

GOVERNMENT OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF: :
   
:
   
American University, : Case No.
   
2021 Campus Plan : 20-31
   
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MONDAY

MARCH 29, 2021

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The Public Hearing of Case No. 20-31 by the District of Columbia Zoning Commission convened via Videoconference at 4:00 p.m. EDT, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairperson
- ROBERT MILLER, Vice Chairperson
- PETER SHAPIRO, Commissioner
- PETER G. MAY, Commissioner
- MICHAEL G. TURNBULL, Commissioner

OFFICE OF ZONING STAFF PRESENT:

- SHARON SCHELLIN, Secretary
- PAUL YOUNG, Zoning Data Specialist

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## OFFICE OF PLANNING STAFF PRESENT:

MAXINE BROWN-ROBERTS  
JENNIFER STEINGASSER  
JOEL LAWSON  
STEPHEN MORDFIN

## D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MAXIMILIAN TONDRO, Esquire  
ALEXANDRA CAIN, Esquire

The transcript constitutes the minutes from the  
Regular Public Hearing held on March 29, 2021.

T-A-B-L-E O-F C-O-N-T-E-N-T-S

OPENING STATEMENT:  
 Anthony Hood . . . . . 4

PRESENTATIONS:  
 Case Number 20-31, American University,  
 2021 Campus Plan (Testimony) . . . . . 10

CLOSING REMARKS:  
 Anthony Hood . . . . . 190

ADJOURN:  
 Anthony Hood . . . . . 195

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

(4:00 p.m.)

CHAIRPERSON HOOD: Good afternoon, ladies and gentlemen. We are convening and broadcasting a public hearing by video conferencing. My name is Anthony Hood. Joining me are Vice Chair Miller; Commissioner Shapiro; Commissioner May, soon to be and Commissioner Turnbull. We're also joined by Ms. Sharon Schellin, Office of Zoning Staff as well as Mr. Paul Young who will be handling all of our virtual operations.

I am going to incorporate the first opening statement of Zoning Commission Case 20-31 and I'm going to reconvene the American University Plan 20-31 case for March 29th, 2021.

This virtual public hearing notice will be available on our Office of Zoning's website immediately following this proceeding. Tonight the platforms used are webcast live, Webex and YouTube Live. Again, accordingly, all those listening on Webex or by phone will be muted during the hearing and only those who have signed up to participate or testify will be unmuted at the appropriate time. Again, when you are finished speaking please mute your audio so we're no longer picking up background noise. Remember mute and unmute is the key to an efficient and effective proceeding.

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1 | stated, one our Commissioners is having some technical  
2 | difficulties. They will be not shown on camera, but they are  
3 | listening and that's Commissioner Shapiro. Okay.

4 |           So Ms. Schellin, do we have -- let me see if I have  
5 | covered everything. Do we have any preliminary matters before I  
6 | state the agenda?

7 |           MS. SCHELLIN: We do. We have a motion and Exhibit 102.  
8 | It was filed by the Neighbors for Livable Community, I believe, is  
9 | the name of the group, but it's I think applicable to all of the  
10 | opposition or all of the parties. The day after the last hearing  
11 | the Applicant filed pursuant to a request, I believe, by DDOT that  
12 | all of the TDM measures be filed in one place and those I believe  
13 | from the Applicant were already in the record; however, the  
14 | request is to be able to cross-examine on those -- on that filing  
15 | so I'll leave it up to you guys to rule on that motion.

16 |           CHAIRPERSON HOOD: Okay. Colleagues, I certainly don't  
17 | have an issue with it. I'll see if anyone nods their head or if  
18 | Commissioner Shapiro speaks up. I don't have an issue with it.

19 |           COMMISSIONER MAY: No objection, Mr. Chair.

20 |           CHAIRPERSON HOOD: Okay. But let me just state this,  
21 | for tonight, going forward, I allowed a lot of cross-examination  
22 | that really was not very helpful to us so I tried to think of an  
23 | example over the weekend of what we do not or what is not helpful  
24 | if, for example, if you say you're going down the street, you're  
25 | going to make a left, you're going to make a right, you're going

1 to make another left but the objective is to get to the house  
2 that's in the center. I mean let's go to the question that's  
3 going to get to the house in the center. Now that may not be the  
4 best analogy, but I've been trying to think of this all week.  
5 Let's get to the point that's going to help the Commission. A lot  
6 of stuff does not help the Commission, so we need to get to the  
7 facts. I'm asking the parties, please get to the facts that's  
8 going to help the Commission. So we have no objection of doing  
9 that. After we finish that cross, we're going to give each party  
10 an opportunity to cross, but after we finish that we will start  
11 with the Office of Planning and DDOT testimony, I believe; am I  
12 correct Ms. Schellin?

13 MS. SCHELLIN: That's correct. There's one other  
14 preliminary I'd like to bring to the Commission's attention. As  
15 you know, the Applicant's testimony did go over the allotted time  
16 and so staff's recommendation would be to allow each of the  
17 opposition parties an additional two minutes, which would give  
18 them 14 minutes each instead of 12 minutes, and if the Commission  
19 would agree to that, then each opposition party would be able to  
20 prepare their presentation ahead of time knowing that they have  
21 the additional two minutes.

22 COMMISSIONER MAY: That's fine by me.

23 CHAIRPERSON HOOD: Okay. As long as it works out and it  
24 will hold up if any -- if we have to challenge, I think that'll  
25 work, and I'm hoping we are. I appreciate the staff --

1 MS. SCHELLIN: I did check the (audio interference) and  
2 I believe that is truly fair. I know that we interrupted -- or  
3 the Commission interrupted the Applicant several times because of  
4 sound issues; however, based on the timing that I calculated, I  
5 believe that two minutes for each of them is fair.

6 CHAIRPERSON HOOD: Okay. Again, as I was stating, I  
7 think that's -- I appreciate the staff working that out. We will  
8 work that out when we get to that point. But let me call the --  
9 whoever's going to speaking for the Applicant on the submission  
10 that was submitted, and I realize cross-examination basically is  
11 dealing with oral testimony and I'm not sure --

12 MS. SCHELLIN: I believe that's going to be Mr. Tummonds  
13 and Mr. Banks.

14 CHAIRPERSON HOOD: Okay. So let me -- let me finish.

15 MS. SCHELLIN: Sorry.

16 CHAIRPERSON HOOD: So oral testimony I believe is what  
17 we really cross-examine on, but I'm not sure what all is included  
18 so we're going to bring everybody up and let them testify, I mean  
19 let them cross-examine. So I'm going to ask Mr. Tummonds to bring  
20 up whoever you need to bring up. Commissioner May.

21 COMMISSIONER MAY: Mr. Chairman, I'm going to clarify.  
22 I do not recall that we are limited to what was oral testimony  
23 when it comes to cross-examination. I always thought that any  
24 article, anything that was in the record that was part of the  
25 application could be a subject of cross-examination. Maybe if

1 somebody from the OAG wants to correct me on that but I don't -- I  
2 don't understand that.

3 CHAIRPERSON HOOD: So I think --

4 COMMISSIONER MAY: (Audio interference.)

5 CHAIRPERSON HOOD: Yes, I have too, and let me just say  
6 this. From my standpoint, if it's in the record it's cross-  
7 examinable.

8 COMMISSIONER MAY: Right.

9 CHAIRPERSON HOOD: You can cross-examine it. But I just  
10 saw a message from our counsel, but I'll let Ms. Cain go -- and I  
11 think we're going to keep our practice, but let's hear from Ms.  
12 Cain.

13 MS. CAIN: Sorry for sort of the convoluted nature of  
14 this. Technically, cross-examination should be limited only to  
15 oral testimony given by the Applicant's witnesses. Now, if there  
16 is a document of record that is the subject of that testimony,  
17 that is essentially how it comes in to be cross-examined. So if  
18 the traffic expert is testifying as to the contents of the traffic  
19 study, the CTR, that isn't a subject of cross-examination. So  
20 that is how the document enters through the oral record, it can be  
21 subject to cross. But cross-examination should be limited only to  
22 what a witness has testified to orally. So I hope that makes  
23 sense but let me know if there are any questions.

24 COMMISSIONER MAY: Well, I understand what you are  
25 saying but it is contrary to what my experience has always been.

1 So maybe we need to talk about this another time. In any case,  
2 you know, if we bring in Mr. Tummonds and Mr. Banks and they just  
3 say okay, we submitted this, then, from what you're saying, that  
4 opens the door for it to be the basis of cross-examination, so I  
5 guess we go with that.

6 MS. CAIN: Depending on the scope of what they testified  
7 to, and I don't know what they're planning on and how far in-depth  
8 they're planning to go with it.

9 COMMISSIONER MAY: Well, I mean, you just said that if  
10 they refer to, you know, a submission that's in the record, then  
11 that becomes subject of -- for cross, right?

12 MS. CAIN: But it's sort of the scope of the testimony  
13 they provide about that. So if they provide more detailed  
14 testimony, that obviously opens up the scope of cross-examination.  
15 If it's a very narrow description of the exhibit, it's a more  
16 limited scope.

17 COMMISSIONER MAY: Okay. We will have to discuss this  
18 broader principle some other time.

19 CHAIRPERSON HOOD: Okay. I appreciate that, but  
20 experience and practice is the best teacher. We're going to do  
21 like we've been doing. We've been down this road before. I  
22 appreciate those comments, but I think I'd rather be safe than  
23 sorry and make sure we cover all our legal battles as we move  
24 forward. But again, I will ask that the questions that are being  
25 asked be limited to what is in the submission tonight, not

1 anything else, because we've already crossed on it, but to  
2 submission as NLC has asked for.

3 So let me pull up who's first. Thank you, Mr. Tummonds.  
4 If you can introduce yourself and who is with you and then I will  
5 bring up the parties.

6 MR. TUMMONDS: Sure. Good afternoon. Paul Tummonds on  
7 behalf of American University. The witness that we will have  
8 which will discuss Exhibit 99 is Iain Banks of Nelson Nygaard.

9 CHAIRPERSON HOOD: Okay. Thank you. Mr. Young, if we  
10 can bring up all the parties. Ms. Schellin, if you can assist  
11 with that, that would be helpful.

12 MS. SCHELLIN: Did you want them brought up before Mr.  
13 Banks does his testimony or let him testify first?

14 CHAIRPERSON HOOD: I thought Mr. Banks was just going to  
15 respond to what was put in the record.

16 MR. TUMMONDS: That's correct.

17 MS. SCHELLIN: Okay.

18 CHAIRPERSON HOOD: Okay.

19 MS. SCHELLIN: Okay. So he --

20 CHAIRPERSON HOOD: Just let me --

21 MS. SCHELLIN: So Mr. Tummonds, he's ready to go  
22 straight to cross because he --

23 MR. TUMMONDS: That's correct.

24 MS. SCHELLIN: Okay. All right.

25 CHAIRPERSON HOOD: All right. First, let's bring up AU

1 Neighborhood Partnership, Mr. Troy Kravitz. Do you have any cross  
2 of Mr. Banks on what was just submitted? We may have to come  
3 back.

4 MS. SCHELLIN: I think he's still bringing everybody up.

5 CHAIRPERSON HOOD: Oh, okay. Well let me give him a few  
6 moments.

7 MS. SCHELLIN: Yes.

8 MR. KRAVITZ: No, sir. I have no cross-examination from  
9 the AU Neighborhood Partnership.

10 CHAIRPERSON HOOD: Okay. Thank you. What about ANC 3D,  
11 Commissioner Elkins?

12 COMMISSIONER ELKINS: Hello, Mr. Chairperson. (Audio  
13 interference.)

14 CHAIRPERSON HOOD: Okay. ANC 3E, Commissioner McHugh?

15 COMMISSIONER MCHUGH: I will -- I just have a quick  
16 question, but I think it's actually germane. I'm not -- you can  
17 tell me if it's not a part of this. I just want Mr. Banks answer  
18 to the idea that he mentioned something, "the tyranny in small  
19 numbers." I just wanted him to explain that a little more and  
20 that was it. Is that a legitimate question or not?

21 CHAIRPERSON HOOD: I think that's fair. Mr. Banks.

22 MR. BANKS: Sorry, Jonathan, can you restate that  
23 question?

24 COMMISSIONER MCHUGH: You mentioned something about "the  
25 tyranny in small numbers" on traffic measurement in your

1 testimony. I was wondering if you could just explain that a  
2 little.

3 MR. BANKS: Oh, I think last week it was mentioned by a  
4 party in opposition that the trip numbers in 2000 or in the -- a  
5 full build out would be 25 percent increase over the existing  
6 numbers and I think the testimony was to say that it's, although  
7 it is a 25 percent increase should the enrollment increase to its  
8 full capacity of that 14,000 number, 14 of that 25 percent sounds  
9 like a large number when in effect because the numbers coming to  
10 campus in the peak hours are relatively small, any increase in  
11 those numbers is a relatively large percentage. So if we have --  
12 I think, I think off the top of my head I think the numbers are  
13 approximately 100 vehicles coming to campus, the main campus in  
14 the peak hour if we fully extend out to full enrollment of the  
15 student population as well as full capacity of the staff and  
16 faculty, those numbers may increase by 25 of the main campus.  
17 That sounds like a large number in terms of a percentage, but in  
18 fact it's only about 25 vehicles within the peak hour, so less  
19 than one vehicle every two minutes.

20 COMMISSIONER MCHUGH: Okay. Thank you.

21 CHAIRPERSON HOOD: Okay. Thank you. Let's go to Spring  
22 Valley. Any cross?

23 MR. SMITH: Yes, Mr. Chairman. Let me just -- I would  
24 like to come back to that response, Mr. Banks, a little later. I  
25 don't have that many questions but just a few questions.

1           Can you explain your TDM plan for us? It's not very  
2 clear from the plan itself.

3           MR. BANKS: The transportation demand management program  
4 that the university has has been in place for -- since the last  
5 Campus Planning in 2011. So it's been in progress for ten years  
6 now and the university fully realizes the importance of that  
7 program in limiting the -- or restricting the vehicle trips to  
8 campus and encouraging trips by non-vehicular mode. So that  
9 program is highlighted within the CTR and let me just get that  
10 page number for you. So that's page 332 within the CTR and that  
11 essentially summarizes the extensive transportation demand  
12 management program that the university has and will continue to  
13 have throughout the life of this Campus Plan as well.

14           Obviously, the university shuttle service plays a large  
15 role in that with over a million trips per year. The U-Pass  
16 Program with WMATA is another key part of that program with about  
17 1.4 million trips per year but also involves price parking, on  
18 demand ride service to deter staff and faculty driving to campus.  
19 It involves transit subsidies, pre-tax income for those Smart  
20 Benefits for transit subsidies, includes rideshare, guaranteed  
21 emergency ride home, the ability of flex time and telework and so  
22 it's a very robust program that the university has, and it works  
23 to great effect and is one of the industry leaders within  
24 university programs, so much so that only 15 percent of students  
25 actually use vehicles to travel to any of the campus sites.

1 MR. SMITH: Okay. I probably should have been more  
2 specific and asked you, you know, what -- can you, in the report  
3 you make reference to virtual self-park. Can you explain what  
4 virtual self-park is and how it will reduce traffic volume to the  
5 campus?

6 MR. BANKS: Yes. So currently, if you are staff or  
7 faculty or even a student, you can purchase monthly parking. And  
8 so what does that mean? I pay a fee per month and I can park  
9 anywhere that I'm allowed to on campus for as many days as I like  
10 to within that month. That -- it's industry proven that that  
11 induces people to drive to campus because you pay that fee up  
12 front and so you think well, I paid that fee up front I'll drive  
13 and make use of that parking permit. What the university has  
14 begun to do, and they've done this certainly with student parking  
15 and they're going to begin to roll it out with staff and faculty,  
16 is to essentially go away from a monthly parking permit and so  
17 everyone has to pay per day.

18 So what does that mean? It means that every single day,  
19 every single time you go to campus you need to pay a fee to park  
20 and what -- so it begins to encourage you to think about  
21 alternative modes of transportation. It means instead of paying a  
22 parking fee every day, well, I think I might actually take transit  
23 because it's cheaper. I might ride to campus or I might rideshare  
24 and so it is proven within the industry that going to a paid  
25 parking program through the Virtual Self Park program which

1 enables you to go online or through your phone mobile app to  
2 purchase parking on a daily basis as opposed to having to do that  
3 on a monthly basis. It certainly decreases the amount of parking  
4 that you require and encourages people to take alternative modes  
5 of transportation which is obviously one of the goals of the TDM  
6 plan.

7 MR. SMITH: But also, wasn't one of the reasons for  
8 having a discounted parking program for employees at one point to  
9 ensure that they parked on the campus as opposed to parking in the  
10 neighborhood?

11 MR. BANKS: That may have been --

12 MR. SMITH: (Audio interference) about that in the  
13 industry. Is there any evidence to indicate that it pushes cars  
14 to park in other areas where --

15 MR. BANKS: Certainly. I mean certainly that has not  
16 been the case within American University. I mean obviously as  
17 part of that TDM program is the Good Neighbor Parking Policy.  
18 That, as Ed alluded to in his testimony, that is part of the  
19 student enrollment package, it's part of the staff and faculty  
20 program as they enter the campus, and the university should they  
21 be working here, and the university obviously enforces that moving  
22 forward. So that's certainly not an issue that the university  
23 believes will happen. They certainly don't see that happening  
24 extensively now and they do enforce that.

25 MR. SMITH: Thank you. Can you explain your, the --

1 | what you refer to as the license plate recognition facilitated  
2 | parking occupancy program and how that will help reduce traffic  
3 | volume to the campus?

4 |           MR. BANKS:    That program won't necessarily reduce  
5 | traffic volume to campus.  LPR technology, the license plate  
6 | recognition technology is essentially a monitoring and enforcement  
7 | tool and so many years ago, before we had such technologies,  
8 | people -- as you see within the District of Columbia -- people  
9 | would walk around marking tires with chalk and coming back two  
10 | hours later to see if that person had moved their car from a two-  
11 | hour parking zone or literally they were walking around a parking  
12 | lot counting cars to see what the occupancy was.

13 |           The advantage of a camera on vehicles is is that it can  
14 | easily drive around campus.  It has a permit system loaded into it  
15 | which enables it to instantly recognize the license plate --  
16 | 123456 is a red Honda and it's licensed to Mr. Smith and he should  
17 | -- he's got a permit that is valid, and he's allowed to park on  
18 | campus.  So not only does it do that, it also begins to recognize  
19 | a blue Honda that has license plate XYZ.  It belongs to Mr. Blogs  
20 | and he does not have a permit so he -- and he has not purchased a  
21 | daily pass.  It means that he's not -- he should not be on campus  
22 | and perhaps that's an enforcement issue.  It also counts cars, and  
23 | so as part of the performance monitoring plan and to make sure  
24 | that the parking is being utilized correctly, the university  
25 | undertakes parking utilization counts frequently to figure out

1 | where their parking is being utilized, where it isn't, where they  
2 | can potentially make changes.

3 |           MR. SMITH:   Over the last ten years, AU, the TDM  
4 | measures included a carpooling program.  Is that going to be  
5 | continued and if so, is that going to be available for discounted  
6 | parking the way it had been?

7 |           MR. BANKS:   The carpooling program is certainly  
8 | something that the TDM program continues to encourage and that's  
9 | particularly useful for staff and faculty that perhaps live  
10 | outside of the transit commuting range and so rather than having  
11 | two vehicles coming to campus, we can have two or three people in  
12 | a particular car and the current plan is that they would still be  
13 | entitled to a reduced parking fee.

14 |           MR. SMITH:   Is it the same with the ride sharing  
15 | program?  I just didn't see these things, and that's why I'm  
16 | asking these questions, I didn't see these things in this CTR or  
17 | in your filing the other day.  What about the ride sharing  
18 | program?  Is that also going to continue, and will that be  
19 | available for discounted parking?

20 |           MR. BANKS:   Well, the ride share program is essentially  
21 | a fleet of vehicles that the university has access to and so if  
22 | you are staff or faculty or perhaps even a sporting team, you can  
23 | use those vehicles for university activities if you're traveling  
24 | between -- traveling around the region for university purposes you  
25 | can use those vehicles as opposed to having to drive your own

1 vehicle to campus and then use your own vehicle for those  
2 purposes. So it's essentially a small fleet that they have access  
3 to for those purposes.

4 MR. SMITH: Thank you. I actually thought that the ride  
5 sharing program and the car sharing program were two different  
6 things in the last (audio interference.)

7 MR. BANKS: Yes. So the ride share program has expanded  
8 slightly so it enables staff and faculty to be able to use a  
9 designated Lyft program to enable them to travel between  
10 university locations.

11 MR. SMITH: And do they get -- is there special reserved  
12 parking on campus for that and do you know where that is?

13 MR. BANKS: Well, so the -- that portion of the ride  
14 share program utilizes current transportation networking  
15 companies, so Uber or Lyft for those services and so they don't  
16 require on-campus parking because they are not stored vehicles.

17 MR. SMITH: Thank you. And again, excuse my ignorance  
18 here, but on demand car service, what is -- is that like, are we  
19 talking about Lyft and Uber?

20 MR. BANKS: Yes, yes.

21 MR. SMITH: Can you help us understand, based on these  
22 TDM measures, what steps you can take to require the drop-off on  
23 campus instead of on Mass and Nebraska?

24 MR. BANKS: So I think we touched on this a little last  
25 week. The university certainly can and does have pick-up

1 | locations on campus and the university is certainly working with  
2 | those transportation networking companies to ensure that those  
3 | pick-up locations are utilized. There are programs around the  
4 | country which are being piloted right now to come near airports  
5 | that begin to sort of, you know, restrict where people can pick up  
6 | and select where they can order a Uber or Lyft.

7 |           The bigger issue is the drop-off, and those drop-off  
8 | locations cannot really be restricted in any way. That comes to  
9 | much more sort of a gentleman's handshake kind of agreement, that  
10 | ideally, you would want those companies to drop-off on campus for  
11 | students. Unfortunately, right now, and this is an issue within  
12 | the region within the District, there is no definite way to be  
13 | able to tell someone that you can't be dropped at a particular  
14 | location. But that is something that the university is in liaison  
15 | with TNC as well as with the aid of the District Department of  
16 | Transportation as well.

17 |           MR. SMITH: And just two more questions. With greater  
18 | use of the Tenley Campus that's being planned by main campus  
19 | students, are you planning to increase as part of the TDM plan the  
20 | frequency of the shuttle between the main campus and the Tenley  
21 | Campus?

22 |           MR. BANKS: I don't think so right now, but that is  
23 | obviously something that is certainly open to change. The shuttle  
24 | service currently has appropriate capacity to transport those  
25 | students but that's something that the TDM program is built for.

1 | It's, as we say within the university, it's a living program. So  
2 | as the monitoring and the performance of that program begins to  
3 | change and we begin to see potential for changes, then that's  
4 | certainly open to a change in services and perhaps more frequency  
5 | or additional buses at the particular times of day where they see  
6 | that demand.

7 |           MR. SMITH: And my last question. You start off by  
8 | saying that since the last Campus Plan there's been progress for  
9 | ten years in reducing the impact of cars on the campus and I think  
10 | this is where there may be some confusion because then, before  
11 | that, you made reference to -- in response to Commissioner  
12 | McHugh's comment about the numbers. The numbers show that there's  
13 | been a 25 -- over the last ten years, over the last ten years the  
14 | numbers show that there's been a 25 percent increase in peak  
15 | volume during the A.M. hour and 11 percent increase in the P.M.  
16 | peak hour. So my questions is, and this is what you said you  
17 | didn't under -- that you didn't know under cross last time. But  
18 | if you knew that, if you knew that over the last ten years the TDM  
19 | measures in effect have resulted in a 25 percent increase A.M., 11  
20 | percent increase P.M. after basically reversing a trend of 3  
21 | percent over the ten years prior to that each year, a decrease of  
22 | 3 percent each year, would you offer different or more aggressive  
23 | TDM -- would you recommend the more aggressive TDM set of  
24 | strategies here?

25 |           MR. BANKS: Well I think we -- we probably need to

1 clarify. So the numbers that we have within the CTR, we have  
2 existing numbers which is what we counted back in February of 2020  
3 and that's obviously under the current or was the current  
4 situation with the current enrollment.

5 The future numbers which you're referring to in terms of  
6 25 percent increase projects out to the end of this current Campus  
7 Plan. So it extends out to 2030 and so that -- so that's where --  
8 that's where that 25 percent increase in numbers is coming from  
9 and so that's assuming that the enrollment -- the enrollment of  
10 what we have now which is approximately 11 and a half to 12,000  
11 students I think it was, if we expand that out to the full cap as  
12 well as the full staff and faculty cap, that's where those  
13 additional numbers come from.

14 And so we're not saying since 2010 we've had a 25  
15 percent increase, we're saying that if the enrollment increases  
16 over the next ten years that's what the potential traffic increase  
17 could be, which over all of the campus locations equates to about  
18 145 vehicles in the peak hour.

19 MR. SMITH: Mr. Banks, I don't think -- I'm not  
20 referring to future projections. I'm referring to the numbers  
21 actually that -- in order to look at the progress over the last  
22 ten years, you'd also have to look at the numbers that were  
23 reported in the 2011 Campus Plan Transportation Study. If you  
24 look at the numbers from the 2011 Campus Plan Transportation Study  
25 volumes and then you look at the volumes that you collected as

1 part of your assessment, as part of your study, it shows that the  
2 volume has increased by 25 percent in the A.M. peak hour over the  
3 last ten years -- not the future, I'm talking about over the last  
4 ten years -- and 11 percent in the P.M. hour. So my question is,  
5 given what those numbers show, and again, you have to look at the  
6 2011 numbers, and under cross last week you said you didn't do  
7 that. So my question is had you known that, had you seen that,  
8 would you have recommended or considered or assessed a more  
9 aggressive TDM strategy? That's my question.

10 MR. BANKS: Our response would probably be -- would be  
11 no. I don't think the university does need to go more aggressive  
12 in their strategy. I mean, I think it's - the proof is in the  
13 pudding, so to speak. I mean I think the fact that the student  
14 population of the campus has a 85 percent non-vehicular drive  
15 commute is example in itself. I mean the fact that we have over a  
16 million rides on the shuttle and over 1.4 million rides on the  
17 WMATA system from students is key to that. The fact that only 15  
18 percent of students actually attempt to drive to campus is  
19 certainly a key part of that TDM program and defines the success  
20 of that.

21 CHAIRPERSON HOOD: Let me just interrupt, Mr. Smith and  
22 Mr. Banks.

23 Mr. Banks, I think -- I let Mr. Smith ask that question  
24 the way he did because I think that's a good question. I too want  
25 to know. I actually am not satisfied with your answer if we're

1 | trying to minimize impacts. So I would like for you to take some  
2 | time to give us a response and that response is coming to the  
3 | Commission. So it's -- at the next meeting, I don't need to open  
4 | it back up for cross-examination. I want the response; okay? I  
5 | don't -- I think your answer, I want you to think about your  
6 | answer because I think that's -- those are the kind of questions  
7 | for everybody that really are helpful to the Commission because I  
8 | too want to know why do we not have more stringent mitigation  
9 | methods in your TDM as well what Mr. Smith was asking. And that's  
10 | the kind of question we're looking for tonight, so thank you, Mr.  
11 | Smith. Are you finished?

12 |           MR. SMITH: I think on that note, I am definitely  
13 | finished, Mr. Chairman.

14 |           CHAIRPERSON HOOD: Oh, okay.

15 |           MR. SMITH: Thank you.

16 |           CHAIRPERSON HOOD: Thank you. I think Ms. Gates, NLC?

17 |           MS. GATES: Yes, I'm here. Thank you. I have another  
18 | follow-up question on the pick-up and drop-off. This has been an  
19 | ongoing problem and you said that the current TDM has been in  
20 | place for ten years. I think the problems we're talking about  
21 | have been in place easily for that long. Does the university  
22 | still stop its shuttle buses on Nebraska Avenue?

23 |           MR. BANKS: No, they do not. They have the bus stops on  
24 | Mass Ave.

25 |           MS. GATES: Even the one in front of the Homeland

1 Security?

2 MR. BANKS: Oh, yes, yes. My mistake. I was thinking  
3 more of in front of East Campus and Main Campus. But yes, they do  
4 have the stops on Nebraska as it heads to Tenley campus.

5 MS. GATES: And isn't that as big a problem as it is for  
6 traffic going in the other direction, seeing as it's heading  
7 across town?

8 MR. BANKS: I mean, I think the response would be is  
9 that it's the same as Metro bus, and I think that's the ability to  
10 carry a whole bus of people is much greater than perhaps the  
11 relatively short disruption of traffic that you have as a result  
12 of that being able to stop as it goes along Nebraska and Mass  
13 Avenue as well.

14 MS. GATES: Well, are we just going to continue to kick  
15 the can down the road or are we going to do something about this,  
16 because it is not improving?

17 MR. BANKS: I mean, I think out, I mean outside of the  
18 campus realm, I mean we obviously know that Nebraska and  
19 Massachusetts Avenue are major regional thoroughfares. Certainly  
20 DDOT has continued to look at the operations of the roadways  
21 itself. I think as we begin to look at obviously the current and  
22 existing numbers of traffic on those two roadways, the impact of  
23 the university itself is relatively minimal and so it's certainly  
24 not just an AU problem as it relates to transportation and traffic  
25 within the entire region of -- certainly within Massachusetts

1 Avenue and Nebraska Avenue. So that's certainly something that  
2 American University is working with DDOT on. They are fully  
3 supportive of the plan of transportation and certainly recognize  
4 that they have their part to play as well.

5 MS. GATES: Thank you. I think this is another issue,  
6 Chairman Hood, that needs further exploration. Thank you. I'm  
7 through.

8 CHAIRPERSON HOOD: Okay. Thank you. Let's go to  
9 Westover Place. Mr. Kirkpatrick, do you have any cross on this  
10 limited scope of the addition on the Applicant, on TDMS? Mr.  
11 Kirkpatrick?

12 MR. KIRKPATRICK: Thank you.

13 CHAIRPERSON HOOD: There you go. Okay.

14 MR. KIRKPATRICK: Thank you, Mr. Chairman. No cross  
15 from Westover.

16 CHAIRPERSON HOOD: Okay. Thank you. Ms. Horvitz, do  
17 you have any cross?

18 MS. HORVITZ: No, I do not have any cross for this  
19 witness.

20 CHAIRPERSON HOOD: Okay. Thank you. And Ms. Ambrose.  
21 Do I see Ms. Ambrose? Oh.

22 MS. AMBROSE: Yes. Hi. Yes, I just had two questions.  
23 I wanted to ask how the event coordination worked, especially I'm  
24 interested in buses and visitors coming to campus, buses for  
25 sports events and whatnot.

1 MR. BANKS: That may be a question better answered by  
2 Mr. Fisher, but I mean the way that buses and other activities  
3 that are taking place on campus, they are obviously provided space  
4 on campus to park and drop off, particularly to sporting events  
5 drop off as close as they possibly can to the campus sporting  
6 locations.

7 MS. AMBROSE: Do you have any idea, you know, what --  
8 how many buses, well I guess it's related to how many sports  
9 events there are a year, but do you ever collect any analysis  
10 about that or --

11 MR. BANKS: We do not as far as I'm aware. That, again  
12 that would probably be a better question to be asked by perhaps  
13 the university facilities or Mr. Fisher himself may have a little  
14 bit more detail on that. But typically that is outside of the  
15 peak hours of the adjacent traffic on the roadways. It's  
16 typically early afternoon or in the evenings so -- so that really  
17 has relatively limited impact on the adjacent roadways.

18 MS. AMBROSE: And can you also talk about the Good  
19 Neighbor Parking Policy?

20 MR. BANKS: Yes. So -- so the Good Neighbor Parking  
21 Policy is included as part of the TDM program and let me just get  
22 a few more of the details for you. So that is enforced by the  
23 university. It's the prohibition of students, faculty, staff and  
24 vendors of AU from parking on adjacent streets. They do enforce  
25 that. They certainly recommend any community member that perhaps

1 sees or witnesses vehicles parking on community streets to contact  
2 the university so they can enforce those regulations.

3 MS. AMBROSE: And how do they enforce it? I mean -- I  
4 know I mean we see university vehicles going through the  
5 neighborhood, but how can they tell if a car belongs to a student  
6 or a vendor or a parent or --

7 MR. BANKS: So all student vehicles have to be  
8 registered with the university as far as we're aware and so if any  
9 of those -- that's, and that's where the license plate recognition  
10 technology can come into effect that if they see or detect  
11 vehicles of students that are within the community and not parked  
12 on campus, then that student can be reprimanded appropriately.

13 MS. AMBROSE: Okay. Do you have any sense of how many  
14 tickets are given out a year?

15 MR. BANKS: I do not. That is something that we can  
16 probably begin to research for you.

17 MS. AMBROSE: That would be great. Thank you. That's  
18 all.

19 CHAIRPERSON HOOD: Okay. Thank you. Thank you all.  
20 Let's move right into the report of the Office of Planning and the  
21 Report of the Department -- District Department of Transportation.  
22 Mr. Young, I'll let you decide on who stays up and who goes down.  
23 If all the parties can go down if we need the room, but I'll let  
24 you work all that out.

25 Let's see, we have Ms. Brown-Roberts and who do we have

1 from DDOT? Okay. Well, Ms. Brown-Roberts, you may begin and  
2 we'll --

3 MS. BROWN-ROBERTS: Okay. Let's see. I'm asking Mr.  
4 Young to bring up our presentation. Thank you, Mr. Young.

5 Good afternoon, Mr. Chairman, and members of the  
6 Commission. Maxine Brown-Roberts for the Office of Planning on  
7 Zoning Commission Case 20-31.

8 American University proposes a Campus Plan to be  
9 implemented over the next ten years. To meet the changing needs  
10 of students, the university proposes renovations, additions and  
11 new construction to house a mix of academic, residential,  
12 administrative, student life and athletic facilities. There would  
13 also be improvements in landscaping, tree preservation and  
14 sustainability, and the university would continue to work on  
15 preservation of potential historic resources and places.

16 Slide No. 2. Subtitle X, Section 101 sets out the  
17 standard for review and highlights noise, number of students, and  
18 other objective factors to be addressed. The university proposes  
19 a number of new facilities to be constructed or expanded over the  
20 time of the Campus Plan. Of particular interest are the expansion  
21 in housing and athletic facilities on the West Campus and building  
22 15 on the East Campus. These facilities have been placed somewhat  
23 central to the campus and will be buffered by other buildings or  
24 with significant setbacks from the western property to minimize  
25 noise. Along with new buildings, the monitoring of the usage of

1 fields should be continued to manage the impact regarding noise on  
2 adjacent residents. The construction of the sound barrier along  
3 University Avenue, which is a condition since the 2011 Campus  
4 Plan, should be expedited.

5 Building 15 on the East Campus is proposed primarily for  
6 academic and administrative uses with space on the ground floor  
7 for campus life uses including small retail to primarily serve  
8 students. Although the building would have two to four floors  
9 with a vegetative buffer and setback, the adjacent residents have  
10 expressed concerns regarding noise, light and air impacts.  
11 Further, a more detailed assessment will be done at further  
12 processing. The Office of Planning recommends that the university  
13 provide a study of the amount of retail on the West and East  
14 Campus in conjunction with any new retail proposed and recommends  
15 that university continue dialogue with the Westover residents to  
16 minimize any objective impacts.

17 Slide 3. The university meets the requirement for  
18 calculating the student and faculty cap and the Office of Planning  
19 is supportive of the 3,350-faculty staff cap and the 14,380  
20 students of which 2,000 will be accommodated at the law school  
21 with the flexibility to decide of a mixture of undergraduate and  
22 graduate students and allowing non-law students to take classes at  
23 the new law -- at the law school.

24 Slide 4. OP supports maintaining the existing  
25 percentage of university provided student housing for 100 percent

1 of its full-time freshmen and sophomore students and for 67  
2 percent of all full-time undergraduates. The Office of Planning  
3 does not support or recommend the use of any additional off-campus  
4 master leases as this could impact available housing for leased  
5 and non-student residents and would preclude the Zoning Commission  
6 from analyzing impacts as required by the regulations. The  
7 university has also requested flexibility to process minor  
8 building additions related to campus accessibility as a  
9 modification of consequence without further processing approval  
10 and public hearing. OP does not support granting such blanket  
11 flexibility and recommends that each application be reviewed, and  
12 flexibility granted on its own merits.

13           Subtitle X 102 requires special exception review for the  
14 use of commercial property by a college or university. As  
15 outlined in our report, the university's commercial properties  
16 meets the special exception requirements as they accommodate  
17 university uses and will be governed by the Campus Plan. The  
18 future land use map identifies the Main Campus and the Tenley  
19 Campus for institution of use which includes colleges and  
20 universities. The generalized policy map designates all the  
21 properties for institutional uses with -- the 4200 Wisconsin  
22 Avenue as an area designated as a main street corridor. The  
23 development of the campus is not inconsistent with these  
24 recommendations. Additionally, as outlined in our report, the  
25 Campus Plan is not inconsistent with many of the citywide and Rock

1 Creek West area elements of the comprehensive plan.

2 Slide 5. The Office of Planning recommends approval of  
3 the proposed Campus Plan with the conditions that the maximum  
4 student enrollment of 14,380 students and 3,350 faculty and staff  
5 be accepted. Prior to providing additional retail uses on the  
6 Main and East campuses, an analysis of the existing retail uses  
7 and the necessity for additional retail uses should be provided.  
8 At further processing for the new buildings, special attention  
9 should be placed on buffering and setbacks, traffic and visual  
10 impacts. Continued enforcement of the Student Code of Conduct is  
11 recommended and no additional expanded master leases for off-  
12 campus student houses. We also recommend implementation of the  
13 Historic Preservation Office recommendations and expediting the  
14 construction of the sound barrier adjacent to Jacobs Field before  
15 any other further processing.

16 Thank you, Mr. Chairman, and I'm available for  
17 questions.

18 CHAIRPERSON HOOD: Thank you, Ms. Brown-Roberts. I  
19 think we could do both, DDOT as well. I'm going to ask Ms. Brown-  
20 Roberts if you can hold for a moment and go (audio interference.)

21 Let's see if Mr. Ted Van Houten from DDOT. There he is,  
22 I see you on. Mr. Houten, you can give us your report.

23 MR. VAN HOUTEN: Sure. Happy to.

24 CHAIRPERSON HOOD: Mr. Houten, let me ask. Is this your  
25 -- Mr. Houten, is this your first time presenting? This is not

1 | your first time presenting, is it?

2 |           MR. VAN HOUTEN: No. This is maybe my second time.  
3 | This is my first time virtually, but I worked on the Art Place  
4 | project, so I was testifying then as well.

5 |           CHAIRPERSON HOOD: Oh, okay. I usually welcome first-  
6 | timers. As this is not your first time, I'll just save that for  
7 | the next person who's (audio interference).

8 |           MR. VAN HOUTEN: Yes, I don't need a welcome.

9 |           CHAIRPERSON HOOD: Okay. All right.

10 |           MR. VAN HOUTEN: All right. So good afternoon Chairman  
11 | Hood and members of the Commission. For the record, my name is  
12 | Ted Van Houten with the District Department of Transportation.  
13 | DDOT has reviewed AU's Campus Plan and is supportive of their  
14 | proposal. We concur with AU's proposal to change from a parking  
15 | minimum to a parking maximum of 3,000 spaces for all campus sites.  
16 | DDOT supports AU's Transportation Demand Management and  
17 | Performance Monitoring Plan which is included in the record as  
18 | Exhibit 99. This includes aiming to meet the District's (audio  
19 | interference) share goal for students and staff, a commitment to  
20 | expand the Capital Bikeshare, continuing annual reporting and  
21 | other strategies and policies. More details of AU's proposal such  
22 | as redesigning campus entrances or implementing turn restrictions  
23 | will be further evaluated during further processing and public  
24 | space permitting. With the agreed to TDM and performance  
25 | monitoring plan included in the final zoning order, DDOT has no

1 objection to approval of this application and we're happy to  
2 answer any questions from anyone. Thank you.

3 CHAIRPERSON HOOD: All right. Thank you, Mr. Van Houten  
4 and Ms. Brown-Roberts. Let's see if we have any questions.  
5 Commissioners, Commissioner May.

6 COMMISSIONER MAY: No, I do not.

7 CHAIRPERSON HOOD: Okay. Commissioner Shapiro, if you  
8 could just --

9 COMMISSIONER SHAPIRO: No questions, Mr. Chair

10 CHAIRPERSON HOOD: Thank you. Commissioner Turnbull.

11 COMMISSIONER TURNBULL: No questions here, Mr. Chair.

12 CHAIRPERSON HOOD: Okay. And Vice Chair Miller.

13 VICE CHAIR MILLER: No questions, Mr. Chairman, Thank  
14 you to the Office of Planning and DDOT for your presentations.

15 CHAIRPERSON HOOD: Okay. I too don't have any  
16 questions. My question about following up Mr. Van Houten, I'm not  
17 going to ask you because I don't want you to answer the question,  
18 I want the Applicant to answer about one of the questions that Mr.  
19 Smith had which I have a concern. So, I won't put that on DDOT.  
20 I want to see what the Applicant has to bring back, and thank you,  
21 Ms. Brown-Roberts.

22 Let's see if any of the parties have any cross or any  
23 cross on either OP, Office of Planning or the District Department  
24 of Transportation. Let's go to the Applicant.

25 MR. TUMMONDS: No cross.

1 CHAIRPERSON HOOD: Okay. AU Neighborhood Partnership.

2 MR. KRAVITZ: ANC as well, but on behalf of the AU  
3 Neighborhood Partnership no cross-examination, sir.

4 CHAIRPERSON HOOD: Okay. So Mr. Kravitz, are you  
5 representing the ANC as well?

6 MR. KRAVITZ: I am not. Commissioner Elkins IS  
7 representing ANC 3D.

8 CHAIRPERSON HOOD: Oh, okay, okay. I misheard that.  
9 Okay. Thank you. ANC 3D?

10 COMMISSIONER ELKINS: No questions, Mr. Chair.

11 CHAIRPERSON HOOD: Okay. And ANC 3E?

12 COMMISSIONER MCHUGH: Just one question for OP.

13 CHAIRPERSON HOOD: Sure.

14 COMMISSIONER MCHUGH: I just -- when you, you're  
15 suggesting you would like to see the Applicant expedite the  
16 processing -- further processing of the sound barrier. Two  
17 questions. One, is there a reason why to push this, other than  
18 the obvious because it has taken so long for it to happen, and the  
19 other question is that's not -- you're not suggesting that that's  
20 the first thing that has to happen before any other further  
21 processing that's happening happens?

22 MS. BROWN-ROBERTS: I did -- can you repeat the first  
23 question?

24 COMMISSIONER MCHUGH: Okay. How do I put this? Is the  
25 -- so what -- OP's stance on the sound barrier is that, why is it

1 -- why are they specifically asking for this versus anything else  
2 within the Campus Plan?

3 MS. BROWN-ROBERTS: Well, they -- the sound barrier has  
4 been something that, as I stated in my presentation, has been  
5 there since 2011. It came up in another further processing  
6 project and at the time the Zoning Commission emphasized that that  
7 is something that should be expedited.

8 COMMISSIONER MCHUGH: Okay.

9 MS. BROWN-ROBERTS: And therefore we see that. I mean,  
10 we have also heard from the neighbor who has, you know, continued  
11 to complain about the issues associated with that and so we  
12 believe that that is something that should be done pretty quickly,  
13 you know, before any of the other buildings since it has been such  
14 a carry-over from a long time.

15 COMMISSIONER MCHUGH: Okay.

16 MS. BROWN-ROBERTS: We are also aware that, you know,  
17 negotiations are continuing or should continue with the neighbor,  
18 so --

19 COMMISSIONER MCHUGH: Okay. I just wanted to understand  
20 that. Okay.

21 MS. BROWN-ROBERTS: Okay.

22 COMMISSIONER MCHUGH: Appreciate it. Thank you.

23 MS. BROWN-ROBERTS: Uh-huh.

24 COMMISSIONER MCHUGH: No more questions.

25 CHAIRPERSON HOOD: Okay. Thank you. Let's go to Spring

1 Valley and Wesley Heights.

2 MR. SMITH: Thank you, Mr. Chairman. I have questions  
3 of both agencies so if I could start with OP, I'd appreciate that.  
4 This is for Maxine Brown -- I'm sorry, Ms. Brown-Roberts. Could  
5 you go to slide --

6 CHAIRPERSON HOOD: Let me just ask before you start,  
7 we're getting a lot of feedback. People if you're not speaking,  
8 let's just go on mute. That'd help out. Thank you.

9 MR. SMITH: Could you go to your slide 4, the housing  
10 slide.

11 MS. BROWN-ROBERTS: Yes.

12 MR. SMITH: I just want to clarify here. Under point  
13 No. 1 where it says maintain 100 percent of full-time freshmen and  
14 sophomore students on campus and 67 percent of all full-time  
15 undergraduates, I just want -- can you clarify, does the Office of  
16 Planning understand that there is no --

17 CHAIRPERSON HOOD: Well, so here's what, here's what we  
18 wanted to do, Ms. Brown-Roberts. When Mr. Smith is asking  
19 questions unfortunately, you're going to have to mute and then  
20 when she starts answering the question, Mr. Smith, you're going to  
21 have to mute because all of us are getting a lot of background  
22 noise and I want to make sure that everybody is able to hear  
23 what's being said. So that's the way we can proceed, and I think  
24 we can all hear. Thank you.

25 MR. SMITH: Thank you, Mr. Chairman. My question is I

1 | just want, does OP understand that there is no requirement that  
2 | 100 percent of full-time freshmen and sophomore students or 67  
3 | percent of all undergraduates actually live in this housing on  
4 | campus?

5 |           MS. BROWN-ROBERTS: I think the Applicant said that that  
6 | was their aim but that they had up to 67 percent of the full-time  
7 | undergraduates on campus.

8 |           MR. SMITH: Is that a new requirement that is being made  
9 | now of AU, that students actually live in these -- in this  
10 | housing, or 67 percent and 100 percent?

11 |           MS. BROWN-ROBERTS: It is our recommendation that at  
12 | least 67 percent of all undergraduates be housed on campus.

13 |           MR. SMITH: Thank you. Are you aware that that is  
14 | different from what AU's policy currently is?

15 |           MS. BROWN-ROBERTS: I think that was what the Applicant  
16 | testified to.

17 |           MR. SMITH: Well, I won't get into a debate, but that's  
18 | not what the Applicant testified to and that's not in the policy.  
19 | This would be a brand new policy and are you going to include a  
20 | condition in, as part of approval of the order, that requires the  
21 | university to mandate that 100 percent of all freshmen and  
22 | sophomores and 67 percent of all undergraduates live on campus?

23 |           (Pause.)

24 |           MR. SMITH: I don't believe you're on.

25 |           MS. BROWN-ROBERTS: I'm sorry. I said that we would

1 recommend that 67 percent of all full-time undergraduates be on  
2 campus; however, that's a determination for the Zoning Commission  
3 to make as to if that would be a condition.

4 MR. SMITH: Okay. Thank you. On page 6 of your report  
5 to the Commission, you address the creation of a partnership in  
6 2018 but you never make any reference to the establishment of the  
7 CLC in 2012 for the same purposes to improve university and  
8 neighborhood relations. Is there a reason for that omission in  
9 the OP report?

10 MS. BROWN-ROBERTS: No. There was no particular reason.  
11 I think what I wanted to do was to look at what the Zoning  
12 Commission had recommended about having this group and that was  
13 the first one that was created.

14 MR. SMITH: Well, the first one that was created was in  
15 2012 but let me move on. I mean, is this the first AU Campus Plan  
16 where OP has discussed the historical significance of some of  
17 their buildings, and I'm curious as to whether this came to the  
18 attention of OP since AU's consultant, Mr. Hill, sits as a member  
19 of OP's Historic Preservation Review Board?

20 MS. BROWN-ROBERTS: No. It was -- historic preservation  
21 was addressed in the 2011 Campus Plan; however, the Historic  
22 Preservation Office has begun to look at other universities and I  
23 think they have a new policy of how they look at historic  
24 buildings on campuses. I know I'm working on another Campus Plan  
25 which they are doing the same thing so it's not -- it is not

1 something unique to American University.

2 MR. SMITH: On page 10 of your report, you indicate that  
3 elements of the Campus Plan could be improved to lessen their  
4 potential noise impact. Can you be a little bit more specific?

5 MS. BROWN-ROBERTS: I'm sorry. We've heard the  
6 complaints from the neighborhood about, you know, the fields of  
7 course and then from Westover and so I think what we're  
8 recommending, as I said in my presentation, that with the -- at  
9 this time we're not able to do say, a full assessment of what  
10 exactly would be any impacts from noise on the adjacent residents.  
11 Those things will come out in more detail in the further  
12 processing. So we just wanted to highlight those things as  
13 something that needs to take particular attention in the further  
14 processing process.

15 MR. SMITH: Thank you. And then on page 11 you make  
16 reference to the sound barrier wall along University Avenue, but  
17 then you mention Jacobs Field. Are we talking about building a  
18 sound barrier wall along Jacobs Field or are we talking about  
19 building a sound barrier wall along University Avenue, or both?  
20 It is very confusing.

21 MS. BROWN-ROBERTS: Yes. I'm sorry, I'm sorry about  
22 that. We're referring to the noise barrier that we've been  
23 talking about for Jacobs Field.

24 MR. SMITH: But you realize that's not University  
25 Avenue?

1 MS. BROWN-ROBERTS: Yes. Sorry about that.

2 MR. SMITH: So should we be looking at building a sound  
3 -- given all this new development that is being planned for the  
4 western part of the campus along University Avenue, should we be  
5 looking at building a sound barrier wall there too?

6 MS. BROWN-ROBERTS: I cannot say that at this time. I  
7 think that will be something that will be assessed at further  
8 processing.

9 MR. SMITH: And then you indicate in your report on page  
10 13 that undergraduate student growth has occurred at a measured  
11 pace. The words you use are measured pace. Does 10 percent in  
12 the first five years of the 2011 plan and then 13.3 percent over  
13 nine years fit the category of a measured pace, in your mind?

14 MS. BROWN-ROBERTS: They have maintained their expansion  
15 below what the cap is and so I think that is a measured pace.

16 MR. SMITH: So you're not making any distinction between  
17 the undergraduate students and the student population as a whole;  
18 is that correct?

19 MS. BROWN-ROBERTS: I was making it as -- no, no. It  
20 was the student body as a whole that the cap addresses.

21 MR. SMITH: And are you -- is OP troubled at all by the  
22 lack of any information in this plan about AU's plans for  
23 undergraduate student enrollment growth?

24 MS. BROWN-ROBERTS: No, we're not. We are giving them  
25 the flexibility to decide how many undergraduate students they can

1 accommodate and graduate students and so long as they're below the  
2 cap.

3 MR. SMITH: Would you agree that the number of  
4 undergraduates has the potential to create more objectionable  
5 conditions, especially with respect to construction and noise than  
6 graduate students, professional students?

7 MS. BROWN-ROBERTS: I think that those will be assessed  
8 with the new construction. Those will be assessed at that time.  
9 I think the aim is to have as many students on campus as possible.  
10 The buildings are sort of being located centrally to the  
11 university and of course as the further processing again, those  
12 were the things that are looked at.

13 MR. SMITH: And then on page 14, and you also referenced  
14 it tonight in your oral testimony, you said that the western  
15 campus sites are sufficiently buffered from neighborhood low  
16 density residential areas. What leads you to make this  
17 conclusion? I mean, have you been to the site and have you been  
18 to the site particularly at night or throughout the various  
19 seasons?

20 MS. BROWN-ROBERTS: I have been to the site. I haven't  
21 been to the site during all the seasons or at night, I have not.  
22 However, from what's proposed there is a minimum 85- or 65-foot  
23 setback. They have a two-story building directly adjacent to  
24 those. It goes up to four. But again, that building has to come  
25 in for further processing and so at that time that evaluation will

1 | be made because we'll have more details on the plans to make a  
2 | more definite assessment.

3 |           MR. SMITH: When you say two floors going up to four  
4 | floors, aren't you talking about over at the East Campus? I'm  
5 | talking about the West Campus.

6 |           MS. BROWN-ROBERTS: You're talking about building 15?  
7 | Oh, the west.

8 |           MR. SMITH: I'm talking about --

9 |           MS. BROWN-ROBERTS: I'm sorry, I'm sorry. Yes, yes.  
10 | Again, those buildings in the -- the Applicant provided some  
11 | setbacks from the road, from the property line which are over 100  
12 | feet. Again, through further processing we will evaluate, you  
13 | know, whether additional buffering is needed, whether a lower  
14 | building is needed. So I think that is where we'll -- when we  
15 | have more information, we will do that assessment.

16 |           MR. SMITH: And do you know the heights of those  
17 | buildings on the Western Campus in the plan?

18 |           MS. BROWN-ROBERTS: No. I think they gave floor heights  
19 | and not in feet, and that is something that I think the Commission  
20 | has requested from the Applicant already.

21 |           MR. SMITH: I hope the Commission has asked that. I  
22 | didn't hear that, but I hope you're right.

23 |           You opposed the provision on the master leases and thank  
24 | you for doing that, but my question is, has to do with would you  
25 | oppose -- would you have any opposition to AU, and I don't mean

1 | you particularly, I mean OP, would OP have any opposition to  
2 | foregoing new dorm construction on the campus of AU and housing  
3 | the AU, 500 AU campus beds at Wesley Seminary instead?

4 |           MS. BROWN-ROBERTS: No. That is not a part of this  
5 | application and so we haven't assessed that.

6 |           CHAIRPERSON HOOD: So I too, Mr. Smith, I would ask you  
7 | to keep it germane to what we're here talking about tonight. Any  
8 | recommendations you want -- you may want to talk to the university  
9 | so I'm going to rule that last question out of -- actually out of  
10 | order. That's not before us.

11 |           MR. SMITH: Okay. Thank you, Mr. Chairman.

12 |           On page 16 you mention that AU should clarify the  
13 | amount, location and potential retail uses envisioned for site 15.  
14 | That's the one I believe on the East Campus. Should this be done  
15 | as part of this proceeding?

16 |           MS. BROWN-ROBERTS: No, because they're not proposing --  
17 | they have just told us that they're going to do retail. We  
18 | haven't seen -- again that information will come because the  
19 | building hasn't been designed, so we won't have that information  
20 | until further processing.

21 |           MR. SMITH: And on page 17, you indicate that AU wants  
22 | blanket flexibility for minor building additions as a modification  
23 | of consequence without further processing. You all opposed this.  
24 | Can you amplify a little bit on your reasons for that position?

25 |           MS. BROWN-ROBERTS: Well, what they're proposing is a

1 requirement of the zoning regulations. So they're asking to waive  
2 something that the Commission has jurisdiction over and we're not  
3 in support of that.

4 MR. SMITH: Okay. Thank you very much. On page 21, in  
5 discussing the comprehensive future land use map, you note  
6 language in the land use chapter saying, "The growth of private  
7 institutions has raised concerns about preserving the character of  
8 communities where institutions are concentrated or expanding," and  
9 then you add that "AU has responded to these concerns by proposing  
10 to locate most of its new buildings on the internal portions of  
11 the campus," and you just mentioned that again a few minutes ago.  
12 But isn't most of the building that's being proposed in this  
13 Campus Plan literally at the edges of the campus where it  
14 intersects with low density residential neighborhoods?

15 MS. BROWN-ROBERTS: Yes. There are buildings that are  
16 on the edges. However, again with the -- I think they're  
17 providing buffering. They're also providing those buildings, most  
18 of those buildings, you know, even on the East Campus is going to  
19 be for academic and administrative uses mainly and so I think that  
20 that helps in minimizing the -- you know, because the residential  
21 buildings have more activities for them sort of 24 hours. The  
22 academic and administrative buildings are -- their hours are less,  
23 and so hopefully, there are ways of mitigating those uses again  
24 which are adjacent to residential areas, which are a little closer  
25 to them.

1 MR. SMITH: And on the western edge of the campus all  
2 those buildings are primarily residential student dorms, so --

3 MS. BROWN-ROBERTS: Yes.

4 MR. SMITH: -- do you have a different view of that with  
5 respect to the Western Campus?

6 MS. BROWN-ROBERTS: Yes. As I said we have to look at  
7 them wholistically because they're going to -- we have to look at  
8 they're providing, they're setback from the property lines. So,  
9 you know, so those things help to mitigate any negative impacts.

10 MR. SMITH: You also indicated, also on that slide, the  
11 housing slide, that you support adding 500 student beds. There  
12 are -- actually AU is proposing construction for 1,030 student  
13 beds; however, AU said at the last hearing under cross-examination  
14 that they would support a condition that limited them to the 500  
15 beds. Would OP support that condition as well?

16 MS. BROWN-ROBERTS: Yes. Except that in our  
17 understanding, it was 500 additional beds, and it would go to 700  
18 if their master lease is not reviewed. So they could do up to 700  
19 on the campus.

20 MR. SMITH: But you're not opposed to that master lease  
21 for 200 people; correct?

22 MS. BROWN-ROBERTS: No, that's existing. So, no.

23 MR. SMITH: Okay. Now, so you said that you don't know  
24 the heights of the building. You don't know the screening of the  
25 building. So do you feel that you have all the information you

1 need now to make a determination that the development proposed in  
2 this plan would not be objectionable to neighboring property?

3 (Pause.)

4 CHAIRPERSON HOOD: Ms. Brown-Roberts.

5 MS. BROWN-ROBERTS: Sorry about that. The zoning  
6 regulations set out the standards for review and as outlined in  
7 our recommendation and in the report, we went through and detailed  
8 how the Campus Plan was, is attended to those. In addition to  
9 that, the -- all the questions that we are being asked to answer  
10 concerning the new buildings will be addressed at further  
11 processing. So some of the answers that about noise and any  
12 objectionable things would be addressed at that time and that's  
13 going back to zoning regulations.

14 The university also has, in addition to all of those,  
15 the university has a great sustainability program. They have --  
16 they are -- they're doing a tree canopy which is something that is  
17 very important to the District. They, as the transportation  
18 recommendation states that they have their TDM programs that will  
19 be implemented and so all of these things combined, we can  
20 recommend that the adverse impacts would be -- any impacts would  
21 be minimized.

22 MR. SMITH: Ms. Brown-Roberts, I want to phrase this  
23 question carefully because I don't want it to come off as being an  
24 obnoxious question because it's not meant that way. But, you  
25 know, I'm just, you know, kind of a -- I just, I take what I read,

1 and I try to understand it. When I read Section 101.8 of the  
2 zoning regulations and Subtitle X, it says pretty clearly to me  
3 that as a prerequisite for requesting a further processing, the  
4 Applicant has to submit to the Zoning Commission for its approval  
5 the development of this Campus Plan. In other words, before a  
6 further processing that shows, and this is what it says  
7 specifically, the location, height and bulk of all present and  
8 proposed improvements including but not limited to buildings and  
9 parking and loading facilities, screening, signs, streets, public  
10 utility facilities, athletic recreational facilities, it goes on  
11 and it says a description of how each building is going to be  
12 used. Isn't what you're saying basically inconsistent with the  
13 zoning regulations that you have to wait until further processing  
14 to get all this information that is critical for us to determine  
15 whether a building is going to be objectionable or not?

16 MS. BROWN-ROBERTS: Our interpretation that those things  
17 are provided for the new buildings at further -- at a stage of  
18 further processing.

19 MR. SMITH: Is that what it says in the zoning  
20 regulations? I mean, are you -- is OP rewriting the zoning  
21 regulations on the fly here? I mean --

22 CHAIRPERSON HOOD: Mr. Smith. Let me just, and I was  
23 going to say something probably about five or ten minutes ago. I  
24 understand your point. I understand where you're going through  
25 that. Actually you have been questioning now for 20 minutes and I

1 | can't -- legally I can't confine that, but I will tell you, you  
2 | mentioned something. Your last two questions and your point for  
3 | me took care of everything you did in the last 20 minutes. So I  
4 | understand what you're trying to get at. I think you have  
5 | accomplished that. There are some questions, and I do know -- I'm  
6 | not sure which Commissioner it was, but they did ask for some  
7 | height and some other things before we get to further processing.  
8 | I know there's some things that since I've been here the  
9 | Commission has put in place, that you cannot do further processing  
10 | unless you've done certain things in the Campus Plan, but I do  
11 | know one of my colleagues did ask more specificity about exactly  
12 | where you're going. So I think you've made your point. If you're  
13 | trying to say that we don't have enough information or we need  
14 | more information, I think you've made your point. So, if you can  
15 | continue your question.

16 |           MR. SMITH: Thank you, Mr. Chairman. I appreciate that,  
17 | and part of it is also just trying to understand ourselves what  
18 | and why and how so we can prepare our testimony accordingly. But  
19 | I appreciate the comments.

20 |           I have just two more questions for OP. Did the Office  
21 | of Planning give deference to this plan because of the  
22 | partnership's support for it?

23 |           MS. BROWN-ROBERTS: No. We did our analysis independent  
24 | of that.

25 |           MR. SMITH: And actually, I have one last question. If

1 | you knew prior to reviewing this plan that AU's own website  
2 | included information showing that in 2019, just 2019, two years  
3 | ago that the university exceeded its cap and did not meet that 67  
4 | percent undergraduate housing mandate because of enrollment levels  
5 | of undergraduates at 7,500, would you give more consideration to  
6 | the idea of an undergraduate student cap?

7 | MS. BROWN-ROBERTS: No. As far as I know the university  
8 | has not had a undergraduate student cap, so no, I don't think so.  
9 | Jennifer?

10 | MS. STEINGASSER: No, and I don't want to answer a  
11 | theoretical question. We weren't aware of what was on the 2019  
12 | website.

13 | MR. SMITH: Mr. Chairman, I have no other questions of  
14 | OP. How -- am I supposed to cross DDOT now or are you going to --

15 | CHAIRPERSON HOOD: Yes.

16 | MR. SMITH: -- to other folks and then coming back to  
17 | DDOT?

18 | CHAIRPERSON HOOD: No. You can do DDOT now, but before  
19 | you move on, what was the statute again? You mentioned the  
20 | statute of things we should be looking at, and I don't have the  
21 | book in front -- I mean don't have it open, because if I open it,  
22 | my whole system will probably shut down.

23 | But you mentioned the statute that you were just reading  
24 | to Ms. Brown-Roberts, could you give me that statute number again,  
25 | please?

1 MR. SMITH: Sure. It is Subtitle X, Section 101.8.

2 CHAIRPERSON HOOD: Okay. Thank you. Now you can ask  
3 your questions of DDOT. Now all of the parties in opposition and  
4 all that are in support were supposed to be offering, and I think  
5 I made that clear, we were going to ask questions and cross-  
6 examine DDOT and OP at the same time so I'm hoping those who went  
7 ahead and have already done -- had thought that was the way we  
8 were moving, if not please let Ms. Schellin know, and we can go  
9 ahead. So, Mr. Smith, you may continue.

10 MR. SMITH: Thank you, and I have a lot less questions  
11 of DDOT. Mr. Van Houten, you talked about the parking ceiling and  
12 that AU was going to have a 3,000 maximum parking ceiling. Are  
13 you aware that AU now does not have access to 3,000 parking  
14 spaces?

15 MR. VAN HOUTEN: Yes. We're aware that that was  
16 something that was in their submission that they have some parking  
17 spaces that are for non-university use.

18 MR. SMITH: So on page 6 in your report you note that no  
19 additional parking infrastructure will be required. So if no  
20 additional parking infrastructure will be required, how is AU ever  
21 going to reach that 3,000-parking space ceiling?

22 MR. VAN HOUTEN: Well, so that's a parking maximum. So  
23 if they have less than 3,000 parking spaces, that's fine with us.  
24 But, you know, in our report if they -- one thing that they could  
25 do is change some of those parking spaces from non-university to

1 university and that would be one way of -- if they needed more  
2 parking to do that. I think, you know, we'd want to look at that  
3 in more detail when it comes. But I think we would prefer that  
4 being done as opposed to more parking being built.

5 MR. SMITH: Were you aware that the idea of the minimum  
6 parking requirement was put in place probably 20 years ago in the  
7 Campus Plan as to ensure that cars weren't encouraged to park on  
8 neighborhood streets?

9 MR. VAN HOUTEN: Our review of this was based on what  
10 they presented to us as part of their proposed Campus Plan. I  
11 think AU's TDM plan, and the Good Neighbor Parking Policy and  
12 other strategies combined were satisfied with their work to  
13 mitigate that effect on the community.

14 MR. SMITH: Thank you. You mention on page 2 that you  
15 discussed with a -- and I don't know if this was you who did it so  
16 I'm just going to, you know, please excuse if my language isn't  
17 (audio interference), but you discussed reconfiguring entrances  
18 and imposing turn restrictions at some campus locations. Can you  
19 be more specific about what AU has discussed with you about that?

20 MR. VAN HOUTEN: I mean, AU only has a certain number of  
21 entrances to campus. There isn't anything that we specifically  
22 are commenting on at this point. I think that's something we're  
23 going to wait until further processing and public space  
24 permitting. To our knowledge, they're not proposed -- they  
25 haven't made any, you know, formal asks of that at this point so

1 | we're waiting for further processing to get into that in more  
2 | detail.

3 |           MR. SMITH: I thought this was something that the  
4 | Department wanted, not so much that AU wanted, from the way I read  
5 | that. Did I read that wrong?

6 |           MR. VAN HOUTEN: To my knowledge, we are more waiting to  
7 | see what AU comes back with. So we don't have any asks at this  
8 | moment as far as anything we want to see in that regard but, you  
9 | know, we could -- we'll look into that in more detail and to  
10 | further processing and, you know, we may have asks of AU at that  
11 | point.

12 |           MR. SMITH: Thank you. You indicate an expectation that  
13 | AU will implement livability study recommendations in your plan.  
14 | Does that mean that AU is going to be required to provide access  
15 | to its property for bicycle infrastructure along Nebraska Avenue  
16 | from Ward Circle to Rockwood Parkway?

17 |           MR. VAN HOUTEN: We've put that in for, again to keep  
18 | that open during further processing. We look at things in more  
19 | detail at that point and we feel that we would like AU to  
20 | implement a livability study recommendation. We've put that in  
21 | our report now to keep that option open in the future. We are  
22 | working on expanding the sidewalk on Nebraska Avenue between Ward  
23 | Circle and Rockwood Parkway and our bike team is, you know, has  
24 | worked with AU in the past on those plans and we hope to work with  
25 | them -- to continue to work with them on those. As far as

1 specifics, we don't have a final design for that yet and so if  
2 there's an access point that doesn't exist that we'd like in the  
3 future, there's still time to work through that with AU.

4 MR. SMITH: AU's CTR mentions that DDOT had an interest  
5 in more overnight parking on the campus. I didn't see that though  
6 in your report to the Zoning Commission. Could you amplify on  
7 that a little bit?

8 MR. VAN HOUTEN: Yes. That was a comment from our bike  
9 team for overnight bike parking. That is -- as far as bike  
10 parking, extended bike parking and this is separate from Capital  
11 Bikeshare, that's something that we would work with -- work in  
12 more detail during further processing as far as any new buildings  
13 and what bicycle parking may be needed for those buildings.

14 MR. SMITH: I just have two more questions. Why are you  
15 allowing loading? You talked a lot in your report about loading.  
16 Some places are okay, other places are not, but why are you  
17 allowing loading on Mass Avenue at the Katzen Center especially  
18 since there's a loading dock in the back of that building and it's  
19 right at Ward Circle?

20 MR. VAN HOUTEN: That was mentioned in their report as  
21 something that they needed for a limited time. So we are fine  
22 with that but, you know, that's something that we are happy to --  
23 if it becomes an issue, we can work through that with our annual  
24 reporting through the TDM plan or through other measures. But our  
25 understanding is that's something that happens at limited

1 instances.

2 MR. SMITH: All right. Are you aware that, of course we  
3 haven't experienced any of this since the pandemic, but are you  
4 aware that before the pandemic there was a public safety problem,  
5 that the police had problems with the fact that there were large  
6 trucks unloading on Mass Avenue just beyond the Circle for events  
7 that AU was renting out their facility for?

8 MR. VAN HOUTEN: I am not aware of any specific  
9 incidents that you're addressing. We can, you know, if that's  
10 something that came to us, if that came to our parking and ground  
11 transportation team, they would be the ones to address loading  
12 issues. So if there was a complaint made about it in the past,  
13 I'm not aware of that, but we can look into if a complaint was  
14 made and how that was addressed.

15 MR. SMITH: Would you be willing to revisit that because  
16 actually there have been many complaints filed with DDOT and over  
17 the years, and also -- none of course within the last year -- but  
18 there have been many complaints filed about that over the years  
19 and also with the Public Safety Department and maybe talk with the  
20 folks at MPD? Would you be willing to do that before this process  
21 is finished?

22 MR. VAN HOUTEN: Yes. We can reach out to our ground  
23 transportation team and see what complaints may have been received  
24 in the past. If there's a specific incident that I may not be  
25 aware of that can help me follow up with that team to say, you

1 know, it came in 2018 or whenever it came, that would be helpful.  
2 But yes, we can follow up on that and see if there was an incident  
3 and how that was handled because, you know, it may have been  
4 addressed, it may not have been, but if there's been a specific  
5 complaint in the past, I'm happy to look into that.

6 MR. SMITH: Thank you very much. It was in reference to  
7 the Antique Show, and you may want to talk to the MPD folks.

8 Anyway, my last question and this has to do with the  
9 curbside pick-up and the drop-off on Nebraska and Mass Avenues.  
10 ANC 3D in their filing was very highly critical of DDOT for not  
11 solving this problem and I guess my question is why is DDOT not  
12 addressing this issue and in your view, are there certain steps  
13 that AU could take to address this problem and also, as a part of  
14 this, so I can ask all the three questions that relate to the  
15 things so you have it all in front of you, AU has talked about  
16 changing traffic circulation patterns on the campus. How will  
17 this affect -- how will that affect this issue of the drop-off  
18 problem?

19 MR. VAN HOUTEN: So there's no -- since there's no  
20 fulltime curbside parking on either Massachusetts or Nebraska  
21 Avenue on either street near campus, there's no easy solution as  
22 far as reserving some of that, you know, curbside parking for a  
23 pick-up, drop-off zone so we continue to recommend that AU  
24 encourage their students and visitors and staff to arrange for  
25 those services on campus and discourage the use of those services

1 on Massachusetts and Nebraska. That's something that we can  
2 continue to work with AU on through the annual reporting and  
3 again, as more things come up, you know, Mr. Banks talked about  
4 the things that are being tried at airports and other kind of  
5 geofencing capabilities. As technology comes online, we're  
6 willing to try those. You know, again we're aware of the problem.  
7 We wish there was an easy solution but there just isn't, so.

8 MR. SMITH: Thank you very much, Mr. Van Houten. Thank  
9 you very much Chairman Hood. I have no other questions.

10 CHAIRPERSON HOOD: Okay. Thank you, Mr. Smith. And let  
11 me just say this in advance Commissioner Smith, 101.8 actually  
12 goes into 101.9, and what I'm going to have to do is get a little  
13 interpretation because I think you bring up a good point. But it  
14 also says, as you mentioned, "As a prerequisite to requesting  
15 further processing for each college and university use, the  
16 Applicant shall have submitted to the Zoning Commission for its  
17 approval a plan for developing the campus as a whole showing the  
18 location, height and bulk where appropriate." So, and it goes on  
19 to some other things, but then when I go to 101.9 it treats it  
20 like a first-stage PUD and a second stage.

21 So anyway, that's some information that I'm going to  
22 have to talk to legal counsel. That's a discussion you and I can  
23 continue to have when you do your presentation. Those are some  
24 questions I want to ask; I want to drill down on that. I'm also  
25 going to ask the Applicant to respond and I'm also going to ask my

1 counsel to respond because I'm trying to make sure that you have  
2 done for me and I'm sure others, my colleagues, have brought out  
3 some things that we may need to make sure that we tighten up and I  
4 think that was your whole rationale for your 45 minutes of cross-  
5 examination and I just want you to know you got your point, you  
6 got your point across in ten minutes so, anyway. Thank you.

7 MR. TUMMONDS: You know, I -- this is Paul Tummonds. I  
8 don't want to belabor this too much, but Exhibit L of the  
9 Applicant's statement is the development program summary which  
10 includes building height of all the buildings by stories, gross  
11 floor area of all of the buildings. In the hearing last week,  
12 Commissioner Miller said could you further elucidate on the number  
13 of stories by giving us the actual heights. We're doing that. So  
14 --

15 CHAIRPERSON HOOD: Okay.

16 MR. TUMMONDS: -- that information is in the record now.

17 CHAIRPERSON HOOD: Okay. And what Exhibit is that?

18 MR. TUMMONDS: Exhibit L to the Applicant's initial  
19 submission back in December.

20 CHAIRPERSON HOOD: Okay. I don't want to go to the back  
21 and forth, but I think he brought up points and it is a lot. It's  
22 voluminous for my colleagues and I to read. Sometimes we miss  
23 stuff. We forget stuff. This is not the only case we have so  
24 this is -- narrowing things down and drilling down on things like  
25 you all have done really helps us out and I appreciate it. So

1 that's all I have to say on that. Let's move right along. Let me  
2 see who we, the Neighbors for a Livable Community, Ms. Gates.

3 (Pause.)

4 CHAIRPERSON HOOD: NLC, Ms. Gates.

5 MS. GATES: Thank you. I think we would also appreciate  
6 hearing under 101.8 about buffering, especially around the West  
7 Campus edges, because at the present time nothing is specified  
8 there. Everything is left to further processing. Is Mr. Van  
9 Houten up right now? I can start with him.

10 CHAIRPERSON HOOD: Okay. Yes, he's up.

11 MS. GATES: Okay. Your report, I will say that Mr.  
12 Smith asked most of my questions, but the report states the scope  
13 of the CTR has been agreed upon. When will DDOT require the CTR  
14 to be completely finished?

15 MR. VAN HOUTEN: I believe it is completely finished.

16 MS. GATES: Is that what the scope means?

17 MR. VAN HOUTEN: Yes. So that happened last year. They  
18 sent us a scoping form, what's going to be in the CTR and then we  
19 comment on it, and then they do the CTR and then they send it to  
20 us and then we send it around the agency for comments and then  
21 send those to them. So all of that has been done.

22 MS. GATES: And so all the agencies contributed to that?

23 MR. VAN HOUTEN: That is an internal process for DDOT.  
24 So all the various people in DDOT have sent around the scope and  
25 the CTR. That's our bike team, our signal engineers, our safety

1 team people that are community liaisons and everybody at DDOT, our  
2 tree people, they all review the scoping form and the CTR and then  
3 they all send comments and then we put them together and send them  
4 to the Applicant and then they respond to them.

5 MS. GATES: Okay. Mr. Van Houten, did the Partnership  
6 take place in any of these meetings with DDOT?

7 MR. VAN HOUTEN: No. We don't send the scoping form to  
8 the CTR to the Partnership or --

9 MS. GATES: What about the TMD?

10 MR. VAN HOUTEN: No. It's just -- it's all people in  
11 DDOT who we send that to.

12 MS. GATES: Okay. Thank you. Your report states that  
13 all intersections within the study area would operate at an  
14 overall acceptable level of service D. How could that be  
15 considered acceptable?

16 MR. VAN HOUTEN: That's related to the level of service  
17 and our response to what the Applicant proposed and as long as  
18 anything is level of service A, B, C or D, that's something that  
19 is acceptable. The only thing that we look at is if something is  
20 not, something before or in existing conditions is A, B, C or D  
21 and then with the Applicants their impacts, if their impacts would  
22 make something go from A, B, C or D to E and F. At that point we  
23 look at it, but they send the Applicant's analysis, that condition  
24 didn't happen. Anything that was A, B, C or D, any existing  
25 conditions was A, B, C or D in the -- in when their impacts were

1 taken into account. The only intersection that wasn't A, B, C or  
2 D, that wasn't an E or F category was Ward Circle, but that was  
3 something that was present in existing conditions and in their  
4 analysis of their impacts.

5 MS. GATES: And will there be any follow-up on Ward  
6 Circle?

7 MR. VAN HOUTEN: No. Since the Applicant's impacts  
8 don't cause a change in conditions in Ward Circle as far as going  
9 from one category of LOS to the other, we -- they're not required  
10 to do any mitigation on that. DDOT did in the last several years  
11 implement a full signal (audio interference), sorry, full signal  
12 at Ward Circle. We've heard generally that that's been well  
13 received by the community, that that's been improvement and we  
14 wouldn't require the Applicant in this case to make any further  
15 changes to Ward Circle as far as the mitigation for the Campus  
16 Plan.

17 MS. GATES: Okay. So just to be clear, the  
18 intersections around the university were operating at level D  
19 prior to the initiation of this Campus Plan?

20 MR. VAN HOUTEN: So, yes. So they did existing  
21 conditions and I believe it's in their CTR where they give all of  
22 that and all the intersections that were in their study area were  
23 either A, B, C or D, and as far as specifically what intersection  
24 was specifically what level of service that's in their CTR, and  
25 what we do is we look at existing conditions versus the impacts of

1 | the future development with their Campus Plan impacts projected.  
2 | So those are the things that we compare when we look at how will  
3 | the Campus Plan impact the transportation network going forward,  
4 | what's that projection.

5 |           MS. GATES: Okay. And my last question. Would DDOT  
6 | support more curb cuts to provide access to the main campus?

7 |           MR. VAN HOUTEN: If -- the Applicant, to my knowledge,  
8 | has not proposed another curb cut. I think our issue with curb  
9 | cuts is a curb cut is another location for conflicts of  
10 | pedestrians. It's another location for conflicts of vehicles. We  
11 | try to not encourage curb cuts unless they're absolutely,  
12 | absolutely necessary and we would first want AU to handle traffic  
13 | with the curb cuts that they have existing in the entrances they  
14 | have existing to campus. I think that's something at further  
15 | processing. If they come to us and they say hey, we need a curb  
16 | cut somewhere, we will evaluate that and that's something that we  
17 | would need to look at at further processing.

18 |           MS. GATES: Okay. Thank you. So DDOT is not offering  
19 | any predictability on future curb cuts?

20 |           MR. VAN HOUTEN: I think our preference would be for  
21 | them to use the curb cuts and the entrances that they have.

22 |           MS. GATES: Thank you. So now I'll go to Ms. Brown-  
23 | Roberts. Thank you, Mr. Van Houten.

24 |           (Pause.)

25 |           CHAIRPERSON HOOD: Ms. Gates? Still there? Just

1 getting your question ready to go?

2 MS. GATES: I was going to move to Ms. Brown-Roberts.

3 CHAIRPERSON HOOD: Okay. Yes, we're waiting on you.

4 MS. GATES: Oh, I'm sorry. I didn't see her, so I  
5 thought she wasn't there.

6 CHAIRPERSON HOOD: Yes, she's here.

7 MS. GATES: Thank you. Ms. Brown-Roberts, your report  
8 begins with a list of recommendations of approval for the '21  
9 Campus Plan. Were any of these discussed with the AU Partnership?

10 MS. BROWN-ROBERTS: No.

11 MS. GATES: Thank you. Do you happen to know what  
12 percentage of commuting and residents -- and resident students are  
13 coming from Maryland or Virginia and would a substantial number  
14 signal the need for a campus in one or both of those states?

15 MS. BROWN-ROBERTS: No -- (audio interference) another  
16 thing. That's a -- (audio interference).

17 MS. STEINGASSER: I'm going to step in here. This is  
18 Jennifer Steingasser. That's a little beyond the scope of what's  
19 before us and that would be a better question probably for AU.

20 MS. GATES: Thank you, Jennifer.

21 CHAIRPERSON HOOD: I'm sorry. Ms. Gates, what was the  
22 question again? I actually was reading 101, I'm still trying to  
23 understand something else. But anyway, what was the question?

24 MS. GATES: It was about the percentage of students  
25 coming to -- or living at the university from Maryland or

1 Virginia, because the numbers keep increasing and would a  
2 substantial increase signal the need for a campus in one or both  
3 of those locations?

4 CHAIRPERSON HOOD: Okay. I'm going to have to -- I  
5 think we need to move on to another but that's something we can --  
6 we can have a conversation but that's not really relative to what  
7 we're doing right now. It's important but it's not relative right  
8 now, so thank you. Next question.

9 MS. GATES: I think most of -- I think Mr. Smith covered  
10 most of it. When will DOEE file its report, and would it affect  
11 your approval of the Campus Plan? What will it include?

12 MS. BROWN-ROBERTS: We've been in contact with DDOE. We  
13 will continue to try to get something from them and I think it  
14 will -- their report will address sustainability.

15 MS. GATES: But when you talk about sustainability, what  
16 are you really talking about?

17 MS. BROWN-ROBERTS: We're talking about stormwater  
18 management; we're talking about solar panels. We're talking  
19 about, you know, the tree cover. All those sort of relevant  
20 things.

21 MS. GATES: So when DOEE talks about tree cover but the  
22 Urban Forestry Administration is also involved in this, so there's  
23 been a lot of concern raised about a buffer along University  
24 Avenue and we keep getting, "We'll hear about that at further  
25 processing." Who is responsible for recommending that buffer?

1 MS. BROWN-ROBERTS: I think, of course we could liaison  
2 with both DDOT and the Urban Forestry and also DDOE, but it will  
3 be a discussion of -- with the Applicant and the adjacent property  
4 and the different organizations.

5 MS. GATES: So further processing?

6 MS. BROWN-ROBERTS: That's correct.

7 MS. GATES: You talked about housing 67 percent of  
8 students on the campus. What about 100 percent of the freshmen  
9 and sophomores? Do you support that recommendation?

10 MS. BROWN-ROBERTS: I think that that is something that  
11 the university would have to address in more detail if they can  
12 accommodate that. I know that is something that they are aiming  
13 for. So I don't know, you know, if it's something that the -- it  
14 would be up to the Zoning Commission if that is what they want to  
15 recommend.

16 MS. GATES: So, Ms. Brown-Roberts, does the Office of  
17 Planning ever recommend conditions of approval?

18 MS. BROWN-ROBERTS: Yes.

19 MS. GATES: Would that be a condition of approval you  
20 might recommend?

21 MS. BROWN-ROBERTS: I think we were recommending it, but  
22 I think we also give the Applicant some flexibility that they're  
23 not, you know, suppose they're able to accommodate 98 percent.  
24 You know, I know from speaking to them that that is something that  
25 they're aiming for, but we still want to give them some

1 flexibility if they're able to -- if they're not able to reach 100  
2 percent because there are going to be some students who do not  
3 want to live on campus in their -- I mean, you know, students who  
4 live in the District may not want to live on campus in their --

5 MS. GATES: I believe that the university is required to  
6 provide. It is not required -- the students are not required to  
7 use that housing but it's still there in terms of a condition that  
8 the requirement to be that they can provide housing for 67 percent  
9 of all student freshmen and the sophomores. You're muted.

10 MS. BROWN-ROBERTS: I think that that is what the  
11 Applicant testified to, that they can accommodate the 100 percent.

12 MS. GATES: Okay. Thank you. Thank you, Mr. Chairman.  
13 I'm through.

14 CHAIRPERSON HOOD: All right. Thank you, Ms. Gates.  
15 But I would like to, while I was -- your question was not  
16 necessarily appropriate for OP, but I would like Mr. Tummonds to I  
17 guess at the appropriate time at the end let's talk about what Ms.  
18 Gates mentioned about with the influx of students coming from  
19 Maryland and Virginia. Has that discussion been had? I'd like to  
20 know that as well. I'm sure the folks in Maryland and Virginia  
21 might not like me asking that but I'm going -- I am going to  
22 pursue that just to have that discussion and see where we are.  
23 All right. Because I know other campuses are doing certain things  
24 like that, so I think that was a good question. All right. Let's  
25 go to -- hold on one second. Give me one moment. Okay, there we

1 are. Let's go to Mr. Kirkpatrick.

2 MR. KIRKPATRICK: Thank you, Mr. Chair. Ms. Brown-  
3 Roberts, I just had a few questions for you if I could please.

4 I think you mentioned in your testimony the importance  
5 of setbacks to avoid adverse conditions on residents. I don't  
6 know if you were at the hearing last week, but certainly Mr. Bell  
7 presented that there had been 400-foot setbacks in some  
8 neighborhoods, 220 some place else, 140 in another place. Do you  
9 happen to know what the setback is for building No. 15? That's  
10 what I think I'd like to ask some questions about, if I could.

11 MS. BROWN-ROBERTS: I think on the plan, I think they  
12 show a minimum of it's either 65 or 85 feet.

13 MR. KIRKPATRICK: Yes. I think it's 65 (audio  
14 interference). Isn't that (audio interference) the entire plan  
15 (audio interference) of a new construction project -- isn't that  
16 the lowest setback in the plan?

17 MS. BROWN-ROBERTS: Possibly. I (audio interference).

18 MR. KIRKPATRICK: And isn't building 15 the biggest  
19 building of the whole plan? Isn't it larger than the Katzen  
20 Center? It's the biggest building of all; right?

21 MS. BROWN-ROBERTS: It is the biggest building of all  
22 the proposed buildings. It is not going to be the biggest  
23 building on campus.

24 MR. KIRKPATRICK: Okay. And do you -- I don't know if  
25 this is something Office of Planning does, but did you have a

1 chance to talk to the residents along the wall that would be right  
2 next to that building about the -- (audio interference) -- is that  
3 something that you do?

4 CHAIRPERSON HOOD: So while Ms. Brown-Roberts --

5 MS. BROWN-ROBERTS: I'm sorry, I'm sorry.

6 CHAIRPERSON HOOD: -- keeping that question, can you  
7 hold that question for a second? We're getting a lot of feedback  
8 again and you know what I found out -- and you're probably getting  
9 some now because I hear it -- sometime, if you're like me,  
10 sometime I turn up my speakers on my computer because I can't  
11 hear, so I turn it all the way up and then I have to turn it back  
12 down. So maybe if everybody can turn it down to where you can  
13 hear. I don't want it to the point where you can't hear but turn  
14 it down to where can hear it and not real loud like I keep mine,  
15 and I'm bringing mine back down now because that's where you get a  
16 lot of feedback. Because I notice that sometime when we're asking  
17 questions, we can't really hear, and we want to understand --  
18 especially the Commission and I'm sure others -- we want to  
19 understand exactly what's being asked. So again, let's try to  
20 figure this out as we continue to proceed in this type of  
21 environment. So I'm sorry, Ms. Brown-Roberts.

22 MS. BROWN-ROBERTS: Yes, Mr. Chairman. In response to  
23 the question. We did review the submission from the Westover  
24 citizens, and we are open to meeting with anyone who wants to meet  
25 with us at any time. I'm not sure if Ms. Steingasser wants to

1 address that question if she had spoken to anyone from Westover.

2 MS. STEINGASDSER: Thank you, Maxine. No one contacted  
3 us about meeting together to discuss the setback, proposed  
4 distance of that building.

5 MS. BROWN-ROBERTS: You're on mute, Mr. Kirkpatrick.

6 MR. KIRKPATRICK: Sorry. All right. I just wondered,  
7 are you aware -- you say AU didn't contact the residents that  
8 would be directly next to that -- are you aware of whether the  
9 Partnership did or anybody in the planning process contacted the  
10 people that are living right along that -- residents with that  
11 very narrow setback?

12 MS. STEINGASSER: I'm not aware of the communication  
13 that went on between the private parties, no sir.

14 MR. KIRKPATRICK: Okay.

15 MS. STEINGASSER: You're still on mute.

16 MR. KIRKPATRICK: I'm sorry. Do you happen to have or  
17 Ms. Brown-Roberts, do you happen to have the map of building 15  
18 that we could put up to talk about for a minute? Is that easy to  
19 put up? It may not be something you have at your fingertips, but  
20 I just wondered if we could -- wanted to ask a question about that  
21 if you have that in front of you?

22 MS. BROWN-ROBERTS: I don't have it to pull up, but I  
23 have the submission, so.

24 MR. KIRKPATRICK: Okay. I'm partly speaking for the  
25 residents that live along the townhouses there that would be

1 facing directly out towards the new construction of building 15  
2 and I think you mentioned the one concession that was made was  
3 simply to have it be two stories on the side next to Westover even  
4 though there's no setback, a very short setback. Were you by any  
5 chance part of the last planning process? Maybe not, the last  
6 time we had this discussion with American?

7 MS. BROWN-ROBERTS: No, I was not.

8 MR. KIRKPATRICK: Well, one of the major concessions  
9 there was to have two stories as part of that aspect of the last  
10 project. But have you had a chance to see what the two-story unit  
11 that American University put up next to Westover and how tall that  
12 actually is? It's the Myers Center. The reason I ask is I think  
13 many people in Westover, two stories that sounds like a major  
14 concession, but it turned out that's two stories is in a building  
15 like American University builds is actually as high or higher than  
16 the three-story townhouses we have. So that's why that concession  
17 and to protecting the residents against objectionable conditions  
18 didn't really work, but you mentioned that you'd seen the two-  
19 story proposal, but I mean it doesn't -- I just wanted to mention  
20 that last time that didn't seem to work because it isn't something  
21 that's shorter than our townhouses. If anything, it's taller.

22 Are you also aware that the property on which building  
23 15 would be built is on a significant slant so it's uphill from  
24 us, so any height of any building whether it's two stories going  
25 up to three going up to four, looks higher from our vantage point

1 in terms of losing natural light and so forth. But it is on a  
2 slope. Is that -- isn't that correct?

3 MS. BROWN-ROBERTS: That is correct.

4 MR. KIRKPATRICK: And is this an issue you view as  
5 something subject to future processing with the setback should be,  
6 because obviously to us that live against the wall, it would be  
7 very uncomfortable, to view something like that is kind of open-  
8 ended in terms of debating whether the Commission should approve  
9 the plan on whether it's an objectionable condition. Is it  
10 reasonable to expect that that should actually be something  
11 decided by the Commission as to whether the setback is adequate?

12 MS. BROWN-ROBERTS: I think that when the -- I think  
13 that it needs more -- we need more information. I don't know if  
14 the Commission would want to see, you know, other elevations of  
15 what it would look like. We just don't have that here right now  
16 and it's at the further processing at that time that, you know,  
17 when we have all the elevations and we can make the comparisons  
18 and that sort of thing in deciding on, you know, what sort of  
19 setback there should be. Those are made at that time.

20 CHAIRPERSON HOOD: Mr. Kirkpatrick, let me interrupt for  
21 a second. Vice Chair Miller, you had your hand up.

22 VICE CHAIR MILLER: Yes. Thank you, Mr. Chairman.  
23 Sorry, I don't mean to interrupt the -- well I am interrupting the  
24 cross-examination but since it's come up a couple of times. Yes,  
25 I initially did ask a question of the Applicant, American

1 University, at our hearing last week to provide, which they've  
2 agreed to provide, the heights of all of the proposed buildings,  
3 the heights of the existing buildings on campus and then the  
4 heights of the Kasten presidential housing, both in a chart form  
5 -- they had provided a chart form with the stories but also in a  
6 visual depiction so we as the Commission and the public can see  
7 the context of what's being proposed in terms of height with  
8 what's there in terms of height and what's adjacent in terms of  
9 the lower density residential neighborhood nearby. So I think  
10 we're going to be getting that visual depiction as part of this  
11 record of the hearing. I just wanted to say that since that's  
12 come up a couple times.

13 CHAIRPERSON HOOD: Okay. Thank you and thank you for  
14 asking for that. Thank you. Okay. I'm not sure where we were.  
15 Mr. Kirkpatrick or Ms. Brown-Roberts.

16 MR. KIRKPATRICK: The only last question I want to ask  
17 is did your review cover the parking garage or is that -- or  
18 questions relating to that should be directed to somebody else? I  
19 just didn't know if that's part of your testimony.

20 MS. BROWN-ROBERTS: That should be addressed by DDOT.  
21 And the plans of DDOT didn't state how many -- I don't remember,  
22 that stated how many parking spaces or where on -- they talked  
23 about it being under the building, but I didn't know if it would  
24 be completely underground or some portion that would be above  
25 ground. That is something -- that's information we would need.

1 MR. KIRKPATRICK: The reason I ask is it relates to the  
2 issue of the grade, the fact that it's on an elevation so if there  
3 were an underground garage, wouldn't it be true that any water or  
4 other substances that are found would drain down towards Westover,  
5 I mean in the course of the construction since Westover is  
6 downhill from that?

7 MS. BROWN-ROBERTS: I think that would need engineering  
8 studies.

9 MS. STEINGASSER: And I'll just add, that would also be  
10 something that would be reviewed at the building permit time and  
11 under D.C. Regulations you cannot let water run on to someone  
12 else's property. So I don't think that would be a concern based  
13 just solely on parking. Buildings have basements and cellars and  
14 all kinds of mechanical spaces beneath them.

15 I also want to point out, the 65 feet isn't the closest  
16 setback from the corner of the building to the property line.  
17 Then there's additional space on the Westover side of the property  
18 and then there's like a gate -- a gated courtyard. So there's  
19 more space than just the 65. That's the closest at the corner.  
20 As it moves further east, it looks more like it -- that's like a  
21 total of 75 feet and then the same happens, that that's through  
22 the property line and there's a type of setback on the Westover  
23 side and then there's the private little courtyards. And then  
24 also when we looked at this building, part of our consideration  
25 was looking at it in terms -- it's on the north, so it will always

1 | be on the north. This building will not shadow or block the sun  
2 | of your -- of the properties on the Westover side because it is  
3 | north of that property. So there's ways to do shadow studies that  
4 | we could ask, and I think Maxine has included those or asked for  
5 | that. They would be included as part of the further processing of  
6 | any particular building.

7 |           MR. KIRKPATRICK: Well, since you brought that issue up,  
8 | isn't it actually true from our buildings we can see the sunset?  
9 | It's partly facing west, not just north. We can actually see the  
10 | sunset from our third floor. So I think it's not quite accurate  
11 | to say it's north facing.

12 |           MS. STEINGASSER: And I, you know, I (audio  
13 | interference) concerns as the Zoning Commission will often point  
14 | out, there is not an entitlement to a view across other  
15 | properties. There is an entitlement to protection of your  
16 | properties. But the view across someone else's property is a  
17 | little difficult to assess as an adverse impact.

18 |           MR. KIRKPATRICK: But our -- (audio interference) --  
19 | natural light -- (audio interference) -- view just isn't natural  
20 | light or obstruction of natural light an important consideration  
21 | in protecting residents? Isn't that why so many people got a  
22 | setback to try to keep the construction from affecting the natural  
23 | light, and we're not just talking about views, we're talking about  
24 | natural light?

25 |           MS. STEINGASSER: But this property is north of your

1 | property. So when you run shadow studies which will be done as  
2 | part of that, you can see that the shadows won't be cast onto your  
3 | properties.

4 |           MR. KIRKPATRICK: We're not just talking about shadows.  
5 | I think we're talking about the amount of natural light that gets  
6 | affected when you put a building that's starting out 65 feet from  
7 | the boundary (ph) going up to three stories and four stories. I  
8 | mean, that has quite an effect on how --

9 |           MS. STEINGASSER: Well, I don't think it's, you know,  
10 | like you said, I'm sympathetic to your concerns and it's awkward  
11 | to disagree in this format, but the details of how that building  
12 | is sculpted and how it would be -- windows would be placed and the  
13 | trees and landscaping would be planted, that's what the further  
14 | processing does and when we talk about the prerequisite of Section  
15 | 101.8, those things are all detailed in the -- in the Applicant's  
16 | application and as you go through the different exhibits it talks  
17 | to the issue of landscaping especially as being the type of  
18 | buffer. It's not to disguise the building but just simply to  
19 | buffer having a large industrial institutional wall there.

20 |           MR. KIRKPATRICK: Well, since you brought up the buffer,  
21 | isn't it true that most of the buffering trees you put in are ten  
22 | to fifteen feet high so that if the building is going up forty  
23 | feet, a fifteen-foot tree doesn't really stop the obstruction of  
24 | light from a forty- or fifty-foot building, so.

25 |           MS. STEINGASSER: It's not me. I'm not with AU so I

1 don't put in the trees. But trees grow and they do have to be  
2 planted at a certain height so that they can grow, and 15-or-20-  
3 foot plantings are a pretty generous new tree, but they will grow  
4 over time. That is the idea.

5 MR. KIRKPATRICK: Well, I just want to ask one other  
6 point though. American University put in their proposal, and this  
7 is the executive summary of the proposal. This is something the  
8 president said last week. It's in the opening paragraph and it's  
9 actually italicized that one of AU's goals is to not only meet  
10 their needs, but an equally important goal is to enhance the  
11 quality of life of those who live in the surrounding campus, and I  
12 guess the question I'd like to ask you is can you tell me how this  
13 will enhance the quality of life of us that live right along the  
14 wall --

15 CHAIRPERSON HOOD: Mr. Kirkpatrick.

16 MS. STEINGASSER: Again, I'm not with AU.

17 CHAIRPERSON HOOD: Mr. Kirkpatrick. I'm going to rule  
18 that, that question should be mentioned to the Applicant. You're  
19 reading from the Applicant's submission but you're asking Office  
20 of Planning the questions. So let's make sure -- we're asking the  
21 Office of Planning and DDOT right now, so it needs to be something  
22 that's in their reports. So if you can phrase your question to  
23 ask of their reports, not the Applicant's.

24 MR. KIRKPATRICK: I'm sorry, Chairman Hood. I didn't  
25 mean to do that. I just thought that that was how AU was

1 proposing the plan to be considered, so I realize it's, you know,  
2 it's their proposal. I just thought that's kind of how they're  
3 asking this plan to be evaluated, that this was one of their  
4 goals, so I just thought maybe it's the Office of Planning --

5 CHAIRPERSON HOOD: I don't want to stop you from asking  
6 the question. I want you to, why don't you reword your question  
7 if it's in the Office of Planning's report. If something like  
8 that signifies in their report, I want you to direct not from what  
9 the Applicant said, but something that's in the Office of  
10 Planning's report similar to your question. If you can reword it.

11 MR. KIRKPATRICK: Well, I think I'll withdraw the  
12 question. I assumed that Office of Planning would consider the  
13 goal set by AU, that particular goal, but perhaps that wasn't the  
14 case, so I'll withdraw the question.

15 CHAIRPERSON HOOD: Okay.

16 MR. KIRKPATRICK: And I have no further questions of  
17 this particular witness, so thank you.

18 CHAIRPERSON HOOD: Well, Mr. Kirkpatrick, you did ask  
19 questions of DDOT as well; right? So you've asked both.

20 MR. KIRKPATRICK: I have no questions of DDOT. I think  
21 (audio interference) an answer, so thank you, Mr. Chairman.

22 CHAIRPERSON HOOD: Okay. Thank you. All right. Let's  
23 go to Ms. Horvitz.

24 MS. HORVITZ: Yes. Thank you. I have some questions  
25 for the Office of Planning.

1 First of all, I thank the Office of Planning for making  
2 their recommendation to expedite construction of the sound barrier  
3 near Jacobs Field and my questions will be directed primarily to  
4 the Jacobs Field issue.

5 So the first question is, what was the basis for the  
6 Office of Planning making a recommendation to expedite the  
7 construction of a sound barrier? Is it based on some  
8 understanding that there are currently objectionable noise  
9 conditions at Jacobs Field that have existed during the now  
10 expiring Campus Plan?

11 MS. BROWN-ROBERTS: I think, I mean that was assessed at  
12 the last -- it was assessed at the last Campus Plan, at the time  
13 of the last Campus Plan -- that that is something that should be  
14 done. It was also assessed at in another further processing with  
15 the -- where your client requested that that be done. The Zoning  
16 Commission agreed to it and so if that is something that has been  
17 brought up on a number of occasions, we think that this is  
18 something that should be built to mitigate any noise from the  
19 field.

20 MS. HORVITZ: Thank you. And does the Office of  
21 Planning have any understanding at this point as to what the  
22 sources of the objectionable noise are? For example, are they  
23 non-university users, university athletes, amplified noise, or all  
24 of the above?

25 MS. BROWN-ROBERTS: I think it was outlined in the

1 conditions of what the -- at the time, of what the objectionable  
2 things were which were included use of the fields and sounds and  
3 that sort of thing.

4 MS. HORVITZ: But the concern was not limited to  
5 amplified sound; is that a fair statement?

6 MS. BROWN-ROBERTS: No, I don't think so. There were  
7 other issues about noise from the use of the fields also.

8 MS. HORVITZ: Thank you. And the Office of Planning has  
9 also suggested, and this is also much appreciated, that there be a  
10 continuation of conditions to monitor usage of the fields to help  
11 manage its impact regarding noise on adjacent residents. So my  
12 question is, and just to refer you that was on page 11 of the  
13 Office of Planning report. So my question is what does that mean?  
14 What kind of monitoring is suggested if the Office of Planning has  
15 thought about it?

16 MS. BROWN-ROBERTS: No. We don't have any suggestions,  
17 but I think that, again, that was something that was brought up in  
18 the last plan that things should be monitored to make sure that,  
19 for example, if non-university people were coming to use the  
20 fields, that they knew about all the regulations that they had to  
21 abide by, and that university would make sure that they do that.

22 MS. HORVITZ: Does the Office of Planning at this point  
23 have any recommendations or suggestions about how to mitigate the  
24 noise problem from Jacobs Field before the sound wall is built?

25 MS. BROWN-ROBERTS: No. I think that the sound wall,

1 that's why we are saying the sound wall was to be the mitigation  
2 measure so that's why they're recommending that it be expedited.

3 MS. HORVITZ: Now, the Office of Planning also said in  
4 its report, also on page 11, that the location and size of the  
5 proposed residential and athletic facilities when combined with  
6 the use of the existing playing fields could create an  
7 objectionable condition for neighbors to the immediate west and  
8 then the report continued and stated, "Further assessments of  
9 noise mitigation measures will be addressed at the time of further  
10 processing for these buildings." So my question is, shouldn't  
11 there also be further assessment of noise mitigation measures as  
12 well as field usage when further processing is sought for the  
13 sound wall construction itself?

14 MS. BROWN-ROBERTS: I don't know that the sound wall  
15 extended all the way over to where the -- where those new  
16 buildings are proposed. So whatever mitigation for those  
17 buildings may be separate.

18 MS. HORVITZ: Fair point. I guess my question is that  
19 to the extent that the Office of Planning was recommending further  
20 assessment of noise mitigation measures and that those noise  
21 mitigation measures related at least in part to noise from Jacobs  
22 Field, wouldn't the Office of Planning expect to see a fair amount  
23 of science associated with how effective the acoustic barrier is  
24 likely to be during that further processing for the sound barrier  
25 itself?

1 MS. ROWN-ROBERTS: Repeat that, please.

2 MS. HORVITZ: I'm not sure. So my question is, and  
3 maybe let me back up for a sec. Is it the Office of Planning's  
4 expectation that the university will apply for further processing  
5 to build the sound wall itself?

6 MS. BROWN-ROBERTS: Yes. Yes, for the barrier wall,  
7 sound wall yes.

8 MS. HORVITZ: Okay. And so when that further processing  
9 application is submitted, is it the expectation of the Office of  
10 Planning that there would be science and analysis of the acoustic  
11 issues to evaluate how likely the sound wall is going to be to  
12 mitigate some of the noise from Jacobs Field?

13 MS. BROWN-ROBERTS: I think so, yes. Yes, that would  
14 have to be part of the submission.

15 MS. HORVITZ: Okay. And then after that submission, is  
16 it the expectation of the Office of Planning that only in that  
17 further processing context will there be any ability to determine  
18 what, if any, additional mitigation measures are still going to be  
19 necessary with respect to usage of Jacobs Field including  
20 amplified noise and other constraints?

21 MS. BROWN-ROBERTS: Well, I think we would hope that all  
22 of that would be in one package. I don't think that -- and again,  
23 you know, it's going to be what's negotiated between the parties.

24 MS. HORVITZ: Well, at this point does the Office of  
25 Planning have any idea whether the acoustic barrier will be

1 | capable of mitigating all existing objectionable noise from Jacobs  
2 | field upon the neighbors to the west?

3 | MS. BROWN-ROBERTS: No.

4 | MS. HORVITZ: Is there any information in the  
5 | application or the pending Campus Plan that identifies the height,  
6 | location or bulk of the sound barrier itself?

7 | MS. BROWN-ROBERTS: No.

8 | MS. HORVITZ: Is that something that is required in a  
9 | Campus Plan approval to identify the location, height and bulk of  
10 | a structure that's being proposed as part of a Campus Plan?

11 | MS. BROWN-ROBERTS: I think that this has been in  
12 | discussion for all these times. We have heard about, you know, 15  
13 | foot or something like that. So there's information out there but  
14 | a submission has not been made to us to assess that, so the  
15 | Applicant said that, you know, that they would be doing it, you  
16 | know, as a further processing so that's what they expect to be  
17 | done.

18 | MS. HORVITZ: So, and as I understand it, the Applicant  
19 | originally did not suggest any time frame or commitment for  
20 | actually applying for further processing on the sound wall and  
21 | then it its prehearing statement agreed that it would do so within  
22 | a year of the Zoning Commission's Order. So is there -- shouldn't  
23 | the Applicant before then identify approximately what it's  
24 | committing to apply for in the further processing? Or if it's  
25 | committing to apply for further processing for a wall at an

1 unspecified location, height and bulk? So it could be a two-foot  
2 wall or a five-foot wall, or a fifteen-foot wall, wouldn't it be  
3 appropriate to require that the application for further processing  
4 that's going to occur within a year have some minimum requirements  
5 as to the characteristics of the wall, namely the height and  
6 length?

7 MS. BROWN-ROBERTS: I think that in the order, there was  
8 some details given as to what the wall would be. So I'm assuming,  
9 and as far as I know, the parties are still in negotiations so,  
10 you know, so there's some detail there on what the wall is  
11 supposed to be.

12 MS. HORVITZ: Has the Office of Planning considered that  
13 American University is renting out Jacobs Field to third parties  
14 unaffiliated with the university as part of its analysis?

15 MS. BROWN-ROBERTS: I'm not sure about -- I think they  
16 have some non-university uses but I'm not sure if it's Jacobs  
17 Field or the other field. I'm not sure.

18 MS. HORVITZ: Well, is field rental whether it's Jacobs  
19 Field or Reeves Field, is that a commercial use that the Office of  
20 Planning and the Zoning Commission should be evaluating?

21 MS. BROWN-ROBERTS: We don't consider it a commercial  
22 use. We know that, you know, in the city, generally, there's a  
23 shortage of fields citywide and so we sort of encourage that where  
24 fields are that they be accommodated, you know, other users be  
25 accommodated. So I don't think that, you know, I think the impact

1 is, you know, how often, what are the hours of use, those are the  
2 things that has to be taken into consideration and not really do  
3 they rent it out or do other people use the fields.

4 MS. HORVITZ: Fair point. So if I understand you, what  
5 you're saying is it really doesn't -- the point is the usage  
6 itself and the duration of the usage and the noises from the uses  
7 regardless of whether it's a rented facility or not. Is that what  
8 you're saying?

9 MS. BROWN-ROBERTS: Yes.

10 MS. HORVITZ: Okay. And then just a quick follow-up  
11 with respect to something that Ms. Gates was exploring. Except  
12 for the sound barrier which we've been talking about, does  
13 American University have to apply for any further processing of  
14 any of the buildings that are in the pending Campus Plan?

15 MS. BROWN-ROBERTS: Yes. Any additions or new buildings  
16 are, you know, if there's any addition to any building they have  
17 to come in for further processing or construction, yes.

18 MS. HORVITZ: I asked my question poorly. Let me  
19 clarify. If AU decided it didn't want to build any of the  
20 buildings that are listed in the Campus Plan application, they  
21 said you know what? We thought about it, you know, we don't need  
22 to. We're not going to build any of them. Would AU ever have to  
23 come before the Zoning Commission and apply for further processing  
24 of buildings it doesn't want to build?

25 MS. BROWN-ROBERTS: No. Because further processing is

1 to assess new buildings. So if they're not building it, then  
2 there's no need to come.

3 MS. HORVITZ: Exactly. So my last question is, if  
4 that's the case then how and when does the Zoning Commission  
5 consider landscaping buffers? Say a landscaping buffer near  
6 University Avenue that is already the subject of a lot of  
7 complaints or the landscaping buffer near 47 Kenwood (ph) Lane  
8 which is my client's property which already has holes in it. If  
9 all of this doesn't get addressed, if landscape buffers don't get  
10 addressed until there's a further processing request, then these  
11 deficiencies that may exist at the time that the new Campus Plan  
12 is being applied for will never be before the Zoning Commission  
13 and never evaluated. So how can the Office of Planning not  
14 consider landscape buffers now if there's a concern that they may  
15 already be inadequate?

16 MS. BROWN-ROBERTS: I suppose that that is something  
17 that the Commission could ask about, then that. Jennifer, do you  
18 want to address?

19 MS. STEINGASSER: I do want to. If there's an  
20 outstanding condition from the previous Campus Plan that has not  
21 been complied with, then the university would be in -- would have  
22 a zoning violation. If the Commission felt going forward that  
23 there were conditions of this order that they wanted to put with a  
24 time certain like within, you know, within a year, within eight  
25 months, you know, these things have to be done, then the

1 university would need to report back to the Commission or to the  
2 zoning inspectors that that condition has been complied with.

3 We see that with other universities in terms of student  
4 housing, in terms of transit, that there is an annual reporting  
5 back and that -- so those conditions could be written in such a  
6 way that they don't have to come forward with any building, but  
7 they do have to meet certain conditions.

8 MS. HORVITZ: Thank you. That's very helpful. I think  
9 that will help the parties bringing their own testimony if they  
10 think that there's an inadequacy already. That is all I have for  
11 the Office of Planning and I'm sure that the Commission is  
12 delighted to hear that I have no questions for DDOT.

13 CHAIRPERSON HOOD: Okay. Thank you very much. Let's go  
14 to Ms. Ambrose.

15 MS. AMBROSE: Thank you, Chairman Hood. I would like to  
16 bring up one point. I know it's not really a -- it's not a  
17 question. But and I, believe me I'm a writer, I'm not a lawyer so  
18 I'm not real good at cross-examining. But I did want to bring up  
19 something for the Zoning -- for the Office of Planning and I had  
20 brought it to Ms. Steingasser's attention, that actually on page  
21 22 of their report, that we were left off of the party in -- of  
22 the list of the parties in opposition and the reason I bring this  
23 up, I brought it to her attention, and she said -- she apologized  
24 for the oversight and I thank you for that. But it does concern  
25 me because when reading the report and even when hearing Ms.

1 Brown-Roberts' presentation tonight, there's really no mention of  
2 our site, two sites on the campus that my party is concerned  
3 about. The development there affects us. The proposed  
4 development there affects us as much as the development affects --  
5 concerns Westover. So I don't know how to address that because I  
6 do think that throughout the Office of Planning's report that they  
7 look at Westover and they look at the wall and they look at the --  
8 some of the impact of the West Campus on University Avenue but  
9 they don't really address any of our specific concerns.

10 COMMISSIONER MAY: Ms. Ambrose, I think this is your  
11 opportunity to ask the Office of Planning about your concerns and  
12 whether they would address them. That's the way to make your  
13 point here and now rather than testifying as you just did.

14 MS. AMBROSE: Right. Well, okay. So let me just ask  
15 one thing for instance. On page 2, it describes the traditional  
16 Main Campus as having bounded by Massachusetts Avenue on the  
17 north, Nebraska Avenue on the east, Rockwood Parkway and  
18 residential development on the south and University Avenue and  
19 residential development on the west. So my question to OP, for  
20 instance, is do you realize of course that the end of that  
21 Nebraska Avenue, Rockwood and Newark the intersection of Rockwood  
22 and Newark to Foxhall Road, there is also low-density development;  
23 is this correct, of the Office of Planning?

24 MS. BROWN-ROBERTS: That's correct.

25 MS. AMBROSE: Because again, it's not stated. I just --

1 as Westover asked, let me ask you. Did anyone from the Office of  
2 Planning go and look at the sites 11 and 12 and also across the  
3 street and look at from our side of the corner?

4 MS. BROWN-ROBERTS: I drove by and saw, you know, the  
5 general area but didn't go inside to look at each of the sites,  
6 no, I didn't.

7 MS. AMBROSE: But at the corner of Nebraska and  
8 Rockwood, did you see the single-family homes that are on Newark,  
9 on Nebraska, on Rockwood Parkway?

10 MS. BROWN-ROBERTS: Yes, I did.

11 MS. AMBROSE: Because, bear with me, I mean the reason  
12 of the concerns that we're going to the same issue that's facing  
13 Westover, the same issue that's facing the West Campus in terms of  
14 size and scale what has been at site 11 and 12 since the 1950s --

15 CHAIRPERSON HOOD: Ms. Ambrose.

16 MS. AMBROSE: -- in terms of --

17 CHAIRPERSON HOOD: Ms. Ambrose.

18 MS. AMBROSE: Yes.

19 CHAIRPERSON HOOD: Ms. Ambrose. Were you up when I  
20 first started -- when I first, when we first started this hearing?  
21 And now I understand because you're a writer. I've been trying to  
22 think all weekend of how we can go from making a left, making a  
23 right to get to the center and that's exactly your question, but I  
24 understand so I'm going to be a little lenient towards you because  
25 you're a writer and I'm not. I wish I had that ability. But I

1 will ask you without giving us all the background, let's go right  
2 to the question and help us out; okay? As much as you can, let's  
3 go right to the question.

4 MS. AMBROSE: Yes. Well again, I did feel I had to give  
5 a bit of context because I don't sense that there's any context in  
6 the report about our -- about sites 11 and 12 or any context  
7 tonight in the presentation. The presentation tonight did, you  
8 know, make mention of site 15 and effects to minimize any  
9 objectionable impacts, and again, it was because I really don't  
10 know that site 11 and 12 were really considered by OP in their  
11 report. That our concerns weren't addressed.

12 CHAIRPERSON HOOD: So Ms. Ambrose. So Ms. Ambrose. As  
13 Commissioner May has already mentioned, this is the time to ask.  
14 If they need to do an addendum, then they can do it. This is the  
15 time to put your concern in a question format, not in a  
16 presentation format, in a question: Ms. Brown-Roberts, did you  
17 consider sites 11 and 12? Ms. Brown-Roberts, I don't see in your  
18 report --

19 MS. AMBROSE: Okay.

20 CHAIRPERSON HOOD: Okay. Something like that.

21 MS. AMBROSE: Very good. Thank you, Chairman. So let  
22 me ask you then Ms. Brown-Roberts, did you look at site -- did you  
23 consider the impacts on site 11 and 12? How did you go about  
24 doing that and what were some of your conclusions?

25 MS. BROWN-ROBERTS: Yes. Site 11 is an academic

1 building. It is setback, I think, a minimum of 60 feet from the  
2 roadway and it has -- the Applicant has provided some plans about  
3 additional landscaping and buffering there. No. 12 is more  
4 internal to the site which would be a residential building and so  
5 we think that that again is setback internal to the site and so  
6 yes, you know, we may have not have detailed it in our report but  
7 I think from the location and the uses is how they go about  
8 minimizing the impacts.

9 MS. AMBROSE: Do you realize that site 11 is supposed to  
10 have Campus Life on the ground floor?

11 MS. BROWN-ROBERTS: Possibly. Uh-huh. Yes.

12 MS. AMROSE: Again across from low density residential  
13 neighborhood. One thing I wanted to ask about was the plans to --

14 MS. BROWN-ROBERTS: Uh-huh. No, I was going to say, I  
15 mean I think that is why we had asked the -- that we had requested  
16 that the Applicant provide some, the retail study to see exactly  
17 what is going to go there and how, you know, what would be the  
18 impact on that.

19 MS. AMBROSE: Thank you. And the heights as well. We  
20 have also asked the Applicant in the past for heights more than  
21 stories, but rather in feet.

22 Actually, speaking of scale, on page 7 under University  
23 Development Program, you do note the square footage of the two  
24 different buildings but they're in net. It reflects net square  
25 footage rather than total GFA, and again, I just think that's a

1 little bit -- it doesn't give the true dimensions of the buildings  
2 because you're obviously at net, you're factoring in the buildings  
3 that are being replaced. So the size is actually larger than  
4 108,000 and 110,000 square feet. Do you see what I'm saying?

5           Anyway, now one thing is is that corner you plan to, the  
6 Applicant wants to demolish the low-rise buildings Clark, Roper,  
7 Gray, and McCabe from the 1950s and I'm curious. You say that  
8 these don't have any, don't rise to any level of historical  
9 significance. How is it that you determine that for these four  
10 buildings?

11           MS. BROWN-ROBERTS: Those were the sites of historic  
12 preservation before, prior to them if, you know, they would have  
13 to get a permit to demolish those buildings.

14           MS. STEINGASSER: David Maloney, our State and Historic  
15 Preservation Officer is also here with us this evening. I'm going  
16 to ask if he could jump in and answer that.

17           MS. AMBROSE: Thank you.

18           MR. MALONEY: Thank you. This is David Maloney. If you  
19 could repeat the question, please? I have to admit, I was not  
20 paying 100 percent attention.

21           MS. AMBROSE: It's quite all right, David. No, I was  
22 asking about how the Office of Planning determined that the four  
23 low rise mid-century buildings Clark, Roper, Gray and McCabe did  
24 not appear to rise to the level of historic significance because  
25 these, in the proposed plan, these will be demolished to make room

1 for much larger buildings.

2 MR. MALONEY: Yes. That's correct and we made this  
3 analysis on the basis of survey work that AU did with our  
4 cooperation in consultation with us during the preparation of the  
5 existing Campus Plan, must have been 2010 or 2011. AU did have a  
6 consultant that evaluated the campus and identified the buildings  
7 which at the time based on a reconnaissance level survey of the  
8 campus judged the various buildings, compared the buildings and  
9 identified the ones that appeared to be the most significant. So  
10 that is the basis upon which we have informally been moving  
11 forward with AU as it continues to work on campus projects and  
12 that survey did not identify those four buildings as particularly  
13 significant.

14 MS. AMBROSE: Well I was just curious because they're,  
15 you know, they were -- they were, the architect was Waldron  
16 Faulkner, Faulkner, Kingsbury & Stenhouse and that's a noted old  
17 local Washington -- actually I understand, I found out later that  
18 they designed about 19 of the buildings on the AU campus and  
19 including the East Quad, and they did other things like the Lisner  
20 Auditorium, the Brookings Institution, the Madeira School, various  
21 hospitals like GW and -- so I was just curious how, but I would  
22 hope that if the OP does a historical review of all the properties  
23 on campus that before these are actually demolished that maybe you  
24 take a look at them one more time. But -- yes, sorry.

25 MR. MALONEY: No. I didn't know whether that was a

1 question or not, if you wanted me to respond to that.

2 MS. AMBROSE: Please do.

3 MR. MALONEY: Yes. You're correct that this is a well-  
4 known Washington firm from the mid-century and you're correct also  
5 that they did many of the buildings on the campus. Certainly with  
6 any architect, either an ordinary architect or a very well-known  
7 architect, some of their buildings are more important than others.  
8 Some are more distinguished than others, some are just simply more  
9 important because of the nature of what the building is.

10 So, for example, in this situation as you stated, one of  
11 the buildings that this firm did was the East Quad building and  
12 that building in comparison to these four dormitory buildings is I  
13 think the more important in terms of its architectural pretention,  
14 if you will, the level of development as a significant building on  
15 the campus and simply by virtue of its location on the main quad.  
16 So that's one of the things that made that building more important  
17 in terms of preservation as opposed to these buildings.

18 The same thing could be said perhaps about the high-rise  
19 dormitories which are more prominent on the campus. Again, more  
20 developed architecturally in some ways than these buildings and so  
21 that may be buildings of the same firm that are -- that rise to a  
22 higher level than the four buildings do. One of the things though  
23 that's also important about a recommendation is that we are  
24 recommending that the campus undertake further research on the  
25 campus in order to support this type of decision-making. But

1 based on the fact that this was proposed as a development site we  
2 needed for the purposes of this Campus Plan, I think to look  
3 carefully enough and I think we feel confident in saying that  
4 based on the information that we do have from the record these are  
5 not among the most significant buildings on campus or ones that we  
6 would think that we would (audio interference) as for preservation  
7 when AU does further research and develop a more detailed campus  
8 preservation plan.

9 MS. AMBROSE: Okay. So when you mentioned other dorms,  
10 high-rise dorms that are more significance I guess you're  
11 referring to Hughes, McDowell and Leonard?

12 MR. MALONEY: Correct.

13 MS. AMBROSE: Okay.

14 MR. MALONEY: I'm not saying that they do have, they may  
15 have.

16 MS. AMBROSE: I think I would appreciate from Office of  
17 Planning to kind of revisit our particular site and maybe add an  
18 addendum or something. Other than that, that's all the questions  
19 I have of Planning. Thank you very much for your patience and  
20 your attention.

21 CHAIRPERSON HOOD: Okay. Thank you, Ms. Ambrose. And  
22 Office of Planning, I would ask that you also honor her request,  
23 so we make sure we covered all angles, especially with her  
24 concerns. So I would really appreciate that.

25 MS. BROWN-ROBERTS: Yes, Mr. Chairman.

1 CHAIRPERSON HOOD: Okay. Thank you. Let's not make this  
2 part of it the worst part of the hearing. Let's make this the  
3 easiest part. I plan on going, and I'm asking my colleagues now,  
4 I plan on going to 9 o'clock unless I hear an objection, or did  
5 somebody want to go even later? I can go to 11. But I plan on  
6 going to 9. Let me hear from my colleagues. Any objections to 9  
7 or would you like to go later? Vice Chair Miller, let's start  
8 with you.

9 VICE CHAIR MILLER: I'm happy to go to 9 or later, Mr.  
10 Chairman. I'm here to hear.

11 CHAIRPERSON HOOD: Okay. Commissioner Turnbull. You're  
12 on mute, Commissioner Turnbull.

13 COMMISSIONER TURNBULL: I am here at your beck and call.  
14 Whatever you wish, I'll do.

15 CHAIRPERSON HOOD: Okay. Let me go to -- I'm sure this  
16 --

17 COMMISSIONER TURNBULL: Within reason.

18 CHAIRPERSON HOOD: -- Commissioner May. Commissioner  
19 May, 9 or later or 8?

20 COMMISSIONER MAY: 9 is fine. I could go later. I  
21 certainly don't want to go past 10 because that's my bedtime.

22 CHAIRPERSON HOOD: I seem to remember 10 o'clock when  
23 we're in the hearing room. Now I know that's the time to stop.  
24 Okay.

25 COMMISSIONER SHAPIRO: Mr. Chair, I'll follow -- I'll

1 follow your lead as well.

2 CHAIRPERSON HOOD: Okay. All right. Also we're getting  
3 ready to go to -- what I plan on I would like to finish, I don't  
4 know how many people -- I better not say this, but I would like to  
5 finish all the way up until we get to the next meeting, next  
6 hearing we're going to have will be rebuttal. Then I'd like to  
7 start at rebuttal, so that tells you how much we're trying to  
8 accomplish or that depends on what we do now with the ANC, the  
9 parties in opposition and cross-examination. So I think of all  
10 that's set out that we can finish everything and then we'll start  
11 with the Applicant at our next hearing at rebuttal. But if we  
12 fall short then at least we've aimed high. So what I'd like to  
13 do, Ms. Schellin, is to see where we are.

14 MS. SCHELLIN: I believe Ms. Ambrose has questions for  
15 DDOT. She just did OP.

16 CHAIRPERSON HOOD: Ms. Ambrose, did you have questions  
17 for DDOT?

18 MS. AMBROSE: Well, it was just a clarification matter  
19 of Mr. Van Houten.

20 CHAIRPERSON HOOD: Okay.

21 MS. AMBROSE: Is Mr. Van Houten on the phone? I mean on  
22 the --

23 CHAIRPERSON HOOD: Yes, Ms. Ambrose. He's waiting on  
24 your question.

25 MS. AMBROSE: Oh, okay, okay. Yes. It was about --

1 | actually I raised this issue last week with Iain Banks at Nelson  
2 | Nygaard, but it's about the statistics that were used for the  
3 | annual average daily traffic and they looked at from 2008 to 2017  
4 | and from that it was concluded in the CTR that traffic on Nebraska  
5 | Avenue has actually gone down by 17 percent in the last decade.  
6 | Now, we looked at some -- we looked at the daily traffic volume  
7 | maps for that ten-year period or actually eleven-year period and  
8 | we found something very strange that, you know, on average it was  
9 | about 28,000/29,000 annually and then for some reason in 2017 it  
10 | dropped down to 24,000 and then, you know, it's just very strange.  
11 | And what we also did we looked at other feeders into Nebraska  
12 | from, you know, Foxhall and different ways, roads, and we looked  
13 | at Chain Bridge Road and again their normal volume was 30,000 and  
14 | then in 2018 it dropped to 20,600.

15 |           So my first question is, is there any -- do you know any  
16 | explanation why this happened in 2018? Why it seemed to be an  
17 | anomaly compared to prior years, traffic volume both on Nebraska  
18 | Avenue and also Chain Bridge, crossing Chain Bridge to Canal Road?

19 |           MR. VAN HOUTEN: I don't have their CTR in front of me  
20 | at the moment as far as what data they used. We have publicly  
21 | available data on our website that for average annual daily  
22 | traffic that they may have used. They may have used some other  
23 | data. As far as why one year might be lower than the other,  
24 | there's a number of reasons that that could potentially be. I  
25 | wouldn't really speculate. I'm not the expert on overall traffic

1 trends in DDOT. So I don't really have an answer for you as far  
2 as that.

3 MS. AMBROSE: Yes. It's just that a number of us live  
4 on Nebraska Avenue and we find it very hard to believe that  
5 traffic's gone down by 17 percent in the last decade. But also --

6 MR. VAN HOUTEN: Well (audio interference) --

7 MS. AMBROSE: -- also just causes us to be a little bit  
8 skeptical of some of the statistics of the calculations based on  
9 statistics used in -- through some of the CTR. And also, I did  
10 want to ask when will DDOT have traffic volume data for 2019?

11 MR. VAN HOUTEN: I don't know. I would have to check  
12 with our team that releases that information.

13 MS. AMBROSE: Great. Can I get back to you on that,  
14 please? I have your -- I have your contact info from other  
15 events.

16 MR. VAN HOUTEN: Yes. It may or may not come during  
17 this -- for these proceedings and we wouldn't hold up the AU  
18 Campus Plan waiting for --

19 MS. AMBROSE: Of course. Of course.

20 MR. VAN HOUSTEN: -- those counts. But yes, you're  
21 welcome to follow up with me.

22 MS. AMBROSE: Thank you very much. Thank you, Chairman  
23 Hood.

24 CHAIRPERSON HOOD: Okay. Thank you, Ms. Ambrose. So I  
25 think -- I don't want to leave out any parties. I know we have to

1 | hear from the party in support as well, but we're going to go to  
2 | ANC and let me see what my course of action is. And I think other  
3 | government reports; I know that we did mention DDOE. I think  
4 | that's -- more information is forthcoming I believe. Office of  
5 | Planning is working on that. I don't think we have any other  
6 | government reports unless my colleagues are somehow missing  
7 | something. I looked through the record, I didn't -- I may have  
8 | overlooked it, but I didn't see it.

9 |           First, we're going to have ANC 3D and then we're going  
10 | to have 3E and to the best of my knowledge, 3D has a PowerPoint.  
11 | So while they're getting set up and then -- while they're getting  
12 | set up, I'm going to take a -- if we can take a three-minute break  
13 | and stretch our legs and whatever, get some water, whatever. Let's  
14 | take a three-minute break and we'll come back in three minutes.

15 |           (Whereupon, there was a three-minute recess and the  
16 | matter reconvened.)

17 |           COMMISSIONER MCHUGH: Yes. It can be just -- there are  
18 | two questions but they're not real questions.

19 |           CHAIRPERSON HOOD: No, that's fine, that's fine. But  
20 | I'm going to give you that opportunity --

21 |           UNIDENTIFIED SPEAKER: And I'm here, Mr. Chair.

22 |           CHAIRPERSON HOOD: Okay. All right. Can we bring --

23 |           MS. SCHELLIN: He's on.

24 |           CHAIRPERSON HOOD: -- Mr. Van Houten? Okay.

25 |           MS. SCHELLIN: He's on.

1 CHAIRPERSON HOOD: Mr. McHugh, you can go ahead and ask  
2 your question.

3 COMMISSIONER MCHUGH: Okay.

4 CHAIRPERSON HOOD: Your question.

5 COMMISSIONER MCHUGH: Well it's -- we all set? Okay.  
6 The question is, well two questions. One is the Ward Circle level  
7 of service is so bad. What's the reasons for that low rating on  
8 Ward Circle? I mean is it volume, is it accidents? What are the  
9 reasons for the low level of service?

10 MR. VAN HOUTEN: It's explained -- I mean level of  
11 service is basically a measure of delay of an intersection and in  
12 the Applicant's CTR they say for existing conditions that Ward  
13 Circle is LOFE, I believe.

14 COMMISSIONER MCHUGH: Right.

15 MR. VAN HOUTEN: So -- so that's, but that's the only  
16 intersection in existing conditions that is in that E or F  
17 territory and why that's important is if there's an intersection  
18 that isn't E and F in existing conditions but due to the  
19 Applicant's impacts through what they're proposing if something  
20 becomes E or F, then they're required to do some mitigation to  
21 offset that.

22 COMMISSIONER MCHUGH: Right. No, it's more  
23 clarification. Like, is it just volume or is it also like  
24 pedestrian safety and traffic accidents, occurrence of traffic  
25 accidents or is it just volume?

1 MR. VAN HOUTEN: It's mainly just delay, so.

2 COMMISSIONER MCHUGH: Okay, okay. The other question is  
3 this is more towards Ms. Gates's question too about the rideshare  
4 issues of drop-off, mostly drop-offs, pick-ups not so much. What  
5 are the alternatives DDOT is willing to consider? I know we at  
6 some point had thrown out the idea of putting a drive-in drop-off  
7 or something like that. Other than -- there's got to be some  
8 other ways of solving this that may or may not involve curb cuts  
9 or something else. What -- are there alternatives that you're  
10 considering?

11 MR. VAN HOUTEN: We wouldn't consider any alternatives  
12 that have, you know, a lay-by or a space that would just be a curb  
13 cut that would just be for drop-off. I think we would want to  
14 explore other options.

15 COMMISSIONER MCHUGH: Okay.

16 MR. VAN HOUTEN: The ones that we would really want are  
17 having the university encourage those services to -- and encourage  
18 their students and their staff and their visitors, to arrange for  
19 a location on campus to do pick-up and drop-off especially. You  
20 know, we're also open to have technology come forward with those  
21 services if there are more other options but having a curb cut is  
22 something just for drop-off, that's not something that we want to  
23 consider.

24 COMMISSIONER MCHUGH: Okay. Okay, thank you, Mr. Chair,  
25 I appreciate it. That's it.

1 CHAIRPERSON HOOD: Okay. Thank you. Thank you both.  
2 Okay. I believe Mr. Elkins is going first. And let me just say  
3 that if I, myself and my colleagues have our camera off, we're  
4 listening, and we don't -- and I'll be frankly honest, I don't  
5 want to chew in front of you so hopefully that's not impolite but  
6 hopefully you understand. So thank you. Mr. Elkins, you may  
7 continue. You may begin.

8 COMMISSIONER ELKINS: Chairman Hood and members of the  
9 Zoning Commission. My name is Chuck Elkins. I've lived at 4505  
10 Lowell Street Northwest since 1987. I'm an Advisory Neighborhood  
11 Commissioner for single member district 3D01 which is Wesley  
12 Heights including Westover Place, which immediately adjoins  
13 American University's main campus. And during 2019 and 2020, I  
14 served as an ANC 3D representative on the AU Neighborhood  
15 Partnership Steering Committee. I also served as chairman of the  
16 full ANC 3D Commission and in that role, I was the principal  
17 author of the letter dated November 4th, 2020 which provided your  
18 Commission with ANC 3D's recommendations with regard to the AU  
19 Campus Plan.

20 American University's plans for the future are very  
21 important to our Commission because the university's main campus  
22 is almost entirely surrounded by our Commission's district  
23 including in particular Spring Valley and Wesley Heights.

24 Because I know you have either already read or will  
25 carefully read the ten-page letter our Commission approved in

1 November, my testimony today will not focus on the seven issues in  
2 which we reached conclusions or on the eight changes to the final  
3 plan that the university made at our request, all of which are  
4 detailed in that letter. The one exception to that is the  
5 question of should there be an undergraduate enrollment cap, an  
6 issue that seems to be front and center for this hearing.

7 I have completely rewritten my oral history that I --  
8 testimony that I planned to give last week because I then read the  
9 surprise arguments and the submissions of the parties in  
10 opposition last week and in these submitted statements I read  
11 about the history of the development and review of this Campus  
12 Plan, a history that is not consistent with my memories or the  
13 documented facts. I therefore first want to bring to the  
14 Commission's attention a number of documents that bear on this  
15 history. These are all publicly available documents. I've listed  
16 their website locations at the end of my slides; however, if the  
17 commission would like me to submit copies of these documents for  
18 the record, I would be happy to do so.

19 The opposing parties argue among other things that the  
20 Partnership should not have been created in the first place. If  
21 you could hold the slides, please. The opposing parties argue  
22 among other things that the Partnership should not have been  
23 created in the first place because the university's Community  
24 Liaison Committee was working well and that if it nevertheless had  
25 to be created, it should have been created as a sub-group of the

1 CLC. In addition, they argue that, as constituted, the  
2 Partnership inappropriately excluded 11 neighborhood and homeowner  
3 associations and then operated under gag rules that kept the rest  
4 of the community in the dark. The result was that the CLC was not  
5 consulted they argue in the development of this Campus Plan and  
6 the Zoning Commission should not approve this plan but instead  
7 send this plan back to the CLC for review. Next slide, please.  
8 Next slide, please. I'm sorry. Ms. Schellin, I don't seem to be  
9 getting the slide changes.

10 MS. SCHELLIN: Paul, there we go.

11 COMMISSIONER ELKINS: There we are. Thank you very  
12 much. Okay. So let's look at each of these arguments I've just  
13 laid out, a summary of some of the opposing parties and look at  
14 them in order. So the first one is the effectiveness of the CLC,  
15 and here you see that the NLC has argued that CLC operated very  
16 effectively under the establishment of the Partnership and  
17 surprised to see -- I think it should say until the establishment  
18 of the Partnership, sorry, if that's a typo -- and surprised the  
19 CLC worked, not always perfectly, but it worked until there was a  
20 change in university administration. Now I would suspect that  
21 these statements sound a little strange to the Commission because  
22 you heard exactly the opposite from these same individuals at a  
23 hearing on July 14th, 2016 concerning the 2011 Campus Plan. That  
24 was Case 11-07 and the further processing.

25 So next slide, please. This is Exhibit 39 in Case 11-

1 07F. It's dated December 8th, 2016 and it's signed by Mr. Thomas  
2 Smith as Chairman of the ANC 3D and it reports what happened at  
3 the Zoning Commission on July 14th resulting in your asking the  
4 American University to work with neighbors to improve the  
5 relationship between the university and the community. The letter  
6 starts with a description of what was said at the July 14th  
7 hearing and what these parties thought about the lack of the  
8 effectiveness of the CLC.

9           So next slide, please. You can see that in this  
10 document Mr. Smith said that both the ANC 3D and the Spring Valley  
11 Wesley Heights Citizens Association testified at the hearing that  
12 the CLC had failed to function as an adequate forum for the  
13 discussion and resolution of neighborhood issues associated with  
14 American University as it was intended when it was established in  
15 the 2011 Campus Plan, and I would just add personally that these  
16 views from these gentlemen expressed at this hearing in July were  
17 widely shared among other CLC members. This ANC 3D letter to the  
18 Zoning Commission goes on to report that ANC 3D and the Spring  
19 Valley Wesley Heights Citizens Association had negotiated an  
20 agreement with Linda Argo, Vice President of American University  
21 and that they had decided to establish a neighborhood  
22 collaborative, and this is what they said.

23           Next slide. "We welcome -- we believe the neighborhood  
24 collaborative has the potential to address issues before they  
25 become chronic problems if the emphasis is on neighbors working

1 directly with American University free of the politics that  
2 characterizes the CLC which in large part stems from its overall  
3 structure and operations." So clearly, these two parties felt as  
4 early as 2016 that the CLC was not working well and needed to be  
5 supplemented with a neighborhood collaborative. In other words,  
6 this CLC dysfunction was a reality in 2016 and brought to the  
7 attention of this Commission and did not, again as is now alleged  
8 in the current submissions, only after AU's management changed  
9 which was much later.

10 So was this neighborhood collaborative to be a sub-group  
11 of the CLC as argued by these opponents or was it to be separate?  
12 While these documents talks about a collaborative, the name of the  
13 organization of course was changed after the first few months from  
14 collaborative to partnership, so this discussion I'm going through  
15 is directly related of course to the partnership that we're now  
16 talking about in this hearing.

17 So next slide, please. Here's what the parties in  
18 opposition say in their papers about the relationship between the  
19 partnership, the collaborative to the CLC. The partnership which  
20 had its genesis as a collaborative sub-group of the CLC, when  
21 instead of being a CLC sub-group, the partnership would be a  
22 separate group led by the university and relevant ANCs. Now I  
23 would note in passing that contrary to what is stated here, the  
24 partnership was not initially led by any ANC commissioner. It was  
25 co-chaired by the -- in the first half of its life not by an ANC

1 commissioner, but by the president of the Westover Place Homes  
2 Corporation, Ms. Claire Craik. So does this December letter from  
3 the ANC shed any light on this argument that the partnership was  
4 intended to be part of the CLC?

5 Next slide, please. Here we have attached to Mr.  
6 Smith's letter that we've been discussing, the actual agreement,  
7 this is one page from it, signed by Linda Argo, Mr. Tom Smith and  
8 Dr. Jeffrey Kraskin. You can see their signatures there at the  
9 bottom. Now this letter does not say that the collaborative is to  
10 be a sub-group of the CLC but instead it says -- next slide.

11 The work of the neighborhood collaborative will be  
12 shared with the community liaison committee at its regularly  
13 scheduled quarterly meetings and/or through the CLC Listserv.  
14 Note that it says, "will share its work with the CLC." It doesn't  
15 say it will report to the CLC. And then going back to the text of  
16 the ANC letter itself -- next slide, please.

17 (Loss of audio connection.)

18 CHAIRPERSON HOOD: Let's give Mr. Elkins a chance to  
19 come back. I think he needs to reboot.

20 (Pause.)

21 CHAIRPERSON HOOD: Mr. Turnbull, can you hear me? Can  
22 you hear me? Okay. I see you. I'm just making sure it wasn't  
23 me. Okay. I can't hear you now.

24 MS. SCHELLIN: It was him because it said low bandwidth  
25 on his screen.

1 CHAIRPERSON HOOD: Okay. But now I can't hear Mr.  
2 Turnbull. Okay. You can hear me? Okay. I can hear you, Ms.  
3 Schellin. Okay. Well, we'll just take a moment. I'm sure he's  
4 trying to reboot.

5 (Pause due to technical difficulties.)

6 CHAIRPERSON HOOD: Okay, Mr. Elkins. Whenever you're  
7 ready, you may begin.

8 COMMISSIONER ELKINS: Hello.

9 CHAIRPERSON HOOD: We can hear you.

10 COMMISSIONER ELKINS: I apologize if it was my computer,  
11 I don't know. Okay. So I left off where I was talking about  
12 whether the collaborative that was going to be a sub-group of the  
13 CLC and you notice that it says it will share its work with the  
14 CLC, it doesn't say it will report to the CLC. And then going  
15 back to the where we have now on the slide on the -- on the  
16 screen, this is the main letter from the ANC specifically  
17 testimony stressed for the voice of the community associations  
18 representing residents living immediately adjacent to AU have been  
19 diluted by the operations and the structure of the CLC because CLC  
20 membership including a wide range of organizations including a  
21 Smart Growth advocacy organization which had no stake in how AU  
22 operations impacted its immediate neighbors. So all of these  
23 statements I've just gone through are not definitive as to the  
24 fact that the collaborative would be separate from the CLC. They  
25 certainly suggest that the collaborative would not be managed by

1 the CLC because it's got all these other organizations and that  
2 the collaborative would operate separately and independently.

3           So let's turn to the next slide and turn to the  
4 membership of the Partnership and the exclusion of other parties.  
5 The parties in opposition argue that the AU's Partnership left 11  
6 neighborhood and homeowners' associations out of the process whose  
7 memberships were impacted by AU's neighborhood presence. They  
8 left them out of the equation. So here they're talking about the  
9 11 other members of the CLC. But the collaborative was  
10 specifically designed to leave these organizations out to  
11 distinguish it from the CLC. Here's what the agreement that the  
12 Spring Valley Wesley Heights Citizens Association and the ANC 3D  
13 signed with AU.

14           Next slide, please. The mission of the neighborhood's  
15 collaborative would specifically be intended to address issues of  
16 concern from neighbors who live immediately adjacent to the Main  
17 Campus. The neighborhood collaborative will be expected to  
18 address, at a minimum, issues related to enrollment, student  
19 housing facilities, planning, parking, transportation, student  
20 conduct as well as other matters that may assist in planning for  
21 the next Campus Plan. So clearly the focus was on neighbors  
22 immediately adjacent to the Main Campus, not on some of the other  
23 neighborhoods represented on the CLC such as the, for instance,  
24 McLean Gardens over near Wisconsin Avenue or Sutton Place  
25 Condominiums located several blocks away from the university on

1 New Mexico Avenue. But Spring Valley Wesley Heights Citizens  
2 Association still thinks that the partnership operates too  
3 exclusively.

4 So next slide. They said that the partnership functions  
5 as an exclusive self-selected and self-perpetrating club that  
6 excludes anybody who may even potentially subject the university  
7 to reasonable scrutiny. This sentence does not describe the  
8 Partnership I know. Let's see whom Mr. Smith and Dr. Kraskin had  
9 in mind in terms of who the membership should be when they  
10 originally designed the collaborative.

11 Next slide, please. The neighborhood will be composed  
12 of representatives from Spring Valley Wesley Heights Citizens  
13 Association, Neighbors for a Livable Community, Fort Gaines  
14 Citizens Association, Westover Place Homes Corporation, Tenley  
15 Campus Neighbors Association, Tenley Neighbors Association and  
16 representatives of ANC and 3D who represent neighbors immediately  
17 adjacent to the Main Campus to the extent they wish to  
18 participate.

19 Now it's true that the Partnership Standing Committee  
20 membership did not end up matching exactly what was suggested  
21 there for the collaborative. Let's talk about why that is. I'll  
22 focus on the most important difference, the absence of the Spring  
23 Valley Wesley Heights Citizens Association and the Neighbors for a  
24 Livable Community. The fact is we wanted them to join the  
25 Partnership. Numerous entreaties went out to Mr. Thomas Smith and

1 others to join the group as it was forming. Tom, who was  
2 associated with both organizations as well as the other leaders,  
3 repeated -- refused repeatedly to join. Finally, my neighborhood  
4 colleagues deputized me to enter into negotiations with Tom to try  
5 to persuade him and his colleagues to at least come to the table  
6 with my colleagues and discuss the Partnership and how it might  
7 operate. These negotiations went on between Tom and me for about  
8 a month and I thought with just one more phone call with Tom it  
9 would allow us to get the date of the meeting set. But then Tom  
10 contacted me and said something to the effect of "Chuck, I just  
11 can't deal with your people" and he called off the negotiations.  
12 I was really disappointed, but we therefore decided to ahead  
13 without gaining the membership of both organizations in the  
14 Partnership Steering Committee.

15           Later, by adding a new association that had formed in  
16 Spring Valley, the Spring Valley Neighborhood Association, the  
17 Partnership Steering Committee, which is the managing group for  
18 the partnership, now had members from every neighborhood bordering  
19 on the Main Campus of the university which was the original  
20 intent. That is Wesley Heights, Fort Gaines, the Massachusetts  
21 Avenue Condos, the Spring Valley Association, so a complete circle  
22 around the university and Ward 3 Vision was added as the one CLC  
23 member which was not geographically based.

24           So, so far, I've been talking about the membership of  
25 the Steering Committee for the Partnership. However, most of the

1 work gets done and most of the decisions are made not in the  
2 Steering Committee, but in the working groups. There are working  
3 groups on facilities, planning, student life and safety,  
4 transportation and parking, data and metrics and engagement and  
5 communications. Neighbors from all over the community were then,  
6 and are now, invited to join the working groups. These working  
7 group members do not need to represent a specific organization.  
8 They are asked to sign up for a year in order to provide some  
9 continuity to working groups and to agree with the operating  
10 ground rules. The Spring Valley Wesley Heights Citizens  
11 Association and the Neighbors for a Livable Community refused to  
12 join even these working groups.

13           Spring Valley Wesley Heights Citizens Association and  
14 Neighbors for a Livable Community would have you believe that they  
15 were excluded from the Partnership Steering Committee along with  
16 nine other CLC members. But after you have been asked to join an  
17 organization and you have refused to join either the Steering  
18 Committee or the working groups, is it fair to say that you were  
19 excluded? I think not. In contrast, McLean Gardens was  
20 intentionally excluded from membership on the Steering Committee  
21 since they were located far away from the Main Campus. However,  
22 the representative of McLean Gardens, Kathy Silva, was an active  
23 and important member of the student life working group as that  
24 working group weighed in heavily in the development of the Campus  
25 Plan. But the opposition parties still argue that the ground

1 rules that the partnership operated under are unacceptable. They  
2 are equivalent to a gag rule.

3           Next slide, please. They say particularly onerous was  
4 that the AU Partnership developed guidelines often referred by  
5 some in the neighborhood as the "gag rule" in which information  
6 shared in their meetings could not be shared more broadly even  
7 with fellow board members or the membership in general. So let's  
8 examine those ground rules which have governed how these working  
9 groups have operated. Is there a gag rule?

10           Next slide, please. This is a picture of the document  
11 called the American University Neighborhood Partnership Terms of  
12 Reference and Ground Rules. The ground rules for the Partnership  
13 are contained in this document dated June 20th, 2018 and while  
14 they're labeled as a draft, this document became the operable  
15 version as of that date and continues to be so to this day. So I  
16 want to Call your attention to the only components of these ground  
17 rules that could possibly be interpreted as a gag rule. They were  
18 all under the section dealing with working groups.

19           Next slide. So here we are under Section 4 Working  
20 Groups' Responsibilities, Composition and Meetings --  
21 Confidentiality. Members are expected to keep proprietary  
22 information confidential if the group has been asked to do so by  
23 AU or if there's a consensus among the working group members to do  
24 so. Now taken alone, this section looks pretty strict. However,  
25 the reality is that I don't remember being asked by AU or others

1 to keep any data confidential. Perhaps others can, but if so, any  
2 such request was very rare. However, there were times when AU  
3 would distribute a draft document to the Steering Committee  
4 members or the working groups and asked the member not to share it  
5 until we had a chance to meet and discuss it in a meeting. That  
6 kind of request is certainly a normal one when working groups are  
7 going through draft materials for the first time. So although  
8 this provision looks forbidding, in fact it had no significant  
9 impact on communications by the working group members with other  
10 non-working group people about the partnership's work and this is  
11 borne out by the other provisions of the ground rules.

12           Next slide. This one deals with outside communications.  
13 As a general rule, members are expected to refrain from quoting,  
14 characterizing or judging the statements or views of their fellow  
15 working group members or appearing to speak for the work group  
16 when discussion of the working groups' activities outside of the  
17 working group. Working members are free to discuss what they  
18 personally have said in the working group with the exception of  
19 all information that is deemed confidential. So here you see that  
20 we wanted to protect individual members of the working groups from  
21 being quoted, potentially out of context, and to make sure that  
22 individual working groups' members should, you know, be careful  
23 not to appear to be speaking for the whole working group. Once  
24 again, these are just normal rules of courtesy for one's fellow  
25 members in any working group, and I'm told these are the same

1 kinds of provisions you find in the Georgetown Partnership. But  
2 next and most important is the next slide.

3           The third portion of these provisions, as I said, these  
4 are the three provisions that could possibly be interpreted as a  
5 gag rule in these provisions. It says, "Members of the work group  
6 may from time to time wish to reach out to their constituents to  
7 garner reactions and understandings of impact. Prior to weighing  
8 in on final recommendations, members are encouraged to share  
9 options respecting any proprietary information that's  
10 confidential." So you can see that rather than subject to a gag  
11 rule, members of the working groups were encouraged to reach out  
12 to other community members for the express purpose of getting  
13 their reactions and concerns before coming back to try to reach  
14 agreement with other working group members. So in short, there is  
15 no gag rule, there never has been one and this complaint appears  
16 to be - to have all the trappings of a made-up excuse not to join  
17 the Partnership's working groups or the Steering Committee.

18           So let's go back through the arguments -- next slide,  
19 that the opposing parties have advanced that I've covered so far.

20           First of all, the argument that the Partnership should  
21 not have been created because the CLC was working well. These  
22 parties' own words before this Commission made the opposite case,  
23 and remember we're talking about the same period of time.

24           No. 2, the collaborative partnership had been recently  
25 designed as sub-group of the CLC. The wording of the letter to

1 | this Commission signed by Mr. Smith supports the opposite  
2 | conclusion.

3 |           As -- and third argument, as constructed the Partnership  
4 | excluded 11 neighborhood and homeowners' associations. Yes,  
5 | that's true and most of those organizations were excluded  
6 | intentionally as recommended by Mr. Smith in his December 2016  
7 | letter in order to focus on the neighbors immediately impacted by  
8 | the Main Campus and the board having its work diluted by the  
9 | larger membership of the CLC, and if these two organizations had  
10 | accepted our invitation, they would have been members as well --  
11 | that is Spring Valley and Neighbors for a Livable Community.

12 |           The Partnership -- finally -- the final argument is the  
13 | Partnership has operated under gag rules that have kept the rest  
14 | of this community in the dark. There's not been a gag rule either  
15 | in the wording of the terms of reference or ground rules nor in  
16 | practice. So this is a red herring.

17 |           Next slide. So I want to turn next to an important  
18 | issue here because these -- about whether the CLC was adequately  
19 | consulted because these opposing parties are arguing that you  
20 | should send this back to the CLC.

21 |           I want to start by addressing what the process was that  
22 | the opposing parties said they were not part of. The best analogy  
23 | I can think of for how AU went about the development of this  
24 | Campus Plan is federal rulemaking under the Administrative  
25 | Procedure Act. Since this is the home of the Federal government,

1 I'm sure most people are familiar with the model. First, a  
2 proposal is developed. It's put out for public comment. The  
3 government reviews each comment and makes the necessary changes  
4 and then puts out a final rule.

5           So under that model, AU first had to develop a proposal.  
6 The proposal that they developed first took the form of a  
7 preliminary draft of a very detailed outline for the Campus Plan  
8 which AU called the framework. With this in hand, in March 2020,  
9 AU asked both the members of the Partnership's working groups and  
10 the members of the CLC simultaneously what they saw wrong with it.  
11 After a couple of months of discussion and making many changes, AU  
12 developed a final draft framework and then asked the Partnership  
13 in May 2020 whether it was the members' consensus that this  
14 framework was ready for review by the larger community. The  
15 partnership said yes. One might think in reading the opposing  
16 parties' statements that once the partnership said yes, the Campus  
17 Plan was a done deal and that no changes were made, when in fact  
18 changes were made in response to comments received after the  
19 framework was published. Just as an example, our ANC November 4th  
20 lists eight changes that we requested be made in the plan and AU  
21 agreed to them.

22           The publication of a draft framework in June made  
23 possible the kick-off of an even more robust stage of the  
24 community engagement and review process. AU published the  
25 framework for review by the entire community while they worked on

1 writing the actual draft Campus Plan. The framework document,  
2 although not as complete as a Campus Plan, was very detailed and  
3 therefore gave the public at this early stage a clear idea of what  
4 AU would like to include in the forthcoming Campus Plan. Let's  
5 take a look at the extent of this engagement process.

6 Next slide, please. Here I have listed a number of  
7 events starting in December 2019 through March of this month --  
8 2021, and in this version of this slide I have highlighted in red  
9 all the meetings that involve the CLC, the CLC that the opposing  
10 parties say was not consulted and therefore needs to have a chance  
11 to be consulted and you should send it back to them. Notice in  
12 December 2019, AU showed the possible building sites and said that  
13 the cap would be on the tennis courts. Then after the framework  
14 was -- draft framework was published in March of last year, there  
15 were two special meetings of the CLC that would -- did nothing  
16 except deal with this framework, two full meetings. Then there  
17 was the meeting in June of the CLC when they had the new draft of  
18 the framework. Then in August, a special meeting again was  
19 scheduled for the CLC on the framework. In September there was a  
20 CLC meeting that dealt with the draft Campus Plan but because by  
21 that time the Campus Plan draft had been published. Then in  
22 December there was a CLC meeting and then March 2021. So this is  
23 the CLC that was not consulted apparently by -- according to the  
24 opposing parties.

25 Next slide, please. Now this is the same calendar I

1 just showed you, but I've highlighted what the ANC did in parallel  
2 here. In late June with the framework in hand, the ANC announced  
3 that at our July meeting we would have a briefing about the Campus  
4 Plan and then adopt a non-binding schedule for review of the plan,  
5 a schedule that reflected the dates you see here on this slide.  
6 Adopting the schedule sent two important messages to the whole  
7 community. No. 1, the ANC was going to do a thorough independent  
8 review, first of the framework and then of the draft plan itself;  
9 and No. 2, if anyone had a concern about the plan, they should  
10 bring it to the attention of the ANC at one of these scheduled  
11 meetings. To the best of my knowledge, this is the most extended  
12 review period and the largest number of meetings devoted to any  
13 one subject in the history of ANC 3D. Never have for any other  
14 commissions. There was plenty of time for people to hear about  
15 the Campus Plan, read it and bring their concerns forward.

16           We made sure, as usual, to put announcements in the  
17 local Listservs and our website. People living within 200 feet of  
18 the campus were notified by AU on October 1 that they were going  
19 forward with the Campus Plan. We also put the transcript of the  
20 August CLC meeting in which there was extensive discussion on --  
21 discussion at the meeting about this -- about the framework. We  
22 put that on our website for our September meeting so people would  
23 have access to it. We also posted the large set of questions and  
24 answers that the public had asked AU about the plan, the questions  
25 the public had asked and the answers that AU had so that everyone

1 had that information easily at hand and didn't have to go to the  
2 AU website.

3           So after our two sessions in July and September on the  
4 framework document, we turned to the actual Campus Plan draft in  
5 October and then again in a special meeting on October 21st.  
6 Prior to the special meeting, we drafted the letter that we were  
7 considering sending to the Zoning Commission and we put that up on  
8 our website so that community members and the Commissioners could  
9 read the draft letter and submit comments or speak at the meeting  
10 again about the conclusions and recommendations contained in it  
11 and then suggest changes to the ANC.

12           Then at our meeting in November, the ANC held further  
13 discussion of the Campus Plan and then voted to adopt the letter  
14 that by that time had been revised based on comments we'd received  
15 in between and had been posted on the ANC website prior to this  
16 meeting in November and on the local Listservs with an invitation  
17 again for comments from the community. And although we had the  
18 final Campus Plan in hand at that November meeting, in adopting  
19 their approved letter, our ANC noted that we were voting before  
20 the formal submission of the Campus Plan by AU but that we would  
21 hold a place on our December meeting for anyone to raise any new  
22 issues that they found with the plan once it was sent to the  
23 Zoning Commission. This was our answer to those who said we were  
24 voting too soon. In addition, it accommodated the Westover Place  
25 board that had a community meeting scheduled for later in

1 November.

2           So then at the December meeting, no issues -- new issues  
3 were brought forth about the Campus Plan as submitted and  
4 therefore the ANC took no further action. Our November letter had  
5 also made it clear that if new issues developed at any time before  
6 this -- before we got to this Zoning Commission Campus Plan  
7 hearing that we're having now, ANC 3D could take up the Campus  
8 Plan again and file a supplemental letter with the Zoning  
9 Commission. However, no one came forth to the ANC in our January,  
10 February or March meetings and made such a request for additional  
11 consideration.

12           So with regard to the ANC 3D's process, some of our  
13 critics have questioned the thoroughness, independence and  
14 integrity of the ANC 3D process and therefore our conclusions  
15 about the Campus Plan. As Chairman of the ANC 3D, I saw ANC's  
16 role as one of performing an independent review of the Campus Plan  
17 by soliciting comments and current concerns from the entire  
18 community whether or not they had been involved in any of the  
19 Partnership efforts, the CLC review, or any other AU outreach  
20 efforts. Our Commission's experience in adjudicating other  
21 neighborhood disputes is that it's very important to have various  
22 neighbors' views brought out into the light of day in front of the  
23 community at our meetings so that our Commissioners can see how  
24 these views stand up to public scrutiny by the proponents'  
25 neighborhood's peers.

1           By no means does this mean that in order for our  
2 Commission to give weight to a person's concern that they have to  
3 be supported by a majority of the rest of the community, but it is  
4 helpful to our Commissioners to hear the answers to questions  
5 posed by other neighbors to the person advancing the particular  
6 concern. Putting this together with their own research and  
7 analysis, Commissioners were then in a good position to weigh  
8 whether or not the ANC agreed with one or two -- one or other of  
9 these concerns and more importantly, why. If done well, ANCs can  
10 help in separating the wheat from the chaff and help keep some of  
11 the red herrings from clogging up the hearings before the Zoning  
12 Commission.

13           In particular, with regard to Campus Plans, the question  
14 is whether a concern raised by an individual or organization  
15 constitutes an objectional impact on the community. With this  
16 role the ANC in mind, we set out to conduct our deliberations in  
17 an organized, independent, and transparent manner and you've seen  
18 the schedule that we followed. This five-month process resulted  
19 in the adoption and subsequent affirmation of a ten-page letter  
20 dated November 4th, 2020 that was submitted to the Zoning  
21 Commission and that you have before them -- before you.

22           Next slide, please. So were the opposing parties kept  
23 in the dark as they argued? You may hear from the opposing  
24 parties that they did not know what AU was going to say in their  
25 Campus Plan until AU actually filed it with the Zoning Commission

1 and therefore, they didn't have a chance to review it and identify  
2 objectionable impacts in time to bring them to the attention of  
3 the CLC and the ANC. I will take just one of these concerns that  
4 they have now brought to this hearing as a de novo issue to  
5 illustrate the fact that this claim is without merit. The issue I  
6 have chosen is their de novo complaint that the Center for  
7 Athletic Performance called the CAP and the dormitory buildings 2  
8 and 4 are too close to University Avenue. Let's look at what the  
9 opposition parties knew and when they knew it.

10 Next slide. Here is a slide from 15 months ago in  
11 December 2019. It was a CLC meeting. Mr. Dennis Paul, Mr. Thomas  
12 Smith and Dr. Jeffrey Kraskin all attended this meeting. I've  
13 drawn an arrow here. This is the original drawing, but I've drawn  
14 an arrow to show you where University Avenue is just so you can  
15 orient yourself on this strange looking diagram. What it shows is  
16 all the opportunity sites where development might take place and  
17 you see there's a big circle right there on where the tennis  
18 courts are and near the University Avenue.

19 But -- next slide. Here's another slide that was shown  
20 at the same meeting that shows the plan location for the Center  
21 for Athletic Performance, and once again I've drawn an arrow  
22 that's not on the original on University Avenue just so you can  
23 see where they were talking about. That's where the tennis courts  
24 are.

25 And then next slide, please. In case anyone might have

1 | thought that after the December 2019 CLC meeting that AU had  
2 | changed its mind about the location of these buildings, here's a  
3 | diagram that AU included in the March draft of the framework  
4 | document. I've enlarged this portion for you. This was before  
5 | the two April CLC meetings devoted exclusively to reviewing AU's  
6 | framework document. These buildings also remained in the June  
7 | framework published for public community comment and as you know,  
8 | they're in the final Campus Plan submitted in December.

9 |           Now one would think given the past interest of these  
10 | opposing parties during the last Campus Plan hearings about the  
11 | sensitivity of University Avenue, its tree buffer and the lights  
12 | from the new science building that AU, the CLC and the ANC would  
13 | have heard about this University Avenue issue loud and clear and  
14 | continuously from the moment the parties learned 15 months ago  
15 | that AU was thinking of putting these buildings in that location.  
16 | However, these parties never brought this issue to the attention  
17 | of the ANC in any of the ANC's six meetings and raised it only in  
18 | passing at the CLC meeting after asking at the December 2019 CLC  
19 | meeting whether the Center for Athletic Performance could be built  
20 | underground and were told that this was unlikely. So I present  
21 | this as a representative example of how AU informed all of us what  
22 | they would like to do and invited our responses and suggested  
23 | changes.

24 |           So that's the end of my slides and you can take that  
25 | down if you want. I want to move on to -- given the extensive and

1 inclusive reviews of the Campus Plan by both the CLC and the ANC,  
2 it's disturbing to see the Spring Valley Wesley Heights Citizens  
3 Association and the Neighbors for a Livable Community  
4 organizations bringing de novo arguments to this Zoning Commission  
5 that could have been raised in our community discussions and  
6 reviews. These organizations were -- are asking the Zoning  
7 Commission to be a form of first resort for their concerns, in  
8 particular their claims that the development on the western  
9 section of the campus will create objectionable conditions for  
10 nearby neighbors along University Avenue.

11           If these two organizations had brought these concerns to  
12 the CLC or the ANC what would have happened? We don't know  
13 exactly, but it is almost certain that their arguments would have  
14 been challenged by other neighbors and a robust discussion would  
15 have ensued about why these organizations believe these buildings  
16 are objectionable. Following from that would have been a decision  
17 by the ANC either to agree or disagree with them along with the  
18 reasons for the ANC's decision and then it would have been such a  
19 decision by the ANC that could have been presented for discussion  
20 here in the zoning hearing as contrasted with the arguments of  
21 these organizations that have never been tested now by their  
22 neighborhood peers. The bypassing of the ANC process by these  
23 opposing parties puts other parties at a distinct disadvantage of  
24 having to marshal their arguments quickly in these hearings to  
25 respond to these new arguments and in some cases being only able

1 procedurally to counter them during cross-examination.

2           So the question is does the Zoning Commission want to  
3 take advantage of ANC reviews of Campus Plans and other zoning  
4 matters and avoid where possible being a forum of first review?  
5 If so, then I personally would urge the Commission to use this  
6 case before you to make it clear that you will not look favorably  
7 on arguments for the proponents that bypass the statutorily  
8 established community procedures. Such action by the Zoning  
9 Commission would strengthen the ANC review process and would  
10 likely result in the Zoning Commission's receiving a recent  
11 evaluation of the opposing parties' arguments by the ANC for your  
12 Commission to review.

13           This would be far better procedurally, I would argue,  
14 than the positions these organizations are now trying to place on  
15 the Zoning Commission by putting both the university and ANC in  
16 the difficult position by hiding their concerns from us and then  
17 springing them on all of us at the last minute with the lame  
18 excuse that woe is me, they didn't have time to review the plan  
19 until just before this hearing. They have used the same trick to  
20 good advantage in previous hearings such as the one on Valor --  
21 Ladybird Development. I hope that the Zoning Commission will find  
22 a way to discourage this kind of behavior in the future.

23           For the record, I want to be clear that both Westover  
24 Place and concerned neighbors of Nebraska and Rockwood are not  
25 raising de novo arguments here. These arguments were heard by the

1 Partnership, the CLC and the ANC. We recognized their right to  
2 raise these issues here if they were not satisfied with the  
3 treatment of their arguments in those community forums. You may  
4 ask why these Westover and concerned neighbors are now coming in  
5 opposition in this case when they formerly were part of a  
6 consensus formed around the draft framework last June as part of  
7 the Partnership. I can only speculate because they have not  
8 talked to me about this but certainly one likely reason is that  
9 they want to preserve their rights when they get to further  
10 processing. I'm sure your Commission recognizes, even the  
11 discussions tonight illustrates this, that because of the change  
12 in the Campus Plan rules there's great uncertainty about where the  
13 dividing line is between plan approval and further processing.  
14 Both AU and I, as chairman of ANC, assured these parties that we  
15 believe their enunciated concerns could be fully addressed during  
16 further processing.

17           Let me say that I believe it would be very unfortunate  
18 if during further processing the ANC were to conclude that certain  
19 of these impacts are -- were objectionable. For example, the size  
20 and configuration of parking and buildings 11, 12 and 15, and then  
21 when we brought this issue to the Zoning Commission to be  
22 confronted with the conclusion by your Commission that these  
23 arguments were foreclosed by the earlier decision of the  
24 Commission following this current hearing on the Campus Plan  
25 itself. I would hope that the Zoning Commission would be flexible

1 enough, particularly in these early stages is that we are all  
2 trying to understand the dividing line between Campus Plan  
3 approval and further processing, to allow such issues to be  
4 considered in full at further processing hearings without  
5 constraint.

6           Finally, I want to turn to the one substantive issue  
7 repeatedly raised by the opposing parties during the review period  
8 and now being presented in this hearing, namely the proposal of an  
9 undergraduate enrollment cap. In our December ANC letter to the  
10 Commission we lay down in detail why we are opposed to an  
11 enrollment cap for undergraduates so I will not repeat those  
12 points here. However, even though I don't want to repeat those  
13 points here, an analogous situation during my tenure at the  
14 Environmental Protection Agency may help to explain our point of  
15 view more clearly.

16           When I was serving as director of EPA's National Toxic  
17 Substances Program, a document landed on my desk that reported  
18 that when coffee was made in the ordinary way using a paper filter  
19 in a coffee maker, the coffee was contaminated with dioxin, one of  
20 the most potent toxins known to man. We quickly deduced that the  
21 dioxin was formed when the paper that composed the filter was  
22 bleached with chlorine during the manufacturing process. Of  
23 course this was highly disturbing. I had visions of having to  
24 tell people all over America not to drink coffee anymore, so  
25 needless to say, we went into high gear to figure out what to do

1 before this information hit the news. The engineers at the agency  
2 felt they understood how the bleaching process worked at these  
3 paper plants and the thought was we could tell the paper company,  
4 the whole industry, to switch from the chlorine chemical they were  
5 using to bleach the paper to another chemical that we would  
6 specify. But I could foresee the possibility that this fix might  
7 not work and even if it did, would it make the coffee taste bad?  
8 Being responsible for bad EPA coffee did not seem like a career  
9 enhancing move on my part.

10           The companies had immediately switched to brown  
11 unfiltered -- unbleached filters while they figured out how to  
12 deal with the problem. We at EPA weren't certain that the paper  
13 companies would ever be able to make white coffee filters again.  
14 So instead of telling the companies to change their chemical mix,  
15 we said to the paper industry, fix this problem. You know best  
16 how to bleach paper; we know how to measure dioxins in coffee.  
17 You focus on the input, the chemicals, and we will focus on the  
18 output, the coffee. As a regulator at EPA, I quickly learned to  
19 focus like a laser on preventing the pollution that was happening,  
20 that is the output, while trying to give the companies as much  
21 flexibility as possible to figure out how to keep running their  
22 business successfully while at the same time stopping the  
23 pollution we identified. In other words, we tried to let them  
24 control the inputs and continue to be solely responsible for the  
25 quality of their products and to stay in business just so they

1 fixed their outputs.

2           So what does this story tell us about American  
3 University? We may all think that running the university is a lot  
4 easier than running a pulp and paper company. You just hire some  
5 professors and enroll some students. But of course it's not that  
6 simple. Higher education is a complicated business, especially in  
7 today's highly competitive workplace. Some of the opposing  
8 parties suggest the Campus Plan should tinker with a key American  
9 University input, namely the number of undergraduates that can be  
10 enrolled. They proposed a 2 percent cap.

11           As with the dioxin case, there are two problems with  
12 this approach to controlling objectionable impacts. It might not  
13 be effective, and we might cause the coffee to taste bad. First  
14 on the issue of whether it will work; 2 percent is on the order of  
15 140 undergraduate students. What if instead AU wanted to enroll 3  
16 percent, about another 70 undergraduates? Exactly what  
17 objectionable impact would we be avoiding by preventing AU from  
18 enrolling these 70 additional students? More importantly, aren't  
19 we worried about the objectionable impacts from all 7,000  
20 undergraduates, not just the new ones? How does a cap on  
21 undergraduate enrollment that prevents the enrollment of say, 70  
22 more undergraduates really solve this problem?

23           Then there's the quality of the coffee, so to speak.  
24 What if by bringing in these 70 more students AU would have enough  
25 extra revenue that it could hire a super qualified science

1 professor who could substantially upgrade AU's science program?  
2 Pretty soon more students might want to come to AU and study  
3 science and combine that with a degree in public policy. We need  
4 more of those kinds of combined science and humanities people at  
5 EPA and I'm sure elsewhere. More importantly, are we so sure that  
6 putting a 2 percent cap on undergraduate enrollment might not make  
7 AU less competitive in the marketplace and because they operate in  
8 a very small margin might we actually contribute to the financial  
9 disaster for this university?

10 In other words, our tinkering around with the inputs to  
11 AU's educational process could very well have all kinds of  
12 unintended consequences that we don't know anything about, and  
13 which are unpredictable. So if we don't have to tinker with the  
14 inputs to get the results we want, why risk, it particularly if  
15 controlling inputs might not give us the results we're seeking in  
16 the first place. Let's focus instead on the objectionable outputs  
17 potentially caused by all of AU's students that we do know  
18 something about; parking in our neighborhoods, student beer  
19 parties at 2 a.m. in the morning, bright lights and noise that  
20 keep us from sleeping at night. These outputs are what the  
21 partnership and the ANC focused on in reviewing and obtaining  
22 changes in this Campus Plan and we will focus on during further  
23 processing. In other words, making sure that AU's programs that  
24 are designed to mitigate these undesirable outputs are robust,  
25 robust enough to prevent objectionable impacts on the

1 neighborhood.

2           In short, an undergraduate enrollment cap is a very  
3 blunt instrument for trying to control objectionable impacts and  
4 could have serious unintended consequences for AU's educational  
5 mission as it faces some possible heavy headwinds in the post-  
6 COVID marketplace of higher education.

7           So to summarize and finish my ANC 3D testimony, AU  
8 received some valuable help from a well-functioning and inclusive  
9 partnership of neighbors in developing its proposed draft  
10 framework outline for the Campus Plan. That draft framework and  
11 then the plan underwent review by the CLC and by a five-month  
12 review by the ANC accompanied by a campaign that reached out to  
13 the community and asked them to identify objectionable impacts.  
14 AU then made changes to its plan in response and finalized its  
15 Campus Plan. In reviewing that final Campus Plan, ANC 3D  
16 concluded that under the plan as finally written, it is possible  
17 for American University to implement its plan in a manner that  
18 will not create objectionable impacts. Whether in fact they do  
19 implement the plan in their further planning so as to avoid  
20 objectionable impacts will be determined further at -- by a  
21 further -- both at further processing and by the implementation of  
22 the plan during the ten-year period. You can count on ANC 3D to  
23 ask for the Zoning Commission's assistance if we believe that AU  
24 is failing to accomplish this mission at any of these steps.

25           So I leave you with these wishes. Please approve the

1 Campus Plan and send this all back to further processing,  
2 hopefully with the admonition not to bring de novo issues forward  
3 to the Commission that haven't been vetted during the community  
4 review process including in particular the ANC review. Please  
5 don't send this plan back for further review by the CLC or anyone  
6 else. That would simply duplicate the full neighborhood  
7 engagement we've already had. And finally, unless you find you  
8 really have to, please don't order changes to the Campus Plan that  
9 have the potential of making the coffee taste bad. So thank you  
10 for the opportunity to present this too lengthy testimony, and I'm  
11 happy to answer any questions you may have. Thank you, Mr.  
12 Chairman.

13 CHAIRPERSON HOOD: Thank you, Chairman Elkins. I can  
14 tell you put a lot of work into giving us the history, how we got  
15 here, and also as the frontline elected official of the city. You  
16 know, our ANCs are our frontline elected officials. I appreciate  
17 -- we appreciate all the time that you put into your testimony and  
18 I know others might not agree and I know everybody (audio  
19 interference) participate in the ANC, but I also realize that ANCs  
20 are elected and the work that they do does not go unnoticed on  
21 this Commission.

22 So I'm not going to -- I appreciate your testimony, I  
23 appreciate about the CLC and the Partnership -- I appreciate. For  
24 me, I'll just say this, for me, it's just about making everything  
25 work. I like to see collaboration and whatever the issue is, it's

1 | about making it work. And not how this group, that group, you  
2 | know, I don't get into names and functions. And a lot of that --  
3 | and the reason why I know some of that, a lot of that came from us  
4 | is because I specifically -- I don't remember a lot, but I do  
5 | remember Vice Chair Miller and I having a conversation about the  
6 | CLC and the Partnership and I remember him -- he and I saying, I  
7 | think it was '16 -- he and I had the conversation publicly that  
8 | hey, what's in a name as long as it works. And Vice Chair, I  
9 | don't know if you remember us having that conversation, but that's  
10 | kind of where we were. We want to see the collaboration; we want  
11 | to see it work and it does go unnoticed on me that everyone does  
12 | not participate in the ANC. So the courts will tell us we have to  
13 | listen to groups as well, so that's kind of where we are. But I  
14 | appreciate all the effort that you put into this presentation and  
15 | it does not go unnoticed on this Commission. Let me see if we  
16 | have any follow-up questions of Chairman Elkins. Commissioner  
17 | May.

18 |           COMMISSIONER MAY: I don't have any questions, but I  
19 | really do appreciate the lengthy and detailed description of the  
20 | process that you went through. I think, you know, sometimes we  
21 | might take it for granted because what we get is a nice, finished  
22 | letter at the end of the process as opposed to appreciating all  
23 | the steps that went into it and of course recounting so much of  
24 | the background, the CLC and the neighborhood partnership is also  
25 | very helpful because, you know, we see university further

1 processing cases even -- not with great frequency. So we're in  
2 and out of this on an occasional basis so getting that rich  
3 background was really helpful. So thank you very much for that.  
4 And of course, as the Chairman said, for all of your work on the  
5 front lines in representing your neighborhood. Thank you.

6 CHAIRPERSON HOOD: Okay. Commissioner Shapiro.

7 COMMISSIONER SHAPIRO: Thank you. I don't have much to  
8 add beyond I found the testimony thorough. I found it lucid. I  
9 found it thoughtful. Very helpful to hear and I appreciate your  
10 work and the Commission's work, and that's all I have, Mr. Chair.

11 CHAIRPERSON HOOD: Okay. Thank you. Commissioner  
12 Turnbull.

13 COMMISSIONER TURNBULL: I have no -- have no real  
14 questions for the Commissioner. I thought he did an excellent job  
15 and I think would echo your -- everyone's comments that this was a  
16 long presentation but very well organized, very focused and I  
17 think very well -- and all the points were very well explained.  
18 So, Commissioner Elkins, I want to thank you for all the work that  
19 you do and your excellent presentation tonight. So thank you  
20 again. And Mr. Chair, I hand it back to you.

21 CHAIRPERSON HOOD: Okay. Okay. Vice Chair Miller.

22 VICE CHAIR MILLER: Thank you, Mr. Chairman. I would  
23 concur with all of the comments of my colleagues and thank  
24 Commissioner Chairman Elkins for your lengthy but as others have  
25 said well-organized testimony. I'm sure you would have preferred

1 | to maybe dwell on the substance of that's in the Campus Plan and  
2 | how the ANC addressed it, although we do have that in the written  
3 | record. But I think it was important to detail the process here  
4 | of the long and somewhat tortured history in the past between the  
5 | community, some of the community and AU and maybe they still exist  
6 | today, but I think it was -- it obviously is important to get the  
7 | process right to be inclusive. And I do remember the  
8 | conversation, Mr. Chairman, about it didn't matter what it was  
9 | called as long as they do what we wanted to do which is  
10 | collaborate and make sure they come with a solution where the  
11 | coffee will taste good at the end of the -- I appreciate that  
12 | analogy as well and maybe not, and it was a -- I think it was  
13 | useful to point out that sometimes giving the flexibility to get  
14 | to get to the right solution when, instead of prescribing what  
15 | exactly the -- how you should do that, where you should focus. I  
16 | appreciate you did all that. That's it, Mr. Chairman, thank you.  
17 | I'm going to move to -- I'll still be listening but I'm going to  
18 | move to a more lighted room where I can see myself and others  
19 | better.

20 |           CHAIRPERSON HOOD: Oh, okay. And go back outside. Is  
21 | it still light outside I wonder?

22 |           VICE CHAIR MILLER: If you don't see me on video it's  
23 | not because I'm not listening, I'm just moving.

24 |           CHAIRPERSON HOOD: Okay. We got you. We understand.

25 |           VICE CHAIR MILLER: Okay.

1 CHAIRPERSON HOOD: Okay. Let's go to cross-examination.

2 Yes, let's go to cross. Does the Applicant have any cross?

3 MR. TUMMONDS: No cross.

4 CHAIRPERSON HOOD: Okay. Does the Neighborhood  
5 Partnership have any cross?

6 MR. KRAVITZ: No, sir.

7 CHAIRPERSON HOOD: Okay. Does Chairman McHugh, do you  
8 have any cross?

9 COMMISSIONER MCHUGH: No cross.

10 CHAIRPERSON HOOD: Okay. Spring Valley Wesley Heights,  
11 do you have any cross?

12 MR. SMITH: Yes, sir. And may I ask a question before I  
13 begin?

14 CHAIRPERSON HOOD: Sure.

15 MR. SMITH: Are we hearing from 3E also or --

16 CHAIRPERSON HOOD: Yes. We're going to hear from 3E but  
17 what I wanted to do was since 3D gave their presentation, cross on  
18 them. Then we'll go to 3E's presentation, cross on them. That  
19 way the presentation is fresh in everybody's mind. Do you have a  
20 lot of questions?

21 MR. SMITH: I have -- I don't think many -- I don't have  
22 as many questions as the length of the presentation, but I do have  
23 some questions.

24 CHAIRPERSON HOOD: Okay. You can go right ahead.

25 MR. SMITH: Okay. What I'd like to do is focus

1 initially on the ANC 3D report to the Commission. And Mr. Elkins,  
2 on page 1 of your report, you reference commissioners'  
3 participation in the Partnership including that one served as co-  
4 chair of the Partnership and that he played the primary role in  
5 presenting the plan, the Campus Plan to the ANC. Isn't this a  
6 potential conflict to have a sitting ANC commissioner presenting a  
7 plan on behalf of an institution that is seeking approval from the  
8 ANC?

9 COMMISSIONER ELKINS: I think not. I think we wanted to  
10 have the person who was most knowledgeable about the decisions in  
11 the Steering Committee to present what the process was within the  
12 Partnership to the Commission and that's why we asked him to do  
13 it, and many times we have commissioners in our meetings present  
14 views and items to their fellow commissioners. It is not a  
15 conflict of interest.

16 MR. SMITH: In assessing the Campus Plan, what zoning  
17 standards did the ANC apply for its review?

18 COMMISSIONER ELKINS: We are not -- I'm not able to cite  
19 the statute, I mean the regulations to you. We tried to apply our  
20 understanding of the zoning regulations. We read the Campus Plan  
21 rules of what's required of a Campus Plan and we applied them.

22 MR. SMITH: Like the Partnership and also AU, you  
23 indicated in your report and also in your oral statement today  
24 that the projected enrollment numbers for undergraduates have not  
25 been accurate so -- and that therefore they shouldn't be

1 considered as part of this Campus Plan process and that AU should  
2 not be required to provide any kind of undergraduate enrollment  
3 figures. So are you saying that because AU has not adhered to its  
4 planning projections and actually blown through them, that they  
5 are not useful for assessing the standards for review in which the  
6 numbers of students alone could result in a finding that the plan  
7 is objectionable?

8           COMMISSIONER ELKINS: First, I want to address myself to  
9 your point that you believe that the statute says that the numbers  
10 of students can be a basis for finding things objectionable. My  
11 reading is that those items listed in the regulation are -- I'm  
12 having trouble finding it but -- hold just a second. Reading from  
13 your statement on page 5. The Section 101.2 says, "The uses shall  
14 be located so they are not likely to become objectionable to  
15 neighboring property because of noise, traffic, parking, number of  
16 students or other objectionable conditions," and so I read, well  
17 you and I may read these two -- this provision differently, well I  
18 leave this to the Zoning Commission. But I read this to say that  
19 these are things that should be looked at in terms of the  
20 likelihood that they could become objectionable but that the --  
21 simply having an increase in the number of students is not  
22 objectionable. Having noise is not objectionable. All activities  
23 create noise, the question is how much noise and is it  
24 objectionable? Parking, of course there's parking associated with  
25 this university. How much is objectionable? So it's whether it

1 will become -- whether it's likely to become objectionable is the  
2 actionable words here and not the simple existence of these  
3 numbers.

4           So coming back to your main question. I jumped ahead to  
5 the end of your question. You were asking whether the fact that  
6 the AU had "blown through these projections" was, now I've  
7 forgotten exactly what you said, but whether that was a basis to  
8 ignore the number of undergraduates and it is certainly not. My  
9 feeling on the 2011 Plan was that AU made projections looking  
10 ahead for ten years in the marketplace and given their situation  
11 of what they thought those increases might be. They did not  
12 commit to stick to those numbers. Now since that time you have  
13 argued and in fact, they in some way committed this or that it  
14 showed bad faith on their part. My interpretation of the 2011  
15 Plan was they did not commit to those numbers.

16           When I read the rules about what was required of the  
17 university under the current Campus Plan, I -- and I communicated  
18 this to you as you brought this provision to my attention -- I  
19 read that AU was not required by the zoning regulations to do  
20 these estimates and so therefore I didn't think I had a basis as  
21 the ANC Commissioner to tell American University that they had to  
22 provide them or else the ANC would be unhappy with them. They  
23 were not required to, as I read the statute -- excuse me, the  
24 regulations -- to provide those estimates and therefore I refused  
25 your request that we ask AU for them.

1           You've heard my coffee analogy. My feeling is that  
2 whether they increase by a small number of students or a large  
3 number of students, the important thing is what impact do these  
4 students have or are likely to have on objectionable constraints  
5 and that's where the ANC focused. We focused on student life. We  
6 focused on parking. We focused on these buildings and we  
7 concluded that these buildings could be built -- could be built  
8 and not have objectionable impacts.

9           MR. SMITH: Okay. I'm talking specifically about the  
10 number of students here. I haven't gotten to the buildings yet.  
11 But I appreciate your answer, Mr. Elkins. I just don't drink  
12 coffee so maybe that's the problem. But I want to better  
13 understand something though. We -- you and I have talked  
14 previously about this issue of undergraduate students, correct,  
15 maybe as far back I believe as last -- about a year ago; isn't  
16 that correct? We've had conversations about student impacts and  
17 the numbers of students and what the regulations are; isn't that  
18 correct? I think that's what you just said. I just want to make  
19 sure I heard that correctly.

20           COMMISSIONER ELKINS: Yes. I don't think they were  
21 extensive, that's why I'm hesitating. I don't think we had  
22 extensive conversations. We mainly communicate by emails. I have  
23 them all printed out here.

24           MR. SMITH: And in the COVID era, that's unfortunately  
25 what things have become unfortunately. But so what I -- are you

1 willing to acknowledge that the number of students, the issue of  
2 the number of students, that there could be objectionable impacts  
3 related to the number of students?

4 COMMISSIONER ELKINS: Simply because there are more  
5 students?

6 MR. SMITH: I didn't say that there were more students.  
7 There was a certain number of students that becomes objectionable.  
8 Are you willing to concede that if AU increased its student  
9 population to 20,000 or 25,000 -- and I'm not -- and we're not  
10 anywhere near there, but all I'm trying to get is an understanding  
11 from you as do you think that number of students alone is  
12 something that can be objectionable? That the numbers --

13 COMMISSIONER ELKINS: I don't think so.

14 MR. SMITH: -- point --

15 COMMISSIONER ELKINS: I think it's --

16 MR. SMITH: -- the numbers themselves could reach a  
17 point where they are objectionable?

18 COMMISSIONER ELKINS: The students we have at American  
19 University now can create objectionable and do create sometimes  
20 objectionable impacts which then we need to deal with through the  
21 processes like the student life programs that they have. So I  
22 think it's much more important to ask what are the kinds of  
23 impacts that 7,000 students can have, 10,000 students or whatever  
24 and that's what we ought to deal with.

25 MR. SMITH: Okay. Thank you. I don't disagree with

1 that, but I do -- I guess the same thing could be said though  
2 about traffic and parking; isn't that correct? And (audio  
3 interference) --

4 COMMISSIONER ELKINS: That's correct. Yes.

5 MR. SMITH: Okay. So number of students would be on a  
6 same level as that. So on page 3 of your report you say the  
7 Partnership has created robust plans to handle impacts of the  
8 proposed buildings. So what's being proposed to mitigate the  
9 lighting impact?

10 COMMISSIONER ELKINS: That we believe is in further  
11 processing and if they don't take care of that, then it may be  
12 objectionable.

13 MR. SMITH: So does that mean that there are none of  
14 these robust plans to handle the impacts of these proposed  
15 buildings?

16 COMMISSIONER ELKINS: Mr. Smith, you and I are both  
17 dealing with this issue of where is the dividing line between  
18 Campus Plan approval and further processing and that -- and what  
19 the ANC is saying is you can -- we concluded you can build these  
20 buildings as they were then -- as they were modified in the  
21 process during this last year. The final buildings can be built  
22 in a way that does not result in objectionable impacts. That  
23 doesn't mean they will be. We have to get the further processing  
24 to figure that out and there may be some serious issues  
25 identified.

1 MR. SMITH: But does that mean there aren't any "robust  
2 plans" right now the way you referred to them in your letters to  
3 (audio interference)?

4 COMMISSIONER ELKINS: Could you refer to me where I've  
5 used the word robust, because I don't remember that. But then we  
6 wrote this last November.

7 MR. SMITH: It's on page 3. You say the partnership has  
8 created robust plans to handle impacts of proposed buildings. So  
9 what I'm asking you is what's being -- what are these robust plans  
10 to handle lighting impacts and mitigate noise impacts? And what I  
11 hear you saying now is that no, that will all be addressed during  
12 further processing. Am I hearing that correctly? I mean I don't  
13 want to belabor a point. I just want to know what the answer to  
14 my question is. And I'm just trying to answer past questions.  
15 I'm not getting involved in what the zoning, whether, you know,  
16 what this is what further processing means or whatever. I'm just  
17 trying to ask some questions and get some straight answers.

18 COMMISSIONER ELKINS: Right. I'm trying to give you  
19 straight answers. They -- we worked with the university to modify  
20 buildings 11 and 12 and 15 to be specific, and also building 4,  
21 and those plans were then built into the Campus Plan. With regard  
22 to transportation and off campus, we developed, particularly the  
23 off campus, we developed new programs which are robust.

24 MR. SMITH: Are there these robust --

25 COMMISSIONER ELKINS: So I think that's an accurate

1 statement.

2 MR. SMITH: Are there these robust plans that related to  
3 lighting and noise and other objectionable impacts, can you share  
4 those with the Zoning Commission?

5 COMMISSIONER ELKINS: They don't exist because that's  
6 further processing.

7 MR. SMITH: Okay. Thank you. You also say that the  
8 Campus Plan framework document, which you mentioned was quite  
9 detailed, includes information on location and buildings. You say  
10 that this document was issued in March of 2020, that's a year ago  
11 now, to suggest that the public was informed of what was going on.  
12 Do you think that most people in our neighborhood were given  
13 priority in March 2020 or the months after that to the AU's plan  
14 given all we've experienced in the last year with COVID?

15 COMMISSIONER ELKINS: The outreach that the university  
16 launched in March was not to the whole community. The outreach  
17 was to the Partnership and to the CLC and we had meetings then  
18 with those organizations to -- and AU was trying to then develop  
19 their draft framework which they then did publish in June which  
20 then went out to the much larger community at which time there was  
21 another CLC meeting and there of course the ANC process which I  
22 laid out.

23 So I think there are stages in the development of this  
24 plan and in the early stages, just as federal agencies do, you  
25 consult with a smaller group and then you come up with a good

1 | proposal that you think you won't have to throw in the trash can  
2 | after you get comment and then you put it out to the full  
3 | community. So no, I don't think the public generally was focused  
4 | on the Partnership. I think the CLC was, and I think that the  
5 | Partnership was on the framework, I misspoke there.

6 |           MR. SMITH: I'm talking about the Campus Plan. And do  
7 | you honestly think, I mean the world kind of shut down on March  
8 | 17th and these first meetings on the Campus Plan with the CLC were  
9 | held virtually, the first time these were virtual meetings. Do  
10 | you think that -- let me rephrase my question. Isn't it a fact  
11 | that several members of the CLC including the Spring Valley Wesley  
12 | Heights Citizens Association, including Neighbors for a Livable  
13 | Community, asked AU to delay the meetings on the Campus Plan with  
14 | the CLC in order to adjust for -- to give people some time to  
15 | adjust to the new kind of lives they had including being able to  
16 | access things virtually? Look, we saw the problems you had to  
17 | access this meeting tonight virtually and we've had -- we have had  
18 | problems with sound tonight and problems with sound the last night  
19 | and that's after the Zoning Commission's been doing this for a  
20 | while. So do you think that -- or were you aware, I mean, that  
21 | the groups asked AU to delay for a few months?

22 |           COMMISSIONER ELKINS: Yes, I think I remember that. But  
23 | I would reply that ANC held its April 1st meeting virtually and  
24 | from then on and we've had robust attendance. Sometimes I think  
25 | we get better attendance virtually than we get in our actual

1 meetings and I would say the world has adjusted quite well. And I  
2 think if you look at the minutes from those CLC meetings in April,  
3 they show that people were not deterred from getting into the  
4 substance of this and dealing with it. Keep in mind, we're  
5 talking about the CLC and the Partnership. We're not talking, as  
6 I mentioned earlier, we're not talking about the whole general  
7 population. That came in starting with the ANC meeting in July  
8 and the CLC meeting in August.

9 MR. SMITH: And Mr. Elkins --

10 COMMISSIONER ELKINS: So really (audio interference) --

11 MR. SMITH: -- did Spring Valley Wesley Heights Citizens  
12 Association participate in those April 28th and April 30th CLC  
13 meetings?

14 COMMISSIONER ELKINS: Yes, you did.

15 MR. SMITH: And did the Spring Valley Wesley Heights  
16 Citizens Association express its concerns then about the  
17 framework? I mean I noted you said that -- I think the words you  
18 used were hiding our concerns. Have you ever known any of us in  
19 working with us over many, many years, Mr. Elkins, to hide our  
20 concerns? Didn't we express those concerns at those meetings?

21 COMMISSIONER ELKINS: Not about those three -- not about  
22 the university thing. Not according to the minutes and not  
23 according to my memory, and I was watching for it. Because I said  
24 I think when we get to this stage, we're going to hear from Spring  
25 Valley Wesley Heights, and guess why I would think that? Because

1 we've always heard about University Avenue appropriately from you,  
2 and I don't think that you did raise it. You did raise issues  
3 about enrollment. You did raise issues about parking. So I think  
4 all you and I have at this point, I believe, are the minutes from  
5 those meetings and that's what I'm relying on because my memory is  
6 not that good.

7 MR. SMITH: Did we not submit also questions that -- you  
8 kept mentioning all these questions that were being submitted and  
9 actually Mr. Fisher from AU even mentioned last week that we had  
10 submitted numerous questions about these issues?

11 COMMISSIONER ELKINS: Yes. And I put those on our  
12 website. But what I'm -- what I am saying is you did not come to  
13 the CLC and raise these issues about University Avenue, and you  
14 did not come to the -- any of the ANC meetings and engage in the  
15 discussion of what the concerns were. So these, I think I am  
16 accurate in saying that these are de novo issues which you have  
17 saved for this Zoning Commission.

18 MR. SMITH: Well, this is not a court proceeding, Mr.  
19 Elkins, but beyond that, is it not true that the Spring Valley  
20 Wesley Heights Citizens Association sent letters to the ANC in  
21 September and October and November outlining its position on all  
22 these issues and that they were sent to all the ANC Commissioners?

23 COMMISSIONER ELKINS: No, that is not correct. You did  
24 not raise the University Avenue issues in those letters.

25 MR. SMITH: Did Neighbors for a Livable Community send

1 | letters and raise those issues in those letters about University  
2 | Avenue?

3 |           COMMISSIONER ELKINS: I'm sorry, I didn't -- did who? I  
4 | didn't hear.

5 |           MR. SMITH: Neighbors for a Livable Community (audio  
6 | interference) them but I will since you brought (audio  
7 | interference).

8 |           COMMISSIONER ELKINS: No, that's fair. It's a fair  
9 | question. My reading of those letters is you did not. That they  
10 | did not (audio interference).

11 |           MR. SMITH: I didn't ask you that. I asked --

12 |           COMMISSIONER ELKINS: I could be wrong. I've gone back  
13 | and read them, and I don't think they raised the University --  
14 | when I composed this testimony, I of course went back to look at  
15 | those documents.

16 |           MR. SMITH: I would encourage --

17 |           CHAIRPERSON HOOD: Mr. --

18 |           MR. SMITH: -- you to go back and read again.

19 |           CHAIRPERSON HOOD: Mr. Smith. Let me encourage you, Mr.  
20 | Smith, I think you've made your point. It's easy for some of us  
21 | to forget and some of us not to remember, you know. So he  
22 | recalled what he remembers. You know what you remember. I think  
23 | we get it. Let's move to the next question.

24 |           MR. SMITH: Thank you, Mr. Chair. Provide them for the  
25 | record. That's all.

1           Mr. Elkins, did residents ask you as chair of the ANC to  
2 delay your schedule for approval of the AU Campus Plan?

3           COMMISSIONER ELKINS: I believe you did, yes.

4           MR. SMITH: Are we the only ones who -- and when you say  
5 we, you kind of --

6           COMMISSIONER ELKINS: I'm actually --

7           MR. SMITH: -- (audio interference).

8           COMMISSIONER ELKINS: -- Spring Valley, I believe Spring  
9 Valley Westley Heights Citizens Association did ask that and  
10 perhaps the Neighbors for a Livable Community.

11          MR. SMITH: I shouldn't ask this for Westover Place, but  
12 did Westover Place ask for a delay?

13          COMMISSIONER ELKINS: Yes, they did. You're correct.  
14 Yes, thank you for jogging my memory. They asked us to delay  
15 until December so that they could hold a community meeting and we  
16 held a special session on -- not a special -- we had a place on  
17 the agenda to see whether they had issues on December after we had  
18 approved the letter that they wanted us to reopen the issue, and  
19 what they wrote to us was a letter that said we expected -- hold a  
20 second. They said, "We look forward to working with AU so that  
21 these issues can be fully addressed and resolved as a proposed  
22 plan moves forward," and then at the end of the letter they said,  
23 "While we are hopeful that AU will take our concerns into account  
24 in future planning, that said, the Westover Place Homes  
25 Corporation reserves the right to apply for party status at Zoning

1 Commission proceedings to protect our community and our rights."

2           So three days after the December meeting of the ANC,  
3 they wrote us and said we see these issues -- and they list all  
4 these issues you're now hearing in their written testimony -- they  
5 say they consider those of further processing.

6           MR. SMITH: Thank you. My only question was whether  
7 Westover asked for it to be delayed.

8           COMMISSIONER ELKINS: We saw no need -- we saw no need  
9 to delay as I discussed with you.

10           MR. SMITH: I'd like to ask about the parking issue.  
11 You -- the ANC has embraced the AU proposal for a parking maximum.  
12 Is there anything in this plan that requires AU to provide a  
13 minimum number of parking spaces or any parking spaces for that  
14 matter?

15           COMMISSIONER ELKINS: This is again a matter of whether  
16 one regulates the inputs or the outputs, and what we looked at in  
17 the case of the transportation was that a robust enforcement of  
18 the Good Neighbors Parking Policy, TDM policies, and frequent  
19 reporting on utilization of their garages so that adjustments  
20 could be made.

21           There is -- on the one hand, one wants to limit the  
22 number of parking places on the University. That's what DDOT is  
23 saying they endorse the idea of the 3,000 maximum, because they  
24 don't want to see a lot of people driving. On the other hand, the  
25 neighborhood has the interest in not having people park in the

1 neighborhood, and so what the ANC focused on was what are the  
2 output controls that can mitigate any problems that might result  
3 if they end up cutting back too far on their parking places. You  
4 are correct in pointing out that they do not have a minimum, they  
5 do have a maximum. The minimum we see as being taken care of by  
6 these other controls.

7 MR. SMITH: Well, AU could be in compliance with their  
8 Campus Plan but still provide no parking on the campus is the way  
9 I read this. So if AU reduces the parking, where do you think the  
10 cars are going to park? Aren't they likely to park in the  
11 neighborhoods?

12 COMMISSIONER ELKINS: I think that's right and that's  
13 where you need to have a strong enforcement program which they  
14 have, and they promise to enhance in this Campus Plan.

15 MR. SMITH: And where is the information about the  
16 enhancement? What constitutes the enhancement?

17 COMMISSIONER ELKINS: I don't think they've laid out the  
18 details of the enhancement.

19 MR. SMITH: Okay. Thank you. When was the full CTR  
20 made available to the ANC?

21 COMMISSIONER ELKINS: I don't remember the date exactly.  
22 I think it was in September or early October.

23 CHAIRPERSON HOOD: Mr. Smith, help me understand and  
24 maybe the Commissioner as well. What are you trying to establish?

25 MR. SMITH: What I'm trying to get at, Mr. Chairman, is

1 | how independent this review of the ANC plan was and whether -- I'm  
2 | sorry, how independent the ANC review of the plan was and what  
3 | information and standards did the ANC use when assessing this plan  
4 | and making a recommendation to the Commission that it be adopted  
5 | given that they are getting great weight by virtue of being an  
6 | ANC? That's what I'm trying to find out.

7 |           CHAIRPERSON HOOD: Okay. Thank you.

8 |           MR. SMITH: So, Mr. Elkins, in discussing an  
9 | undergraduate enrollment cap, you said it wasn't necessary because  
10 | there were other ways to mitigate potential objectionable impacts  
11 | of students related to student conduct. That's what's in your  
12 | report to the Commission, to the Zoning Commission. So did the  
13 | ANC only assess student conduct as the only objectionable impact  
14 | tied to increases in undergraduate enrollment?

15 |           COMMISSIONER ELKINS: No. I think you could have more  
16 | transportation impacts. You could have more impacts by having to  
17 | have more dormitories and if those dormitories are built in such a  
18 | way as to be objectionable, then the fact that you had to build  
19 | more dormitories because you had more students could be  
20 | objectionable and the only -- so I certainly believe that there  
21 | can be objectionable impacts from students and the issue -- now  
22 | you and I may have a philosophical difference about how one deals  
23 | with that, and I'm on the output side and I think you're on the  
24 | input side.

25 |           MR. SMITH: I don't think we've had enough discussion to

1 know if we have philosophical differences but I'm asking what's --  
2 did the ANC take up these issues? I don't recall those issues  
3 being discussed at ANC meetings that considered the Campus Plan  
4 and yes, I did attend all those ANC meetings.

5 COMMISSIONER ELKINS: The way the ANC operates, as you  
6 well know, is that they have public meetings in which citizens  
7 come in and raise issues and we advertise widely to try to  
8 encourage as much participation as possible by the community  
9 identifying objectionable impacts. In the meantime, the ANC  
10 Commissioners read materials and so the decision-making process at  
11 the ANC is not just what happens in the oral meetings, but it's  
12 also on the research that the individual Commissioners make and do  
13 carry out and then vote on them.

14 MR. SMITH: Mr. Elkins, are you aware that several  
15 members of the Board of the Spring Valley Wesley Heights Citizens  
16 Association were in communication with their new ANC Commissioner,  
17 Commissioner Pemmerl beginning in January and then also again in  
18 February asking her to put forward the ANC reconsidering its  
19 action in the AU Campus Plan? Are you aware of that?

20 COMMISSIONER ELKINS: I think someone mentioned it to me  
21 a couple weeks ago. No one came to me about this and no one to my  
22 knowledge, I can't speak for sure on this, came to the current  
23 Chair and asked for reconsideration. As I mentioned in my  
24 testimony, we made it clear in the letter that if there were  
25 issues that came up subsequent to our vote that we could

1 reconsider. So I mean usually the -- I mean agenda items are  
2 normally addressed by the Chair, as you know. I was not Chair as  
3 of January, as you know.

4 MR. SMITH: (Audio interference.)

5 COMMISSIONER ELKINS: (Audio interference.)

6 MR. SMITH: I'm not talking about Chair. I'm talking  
7 about going to their ANC Commission representative on the  
8 Commission. Are you saying that unless we had gone to the Chair  
9 or to you, it didn't count?

10 COMMISSIONER ELKINS: No. But she didn't come to me and  
11 I don't whether she came -- I mean, ultimately if a Commissioner  
12 wants to put something on the agenda, they do need to go to the  
13 Chair. I was not the Chair so I can't testify of whether  
14 Commissioner Pemmerl went to the Chair and asked for it to be on  
15 the agenda or not. I certainly had not heard that she did.

16 MR. SMITH: I'm only asking that within the context of  
17 your comment that no efforts were made in the last few months by  
18 anybody to engage with the ANC.

19 You've endorsed the idea that parking utilization  
20 reports be provided to the Partnership working groups, but  
21 shouldn't these also be provided to the ANC and shouldn't there be  
22 a condition that requires this?

23 COMMISSIONER ELKINS: Well, yes. ANC, you'll read --  
24 when you read in our letter, you'll see that we insisted to the  
25 American University that they be willing to report to the ANC at

1 | least twice a year on their implementation of the entire Campus  
2 | Plan which would include this. So yes, we agree that the ANC is  
3 | independent and needs to be able to make its decisions on data  
4 | that's provided to it by the university, and we've asked AU to  
5 | report to us at least twice a year.

6 |           MR. SMITH: Thank you. That's very helpful. Again  
7 | though, your letter basically said that you would get that  
8 | information from the Partnership. That's why I asked that  
9 | question.

10 |           Let me pull up this question about the parking again.  
11 | Are you -- I mean I know you became a Commissioner in 2016 but are  
12 | you -- 2017 I guess -- are you aware that the reason that the  
13 | parking minimums were put in place in the Campus Plan back in 2001  
14 | were to limit the ability of cars to park in the neighborhood and  
15 | that that was seen as something that's been successful, that it's  
16 | actually worked? It's taken a while, but it's worked. Are you --  
17 | were you aware of that?

18 |           COMMISSIONER ELKINS: I've you heard you testify to that  
19 | effect. I don't know whether they've worked or not because I'm  
20 | not sure how you would measure whether that control had any effect  
21 | whatsoever.

22 |           MR. SMITH: You've been to the CLC meetings haven't you,  
23 | where AU reports on the number of cars that are parked in certain  
24 | neighborhoods on certain streets and provides reports of cars by  
25 | streets? You've been in those meetings, haven't you?

1           COMMISSIONER ELKINS: Yes, and I have ascribed it,  
2 perhaps without evidence, I have ascribed that to the Good  
3 Neighbor Parking Policy which sends students out every day, as far  
4 as I know, to enforce the parking -- no parking on neighborhood  
5 streets. So you could be correct that the minimum of 2,200 has  
6 something to do with that. I don't recall seeing any data that  
7 would tell me what is causing the fact that most students -- that  
8 most students and teachers and professors, and staff, are not  
9 parking on neighborhood streets.

10           MR. SMITH: You state on page 3 of the Plan under the  
11 terms of the Plan, that AU could increase its undergraduate  
12 enrollment by 1,358 students. That's nearly 20 percent. Doesn't  
13 that raise some concerns for you?

14           COMMISSIOENR ELKINS: No, it doesn't, for the reasons I  
15 stated in my testimony today. I think that what we really care  
16 about is the impact of all these students and I'm not sure a 20  
17 percent increase -- what are the objectionable impacts that you  
18 are ascribing to this extra 20 percent and are they  
19 undergraduates, graduate students, law students? It could be any  
20 mix, and so I think to arbitrarily say we know that a 20 percent  
21 increase is objectionable, I don't see the basis for that. I see  
22 if you were telling me that we had more parties in the  
23 neighborhood at 2 o'clock in the morning, that I know how to deal  
24 with.

25           MR. SMITH: There's been a lot of talk about the

1 Partnership marrying the Georgetown Community Partnership, and I  
2 hear what you're saying about the undergraduate cap. Georgetown  
3 University agreed to a cap, so why isn't a cap -- if it's good  
4 enough for Georgetown, why isn't it good enough for AU?

5 COMMISSIONER ELKINS: I think I answered that with my  
6 coffee answer. Just because Georgetown does something doesn't  
7 mean that we ought to do it at AU. It certainly can be considered  
8 but I think student caps can have -- student caps probably don't  
9 work to do what -- to really prevent objectionable impacts and  
10 that they can have some unintended consequences. So I strongly  
11 support AU's focusing on dealing with the output of bad behavior,  
12 bad effects, whatever it might be of their students and put those  
13 controls in place. And I think that they've done that and  
14 certainly the ANC concluded they've done that with regard to  
15 student life and transportation.

16 MR. SMITH: Chuck, how will AU's proposed traffic  
17 circulation changes impact the drop-off and pick-up issue, and did  
18 you assess whether those circulation changes might be  
19 objectionable?

20 COMMISSIONER ELKINS: I think we may see that in further  
21 processing, and I think the -- what they've drawn is a few colored  
22 lines on a -- you know, on a map and said we're considering these  
23 kind of circulation changes. I think there's a lot more to be  
24 discussed about that. I think one should look at what the impacts  
25 are.

1 MR. SMITH: Are you aware of what the traffic  
2 circulation changes are?

3 COMMISSIONER ELKINS: Say again?

4 MR. SMITH: Are you aware of what the proposed traffic  
5 circulation changes are?

6 COMMISSIONER ELKINS: I'm generally familiar with them,  
7 I think, yes.

8 MR. SMITH: Can you share them with us because I don't  
9 see them anywhere in the Campus Plan.

10 COMMISSIONER ELKINS: Well, they're on a map. That's  
11 basically what I've seen. Not a map, you know, a diagram.

12 CHAIRPERSON HOOD: Hold on. Commissioner May, did you  
13 have something you wanted to say?

14 COMMISSIONER MAY: No, I don't think it's the ANC's job  
15 to make the Applicant's case. I mean, if it's not in the  
16 Applicant's case, it's not in the Applicant's case. It's -- the  
17 question is whether they considered it and he said that he did,  
18 so.

19 CHAIRPERSON HOOD: Okay. All right. Thank you. That  
20 question was answered so I think -- that question was answered,  
21 Mr. Smith, so we can move on.

22 MR. SMITH: Thank you. As to the role of the ANC in the  
23 Partnership, you liken it to ANC reps participating in other  
24 neighborhood liaison activities or groups. In these types of  
25 activities, do the ANC Commissioners generally take formal action

1 on issues within these groups that then come up for review in  
2 their capacity as ANC Commissioners? So --

3 COMMISSIONER ELKINS: Well, I would remind you of the --  
4 excuse me, did you have more question?

5 MR. SMITH: Yes, if I could just finish. If so,  
6 shouldn't they recuse themselves?

7 COMMISSIONER ELKINS: No, I don't think so and I think  
8 you didn't require the representative to the Partnership in  
9 Georgetown to recuse himself either. These are decisions that are  
10 proposals. They are not final. I mean that was the point I was  
11 really trying to emphasize in my testimony today that somehow  
12 there seems to be this view that if the Partnership said we think  
13 this plan is ready to go forward to public review, that somehow  
14 that locks in the Commissioners to agreeing that that's the best  
15 plan once they hear all the public comment. I made that point  
16 very strongly at the CLC meeting in August. I commend to you the  
17 transcript of that meeting, the last -- the next to last page  
18 where I made it clear that the ANC Commissioners are not bound by  
19 that consent that this plan should go forward to the public. We  
20 went forward to the public so we could hear what more than a small  
21 group of people who serve on the CLC and the Partnership thought  
22 was a good plan or not. Instead, we put it out to the whole  
23 public and that's when we wanted to hear and we were inviting  
24 people to come to the ANC to tell us here's the proposal from AU,  
25 what do you think about it? Does it have objectionable impacts?

1 | What are they? How can we deal with them? That's what the ANC  
2 | review was supposed to be. I think that was what the Zoning  
3 | Commission would expect us to do, and we did it.

4 |           MR. SMITH: Did ANC 3D or any of its Commissioners play  
5 | a role in the establishment of the Partnership?

6 |           COMMISSIONER ELKINS: Yes. We were -- you remember that  
7 | the letter you sent in December, excuse me, yes December of 2016  
8 | called for ANC Commissioners to be part of the so-called  
9 | collaborative at that point, later named the Partnership, and so  
10 | yes, AU called together the people who were named to be in the  
11 | collaborative. They asked you to come and others and we began to  
12 | plan how this Partnership collaborative would work. So yes, we  
13 | played a role in that.

14 |           MR. SMITH: And --

15 |           COMMISSIONER ELKINS: We were invited.

16 |           MR. SMITH: -- and did ANC 3D or any of its  
17 | Commissioners play a role in selecting members of the Partnership  
18 | Steering Committee?

19 |           COMMISSIONER ELKINS: I don't think so, except within  
20 | their own organization. So in the case of the ANC, the way the  
21 | Steering Committee works is that the organizations that are part  
22 | of the Steering Committee choose their own representatives. So  
23 | the ANC did take a vote at its meeting, I can't remember the exact  
24 | date, in which we appointed Commissioners to serve on the  
25 | Partnership and to represent the ANC and to report back.

1 MR. SMITH: And what about the working groups? Did the  
2 ANC or ANC Commissioners play a role in selecting members of the  
3 working groups?

4 COMMISSIONER ELKINS: We encouraged people to join. For  
5 instance, I'm the Commissioner as you know for Wesley Heights, and  
6 I wanted to make sure that there were people from Wesley Heights  
7 on the facilities work group because I feared that the -- fear is  
8 the wrong word, I anticipated that the Rockwood Nebraska site  
9 would be a place that AU would want to build some new buildings.  
10 So I contacted Natalie Ambrose and Tim Talley and they went on to  
11 the facilities working group. So in that sense yes, we did  
12 encourage people, but we also put out a general notice that  
13 anybody could joint these work groups and we wanted other people  
14 to join.

15 MR. SMITH: Mr. Elkins, your oral testimony tonight  
16 referenced an agreement in Zoning Commission 1107-F among AU, ANC  
17 3D and the Spring Valley Wesley Heights Citizens Association. But  
18 your excerpt from the ANC letter referenced only one part of that  
19 agreement; is that not correct?

20 COMMISSIONER ELKINS: I only quoted a couple of  
21 sentences from it. Yes, that's right.

22 MR. SMITH: Wasn't the objective of the case that AU was  
23 seeking relief from its mandate to provide housing for 67 percent  
24 of its undergraduate population because of the roughly 10 percent  
25 increase in undergraduate enrollment over the first four years of

1 the Campus Plan and beyond their projections that they provided to  
2 the Zoning Commission in the Campus Plan?

3 COMMISSIONER ELKINS: That letter, at least two-thirds  
4 of it, dealt with enrollment issues. The portion that I was  
5 focused on for the obvious reasons was on the creation of the  
6 collaborative. But certainly that letter, it's in -- it's of  
7 course in, it's Exhibit 39 in the 1107 and if the Commission  
8 wishes, I'll be glad to submit it to the record and the Commission  
9 can read the entire letter, much of which deals with enrollment  
10 issues.

11 MR. SMITH: And didn't the agreement between the three  
12 parties allow AU to use triples after telling the Commission in  
13 2011 that it needed to add more than 1,000 student beds in order  
14 to eliminate triples and create more modern facilities?

15 COMMISSIONER ELKINS: Mr. Smith, you're asking me  
16 questions about a portion of the letter which I did not focus on  
17 and therefore I cannot say yes or no. But if you say it did, then  
18 I can accept that. But no, I didn't focus on the enrollment  
19 issues. I thought -- I did focus on enrollment issues in 2021 but  
20 not back in 2016.

21 MR. SMITH: Well, and did you -- are you aware that the  
22 agreement also allowed AU to enter into a master lease and count  
23 these students as on-campus students after telling the Commission  
24 in 2011 that it wanted to bring its students --

25 CHAIRPERSON HOOD: I'm going to rule --

1 MR. SMITH: -- back on campus?

2 CHAIRPERSON HOOD: -- Mr. Smith, Mr. Smith, I'm going to  
3 rule that out of order. He's already answered that question about  
4 what he focused on in that letter, so let's go to your next  
5 question.

6 MR. SMITH: My point, Mr. Chairman, is that the part he  
7 focused on was a small part of a larger agreement and that you  
8 can't look at one -- you can't just pull out one little section  
9 and think that you're communicating the whole scope of what  
10 happened as part of those negotiations.

11 CHAIRPERSON HOOD: So, Mr. Smith, I get your point. So,  
12 Mr. Smith, I have regulations read all the time and people leave  
13 part of regulations out. That goes on all the time. He's already  
14 said what he focused on. He's already said he only focused on  
15 that small part.

16 MR. SMITH: Was the neighborhood collaborative cited in  
17 that agreement referenced in your slide presentation ever  
18 established?

19 COMMISSIONER ELKINS: A Partnership was established,  
20 originally called a collaborative, which was modeled after that  
21 agreement. As I tried to point out in my testimony, it didn't  
22 match every single element, but I would say it matched 90 percent  
23 of it, you know, some kind of high percentage of it, and so in one  
24 sense yes, the collaborative was established but I can see another  
25 interpretation would be no, it wasn't, and we have a new

1 Partnership. The point is how are they similar and how are they  
2 different?

3 MR. SMITH: Mr. Elkins, isn't it true that the  
4 neighborhood collaborative was not established because you and  
5 others on the CLC who then went on to form the Partnership opposed  
6 it?

7 COMMISSIONER ELKINS: No, that is not correct, and I'm  
8 happy to have an opportunity to say why on the record that is not  
9 the case. I have here --

10 CHAIRPERSON HOOD: Commissioner?

11 COMMISSIONER ELKINS: -- the --

12 CHAIRPERSON HOOD: Commissioner Elkins? Commissioner --  
13 Commissioner Elkins?

14 COMMISSIONER ELKINS: Yes.

15 CHAIRPERSON HOOD: He asked a question and believe it or  
16 not, for the Commission's benefit, you answered it in the first  
17 sentence. All the excerpts that you want to put in and why you  
18 did something, I don't think that was in his question. So let's  
19 stick to it -- when he asks a question, let's stick to the answer.  
20 We don't need the additional background. That's not helping the  
21 Commission on what happened in 2001 and 2011. We have this plan  
22 in front of us. That's what's being helpful. So I want to kind  
23 of focus us back to stand with the issues.

24 COMMISSIONER ELKINS: Thank you, Mr. Chair. I will try  
25 my best to do that. So I did not oppose it. I suggested tweaks

1 to it. You went back and made those tweaks. You then proposed it  
2 to the ANC, and you signed it and you sent it to the Zoning  
3 Commission. So you signed the document, that is the document that  
4 I provided tonight.

5 MR. SMITH: And that document was based on an approval  
6 by the full ANC; is that not correct?

7 COMMISSIONER ELKINS: That is correct. You proposed it  
8 to the full ANC and your letter was transmitting it as Chairman of  
9 ANC representing the ANC 3D's position on it, yes.

10 MR. SMITH: And, Mr. Elkins, isn't it a fact that Ward 3  
11 Vision filed to reopen the record in 1107-F to voice its  
12 objections to the neighborhood collaborative?

13 COMMISSIONER ELKINS: I don't remember that. It could  
14 well be.

15 MR. SMITH: Okay. Isn't it true that there was  
16 significant criticism of the collaborative from the members of the  
17 CLC?

18 COMMISSIONER ELKINS: I led that discussion at the CLC  
19 and asked for certain tweaks and the AU took that into  
20 consideration, went back to negotiations with you, made the  
21 changes and you signed it and presented it to the ANC. So I don't  
22 know what we're talking about opposition. We said we wanted  
23 tweaks to this very good idea of having a collaborative. I had  
24 expressed before you even went to those discussions that we needed  
25 to have places where a committee could roll up their sleeves and

1 actually do some work. The members of the CLC represent the  
2 neighborhood don't do any work between meetings, even today.

3 MR.SMITHI: I don't think that's fair, and I don't think  
4 you know that, but though I think we have very different views of  
5 what happened. But what was the event that precipitated the  
6 Spring Valley Wesley Heights Citizens Association's concerns about  
7 the CLC that ultimately led to the creation of the Neighborhood  
8 Collaborative?

9 COMMISSIOENR MAY: Can I interrupt for a second? Mr.  
10 Smith, aren't you the representative of the Spring Valley Wesley  
11 Heights Citizens Association? So why are you asking him what your  
12 reasons were?

13 MR. SMITH: I'm not asking him what, I'm asking him if  
14 he knows what the reasons are, Commissioner May.

15 COMMISSIONER MAY: Okay. So all right. So fine.

16 COMMISSIONER ELKINS: My answer is --

17 COMMISSIONER MAY: To me it was yes or no.

18 COMMISSIONER ELKINS: -- (audio interference) at the  
19 time. I do not -- I do not know. I do not remember.

20 COMMISSIONER MAY: Okay. Good enough.

21 MR. SMITH: Okay. And didn't it have to do with a new  
22 smoking policy (audio interference) students congregate en masse -  
23 - I'm just trying to see if I can refresh your memory here --  
24 along Rockwood Parkway and Glenbrook Road to smoke?

25 COMMISSIONER ELKINS: I certainly remember that issue,

1 | but I don't remember that as being the stimulus for the  
2 | collaborative. It may have been. I just don't remember.

3 |           MR. SMITH: Were you aware that in these negotiations  
4 | that you referenced that it was American University that suggested  
5 | and raised the idea of the neighborhood collaborative?

6 |           COMMISSIONER ELKINS: I have no idea. I was not there.

7 |           MR. SMITH: With respect to the CAP building, the Center  
8 | for Athletic Performance and you reference that in, I forget the  
9 | month, of 2019 that (audio interference) to the members of the  
10 | CLC. Are you, as part of the Campus Plan, but do you not recall  
11 | that AU was originally planning to propose construction of the  
12 | CLC? I'm sorry, construction of the Center for Athletic  
13 | Performance -- I was hoping to get to dinner, now I'm worried  
14 | about getting to bed -- the Center for Athletic Performance as a  
15 | modification of its current Campus Plan and that those issues were  
16 | actually, those locations were discussed even before that date?

17 |           COMMISSIONER ELKINS: I don't remember that. As you  
18 | know, I was not involved in all the discussions of the 2011 plan.

19 |           MR. SMITH: This was a modification in the 2011 plan  
20 | that was discussed at the CLC. Okay. And isn't it true that by  
21 | the time of the -- you had the timeline, and I'm not going to even  
22 | ask you to put the timeline back up, but you -- by the time of the  
23 | June CLC meeting, you make reference to the June CLC meeting,  
24 | there were the breakout sessions in March and April in which we  
25 | were all broken out into multiple groups to talk about the

1 framework and then in June there was the CLC meeting. By the time  
2 that CLC meeting had been held, didn't the Partnership Steering  
3 Committee already vote to approve the Campus Plan framework with  
4 the locations and the uses and the like?

5 COMMISSIONER ELKINS: I don't remember the exact timing,  
6 but that's quite likely, and keep in mind they voted that this  
7 should go forward to the public. You will notice, as I mentioned,  
8 that the April meetings of the CLC were concurrent with the work  
9 of the Partnership. So the CLC was operating as a separate review  
10 group here.

11 MR. SMITH: Yes. But as far as that review group is  
12 concerned, basically the decisions had already been made by early  
13 June when the Steering committee approved the framework; isn't  
14 that correct?

15 COMMISSIONER ELKINS: Well, as I tried to illustrate  
16 with my analogy to federal rulemaking, which I'm sure you're very  
17 familiar with, this was a proposal that then went out for review.  
18 So sure, the AU decided to make its decisions and asked how --  
19 what they wanted to propose to the public -- and they asked the  
20 Partnership whether there was concurrence in sending them out to  
21 the public. That did not foreclose the CLC which is entirely  
22 independent to say okay, now we have this proposal, it's not just  
23 in draft, now it's actually a proposal. What do we think about  
24 it?

25 MR. SMITH: And I'm sure you weren't suggesting that

1 Spring Valley Wesley Heights Citizens Association was quiet about  
2 its response to that at that meeting. But let's just say for a  
3 moment -- let's put aside our differences over the effectiveness  
4 of the CLC and the definitions here. But from your standpoint, is  
5 it still justifiable to exclude 14 community associations who are  
6 affected by AU's location in their neighborhoods as part of a  
7 consensus building effort on Campus Planning?

8 COMMISSIONER ELKINS: As I explained in my testimony,  
9 it was thought that the neighborhood groups that live around,  
10 immediately around the main campus, have more intense interests,  
11 different interests than groups that move a mile or two away and  
12 that it was useful to have a discussion group, a collaborative  
13 group that focused on the Main Campus. It did not exclude -- you  
14 notice it didn't exclude the CLC from continuing to have this  
15 larger membership, so I don't see a contradiction in that. Now,  
16 you know, we invited -- we ended up with members completely  
17 surrounding, of the Partnership, completely surrounding the Main  
18 Campus.

19 MR. SMITH: A last question for you. I have lots of  
20 others, but I really don't see the point in asking them, so I just  
21 have one last question.

22 Is it consensus -- you say you have a consensus of  
23 Campus Plan yet there are multiple organizations here that don't  
24 quite see it, they don't quite agree with the Campus Plan. Isn't  
25 a consensus easy to reach if you control and limit the people at

1 the table?

2 COMMISSIONER ELKINS: Look, I have never said that we  
3 have a consensus Campus Plan. Maybe others have said that. I  
4 would say we had a consensus among people, organizations and  
5 people who live right around the Main Campus that this framework  
6 was a good one to put out to the public community. At that point,  
7 there was no more consensus kind of stuff going on. It was an ANC  
8 review, and it was a CLC review and that's the larger community.  
9 So no, I do think just as in federal rulemaking, they gather  
10 together some of the interest groups to develop a good proposal,  
11 but then after that it's out to the main public and those people  
12 who worked on the proposal in the federal agency don't get any  
13 special treatment. You know, they were just there on the  
14 proposal. It's a model you must be familiar with, I know you're  
15 familiar with and I think it's a good model. I used it at EPA a  
16 lot and I think it makes sense.

17 MR. SMITH: But the ANC is not a federal regulatory  
18 agency, are they? Aren't they supposed to be representing the  
19 interests of all their constituents?

20 COMMISSIONER ELKINS: Who is that? I'm sorry, I missed  
21 the who? The ANC?

22 MR. SMITH: That's okay. Forget the question.

23 COMMISSIONER ELKINS: All right.

24 MR. SMITH: Thank you.

25 COMMISSIONER ELKINS: Rhetorical?

1 MR. SMITH: No, it wasn't rhetorical. It just --

2 COMMISSIONER ELKINS: Well, I'll be glad to answer the  
3 question. I honestly did not understand it. I don't have perfect  
4 hearing.

5 MR. SMITH: My question is the ANC is not a federal  
6 agency; is that correct? A federal regulatory agency?

7 COMMISSIONER ELKINS: I was comparing the federal agency  
8 to AU, not the -- AU was acting as a model. It's my analogy, they  
9 haven't used this analogy, but it was AU that was acting as a  
10 federal agency and making the proposal, it's not the ANC. The ANC  
11 is the reviewer.

12 MR. SMITH: Thank you, Mr. Elkins.

13 COMMISSIONER ELKINS: Thank you, Mr. Smith.

14 CHAIRPERSON HOOD: Okay. Thank you very much.

15 Ms. Schellin, let's start looking at our third date.  
16 And after the third date, we'll look for the fourth date, but if  
17 we can start looking at the third date.

18 Let's see. Ms. Gates, Neighbors NLC. Do you have any  
19 cross?

20 MS. GATES: I'll make this very short -- (audio  
21 interference).

22 COMMISSIONER MAY: Ms. Gates, we cannot hear you.

23 CHAIRPERSON HOOD: Looks like she dropped. Let's come  
24 back. Ms. Gates -- let's give her a moment to come back.

25 COMMISSIONER MAY: Ms. Gates, maybe you need to turn

1 | your camera off. That might help.

2 | CHAIRPERSON HOOD: Yes.

3 | COMMISSIONER MAY: Can't hear you now. You're muted, or  
4 | maybe you're not. No, you're muted. Try again. Try again.

5 | MS. GATES: Now can you hear me?

6 | COMMISSIONER MAY: Yes.

7 | CHAIRPERSON HOOD: Yes.

8 | MS. GATES: Okay. Thank you. Mr. Elkins, did I hear  
9 | you say that NLC was invited to join the Partnership?

10 | COMMISSIONER ELKINS: I personally did not invite them.  
11 | I thought that I was told that they were invited, that people like  
12 | Dennis Paul, et cetera. But I -- no, I cannot testify to that.

13 | MS. GATES: Well, I spoke to Mr. -- or contacted Mr.  
14 | Paul today anticipating this question and he said that they were  
15 | never contacted in his recollection. So I think it's unfair to  
16 | position the Partnership as maybe being uncooperative when they  
17 | were never asked. The other question I --

18 | COMMISSIONER ELKINS: Can I just respond, Ms. Gates?  
19 | Could I respond, Ms. Gates?

20 | MS. GATES: Sure.

21 | COMMISSIONER ELKINS: I think this is a case where I was  
22 | depending, in my testimony, on being told by others and I think I  
23 | may be able to verify that, and I would like the opportunity to  
24 | submit something from the record on that if in fact I find that  
25 | others can verify it and in fact he was invited.

1 MS. GATES: Okay. And the other question I have is have  
2 you ever really looked at the Office of Planning's report?

3 COMMISSIONER ELKINS: I'm sorry. You broke up there.  
4 Did I look at their report?

5 MS. GATES: Have you looked at the -- let me put it this  
6 way. Have you looked at the outline of their report?

7 COMMISSIONER ELKINS: I briefly reviewed their report,  
8 but I did not study it.

9 MS. GATES: Well, I'm not talking about content, I'm  
10 talking about outline. When I was on the ANC this was the place I  
11 went when I was writing my report because it's thorough, it goes  
12 through the standards, it does everything. I just leave you with  
13 that thought and I'm through. Thank you.

14 CHAIRPERSON HOOD: Okay. Let's go to Westover Place.

15 MR. KIRKPATRICK: Mr. Elkins, thank you for your  
16 testimony and just a few questions. You must be exhausted.  
17 You've been testifying for more than an hour and so I realize it's  
18 very (audio interference).

19 COMMISSIONER ELKINS: No, go ahead.

20 MR. KIRKPATRICK: And I'm not going to go into the  
21 extensive history, but I appreciate some of the comments you made  
22 relating to Westover. You've distinguished Westover at the end of  
23 your testimony that we would oppose the process. Westover's been  
24 an active participant in the Partnership and Westover also made  
25 very clear what its objections were. So they weren't holding back

1 or hiding any concerns. I think they -- you received letters from  
2 a member of our board of directors about our concern about the  
3 size of the building, the height of the building, the fact that  
4 there are no significant setoffs, the use of the building, putting  
5 an underground garage. So I think that was made very clear, was  
6 it not?

7 COMMISSIONER ELKINS: I had several conversations with  
8 Mr. Tessler, your president, and leading up then to the August  
9 meeting of the CLC and then beyond that, yes. He and I discussed  
10 this at length, and I concluded and told him that I thought these  
11 were matters that were important but could be dealt with at  
12 further processing.

13 MR. KIRKPATRICK: Okay. And then isn't it true though,  
14 and you made this point in your testimony, that there's kind of a  
15 murky line between approval by the Zoning Commission of a plan and  
16 further processing and so isn't -- well you made a statement that  
17 kind of struck me. You said well, this building could be built  
18 without objectionable conditions -- when we're talking about  
19 building No. 5 -- it could be built without objectionable  
20 conditions. So that means in your review you didn't really assess  
21 whether it did or did not. It possibly had objectionable  
22 conditions or maybe it didn't. Isn't that kind of what you're  
23 saying when you talk about further processing?

24 COMMISSIONER ELKINS: No. I'm saying that the amount of  
25 information that we -- that I understand needed to be submitted by

1 AU for plan processing as opposed to further processing that, on  
2 that information, and with the changes that they made in response  
3 to comments that I concluded and I believe the ANC concluded that  
4 it is possible for ANC to construct these buildings and do the  
5 other work that's outlined in the Campus Plan and not have  
6 objectionable impacts, and if we conclude on that, why should we  
7 tell the Zoning Commission that they should not approve this plan.  
8 I mean, the Zoning Commission should not stop them from building a  
9 building that could be built without -- based on, that could be  
10 built based on the plans that they've shown. So what it leaves  
11 unanswered is the question of whether what happens when we get to  
12 further processing and it could well be that we would decide that  
13 that building cannot be built under the way that AU wants to build  
14 it without having objectionable impacts.

15 MR. KIRKPATRICK: Well, you're very experienced in  
16 Zoning Commission proceedings. I admit this is the first time  
17 I've participated, but I thought the whole purpose of this hearing  
18 was for the Zoning Commission to consider a plan that's been  
19 submitted by an Applicant and decide whether it creates  
20 objectionable conditions on the neighborhood. I thought that's  
21 what the whole purpose of the hearing was. So if the Commission  
22 concludes or is persuaded that this has objectionable conditions,  
23 that it is going to adversely impact the neighbors that (audio  
24 interference) protects us against and you said it wants to protect  
25 us against and doesn't the Zoning Commission have a right to say

1 that plan, the way you've proposed that plan, the way you've  
2 proposed that building, is not acceptable. We don't approve that  
3 plan. Isn't that (audio interference)?

4 COMMISSIONER ELKINS: Absolutely.

5 MR. KIRKPATRICK: It has the (audio interference) --

6 COMMISSIONER ELKINS: As I understand it, that is  
7 absolutely correct, and I would think that the Zoning Commission  
8 might at that point say to AU we will -- we think that because of  
9 the way you've designed, let's say building 15, that we don't see  
10 how you can build this without it having objectionable impact and  
11 therefore we direct that you make some changes to it and all I was  
12 suggesting to the Commission is as they make that decision, which  
13 is their prerogative to make, they try not to have unintended  
14 consequences. Try to focus on the output as opposed to the input.

15 MR. KIRKPATRICK: Well, let me ask this. Who has the  
16 burden of proof? Is it the Applicant that wants to build in a  
17 residential neighborhood and get it variance to persuade the  
18 Commission that it doesn't have objectionable conditions or is the  
19 burden of proof on the neighbors who live there in this  
20 residential community to persuade the Commission that it does have  
21 objectionable adverse impacts on those of us who live here. Who  
22 has the burden of proof with respect to the Commission? Can you  
23 tell me that?

24 COMMISSIONER ELKINS: I don't think I'm enough of a  
25 zoning attorney to be able to answer that definitively. I think

1 the AU has the burden of going forward, but I cannot say for sure.

2 MR. KIRKPATRICK: Well, they're the moving party; right?  
3 They're the Applicant. They're the ones asking to build this in a  
4 residential community; right? So the burden should be on them;  
5 correct?

6 COMMISSIONER ELKINS: Correct.

7 MR. KIRKPATRICK: Yes.

8 COMMISSIONER ELKINS: So all I'm saying is the ANC  
9 thought they met that burden.

10 MR. KIRKPATRICK: But you made clear that the Commission  
11 could very well, in light of the evidence offered at this hearing,  
12 could reach a different conclusion; right?

13 COMMISSIONER ELKINS: That's true. But it's also my  
14 point that I wish the parties would bring their issues to the ANC  
15 first so that we could evaluate them and then, instead of them  
16 bringing them first, you know, de novo to the Zoning Commission.

17 MR. KIRKPATRICK: Well, but I think you said earlier  
18 that Westover was quite open. You've had numerous discussions  
19 with our Board. Our Board sent a letter on behalf of the Board of  
20 Directors making quite clear what our concerns were so I'm not  
21 quite sure why you say that. But anyway, I think that (audio  
22 interference) --

23 COMMISSIONER ELKINS: Because your organization said  
24 that they would wait for further processing, that they felt these  
25 issues were further processing. That's the discussion Mr. Tessler

1 and I had over a long period of time.

2 MR. KIRKPATRICK: Well, I think the way it was for the  
3 final plan in December, the final plan came in December. It did  
4 not respond to any of Westover's concerns. It still had a huge  
5 building, no setback, four story height, an underground garage.  
6 None of the things that Mr. Tessler raised with you had been  
7 changed so that's why Westover didn't join the plan, didn't  
8 approve the plan and asked for party status to oppose it. So  
9 that's -- it's not that it wasn't disclosed, so.

10 COMMISSIONER ELKINS: Well, I have the letter dated  
11 December 7th from Mr. Tessler that says that it's further  
12 processing.

13 MR. KIRKPATRICK: Well, I reserve the right to -- we  
14 reserve party status if there's no change; right?

15 COMMISSIONER ELKINS: Well, you, yes you did absolutely.  
16 I read that here that it also includes the point that you reserve  
17 the right to contest this at the Zoning Commission and I've  
18 testified I support your ability. You were not bound by anything  
19 you did in the Partnership not to become an opposing party and  
20 that was perfectly fine.

21 MR. KIRKPATRICK: Yes. I appreciate you saying that  
22 because some parties have said that they feel people are bound by  
23 the Partnership consensus and I think you're right, that that was  
24 always the view. Westover were not bound. So thank you very much  
25 for your testimony and sorry you've been kept so late tonight.

1 COMMISSIONER ELKINS: No problem. Thank you.

2 CHAIRPERSON HOOD: Okay. Thank you. Let's go to Ms.  
3 Horvitz.

4 MS. HORVITZ: Yes, thank you. Good evening again.  
5 Chairman, I'd like to voice an objection for the record. It was  
6 agreed that the Applicant and the party in support, namely the  
7 Partnership would split their time, and what we just heard  
8 purportedly on behalf of ANC 3D was about 50 minutes, 5-0, I  
9 didn't keep -- of testimony that was essentially on behalf of the  
10 Partnership. That's the substance of the testimony and the slides  
11 was all an advocacy piece for the Partnership and bore little, if  
12 any, resemblance to testimony that one would expect from an ANC 3D  
13 representative. It didn't even address the topic in the report  
14 that the Commission is instructed to give great weight to and was  
15 a litany of personal attacks that I have no interest in, no dog in  
16 the fight. But procedurally, I would like to object to the fact  
17 that there was such a lengthy testimonial that was a de facto  
18 extra 50 minutes on behalf of a party in support. But that said,  
19 I do have some questions for cross.

20 CHAIRPERSON HOOD: Okay. Let me just comment on that.  
21 How ANC Commissioners want to use their time is how they use their  
22 time, but I will tell you, and I appreciate you giving me the  
23 segue in what I want to say. Everybody's testimony to us should  
24 be about zoning. CLC and ABC and all whatever, but you know, help  
25 us get to where we are about this - the American University Campus

1 Plan. That's what it's all about. I've allowed a lot of it. I  
2 can't really tell anybody how to testify, to use their time, in  
3 the ANCs because they are elected -- are first-line elected  
4 officials, the statutory ANC Administrative Procedures Act, I  
5 believe, and also our regulations allow them. They are not  
6 equivalent, as you know, Ms. Horvitz, as far as the timing. They  
7 have a totally different optics and rules that they have to go by,  
8 and they are not -- they don't have a time limit.

9 MS. HORVITZ: I --

10 CHAIRPERSON HOOD: So you may begin.

11 MS. HORVITZ: -- and I don't, thank you, and I don't  
12 fault the Chair at all. I understand that it was nominally a  
13 witness for the ANC and therefore he was given time. But the  
14 reality was that he was an advocate for the Partnership. I will  
15 try to be efficient, and I will try to get rather quickly to the  
16 substance which has not been focus of the ANC's testimony.

17 But first a few preliminary questions. Mr. Elkins, did  
18 ANC 3D vote to approve the slides that you submitted to the Zoning  
19 Commission on March 28, 2021?

20 COMMISSIONER ELKINS: They did not.

21 MS. HORVITZ: Did ANC 3D vote to approve your criticism  
22 of various community organizations that serve your constituents?

23 COMMISSIONER ELKINS: They did not approve my oral  
24 testimony.

25 MS. HORVITZ: You anticipated my next question. Did Dr.

1 Herzstein come to ANC 3D to voice her concerns and her husband's  
2 concerns about Jacobs Field during and before the Campus Plan  
3 process?

4 COMMISSIONER ELKINS: I'm not sure about before, but  
5 certainly during, yes.

6 MS. HORVITZ: All right. So would they, would Dr.  
7 Herzstein and Mr. Gerson fall within the category of persons who  
8 you feel followed the rules and came to the ANC first before  
9 springing new ideas and arguments on the Zoning Commission?

10 COMMISSIONER ELKINS: Absolutely. Yes, absolutely.

11 CHAIRPERSON HOOD: Ms. Horvitz. Ms. Horvitz, let me  
12 just interrupt. Mr. Elkins, on your front page of your submission  
13 it says American University's 2021 Campus Plan/to accompany oral  
14 testimony presented by Commissioner Chuck Elkins on behalf of ANC  
15 3D.

16 COMMISSIONER ELKINS: That's correct.

17 CHAIRPERSON HOOD: That's for the record. Okay. You  
18 may continue, Ms. Horvitz.

19 MS. HORVITZ: Thank you. So I just wanted to make sure  
20 that the record was clear, Mr. Elkins, that Dr. Herzstein did  
21 bring concerns about noise from Jacobs Field to ANC3D; correct?

22 COMMISSIONER ELKINS: That's correct.

23 MS. HORVITZ: And so although you want ANC 3D to be the  
24 gatekeeper for all neighbors before they can come and bring their  
25 concerns directly to the Zoning Commission, in this case Dr.

1 Herzstein did in fact do that; is that correct?

2 COMMISSIONER ELKINS: That is correct.

3 MS. HORVITZ: Okay. Now, turning actually to the  
4 substance of the Campus Plan application, and as you know, my  
5 focus is on Jacobs Field. Is there objectionable noise from  
6 Jacobs Field?

7 COMMISSIONER ELKINS: There is certainly noise and it is  
8 a high level. We have not looked at any data that was presented  
9 to us about levels, so I cannot say. The ANC made a judgment  
10 about Jacobs Field, but it was not about whether there are  
11 objectionable impacts now. It was focused on objectionable  
12 impacts in the new Campus Plan.

13 MS. HORVITZ: Do you have any idea how effective the  
14 sound barrier will be to mitigate noise from Jacobs Field after  
15 it's built?

16 COMMISSIONER ELKINS: I've had some conversations with  
17 your client, and she has given me some impressions, but I think  
18 that that needs to be determined by acoustical engineers and has  
19 to be built around the design of the wall and so I think it's  
20 premature to make any conclusions about that.

21 MS. HORVITZ: You had testified that one of the reasons  
22 that the ANC 3D is supportive of the Campus Plan is that AU puts,  
23 and I'm using your phrase, "controls in place to mitigate various  
24 adverse effects" and so my question is, what controls has AU put  
25 in place during the last Campus Plan that have adequately

1 mitigated the noise from Jacobs Field?

2 COMMISSIONER ELKINS: I'm not sure they have.

3 MS. HORVITZ: Now, in the ANC 3D report and I believe  
4 you filed that as Exhibit 10, that report was in fact approved was  
5 it not by the ANC by vote?

6 COMMISSIONER ELKINS: Yes.

7 MS. HORVITZ: Okay. As compared to your oral testimony?

8 COMMISSIONER ELKINS: That's correct.

9 MS. HORVITZ: Right? Okay. So in the report --

10 COMMISSIONER ELKINS: Just to -- could I clarify on this  
11 because you have come back --

12 MS. HORVITZ: Sure.

13 COMMISSIONER ELKINS: -- frequently with this. My oral  
14 testimony was written this week in response to, as I stated, the  
15 statements that I then saw raising issues about the integrity of  
16 the ANC review, et cetera, and so therefore -- and you know the  
17 ANC only meets every month -- and so it was not approved.

18 MS. HORVITZ: I understand. It's just that you've  
19 emphasized and the Commission as well the great weight standard,  
20 and so I think it's important for the Commission to understand  
21 when something is in fact approved, duly approved by the ANC and  
22 when it may not be and that was my only point. I understand the  
23 time constraints that you've just identified. Now turning back to  
24 --

25 COMMISSIONER ELKINS: Well, if I could respond. May I

1 -- could I respond? I think that the rules are clear that the  
2 oral testimony from ANCs is not given great weight unless it's  
3 subsequently reviewed and approved by the ANC in seven days and  
4 that's impossible in this case.

5 MS. HORVITZ: Okay. Thank you. That's actually very  
6 helpful. So turning back to your report. In the report from the  
7 ANC 3D, Exhibit 10 to this docket, you reference a draft Campus  
8 Plan which sought to liberalize existing conditions relating to  
9 Jacobs Field and that ANC 3D reviewed the draft plan that sought  
10 to liberalize existing conditions through the Zoning Commission  
11 Order 1107. What was AU proposing to remove in terms of  
12 restrictions in the draft plan, if you recall?

13 COMMISSIONER ELKINS: I do not recall but they were  
14 taking some of the restrictions out.

15 MS. HORVITZ: Well, do you remember whether they were  
16 proposing to expand usage of the fields for all activities that  
17 were approved by the university?

18 COMMISSIONER ELKINS: I think there was some interest in  
19 expanding but I don't know the extent of it. I don't remember.

20 MS. HORVITZ: Okay. Do you remember whether AU was  
21 proposing more expansive usage of amplified noise on Jacobs Field?

22 COMMISSIONER ELKINS: I do not remember.

23 MS. HORVITZ: Okay. Now, did that request from AU in  
24 the draft Campus Plan seem premature to the ANC 3D because we  
25 didn't know how effective the wall was going to be?

1 COMMISSIONER ELKINS: That's correct.

2 MS. HORVITZ: Okay. And in fact that was the  
3 conclusion, right? That the ANC 3D reached and put in its report,  
4 correct?

5 COMMISSIONER ELKINS: That's correct.

6 MS. HORVITZ: In fact, didn't your report say that it  
7 was premature to determine what those new conditions should be  
8 until the wall is designed, the sound engineering sources are  
9 geographically determined, and the acoustical results are  
10 calculated by acoustical engineers? Does that sound --

11 COMMISSIONER ELKINS: That's correct.

12 MS. HORVITZ: -- familiar?

13 COMMISSIONER ELKINS: That is correct.

14 MS. HORVITZ: Okay. And in fact is that still ANC 3D's  
15 position?

16 COMMISSIONER ELKINS: Of course.

17 MS. HORVITZ: Okay. Great. Now, is it possible that  
18 some restrictions and conditions will need to stay in place if the  
19 acoustic wall does not fully mitigate objectionable noise at  
20 Jacobs Field?

21 MS. HORVITZ: Certainly.

22 MS. HORVITZ: Okay. In Exhibit 10 of the ANC report you  
23 also say that ANC 3D is satisfied by AU's willingness to maintain  
24 the current conditions that were imposed under the Zoning  
25 Commission Order 1107 until the new wall was designed and then you

1 say, "provided the current conditions are maintained and actively  
2 enforced." Is that the position of the ANC?

3 COMMISSIONER ELKINS: Yes.

4 MS. HORVITZ: So how are you suggesting that the  
5 university should maintain and actively enforce conditions that  
6 have already produced objectionable noise?

7 COMMISSIONER ELKINS: That provision was written in at  
8 the urging of your client, that she felt that these conditions  
9 were not being enforced.

10 MS. HORVITZ: Okay.

11 COMMISSIONER ELKINS: ANC wrote in and said we think  
12 they should enforced.

13 MS. HORVITZ: And I appreciate that. I guess what I'm  
14 asking is how? How -- what is the mechanism that the Zoning  
15 Commission could impose to improve compliance by the university  
16 and mitigate noise between now and when the wall is actually  
17 built?

18 COMMISSIONER ELKINS: I'm not able to answer that  
19 question because I don't know how much of what your client  
20 believes is objectionable is caused by the non-enforcement and how  
21 much of it would be caused if it were fully enforced. I have no  
22 idea and I'm not sure she does either.

23 MS. HORVITZ: Well, do you know whether American  
24 University has circulated complete and timely schedules of field  
25 usage?

1 COMMISSIONER ELKINS: I do not know.

2 MS. HORVITZ: Do you know whether American University  
3 has placed speakers to the supplied sound system in a position  
4 that faces towards the Herzstein property instead of away from it?

5 COMMISSIONER ELKINS: I have heard that from Ms.  
6 Herzstein, but I do not know it is a fact myself.

7 MS. HORVITZ: Do you know whether or not players, event  
8 participants and visitors have been allowed to bring their own  
9 speakers to the field on occasion?

10 COMMISSIONER ELKINS: I do not know that.

11 MS. HORVITZ: So do you know whether or not American  
12 University has mitigated objections at this point?

13 COMMISSIONER ELKINS: I don't have the evidence to know  
14 one way or the other. I know that your client strongly believes  
15 that they have not mitigated it, and when I say your client, she's  
16 my -- you know, she's our constituent too. I don't mean to say  
17 she's not a constituent.

18 CHAIRPERSON HOOD: Ms. Horvitz --

19 MS. HORVITZ: No, I --

20 CHAIRPERSON HOOD: -- Ms. Horvitz. Your questions are  
21 going beyond the scope of what he's testified and also what's in  
22 his (audio interference) so I ask you to -- since you were helping  
23 me bring it back, I would ask you to bring it back.

24 MS. HORVITZ: Well, you know, Chairman, your timing is  
25 perfect because that was my last question.

1 CHAIRPERSON HOOD: So that means my timing was too late.  
2 But anyway, thank you though. Okay. Ms. Ambrose. Ms. Ambrose,  
3 you're on mute.

4 MS. AMBROSE: Sorry. I appreciate how late it is so I  
5 will try to make this very brief. I only have two questions, or  
6 you know either/or comments. I apologize in advance for that.  
7 First of all, Chuck. Hi Chuck. Man --

8 COMMISSIONER ELKINS: Hi.

9 MS. AMBROSE: -- I'm glad that you're being interrogated  
10 and not me. Chuck, let me ask you. I'm just following up on what  
11 Laird Kirkpatrick said from Westover about myself, Tim,  
12 representing our neighbors. We reached out to you numerous times  
13 as well we've had a number, many discussions about our concerns  
14 with the way the plan was going, what was being proposed for our  
15 corner; is that not correct?

16 COMMISSIONER ELKINS: That is correct.

17 MS. AMBROSE: Thank you. And the only other thing I  
18 want to ask about, and I mean this is a conundrum and I just  
19 present this to the Zoning Commission, I'm sure they've heard it  
20 from other projects and other parties in the District but, again,  
21 I mean this is the first time that our party has actually  
22 participated in a Campus Plan. We've been involved in Campus  
23 Plans before, but we never were concerned enough that we formed a  
24 party because actually development was kept away from the corner  
25 the last time around. But when I look at the roster for the

1 neighborhood Partnership and I look at the roster for the CLC, one  
2 thing I guess that concerns me, and this is again a kind of a  
3 philosophical question, but except for the people at Westover, the  
4 (audio interference) Partnership or the CLC there's really not  
5 anybody -- it's hard to participate and to get your voice heard if  
6 you're within 200 feet of the Main Campus.

7           What I mean is I look at all the organizations  
8 represented, Embassy Park Neighbors Association, Foxhall East,  
9 Greenbriar Condominium, they have a voice and, you know, we kind  
10 of feel like we get lost in the shuffle because we're not  
11 represented by a homeowners' association. We are represented by  
12 our ANC, but that's a wider group and they have to kind of, you  
13 know, they should be advocating on our behalf, but they also have  
14 to hear from other constituencies and other groups that they're  
15 participated in. So that's kind of the conundrum and why actually  
16 the concerned neighbors for the corner of Nebraska and Rockwood  
17 why we pull together and ask for party status and appreciate that  
18 the Applicant and the Commissioners gave us this opportunity.  
19 That's all I want to say.

20           CHAIRPERSON HOOD: Well, Ms. Ambrose, first let me just  
21 say, you know, I appreciate it. I know your first time sometimes  
22 is a learning experience, so I appreciate your group coming in.  
23 I'm sure the CLC, whatever it's called and the Partnership, I'm  
24 sure they will -- one of your members I'm sure can be able to  
25 join. I'm sure, I would hope that's not an issue. That's a

1 question you may follow up with Mr. Fisher on. I hope somebody  
2 helps me remember that.

3 But I want to -- I want to comment on your last two  
4 questions. Your first one I want to give you an A plus. Your  
5 second one kind of reminds me of testimony, so I'm really curious  
6 as to what your testimony is going to be about because you give us  
7 a lot of history. So if you can gear most of your questions  
8 toward -- because there will be time when you can give testimony  
9 and we're going to have questions for you where you can get a lot  
10 of that out. So I just want you to know that, but I want you to  
11 know it doesn't fall short. I appreciate this being your first  
12 time. You don't get this all the time, so I want you to know that  
13 we appreciate it, and we welcome you. We appreciate it.

14 MS. AMBROSE: Thank you.

15 CHAIRPERSON HOOD: Okay. I dare not -- I dare not go to  
16 ANC 3E unless my colleagues feel like we can do it. I just don't  
17 believe we can be finished by 10 o'clock if I go to ANC 3E. So  
18 unfortunately, I think this is a good breaking point. I wanted  
19 this to be further along than what we are, but we're not, so I  
20 think at our next meeting -- our next hearing we will start with  
21 Commissioner McHugh, ANC 3E, and then we'll start there. We'll do  
22 cross and we'll take it from our normal process from there. Then  
23 we'll go to those who support and then the parties in opposition.

24 Now obviously, from what I've heard tonight and what  
25 I've heard previously, that even though you have disagreements,

1 when I see everybody's on a first name and I'm sure Ms. Schellin  
2 has the time broken up, but the parties -- the Spring Valley,  
3 Neighbors for a Livable Community, Westover Place, Ms. Horvitz  
4 who's representing Herzstein and Gerson, and the concerned  
5 neighbors -- if you all can split up your time before the next  
6 meeting and figure out how you're going to do it I think -- Ms.  
7 Schellin, how much time do they all have collectively?

8 MS. SCHELLIN: They each have 14 minutes and there's  
9 five parties in opposition so that equals 70 minutes.

10 CHAIRPERSON HOOD: Seventy minutes total.

11 MS. SCHELLIN: Yes.

12 CHAIRPERSON HOOD: So if somebody wants to give more  
13 time to somebody -- if you all could work that out before we get  
14 back together, that would be very helpful I think, and we can move  
15 along a little faster.

16 MS. SCHELLIN: They can just email me if they have a  
17 different schedule.

18 CHAIRPERSON HOOD: Yes. But they need to talk among  
19 themselves. And even if they don't, just be ready to present it  
20 at the next meeting. It would be better to email Ms. Schellin and  
21 so we know in advance, but if not, I will accept it that night of  
22 as long as all of you all agree.

23 Ms. Schellin, do we have any dates?

24 MS. SCHELLIN: Yes, sir. Our next hearing as the  
25 Commissioners' calendar, we've gone through and we -- the

1 Commission has very, very few dates that are available. So the  
2 next available date that will work for all of the Commissioners is  
3 going to be Tuesday, April 20th at 4 o'clock p.m.

4 CHAIRPERSON HOOD: Okay. All the Commissioners, we all  
5 agree to Tuesday, April 20th at 4 p.m., and we usually don't meet  
6 on Tuesdays, but we are this time.

7 COMMISSIONER MAY: And there -- there's nothing  
8 Thursday, right?

9 MS. SCHELLIN: Nothing Thursday --

10 CHAIRPERSON HOOD: There's nothing Thursday.

11 MS. SCHELLIN: -- because all the Commissioners cannot  
12 be here on (audio interference).

13 CHAIRPERSON HOOD: And the reason we didn't do it  
14 tomorrow and the day after tomorrow, because I know personally, I  
15 have to be out for both days to do a presentation somewhere else  
16 and that's when the opposition -- and I'll tell you, that's when  
17 the opposition's going to be speaking and I want to make sure I'm  
18 here. I was here for the Applicant and I want to be here for the  
19 opposition as well, but I'm sure others who have something to do  
20 tomorrow and the day after feel the same way. So we want to make  
21 sure that we all are here. So that was the closest date.

22 Now does anybody have any issues? Any of the parties  
23 have any issues with April the 20th? If you do, let Ms. Schellin  
24 know. I'll give you two minutes to let her know if you have some  
25 issues.

1 MR. TUMMONDS: No issues for the Applicant.

2 CHAIRPERSON HOOD: Okay. Let me hear from the parties.

3 MR. SMITH: We have, Spring Valley Wesley Heights  
4 Citizens Association. No issue.

5 CHAIRPERSON HOOD: Okay. And Neighbors for a Livable  
6 Community, any issues?

7 MS. GATES: No issues.

8 CHAIRPERSON HOOD: Westover Place, Mr. Kirkpatrick. Any  
9 issues?

10 MR. KIRKPATRICK: I may have a problem for that date. I  
11 will be in California and I will be traveling. If I can't get on  
12 by video, I hope that Mr. Tessler can handle any cross-  
13 examinations necessary on that date.

14 CHAIRPERSON HOOD: Okay. We will so note it. We will  
15 accept that. Typically we don't do that, but we understand, we'll  
16 accept that. Ms. Horvitz?

17 MS. HORVITZ: I am available, and I just confirmed that  
18 my client is as well.

19 CHAIRPERSON HOOD: Okay. Thank you. And Ms. Ambrose?  
20 (Pause.)

21 CHAIRPERSON HOOD: Ms. Ambrose?

22 MS. AMBROSE: Sorry. Yes, there's a possibility I may  
23 be traveling then and but if I do, I'll get a -- I'll get Tim  
24 Talley or one of the other neighbors that I put up as possibly  
25 testifying.

1 CHAIRPERSON HOOD: Okay. And if you could just -- if  
2 both parties who may need to change because of traveling and other  
3 issues, please just make sure that Ms. Schellin knows in advance.  
4 That would be very helpful.

5 MS. AMBROSE: Okay.

6 MR. KRAVITZ: And Chairman Hood, on behalf of the AU  
7 Neighborhood Partnership, we intended to have five people testify  
8 as part of our presentation. We are still trying to rearrange but  
9 we'll be able to make it work one way or another. Just might be  
10 some substitutions in from whom you hear.

11 CHAIRPERSON HOOD: Okay. Okay. That's great. I was  
12 getting ready to come back to the neighborhood Partnership. I  
13 realize I passed you, and also -- so you all are fine on the 20th.

14 Commissioner McHugh, are you fine? We're going to  
15 start with you. Are you fine for the 20th?

16 COMMISSIONER MCHUGH: I'm fine for the 20th.

17 CHAIRPERSON HOOD: Okay. So we all on board. Ms.  
18 Schellin or Commissioners, anything else? Any closing comments  
19 from any of you all? Okay.

20 Ms. Schellin, anything else that we're leaving out?

21 MS. SCHELLIN: No, I think we're good.

22 CHAIRPERSON HOOD: Okay. We will reconvene this  
23 meeting April the 20th at 4 p.m. I hope to go six hours. I'm  
24 just letting everybody know I hope to go six hours like we did  
25 tonight. So with that, I want to thank everyone for their

1 participation, and we'll see you all on April the 20th at 4 p.m.  
2 Goodnight.

3 (Whereupon, the above-entitled matter went off the  
4 record at 9:44 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCZC

Date: 03-29-21

Place: Teleconference

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