding
8 conditions about compliance with the various
9 key crosscutting requirements such as the
10 Americans With Disabilities Act.

11 MR. CREWS: Do you have a number
12 here?

13 MS. KAHLOW: I'm looking for it.

14 MR. CREWS: Okay.

15 MS. KAHLOW: If you will give me
16 just a moment. It is our numbers 26 and 27.
17 Oh, I see. And you said do not create an
18 enforcement problem so you are okay with those
19 two. I understand that. I understand that,
20 thank you. All right. So now I've got those.
21 I don't have a question since Chairman
22 explained how she wanted to handle it.

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1 Now I have a series of questions
2 about the current situation and if you could
3 just give me a -- I'll make them very fast.
4 Disciplinary interventions, hotline, do you
5 have any -- have you analyzed any of that?

6 CHAIRPERSON MITTEN: Not relevant.

7 MS. KAHLOW: Not relevant even
8 though it is currently -- they are current
9 conditions?

10 CHAIRPERSON MITTEN: If you want
11 to inquire of Mr. Crews as to his enforcement
12 on anything under the existing campus plan,
13 I'm sure he would be more than willing to sit
14 down and talk to you about that. But that is
15 not the purpose of this forum.

16 MS. KAHLOW: The problem is that
17 some of those conditions were not carried
18 forward. But they're not relevant, okay, even
19 if they are not carried forward. All right.

20 CHAIRPERSON MITTEN: The existing
21 campus plan is in force right now.

22 MS. KAHLOW: I'm saying but they

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1 aren't carried into the new conditions.

2 CHAIRPERSON MITTEN: I understood
3 what you said.

4 MS. KAHLOW: Okay.

5 CHAIRPERSON MITTEN: But you seem
6 to be wanting to enquire about the current
7 state of affairs.

8 MS. KAHLOW: Okay. Okay. And the
9 same would be with off-campus living. I guess
10 we're not allowed to ask about that either.
11 Okay. Number 17, off-campus living, current
12 17.

13 CHAIRPERSON MITTEN: If it is
14 anything about the current state of affairs,
15 it is not relevant to this proceeding.

16 MS. KAHLOW: Bear with me must a
17 moment please. I have to find the new version
18 of it if you will bear with me just a moment.

19 It is the new 19, old 17, new 19.

20 And since you say it is enforceable, I can't
21 ask about it. Okay. I understand. I had to
22 find it first because I didn't have the

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1 crosswalk.

2 I think that is it. Just give me
3 a second to check through my questions here.
4 I think that is it for Mr. Crews. Thank you
5 for your indulgence.

6 CHAIRPERSON MITTEN: Thank you.

7 MR. CREWS: My pleasure.

8 CHAIRPERSON MITTEN: Thank you,
9 Mr. Crews. You are free to go.

10 Okay. Next we were -- we had
11 asked to have -- no offense, Mr. Jennings,
12 somebody different than you come. So perhaps
13 you would like to come forward and tell us why
14 you are alone.

15 MR. JENNINGS: Good evening, Madam
16 Chair. I'm along tonight because Mr. Bah, who
17 was originally mentioned back on October 11 as
18 someone who should be here, he is traveling
19 overseas as he does each year for family
20 purposes. My supervisor, Ken Laden, had an
21 emergency in his family and could not make it
22 tonight either.

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1 CHAIRPERSON MITTEN: Okay. Well
2 unless someone -- I frankly don't know quite
3 what to do with the situation. But unless
4 someone feels differently, I think we can let
5 Mr. Jennings go because I don't think there is
6 anything fruitful going to come from -- he was
7 here when we were asking cross examination
8 before.

9 MR. JENNINGS: I'd be happy to try
10 and answer any question that the opposition
11 may have here tonight. A lot of the comments
12 that have been provided to the Zoning
13 Commission I provided via Ken Laden's
14 signature.

15 So, again, all the information
16 that has been provided --

17 CHAIRPERSON MITTEN: Okay. What
18 is your pleasure, Mr. Hitchcock?

19 MR. HITCHCOCK: Madam Chair, I'm
20 happy to push forward with questions.

21 CHAIRPERSON MITTEN: Okay. Go
22 ahead.

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1 MR. HITCHCOCK: And I would state
2 for the Commission's benefit, I will be
3 referring to the DDOT report that Mr. Jennings
4 just cited which is dated November 27, 2006.
5 I have some questions on those.

6 And also Mr. Mera provided a
7 supplemental statement that has the same date.

8 I would note in the interest of trying to
9 speed the process along that we did have
10 occasion to, on behalf of Foggy Bottom
11 Association and ANC, to talk with some staff.

12 But it was not prior to the preparation of
13 the report.

14 CHAIRPERSON MITTEN: Okay.

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16 MR. HITCHCOCK: Mr. Jennings, I
17 have a few questions for you. Let's start
18 with the first page dealing with the truck
19 traffic. Do you have that?

20 MR. JENNINGS: I do.

21 MR. HITCHCOCK: Okay. The third
22 paragraph talks about heavy truck vehicle

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1 usage and as I read that, I mean you are
2 really making two points there aren't you?
3 About levels of service and also about GW's
4 ability to handle its own truck traffic?

5 MR. JENNINGS: We did our best to
6 try and respond to Mr. Mera's comments, the
7 comments, I think, that he provided back on --
8 and correct me if I'm wrong -- was it
9 September 28?

10 MR. HITCHCOCK: If you say so.

11 MR. JENNINGS: Okay.

12 MR. HITCHCOCK: I don't remember
13 the date.

14 MR. JENNINGS: A cover letter, I
15 think signed by you, accompanied Joe Mera's
16 comments with respect to some of the comments
17 that he wanted to put into the record.

18 MR. HITCHCOCK: Okay.

19 MR. JENNINGS: So we did try to
20 address as many of those concerns as possible,
21 number one being truck traffic. We agreed
22 with what the applicant had to provide to us.

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1 I've been doing my best to try and sit down
2 with as many traffic engineers within DDOT to
3 try and come to some understanding as to how
4 severe the truck traffic, as Mr. Mera points
5 out, will be in the vicinity of the campus
6 plan.

7 And we feel as though that with a
8 staff person, as the applicant has suggested,
9 a staff person being that transportation
10 coordinator, we will be able to help provide
11 significant amounts of assistance in
12 coordinating the trash truck deliveries and
13 service deliveries.

14 In addition to that, we are aware
15 of what the levels of service will do with
16 additional truck traffic.

17 MR. HITCHCOCK: But my point is
18 those are two distinct issues. The question
19 is -- what GW will do with its own traffic
20 deliveries is different from the question of
21 how many trucks are on the street. So let me
22 suggest that we look at them separately.

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1 The truck traffic figures that Mr.
2 Mera cited indicated that the correct figure
3 was not two percent but as high as 16 to 48
4 percent. Correct?

5 MR. JENNINGS: For one particular
6 site.

7 MR. HITCHCOCK: All right.

8 MR. JENNINGS: Correct me if I'm
9 wrong.

10 MR. HITCHCOCK: But the 48 was a
11 high, right?

12 MR. JENNINGS: For which
13 particular portion of the campus plan?

14 MR. HITCHCOCK: Well, this was --
15 I would direct you -- do you have a copy of
16 Mr. Mera's statement there? I'm happy to
17 provide you with one.

18 I would direct your attention to -
19 -

20 MR. JENNINGS: However in its
21 Square 54 traffic study revision --

22 MR. HITCHCOCK: Right.

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1 MR. JENNINGS: -- Wells used
2 observed truck percentages --

3 MR. HITCHCOCK: Yes.

4 MR. JENNINGS: -- 48 percent. So
5 we're talking more Square 54 than we are the
6 campus plan, is that correct?

7 MR. HITCHCOCK: Well, we are
8 talking about reality. We're talking about
9 the number of trucks on the street.

10 MR. JENNINGS: As am I.

11 MR. HITCHCOCK: Okay. And would
12 not a 40 percent truck usage rate suggest that
13 using a two percent rate was not appropriate?

14 MR. JENNINGS: I think when you
15 look at the overall campus plan, the applicant
16 has done its best to try and understand what
17 impact the truck traffic will do to the entire
18 area. When you talk about particular sections
19 within the campus plan, then that is when we -
20 -

21 MR. HITCHCOCK: Well, but let's
22 talk about the independent analysis that DDOT

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1 did with respect to two percent versus 48
2 percent. If 48 percent of the truck traffic
3 is trucks -- up to 48 percent, that is
4 different. Can you explain the independent
5 analysis DDOT did?

6 MR. JENNINGS: Sure. We feel as
7 though that the traffic engineers within DDOT,
8 whoever viewed this case quite a few times as
9 a matter of fact since we last came here on
10 October 11 to discuss the entire campus plan,
11 that the truck traffic, it has been an issue.

12 We discussed it great length. And
13 we felt as though that the applicant provided
14 us enough substantial detail to let us approve
15 their transportation impact study.

16 MR. HITCHCOCK: Well --

17 CHAIRPERSON MITTEN: I think
18 there's a more specific question here. And
19 let me just see if I'm understanding it. And
20 maybe we can get some additional information
21 from DDOT if not.

22 There is a study that shows that

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1 at certain locations, trucks are 16 percent of
2 the total traffic volume?

3 MR. HITCHCOCK: Street traffic,
4 right. The default assumption is two percent
5 in the original Wells study.

6 CHAIRPERSON MITTEN: I got that
7 part.

8 MR. HITCHCOCK: Okay.

9 CHAIRPERSON MITTEN: Okay. So we
10 have some locations showing 16. We have other
11 locations showing 48.

12 MR. HITCHCOCK: Yes.

13 CHAIRPERSON MITTEN: Mr. Jennings,
14 you are saying in the aggregate across the
15 campus, DDOT believes that the aggregated
16 amount is two percent?

17 MR. JENNINGS: Using the two
18 percent is common.

19 CHAIRPERSON MITTEN: But what Mr.
20 Hitchcock's concern is is that saying that is
21 common in the face of actual data to the
22 contrary is troubling. So how is it that in

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1 the face of data that is to the contrary, how
2 does DDOT conclude that two percent is
3 appropriate in this context? Is that a fair -
4 -

5 MR. HITCHCOCK: Yes, that is an
6 accurate characterization.

7 MR. JENNINGS: Sure, sure. Allow
8 me to -- I'm not going to try and speak
9 traffic engineer speak tonight in any way
10 whatsoever. So allow me to try and do some
11 more investigation with the traffic engineers
12 at DDOT.

13 CHAIRPERSON MITTEN: Okay. So we
14 have a very specific question --

15 MR. JENNINGS: Absolutely.

16 CHAIRPERSON MITTEN: -- which is
17 in the face of data showing truck volume
18 between 16 percent and 48 percent, how do they
19 reconcile those observations with the use of a
20 two percent default rate? Very specific
21 question.

22 MR. JENNINGS: Okay.

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1 MR. HITCHCOCK: Madam Chair, I
2 came up here hoping to be able to try to cut
3 through a number and perhaps finish. I'm not
4 sure whether -- I mean we can continue to
5 proceed in this fashion but we may end up with
6 the same situation.

7 CHAIRPERSON MITTEN: Well, I was
8 going to suggest before you guys wanted to try
9 and take a shot at it, which I appreciate you
10 willing to do, is that there be a series of
11 questions, specific questions, as specific as
12 you can, submitted to DDOT and submitted to
13 the record. And then we leave the record open
14 for a certain period of time.

15 And then all the great minds at
16 DDOT can assemble the answers and get them
17 back to the Commission --

18 MR. HITCHCOCK: Okay.

19 CHAIRPERSON MITTEN: -- because
20 I'm, you know, these are very important issues
21 for the Commission and for the community.
22 And, you know, frankly I understand that there

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1 are emergencies but, you know, DDOT needs to
2 understand when there is a case of such import
3 that Mr. Bah could have been here the first
4 time or Mr. Laden could have been here the
5 first time.

6 So -- because, you know, this is -
7 - we've been together many times. So is that
8 an acceptable way?

9 MR. HITCHCOCK: The problem with
10 that is that I can't ask a follow-up question.

11 CHAIRPERSON MITTEN: I know.

12 MR. HITCHCOCK: And a lot of this
13 depends on follow up. I mean if you assume
14 two percent, they say, you know, we've looked
15 at and we think two percent is correct. And
16 if that is the answer, I can't get beyond
17 that.

18 CHAIRPERSON MITTEN: Okay, Mr.
19 Hitchcock --

20 MR. HITCHCOCK: I mean I've got a
21 number of questions.

22 CHAIRPERSON MITTEN: -- let me --

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1 MR. HITCHCOCK: Sure.

2 CHAIRPERSON MITTEN: -- let me ask
3 you to give us a little credit that if they
4 give a lame answer -- not to say that that was
5 one but just if they did, that we would go you
6 know what, we don't have enough information
7 yet.

8 MR. HITCHCOCK: Okay.

9 CHAIRPERSON MITTEN: And then --
10 but, you know, I'd like to try and close this
11 out. And then if they give incomplete
12 answers, then it is up to us --

13 MR. HITCHCOCK: Okay.

14 CHAIRPERSON MITTEN: -- to say
15 look, I really feel strongly about that piece
16 of information. And we'll figure out a way to
17 get it.

18 MR. HITCHCOCK: Let me state for
19 the record I give the Commission loads of
20 credit.

21 CHAIRPERSON MITTEN: Okay.

22 MR. HITCHCOCK: But I will submit

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1 a set of questions.

2 CHAIRPERSON MITTEN: Okay. Is
3 that acceptable to you, Ms. Dwyer? Okay.

4 MR. HITCHCOCK: All right.

5 CHAIRPERSON MITTEN: Okay.

6 MR. HITCHCOCK: Thank you.

7 CHAIRPERSON MITTEN: Ms. Kahlow,
8 are you willing to -- if you have any follow
9 up -- I'm sorry --

10 MS. KAHLOW: Simple, on the report
11 --

12 CHAIRPERSON MITTEN: Okay.

13 MS. KAHLOW: -- and also for the
14 record.

15 CHAIRPERSON MITTEN: You mean also
16 a set of follow-up questions?

17 MS. KAHLOW: Yes. I have a chart
18 that I would like for him -- instead of going
19 line by line, that he could actually respond
20 to. I prepared a chart on analyzing -- a one-
21 page chart analyzing this. And if he could
22 then go through it then -- I don't know that

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1 he will be able to -- each street, I think
2 DDOT would be better able to answer it.

3 CHAIRPERSON MITTEN: I'm not sure
4 Mr. Jennings is going to be --

5 MS. KAHLOW: That is what I'm
6 saying.

7 CHAIRPERSON MITTEN: Okay.

8 MS. KAHLOW: We could do that for
9 the record.

10 CHAIRPERSON MITTEN: Okay. All
11 right.

12 MS. KAHLOW: But I'm saying the
13 simple stuff, I'll try first.

14 CHAIRPERSON MITTEN: Okay.

15 MS. KAHLOW: Thank you, Mr.
16 Jennings, for coming back.

17 (Laughter.)

18 MS. KAHLOW: It is a tough crowd
19 here. Thank you.

20 CHAIRPERSON MITTEN: He drew the
21 short straw tonight.

22 MS. KAHLOW: You drew the short

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1 straw.

2 I'm looking back at the old
3 questions and some were answered in this
4 November 27th and some were not. And I
5 wondered if you were able to come up with
6 those answers or could provide it for the
7 record.

8 First was what was the total
9 number of non-peak hour zone 2 spaces in the
10 campus plan area? And what are the total
11 number of metered spaces in the campus plan
12 area? So we could get a basis for the 23 or
13 more spaces that are being removed.

14 MR. JENNINGS: Combined 635 spaces
15 in the campus area, approximately 70 percent,
16 I believe the number if I'm correct is about
17 440 -- I may be a little off, I don't have the
18 number off the top of my head. Out of the
19 635, approximately 440 spaces are metered
20 spaces. And the duration or the rest come in
21 as RPP zone 2.

22 MS. KAHLOW: So less than 200?

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1 MR. JENNINGS: I believe so.

2 MS. KAHLOW: Okay. Moving along,
3 if you look at your page two, paragraph one,
4 two, three, four, five, you talk about
5 citations. We had asked you the number of
6 complaints that DDOT had received about
7 student parking in the campus plan area. And
8 how DDOT responded to those complaints as well
9 as what you provided here. Do you know that?

10 MR. JENNINGS: I have a little bit
11 of knowledge that I can share tonight. In
12 doing some investigation and research, asking
13 the Department of Public Works Parking
14 Enforcement to come forward with how many
15 complaints they receive, they don't
16 necessarily -- they didn't respond to us with
17 the amount of service request calls that they
18 had received from GW -- the vicinity of GW.

19 What they were able to respond
20 with is in our November 27 comments and, for
21 the record, there are 10,400 some odd --

22 MS. KAHLOW: Sixty-five.

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1 MR. JENNINGS: Thank you, 10,465
2 parking citations were issued in a one-year
3 period. In trying to answer what you posed to
4 us back on October 11 in as much of a complete
5 fashion as possible, I visited the campus on
6 November 9, had a Parking Enforcement official
7 with me, and he told me during his eight-hour
8 shift the common is to issue 60 citations.

9 And I said how many of those,
10 during your eight-hour shift, are generated by
11 service request calls or calls that come in
12 via the Mayor's Service Request Center, 727-
13 1000? He said often times less than ten.

14 MS. KAHLOW: Less than ten
15 percent? Or less than ten number?

16 MR. JENNINGS: Out of the 60 --

17 MS. KAHLOW: So one-sixth? Less
18 than one-sixth. Okay. Well at least we got
19 that.

20 Now if we can go to -- that's the
21 old stuff. Now for going to this report,
22 again that page, your number you just quoted,

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1 the 10,465 tickets in a one-year period, is
2 that a lot in comparison to other campuses
3 like American, Georgetown?

4 MR. JENNINGS: As the Ward 3
5 transportation planner who has detailed out to
6 these portions of Ward 2 at the current time,
7 that is a substantial amount of citations in a
8 12-year period.

9 I can honestly say that American
10 University does not receive that kind of
11 attention from DPW Parking Enforcement.

12 MS. KAHLOW: And do you have any
13 idea about Georgetown?

14 MR. JENNINGS: I apologize. I
15 don't.

16 MS. KAHLOW: Okay. Now two
17 paragraphs beyond that, the last paragraph, do
18 you have that document with you? The last
19 paragraph on page two?

20 MR. JENNINGS: Which document are
21 you looking at?

22 MS. KAHLOW: The one -- the

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1 November 27th -- the bike lane stuff.
2 Remember we went through the bike lane stuff
3 last time and you said there would be 100
4 spaces created. How many of those are --
5 because you talked about K and L and that is
6 nowhere near the campus plan, how many of the
7 100 would be in the campus plan area?

8 MR. JENNINGS: I think Jim
9 Sebastian mentioned that it would be
10 approximately three-quarters of that number,
11 somewhere in the ballpark of 75 would be
12 within the campus area.

13 MS. KAHLOW: You don't have any
14 more detail where that might be?

15 MR. JENNINGS: No. But if you are
16 talking south of Pennsylvania Avenue, I think
17 that is where Jim was trying to go with that.

18 MS. KAHLOW: Okay. All right. I
19 think the other one for the record and I can
20 hand this to you so you -- since it would be
21 too complicated I think for today. And I will
22 give one to everybody else.

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1 I'm a statistician so I went
2 through these hundreds of pages and put
3 together a table. Mr. Jennings?

4 And what I'm asking is that if you
5 look at the bottom, 11 to 16 increase in grade
6 despite mitigation, three are no change in
7 their failing grade and two are -- I don't
8 quite understand how it can go from failing to
9 unfailing.

10 But there are 16 of 67
11 intersections and I want to know DDOT's take
12 on if these are already failing intersections
13 under the various conditions as the Foggy
14 Bottom Association suggests to be modified,
15 what would happen? And would there be any
16 additions to the 16 of the 67 intersections
17 that already failed?

18 And I don't expect you to answer
19 this today. But if you could look at this --

20 MR. JENNINGS: That's really --

21 MS. KAHLOW: -- and see if there
22 are any additions, that was all I wanted to

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1 do. And I thought this would be helpful for
2 all of us because it is so much reading.

3 CHAIRPERSON MITTEN: Okay.

4 MS. KAHLOW: That's all I have.
5 Thank you.

6 CHAIRPERSON MITTEN: Okay. Great.
7 Thank you.

8 MS. KAHLOW: Do you want me to put
9 that in writing? Or I think he knows with the
10 chart what to do with it, right?

11 CHAIRPERSON MITTEN: Why don't you
12 just do a little short memo so that --

13 MS. KAHLOW: Okay.

14 CHAIRPERSON MITTEN: -- it is
15 understood explicitly.

16 MS. KAHLOW: And to whom would I
17 send that? To Mr. Laden?

18 CHAIRPERSON MITTEN: Mr. Jennings,
19 I guess.

20 MS. KAHLOW: To Mr. Jennings?

21 CHAIRPERSON MITTEN: Yes.

22 MS. KAHLOW: Okay.

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1 CHAIRPERSON MITTEN: And copy the
2 Commission.

3 MS. KAHLOW: Very good. Thank
4 you.

5 CHAIRPERSON MITTEN: Thank you.

6 Okay, Mr. Jennings, I just need a
7 little bit of help from you, which is if you
8 got questions within a week, how long would
9 DDOT need to respond?

10 MR. JENNINGS: I think if you can
11 give us until the close of business on
12 Tuesday? If you are talking these questions
13 here tonight or if you are talking in the
14 future?

15 CHAIRPERSON MITTEN: No, well Mr.
16 Hitchcock has to provide you a list of
17 questions. So I was thinking about giving him
18 a week to pull those together.

19 MR. JENNINGS: Sure.

20 CHAIRPERSON MITTEN: He might not
21 need that long but so how long would it take
22 you given that you don't know what the

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1 questions are yet?

2 MR. JENNINGS: If you can give us
3 three business days, I'm pretty confident we
4 can get back to you.

5 CHAIRPERSON MITTEN: Three
6 business days?

7 MR. JENNINGS: Yes.

8 CHAIRPERSON MITTEN: Okay. We
9 will leave the record open longer than that.
10 Okay. I just want to make sure we have the
11 record open an adequate amount of time for
12 you. Okay. And Ms. Schellin will pass the
13 word about when the record is finally closed.

14 Thank you.

15 Okay. So now there are -- it is
16 time for questions on the additional
17 submission.

18 First let me ask if any of my
19 colleagues had any questions for the applicant
20 on the additional submission that we got.

21 (No response.)

22 CHAIRPERSON MITTEN: No? Okay.

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1 Mr. Hitchcock, did you have
2 questions?

3 MR. HITCHCOCK: Again, in the
4 interest of moving things along, we had
5 comments on the substantial compliance issue
6 but we will save those for the findings of
7 fact and conclusions of law.

8 CHAIRPERSON MITTEN: That's fine.

9 MR. HITCHCOCK: We are still in
10 disagreement with them but I think we can
11 handle that on paper rather than with oral
12 questions.

13 CHAIRPERSON MITTEN: Okay.

14 DIRECT EXAMINATION

15 MR. HITCHCOCK: The one question
16 that I did have relates to Exhibit C. This is
17 the proposed condition regarding faculty and
18 staff which has the convenient aspect of being
19 only one page.

20 Mr. Katz, I would draw your
21 attention to the new paragraph C where you
22 propose -- Mr. Barber, welcome --

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1 MR. BARBER: Thank you.

2 MR. HITCHCOCK: -- defining
3 outsourcing activity in a way that only covers
4 termination within 30 days of 50 or more
5 faculty or staff assigned to a specific
6 department or unit. How did you come up with
7 that?

8 Well, let me start -- how did you
9 come up with the number 50?

10 MR. KATZ: The reason we used this
11 definition -- because for compliance purposes,
12 we have a mechanism in place to do this
13 already because this is the federal
14 regulations relative to the WARN Act and
15 literally how you have to note -- what kind of
16 notification you have to do if you outsource
17 50 or more employees.

18 And what we were trying to do is
19 come up with a mechanism that really -- that
20 we can comply with and it, in fact, would end
21 up being enforceable. So again we used the
22 definition in the WARN Act which is federal

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1 regulation. And then what we've done is we've
2 tied it to the further proceedings with the
3 Zoning Commission so that there is an
4 enforcement vehicle behind it.

5 So there is a transparency and we
6 believe that we can do what we are suggesting
7 because by federal law, we have to do this
8 already.

9 MR. HITCHCOCK: And could you
10 state for the record what is the WARN Act and
11 what does it try to regulate?

12 MR. KATZ: I will let Charles
13 Barber do that.

14 DIRECT EXAMINATION

15 MR. BARBER: The WARN Act, the
16 Workforce Adjustment Renotification Act.

17 MR. HITCHCOCK: Oh, WARN, W-A-R-N.

18 MR. BARBER: WARN.

19 MR. HITCHCOCK: Okay.

20 MR. BARBER: Are you familiar with
21 that?

22 MR. HITCHCOCK: Yes. Okay. I

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1 just wanted -- but go ahead. Just -- you were
2 going to describe it. Right. Right.

3 MR. BARBER: Okay.

4 CHAIRPERSON MITTEN: He wants to
5 make sure that we get it.

6 MR. BARBER: I see. This is a
7 federal law --

8 MR. HITCHCOCK: I want to make
9 sure the record gets it.

10 MR. BARBER: -- that addressed
11 mass layoffs of employees. And Congress
12 wanted to provide certain protections for mass
13 layoffs so they defined mass layoffs. And it
14 specifies what kind of notice the employer has
15 to give the employees in those situations,
16 what kind of opportunities post employment,
17 those kinds of issues that deal with mass
18 layoffs.

19 MR. HITCHCOCK: Sure. But you
20 would agree with me, would you not, that it
21 doesn't deal with land use issues?

22 MR. BARBER: No, it is not a land

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1 use act. It is an employment act but we
2 thought it was an appropriate measure since we
3 already have to comply with that, you know,
4 mass layoff kind of context, yes.

5 MR. HITCHCOCK: Okay. But it is,
6 therefore, possible under this definition that
7 you could do considerable outsourcing with
8 smaller departments, smaller numbers of
9 personnel and achieve the same results
10 although over, perhaps, a longer period?

11 MR. BARBER: We were looking for a
12 balance for something that we could achieve,
13 something that was workable, and also
14 addressed the concerns that we thought were
15 present. And we thought tying it to an
16 existing federal regulation was the way to go.

17 MR. HITCHCOCK: Okay. How many of
18 these reports have you filed this year?

19 MR. BARBER: None to my knowledge
20 this year.

21 MR. HITCHCOCK: How about last
22 year?

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1 MR. BARBER: I don't recall.

2 MR. HITCHCOCK: Okay. Any in the
3 years gone by?

4 MR. BARBER: I don't know.

5 MR. HITCHCOCK: Okay. So in other
6 words, this might not be terribly effective as
7 a reporting mechanism then?

8 MR. BARBER: We would comply if we
9 -- at such time we have the kind of situation.
10 I just don't know how frequently we have that
11 type of situation.

12 MR. HITCHCOCK: Okay.

13 MR. BARBER: But we certainly
14 would comply with federal law once we do.

15 MR. HITCHCOCK: But if GW is not
16 filing this information now, it is not really
17 a -- a means of facilitating compliance.

18 MR. BARBER: No, I don't agree
19 with that.

20 MR. HITCHCOCK: All right.

21 MR. BARBER: And I no longer beat
22 my wife either.

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1 (Laughter.)

2 CHAIRPERSON MITTEN: Okay. Come
3 on.

4 MR. HITCHCOCK: I think I made the
5 point.

6 MR. BARBER: Okay.

7 MR. HITCHCOCK: I have no further
8 questions. Thank you.

9 CHAIRPERSON MITTEN: Okay. Thank
10 you.

11 Ms. Kahlow?

12 DIRECT EXAMINATION

13 MS. KAHLOW: I only have questions
14 on the same Exhibit C. Are you familiar with
15 OMB circular A-76 that covers all federal and
16 federally-regulated such as grantees
17 compliance with outsourcing?

18 MR. BARBER: No.

19 MS. KAHLOW: Would you be willing,
20 since the number is ten for certain things, 20
21 for others, would you be willing to change the
22 threshold to the federal standard that

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1 actually applies to your university?

2 MR. BARBER: I'm not sure I accept
3 the premise of the question. But I thought no
4 we are not willing to change to that number.

5 MS. KAHLOW: So you would reject
6 analyzing all outsourcing of ten or more
7 employees in a function?

8 MR. BARBER: Yes.

9 MR. KATZ: Yes, we would reject
10 that.

11 MS. KAHLOW: Okay. Is there a
12 possibility to submit for the record the
13 federal standard that applies to GW?

14 CHAIRPERSON MITTEN: Well, we're
15 not the arbiter of what applies.

16 MS. KAHLOW: I understand. But
17 could we submit it?

18 CHAIRPERSON MITTEN: So if the
19 university is representing to us that they
20 believe that they are bound by a reporting
21 requirement for 50 or more --

22 MS. KAHLOW: That is for layoffs.

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1 But I'm saying of outsourcing. This is the
2 federal standard that applies to all grantees.

3 CHAIRPERSON MITTEN: Mr. Hood,
4 jump in please.

5 VICE CHAIRPERSON HOOD: Assuredly.
6 Ms. Kahlow mentioned A-76 and Mr. Barber you
7 mentioned that you were not familiar with
8 that. Is that --

9 MR. BARBER: No, I'm not.

10 VICE CHAIRPERSON HOOD: Okay.
11 Well maybe, I think Ms. Kahlow's point is very
12 valid with outsourcing. I'm not sure, maybe
13 we need to look into that. And at least maybe
14 we can ask GW --

15 MR. BARBER: If you look at the
16 record --

17 CHAIRPERSON MITTEN: Okay. Let me
18 do this. If you want to submit that then the
19 applicant can respond and tell us the
20 applicability.

21 MS. KAHLOW: Thank you. I'd be
22 happy to do so.

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1 CHAIRPERSON MITTEN: Okay.

2 MS. KAHLOW: Thank you. That's
3 all I have.

4 CHAIRPERSON MITTEN: Thanks.

5 Boy, I'm going to get an education
6 in outsourcing here.

7 Okay, no more -- okay. I think
8 we're very close.

9 CLOSING STATEMENT

10 MS. DWYER: Good evening. Our
11 closing statement this evening will be in two
12 parts. I will address the legal requirements
13 of the PUD and campus plan applications. And
14 Lou Katz will address the important of this
15 case to the university, the community, and the
16 city. But together we will take about seven
17 minutes. So we will be quick.

18 CHAIRPERSON MITTEN: Yes.

19 MS. DWYER: And I wanted to start
20 by thanking each of you as well as the
21 participants who are in the audience as those
22 who aren't here tonight but attended all the

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1 hearings for the time and attention you have
2 given this case.

3 It has been a long process to get
4 to this point and we appreciate very much your
5 willingness to compress these hearings so that
6 the case could be understood comprehensively
7 and the groundwork laid for the School Without
8 Walls and the Square 54 PUDs.

9 We believe that through the course
10 of these hearings we have addressed all of the
11 legal requirements that would entitle us to
12 the requested special exception as well as the
13 PUD and Map Amendment approval.

14 And let me just summarize. First,
15 we come here with the full support of the
16 Office of Planning, the Department of
17 Transportation, and the Historic Preservation
18 Office. Each agency has thoroughly evaluated
19 the applications and given its recommendation
20 of approval.

21 We also have the support of 108
22 individuals, 41 who testified in support, 12

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1 who submitted their testimony for the record,
2 and 55 who wrote individual letters of support
3 as well as the support of the Mayor's Office
4 of Community Affairs.

5 Second, we have addressed the
6 legal requirements for the special exception.

7 Based on all of the testimony and evidence of
8 record, this campus plan will have no
9 objectionable impact in terms of noise,
10 traffic, number of students, or other
11 objectionable impacts. In fact, as the Office
12 of Planning has stated, it will improve the
13 existing conditions.

14 Third, we have addressed why the
15 PUD and rezonings are needed. The PUD
16 provides certainty, predictability, and
17 control, in addition to important public
18 benefits and amenities, preservation of
19 historic resources, enhanced streetscape plan,
20 neighborhood-serving retail, and commitments
21 by the university regarding off campus
22 properties.

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1 The rezonings provide the
2 additional height and density in the core of
3 the campus to achieve these goals.

4 Finally, the 20-year time frame is
5 appropriate for many reasons. The scope of
6 the development plan may take that long and
7 more to achieve. The development of Square 54
8 as a town center and the historic district are
9 both long-term commitments. And most
10 importantly, the community and the city get
11 the benefit of the 20-year commitment on the
12 off-campus restrictions as well as regular
13 reports each year on all of the key
14 conditions.

15 In summary, we believe that based
16 on the testimony and evidence of record, the
17 precedent of this Commission, the legal tests
18 applied by the DC Court of Appeals, we meet
19 the legal requirements.

20 MR. KATZ: Thank you.

21 On behalf of the university, I
22 would like to personally thank you, thank the

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1 Commissioners for the time, attention, and
2 thoughtful consideration you have given to
3 this case through all six hearings as well as
4 the School Without Walls and the Square 54
5 projects which have also come before you over
6 the past two months.

7 Importantly, all stakeholders have
8 had an opportunity to participate in a
9 deliberative process and it has been an
10 experience from which I believe we all have
11 learned. The constructive dialog has resulted
12 in clarifications and refinements to our
13 proposed plan and conditions.

14 We believe the result is a better
15 plan much the same way the collaborative
16 community-based planning process resulted in
17 an improved plan for the future of the Foggy
18 Bottom Campus than the one we, ourselves, had
19 initially envisioned.

20 As we all know, at the opening of
21 these hearings, Commissioner Hood asked why
22 are we here. That is where we began and we

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1 think it is a good place to end. A number of
2 factors brought us to this place.

3 Fundamentally, in order to become
4 a world-class research institution, we need
5 additional space for our programs and
6 facilities to carry out our plan for academic
7 excellence. We understand that we are a part
8 of a broader community and we know that the
9 town/gown tensions, while not unique to our
10 university, do not benefit anybody.

11 This comprehensive planning effort
12 reflects our strong desire to proactively
13 address ongoing issues of community concern.

14 And finally, the unique
15 opportunity for the redevelopment of Square
16 54, which like the public/private School
17 Without Walls partnership, benefits not only
18 the university but the community and the
19 District alike.

20 Much in the way the 2000 plan
21 addressed the key issues of student housing,
22 we think this plan will address the major

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1 issues that we face today, our need to improve
2 our academic facilities in a way that respects
3 our neighbors.

4 The collaborative community-based
5 planning process that led to the proposed
6 campus plan took a fresh look at the campus in
7 the context of the surrounding neighborhoods
8 and provided an opportunity to create a
9 balanced plan that benefits all stakeholders.

10 By providing additional density
11 concentrated on the core of our campus, the
12 plan accommodates our space needs within the
13 existing campus plan boundaries, provides for
14 a significant campus historic district, allows
15 the university to make commitments about the
16 future use and acquisition of off-campus
17 properties, brings more students into our
18 campus housing beginning with the Commission's
19 recent approval of the School Without Walls
20 project, and allows for the redevelopment of
21 Square 54.

22 This process has also provided the

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1 opportunity to reaffirm GW's commitment to the
2 issues of compliance with the campus plan.
3 We've demonstrated that the commitment and the
4 new plan goes even further to clarify and
5 define the conditions in an effort to avoid
6 questions of compliance moving forward.

7 You heard from our students and
8 how they describe the GW experience. It is
9 one that is integrated with the city. We are
10 truly a campus in and of the District of
11 Columbia.

12 We understand and accept that we
13 must properly account for the impacts of our
14 campus but we need to continue to deliver
15 education that responds to student needs and
16 encourages students to experience all that GW
17 and this city have to offer.

18 We will not let our students down,
19 our current students as well as future
20 generations of GW students. And to that end,
21 we will continue to advance the institution in
22 order to further our reputation as a world-

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1 class research university.

2 The nature of a university is to
3 build community both inside and outside of the
4 institution. And through these hearings, we
5 believe that you have heard from our
6 community. We firmly believe that this campus
7 plan provides the best solution for the
8 university, the community, and the District of
9 Columbia. And that is why we are here.

10 Thank you again for your time,
11 attention, and consideration.

12 CHAIRPERSON MITTEN: Thank you
13 very much.

14 Okay. We have a little bit of
15 paperwork yet to get in the record. So this
16 is what I'm going to suggest is that one week
17 from tonight, the questions for DDOT would be
18 due into the record and also then to DDOT.

19 And then we would also, on the
20 same timeline, Ms. Kahlow would make her
21 submission regarding the outsourcing. And
22 that date would be --

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1 MS. SCHELLIN: December 7th.

2 CHAIRPERSON MITTEN: -- December
3 7th. And then two weeks after December 7th,
4 then DDOT's responses would be due. And the
5 applicant's response to Ms. Kahlow's
6 submission regarding outsourcing would be due.
7 And that date would be --

8 MS. SCHELLIN: December 21.

9 CHAIRPERSON MITTEN: -- December
10 21st.

11 MS. DWYER: And the applicant
12 would also be permitted to respond to the
13 questions that Mr. Hitchcock is filing. Our
14 traffic consultant could respond to the same
15 questions that DDOT is?

16 MR. HITCHCOCK: Excuse me. This
17 is a substitute for cross examination of DDOT.

18 CHAIRPERSON MITTEN: Yes.

19 MR. HITCHCOCK: It's not an
20 opportunity to put a sixth piece of evidence
21 into the record. There are five studies.

22 CHAIRPERSON MITTEN: Okay, Mr.

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1 Hitchcock.

2 MR. HITCHCOCK: Thank you.

3 CHAIRPERSON MITTEN: I think we
4 will just get the responses from DDOT without
5 further response from the applicant. And then
6 I guess on the 21st, proposed findings of fact
7 and conclusions of law would be due then.
8 Yes? Or later?

9 MS. SCHELLIN: We could give them
10 until December 29th.

11 CHAIRPERSON MITTEN: Okay. Your
12 choice.

13 MS. SCHELLIN: I think the 21st is
14 fine for us.

15 CHAIRPERSON MITTEN: Well, we have
16 parties, too. We'll see.

17 MS. KAHLOW: It is not fine for
18 me. Is there a way we are going to get the
19 transcripts first? When will we get those?

20 CHAIRPERSON MITTEN: Well, all but
21 tonight's should be available already.

22 MS. KAHLOW: I haven't seen any of

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1 them. Can they be --

2 MS. SCHELLIN: They are available
3 in our office.

4 MS. KAHLOW: Is there a way to
5 email them to me?

6 MS. SCHELLIN: You can contact our
7 office and there is someone who could do that.

8 MS. KAHLOW: Thank you.

9 So when will tonight's be
10 available?

11 MS. SCHELLIN: I believe it takes
12 11 days.

13 MS. DWYER: We'll do an expedited
14 transcript of tonight's hearing.

15 MS. KAHLOW: Thank you. So
16 December 29th is --

17 CHAIRPERSON MITTEN: Okay. Let's
18 do the 29th.

19 MS. KAHLOW: -- a lot more
20 reasonable.

21 CHAIRPERSON MITTEN: I can promise
22 you, we're not reading any of the submissions

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1 over Christmas. We are not going to. You
2 guys can busily work away. We will read them
3 after Christmas.

4 Okay, so then findings of fact and
5 conclusions of law due on December 29th. And
6 then depending on what our January agenda
7 looks like, we may put this on for a special
8 public meeting or it may be in January. We'll
9 just have to see.

10 I think, Mr. Hitchcock, you look
11 like you want to say something.

12 MR. HITCHCOCK: No.

13 CHAIRPERSON MITTEN: Oh, okay.

14 MS. SCHELLIN: Can I just add that
15 all submissions should be filed by three
16 o'clock p.m. And the DDOT one, if possible,
17 if Ms. Kahlow and Mr. Hitchcock could serve
18 them directly along with the parties?

19 MR. HITCHCOCK: I'm sorry. Serve
20 --

21 MS. SCHELLIN: Along with the
22 parties --

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1 CHAIRPERSON MITTEN: DDOT, if you
2 would send the questions directly to DDOT.

3 MR. HITCHCOCK: Oh, yes.

4 CHAIRPERSON MITTEN: In addition
5 to filing --

6 MR. HITCHCOCK: I'll send them by
7 email so they can also fill in the answers
8 right after the question. And you will be
9 able to -- the Commission can follow it more
10 easily.

11 CHAIRPERSON MITTEN: Okay. That
12 sounds great.

13 Okay. Thanks to everybody for
14 sticking with us over the long haul. We look
15 forward to taking this matter up in January.

16 And I would just -- anybody who is
17 here for our next hearing, we'll just take a
18 five-minute break and then we will resume with
19 the MidAtlantic Realty hearing.

20 Thank you.

21 (Whereupon, the above-entitled
22 public hearing was concluded at 6:43 p.m.)

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