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ELLEN MCCARTHY

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.

The transcript constitutes the minutes
from the Public Hearing held on September 14, 2006.

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

6:36 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 14, 2006. My name is Carol Mitten. Joining me this evening are Vice Chairman Anthony Hood, Commissioners Michael Turnbull, John Parsons and Greg Jeffries.

The subject of this evening's hearing is Zoning Commission Case No. 06-11 and 06-12. This is a request by George Washington University for special exception relief and approval of the Foggy Bottom Campus Plan: 2006 - 2025, pursuant to Sections 210 and 3104.1 of the Zoning Regulations. Also in conjunction with the Campus Plan, the university is seeking approval of a first-stage PUD and Related Map Amendment. The subject property consists of various lots and Squares 39, 40, 41, 42, 43, 54, 55, 56, 57, 58, 75, 77, 79, 80, 81, 101, 102, 103, 121 and 122.

Notice of today's hearing was published in the D.C. Register on August 4, 2006 and copies of the hearing announcement are available to you and they are in the wall bin by the door or on the table.

This hearing will be conducted in

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1 accordance with the provisions of 11 DCMR Sections
2 3022 and 3117, which are the, respectively, Zoning
3 Commission and BZA Rules for contested cases. The
4 reason we have both is because one of the procedures
5 is a BZA procedure and the other, the PUD, is a Zoning
6 Commission procedure.

7 So the order this evening will be as
8 follows: We will take up any preliminary matters
9 first. Then we will have the presentation of the
10 applicant's case; the report by the Office of
11 Planning; report by other Government agencies; report
12 by the affected Advisory Neighborhood Commission, in
13 this case it's 2A; organizations and persons in
14 support; and organizations and persons and parties in
15 opposition.

16 The following time constraints will be
17 maintained in the hearing. The applicant will have 60
18 minutes for their presentation. Organizations will
19 have five minutes and individuals will have three
20 minutes. The Commission intends to adhere to the time
21 limits as strictly as possible in order to hear the
22 case in a reasonable period of time. The Commission
23 reserves the right to change the time limits for
24 presentations, if necessary, and notes that no time
25 shall be ceded.

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1 All persons appearing before the
2 Commission are to fill out two witness cards. They
3 look like this. The cards are on the table by the
4 door. Upon coming forward to speak to the Commission,
5 please, give both cards to the reporter, who is
6 sitting to our right. Please, be advised that the
7 proceeding is being recorded by the Court Reporter and
8 is also being webcast live. Accordingly, we ask you
9 to refrain from making any disruptive noises in the
10 hearing room.

11 When presenting information to the
12 Commission when it is your turn to speak, we ask you
13 to take a seat at the table and then turn on and speak
14 into the microphone, first, stating your name and home
15 address. When you are finished speaking, please, turn
16 the microphone off, because they tend to pick up
17 background noise.

18 The decision of the Commission in this
19 case must be based exclusively on the public record.
20 To avoid any appearance to the contrary, the
21 Commission requests that persons present not engage
22 the Members of the Commission in conversation during
23 a recess or at any other time and staff will be
24 available throughout the hearing to answer any
25 procedural questions and you can direct those to Mrs.

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1 Schellin or Ms. Hanousek.

2 Please, turn off all beepers and cell
3 phones, at this time, so as not to disrupt the
4 proceedings. And I would ask now that anyone who is
5 planning on testifying if you would rise now, raise
6 your right hand and direct your attention to Mrs.
7 Schellin, who will administer the oath. Anybody who
8 is planning on testifying. Mrs. Schellin?

9 MS. SCHELLIN: Okay.

10 (Whereupon, the witnesses were sworn.)

11 MS. SCHELLIN: Thank you.

12 CHAIRPERSON MITTEN: Thank you. Now, we
13 will take up any preliminary matters. And just for
14 folks information, since originally this was
15 advertised to include a third case, which was Case No.
16 06-19, which was a Text Amendment, that case was
17 dismissed on Monday, the 11th, of this month. So we
18 won't be taking that up first.

19 We have two requests for party status. A
20 request from the Foggy Bottom Association and a
21 request from the West End Citizens' Association. And
22 I think the record is complete there.

23 COMMISSIONER PARSONS: Madam Chairman, I
24 have a preliminary matter.

25 CHAIRPERSON MITTEN: Certainly.

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1 COMMISSIONER PARSONS: As you know, I'm on
2 this Commission as a representative of the Director of
3 the National Park Service. And the National Park
4 Service is in negotiations with the George Washington
5 University for a proposed boat house on the Georgetown
6 Waterfront, that is within the Georgetown Waterfront
7 Park. And that is obviously not part of this case.
8 It is outside of the campus and, therefore, I see no
9 reason why this would affect my objectivity in these
10 proceedings. But I wanted to disclose that to you and
11 the public here tonight.

12 CHAIRPERSON MITTEN: Thank you.

13 COMMISSIONER PARSONS: Thank you.

14 CHAIRPERSON MITTEN: Back to the issues of
15 party status. We have requests from Foggy Bottom
16 Association and West End Citizens Association and I
17 think that the applications for party status were
18 timely filed and they are complete and I would move
19 that we grant party status to these two associations.

20 COMMISSIONER PARSONS: Second.

21 CHAIRPERSON MITTEN: Any discussion? All
22 those in favor, please, say aye.

23 ALL: Aye.

24 CHAIRPERSON MITTEN: Those opposed,
25 please, say no. Mrs. Schellin?

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1 MS. SCHELLIN: Staff would record the vote
2 5-0-0 to approve party status to West End Citizens'
3 Association and the Foggy Bottom Association.
4 Commissioner Mitten moving, Commissioner Parsons
5 seconding, Commissioners Jeffries, Hood and Turnbull
6 in favor.

7 CHAIRPERSON MITTEN: Thank you. Next we
8 have two motions from the Foggy Bottom Association.
9 We have a motion from them to postpone the case
10 pending preparation of a consolidated environmental
11 review. We won't be taking all arguments on these
12 motions. We have had a response to the motion from
13 the applicant and this has been -- this is a matter
14 that has come before the Commission and the BZA a
15 number of times.

16 I think our position should be as it has
17 been in the past that this is -- that we are not the
18 lone agency in these matters. This has been actually
19 litigated a couple of times whether it should, in
20 fact, be done at this stage. And I don't think we
21 need to revisit it. And I would move that we deny the
22 motion to postpone the case pending preparation.

23 MR. THOMAS: Madam Chair, Michael Thomas,
24 ANC-2A02. If I could, just as a preliminary matter,
25 state for the record that the ANC is also represented

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1 by Mr. Hitchcock.

2 CHAIRPERSON MITTEN: Okay.

3 MR. THOMAS: And that we do join in these
4 two motions. And unless and until on a specific we
5 notify the Commission that we have a different
6 position, the positions that he puts forward will be
7 the positions of the ANC.

8 CHAIRPERSON MITTEN: Okay.

9 MR. HITCHCOCK: Yes.

10 CHAIRPERSON MITTEN: Thank you.

11 MR. HITCHCOCK: And we will try to clarify
12 that. May I add one point, Madam Chair? I don't want
13 to revisit the issue, but there is a separate issue
14 presented here that was not presented previously and
15 that's the issue of piecemealing or segmentations
16 splitting these matters up into a number of different
17 procedures -- proceedings which have the effect of
18 limiting the ability of this Commission, the Health
19 Department, whomever to provide the kind of cumulative
20 or comprehensive review that the statute provides.

21 We have cited authority in our motion for
22 why this is the sort of thing that's not allowed at
23 the federal level. I would revisit the arguments that
24 have been put forward for why it is important to
25 consider environmental issues earlier rather than

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1 later. But this is a separate issue here.

2 CHAIRPERSON MITTEN: I understand.

3 MR. HITCHCOCK: Apart from the others.
4 Thank you.

5 CHAIRPERSON MITTEN: Thank you. And just
6 for clarification, not on this point, but to Mr.
7 Thomas' point, when it is time for cross examination
8 by the ANC, Mr. Hitchcock will do it for both Foggy
9 Bottom and the ANC together. We will not have
10 separate representations. Is that right?

11 MR. HITCHCOCK: Yes.

12 CHAIRPERSON MITTEN: Okay.

13 MR. HITCHCOCK: That's the principal
14 intent.

15 CHAIRPERSON MITTEN: Okay.

16 MR. HITCHCOCK: ANC-2A will be making its
17 own presentation.

18 CHAIRPERSON MITTEN: Okay.

19 MR. HITCHCOCK: Foggy Bottom will be
20 making its own presentation, but in an effort to try
21 to streamline the process, I'll be doing work for
22 both.

23 CHAIRPERSON MITTEN: That's great. Okay.
24 Great. Thank you.

25 MR. HITCHCOCK: So we'll be done in less

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1 than six nights.

2 CHAIRPERSON MITTEN: Good, because we only
3 scheduled four. Okay. So back to the motion. I move
4 that we deny the motion to postpone the case pending
5 preparation of a consolidated environmental review.
6 And just to your specific point, I mean, I think, you
7 know, we have had counsel from the Office of the
8 Attorney General and we will, in our order on this,
9 set forth the analysis. But, you know, the fact of
10 the matter is is that this is a first-stage PUD and so
11 there's no permissions being granted. No specific
12 permissions being granted. So there's other matters
13 that -- as to what is before us. These are not
14 permissions to even build specific buildings. So I
15 just wanted to make that point. We're not going to
16 have a little discussion here.

17 Okay. Can I get a second on the motion?

18 COMMISSIONER TURNBULL: Second.

19 CHAIRPERSON MITTEN: Thank you. Any
20 discussion on the motion? All those in favor, please,
21 say aye.

22 ALL: Aye.

23 CHAIRPERSON MITTEN: Those opposed,
24 please, say no. Mrs. Schellin?

25 MS. SCHELLIN: Staff will record the vote

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1 5-0-0 to deny the motion for postponement for
2 environmental impact study. Commissioner Mitten
3 moving, Commissioner Turnbull seconding, Commissioners
4 Jeffries, Parsons and Hood in favor of denial.

5 CHAIRPERSON MITTEN: Thank you. Next is
6 the motion of the Foggy Bottom Association to dismiss
7 the case for noncompliance with BZA Order No. 16553I
8 and this has to do with the view of the Foggy Bottom
9 Association that the university is out of compliance
10 with the order and there is a condition of that order
11 that says in part that "No special exception
12 application filed by the university for further
13 processing under this plan may be granted, unless the
14 university proves that it has remained in substantial
15 compliance with Conditions 1 through 19 set forth in
16 this order."

17 There is more that I could say about why
18 I think this motion should be denied, but the emphasis
19 that I just want to make is that the idea was special
20 exception for further processing shall not be granted.
21 So there's two points. One is this is not an
22 application for further processing as we use that
23 terminology. This is to review a new Campus Plan
24 proposal and for a PUD. So it's not further
25 processing and it's also that such -- the intent of

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1 the Condition 20 was that these further processing
2 applications couldn't be granted, not that they
3 couldn't be heard.

4 So I think there is a couple of simple
5 reasons why this motion should be denied and I would
6 so move.

7 COMMISSIONER PARSONS: Second.

8 CHAIRPERSON MITTEN: Any discussion? All
9 those in favor, please, say aye.

10 ALL: Aye.

11 MR. HITCHCOCK: Is it possible to be
12 heard, Madam Chair?

13 CHAIRPERSON MITTEN: All those opposed,
14 please, say no. Mrs. Schellin?

15 MS. SCHELLIN: Staff would record the vote
16 5-0-0 to deny the motion to dismiss for noncompliance.
17 Commissioner Mitten moving, Commissioner Parsons
18 seconding, Commissioners Turnbull, Hood and Jeffries
19 in favor of denial.

20 CHAIRPERSON MITTEN: Thank you. Mr.
21 Hitchcock?

22 MR. HITCHCOCK: Thank you, Madam Chair.
23 I just wanted to note, a little late perhaps, in
24 response to the point about further processing, we
25 respectfully submit this is a question of form over

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1 substance. I would like to include in the record a
2 copy of an email that we received under the Freedom of
3 Information Act. We have the 25 copies here. This is
4 a -- which I will pass up.

5 The university through Sherry Rutherford,
6 the Managing Director of Real Estate Planning and
7 Development, submitted an email to Mr. Parker at OP in
8 January of this year which says in part "The plan is
9 now referred to as Campus Plan for the Year 2006 -
10 2025, rather than Campus Plan Amendment. The strategy
11 is you slap a different label on it, then you can get
12 out from underneath the conditions. In our view, this
13 is a special exception case, even if you call it a new
14 Campus Plan."

15 Calling it a new Campus Plan does not get
16 around the fact that it is trying to accomplish
17 indirectly what they would not want to do directly.
18 So we would respectfully ask the Commission to keep
19 this in mind in considering the matter. The numbers
20 do not add up. We can go into that at length. We
21 filed an affidavit from Mr. Oberdorfer. And, you
22 know, they speak for themselves.

23 CHAIRPERSON MITTEN: Okay. I'll let my
24 colleagues have their say about this particular issue,
25 but I do want to make it clear that in denying the

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1 motion, the point, there is a couple of points, but
2 one of the points is that this is not a hearing about
3 compliance with the plan. Okay. This is a hearing
4 about a new proposal. And compliance with the plan is
5 really a separate matter.

6 If there are issues that folks want to
7 take with the way a count is done and what's included
8 and what is excluded, that's fine, but we are not
9 going to go through chapter and verse on what they
10 counted and how they counted it. If there is an
11 appeal of some kind of a decision of the Zoning
12 Administrator or this body that someone would like to
13 bring to bring the compliance issue into relevance for
14 a hearing, that's fine. But this is not a place to do
15 it. Okay?

16 MR. HITCHCOCK: Yes. Well, we are not
17 trying to get into compliance for the sake of
18 compliance, but it does relate directly to conditions
19 that are in the 2000 Plan. The university at various
20 points talks about how it wants to continue the
21 numbers into the current Campus Plan and the question
22 of how one counts them is, therefore, highly germane
23 both to -- not just to the current one. I mean, I
24 take it you're not trying to --

25 CHAIRPERSON MITTEN: And I agree with what

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1 you're saying too.

2 MR. HITCHCOCK: Okay.

3 CHAIRPERSON MITTEN: How you count is
4 relevant.

5 MR. HITCHCOCK: Yes.

6 CHAIRPERSON MITTEN: And we can certainly
7 do more work defining how we count.

8 MR. HITCHCOCK: Um-hum.

9 CHAIRPERSON MITTEN: But whether they are
10 currently in compliance right now is not the subject
11 of the hearing. Okay?

12 MR. HITCHCOCK: Okay. All right. Thank
13 you.

14 CHAIRPERSON MITTEN: Thank you. Did you
15 have anything that you wanted to say? I just wanted
16 to give you a chance to speak.

17 MS. DWYER: No, Madam Chair. Thank you.

18 CHAIRPERSON MITTEN: Okay. And anyone
19 from West End? Okay. Great. So did you have any
20 other matters, Mr. Hitchcock?

21 MR. HITCHCOCK: Not at the moment.

22 CHAIRPERSON MITTEN: And did West End have
23 any preliminary matters?

24 MS. KAHLOW: Yes.

25 CHAIRPERSON MITTEN: Okay.

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1 MS. KAHLOW: I'm Barbara Kahlow. I
2 represent the West End Citizens' Association. I
3 wondered when you were going to take up the expert
4 witness request.

5 CHAIRPERSON MITTEN: We'll take those up
6 at the commencement of each case. So we will take up
7 the expert witness request for the applicant at the
8 beginning of their presentation and so on and so
9 forth.

10 MS. KAHLOW: Thank you.

11 CHAIRPERSON MITTEN: Okay. Thank you.
12 Ms. Dwyer?

13 MS. DWYER: All right.

14 CHAIRPERSON MITTEN: I did want to say I
15 don't know exactly what all your presentation consists
16 of and that you perhaps might need a few extra
17 minutes, but if you need a few extra minutes, that's
18 fine. In an effort to help you streamline your
19 presentation, I know you all like to give a background
20 about the university and all the good stuff they do,
21 which is wonderful and we have read it and so maybe
22 you could just kind of skip over that and get to the
23 meat of the matter and that might help keep things on
24 track, if you would.

25 MS. DWYER: We're going to try very hard.

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1 And what we have done to try and control the timing is
2 put together a PowerPoint presentation. We had
3 requested an hour and a half for our presentation.
4 It's probably closer to an hour and 10 minutes and I
5 thought we would go through all of the witnesses and
6 then bring them back together to answer any cross
7 examination questions.

8 CHAIRPERSON MITTEN: Okay. But you are
9 going to fast forward over?

10 MS. DWYER: I'm going to ask Lou Katz and
11 Charles Barber to try and refrain from saying all the
12 wonderful things about the university.

13 CHAIRPERSON MITTEN: And it's not that we
14 don't want to hear that.

15 MS. DWYER: They are in the slides you
16 have.

17 CHAIRPERSON MITTEN: Okay.

18 MS. DWYER: You have copies of the slides.

19 CHAIRPERSON MITTEN: Great. Okay.

20 MS. DWYER: And I will try and be quick in
21 my opening. As you have pointed out and as everyone
22 knows, the case tonight involves -- first of all for
23 the record, Maureen Dwyer with Pillsbury Winthrop Shaw
24 Pittman and with me is David Avitabile, also of our
25 firm, and we represent the applicant.

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1 There are two applications before you
2 tonight. One is for a 20 year Campus Plan under
3 Section 210 and the second is for a first-stage PUD
4 along with a Map Amendment. And while both have been
5 filed separately, the two are very interdependent and
6 the Commission has decided to hear to the two
7 together.

8 As set forth in the Office of Planning's
9 report, this case represents the culmination of an
10 extensive collaborative process among the university,
11 the Office of Planning and the community. I can't
12 see.

13 CHAIRPERSON MITTEN: Too much? Okay.
14 Sorry. I guess it's not going to work. Sorry. I
15 don't know that they can -- your mike went off.

16 MS. DWYER: To come up with a plan that
17 accommodates the university's forecasted academic and
18 student housing needs that builds upon the
19 undergraduate student housing conditions of the
20 existing Campus Plan, provide certainty and
21 predictability for the future and minimizes the
22 potential for any objectionable impact.

23 There has been much discussion about why
24 a PUD and -- isn't this too novel an approach for a
25 Campus Plan? On the contrary, the PUD provides the

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1 ideal zoning mechanism to achieve the appropriate
2 level of certainty, predictability and control for the
3 community, the university and the city. The
4 appropriateness of the PUD process for Campus Plan
5 development was decided by this Commission when it
6 decided the Square 103 PUD back in 2004.

7 And the appropriateness of the PUD and
8 two-stage process for large sites was decided by this
9 Commission when it decided the MedStar PUD and master
10 plan case back in 2003. And that campus was,
11 approximately, 34 acres. This campus is,
12 approximately, 43 acres. So this process has been
13 used very successfully on large sites.

14 For these reasons, the Office of Planning
15 asked the university to consider the PUD approach and
16 after careful analysis and review, the university
17 agreed. In many respects, the two-stage PUD process
18 mirrors the two-stage process under Section 210. The
19 first-stage PUD approval is very similar to approval
20 of a Campus Plan in that it deals with large concepts
21 and the location of uses and densities and the second-
22 stage PUD approval is very similar to the further
23 processing application.

24 What is different about the PUD process is
25 that we believe and the Office of Planning believes

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1 that the PUD process provides greater controls and
2 specificity at both the first-stage and second-stage
3 levels, important public benefits and amenities, it
4 limits campus development to identifiable sites and it
5 provides the accompanying change in zoning in order
6 for the university to achieve the height and densities
7 on the core of its campus and it also provides for the
8 vesting of the proposed zoning and densities once 70
9 percent of the proposed development is completed or
10 approved.

11 And this provides university with the
12 certainty that it will be able to achieve its academic
13 and student housing objectives. And in return for the
14 PUD and change in zoning, the university has made
15 significant commitments to a Strategic Development
16 Plan with conditions that go far beyond what could
17 have been accomplished under the traditional Campus
18 Plan process.

19 The testimony you are about to hear from
20 the witness will describe the comprehensive and
21 thoughtful process that took place over the last two
22 years leading to today's hearing. Lou Katz will
23 describe the proposed development strategy and how
24 that achieves the university's broader strategic
25 planning objectives and also results in lasting

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1 benefits for all stakeholders.

2 Dr. Lydia Thomas, who is Vice Chair of the
3 University's Board of Trustees, will describe the
4 importance of academic facilities, including one of
5 the key projects for the campus of the future, the new
6 science center. Charles Barber, Senior Counsel at GW,
7 will describe the university student housing
8 requirement and its consistent and continued
9 compliance with all Campus Plan conditions.

10 Sherry Rutherford will describe the
11 collaborative planning process and also describe the
12 comprehensive new conditions that constitute new
13 commitments by the university. Matt Bell will provide
14 an overview of the development program and the future
15 of the campus in the context of its surrounding
16 community. Laura Hughes with Traceries and Andi Adams
17 with Pillsbury Winthrop Shaw Pittman, who are both
18 architectural historians, will describe the first of
19 its kind Comprehensive Historic Preservation Plan,
20 which is one of the primary benefits or amenities of
21 this PUD. And Marty Wells will address the lack of
22 any objectionable impacts from parking or traffic.

23 If there are no questions, at this time,
24 I would like to ask the first witness to begin his
25 testimony. I would also like to qualify as experts

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1 the witnesses Matt Bell, Andi Adams and Marty Wells in
2 their respective fields. You have their resumes.
3 They have all been previously qualified. Laura Hughes
4 as an architectural historian, she has not appeared
5 before you, but she has been qualified as an expert
6 before the Historic Preservation Review Board and the
7 Mayor's Agent for historic preservation.

8 CHAIRPERSON MITTEN: Any objection? Any
9 objection? Okay.

10 MS. DWYER: All right. Then I would ask
11 Lou Katz to proceed with his testimony.

12 MR. KATZ: Thank you. Good evening. My
13 name is Lou Katz and I'm the Executive Vice President
14 and Treasurer at the George Washington University. My
15 responsibilities at the university include the
16 management of business operations, which include the
17 financial, physical and information systems within the
18 institution. I have, approximately, 25 years
19 experience in higher education. I have been with GW
20 now since 1990.

21 The university was founded in 1821 and we
22 have been located in Foggy Bottom/West End since 1912.
23 Our location in the heart of the nation's capital is
24 key to our mission and is critical to our success.
25 The opportunities and resources surrounding the campus

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1 attract outstanding students, faculty and staff to the
2 university and help shape some of our most successful
3 academic research and clinical programs.

4 By capitalizing on this location, we
5 deliver an educational experience that is distinctive
6 and rewarding. One example of this would be our
7 School of Public Health. We believe one of the things
8 that makes our School of Public Health unique is its
9 location. It's the only school in America that can
10 state it is within walking distance of more than 500
11 public health organizations and also fill in its role
12 working with the District of Columbia for the needs of
13 the District of Columbia.

14 But the District is much more than its
15 monuments and politics. It is made up of many
16 distinct neighborhoods and together create the fabric
17 of a unique and diverse city. The university values
18 the Foggy Bottom/West End neighborhoods of which we
19 are a part and recognize that a thriving community is
20 a key component of the GW experience for those who
21 study, teach and do research and work here.

22 GW's commitment to our neighborhood is
23 reflected in its many university initiatives and
24 programs and it's outlined in "Discover GW" and that's
25 available on our neighborhood website. Additionally,

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1 the university's relationship with our neighbors is
2 reflected in the broad and inclusive community-based
3 planning process from which this Campus Plan was
4 developed.

5 The need for growth is not unique to GW.
6 In fact, forward momentum is critical to all
7 institutions of higher education. In a report that
8 came out from Boston College quoting its President in
9 May of '06, Father William Leahy, he noted "The
10 universities that don't move forward move backwards
11 and lose consequence." And we agree with that.

12 In order to sustain our momentum and
13 advance our mission, we have developed an integrated
14 development strategy that reflects our strategic
15 planning initiatives aimed at creating a world class
16 university within the nation's capital. The
17 integrated development strategy is comprised of two
18 key elements: The "Grow Up, Not Out" philosophy and
19 that's to accommodate the academic and student housing
20 needs within our campus at Foggy Bottom, and the
21 proposed redevelopment of Square 54 as a mixed use
22 town center.

23 This strategy is further complimented by
24 the proposed "School Without Walls" public/private
25 partnership. This approach reflects not only our

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1 broader institutional goals, but also responds to the
2 Office of Planning's prerequisite that in order to
3 consider the use of Square 54 for non-university
4 purposes, GW needed to demonstrate a plan to
5 accommodate our forecasted academic and student
6 housing needs on our existing campus.

7 The university's forecasted space needs
8 are comprised of both academic and student housing
9 needs, as I mentioned a moment ago. In terms of our
10 academic space requirements, the university needs not
11 only more space, but much different types of space in
12 order to compete with top tier research institutions.
13 GW's own research activities have increased notably in
14 the past years. In fact, there has been more than a
15 50 percent increase in the amount of sponsored
16 research activity funding since the year 2000.

17 We must develop new and modernized
18 facilities responsible to evolving academic and
19 technological needs. For example, the state of the
20 art science center. We need modern classrooms with
21 integrated technology and cutting edge laboratories.
22 These new facilities are essential to enhance GW's
23 unique interdisciplinary programs, continue to attract
24 the top tier students and faculty and maintain GW's
25 status as a world class university.

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1 We also acknowledge and we are committed
2 to addressing the demand for on-campus student housing
3 and to complying with the Campus Plan housing
4 requirement. In fact, the Campus Plan housing
5 requirement aligns with our own and institutional goal
6 of creating an outstanding undergraduate living
7 learning experience. To this end, we have added
8 nearly 2,800 beds on campus since 1999.

9 The Campus Plan that we are proposing
10 identifies sites to accommodate up to 1,000 additional
11 on-campus beds. Overall, the university's existing
12 on-campus housing facilities and the proposed new
13 facilities would result in a bed inventory that meets
14 GW's projected student housing needs and exceeds the
15 Campus Plan housing requirement.

16 The additional facilities proposed under
17 this plan are not aimed at accommodating an increase
18 in the student, faculty or staff populations beyond
19 those which are already approved under the existing
20 Campus Plan, rather the growth is required to further
21 our -- GW's core academic mission and enhance the
22 quality of the university's educational programs. In
23 all the plan accommodates an additional,
24 approximately, 1.5 million square feet of academic
25 space, as we said, up to 1,000 additional on-campus

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1 beds.

2 And by accommodating our academic and
3 student housing needs on campus, Square 54 can be
4 developed as a mixed use town center. The Square 54
5 site is adjacent to the Foggy Bottom Metro and is at
6 the front door of our campus and the Foggy Bottom and
7 West End neighborhoods. The site presents a key
8 transit-oriented developed location and an opportunity
9 to create a mixed use town center with retail,
10 residential and office uses and would achieve shared
11 benefits for all stakeholders.

12 Square 54 is a key element of GW's
13 integrated development strategy as it provides a major
14 source of non-enrollment driven revenue to fund our
15 core academic mission and we enhance the overall urban
16 campus experience for our students, faculty and staff
17 who study, live and work at our Foggy Bottom Campus.

18 A PUD for this project has been filed by
19 GW and by Boston Properties and KSI Services and is
20 scheduled for a public hearing before this Commission
21 on November 20th. The implementation of the
22 integrated development strategy will result in shared
23 and lasting benefits for a wide range of stakeholders.
24 These benefits associated with the plan justify the
25 flexibility and additional density that is being

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1 requested under the Campus Plan PUD.

2 For the community, the plan offers a
3 development concentrated at targeted locations away
4 from surrounding residential neighborhoods, provides
5 for neighborhood serving retail services on Square 54,
6 as well as along the proposed I Street retail
7 corridor. It enhances the public environment and
8 pedestrian experience and it offers GW commitments
9 associated with the plans, including over time the
10 transition of off-campus properties and limitations on
11 the use of additionally acquired residentially zoned
12 off-campus properties in the Foggy Bottom/West End
13 neighborhood.

14 For the District, the strategy establishes
15 a framework for predictable plan growth guided by
16 smart growth and transit-oriented development
17 principles. It provides new business opportunities
18 and enhances the District's tax-base, maintains
19 architectural and historic resources and sustains and
20 promotes a world class university in the District of
21 Columbia.

22 For the university, this strategy
23 accommodates our forecasted academic and student
24 housing needs within our existing Campus Plan
25 boundaries. It provides programmatic benefits and

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1 promotes efficient use of resources. It allows Square
2 54 to be used for commercial development, which will
3 provide a vibrant town center and again it's a key
4 source of non-enrollment driven revenue to support our
5 core academic mission.

6 This reflects GW's broader strategic
7 planning initiatives aimed at creating a world class
8 university within the nation's capital. With that, I
9 would like to turn it over to Lydia Thomas, who is the
10 Vice Chair of the George Washington University Board
11 of Trustees.

12 CHAIRPERSON MITTEN: Thank you.

13 DR. THOMAS: Thanks, Lou. Good evening,
14 ladies and gentlemen. As Lou said, I am Lydia Thomas.
15 I live in Gaithersburg, Maryland. What is important
16 tonight though is that I am the Chairman of the
17 Academic Affairs Committee of George Washington
18 University, a position of which I am not only very
19 dedicated, but also very proud. There is a slide on
20 the screen, after my name, that refers to the
21 Strategic Plan for Academic Excellence at the
22 university.

23 I do not have a planned or canned speech,
24 so I will spare you any more slides. But I do want to
25 speak to you from the heart as an old scientist. Lou

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1 referred to the new science center, that's a real
2 passion of mine as a scientist, but even more
3 importantly than that, I see so much potential in the
4 university to not just be a good place to go to
5 school, but to be a really world class university.

6 You know, you get the same ring that you
7 hear when someone refers to Stanford or someone refers
8 to Oxford or someone refers to MIT. We can do that in
9 the District of Columbia when somebody refers to the
10 George Washington University if, indeed, we have the
11 facilities that will attract the best professors and
12 world class students. You can't do that in antiquated
13 facilities.

14 I remember what it was like to go in a
15 room full of bunsen burners with slides that people
16 loaned you. When I was at Howard University, I think
17 my mother probably used the slides that I was given to
18 study when I was a student there, which was still a
19 very long time ago. But even she preceded me in the
20 1930s. You don't see that in an academic setting any
21 more. Everything is done for these students with
22 technology.

23 Technology is not only important in order
24 to convey so many scientific principles that didn't
25 even -- weren't known when I was getting my doctorate.

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1 As a matter of fact, I'm never quite sure whether I
2 would manage to do it again or whether I would even be
3 accepted at some of these wonderful schools, but
4 nonetheless, it is the method by which students learn.
5 And so not only is it there for the taking, it's also
6 what the students expect. It's the best way to learn.

7 When you come up to the university, if you
8 have the opportunity ever, to go into the new anatomy
9 facility within the School of Medicine and Public
10 Health, you will find that those slides that I had to
11 look at don't exist any more. The students have
12 access over the Internet. They can view the slides in
13 the laboratory, which doesn't have any stinky bunsen
14 burners. There are no gas lines to be fire hazards
15 and cause problems for the university or the
16 community.

17 Not only can that occur, but they can
18 access them in their dorm rooms over the Internet with
19 their own personal computers. These are the types of
20 things that the university needs to be able to
21 provide. And so I am very interested particularly in
22 the development of the new center that will go in,
23 because hopefully it will provide the revenues that
24 the university desperately needs to up its capability
25 to be a provider of the kind of education that our

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1 students not only want, but that our students deserve.

2 I believe that throughout the nation not
3 only at George Washington University, the very
4 survival of this nation will rest to a great extent on
5 our ability to educate our populous. We must be
6 prepared to compete in a global economy where everyone
7 is focusing on the education of their students.

8 It's phenomenal, when I have been in many
9 other countries, the amount of energy and dedication
10 that the governments of those countries are putting in
11 to their education base is phenomenal. I think we can
12 do no less for the education base in this country.
13 And in this particular instance, right here in our
14 home we have the opportunity to do that at GW.

15 I can only ask that you come up and visit
16 some of the facilities that we have now and help me
17 answer some of the students, some of whom are here
18 this evening, as to why in some instances the high
19 schools that they left were better equipped to provide
20 them their education than some of the classroom
21 facilities that we can currently provide for them as
22 it stands. All of these things are unfortunately
23 expensive.

24 I'm sure, knowing my friend, Lou, over
25 here, the least expensive way that we can find to give

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1 the very maximum benefit to the students is exactly
2 what he will do, but, nonetheless, it does cost money
3 to do these kinds of things and we really desperately
4 need that new science facility.

5 With that, I'll turn it over to the real
6 experts.

7 CHAIRPERSON MITTEN: Okay. Thank you.

8 MR. BARBER: Thank you. Good evening.
9 I'm Charles Barber. I'm Senior Counsel at George
10 Washington University. I have served in this position
11 10 years this month. Prior to that, I served as
12 Deputy General Counsel at Howard University. I was in
13 the General Counsel's Office there for 10 years and I
14 worked on the 1988 Howard University Campus Plan. I
15 have served as an adjunct instructor at Howard
16 University Law School teaching Zoning and Land Use Law
17 and I currently serve as an adjunct at GW teaching
18 Higher Education Law.

19 My real claim to fame, such as it is for
20 the purposes of this proceeding, is that I am a
21 veteran of the 2000 Foggy Bottom Campus Plan hearings
22 as well as the 1999 Mount Vernon Campus Plan hearings,
23 both of which were approved by the Board of Zoning
24 Adjustment subject to certain conditions. And I use
25 the term veteran loosely. It wasn't really a battle.

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1 It was a time of intense scrutiny where all of us
2 grappled with a number of issues. I am happy to say
3 though that the scars that I have from that period of
4 intense scrutiny have all but healed and thank you for
5 asking.

6 From that perspective, it is -- this
7 Campus Plan before you is really a direct outgrowth of
8 what we did with the 2000 Campus Plan. It builds upon
9 the key conditions that were -- the BZA included in
10 the conditions in the BZA Order and it addresses
11 issues that were raised, but not fully resolved, in
12 the 2000 Campus Plan.

13 For any of us who worked through those
14 issues and for those of you who may have reviewed the
15 record, it is clear the key issue with which we are
16 grappling in the 2000 Campus Plan was the lack of
17 sufficient housing for full-time undergraduate, Foggy
18 Bottom full-time undergraduate students. We focused
19 on that issue.

20 And you see from the slide when we filed
21 the Campus Plan in 1999, we had 35, a little more than
22 3,500 beds providing housing for full-time
23 undergraduates with a little bit more than 50 percent
24 of the full-time undergraduate population. I am
25 pleased to report, as Lou Katz has noted, that since

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1 that time we have added more than 2,800 beds on
2 campus.

3 Now, there are those who say that GW was
4 brought to this point kicking and screaming. That is
5 not the case. We always recognized our responsibility
6 to provide housing for our full-time undergraduate
7 population. We, indeed, came up with various
8 proposals to house 70 percent of our full-time
9 undergraduate population. And, in fact, even while we
10 were still in the Campus Plan process, we accelerated
11 two projects. And so the first two projects out of
12 the box presented to this Commission were two housing
13 cases and they were the first of four housing projects
14 of which we have built in this time.

15 But during the 2000 Campus Plan we
16 grappled with housing, where it would go, what kind of
17 time frame, those kinds of issues. At the end of the
18 day, the Board of Zoning Adjustment imposed a fairly
19 high housing standard. It could be referred to as the
20 70 percent plus housing standard. We are required to
21 provide housing for 70 percent of our full-time
22 undergraduate population up to 8,000 for a minimum of
23 5,600 beds. And then for every student over 8,000 we
24 have to provide an additional bed on campus 1:1.

25 And I'm pleased to report that as of the

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1 measuring date, the August 28th report, which this
2 number reflects, we have met that condition with a
3 measuring date -- as of the measuring date we had a
4 population of full-time undergraduate population of
5 8,204. The required bed count would be 5,804 and we
6 have exceeded that number.

7 We are carrying forward that basic core
8 housing requirement into the 2006 - 2025 Campus Plan
9 proposal. So we will have that high housing standard
10 for the next 20 years. And the plan provides that and
11 allows us to accommodate an additional 1,000 beds on
12 campus in order to continue to meet that standard.
13 Now, does that mean we're going to add another 1,000
14 students? No, it does not.

15 We have built in that capacity for three
16 reasons. One, because we are in this 1:1 position, we
17 don't have much margin for error. So we need to have
18 additional capacity to make sure we continue to meet
19 the housing standard. The second reason, as you will
20 hear, we will be terminating undergraduate housing,
21 the programs we have for certain -- for undergraduates
22 certain facilities off campus. And we hope to have
23 those students migrate onto campus. And so that will
24 happen over time in the time frame that we have laid
25 out. And so we need to have those beds in order to

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1 hopefully capture that population.

2 In addition, we want to provide a variety
3 of types of housing. Our freshmen and sophomores are
4 required to live on campus. That was a key condition
5 of the 2000 Campus Plan. The juniors and seniors, we
6 need to retain and so we're always looking at our
7 housing to see if we have the right housing mixture
8 and the right mix of amenities in order to retain that
9 population. And so the additional beds that we have
10 allowed for and the Campus Plan allows us to vary the
11 types of housing.

12 I have alluded to certain key compliance
13 conditions. Let me just enumerate them. They were
14 included in the 2000 Campus Plan. Of course,
15 population caps on Foggy Bottom student enrollment,
16 faculty and staff, many of those numbers dated back to
17 the 1985 Campus Plan. They are being brought forward
18 without change in terms of the numbers into the 2006
19 -2025 Campus Plan.

20 Mandatory on-campus housing for freshmen
21 and sophomores I have already mentioned. It was
22 imposed in the 2000 Campus Plan, we are carrying that
23 forward under the new plan. Complete compliance
24 status reports. Every time we file a further
25 processing case, that has become fairly standard with

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1 most universities, but what is unique for George
2 Washington is the biannual reporting requirement,
3 which is an additional reporting requirement and that
4 was imposed in the 2000 Campus Plan.

5 Every August 28th and February 28th, we are
6 required to provide reports on undergraduate
7 enrollment, bed count as well as census data, our
8 local address, where our undergraduates live off
9 campus. That was a key question that was raised in
10 the 2000 Plan and so the BZA order requires us to
11 account for that. We will continue that biannual
12 reporting requirement, although on different dates as
13 we will discuss. So all these key compliance issues
14 are being carried forth.

15 In addition, there are several issues that
16 were raised in the 2000 Campus Plan, but never
17 completely resolved. Key among these was what would
18 happen to the existing off-campus student housing
19 facilities. GW has several housing facilities located
20 one to two blocks off campus. They exist. They are
21 permitted under existing Zoning Regulations.

22 The Board of Zoning Adjustment order,
23 however, requires that the housing requirement be met
24 entirely on campus and so while we can use this off-
25 campus housing, we can't count it. And so these off-

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1 campus facilities were left somewhat in limbo.

2 A key issue also that was raised in the
3 2000 Campus Plan, but was not resolved, was future
4 expansion of university uses into residentially zoned
5 areas in Foggy Bottom/West End. This was an issue of
6 concern. It was raised by the community. It is not
7 addressed by the 2000 Campus Plan.

8 The future use of Square 54. There was a
9 lot of discussion about Square 54, the old hospital
10 site. There were various proposals bandied around.
11 At the end of the day, we provided -- for a variety of
12 uses, we have provided a chart, a color-coded chart
13 showing each of the university uses that will be on
14 campus. Square 54 was a rainbow. It showed various
15 colors. It reflected the fact that we really did not
16 at that time have a plan for developing Square 54.

17 And also addressed, but not fully
18 resolved, were compliance reporting dates. Issues
19 have come up as well as definitions in terms of the
20 reporting requirements, the compliance reports. All
21 these issues that were not resolved in the 2000 Campus
22 Plan have been resolved and addressed in the plan
23 going forward.

24 Sherry Rutherford will now talk about some
25 of the conditions as well as the community-based

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1 planning process. Thank you.

2 MS. RUTHERFORD: Thank you. My name is
3 Sherry Rutherford and I am the Managing Director for
4 Real Estate Planning and Development at the George
5 Washington University. I first came to GW in 1992 and
6 have worked in various capacities both within and
7 without the university since that time. Currently, I
8 am responsible for coordination of various campus
9 planning-related activities at GW.

10 I have had the opportunity to work very
11 closely with planning and design professionals,
12 District agencies and various interested stakeholders
13 including members of the community for nearly two
14 years as part of the university's ongoing open and
15 inclusive planning process. I am very pleased to be
16 here tonight to discuss that process that led up to
17 the plan that we present before you.

18 As Charles mentioned, in many respects the
19 proposed Campus Plan builds upon the existing Campus
20 Plan. Drawing from the key tenets and conditions of
21 the plan and the university's experience since the
22 adoption of that plan, several factors have shaped the
23 university's current planning effort. Among them, the
24 fundamental constraints of limited space and financial
25 resources, a desire to proactively address concerns of

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1 the community with respect to university growth and
2 development, particularly university development off
3 campus and the unique opportunity presented by the
4 redevelopment potential of Square 54.

5 Key to this planning effort from its very
6 earliest stages was the guidance and direction
7 received from the D.C. Office of Planning.
8 Specifically, we have worked very closely with
9 development review, neighborhood revitalization and
10 Historic Preservation staff throughout this nearly two
11 year long planning process.

12 Taking the lead from OP, the university
13 developed a comprehensive community-based planning
14 process in order to reach a variety of interested
15 stakeholders. The cornerstone of this effort was a
16 Foggy Bottom Campus and neighborhood study which
17 really took a fresh start and a fresh look at the
18 campus in the context of its surrounding
19 neighborhoods.

20 Again at the recommendation of OP, the
21 university retained EE&K, a nationally respected local
22 design and planning firm with extensive urban planning
23 experience, to lead this planning study. In addition,
24 GW and OP cosponsored a ULI Advisory Services Panel in
25 May 2005 to specifically evaluate the redevelopment

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1 potential of Square 54.

2 After an intensive three day study
3 process, the panel recommended commercial mixed use
4 redevelopment of 54 at an FAR between 7.0 and 8.0, but
5 that was all based on the premise as well that the
6 university would be able to develop a plan to
7 accommodate its forecasted academic and student
8 housing needs on the bounds of campus.

9 Community participation in this effort,
10 planning effort, was actively encouraged and engaged,
11 including a series of open community meetings held
12 throughout the summer and fall of 2005. Those
13 community meetings were cosponsored by the ANC-2A, the
14 Office of Planning and GW and were moderated by an
15 independent facilitator.

16 In order to document and record community
17 input and concerns, the facilitator worked with the
18 cosponsors and GW to develop a comprehensive issues
19 exhibit that lists each issue raised throughout the
20 series of meetings. Responses were provided by the
21 university and many planning and design issues were
22 identified through that process and, in the issues
23 exhibit, were incorporated into our final development
24 plan.

25 The issues exhibit was available for

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1 review and discussion at the community meetings and
2 also at office hour sessions that were held, convened
3 by the facilitator as well as the architect team, and
4 the issues exhibit was also posted and remains posted
5 on our neighborhood website.

6 Since the conclusion of the formal
7 cosponsored series of meetings, the university has
8 continued to engage in extensive outreach with various
9 interested stakeholders in the form of meetings, small
10 group briefings, brown bag lunch sessions and several
11 one-on-one sessions. In fact, within the last month
12 the university convened two open community meetings,
13 one to discuss the proposed Streetscape Plan and
14 another to discuss the Historic Preservation Plan,
15 which are both key components of the overall Campus
16 Plan.

17 Throughout this period of community
18 engagement and continued planning activity with the
19 Office of Planning, we have also worked closely with
20 other District agencies with respect to various
21 components of the plan, specifically DDOT in
22 connection with the Streetscape Plan. And, as will be
23 discussed in more detail in a few minutes, we worked
24 closely with the Historic Preservation Office staff as
25 well as the Historic Preservation Review Board to come

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1 up with a consensus plan that would meet both the
2 university's development program and address very
3 important preservation concerns.

4 All materials related to the planning
5 process, including the issues exhibit, meeting
6 presentations, project summaries and updates and
7 copies of all zoning applications filed by the
8 university have been posted on a comprehensive
9 neighborhood website, which has been proven to be a
10 valuable resource in this ongoing planning effort.

11 As indicated on this chart of website
12 traffic activity over the last year, the neighborhood
13 website has been very well-utilized. Several peaks in
14 utilization activity reflect key planning activity
15 related to the Campus Plan. For instance, you will
16 see a peak in October '05. That followed the release
17 of a university-wide student web-based survey
18 eliciting input and feedback from students with
19 respect to the development plan.

20 In addition, increased activity in
21 February and March 2006 followed the filing of the
22 Campus Plan on February 16, 2006. And we also seem to
23 have experienced a recent upward trend over the last
24 few months potentially in response to the release of
25 the Historic Preservation Plan and the Streetscape

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1 Plan and, obviously, as we head into these hearings
2 tonight.

3 A fundamental component of the Campus Plan
4 submitted by GW is the compilation of a comprehensive
5 set of 25 proposed Campus Plan conditions. These
6 conditions are the result of a substantial effort by
7 GW and the Office of Planning to address issues of
8 community concern and to provide additional certainty
9 and control beyond the development plan itself. Each
10 of these specific conditions are detailed fully in
11 Exhibit Y of the Campus Plan and are also discussed
12 very thoroughly in the OP Set Down Report and the
13 final report filed with the Commission.

14 The proposed conditions include conditions
15 carried forward from the existing Campus Plan,
16 including no changes to the Campus Plan boundary, the
17 formation of an advisory committee to provide a forum
18 to address ongoing issues of mutual concern to the
19 university and members of the community. The
20 conditions also call for maintaining existing student
21 and faculty staff population caps.

22 However, those definitions were updated to
23 provide clear and specific details to avoid potential
24 conflict in the future. And the conditions also
25 maintain the undergraduate student housing

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1 requirement, as Charles mentioned earlier. The
2 conditions also include commitments that were made by
3 the university throughout the community-based planning
4 process, such as the transition of off-campus
5 properties that currently house undergraduate
6 students.

7 Specifically, pursuant to this condition,
8 this fall, fall of '06, the university discontinued
9 the use of the hall on Virginia Avenue which had been
10 a freshmen residence hall and will no longer use that
11 residence hall for undergraduate student housing. And
12 the university has further agreed, upon approval of
13 this Campus Plan, to discontinue the use of other off-
14 campus properties for undergraduate student housing on
15 the following schedule.

16 Effective fall 2007 with respect to the
17 Aston which is located at 1129 New Hampshire Avenue.
18 Effective fall 2008, the university will no longer
19 refer undergraduates to units at Columbia Plaza as
20 part of GW's Undergraduate Student Housing Program.
21 And effective fall 2016, the university will no longer
22 house undergraduates in City Hall, which is located at
23 950 24th Street.

24 Finally, the conditions also call for
25 improved reporting and compliance review procedures,

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1 including a comprehensive annual compliance report to
2 be filed every fall and an interim report to be filed
3 each spring with data based on standard university
4 census dates to ensure consistency of data with the
5 other official university reported data.

6 These proposed conditions include
7 additional new conditions also that were discussed by
8 the Office of Planning and really pursued by the
9 Office of Planning in response to additional community
10 concerns. Perhaps most significant among these is the
11 commitment that GW will not purchase any additional
12 residentially zoned properties outside the Campus Plan
13 boundaries in the Foggy Bottom/West End for uses other
14 than investment purposes.

15 In all, these are very far-reaching and
16 substantial conditions. As set forth in the plan, the
17 university has agreed to comply with each of the
18 proposed conditions for the 20 year term of the plan
19 and PUD in the event the plan is approved by the
20 Commission as submitted. Thank you very much.

21 MS. DWYER: I am going to ask these
22 witnesses to sit back and the next panel to come up.
23 Matt Bell has asked if you could dim the lights so
24 that he can show the -- and he doesn't need to read
25 from a text. He can just talk so --

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1 MR. BELL: Good evening. I am Matt Bell.
2 I am principal in charge of Ehrenkrantz Eckstut and
3 Kuhn Architects here in the District and I have been
4 the lead designer for this new Campus Plan effort.

5 What I would like to do tonight is to give
6 you an overview of the Campus Plan and the development
7 program and talk about the major concepts involved
8 both in broad terms and also in some specific
9 instances. But before I do that, what I really think
10 is important to do is to begin with a sense of what
11 this campus is and its uniqueness in the city.

12 This campus is the only campus in
13 Washington, D.C. within the L'Enfant Plan. It's a
14 very important thing to understand about it. The
15 L'Enfant Plan, as all of us know in this room, from
16 1790 onwards has given us a form and a contour for the
17 development and the growth of Washington, D.C. that
18 has resulted in one of the world's most magnificently
19 beautiful places.

20 And it was within this understanding that
21 we began to try to understand how the campus relates
22 to the L'Enfant Plan and how the plan gives us a sense
23 about hierarchies and public places and streets, so
24 that we can begin to illuminate things and make the
25 campus a much better place and, therefore, make the

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1 L'Enfant Plan a richer plan indeed.

2 So you can see the campus here completely
3 within all the streets and blocks of the L'Enfant Plan
4 and even in more detail here. Really, the Campus Plan
5 outline and then all the streets and blocks that are
6 really part and parcel of the campus. George
7 Washington University is in the city and of the city
8 and it's synonymous really with this very important
9 aspect of our city L'Enfant Plan.

10 What I want to do is give you an overview
11 of our concept and our concept really, as you have
12 heard, is to "Grow Up, Not Out," but I would add a
13 second concept to that which really is "Grow Up, Not
14 Out" is complimented by understanding the diversity of
15 campus streets and places here in the Foggy Bottom
16 area. And I want to give you an overview of the
17 development program and how that plays out within the
18 plan we have created.

19 The development program locates targeted
20 density in targeted locations concentrated in the core
21 of the campus. It primarily concentrates new student
22 housing away from existing residential areas as
23 compared to the previous plans, which put housing
24 adjacent to residential districts. It combines urban
25 design and planning strategies with historic

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1 preservation objectives, which we think is unique and
2 very important for this part of the city. It enhances
3 the diversity of streets and public places within
4 Foggy Bottom and it provides a predictable framework
5 for future campus development.

6 What you are looking at here is a diagram
7 we made to try to understand this pattern of the
8 campus and how it relates to the overall streets and
9 blocks of the city. And what we discovered was that
10 the north/south streets of the campus really in this
11 area tend to function as overall city streets and they
12 move people from the areas around the Mall to up
13 around Dupont Circle and K Street, and they are sort
14 of streets that get you from one place to the other.

15 They are part of the campus, but in a
16 sense the campus is most cogently experienced through
17 the east/west streets. And what we have done is we
18 have identified three primary campus streets, I Street
19 which the plan envisioned as a new campus town center
20 and mixed use retail street, the campus core street,
21 H Street, in the center of the campus, and G Street,
22 a street with many historic properties and a very
23 different scale than the other streets of the Campus
24 Plan.

25 We also view F Street and Pennsylvania

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1 Avenue as transitional streets of the Campus Plan and
2 also 24th Street that lead to the neighborhoods around
3 them, and this has been our conceptual understanding
4 of how the campus operates both in terms of the form
5 of the campus given by the L'Enfant Plan and the
6 functions of the various university facilities that
7 inhabit that part of the city.

8 Let's take a second and look at these
9 various streets and how we have conceptualized them in
10 the plan. This is a view of I Street which we call
11 creating a vibrant campus, "Creating a Vibrant Retail
12 Corridor." We see this as really the college town
13 street, the place where residents, students, staff and
14 faculty will come to congregate. There will be new
15 retail opportunities brought there with Square 54 and
16 the university has made a commitment to develop retail
17 spaces in the ground floor of new university buildings
18 as the Campus Plan is built out over time.

19 So the plan is for a street that right now
20 has kind of a schizophrenic character to really become
21 a retail heart in this part of Foggy Bottom at a Metro
22 Station. This is a view looking back at the hospital
23 adjacent to a new public plaza at Square 54 showing
24 new residential development, bringing new diversity
25 into this part of town and new place making with a new

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1 public space within the plan. It adds diversity and
2 it adds a significant new place.

3 The next place that we would like to talk
4 about is H Street and we call this "Enhancing the
5 Academic Heart of the Campus." This is the place
6 where the academic enterprise of the university is
7 most significantly experienced. It's the home of the
8 Gelman Library, the Marvin Center, the academic
9 center, Kogan Plaza, University Yard and we see this
10 as the place where the GW experience can be
11 celebrated.

12 We're asking here in this location
13 significantly associated with it for a zoning change
14 to allow increased density, so that this part in the
15 center of the campus can have the focal point and the
16 intensity of that GW experience. It includes, of
17 course, as well, new streetscape ideas.

18 Finally, the last street that we think is
19 important to touch on is G Street, which we call
20 "Preserving Historic Character." This is the
21 neighborhood and the street where the university
22 started in Foggy Bottom in 1912 and it has a very
23 different scale than the other streets of this
24 neighborhood. It's smaller scale buildings.

25 It has many sensitive historic buildings

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1 such as a building where one of the early founders of
2 artistic use of concrete, his home and studio was
3 located. It has some buildings that are already
4 listed as historic properties and it has many units of
5 the university that are smaller units. Clubs and
6 smaller departmental units are occupying these
7 buildings now and we have embraced that concept and
8 see this as the heart of really the historic part or
9 the Historic District that is proposed as part of this
10 Campus Plan.

11 New buildings introduced on the site
12 adjacent to this street or on this street, excuse me,
13 on G Street, have been conceived so that they will
14 step down in scale and respect the historic character
15 and blend in seamlessly with the wonderful historic
16 architecture that is there today.

17 Let's take a second and talk about the
18 development plan. This shows the concentration of
19 academic and administrative space in green in the
20 center of the campus where the plan calls for
21 buildings up to 110 feet in height. We are also
22 showing in red locations for new residential
23 facilities.

24 But the biggest thing I want to point out
25 about this development plan and all the sites here is

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1 that it concentrates the university's focus in the
2 center of the plan and the density is concentrated
3 really along 22nd and along H Street, and that
4 residential properties, which in the previous plan
5 were located along the edges, are located to the
6 center or even at the School Without Walls site where
7 there is a residential project planned, that that
8 would have doors that could open to the north so
9 students could move this way, thereby minimizing the
10 effect, any kind of adverse effect on F Street, or
11 also the fact -- it should also be recognized that
12 this site faces an open park and some university
13 properties already.

14 So it concentrates living facilities also
15 in the center of the plan. Did I mention -- thank
16 you. Heights are decreased at the campus periphery.
17 The plan calls for heights really to be concentrated
18 in the center and at the periphery these heights would
19 step down in scale from 90 feet down to smaller
20 properties in the more historic areas.

21 And, also, the previous plan called for
22 development sites in the location that we have
23 highlighted here in these purple boxes and this plan
24 calls for those sites to be removed as development
25 sites and to be part of an overall Historic District.

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1 So the university has retreated from what it
2 previously embraced as development sites and is now
3 embracing those as historic properties.

4 We have accommodated and allowed and
5 suggested setbacks along 23rd Street to preserve the
6 very important view from Washington Circle down to the
7 Lincoln Memorial. As I mentioned, the I Street retail
8 corridor concept begins really at a thriving hub of
9 activity at the Metro Station with the university's
10 commitment to provide retail at the ground level of
11 new buildings all the way down to 2000 Penn. with the
12 cornerstone anchoring here the Square 54 development.

13 Larger development footprints are
14 envisioned to accommodate evolving academic needs.
15 What is envisioned is that the academic buildings
16 would have 90 percent lot coverage in order to be able
17 to satisfy the requirements of those buildings while
18 residential buildings would maintain a 75 percent lot
19 coverage.

20 This also is a building height diagram
21 that gives a sense of the plan with 110 foot buildings
22 in the center, a place where we're asking for 130 feet
23 along Pennsylvania Avenue and then a diverse set of
24 buildings at the campus periphery which by right would
25 be able to go up to 90 feet.

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1 To make a more illustrative sense of that,
2 this three dimensional drawing shows the same
3 conditions with the height in the center of the plan
4 at 110 feet, and note that the building heights step
5 down where there are historic buildings and where
6 we're making in-fill in places where it would be
7 appropriate to have buildings that are in scale with
8 what is already there in context. So we think that
9 concentrating that density away from the neighborhoods
10 and respecting the diversity of heights throughout is
11 an important concept.

12 I think it should also be pointed out that
13 the diversity of the campus streets is complimented by
14 a diversity of building heights. This is a
15 neighborhood where you have tall buildings, you have
16 shorter buildings and we think the plan makes a very
17 good accommodation to continue that tradition and give
18 us that kind of urbanistic diversity.

19 The proposed zoning to achieve this is to
20 go to C-3-C Zoning in the center, as I mentioned, with
21 a zoning change to C-4 along Pennsylvania Avenue. We
22 have also considered open space, streetscape and
23 signage and, as I mentioned before with the L'Enfant
24 Plan, the L'Enfant Plan has given us a DNA, so to
25 speak, to work with that provides a framework for how

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1 streets and blocks and open spaces are realized in the
2 District of Columbia.

3 And what is very important to understand
4 about the campus is that the campus experience is of
5 the streets that are made by that plan, but also other
6 places like the University Yard and Kogan Plaza and
7 the new, excuse me, the I Street Mall at the Metro and
8 you can see the new plaza at Square 54.

9 But what is unique about GW, which I think
10 is important about this plan, is that these campus
11 spaces are not spaces that are isolated off in a
12 traditional campus, but they are part of the city.
13 You and I can go walking through those spaces today.
14 Students, faculty, staff can walk through and
15 neighborhood residents. So it's very important that
16 these spaces be maintained as amenities to the
17 community and as amenities to the overall -- to the
18 university and to the city.

19 So we should also mentioned we have taken
20 a careful look at campus pathways and how people move
21 through mid-block areas so that adverse impacts of how
22 students move through the campus are minimized. We
23 have listened quite a bit to the community about how
24 students move through the neighborhood and we have
25 tried to understand how to minimize those adverse

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1 impacts with the plan.

2 Concurrent with the overall plan is a
3 Streetscape Concept Plan that is developed in concert
4 and in synthesis with the overall Campus Plan, and it
5 really consists of three elements: An intense
6 streetscape area where the campus uses are most
7 intense, H Street between 22nd and 21st, and I will
8 talk about the kind of elements that that describes;
9 an overall base element that identifies the campus
10 within the Campus Plan boundaries and then some areas
11 where the streetscape is enhanced.

12 You have to look at these as layers of
13 intensity, yellow being recognition of the campus and
14 red being the most intense streetscape elements. One
15 of the things we heard from the community was that
16 they didn't want to see all the different streetscape
17 aspects of the university everywhere. They felt that
18 there was a little too much presence. So what we have
19 tried to do is make a plan that builds layers of
20 intensity up so that places where the university uses
21 and the intellectual and academic enterprise is most
22 intense have those enhanced and premium streetscape
23 elements.

24 So what would they be? The base layer
25 elements, just simple identification, signage,

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1 building emblems, banners. Enhanced elements would be
2 special lighting standards and banners on those,
3 special paving and planting that enhances the campus
4 environment.

5 And then premium layers would be places
6 where we would have streetscape elements in the paving
7 or the busts of George, which are around the campus,
8 or places like the gates at Kogan Plaza. So we have
9 a framework for how to move forward with streetscape
10 that is in concert with the actual -- with the concept
11 plan for the university.

12 We have looked at parking. It's very
13 important that the university have the flexibility to
14 maintain its required 2,800 spaces on campus as these
15 20 years worth of projects are built out. This shows
16 in dark blue existing parking locations and light
17 blue, potential locations within the Campus Plan.

18 I think one of the most significant
19 aspects of this is that within the campus, what we're
20 trying to do is get away from putting all the cars in
21 one location and spread them out so we don't have any
22 adverse impacts that happen in one spot, to really
23 spread the garaging of cars out throughout the campus
24 area and to maintain flexibility to be able to stage
25 additions and subtractions of parking as the Campus

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1 Plan is built.

2 It should be pointed out that this Campus
3 Plan envisions the illumination of a very tall and
4 ugly 1,200 car garage at the intersection of I Street
5 and 22nd Street.

6 So let's take a second and imagine we're
7 20 years down the road and the up, not out, and the
8 diversity of campus street strategy has been acted,
9 has been realized. What would be the achievements of
10 that plan from an urban design point of view?

11 Well, it provides facilities necessary for
12 the university's academic mission. It delivers
13 additional on-campus housing within the campus
14 boundary. Open spaces and the pedestrian experience
15 are enhanced through the streetscape plan and through
16 new projects as they come online. It enhances and
17 reflects and perhaps builds upon the diversity of the
18 vibrant places of the Foggy Bottom community.

19 There are a lot of wonderful, different
20 places there and it rewards that. And one of the most
21 significant aspects of it is that it's a plan that
22 would have preserved the historic architectural
23 resources that are a significant part of this, part of
24 our city.

25 And with that, I would like to turn it

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1 over to Laura Hughes and Andi and they will talk a
2 little bit more about the Historic Presentation Plan.

3 MS. HUGHES: My name is Laura Hughes. I
4 am an architectural historian with EHT Traceries. In
5 the course of the campus planning process, the
6 Historic Preservation Office indicated a specific
7 interest in taking a broader look not just at the
8 existing landmarks, but an in-depth evaluation of all
9 campus resources as they contribute to the historic
10 fabric of the Foggy Bottom and West End neighborhoods.

11 As a result, in coordination with the
12 Office of Planning and Historic Preservation staff,
13 Traceries conducted a comprehensive survey and study
14 of buildings within the Foggy Bottom Campus
15 boundaries. The study included on-site survey and in-
16 depth documentation of each resource in the campus
17 planning boundary.

18 The comprehensive survey established a
19 much fuller understanding of what is historically and
20 architecturally significant on the campus. As you can
21 see from the five slides in front of you, the
22 buildings reflect a wide range of dates and styles
23 that reflect the history of the diverse and evolving
24 Foggy Bottom neighborhood.

25 The building study included examples of

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1 pre-Civil War mansions, examples of Washington's fine
2 19th Century brick row houses, examples of GW's first
3 buildings that reflect the Campus Plan of 1922
4 including Stockton and Corcoran Halls on Square 102,
5 as well as large and small 20th Century art deco and
6 modern apartment buildings and university facilities
7 that reflect the modern movement like Lisner
8 Auditorium and the Hall of Governments.

9 The buildings represent purpose built GW
10 buildings as well as buildings throughout the campus
11 that GW has adaptively used over the years for various
12 university purposes. As a result of this more
13 comprehensive understanding of the significance of
14 campus buildings, GW's original proposed development
15 plan was significantly modified to preserve important
16 campus resources.

17 Specifically, and Matt mentioned these,
18 development sites were removed from F and G Streets,
19 including the very significant John J. Earley House
20 who was an early pioneer of decorative concrete. And,
21 also, in recognition of their significance, the plans
22 were also revised to provide architecturally sensitive
23 additions to the West End, Shenley, Crawford and
24 LaFayette, all important 20th Century apartment
25 buildings in the neighborhood.

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1 And, at this point, I will hand it over to
2 Andi Adams to discuss further the Preservation Plan.

3 MS. ADAMS: Thank you. I am Andi Adams.
4 I am an architectural historian with Pillsbury
5 Winthrop Shaw Pittman.

6 In addition to the changes to the
7 development plans that resulted from the historic
8 resources study, Traceries' work with GW and the
9 Historic Preservation Office led to the development of
10 a Comprehensive Historic Preservation Plan for the
11 Foggy Bottom Campus. This plan was submitted to you
12 in July as a supplement to the Campus Plan.

13 The Historic Preservation Plan is aimed at
14 assuring that appropriate campus resources are
15 identified, preserved and maintained while
16 accommodating the university's projected academic and
17 student housing space needs on the remainder of the
18 campus. The result is a consensus plan that balances
19 and fulfills both the university's development
20 priorities as well as preservation goals.

21 Specifically, the Historic Preservation
22 Plan identifies and proposes designation of an
23 Historic District that includes a large portion of the
24 campus and the designation of six additional GW
25 buildings within the campus boundary as landmarks.

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1 And as you can see here or maybe Laura will point out
2 to you --

3 MS. HUGHES: I will point them out.

4 MS. ADAMS: You can see the blue indicates
5 the Campus Plan boundary. The Historic District is
6 outlined in green and the proposed additional
7 individual designated landmarks are in purple,
8 includes things like the Earley House and Studio and
9 the Burns Building on Pennsylvania Avenue. Once these
10 designations occur, the buildings within the Historic
11 District and the landmarks will be subject to the
12 reviews and protections of the Historic Landmark and
13 Historic District Protection Act, the city's historic
14 preservation legislation.

15 In the Campus Plan context, the historic
16 resources study has been effectively used as a
17 planning tool to guide the location of proposed new
18 construction which, as a result, is now focused on the
19 core of the campus along 22nd Street and away from the
20 more historically sensitive parts of the campus.

21 Additionally, the Historic Preservation
22 Plan proposes design guidelines for development sites
23 in proximity to architecturally or historically
24 significant buildings to ensure that future
25 construction is respectful to those important campus

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1 buildings and resources. It also calls for the
2 development of maintenance guidelines that will work
3 in concert with the Historic Protection Act to ensure
4 the appropriate treatment of historic resources on an
5 ongoing basis.

6 The Historic Preservation Plan is a
7 fundamental core component of the Campus Plan
8 developed in the context of the efforts of the Office
9 of Planning and the Historic Preservation Office to
10 take a broader view of preservation and to use
11 preservation as a planning tool in a proactive way as
12 it has recently done at the Southeast Federal Center
13 and is currently doing in southwest and downtown.

14 The GW Campus Plan is one of the first
15 master plans and the first D.C. University Campus Plan
16 to be reviewed in this proactive manner and to go
17 through this type of comprehensive preservation
18 review. In June and July of this year, David Maloney,
19 the Deputy State Historic Preservation Officer, and GW
20 presented the university's proposed Historic
21 Preservation Plan to the Historic Preservation Review
22 Board for its preliminary review and comments.

23 The Review Board was very favorably -- the
24 Historic Preservation Plan was favorably received by
25 the Review Board and the Board applauded GW's and the

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1 Historic Preservation Office's collaborative efforts
2 to address both preservation and planning principles
3 in the development of the university's plan for the
4 future of the Foggy Bottom Campus, and we're
5 submitting to you transcripts from the Board's
6 discussion of the plan for your review and submission
7 to the record.

8 In the course of our discussions with the
9 Review Board and members of the community, we have
10 indicated that further action with respect to the
11 submission of applications for the designation of the
12 Historic District and individual landmarks will
13 proceed following the Zoning Commission approval of
14 the proposed Campus Plan as submitted. The university
15 is continuing to work on the documentation for these
16 anticipated designation applications to ensure timely
17 implementation of the Historic Preservation Plan
18 following such approval.

19 The Campus Plan with its significant
20 historic preservation component seeks to maintain a
21 campus of diverse and interesting scale and character
22 of buildings both historic and new that will combine
23 to create a unique campus environment for those who
24 study, live and work at GW. The preserved and
25 enhanced historic fabric of the campus and the

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1 neighborhood will be a significant benefit to the
2 Foggy Bottom Campus, to the neighborhood at large and
3 to the District as a whole. Thank you.

4 MR. WELLS: Good evening. I am Marty
5 Wells, President of Wells and Associates, and with me
6 this evening is Jamie Milanovich, a senior associate
7 with our firm. We were retained by the university to
8 evaluate the transportation impacts of the Foggy
9 Bottom Campus Plan that is before you this evening.

10 Other work we have conducted in this area
11 include traffic studies for the U.S. Department of
12 State, the Federal Reserve Bank, the Kennedy Center,
13 the U.S. Institute of Peace, the recently approved
14 Allstate Hotel, redevelopment of the Columbia Hospital
15 for Women site, the Columbia, and the Watergate Hotel
16 to condominium conversion.

17 We have prepared a detailed report. I
18 will read it to you this evening. No, I will just
19 briefly summarize in the interest of time. Next
20 slide, please.

21 Our study is multi-modal. It includes
22 vehicles, pedestrians, parking, transit and other
23 modes. It is broad. It includes 40 intersections and
24 23 driveways. It includes six projects that have been
25 approved, but not yet built or occupied at the time of

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1 our traffic counts, and most significantly includes
2 the additional traffic impacts of three university
3 elements.

4 Number one, adding 1,198 students and an
5 additional 1,000 faculty and staff which are above the
6 current 2,000 or the 2005 levels within the current
7 approved caps. Number two, redevelopment of the
8 former George Washington Hospital site, Square 54, and
9 number three, redevelopment of the School Without
10 Walls site, Square 80.

11 With regard to trips, GW traffic presently
12 accounts for 8 to 9 percent of all traffic crossing
13 the campus boundaries. In the future, if this plan is
14 approved and is built as anticipated, GW traffic would
15 account for about 11 to 12 percent of all traffic
16 crossing the campus boundaries.

17 With regard to parking, the Foggy Bottom
18 Campus presently is served by 3,467 parking spaces
19 which is more than the 2,800 space minimum required by
20 the existing Campus Plan. 1,482 or about 42 percent
21 of those spaces are concentrated or located in the
22 UPG, the university parking garage. A peak of about
23 2,100 to 2,200 spaces or roughly two-thirds of all
24 spaces are occupied at the peak time in the midday on
25 a typical week day.

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1 With regard to the parking opportunity
2 sites, the university would retain, approximately, the
3 same number of spaces they have today. These multiple
4 opportunity sites would give GW the flexibility to
5 maintain a minimum of 2,800 parking spaces during all
6 stages of construction. Parking and traffic would be
7 dispersed throughout the campus rather than
8 concentrated at the UPG.

9 With regard to levels of service, next
10 slide, please, 34 of the 40 public street
11 intersections that we evaluated currently operate at
12 acceptable levels of service during both the a.m. and
13 p.m. peak hours, as indicated in green here. Six
14 intersections which are located on major commuter
15 routes or at two way stop sign-controlled
16 intersections operate near or at capacity either
17 during the morning or the afternoon or both. Next
18 slide, please.

19 30 of the 40 public street intersections
20 are projected to operate at acceptable levels of
21 service in 2025. 10 intersections are projected to
22 operate near or at capacity during one or both of the
23 peak hours. Nine of these intersections would operate
24 near or at capacity with or without this Campus Plan.
25 Next slide, please.

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1 We're proposing several measures or
2 recommending them to mitigate future traffic impacts.
3 They include a new traffic signal at 22nd and I
4 Street, re-timing the existing signal times at six
5 intersections and, thirdly, creating turn lanes by
6 restricting curb parking during peak hours. This
7 would affect, in our preliminary estimates, about 11
8 metered spaces and about six Zone 2 residential
9 parking permit spaces. Next slide, please.

10 The university operates a Travel Demand
11 Management Program that includes incentives to use
12 public transportation of which there are ample
13 services in this area, pedestrian and bicycle
14 programs, a Parking Management Program, a truck
15 management program and management of special events.

16 DDOT has recommended several complimentary
17 measures in their report and I am pleased to report,
18 not to steal their thunder, but they will report that
19 they support this application and we're grateful for
20 their support. Thank you.

21 MS. DWYER: That concludes our testimony.
22 The last slide that you see up there is just a summary
23 of the testimony that you have heard and it just goes
24 through again the PUD benefits and amenities.

25 I should mention that in addition to the

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1 retail corridor that Matt Bell described for I Street,
2 one of the other components of the plan is for the
3 university to have the ability to locate retail as an
4 accessory use in other buildings on campus that has
5 proven to be an amenity for both the neighborhood and
6 the university. So we're asking for that flexibility
7 as well.

8 But, otherwise, these benefits and
9 amenities summarize the testimony that you have heard
10 and highlight what we believe are the significant
11 benefits that you get from a PUD process that would
12 not otherwise be available to either the community,
13 the university or the city through the traditional
14 process.

15 And that completes our direct case
16 presentation and all of the witnesses I would ask to
17 come forward with their chairs to be available for
18 cross examination. One other point I would mention is
19 Dr. Thomas can only be here for tonight's hearing, so
20 any cross examination by parties we would like to
21 complete this evening so that she would not have to
22 come back at another time.

23 CHAIRPERSON MITTEN: I'm confident we'll
24 get through that tonight.

25 MS. DWYER: Okay.

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1 CHAIRPERSON MITTEN: Okay. Let's start
2 with -- thank you all very much. Let's start with
3 questions from the Commission. Who would like to go
4 first? Mr. Hood?

5 VICE CHAIR HOOD: I just have one. I
6 pretty much understand, but I want to hear from the
7 panel or someone on the panel. The question I have,
8 why are we here? Why are we here? And I don't need
9 to know that you have a 20 application, a 20 year
10 Campus Plan or a first-stage PUD.

11 What actually has driven us to come back
12 and revisit this plan and why are we doing this? Mr.
13 Barber, you're shaking your head. It looks like you
14 understand my question.

15 MR. BARBER: I do understand the question.
16 I can start, but okay. There are several factors that
17 are driving that. Square 54 does present an
18 opportunity. It is a vacant lot, prime piece of
19 property. We're looking to develop it as we
20 discussed, what Office of Planning said. In order to
21 develop that in a way we think is -- best serves the
22 city, the university, the residents, you have to
23 demonstrate that you can meet your needs on campus.
24 That was one factor.

25 The other factor is that we have had

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1 experience with this plan and we realize there are a
2 number of things that need to be addressed in order to
3 -- that go with meeting our needs on campus. When we
4 -- and that entails some of the issues that I talked
5 about that were unresolved in the 2000 Campus Plan,
6 the off-campus properties, the future expansions,
7 bringing those students back to campus.

8 And so when we had this opportunity in
9 terms of Square 54 to take a step back and look at
10 this Campus Plan with a fresh look, we found that
11 there were a number of opportunities to address at one
12 time. The historic preservation issue came up during
13 that process. That was not something we had initially
14 planned, but in talking to the Office of Planning we
15 found that that needed to be incorporated as well.

16 And so a number of factors came together
17 at the same time that drove us to take a comprehensive
18 look, reexamination of these issues, build upon what
19 we have been doing, but then projecting to the future.
20 And the nature of our commitments, the historic
21 preservation, the off-campus restrictions, are such
22 that we thought a 20 year plan made sense to match the
23 nature of those types of commitments.

24 I would ask Lou Katz to kind of expand on
25 that.

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1 MR. KATZ: The point that I would like to
2 make from the university's perspective on looking at
3 our academic mission, to carry out our academic
4 mission, what we believe we are today and where we
5 want to be 20 years from now, we did recognize that we
6 needed to change how we're using our campus and to
7 accommodate that, we started talking with the Office
8 of Planning so that we can figure out a way that we
9 can deal with the issues that Charles Barber just
10 talked about and accommodate the needs of the
11 institution and looking at the redevelopment of Square
12 54.

13 It's the looking at. We had two scarce
14 resources to meet the needs of the institution. It's
15 space and money, and we looked at how we could
16 accommodate that. At the same time, hopefully, we
17 were trying to create a situation where everybody
18 could win in this. That doesn't mean everybody got
19 exactly what they want, including the university.

20 I mean, this was everybody came to the
21 table looking at what -- how we can make this better,
22 accommodate the needs of the institution within the
23 existing campus boundaries, which has always been a
24 big issue in the Foggy Bottom/West End community. And
25 we believe we can become the institution that Lydia

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1 Thomas talked about, and to do that we needed a
2 different platform, but we're willing to do it within
3 the campus boundaries.

4 VICE CHAIR HOOD: I'm glad to hear that,
5 because I was looking for the word mitigation between
6 the university and the residents in that area. So you
7 kind of touched on it and you're very close. Not
8 exactly the way I wanted to hear it, but, fine, you're
9 close.

10 Let me ask I think Ms. -- was it Mr.
11 Rutherford?

12 MS. RUTHERFORD: Ms.

13 VICE CHAIR HOOD: Ms. It's bad when you
14 can't read your own writing, but anyway. You
15 mentioned about facilities outside of the campus. You
16 want to try to bring some of those facilities outside
17 of the Foggy Bottom, and I may quote this incorrectly,
18 all except for non-investment. Is that correct? So
19 outside of the campus boundaries, you're still making
20 investments?

21 MS. RUTHERFORD: The commitment has to do
22 with residentially zoned property outside the Campus
23 Plan boundaries, the Foggy Bottom/West End, and the
24 commitment is to only acquire property within those
25 areas for investment use.

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1 VICE CHAIR HOOD: For investment purposes.

2 MS. RUTHERFORD: Yes, sir.

3 VICE CHAIR HOOD: Okay. Okay. I may have
4 a couple more, but let me just ask very quick about
5 the traffic, Mr. Wells, and I'm glad you tested on the
6 level of service and I was looking here.

7 I noticed that -- I haven't had a chance
8 to really look at the DDOT report, because we got that
9 this evening, but I noticed that on page 54 and on
10 page 55, everything seems to be an acceptable level of
11 service, the majority of it. You have two or three or
12 four red areas, but the majority of it is green which
13 is level of service A through D.

14 MR. WELLS: Yes, sir.

15 VICE CHAIR HOOD: Is it a safe -- am I
16 making a safe assumption if I say that the majority of
17 it is probably level of service D?

18 MR. WELLS: That is pretty gross, but
19 reasonably accurate. There is a lot of traffic in
20 this area and there are some heavy commuter routes and
21 some intersections, not a majority of them, operate at
22 E or F during peak hours. The intersections
23 particularly at the heart of the campus operate well.
24 They operate at A, B, C or D, the majority of them.

25 VICE CHAIR HOOD: So most of it is

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1 operating on level of service E or F? Is that what
2 you just said? Most of it is E or F?

3 MR. WELLS: No, A through D.

4 VICE CHAIR HOOD: Yes, A through D.

5 MR. WELLS: Yes.

6 VICE CHAIR HOOD: But I'm saying it's
7 closer to D, and I know you said that's pretty gross.

8 MR. WELLS: Sure.

9 VICE CHAIR HOOD: But that is a pretty
10 accurate statement.

11 MR. WELLS: Sure, yes.

12 VICE CHAIR HOOD: Okay. Okay. All right.
13 Madam Chair, that is all I have for now. I will have
14 some more, I'm sure.

15 CHAIRPERSON MITTEN: Thank you, Mr. Hood.
16 Who is next? Mr. Turnbull.

17 COMMISSIONER TURNBULL: Thank you, Madam
18 Chair. I just have -- well, I wanted to go over a
19 couple of elements that were stated earlier during the
20 presentation and it could be that Ms. Rutherford or
21 Mr. Bell could answer these.

22 There was a lot of discussion about
23 enhancing the urban campus experience, enhancing
24 public environment and pedestrian experience, and
25 we're looking to the academic mission, enhancing or

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1 preserving your academic mission. You called it
2 sustainable educational program.

3 And as you talked about antiquated
4 facilities and we talked about building upon existing
5 plans, historic preservation, you can sense that there
6 is a contextual solution that you're looking for with
7 your site and trying to relate every piece of what you
8 have got. What I didn't hear -- although I heard
9 thresholds of learning, I guess what I was looking for
10 and I haven't heard it and maybe it's there, but you
11 just haven't described it, is thresholds of planning.

12 We're at an age where there are a lot of
13 buzz words, new urbanism, whatever you want to call
14 it. But one of the things that we see in a lot of
15 Planned Unit Developments that we worry about is
16 density and density was mentioned in the center of
17 your campus. We often get into the notion now of
18 sustainable design. We talk about green architecture.
19 We talk about green design and we talk about an
20 environment that this District is moving toward and
21 we're looking to increase that.

22 And I didn't hear any of those notions
23 mentioned, sustainable. We talked about preserving
24 the existing spaces, preserving the feeling and the
25 nature of what we have, but I didn't get the

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1 contextual feeling that new spaces, new buildings, are
2 going to reach out with sort of the new flavor of
3 where we're going and that is greener architecture,
4 sustainable design and elements that are going to
5 relate more to the fabric of this city as we go
6 forward in time.

7 That is the way we are going and I would
8 like to at least maybe, Ms. Rutherford or Mr. Bell,
9 talk about what principles you have incorporated into
10 your master plan that sort of reach out and help us
11 better understand that what we're going to be getting
12 into the future, the new elements that you want to
13 introduce, are going to offer something to the
14 community that is more than what is there now.

15 MR. BELL: Well, primarily I think one of
16 the most important things to recognize about the plan
17 is its transit focus, that it's at a Metro Station.

18 COMMISSIONER TURNBULL: No, I --

19 MR. BELL: No.

20 COMMISSIONER TURNBULL: No, I recognize
21 that. I recognize the lights and the pedestrians.

22 MR. BELL: I mean, that's a very important
23 planning principle, as well, and that the new
24 buildings that are envisioned are there so that they
25 take advantage, obviously, of the walkability from

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1 transit all the way through from buses moving through
2 the campus and transit location at the Foggy Bottom
3 Metro Station.

4 The university has been addressing the
5 question of green architecture and sustainability on
6 a building by building project basis there, and
7 perhaps somebody who has been involved in the building
8 process at the university can talk a little bit more
9 about some of those projects in detail.

10 The principle of this plan is to enhance
11 the open spaces and the streetscape that exists, and
12 part of that is a commitment to tree planting and re-
13 greening the campus. I didn't talk about it, but we
14 have spent a lot of time talking about streetscapes
15 and how to re-green the campus. We did a survey of
16 the existing trees on the campus and looked at places
17 where there needs to be new plantings and enhanced
18 maintenance of green spaces on the campus.

19 The university does a good job, I think,
20 of maintaining many of their open spaces, but one of
21 the things we concentrated on the Streetscape Plan is
22 really the space of the public realm of the street
23 itself and making sure that the kinds of things that
24 are a part of a sustainable future like trees in that
25 streetscape are part of that, and that is a very

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1 important piece of that.

2 Sustainability is something that -- the
3 sustainability standards of the university are being
4 developed on a sort of case-by-case basis right now
5 and I believe the university has made some strides
6 towards that.

7 COMMISSIONER TURNBULL: You still didn't
8 mention anything about sustainable design regarding
9 landscape, whether it was water reclamation, reuse of
10 systems, trying to incorporate elements that are there
11 now to better use what you have.

12 MR. BELL: Um-hum.

13 COMMISSIONER TURNBULL: You haven't
14 mentioned anything about sustainability toward
15 landscape design or water runoff or drainage or
16 anything. Is that an element or is it not going to be
17 an element?

18 MR. BELL: We haven't specifically
19 accommodated that. I think as the campus moves
20 forward with specific projects, that becomes part of
21 each project as they build those projects.

22 COMMISSIONER TURNBULL: I just think as a
23 major master plan for 20 years, something ought to be
24 addressed, I think. I mean, that is just my feeling,
25 that you have major infrastructure going into this

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1 huge campus in the heart of our city. I think you
2 need to talk about it. I mean, I think it's one of
3 the elements that everybody is looking to.

4 I think it is just -- it is something as
5 far as if you're talking about infrastructure and
6 melding with the city and becoming a partner, I think
7 when you get into those issues, I think sustainable
8 design becomes something worth talking about. I'm
9 only one Commissioner, but that is just my feeling,
10 that these are important issues for our generation,
11 for this century to look at.

12 MR. BELL: Um-hum.

13 COMMISSIONER TURNBULL: And I think in
14 urban planning, whether it's campus planning which is
15 a part of that, those are issues we need to talk
16 about.

17 MR. BELL: I agree.

18 COMMISSIONER TURNBULL: Thank you.

19 CHAIRPERSON MITTEN: I think what you're
20 hearing from Commissioner Turnbull is a very strong
21 recommendation that while you might deal with those,
22 how the environmental issues will be dealt with in
23 specific cases, you know, on a case-by-case basis,
24 there is certainly an opportunity here to talk about
25 design principles that will prevail in each second-

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1 stage submission and that is, I think, what he is
2 looking for.

3 MR. BELL: Certainly, that will be part of
4 any second-stage submission of the PUD, sure.

5 CHAIRPERSON MITTEN: But at this stage we
6 can talk about the principles that would be --

7 MR. BELL: We can lay out the principles
8 for it, sure. Absolutely.

9 CHAIRPERSON MITTEN: Anything else,
10 Commissioner Turnbull?

11 COMMISSIONER TURNBULL: No questions.

12 CHAIRPERSON MITTEN: Anyone else? Mr.
13 Parsons, Mr. Jeffries? They are such gentlemen, they
14 don't know who is going to go next.

15 COMMISSIONER PARSONS: Ms. Rutherford, I'm
16 trying to get a handle on what the word investment
17 purposes means. Could you define that for us, for the
18 acquisition of residential properties outside of your
19 boundary?

20 MR. BARBER: Right. Oh, I'm sorry, if you
21 don't mind.

22 COMMISSIONER PARSONS: I would rather
23 have --

24 MR. BARBER: Do you want to hear from Ms.
25 Rutherford?

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1 COMMISSIONER PARSONS: No.

2 MS. RUTHERFORD: I would be happy to
3 answer that.

4 COMMISSIONER PARSONS: An answer is an
5 answer.

6 MR. BARBER: That's fine.

7 MS. RUTHERFORD: It's distinguishing from
8 university use. So, for instance, if the university
9 were to acquire an apartment building or a hotel off
10 campus within the residentially zoned area, the Foggy
11 Bottom/West End, under this proposed condition that
12 would be permissible, but the university would need to
13 continue to operate it as an apartment building, pay
14 property taxes, act as a landlord or as a hotel, keep
15 that, maintain that use.

16 It would not be able to convert it to
17 university use. So that is really the distinction
18 when we talk about investment versus converting it to
19 university use.

20 COMMISSIONER PARSONS: So you could buy
21 houses in the community and not put any professors or
22 other employees of the university in them?

23 MS. RUTHERFORD: That is -- we would not
24 use them for university purposes.

25 COMMISSIONER PARSONS: You would put

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1 them --

2 MS. RUTHERFORD: Turn them into university
3 housing, just limited to university population.
4 That's correct.

5 COMMISSIONER PARSONS: So no employees of
6 the university would live in these houses?

7 MS. RUTHERFORD: That is my -- I mean,
8 that's our --

9 COMMISSIONER PARSONS: That's the plan.

10 MS. RUTHERFORD: That's our plan. We
11 are --

12 COMMISSIONER PARSONS: I can't imagine why
13 you would do this, but --

14 MS. RUTHERFORD: No, I'm trying to imagine
15 why we would.

16 COMMISSIONER PARSONS: Why would the
17 university be investing in real estate? I mean, it's
18 just kind of --

19 MS. RUTHERFORD: I will let our treasurer
20 answer that question.

21 MR. KATZ: The reason we invest in real
22 estate in Washington, D.C., we believe in Washington,
23 D.C., it is where we are. It's very important to the
24 mission of the institution, but it has been important
25 as a source of funding for our academic mission.

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1 I am sure everybody in this room is aware
2 of what has happened with Washington real estate. It
3 has been a good investment for many years and we
4 believe in investing where we're at, and we have
5 investment properties that we own today that are run
6 as, you know, no different than anybody else owning
7 it. And so that is one of the rights that we want to
8 continue to have.

9 COMMISSIONER PARSONS: Is this a common
10 practice amongst universities nationwide?

11 MR. KATZ: Yes, it is.

12 COMMISSIONER PARSONS: Okay.

13 MR. KATZ: It is very common and there are
14 many universities who own properties within
15 Washington, D.C., because others have recognized the
16 value of Washington real estate. It's just that we
17 are located here and we want to continue to be able to
18 do that.

19 COMMISSIONER PARSONS: Thank you. Let's
20 move to Mr. Wells and then I wanted to ask Ms. Adams
21 a question. Mr. Wells, could you talk a little bit
22 about the potential problems, at least as I see it,
23 with this, with the urban design goal of retail from
24 one end of I Street to the other and how they are
25 going to be serviced, how those retail facilities will

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1 receive deliveries and not interrupt normal traffic
2 flow?

3 MR. WELLS: Good question. The lion's
4 share of the new retail use I believe would be on
5 Square 54. That is a mixed use project which, by the
6 way, is reflected in our study. It includes over
7 400,000 square feet of office space, 333 residential
8 units, I believe.

9 COMMISSIONER PARSONS: But we're not here
10 to talk about that tonight.

11 MR. WELLS: About 84. But to your point,
12 84,000 square feet. These are roughly correct
13 numbers. 84,000 square feet of that project is retail
14 including a small grocery store, a potential grocery
15 store. They will have a very -- when this case comes
16 before you, you will learn in great detail that there
17 is very ample off-street loading facilities off of a
18 common driveway, common with the parking garage, on
19 22nd Street.

20 So it would be -- that loading dock would
21 be able to accommodate 55 foot tractor trailer trucks
22 and smaller delivery vans. So loading for that retail
23 would not occur, for example, on I Street or 22nd
24 Street, would not interfere with the traffic on those
25 streets. And trucks would be able to pull cab

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1 forward, be able to turn around in the building and
2 leave cab forward, so they would not be backing in off
3 of a public street.

4 COMMISSIONER PARSONS: Well, what about
5 the other, I guess, two and a half blocks of retail
6 that is proposed?

7 MR. WELLS: The university has various
8 loading bays located throughout the campus. I would
9 have to look at the details on I Street, but we would
10 have to --

11 COMMISSIONER PARSONS: Yes.

12 MR. WELLS: We would either have to
13 provide off-street spaces, designate on-street loading
14 or manage that in terms of when deliveries would be
15 accepted.

16 COMMISSIONER PARSONS: So you mentioned a
17 Truck Management Plan or I think you did.

18 MR. WELLS: Right.

19 COMMISSIONER PARSONS: That doesn't
20 include this. I mean --

21 MR. WELLS: Sure, it should be.

22 COMMISSIONER PARSONS: Retail deliveries
23 at 4:00 in the morning kind of thing, so that it won't
24 intrude on traffic during the day, are not part of the
25 plan yet?

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1 MR. WELLS: Not the details of that, but
2 there is a commitment to prepare that plan. Again, at
3 this stage of review and approval, the university is
4 making a commitment to prepare that.

5 COMMISSIONER PARSONS: I mean, are my
6 concerns about that unfounded? I mean, should I not
7 worry about that?

8 MR. WELLS: No, I think you should worry
9 about it.

10 COMMISSIONER PARSONS: And --

11 MR. WELLS: And I think the university
12 should worry about it. I think loading is important.
13 It is important in an urban area in order to maintain
14 the smooth flow of traffic on the public streets, and
15 so this is something on a project-by-project basis
16 that the university needs to address. And I can tell
17 you from my experience and my work on Square 54, that
18 that in that particular instance is being well and
19 truly taken care of.

20 COMMISSIONER PARSONS: I understand that.
21 I was just worried about the rest of it.

22 Ms. Adams, I wanted to focus on -- thank
23 you for joining us at the table. I will just refer to
24 it as parcel 77A, because that is what it is shown as
25 on your Historic Preservation Plan, a tract that is to

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1 be developed, redeveloped, which goes from H to I
2 Street, but is contained in the Historic District and
3 it's the only developable parcel that is contained in
4 your Historic District of any size.

5 So I was wondering why the Historic
6 District encompassed that. I think you know the
7 answer by the look on your face.

8 MS. RUTHERFORD: It's a special site.

9 MS. ADAMS: It's -- well, as Ms.
10 Rutherford just said, it's a special site. We have
11 certainly had a number of discussions about how to
12 draw the boundaries of this district and on the
13 concept of being more inclusive, as opposed to less
14 inclusive, these buildings were included.

15 We have had significant discussions with
16 Historic Preservation Office staff about what the
17 university needs to do there, which involves retention
18 of the significant front portions of the buildings and
19 new construction behind, which is a legitimate
20 preservation solution. It's not a facade project, but
21 real retention, and it seemed more appropriate to do
22 it this way, to be more inclusive as opposed to not.

23 These are significant historic buildings
24 and the Historic Preservation Review Board did give us
25 an indication that they would prefer to see us be more

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1 inclusive as opposed to exclusive.

2 COMMISSIONER PARSONS: So at the -- I
3 presume on the north and the south of this place
4 called 77A there are historic structures.

5 MS. ADAMS: Correct, apartment buildings.

6 COMMISSIONER PARSONS: So why is it then
7 that we should include a major development site in
8 between them?

9 MS. ADAMS: Because the developer --

10 COMMISSIONER PARSONS: I mean, that is
11 what is being asked.

12 MS. ADAMS: The development that is being
13 proposed will be consistent with the nature of these
14 buildings and that would go through the regular review
15 process as any other development site in an Historic
16 District would. We think that it's compatible with
17 the character of the buildings and the overall
18 Historic District, and we believe that the staff of
19 the Preservation Office is also comfortable with that.

20 COMMISSIONER PARSONS: Well, would you
21 urge us to put some height restrictions on this site
22 to assist in those deliberations rather than allowing
23 it to -- us doing something that would intrude on
24 historic preservation and we would regret it later?

25 MS. ADAMS: We -- these buildings are

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1 going to 110 feet, the additions. The buildings are
2 at about 90 feet.

3 COMMISSIONER PARSONS: I see.

4 MS. ADAMS: So that there is not a
5 significant height difference and we believe that is
6 an appropriate solution.

7 COMMISSIONER PARSONS: Okay. Now, why is
8 it you're awaiting our action before you move forward
9 to get an Historic District designation, cart before
10 the horse or --

11 MS. ADAMS: Well, we think these things
12 all need to go forward together. This has been a very
13 carefully crafted plan that has looked at the
14 university's new construction and development needs
15 for its academic purposes and the preservation goals
16 of the Historic Preservation Office and the
17 university, and it has been a compromise, a process of
18 discussion and compromise.

19 Nobody got everything, but everybody got
20 something and these two things really are -- do go
21 hand-in-hand. It only -- it makes sense for the
22 university to do the preservation aspect of the plan
23 if they can also do the development aspect of the
24 plan. And the way that the development sites have
25 been realigned reenforces the historic preservation

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1 aspects, but it also allows the university to get what
2 they need on the non-historic parts of the campus.

3 So it is a sort of chicken and the egg
4 thing, but it really is important that the university
5 be allowed to know that they can meet their academic
6 goals for new construction before they are sort of
7 saddled with the burdens of the preservation plan,
8 which they are willing to do if it all works out
9 right. It's a very tightly knit plan.

10 COMMISSIONER PARSONS: Okay. Thank you.

11 COMMISSIONER JEFFRIES: Actually, while we
12 stay with historic preservation, but I would probably
13 like Mr. Barber to come up and if I could just ask him
14 a quick question. I guess I'm just sort of curious
15 about when you were first presented with this whole
16 notion of a Historic Preservation district on your
17 campus how you felt about it because --

18 MR. BARBER: You want my honest opinion?

19 COMMISSIONER JEFFRIES: Well, actually --
20 well, because, you know, it seems to be sort of
21 counterintuitive a little bit to --

22 MR. BARBER: It is.

23 COMMISSIONER JEFFRIES: -- some of what I
24 have heard Dr. Thomas speak about, I mean, this whole
25 business of educational sustainability and being

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1 competitive in the global marketplace. And I'm just
2 wondering in 10 or 15 years, you know, technology
3 changes drastically and you need to create larger
4 buildings but, yet, you have got this Historic
5 Preservation Plan sitting here.

6 MR. BARBER: Right.

7 COMMISSIONER JEFFRIES: I mean, a lot of
8 developers and other institutions, you know, find
9 these things to be somewhat, you know, encumbering.

10 MR. BARBER: Encumbering.

11 COMMISSIONER JEFFRIES: So I just -- I
12 mean, it's a good thing. I think it's a wonderful
13 amenity, but I just was curious.

14 MR. BARBER: I will start addressing it
15 and I will also invite Mr. Katz to chime in. It is a
16 huge commitment. It is huge. Is it something that
17 the university started out desiring for its campus?
18 No, it was not. I think it fits into those categories
19 of a number of encumbrances that, quite frankly, if I
20 talk to my people who work at other universities
21 within the area and outside in the country, they will
22 look at us like we have lost our minds.

23 But we believe that this is a balanced
24 approach and what is at stake for us is the future of
25 this university to serve as a world class institution

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1 and we understand that in order to get there and to
2 get that actual density that will allow us to achieve
3 those goals, we have to accept things that we would
4 not have normally put on the table and that is what
5 took this so long and long hours at the Office of
6 Planning made that very clear.

7 We are now comfortable with this plan, but
8 it is a very balanced plan. We are taking what we
9 believe to be huge burdens and responsibilities and
10 those that are successes we'll have to deal with, but
11 that was partly also the reason we're looking at a 20
12 year plan. Historic preservation though is really
13 forever and we recognize that, and so that is why we
14 have paid close attention to making sure that we can
15 accommodate our forecasted needs over a 20 year time
16 frame given the huge commitments that we're putting on
17 the table.

18 But you're right, this is not something
19 that was first on the list when we went to talk to the
20 Office of Planning. Mr. Katz?

21 MR. KATZ: A couple of points I would like
22 to add to what Charles Barber just said. We really do
23 value the overall experience that we're providing for
24 our students. Our students come to this institution
25 to be in an urban setting. They come for what is

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1 around us and what we are ourselves. We have always
2 valued the historic resources on our campus.

3 We have not had the formal commitment that
4 is being proposed, and a formal commitment is
5 different than valuing the historic resources and it
6 is a major commitment, but it is the overall. In the
7 spirit of the overall balance that we're proposing in
8 this plan, this was not on the top of our list, but to
9 have -- to create the kind of environment is on the
10 top and always has been on the top of our list.

11 The other thing that it provides is, you
12 know, when we were talking about how this brings to
13 the District the certainty and predictability of
14 growth within our campus, it does that for us, too.
15 Now, there's pros and cons of certainty and
16 predictability, but we understand also there is a
17 limit to what you can do within the campus boundaries
18 of where we're located. We have acknowledged that for
19 many years and that is why we have done things outside
20 of the campus boundaries in other locations not in
21 Foggy Bottom/West End.

22 But, you know, we do understand the
23 balance. We understand the overall experience and
24 this has been a big issue with the community. And in
25 that, with the spirit, I mean, it started from our

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1 discussions with Office of Planning and then as we
2 were talking to the community, the community has
3 always been very interested in the effect on overall
4 Foggy Bottom and the resources within our campus
5 boundaries itself.

6 We have known always that this is not a
7 gated campus. This is part of the fabric of the
8 community. That is what brings our students and our
9 faculty to the university. So it's something that we
10 have embraced, although it wasn't our idea.

11 COMMISSIONER JEFFRIES: Well, you know, I
12 very much am interested in hearing from the community
13 in terms of how they view this. I mean, at first
14 blush it seems to be a fairly enormous amenity to me,
15 but, you know, I would like to hear the community's
16 side of this.

17 And then the other question that I had, I
18 think, Mr. Barber, you talked about needing a sort of
19 diversity of housing. You seem to sort of draw a line
20 between what freshmen and sophomores like and what
21 juniors and seniors -- I mean, what kind of different
22 housing is required of juniors and seniors versus
23 freshmen or sophomores? Is it just -- I mean, that
24 would require you to build this diversity of housing--

25 MR. BARBER: Right.

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1 COMMISSIONER JEFFRIES: -- of the
2 locations.

3 MR. BARBER: It's not true that freshmen
4 will accept anything, but it is true that they are
5 coming to campus, dormitory style housing, more
6 communal style living. Some of our older buildings
7 which are in that style, that -- it's fine for them in
8 terms of their first experience away from home.

9 As students become older, they want more
10 the amenities of living out in the community,
11 apartment style houses, apartment style dwellings,
12 those that have kitchen facilities. Freshmen,
13 typically they can do without. They eat on campus,
14 other places, but the older the student gets, they
15 want to have their own space. They want to have
16 kitchen facilities. And so we design that with that
17 in mind.

18 There are also other types of amenities
19 that we're always trying to think through in order to
20 retain these juniors and seniors, housing that fits
21 certain themes like junior housing, senior housing,
22 academic themes, athletic themes. But in terms of the
23 structure of the housing, it's that type of apartment
24 style housing as far as our older students.

25 COMMISSIONER JEFFRIES: So are you saying

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1 that, you know, as a junior or senior in high school
2 that, you know, in terms of making a decision about
3 whether to go to a university, a student might
4 consider the types of housing that occurs in the
5 junior or senior year?

6 MR. BARBER: Oh, yes, I think --

7 COMMISSIONER JEFFRIES: Because I don't
8 recall doing that when I was in college. I just
9 didn't remember being a junior and going wow, what's
10 going to -- what kind of housing will I be living in,
11 you know, my junior and senior year in college. I --

12 MR. BARBER: Well, a lot of things have
13 changed since you were in college, Mr. Jeffries, but
14 for me as well, for me as well. Housing is one
15 amenity that students look at and it is an important
16 amenity. It's the variety of housing that they might
17 expect to have during that period, including how much
18 technology is available in that housing, other types
19 of amenities. They will look at the range of housing
20 opportunities and that is a big factor in terms of
21 competition for students today.

22 COMMISSIONER JEFFRIES: Then I just have
23 a couple of questions for Matt Bell. Mr. Bell, you
24 mentioned streetscape intensity I believe at H Street,
25 and from the slide that I saw it looked like it was

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1 streetscape intensity on I. Sorry, you said on H
2 Street. It seemed like it was also on I Street. Am
3 I not correct?

4 MR. BELL: Well, the idea behind the
5 Streetscape Plan on I Street would be to make a
6 streetscape that is compatible with a good retail
7 district.

8 COMMISSIONER JEFFRIES: Okay.

9 MR. BELL: On H Street where the academic
10 really core of the campus is would be to have very
11 special elements that you would only find there that
12 would be associated with GW.

13 COMMISSIONER JEFFRIES: Okay. On H
14 Street.

15 MR. BELL: Yes.

16 COMMISSIONER JEFFRIES: Because that is
17 more within the heart of the campus.

18 MR. BELL: Right, and H is the heart
19 there, so they would be different.

20 COMMISSIONER JEFFRIES: So is I Street
21 acting as like some transitional buffer of sorts
22 between the District or the Foggy Bottom community and
23 the campus? I mean, what does that I Street corridor
24 sort of represent in terms of density?

25 MR. BELL: I think that is a reasonable

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1 way to put it. I mean, we have looked at this
2 Streetscape Plan for that as it's obviously part of
3 the Campus Plan, but its particular detailing would be
4 to serve as a retail street. So it would be -- I
5 guess you could say it's like a transition between,
6 you know, neighborhoods to the north and the center of
7 the campus, but it would probably -- as distinct from
8 G or any of the north/south streets have a distinct
9 streetscape because it would be retail.

10 COMMISSIONER JEFFRIES: Okay.

11 MR. BELL: And in retail you obviously
12 want a certain character that is conducive to that
13 kind of environment.

14 COMMISSIONER JEFFRIES: Okay. Well, thank
15 you. I thought your plans were very succinct and
16 organized and such and you could easily follow in
17 terms of, you know, your thoughts about how this
18 university grows, so thank you.

19 CHAIRPERSON MITTEN: I have got a few
20 questions myself. Mr. Katz, when you were making your
21 presentation, you developed the theme of "Grow Up, Not
22 Out" and in invoking the quote from the fellow at
23 Boston University or whatever it was, you know, you,
24 I guess, gave the impression that the only way for the
25 university to move forward is to grow.

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1 And, you know, I have sat on I think every
2 Campus Plan that has come forward in the last six or
3 seven years, and we have many universities that are
4 not seeking to grow. They are not seeking to grow in
5 any substantial way in terms of either their
6 population or the amount of construction that they do.

7 So can you explain to the Commission why
8 you feel the need to grow.

9 MR. KATZ: Okay. Yes. That is at the
10 heart of why we're doing what we're doing. When you
11 look at the process that we went through within the
12 institution looking at the strategic plan for academic
13 excellence and at the heart of this is increasing our
14 research capacity within the institution, that is not
15 growing the number of students at the institution, to
16 be a top tier research institution.

17 And the amount of research that we have
18 done at the institution over the last five years and,
19 in fact, over the last 10 years has been growing at a
20 very fast pace. Our goal is to continue that growth
21 to create the kind of environment for that which we
22 believe that we have the capacity to do and we are in
23 the right. We believe there is a role for that in the
24 nation's capital.

25 We believe by linking our research, our

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1 science and technology, to our policy capabilities,
2 puts us in a very unique position. I can't speak for
3 other universities within the District of Columbia,
4 because everybody has their own unique position, but
5 if you look at the top tier universities in America,
6 the types of growth that they have in their research,
7 especially in the research areas, and in the types of
8 facilities that students demand and require.

9 I mean, I think the question about
10 housing, too, was a very good thing. When we talk
11 about the overall experience that we're creating for
12 our students, it really takes all of those elements.
13 If we want to educate for tomorrow's leaders, and
14 that's what we really want to do, you can't do it on
15 the platform we're doing it, especially if we want to
16 continue to be a much more research-intensive
17 institution.

18 We have the right schools within our
19 institution. We're looking about how we will
20 organize, how we make it a more interdisciplinary
21 research. We believe this is the wave of the future
22 and that we are in a unique position to do that and we
23 believe, although there are constraints with our
24 location, and that's what all this is about, is
25 location, it's one of the greatest strengths of the

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1 institution and there is issues that go along with it.

2 And we understand we can't do it all here,
3 but we believe we can do what we need to do to really
4 improve the institution. And, again, it's centered on
5 the research capabilities of the institution tied to
6 everything else, and that is the message that Lydia
7 Thomas was talking about from what is coming out of
8 the Academic Affairs Committee or the Board and the
9 academic leadership of the institution and, in fact,
10 the student population.

11 The reason students are here today is not
12 to hear about zoning. What they are interested in,
13 how is the institution going to continue to improve
14 and we believe this is important for us. Many
15 institutions have found the exact issues. If you look
16 at how many square feet we have per student, we are in
17 the low end relative to top tier institutions.

18 We basically have 300 square feet per FTE
19 student at our Foggy Bottom Campus. If you look at
20 the top tier of American higher education, it's more
21 like 700 to 800 square feet per FTE student. If you
22 look at a school such as Georgetown, and this is based
23 off of their own filings with the Zoning Commission,
24 they are in the 600 square feet per student. We are
25 at 300. What we're asking for with this Campus Plan

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1 is to get up to, approximately, 400.

2 We're slightly under 300 square feet per
3 student. If we realize the approval of this and we
4 actually build it out, we would be at 400. That is
5 nowhere near where even Georgetown is today or, for
6 that matter, where the top tier of American higher
7 education. We understand we got to do it with less,
8 but we need more than where we are and we went through
9 a major planning process to come to these, this plan.

10 CHAIRPERSON MITTEN: Thank you. I'm glad
11 that Mr. Parsons asked about the overlap between what
12 is being proposed for the rezoning and the Historic
13 District, and what it made clear for me is that based
14 on what we have in the record so far, I don't think we
15 have a good sense of the context in which these re-
16 zonings will occur.

17 So if you can make some additional
18 submissions about, you know, what is there on the
19 ground because, you know, often if we're just looking
20 at a single square we get a lot of photographs. We
21 get, you know, much more information. I'm not saying
22 you have to provide that for the entire campus, but
23 for the sites that are going to be rezoned and where
24 the new development is proposed. I think putting that
25 in context would be helpful.

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1 I would like to get a little bit more
2 information about the flexibility that is being
3 requested to provide the opportunity for first floor
4 retail uses elsewhere on campus. Is that campus-wide?

5 MR. BARBER: Yes, this is separate from
6 concentrated retail space along I Street. We have
7 followed a path on the campus and one we would like to
8 continue, is as we do new buildings or even refurnish
9 existing buildings, that we will put retail space as
10 an accessory use to that primary university use,
11 accessory use meaning that it is still designed to
12 serve the university community. Others could come in
13 and use it, but it is designed to serve the university
14 community.

15 Now, this is distinct from time to time as
16 part of a PUD, we will do a retail venue that is also
17 an amenity to the community and that is different. We
18 may do that from time to time, but the accessory uses
19 are mainly to serve the university community and it
20 allows us to disperse those eating venues, which is
21 what it typically is, eating venues throughout the
22 university as opposed to concentrate them,
23 concentrating them in one location.

24 And this goes back to attracting students.
25 Cafeteria style, dormitory style, everybody going into

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1 the same place to eat is not the way, you know, higher
2 education -- like it was when you and I were in
3 school. They tend to spread out and this allows us to
4 give more variety in eating experiences and we spread
5 it throughout the campus. And so it's that type of
6 accessory use.

7 CHAIRPERSON MITTEN: Okay.

8 MR. BARBER: We have had that in a couple
9 of projects.

10 CHAIRPERSON MITTEN: Okay. I guess I
11 wouldn't -- and we'll hear from the community on this
12 particular point, but I wouldn't be comfortable with
13 a blanket provision for that unless there was going to
14 be some additional review because, you know, I mean,
15 I can imagine having ABC license issues and stuff like
16 that and proximity issues to the community, so maybe
17 we'll develop that sort of as we go.

18 MR. BARBER: Sort of guidelines along
19 that.

20 CHAIRPERSON MITTEN: Yes.

21 MR. BARBER: That's fine.

22 CHAIRPERSON MITTEN: As we go through.

23 MR. BARBER: That's fine.

24 CHAIRPERSON MITTEN: I think that the
25 remaining questions that I have are largely for Mr.

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1 Wells.

2 If I understood you correctly when you
3 were summarizing your report, that in analyzing the
4 use of the campus by students and faculty and so on,
5 you analyzed a potential increase in faculty and staff
6 that was 1,000 people, an increase of 1,000, and then
7 I think I understood you to say which is still below
8 the cap. Is that what you said?

9 MR. WELLS: That is correct. I could
10 answer your question with some precision. My
11 understanding is that there currently are 18,802
12 students.

13 MS. RUTHERFORD: Faculty and staff.

14 CHAIRPERSON MITTEN: I'm talking about
15 faculty and staff.

16 MR. WELLS: Oh, I beg your pardon.
17 Faculty and staff, my understanding is the university
18 believes that up to an additional 1,000 faculty and
19 staff might be added over the course of this Campus
20 Plan. That is in addition to the 6,054 that are there
21 today. So our study reflects an increase from 6,054
22 to 7,054.

23 CHAIRPERSON MITTEN: And, I'm sorry, would
24 you just help me refresh on what the cap is?

25 MR. WELLS: I believe it's 20,000. Isn't

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1 that correct?

2 PARTICIPANT: No, no, no.

3 MR. WELLS: I'm sorry.

4 CHAIRPERSON MITTEN: I will find it here
5 in a second.

6 MR. WELLS: I'm going to let somebody from
7 the university respond to that, so it is correct.

8 MS. RUTHERFORD: It's included in Exhibit
9 Y to the Campus Plan in Condition No. 11. It is the
10 existing caps from the current Campus Plan.

11 CHAIRPERSON MITTEN: Right. So we're like
12 12,000.

13 MS. RUTHERFORD: 12,529 on a head count
14 basis.

15 CHAIRPERSON MITTEN: Okay. So is your
16 analysis based on the FTE equivalents or --

17 MR. WELLS: My understanding is the
18 university does not anticipate approaching that cap of
19 faculty and staff within the time frame of this plan.

20 CHAIRPERSON MITTEN: Right, which there's
21 two issues. One is if you're not going to approach
22 it, then why don't we lower the cap. That is one
23 thing. And then if you don't want to do that, then
24 you should analyze to the cap, because then there
25 would be no prohibition on the university actually

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1 going to the cap. So you guys need to reconcile that.
2 Either Mr. Wells needs to do some additional analysis
3 or, as I would prefer to see, just lower the cap.

4 MR. WELLS: Your point is well-made and
5 understood.

6 CHAIRPERSON MITTEN: Thank you. You made
7 a series of recommendations that would improve traffic
8 flow and one of those recommendations -- some of them
9 had to do with signal timing and such.

10 MR. WELLS: Yes.

11 CHAIRPERSON MITTEN: And one of them was
12 for a new traffic signal at 22nd and I Streets?

13 MR. WELLS: Yes.

14 CHAIRPERSON MITTEN: And who would fund
15 that?

16 MR. WELLS: I would, but that's not firmly
17 established, but I think they may be seated at the
18 table here with me tonight.

19 CHAIRPERSON MITTEN: Is that a proffer
20 though?

21 MR. WELLS: Probably the university.

22 CHAIRPERSON MITTEN: I guess I'm asking is
23 it a proffer?

24 MR. BARBER: We have not discussed it as
25 a proffer.

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1 CHAIRPERSON MITTEN: Okay. Could you?

2 MR. BARBER: We would like the opportunity
3 to talk about that.

4 CHAIRPERSON MITTEN: Sure.

5 MR. BARBER: And come back with an answer
6 on that.

7 MS. DWYER: Right, we can come back with
8 that.

9 CHAIRPERSON MITTEN: Okay.

10 MR. BARBER: All right.

11 CHAIRPERSON MITTEN: Okay. Because DDOT
12 doesn't mention it at all, and so I don't -- which I'm
13 curious about just that they wouldn't evaluate your
14 recommendations, but they probably are not planning on
15 paying for it. So I think to make that, if you want
16 to make that real then you should proffer the cost of
17 installing the traffic signal.

18 I don't know, Mr. Wells, if you did any --
19 did you do the study? I can't remember. It was so
20 long ago. You did not do the study for the plan in
21 2000?

22 MR. WELLS: So many studies, so little
23 time.

24 CHAIRPERSON MITTEN: Yes.

25 MR. WELLS: That's one I did not do.

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1 CHAIRPERSON MITTEN: Okay. I would be
2 curious to know, given what mitigation measures were
3 put in place through the campus, the existing Campus
4 Plan, if you have any evidence that those have been
5 effective. And I don't expect you to answer right
6 now, because I wouldn't expect that you have analyzed
7 and compared, but I would be interested in that
8 because if they are not effective, then we clearly
9 need more.

10 MR. WELLS: Understood.

11 CHAIRPERSON MITTEN: Okay.

12 MR. BARBER: Could I add one thing that we
13 have looked at?

14 CHAIRPERSON MITTEN: Sure.

15 MR. BARBER: Going back to look at the
16 2000 Campus Plan, the traffic expert at that time,
17 Gorove/Slade, estimated that the university's share of
18 the local traffic was at 17 percent, and now it is at
19 8 to 9 percent and projected to go to 12 percent, 11
20 to 12 percent.

21 Those are not Mr. Wells' figures, but that
22 was -- those were Gorove/Slade's figures based upon
23 field studies. And so there is evidence that we are
24 certainly at a smaller part of the total amount of
25 traffic. That is a part answer to your question.

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1 CHAIRPERSON MITTEN: Right. Also, I mean,
2 we do have -- we didn't get a lot of specific
3 responses, at least not before tonight, in the record
4 about ongoing issues that people have with the
5 university, but one gentleman who did write in was
6 talking about that there is the continued perception
7 that there is overflow parking into the community.

8 So, you know, I would be interested in
9 knowing how we're doing in terms of having people
10 using alternative modes of transportation and stuff
11 like that.

12 MR. WELLS: Well, most people do not
13 drive. The math is pretty compelling, 18,000
14 students, 6,000 faculty and staff and 3,400 or 3,500
15 parking spaces. We did survey students and faculty
16 and staff and we know that they don't all park in the
17 university's garages and parking lots. Some of them
18 do park on the street. It's about 25 percent of them.

19 CHAIRPERSON MITTEN: Okay. I think it was
20 when we set down the case for Square 54 that there was
21 discussion about whether a second entrance to the
22 Foggy Bottom Metro Station would be on Square 54 and
23 the decision, I believe, had not been made.

24 And I don't know if the decision has yet
25 been made, but to the extent that it hasn't been made,

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1 and I think it's a very -- I know that this might be
2 something that is not going to happen in the near
3 future, but if we don't nail down now where the second
4 entrance is going to be then we could, you know,
5 potentially lose an opportunity.

6 So I would like the university to analyze
7 and make a commitment where this second entrance could
8 be and reserve a space. So if it's going to be on the
9 campus not on 54, it should be in this case. If it's
10 definitely going to be in Square 54, then it can be in
11 that case. But I would really like to see that
12 commitment made.

13 MS. RUTHERFORD: And we have been -- WMATA
14 has set up a sort of preliminary working group to
15 evaluate that. We haven't participated in that with
16 them, evaluating potential locations and thoughts for
17 that, so we will continue to do so. And we don't
18 believe there is anything in the plan right now that
19 would preclude, you know, anything that they are
20 looking at. So we'll continue to keep on and work
21 with them on that.

22 CHAIRPERSON MITTEN: Okay.

23 MR. BARBER: Your request though for a
24 commitment now, I think I pointed out, at this stage
25 is premature not because of our unreadiness, but

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1 because of WMATA's unreadiness.

2 CHAIRPERSON MITTEN: Okay. Well, then
3 maybe the commitment could be that you would -- some
4 kind of -- you know, that there wouldn't be a
5 preclusion about that.

6 MS. DWYER: Right. What we can do is file
7 in the record and show you that this Campus Plan does
8 not preclude a Metro location other than Square 54 or
9 some other location.

10 CHAIRPERSON MITTEN: Okay. You know, I
11 suspect that I will have a lot of more detailed
12 follow-up questions after we hear all the
13 presentations from everybody, so I will just leave it
14 at that for now.

15 COMMISSIONER JEFFRIES: Madam Chair, I
16 think the cases are starting to blur, but was there a
17 discussion about a grocery store and that the grocery
18 store tenant had not been identified yet? Has there
19 been any movement?

20 PARTICIPANT: It's in Square 54.

21 COMMISSIONER JEFFRIES: Square 54. Okay,
22 okay, okay.

23 CHAIRPERSON MITTEN: Yes, they are
24 blurring, blurring together. Mr. Turnbull?

25 COMMISSIONER TURNBULL: Yes. Madam Chair,

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1 I just had one question following up on your remark on
2 retail, and I was just curious. Has the university
3 thought, are there any plans, I know some universities
4 have gotten into partnerships where their new dorm
5 facilities, you have either got three floors of dorms
6 and the first floor is retail, whether it's your
7 Starbucks, and again it's the idea of the community,
8 the village look, the village feel.

9 Are you exploring any of those, those
10 kinds of ideas with your dormitories or --

11 MR. KATZ: In fact, a residence hall that
12 we built and opened a few years ago, and it's Ivory
13 Tower, it's on 23rd Street and G, yes, that, in fact,
14 has about 10,000 square feet of retail in it. It is
15 food and there is a convenience store in there. There
16 is a, you know, Baskin Robbins, Dunkin Donuts. There
17 is -- what's the --

18 PARTICIPANT: Pot Belly.

19 MR. KATZ: Pot Belly and then there is, in
20 essence, a salad bar there and that is a very popular
21 concept at that. The residence hall that we just
22 opened this last month is going to have a retail venue
23 on the first floor of it and it is going to be called
24 Carvings. It's going to be a food venue. So, again,
25 that is a very popular concept with the students and

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1 it clearly -- although those primarily are serving,
2 you know, the student population, the population of
3 the institution, you know, anybody can use it.

4 That is different than what we did at,
5 like, 1959 E Street. That is when we did the
6 development for our School of International Affairs
7 and about a third of that facility is used as a
8 residence hall. That was a PUD and included in that
9 PUD are three retail outlets which includes a
10 Starbucks, a Sundry's Store and a Subway Sandwich.

11 So, again, that is something that we
12 continue to look at and not only from the perspective
13 of the university, but the surrounding community.

14 COMMISSIONER TURNBULL: Well, that's very
15 good. Are there any incentives that you offer for
16 local businesses to get them into the mix?

17 MR. KATZ: Yes. In fact, much of what we
18 would be developing for retail along I Street, not
19 within Square 54 necessarily, would be smaller retail
20 venues which are very good for the local retail. And,
21 in fact, some of the retail that we already have on
22 campus is locally owned retail and that is -- you
23 know, we think the mix is very important and the
24 students --

25 COMMISSIONER TURNBULL: But do you offer

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1 incentives then as far as rent or they have to pay
2 market rent or do you --

3 MR. KATZ: The small retail that we put in
4 there is typically at below market rent.

5 COMMISSIONER TURNBULL: Okay.

6 MR. KATZ: Because they tend to be smaller
7 venues.

8 COMMISSIONER TURNBULL: Right.

9 MR. KATZ: And you do need to do that.

10 COMMISSIONER TURNBULL: Okay. Good.
11 Thank you.

12 MR. KATZ: Thank you.

13 CHAIRPERSON MITTEN: Anyone else have
14 follow-up? Mr. Parsons?

15 COMMISSIONER PARSONS: Yes. Mr. Katz, you
16 know, I had that dialogue earlier with Ms. Adams about
17 who goes first, historic preservation or zoning.
18 Would you object to a condition in our order that
19 dealt with your requirement to proceed with historic
20 preservation, Historic District nomination, to the
21 Historic Preservation Review Board? I mean, that's
22 your commitment here, but there is nothing in the
23 draft conditions that I see so far that would mandate
24 that.

25 MR. KATZ: It's Condition 20.

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1 COMMISSIONER PARSONS: Well, thank you.

2 Let me look at that. Thank you.

3 MR. KATZ: We were anticipating this would
4 happen.

5 COMMISSIONER PARSONS: Okay.

6 CHAIRPERSON MITTEN: Did you have anything
7 else?

8 COMMISSIONER PARSONS: No, I didn't.
9 Thanks.

10 CHAIRPERSON MITTEN: Okay. Thank you.

11 MS. DWYER: And if I could just say one
12 thing in response to your question, Mr. Parsons, about
13 the Truck Management Plan, the university does have
14 that for its campus and we would like to be able to
15 file in the record one that addresses your question
16 about servicing the retail uses, because there is a
17 plan for the campus and we can provided an updated one
18 that shows how the retail uses would be serviced along
19 I Street.

20 COMMISSIONER PARSONS: That's great.

21 MS. DWYER: Okay.

22 COMMISSIONER PARSONS: So I didn't have to
23 ask for it. That's terrific. Thanks.

24 CHAIRPERSON MITTEN: Okay. I think we're
25 ready for Mr. Hitchcock now on cross examination. I'm

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1 sure they will make at least one spot available for
2 you.

3 MR. HITCHCOCK: Thank you, Madam Chair and
4 Members of the Commission. Inevitably, I will be
5 jumping around, given the number of witnesses and the
6 number of topics, but let me start with Mr. Wells.
7 You raised the question of the streetscape and
8 submitted, I guess, as Exhibit X -- this is not --

9 MR. WELLS: Is that a question?

10 MR. HITCHCOCK: I was laying a foundation.

11 MR. WELLS: Okay.

12 MR. HITCHCOCK: The question is who is
13 going to be paying for the improvements that are
14 outlined here?

15 MR. WELLS: Oh, that's probably better
16 addressed by some other witness.

17 MR. HITCHCOCK: Okay.

18 MR. KATZ: The university.

19 MR. HITCHCOCK: The university?

20 MR. KATZ: Yes.

21 MR. HITCHCOCK: Okay. Is there a schedule
22 for all this?

23 MR. KATZ: Over the course of the Campus
24 Plan which is a 20 year plan.

25 MR. HITCHCOCK: Okay. And what is

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1 required? Is there a schedule within that period for
2 five years, 10 years, 15 years?

3 MR. KATZ: No, because it is based on what
4 gets developed when. It's a 20 year plan.

5 MR. HITCHCOCK: Okay. Is there anything
6 that is required for the Department of Transportation,
7 DDOT, to do?

8 MR. BARBER: In the Streetscape Plan?

9 MR. HITCHCOCK: Yes. There was discussion
10 of paving, for example.

11 MR. BARBER: Sorry.

12 MR. HITCHCOCK: Yes.

13 MS. RUTHERFORD: DDOT ultimately needs to
14 approve the Streetscape Plan. I mean, they are
15 responsible for that and we have been working with
16 them, but there have been some issues. We had a
17 community meeting recently where concerns about
18 certain paving materials were raised. So things like
19 that still need to be determined, but --

20 MR. HITCHCOCK: Okay. So those are still
21 up in the air as of the moment?

22 MS. RUTHERFORD: Yes, it's not a final
23 plan. It is still -- we're still working to elicit
24 DDOT input.

25 MR. HITCHCOCK: And it's contingent upon

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1 DDOT having appropriate funding, correct, for anything
2 it would be paying for?

3 MS. RUTHERFORD: For DDOT to approve the
4 plan?

5 MR. HITCHCOCK: No, no. In order for
6 things that DDOT would be paying for, DDOT would have
7 to have the money available on schedule, wouldn't
8 they?

9 MS. RUTHERFORD: I would assume so, yes.

10 MR. HITCHCOCK: Okay. And if the money
11 is, therefore, not available, then the improvement
12 from DDOT would not take place, correct?

13 MS. RUTHERFORD: I can't speak for DDOT,
14 but if they don't have the funding I can't imagine
15 they will make the improvement.

16 MR. HITCHCOCK: I wouldn't think so
17 either.

18 CHAIRPERSON MITTEN: Okay. Can I just
19 follow-up on what --

20 MR. HITCHCOCK: Yes.

21 CHAIRPERSON MITTEN: -- Mr. Hitchcock is
22 asking about, which is can a distinction be made about
23 which elements of the Streetscape Plan, A, the
24 university will pay for and, B, I think we do need an
25 implementation plan because a proffer with no

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1 implementation plan may never happen. So I think that
2 is an appropriate line of questioning and we need to
3 get a response.

4 MR. HITCHCOCK: Okay.

5 CHAIRPERSON MITTEN: Thank you.

6 MR. HITCHCOCK: Thank you, Madam Chair.
7 That was all I had on that issue. A question, Mr.
8 Bell. You talked about the development of the campus
9 core and residential housing in the campus core,
10 correct?

11 MR. BELL: Yes, sir.

12 MR. HITCHCOCK: Okay. Now, you're
13 familiar with current plans? I will wait for the
14 microphone. I take it you're familiar with the
15 current plan to develop a 500 room dormitory, 500
16 student dormitory, in the 2100 block of F Street?

17 MR. BELL: That is the School without
18 Walls project? Yes.

19 MR. HITCHCOCK: And that is outside the
20 core area, is that not correct?

21 MR. BELL: It is within the campus
22 boundary, yes, but it is fronting onto F Street.

23 MR. HITCHCOCK: Okay. So it's outside the
24 area that you have identified as core for residential
25 student housing, correct?

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1 MR. BELL: Yes, that area --

2 MR. HITCHCOCK: I just want an answer.
3 It's beyond there. Okay.

4 MS. DWYER: Well, I think the witness can
5 explain his answer and I would appreciate an
6 opportunity for Matt Bell.

7 MR. BELL: Yes, the -- we looked very
8 carefully at that.

9 MR. HITCHCOCK: Excuse me. This is cross
10 examination.

11 MS. DWYER: Yes, I --

12 MR. HITCHCOCK: This is not an opportunity
13 for witnesses to make speeches. They had their
14 opportunity on direct.

15 CHAIRPERSON MITTEN: Okay. Mr. Hitchcock,
16 that's fine.

17 MR. HITCHCOCK: Okay.

18 CHAIRPERSON MITTEN: Yes, just answer the
19 question.

20 MR. BELL: Okay.

21 CHAIRPERSON MITTEN: And then if you guys
22 want to follow-up later, that's fine. We'll get
23 there.

24 MR. HITCHCOCK: All right. A question, I
25 guess, for Mr. Katz. This plan is being proposed for

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1 20 years, correct?

2 MR. KATZ: I believe that's what it says.

3 MR. HITCHCOCK: Okay. And who made the
4 decision to apply for a 20 year plan?

5 MR. KATZ: This was as we were going
6 through the process with the Office of Planning
7 looking at all the considerations. We believe jointly
8 that this was the best approach for the balance
9 between what the community issues are, the District
10 issues and the university's need for growth and
11 meeting the academic commitment. So it was a joint
12 decision and we believe that this was the right
13 balance.

14 MR. HITCHCOCK: And who made the -- you
15 stated in your plan that the university is not seeking
16 an increase beyond the current level of 20,000
17 students, however defined, correct?

18 MR. KATZ: That is correct.

19 MR. HITCHCOCK: Who made that decision for
20 the university?

21 MR. KATZ: That has been discussed at the
22 highest levels of the institution, which includes the
23 Board of Trustees.

24 MR. HITCHCOCK: And --

25 MR. KATZ: Which is the governing body for

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1 the university.

2 MR. HITCHCOCK: And is not the university
3 currently searching for a new president?

4 MR. KATZ: I believe that is public
5 information. Yes, it is.

6 MR. HITCHCOCK: And is it, therefore, not
7 possible there may be new trustees in coming years?

8 MR. KATZ: There are always new trustees,
9 but the university has been around since 1821.

10 MR. HITCHCOCK: Excuse me. Just answer
11 whether it was possible. Thank you.

12 Now, is it not also possible that a new
13 president and new trustees might not want to wait 20
14 years to make changes?

15 MR. KATZ: Is that possible?

16 MR. HITCHCOCK: Yes, that's the question.

17 MR. KATZ: Yes, that is possible.

18 MR. HITCHCOCK: Okay. And, in fact, there
19 were only six years that passed between the 2000
20 application and this one. Is it not correct?

21 MR. KATZ: I believe that is the correct
22 math.

23 MR. HITCHCOCK: And so, therefore, we may
24 be back here within five or six years on yet another
25 Campus Plan, correct? Is that not possible?

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1 MR. KATZ: That is possible, but this --

2 MR. HITCHCOCK: Thank you. And is it,
3 therefore -- so this idea of a 20 year plan is really
4 wishful thinking.

5 CHAIRPERSON MITTEN: Just answer the
6 question.

7 MR. HITCHCOCK: Isn't that correct?

8 MR. KATZ: Would you, please, state it
9 again?

10 MR. HITCHCOCK: Is not the concept that
11 this is a 20 year plan really just a form of wishful
12 thinking?

13 MR. KATZ: No, it is not.

14 MR. HITCHCOCK: And what is to prevent the
15 university from coming back, say, six years from now?

16 MR. KATZ: Nothing, but the Zoning
17 Commission would have to approve it.

18 MR. HITCHCOCK: Thank you. But you could
19 come back. All right. I have some additional
20 questions. You spoke about, you know, I think the
21 need for clear definitions on enrollment and faculty
22 and staff definitions, correct, and cap and limits?

23 MR. KATZ: That is correct.

24 MR. HITCHCOCK: All right. And in your
25 presentation you have proposed a number of conditions

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1 dealing with caps, correct?

2 MR. KATZ: Correct.

3 MR. HITCHCOCK: Okay. And I would like to
4 direct your attention to -- and among those conditions
5 are limitations in Element Conditions 10 and 11 on
6 student enrollment, faculty and staff. Is that not
7 correct?

8 CHAIRPERSON MITTEN: Mr. Hitchcock?

9 MR. HITCHCOCK: Yes?

10 CHAIRPERSON MITTEN: I'm just going to ask
11 you in the interest of time --

12 MR. HITCHCOCK: Okay.

13 CHAIRPERSON MITTEN: -- to like get to the
14 question, not have him validate statements that he
15 already made.

16 MR. HITCHCOCK: Okay.

17 CHAIRPERSON MITTEN: Okay?

18 MR. HITCHCOCK: I'm just trying to lay a
19 foundation.

20 CHAIRPERSON MITTEN: You don't need to.

21 MR. HITCHCOCK: All right.

22 CHAIRPERSON MITTEN: Just go right to it.

23 MR. HITCHCOCK: Okay.

24 CHAIRPERSON MITTEN: Just go right there.

25 MR. HITCHCOCK: I would take a look at

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1 Condition No. 7, Mr. Katz. Do you have that? It's on
2 page Y2.

3 MR. KATZ: I'm looking at it.

4 MR. HITCHCOCK: Okay. And do you have the
5 part on the second line and the third line where it
6 says that "No application for second-stage review may
7 be granted unless the university is in substantial
8 compliance with Conditions 1 through 25?"

9 MR. KATZ: That's what it says.

10 MR. HITCHCOCK: Okay. Now, let me ask you
11 this. Without getting into the definition, let's
12 assume that the Commission approves a student
13 enrollment cap of 20,000.

14 Are you -- would an enrollment in a single
15 semester of 21,000 students, however defined,
16 constitute substantial compliance?

17 MR. KATZ: I believe that's a
18 determination of the District of Columbia and --

19 MR. HITCHCOCK: Excuse me. I'm asking.
20 You wrote these words. You said substantial
21 compliance. I will take your answer as what you meant
22 and whether 21,000 would be substantial compliance as
23 you have used the words here.

24 MR. KATZ: Can't answer that question.

25 MR. HITCHCOCK: You can't. Well, suppose

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1 it were 22,000 students, would that be substantial
2 compliance as you have defined the words in your
3 submission here? 10 percent over the cap.

4 MR. KATZ: I answered the question first
5 that this is the responsibility of the District of
6 Columbia to determine that.

7 MR. HITCHCOCK: No, you didn't, sir. I
8 asked you whether you considered this to be in
9 substantial compliance. These are your words. I'm
10 asking you what you meant.

11 CHAIRPERSON MITTEN: Mr. Hitchcock, why
12 are you going through this?

13 MR. HITCHCOCK: I would be happy. You
14 indicated previously, Madam Chair, you didn't want to
15 get into questions of compliance previously. That is
16 a subject of enormous concern to my clients. They
17 believe that the university has busted the limitations
18 on enrollment, that it has busted the limitations of
19 faculty, it has busted the limitations on staff.

20 Statements in there both from the
21 university and from GW state that -- I'm sorry, from
22 the university and OP state that it is important to
23 have clarity with respect to definitions of these
24 items. For example, let's take the student head count
25 thing. They start --

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1 CHAIRPERSON MITTEN: But what --

2 MR. HITCHCOCK: It is important here
3 because we --

4 CHAIRPERSON MITTEN: No, no.

5 MR. HITCHCOCK: Yes.

6 CHAIRPERSON MITTEN: I'm asking you why
7 are you asking Mr. Katz what he considers to be
8 substantial compliance when it's not really relevant
9 what he thinks it is.

10 MR. HITCHCOCK: Because it goes directly
11 to the question that this condition is being asked to
12 consider in a Campus Plan, namely under Section 210,
13 will the Campus Plan be objectionable because of
14 number of students, among other things. That is --
15 and, therefore, I'm trying --

16 CHAIRPERSON MITTEN: I don't think this is
17 the right way to approach this.

18 MR. HITCHCOCK: Okay.

19 CHAIRPERSON MITTEN: If you -- I think the
20 way to approach it is either ask for or proffer
21 yourself what substantial compliance is or isn't, you
22 know, that there is, you know, a flexibility, you
23 know, beyond which it's not substantial compliance by
24 way of clarifying. But this is an unproductive
25 conversation.

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1 MR. HITCHCOCK: Okay. Madam Chair, with
2 due respect, this is cross examination 101. They have
3 proffered and have sought an ability to bust the limit
4 and to exceed the caps up to a certain level. It is
5 not my client's obligation to say how much can you
6 bust a limit and get away with. This is --

7 CHAIRPERSON MITTEN: Well, why don't you
8 ask him if his intention is to bust it?

9 MR. HITCHCOCK: Well, because they -- is
10 it your intention to bust the limit?

11 MR. KATZ: No.

12 MR. HITCHCOCK: Then would the university
13 accept removing substantial compliance from Condition
14 7?

15 MR. KATZ: It is the same condition that
16 is in the existing Campus Plan.

17 MR. HITCHCOCK: Mr. Katz, that was not my
18 question and you know it. Would the university accept
19 removing this condition looking forward?

20 MR. KATZ: No.

21 MR. HITCHCOCK: Why not?

22 MR. KATZ: There needs to be flexibility.
23 The determination has to be done by the District of
24 Columbia and it has been.

25 MR. HITCHCOCK: And what standards would

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1 you suggest the District of Columbia use in assessing
2 the level of flexibility that you allegedly need to
3 break the caps?

4 MS. DWYER: Madam Chair, I would object.
5 As the witness has said, this is the language that is
6 in the existing Campus Plan. It's a decision made by
7 the Zoning Administrator. He determines substantial
8 compliance. It's not for the university to tell the
9 Zoning Administrator how to do that.

10 CHAIRPERSON MITTEN: If I could.

11 MR. HITCHCOCK: Yes.

12 CHAIRPERSON MITTEN: Let's just all take
13 a little pause and why don't -- it's a legal matter,
14 I think.

15 MR. HITCHCOCK: I respectfully disagree.

16 CHAIRPERSON MITTEN: Now --

17 MR. HITCHCOCK: It is a question of fact
18 how much they can bust the caps.

19 CHAIRPERSON MITTEN: Mr. Hitchcock.

20 MR. HITCHCOCK: We have had definitional
21 questions.

22 CHAIRPERSON MITTEN: Mr. Hitchcock.

23 MR. HITCHCOCK: I would like to get an
24 answer.

25 CHAIRPERSON MITTEN: Mr. Hitchcock.

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1 MR. HITCHCOCK: Yes.

2 CHAIRPERSON MITTEN: I believe that it is
3 -- whether you write it or not, it is the prerogative
4 of the Zoning Administrator to determine what
5 substantial compliance is. Are they going to enforce
6 on one student over a 20,000 student cap? I don't
7 know that they would, but I think that that would be
8 a matter that you should have an additional submission
9 on.

10 MR. HITCHCOCK: Okay.

11 CHAIRPERSON MITTEN: Ms. Dwyer can have an
12 additional submission on it.

13 MR. HITCHCOCK: Right.

14 CHAIRPERSON MITTEN: We can have an
15 additional submission on it.

16 MR. HITCHCOCK: Right.

17 CHAIRPERSON MITTEN: And we can ask the
18 Zoning Administrator to weigh in on it.

19 MR. HITCHCOCK: And, Madam Chair, if this
20 were an ordinary cross examination, I would have
21 started at 20,001 and worked up to 21,000, but I was
22 honestly trying to respect the Commission's preference
23 to limit cross examination. I mean, it's obvious that
24 they have no limits in terms of what they see as an
25 acceptable number above.

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1 CHAIRPERSON MITTEN: I just don't see that
2 cross examination is a productive way to tease out
3 what the issue is. So I'm trying to take another
4 approach without ignoring your issue.

5 MR. HITCHCOCK: Right, but he -- well, but
6 he has -- but it's not up to us to say this is what
7 the license should be. I mean, I guess the question
8 is is there -- let me ask it this way.

9 Is there any number above 20,000, assuming
10 that's the limit, that you would regard as not in
11 substantial compliance?

12 MS. DWYER: Madam Chair, again I would
13 object. The witness has said that the university does
14 not intend to go above the 20,000 number. There has
15 been no evidence that it has gone above that number
16 and this is the same cap that has been in the plan
17 since 1985. So I think this line of questioning is
18 totally off base.

19 MR. HITCHCOCK: I respectfully disagree,
20 Maureen. This goes directly to questions. It is not
21 simply a question of intent. It is a question of also
22 what may happen. I mean, if they are claiming they
23 need some flexibility, how much?

24 CHAIRPERSON MITTEN: Okay. Let me just
25 ask the question and then, please, let this be the end

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1 of it.

2 Do you have a position on the question of
3 how much over a given cap would constitute substantial
4 compliance? Do you have a position on that?

5 MR. KATZ: No, we do not.

6 CHAIRPERSON MITTEN: Okay.

7 MR. HITCHCOCK: Okay. And they have also
8 said that they want to have the cap. They do not
9 accept striking substantial compliance.

10 CHAIRPERSON MITTEN: That is why I want to
11 talk about even the use of the phrase at greater
12 length.

13 MR. HITCHCOCK: Okay.

14 CHAIRPERSON MITTEN: But we'll do it. You
15 will have your position and you will submit it to us
16 in writing and everybody else can do that, and we'll
17 see what the Zoning Administrator has to say on the
18 subject, too.

19 MR. HITCHCOCK: Okay. Will the Zoning
20 Administrator --

21 CHAIRPERSON MITTEN: Because it's an
22 enforcement matter.

23 MR. HITCHCOCK: No, it's a conditions
24 matter. It genuinely deals with the conditions.

25 CHAIRPERSON MITTEN: But the conditions

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1 mean nothing if they are not enforced, so it really
2 runs to how would the Zoning Administrator -- to the
3 extent that this matter has any relevance at all, how
4 would the Zoning Administrator interpret the phrase.
5 If substantial compliance is in the condition, will he
6 interpret that any other way if it's not? And if it's
7 not, then we can just not have the rest of this
8 conversation.

9 MR. HITCHCOCK: I'm simply trying to --

10 MS. DWYER: And, Madam Chair, if I could.

11 MR. HITCHCOCK: Excuse me. I'm simply
12 trying to find out how much license they think, the
13 university thinks, that it needs in this area. And
14 the answer is we need license, but we're not going to
15 tell you.

16 MS. DWYER: Madam Chair, could I point out
17 this is the same language that is in every other
18 Campus Plan order that talks about substantial
19 compliance.

20 CHAIRPERSON MITTEN: Right.

21 MS. DWYER: So it is obviously a phrase,
22 a legal requirement that the Zoning Administrator is
23 familiar with that the individual universities and
24 applicants do not decide on their own.

25 CHAIRPERSON MITTEN: I got it. I got it

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1 all.

2 MR. HITCHCOCK: Okay.

3 CHAIRPERSON MITTEN: Now, we're going to
4 go on to another subject.

5 MR. HITCHCOCK: I will move on to another
6 subject.

7 CHAIRPERSON MITTEN: Thank you.

8 MR. HITCHCOCK: Thank you, Madam Chair.
9 Ms. Rutherford, while we're on that same page, I have
10 some questions for you on condition -- yes, this is on
11 Condition 8 that there was questions from the
12 Commission about before with respect to purchasing
13 additional residentially zoned properties, correct?
14 Do you have that section?

15 MS. RUTHERFORD: Yes, I do.

16 MR. HITCHCOCK: Okay. And you remember
17 that part of your testimony? Is there a shortage of
18 investment opportunities elsewhere in the city?

19 MS. RUTHERFORD: Not that I'm aware of.

20 MR. HITCHCOCK: So what specifically is
21 this need if there is no shortage elsewhere in the
22 city?

23 MS. RUTHERFORD: Well, I'm sorry, I think
24 Vice President Katz discussed earlier. I mean, the
25 university has invested in real estate in our

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1 neighborhood, 1 Washington Circle, The Inn at Foggy
2 Bottom and we think --

3 MR. HITCHCOCK: Okay.

4 MS. RUTHERFORD: We don't see any problem
5 with it and we think it's a positive thing to be in
6 our community.

7 MR. HITCHCOCK: Yes, but let me ask you
8 this. The second sentence at the bottom of page Y2
9 beginning "This commitment."

10 MS. RUTHERFORD: Yes.

11 MR. HITCHCOCK: All right. It says "This
12 commitment would not preclude the purchase of any
13 properties for investment purposes." And my question,
14 and you can look at other parts of this, is there
15 anything in this condition that would prohibit the
16 university from seeking the rezoning of a residential
17 building as a contract purchaser?

18 MS. RUTHERFORD: There is nothing.

19 MR. HITCHCOCK: Excuse me. I would like
20 to see. Ms. Dwyer is coaching the witness. Is there
21 anything in this that would prohibit that?

22 MS. RUTHERFORD: Not -- no, there is not.

23 MR. HITCHCOCK: Okay. Would the
24 university accept a condition?

25 CHAIRPERSON MITTEN: This is not a

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1 criminal trial. Okay. This is just we're just trying
2 to get some information. Okay?

3 MR. HITCHCOCK: Okay. Would the
4 university be willing to accept such a condition?

5 MS. RUTHERFORD: I would not be able to
6 have the authority to make that decision.

7 MR. HITCHCOCK: Well, is there someone at
8 the table who could?

9 MS. RUTHERFORD: It would have to be --
10 you could ask Vice President Katz, but it would be
11 certainly a discussion that we would have to have and
12 that could not be made at this table.

13 MR. KATZ: The reason I'm not committing
14 the institution, I'm not sure what you're asking us to
15 commit to.

16 MR. HITCHCOCK: That the university would
17 not seek rezoning of a residential property in the
18 Foggy Bottom/West End area as a contract purchaser.

19 CHAIRPERSON MITTEN: Do you understand --
20 the --

21 MS. DWYER: I guess my -- is it whether a
22 contract purchaser is the same as a purchaser or are
23 you getting to the point of purchasing residentially
24 zoned property and getting it rezoned and then coming
25 out of that condition? I'm not sure what you're

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1 driving at.

2 MR. HITCHCOCK: The question -- the
3 language says would prevent -- "would preclude the
4 purchase of any properties for investment purposes."

5 MS. DWYER: And I think purchase would
6 include contract purchase, yes.

7 MR. HITCHCOCK: Could we clarify that as
8 a condition?

9 MS. DWYER: Yes, we can.

10 MR. HITCHCOCK: Thank you. Okay. Madam
11 Chair, I have a series of questions about Square 54
12 and I know that the Commission does not like non-
13 testifying parties to jump up and interrupt other
14 parties' presentations, but I would like to lodge an
15 objection and a motion to strike testimony here with
16 respect to Square 54, which is the subject of a
17 separate proceeding. The witnesses for GW went into
18 some detail about merits of Square 54. Reference was
19 made to a grocery store and certain other things.

20 CHAIRPERSON MITTEN: Right.

21 MR. HITCHCOCK: They have sought to use it
22 when it's convenient and they have sought to exclude
23 it when it is inconvenient, and it puts us at a
24 disadvantage in terms of what we can ask in terms of
25 the questions.

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1 CHAIRPERSON MITTEN: Okay.

2 MR. HITCHCOCK: So I will make the motion.

3 MS. DWYER: Madam Chair, I would object
4 because I think the Campus Plan does include
5 discussion of uses on campus in concept, and what the
6 witnesses have talked about are general concepts for
7 Square 54. We have not gotten into any details about
8 the height or the design or any of those issues, but
9 certainly a Campus Plan includes concepts.

10 So the concept for Square 54 and the
11 concept for the School Without Walls site being a
12 public/private partnership with School Without Walls
13 and residential development on the university portion
14 are very much appropriate. It is no different than
15 what is done in any other university Campus Plan.

16 CHAIRPERSON MITTEN: Okay. We're not
17 going to strike any testimony.

18 MR. HITCHCOCK: All right.

19 CHAIRPERSON MITTEN: But you're just going
20 to have to trust that the Commission knows how to
21 separate these things.

22 MR. HITCHCOCK: Okay. Well, I have a
23 number of questions on Square 54, including the ULI
24 Exhibit which Ms. Rutherford discussed and cited in
25 her testimony.

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1 CHAIRPERSON MITTEN: I think there is --
2 as long as it is conceptual and you don't get into the
3 specifics of Square 54, because that is not what this
4 is about, I think we'll be okay because, as you
5 pointed out, the university has mentioned it in their
6 testimony. So, you know, as long as we don't go too
7 far with that --

8 MR. HITCHCOCK: Okay.

9 CHAIRPERSON MITTEN: -- we'll be fine.

10 MR. HITCHCOCK: Well, I guess I'm not sure
11 what conceptual is, but I will give it a try. Thank
12 you.

13 CHAIRPERSON MITTEN: Okay.

14 MR. HITCHCOCK: Okay. Ms. Rutherford,
15 there was testimony previously about -- and, I'm
16 sorry, I direct your attention to page 7. Take your
17 time to find it. There was testimony there in the
18 first column about a grocery store as one of the
19 concepts for developing this site.

20 MS. RUTHERFORD: A grocery store is a
21 concept within Square 54, but again that's not part of
22 the application that we're talking about this evening.

23 MR. HITCHCOCK: All right. Where is the
24 nearest grocery store next to that site?

25 MS. RUTHERFORD: I believe as of last week

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1 a Trader Joe's has opened up at the Columbia site.

2 MR. HITCHCOCK: Okay. The Columbia site
3 being? Can you state the address just for the record?

4 MS. RUTHERFORD: I believe it's 24th and
5 L.

6 MR. HITCHCOCK: 24th and L. Thank you.
7 So --

8 MS. RUTHERFORD: In that vicinity. Excuse
9 me.

10 MR. HITCHCOCK: Close enough. Thank you.
11 So there is not a problem with grocery stores moving
12 into this area at the present time, correct?

13 MS. RUTHERFORD: I am not -- not that I'm
14 aware of, but I am not a retail expert to that extent.

15 MR. HITCHCOCK: All right.

16 CHAIRPERSON MITTEN: Okay. Now, are you
17 going to explore whether or not a grocery store should
18 be on Square 54 because that really belongs in that
19 case and not in this case? If you want to talk about
20 a grocery store as part of, you know, the retail spine
21 on I Street, that's conceptual.

22 MR. HITCHCOCK: Okay. That was actually--
23 I was going to ask on the grocery store issue.

24 CHAIRPERSON MITTEN: Okay.

25 MR. HITCHCOCK: But thank you for the

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1 guidance. The bottom paragraph on that same page
2 talks about meetings of the stakeholders. Are you
3 familiar with those meetings? I believe you testified
4 to them.

5 MS. RUTHERFORD: I'm sorry, can you just
6 point out where you're referring to?

7 MR. HITCHCOCK: Sure, down here.

8 MS. RUTHERFORD: Oh, I'm sorry, I was --

9 MR. HITCHCOCK: Okay.

10 MS. RUTHERFORD: Yes.

11 MR. HITCHCOCK: Okay. Was the Foggy
12 Bottom Association connected with those meetings?

13 MS. RUTHERFORD: The members of the Foggy
14 Bottom Association, I believe, were invited to
15 participate in stakeholder meetings, yes.

16 MR. HITCHCOCK: Okay. So --

17 MS. RUTHERFORD: In fact, yes, that is --
18 I know that to be a fact.

19 MR. HITCHCOCK: Okay. When you say in
20 that sentence each contingent -- "The panel found each
21 contingent would be pleased with some aspect of the
22 proposed mixed use project."

23 MS. RUTHERFORD: I didn't say anything in
24 this report. This is the report of the ULI.

25 MR. HITCHCOCK: Okay. Is there anyone

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1 here from ULI who can sponsor this exhibit?

2 CHAIRPERSON MITTEN: I don't think so.

3 MR. HITCHCOCK: Okay. I move to strike
4 the exhibit on the grounds there is no sponsor and I
5 can't cross examine someone who is not here.

6 CHAIRPERSON MITTEN: Mr. Hitchcock, it's
7 common practice to append reports like this to
8 people's submissions.

9 MR. HITCHCOCK: Okay.

10 CHAIRPERSON MITTEN: So, you know, we're
11 not going to strike it.

12 MR. HITCHCOCK: Thank you. While we're on
13 Square 54 conceptually, there is discussion with
14 respect to housing, correct?

15 MS. RUTHERFORD: Yes.

16 MR. HITCHCOCK: Okay. Is it intended to
17 be student housing?

18 MS. RUTHERFORD: It is intended to be
19 market residential housing.

20 MR. HITCHCOCK: And at least at the
21 concept stage, are there anything that would prevent
22 it from being nothing but student apartments?

23 MS. RUTHERFORD: Well, certainly, at the
24 concept stage the market, target market, is not
25 students. They are distinguished apartments, you

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1 know, relatively high end apartments and the target is
2 not students. However, students would certainly not
3 be precluded from, you know, seeking to rent spaces in
4 the potential development.

5 MR. HITCHCOCK: Okay. Page 11. We got
6 the left hand column, the paragraph talking about
7 "Tight apartment market conditions have helped drive
8 the development of new condo projects."

9 MS. RUTHERFORD: Yes.

10 MR. HITCHCOCK: Do you have an opinion or
11 are you aware of reports indicating there is currently
12 a glut of condos in the Washington area?

13 MS. DWYER: Madam Chair, I would object.
14 This is beyond the scope of her testimony.

15 MS. RUTHERFORD: It certainly is.

16 MR. HITCHCOCK: Well, we're talking
17 conceptually. I'm trying to find out how to --

18 MS. DWYER: She did not testify as to
19 condo market conditions or the residential market.

20 CHAIRPERSON MITTEN: I guess what Mr.
21 Hitchcock is trying to explore is given that the
22 exhibit came from the university and is part of the
23 record of your case, if Ms. Rutherford can't answer
24 the question, then somebody should be able to answer
25 the question. Are you able to answer the question?

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1 MS. RUTHERFORD: Could you just repeat the
2 question, please?

3 MR. HITCHCOCK: Sure. Are you -- looking
4 at that text, are you aware that there is what has
5 been described as a condominium glut in the District
6 of Columbia at present?

7 MS. RUTHERFORD: I am aware generally of
8 the discussion of the condominium market, but I am
9 also aware of the discussion regarding the rent, the
10 strong rental market, and these are rental apartments.

11 MR. HITCHCOCK: Okay.

12 MS. RUTHERFORD: Not condominium
13 apartments.

14 MR. HITCHCOCK: Okay. But they would be
15 subject to possible conversion?

16 MS. RUTHERFORD: Not under the development
17 structure with our development partners.

18 MR. HITCHCOCK: Okay. All right. All
19 right. I have some more, but I will save it for the
20 subsequent proceeding.

21 CHAIRPERSON MITTEN: Thank you.

22 MR. HITCHCOCK: I'm sorry?

23 CHAIRPERSON MITTEN: I said thank you.

24 MR. HITCHCOCK: Okay. Let me move on to
25 an issue that we raised previously, and this is the

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1 enrollment and faculty/staff cap issue which is
2 addressed in the subsequent conditions. And I am
3 looking specifically at, I'm sorry, proposed
4 Conditions 10 and 11. I guess, Mr. Katz, you would be
5 the witness on these.

6 MR. BARBER: It depends upon the question.
7 I may answer.

8 MR. HITCHCOCK: Okay. Are you familiar
9 with the exhibit that we filed in connection with the
10 motion to dismiss?

11 MR. BARBER: I generally am.

12 MR. HITCHCOCK: You generally are. All
13 right. And are you familiar with the opinion that was
14 expressed therein that students that you have excluded
15 should be included?

16 MR. BARBER: I'm generally familiar with
17 the position.

18 MR. HITCHCOCK: Okay. Mr. Barber, just
19 for your convenience and for the Commission's
20 convenience, may I suggest you may want to just flip
21 back to your Exhibit Q as well.

22 MR. BARBER: Yes.

23 MR. HITCHCOCK: Okay. I am looking at
24 Exhibit Q and I will just try to keep this as simple
25 as possible. You concede, I take it, the point we

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1 have made. Well, let me rephrase that. You are
2 familiar with what is called the IPEDS methodology, I-
3 P-E-D-S, for counting the number of students?

4 MR. BARBER: Yes, I am.

5 MR. HITCHCOCK: Okay. And, yet, the
6 university has not used that here. Is that correct?

7 MR. BARBER: No, that is not correct.

8 MR. HITCHCOCK: Well, for what purpose has
9 it used it here?

10 MR. BARBER: That is our starting point.

11 MR. HITCHCOCK: That is your starting
12 point.

13 MR. BARBER: It determines the universe of
14 all students.

15 MR. HITCHCOCK: Okay. But not your ending
16 point.

17 MR. BARBER: That's correct.

18 MR. HITCHCOCK: Okay. Now, looking at
19 Exhibit Q, you have proposed to -- you have lopped off
20 students from Virginia Campus, correct?

21 MR. BARBER: Yes.

22 MR. HITCHCOCK: And is it not true that
23 some of those students take classes at Foggy Bottom
24 Campus?

25 MR. BARBER: No, it's not.

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1 MR. HITCHCOCK: It is not. And is it not
2 true that there is shuttle bus service from Loudoun
3 County to the Foggy Bottom Campus?

4 MR. BARBER: I don't believe we have a --
5 well, I haven't taken that shuttle.

6 MR. HITCHCOCK: I didn't ask --

7 MR. BARBER: We may have a shuttle bus
8 service.

9 MR. HITCHCOCK: All right. Well --

10 MR. BARBER: Or we have a shuttle bus
11 service.

12 MR. KATZ: We do have a shuttle.

13 MR. HITCHCOCK: You have a shuttle bus
14 service.

15 MR. BARBER: Yes.

16 MR. HITCHCOCK: And are there any limits
17 currently on the ability of students at Loudoun County
18 to come in and take classes at Foggy Bottom?

19 MR. BARBER: If students take classes at
20 Foggy Bottom, they are counted as Foggy Bottom
21 students.

22 MR. HITCHCOCK: But they are not counted
23 as -- even if they are registered at Loudoun County as
24 well?

25 MR. BARBER: If that were the case.

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1 MR. HITCHCOCK: If that were the case.
2 What is the case now?

3 MR. BARBER: That Loudoun County students
4 take classes at Loudoun County.

5 MR. HITCHCOCK: Well, let me ask you this.
6 I mean, you have gone from 24,099 down to 20,318 and
7 in the process you lopped off some Loudoun County
8 students, correct?

9 MR. BARBER: Yes.

10 MR. HITCHCOCK: And did you lop off only
11 those Loudoun County students who study solely at
12 Loudoun County?

13 MR. BARBER: Yes.

14 MR. HITCHCOCK: Okay. And did you exclude
15 any students who come in to the Foggy -- and your
16 testimony is there is no one who comes in for a class
17 whatsoever?

18 MR. BARBER: If they take classes at Foggy
19 Bottom, we count them at Foggy Bottom.

20 MR. HITCHCOCK: You count them, so you
21 double count them? You count them as a Loudoun County
22 student and you count them as a Foggy Bottom student?

23 MR. BARBER: We don't really. There is no
24 Campus Plan for Loudoun County, so it's not a double
25 counting kind of issue. For this purpose at this

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1 stage, we counted people who were taking -- going from
2 step one to step two. We count the people in that
3 step who take campus on the Foggy Bottom or Mount
4 Vernon Campus. And if you don't take classes on the
5 Mount Vernon or Foggy Bottom Campus, you don't --
6 you're not in that next step, step two.

7 MR. HITCHCOCK: Okay.

8 MR. BARBER: And there are a number of
9 people who are not, including those at Loudoun County.

10 MR. HITCHCOCK: Well, let me ask you this.
11 I mean, could you give us numbers for how many people
12 who -- well, you have given us, I take it, the number
13 for how many students at Loudoun County do not come
14 into Foggy Bottom and are, therefore, not counted as
15 students there.

16 MR. BARBER: No, I have not.

17 MR. HITCHCOCK: You have not. Could you
18 provide --

19 MR. BARBER: It includes -- the first step
20 includes a number of students who don't take classes
21 at Mount Vernon and Foggy Bottom. Loudoun County is
22 a big number, but there are others. There are some in
23 San Diego. There are some on other sites of Virginia.
24 There are -- we have a number of places where we
25 educate students that are not in Foggy Bottom or Mount

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1 Vernon.

2 MR. HITCHCOCK: Okay.

3 MR. BARBER: And so those are excluded.

4 MR. HITCHCOCK: And where are the San
5 Diego students included?

6 MR. BARBER: They are in that first step
7 that we lopped off.

8 MR. HITCHCOCK: So the big step of 4,000
9 or, excuse me, well, close to 4,000?

10 MR. BARBER: About, yes.

11 MR. HITCHCOCK: Okay. Have you provided
12 in the record, I have not seen it but may have missed
13 it, more detailed breakdowns of where these students
14 are?

15 MR. BARBER: No, I didn't think it was
16 relevant.

17 MR. HITCHCOCK: Would that be possible to
18 provide?

19 MR. BARBER: I don't think it's relevant.

20 MR. HITCHCOCK: Well, that wasn't my
21 question, sir. My question is can you provide it?

22 MR. BARBER: Am I -- is it possible to
23 provide?

24 MR. HITCHCOCK: Yes, sir.

25 MR. BARBER: I would have to look -- talk

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1 to Institutional Research who captures the data on the
2 students. I'm not sure I can answer that right now.

3 CHAIRPERSON MITTEN: Mr. Barber, just give
4 me a sec. Mr. Hitchcock, what is the purpose of
5 asking Mr. Barber to provide that additional
6 information?

7 MR. HITCHCOCK: Because we are trying, as
8 many people said in Florida after the 2000 election,
9 count everyone. We're trying to find out who is being
10 counted, who is not being counted. This is the first
11 I have heard and I have read every page of the
12 transcript and much of the 2000 Campus Plan hearing.
13 This is the first I have heard about a San Diego
14 subset.

15 If I may be blunt, my clients are
16 concerned that GW is playing games with the enrollment
17 numbers and we're trying to find out who is being
18 included, who is not being included at least going
19 forward. We don't want to get into this looking
20 backward, but this is absolutely critical.

21 CHAIRPERSON MITTEN: I understand, I
22 understand. I just think maybe you're asking for the
23 wrong thing. I think rather than say you want the
24 numbers that went into this calculation, I would be
25 asking for a detailed breakdown of what those off

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1 campus -- where are --

2 MR. HITCHCOCK: Okay.

3 CHAIRPERSON MITTEN: Specifically, who
4 would be potentially counted in that and where are
5 they.

6 MR. HITCHCOCK: Right. I will take any
7 and everything that is in the second italic paragraph
8 on Exhibit Q, because I think that is highly relevant.
9 I mean, I'm not -- this is why -- I mean, these were
10 issues, as you will recall, that the BZA did not go
11 into in 2000.

12 CHAIRPERSON MITTEN: Right, I understand
13 that.

14 MR. HITCHCOCK: And we're trying to get
15 into --

16 CHAIRPERSON MITTEN: And, Mr. Barber, will
17 you --

18 MR. HITCHCOCK: And I'm trying to -- I'm
19 sorry.

20 CHAIRPERSON MITTEN: Will you have --

21 MR. HITCHCOCK: I'm trying to identify
22 them now. Sorry.

23 MS. DWYER: We would be happy to provide
24 that information, and I think going forward it is
25 appropriate to further define these, because the whole

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1 focus of this --

2 CHAIRPERSON MITTEN: Right.

3 MS. DWYER: -- is to be clear. But in
4 terms of going back and rethinking what the Zoning
5 Administrator has already determined is in compliance,
6 I don't think there is a basis for going back.

7 CHAIRPERSON MITTEN: Right, I understand,
8 and I think the more that we can break these down we
9 see -- you know, to the extent that the community
10 wants to make a case for something being included that
11 is otherwise being excluded, that is why we need it
12 broken down.

13 MR. HITCHCOCK: Yes.

14 CHAIRPERSON MITTEN: So we can get the
15 breakdown. Yes? Yes?

16 MS. DWYER: Yes.

17 CHAIRPERSON MITTEN: Okay.

18 MS. DWYER: Yes.

19 MR. HITCHCOCK: Okay. So we will get a
20 breakdown of every category that falls in part two,
21 including those not listed like the so-called San
22 Diego contingent?

23 MR. BARBER: No, that's not what I
24 understood. The location of --

25 MR. HITCHCOCK: Well, let's please be

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1 clear. This is very important.

2 MR. BARBER: The location of these off-
3 campus students, we can give you details about what
4 those locations are.

5 MR. HITCHCOCK: No, I'm sorry.

6 MR. BARBER: And a total, the number that
7 we have lopped off here.

8 MR. HITCHCOCK: Okay. I would like --

9 MR. BARBER: The relative numbers among
10 those, I'm not sure, one, is readily available and,
11 two, I'm not sure how we'll get that.

12 CHAIRPERSON MITTEN: Well, I'm not
13 interested in the numbers.

14 MR. BARBER: Okay.

15 CHAIRPERSON MITTEN: I'm interested in
16 the --

17 MS. DWYER: We are going to define the
18 categories of students that are excluded.

19 MR. HITCHCOCK: Okay.

20 CHAIRPERSON MITTEN: Yes.

21 MR. BARBER: Right.

22 MS. DWYER: With reasons of why they are
23 excluded.

24 CHAIRPERSON MITTEN: Right.

25 MR. HITCHCOCK: Yes, I mean, may I make a

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1 general proffer in this, Madam Chair, which I think
2 may illustrate where we're going for?

3 We are concerned with respect to these
4 satellite campuses that they are a loophole that is
5 big enough to drive a truck through, particularly if
6 the satellite campus is not in the District of
7 Columbia and is not subject to the limitations
8 because, and this is important, a lot of students may
9 yet come to the Foggy Bottom Campus for classes.

10 They may come for recreational activities.
11 They may come for cultural activities. They are
12 increasing. You have significantly increased trip
13 generation, increased traffic, noise, etcetera. Now,
14 these are issues we would like to get to and we'll
15 talk about that more in our presentation, but these
16 are --

17 CHAIRPERSON MITTEN: Well, and I can
18 appreciate that.

19 MR. HITCHCOCK: Yes.

20 CHAIRPERSON MITTEN: I just wish you would
21 go at it more directly, which is I think that's a
22 perfectly valid thing to want to explore.

23 MR. HITCHCOCK: Okay.

24 CHAIRPERSON MITTEN: What are the rights
25 of a Loudoun County or a Loudoun Campus --

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1 MR. HITCHCOCK: Okay.

2 CHAIRPERSON MITTEN: -- student as it
3 relates to the Foggy Bottom Campus? Do they have
4 rights to use the Wellness Center?

5 MR. HITCHCOCK: Okay.

6 CHAIRPERSON MITTEN: Do they have rights?
7 You know, what would bring them there?

8 MR. HITCHCOCK: Okay.

9 CHAIRPERSON MITTEN: So that is what I
10 would like you to be spending your time on, not
11 numbers from the counts that were not --

12 MR. HITCHCOCK: Okay.

13 CHAIRPERSON MITTEN: -- that are not at
14 issue here.

15 MR. HITCHCOCK: Okay. All right. Well,
16 if we can get the numbers, that would be extremely
17 helpful because --

18 CHAIRPERSON MITTEN: We're not getting the
19 numbers. We're getting the specific categories.

20 MR. HITCHCOCK: The categories. Okay.

21 CHAIRPERSON MITTEN: And then if you would
22 like to ask questions about what rights and privileges
23 those categories of students have on the Foggy Bottom
24 Campus, that would be of interest to all of us.

25 MR. HITCHCOCK: Okay. I would be happy to

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1 do so. I mean, I'm happy to defer this portion or
2 continue the cross examination when we get that
3 information in. I mean, I can't --

4 CHAIRPERSON MITTEN: Well, I think you can
5 do a good bit of it now.

6 MR. HITCHCOCK: All right. What rights --
7 I will start. What rights do students at the Virginia
8 Campus, as you have defined it, have with respect to
9 the Foggy Bottom Campus? The Chair mentioned several.

10 MR. BARBER: Well, to start off --

11 MR. HITCHCOCK: Okay.

12 MR. BARBER: I'm sorry? I think I have
13 not thought through this question and I could not give
14 a complete answer. I would rather supply it.

15 MR. HITCHCOCK: All right. Well --

16 MS. DWYER: We can supply that for the
17 record and then your cross examination can be on --

18 MR. HITCHCOCK: Okay.

19 MS. DWYER: -- the material that we file
20 in the record.

21 MR. HITCHCOCK: Okay. If that is
22 acceptable to the Chair, I am happy to defer.

23 CHAIRPERSON MITTEN: That's fine. If that
24 works better for everybody else, it's fine.

25 MR. HITCHCOCK: Okay.

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1 MS. DWYER: And as we were talking about
2 the rights that the Loudoun County students may have
3 on the Foggy Bottom Campus, we'll also talk about the
4 rights the Foggy Bottom students have to go to other
5 campuses, which will reduce the impacts at Foggy
6 Bottom. So it goes both ways.

7 MR. HITCHCOCK: Well, all right, but we're
8 talking about trip generation to and from Foggy
9 Bottom, but we'll hold on that. Yes, there is the
10 shuttle and consortia. All right. All right. So we
11 will pursue that and I appreciate that.

12 Moving to the second page on Exhibit Q,
13 Mr. Barber, you have excluded students in the category
14 of study abroad, correct?

15 MR. BARBER: Yes.

16 MR. HITCHCOCK: Okay. Are these students
17 who are paying tuition to GW during the semester they
18 are away?

19 MR. BARBER: Yes.

20 MR. HITCHCOCK: They are? And you have,
21 yet, nonetheless excluded them even though they are
22 generating revenue?

23 MR. BARBER: Yes, because they are not
24 physically here.

25 MR. HITCHCOCK: Okay. And they are still

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1 getting credits that count towards a GW degree?

2 MR. KATZ: Yes.

3 MR. BARBER: I believe so.

4 MR. HITCHCOCK: You believe so? Mr. Katz
5 said yes. Mr. Barber said I believe so. Could we get
6 clarification?

7 MR. KATZ: They get credit.

8 MR. HITCHCOCK: Okay. Thank you. What
9 does the university do with the housing that these
10 students who are abroad would otherwise do, would
11 otherwise use?

12 MR. BARBER: We give it to somebody else.

13 MR. HITCHCOCK: You give it to someone
14 else.

15 MR. BARBER: I mean, if they are not there
16 to use the housing, we try to fill the bed with
17 somebody else.

18 MR. HITCHCOCK: Okay. And those are --

19 MR. BARBER: Full-time.

20 MR. HITCHCOCK: -- tuition paying, degree
21 students?

22 MR. BARBER: Full-time undergraduates.

23 MR. HITCHCOCK: Okay. Continuous
24 enrollment. How would I get into continuous
25 enrollment if I were a GW student?

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1 MR. BARBER: It's -- you would have
2 completed all your academic requirements and it is a
3 category which is used in order to avoid a break in
4 academic service such that if you finish during the
5 middle of the year, in order to avoid a break in
6 service prior to graduation you would be in this
7 category of continuous enrollment, but you have no
8 more academic requirements, no more academic
9 obligations.

10 You're through with your schooling. It is
11 purely an administrative kind of category to avoid a
12 break in service until the time of graduation.

13 MR. HITCHCOCK: But if you're simply done,
14 why not get the degree and graduate?

15 MR. BARBER: Because we only have
16 graduation in certain times of the year.

17 MR. HITCHCOCK: It's only in the spring?

18 MR. BARBER: That's right.

19 MR. HITCHCOCK: Okay. There is not winter
20 graduation or otherwise?

21 MR. BARBER: No.

22 MR. HITCHCOCK: Okay. And do you know
23 what students who are -- so these -- I take it this
24 category includes students who may have finished up in
25 the fall of their senior year and are still enrolled

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1 in the spring?

2 MR. BARBER: Yes.

3 MR. HITCHCOCK: Are there any other
4 students who fall into this category?

5 MR. BARBER: Not that I'm aware of.

6 MR. HITCHCOCK: Not that you're aware of.
7 It's that limited category. And do you know where
8 these students live or tend to live during the quarter
9 or the semester when they are in continuous
10 enrollment?

11 MR. BARBER: No, I do not.

12 MR. HITCHCOCK: The university doesn't
13 keep track of them?

14 MR. BARBER: Not as a category, no.

15 MR. HITCHCOCK: So they may well still be
16 residing in Foggy Bottom. Is that correct?

17 MR. BARBER: They could be residing
18 anywhere.

19 MR. HITCHCOCK: But they could still be in
20 Foggy Bottom, correct?

21 MR. BARBER: They could.

22 MR. HITCHCOCK: Waiting to graduate.
23 Okay.

24 CHAIRPERSON MITTEN: Let me just ask a
25 quick follow-up. Could they be in university housing?

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1 MR. BARBER: No, they would not be full-
2 time undergraduates. They wouldn't have a full --
3 only full-time undergraduates are eligible --

4 MR. HITCHCOCK: Okay.

5 MR. BARBER: -- to live in university
6 housing.

7 CHAIRPERSON MITTEN: Okay.

8 MR. HITCHCOCK: And while they are in that
9 last semester of continuous enrollment, can they take
10 advantage of student health?

11 MR. BARBER: Student health, yes.

12 MR. HITCHCOCK: Can they use the Smith
13 Center for recreational athletic activities?

14 MR. BARBER: Here again, I think we
15 probably should supply that. I have not looked at
16 what other rights or privileges continuous enrollment
17 students enjoy.

18 MR. HITCHCOCK: Okay. I would like to
19 reserve the right to question any submission there in
20 terms of --

21 CHAIRPERSON MITTEN: Sure.

22 MR. HITCHCOCK: -- what the students have
23 with -- I mean, I think it's clear where I'm going,
24 Mr. Barber, in terms of what rights and privileges
25 individuals have who are waiting that last semester.

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1 Mount Vernon students.

2 MR. BARBER: Yes.

3 MR. HITCHCOCK: You have excluded in the
4 category of 925 students who may be taking courses on
5 the Foggy Bottom Campus, correct?

6 MR. BARBER: This is our current
7 methodology not our proposement.

8 MR. HITCHCOCK: Correct. And, therefore,
9 you are proposing a new methodology going forward,
10 correct?

11 MR. BARBER: Yes, that's right.

12 MR. HITCHCOCK: Okay. What rights and
13 privileges do students housed at Mount Vernon have
14 with the Foggy Bottom Campus?

15 MR. BARBER: They can use the facilities
16 on Mount Vernon.

17 MR. HITCHCOCK: So --

18 MR. BARBER: I mean, I'm sorry, Foggy
19 Bottom.

20 MR. HITCHCOCK: Okay. Are there any
21 limitations on Mount Vernon students, students housed
22 at Mount Vernon, in terms of their ability to use the
23 facilities on Foggy Bottom?

24 MR. BARBER: Not that I'm aware of, no.

25 MR. HITCHCOCK: Okay. Let me turn to

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1 Condition 11. This deals with faculty and staff.

2 MR. BARBER: Yes.

3 MR. HITCHCOCK: All right. And you
4 testified previously you are familiar with the exhibit
5 that we put in and, I therefore presume, the data from
6 OIR's website?

7 MR. BARBER: Yes.

8 MR. HITCHCOCK: Okay. And up to now at
9 least there have been separate caps for faculty and
10 for staff, correct?

11 MR. BARBER: That's correct.

12 MR. HITCHCOCK: And you -- the expert
13 affidavit said that there is -- it is sensible to
14 count faculty separately as a means of supporting the
15 cap, the student cap, because universities like to
16 have a low student/faculty ratio.

17 Is that correct at GW, that GW likes to
18 have a low faculty/student ratio?

19 MR. BARBER: It really depends upon the
20 nature of the class.

21 MR. HITCHCOCK: All right. Let's take
22 undergraduates.

23 MR. BARBER: No, within undergraduates it
24 depends upon the nature of the class. There are some
25 classes that are amenable to large sizes and there are

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1 some classes that are amenable to small
2 student/faculty ratios.

3 MR. HITCHCOCK: I'm sorry, but perhaps I'm
4 not making myself clear. I'm talking about the
5 overall faculty/staff ratio, the sort of thing that
6 gets in U.S. News and World Report's survey and items
7 like that.

8 Does not GW regard having a low
9 student/faculty ratio in those sorts of studies as
10 important?

11 MR. KATZ: I will be glad to answer that
12 question.

13 MR. HITCHCOCK: Thank you, Mr. Katz.

14 MR. KATZ: That is a measure of quality at
15 institutions of higher education, but there are many
16 categories of faculty such as research. I gave --

17 CHAIRPERSON MITTEN: That's okay. Let's
18 just leave it there.

19 MR. KATZ: Okay.

20 CHAIRPERSON MITTEN: If he wants to ask a
21 follow-up, he will.

22 MR. HITCHCOCK: All right. I'm curious
23 about one thing. There was previously -- if you move
24 towards a single cap on faculty and staff instead of
25 two separate caps, is it not possible to increase the

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1 number of faculty substantially?

2 MR. BARBER: The total employee cap does
3 not change, but the mix between faculty and staff,
4 yes, that could change.

5 MR. HITCHCOCK: That could change.

6 MR. BARBER: It could.

7 MR. HITCHCOCK: And what are some of the
8 factors that might, in looking at this, drive GW to
9 have a higher portion of that overall number be
10 faculty?

11 MR. BARBER: I'm not sure we would. I'm
12 saying it could change. I'm not saying that it would
13 change.

14 MR. HITCHCOCK: Okay. Is there a need
15 that the university has to break this into -- move it,
16 combine it into one instead of keeping it in two?

17 MR. BARBER: It achieves a couple of
18 purposes. One, it's much simpler to keep track of
19 and, two, it avoids the situation where like me, for
20 example, who one -- a person who is a staff person,
21 but also does some teaching and there is some overlap
22 in these categories. And to have one unduplicated
23 number simplifies the reporting measures, and we don't
24 believe there is any significant zoning impact from
25 whether that person is a faculty or a staff person.

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1 MR. HITCHCOCK: Well, all right. So there
2 is no need, but there are certain reasons why you
3 prefer to do so. Is that a fair summary?

4 MR. BARBER: It helps with the compliance
5 effort.

6 MR. HITCHCOCK: Okay. Let me ask you
7 this. Let's take the category that you view yourself
8 as falling into where you are, I guess, staff and you
9 also do some teaching.

10 MR. BARBER: Correct.

11 MR. HITCHCOCK: How many people fall into
12 that category?

13 MR. BARBER: I don't know that number.

14 MR. HITCHCOCK: All right. Well, let me
15 ask you this. The university filed an opposition to
16 our motion to dismiss. I'm not going to -- again,
17 looking solely prospectively, and they talked about a
18 number of different categories. This is, I think, on
19 pages 11 and 12. Do you know where I'm referring to?

20 MR. BARBER: I believe it's 8 and 9.

21 MR. HITCHCOCK: Your memory may be better
22 than mine.

23 MR. BARBER: Well, I just have it here.
24 I'm not recalling from memory.

25 MR. HITCHCOCK: I can tell you're a very

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1 competent lawyer, because you knew exactly where I was
2 going. Let me take a moment to pull it up. Thanks.

3 MR. BARBER: While you do that, I'll get
4 a drink of water. Thank you.

5 MR. HITCHCOCK: Yes, okay.

6 MR. BARBER: You're not waiting on me, are
7 you?

8 MR. HITCHCOCK: Oh, yes, I'm sorry.

9 MR. BARBER: I'm sorry. I have been
10 ready. I was wondering what we're doing here. It's
11 time to go home. I'm sorry. Go ahead, go ahead.

12 CHAIRPERSON MITTEN: Would you turn on
13 your mike there?

14 MR. HITCHCOCK: Yes, thank you.

15 CHAIRPERSON MITTEN: Thanks.

16 MR. HITCHCOCK: Okay. You have got
17 various categories there on page 8 of the opposition,
18 full and part-time paid faculty. Do you see the
19 paragraph?

20 MR. BARBER: Yes.

21 MR. HITCHCOCK: Okay. I know this is
22 obvious, but I have to ask. How does one define full-
23 time paid faculty?

24 MR. BARBER: They teach a full load and we
25 pay them.

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1 MR. HITCHCOCK: Okay. Do you include
2 full-time faculty who are -- in your counts who are on
3 sabbatical?

4 MR. BARBER: No. If they are not present,
5 I don't believe we include them.

6 MR. HITCHCOCK: I'm not sure I understand
7 your answer, if they are not present. Do you mean
8 present in the city, present in the country?

9 MR. BARBER: On campus. You don't think
10 so? Pardon me.

11 MR. HITCHCOCK: Yes.

12 MR. KATZ: I'm not sure. I think they
13 are.

14 MR. HITCHCOCK: Okay. Okay. Madam Chair,
15 I mean, given that these categories came in in
16 response to a motion, I mean, I'm happy to keep moving
17 through these along the lines that you have suggested.

18 CHAIRPERSON MITTEN: If you have
19 questions --

20 MR. HITCHCOCK: Yes, okay.

21 CHAIRPERSON MITTEN: -- about the nature
22 of the categories.

23 MR. HITCHCOCK: Yes. I guess I was
24 wondering if it would be better to have an additional
25 submission, to take those questions then. I mean --

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1 CHAIRPERSON MITTEN: Well, what are you
2 going --

3 MR. HITCHCOCK: Okay.

4 CHAIRPERSON MITTEN: I mean, what would
5 you have them --

6 MR. HITCHCOCK: Well, it's the same
7 questions. I'm trying to find out who they are
8 including, who they are excluding and why and what
9 rights and privileges these individuals have.
10 Faculty, you know, I will make you a proffer. I mean,
11 faculty and staff are there. They contribute to the
12 traffic. They contribute to the number of people.
13 They contribute to the number of vehicles.

14 CHAIRPERSON MITTEN: Right.

15 MR. HITCHCOCK: They contribute in a
16 number of respects and it is critically important to
17 make sure there is not an end run around limitations
18 and know who we are counting.

19 CHAIRPERSON MITTEN: Right.

20 MR. HITCHCOCK: And that's what I'm trying
21 to find out. I can do it. I'm happy to keep asking
22 questions based on this, but --

23 CHAIRPERSON MITTEN: Well, let me see.

24 MS. DWYER: I'm just trying to understand
25 what he wants us to define. You want how do we define

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1 full-time? How do we define --

2 CHAIRPERSON MITTEN: Well, he wants to
3 know who are you excluding if they are not full-time.

4 MR. HITCHCOCK: Yes.

5 CHAIRPERSON MITTEN: For instance. And
6 you give some examples and would it be possible? I
7 mean, and this is really getting a sense of whether
8 you could be responsive to what Mr. Hitchcock is
9 asking. If he weren't asking you specifically, could
10 you on your own break this down further?

11 MR. HITCHCOCK: Right.

12 CHAIRPERSON MITTEN: Or do you really need
13 his questions to prompt you to --

14 MR. HITCHCOCK: Right.

15 CHAIRPERSON MITTEN: -- answer yes or no.

16 MR. HITCHCOCK: Yes.

17 CHAIRPERSON MITTEN: Do you only have a
18 general sense of the category or could you break these
19 down further just like we do by location with the off-
20 campus students?

21 MR. HITCHCOCK: Yes, I mean --

22 MS. DWYER: I guess it seems pretty broken
23 down if you look at it. You know, you --

24 MR. HITCHCOCK: Well --

25 CHAIRPERSON MITTEN: Well, he still has

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1 some additional questions.

2 MR. HITCHCOCK: Yes. I mean, for example,
3 there was no -- I mean, let me suggest this. I will
4 ask the questions and rather than have Mr. Barber and
5 Mr. Katz sit here and try to guess what the answer may
6 be, like how are faculty on sabbatical counted, that
7 might provide guidance for what ought to be submitted.

8 CHAIRPERSON MITTEN: Okay.

9 MR. HITCHCOCK: Would that be okay?

10 CHAIRPERSON MITTEN: Yes, ask the
11 question.

12 MS. DWYER: Okay.

13 MR. HITCHCOCK: Okay.

14 CHAIRPERSON MITTEN: And then they will
15 follow-up.

16 MR. HITCHCOCK: All right.

17 CHAIRPERSON MITTEN: But I think you need
18 to ask.

19 MR. HITCHCOCK: All right. All right.
20 What rights and privileges do part-time paid faculty
21 have?

22 MR. BARBER: They have the full rights as
23 full-time paid faculty. They use the campus and they
24 are included in our count.

25 MR. HITCHCOCK: I'm sorry, they are?

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1 MR. BARBER: And they are included in our
2 count. Part-time paid faculty are included in the
3 count. They have the same rights and privileges,
4 basically, as full-time faculty subject to -- I think
5 within the Faculty Senate there may be some voting
6 issues, but in terms of access to facilities, they
7 have the same access to facilities as full-time paid
8 faculty.

9 MR. HITCHCOCK: So they have all the --
10 all right, all the purposes of full-time faculty?

11 MR. BARBER: Right.

12 MR. HITCHCOCK: Okay. Does this mean even
13 if they are only teaching like one or two hours a
14 week?

15 MR. BARBER: Even if they are only --

16 MR. HITCHCOCK: Okay.

17 MR. BARBER: We include them in the count
18 if they are part-time.

19 MR. HITCHCOCK: Okay.

20 MR. BARBER: And part-time can vary but,
21 yes, we have included them in the count.

22 MR. HITCHCOCK: Okay. If someone -- if a
23 part-time paid faculty were only teaching one semester
24 a year, would that person be counted just in that
25 semester?

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1 MR. BARBER: He would likely be counted in
2 the semester in which he is teaching.

3 MR. HITCHCOCK: All right. Here is one
4 question I'm trying to distinguish. You talked there
5 about part-time paid faculty and staff who hold
6 faculty positions on less than a full-time basis in
7 the second bullet point.

8 MR. BARBER: Yes.

9 MR. HITCHCOCK: Okay. Is there not some
10 overlap between the two?

11 MR. BARBER: Yes, and we try -- I'm sorry.

12 MR. HITCHCOCK: Okay.

13 MR. BARBER: Let me understand your
14 question.

15 MR. HITCHCOCK: Okay.

16 MR. BARBER: Is there overlap between?

17 MR. KATZ: Just one person?

18 MR. HITCHCOCK: Well, someone such as
19 yourself.

20 MR. BARBER: Right.

21 MR. HITCHCOCK: As opposed to if I came
22 down to teach a course, I mean, why do you -- you're
23 counting me as an adjunct faculty, I see.

24 MR. BARBER: Right.

25 MR. HITCHCOCK: Or part-time faculty, but

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1 you're not counting yourself.

2 MR. BARBER: Right, because I'm already
3 counted in the staff count.

4 MR. HITCHCOCK: Okay. But -- all right.

5 MR. BARBER: Because my primary
6 relationship with the university is as a staff person
7 and we have captured that in the staff count.

8 MR. HITCHCOCK: Okay. I didn't mean to
9 jump over, but you have the first bullet point on that
10 page, faculty not teaching on the Foggy Bottom Campus.

11 MR. BARBER: Yes.

12 MR. HITCHCOCK: What rights do those
13 faculty members have?

14 MR. BARBER: Here again, I -- we would
15 have to provide that.

16 MR. HITCHCOCK: Okay. Thank you. The
17 third category, physicians who, although affiliated
18 with the medical center as voluntary faculty, are not
19 paid or employed by the university, etcetera.

20 MR. BARBER: Right.

21 MR. HITCHCOCK: What rights and privileges
22 do they have?

23 MR. BARBER: We will provide that.

24 MR. HITCHCOCK: Okay. One right and
25 privilege I want to make sure that gets included is

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1 dealing with parking, what parking perks may be
2 provided, can, you know, part-time faculty continue to
3 park in GW University garages, faculty not teaching,
4 do they get parking rights if they come downtown.

5 MS. DWYER: We will provide all of that.

6 MR. HITCHCOCK: Okay. Thank you. I'm
7 just -- I'm trying to be as detailed as possible.

8 Mr. Barber, what do you mean or what does
9 the university mean by the phrase at the bottom of
10 page 8 about physicians or other staff who do not
11 engage in traditional faculty teaching activities?

12 MR. BARBER: These are physicians that,
13 again, I will recall, voluntary faculty who may teach
14 residents on grounds or at the hospital or in their
15 offices rather than in, you know, traditional
16 classrooms. It's that kind of distinction.

17 MR. HITCHCOCK: Okay. But isn't that a
18 standard staple of a medical school curriculum, having
19 students led around and talked to by doctors?

20 MR. BARBER: Well, we have faculty in the
21 medical school and these are -- and those are in
22 traditional teaching activities. These are the
23 voluntary faculty who are in private practice who do
24 this. Particularly, the clinicians do this as kind of
25 a service to the community and it's less formalized.

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1 It's less -- it's more intermittent.

2 MR. HITCHCOCK: So in other words, the
3 students go around with doctors and the hospital staff
4 on rounds, that sort of thing?

5 MR. BARBER: Yes, yes.

6 MR. HITCHCOCK: Okay. And they get credit
7 for doing this presumably, the students do?

8 MR. BARBER: Yes.

9 MR. HITCHCOCK: And what compensation
10 either in terms of benefits or otherwise do these
11 volunteer physicians get?

12 MR. BARBER: They get no payment.

13 MR. HITCHCOCK: No? Do they get to park
14 in university parking?

15 MR. BARBER: I really don't know. I will
16 check up on that.

17 MR. HITCHCOCK: All right. If you could
18 include that.

19 MR. BARBER: The rights and privileges
20 will cover that.

21 MR. HITCHCOCK: Okay.

22 CHAIRPERSON MITTEN: Can I just ask a
23 general question?

24 MR. HITCHCOCK: Yes.

25 CHAIRPERSON MITTEN: Which is it would

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1 probably be helpful to describe how parking rights are
2 conferred like, clearly, there's not enough parking
3 for everybody, so how do you pick who gets it? I
4 think that would be helpful.

5 MR. BARBER: Well, actually, we do have.

6 PARTICIPANT: Actually, we do have.

7 MR. BARBER: You know, I mean, we have --
8 we meet our needs and have extra parking now.

9 CHAIRPERSON MITTEN: So everybody who
10 wants a space has a space?

11 MR. HITCHCOCK: Yes, but --

12 MR. KATZ: They pay for it.

13 CHAIRPERSON MITTEN: Okay.

14 MR. KATZ: Yes, but nobody gets free
15 parking.

16 CHAIRPERSON MITTEN: Okay.

17 MR. KATZ: They have to pay for it.

18 CHAIRPERSON MITTEN: That's helpful to
19 know.

20 MR. KATZ: And the price of parking tends
21 to regulate who parks there.

22 CHAIRPERSON MITTEN: Well, that's good to
23 know. So when you talk about a right to park.

24 MR. BARBER: They have the right to pay to
25 park.

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1 CHAIRPERSON MITTEN: I mean, the right --

2 MR. KATZ: They have the right to pay to
3 park.

4 MR. HITCHCOCK: All right.

5 CHAIRPERSON MITTEN: Okay.

6 MR. BARBER: Right.

7 MR. KATZ: Yes.

8 MR. HITCHCOCK: Okay.

9 CHAIRPERSON MITTEN: So just to make all
10 that clear.

11 MR. BARBER: Okay. We will.

12 MR. HITCHCOCK: Okay. Yes.

13 MS. DWYER: Yes. And some of these who
14 come to the campus and have the right to pay to park
15 are no different than people who visit the campus for
16 a meeting or the patients who come to the hospital or
17 visit someone in the hospital. There are obviously a
18 lot of visitors to the campus that are not paid
19 employees of the university and are not going to be
20 counted in our faculty, staff or student counts.

21 MR. HITCHCOCK: Okay. Well, I think it's
22 pretty -- I mean, if I can try to refine it. I mean,
23 with the large number of part-time or adjunct faculty,
24 you have demands that are being placed on the
25 university. For example, there are night classes at

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1 law schools. People may leave at 5:00, more traffic
2 come in to regulate the time.

3 MS. DWYER: Is this a question?

4 MR. HITCHCOCK: I'm just trying to make --
5 I'm making -- well, I mean, I could ask the question,
6 but I want to make sure in response to the Chair's
7 question that, you know, there is clarification on
8 that. I want to make sure we get as much detail as
9 possible.

10 MS. DWYER: We will provide that.

11 MR. HITCHCOCK: Thank you very much.
12 Okay. Last category, how local/private physicians
13 engage in the practice of medicine. Who are these
14 individuals?

15 MR. BARBER: They are commonly called K
16 Street physicians, but they are not all on K Street.
17 Some of them are, but they are in local offices. They
18 have a practice of medicine and they will do some very
19 limited teaching within their clinical practice.

20 MR. HITCHCOCK: Okay. All right. Let me
21 ask you this. If you move towards a regime with one
22 cap and not faculty versus staff, is it not possible
23 to outsource some of the staff positions?

24 MR. BARBER: Yes, but we have a
25 definition. We have tried to capture that in our

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1 definition of --

2 MR. HITCHCOCK: All right.

3 MR. BARBER: -- this faculty and staff.

4 MR. HITCHCOCK: All right. Well, which
5 language in particular are you referring to?

6 MR. BARBER: Let's look at Condition 11.

7 MR. HITCHCOCK: Um-hum.

8 MS. DWYER: Could I just understand the
9 relevance of the question about outsourcing?

10 MR. HITCHCOCK: Yes. It's highly relevant
11 because if you outsource them, as I read the
12 definition, they are no longer university employees.
13 You can, therefore -- even if they are still working
14 there, you can, therefore, go out and hire more people
15 as faculty, part-time, full-time or otherwise, thus
16 increasing the intensity of use, density, traffic and
17 etcetera.

18 MS. DWYER: No. As I understand your
19 question, instead of having 20,000 combination faculty
20 and staff you could outsource the staff and have
21 20,000 faculty. Is that your question, the kind of
22 question you're asking?

23 MR. HITCHCOCK: That wasn't what my
24 question was. My question is is there anything to
25 prohibit outsourcing of staff positions and I'm trying

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1 to find -- I didn't read it. It's pertaining to --

2 MR. BARBER: Where?

3 MS. DWYER: But I don't understand the
4 relevance.

5 MR. HITCHCOCK: Well, I'm --

6 MS. DWYER: If the faculty or staff are
7 not on the Foggy Bottom Campus, they are outsourced.

8 MR. HITCHCOCK: Okay.

9 MS. DWYER: Then what is your question?

10 CHAIRPERSON MITTEN: No, what Mr.
11 Hitchcock --

12 MR. HITCHCOCK: Well, outsourced as far as
13 employment.

14 MS. DWYER: Um-hum.

15 CHAIRPERSON MITTEN: What Mr. Hitchcock is
16 trying to ask is if they are not employees of the
17 university, but they --

18 MS. DWYER: Oh, I see, I see.

19 CHAIRPERSON MITTEN: They work for someone
20 else, but they are fulfilling a function of staff or
21 faculty.

22 MR. HITCHCOCK: Yes.

23 MS. DWYER: Okay.

24 MR. BARBER: And that's what we covered in
25 Condition 11A, in the last clause, contractors that

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1 provide --

2 MS. DWYER: Stop.

3 MR. BARBER: Sorry.

4 MR. HITCHCOCK: And those are excluded
5 from the count, right?

6 MR. BARBER: Yes.

7 MS. DWYER: Currently.

8 MR. HITCHCOCK: Okay. So if someone who
9 is currently on staff, if that function was
10 transferred to an outside contractor, they would not
11 be counted?

12 MR. BARBER: I guess not. That's correct.

13 MR. HITCHCOCK: That's correct. So in
14 other --

15 CHAIRPERSON MITTEN: Can I just clarify?

16 MR. HITCHCOCK: Yes, please.

17 CHAIRPERSON MITTEN: Because I read this
18 a little bit differently and maybe we can just clarify
19 it now, that if they are doing -- you make the
20 distinction ancillary campus-related service functions
21 as opposed to like a core function, and maybe that
22 needs to be fleshed out a little bit more, but I don't
23 think you could have wholesale outsourcing because
24 there is something precluding.

25 MR. HITCHCOCK: Oh, okay.

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1 CHAIRPERSON MITTEN: It's not every
2 contractor that would be excluded.

3 MR. HITCHCOCK: Well, I am happy to
4 stipulate it's not everybody, but ancillary is a term
5 I don't understand.

6 CHAIRPERSON MITTEN: So maybe you could
7 ask him.

8 MR. HITCHCOCK: Yes, I mean, for example--

9 MS. DWYER: We could define that term.

10 CHAIRPERSON MITTEN: Okay.

11 MR. HITCHCOCK: Yes.

12 MS. DWYER: We will define that.

13 MR. HITCHCOCK: I mean, it would be
14 helpful to understand. I mean, you could have, for
15 example, Bursar Services. All of a sudden everyone
16 works for Bursar Services, Inc. They're still there
17 doing the same job as they were doing the day before,
18 but they have a private employer.

19 CHAIRPERSON MITTEN: Right, although in
20 that case I would call that a core function.

21 MR. HITCHCOCK: Well, okay.

22 CHAIRPERSON MITTEN: But if you guys could
23 help define ancillary, that would be great.

24 MR. HITCHCOCK: I'm trying to nail things
25 down as much as possible.

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1 CHAIRPERSON MITTEN: No, I understand.

2 MR. HITCHCOCK: This is how you get into
3 the issues about compliance, I mean.

4 CHAIRPERSON MITTEN: No. You know, and
5 this is -- you know, just to -- I will just make a
6 comment here at this point, which is Mr. Hood says,
7 you know, why are we here and someone had raised the
8 issue about, you know, why. Somebody had raised the
9 issue in their submission similarly.

10 Well, we moved the ball down the field
11 pretty significantly with the 2000 Campus Plan, I
12 think. And now we're talking about some of the
13 details that we weren't able to ever get to talking
14 about, and so this is great. This is really where we
15 need to be. So I'm not trying to discourage it at
16 all. I would hope we all just revel in the fact that
17 we're really talking about details instead of those
18 other things and --

19 MR. BARBER: I'm reveling.

20 CHAIRPERSON MITTEN: And the kicking and
21 screaming, if it's funny, I just have to also say
22 this. I'm sure all those lawsuits were not evidence
23 of any kicking and screaming at all.

24 MR. BARBER: Nothing personal.

25 MR. HITCHCOCK: All right.

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1 CHAIRPERSON MITTEN: Mr. Hitchcock, let me
2 just ask you a question.

3 MR. HITCHCOCK: Please.

4 CHAIRPERSON MITTEN: Because we have been
5 at this for about an hour now on cross examination,
6 how much longer do you think?

7 MR. HITCHCOCK: I think I am approaching
8 the end probably within 15 minutes.

9 CHAIRPERSON MITTEN: Oh, okay. Okay.

10 MR. HITCHCOCK: Of course, the classic
11 lawyer's answer is it depends on the answers, but I
12 had a further question, Mr. Barber, while we're still
13 on this.

14 There was discussion in there about not
15 counting faculty and staff whose primary office
16 locations are not on the Foggy Bottom Campus, correct?

17 MR. BARBER: Yes.

18 MR. HITCHCOCK: Okay.

19 MR. BARBER: Actually, not -- all right.
20 I'm sorry. Let me refresh my memory.

21 MR. HITCHCOCK: Okay. Yes, please, take
22 your time.

23 MR. BARBER: Yes.

24 MR. HITCHCOCK: So suppose you have an
25 adjunct faculty member, say, at the medical school

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1 whose office is in Friendship Heights, is that person
2 counted? Part-time faculty member, somebody who comes
3 down two days a week to teach courses, but his
4 principal office is --

5 MR. BARBER: No, we wouldn't be looking at
6 his private office. We're talking about the
7 university office.

8 MR. HITCHCOCK: Somebody whose university
9 office is not on the Foggy Bottom Campus. So this is
10 only really for full-time faculty, correct?

11 MR. BARBER: Right.

12 MR. HITCHCOCK: Okay.

13 MR. BARBER: So if we have, you know,
14 faculty who are, you know, based in Loudoun County who
15 have an office in Loudoun County, we don't count them
16 here.

17 MR. HITCHCOCK: Even if they come downtown
18 on a regular basis?

19 MR. BARBER: Well, generally, their
20 activities are centered around where their offices
21 are.

22 MR. HITCHCOCK: But that wasn't my
23 question. Even if they come downtown to the Foggy
24 Bottom Campus for staff meetings and the like?

25 MR. BARBER: Even if they have some

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1 intermittent trips to another campus, yes.

2 MR. HITCHCOCK: Okay.

3 MR. BARBER: We have assigned them to a
4 particular campus.

5 MR. HITCHCOCK: All right. Condition 11A,
6 at the end of the first sentence you refer to visiting
7 instructional and research faculty. If a school
8 invites -- take your time, page Y4.

9 MR. BARBER: Yes, what is your question?

10 MR. HITCHCOCK: Who are they, visiting
11 instructional and research faculty?

12 MR. BARBER: These are categories of
13 faculty we have. I mean, I'm not sure what I can tell
14 you what is it you want to know about it.

15 MS. DWYER: We'll provide that. We'll
16 provide that definition.

17 MR. HITCHCOCK: Okay.

18 MS. DWYER: In our materials.

19 MR. HITCHCOCK: Yes, I mean, because
20 visiting professors is a fairly obvious category, but
21 I'm trying to figure out who else falls into the
22 visiting category versus the part-time category, what
23 is instructional, what is research. I mean, these are
24 some of the issues. Okay.

25 Condition 12, proposed Condition 12.

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1 There is a reference in there. I'm sorry. Back to
2 you, Ms. Rutherford, I guess.

3 MS. RUTHERFORD: Hold on just --

4 MR. HITCHCOCK: Oh.

5 MR. BARBER: Not necessarily.

6 MR. HITCHCOCK: All right.

7 MR. BARBER: The question will decide who
8 needs to answer.

9 MR. HITCHCOCK: Okay. Fair enough. At
10 least I'm going chronologically through these. There
11 is a reference in Condition 12, and my copy is the top
12 of page Y5, about undergraduate students in
13 fraternities, sororities or other programs recognized
14 or affiliated by the university and located within the
15 Campus Plan boundary.

16 MR. BARBER: Yes.

17 MR. HITCHCOCK: Which fraternities,
18 sororities, etcetera, do you have in mind here and
19 which ones are excluded?

20 MR. BARBER: The ones that are located,
21 that are recognized or affiliated with the university
22 and located within the campus boundary.

23 MR. HITCHCOCK: Okay. But how many are in
24 and how many are out?

25 MR. BARBER: How many different

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1 fraternities, groups?

2 MR. HITCHCOCK: How many? I mean, you're
3 counting a number of fraternities, sororities and
4 "other programs." How many of them are there within
5 the campus boundary?

6 MR. BARBER: We can give you a current
7 number.

8 MR. HITCHCOCK: Okay.

9 MR. BARBER: It will fluctuate, but we can
10 provide that.

11 MS. DWYER: We can provide that.

12 MR. HITCHCOCK: Okay. Okay. And could
13 you provide a listing also of the fraternities,
14 sororities and other programs, which hopefully you
15 will define, that are outside the Campus Plan
16 boundary?

17 MR. BARBER: I'm not sure why that --

18 MS. DWYER: I'm not sure that that's
19 relevant.

20 MR. HITCHCOCK: Well, I think it's
21 relevant, because if it's possible for fraternities or
22 sororities to purchase houses or take houses outside
23 the campus boundary, that has a rather dramatic effect
24 on the community.

25 MR. BARBER: But they have that right

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1 anyhow.

2 MR. HITCHCOCK: Well, I'm trying to find
3 out what the level is now.

4 MR. BARBER: I'm not sure we track. I
5 mean, we know.

6 MR. HITCHCOCK: Yes.

7 MR. KATZ: The campus has that.

8 MR. BARBER: Yes, but I don't know if they
9 are in fraternities.

10 MR. HITCHCOCK: Well --

11 MR. KATZ: But we have total off campus.

12 MR. BARBER: Right.

13 MR. HITCHCOCK: Yes.

14 MR. BARBER: We have information on the
15 total number of full-time undergraduates who reside in
16 the Foggy Bottom/West End area outside of university
17 housing.

18 MR. HITCHCOCK: Okay.

19 MR. BARBER: Now, I'm not sure I can
20 provide to you which fraternities and break out --
21 break down those numbers further and tell you which
22 fraternities reside off campus. I'm not sure we track
23 that.

24 MR. HITCHCOCK: You don't track what
25 fraternities or sororities are affiliated with the

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1 university?

2 MR. BARBER: Yes, we track the --

3 MR. HITCHCOCK: Okay.

4 MR. BARBER: If they are affiliated with
5 the university.

6 MR. HITCHCOCK: Okay. So that is one
7 category. Fraternities and sororities affiliated with
8 the university with in-boundary addresses and out-
9 boundary addresses. Okay?

10 MR. BARBER: But with in-boundary
11 addresses are -- those are the ones that we are -- are
12 included.

13 MR. HITCHCOCK: I know.

14 MR. BARBER: They --

15 MR. HITCHCOCK: I'm trying to find out who
16 is included and who is excluded. This goes to the
17 objectionable conditions on the community.

18 MR. BARBER: Well, they are not excluded.

19 MR. HITCHCOCK: Are there --

20 MR. BARBER: We're not pushing them out.
21 We're just saying --

22 CHAIRPERSON MITTEN: Mr. Barber, let me
23 try. You're just asking for the identification of the
24 fraternity or the sorority. You're not asking for the
25 number of students in the fraternity or the sorority?

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1 MR. HITCHCOCK: I'm trying to find out
2 which fraternities and sororities currently are within
3 the campus boundaries and which fraternities and
4 sororities are outside the campus boundaries.

5 CHAIRPERSON MITTEN: Okay.

6 MR. BARBER: That's fine.

7 MR. HITCHCOCK: That's -- and, also, if
8 you could identify -- when you refer to "other
9 programs," which ones you're referring -- what --
10 well, what are you referring to there?

11 MS. DWYER: We will provide that.

12 MR. HITCHCOCK: You have used this phrase,
13 but you can't define it?

14 MR. BARBER: There are -- we have a
15 general understanding, but I think we need to provide
16 it and make it more specific.

17 MR. HITCHCOCK: Just for the record, can
18 you give a general statement and clarify? I mean, I
19 may have more questions.

20 MR. BARBER: There are --

21 MR. KATZ: We'll provide it.

22 MR. BARBER: All right. We're going to
23 provide it.

24 MR. HITCHCOCK: All right. I would like
25 to reserve the right to come back on that.

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1 CHAIRPERSON MITTEN: We have got it all
2 reserved.

3 MR. HITCHCOCK: Okay. Well, maybe we will
4 take six nights.

5 CHAIRPERSON MITTEN: Ha ha ha.

6 MR. HITCHCOCK: Condition 16. This deals
7 with security, incident rates, that sort of thing.
8 And, Mr. Barber, I'm not sure if it's you or someone
9 else. I'm looking at 16, proposed Condition 16, "The
10 university shall use disciplinary interventions for
11 acts of misconduct."

12 What disciplinary interventions do you
13 contemplate using in the future that you do not
14 currently use?

15 MR. BARBER: This is a carry-over from the
16 existing plan and we currently use the full panoply of
17 disciplinary procedures and we envision to continue to
18 do so going forward.

19 MR. HITCHCOCK: Okay. So there is nothing
20 new here?

21 MR. BARBER: It's not a new condition.

22 MR. HITCHCOCK: Okay. All right. There
23 is a reference to, in the second sentence, "The
24 university shall act on incident reports by
25 residents."

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1 What is an incident report by a resident?

2 MR. BARBER: We have a hotline, a 24 hour
3 hotline that we receive reports of allegations of
4 problems concerning the university students or other
5 aspects of the university, and we follow-up on those
6 reports.

7 MR. HITCHCOCK: So it is simply hotline
8 reports?

9 MR. BARBER: That is the main vehicle.

10 MR. HITCHCOCK: All right.

11 MR. BARBER: Because that is the vehicle
12 provided in the existing Campus Plan.

13 MR. HITCHCOCK: All right.

14 MR. BARBER: We will get other reports and
15 act on other reports as well.

16 MR. HITCHCOCK: All right. Well, what
17 else aside from calls to the hotline do you count as
18 an incident report by a resident?

19 MR. BARBER: Somebody could call another
20 university official and not direct it to the hotline,
21 and we would have it directed to the appropriate
22 official.

23 MR. HITCHCOCK: And --

24 MR. BARBER: Or they could send a letter.

25 MR. HITCHCOCK: Are those tracked on a

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1 form?

2 MR. BARBER: We generally have a tracking
3 system, yes.

4 MR. HITCHCOCK: Is there a tracking
5 system? Is there a form though?

6 MR. BARBER: A form?

7 MR. HITCHCOCK: Yes, to report the type of
8 incident, location, those types of things.

9 MR. BARBER: Is this a form? Are you
10 asking is this a form that the person who is making
11 the complaint --

12 MR. HITCHCOCK: No, the person who
13 receives. I mean, you have a hotline. There is
14 someone sitting there.

15 MR. BARBER: Oh, yes.

16 MR. HITCHCOCK: On the telephone.

17 MR. BARBER: On the telephone, yes.

18 MR. HITCHCOCK: Yes.

19 MR. BARBER: Yes.

20 MR. HITCHCOCK: Okay. And can you
21 describe that for us?

22 MR. BARBER: No.

23 MR. HITCHCOCK: No. Will you provide it?

24 MR. BARBER: We have --

25 MR. HITCHCOCK: Okay. That's fine.

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1 CHAIRPERSON MITTEN: Can you provide a
2 copy of the form --

3 MR. HITCHCOCK: All right.

4 CHAIRPERSON MITTEN: -- for the record?

5 MR. HITCHCOCK: That's fine.

6 MR. BARBER: Yes, we can provide you a
7 copy of the form.

8 MR. HITCHCOCK: Okay. What about incident
9 reports to the campus police?

10 MR. BARBER: Yes, the hotline actually
11 goes through the campus police.

12 MR. HITCHCOCK: So the -- it goes through
13 the campus police. So if you call the hotline, you're
14 calling the campus police?

15 MR. BARBER: That's correct.

16 MR. HITCHCOCK: Okay. And if you call
17 another university official, it may or may not get
18 picked up in an incident report?

19 MR. BARBER: If it's a serious report
20 then, yes, it will probably be captured in an incident
21 report, as well, in the -- well, captured in the form
22 that we have for capturing these.

23 MR. HITCHCOCK: Right. Okay.

24 MR. BARBER: These complaints.

25 MR. HITCHCOCK: But is there a method? I

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1 mean, suppose a neighbor calls the dean of the college
2 and says there is a rowdy party.

3 MR. BARBER: Right.

4 MR. HITCHCOCK: I mean, what is the
5 standard procedure for the dean or a dean to do in
6 that circumstance?

7 MR. BARBER: We have a procedure. Let me
8 read from the Community Concern Line.

9 MR. HITCHCOCK: Thank you, Mr. Barber.

10 MS. DWYER: It's in Condition 2.

11 MR. BARBER: And we'll rather submit it
12 for the record.

13 MR. HITCHCOCK: That's fine.

14 MR. BARBER: Okay.

15 MR. HITCHCOCK: What about complaints that
16 are made to the Metropolitan Police Department?

17 MR. BARBER: What about them?

18 MR. HITCHCOCK: Are those logged as
19 incident reports?

20 MR. BARBER: Not -- we don't -- no.

21 MR. HITCHCOCK: There is no cooperation
22 between MPD and university police?

23 MR. BARBER: We're not -- yes, there is.

24 MR. HITCHCOCK: Okay. So could you
25 describe the nature of that cooperation?

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1 MR. BARBER: If --

2 MS. DWYER: Can we just file this for the
3 record, you know, detailed information on how this
4 program works regardless of where the incident report
5 comes in?

6 MR. HITCHCOCK: Okay.

7 MS. DWYER: Okay.

8 MR. HITCHCOCK: That would be helpful,
9 yes. I had another question while we're also talking
10 about information.

11 How many incident reports has GW been
12 aware of since 2000, however you may break it down?

13 MR. BARBER: We have that and we can
14 provide it.

15 MR. HITCHCOCK: Okay.

16 MR. BARBER: It is on our website but --

17 MR. HITCHCOCK: Okay. And how many
18 disciplinary actions were taken pursuant to those
19 incident reports?

20 MR. BARBER: No, I don't know and the
21 question is, certainly, we have imposed discipline in
22 a variety of situations. The question of whether we
23 have imposed discipline and can tie that to incident
24 reports, there certainly has -- that has happened. In
25 terms of the number, I'm not sure we would have that

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1 information.

2 MR. HITCHCOCK: Why not?

3 MR. BARBER: Once a matter is referred to
4 Student Judicial Services, it will be handled through
5 there and it really doesn't matter for that purpose
6 how it came in. It could have come in to Student
7 Judicial Services in a number of ways.

8 MR. HITCHCOCK: Um-hum. But might it not
9 matter in terms of allocation of resources? I mean,
10 hypothetically? Suppose --

11 MR. BARBER: Well --

12 MR. HITCHCOCK: Well, go ahead. I didn't
13 mean to cut you off.

14 MR. BARBER: No, we do track the incident
15 reports in terms of allocating resources. In fact, we
16 have adjusted resources based upon incident reports.
17 It is not just tied to, well, was there a student
18 discipline issue and, therefore, we allocate the
19 resources. We allocate the resources after looking at
20 all these incident reports and seeing if there is a
21 pattern that necessitates adjustment of resources.

22 MR. HITCHCOCK: Okay.

23 MR. BARBER: So it's not tied directly to
24 Student Judicial Services.

25 MR. HITCHCOCK: All right. Well, I think

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1 I have put out the questions that I think will be
2 useful to have more information on in terms of the
3 number of disciplinary incidents, because it does
4 relate to quality of life and so forth.

5 MR. BARBER: But, I mean --

6 MR. HITCHCOCK: Yes.

7 MR. BARBER: I need to understand your
8 question.

9 MR. HITCHCOCK: Well, the question is --
10 the first question is the number of incident reports
11 and then a second is the number of disciplinary
12 actions that can be tied to the discipline reports.

13 MR. BARBER: And that's what I'm not sure
14 we have.

15 MR. HITCHCOCK: All right. Well, if you
16 could examine that, that would be helpful.

17 MR. BARBER: All right.

18 MR. HITCHCOCK: Because I think it's
19 highly relevant if there's 5,000 complaints and three
20 expulsions and nothing else, for example.

21 CHAIRPERSON MITTEN: How do you -- do you
22 track beyond? You have the incident report and then
23 do you track beyond that?

24 MR. BARBER: Yes, we do.

25 CHAIRPERSON MITTEN: And how far do you

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1 track it?

2 MR. BARBER: We track our response to the
3 incident report and we have a point of getting back to
4 the person who has complained.

5 CHAIRPERSON MITTEN: Okay.

6 MR. BARBER: And telling that person what
7 the resolution was.

8 CHAIRPERSON MITTEN: So is --

9 MR. BARBER: That is on a case-by-case
10 basis.

11 CHAIRPERSON MITTEN: Okay.

12 MR. BARBER: But then we also look at the
13 macro picture, what kind of incident reports are we
14 getting, what does that mean that we need to do in
15 terms of programmatically to address that.

16 CHAIRPERSON MITTEN: When you -- in the
17 tracking, you have done something with an incident
18 report and you report back to the originator, whoever
19 originated the issue. Is referral to the Disciplinary
20 Committee or whatever it is, is that sort of the end
21 of the tracking?

22 Just to get to Mr. Hitchcock's point about
23 knowing the ultimate disposition, where does the
24 tracking end? Do you know what I'm saying?

25 MR. BARBER: I do and I can tell you one

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1 consideration.

2 MR. KATZ: We can submit it.

3 MR. BARBER: Well, rather than give you
4 part of an answer, we'll --

5 MS. DWYER: Yes, we can submit that.

6 CHAIRPERSON MITTEN: Okay.

7 MS. DWYER: We'll let you know exactly how
8 the process goes.

9 CHAIRPERSON MITTEN: Okay.

10 MS. DWYER: Because this is not the right
11 witness to answer that question.

12 CHAIRPERSON MITTEN: Oh, okay.

13 MS. DWYER: We'll provide that.

14 MR. HITCHCOCK: Okay.

15 CHAIRPERSON MITTEN: Okay.

16 MR. HITCHCOCK: My next question deals
17 with Condition 19, local addresses of full-time
18 undergraduate population.

19 MR. BARBER: Yes.

20 MR. HITCHCOCK: Does the university -- you
21 mentioned that that is a continuation. Does the
22 university currently have that information?

23 MR. BARBER: Does it -- do we have it?

24 MR. HITCHCOCK: Yes.

25 MR. BARBER: We have filed biannual

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1 reports and we have copies of the biannual reports,
2 yes.

3 MR. HITCHCOCK: So you have copies of the
4 local addresses of all the full-time Foggy Bottom
5 undergrads now?

6 MR. BARBER: Every semester we track that
7 information and compile the numbers, as required by
8 the Campus Plan, and then the next year we compile it
9 again. So I'm not sure we keep old addresses.

10 MR. HITCHCOCK: All right. But you -- I'm
11 trying to find out if there has been forward movement
12 from 2000 to the present time. I mean, this was a
13 condition that --

14 MR. BARBER: How would you define forward
15 movement?

16 MR. HITCHCOCK: Well, from 2000 to 2006.

17 MR. BARBER: No, I understand that, but
18 what are you asking? What has happened?

19 MR. HITCHCOCK: Do you currently have
20 local addresses for all full-time Foggy Bottom
21 undergraduate students as we sit here tonight?

22 MR. BARBER: We have what was filed in the
23 February 28th report, based upon last spring's
24 numbers, and we provide that by category.

25 MR. HITCHCOCK: Okay.

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1 MR. BARBER: And we have also tracked the
2 total numbers that live off campus outside of the
3 university residence halls in Foggy Bottom/West End
4 and that number we have also tracked from semester to
5 semester. And, generally, there has been a downward
6 trend there.

7 MR. HITCHCOCK: All right. So, therefore,
8 it should be possible to provide more precise answers
9 about how many continuous enrollment students still
10 live in Foggy Bottom/West End, correct?

11 MR. BARBER: No, we don't track by
12 categories of students.

13 MR. HITCHCOCK: But you have addresses.

14 MR. BARBER: Actually, the requirement is
15 for full-time undergraduates, where do they reside,
16 and we don't disclose specific addresses. The Campus
17 Plan requires us to report that by location, Maryland,
18 Virginia and within the Foggy Bottom/West End area by
19 ZIP code. We don't report by addresses and it's not
20 required.

21 MR. HITCHCOCK: Okay. Okay. All right.
22 I am almost finished if the Commission will bear with
23 me for one moment. I have a question and I'm not sure
24 to whom it would be addressed.

25 But following up on Commissioner

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1 Turnbull's question about sustainable development, was
2 there not an element for green building design in the
3 building on Square 103 in the proposal?

4 MR. BARBER: It's in the order and I have
5 to look at it. I just don't recall off the top of my
6 head.

7 MR. HITCHCOCK: Okay. Would it be correct
8 that that was dropped?

9 MR. BARBER: Well, if it's not in the
10 order then --

11 MR. HITCHCOCK: Okay.

12 MR. BARBER: -- it's not there.

13 MR. HITCHCOCK: All right. Well, we'll
14 take a look at it because -- I'm sorry, did you want
15 to add something, Mr. Barber?

16 MR. BARBER: I'm not sure what the
17 question was. Was it dropped?

18 MR. HITCHCOCK: Okay.

19 MR. BARBER: It was not -- we complied
20 with the order.

21 MR. HITCHCOCK: Okay.

22 MR. BARBER: I just don't recall what the
23 order said.

24 MR. HITCHCOCK: But you don't know whether
25 there is a green building component to that new

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1 building.

2 MR. BARBER: I don't recall what is in the
3 order, no.

4 MR. HITCHCOCK: All right.

5 MR. BARBER: And we would have complied
6 with the order.

7 MR. HITCHCOCK: Okay. That concludes
8 questions for the moment. Thank you, Madam Chair.
9 Thank you, Commissioners.

10 CHAIRPERSON MITTEN: Thank you. Mrs.
11 Kahlow, how long do you think your cross examination
12 will take? And maybe Mr. Hitchcock will let you sit
13 in his seat.

14 MS. KAHLOW: I'm not sure how long we'll
15 take. I only have questions of three witnesses. Let
16 me tell you who they are and then you can decide if
17 you want to do it today or the next day. It's Mr.
18 Katz, Ms. Rutherford and Mr. Barber. They largely
19 relate to the university's compliance with laws, prior
20 commitments and future conditions, past and future
21 conditions.

22 CHAIRPERSON MITTEN: I'm going to guess
23 that we should probably hold off until our next
24 session. Here is what I need to know. When are we
25 together again?

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1 MS. SCHELLIN: The 21st.

2 CHAIRPERSON MITTEN: The 21st?

3 MS. SCHELLIN: For this case?

4 CHAIRPERSON MITTEN: Yes.

5 MS. SCHELLIN: The 21st. Next Thursday.

6 PARTICIPANT: Next Thursday.

7 CHAIRPERSON MITTEN: Oh, a week. Okay.

8 MS. SCHELLIN: Um-hum.

9 CHAIRPERSON MITTEN: There is a lot of
10 things that you agreed to provide in the record for
11 Mr. Hitchcock. I just want to make sure we use our
12 time as productively as possible. First of all, I
13 don't know how readily you can pull all this together.
14 It's just voluminous, not that any one answer will
15 take you a lot, but then I'm sure Mr. Hitchcock wants
16 a chance to review it before he asks you questions.

17 MS. DWYER: Um-hum.

18 CHAIRPERSON MITTEN: So I'm thinking maybe
19 we should hold off on the cross examination of those
20 things until maybe closer to the end.

21 MS. DWYER: Um-hum.

22 CHAIRPERSON MITTEN: Because that would
23 give you more time to pull it together.

24 MS. DWYER: Yes, that would be fine.

25 CHAIRPERSON MITTEN: Is that okay with

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1 you, Mr. Hitchcock?

2 MR. HITCHCOCK: Leave to the end of the
3 scheduled hearings.

4 CHAIRPERSON MITTEN: The end of the
5 scheduled hearing.

6 MS. DWYER: Um-hum.

7 CHAIRPERSON MITTEN: Okay. Okay. So what
8 we will do, I'm just trying to set us up for next
9 time.

10 MS. DWYER: Um-hum.

11 CHAIRPERSON MITTEN: So, okay, the 21st
12 and then give me the next session. I'm sorry.

13 MS. SCHELLIN: 25th.

14 MS. DWYER: The 25th?

15 CHAIRPERSON MITTEN: And then?

16 MS. SCHELLIN: The 28th.

17 CHAIRPERSON MITTEN: Okay. Why don't we
18 agree that you will have -- if you can, make the
19 submission by next Thursday.

20 MS. DWYER: Okay.

21 CHAIRPERSON MITTEN: And then you will
22 have a week to review that and do your follow-up.
23 Okay. Then, Ms. Kahlow will start with your cross
24 examination on the 21st. And what I would ask from
25 the Office of Planning, if you would, is ask Mr. Laden

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1 or a representative from DDOT to be here. I think
2 we're going to have some traffic matters that we will
3 want to consult with them about. And I would suggest
4 that they come around 7:30 that night and that way we
5 know how they don't like to wait. So then we'll get
6 them on as soon as we can after Ms. Kahlow.

7 And then we will have them go first and
8 then if you guys don't mind going second. Does that
9 sound all right to everybody?

10 MS. DWYER: Um-hum, that sounds fine.

11 CHAIRPERSON MITTEN: Okay. Is that fine?
12 Everybody is fine?

13 MS. DWYER: Um-hum. That's fine. Thank
14 you.

15 CHAIRPERSON MITTEN: We're all good.
16 Anything anybody wants to ask before we go? Yes?

17 MS. DWYER: Well, in terms of the order
18 that night then, if we -- if the Office of Planning
19 and DDOT start at 7:30 and they finish and there is
20 cross examination and then the ANC, is it likely that
21 we wouldn't get to persons in support until the
22 following hearing the 25th? I'm just trying to --

23 CHAIRPERSON MITTEN: I think that's
24 likely.

25 MS. DWYER: Okay.

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1 CHAIRPERSON MITTEN: I think that's
2 likely.

3 MS. DWYER: Great.

4 CHAIRPERSON MITTEN: Okay. Mr. Hitchcock,
5 you would like to ask a question?

6 MR. HITCHCOCK: A question just for
7 clarification. Did you indicate previously the Zoning
8 Administrator would or would not appear in this
9 hearing?

10 CHAIRPERSON MITTEN: What I asked the
11 Office of Planning to do, I just snuck over there and
12 asked them to ask him to weigh in on how he would
13 interpret a condition that -- of this type that said
14 substantial compliance or did not say substantial
15 compliance.

16 MR. HITCHCOCK: Okay. This is a question
17 that there are degrees and variations if something
18 happens for one semester, what if it happens for two
19 semesters, what if it happens for three semesters?
20 One can get into these type of permeations and that's
21 why I was asking Mr. Barber the questions that I were.

22 CHAIRPERSON MITTEN: Okay.

23 MR. HITCHCOCK: But I was doing so -- and
24 that's why I'm not sure. My concern is that he may
25 come back with the same sort of --

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1 CHAIRPERSON MITTEN: Okay. Let's do this,
2 if you would --

3 MR. HITCHCOCK: Yes.

4 CHAIRPERSON MITTEN: -- bear with me on
5 this.

6 MR. HITCHCOCK: Sure.

7 CHAIRPERSON MITTEN: And anybody can
8 object to this idea, but in certain cases that are
9 very complicated and, you know, we have like a text
10 case where we are adjusting whatever that eating and
11 drinking establishment thing, the Neighborhood
12 Commercial Overlay, so we consulted with the Zoning
13 Administrator about issues that he would have in
14 enforcing.

15 So what if we get closer to the end or
16 maybe to the end and there would be proffered
17 conditions, perhaps revised proffered conditions or
18 there would be proffered conditions from the
19 university and proffered conditions perhaps from the
20 parties, and then we could make a referral to Mr.
21 Crews and then we could perhaps convene another
22 session where we could get his feedback.

23 What do you think about that? To say
24 whether these were actually enforceable or readily
25 enforceable. Because, you know, we clearly don't want

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1 conditions that aren't enforceable and the conditions
2 are what this is becoming all about.

3 MR. HITCHCOCK: Um-hum.

4 CHAIRPERSON MITTEN: What do you think
5 about that?

6 MS. DWYER: My concern is the time factor
7 in getting a response from the Zoning Administrator in
8 time to timely decide this case.

9 CHAIRPERSON MITTEN: Well, I've got to
10 say, you know, unlike many cases of this kind, because
11 with all these hearing dates together, it's not
12 getting all strung out as it often does.

13 MS. DWYER: Um-hum.

14 CHAIRPERSON MITTEN: So I think by
15 compressing the time, I think we can afford, you know,
16 maybe three weeks or something to give the Zoning
17 Administrator a chance to weigh in and then we pick up
18 another hearing date or something, you know, a month
19 out and work that way. I don't see this being, you
20 know, really prolonged.

21 MS. DWYER: Yes, I guess my question would
22 be whether we would need to have another hearing date
23 or we could simply do -- you know, proposed conditions
24 would go to the Zoning Administrator, get his response
25 and the parties could comment on them without actually

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1 having another hearing. I'm just trying to, you know.

2 CHAIRPERSON MITTEN: Well, why don't we
3 just all mull that over.

4 MR. HITCHCOCK: Okay. Yes.

5 MS. DWYER: Okay.

6 CHAIRPERSON MITTEN: And --

7 MR. HITCHCOCK: I still have the same
8 concerns. These are questions of fact in terms of
9 what the Administrator would do or what is the level
10 of tolerance. This is a very key factual issue about
11 what creates an objectionable condition, you know.

12 CHAIRPERSON MITTEN: Right. And I --

13 MR. HITCHCOCK: In terms of 20 percent
14 surplus.

15 MS. DWYER: What we're asking is based on
16 his experience, because he does this with every other
17 case. This is not the first time that he has to
18 determine compliance. What would he use right now and
19 then we can determine is that sufficient or do we need
20 to give it greater clarity or definition? That seems
21 to be what we're talking about.

22 CHAIRPERSON MITTEN: Yes.

23 MR. HITCHCOCK: Yes.

24 CHAIRPERSON MITTEN: And keep in mind, you
25 know, this is for guidance of or guidance to the

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1 Commission to write the best conditions we can, but,
2 you know, Zoning Administrators come and go, not that
3 I want anything to happen to Mr. Crews, but, you know,
4 what he says is not the Bible, you know. It will not
5 be the law as far as interpretation. So he can guide
6 us as to making the best conditions for anybody coming
7 down the line hopefully.

8 MR. HITCHCOCK: Okay.

9 CHAIRPERSON MITTEN: Okay.

10 MR. HITCHCOCK: Well, I've just clarified
11 and also in light of your last comment that we will
12 probably not get through parties in support next
13 Thursday, the 21st.

14 CHAIRPERSON MITTEN: I think that's a fair
15 statement.

16 MR. HITCHCOCK: I mean, we assume. May we
17 assume that parties in opposition need not be prepared
18 to go forward with the case?

19 CHAIRPERSON MITTEN: Yes.

20 MR. HITCHCOCK: I'm just concerned about
21 bringing down experts --

22 CHAIRPERSON MITTEN: Yes, that's not going
23 to happen.

24 MR. HITCHCOCK: -- if we don't --

25 CHAIRPERSON MITTEN: That's not going to

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1 happen.

2 MR. HITCHCOCK: Fine. I'm a big advocate
3 of certainty as you can tell.

4 CHAIRPERSON MITTEN: Okay. Anyone else?

5 MR. HITCHCOCK: I'm sorry, Ms. Kahlow had
6 something.

7 CHAIRPERSON MITTEN: Okay.

8 MS. KAHLOW: I wondered if we're going to
9 be able to -- I don't have the Zoning Administrator's
10 audit finding. I would like to get that and I would
11 also like to see if we're going to be able to cross
12 examine him on some of the compliance issues.

13 CHAIRPERSON MITTEN: No, that's not at
14 issue here. That's what I tried to clarify at the
15 beginning of the hearing. So he will be here to
16 comment on the proposed conditions and that alone.

17 MS. KAHLOW: But not the report that we
18 don't have?

19 CHAIRPERSON MITTEN: I'm sorry?

20 MS. KAHLOW: Can we get a copy of the
21 report?

22 CHAIRPERSON MITTEN: Yes. It's in the
23 record now, I think.

24 MS. KAHLOW: It wasn't in the record when
25 I was there two days ago, so maybe it's --

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1 CHAIRPERSON MITTEN: I believe it's in the
2 record.

3 MS. SCHELLIN: It was just submitted
4 today.

5 MS. KAHLLOW: Oh, okay.

6 MS. SCHELLIN: So if you come to the
7 office tomorrow, you can make a copy of it.

8 CHAIRPERSON MITTEN: I will definitely
9 remember to remind you that you may not cross examine
10 him on that record.

11 MS. KAHLLOW: Okay.

12 CHAIRPERSON MITTEN: Sure, sure. Okay.
13 Okay. Everybody is all set? Okay.

14 MS. DWYER: Okay.

15 CHAIRPERSON MITTEN: All set? Okay. And
16 if there is anything that you feel you might have
17 overlooked in terms of additional submissions, because
18 we had a lot. I'm sure Mrs. Schellin -- I'm not going
19 to go through them now. I'm sure Mrs. Schellin and
20 you all can compare notes.

21 Okay. Well, I look forward to seeing
22 everyone back here on the 21st at 6:30. Thank you for
23 your attention.

24 (Whereupon, the Public Hearing was
25 concluded at 10:31 p.m.)

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