

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF: : Case Nos.
: 06-11
GEORGE WASHINGTON UNIVESITY : 06-12
-----:

Thursday,
September 21, 2006

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

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

ZONING COMMISSION MEMBERS PRESENT:

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

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN	Secretary
DONNA HANOUSEK	Zoning Specialist

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OFFICE OF PLANNING STAFF PRESENT:

DAVID MALONEY
ELLEN McCARTHY
TRAVIS PARKER
JENNIFER STEINGASSER

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.

The transcript constitutes the minutes
from the Public Hearing held on September 21, 2006.

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P R O C E E D I N G S

(6:54 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, September 21st, 2006.

My name is Carol Mitten, and joining me this evening are Vice Chairman Anthony Hood and Commissioner Michael Turnbull. We know Commissioner Parsons isn't going to be joining us tonight, but he will be reading the record. And we're not exactly sure where Commissioner Jeffries is at the moment, but he will read the record for anything that he has missed.

And I apologize for the little disruption at the beginning. We had an alarm go off as you know.

The subject of this evening's hearing is Zoning Commission Case No. 06-11 and 06-12, and this is a continuation of our hearing from a week ago. This is a request by George Washington University for special exception relief and approval of the Foggy Bottom Campus Plan proposal for 2006 through 2025.

I won't read the entire introductory statement since most of you were here for that. I would just remind you where we left off, which is that

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1 we were going to take up first the cross examination
2 by the West End Citizens Association. Then we were
3 going to have the report by the Department of
4 Transportation, report by the Office of Planning, an
5 dpick up with other government agencies, the ANC, and
6 so forth.

7 And here he is, Mr. Jeffries.

8 So I just remind folks who might not hvae
9 been here at the last hearing we are recorded by the
10 court reporter, and we are also Webcast live. So I'd
11 ask you to refrain from making any disruptive noises
12 in the hearing room and ask you to turn off all
13 beepers and cell phones at this time for the same
14 reason.

15 So I think -- do we have any preliminary
16 matters, Ms. Schellin?

17 MS. SCHELLIN: No, ma'am.

18 CHAIRPERSON MITTEN: Anyone, any other
19 parties have any preliminary matters?

20 (No response.)

21 CHAIRPERSON MITTEN: So we're ready to
22 dive in. Ms. Kahlow.

23 MS. KAHLOW: Thank you.

24 I'm Barbara Kahlow. I'm representing the
25 West End Citizens Association today.

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1 I am asking that GW join us, three
2 different people and their lawyer, and if you could
3 just bear with -- do you want them to introduce
4 themselves also?

5 CHAIRPERSON MITTEN: Okay, wait, wait,
6 wait, wait.

7 MS. KAHLOW: Would you like them to
8 introduce themselves also?

9 CHAIRPERSON MITTEN: Sure. That's great.

10 MR. BARBER: I'm the Executive Vice
11 President, Charles Barber, George Washington Senior
12 Council.

13 MS. DWYER: Maureen Dwyer, Counsel for
14 George Washington University.

15 MS. RUTHERFORD: Sherry Rutherford,
16 Director for Real Estate Clean Development at GW.

17 CHAIRPERSON MITTEN: Thank you, and then
18 if anyone else comes forward just begin by identifying
19 yourself when you start speaking.

20 Go ahead.

21 MS. KAHLOW: Thank you.

22 I have six areas of questions, and I'll
23 start with student parking. This series of questions
24 follow up on Chair Mitten's questions about student
25 parking in our neighborhood and relate to a possible

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1 new campus plan condition to reduce an existing
2 objectionable condition.

3 Question one to Mr. Katz: did you send an
4 August 17th, 2001 letter to the West End Citizens
5 Association on changes in GW's policies for student
6 parking?

7 MS. DWYER: Madam Chair, an August 2001
8 letter? I'm just wondering whether the questioning is
9 limited to his direct testimony, which is the subject
10 normally on cross examination.

11 CHAIRPERSON MITTEN: Right.

12 MS. DWYER: How is this relevant to the
13 direct testimony?

14 MS. KAHLOW: Well, we talked about student
15 parking. You raised it, and because you raised it, I
16 want to get into the subject, and I wanted to bring in
17 a document, but I don't have to bring in that document
18 at this point. I can bring it in in my testimony. It
19 will be attached.

20 CHAIRPERSON MITTEN: Okay. Great.

21 MS. KAHLOW: But we need to talk about the
22 objectionable condition.

23 Did we not discuss, Mr. Katz, this
24 objectionable condition at some length, you and the
25 West End Citizens Association?

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1 MR. KATZ: Yes, we did.

2 MS. KAHLOW: In 2001?

3 MR. KATZ: In that time frame, yes. I
4 can't remember exact time.

5 MS. KAHLOW: Did we discuss restricting --
6 and the key word here is "restricting" -- freshmen and
7 sophomores living in the Foggy Bottom-West End area
8 from bringing cars to school or parking in the Foggy
9 Bottom-West End area?

10 MR. KATZ: There was some specific
11 language that was agreed to by the university and the
12 West End Citizens Association.

13 MS. KAHLOW: About restricting student
14 parking?

15 MR. KATZ: Yes.

16 MS. KAHLOW: Was there any follow-up by
17 GW, such as indicated in the agreement, publication in
18 GW's catalog so that both parents and prospective
19 students would be aware of this restriction?

20 MR. BARBER: My I address that? I'm
21 familiar with the situation.

22 MS. KAHLOW: That would be fine, Mr.
23 Barber.

24 MR. BARBER: Yes, there was. We adopted
25 a policy pursuant to the letter agreement that the

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1 university had with the West End Citizens Association,
2 and we published this policy in various documents,
3 including documents on our Website.

4 MS. KAHLOW: My question was not about
5 that. My question was about the catalog since the
6 agreement talked about publication in the catalog for
7 the parents.

8 Was there any publication in the catalog?

9 MR. BARBER: We publish it in various
10 publications. I'd have to check about a catalog. We
11 have it in various publications, and I can check on
12 the catalog.

13 MS. KAHLOW: Could you provide the proof
14 for each of those publications? Because the only ones
15 we have seen are less than the restriction. Could you
16 produce that for the record so we could have that?

17 MR. BARBER: Yes, but if I could explain
18 what we have done, we took the language that we agreed
19 to and we published it in various publications
20 beginning in 2002, I believe, and again in 2003, '04,
21 '05.

22 This past year some of these documents and
23 our policies were reformatted, and the language was
24 edited not by those who were familiar with the
25 agreement so that there still was a policy, but the

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1 language didn't track exactly as we agreed.

2 Once that was brought to our attention, we
3 changed the language back so that the language now
4 reads as we agreed to in our original agreement.

5 MS. KAHLOW: Does it use the word
6 "restricted"

7 MR. BARBER: No, it uses the language from
8 the letter agreement, and I have the language from the
9 policy that tracks the letter agreement, is that
10 freshmen and sophomores living in the Foggy Bottom-
11 West End area should not bring cars to school. For
12 those few granted exceptions by the university, tehe
13 university will arrange for parking in university
14 parking facilities. That's the language from the
15 letter agreement, and that's the language in our
16 policy.

17 MS. KAHLOW: Has there been any
18 enforcement by GW of this policy?

19 MR. BARBER: The letter agreement says
20 that both GW and the West End Citizens Association
21 recognizes that neither GW nor the WECA have
22 enforcement authority of this policy. We have a
23 policy. All of our policies are subject to
24 enforcement by a student code of conduct. During our
25 discussions in 2001, we recognized the difficulty of

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1 enforcing this policy on public streets, and so we
2 have a policy whereby it discourages all students, but
3 in addition, has a specific language for -- I'm sorry
4 -- discourages (pause) --

5 MS. KAHLOW: Freshmen and sophomores?

6 MR. BARBER: I'm sorry. All students are
7 discouraged from bringing vehicles on campus, but
8 freshmen and sophomores, in particular, should not
9 bring vehicles to campus. Freshmen and sophomores
10 living in the West End, Foggy Bottom-West End area
11 should not bring vehicles to campus, and so that
12 language is in the policy.

13 The enforcement, again, as a university
14 policy, is subject to the university code of student
15 conduct, but we recognized from the beginning that
16 there would be difficulties enforcing this policy on
17 public streets.

18 MS. KAHLOW: How many students have
19 received warnings or suspensions for violations,
20 especially after we have told you that their --
21 community members have told you that their cars are
22 parking in the neighborhood?

23 MR. BARBER: I don't know if we've
24 received any specific information about specific
25 freshmen and sophomores violating this policy. I

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1 would not think --

2 MS. KAHLOW: Well, getting to the heart of
3 the matter, will GH object to a campus plan condition
4 requiring GW to restrict freshmen and sophomores
5 living in the Foggy Bottom-West End area from bringing
6 cars to school or parking in the Foggy Bottom-West End
7 area?

8 MR. KATZ: We will not object.

9 MS. KAHLOW: Wonderful news. Thank you.

10 MR. BARBER: And, indeed, we have specific
11 language we'd like to offer in that regard.

12 MS. KAHLOW: Now I'd like to go to the
13 second topic, if I may, student drinking. And this
14 series of questions follows up from Chair Mitten's
15 questions about alcohol beverage control ABC licenses
16 and GW owned properties and also related to a possible
17 new campus plan condition to reduce an objectionable
18 condition.

19 Why did GW, after promising the community
20 in an ANC meeting to have a family style restaurant to
21 replace Quiggly's at 2036 G Street, allow Tonic --
22 that's the name of the operator --

23 MS. DWYER: Okay. This is outside of the
24 scope of the direct, well outside.

25 MS. KAHLOW: Okay. What I wanted to do is

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1 -- okay. If you don't want us to mention
2 specifically, would GW allow a nightclub of live music
3 and a dance floor with hours ending at 3:00 a.m. on
4 weekends and 2:00 a.m. during the week on campus
5 across from residences in Foggy Bottom and student
6 dorms?

7 MS. DWYER: Madam Chair, again, I would
8 object. This is beyond the scope of the direct
9 examination. If there are particular points that she
10 wants to make in her direct case or if she has a
11 proposed condition she would like us to consider, we'd
12 be happy to respond.

13 MS. KAHLOW: Well, let me get to the
14 condition and then back it out.

15 Will GW object to a campus plan condition
16 limiting the nature of ABC licenses on all GW
17 properties?

18 MR. KATZ: It depends on what it's
19 limiting it to. I mean, without knowing what you're
20 recommending, it would be hard for us to say.

21 MS. KAHLOW: Well, for example, would you
22 agree not to have any ABC license in the Student
23 Center, the Marvin Center?

24 MR. KATZ: No. In fact, we are planning
25 to have and we do have one already.

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1 MS. KAHLOW: You have an ABC license in
2 the Marvin Center?

3 CHAIRPERSON MITTEN: Can we just narrow
4 this down to what was the subject of the direct, which
5 was --

6 MS. KAHLOW: Which was student drinking --

7 CHAIRPERSON MITTEN: No.

8 MS. KAHLOW: -- and use at ABC licenses.

9 CHAIRPERSON MITTEN: No, it wasn't student
10 drinking. It was a proposal to allow retail in the
11 otherwise residentially zoned properties as a part of
12 the campus plan and first floor retail.

13 And then I posed the question that perhaps
14 that shouldn't be an open ended retail use and that
15 perhaps they should consider narrowing that because it
16 might not be, as it was being presented, that these
17 retail units just might be -- you know, would be for
18 the benefit not only of the students, but also for the
19 neighborhood.

20 And then I posed the issue of perhaps
21 having ABC licensed establishments would not be viewed
22 as an amenity to the neighbors.

23 So it's in that context that we raised the
24 issue of ABC licenses.

25 MS. KAHLOW: I thank you for that

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1 clarification, Chair Mitten, and that was in that
2 context that I asked about 2036 G Street, across from
3 current residences, many highrise buildings, and your
4 dormitories.

5 Why would GW be seeking an ABC license for
6 a nightclub with a dance floor, live music, 3:00 a.m.
7 closings on weekends, and 2:00 a.m. during the week?
8 I was trying to understand because it clearly is not
9 amenity. It's something that's objectionable.

10 MS. DWYER: Madam Chair, but this is
11 direct testimony by Ms. Kahlow, and I would submit
12 that she should present this as part of her direct
13 case. If there are conditions she'd like to submit in
14 the record for either the Commission or the university
15 to consider, we would be happy to do that.

16 MS. KAHLOW: And we'll be happy to do that
17 also. I was just trying to reflect what the -- and
18 elaborate on what the Commission had raised.

19 I now want to get to a compliance question
20 with existing law and propose another new campus plan
21 condition to eliminate an existing objectionable
22 condition, and that has to do with Americans with
23 Disabilities Act.

24 MS. DWYER: Madam Chair, no one testified
25 as to that, and again, I would submit this is part of

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1 her direct testimony and should be submitted at that
2 time.

3 CHAIRPERSON MITTEN: Let's hear what the
4 question is, but I generally agree with you.

5 MS. KAHLOW: Since GW is a co-signer of an
6 agreement with the Justice Department in March '98 for
7 a violation of the Adminsitration (sic) for
8 Disabilities Act --

9 CHAIRPERSON MITTEN: Okay. This is --

10 MS. KAHLOW: -- would GW agree --

11 CHAIRPERSON MITTEN: This is not at all --

12 MS. KAHLOW: -- to a condition --

13 CHAIRPERSON MITTEN: This is not at all
14 part of the direct.

15 MS. KAHLOW: I understand, but what we'd
16 like to do is add a condition requiring GW to have ADA
17 compliance for all of its existing buildings and all
18 future buildings, including the Lisner Down Stage
19 Auditorium that is a public site without elevator or
20 bathroom access for the handicapped.

21 CHAIRPERSON MITTEN: One thing, you know,
22 it was interesting how the first series of questions
23 led to a proposed condition. They accepted it.
24 Everyone is happy. Let's move on.

25 But the purpose of cross examination is

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1 not to conduct a negotiation with the university in
2 front of othe Commission. So if you want to ask them
3 questions that will help fill out the record for the
4 Commission, that's great, and if you guys can reach
5 agreement about proposed conditions outside of the
6 hearing room, that's great, too.

7 But I want to make sure that our time is
8 well spent and the audience's time is well spent.

9 MS. KAHLOW: Okay. Well, let's move on to
10 environmental compliance since that related to so many
11 things that were raised in their testimony as well as
12 your questioning.

13 And again, it relates to a possible new
14 campus plan condition to protect our quality of life.
15 Did, Mr. Katz, did you discuss with the West End
16 Citizens Association compliance with environmental --
17 future compliance with environmental laws --

18 MS. DWYER: Madam Chair, again, I object
19 for the same reasons that I enumerated before.

20 CHAIRPERSON MITTEN: I think that the
21 testimony that we had on direct related to some
22 comments by Commissioner Turnbull regarding sort of
23 environmentally friendly design, and it's in that
24 context that if you want to ask some questions, that
25 would be appropriate.

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1 MS. KAHLOW: I will raise it in our direct
2 testimony, which of course we planned to do. All I
3 was trying to do was help the Commission understand
4 the areas in which we really should be discussing
5 campus plan conditions as a group. We have never done
6 so. The process was closed. It was between the
7 university and Office of Planning, and I think it
8 would be useful for us to all sit together.

9 Let's talk about something that is in
10 their filings, GW's purpose of residentially zoned
11 properties in the Foggy Bottom-West End area. Mr.
12 Parsons questioned about investment properties and
13 asked questions related to the proposed new campus
14 plan condition.

15 Would GW promise not to use any to be
16 acquired SP zone properties or to include SP zoned
17 properties in the residential zoned properties?

18 MR. KATZ: You have raised this issue, and
19 we looked at it, and what the condition is is
20 residentially zoned properties, and, in fact, it's 40-
21 some properties in that area that would be subject to
22 that conditions, and to our knowledge, by literally
23 walking the buildings and also looking at the records,
24 there are two buildings that are residential buildings
25 that are in the area that are SP zoned. One is

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1 Columbia Plaza and we're already one of the owners of
2 that property.

3 The other one is the Watergate. Those are
4 the only two buildings that we're talking about, one
5 of which we already are part owner of.

6 MS. KAHLOW: In fact, there are an
7 enormous number of properties that are SP-2 zoned, and
8 sine there's very little that's R zoned, I think the
9 intent was to have SP-2 zoned as well.

10 MR. KATZ: No.

11 MS. KAHLOW: And most importantly, the
12 zoning regulations allowed dormitory use.

13 MR. KATZ: WE do not agree with that.

14 CHAIRPERSON MITTEN: Let me just clarify.
15 Were you not inquiring as to what their intent was
16 when they offered the condition related to
17 residentially zoned property?

18 MS. KAHLOW: Yes.

19 CHAIRPERSON MITTEN: Okay.

20 MS. KAHLOW: And did that include SP-2
21 since most of the --

22 CHAIRPERSON MITTEN: And the ansewr is?

23 MR. KATZ: Adn the answer is no.

24 CHAIRPERSON MITTEN: Okay.

25 MS. KAHLOW: Would you consider a

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1 condition that would require GW not to acquire any SP
2 zoned properties in Foggy Bottom-West End for student
3 residential use as allowed under current zoning rules,
4 Subsection 501.7 and 3104.4?

5 MR. KATZ: The answer is no.

6 CHAIRPERSON MITTEN: And again, I don't
7 want to have a negotiation here. So --

8 MS. KAHLOW: That's fine.

9 The next area deals with also areas where
10 you have -- you and many members of the -- have raised
11 about GW's Grow Up, Not Out," and the question is:
12 since GW is requesting a 43 percent increase in
13 density, why hasn't GW like other universities in
14 D.C., identified opportunities for additional
15 satellite properties outside of the Foggy Bottom-West
16 End area, especially in under developed neighborhood
17 which are hungry for further development?

18 MR. KATZ: We do already have satellite
19 campuses, and we have other locations where we offer
20 programs, and that's some of the additional
21 information that was requested by this Commission.
22 All of the sites that we do have have our programs.

23 What we've tried to outline in our
24 testimony is the reason why we're focusing on Foggy
25 Bottom as the core mission of the institution,

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1 literally the connectivity between where we're located
2 and the strength of our programs.

3 We do recognize that we cannot do
4 everything at Foggy Bottom, and for many years we have
5 had programs and administration in no only other parts
6 of the District of Columbia; outside of the District
7 of Columbia. So that is not an issue.

8 But we believe that we do have a unique
9 location, and it is important to our overall
10 educational mission, and that is the case that we were
11 trying to make in our testimony.

12 MS. KAHLOW: And excuse my ignorance. I
13 don't remmeber reading that any satellites in under
14 developed neighborhoods in D.C. Are there any?

15 MR. KATZ: A satellite campus? No, there
16 are not.

17 MS. KAHLOW: Or even buildings for
18 university use.

19 MR. KATZ: That we own, no, but where we
20 do have clinics in part -- we offer many services
21 throughout the District of Columbia.

22 MS. KAHLOW: In your direct testimony you
23 stated in answer to Chair Mitten's question about why
24 "Grow Up, Not Out," that the main reason was to
25 increase research capacity. Why can't research be

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1 conducted outside of the Foggy Bottom-West End area
2 since much research is conducted collegially with
3 faculty and universities across the country and the
4 globe?

5 MR. KATZ: Some of our research does
6 happen outside of Foggy Bottom, but the types of
7 research that we are growing on our campus we believe
8 needs to be on our campus between the connectivity
9 between the schools that are located on campus, and
10 these are schools that have both strong undergraduate
11 and graduate programs, and we believe that
12 connectivity is very important.

13 We have acknowledged for many years that
14 there are some types of research activities that will
15 not happen at Foggy Bottom, and in fact, we have
16 research facilities at our Loudoun County Campus for
17 that very purpose, which would not make sense to occur
18 at the Foggy Bottom Campus.

19 MS. KAHLLOW: What percent of the 43
20 percent requested increase in density is for research,
21 increase your research capacity, which is what you
22 testified was the principal reason?

23 What percentage or what part of that 43
24 percent increase from 3.5 FAR cap to 5.0 is for
25 research?

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1 MR. KATZ: To say it differently, and
2 hopefully I will be answering the question, there is
3 two millino square feet that is for academic and
4 residential faciltiies, of which a million and a half
5 is academic; about a half a million square feet is for
6 residential facilities.

7 We havenot specifically allocated the
8 million and a half square feet, how much of it
9 specifically will be for research. What we're talking
10 about is not changing our student caps at all. It is
11 literally how we plan to operate.

12 One of the key projects that willcome out
13 of it, just one project, is a new science and
14 technology facility that will be somewhere between
15 three and 500,000 square feet, and the reason -- I
16 mean, so it's the largest project that will come out
17 of this campus plan, and it will be located next to
18 Columbian College, which is arts and sciences; next to
19 the Engineering School and next to a Medical School.
20 And we plan to conduct research in that facility that
21 will include all of those schools, and again, that is
22 aprt of what we believe is a unique position for the
23 institution.

24 MS. KAHLOW: And I ask that 500,000,
25 perhaps with the 1.5 million is the Sign Center. The

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1 question is since you said it was primarily for
2 research, what is your guess about the other million?
3 What percentage is research?

4 MR. KATZ: It would just be a guess.
5 Another one of the major projects is a new engineering
6 building, and I believe that's 300,000 square foot.

7 MS. DWYER: Two hundred and seventy-five
8 feet.

9 MR. KATZ: Two hundred and seventy-five
10 thousand square feet. Is that going to be exclusively
11 used for research? No, but the primary emphasis for
12 doing it would be to grow the research capacity.

13 Another major project is to replace the
14 Academic Center, and that's a net new 300, something
15 like that.

16 MS. DWYER: Between 250 and 300

17 MR. KATZ: Between 250 and 300,000 square
18 feet, and the Academic Center is the home of Columbian
19 College, and that will be one of the Centers of
20 Research.

21 So what we're trying to do at the hub, if
22 you think about it, there's density for Columbia
23 College, which is the Academic Center. There's
24 density for the Engineering School, which is on 23rd
25 Street, and then the two new additions to the Medical

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1 Center. Between those, between where we would be
2 putting the Science and Technology Building and the
3 additions or new buildings to those things, that will
4 be the bulk of what we're talking about.

5 Again, this is all part of the overall
6 strategy, putting the density, these new facilities
7 along the core. The next largest thing, I believe,
8 would be the reconfiguration or reguilding of our main
9 library, which is right next to it and some of the
10 properties adjacent to the library, again, to support
11 the overall research growth.

12 We did not say that we are diminishing the
13 importance of the undergraduate population. We're
14 building a world class institution which has both very
15 strong undergraduate programs and graduate and
16 professional programs with increased emphasis on
17 research.

18 MS. KAHLOW: Would GW be agreeable to a
19 campus plan condition that asks for specific
20 exploration of satellites in underdeveloped areas of
21 the city as has been suggested by various people that
22 won the primaries and this most recent?

23 MS. DWYER: Madam Chair, I would object.
24 Again, this is negotiating, and if there are
25 conditions, we would certainly consider them. They

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1 can submit it for the record.

2 MS. KAHLOW: So you will consider the
3 condition.

4 CHAIRPERSON MITTEN: Thank you.

5 MS. KAHLOW: That I think is all right
6 now. The problem is I got the document about ten
7 minutes before the fire drill, which was the answer to
8 a former question. So I will be cross examining
9 those areas once I've read the material I was just
10 handed by the Applicant.

11 CHAIRPERSON MITTEN: We agreed that they
12 were going to submit that this week for cross
13 examination later.

14 MS. KAHLOW: But I just wanted to alert
15 you that I just received it and I would like to cross
16 examine on those as well.

17 CHAIRPERSON MITTEN: Yes, but it just
18 won't be tonight so that you will have time to read
19 it.

20 MS. KAHLOW: I understand that.

21 CHAIRPERSON MITTEN: Oh, okay.

22 MS. KAHLOW: Thank you very much. I just
23 wanted to reserve my right.

24 CHAIRPERSON MITTEN: Oh, sure.
25 Absolutely. You don't need to reserve it. We will

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1 give it to you.

2 MS. KAHLOW: So let me make sure I
3 understand. We will first --

4 (Laughter.)

5 CHAIRPERSON MITTEN: We have given it to
6 her.

7 MS. KAHLOW: We will first give our direct
8 testimony in opposition, and then we cross examine?
9 I'm trying to understand the schedule so that I can
10 prepare what order we present these different
11 documents.

12 CHAIRPERSON MITTEN: Oh. Can we figure
13 that out at the end of the evening?

14 MS. KAHLOW: Okay. Because I do think
15 that once we put them into the record as exhibits,
16 then, of course, we will want to ask them about those.

17 CHAIRPERSON MITTEN: Thank you.

18 MS. KAHLOW: Thank you. Thank you.

19 CHAIRPERSON MITTEN: Okay. All right.
20 Can we have the DDOT representative?

21 Oh, one thing I forgot to mention and I
22 don't have one here to show everybody, and you go for
23 the folks who have testified already this evening, is
24 I need you to fill out the two witness cards again, if
25 you filled them out the last time, and then you need

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1 to give them to the court reporter as you come
2 forward. They're on the table by the door. Two of
3 them, please.

4 Welcome to the Zoning Commission. I need
5 you to turn on the mic and identify yourself for the
6 record, please.

7 MS. REED: Sharlene Reed.

8 CHAIRPERSON MITTEN: Push the button
9 again. There you go.

10 MS. REED: Okay. Sharlene Reed, Acting
11 Supervisor, Transportation Planner, DDOT.

12 VICE CHAIRPERSON HOOD: So does that mean
13 you left Ward 5?

14 MS. REED: Yes.

15 (Laughter.)

16 CHAIRPERSON MITTEN: I do'nt know if you
17 want to present the DDOT report at all. It is in the
18 record. It's a memo from Ken Laden.

19 MS. REED: Right.

20 CHAIRPERSON MITTEN: The reason that I
21 asked for a DDOT representative to be here is to
22 basically respond to questions, and there were, I
23 think, some open issues from the report. So are you
24 able to speak to the report?

25 MS. REED: I am going to attempt to answer

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1 as many questions as I possibly can. The review was
2 actually done by the ward planner. However, he has
3 another commitment tonight. I had an opportunity to
4 sit in on the TIS discussion. So I will attempt to
5 answer every question that I can.

6 CHAIRPERSON MITTEN: Okay, and then
7 perhaps we can get some written follow-up on things
8 that you're not able to address tonight.

9 MS. REED: Yes.

10 CHAIRPERSON MITTEN: So we'll start with
11 questions from the Commission first.

12 MS. REED: Sure.

13 CHAIRPERSON MITTEN: Okay. I'll start
14 since they're still looking through the papers.

15 Okay. Among the things that were
16 discussed at our initial hearing on this case, there's
17 a streetscape plan that's been submitted as part of
18 the campus plan, and have you had a chance to review
19 the streetscape plan?

20 MS. REED: No, I haven't. I had an
21 opportunity to talk to the ward planner this afternoon
22 who indicated to me that most of the streetscape plan
23 will be handled by the university, and maintenance
24 associated with any work to be done for the university
25 will be handled by the university as well.

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1 DDOT will participate in plantings, street
2 trees and some maintenance items associated with
3 street lights, typical infrastructure investments that
4 we would normally provide for, but new items initiated
5 by this process will be covered by George Washington
6 University.

7 CHAIRPERSON MITTEN: Okay. One of the
8 things that we asked them to delineate, and I don't
9 know if it's in the new materials that we received or
10 not, but we asked them to delineate which ones that
11 they would be proffering as that they would pay for
12 and which ones they would expect the city to pay for.

13 So maybe after that -- that is in the
14 materials. So we'll make sure that you get a copy of
15 othe new materials and then if you could review that
16 and see if DDOT's position agrees with what the
17 Applicant has proposed and then perhaps give us some
18 feedback to the extent there are items that the
19 District would be paying for, is there funding in
20 place to do that, and so on, just to --

21 MS. REED: Exactly. We'll respond
22 accordingly.

23 CHAIRPERSON MITTEN: Okay. That's great.

24 In the memo that we have there's an issue
25 that's raised. It's on the second page, has to do

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1 with the recommendation to restrict curb parking
2 spaces during peak travel hours.

3 MS. REED: Right.

4 CHAIRPERSON MITTEN: And you're asking for
5 more accurate information.

6 MS. REED: Exactly.

7 CHAIRPERSON MITTEN: Have you received
8 that yet?

9 MS. REED: There's an addendum that was
10 put forth. I haven't had an opportunity to either
11 review it, but initially one of the concerns that we
12 put forth was that if you took the parking from the
13 curb, then you reduced the revenue that the District
14 was receiving from those meters.

15 And what we wanted to identify is what the
16 lost revenue would be and how that would impact the
17 actual situation, whether the capacity would increase
18 as a result of that and whether traffic would flow
19 better.

20 The addendum might represent that. At
21 this time the Wells did, but I haven't had the
22 opportunity to read that.

23 CHAIRPERSON MITTEN: Okay.

24 MS. REED: We could identify 11 meters
25 though.

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1 CHAIRPERSON MITTEN: Okay. Further down
2 in this report you're talking about, you're addressing
3 their efforts to control parking by undergrads, and
4 then about halfway through that third full paragraph
5 it says, "DDOT believes a more stringent policy is
6 needed for first and second year students."

7 MS. REED: Right.

8 CHAIRPERSON MITTEN: "And providing that
9 measurement complement the Applicant's TMP and will
10 additionally maximize the use of off-street parking
11 that GW provides."

12 But you in general support of the campus
13 plan. So have you made any specific recommendations
14 to the university?

15 MS. REED: We recommended that the
16 university put additional information on the Web. As
17 they accepted the students, maybe make the students
18 aware of the fact that first and second year students
19 were not allowed to bring their vehicles on campus,
20 and use kiosks throughout the campus to let folk know
21 that we encourage transit use rather than bringing the
22 vehicles on campus as well.

23 CHAIRPERSON MITTEN: Okay. Well, just to
24 follow that through a little bit more, in the
25 Applicant's traffic report, which is -- let's see.

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1 It's in their August 25th submission, and it's Tab B.
2 They describe their existing transportation management
3 plan, and then they describe some proposed new
4 measures that they would include going forward, which
5 are pretty general in nature. There's not a lot of
6 specific.

7 For instance, it says for public
8 transportation, "Public transportation is continuously
9 encouraged at GW for students and employees. However,
10 it should also be encouraged for special events."

11 For truck management, it says the campus
12 "could provide a truck circulation route," and so on.
13 So these are things that they're sort of edging in a
14 direction, but one of the sentiments that's expressed
15 a couple of different times and that you just
16 articulated is that I think you want more -- you say
17 that "DDOT continues to strongly encourage the
18 Applicant to implement programs and policies to reduce
19 the number of vehicle trips to the greatest extent
20 possible," and you say that the TMP will enable the
21 Applicant to control the trips generated during a.m.
22 and p.m. peak hours.

23 But what I'm getting from this is that
24 you're not wholly satisfied with the situation as it
25 exists. That's the sort of undertone that I'm

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1 getting.

2 MS. REED: It is always encouraged to --
3 it's always the policy to encourage the use of transit
4 in an area where transit is rich like it is in this
5 particular corridor, and even though these were very
6 generalized statements, we believe that GW could move
7 forward with more specific type items rather than the
8 more general items that they provided.

9 They did indicate that they had tax free
10 transit subsidies that they provided. Those type of
11 opportunities are the ones that we encouraged. They
12 did indicate carpools and van pools. So we were happy
13 about that.

14 I think it's information, more sharing of
15 information and discouraging young folk bringing their
16 vehicles on campus and encouraging people to use the
17 great transportation services that are provided by the
18 District and WMATA at this point in time.

19 CHAIRPERSON MITTEN: Well, I think given
20 that DDOT has evaluated, you know, you evaluated the
21 traffic expert's report; you understand the conditions
22 on the ground and you're asking the university to
23 press for more. If you could ask them, "Will you do
24 this, this, this?" specific, ask them specific things
25 that we can say we're being advised by DDOT that these

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1 specific things would help control the situation
2 better, that would be more helpful than just these
3 sort of broad, aspirational statements.

4 MS. REED: What I would like to encourage
5 the applicant to do is to provide us with a list of
6 traffic control or traffic demand strategies that we
7 can evaluate. DDOT has recently brought on board a
8 traffic management specialist, and they could evaluate
9 much more effectively specific traffic demand
10 strategies provided to us rather than DDOT having to
11 come up with measures to evaluate.

12 You're absolutely right. These were very
13 generalized TMP recommendations that they gave. So
14 more specific recommendations we are going to do, A,
15 B, C, D, and E, and let us evaluate those --

16 CHAIRPERSON MITTEN: Okay.

17 MS. REED: -- more helpful within DDOT
18 coming up with these strategies.

19 CHAIRPERSON MITTEN: Okay. Is that
20 something the Applicant can provide?

21 Okay. That's great. Okay. Good. We'll
22 put your traffic demand coordinator person or whatever
23 it is that you just said to work.

24 Okay. Any other Commissioner have
25 questions?

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1 VICE CHAIRPERSON HOOD: Yes, I have a
2 couple of questions.

3 Ms. Reed, you have obviously had a chance
4 to review --

5 MS. REED: I have.

6 VICE CHAIRPERSON HOOD: -- Mr. Wells'
7 traffic report.

8 MS. REED: Yes, I have.

9 VICE CHAIRPERSON HOOD: The study. When
10 I asked Mr. Wells last week, I believe it was, the
11 level of service on an average was D, but after
12 reviewing it looks -- the a.m. and p.m. trips -- it
13 looks as though the average is A and B. Would you all
14 agree with that?

15 MS. REED: I think the overall level of
16 services, some approaches probably are going to be A
17 and B in your a.m. and p.m. peak, but overall the
18 approaches were C or D, and in one case there was a
19 level of service F.

20 Each approach is indicated to show you an
21 A or B position, but the overall level of service, I
22 think, on most intersections was C or D or F.

23 VICE CHAIRPERSON HOOD: C or D. Now, once
24 the build-out or the development to continue the
25 campus plan, it appears that in his report that

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1 traffic is going to improve. At least that's the way
2 I understand it from my being not an expert.

3 MS. REED: Right.

4 VICE CHAIRPERSON HOOD: Is that the way
5 you read it?

6 MS. REED: There are some recommendations
7 for signalization optimization which would cause
8 intersections to function a lot better. There is one
9 intersection that's being challenged in terms of level
10 of delay, and that's around the circle, but for the
11 most part, the improvements that they have indicated
12 for the signalization modernization, it will improve
13 most traffic flow throughout these intersections.

14 VICE CHAIRPERSON HOOD: So you're looking
15 at changing the timing.

16 MS. REED: Exactly.

17 CHAIRPERSON MITTEN: Can I just ask a
18 follow-up question?

19 VICE CHAIRPERSON HOOD: Sure.

20 CHAIRPERSON MITTEN: Is DDOT accepting
21 those recommendations? Are you going to implement
22 those recommendations?

23 MS. REED: Again, what we asked the TIS to
24 do was to give us more more specific information in
25 our review process to tell us what they believe the

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1 timing changes should include. It's like one of those
2 generalized statements that you indicated improve the
3 signal timing at this particular intersection. Well,
4 that's not enough. We need to look at specifically
5 how much time we should include at one particular
6 signal.

7 That, too, may be in the addendum as well.

8 CHAIRPERSON MITTEN: Okay, okay. It is.
9 That is. So take a look at that if you would.

10 MS. REED: Okay.

11 CHAIRPERSON MITTEN: And then it would be
12 helpful to us to know do you intend to accept those
13 recommendations. So will we see those improvements?

14 MS. REED: Yes.

15 CHAIRPERSON MITTEN: Okay. Sorry, Mr.
16 Hood. Go ahead.

17 VICE CHAIRPERSON HOOD: And you also
18 mentioned -- my concern is when we get to a point of
19 the build-out and DDOT is mentioning in this letter
20 that you agree to monitor traffic conditions and if
21 changes need to be made, then you will implement.
22 There's going to get to a point where you're not going
23 to be able to make changes, and we will have created
24 I'm not going to say a disaster because as far as my
25 limited knowledge and when I travel around the city,

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1 as far as I'm concerned, most of the level of service
2 is D.

3 MS. REED: Right.

4 VICE CHAIRPERSON HOOD: Period.

5 MS. REED: And that's in most urban
6 areas.

7 VICE CHAIRPERSON HOOD: You might have
8 traffic consultants come in and tell me level of
9 service is A and B. I don't know where they are. I
10 think about them every time I'm in traffic, but that's
11 just the way things work, and I understand that living
12 in the city.

13 But it's going to get to a point we're not
14 going to be able to improve. What are some of those
15 other things that you can tweak besides traffic
16 signalizations?

17 MS. REED: Ultimately when it gets to a
18 point where the level of service has deteriorated to
19 the point people stop driving. They take transit.
20 They no longer will bring their vehicles into the
21 city.

22 The same as parking.

23 VICE CHAIRPERSON HOOD: Excuse me?

24 MS. REED: You won't bring your vehicle
25 into the city to park because you know you can't find

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1 a parking space. You'd rather take Metro or transit,
2 and ultimately that's what we want to have happen. We
3 want people to take transit. It's just a better mode
4 to get in and out of the city.

5 VICE CHAIRPERSON HOOD: I know someone up
6 here to my right will definitely agree with you on
7 that, but that's good to hear because I've never heard
8 it explained to me like that, and I appreciate it. I
9 can tell you come from Ward 5.

10 MS. REED: This is true.

11 VICE CHAIRPERSON HOOD: I appreciate that.
12 I appreciate your honesty because it's good to hear
13 for a change.

14 That's all I have. We're going to miss
15 you in Ward 5. Thank you.

16 Thank you, Madam Chair.

17 CHAIRPERSON MITTEN: Anyone else? Any
18 questions? Commissioner Turnbull.

19 COMMISSIONER TURNBULL: Thank you, Madam
20 Chair. I just had one.

21 Going back to the transportation
22 management plan measures, the Applicant has talked
23 about pedestrian and bicycle programs, and I'm very
24 interested about bike lanes on the streets and how that
25 integrates with the rest of DDOT's program for

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1 integrating throughout the Foggy Bottom area in
2 general

3 MS. REED: I have had an opportunity to
4 look at the master plan, but Jim Sebastian, who is our
5 bicycle coordinator, has had an opportunity to look at
6 this particular study, and I'm not sure what his
7 comments were. I know that the travel lane and the
8 through lane takes up a lot of roadway. So you've got
9 to have a minimum of five feet in order to have a
10 bicycle lane in this area.

11 If that exists within the roadway, I'm
12 almost sure Jim is going to try to promote bicycle
13 use. If not, then it will be signed as a bicycle
14 route.

15 There are other items that they provide as
16 well. Bicycle lockers -- not lockers. That's not
17 what I'm thinking of. Where you store your bicycle.

18 PARTICIPANT: Racks.

19 MS. REED: Bicycle racks in order for you
20 to ride your bicycle to the campus and have a place to
21 actually store them.

22 So he's adamantly looking throughout the
23 city to make sure we encourage bicycle use.

24 Pedestrians are a major concern within
25 DDOT as well. We want to make it as safe and as

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1 efficient as possible for pedestrians to utilize the
2 sidewalks as well.

3 COMMISSIONER TURNBULL: Okay. Thank you.

4 CHAIRPERSON MITTEN: Anyone else?

5 Okay. Ms. Dwyer, any questions? A few
6 questions from the Applicant.

7 MS. DWYER: Hi. And thank you. I just
8 had a couple of questions.

9 Ms. Reed, Commissioner Hood was asking
10 about some of the improvements that might take place
11 over the life of the plan because traffic might
12 eventually improve with this plan, and is one of those
13 improvements the decentralization of parking on
14 campus? Is that helping?

15 MS. REED: That is -- I'm sorry -- that is
16 reported in the TIS that they intend to decentralize
17 the parking garage on the campus itself.

18 MS. DWYER: And do you feel that that will
19 help some of the area intersections by having that
20 decentralization?

21 MS. REED: Exactly. Yes, I do. I
22 apologize. I'm not used to talking into the mic.

23 MS. DWYER: That's quite all right.
24 That's quite all right.

25 In response to a question about the levels

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1 of service, do you think the levels of service in this
2 area are representative of the kinds of levels of
3 service you have in an urban location?

4 MS. REED: Yes.

5 MS. DWYER: Where you have commuter
6 thoroughfares?

7 MS. REED: I agree.

8 MS. DWYER: And do you agree with the
9 university's analysis that it represents less than ten
10 percent of the area traffic?

11 MS. REED: We, I agree.

12 MS. DWYER: And finally, do you feel that
13 the university's plans to put more students on campus
14 will help with traffic because it puts them at the
15 Metro station and on campus?

16 MS. REED: I believe that will be helpful
17 as well.

18 MS. DWYER: Great. And overall, your
19 department's position is that the campus plan will
20 likely have no objectionable impact in terms of
21 traffic or parking?

22 MS. REED: Based on the trip generation
23 rates that we looked at we believe that it will not
24 have any contrary effects to traffic at this
25 particular location.

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1 MS. DWYER: Great. Thank you. That's it.

2 CHAIRPERSON MITTEN: Would you hold your
3 seat, Ms. Reed? I just have one question because I
4 flipped through, and it relates to traffic. I just
5 flipped through the additional submission real quick.

6 One of the things that we had asked for
7 was either analyze the total number of the cap on
8 staff and faculty or reduce the cap that's been asked.

9 MS. DWYER: That analysis is in process.

10 CHAIRPERSON MITTEN: Oh, okay.

11 MS. DWYER: We're going to present that in
12 part of our rebuttal testimony.

13 CHAIRPERSON MITTEN: Okay. I just wanted
14 to alert Ms. Reed to expect that there will be an
15 additional submission related to parking for staff and
16 faculty that we'd like you to take a look at when it
17 is submitted.

18 MS. DWYER: And we will certainly follow
19 up with her between now and the 28th to make sure they
20 have all of the information they need to do a
21 supplemental report.

22 CHAIRPERSON MITTEN: Okay. Great.

23 MS. REED: No problem.

24 CHAIRPERSON MITTEN: Now, we have a couple
25 more people who might want to ask you some questions.

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1 MS. REED: Oh, okay.

2 CHAIRPERSON MITTEN: And we're going to
3 ask them to be nice because you're new here.

4 MS. REED: All right.

5 CHAIRPERSON MITTEN: Okay, Mr. Hitchcock?

6 (Laughter.)

7 CHAIRPERSON MITTEN: She didn't get to see
8 you in the first session. So she --

9 MS. REED: Thank you.

10 MR. HITCHCOCK: I'm always nice, Madam
11 Chair.

12 A preliminary point. Ms. Dwyer just
13 mentioned the faculty and staff head count coming in
14 in rebuttal. I mean, we would like to ask some
15 questions about that and saving it for rebuttal would
16 limit the opportunity to do so.

17 CHAIRPERSON MITTEN: You'll be able to ask
18 questions on rebuttal.

19 MR. HITCHCOCK: Even -- okay.

20 CHAIRPERSON MITTEN: Cross examination.

21 MR. HITCHCOCK: If we get then, okay.

22 Ms. Reed, first of all, I certainly
23 understand your situation of coming in at the last
24 moment. I have a couple of questions on the report if
25 you have a copy in front of you.

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1 MS. REED: I do.

2 MR. HITCHCOCK: On the first paragraph,
3 the third line says that DDOT agrees with most of the
4 conclusions and recommendations upon thorough review.
5 Could you describe for the record what the nature of
6 that thorough review was?

7 MS. REED: The TISes are presented to our
8 development specialist, Abduli Hebar (phonetic), and
9 his staff, and it is their responsibility to review
10 the particular information that's submitted, and you
11 look at the levels of service. They compare to the IT
12 trip generation models. They may use the highway
13 capacity software to determine if the level of service
14 that's presented is accurate, and then they make a
15 determination based on that if there are going to be
16 any negative impacts to the street system.

17 MR. HITCHCOCK: And do you know
18 approximately how long it took to do this analysis in
19 this case?

20 MS. REED: No, I don't know.

21 MR. HITCHCOCK: Okay. You mentioned
22 software analysis. Do you know did DDOT request the
23 Syncro model files for all the conditions and time
24 periods analyzed?

25 MS. REED: The Syncro files, the hard

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1 copies are located at the back of the TIS, and there's
2 an electronic version that we could review if needed.

3 MR. HITCHCOCK: Okay. Did you not request
4 that or was it not provided/

5 MS. REED: I can't answer that question
6 for Mr. Barr (phonetic).

7 MR. HITCHCOCK: Could we get an answer for
8 the record?

9 MS. REED: Yes.

10 MR. HITCHCOCK: All right, and could we
11 also get an answer to if it was not requested or
12 reviewed, why was it not so considered?

13 MS. REED: Yes, right..

14 MR. HITCHCOCK: Okay. You talked a moment
15 ago in colloquy, I think, with Commissioner Hood and
16 with the Chair about level of service ranking F,
17 correct?

18 MS. REED: Yes.

19 MR. HITCHCOCK: And as I understand it,
20 DDOT's response is to change the light timing?

21 MS. REED: DDOT's response is to accept
22 the recommendation from the contractor that
23 signalization should be changed as a result of it.

24 MR. HITCHCOCK: And that's the only
25 response to a level of service of F?

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1 MS. REED: No, that's a response to change
2 the signal timing. There are other conditions that
3 you can apply to change a level of service of F if it
4 warrants it.

5 MR. HITCHCOCK: Well, could you identify
6 what those policies are?

7 MS. REED: Well, it's all unique to each
8 particular intersection. So every intersection is
9 unique in itself. These particular intersections are
10 signalized intersections. We're landlocked. So you
11 can't add lane width to this. You're limited by that,
12 but you might be able to improve capacity through
13 changing the signal timing.

14 MR. HITCHCOCK: Okay. I guess could you
15 identify for the record two or three other strategies
16 aside from changing the light timing?

17 MS. REED: Well, in order to improve
18 capacity or reduce congestion? It depends on what
19 you're trying to do.

20 MR. HITCHCOCK: Well, could you give an
21 example of increasing capacity?

22 MS. REED: Again, signal timing
23 essentially. We're landlocked in the District. So we
24 don't have many opportunities to increase lane width.
25 We can reduce parking, which is one of the suggestions

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1 that they made in the report itself.

2 MR. HITCHCOCK: No, I'm just asking -- I'm
3 sorry -- I'm just asking generally.

4 MS. REED: Well, no, no, no. And I'm
5 going through trying to explain to you some of the
6 options that you might have, and I'm thinking. So I'm
7 just trying to think through seven --

8 MR. HITCHCOCK: All right. So I heard of
9 light -- we've talked about changing the light timing.
10 We've talked about somehow reducing parking.

11 MS. REED: Right.

12 MR. HITCHCOCK: Is there anything else?

13 MS. REED: Exactly.

14 MR. HITCHCOCK: Can you give me an example
15 of where parking was reduced at an intersection with
16 a level of service F?

17 MS. REED: I can tell you of locations
18 where we restrict parking in order to improve the
19 level of service. Most major arterials, Rhode Island
20 Avenue, North Capitol Street restrict rush hour
21 parking so that we can improve capacity through those
22 intersections.

23 MR. HITCHCOCK: Okay. So it's just
24 reducing the rush hour parking.

25 MS. REED: That's one strategy that's

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1 utilized.

2 MR. HITCHCOCK: If it's level of service
3 F. Okay.

4 In preparing the analysis in the report
5 here, did DDOT consider the impact that this plan
6 might have around Washington Circle on emergency
7 evacuation plans?

8 MS. REED: I can't ansewr that.

9 MR. HITCHCOCK: Could that be provided for
10 the record?

11 MS. REED: Yes.

12 MR. HITCHCOCK: In reviewing these
13 materials, did DDOT consider the impact of traffic
14 under this plan on the ability of ambulances or
15 emergency vehicles to reach GW Hospital?

16 MS. REED: I want to say yes, but I would
17 have to come back with a more definitive answer.

18 MR. HITCHCOCK: Okay. That would be very
19 helpful if that could be provided.

20 Turning to your report, I wsa wondering if
21 you could take a look at the second paragraph on the
22 first page.

23 MS. REED: Go ahead.

24 MR. HITCHCOCK: Don't let me rush you if
25 you need to take a look.

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1 MS. REED: Go ahead.

2 MR. HITCHCOCK: The first sentence in the
3 first paragraph describes that the department believes
4 a.m. and p.m. trips generated by the university as
5 described in teh traffic analysis accurately reflects
6 current traffic counts.

7 And my question is: what data did you use
8 to compare the a.m. and p.m. trips generated?

9 MS. REED: The data provided through the
10 TIS, traffic impact study, provided by Wells &
11 Associates.

12 MR. HITCHCOCK: So that was the only thing
13 that you looked at?

14 MS. REED: Exactly.

15 MR. HITCHCOCK: Okay. Are these total
16 trips -- are these trips total trips generated or only
17 trips to one or more garages?

18 MS. REED: These are total trips curing
19 the a.m. and p.m. peak.

20 MR. HITCHCOCK: Total trips generated.

21 MS. REED: Right.

22 MR. HITCHCOCK: Okay. A question on the
23 same paragraph. There's the mention of the traffic
24 management, transportation management plan. When you
25 say, "DDOT believes that the TMP will enable the

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1 Applicant to control trips generated during the a.m.
2 and p.m. hours," how is DDOT able to enforce the TMP?"

3 MS. REED: If a memorandum of
4 understanding or agreement is established with the
5 university, what we will do is come back and do a
6 review to make sure that they adhere to whatever we've
7 negotiated with at that time.

8 MR. HITCHCOCK: But I -- I'm sorry. Go
9 ahead. I didn't mean to interrupt.

10 MS. REED: No, and typically as a result
11 of community complaints that they're not being adhered
12 to.

13 MR. HITCHCOCK: Okay. So there's a
14 community complaint.

15 MS. REED: Right.

16 MR. HITCHCOCK: That's the first step.
17 There's no independent assessment or investigation by
18 DDOT?

19 MS. REED: If during traffic operations
20 review they indicate that the intersection has
21 started to fail significantly or we're getting
22 complaints about congestion or gridlock, that would
23 initiate review from our traffic operation sections to
24 take a look at how that particular intersection is
25 working.

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1 MR. HITCHCOCK: Okay. If there's an MOU
2 with GW, what might happen?

3 MS. REED: if GW hasn't complied to the
4 zoning order, then we're going to call them back and
5 meet with them and ask them what their intentions are
6 to fulfill the agreement.

7 MR. HITCHCOCK: Okay. What if there's
8 nota MO -- well, you mentioned two things. You
9 mentioned MOU and you mentioned a campus plan order.

10 MS. REED: The zoning order.

11 MR. HITCHCOCK: A zoning order. Okay.

12 MS. REED: Because typically that's how
13 the MOU is held in abeyance, by the zoning order
14 itself.

15 MR. HITCHCOCK: Okay. So I'm not sure I
16 understand. So let's assume that the Commission were
17 to enter a zoning order in this case. What would DDOT
18 do in response to that in connection with what it
19 would otherwise do in connection with this memorandum
20 of understanding?

21 You would have --

22 MS. REED: To be quite honest, we would
23 assume that GW is going to be honorable in pursuing
24 the recommendations that they put forth. Therefore,
25 we're going to put this ins a file, and until it

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1 becomes an issue within DDOT, i.e., congestion,
2 gridlock, community complaints or the actual
3 intersection failing itself, it remains in a file.

4 MR. HITCHCOCK: Well, let me see if I
5 understand, and perhaps what confused me is the first
6 thing you mentioned was an MOU.

7 MS. REED: Right.

8 MR. HITCHCOCK: Do I understand you to be
9 saying that if there is a zoning order, then there
10 would not be an MOU?

11 MS. REED: I think there's -- and correct
12 me if I'm incorrect -- but I believe the zoning order
13 holds GW responsible to a hearing for what they've
14 negotiated within this particular document.

15 MR. HITCHCOCK: Okay.

16 MS. REED: So we don't necessarily have to
17 have an MOU. I'm assuming that the zoning order would
18 make the MOU the document.

19 MR. HITCHCOCK: And just so we're clear,
20 could you give an example of the situation where there
21 might be an MOU otherwise?

22 MS. REED: Well, actually today we met
23 with the Washington Hospital Center, MedStar, because
24 they went through the same type of process for campus
25 review, and what we wanted them to do was to tell us

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1 when they intended to fulfill the agreements of the
2 zoning order.

3 MR. HITCHCOCK: Okay. I guess my question
4 is can you give an example outside of the context of
5 a zoning order where a zoning order is underlying the
6 development?

7 MS. REED: I guess I need a little more
8 information from you for what you're trying to get me
9 to describe.

10 MR. HITCHCOCK: The first thing you
11 mentioned was an MOU, and I'm trying to understand --

12 MS. REED: Typically we set up MOUs to say
13 that you're going -- and it's not always -- but if the
14 campus said that they were going to do A, B, C, and D
15 and E and it's not a zoning order that we could hold
16 them accountable for, we'll set up an MOU, a
17 memorandum of understanding that you propose to do
18 these particular items.

19 MR. HITCHCOCK: Okay. Let me ask a
20 question. In the next paragraph there's discussion of
21 dispersing parking to a number of new structures. Did
22 DDOT examine the impact of these new parking garages
23 and structures, the possible impact on the
24 neighborhood?

25 MS. REED: I believe Mr. Barr looked at

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1 the placement of the parking to see what its impacts
2 would be to circulation.

3 MR. HITCHCOCK: How about the impact on
4 residents who live in the neighborhood?

5 MS. REED: What type of impact are we
6 talking about?

7 MR. HITCHCOCK: The impact that garages
8 have in a residential zone.

9 MS. REED: I.e., bringing in additional
10 traffic?

11 MR. HITCHCOCK: Cars, traffic, the
12 conditional density. Was that considered? I didn't
13 see it in the report here and I was wondering if that
14 was considered.

15 MS. REED: Right. I'm sure Mr. Barr
16 looked at it, but if you need more information on that
17 particular question, we could bring you a more
18 definitive answer.

19 MR. HITCHCOCK: If that could be provided,
20 that would be helpful.

21 CHAIRPERSON MITTEN: We'll provided you --
22 Ms. Reed, up here -- we'll provide you a copy of the
23 transcript so that you'll know what all you're
24 committed to in follow-up.

25 MS. REED: Okay. Hint, hint. Thank you.

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1 MR. HITCHCOCK: Sure. I have a question
2 on the bottom of the first page and the carryover
3 where you talk about GW recognizing the ability to
4 provide over 1,100 additional off-street spaces to
5 meet campus parking needs.

6 Do you have that?

7 MS. REED: I amn looking at it.

8 MR. HITCHCOCK: Okay, and on the carryover
9 it then says, "DDOT feels these spaces should be kept
10 available especially during on-site construction."

11 How would that be accomplished?

12 MS. REED: I can't ansewr that question.
13 That would be something that's provided by GW in terms
14 of its construction management plan.

15 MR. HITCHCOCK: Okay. Could we get that
16 for the record either from DDOT or the Applicant?

17 MS. REED: Right. I don't think DDOT is
18 going to be able to ansewr that question. It's
19 something that GW has to provide to say how they
20 intend to keep these parking spaces available during
21 their construction schedule.

22 CHAIRPERSON MITTEN: Is that a follow-up
23 question or can you guys give us some follow-up on
24 that?

25 Okay. The Applicant is noddng her head.

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1 MR. HITCHCOCK: Excuse me?

2 CHAIRPERSON MITTEN: The Applicant's
3 representative is nodding her head yes.

4 MR. HITCHCOCK: Okay. Very good. Is that
5 something DDOT feels should be a condition for
6 approval?

7 MS. REED: DDOT did indicate they believe
8 that that was an important item, yes.

9 MR. HITCHCOCK: Okay. I'll take that as
10 a yes.

11 And if that were a condition, would DDOT
12 seek to enforce that condition?

13 MS. REED: I hesitate to say yes because
14 I wonder the enforcement opportunities we would have
15 to monitor the parking spaces. As an addendum, we
16 could ask that a report be provided to DDOT as
17 construction moves forward to stipulate that these
18 spaces are available. I don't know if we have an
19 enforcement arm that could go out and make sure
20 parking is available during construction. So I do
21 hesitate to say yes to that answer.

22 CHAIRPERSON MITTEN: Just so that I'm
23 clear, you're saying that rather than hve you do the
24 leg work, have DDOT do the leg work --

25 MS. REED: Right.

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1 CHAIRPERSON MITTEN: -- you would seek to
2 have something to evaluate that would be provided by
3 the university --

4 MS. REED: Exactly.

5 CHAIRPERSON MITTEN: -- by way of a
6 report.

7 MS. REED: Right. I agree, yes. That's
8 what I'm saying.

9 CHAIRPERSON MITTEN: But you would assist
10 in the enforcement of a condition like that.

11 MS. REED: Exactly.

12 CHAIRPERSON MITTEN: Is that helpful?

13 MR. HITCHCOCK: Yes. Thank you, Madam
14 Chair.

15 Turning to page 2, further down, there was
16 some discussion before in the third full paragraph
17 about information on first and second year
18 undergraduate students and bringing cars to campus.
19 Does DDOT have a specific policy recommendation on
20 what should be done to address that?

21 MS. REED: DDOT wanted to discourage the
22 first and second year students from bringing cars to
23 the campus. We want to encourage the use of transit.

24 MR. HITCHCOCK: Okay, but that's currently
25 the practice, is it not?

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1 MS. REED: That is the practice of George
2 Washington? Is that the question that you're asking
3 me?

4 MR. HITCHCOCK: Yes.

5 MS. REED: I believe it is.

6 MR. HITCHCOCK: Okay.

7 MS. REED: That's what they indicated.

8 MR. HITCHCOCK: Okay. Let me ask this.
9 Still on the same paragraph -- I'm sorry. Jumping to
10 the next paragraph, there's an acknowledgement there
11 of the concerns of Foggy Bottom residents that GW's
12 plan may cause additional congestion and DDOT says it
13 will monitor conditions to see how things work out and
14 if additional improvements are needed.

15 What exactly is the type of monitoring
16 that DDOT contemplates?

17 MS. REED: Well, as I stipulated earlier,
18 we'll look at the signal operation. We'll look at
19 congestion. We'll look at gridlock. We'll monitor
20 community complaints to determine if they're in
21 compliance.

22 MR. HITCHCOCK: So it's a complaint driven
23 system.

24 MS. REED: Yes, it is.

25 MR. HITCHCOCK: DDOT will not undertake

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1 any study or initiative on its own. It has to be
2 citizen complaints?

3 MS. REED: We've got to have a problem
4 recognized in order for us to go out there and take a
5 look at that.

6 MR. HITCHCOCK: Okay.

7 (Laughter.)

8 MR. HITCHCOCK: And did you not recognize
9 that by saying that it may cause additional
10 congestion?

11 MS. REED: Did we not recognize?

12 MR. HITCHCOCK: Yes, the second --

13 MS. REED: That there might be a problem?

14 MR. HITCHCOCK: That may cause additional
15 congestion.

16 MS. REED: Any additional development
17 might cause congestion again. We need to hear from
18 the community essentially that there is a problem. We
19 need to see that there's congestional gridlock. We
20 need to see that the intersection is failing in order
21 for us to say that we really need to go out and take
22 a look at it.

23 I think periodically DDOT does go out and
24 evaluate intersections, but to say specifically that
25 they're going to go out in relationship to this campus

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1 plan, it probably would be something that the
2 community would have to initiate.

3 MR. HITCHCOCK: Okay. On the last
4 paragraph, see if I'm reading this correctly. It
5 appears that you're identifying a lot of things that
6 need to be done by GW, correct?

7 The second sentence says, "GW has to
8 continue its efforts to house undergraduates on
9 campus. It has to continue its current campaign to
10 reduce vehicle trips. It should provide transit
11 subsidies, and it should provide quarterly reports to
12 DDOT and ANC on transit use and traffic vehicle uses."

13 On the last point first, is there a
14 particular template or form of report that you had in
15 mind?

16 MS. REED: Jeff, the Ward 2 planner, spoke
17 with the ANC. They may have an idea what they'd like
18 to see in terms of data. I don't know if there's a
19 template specifically that talks about it, but I'm
20 sure that they could develop one.

21 MR. HITCHCOCK: "They" being DDOT?

22 MS. REED: "They" being DDOT as well as
23 GW.

24 MR. HITCHCOCK: Okay, and are you
25 recommending that that be done?

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1 MS. REED: Yes, there is a recommendation
2 within the report itself that a report be done.

3 MR. HITCHCOCK: Okay, and how soon -- but
4 DDOT has not yet done anything like that on its own.

5 MS. REED: Not for this particular area,
6 no.

7 MR. HITCHCOCK: Okay. Is that somethign
8 that DDOT has a plan to do in the near future?

9 MS. REED: Yes.

10 MR. HITCHCOCK: Do you have an idea when -
11 -

12 MS. REED: No, I don't.

13 MR. HITCHCOCK: -- the document would be
14 out?

15 MS. REED: No.

16 MR. HITCHCOCK: Okay. What is that -- I
17 take it this is what would be used as part of your
18 monitoring efforts?

19 MS. REED: Correct.

20 MR. HITCHCOCK: Okay. Let me ask you this
21 question. Were you aware that GW is currently in the
22 middle of a campus plan lasting from 2000 to 2009,
23 correct?

24 MS. REED: Yes.

25 MR. HITCHCOCK: Given all the things that

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1 need to be done that you've just identified, wouldn't
2 it make sense to let the campus plan run its course
3 and see if these matters are addressed under the
4 current campus plan?

5 MS. REED: I don't think I can answer that
6 question. I don't quite understand the nature of the
7 question. You're saying -- you're asking me would it
8 be feasible to allow the campus plan to continue as it
9 is?

10 MR. HITCHCOCK: No. I mean, you have
11 outlined four things that need to be done.

12 MS. REED: Right. What we did wsa concur
13 with the traffic impact study in terms of the TMP,
14 those recommendations that were provided. DDOT
15 concurs with that.

16 MR. HITCHCOCK: Right, but di dyou ask I
17 guess the predicate question or the preliminary
18 question, is it necessary to have such a plan at all
19 when there's a current one in effect, a new plan when
20 there's a current one in effect that is supposed to
21 deal with these issues?

22 MS. REED: I'm not sure if these are brand
23 new recommendations or if these are issues that where
24 -- these are recomendations that were taken from the
25 prior plan. I haven't had an opportunity to review

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1 the prior plan.

2 So if these are brand new issues, then
3 they were put forth by the traffic impact study itself
4 and DDOT concurs with those recommendations. If these
5 recommendations came out of a prior report, then I
6 would agree with you that they should move forward and
7 continue with what they started.

8 MR. HITCHCOCK: Until the end of the
9 campus plan, the current campus plan.

10 MS. REED: if these recommendations are in
11 the prior report.

12 MR. HITCHCOCK: Okay. I have nothing
13 further. Thank you, Madam Chair.

14 CHAIRPERSON MITTEN: Thank you, Mr.
15 Hitchcock.

16 We have one more person.

17 MS. REED: Okay.

18 MR. HITCHCOCK: And thank you for coming
19 in on short notice.

20 MS. REED: Thank you.

21 CHAIRPERSON MITTEN: And it is Ms. Kahlow
22 to your left.

23 MS. KAHLOW: Hello.

24 MS. REED: Thank you.

25 MS. KAHLOW: Hi, Ms. Reed. I don't have

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1 the benefit of your report. I've asked the Office of
2 Zoning for a copy, but they did not provide one. So
3 I'm going to only ask you about that which was in GW's
4 plan that you have reviewed.

5 GW proposed to remove existing parking
6 places. Do you know how many?

7 MS. REED: Not without looking at the
8 report. I couldn't answer that off the top of my
9 head.

10 MS. KAHLOW: Has DDOT analyzed their
11 particular recommendations on bump-out and mid-block
12 crossings and things like that? Each of those involve
13 reductions of parking places, and I wonder if you've
14 analyzed that.

15 MS. REED: I looked at the plan as it
16 relates to mid-block crossings. I don't remember
17 seeing any bump-outs or bob-outs reported in this TIS
18 itself. So if there are, then it would have to be
19 pointed out to me. I don't remember seeing any
20 recommendations for a bob-out or a bump-out.

21 MS. KAHLOW: It's in the streetscape plan
22 that you apparently haven't particularly reviewed, and
23 I think we would like to know the number of parking
24 spaces you estimate, DDOT estimates that will be
25 removed for each of these various things that they are

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1 proposing.

2 CHAIRPERSON MITTEN: That would be in the
3 streetscape plan.

4 MS. REED: In the streetscape document,
5 right.

6 CHAIRPERSON MITTEN: Specifically. Is
7 that something that you could provide us?

8 MS. REED: Right. Actually it should have
9 probably come forward from the review as well, the TIS
10 review on the streetscape. They should indicate to
11 DDOT how many proposed parking spaces would be
12 removed.

13 CHAIRPERSON MITTEN: Okay. Is that in the
14 street -- okay. I think it just takes maybe a more --
15 now that you know the kinds of issues that are
16 sensitive issues when you go back and review or
17 whoever goes back and reviews, that they can focus on
18 the things that are the most sensitive.

19 MS. REED: And I appreciate the
20 opportunity to know that so that we can specifically
21 look at that.

22 MS. KAHLOW: Ms. Reed, parking is a big
23 deal to neighbors, and what we want to know beside the
24 number to be removed is the number that are currently
25 there, the number that are Ward 2 spaces and the

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1 number that are metered spaces.

2 MS. REED: Okay, and again, just to ask
3 the consultants, have you all did a count?

4 Those are the type of questions when the
5 consultant comes in that we ask be provided within the
6 report itself.

7 CHAIRPERSON MITTEN: So you look to the
8 Appliant to provide --

9 MS. REED: Exactly, ebecause of the
10 manpower challenges within DDOT.

11 CHAIRPERSON MITTEN: Okay.

12 MS. KAHLOW: Well, they did tell the
13 number to remove, but not the base, and what we'd like
14 to know is what that percentage is.

15 MS. REED: Okay.

16 MS. KAHLOW: If you could provide that.

17 MS. REED: We will review the odcument to
18 provide that information.

19 MS. KAHLOW: In addition, what would be
20 helpful for us to understand what's going on under the
21 current campus plan, what are the enforcement numbers
22 that DDOT has done in this Foggy Bottom campus plan
23 area? How many tickets have you issued, et cetera,
24 and over each year?

25 MS. REED: Tickets are issued by DPW, and

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1 MPD and not DDOT. It's an issue that would have to be
2 responded by those agencies accordingly.

3 CHAIRPERSON MITTEN: Which you can query
4 on your own if that's of interest to you.

5 MS. KAHLOW: Well, we hope that the
6 District would have each of the officials here for
7 something because clearly that is an objectionable
8 condition. That's why we talked about student
9 parking, and will we have an opportunity to ask those
10 officials on the record?

11 CHAIRPERSON MITTEN: We will not be
12 inviting the head of DPW or MPD to the hearing.

13 MS. KAHLOW: So will they be making
14 submissions? Because for something that is a major,
15 many squares, these zoning regulations require, as I
16 understand them, the Zoning Commission to ask each of
17 the affected District agencies to make a review, and
18 those are important for us to understand the
19 streetscape plan since they're removing parking.

20 Is it enforced? How is it enforced? How
21 many places are there? How many places are being
22 removed, et cetera?

23 Is that possible for the Commission to ask
24 for some simple information on that?

25 CHAIRPERSON MITTEN: We could ask. I

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1 do'nt know if -- I don't know that I am particularly
2 interested in asking for it. If it's available
3 information, you certainly can ask the agencies
4 yourself if you find it of importance, and perhaps you
5 could FOIA the information if it's not readily
6 available. I don't know.

7 But I do'nt know. Do my colleagues? Are
8 you interested in enforcement information? Should we
9 specifically query the MPD?

10 I'm not getting a sense that we're going
11 to be asking. I know that OP typically makes
12 referrals to MPD. I don't know about DPW, but
13 referrals have been made, and we can't force a
14 response, as we've learned over time, and DDOT is
15 always good to come when we invite them.

16 MS. KAHLOW: Right.

17 CHAIRPERSON MITTEN: So you're certainly
18 welcome to get that information and put it in the
19 record if you can obtain it.

20 MS. KAHLOW: I appreciate you say we could
21 do a FOIA. It won't be ready in time for your record,
22 but if you would leave the record open, we would be
23 delighted to do FOIAs.

24 CHAIRPERSON MITTEN: Well, I think when
25 you get to the point where you're presenting your case

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1 if you would want to proffer that that's a reason to
2 leave the record open for the amount of time it would
3 take to get the information, it may be more readily
4 available than we think. I just don't know. We can
5 deal with it then.

6 MS. REED: If I can offer some assistance,
7 I believe it might be. It's just a matter of
8 identifying the area. DPW can provide you that
9 information.

10 CHAIRPERSON MITTEN: Okay. So Ms. Kahlow
11 might have --

12 MS. KAHLOW: That would be great. The DPW
13 are by their various precincts, are interested in this
14 campus plan area since the plan has to do with the
15 campus plan area and that's a subset.

16 MS. REED: Just to help you, I believe DPW
17 can provide that information readily.

18 MS. KAHLOW: Thank you. That's all I
19 have.

20 I'd be happy to get a copy. After I
21 checked the docket it wasn't there. So it must have
22 been in -- since last Monday it must have been added.

23 CHAIRPERSON MITTEN: The DDOT report?

24 MS. KAHLOW: Yes. It wasn't in the record
25 when I checked it.

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1 PARTICIPANT: It has been in the record
2 since the 14th, the morning of the 14th.

3 CHAIRPERSON MITTEN: It's Exhibit No. 79.

4 MS. KAHLOW: Well, of course, I lookd at
5 the 14th, and it must have been after I looked at the
6 14th.

7 Thank you.

8 CHAIRPERSON MITTEN: Thank you.

9 VICE CHAIRPERSON HOOD: Madam Chair, I had
10 a quick question for Ms. Reed.

11 CHAIRPERSON MITTEN: Sure.

12 VICE CHAIRPERSON HOOD: Ms. Reed, Mr.
13 Hitchcock asked you about the second paragraph, Line
14 1.

15 MS. REED: Second paragraph.

16 VICE CHAIRPERSON HOOD: And he asked you
17 about the information and the data that you received
18 from the Applicant's transportation specialist.

19 MS. REED: Yes.

20 VICE CHAIRPERSON HOOD: And you said
21 that's what you operated on. Is there any way that
22 DDOT has anything to check, any checks and balances in
23 place to make sure that that is accurate?

24 MS. REED: Oh, yes, definitely. The --

25 VICE CHAIRPERSON HOOD: So you check it

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1 against somethign.

2 MS. REED: We do.

3 VICE CHAIRPERSON HOOD: I'm not saying
4 we're not taking Mr. Wells' word for it.

5 MS. REED: No, right. We do, and the
6 assumptino is that the data that's provided to the
7 consultant most time comes from DDOT. However, they
8 do go out and take their own traffic counts.

9 VICE CHAIRPERSON HOOD: Okay.

10 MS. REED: But, yes, we've got volume
11 maps, the amounts, that we look at the data that's
12 provided. So, no, we're not taking it solely on that
13 information, the information that's provided.

14 VICE CHAIRPERSON HOOD: All right. Thank
15 you.

16 CHAIRPERSON MITTEN: Okay. Before you go,
17 I just want to remind you to fill out the two witness
18 cards --

19 MS. REED: I will.

20 CHAIRPERSON MITTEN: -- and give them to
21 the court reporter, and everybody else, too.

22 Okay. Thank you very much for coming
23 down.

24 COMMISSIONER TURNBULL: Could I ask one
25 question?

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1 CHAIRPERSON MITTEN: Sure. Commissioner
2 Turnbull has one for you, too.

3 COMMISSIONER TURNBULL: Ms. Reed.

4 MS. REED: Okay.

5 COMMISSIONER TURNBULL: I just had one
6 question. When you were talking earlier and we had
7 conversations about MOU or an MOA with an Applicant,
8 when we look at their traffic management plan, it
9 really is a theoretical plan. I mean, it's based on
10 established modeling techniques by Mr. Wells,
11 transportation specialist, but it's conjectural. I
12 mean, it's based upon best knowledge scenarios of
13 evidence of growth and what they're looking -- it's
14 patterns of what could be expected.

15 MS. REED: Exactly.

16 COMMISSIONER TURNBULL: But, again, it's
17 theoretical. So in a way, when you set up these
18 things, this MOA or MOU, it's sort of a prenuptial
19 agreement as to whether the Application -- as to what
20 may happen. I mean, if you get failure at an
21 intersection, I'm assuming that you don't
22 automatically assume that it's because the Applicant
23 has failed.

24 MS. REED: Correct.

25 COMMISSIONER TURNBULL: There could be

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1 other reasons why the intersection has failed. It
2 could be traffic further away.

3 MS. REED: This is true.

4 COMMISSIONER TURNBULL: So your analysis
5 looks at the bigger picture than rather just --

6 MS. REED: Specifically at the Applicant
7 itself, correct.

8 COMMISSIONER TURNBULL: Right. I mean,
9 whether it's pedestrian or traffic.

10 MS. REED: Right.

11 COMMISSIONER TURNBULL: There could be
12 other factors. There could be motorcade issues.
13 Maybe the President is taking a different route or
14 whatever.

15 MS. REED: This is true.

16 COMMISSIONER TURNBULL: There could be a
17 lot of different things that --

18 MS. REED: There will be. There is a
19 total evaluation made of the intersection to mitigate
20 whatever the issues are initially. It's not looked at
21 the development specifically. It's going to look at
22 the total operation, signals, lane use, pedestrians.
23 Those type of things that you indicated are going to
24 be examined initially.

25 Control of failure, equipment failure. It

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1 could be one of many things that the traffic engineers
2 look at to determine why that intersection is not
3 functioning the way it should be.

4 COMMISSIONER TURNBULL: Okay. I guess I
5 was just a little bit concerned that some of the
6 question was sort of assuming that if something fails,
7 it's because the agreement or the management plan has
8 failed. I felt a little heavy there that there were
9 issues that the MOA is the cure-all for the
10 intersection and that's going to --

11 MS. REED: No.

12 COMMISSIONER TURNBULL: -- solve
13 everything from here on out for the futue.

14 MS. REED: No. The first response is
15 DDOT's. DDOT is initially going to go out and, again,
16 look at those instances that I talked about. We'll
17 look at the traffic signal to make sure it's not
18 malfunctioning. We'll look at parking. We'll look at
19 pedestrians. We'll look at how the traffic has
20 changed, the background traffic. Those are the things
21 that DDOT is going to look at initially.

22 We're going to look at the Applicant when
23 those items that they indicated that they were going
24 to do have not been provided.

25 COMMISSIONER TURNBULL: Okay. Tahnk you.

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1 CHAIRPERSON MITTEN: Anyone else?

2 Okay. Thank you very much.

3 MS. REED: All right.

4 CHAIRPERSON MITTEN: Now we're ready to
5 hear from the Office of Planning. Mr. Parker.

6 MR. PARKER: Good evening, Madam Chair,
7 members of the Commission. My name is Travis Parker
8 with the Office of Planning.

9 Last week we got a fairly complete
10 understanding of the different aspects of the plan
11 from the Applicant's presentation. Today I'd like to
12 talk for a few minutes about why we're here, about
13 OP's role in the plan, and about why we support the
14 plan.

15 The existing GW campus plan has an overall
16 density cap and some general guidance about where
17 certain uses can be located. What it doesn't have is
18 specificity. Not only the clarity that we hit on last
19 week in terms of student counts, faculty counts, and
20 other conditions, but even the simple clarity of what
21 will be built, where it will be built, and how big it
22 can be.

23 Based on the history of neighborhood
24 issues and the desire of GW to build a revenue
25 generating use in Square 54, OP felt that the

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1 university had an obligation to the city and the
2 community to provide a comprehensive plan for its
3 future development and growth.

4 OP could not envision a better time for
5 this planning process than now while we have, first,
6 the need to look at a campus prior to examining Square
7 54 and, second, the perfect opportunity to request
8 significant commitments that have never been
9 achievable before.

10 To begin this process, GW was asked to
11 identify its physical growth needs over the
12 foreseeable future. It should be noted that at no
13 time from the beginning of this process did OP
14 consider, nor did GW request any change in its
15 existing enrollment cap. The growth being considered
16 is solely for improvement and modernization of the
17 campus to serve its existing student body size.

18 After identifying its growth needs, GW was
19 asked to locate specific sites on campus for this
20 development. It was at this stage that OP and the
21 university went through a multi-month public process
22 to review and vet the development plan. The result
23 before you tonight reflects the constraints and
24 realities of this campus in the heart of the historic
25 residential neighborhood.

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1 This plan allows for the accommodation of
2 one and a half million new square feet of development
3 on campus, including modern new facilities, increased
4 dorm space and larger classrooms. Most importantly,
5 this development is located in such a way, mainly in
6 the heart of campus, as to have the least possible
7 impact on surrounding residential and historic
8 structures.

9 As you know, and as I'll address more
10 fully in a minute, the development is to be
11 accomplished through a PUD. The extra density being
12 considered does not come without significant
13 amenities, including a commitment to abide by the
14 development plan and forego development elsewhere on
15 campus, a commitment to the designation of a new
16 historic district covering a large portion of campus,
17 and all of the requirements that a historic district
18 entails, phased removal of undergraduates from all off
19 campus buildings, university buildings, a
20 comprehensive streetscape plan for posing major
21 university supplied public space improvements, no
22 change to the existing campus plan boundaries, no
23 change in the enrollment cap for the life of the plan,
24 including a new yearly audit of the enrollment numbers,
25 and the continuation of other existing conditions as

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1 applicable.

2 OP considers the PUD process to be the
3 best mechanism to accomplish the goals of the plan.
4 While the PUD process offers several advantages, where
5 Section 10 alone allows aggregation of density with
6 little control over location, the added PUD can offer
7 the additional density needed while controlling the
8 location of all new density.

9 The PUD can also be combined with a map
10 amendment to allow development to be further
11 consolidated in the center of campus to a heightened
12 bulk higher than would otherwise be allowed while
13 still offering design review and impact assessment of
14 every building.

15 The plan has been submitted as a first
16 stage PUD, and it is envisioned that any future
17 development projects will be submitted as second stage
18 PUDs subject to both the PUD review process and the
19 further processing special exception conditions.

20 AT this stage the plan only identifies
21 location and general massing guidelines for these
22 projects. This means that through the second stage
23 PUD the community and the Zoning Commission will still
24 have design and impact review for each new building.

25 Furthermore, each new building at the

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1 secone stage will still be subject to the adverse
2 impact standards of the further processing
3 application. It's anticipated that rather than
4 vesting the entire PUD with the first second stage
5 application as has been done before, the first stage
6 would only vest upon the completion of 70 percent of
7 the projected gross square foot of the development of
8 the plan. In the absence of 70 percent completion,
9 the PUD would expire at the end of the life of the
10 plan.

11 Perhaps the most important aspect of the
12 PUD process in this application is the certainty it
13 provides. The university knows exactly where it can
14 submit building applications for future buildings and
15 have a reasonable expectation of what size the
16 buildings can be.

17 Teh community has the certainty of
18 understanding where buildings will not be located.
19 Simply put, under this plan the university cannot have
20 any plan approved for a new building that is not shown
21 on the application before you.

22 I want to thank yoyu for your time in
23 addition to myself and Director McCarthy who are here
24 to answer general questions. We have David Maloney
25 from the Historic Preservation side of our office who

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1 can answer questions about the historic district or
2 the historic planning process.

3 CHAIRPERSON MITTEN: Thank you, Mr Parker.

4 Questions from the Commission for Mr.
5 Parker or the other representatives from the Office of
6 Planning? Any questions? Mr. Turnbull.

7 COMMISSIONER TURNBULL: Mr. Parker, the
8 last time we met on this, I had mentioned some issues
9 about sustainable design, and in the urban planning of
10 the campus, one thing such as gray water reclamation
11 for landscape areas. Was that discussed at all in
12 planning concepts with the university?

13 MR. PARKER: Very little. There's two
14 issues, as I say. The first is sustainable design in
15 the buildings.

16 COMMISSIONER TURNBULL: Right.

17 MR. PARKER: And we foresee that largely
18 coming through with each second stage PUD when we're
19 talking about design of the buildings.

20 COMMISSIONER TURNBULL: Okay.

21 MR. PARKER: And the impacts that they
22 have, but it would certainly be useful to have some
23 general commitments to make sure that that is included
24 in each submission package, and the second issue they
25 talk about is the streetscape plan and the

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1 landscaping.

2 We haven't had as intricate conversations
3 as far as environmental sensitivity in the streetscape
4 and planning, but that's certainly something we're open
5 to and I think the university is open to.

6 COMMISSIONER TURNBULL: Okay. Thank you..

7 CHAIRPERSON MITTEN: Anyone else?
8 Questions for the Office of Planning? Any questions?
9 Do you have any questions?

10 Ms. Dwyer, any questions?

11 MS. DWYER: I just have a couple of
12 questions. As you know, this is an application that
13 is not only for a PUD, but also for a special
14 exception under Section 210.

15 MR. PARKER: Correct.

16 MS. DWYER: And is it also your testimony
17 in and opinion that the approval of this campus plan
18 will likely have no objectionable impact in terms of
19 noise, traffic, number of students or other
20 objectionable conditions under 210?

21 MR. PARKER: The campus plan in front of
22 us does not increase the level of students or faculty
23 or any source supposedly of objectionable impact. So
24 that is our opinion.

25 MS. DWYER: Is it also your testimony that

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1 the benefits and amenities provided in the PUD balance
2 the additional density and height requested with the
3 zoning changes?

4 MR. PARKER: It is.

5 MS. DWYER: And in looking at the location
6 for the C3C and C4 zoning, do you believe that those
7 zoning changes are not inconsistent with the
8 comprehensive plan and are in keeping with the
9 character of the surrounding neighborhood?

10 MR. PARKER: That is -- I do agree.

11 MS. DWYER: And then I have a question for
12 Mr. Maloney. There as some discussion at the last
13 hearing about the importance of this amenity, and I'd
14 like to ask you are you aware of any other campus plan
15 where the Appliant has proposed this kind of
16 significant historic preservation commitment?

17 MR. MALONEY: No, and as a matter of fact,
18 there has not been a specified historic preservation
19 component of campus plan reviews. With Catholic
20 University plan, there was a review of the campus for
21 identification of historic properties, but it was not
22 to the extnet that was done here.

23 MS. DWYER: Is this something that you
24 owuld like to serve a sa model for other universities
25 and campus plans?

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1 MR. MALONEY: Yes, I think it would be
2 very appropriate. Certainly speaking from the
3 preservation standpoint, we have a lot to gain from
4 it.

5 MS. DWYER: And what is your understanding
6 of how the historic district is going to be
7 implemented once the -- and assuming there's approval
8 of othe PUD and campus plan?

9 MR. MALONEY: After the approval we would
10 expect that the university would prepare historic
11 landmark nominations for the buildings that would be
12 nominated as historic landmarks. The university would
13 prepare the materials necessasry to submit an
14 application for the historic district, but I believe
15 that the expectation is that that application would
16 actually come from our office since the university is
17 not the owner of all the property within the historic
18 district, and for that reason, I understand didn't
19 wish to be the applicant for other people's property.

20 So since our office can be the applicant,
21 I think we would expect to play that role.

22 MS. DWYER: And one final question. Does
23 the historic commitment include development guidelines
24 so that the new development that occurs either on or
25 adjacent to these historic structures is intended to

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1 be compatible and respectful?

2 MR. MALONEY: Yes, that's correct. Both
3 development guidelines for the development sites and
4 maintenance guidelines, maintenance and rehabilitation
5 repair guidelines for the buildings within the
6 historic district.

7 MS. DWYER: Great. Thank you.

8 That was it.

9 CHAIRPERSON MITTEN: Thank you.

10 Mr. Hitchcock, questions for the Office of
11 Planning?

12 MR. HITCHCOCK: Thank you, Madam Chair.

13 Good evening, Mr. Parker.

14 MR. PARKER: Good evening.

15 MR. HITCHCOCK: A couple of questions just
16 as a mgeneral matter. In OP's view is this proposed
17 campus plan -- would you consider this proposed campus
18 plan to be comprehensive?

19 MR. PARKER: I would.

20 MR. HITCHCOCK: Even though it omits
21 Square 54 and Square 80?

22 MR. PARKER: Square 54 and Square 80 are
23 included in the impact analysis for the traffic
24 analysis. They're included in the impact analysis and
25 numbers are provided for all of the relevant

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1 categories, FAR, everything else, including those
2 squares.

3 MR. HITCHCOCK: But in terms of the
4 overall development, wouldn't it make sense to include
5 those more specifically than has been included now?

6 MR. PARKER: I think the issue is that
7 those have been submitted as PUDs under the existing
8 campus plan. So they are currently underway.

9 MR. HITCHCOCK: And doesn't that section -
10 - I'm sorry. I didn't mean to cut you off when you
11 were talking.

12 MR. PARKER: Go ahead.

13 MR. HITCHCOCK: But doesn't that Section
14 210 say that the development of the campus should be
15 considered as a whole?

16 MR. PARKER: And I believe it is. I mean,
17 the Commission is well aware of those projects. They
18 are called out, and they are included in the relevant
19 impact numbers in the plan.

20 MR. HITCHCOCK: Okay. Let me ask this,
21 dealing with the first stage to second stage PUD. Can
22 this first stage PUD be amended before vesting?

23 MR. PARKER: I suppose by the Zoning
24 Commission it could.

25 MR. HITCHCOCK: So GW could come in with

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1 a proposed amendment?

2 MR. PARKER: And that would involve
3 amending the campus plan as well.

4 MR. HITCHCOCK: Okay. So the answer is it
5 could be changed.

6 MR. PARKER: Of course.

7 MR. HITCHCOCK: Okay. I have a couple
8 questions going through your report. Do you have it
9 in front of you?

10 MR. PARKER: The September 5th report?

11 MR. HITCHCOCK: Correct.

12 MR. PARKER: Un-huh.

13 MR. HITCHCOCK: Directing your attention
14 to page 3 where you talk about how the plan meets the
15 height and massing concerns of neighboring properties
16 to the west and south of campus.

17 MR. PARKER: You have to -- where are we?

18 MR. HITCHCOCK: On page 3.

19 MR. PARKER: And which paragraph? I'm
20 sorry.

21 MR. HITCHCOCK: Let me count.

22 MR. PARKER: Oh, at the bottom.

23 MR. HITCHCOCK: Yes.

24 MR. PARKER: Got it.

25 MR. HITCHCOCK: How did OP determine the

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1 height and massing concerns of the neighboring
2 property owners?

3 MR. PARKER: There was a significant
4 series of public meetings throughout last year.

5 MR. HITCHCOCK: Okay, and that was the
6 source that you used?

7 MR. PARKER: As well sa the existing
8 campus plan and issues that we're aware of through our
9 conversations with neighbors.

10 MR. HITCHCOCK: Okay. Well, let me ask
11 you a more specific question. You mentioned in this
12 paragraph a concern about minimizing the height and
13 bulk at the periphery of campus, correct?

14 MR. PARKER: Correct.

15 MR. HITCHCOCK: And yet OP has supported
16 a set-down of the School Without Walls case, has it
17 not?

18 MR. PARKER: It has.

19 MR. HITCHCOCK: And that is at the
20 periphery, is it not?

21 MR. PARKER: That is at the periperhy.

22 MR. HITCHCOCK: And it is not in the
23 center core of the campus as described.

24 MR. PARKER: That is not.

25 MR. HITCHCOCK: Okay. And that would

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1 increasae density beyond the levels permitted as a
2 matter of right at that periphery, correct?

3 MR. PARKER: No. Under the existing
4 campus plan, that is allowed as a further processing.

5 MR. HITCHCOCK: As a further processing.
6 My question was dealing with the density, not --
7 you're putting more density on there would be the case,
8 correct?

9 MR. PARKER: Nothing is permitted as a
10 special exception by the Zoning Commission, which is
11 the standard for all development.

12 MR. HITCHCOCK: Okay. Let me ask you a
13 question dealing with -- this would be on page 4 where
14 you talk about the removal of all undergraduate
15 students from off campus housing.

16 MR. PARKER: Yes.

17 MR. HITCHCOCK: They're including
18 undergraduates on the Mount Vernon campus, are they
19 not?

20 MR. PARKER: Tehre are.

21 MR. HITCHCOCK: And where do you propose
22 to remove them to?

23 MR. PARKER: I was referring to Foggy
24 Bottom students of course. That could have been
25 worded more clearly.

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1 MR. HITCHCOCK: Okay, but is there not a
2 condition currently that undergraduates should be
3 housed on the Foggy Bottom campus?

4 MR. PARKER: No. There is a condition
5 that a certain percentage of undergraduates must be
6 provided beds on the Foggy Bottom campus.

7 MR. HITCHCOCK: So, in other words, what
8 you're saying is there will continue to be -- OP is
9 comfortable with the continued busing of students from
10 the Mount Vernon campus down to Foggy Bottom.

11 MR. PARKER: It's my understanding that
12 students that live on Mount Vernon take at least the
13 majority of their classes at Mount Vernon campus. We
14 understand that there is a shuttle bus that runs back
15 and forth between the two.

16 MR. HITCHCOCK: What is it the source of
17 your understanding that a majority take classes?

18 MR. PARKER: Conversation with the
19 university.

20 MR. HITCHCOCK: Okay. Madam Chair, it
21 might be helpful to get those percentages. This is an
22 issue that has come up. There's no breakdown in the
23 reports at least that we can find on who's taking how
24 many courses where or what percentage, and rather than
25 deal with this in sort of anecdotal or conversational

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1 evidence, it might be helpful if GW could submit that.

2 CHAIRPERSON MITTEN: Okay. Could you just
3 say specifically what it is that you want?

4 MR. PARKER: The data would be for those
5 students who reside on the Mount Vernon campus. What
6 percentage of classes are taken on Mount Vernon and
7 what percentage are taken on Foggy Bottom. The
8 percent, there are formulas there. They talk about 12
9 credit hours per semester, for example. How many of
10 those credit hours are in Foggy Bottom? How many of
11 those credit hours are on Mount Vernon?

12 CHAIRPERSON MITTEN: Let me see. Is that
13 information readily available and is that something
14 you can make available for the record?

15 Okay. They will make it available for the
16 record.

17 MR. HITCHCOCK: Okay. So the audit
18 information is the only source that we have; is that
19 correct?

20 CHAIRPERSON MITTEN: Is that the only
21 source of that information? Yes, that's the only
22 source is what I'm hearing.

23 MR. HITCHCOCK: Okay. Thank you.

24 Mr. Parker, directing your attention to
25 the third paragraph on page 4 where you state that OP,

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1 GW, and the community -- this is in the second and
2 third line --

3 MR. PARKER: Correct.

4 MR. HITCHCOCK: -- have all agreed that
5 the existing enrollment cap should not be changed or
6 exceeded. What is your definition of the community?

7 MR. PARKER: My definiteion of the
8 community is everyone whom I've dealt with on this
9 issue.

10 MR. HITCHCOCK: And who did you deal with
11 from Foggy Bottom Association?

12 MR. PARKER: I'm trying to remember who
13 has shown up to meetings. Whoever has been at the
14 public meetings over the summer.

15 MR. HITCHCOCK: Okay. So your testimony
16 is no one that you can think of?

17 MR. PARKER: Fair enough.

18 MR. HITCHCOCK: Okay. Let me ask you
19 this. You refer to the existing enrollment cap. How
20 would you define the existing enrollment cap?

21 MR. PARKER: I believe it's 20,000 overall
22 head count and 16,553 full-time equivalent.

23 MR. HITCHCOCK: Okay, and is there
24 agreement with the community about some of the
25 categories that GW has sought to carve out?

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1 MR. PARKER: I believe that's to be
2 accomplished here.

3 MR. HITCHCOCK: No, no, that wasn't my
4 question. Well, let me try it this way.

5 Who in the community agreed that it is
6 appropriate to carve out such categories as continuous
7 enrollment, study abroad, and people on Mount Vernon?

8 MR. PARKER: I don't believe anyone.

9 MR. HITCHCOCK: You don't believe anyone.
10 So that statement is not really correct, is it?

11 MR. PARKER: That statement refers to the
12 cap, the 20,000 cap being raised. I don't believe
13 that anyone in the community has suggested that that
14 cap be raised.

15 MR. HITCHCOCK: Well, that wasn't the
16 question. All right. Well, should it be exceeded?

17 But the 20,000 cap is as GW has defined it
18 in this proceeding, not as the community has defined
19 it, correct?

20 MR. PARKER: And that is certainly up for
21 interpretation here.

22 MR. HITCHCOCK: Well, that wasn't my
23 question. My question is, you know, has anyone
24 accepted it under GW's interpretation of the
25 community.

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1 MR. PARKER: Not to my knowledge.

2 MR. HITCHCOCK: Not to your knowledge.

3 Okay. When did --

4 MS. DWYER: Could I just add, Mr.
5 Hitchcock, that I think the --

6 MR. HITCHCOCK: Excuse me. There's not a
7 pending question. I --

8 CHAIRPERSON MITTEN: No, I think we
9 understand the issue here. So can we just move on.

10 MS. DWYER: Okay.

11 CHAIRPERSON MITTEN: Thanks.

12 MR. HITCHCOCK: Mr. Parker, when did you
13 first become aware that GW was excluding from the head
14 count some of the categories I've just mentioned like
15 continuous enrollment, study abroad, students at Foggy
16 Bottom campus?

17 MR. PARKER: When I first started working
18 on this plan.

19 MR. HITCHCOCK: Which was when?

20 MR. PARKER: Early 2005.

21 MR. HITCHCOCK: Early 2005, and how did
22 you come to that knowledge?

23 MR. PARKER: Through documents provided by
24 the unviersity.

25 MR. HITCHCOCK: Okay, and were these made

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1 public to your knowledge?

2 MR. PARKER: I believe they're made public
3 with every -- for the processing case.

4 MR. HITCHCOCK: Okay. Could you remember
5 a title of any of these?

6 MR. PARKER: Square 103 is one. What are
7 some other? The GW Hospital. Every further
8 processing case that's come before the Zoning
9 Commission for the plan has had these numbers in them.

10 MR. HITCHCOCK: Okay. Another question.
11 Let me change gears slightly. Page 6.

12 MR. PARKER: Yes

13 MR. HITCHCOCK: Okay. Let me direct your
14 attention to the final paragraph. The second and
15 third lines talk about "GW can commit to the city and
16 neighborhood that no development will take place
17 outside the proposed sites."

18 Isn't it true that GW could put a GW
19 facility on any property as a matter of right outside
20 the boundaries?

21 MR. PARKER: Outside? This is a campus
22 plan. This is not a plan for outside of their
23 boundaries.

24 MR. HITCHCOCK: I understand that, but
25 that isn't my question.

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1 MR. PARKER: They could open a satellite
2 campus wherever they wanted.

3 MR. HITCHCOCK: Okay. So that statement
4 is not entirely correct that there's not a commitment
5 to develop outside developed sites, is it?

6 MR. PARKER: There is a commitment not to
7 develop outside of proposed sites in the campus plan.

8 MR. HITCHCOCK: Okay, but --

9 MR. PARKER: but not --

10 MR. HITCHCOCK: But not as a matter -- but
11 they can build anything they want as a matter of
12 right in any other location, correct?

13 MR. PARKER: Anything that is a matter of
14 right, correct.

15 MR. HITCHCOCK: Okay. Let me ask you
16 this. There's no guarantee, is there, that this plan
17 will stay in effect for 20 years?

18 MR. PARKER: It will unless the Zoning
19 Commission chooses to change it.

20 MR. HITCHCOCK: And you're aware of how
21 long it took between the last plan and before this
22 plan came forward?

23 MR. PARKER: I am.

24 MR. HITCHCOCK: And how long was that?

25 MR. PARKER: About six years.

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1 MR. HITCHCOCK: Or four years from the
2 final approval, correct?

3 MR. PARKER: If you count the court cases,
4 yeah.

5 MR. HITCHCOCK: Okay. But there's nothing
6 here in terms of GW committing itself not to come back
7 to the Commission, is there?

8 MR. PARKER: I suppose there is not.

9 MR. HITCHCOCK: Okay. Let's talk about a
10 related point. In here you talk about proposed
11 condition seven as a carryover of what is now
12 condition number 20, about coming back for subsequent
13 review.

14 MR. PARKER: Correct.

15 MR. HITCHCOCK: Okay, but condition seven
16 speaks only of a second stage PUD, correct?

17 MR. PARKER: As opposed to?

18 MR. HITCHCOCK: As opposed to coming in
19 for a new campus plan.

20 MR. PARKER: True.

21 MR. HITCHCOCK: So they could do exactly
22 what they hvae done here and thus evade any strictures
23 under whatever the Commission might approve here,
24 correct?

25 MR. PARKER: Only with the Zoning

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1 Commission's approval.

2 MR. HITCHCOCK: They could come in and ask
3 and the Zoning Commission could say yes.

4 MR. PARKER: They can ask whatever they
5 want.

6 MR. HITCHCOCK: Okay. So this may well
7 not last anything close to 20 years.

8 Let me ask you this. Are you familiar
9 with the 2000 campus plan and the concern about the
10 Foggy Bottom and West End neighborhoods being at what
11 OP at the time called a tipping point?

12 MR. PARKER: I am.

13 MR. HITCHCOCK: Okay, and OP testified
14 several times about problems with the tipping point,
15 correct?

16 MR. PARKER: They did.

17 MR. HITCHCOCK: Okay, and the BZA responded
18 to that concern by adopting a plan which would last
19 ten years and with various matters to take place over
20 that ten year period, correct?

21 MR. PARKER: Correct.

22 MR. HITCHCOCK: And tell me if I missed it,
23 but isn't it true that at no place in the set-down
24 report or this preort that OP talked about concerns
25 about tipping point?

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1 MR. PARKER: The factors of the plan that
2 cause impacts have been --

3 MR. HITCHCOCK: Well, let me just address
4 that. The words "tipping point" do not appear in the
5 report, correct?

6 MR. PARKER: They were never used, the
7 words "tipping point."

8 MR. HITCHCOCK: They never used the words
9 "tipping point." Okay, and did OP assess the concerns
10 that led to the conclusion about tipping point?

11 MR. PARKER: We assessed all of the
12 concerns.

13 MR. HITCHCOCK: You assessed all of the
14 concerns. Would it not make more sense though with
15 the ten year plan to let the plan run its course and
16 see if the objectionable conditions identified in that
17 report have been addressed?

18 MR. PARKER: The problem with that would be
19 this. We are at a much better place now for
20 discussing a new plan than we likely will be in 2009.

21 MR. HITCHCOCK: From whose perspective?

22 MR. PARKER: From the city's and I would
23 hope from the community's.

24 MR. HITCHCOCK: And how would the community
25 be better off today with several million more square

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1 feet than letting the current plan run and see how
2 that works?

3 MR. PARKER: Because there are significant
4 new commitments in this plan that might not be
5 achievable in 2009.

6 MR. HITCHCOCK: Oh, you mean like the 20
7 year commitment?

8 MR. PARKER: No, I mean like the removal of
9 students from off campus facilities. I mean the
10 historic district. I mean the streetscape plan. All
11 of these commitments are the direct result of the
12 university's ability to put a revenue producer on
13 Square 54, and that will not be available in 2009.

14 MR. HITCHCOCK: Okay, but the existence of
15 Square 54 and the possibility of developing it was
16 well known at the time of the 2000 plan, wasn't it?

17 MR. PARKER: I don't know if there were any
18 plans for Square 54.

19 MR. HITCHCOCK: No, but the existent --
20 well, it was known at the time ---- well, if I told
21 you that the campus report said that that square would
22 be empty in the year 2002, would you accept that
23 representation?

24 MR. PARKER: Fair enough, yes.

25 MR. HITCHCOCK: So it was known in 2000

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1 that this site might come up for development, correct?

2 MR. PARKER: Correct.

3 MR. HITCHCOCK: And it might come up early
4 in the ten year course of the plan, correct?

5 MR. PARKER: I suppose that's a fair
6 statement.

7 MR. HITCHCOCK: And nonetheless, the BZA
8 decided that it would impose a ten year term on the
9 plan notwithstanding the fact that Square 54 would be
10 sitting there as of 2002.

11 MR. PARKER: That was the customary or had
12 been the customary term.

13 MR. HITCHCOCK: I'm sorry. What is "it"?

14 MR. PARKER: The ten years. I'm sorry.

15 MR. HITCHCOCK: Well, all right, but there
16 have been campus plans for other terms than ten years,
17 correct?

18 MR. PARKER: I believe there have been even
19 campus plans with no term.

20 MR. HITCHCOCK: Okay. So when you say
21 "traditional," that's based on limited experience,
22 correct?

23 MR. PARKER: It would be correct.

24 MR. HITCHCOCK: Okay. So, in other words,
25 some of the factors that you are citing were factors

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1 that were available to the BZA in 2000 and 2001,
2 correct?

3 MR. PARKER: I suppose that's a fair
4 statement.

5 MR. HITCHCOCK: Okay. Now, in order to get
6 special exemption campus plan relief, an applicant
7 must show that the provision is not objectionable
8 based on noise, density, number of students, other
9 objectionable conditions, right?

10 MR. PARKER: Potential negative impacts,
11 correct.

12 MR. HITCHCOCK: And OP testified in 2000-
13 2001 that those conditions were present; is it not
14 correct?

15 MS. McCARTHY: Since Mr. Parker was not
16 involved in that and I was, it's hard for him to speak
17 to that.

18 MR. HITCHCOCK: Okay. This was not meant
19 to be a spot quiz, but go ahead.

20 MS. McCARTHY: Yes, we did address those,
21 and if you will recall, our testimony about tipping
22 point was related to the fact that the university had
23 refused to shoulder its responsibility to house the
24 increase in its student body when the plan required
25 them to not only house a set percentage, but to put a

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1 bed for every new student above that 70 percent
2 number. It ceased the pressure that had existed for
3 eroding that residential fabric which had been the
4 item that we had addressed in the tipping point.

5 MR. HITCHCOCK: Okay, but that was not the
6 only factor OP cited in 2000-2001, was it?

7 MS. MCCARTHY: No, but I believe that was
8 our primary concern, was the erosion of the
9 residential fabric in the Foggy Bottom community, and
10 that's why we said it was at the tipping point, that
11 if the university took anymore apartment buildings or
12 located anymore students outside of its campus, it
13 would begin to erode the residential character of the
14 rest of Foggy Bottom.

15 MR. HITCHCOCK: All right, but my question
16 remains. That wasn't the only thing that you raised.

17 MS. MCCARTHY: That wasn't the only issue
18 we addressed, but that was the basis of the tipping
19 point observation.

20 MR. HITCHCOCK: All right. My question
21 though is with the negative impacts. I mean, there
22 were a number of negative impacts that OP identified,
23 correct?

24 MS. MCCARTHY: The primary one of which was
25 housing, but there were other issues.

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1 MR. HITCHCOCK: Well, I don't want to get
2 into it, but I would note the initial order, page 6-
3 22, identified five factors, including that, while the
4 university provides significant economic benefits, OP
5 had a concern about removing land from tax rolls for
6 university purposes.

7 Do you remember that?

8 MS. McCARTHY: I remember that.

9 MR. HITCHCOCK: Okay, and you also had a
10 concern that the proposed campus plan would not
11 provide binding verifiable assurances about expansion
12 into the Foggy Bottom-West End community in the
13 future.

14 MS. McCARTHY: Again, that was related to
15 the tipping point issue of residential expansion, and
16 the tax question is not a neighborhood impact
17 question. It doesn't relate to the tipping point of
18 the neighborhood. It related to the D.C. fiscal
19 impact.

20 MR. HITCHCOCK: Okay, but my point is that
21 these are broader issues than just tipping point. I
22 mean that the BZA considered a number of factors,
23 correct?

24 MS. McCARTHY: Well, I was only addressing
25 the question you were asking about the tipping point.

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1 MR. HITCHCOCK: No, well, my question was
2 broader than tipping point, but let me get back to Mr.
3 Parker.

4 Given that there were a number of factors
5 identified by OP and others in 2000, wouldn't it make
6 sense from a planning standpoint to see how all of
7 those factors had been addressed before moving forward
8 with a new plan?

9 MR. PARKER: Absolutely.

10 MR. HITCHCOCK: Okay. So to paraphrase
11 Commissioner Hood, why are we here?

12 MR. PARKER: We're here because --

13 MR. HITCHCOCK: Commissioner Hood.

14 VICE CHAIRPERSON HOOD: I was going to ask
15 that later. Thank you.

16 (Laughter.)

17 MR. HITCHCOCK: Okay.

18 MR. PARKER: We're here because hopefully
19 we have an opportunity to create a better plan than we
20 have now.

21 MR. HITCHCOCK: But at a minimum, don't you
22 have to consider the negative criteria in 210 and how
23 those have been satisfied?

24 MR. PARKER: Absolutely.

25 MR. HITCHCOCK: And just for the record,

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1 which portions of your set-down report focus on those
2 items? Go through and delineate the negative effects.

3 MR. PARKER: The portion that limits the
4 number of students and faculty to the existing limits.

5 MR. HITCHCOCK: Well, that's not quite
6 accurate, is it?

7 MR. PARKER: I would argue that it is.

8 MR. HITCHCOCK: Well, there are some
9 changes like Condition 10, is it not?

10 MR. PARKER: Condition 10.

11 MR. HITCHCOCK: We'll get to this later.
12 I'll come back to that.

13 But since we're on the question of
14 conditions, why don't we move on to page 7, Condition
15 No. 1?

16 MR. PARKER: Yes.

17 MR. HITCHCOCK: The bottom paragraph, the
18 carryover paragraph says at the bottom that the 20
19 year commitment is an important commitment for all
20 sides for many reasons, correct?

21 MR. PARKER: It does say that.

22 MR. HITCHCOCK: But we just established
23 though that that's a condition that is not binding in
24 any fashion.

25 MR. PARKER: And cannot be binding in any

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1 fashion.

2 MR. HITCHCOCK: And cannot be binding. So
3 an unbinding non-commitment is important. Is that
4 your testimony?

5 MR. PARKER: Yes.

6 MR. HITCHCOCK: Okay. Thank you.

7 (Laughter.)

8 MR. HITCHCOCK: That's very helpful.

9 While we're on that subject, let's move
10 over to page 8, the second full paragraph at the top
11 of the -- I'm sorry -- the second full sentence at the
12 top of the page.

13 You state there, "The message that OP has
14 consistently sent to the university has been that the
15 university is reaching its maximum capacity in terms
16 of development and enrollment."

17 My first question, sir, is: when did GW
18 begin sending that message to the university?

19 MR. PARKER: When did OP begin sending that
20 message to the university?

21 MR. HITCHCOCK: Yes.

22 MR. PARKER: In the last campus plan.

23 MR. HITCHCOCK: I'm sorry. I didn't hear
24 you.

25 MR. PARKER: I'd say we started in the last

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1 -- we started from the very beginning of this campus
2 process. Absolutely.

3 MR. HITCHCOCK: Okay. From the start of
4 the -- you mean going back to 2000?

5 MR. PARKER: Even then.

6 MR. HITCHCOCK: Okay. When you say that
7 the university is reaching its maximum capacity, what
8 did you mean?

9 MR. PARKER: Well, in terms of enrollment,
10 they are approaching their cap and will not be allowed
11 to extend past the cap in terms of development. They
12 are approaching their development cap, and we tried to
13 identify that cap in this plan.

14 MR. HITCHCOCK: Okay. In other words, you
15 had a concern that they were reaching the development
16 cap in terms of the total density. Is that your --

17 MR. PARKER: Yeah, in terms of carrying
18 capacity for the neighborhood.

19 MR. HITCHCOCK: And that was a concern for
20 OP that they were reaching it?

21 MR. PARKER: Of course.

22 MR. HITCHCOCK: Okay. Was the concern that
23 they might bump up against it and an increase would be
24 harmful to the community?

25 MR. PARKER: A concern with the density of

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1 the buildings is the impact -- is only insofar as the
2 impact that a large building can have on its neighbor.
3 So we have a historic area here. We have views to
4 protect. That's why this plan focused development in
5 areas that would only affect other GW buildings. It
6 attempted to focus the height and the bulk to the
7 center of campus and protect the areas that are
8 historic, that are on the periphery of campus as much
9 as possible, increased height and bulk.

10 MR. HITCHCOCK: Okay. Well, let me see if
11 I can clarify it. I'd like to show you a document
12 that we obtained, which I will give you a copy of and
13 give a copy to Ms. Dwyer and file for the record.
14 This would be for Mr. Parker and Ms. Dwyer. We have
15 the 20 copies here for the Commission.

16 Shall we take a moment for it to be
17 distributed?

18 CHAIRPERSON MITTEN: What is it first?

19 MR. HITCHCOCK: It is an E-mail string to
20 and from Mr. Parker and colleagues at the Office of
21 Planning that we obtained under the Freedom of
22 Information Act dealing with questions of density in
23 connection with the campus plan.

24 CHAIRPERSON MITTEN: Okay.

25 MR. HITCHCOCK: Okay? I guess my first

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1 question, Mr. Parker, just for authentication is: do
2 you recognize this document, the string of E-mails
3 from October 19th, 2005?

4 MR. PARKER: Can I have a second to read
5 it?

6 MR. HITCHCOCK: Yes, please. Take your
7 time.

8 MR. PARKER: I don't remember this
9 conversation, but it appears to be authentic.

10 MR. HITCHCOCK: Well, it's not a
11 conversation. It's an E-mail.

12 MR. PARKER: Okay.

13 MR. HITCHCOCK: Let me ask you about the
14 first bullet point at the top E-mail to you from a
15 Chris Shaheen, also at OP.

16 MR. PARKER: Okay.

17 MR. HITCHCOCK: Do you have that?

18 Where it says that in discussions with GW
19 that OP should emphasize what OP is giving. For
20 example, we are supporting density that will already
21 push them over their FAR cap, and we are willing to
22 work with them.

23 MR. PARKER: Okay.

24 MR. HITCHCOCK: Isn't it true that as of
25 the date that memo was written that OP was already

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1 supportive of increasing limits beyond the maximum
2 capacity?

3 MR. PARKER: No. OP was just open to
4 discussions with the university on meeting their
5 density requirements.

6 MR. HITCHCOCK: Meeting their density
7 requirement.

8 MR. PARKER: Correct.

9 MR. HITCHCOCK: But that you're already
10 supporting density that will push them over the limit,
11 correct?

12 MR. PARKER: No. It specifically says
13 "willing to work with them."

14 MR. HITCHCOCK: Right, but how about the
15 previous part?

16 MS. MCCARTHY: Well, let me direct your
17 attention to the E-mail at the bottom, which says,
18 "Travis, do you have time to draft a letter to Lou
19 from Ellen detailing the outstanding issues we have
20 with the campus plan?"

21 This was a year ago when discussions over
22 what was going to be included, what conditions we were
23 going to ask, what we were going to give were very
24 much still fluid, and we were looking to try to firm
25 up what was appropriate in the campus plan.

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1 So to say --

2 MR. HITCHCOCK: Let me ask this though.

3 MS. McCARTHY: To say in a process that was
4 very fluid and involved many public meetings, many
5 discussions that you want to freeze one section in
6 time where we were acknowledging that what the
7 university had asked was to go beyond their current
8 FAR cap under the campus plan, that's why we're here
9 tonight, because that is in the new plan.

10 MR. HITCHCOCK: And OP was supporting that
11 in these discussions, correct?

12 MS. McCARTHY: No. OP was considering
13 whether that was something we would support.

14 MR. HITCHCOCK: Well, I suggest the words
15 are somewhat different than that interpretation. Let
16 me ask this.

17 Do you have --

18 CHAIRPERSON MITTEN: Can I just ask?

19 MR. HITCHCOCK: Surely.

20 CHAIRPERSON MITTEN: What's the purpose of
21 rehashing how OP got to their position?

22 MR. HITCHCOCK: I am happy to explain. The
23 sentence that I quoted at the top of page 8 suggests
24 that there is some solicitude for the community and a
25 concern that GW is up against its maximum capacity.

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1 This E-mail demonstrates that OP was not acting as a
2 break in terms of trying to limit development. It was
3 quite willing to support development above that.

4 And I wanted just the record to be clear
5 that OP was quite willing to go beyond the extent of
6 the 2000 plan even though it had not been fully tested
7 and even though it had years to run, and that was all
8 this is about.

9 CHAIRPERSON MITTEN: Okay. Do you need to
10 ask anymore questions about it?

11 MR. HITCHCOCK: That was my last one.

12 CHAIRPERSON MITTEN: Okay. Great.

13 MR. HITCHCOCK: Mr. Parker, moving on, page
14 9 at the bottom, carry over on page 10, this is the
15 Condition 7 that we talked about earlier.

16 MR. PARKER: Okay.

17 MR. HITCHCOCK: If you want to take a look
18 at it, we talked before about how it could allow
19 proposed new campus plans to come in. I'm going to
20 ask a question I asked the last time. Since OP is a
21 governmental agency, the second line talks about the
22 university being in substantial compliance. What does
23 OP understand "substantial compliance" to mean?

24 MR. PARKER: I don't get to define
25 "substantial compliance."

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1 MR. HITCHCOCK: Well, you're supporting
2 this condition. Do you have any view as to what it
3 could mean?

4 MR. PARKER: I think that the Zoning
5 Commission has to define that for the Zoning
6 Administrator to enforce. I don't believe that we
7 have a role.

8 MR. HITCHCOCK: Have you ever discusswed
9 that with anyone at the Zoning Administrator's Office
10 or elsewhere?

11 MR. PARKER: The meaning of "substantial
12 compliance"? No.

13 MR. HITCHCOCK: So this is sort of a "trust
14 us" condition?

15 MR. PARKER: This is legal language from
16 the existing plan, which is supported by the
17 neighborhood.

18 MR. HITCHCOCK: Excuse me?

19 MR. PARKER: I understand the existing plan
20 is supported by the neighborhood.

21 MR. HITCHCOCK: Which neighborhood is
22 supporting the -- well, which is this language? Let's
23 deal with this language.

24 MR. PARKER: The language is pulled forward
25 from the existing plan.

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1 MR. HITCHCOCK: Okay. I understand, and
2 you can't define it. All right. Let's talk about
3 jumping ahead to Condition 8. This is on page 10.

4 Do you have that?

5 MR. PARKER: I do.

6 MR. HITCHCOCK: Okay. Now, OP is willing
7 to let George Washington buy up residential properties
8 as long as they're for investment purposes, correct?

9 MR. PARKER: No. The university has the
10 right right now to buy up residential properties. OP
11 has solicited a commitment from the university to not
12 do so for university purposes.

13 MR. HITCHCOCK: Okay. Let me pursue that
14 a little bit further. I'm curious. You know, you
15 were here last time when we talked about the
16 university proceeding through a contract purchaser to
17 get a rezoning.

18 MR. PARKER: I was.

19 MR. HITCHCOCK: How about the last
20 sentence, which says that the university shall not
21 include any such investment property in its student
22 housing program or otherwise directly refer
23 undergraduate students to any such property?

24 And I would ask you to focus on the phrase
25 "directly refer." They could indirectly refer,

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1 couldn't they?

2 MR. PARKER: Mr. Hitchcock, I think we are
3 open to any suggestions you might have on how to close
4 any loophole that you find in this language.

5 MR. HITCHCOCK: Okay. Well, the loophole
6 I am suggesting is they could list university owned
7 property with brokers, refer students to brokers, and
8 that is how they direct referral to such properties.

9 MR. PARKER: We would be happy to consider
10 any language suggestions you have on closing
11 loopholes.

12 MR. HITCHCOCK: I think that one.

13 MR. PARKER: Okay.

14 MR. HITCHCOCK: Thanks very much.

15 Condition 10. Let me ask about 10(a).
16 Now, I believe OP referred to this as clarification of
17 the current rule, the current conditions.

18 MR. PARKER: Correct.

19 MR. HITCHCOCK: And you understand that at
20 least my client, the ANC, and Foggy Bottom Association
21 do not agree that there is any ambiguity in the use of
22 the word "head count" and counting everyone?

23 MR. PARKER: It appears to be whether they
24 agree or not.

25 MR. HITCHCOCK: Okay, but you understand

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1 the position.

2 MR. PARKER: I do.

3 MR. HITCHCOCK: All right, and you have no
4 interest in resolving -- the resolution in going with
5 the GW figures based on what consideration?

6 MR. PARKER: Actually this isn't the GW
7 figures. We --

8 MR. HITCHCOCK: I know. I'm asking a
9 predicate. I'm not asking about this.

10 MR. PARKER: I'm sorry. You're asking
11 what?

12 MR. HITCHCOCK: You assume the head count
13 is current as defined by GW in, I guess, Exhibit --

14 MR. PARKER: Not at all. We're supporting
15 the head count identified in this plan.

16 MR. HITCHCOCK: No. I'm sorry. Let me
17 rephrase the question. You accept the current head
18 count under the current methodology as reported by GW,
19 which yields 18,802.

20 MR. PARKER: I don't think that's at issue
21 tonight.

22 MR. HITCHCOCK: I didn't. I'm trying to --

23 CHAIRPERSON MITTEN: Let me help you ask a
24 question.

25 MR. HITCHCOCK: Please.

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1 CHAIRPERSON MITTEN: Do you agree with the
2 carve-outs that the university has made in doing their
3 current enrollment figures? In reporting those, does
4 the Office of Planning agree with the carve-outs?

5 MR. PARKER: I think we have identified in
6 this condition where we disagree by the differences
7 between their carve-outs and what is in print here,
8 where our disagreements lie.

9 MS. MCCARTHY: But we did see those same
10 carve-outs featured in the record of previous zoning
11 cases. So there did not appear to be -- the major
12 question did not fall to us because we're not the
13 Zoning Administrator. So, therefore, we didn't
14 determine compliance, but we do acknowledge that the
15 university had different carve-outs that were
16 mentioned in some -- that were mentioned in virtually
17 all of their previous further processing cases.

18 We felt that we needed to be stricter and
19 we needed to be clearer, and that's why we drafted
20 these new definitions.

21 MR. HITCHCOCK: Okay. So in other words,
22 the principal issue of concern -- I want to nail this
23 down -- is there is a difference, is there not,
24 between in 10(a) where GW proposes not to count
25 students who live on Mount Vernon and commute down to

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1 Foggy Bottom and you would count them? Is that
2 correct?

3 MR. PARKER: We would count, yes, commuter
4 students who live off campus.

5 MR. HITCHCOCK: No, who live on the Mount
6 Vernon campus.

7 MR. PARKER: I believe those students are
8 not counted.

9 MR. HITCHCOCK: Well, that's correct.
10 That's what is said in 10(a).

11 MR. PARKER: Correct.

12 MR. HITCHCOCK: It says, "Students that
13 reside on the Mount Vernon campus," correct? That's
14 what GW is proposing.

15 MR. PARKER: And students that take all of
16 their courses at the Mount Vernon campus.

17 MR. HITCHCOCK: Okay, but let's stick with
18 students that reside at the Mount Vernon campus.

19 MR. PARKER: Okay.

20 MR. HITCHCOCK: And I'm confused by what
21 you said in the paragraph on page 12 because over
22 there you say that if they are taking courses and
23 traveling to Foggy Bottom to take classes they should
24 be counted.

25 Look at the fourth line of page 12.

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1 MR. PARKER: That's correct.

2 MR. HITCHCOCK: So that would require a
3 revision of this if we are going to exclude students
4 who travel, correct?

5 MR. PARKER: That is correct.

6 MR. HITCHCOCK: Okay. So your testimony is
7 the top of 12 governs OP's position. Let me ask this.

8 Have you had a chance to review the audit
9 that was submitted by the firm hired by the Zoning
10 Administrator?

11 MR. PARKER: I don't know if the audit is
12 on the record. I have had a chance to review it.

13 MR. HITCHCOCK: Okay. I believe it was
14 filed last week. Were you struck by the fact that
15 under this criterion, measuring the students, that GW
16 is over its enrollment for the fall semester 2005?

17 CHAIRPERSON MITTEN: We weren't going to
18 get into the area of compliance. So could you --

19 MR. HITCHCOCK: This is not compliance.
20 I'm just -- well --

21 CHAIRPERSON MITTEN: I just want you to ask
22 the question differently because you're -- could you
23 just ask the question differently?

24 MR. HITCHCOCK: Okay.

25 MS. MCCARTHY: We didn't testify about the

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1 audit.

2 MR. HITCHCOCK: Okay, but you're testifying
3 about how students ought to be counted.

4 MR. PARKER: In the future, in the new
5 plan.

6 MS. McCARTHY: In the future.

7 MR. HITCHCOCK: Right, and are you
8 concerned by the fact that GW was over or would be
9 over under the new methodology if one looked at fall
10 2005 figures?

11 MS. McCARTHY: We're proposing a campus
12 plan that would go from now forward. We're not
13 involved in compliance issues. That's the Zoning
14 Administrator's job.

15 MR. HITCHCOCK: Okay, but the number of
16 students now going to and forth would presumably
17 affect the qualifications and conditions that OP would
18 recommend, wouldn't it?

19 MS. McCARTHY: I think that sounds like a
20 hypothetical to me.

21 MR. HITCHCOCK: Well, I'm asking. I think
22 it's called policy.

23 MS. McCARTHY: No, I think we stated our
24 policy, which is how we wanted to define the number of
25 undergraduates. We assumed that if we've defined them

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1 this way, the Zoning Commission has accepted that
2 definition. Then when the Zoning Administrator goes
3 to determine whether or not they're in compliance,
4 they will either meet this definition or they won't.

5 MR. HITCHCOCK: But as a matter of policy,
6 if the current practices show that the university is
7 over a limit that you are recommending, is that not
8 relevant to your recommendation?

9 MS. MCCARTHY: As a matter of policy if,
10 after this campus plan is adopted and we have
11 clarified the definition process, the university is
12 not in compliance with the conditions that were set,
13 first of all, it won't be up to us, but as a matter of
14 policy, we support the condition that says no further
15 processing will occur until the university is in
16 compliance with all of its conditions.

17 MR. HITCHCOCK: All right. Well, let me
18 see if I can try it a different way. I mean, is OP's
19 policy that OP recommended a limit of 20,000 and if
20 the university was currently at, say, 30,000, under
21 that definition OP would say, "That number is
22 immaterial to us. We're just recommending what to do
23 to go forward and compliance is somebody else's
24 business"?

25 MS. MCCARTHY: No, that's not what we're

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1 saying.

2 MR. HITCHCOCK: Okay.

3 MS. McCARTHY: We're saying if the
4 university is now at 30,00 but at the point in time in
5 which this condition is adopted the university is in
6 compliance, then whether they were at 30,000 before is
7 not relevant.

8 MR. HITCHCOCK: So current practice doesn't
9 really enter into your decision about recommendations?

10 MS. McCARTHY: I think it's clear that
11 there's a difference of opinion on how the current
12 conditions are interpreted, and some lack of clarity
13 in the current definitions. So that is why we spent
14 a lot of time pushing the university to accept a set
15 of definitions that we thought were more transparent
16 and easier to determine compliance with so that in the
17 future the entire compliance mechanism can work
18 better.

19 MR. HITCHCOCK: I understand.

20 MS. McCARTHY: That's our part of this, is
21 to come up with a plan and conditions that will make
22 the Zoning Administrator's job as easy as possible.

23 MR. HITCHCOCK: I understand that, Ms.
24 McCarthy, but that's not responsive to my question.

25 CHAIRPERSON MITTEN: Mr. Hitchcock, let me

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1 try one time to get --

2 MR. HITCHCOCK: Please.

3 CHAIRPERSON MITTEN: -- what I think
4 you're looking for, and then if we can't get it, can
5 we just go on to something else?

6 MR. HITCHCOCK: Absolutely.

7 CHAIRPERSON MITTEN: Okay. I think what
8 he's asking is if, in fact -- and he gave sort of an
9 exaggerated example with the 30,000 -- but I think his
10 view is that it may be true that under the formula
11 that the Office of Planning is suggesting that, in
12 fact, as of today or as of the last time a count was
13 taken, that they are at or have exceeded their head
14 count if this formula were to be used, and how does
15 that factor in from a policy perspective?

16 Is the policy that you're asking the
17 university to shrink their enrollment in that context
18 or, you know, can you address it? You know, if, in
19 fact, that's true, what does that mean for what you're
20 proposing?

21 MS. McCARTHY: Right, and our expectation
22 is if the Zoning Commission adopts this definition,
23 then at the point in time in which the university
24 makes its next set of admissions decisions under this
25 new rule, they make those admission decisions such

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1 that they can come into compliance if they are not
2 under compliance under the new definition.

3 Is that --

4 MR. HITCHCOCK: No. Let me try one last
5 time.

6 The Zoning Commission is required to make
7 findings that a certain proposed plan shall not be
8 objectionable because of certain conditions, including
9 traffic, density, noise, number of students, et
10 cetera.

11 I mean, is not the current number of
12 students as proposed to be counted going forward,
13 therefore, relevant to whether the plan should be
14 approved? And isn't it relevant if that number is
15 over the numbers under the new methodology?

16 MR. PARKER: Only insofar as if it's
17 approved, the new number would have to be lower than
18 what they have now.

19 MR. HITCHCOCK: Okay. Thank you.

20 Okay. One last area, Mr. Parker. I'd
21 like to direct your attention to page 19 dealing with
22 the PUD process. I guess it's the second full
23 paragraph under PUD process.

24 MR. PARKER: Okay.

25 MR. HITCHCOCK: You say it is the only

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1 process that will adequately guarantee certainty to
2 all sides about how the plan will be fulfilled. Do
3 you have that sentence?

4 MR. PARKER: I do.

5 MR. HITCHCOCK: How, we have already
6 established that the university can come back in less
7 than 20 years, correct?

8 MR. PARKER: Correct.

9 MR. HITCHCOCK: So the assurance that the
10 plan will be adhered to for the life of the plan is
11 not entirely correct, is it?

12 MR. PARKER: It's clear to the Zoning
13 Commission that it will either be fulfilled or they
14 will change it.

15 MR. HITCHCOCK: Okay, but it's not clear to
16 the community which has no control over the process,
17 is it?

18 MR. PARKER: I suppose that's true.

19 MR. HITCHCOCK: Okay. You also talked --

20 MS. McCARTHY: But the community will know-

21 -

22 MR. HITCHCOCK: Excuse me, Ms. McCarthy.

23 MS. McCARTHY: No, no. I'm sorry, but you
24 have --

25 MR. HITCHCOCK: I'm sorry, but this is

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1 cross examination. You have had your --

2 MS. McCARTHY: Con, we have the opportunity
3 to answer the question, and the second part of the
4 answer --

5 MR. HITCHCOCK: And he has answered it.

6 CHAIRPERSON MITTEN: Mr. Hitchcock, just
7 let her give a complete answer.

8 Go ahead.

9 MS. McCARTHY: It's very important in
10 determining future campus plans what is on the record
11 from the plan that is being amended. We put very
12 explicit statements in here about what our expectation
13 is to provide guidance to this Zoning Commission and
14 future Zoning Commissions about very explicitly what
15 was the understanding and the basis on which the
16 Office of Planning supported this campus plan.

17 Nobody can say whether a future Zoning
18 Commission would grant an amendment in less than 20
19 years or whether a future Zoning Commission would
20 refuse to grant another campus plan amendment for
21 another 50 years. There is no certainty on anybody's
22 part.

23 But we have put the clearest expectation
24 of the basis of our understanding and the basis of our
25 recommendations in there so we can provide as much

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1 certainty as possible to the community.

2 MR. HITCHCOCK: And did not OP support a
3 ten year plan not so many years ago?

4 MS. McCARTHY: I believe OP supported a 15
5 year plan before that time, from `85 to 2000. As we
6 said, it --

7 MR. HITCHCOCK: But excuse me. I'm just
8 asking about the 2000 plan. You supported a ten year
9 plan, correct?

10 MS. McCARTHY: We were asked for a ten year
11 plan, and that's what we --

12 MR. HITCHCOCK: And you supported it.

13 MS. McCARTHY: -- what we supported.

14 MR. HITCHCOCK: Okay. Mr. Parker, talking
15 about the certainty in the middle, talking about
16 assurances of conceptual density, height, and use
17 approval, do you have that?

18 MR. PARKER: I do.

19 MR. HITCHCOCK: Can't the same be said
20 about a special exception campus plan application, a
21 special exception application under a campus plan
22 providing that certainty?

23 MR. PARKER: Not at all. The certainty I'm
24 talking about is we know tonight any plan assuming no
25 changes approved by the Zoning Commission, we know

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1 tonight every development site that can be submitted
2 for the next 20 years. Under a special exception,
3 they could submit on any site on their campus, and
4 they could submit in 18 years for some site not
5 identified today.

6 MR. HITCHCOCK: But are there not limits on
7 density under a campus plan?

8 MR. PARKER: Of course there are.

9 MR. HITCHCOCK: So there is clarity there.
10 And are there not limits on height under a campus
11 plan?

12 MR. PARKER: Of course there are.

13 MR. HITCHCOCK: Okay. So there is
14 certainty provided as to those elements under a campus
15 plan, correct?

16 MR. PARKER: But not by location. You
17 could put that height right next to any building you
18 wanted under the existing campus plan. This plan tell
19 us where this development can occur exactly.

20 MR. HITCHCOCK: All right. So location of
21 specific buildings is the key.

22 MR. PARKER: And how high those buildings
23 can be and how -- the bulk standards and the use.

24 MR. HITCHCOCK: But my point is that the
25 height and density, there are height and density

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1 controls under the special exception process.

2 MS. MCCARTHY: Not for any specific site.

3 MR. HITCHCOCK: Okay, but overall.

4 MR. PARKER: The same that there are
5 overall height standards under this plan.

6 MR. HITCHCOCK: And those were developed,
7 were they not in the specific context of campus plans,
8 campuses proposed for a residential neighborhood,
9 correct?

10 MR. PARKER: No, those are in underlying
11 zones.

12 MR. HITCHCOCK: Okay, but what can be done
13 in terms of a plan, what can be done in terms of
14 special exceptions are related to residential,
15 correct?

16 MR. PARKER: Correct.

17 MR. HITCHCOCK: It's not like you're
18 changing to commercial.

19 MR. PARKER: Correct.

20 MR. HITCHCOCK: Okay. Last question, I
21 hope. At the end of it, the bottom of 23 and 24, OP
22 recommends -- do you have that?

23 MR. PARKER: I do.

24 MR. HITCHCOCK: Yeah. -- recommends that
25 the plan in the PUD be approved subject to certain

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1 conditions because it's not inconsistent with the
2 comprehensive plan. Which provisions in particular
3 did you have in mind?

4 MR. PARKER: There's a whole section on
5 page 21 on the comprehensive plan. The comprehensive
6 plan does not specifically address GW University
7 growth.

8 MR. HITCHCOCK: Okay. So 1340 is it?

9 MR. PARKER: I'm sorry?

10 MR. HITCHCOCK: Section 1340 is the only
11 specific provision?

12 MR. PARKER: That's the only specific
13 provision.

14 MR. HITCHCOCK: Okay. All right. Thank
15 you, Mr. Parker, Ms. McCarthy. I have no further
16 questions.

17 CHAIRPERSON MITTEN: Thank you, Mr.
18 Hitchcock.

19 Ms. Kahlow.

20 MS. KAHLOW: Thank you.

21 Mr. Parker.

22 MR. PARKER: Good evening.

23 MS. KAHLOW: Why does the September 5th OP
24 report that you drafted contain no mention of the West
25 End Citizens Association's multiple letters filed on

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1 Feburary 12th and August 28th, specifically?

2 MR. PARKER: I was under the impression
3 that the issues raised in those letters were made moot
4 by the withdrawal of the text amendment.

5 MS. KAHLOW: Wasn't the withdrawal after
6 the OP report?

7 MR. PARKER: No, the withdrawal was
8 concurrent with this OP report.

9 MS. KAHLOW: When you tlaked about the
10 community, why is there no mention of a WECA issues,
11 multiple issues that were raised with you?

12 MR. PARKER: The issues that were raised in
13 conversations that you and I had I attempted to
14 address, and most were addressed in conjunction with
15 ANC issues. You're correct I did not specifically
16 mention you or WECA by name.

17 MS. KAHLOW: Can I mention four specific
18 issues that are not in your report?

19 MR. PARKER: Of course.

20 CHAIRPERSON MITTEN: Are you going to ask
21 him questions or just --

22 MS. KAHLOW: I am going to. I'm going to
23 ask him those four questions. Thank you.

24 Are there any precedents for multiple
25 square omnibus PUDs with 20 stage first stage

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1 approval?

2 MR. PARKER: There are precedents for all
3 of those things.

4 MS. KAHLOW: Which ones have a multiple
5 stage and multiple squares and 20 year first stage
6 approval?

7 MR. PARKER: I don't know that there has
8 ever been a PUD exactly like this one.

9 MS. KAHLOW: So I think the answer you just
10 said was no.

11 MR. PARKER: Correct.

12 MS. KAHLOW: Very good, and why didn't OP
13 discuss the possible regulatory changes that needed to
14 be made, for example, a specific aggregate FAR cap in
15 Section 210 for all university property within the
16 campus plan, not only R zoned property, as Mr.
17 Hitchcock just named, but also SP and C zoned
18 properties?

19 Why was that not mentioned?

20 MR. PARKER: Section 210 doesn't apply to
21 SP and C zoned properties.

22 MS. KAHLOW: I understand, but if it were
23 amended so that the campus plan were for the whole
24 campus and if there was any up zoning, that was the
25 question. Why did you not discuss that specific issue

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1 that we discussed?

2 MR. PARKER: That's a policy issue that's
3 not relevant to the case in front of us.

4 MS. KAHLOW: Well, today you said, if I may
5 quote you, "We try to identify the cap in this plan."

6

7 What is the aggregate FAR cap for the
8 university in the OP report in the plan?

9 MR. PARKER: Including C zones or just --

10 MS. KAHLOW: Including SP and C zone, that
11 is correct, any up zoning.

12 MR. PARKER: I believe it's just below 5.0.

13 MS. KAHLOW: When you say that's a cap,
14 that is an aggregation. Will that be a cap? And
15 where would it be in the regulations?

16 MR. PARKER: It is a cap by virtue of the
17 planned unit develop and the campus plan that limit
18 exactly how much development can occur on each site
19 throughout the campus.

20 MS. KAHLOW: When you say on page 20 "less
21 than 5.0 FAR," GW's Exhibit T shows a 5.0 FAR. How
22 did you come to a number less than GW's?

23 MR. PARKER: I think that number is rounded
24 from 4.97.

25 MS. KAHLOW: I see. So it's 5.0.

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1 And the reason that you didn't discuss the
2 specific issue raised by WECA of the need for an
3 aggregate cap was a policy issue, as you put it?

4 MR. PARKER: Well, and there is a cap by
5 virtue of the plan and the PUD.

6 MS. KAHLOW: And the cap would, after this
7 plan, if they come in to amendment it, would it still
8 be -- if there is a future amendment, as Mr. Hitchcock
9 discussed, would it still be an aggregate cap of 5.0?

10 MR. PARKER: The cap would be subject to
11 that campus plan and that, if there is a PUD, that
12 PUD.

13 MS. KAHLOW: So if they came in with an
14 amendment in the next couple of years and wanted to
15 not just increase this density by 43 percent, but now
16 another 20 percent so that the aggregate would be a
17 6.0, then that would be a new cap?

18 MR. PARKER: As Ms. McCarthy said, ideally
19 someone would -- either us or the next Zoning
20 Commission would read the record that we have here,
21 just as we read the 2000 record, to determine what the
22 issues were involved, and we have laid out very
23 clearly what issues are involved.

24 MS. KAHLOW: And where in the OP report did
25 you show that the aggregate request was a 43 percent

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1 increase in density? I didn't find that in the OP
2 report.

3 MR. PARKER: That's the first I've heard
4 that number.

5 MS. KAHLOW: If you -- I'm a statistician,
6 as you know.

7 MR. PARKER: Of course.

8 MS. KAHLOW: And if you go from 3.5 to 5.0,
9 you put 1.5 over 3.5, and you get 43 percent increase
10 in density.

11 MR. PARKER: I believe you.

12 MS. KAHLOW: Thank you.

13 And so even if I hadn't shown that number,
14 why did you not discuss the change? Because we know
15 it's something less than 3.5 now, and it's obviously
16 more than 43 percent. Why did you not discuss the
17 current state and what's being proposed?

18 Why did OP not get into that so that the
19 Commission could understand the magnitude of this
20 requeste?

21 MR. PARKER: I tried to discuss the issues.
22 If the issue is height, I tried to discuss height. If
23 the issue is student impacts, I tried to discuss that.

24 FAR is a number. It doesn't have any
25 meaning to the people who walk on campus, live on

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1 campus. The thing that has meaning to them, the
2 height of the buildings, the impacts to the students,
3 et cetera. If I say there's a 75 percent rate, that
4 doesn't mean anything to anyone. We need to talk
5 about where the density is, where the height is, where
6 the impacts are.

7 MS. KAHLOW: Does it mean anything to the
8 Zoning Commission since your report was to the Zoning
9 Commission?

10 MR. PARKER: I suppose that the impacts
11 mean more, and that's a question for the Zoning
12 Commission.

13 MS. KAHLOW: Thank you.

14 If I can move on, in your set-down report
15 on page 5, you say on the top of page 5 -- I don't
16 know if you brought that with you. I just want to
17 point out one sentence. "The community has expressed
18 concern regarding the environmental impacts of the
19 project, and OP shares these concerns."

20 Specifically what environmental impacts
21 were you concerned and are you currently concerned
22 about?

23 MR. PARKER: The main issue that I've heard
24 is the air quality along the 23rd Street corridor.

25 MS. KAHLOW: Is that the only issue?

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1 MR. PARKER: Well, there's clearly the
2 issues of sustainable design, environmentally friendly
3 buildings.

4 MS. KAHLOW: Not noise?

5 MR. PARKER: I'm sorry. I was considering
6 that environmental. Of course that's an
7 environmental. Absolutely noise.

8 MS. KAHLOW: Okay. Not traffic?

9 MR. PARKER: I wouldn't necessarily put
10 that under the environment. That's under the -- air
11 quality and traffic are two separate things, but okay.

12 MS. KAHLOW: I just am going over what's in
13 210. I think that's important.

14 Now, didn't we discuss, and I'm not sure
15 why you don't have it in the later report, your
16 September 5th report; didn't we discuss the specific
17 provisions in federal regulations and D.C. regulations
18 that require an EIS process, quote, at the earliest
19 stages of the planning for major actions when the
20 widest range of feasible alternatives are open for
21 consideration? Didn't we discuss that?

22 And why is 20 DCMR, Subsection 7200.2 not
23 indicated in your report?

24 MR. PARKER: Yeah, you and I discussed
25 that, but I believe the Zoning Commission and their

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1 legal representation have dealt with that as a
2 preliminary matter.

3 MS. KAHLOW: Actually I'm asking about your
4 report. The preliminary matter happened later, as you
5 know, and what we asked about was in your report --

6 MR. PARKER: Right

7 MS. KAHLOW: -- and the community
8 concerns, WECA's concerns were not mentioned, and
9 specifically we discussed federal environmental rules,
10 40 CFR, Subsection 1502.5 and the D.C. environmental
11 rules I just cited, both of which require an EIS at
12 the earliest stage as possible.

13 And the question is why did you not give
14 that information to the benefit of the Zoning
15 Commission.

16 MR. PARKER: One second.

17 (Pause in proceedings.)

18 MR. PARKER: Our attorney has indicated to
19 us that these issues were not relevant to the case and
20 that the environmental review takes place at the
21 building permit process.

22 MS. KAHLOW: And could you cite the
23 specific section in the D.C. environmental law,
24 federal law that actually says that? Is there any
25 specific provision?

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1 Because I'm citing specific provisions
2 versus wives' tales.

3 MR. PARKER: I haven't testified to that.
4 I'd have to turn it over to my legal representation
5 for that.

6 MS. KAHLOW: Okay. The question here is is
7 there a report, comprehensive, especially this section
8 that deals with community concerns, and I think you've
9 answered that you specifically did not mention the
10 issues we discussed.

11 Now, here's another issue we discussed.
12 Did we not discuss the need for an additional campus
13 plan restricting student parking in the neighborhood?
14 And why was that not mentioned?

15 MR. PARKER: I don't know that you and I
16 talked about another plan.

17 MS. KAHLOW: A campus plan condition.

18 MR. PARKER: A campus plan condition.

19 MS. KAHLOW: As we discussed with Mr. Katz,
20 restricting student parking in the Foggy Bottom-West
21 End neighborhood.

22 MR. PARKER: I don't recall that exact
23 discussion. We're open to considering new conditions.

24 MS. KAHLOW: I see. Did we not discuss
25 that Condition 8 instead of the condition that's here

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1 for the university not purchasing additional
2 residentially zoned properties outside of the
3 boundaries, did we not discuss also why not SP-2 zoned
4 property since they also could be used for dormitory
5 use?

6 MR. PARKER: We certainly did, and I
7 discussed that with the neighborhood or -- excuse me
8 -- not with the neighborhood; with the university. As
9 they stated, there are only Columbia Plaza and the
10 Watergate in the SP-2 zone.

11 MS. KAHLOW: Actually I have a copy off the
12 Zoning Commission's Web site of the map, and that
13 information, since I wasn't allowed to cross examine
14 them, is not correct. If you could look at your own
15 map, isn't almost all land south of E Street SP-2?

16 Would you like to look at your map?
17 Almost everything is SP-2.

18 MR. PARKER: And almost all of those are
19 federal buildings.

20 MS. KAHLOW: Actually many of them are
21 existing apartment buildings that --

22 MR. PARKER: That are zoned R5E.

23 MS. KAHLOW: -- that are zoned SP-2 like
24 the York and the Empire.

25 MR. PARKER: I'd have to look at that.

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1 MS. KAHLOW: I see. Well, the question was
2 besides that, the map shows lots of SP-2 property.
3 Why did OP's report not discuss the specific
4 recommendation and discussion we had about this?

5 And after we discussed it, why didn't you
6 look at the actual map instead of taking their word
7 for it it?

8 MR. PARKER: I have looked at the actual
9 map. I am not aware of any. I would be happy to look
10 again.

11 MS. KAHLOW: Okay. And then if you wanted
12 to, would you do a supplemental report on this
13 particular issue since it is of grave concern to us?

14 CHAIRPERSON MITTEN: I think that if the
15 Commission wants a supplemental report from OP, it
16 will be following -- if we wanted that, it would be
17 following the testimony that we hear from --

18 MS. KAHLOW: I see.

19 CHAIRPERSON MITTEN: -- the oppositions.

20 MS. KAHLOW: Very good.

21 CHAIRPERSON MITTEN: We'll see if we get to
22 that point.

23 MS. KAHLOW: You heard the discussion that
24 we had about ABC licenses and a possible campus plan
25 condition. I agree we did not discuss that before,

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1 but since you're talking about objectionable
2 conditions, what would be OP's reaction, if you have
3 one, to that?

4 MR. PARKER: We don't. We'd be happy to
5 look at it, whatever you proposed. We have no
6 reaction.

7 MS. KAHLOW: Okay. Now, if we can turn to
8 Condition No. 8 or -- excuse me -- No. 9. We just
9 dealt with eight. Number 9 is the Advisory Committee,
10 and if I read this right, they want a ten member
11 Advisory Committee, five of which is GW and a quorum
12 is five.

13 If, in fact, the community did not
14 participate and GW talked to itself, how could this be
15 considered a community Advisory Committee? How could
16 OP be supportive of this?

17 MR. PARKER: The idea is that the Advisory
18 Committee would be made up of, as you said, ten
19 members, five of the university and five of the
20 committee. The community has every right and
21 responsibility to attend.

22 MS. KAHLOW: I don't think you understood
23 my question, and maybe I wasn't clear enough. If it's
24 supposed to be a community Advisory Committee and if
25 the community weren't there and --

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1 MR. PARKER: For what reason?

2 MS. KAHLOW: -- five was a quorum and it
3 was just GW, it really doesn't matter.

4 MR. PARKER: Okay.

5 MS. KAHLOW: I mean for some reason, the
6 West End Citizens Association isn't even mentioned in
7 this condition. Is there a reason they aren't even
8 mentioned?

9 MR. PARKER: Nor is any other community
10 organization.

11 MS. KAHLOW: And why wouldn't they be?

12 MR. PARKER: Becuase there's no -- there's
13 no mention of any except elected bodies and just the
14 ANC.

15 MS. KAHLOW: And it says also one member to
16 represent Foggy Bottom, one member to represent the
17 West End. How about if those were the, quote,
18 friends, a group who I do not konw who the membership
19 is since I'm not part of it, and they are sort of not
20 part of the main community that has been engaged in
21 these GW discussions.

22 I mean, couldn't this be five plus two or
23 seven people that are not representing the actual
24 community?

25 MR. PARKER: I'm sorry?

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1 MS. KAHLOW: This group, this particular
2 Advisory Committee says there would be ten members,
3 five GW, three ANC, one from the West End, whatever
4 that is, and one from Foggy Bottom, whatever that is.

5 MR. PARKER: Okay.

6 MS. KAHLOW: So if, in fact, those other
7 two were not mainline people from the two major civic
8 associations, then you really have five plus two.

9 I mean, is this community Advisory
10 Committee expected to work? And if so, why would OP
11 agree to a quorum of five, including possibly no
12 community attendees?

13 MR. PARKER: I am happy, and I'm sure the
14 Zoning Commission is, to discuss any of these
15 requirements. This --

16 MS. KAHLOW: But why did OP support it?
17 That's what I'm trying to understand.

18 MR. PARKER: This Advisory Committee is
19 chosen by the ANC. If they choose to pick a member of
20 WECA and FBA, that's entirely up to the ANC. If they
21 choose to be represented by members who aren't
22 necessarily members of those organizations, that's
23 their right, too.

24 MS. KAHLOW: I'm sorry. My question was
25 specifically the quorum requirement for five. If it's

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1 just GW, why would you have a quorum requirement of
2 five, which is half? If they're all GW showing,
3 they're talking to themselves. How can that be
4 considered a community Advisory Committee?

5 Why would OP agree to a quorum of five
6 when GW has five of the ten? I just need to
7 understand why, why anybody would have thought this
8 was a reasonable condition.

9 (Pause in proceedings.)

10 CHAIRPERSON MITTEN: Let me just see if I
11 can cut through this. Did you actually focus on the
12 fact that the eventuality that Ms. Kahlow is
13 articulating could happen?

14 MS. MCCARTHY: I don't think that we spent
15 a lot of time thinking about whether they would follow
16 Robert's Rules of Order or other rules or exactly what
17 the quorum should be.

18 Our major concern was the current campus
19 plan has a provision for an advisory group. It has
20 never met. The community has never chosen to meet,
21 despite requests from the university.

22 We have seen, and I know the Commission
23 has seen, the value of those organizations in dealing
24 with the distrust and the policy issues that come up
25 that can't all be dealt with by a campus plan, can't

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1 all be anticipated by a campus plan.

2 We would strongly urge the creation of
3 that body.

4 CHAIRPERSON MITTEN: And if it required
5 that these rules be adjusted to eliminate the
6 eventuality that's been described, you're not opposed?

7 MR. PARKER: I don't think we'd have any
8 objections to that.

9 CHAIRPERSON MITTEN: Okay.

10 MS. KAHLOW: So you would be happy with a
11 quorum that had a majority at least of community
12 representatives instead of -- at least a majority as
13 one plus. So it would be six -- at least a majority
14 of community representatives instead of an equal
15 number of university and community? Would you be
16 happy with that?

17 MS. MCCARTHY: I think at this point in
18 time, we did a report. We made a recommendation. We
19 made our point. The decision on what's going to be
20 acceptable will be up to the Zoning Commission and I'm
21 sure from your line of questioning that WECA will
22 weigh in on what they consider to be relevant as to
23 quorum, and the decision will be made by the
24 Commission.

25 MS. KAHLOW: Okay. Thank you.

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1 Now, let's get to the audit. As you
2 mentioned, Mr. Parker, that you had reviewed it, the
3 auditors -- I'd like to know when you reviewed it.
4 Did you review the August 9th independent auditor's
5 report where it had a cover letter of August 25th?

6 Did you review that in August? When did
7 you review it?

8 CHAIRPERSON MITTEN: Can I just revisit an
9 issue --

10 MS. KAHLOW: Oh, sure.

11 CHAIRPERSON MITTEN: -- that we had talked
12 about last time, which is that if we bring Mr. Cruz
13 in, whether you were going to cross examine him on the
14 audit? And I think there may be items in the audit
15 that are relevant which are interpretive. But as it
16 relates to compliance, the position of the Commission
17 has already been established that that's not relevant
18 to the proceeding here.

19 MS. KAHLOW: That's fine.

20 CHAIRPERSON MITTEN: So I just want you to
21 narrow --

22 MS. KAHLOW: That's not what I'm getting
23 at.

24 CHAIRPERSON MITTEN: Okay. I just want to
25 make sure that --

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1 MS. KAHLOW: I'm trying to understand how
2 this --

3 CHAIRPERSON MITTEN: -- you stay within
4 the bounds of --

5 MS. KAHLOW: -- could be a very productive
6 hearing. I wasn't given the DDOT document until after
7 I had already left the Office of Zoning on the 14th.
8 So I didn't even know it was filed. No one bothered
9 to tell me. They knew we had applied for party
10 status. I didn't know until today that it had been
11 filed.

12 And in this instance, since it's an August
13 9th report, it wasn't filed until the 14th at two
14 o'clock. So also it wasn't in the docket when we
15 went.

16 The question is: when did OP see it and
17 why didn't we see it earlier? I mean, it's not giving
18 us an opportunity to have the most possible productive
19 dialogue with the Commission and most productive
20 testimony.

21 And I believe, having talked to Mr.
22 Parker, that he did see it much earlier. And why
23 wasn't it in the record? Why wasn't it given to the
24 parties?

25 CHAIRPERSON MITTEN: Asking questions like

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1 that is really not a productive use of our time. You
2 can beat them up on your own time. What do you want
3 to ask him that's helpful to us?

4 MS. KAHLOW: I wanted to know when he saw
5 the audit findings.

6 MR. PARKER: I don't recall the date that
7 I saw the audit findings.

8 MS. KAHLOW: Thank you. That's fine.

9 Can you describe to me the process to
10 discuss campus plan conditions? You've discussed it
11 with GW.

12 Have you discussed it with anybody in the
13 community, possible conditions? Because we obviously
14 have many ideas and many conditions. Why were we not
15 discussed -- why did the Office of Planning not
16 approach us, the ANC, the Foggy Bottom Association or
17 anybody else about possible campus plan conditions?

18 MS. MCCARTHY: We held a public meeting
19 months ago in the West End Library in which we had the
20 draft conditions, the earliest form that was
21 available. We made copies of the conditions for every
22 attendee at that meeting, gave them out, asked people
23 to take extra copies, asked them to talk to their
24 neighbors, asked them to get comments back to us if
25 they agreed or disagreed with the conditions.

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1 We have tried to get feedback back on
2 those specific conditions as early as we had them in
3 mind.

4 MS. KAHLOW: Thank you for mentioning that
5 meeting, Ms. McCarthy. I believe the answer is easy,
6 but I'd like to ask you.

7 In that meeting, didn't you pledge to the
8 Foggy Bottom community that Square 54 development on
9 Washington Circle would be no higher than 90 feet,
10 period?

11 MS. MCCARTHY: No, I believe we said that
12 we would not support more than 90 feet on Washington
13 Circle.

14 MS. KAHLOW: That is correct, and that is
15 why, since it was then 110 and 130 feet, where we felt
16 this was a nonproductive conversation. If you're
17 going to come to us, we would like to be able to have
18 some certainty that our views are -- that what you say
19 is going to be -- that you're going to stand behind
20 it.

21 MS. MCCARTHY: Well, excuse me. We
22 promised that it would not be 130 feet on the circle,
23 and it is not 130 feet on the circle.

24 MS. KAHLOW: It's 110.

25 CHAIRPERSON MITTEN: Can we not have a

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1 debate about --

2 MS. KAHLOW: But that's all right.

3 CHAIRPERSON MITTEN: -- Square 54 --

4 MS. KAHLOW: And that's why in all fairness

5 --

6 CHAIRPERSON MITTEN: -- in this particular
7 proceeding?

8 MS. KAHLOW: That's fine. I welcome the
9 opportunity if we're actually going to have a meeting
10 on this. It was handed out there, to discuss this,
11 and I thank you very much for your indulging me with
12 these questions.

13 CHAIRPERSON MITTEN: Thank you.

14 I had a couple of questions that I just
15 wanted to revisit some issues with the Office of
16 Planning.

17 I remember the tipping point discussion
18 very well from the preceding campus plan hearings and
19 your reports and all of that, and it was very -- it
20 was -- I think it moved the BZA significantly, moved
21 them to action.

22 And one of the things you'll remember that
23 I took issue with at the set-down, which was that I
24 sensed that there was this characterization that we
25 really hadn't accomplished anything through the zoning

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1 order, and Mr. Parker was quick to make sure that my
2 feelings weren't hurt and said that that wasn't the
3 case.

4 So I did want to ask you because I have my
5 own opinion, but do you feel that we have retreated
6 from the tipping point through the existing campus
7 plan and the deadline for delivering the number of
8 beds that were required by August 31st?

9 MS. MCCARTHY: Yes, which is why we
10 hastened to explain when you raised that issue at set-
11 down that we were only critical of the campus plan in
12 terms of going beyond that with additional conditions
13 and additional definitions. But we felt that -- I
14 mean some of us worked for months on that original
15 campus plan, and we had wrestled with how did we keep
16 the increasing number of students but not the
17 increased number of beds from continuing to erode the
18 university.

19 The solution that we recommended, which
20 the Board of Zoning Adjustment adopted, was exactly
21 what we thought was the action that should be directed
22 at remedying that.

23 CHAIRPERSON MITTEN: Okay. The other thing
24 I wanted to ask you because I know that there's
25 concern about the use of the PUD for the campus, and

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1 I just wanted you to comment on something. I'm just
2 going to tee it up because out of the GW campus plan
3 in particular, but we had a number of campus plans
4 that we were dealing with then and each one has its
5 own issues, but we had begun -- well, first of all, we
6 took back campus plans into our jurisdiction, and then
7 we started pressing the Office of Planning for new
8 campus plan regulations because there were things that
9 weren't fitting neatly into Section 210, given the way
10 it plays out in different contexts.

11 So I just wonder if you would comment on
12 that and your choice of using the PUD as a tool in
13 this particular application.

14 MS. McCARTHY: Well, I think what we
15 discovered in the course of doing every major campus
16 in the city except for Howard came in for a campus
17 plan during the time that at least the time that I've
18 been at the Office of Planning, and what was striking
19 was how different, how unique each situation was for
20 those universities depending on how urban their campus
21 was, how walled off it was from the community, whether
22 they were growing or not growing, what the level of
23 traffic was around them and the arterials that led to
24 them.

25 So it was very hard to come up with a set

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1 of regulations that seemed to have clear improvement
2 over what we had now, but one thing that did trouble
3 us was the level of generality as was represented by
4 the fact that the Square 54 was striped every possible
5 color and could be determined for every possible use.

6 So we saw, you know, when the university
7 had made their proposals about this plan they did not
8 want to use the PUDs. They had proposed a much more
9 general overlay that simply raised the cap. We felt
10 that to provide that broader level of density without
11 the specificity that we could achieve through a PUD
12 was not the way to achieve that goal.

13 We also remember when Square 103 came up
14 as a PUD. The university's original goal was to
15 change that to commercial zoning, and both the Office
16 of Planning and the Commission had resisted that
17 because there was no context for it, and we didn't
18 want to see willy-nilly the PUD related zoning changed
19 to commercial without some kind of limitation and
20 without a context.

21 We only became comfortable with the use of
22 some commercial underlying or some commercial zoning
23 in conjunction with the PUD in this plan because we
24 had the whole plan in front of us and could look and
25 see what kind of precedents were going to be

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1 established and where they were going to be.

2 CHAIRPERSON MITTEN: Thanks.

3 Does anybody else have any follow-up
4 questions?

5 Okay. Are there any other government
6 agencies represented?

7 Okay. Mr. Hitchcock, I know that you're
8 representing the ANC and the Foggy Bottom Citizens
9 Association, and you had said that the ANC would make
10 a separate report. Did they want to do that now or
11 wait?

12 MR. HITCHCOCK: Yes. Commissioner Thomas
13 is here to present the ANC report and to testify. I'm
14 not sure -- oh, he is right here.

15 CHAIRPERSON MITTEN: He is right here,
16 yeah.

17 MR. HITCHCOCK: And we do have copies of
18 the report, of his written testimony here, which he
19 will be going through, and I will distribute these
20 now.

21 CHAIRPERSON MITTEN: Okay. Okay, great.

22 As I recall you were leaving Foggy Bottom
23 at the conclusion of the last campus plan. So they've
24 drawn you back I see.

25 Would you turn your mic on and identify

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1 yourself? I'm sorry.

2 MR. THOMAS: Thank you, Madam Chair and
3 members of the Commission.

4 I am Michael Thomas. I reside at 2501 N
5 Street, N.W., in the West End, where I serve as a
6 Commissioner for ANC-2A-02. I'm here tonight as the
7 authorized spokesman for ANC-2A.

8 The ANC is requesting that the pending
9 applications be denied as failing to satisfy either
10 the legal requirements for campus plans or the public
11 policies undergirding those requirements. And, yes,
12 Madam Chair, like Charles Barber and like you and like
13 Ellen McCarthy, I participated in the 2000 campus plan
14 proceedings then as president of the Foggy Bottom
15 Association.

16 And, Mr. Barber, comparing that experience
17 with my Army service, I think "veteran" is a perfectly
18 appropriate term, and I ironically this is the year I
19 chose to reenlist.

20 In 2000 and 2001, many of us in the
21 community from OP and from the university put in
22 hundreds and hundreds of hours in preparation,
23 negotiation, mediation, and hearings in an effort to
24 craft a plan that could enable the university to
25 fulfill its mission, while leaving residents able to

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1 count on a future and a kind of residential community
2 Foggy Bottom had been for a number of years.

3 Mr. Hood asked last week why we are here,
4 and we don't think he got an adequate answer. This
5 2000 plan isn't perfect, and we've had some discussion
6 of its imperfections. But it does recognize the
7 reality that university campuses are unusually,
8 perhaps uniquely intense uses of land because of their
9 complex interconnectiveness and synergies, the levels
10 of activities generated at all hours, the massing of
11 large numbers of young adults and other factors.

12 The comprehensive plan, previous planning
13 directors, the BZA, and this Commission have confirmed
14 repeatedly that this unusually intense use of land
15 must be limited to prevent damage to or displacement
16 of residential neighborhoods, and GW's impacts on
17 Foggy Bottom, in fact, are particularly singled out in
18 the comp plan as a matter of concern.

19 The Chair, of course, remembers all of the
20 quotes that are in the next paragraph of my prepared
21 testimony, but they are critical, and they are not
22 only the tipping point. The board in the 2000
23 proceedings shared the concern of OP and ANC-2A about
24 the continued vitality of the Foggy Bottom and West
25 End neighborhoods as pressures associated with

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1 university expansion threatened their livability and
2 stable residential character, unquote.

3 The board agreed with OP that the
4 aggressive expansion of GW had brought Foggy Bottom
5 and West End to a tipping point, if not beyond,
6 unquote.

7 And, further, as we were talking about
8 what it is we were focusing on, the suggestion was
9 made that somehow it was only the number of students
10 that were actually housed off the campus. The BZA
11 expressly found that "the university's use of its
12 residentially zoned property within the campus
13 boundaries for nonresidential uses has become
14 objectionable to the surrounding neighborhoods."

15 That finding is in the language of 210.2.
16 It means that GW's on campus uses were already
17 violating the standard of that section which requires
18 the university uses be located so that they're not
19 likely to become objectionable to neighboring
20 property.

21 The board further agreed with FBA that
22 once properties are part of othe university inventory,
23 they are irretrievably lost to the residential
24 community. The concern was that the character of
25 Foggy Bottom-West End as a residential community wsa

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1 being eaten out, destroyed, in violation of Section
2 210 and the policy it stood for.

3 Accordingly, the board adopted a plan that
4 for the first time imposed limits on population and
5 student housing practices that were coupled with
6 enforcement mechanisms. The response of the
7 university was to sue in every court that would hear
8 them. The Supreme Court would not.

9 Their response is instructive to us. They
10 did not just sue to invalidate provisions they had not
11 sponsored. They sued to declare illegal or
12 unconstitutional any and all measures that would
13 constrain their growth, including enforcements of
14 polices that they had themselves proposed.

15 They lost on all key arguments. The last
16 court order was issued a year ago, but GW had already
17 been for several months actively seeking ways to
18 overthrow the standards not only of the campus plan,
19 but of the zoning regulations on which it was based.

20 They now asked previously unimaginable new
21 authority. It seems to me likely that they were
22 surprised at what they were being offered.
23 Aggregating the premissions that GW seeks, the total
24 is 2,837,602 square feet of net new constructed space
25 within 43 acres or so. That additional space would be

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1 33 percent more than the 2.1 million square feet in
2 the entire Empire State Building and 75 percent of the
3 occupiable 3.8 million square feet of space in the
4 Pentagon, which I think is still the largest office
5 building in the world.

6 They seek to evade the standards of
7 Section 210 and to substitute looser standards
8 formulated for different purposes in Chapter 24, or
9 even less meaningful standards as conditions to the
10 plan.

11 Mr. Hood, that is why we're here.

12 This brief history is intended to
13 establish a predicate for the evidence you're going to
14 hear and the arguments we and others from the
15 community will make. I wish I could tell you the
16 massive effort of 2000 and subsequent years has
17 produced a diminution of impacts in a more secure
18 residential community. It has not. Those who live on
19 the campus boundaries are particularly beset with a
20 massive influx of new students and activities,
21 especially near what has now become the new extended
22 southern boundary.

23 But in those blocks outside the campus,
24 you will also hear that traffic, noise, student
25 behavior, and other impacts have continued and

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1 increased. And I can say that living in the West End,
2 where we have new buildings going up, and they are
3 substantially filling with students, and the streets
4 are full of student activities at some times of the
5 night.

6 The reasons for limits and their
7 enforcement then remain, but instead of enhancing the
8 imperfect 2000 plan, the Commission is being asked to
9 tear it up, and in so doing to change the subtle rules
10 of campus planning and increase impacts on the
11 neighborhood.

12 The burden on the applicant to show why
13 the laboriously crafted, judicially tested limits and
14 enforcement mechanisms of the current plan should be
15 jettisoned should be very heavy, indeed. So let me
16 turn to an analysis of what GW is attempting to do in
17 overturning the legal framework for campus plans.

18 And let me say by way of preface I
19 understand that everyone has gotten used to using PUDs
20 and that there have been PUDs within campuses. Those
21 uses, in the first place, have never achieved this
22 kind of scale, but in the second place, those uses, to
23 the extent that there are legal questions involved in
24 them, have not set up yet for a judicial challenge.
25 There are real questions as to whether if you simply

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1 say, "All right. For a university we're going to
2 change the zoning to C3C or C4 in the context of a PUD
3 application and substantially increase the height and
4 massing. You shouldn't still be calculating the FAR
5 limits under Section 210." I mean, that's one of the
6 issues.

7 Two, ten is the core provision of the
8 zoning regulations addressing campus plans. In
9 recognition of the unusually high level of impacts
10 that campus uses generate in adjoining residential
11 neighborhoods, Section 210 contains two key provisions
12 to limit and contain those impacts, which you know
13 very well: the FAR limit, which is 3.5 in areas zoned
14 for densities over R5B, and a requirement that uses be
15 located so as not likely to become objectionable to
16 neighboring property because of noise or traffic or
17 number of students or other objectionable conditions.

18 GW is obviously approaching the 3.5 FAR
19 limit. I have footnoted GW's recent calculation,
20 which I can't certify, but that is what they say they
21 have left, and they have already been found by the BZA
22 to be conducting uses within the campus that were
23 objectionable to surrounding neighborhoods several
24 years ago.

25 They now seek to escape Section 210

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1 essentially entirely because it is inconsistent with
2 their ambitions. First note that Section 210.1
3 requires a campus plan be approved as a special
4 exception, and 210.4 requires submission of a plan for
5 developing the campus as a whole. You have heard some
6 discussion of this earlier this evening, but here, of
7 course, GW has campus boundaries. Within those
8 boundaries they currently have pending three separate
9 sets of applications.

10 The applications you are hearing now do
11 not, in fact, show all of the information that allow
12 you to analyze the interconnections, synergies, and
13 aggregate impacts as contemplated by the regulation.
14 The traffic study purports to include the other
15 projects. We're going to hear testimony later, I
16 believe, that will demonstrate that those numbers do
17 not add up very well.

18 You will never have an integrated plan
19 before you, and there is no effort to develop an
20 evidentiary basis for a determination of compliance
21 with the not likely to become objectionable standard
22 for aggregate impacts. GW has already testified in
23 this proceeding that the commercial development of
24 Square 54 is integral to and, in fact, a precondition
25 to their being able to do the rest of the build-out.

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1 On the other hand, dedicating some or all
2 of the space available in Square 54, the largest
3 undeveloped parcel by far within the campus
4 boundaries, to university uses would relieve the
5 pressure on the remainder of the campus. The burden
6 should be on the applicant to show no likelihood of
7 objectionable impacts from the totality of otheir
8 plan, and that in this case means all of the things
9 that they are planning and currently asking this
10 Commission to improve.

11 Instead they point to Square 54 when it
12 suits their purposes, as for example in their list of
13 purported public benefits to the campus plan PUD, but
14 not when it might reveal problems.

15 Next, consider the effects of framing this
16 application as a massive planned unit development
17 rather than as a special exception under the perfected
18 provisions of Section 210. First, as to the FAR
19 limit, obviously they are seeking rezoning to C3C and
20 C\$, escaping the 3.5 FAR limits in 210.3 and 402,
21 which only apply by their terms to residential
22 properties. And then they claim additional height and
23 massing releif contemplated by Chapter 24.

24 OP concedes again tonight that the
25 resulting FAR is approximately five, or a 43 percent

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1 increase over what would be allowed. We submit, and
2 they understood, you know, they're bumping up against
3 it. How do we get them out from under it? It was an
4 intellectual challenge. How can we inventively give
5 them more than Section 210 can give them?

6 We submit that the result is impermissible
7 both as a matter of law and as a matter of policy.
8 First, there's the hoary principle in the law that
9 where two legal standards lead to different results,
10 as Section 210 and Chapter 24 do here, the provision
11 more narrowly drawn to address the issues at hand
12 prevails, particularly where a provision is drawn to
13 protect specified interests on an identifiable
14 protected class. It can be considered overruled or
15 amended only by provisions that expressly state that
16 is the intent.

17 Here, Section 210 is drawn for the express
18 purpose of setting the policy boundaries between
19 university growth and the preservation of residential
20 neighborhoods. This Commission -- and I'm beyond my
21 knowledge here because I say the Commission has had
22 several invitations to revise or replace Section 210.
23 I have said that in the draft, in the text because I
24 have seen sets of documents that came forward to the
25 Commission in prior years.

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1 In any event, Section 210 has not been
2 amended. There is nothing in the regulations to
3 indicate that Chapter 24 was intended to be applied to
4 campus plans overriding the protective provisions of
5 Section 210.

6 So our submission to you is that this
7 proposal makes a mockery of the regulations, and what
8 it means to neighborhoods is that there are no
9 operative, knowable, or reliable limits on university
10 growth. Note that the method proposed here could just
11 as easily be FARs much higher than 5.0 depending only
12 upon the chutzpah of the applicant and the willingness
13 of the Commission to accept public benefits or
14 amenities thought to match the value of the prize
15 sought.

16 Second, note the effort to evade but not
17 likely to become objectionable standard of Section
18 210.2. GW makes no substantive effort to meet that
19 standard. It does suggest that by maintaining head
20 counts at nominally to save numbers and by Growing Up
21 Not Out, with the greatest future massing of the core
22 of the campus, there will be no added impacts of
23 adding over 2.8 million square feet of new
24 construction, including state of the art facilities
25 intended to be magnets of excellence.

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1 To state that proposition is to refute it.
2 If GW succeeds in becoming the great research
3 university with massive new science center other other
4 research facilities at Foggy Bottom, will not
5 scientists, seminars, conferences flock to it?

6 I think most of us have seen the move
7 "Field of Dreams." If you build it, they will come,
8 and they will. If they add over 1,000 parking places,
9 are they expecting no increased traffic? Do they
10 expect no growth in attendance at their burgeoning
11 sports, cultural and other commercial attractions on
12 campus? Can they account for the added traffic
13 generated by the retail development they intend to
14 spread throughout the campus?

15 And know that they don't propose really to
16 maintain their head count caps, but to redefine them
17 in ways that the Zoning Administrator has already
18 found inadequate to measure the impacts of students
19 housed elsewhere but educated in Foggy Bottom, and we
20 think that Zoning Administrator is still well shy of
21 the market.

22 As an aside, let me also remind the
23 Commission that the university makes much of having
24 brought forward this 20,000 head count cap over the
25 last couple of plans. Well, in 2000, of course, they

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1 admitted in testimony that they expected that that was
2 going to give them another 3,400 students in Foggy
3 Bottom because the previous count of 20,000 was
4 university-wide, and they fully intended to try to
5 count only the ones that they wanted to count in Foggy
6 Bottom, and their estimate was that that would give
7 them another 3,400 students.

8 If GW moves undergraduate students into an
9 on campus dormitory, GW will retain the off campus
10 facilities including HOVA City Hall, ASEM, Columbia
11 Plaza, and there are a number of other off campus
12 buildings, by the way, as university properties.

13 They do not commit to particular uses for
14 those properties, but they will remain part of the
15 densely interconnected de facto campus. The burden is
16 on the Applicant to show that their proposed uses will
17 not be likely to become objectionable because of
18 noise, traffic, number of students, or other
19 objectionable conditions.

20 In the fact of the BZA's earlier findings
21 upheld by courts and the massive additions that they
22 seek, that is a formidable burden, and this record
23 provides no substantial evidence that would permit
24 granting the applications in the face of the
25 requirement of 210.2.

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1 Now, let's look at the grounds put forward
2 by OP for PUDs instead of the protective provisions of
3 Section 210. First, note that OP really never cites
4 or refers to Section 210. It doesn't go through a
5 methodical analysis under 210, which is a remarkable
6 omission. OP's first justification for GW's
7 development plan is that it, quote, reflects the space
8 needs of the university, as though that were the
9 applicable standard.

10 OP's principal claim is that PUDs provide
11 "the only process that will adequately provide
12 certainty to all sides about how the plan will be
13 fulfilled." And we have heard them again tonight
14 saying that. They argue that without PUDs the
15 Commission and OP are without any adequate tools to
16 control where or what height and massing and for what
17 uses construction will occur.

18 That simply is not true. Section 210.4
19 requires an applicant's plan to show the "location,
20 height, and bulk where appropriate of all present and
21 proposed improvements, including, but not limited to,"
22 and then the list includes buildings, parking,
23 loading, screening, signs, streets, public utility
24 facilities, athletic and other recreational
25 facilities, and a description of all activities, i.e.,

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1 uses to be conducted and the capacity of all proposed
2 development.

3 Note that what can be required is not
4 limited to the listed items. You can require anything
5 you think you need. Note also that the Section 210.3
6 permits bulk requirements for particular buildings to
7 be increased so long as the total bulk does not exceed
8 that prescribed for the District under 402.4.

9 So they can, in fact, shift the bulk into
10 the core of the campus if that is what they want to
11 do, and the Commission agrees.

12 Assume that Chapter 24 did not exist and
13 that the challenge was to formulate requirements
14 consistent with Section 210, which is the section that
15 was drawn specifically to deal with campus plans in
16 residential areas that would give adequate control.
17 There is ample talent and experience in OP and on this
18 Commission to meet that challenge.

19 This Commission can require the Applicant
20 to do essentially everything it would do in an
21 adequate first stage PUD application. There is no
22 reason to accept OP's assertion that Section 210
23 allows GW to allocate density on a piecemeal basis
24 because this Commission can require otherwise.

25 It can also fine tune what would be

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1 required in a further processing application to at
2 least approach the design control out under a second
3 stage PUD application. As long as we're being
4 inventive, let's look at the tools at hand in Section
5 210. They allow you to do these things.

6 What then is the real difference between
7 Section 210 and Chapter 24? It is the presumption
8 that once you are in PUD mind set, rezoning and relief
9 from height and massing limits are unremarkable and,
10 in fact, are the whole point of the exercise. They
11 simply need to be balanced by public benefits.

12 OP says as much by saying that the PUD
13 process, quote, is intended to insure that the
14 development potential exists for the university to
15 accommodate what, its space needs. That is, GW's
16 ambitions can't be accommodated under Section 210.

17 And once you are in Chapter 24, there is
18 a different standard to weigh impacts on the
19 neighboring community. Section 2403.3 provides the
20 impact of the project on the surrounding area shall
21 not be found to be unacceptable, but shall instead be
22 found to be either favorable, capable of being
23 mitigated or acceptable given the quality of public
24 benefits in the project.

25 This is the mind set of PUDs. Substantial

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1 impacts can be allowed if the proffered benefits are
2 alluring enough. That is a much more forgiving
3 standard than Section 210.2 reflecting the fact that
4 Chapter 24 was written contemplating discrete parcels
5 that offered unusual opportunities if developed
6 thoughtfully, not major university campuses collocated
7 with and greatly impacting residential neighborhoods.

8 For the above reasons, GW's proposal for
9 a campus-wide PUD and development project subject to
10 PUDs violates Section 2400.4, which provides that,
11 quote, the PUD process shall not be used to circumvent
12 the intent and purposes of the zoning regulations.

13 Now, I want to say a few words about
14 public benefits, and let me say, Madam Chairman, there
15 are pages at the end that are comments on the proposed
16 plan conditions. Considerable effort was spent on
17 those. Those are important matters. I certainly
18 would hope that the -- and I know you would read them
19 and consider them carefully. I don't intend to go
20 through those, except as I am asked questions, but I
21 would like to say a few words about public benefit.

22 The Commission must not allow itself to
23 take its eyes off the task at hand, which is to apply
24 Section 210. Neither should it allow itself to be
25 seduced by GW's ambition to build a newly defined

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1 world class university but limited to Foggy Bottom or
2 by the benefits on offerors listed in the PUD
3 application. GW argues that to be a world class
4 research university it must be allowed to add
5 substantially to its facilities to approach the 600
6 square feet per student that Georgetown and others
7 provide.

8 That ambition is coupled with the
9 assertion that students come to GW principally because
10 of its location in Foggy Bottom, an interesting
11 ambition for an ambitious university to make.
12 Therefore, we are to include they need to add millions
13 of square feet in Foggy Bottom, but not elsewhere
14 since they have no interest in reducing student
15 enrollment.

16 Georgetown, the model on which they
17 apparently are focused, chose a very different and
18 successful model of excellence to have about two-
19 thirds as many students, 13,000, five or so, only half
20 of whom are undergraduates, and to build most of its
21 facilities in a wholly owned, self-contained campus.

22 Further, GU located its law school in an
23 area that truly needed and benefitted from development
24 far from its core campus. Even after pointed inquiry
25 from the ANC, GW failed to provide any evidence that

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1 they had made an effort to investigate the real
2 possibilities of satellite campuses, and I didn't
3 refer to it earlier, but there is attached an E-mail
4 response by Sherry Rutherford on behalf of the
5 university to some of the ANC questions, and that's
6 one of them.

7 In addition, she there sets out their
8 computation of the FAR remaining as she says -- I'm
9 not finding it right now, but she saying under the
10 current law we've got 800,000 left, meaning that you'd
11 have to change the law to get more.

12 But we see no evidence they made a real
13 effort to investigate the satellite campuses to test
14 the idea that even scholars in renaissance literature
15 would come to GW only if they could be next to the
16 White House. The mayor has told the council that the
17 development of satellite campuses has strongly
18 encouraged her to leave growth pressure around
19 existing campuses, unquote, pointing to the
20 employment, educational revitalization benefits of
21 such satellite campuses.

22 Here, however, the mayor's Director of
23 Planning seems to think that such benefits can be put
24 off until after 2025. In the meantime, the -- I'm
25 sorry. My vision is going -- the facilities based

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1 proceeding in Foggy Bottom would rise from about 300
2 to 400, awaiting only the next GW president who
3 undoubtedly will come with his own Oedipus complex to
4 ask to raise that number to 500 or 600.

5 The ambition is a worthy one, and it would
6 be benefit to the community if GW was an improved
7 university, but the ambition need not and cannot,
8 consistent with the current law, be done in a manner
9 proposed by GW. Briefly as to public benefits, we
10 don't think they're relevant to a proper determination
11 under Section 210, but we note that they fall under
12 two categories, those which are either not public
13 benefits at all or don't relate to this application or
14 reflect existing legal obligations of GW, and on the
15 other hand, those which are potentially beneficial but
16 could be done by GW in the absence of a PUD, and in any
17 event come at too great a cost.

18 The Square 54 proposal appear here twice
19 as increased retail and as added tax revenues, and I
20 footnote there, I mean, this is a perennial argument
21 that we have. GW is the largest landowner and the
22 largest private employer, I think, outside the federal
23 government as landowner, and they are forever saying
24 that they are an unalloyed benefit to the District in
25 financial terms. That's a highly debatable

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1 proposition which we wont' debate here tonight, but I
2 have referenced some of the information with regard to
3 that in the footnote.

4 GW is already legally required after
5 strenuous court challenge to pull most of its
6 undergraduates into the campus. We note that new
7 condominium buildings and apartment houses in the West
8 End have large contingencies of students. In at
9 least one case, a very large apartment complex that
10 just started renting this spring, it is majority
11 student. The proposed historic district reflects a
12 late conversion by GW, which has torn down many
13 structures that would have qualified for preservation,
14 and the conversion is obviously a reluctant one
15 conditioned on GW's getting more than they earlier
16 dreamed possible.

17 Standing alone, however, having said all
18 of that, it would be welcome as a price for buidling
19 the equivalent of 75 percent of the Pentagon in Foggy
20 Bottom, it is not welcome, and as I said, I will
21 respond to questions as to the conditions. One of the
22 things that I've commented on there is the
23 predictability of the plan and the Advisory Committee
24 and other things.

25 Madam Chair and members of the Commission,

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1 I want to thank you for the opportunity to present the
2 views of the ANC. We believe that if you thoughtfully
3 consider the history of the applicant, the
4 requirements of the law and the reasons for the
5 protective provisions of Section 210, you will feel
6 that you must reject these applications, and that is
7 what we ask you to do.

8 Thank you.

9 CHAIRPERSON MITTEN: Thank you.

10 I just have a preliminary question before
11 I let my colleagues ask some more specific questions.
12 We had a submission from -- I'm not finding it right
13 at this moment -- from one of the Commissioners, the
14 ANC Commissioners, and in that submission, he reports
15 to us that the ANC has not been engaged in
16 conversations about the this proposal for almost a
17 year. Is that accurate?

18 MR. THOMAS: No.

19 CHAIRPERSON MITTEN: Okay. Then maybe I'm
20 extrapolating. I think he specifically said that
21 there have been nothing discussed in the ANC. It
22 would not be agendized at the ANC; is that correct?

23 I'm not able to find it so I can say it
24 exactly. Mr. Hood is helping me. Well, why don't you
25 answer, and then I'll follow up if I need to?

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1 MR. THOMAS: Well, there was a lot of
2 interaction. I mean some of that, of course, I mean,
3 we're volunteers. We're people who do things as we
4 can carve out time. You know, I and I think at least
5 a couple of the other Commissioners for example went
6 to the OP February meeting ehre they talked about what
7 they had at that point, as one example. We've gone to
8 a number of the other public nearings or meetings and
9 informational sessions.

10 There have been, to my knowledge, informal
11 contacts of all kinds, you know, sit and talk for
12 hours sometimes between commissioners and people from
13 GW to gather information.

14 In addition to that, we had a working
15 session with GW where they came and laid it all out
16 for us. It was not a decisional meeting of the ANC.
17 It was an informational meeting, and of course, we did
18 have the campus plan application and PUD application
19 as a formal agenda item at an ANC meeting when we t9ok
20 it up and passed the motion that it was reflected in
21 the letter of whatever it was, 24 August.

22 So, there was quite a bit of interaction.
23 Now, was there negotiation? Was there the two bodies
24 sitting down and trying to negotiate things? No,
25 there wasn't, and of course, I only joined the ANC in

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1 February, but I did include some brief statements both
2 in Footnote No. 1 and in my discussion of the Advisory
3 Committee condition, Condition 9 as to my
4 understandings, and I had that vetted. I had our
5 Chair, Vince McConey (phonetic) -- of course, he read
6 all of it, but I expressly directed him to look at
7 that to make sure that that was accurate, and I have
8 also talked to my predecessor, Richard Price, and a
9 number of others, and from all of that my
10 understanding is that there was an effort that began
11 with invitations around Christmas of 2004, meetings in
12 early 2005, with the intent and the expectation that
13 perhaps something like what we did in 2000 -- I mean,
14 we put in an enormous amount of effort into that kind
15 of thing in 2000, but there were some discussions
16 about what the framework of those discussions were
17 going to be, who was going to be able to attend them,
18 and so forth and so on, and there were some
19 understandings reached between the ANC and other
20 community leaders and OP, and then GW, it is my
21 understanding, came in and said, "No, we don't like
22 that framework, and we don't want your attorney
23 sitting here," and so forth and so on, and the thing
24 fell apart.

25 And, again, my understanding, OP backed

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1 off what the community folks had thought had been the
2 commitment as to how the thing was going to go
3 forward.

4 Now, I will also say that those
5 discussions were about Square 54. I mean, htat was
6 what was put forward at that point. You know, I
7 personally regret both that the Advisory Committee has
8 not worked and that there wasn't, you know, more of a
9 cooperative effort on both sides to get more of a
10 negotiating type framework on this.

11 But that is the history. I mean, the
12 effort wsa made. Promises were made apparently, and
13 the feeling was they weren't kept. There was a pretty
14 substantial lack of confidence as to what actually was
15 going on between OP and GW, and it didn't go forward
16 from there.

17 CHAIRPERSON MITTEN: Do you know why the ANC
18 never designated people to participate in the Advisory
19 Committee?

20 MR. THOMAS: I don't. I wasn't on the
21 Advisory Committee then and I haven't had that kind of
22 discussion about it. I really don't feel like I can
23 give the kind of answer I just gave as to the --

24 CHAIRPERSON MITTEN: Okay. I mea if you
25 don't know.

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1 MR. THOMAS: No.

2 CHAIRPERSON MITTEN: If you don't know,
3 you don't know.

4 MR. THOMAS: Right.

5 CHAIRPERSON MITTEN: Here's one of the
6 things I don't quite understand about the ANC's
7 position in this case. Two, ten applies to properties
8 that are going to be used for university purposes in
9 residential zones, right?

10 MR. THOMAS: Right.

11 CHAIRPERSON MITTEN: And the Commission has
12 already shown that it's willing to entertain PUDs
13 within the campus plan on an ad hoc basis because
14 we've received applications, and I don't even know
15 that we would have the legal authority to just say,
16 "I'm sorry. We're not going to consider a PUD within
17 your campus plan." I don't think we could just say,
18 "You're not allowed to apply." I don't think we have
19 the prerogative to do that.

20 So we've already shown that we're kind of
21 willing to take a site at a time and see, you know,
22 not that it doesn't exist in the context, but we're
23 willing to take it out of the control of Section 210.
24 We've done it.

25 So from a density perspective, it's only

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1 those properties that remain residentially zoned
2 within a campus boundary that are aggregated for FAR
3 purposes anyway. So my disconnect and you might not
4 agree with the amount of density, and I'd love to hear
5 specific concerns of the ANC in that regard, but in
6 your reaction to the use of this tool, the PUD, what
7 OP is attempting to do is to say, "Okay. Let's not
8 just ad hoc, you know, they want to take this piece
9 and do a PUD with a PUD related map amendment and come
10 in and make the case for that on its own. Let's look
11 at the whole campus and do this in a more thoughtful
12 way, not an incremental way."

13 And so just from that perspective, forget
14 about the amount of density that's being requested.
15 Isn't that a better way, a more thoughtful way, a more
16 comprehensive way to deal with the campus?

17 MR. THOMAS: Here is the nub of the problem
18 with that. I mean, I think you can go at it in that
19 comprehensive way, as I said, by requiring essentially
20 the same kind of submissions and showings under 210.4
21 or whatever it is, which allows you to force them to
22 designate height, massing, use, and anything else you
23 want to essentially since it's open ended.

24 And my --

25 CHAIRPERSON MITTEN: So just to that point,

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1 just to that point, so what's so magic? What's the
2 magic of accomplishing that with 210 as opposed to
3 through this PUD process? What's the magic? I'm
4 missing that part.

5 MR. THOMAS: The magic is the difference
6 between 837,000 square feet remaining under the FAR
7 limit that they thought they were subject to and to
8 2.8 million.

9 CHAIRPERSON MITTEN: Okay.

10 MR. THOMAS: And you know, that's a massive
11 difference. I mean, the question I think the
12 Commission needs to struggle with is, all right, we
13 think we have to at least accept and consider a PUD
14 application for, you know, a site, say, the science
15 complex if that were to come in. But if you do that
16 and you say, okay, in the course of that we're going
17 to change that to C3C, yes, I understand. If you read
18 the words literally, the FAR limit only applies to
19 residential and, therefore, it wouldn't apply to that.

20 CHAIRPERSON MITTEN: Right, right.

21 MR. THOMAS: But if you are doing that,
22 then what you are doing is you are taking a policy
23 decision that has been firmly fixed in the only
24 section of the regulations that deals with university
25 campuses and balancing the needs of university growth

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1 against protection of the residential community, and
2 one of the main ways it does that is the FAR limit.
3 You should still count that density against the FAR
4 limit.

5 And so you need to struggle with -- I mean
6 you need to get over that pit of literalism because
7 otherwise what you're doing is you are cutting the
8 protection of the only section that is there to
9 protect the community against excessive density.

10 CHAIRPERSON MITTEN: Okay, and I understand
11 your point. I guess what I think would be the most
12 productive conversation that we could have is tell us
13 why going above 800,000 square feet of additional
14 density is not good for the community. Don't attack
15 the -- because you said the only magic is the density
16 restriction. So let's talk about density, which you
17 didn't really spend much time doing.

18 You're kind of backing into it like I know
19 I can keep the density if I can talk them into not
20 adopting this PUD tool. Well, I mean, I want to get
21 to the core of what the ANC's concern is, and what you
22 just articulated is it's density.

23 So talk about density.

24 MR. THOMAS: It's density and also meeting
25 the verbal threshold test of no likelihood of

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1 objectionable uses, of course.

2 CHAIRPERSON MITTEN: And that's actually
3 inherent in the PUD regulations as well.

4 MR. THOMAS: It's stated very differently.
5 It's a very much more lax test under 2403.3 than under
6 a straightforward application of 20 --

7 CHAIRPERSON MITTEN: Okay. So let's assume
8 that we're smart enough to know that we shouldn't be
9 doing things that are adverse to the community because
10 of noise, students, traffic, all that stuff. Let's
11 just assume we get that.

12 So let's talk about density. So how is it
13 that 800,000 is acceptable and more is not? You know,
14 give us --

15 MR. THOMAS: I don't necessarily concede
16 that 800,000 is acceptable because you would also have
17 to -- it seems to me that the burden is on the
18 Applicant to come forward in any event, however many
19 square feet it is, and demonstrate meeting the no
20 likelihood of objectionable uses.

21 But what we're experiencing in the
22 community, and I don't know that we can provide, you
23 know, objective metrics of this, is that the impacts
24 have not lowered. We are still getting the same
25 movement of students. We're still getting noise.

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1 We're still getting all of the impacts that you get
2 living next to this very, very densely interconnected
3 thing that is a campus.

4 CHAIRPERSON MITTEN: I want to get more out
5 of you because I remember the record very clearly when
6 we were building the record in the last case, and
7 general statements don't work as well as specific
8 statements.

9 So like when you talk about noise, one of
10 the things that we heard was the undergraduates are,
11 you know, -- they're younger and they're more unruly
12 and they need more supervision. Okay. So let's get
13 them on campus where we can watch them.

14 So what is it that the undergraduates are
15 -- they're just wandering out into the community?
16 It's not so much where they live. It's just that they
17 wander around and they make noise?

18 Is it an undergraduate problem? Is it a
19 graduate student problem? Give us more specifics.

20 MR. THOMAS: Well, I think from my
21 experience it's almost entirely an undergraduate
22 problem.

23 CHAIRPERSON MITTEN: Okay.

24 MR. THOMAS: First. Secondly, you know,
25 there are tradeoffs. Maybe you can't avoid all of the

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1 possibilities as you do these tradeoffs, but as you
2 move another couple of thousand students onto the
3 campus, the people who live right at the campus
4 boundaries, of course, have very much increased
5 impacts. I mean, talk to the people who live in the
6 States, in those apartment houses. That's where
7 impacts have very definitely grown very substantially.

8 And then I can talk about West End wehre,
9 as I say, I mean, we've got a condominium building
10 that just opened for sales earlier this year. It's
11 about 15 percent students according to the president
12 of the condo board, and they are already having to go
13 back and revise their rules and so forth, and the
14 people who live across the street from the Atlas --

15 CHAIRPERSON MITTEN: Is the name of the
16 building the Atlas? Is that the one?

17 MR. THOMAS: The Atlas.

18 CHAIRPERSON MITTEN: And where is that
19 exactly?

20 MR. THOMAS: It's 25th Street between M and
21 L.

22 CHAIRPERSON MITTEN: Twenty-fifth Street
23 between M and L.

24 MR. THOMAS: Right next to the new Trader
25 Joe's.

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1 CHAIRPERSON MITTEN: Oh, okay. That's a
2 good landmark for us.

3 MR. THOMAS: Right.

4 CHAIRPERSON MITTEN: Okay. So help me with
5 this. If it's so bad living -- I mean, I really want
6 you to give it all to us -- if it's so bad, why are
7 people buying condominiums and living there? I mean
8 the non-students, why are they doing that?

9 MR. THOMAS: I haven't taken a survey of
10 those who have bought there. I've had a couple of
11 conversations with the condo board president who is
12 very frustrated with dealing with the conduct issues,
13 and I've had conversations with the people who live
14 across the street talking about a lot of noise in the
15 street at two and three o'clock in the morning.

16 Why do other people move into the
17 building? It's such a new building in part it may be
18 they didn't know who their neighbors were until things
19 started happening. I don't know the answer to that.

20 Down the street at 24th and M, just around
21 the corner, I mean, we've got all of these. You know,
22 we've got three big complexes going up in the same
23 time.

24 CHAIRPERSON MITTEN: Right.

25 MR. THOMAS: Columbia is about to open.

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1 That one may be too rich for the blood of GW parents,
2 but in 2400 M, which I don't remember. It's 250
3 apartments or something like that, and the median
4 price for a one bedroom is like \$2,500, and the last
5 time I checked with the manager, which was probably
6 two months ago, he hadn't rented all of the
7 apartments, but of those he had rented, which was a
8 majority, a majority of those were students, and we're
9 seeing a lot of student traffic there.

10 We also see a lot of student traffic -- I
11 mean fortunately --

12 CHAIRPERSON MITTEN: So deal more
13 specifically now to get back to -- I digressed in
14 asking you about the condominium project, but deal
15 more specifically with what are the students doing and
16 where are they doing it that is objectionable.

17 MR. THOMAS: Well, in my experience, it is
18 primarily street noise, and then in addition to that,
19 some of the other residents, tenants or owners will
20 talk to me about how do we deal with student problems
21 within the building, which again is largely noise. I
22 mean, it's parties, but it's also disrespect for the
23 property or for the people in the building.

24 I think you may get a letter. There's one
25 condominium. It's not in my SMD, been around for 28

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1 years, and for the first time this year issued a \$400
2 fine, I understand, and that was a student who flicked
3 lighted cigarettes and spat on the custodian.

4 I mean, do I want to tell you that that's
5 typical or that that represents, you know, any sizable
6 percentage of the GW students? Obviously not. I mean
7 we all know that 95 percent of them, a higher
8 percentage than that, are wonderful young people. But
9 what I'm saying is that anecdotally and from my
10 experience since I weighed back in on community
11 service, it doesn't seem different, and in some ways
12 it seems like it's spread.

13 CHAIRPERSON MITTEN: I'm not asking you to
14 get into your personal business, but did you move back
15 to the same place that you used to live or did you
16 move to another place?

17 MR. THOMAS: I spent two stents in London
18 pursuing more degrees, but we always retained the
19 condo.

20 CHAIRPERSON MITTEN: You moved back to the
21 same place.

22 MR. THOMAS: We just rented it for the ten
23 month period we were gone each time.

24 CHAIRPERSON MITTEN: Oh, okay. I was going
25 to ask you if you had sold it and decided to come

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1 back. That would have been a different decision on
2 your part.

3 MR. THOMAS: That would have been a real
4 real estate loss, I think, because my timing would
5 have been rotten.

6 CHAIRPERSON MITTEN: Okay. Let me see if
7 my colleagues have any questions for you.

8 Any questions? Mr. Jeffries.

9 COMMISSIONER JEFFRIES: Well, thank you,
10 Commissioner Thomas.

11 This hearing has been quite fascinating
12 for me. I've been pretty quiet because it's just a
13 lot of information on the record. I think your
14 testimony has been a little more helpful to me in
15 terms of understanding the opposition. I think some
16 of the questions around compliance and some of the
17 nitpicking and so forth is not as productive for me,
18 given, you know, the amount of information that's
19 here. So I am appreciative of what you have put
20 forward.

21 I had a couple of questions on page 10 of
22 your statement. You said even after pointed ANC
23 inquiry, GW has failed to provide any evidence about
24 this whole notion of satellite campuses. I mean, how
25 often has there been discussions around this whole

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1 business of satellite campuses? I mean, has that been
2 a discussion, an ongoing discussion, with the
3 university?

4 MR. THOMAS: I can't say it has been a
5 matter of ongoing discussion. I had a meeting with a
6 number of people from GW, and it was a subject that
7 came up at that informal meeting.

8 In addition, several -- I can't remember
9 how many -- people from GW came to the working session
10 with the ANC, and if I remember correctly, that was
11 one of the questions that I put as pointedly as I
12 could to Sherry Rutherford, and that led to her
13 response.

14 And so when I say failed to provide any
15 evidence, they had made an effort after pointed
16 inquiry, we said, "Provide us with what you've done."
17 And she did, and so it isn't nothing. They moved some
18 administrative stuff out to Loudoun, which of course
19 then intensifies student usage in Foggy Bottom because
20 it clears it up to do that.

21 But that's the extent of it that I was
22 personally involved in.

23 COMMISSIONER JEFFRIES: Okay, and I also
24 wanted to get your comments on this whole historic
25 district. I mean, what is your thoughts as relates to

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1 the historic district that will be on this campus? Do
2 you think that that will be somewhat of a benefit to
3 the community?

4 MR. THOMAS: You know, again, not to be a
5 total cynic, but I've been in this sort of issues or
6 was earlier, and in 1985 the BZA said, "We need to
7 protect Square 54's row of historic townhouses, and so
8 we're going to move Square 54 off the campus, move the
9 boundary."

10 CHAIRPERSON MITTEN: I think you mean a
11 different square, right?

12 MR. THOMAS: No, did I say 54? I meant 43,
13 yeah, 43.

14 And then the university bought up those
15 townhouses and my memory is that over Christmas
16 vacation tore them down, and that's where a major dorm
17 is now. The former president's home would have been
18 a nice thing to designate.

19 So they come into this pretty late, and
20 secondly, they've really gotten, I think, pulled into
21 it. I mean, their enthusiasm is a little suspect, and
22 so I'm a little concerned about implementation of it.
23 I mean, the district that they're proposing,
24 interestingly, includes some properties that are off
25 the campus. I mean, I know that the chairman of the

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1 Historic Preservation Review Board commented that he'd
2 like to see something a little less like a
3 gerrymandered district.

4 But you know, assuming that they do
5 everything one would expect of the owners, I mean, to
6 the extent they own these properties in terms of
7 maintenance and bringing them up to the kind of shape
8 that we would hope in a historic district that owners
9 would, then of course it's a good thing. It's a good
10 thing because it preserves the historic buildings.
11 It's a good thing because it preserves some of the
12 texture of the neighborhood which is otherwise being
13 institutionalized, and it's a good thing because it is
14 something of a clamp on the university's, you know,
15 building more ten story towers someplace else.

16 So I'd be silly not to recognize those
17 benefits, but as I said in my testimony, if the cost
18 of that, if the price of that to the community is a
19 couple more million square feet of institutional
20 buildings on the other sites, the price is too high.

21 COMMISSIONER JEFFRIES: And then it's
22 probably a question for at one point the Office of
23 Planning as well, but do you know of any -- I imagine
24 just not in the District -- but anyplace where there
25 is this serious concern or perception of like

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1 university encroachment in terms of residential
2 district similar to what we have here in Foggy Bottom.

3 Do you know of any other -- can you --

4 MR. THOMAS: At various times I have read
5 a number of them. I'm not going to trust my memory
6 now. I went to school in Cambridge one time a long
7 time ago, and I know that --

8 COMMISSIONER JEFFRIES: What university
9 could that be?

10 MR. THOMAS: Well, one of them, and so at
11 this point it ain't just Cambridge. It's Summerville,
12 you know, and so -- but my understanding also is that
13 they have sat down with the city fathers and done a
14 whole lot of very inventive things and maintained a
15 lot of the older buildings and districts and so forth.

16 But they own one heck of a lot of more
17 than one township up there.

18 COMMISSIONER JEFFRIES: Yes. I just really
19 curious and maybe you're not the proper person to ask
20 the question. It is probably of the Office of
21 Planning, but I'm just, you know, sort of best
22 practices. I mean, how this is addressed in other
23 university towns that are adjacent to residential and
24 there's this concern about encroachment and so forth.
25 I'm just curious. I mean this is the first time for

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1 myself that I've witnessed.

2 Becuase to me it seems that this is a
3 very, very wide, thick line between where the
4 community is and where the university is. There
5 doesn't seem to be as much common area, and you know,
6 you sit up here and we try to find these places, but
7 I will tell you you are so far apart, and I'm just
8 wondering, you know, whether at some point at least
9 for me it would be very helpful, you know, if there
10 were studies, and I think this is probably to the
11 Office of Planning, of just how other university towns
12 have dealt with this kind of thing and how they were
13 resolved.

14 MR. THOMAS: My memory, frankly is that we
15 did put some of that in the record in 2000, but of
16 course, it would be six year old information anyway,
17 but we can certainly gather some of that information
18 up.

19 I do remember reading on a number of
20 occasions of very differently developing kinds of town
21 gown space and accommodation issues and how they got
22 resolved.

23 COMMISSIONER JEFFRIES: I mean, clearly,
24 the District is very unique for many reasons and so
25 forth, but you know, at least it might be, you know,

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1 very instructive at least for me to sort of understand
2 that, you know, given that I'm fairly new to this, and
3 I don't know whether Commissioner Turnbull will feel
4 the same because this is quite voluminous. I mean,
5 there are just a lot of issues moving through, a lot
6 to take in.

7 So thank you.

8 CHAIRPERSON MITTEN: Anyone else? Mr.
9 Hood.

10 VICE CHAIRPERSON HOOD: Commissioner
11 Thomas, thank you for your testimony also.

12 Let me just ask, and I watched how the BZA
13 and my colleague, Chair Mitten, how they anguish and
14 how they worked hard on that even though I didn't
15 participate, and as long as -- I'm kind of glad I
16 didn't, but I will tell you that on a serious note,
17 one of the things that I watched, and I looked in this
18 order. We keep referring back to the year 2000, the
19 2000 campus plan. I know everybody wasn't satisfied,
20 but do you think this is a workable and usable item to
21 way it exists now, even with the remand? Is this a
22 workable and usable item?

23 MR. THOMAS: Obviously it hasn't solved all
24 of the problems because, you know --

25 VICE CHAIRPERSON HOOD: Well, I know it is

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1 not going to solve all --

2 MR. THOMAS: The Chair got me to talk about
3 the fact there are a number of them left, and I'm
4 happy to do that, but I think that the core provisions
5 of this are pretty good, and the assumptions, I mean,
6 with a couple of caveats.

7 One is that we really are going to enforce
8 the 210 limits and not some understanding that we're
9 just going to go wild with PUDs on a one at a time or
10 otherwise basis because that leads us to where as a
11 neighborhood we don't think the neighborhood survives
12 that very well.

13 And the other is that I think we do need
14 some further guidance that is realistic and really
15 counts impacts on the enrollment caps and the faculty
16 and staff caps.

17 I've got to say I have been very surprised
18 at the success of the university in whistling through
19 OP, and we've simply not gotten meaningful compliance
20 on that. So, I mean, there are some things that need
21 to be done, I think, but it's not a bad start.

22 VICE CHAIRPERSON HOOD: My rationale for
23 asking was because in your testimony you said on page
24 3 they seek to evade the standards of Section 210 and
25 substitute losing standards formally, and then you go

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1 on and talk about Chapter 24.

2 In relationship to the Chairman's
3 comments, to me when I start looking at this, we go
4 here and replace in there, this whole thing, I started
5 thinking I'm probably getting ready to say a bad word,
6 but I started thinking about I think it's foreign code
7 based, whatever.

8 CHAIRPERSON MITTEN: Foreign based code.

9 VICE CHAIRPERSON HOOD: Foreign based
10 codes. I started thinking of that because we know how
11 much height goes here, how much height goes there. So
12 that took me to that.

13 But what I would say about the advise, and
14 I mentioned this once before in another case dealing
15 with GW, I'm just surprised that we don't come to the
16 table with the advisory group, and you mentioned it.
17 I think you put it on both sides. I have never heard
18 that before. It's usually one or the other. No one
19 has ever stepped up to the plate like you did tonight
20 from my standpoint that I can remember and said it is
21 both sides.

22 Did I hear you correctly? You're saying
23 that it is both sides. I've never heard that before.

24 MR. THOMAS: I mean, I would have liked to
25 have seen and this would have been before I was on the

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1 ANC, but coming forward into the time I joined the ANC
2 in February, I would have liked to have seen the
3 Advisory Committee working. I very much regretted
4 that the bitterness over the feeling that there had
5 been a renige by OP and enforcing the deal that the
6 community thought it had, and I'm sorry that they
7 couldn't cobble that back together.

8 You know, of course, I'm certified as an
9 arbitrator, and I've done a lot of mediation for the
10 Superior Court, and that's sort of my --

11 VICE CHAIRPERSON HOOD: Well, you're going
12 to be taking the lead.

13 MR. THOMAS: So that's a mind set. But you
14 have to have some foundational trust. I mean, if you
15 think that, you know, you had one understanding as to
16 the framework and how you're going to proceed and who
17 could sit at the table, and then that all gets yanked
18 out from under you, I can perfectly well understand.
19 I mean, as a mediator if you don't get those things
20 out of the way early, you never get to the subject.

21 VICE CHAIRPERSON HOOD: Well, as you know,
22 as Commissioner Jeffries has already said, there's a
23 wide difference, but what we're doing here tonight is
24 not in the best interest of it, and I'm not condemning
25 anybody, but I'm just saying negotiations should have

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1 probably been handled and tried to have been done a
2 different way. I really think that Advisory Committee
3 hopefully can get back up and going because I will
4 tell you I would hate to have Mike Anthony, Carol
5 Gregg, and John to decide everything in my
6 neighborhood for me.

7 I think at some point in time GW and the
8 ANC need to get together and try and resolve it. You
9 might not resolve all the issues, but somewhere you
10 have got to agree on something, and I'm not just
11 pointing at you or picking at you. I'm saying this
12 for everybody who's listening to me, if you're
13 listening. It's about 10:30. You may not.

14 But if you're listening, and I think
15 that's easier than for us five who are least impacted
16 in that area and who exactly know what's going on.
17 Come to some kind of agreement to some point because
18 if not, we're going to have to make the hard decision,
19 and we don't mind doing that. But we're not the ones
20 who live in the neighborhood or who are going to be
21 impacted.

22 And I just say that. That's my two cents.

23 MR. THOMAS: Well, and in 2000, as the
24 Chair knows, we put an awful lot of effort in
25 negotiation and mediation, and I think it was

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1 worthwhile because we, you know, identified and
2 defined the issues a lot better, but most of the major
3 issues we didn't resolve and had to throw them at the
4 poor BZA members.

5 But it is always better to try if both
6 sides can trust the process enough so that they sit
7 down and actually are willing to get to the decisions,
8 and so, you know, yeah, I think all three of the
9 parties that tried probably have some responsibility
10 for it not working. You know, I can only go by what
11 people told me.

12 VICE CHAIRPERSON HOOD: Because if we keep
13 going down this road, I just see it getting further
14 and further apart. The situation, I don't know if it
15 can get any worse than what it is because I wasn't on
16 the 2000 plan. If we keep going that way, you are
17 going to always have a problem. You're going to
18 always come -- 20 years from now the only person who
19 will probably still be here is Mr. Parsons. The rest
20 of us will be gone.

21 (Laughter.)

22 VICE CHAIRPERSON HOOD: And you're going to
23 still be having the same problem. So at some point in
24 time, and being a community person, I understand. You
25 know, you're protecting the character of your

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1 neighborhood. So from my standpoint having to deal
2 with it, I understand. I understand to a point.

3 But also, I also understand that
4 universities are expanding. Education is a process
5 that's going to proceed in this country if we're going
6 to survive. I understand that, too. So I know I'm
7 contradicting myself, but we're just trying to strike
8 that balance.

9 But anyway, that's all.

10 MR. THOMAS: Well, the discussion is good,
11 but, Mr. Hood, I have to tell you given the numbers
12 that we're talking about, given the huge difference
13 between what we thought we had as limits and limiting
14 standards and what OP has facilitated because, I mean,
15 they're co-authors here, it probably is true that we
16 would have been here largely with the same issues for
17 you.

18 VICE CHAIRPERSON HOOD: And that's why my
19 first question was about the 2000 plan. Is that a
20 workable item? That's why I prefaced my remarks
21 before I even said anything with that question.

22 MR. THOMAS: I understand.

23 VICE CHAIRPERSON HOOD: Okay. Thank you.

24 Thank you, Madam Chair.

25 CHAIRPERSON MITTEN: Commissioner Turnbull.

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1 COMMISSIONER TURNBULL: Thank you, Madam
2 Chair.

3 Thank you, Commissioner Thomas for your
4 brief comments.

5 I guess I sort of echo the Chair's
6 concerns about the heart of the issues and that a lot
7 of things have been danced around, and a lot of people
8 have made a lot of comments. And I think that some of
9 them have not come up, and we talked about whether
10 density us the real issue.

11 And we can argue about the different legal
12 aspects of it, but I think what Madam Chair was trying
13 to get at was that the PUD process tries to come to
14 terms with certain things in a rational method rather
15 than have it develop sporadically where we could argue
16 about pieces being developed and have to go through
17 each one.

18 And I guess we've got to -- you brought up
19 Georgetown, 13,500. I don't know if that's the
20 viewpoint of what you feel GW should be. I don't know
21 whether that's a fair assessment or if you're looking
22 for a number, but I look at an institution like GW,
23 whether they're trying to be designated as a Carnegie
24 Research Institute or whatever, but I've seen
25 institutions go through this process where there's

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1 only a few things that you can probably shed, whether
2 it's a law school or a school of business and create
3 a remote before you get to a core structure of
4 buildings and functions that they need in an area to
5 work.

6 And I think what I see here is trying to
7 get that density into the core of the campus to create
8 less of an impact as it reaches the fringe or the
9 edges of the neighborhood and try to create a good
10 neighbor.

11 I think I would agree with Commissioner
12 Hood that there has been a tremendous amount of either
13 misunderstanding, mistrust, and I think that there
14 needs to be some bridges built here to get back to
15 some of these core issues where I think the university
16 has a mission that it sees that it needs to do for the
17 community and itself in D.C. You see a function with
18 students, and believe me, in my past life I have built
19 buildings for students and I have built buildings for
20 art students. They're a little different than regular
21 students and they have their other issues, but I think
22 rather than being a commuter campus, the aspect of
23 having students in the city is a very positive aspect,
24 or town, whatever it is. I think that blend, whether
25 it's the regulations of the complex that dictates what

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1 the students can or cannot do is the issue, not so
2 much of whether you say that a building -- students
3 that don't want to always live on campus at some
4 point, whether they're a senior or whatever. So they
5 are going to look for apartments within the
6 neighborhood. I think that's a normal part of student
7 life.

8 So I think it's either regulations of
9 buildings that can dictate the life of what is rather
10 than saying this building cannot have students. I'm
11 concerned that that's red-lining at its worst.

12 I think what we need to do is to be able
13 to offer that experience. I mean at some point I
14 don't know how much you're going to limit to an
15 apartment building owner that he can't have students
16 that live there. I think there is going to be that
17 give and take at some point. I mean, I think that's
18 part of the life of a healthy city with an urban
19 educational facility in it. I think there is going to
20 be that healthy mix, but there is a balance.

21 I think the neighborhood and the
22 university really have to talk and share their vision,
23 and I think as Mr. Hood has said, I don't think
24 there's been a lot of that. If the Advisory Committee
25 has not participated that much, then I think there's

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1 a failing with the committee to be able to do its due
2 diligence and become part of it and express those
3 feelings more clearly.

4 So I don't know how far this goes forward,
5 but I think that to get a healthy dialogue as to what
6 the vision of the committee of the neighborhood is
7 that you have to participate more with the university,
8 and I see that somehow that hasn't happened. There's
9 been either missed opportunities, but universities are
10 growing; complex students, I mean, that's going to
11 change as life goes on.

12 CHAIRPERSON MITTEN: Did you want a
13 response?

14 COMMISSIONER TURNBULL: Well, I am just
15 wondering. I mean is there a vision that you think
16 that the community has that GW should not be any
17 bigger than this? Is there a stereotype?

18 Do you have a limit?

19 MR. THOMAS: My sense of the community is
20 that we're as near to the limit as Section 210 would
21 tell you we are. I mean, that's a comparable kind of
22 a measurement.

23 In other words, it's quite possible that
24 they could find a way to put another 837,000 square
25 feet on this campus and find ways to ameliorate the

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1 impacts, but at the point --

2 COMMISSIONER TURNBULL: Can I ask you one
3 thing though? We can argue about the cap and what's
4 included and what's not included, but if we go to a
5 number, let's say it's 20,000, whatever that really
6 includes, is that a number that the community can live
7 with or is that something that's still up for debate
8 also?

9 MR. THOMAS: Well, I mean, I think 20,000
10 is as it turns out meaningless without further
11 definition. I mean, 20,000 in 1985 through 2000 meant
12 one thing. Twenty thousand from 2000 forward meant
13 they were full well intending to count only certain
14 students and not others, whereas before it was a
15 universal limit.

16 Twenty thousand now turns out to be a
17 very, very debatable concept indeed. What we're
18 dealing with is living in the community, and so I
19 don't know how we could reach a decision that the
20 ideal university is 19,500 or something.

21 My sense, frankly, is there is more human
22 activity generated within the campus at George
23 Washington and creating impacts outside the campus of
24 George Washington. I mean, it's a whole range of
25 things.

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1 Let me back up, Mr. Turnbull, because you
2 know, in 1912 they had one building, sort of the nose
3 of the camel. We have now got a whole herd of camels,
4 and every single step is a perfectly arguable step.
5 You can argue both sides of every single step.

6 But if what you do is you say, "Okay.
7 Twenty thousand now means this and now it means 3,400
8 more than this and now it means something else, and
9 oh, by the way, we are going to increase the number of
10 concerts we do, the number of performances we do, the
11 number of other activities we do. They have goth both
12 President Musharraf and President Karzai coming in
13 this next week."

14 You know, if you build a world class
15 university and you have the facilities, I mean, if
16 you've got a world class science center, one of the
17 things you're doing is you're going after federal
18 contracts, you know. So it may not all be people who
19 are within any of these counts, but it is going to be
20 a lot more human activity.

21 And so our sense is that it's sort of
22 watch the show now because, you know, in 2000 it was
23 20,000 people and we thought we understood what that
24 was, and it turns out we were wrong, and now we've
25 being told by Mr. Katz that, okay, 20,000 and we'll

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1 argue about how we're going to count them, but, oh, by
2 the way, to be a world class university, we really
3 have to start moving from 300 square feet of facility
4 space per student up something closer to 600.

5 And when we talk about the fact that there
6 is no "no more" clause here and there wouldn't be an
7 enforceable "no more" clause if it existed, then what
8 are the odds do you suppose that the next president of
9 the university will say, "You know, this is such an
10 overwhelming obligation of mine as the president of
11 the university to seek excellence that I've got to
12 have 500 square feet per student." No more students;
13 just another 20 percent increment, 25 percent
14 increment on the number of square feet of facility per
15 student.

16 Can anybody in this room say with a
17 straight face that that is not going to increase the
18 intensity of human use within the core of the campus
19 or wherever else because they still own buildings?
20 They own a number. It isn't just the four that
21 they're using for undergraduate housing. They own a
22 number of other buildings that are outside of the
23 formal boundaries, and those are all part of the de
24 facto campus.

25 So the pursuit of excellence is the

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1 pursuit of intense human activity, and that's our
2 problem because you've got an application before you
3 that makes no serious effort to go out and really
4 aggregate all of that and measure it and come forward
5 candidly and say, "Okay. This is what we're really
6 asking to do with the community," or, "this is what
7 we're planning to do that's going to be a concern to
8 the community."

9 CHAIRPERSON MITTEN: Mr. Jeffries.

10 COMMISSIONER JEFFRIES: You know, I'm a
11 realist, and from all the testimony that I've heard
12 and everything that I've read, I think the gulf is
13 really wide, and quite honestly, I would almost agree
14 with you, Commissioner Thomas, that even if this
15 Advisory Committee had been in place and had been
16 talking, you'd probably be in the same place.

17 I think so much of this has very little to
18 do with land use. It has to do with many other
19 things, quite frankly, that this Commission can't
20 really deal with, but all we're here to do is to deal
21 with land use.

22 So I really do think that at some point,
23 as Commissioner Hood said, you know, the five people
24 up here are going to have to make a decision on how
25 this all falls out because from what I've heard and

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1 what I've read, you know, this is where we are.
2 Becuase you don't want GW in terms of being this world
3 class university. You think there's another
4 definition for world class. They think, quite
5 frankly, that they need to have larger buildings.
6 They need larger facilities. They need to attract
7 more people, and that's just not compatible with how
8 you see it.

9 So you know, in some ways this is a very
10 complicated case and in some ways it's very easy.
11 It's very simple, you know, and you know, I think at
12 least I don't know what my colleagues up here think,
13 but I think we're going to be making some decisions
14 here, and you know, some people are not going to be
15 very happy about it.

16 Because I don't think there's any -- I
17 hate to be so incredibly -- I forget what the word is,
18 but I just don't see where there's any commonality
19 here between the two groups. You seem to be so
20 incredibly far apart. That's just a comment.

21 I mean, you can respond, but you know, I
22 would agree with you that I think if you had an
23 advisory council, I think you'd be in the same place,
24 just walking us through this is what was said this day
25 and this is what was said this month, and so forth and

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1 so on.

2 MR. THOMAS: Well, let me just respond very
3 briefly. I know what you deal with is land use. I
4 don't think that it is usually appropriate to choose
5 the standards from among the standards that the
6 regulations give you based upon the ambition of the
7 owner of the property.

8 All right, and I think you should guard
9 against buying into a beautiful vision, an ambitious
10 vision and have that drive whether you choose to apply
11 the standards of the campus plan regulation or escape
12 it.

13 CHAIRPERSON MITTEN: What I'm going to do
14 is hold off on the cross examination until next
15 Monday, and then to your questions, Ms. Kahlow, about
16 how we're going to take the cross examination on the
17 additional materials, I think our objective was to
18 hold that off so that you would have a good, solid
19 week.

20 So what I suspect that we'll do is we'll
21 have the cross examination of Commissioner Thomas.
22 Then we'll have organizations and persons in support,
23 and then we'll have the parties in opposition, and
24 then at the end of all the opposition testimony, which
25 should then be on Thursday of next week, that will

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1 give you the maximum amount of time to digest the
2 materials that were submitted.

3 Does that work for everybody?

4 MR. HITCHCOCK: Yes, Madam Chair. One
5 question. If we do get to parties in opposition next
6 time, there's normally an hour and there's two
7 parties. May we, Foggy Bottom, assume we would have
8 half an hour? I mean, we would --

9 CHAIRPERSON MITTEN: Usually what we do in
10 cases like this is we give in the aggregate the same
11 amount of time as the Applicant had to put on their
12 case. So each of the parties in opposition will have
13 35 minutes.

14 MR. HITCHCOCK: Okay. Thank you. That's
15 for presentation.

16 CHAIRPERSON MITTEN: Okay.

17 MR. HITCHCOCK: And one other detail point.
18 I mean, we have talked about additional supplemental
19 testimony, I think, from Mr. Cruz as the Zoning
20 Administrator from DDOT and perhaps from the Office of
21 Planning. Would there be an opportunity to cross
22 examine?

23 I mean there are questions that may be
24 asked at this type of proceeding, but the answers may
25 lead to additional questions.

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1 CHAIRPERSON MITTEN: Right.

2 MR. HITCHCOCK: And I'm not sure how the
3 Commission wants to address that, but things, for
4 example, that don't come in until the time of
5 rebuttal, that doesn't give us much of a chance.

6 CHAIRPERSON MITTEN: Right.

7 MR. HITCHCOCK: This is an issue that I
8 know you've looked at before, but we put on the table
9 what our concerns are at least, but some of these
10 conditions, I mean, answers may lead to additional
11 questions.

12 CHAIRPERSON MITTEN: Right. Let me just
13 say that I think we will be able to get Mr. Cruz to
14 attend, but I want that to be closer to the end when
15 we have everything in the record that we might want to
16 ask him about and get his advice about. I would just
17 ask the Office of Planning maybe to talk to the folks
18 at DDOT because I didn't do a good job of nailing her
19 down before she left about when she thought she could
20 get those response and then whether someone, whether
21 it's Ms. Reed or Mr. Bah (phonetic) or Mr. Laden could
22 come back and make themselves available for further
23 cross examination on the additional submissions, but
24 if you could just maybe report back to us on the
25 status of that, and then we'll just take these things

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1 as they come.

2 MR. HITCHCOCK: That's fine. I just wanted
3 to put on the record that we wanted that opportunity.
4 Thank you.

5 CHAIRPERSON MITTEN: Okay.

6 MS. DWYER: Madam Chair, additional
7 clarification as to what's going to happen on the
8 28th. That would be the completion of any opposition
9 party testimony, the Applicant's rebuttal?

10 CHAIRPERSON MITTEN: I'm not going to
11 predict the 28th. I'm sort of generally predicting
12 the 28th, but we're going to have to see how we do on
13 whatever, the 25th, to know truly what we're going to
14 do on the 28th.

15 MS. DWYER: Okay, and you mentioned again
16 the possibility that Mr. Cruz would be here. What
17 would be the scope of his testimony or the questions
18 that we would anticipate asking him?

19 CHAIRPERSON MITTEN: I think there would be
20 two things. One would be I believe in the audit
21 report that he has made recommendations about how
22 interpretations would be made, and I can't say that I
23 have read it closely at all, how interpretations would
24 be made with existing language, and I think we could
25 ask him to look at specific language of proposed

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1 conditions and comment on the enforceability or
2 language that could make it more clear for him or
3 whatever.

4 I really don't think it would be fair,
5 given that we did compress this. I don't see that
6 happening on the 28th necessarily because I think
7 we're going to have to have some time to collect all
8 of the various submissions and present it to him in an
9 organized way and give him time to digest it. So I
10 really don't see that happening on the 28th.

11 MS. DWYER: So this would be once you've
12 come up with a draft set of conditions, they would go
13 to him to see whether these are conditions that are
14 clear to him and enforceable and make sense?

15 CHAIRPERSON MITTEN: Well, I can't say.
16 You know, there's a set of conditions that have been
17 proposed by the university. There's a very similar
18 set of conditions that the Office of Planning has
19 endorsed. Mr. Thomas has comments or Commissioner
20 Thomas has comments on here. We have heard Ms. Kahlow
21 was talking to the university through the cross
22 examination about, you know, would you consider this
23 and this and this.

24 So there are going to be more conditions
25 being proposed, and so it's not necessarily a single

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1 set of conditions. It's all of the conditions being
2 proposed because we want to get all of this in the
3 record when the Commission is ready to deliberate, or
4 I'm open to other suggestions as we move along, but I
5 do want to get his input given the complexity and
6 trying to limit the problems on enforceability for
7 whatever we might pass.

8 So there may be another way to do it, and
9 I'm open --

10 MS. DWYER: Because the only other thought
11 that I had because we did think about this after you
12 raised it at the last meeting, and I think our feeling
13 is that you, the Zoning Commission, are really the
14 ones to come up with the conditions, and then it's for
15 Mr. Cruz to say, "Are these clear?" Do they provide
16 the rationality that he's looking for, which is really
17 what his referral memo was all about.

18 And so one thought, and this is just a
19 thought, is that at the very end of the PUD process if
20 the Commission takes proposed action, it is referred
21 to NCPC for review, and at that same time, it could be
22 referred, the draft conditions, to the Zoning
23 Administrator for him to look at those and just as
24 NCPC gives you comments as another agency, he could
25 provide comments and say, "I have problems with this,"

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1 or, "I don't."

2 And so that's a time period that's already
3 in the regulations, in the PUD process that could be
4 used, and that's just one thought.

5 CHAIRPERSON MITTEN: Okay.

6 MR. HITCHCOCK: Yes, if I may, and I don't
7 want to get into an extended discussion. I mean we
8 would object to that. I mean, the phrases like
9 "substantial compliance" and so forth are in the plan
10 proffered by the Applicant. No one forced them to put
11 it there. It's something they chose to put there. It
12 is, therefore, fair for parties to say what does that
13 mean, how has it been construed, what are we
14 reasonably likely to get.

15 I mean, for example, we keep coming back
16 to head count. If substantial compliance means we
17 won't enforce anything that's 25 percent over the cap,
18 that tells you something, that that is an essential
19 ingredient for deciding whether this proposal meets
20 those standards.

21 CHAIRPERSON MITTEN: So you want to talk to
22 Mr. Cruz.

23 MR. HITCHCOCK: Very much so, yes, ma'am.

24 CHAIRPERSON MITTEN: Okay.

25 MR. HITCHCOCK: It's a question of what is

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1 it you are approving, and I think to go to some of the
2 Commissioners' questions tonight, I mean, why is there
3 this gulf? An answer from where we sit at least is
4 that the community thought we had a deal. We thought
5 we had language with an overall head count of not just
6 enrollment, but head count that was viewed as an
7 objective, clear standard for 20,000. That was seen
8 as a victory responding to the concerns the community
9 expressed, and then we subsequently found out, well,
10 20,000 doesn't really mean 20,000.

11 CHAIRPERSON MITTEN: Okay.

12 MR. HITCHCOCK: It means 24, but I don't
13 want to get into that.

14 MS. DWYER: Well, I can get into the fact
15 there have been reports every year to the ANC goign
16 through the entire methodology --

17 CHAIRPERSON MITTEN: Okay.

18 MS. DWYER: -- and --

19 CHAIRPERSON MITTEN: Okay. There's six
20 years. So let's not do that. We can save that for
21 then.

22 MR. HITCHCOCK: May I raise a scheduling
23 issue --

24 CHAIRPERSON MITTEN: Sure.

25 MR. HITCHCOCK: -- while Ms. Dwyer is at

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1 the table? I was wondering if she knew how many
2 persons in support might be testifying.

3 And the reason I ask it is if it's a
4 significant number, we're wondering from our side. We
5 have a number of individuals, neighborhood residents
6 who would like to testify as persons in opposition.
7 Obviously, you know, a number of people have come down
8 tonight, last time. You know, do they need to come
9 down both Monday and Thursday?

10 CHAIRPERSON MITTEN: Well, I think I can
11 help with that.

12 MR. HITCHCOCK: Sure.

13 CHAIRPERSON MITTEN: Notwithstanding how
14 many people, well, I would say the people, individuals
15 in opposition, need not come on Monday because we've
16 got the rest of the cross examination. We've got
17 organizations and persons in support, and then we've
18 got both parties in opposition. There's going to be,
19 I'm sure, lots of questions, and so if by chance we
20 should even finish all of that on Monday, we would
21 just say, well, let's carry over any individuals until
22 Thursday, and I don't even think we're going to get
23 through all of that on Monday.

24 MR. HITCHCOCK: Okay. Well, that's very
25 helpful. I appreciate it in terms of bringing people

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1 down if they're not going to testify.

2 CHAIRPERSON MITTEN: Okay.

3 MR. HITCHCOCK: So we'll tell people who
4 are going to testify --

5 CHAIRPERSON MITTEN: I understand people
6 would rather sit at home and watch on their computer
7 because I know they don't want to miss any of it, but
8 it is more comfortable at home.

9 (Laughter.)

10 MR. HITCHCOCK: Thank you, Madam Chair.

11 CHAIRPERSON MITTEN: Okay. Thanks,
12 everybody. Thanks for coming out tonight. We'll see
13 you on Monday.

14 (Whereupon, at 10:52 p.m., the hearing in
15 the above-entitled matter was adjourned.)

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