

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

PUBLIC HEARING

+ + + + +

Thursday,
December 2, 2004

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The Public Hearing of the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room at 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice, Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTONY J. HOOD	Vice Chairperson
KEVIN HILDEBRAND	Commissioner
GREGORY JEFFRIES	Commissioner
JOHN PARSONS	Commissioner

OFFICE OF ZONING STAFF PRESENT:

ALBERTO BASTIDA	Secretary Commission
SHARON SCHELLIN	Zoning Specialist

OFFICE OF PLANNING STAFF PRESENT:

ELLEN McCARTHY	Deputy Director
JOHN FONDERSMITH	Office of Planning
STEPHEN MORDFIN	Office of Planning

OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.

This transcript constitutes the minutes from the hearing held on December 2, 2004

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

6:42 p.m.

CHAIRPERSON MITTEN: Good evening, ladies and gentlemen. This is a public hearing of the Zoning Commission of the District of Columbia for Thursday, December 2, 2004.

My name is Carol Mitten and joining me this evening are Vice-Chairman Anthony Hood and Commissioners Kevin Hildebrand, John Parsons and Greg Jeffries.

The subject of the first of our two hearings tonight is Zoning Commission Case No. 04-23. This is a request by the George Washington University pursuant to Sections 210 and 3104.1 of the zoning regulations, 11 DCMR, for approval of a modification to Condition 10 of the campus plan for its Foggy Bottom campus to permit the university to use the hall on Virginia Avenue to house freshmen.

Notice of today's hearing was published in the D.C. Register on October 15, 2004 and copies of the hearing announcement are available to you in the wall bin by the door, if you'd like to pick one up.

This hearing will be conducted in accordance with the provisions of 11 DCMR Section 3117 and the order of procedure will be as follows:

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1 We'll take up any preliminary matters
2 first, then we'll have the presentation of the
3 Applicant's case, the report by the Office of
4 Planning, reports of any other Government agencies,
5 report of the affected Advisory Neighborhood
6 Commission; in this case, it's ANC 2-A, organizations
7 and persons in support, organizations and persons in
8 opposition. And there's probably a sign-in sheet near
9 the door, so if you intend to testify, it would be
10 helpful if you signed up on that sheet and indicate
11 whether you're in support or opposition.

12 The following time constraints will be
13 maintained in the hearing:

14 The Applicant will have 20 minutes to
15 present their case, organizations will have five
16 minutes, individuals will have three minutes.

17 The Commission intends to adhere to these
18 time limits as strictly as possible in order to hear
19 this case in a reasonable period of time and we
20 reserve the right to change the time limits for
21 presentations if necessary and note that no time shall
22 be ceded.

23 All persons appearing before the
24 Commission are to fill out two witness cards and those
25 cards are also on the table by the door. Upon coming

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1 forward to speak to the Commission, please give both
2 cards to the reporter who's sitting to our right.

3 Please be advised that this proceeding is
4 being recorded by the court reporter and is also being
5 webcast live. Therefore, we must ask you to refrain
6 from making any disruptive noises in the hearing room
7 and when presenting information to the Commission,
8 please remember to turn on and speak into the
9 microphone, first stating your name and home address.
10 When you are finished speaking, please turn the
11 microphone off so that the microphone doesn't pick up
12 any sound or background noise, or give us feedback.

13 The decision of the Commission in this
14 case must be based exclusively on the public record.
15 To avoid any appearance to the contrary, the
16 Commission requests that persons present not engage
17 the members of the Commission in conversation during
18 a recess or at any other time. Staff will be
19 available throughout the hearing to discuss any
20 procedural questions and you can direct those to Mr.
21 Bastida or Mrs. Schellin.

22 Please turn off our beepers and cell
23 phones at this time so as not to disrupt the hearing.

24 And at this time we'll take up any
25 preliminary matter. Mr. Bastida?

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1 MR. BASTIDA: Madam Chairman, the staff has only
2 one preliminary matter. The applicant has filed the
3 affidavit on maintenance and it complies with the
4 zoning regulations. Thank you.

5 CHAIRPERSON MITTEN: Thank you. We do
6 have a request for party status from the Foggy Bottom
7 Association that was not filed timely and they've
8 requested a waiver. And I will ask, Ms. Dwyer, do you
9 have any objection to the waiver of the late filing or
10 the application for party status?

11 MS. DWYER: Yes, I do. First with regard
12 to the late filing, I don't believe that the
13 association has established good cause for filing
14 late. The only cause they stated was that they are a
15 volunteer organization, which every association is,
16 and I would also point out that they took a vote on
17 this application at their meeting on October 12. They
18 had ample opportunity to get the request in on time.
19 So we would oppose it on the basis of timeliness.

20 I also believe that they don't meet the
21 requirements. I don't think that they set forth in
22 their filing any way in which they are uniquely
23 affected by this application and believe that those
24 interests can be represented by the ANC which is
25 already a party.

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1 CHAIRPERSON MITTEN: Okay. Thank you.
2 Commissioners?

3 (No audible response.)

4 CHAIRPERSON MITTEN: Well, I think I'm
5 going to agree with Ms. Dwyer that there really hasn't
6 been any, I guess I would say, compelling rationale
7 put forward about why the filing was late. The Foggy
8 Bottom Association have been very involved in the
9 campus plan and I think to some extent there are
10 certainly members of the organization who know our
11 procedures fairly well. And also, notwithstanding
12 that they were a party in the campus plan case where
13 we do require that the party status applications
14 address the full range of issues and how the members
15 are more uniquely affected than other members of the
16 general public is not an issue that has been dealt
17 with adequately in their submission. So I would move
18 that we deny the request for party status from the
19 Foggy Bottom Association, but look forward to their
20 testimony. And I would ask for a second.

21 COMMISSIONER HILDEBRAND: I would second.

22 VICE-CHAIR HOOD: Discussion.

23 CHAIRPERSON MITTEN: Discussion. Mr.
24 Hood?

25 VICE-CHAIR HOOD: Well, Madam Chair, these

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1 are the submittals that we got this evening?

2 CHAIRPERSON MITTEN: Yes.

3 VICE-CHAIR HOOD: About the party status
4 issue. Mrs. Dwyer referred to a vote and I'm looking
5 to see where that is, on what sheet I guess it is, on
6 the November 24 --

7 CHAIRPERSON MITTEN: It was referenced in
8 the Office of Planning report.

9 VICE-CHAIR HOOD: Okay. Okay.

10 CHAIRPERSON MITTEN: It was referenced in
11 the Foggy Bottom Association filing.

12 VICE-CHAIR HOOD: Okay. I guess I would
13 have liked to have seen it and what they have in their
14 request. You know, when you're a volunteer group, and
15 I think the date was October the 10th?

16 CHAIRPERSON MITTEN: October 12th is when
17 we had the meeting.

18 VICE-CHAIR HOOD: Twelfth?

19 CHAIRPERSON MITTEN: Yes.

20 VICE-CHAIR HOOD: And today is December
21 the -- okay. Thank you, Madam Chair.

22 CHAIRPERSON MITTEN: Any further
23 discussion?

24 (No audible response.)

25 CHAIRPERSON MITTEN: All right. All those

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1 in favor of denying the party status request of the
2 Foggy Bottom Association, please say "aye." Aye.

3 VICE-CHAIR HOOD: Aye.

4 COMMISSIONER JEFFRIES: Aye.

5 COMMISSIONER HILDEBRAND: Aye.

6 COMMISSIONER PARSONS: Aye.

7 CHAIRPERSON MITTEN: Those opposed please
8 say "no."

9 (No audible response.)

10 CHAIRPERSON MITTEN: Mrs. Schellin?

11 MRS. SCHELLIN: Yes, staff would record
12 the vote 5-0-0 to deny party status to Foggy Bottom
13 Association. Commissioner Mitten moving, Commissioner
14 Hildebrand seconding, Commissioners Hood, Parsons and
15 Jeffries in favor.

16 CHAIRPERSON MITTEN: Thank you. Now we're
17 ready to move to the presentation of the applicant's
18 case. Thank you.

19 MS. DWYER: All right. Thank you. For
20 the record, my name is Maureen Dwyer with the law firm
21 of Shaw Pittman, counsel for the applicant, George
22 Washington University. I'm happy to be --

23 MRS. SCHELLIN: I'm sorry. Commissioner
24 Mitten, could we swear in witnesses?

25 CHAIRPERSON MITTEN: You know, I get

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1 distracted sometimes. That's a good idea.

2 Anyone who's planning on testifying in the
3 first case this evening, please rise now to take the
4 oath.

5 (The witnesses were sworn.)

6 CHAIRPERSON MITTEN: Sorry about that.

7 Can you take those three seconds off the clock?

8 MRS. SCHELLIN: Okay.

9 CHAIRPERSON MITTEN: Okay.

10 MS. DWYER: Again, I'm happy to be here
11 this evening. We have a very straight forward
12 request. We're asking for special exception relief
13 pursuant to Section 210 to modify Condition 10 of the
14 campus plan order.

15 And essentially we're here for three
16 reasons. First, GW does not want to be out of
17 compliance with its campus plan conditions. Two, the
18 university has an existing freshman dorm that was
19 purchased, designed and renovated for use as freshman
20 housing nearly over five years ago and has been
21 continuously used as such. And three, we believe that
22 the continued use of HOVA as a freshman dorm meets the
23 requirements of Section 210 and will not have any
24 objectionable impact.

25 As you can see on the map that is on the

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1 easel, HOVA, the hall on Virginia Avenue, is located
2 approximately two blocks outside of the campus plan
3 boundary. It is surrounded on all sides by freeways,
4 freeway ramps, a gasoline station and Virginia Avenue
5 and we've included in our prehearing submission as
6 Exhibit G photographs showing the relatively isolated
7 location of this building.

8 When the university purchased and
9 renovated this building for student housing, it was
10 the subject of a BZA appeal and a court case. The BZA
11 approved its use for student housing and the court
12 upheld that. I would like to point out that at that
13 time both the BZA and the Court of Appeals determined
14 that the use of this building for student housing was
15 not out of compliance with the Comprehensive Plan and
16 I would like to quote from the court's opinion, and I
17 have copies of that that I can leave for the record.
18 What the court said at that time is, "Because the
19 building at issue, in this case a former hotel, was
20 never permanent residential housing at any point in
21 its history, its conversion to a dormitory had no
22 affect whatever on the local housing stock." Thus,
23 the court agreed that the administrator and the BZA
24 rationally determined that use as a dormitory was
25 consistent with the Comprehensive Plan. So the

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1 Comprehensive Plan is not an issue in this case. The
2 court has already ruled on that and made that
3 determination. The issue here is whether we meet the
4 other requirements of Section 210.

5 I would also like to point out that at the
6 time of the campus plan case, HOVA was being used for
7 freshman housing and it was not an issue at the time
8 of the campus plan case. The university proposed to
9 continue the use of HOVA for freshman housing and its
10 representations as part of the campus plan was that
11 freshmen and sophomores would be housed in university
12 housing. I would like to point out that in that
13 campus plan case, in its supplemental report, the
14 Office of Planning also supported the use of HOVA for
15 freshman housing. So at the time of the campus plan
16 case, the fact that HOVA was being used for freshman
17 housing was not an issue and there was no disagreement
18 at that time with its continued use.

19 When the BZA issued its order, however, it
20 included Condition 10 which requires that freshman and
21 sophomores be housed on campus. And since HOVA is not
22 on campus, it does not meet that requirement.

23 As you know, there were several court
24 cases litigating the campus plan. In the most recent
25 remand decision, the Board of Zoning Adjustment chose

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1 to leave in Condition 10 even though the court had
2 said in its decision that the use of HOVA for student
3 housing was probably in the interest of justice and
4 suggested that the BZA might want to re-look at that
5 condition. What the BZA determined, however, is that
6 this was an issue best left up to the Zoning
7 Commission.

8 So given that history, given the remand
9 order directing us to go to the Zoning Commission, we
10 filed this application to request a change to
11 Condition 10 so that HOVA can continue to be used for
12 freshman housing.

13 I would like to point out, as the Office
14 of Planning did in their report, there are several
15 components to this request. First of all, because the
16 remand decision did not come out until April of last
17 year, which is after housing assignments are made for
18 the following year, at the time that that decision
19 came out there were no beds on campus to accommodate
20 the freshmen. So the freshmen for this year are being
21 housed in HOVA. We believe that that is in compliance
22 with Condition 10 because Condition 10 has a phrase
23 requiring that freshmen be housed on campus to the
24 extent such housing is available. And at that point
25 in time there were no beds on campus.

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1 What we are really talking about is what
2 happens in the fall of 2005 and going forward. And as
3 we set forth in our prehearing submission and as
4 you'll hear from the witnesses tonight, we believe
5 that we comply with the requirements of Section 210 to
6 allow the continued use of HOVA as a freshman dorm.
7 Both Mr. Barber and Ms. Sawyer will testify that there
8 are no objectionable impacts from this use and have
9 not been over the last five years and will likely not
10 be in the future. And as I said, the court has
11 already addressed the Comprehensive Plan issue.

12 If there are no questions at this point in
13 time, I'd like to call the first witness and ask Mr.
14 Barber to testify.

15 CHAIRPERSON MITTEN: Just keep going.
16 We'll ask the questions at the end.

17 MR. BARBER: Good evening. My name's
18 Charles Barber. I'm senior counsel to George
19 Washington University. I represented the university
20 also in the campus plan hearings in 2001 and 2002.

21 Let me just begin by -- there's a sense of
22 urgency on the part of the university due to the time
23 frame in which we make housing decisions. We begin
24 making those housing decisions in February of each
25 year. We start with the existing students and go

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1 through a process by which they select their housing.
2 And so by the spring, we've really made our housing
3 decisions, particularly for the upperclassmen, for the
4 following fall. We're coming here. We filed this
5 application in September. We hope to get a decision
6 by January so that we can be guided as we go forward
7 in February.

8 Just going back to the campus plan for a
9 minute, the university originated the condition of
10 housing freshmen and sophomores. It came out of our
11 discussions with the community. We were unable to
12 reach an agreement, but we understood that that was an
13 issue and we proposed to house freshmen and sophomores
14 in university housing and we tried to be clear about
15 that, that it would be university housing. We
16 certainly had HOVA in mind because, as Ms. Dwyer said,
17 we had already purchased HOVA in 1998. We were going
18 through this campus plan hearing in 2000. HOVA had
19 been purchased for \$19 million. We spent more than \$4
20 million to renovate it for freshman use. And so it
21 had already been in use for freshman housing. We were
22 planning to continue that use as freshman housing.

23 In fact, our condition, our proposed
24 condition on freshmen and sophomores was consistent
25 with our housing condition for all undergraduate

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1 students. It was a 70 percent housing condition in
2 university housing. The BZA condition was limited to
3 on-campus housing and that is the issue before us.

4 But our intent was never to segregate the
5 freshmen and sophomore. We didn't believe that these
6 people were so heinous that they needed to be
7 segregated from the larger community. Our intent was
8 to put them in university housing so they could have
9 guidance and supervision. We have what some people
10 call resident advisors, we call community
11 facilitators, and you'll hear more about that, but in
12 university housing we can provide that structure. We
13 never thought that they needed to be segregated from
14 the community and we do not think so now. In fact, we
15 have some data of five years of operation which shows
16 the conduct of the students who reside in HOVA and
17 you'll see why they're a special breed of students and
18 how they get into HOVA.

19 The conduct that we've been monitoring,
20 and we collect data on disciplinary actions we've
21 taken, shows that the students in HOVA suffer fewer
22 disciplinary actions than freshmen as a whole and
23 fewer disciplinary actions than upperclassmen. So I
24 don't believe conduct of freshmen that reside in HOVA
25 is a basis for denying them the right to continue to

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1 live there.

2 Why did we have freshmen in HOVA? The
3 Howard Johnsons was a motel. As a motel, it doesn't
4 have kitchen facilities, so it's not apartment-style
5 housing. We call it dormitory-style housing. We have
6 found that freshmen will reside and have no problems
7 with dormitory-style housing and we have dormitory-
8 style housing in other parts of the campus as well.
9 You will recall the last case we were here before you
10 that's a proof that Square 103 is a dormitory-style
11 housing.

12 Upperclassmen by and large don't want to
13 live in dormitory-style housing. They get more
14 mature. They want more independence. They want
15 kitchen facilities. We know that. We know that
16 because we've had experience with HOVA in particular.
17 We didn't just ignore this condition. We have had
18 stays in effect for some periods of time, but in the
19 spring of 2003 we were considering and had announced
20 that HOVA would be available for upperclassmen. And
21 the reaction we got was so negative that students
22 started to leave the housing system that we were
23 forced to retract that policy. Upperclassmen simply
24 have a problem with living in dormitory-style housing.
25 And it's not just GW's doing. We've talked to other

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1 universities around the country and that is the modern
2 trend.

3 We don't believe that there would be an
4 objectionable impact to continue what's been in
5 existence for five years. Given the data we've
6 collected about the conduct of HOVA students, we don't
7 believe that there would be any noticeable change,
8 whether you have freshmen here in HOVA or whether you
9 have upperclassmen, to the surrounding neighborhood.
10 We think the change is immaterial and without notice.
11 And therefore, the impact cannot be objectionable.

12 I want to make a note about what we've
13 done on on-campus housing. The essential thrust of
14 the campus plan conditions was for the university to
15 increase the amount of on-campus housing and we have
16 not been just twiddling our thumbs on that. We've
17 been moving aggressively to increase on-campus
18 housing. In the first four years of the campus plan
19 we've added some 2000 beds. We are currently housing
20 65 percent of our full time undergraduates on campus.
21 If you count our off-campus dorm residents housing, 78
22 percent. But we understand the BZA requirement for
23 housing full time undergraduates which kicks in August
24 of 2006 in an on-campus requirement. We're moving
25 aggressively to build on-campus housing and we're now

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1 at 65 percent and we plan to add more.

2 We would like though, with respect to
3 freshmen and sophomore, to have this one -- all the
4 rest of our freshmen at our resident halls are on-
5 campus, fully utilized. We would like to have HOVA to
6 be available for freshmen. If the Commission were to
7 deny this application, the result would be that more
8 students would move out into the Foggy Bottom
9 neighborhood. We are pretty confident of that.
10 That's not a result that we want. We don't want to
11 have empty residence hall. First of all, HOVA won't
12 accommodate the same number of upperclassmen.
13 Freshmen will accept a certain amount of communal
14 living that upperclassmen simply would not. So we
15 won't be able to replace 454 beds. Second of all, as
16 I said, upperclassmen by and large don't want
17 dormitory-style
18 housing and so we think there will be problem about
19 filling it. We would try. We would adjust the price.
20 But we know we're competing in the market place for
21 housing off campus that they can get with kitchen
22 facilities. And so we believe that the net result of
23 not being able to use this residence hall for freshmen
24 is to have more students moving out in the community,
25 which is a result the community does not want and

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1 which is a result the university does not want. Thank
2 you.

3 MS. DWYER: Our final witness is Ms.
4 Rebecca Sawyer and then afterwards, after she
5 testifies, Charles has one closing comment that he
6 would like to make.

7 MS. SAWYER: Good evening. I'm Rebecca
8 Sawyer. I'm the assistant dean of students and in my
9 role I oversee the residence hall system at the George
10 Washington University.

11 HOVA is considered one of the most famous
12 freshman residence halls in the country. When we took
13 over the building, it was in CNN and other national
14 newspapers. It offers double and triple occupancy
15 rooms that are dorm-style with a bathroom. There are
16 454 students living on eight floors. In fact, this
17 year over 1,700 freshmen chose to live in HOVA as
18 their first or second choice residence hall,
19 surpassing Thurston Hall as our most popular freshman
20 building. Because of HOVA's popularity with freshmen,
21 three-fourths of the HOVA freshman students are early
22 decision students, which mean they come to college
23 with stellar academic records, leadership and service
24 experiences.

25 HOVA is also home to four of our freshman

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1 living and learning communities, which provides
2 extensive residential activities and events, a wealth
3 of professional staff and support and numerous
4 leadership opportunities. Over 300 of the 454
5 students in HOVA are a part of a living learning
6 community.

7 The most important community in that
8 building for us is the Watergate 723 Community. This
9 freshman community is built around room 723 that was
10 used by the Watergate burglars on the night of June
11 17th in 1972 as their lookout post. The community
12 explores ideas of culture and politics and the ways in
13 which they have changed since the Watergate scandal.
14 They've hosted a speaker series this year including
15 John Dean and Daniel Ellsberg, and they have a local
16 community member Dan Jacobs who advises the special
17 floor and it's celebrating its fifth anniversary this
18 year. So we're pretty excited about that.

19 HOVA's really an ideal environment for
20 freshmen because we're able to internalize the
21 activity to the building. This is in line with the
22 university's campus plan to house freshmen and
23 sophomores in university housing where staff can
24 provide a structured experience in a secure and
25 controlled environment.

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HOVA has eight live-in staff members, our student staff members, one per floor. They hold staff sort of floor meetings several times during the semester to talk about their conduct and to talk about the policies and regulations of their community. And this is in addition to each student signing to agree to the policies and procedures of the university when signing their license agreement, which includes both on and off-campus behavior.

HOVA is also home to a full-time professional staff member. Our director for residential life and education lives on the seventh floor in a private apartment with his wife.

The balconies on the Virginia Avenue side are secured with a channel iron which prevents the doors from being opened more than six inches and the windows on the highway side are three-panel windows that actually have secured screens in them.

HOVA is staffed 24/7 by the University Police Department at a security desk. Residents must swipe in to gain access to the building. They also need to register any guests that go into the building at this security station. The security desk also monitors video surveillance throughout the building and the exterior of the building as well from that

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1 station. In addition to all of this, we routinely
2 have officers touring the building on an hourly basis
3 to ensure safety and security.

4 As a freshman residence hall, HOVA has had
5 no objectionable impact to the community. We were
6 really surprised by the allegations of misconduct that
7 were made at the last ANC meeting because as I
8 mentioned the early decision students are not our
9 typical GW student and actually the students in HOVA,
10 less than 10 percent of the HOVA residents have been
11 involved in a judicial incident, compared to twice
12 that number in our other freshman communities.

13 With that being said, we take complaints
14 from the community very seriously. And based on the
15 complaint at the ANC meeting, we contacted our
16 University Police Department, who after a thorough
17 investigation, found no record of bottles being thrown
18 out of the windows of HOVA.

19 UPD also contacted the Metropolitan Police
20 Department and they verified that MPD had not received
21 any reports of this. We checked with our Student
22 Judicial Services and they didn't have anything in any
23 of their files about this alleged incident. And we
24 also checked with housekeeping and maintenance staff
25 and they said that they never had to clean up broken

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1 class from outside of HOVA, so they also were
2 surprised.

3 After an extensive investigation, we
4 couldn't find any reports of this alleged misconduct
5 of the HOVA residents and we're not sure how bottles
6 could be thrown since the windows, as I mentioned
7 before, the windows on the freeway side are secured.
8 They're actually bolted in. And the rooftop, the HOVA
9 rooftop is only open during the summer months.

10 We've advertised to community members our
11 reporting process if there are concerns with student
12 conduct. We've done this in a number of ways. Jack
13 Evans included the information on his newsletter on
14 March 5th of 2004 which has a circulation of over
15 4,000 people. It was in the Foggy Bottom News in May
16 of 2004, in the Gw Hatchet on March 29th of 2004.
17 There was a letter sent to the ANC 2-A on April 15th
18 of 2004 in which Michael Akin offered to formally
19 present the policy at a future ANC meeting. He ended
20 up doing it in the community comment section in a July
21 2004 meeting. It was in a letter to the Foggy Bottom
22 Association on March 17th. It's also distributed at
23 each of the friend's monthly meetings and at a
24 community block party that was attended by over 1,000
25 people. The constituent services director in each of

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1 the of the council members' office and the mayor's
2 office of community affairs have been notified of our
3 policy. It was posted on GW's community website and
4 it has been shared with a number of area churches and
5 businesses.

6 Our current use of HOVA for freshmen has
7 had no objectionable impact on the community and
8 serves the goal of providing university housing for
9 students in a controlled structured environment with
10 no impact on the housing in the Foggy Bottom
11 neighborhood. Thank you.

12 CHAIRPERSON MITTEN: Thank you.

13 MR. BARBER: Just a closing statement.
14 GW's reached out to the community to solicit their
15 support of this application and we believe --

16 CHAIRPERSON MITTEN: Just go ahead.

17 MR. BARBER: I'm about to close up.

18 CHAIRPERSON MITTEN: Yes, I know you are.

19 MR. BARBER: We do have some support which
20 you'll hear tonight. We did hear back some concern
21 and so in the spirit of compromise what the university
22 would propose is that we be permitted to continue to
23 use HOVA for freshmen until August of 2006. And there
24 are three reasons for that.

25 One, it would bring Condition 10 which is

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1 at issue tonight in line with Condition 9, the general
2 undergraduate housing condition which kicks in August
3 2006. There would be some symmetry there. They'd
4 both take effect in August of 2006.

5 Two, and I think more significantly, there
6 are ongoing discussions that the university has had
7 with the Office of Planning that we'd like to expand
8 to include the community and various stakeholders on
9 broader housing issues and land use issues at GW,
10 including the old hospital site, which you know is
11 vacant now and we're trying to develop a plan for
12 that, and including the campus proper of the
13 university. We'd like to be able to discuss HOVA in
14 that broader context as those discussions go forward.
15 And if they work out, the university would then come
16 back and file another proceeding, perhaps a campus
17 plan amendment, to address broader issues about
18 housing and specifically Square 54. And so giving
19 this interim time period to maintain the status quo
20 and use HOVA for freshmen will allow us to fold the
21 use of HOVA into those broader discussions and would
22 give us time to deal with that and a rational amount
23 of time to deal with the outcome of those discussions.

24 And finally, if during that time period
25 there is no decision about addressing HOVA and August

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1 of 2006 is the date, then we would have time to see
2 what kind of adjustments we can make that makes sense
3 in terms of HOVA. What we don't want to do is lose
4 454 beds or lose some significant fraction of those
5 beds because quite frankly we need the beds now. So
6 we are putting that proposal on the table.

7 CHAIRPERSON MITTEN: Okay.

8 MR. BARBER: Thank you.

9 CHAIRPERSON MITTEN: Thank you. Did you
10 want to say anything to close up?

11 MS. DWYER: Well, this concludes our
12 direct case. We'll wait for our closing statement
13 after we hear the other witnesses.

14 CHAIRPERSON MITTEN: Okay.

15 MS. DWYER: Thank you.

16 CHAIRPERSON MITTEN: Thank you. Questions
17 from the Commission? Mr. Hildebrand?

18 COMMISSIONER HILDEBRAND: Have there been
19 any formal complaints in the system that you've
20 mentioned that was published in the 2004 newsletter
21 and Jack Evans' website? Have there been any
22 complaints by the community that have been recorded by
23 that mechanism?

24 MS. SAWYER: Not specific to HOVA.

25 COMMISSIONER HILDEBRAND: Not specific to

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1 HOVA?

2 MS. SAWYER: Right. No.

3 MR. BARBER: We've had judicial actions
4 with respect to HOVA students, but they have been
5 internal actions and so no, we have not. And we went
6 back and checked to see if we have any complaints that
7 were logged with respect from the community about HOVA
8 students and there were not.

9 COMMISSIONER HILDEBRAND: Were not? And
10 you say that 10 percent of the students at HOVA have
11 been under disciplinary action, so that would be
12 approximately 45 students?

13 MS. SAWYER: Yes, and it's actually less
14 than 10 percent, so it's less than 40 students.

15 COMMISSIONER HILDEBRAND: Okay. Thank
16 you.

17 CHAIRPERSON MITTEN: Anyone else? Mr.
18 Jeffries?

19 COMMISSIONER JEFFRIES: Yes, Mr. Barber,
20 I'm trying to make certain I'm sort of clear just in
21 terms of logic, so the concern is that upperclassmen
22 don't normally like to stay in tall dormitories. They
23 prefer to be off campus, not on campus?

24 MR. BARBER: No, that's not the position.
25 Upperclassmen prefer apartment-style housing and we

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1 have that on campus. A number of our residence halls
2 are apartment-style housing and upperclassmen do
3 reside there. So it's not so much the location of the
4 housing, it's whether it's dormitory-style or
5 apartment-style and apartment-style of course is with
6 a kitchen facility. And so for example, our latest
7 residence hall, Ivory Towers, which holds some 728
8 beds and is on campus, is apartment-style and it's
9 fully occupied by upperclassmen, as our several other
10 residence halls on campus.

11 COMMISSIONER JEFFRIES: Okay. So if you
12 are denied from the Zoning Commission the special
13 exception, I just want to be clear, what happens to
14 HOVA? The freshmen will have to move on campus.

15 MR. BARBER: That's right. The freshmen
16 would have to move on campus. Therefore, we would
17 have to move some upperclassmen who are now in
18 university residence --

19 COMMISSIONER JEFFRIES: To HOVA?

20 MR. BARBER: We would try to move them to
21 HOVA. We will try to entice them to HOVA. But they
22 would have --

23 COMMISSIONER JEFFRIES: Entice them?

24 MR. BARBER: Entice them, talk, offer
25 amenities perhaps. I mean, the building is as it is.

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1 There's not too much we can do in terms of design. We
2 could talk about pricing somewhat. But at the end of
3 the day, they would have a choice and if they did not
4 choose HOVA, then they could choose to lose off campus
5 in --

6 COMMISSIONER JEFFRIES: Right.

7 MR. BARBER: -- wherever. In private
8 housing.

9 COMMISSIONER JEFFRIES: Which you think
10 will be a problem for obviously some of the Foggy
11 Bottom residents in general in terms of more students
12 out and about in the community?

13 MR. BARBER: That was the primary concern
14 during the campus plan hearings, the number of
15 students we do not house in university housing and
16 their impact on the local Foggy Bottom West End
17 neighborhood in terms of the private housing.

18 COMMISSIONER JEFFRIES: You know, I went
19 to Notre Dame; they just fired our coach yesterday,
20 I'm not happy. I'm really not happy.

21 MR. BARBER: I understand.

22 COMMISSIONER JEFFRIES: We're moving these
23 e-mails back and forth. But you know, Notre Dame is,
24 you know, basically not an in-field campus. I mean,
25 there's lots of room to expand and so forth and of

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1 course you're not having the same problems with the
2 South Bend community. But in some ways, you know, GW
3 is almost an in-field campus. I mean, it fits within
4 the context of a larger area and, you know, at Notre
5 Dame there was no business of sort of enticement and
6 so forth, you know, the directions were, "This is what
7 we have to work with and this is where we go." And so
8 I'm just trying to -- I mean, I like this art of
9 negotiation and compromise with the upperclassmen, but
10 I'm just trying to get a better understanding of just
11 sort of how you manage that in the event that we don't
12 go forward with the special exception.

13 MR. BARBER: And Rebecca can speak to it
14 better than I, but let me just give you the big
15 picture in terms of the university and how it manages
16 its housing. And I think it's not inconsistent with
17 at least our market basket of schools, those schools
18 that we compare ourselves to and those schools whom
19 we're competing against. We make decisions for our
20 younger students, our freshmen and sophomore students.
21 We tell them, "You have to reside in university
22 housing," subject to certain carve-outs which are in
23 the campus plan. Either commuters who already live in
24 the area, married students and a couple other
25 categories are carved out.

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1 Upperclassmen though, they're older, they
2 want to make more of their own choices and we give
3 them the right to choose. Now we do say, "If you
4 choose university housing, we will guarantee you a
5 bed," and we realize that it's up to the university to
6 provide attractive housing to keep them in the system.
7 And we think we do a pretty good job because our
8 occupancy rates are up pretty high. They're typically
9 96-97 percent. But that is how we've managed our
10 housing.

11 Rebecca, you want to add to that?

12 MS. SAWYER: Sure. I just want to talk a
13 little bit about, as you were talking about your
14 experience at Notre Dame, it's really a national trend
15 now that the sort of standard dormitory-style room,
16 across the board, universities are moving away from
17 that because our students now are -- they're just
18 different consumers than they were when I was in my
19 undergrad and --

20 COMMISSIONER JEFFRIES: Oh, so I'm a
21 relic, right?

22 MS. SAWYER: No, not at all.

23 MR. BARBER: I think we all are.

24 COMMISSIONER JEFFRIES: You know, things
25 have changed. Okay.

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1 MS. SAWYER: Right. Yes, they definitely
2 have changed. And we do have a tough time getting our
3 students, our upper division students, to live in a
4 dormitory-style, you know, residence hall room. Right
5 now at HOVA, we have triples. We have three students
6 living in what you would envision a regular hotel room
7 to be. Three students sharing that one room, sharing
8 one bathroom. We can get freshmen to do that, but our
9 upper-division students that have other options like
10 moving off campus and getting an apartment with common
11 area space and, you know, their own bathroom and their
12 own kitchen, we just can't compete with that when
13 we're offering a triple room that's the size of a
14 hotel room.

15 COMMISSIONER JEFFRIES: Okay. Thank you.

16 COMMISSIONER HILDEBRAND: Have you done
17 any investigation on what the student or bed count
18 would be lost if you were to convert it to a more
19 standard apartment-style by joining two suites and
20 perhaps adding a kitchen space in lieu of one of the
21 bathrooms? Have you looked that far down the road?

22 MR. BARBER: We've done some preliminary
23 thinking about that. We know the cost of trying to
24 put kitchen facilities in these suites would be
25 significant and that's not your -- I mean, the

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1 engineering and the cost is a big factor to us. We
2 don't know what the cost is. We just have looked at
3 it and we know it would be significant. The number of
4 beds we would lose as a result of this, I'm not sure
5 we have looked at it. Have we?

6 MS. SAWYER: Yes, it would be potentially
7 a third of the building because we still wouldn't be
8 able to put them -- because even now, if you're
9 talking about suite-style where we currently have
10 three people in a room, that would be six beds.
11 Combining them, even at that, we wouldn't get the same
12 number of juniors and seniors living there, so I would
13 say we'd probably be able to fill a third of the
14 building compared to what we fill now.

15 COMMISSIONER HILDEBRAND: So you'd be
16 losing two-thirds of the beds? Is that what you're
17 saying?

18 MS. SAWYER: I believe so.

19 COMMISSIONER HILDEBRAND: I'm surprised by
20 that, but if you say so.

21 MR. BARBER: And I just wanted to add,
22 we'd have to factor in the time that the building
23 would have to come off line to make that conversion.
24 So during that time period, a good year at least,
25 we're losing 454 beds completely while we do the

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1 conversion. I mean, it's a significant job to make a
2 motel into apartment-style housing.

3 CHAIRPERSON MITTEN: I just have a couple
4 of questions. One is, you know, there's a decision
5 that was made by the BZA and there's all the facts
6 that supported it and now it's been litigated and
7 upheld by the court and what is it that's changed that
8 would compel the Commission to second guess the BZA's
9 decision?

10 MR. BARBER: We think we have some five
11 years of operating data to talk about the
12 objectionable impact and whether there is an
13 objectionable impact from housing freshmen there. I
14 think there was some assumptions about what would
15 happen if you had freshmen in an off-campus facility
16 and what that impact would be, and we don't think the
17 data supports what that assumption was. And so, we'd
18 offer that five years of operating data. Plus the
19 fact that where we are in terms of we'd produce more
20 beds on campus, but we would still lose a significant
21 number if we were forced to make this conversion and
22 the impact that would have on the community,
23 particularly in the short term between now and August
24 of 2006.

25 CHAIRPERSON MITTEN: If I understood the

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1 testimony earlier from Ms. Sawyer, there have been, I
2 forget what term you used, judicial actions?

3 MR. BARBER: Yes.

4 CHAIRPERSON MITTEN: Judicial actions.
5 Less than 10 percent of the students, or approximately
6 10 percent of the students in HOVA have been involved
7 in those. And then if I understood you correctly,
8 that for a typical freshman it's more like double
9 that, the average is double that. So, what you're
10 asking us for though is an unconditional -- there's no
11 condition on housing freshmen in this facility. You
12 operate it differently, but there's nothing that
13 you're adding to the condition that says, "We're going
14 to continue to operate this differently than a typical
15 freshman dorm." So, you know, how do you ensure that
16 that -- you know, if in fact the operating data
17 dispels or disputes or discredits the assumption that
18 was made the BZA, we have other data about other
19 freshmen that maybe supports the assumptions. So you
20 get what I'm asking.

21 MR. BARBER: I do. Two points. The data
22 on judicial misconduct in terms of upperclassmen
23 varies from residence hall to residence hall, but the
24 HOVA rate of interface with the judicial conduct
25 system is less than the upperclassmen. We say it's

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1 half of the other freshmen. There's one particular
2 residence hall on campus of upperclassmen which far
3 exceeds HOVA. So when you're comparing freshmen to
4 upperclassmen, we think still HOVA stands out. But,
5 we would be prepared to offer a condition that we will
6 continue to operate HOVA as we have. That is, that we
7 would offer HOVA principally for the early admits,
8 consistent with what we've been doing for the last
9 four years. We'd have no problem about continuing
10 that operating procedure and having that written in as
11 part of the condition.

12 CHAIRPERSON MITTEN: I think it would just
13 be helpful for the Commission to have sort of, you
14 know, maybe a few bullet points that would describe
15 the, not just for the early admissions students, but
16 there's a variety of things you described about what
17 makes this distinctly different.

18 MR. BARBER: Yes.

19 CHAIRPERSON MITTEN: And if we could see
20 those quantified and be able to react to that, I think
21 that would be helpful.

22 MR. BARBER: All right.

23 CHAIRPERSON MITTEN: Any other questions?

24 VICE-CHAIR HOOD: Madam Chair, yes. Mr.
25 Barber?

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1 MR. BARBER: Yes, sir.

2 VICE-CHAIR HOOD: I'm looking, you
3 mentioned symmetry and I think you mentioned August of
4 2006?

5 MR. BARBER: Yes.

6 VICE-CHAIR HOOD: I thought one of the
7 things that being requested was for us to go from 2003
8 to fall 2005. Am I missing something?

9 MR. BARBER: Yes.

10 VICE-CHAIR HOOD: And how do we get 2006?

11 MR. BARBER: I appreciate that.

12 Originally this condition was written in 2001 and as
13 the condition was originally written, the university
14 was given until 2003 to phase this in because the BZA
15 recognized that we had, at that time, made commitments
16 to upperclassmen on other housing, so we had to phase
17 this process in. So the condition as originally
18 written was to do this, but for two years you had a
19 kind of window to phase it in.

20 When the order was modified in the second
21 remand, that phase-in period -- well, that phase-in
22 period is no longer at issue. So what we're looking
23 for is a condition that says, "Effective August 2006
24 house freshmen and sophomores entirely on campus." Or
25 written another way, "Immediately house freshmen and

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1 sophomores on campus except for HOVA, which can be
2 used until August of 2006 under these conditions."

3 Did I address your question?

4 VICE-CHAIR HOOD: Yes, your answer was
5 close.

6 MR. BARBER: Okay.

7 VICE-CHAIR HOOD: So you need that extra
8 line or two in there to make sure you phase it in and
9 also that -- if it's approved and you have --

10 MR. BARBER: This year and next year.

11 VICE-CHAIR HOOD: -- be able to
12 accommodate the freshmen. Okay. Okay. I think I
13 understand.

14 MR. BARBER: Okay.

15 VICE-CHAIR HOOD: This has been around a
16 while. Let me ask you about what's the norm in other
17 jurisdictions; not local. For example, Jackson,
18 Mississippi at Jackson State.

19 MR. BARBER: In terms of housing patterns?

20 VICE-CHAIR HOOD: For freshmen.

21 MR. BARBER: Okay.

22 VICE-CHAIR HOOD: And you all may have
23 covered this all through the campus plan.

24 Unfortunately, I didn't sit it on it, so --

25 MR. BARBER: But your question is how do

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1 colleges and universities in other jurisdictions --

2 VICE-CHAIR HOOD: Yes, how, you know, a
3 freshman is attracted to places like HOVA.

4 MR. BARBER: Oh, I see.

5 VICE-CHAIR HOOD: I mean -- yes.

6 MR. BARBER: I see.

7 VICE-CHAIR HOOD: They're the only ones
8 who would -- it's almost -- I don't want to hear from
9 the relic, I'm just not -- but it's almost -- a little
10 bit, but --

11 MR. BARBER: Yes.

12 VICE-CHAIR HOOD: I'm just joking.

13 MR. BARBER: Okay.

14 VICE-CHAIR HOOD: I'd like to hear from
15 you too, but --

16 COMMISSIONER JEFFRIES: No, you're very
17 serious.

18 VICE-CHAIR HOOD: I wanted an updated
19 version.

20 COMMISSIONER JEFFRIES: And I'll remember
21 that.

22 MS. SAWYER: So, in terms of freshmen
23 across like the country, they really prefer -- I think
24 they're willing to, because they don't know any
25 different, because it's their first experience with

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1 college, they don't know any better and they're
2 willing to take sort of a dorm-style room.

3 VICE-CHAIR HOOD: Until they get hip and
4 understand where they really want to be?

5 MS. SAWYER: Exactly.

6 VICE-CHAIR HOOD: Okay. And actually I
7 knew the answer to that, but I just wanted to hear the
8 response.

9 MS. SAWYER: Yes. No, exactly.

10 VICE-CHAIR HOOD: The other thing is, and
11 I hope my colleague's not upset with me down in the
12 relic's -- but the other thing is I read where there
13 were some problems. I think one of the neighbors
14 mentioned that they had -- there are not problems now,
15 but if we allow this there will be problems. Then I
16 read on the other hand that there are bottles, and we
17 alluded to that earlier, all these things that are
18 going on. Where are we? What's actually happening?
19 We're going from one extreme to the other. It's
20 somewhere usually in the middle there.

21 MR. BARBER: We believe our students on
22 the whole are well-behaved and we think the students
23 at HOVA are probably a little bit more well-behaved
24 than other students for the reasons that we mentioned
25 earlier. That is not to say that they're perfect.

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1 Have there ever been incidents at HOVA? I'm sure
2 there have been. What we like to say is, one, we
3 don't think the rate of incidents of very high. And
4 second, we have a very robust system that we take some
5 pride in in addressing complaints of misconduct that
6 come from the community, something we've paid
7 particular attention to and it was in the campus plan
8 we had to do certain things. We of course have met
9 that, but in the last six months, we've really beefed
10 that up, which includes having our Chief of Police
11 living in the community, publicizing this 24-hour
12 call-in line, having the right people on campus ready
13 to respond, whether that's our student judicial
14 services, whether that's our maintenance people
15 because our trucks are too loud and having a system of
16 responding to the complainants about the action we
17 have taken. And we've gone to great strides to get
18 this message out.

19 Now quite frankly, we're a little
20 disappointed in some segments. I mean, this is the
21 kind of thing we should have been discussing with the
22 advisory committee. The campus plan order says set up
23 this advisory committee, GW and community. Five
24 members from GW, five members of the community. Meet
25 regularly. Look for common ground. Exchange

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1 information. This kind of community response, a
2 response to community concerns, is the kind of issue
3 we should have been discussing. We've continuously
4 offered to meet and say, "We have our members. Let's
5 sit down and meet." And we've continuously been
6 rebuffed in that. So, we have no advisory committee.

7 We've tried to make overtures to the ANC.
8 We wanted to get on their agenda. It's been difficult
9 to get onto their agenda on an issue which they should
10 care about.

11 VICE-CHAIR HOOD: Good.

12 MR. BARBER: We're going to continue
13 trying. And it's not that I'm holding GW out as
14 perfect. We are not. But we believe that we have a
15 common ground with the community in addressing
16 complaints of misconduct. Have there ever been
17 complaints of misconduct or acts of misconduct
18 involved in HOVA students? Certainly there are. But
19 we don't think there have been many and we have a
20 system that's very robust to address those as they are
21 brought to our attention. I must emphasize though
22 that they have to be brought to our attention so that
23 we can deal with them.

24 VICE-CHAIR HOOD: Okay. I have one more
25 question. I hope the Chair will indulge me because

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1 I see her neck going like this. I guess it means
2 "move on."

3 MR. BARBER: You've been around a long
4 time, right?

5 VICE-CHAIR HOOD: Yes, I've been around
6 long enough.

7 You mentioned about a compromise, and this
8 is my last question.

9 MR. BARBER: Yes.

10 VICE-CHAIR HOOD: Expound that again, the
11 compromise.

12 MR. BARBER: Our proposal, our application
13 was to continue to be allowed to continue to use HOVA
14 for freshmen indefinitely. We wanted to carve out --
15 we will house freshmen and sophomores on campus with
16 the exception for HOVA, period. The compromise is
17 with the exception for HOVA until the fall, August of
18 2006.

19 VICE-CHAIR HOOD: Okay.

20 MR. BARBER: That's the compromise.

21 VICE-CHAIR HOOD: I'm clear. Thank you.
22 Thank you, Madam Chair.

23 CHAIRPERSON MITTEN: Anyone else,
24 questions? Mrs. Miller, I know --

25 COMMISSIONER JEFFRIES: Oh, just quickly.

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1 I read that, you know, this is your second highest
2 freshmen class and I'm trying to get comfortable with
3 given sort of the status of again an in-field campus
4 in the context of a community how did you address
5 acceptances and so forth around this explosion in
6 freshmen that applied and were accepted?

7 MR. BARBER: I appreciate that. We did
8 have a large freshman class this year and we've made
9 a decision that we are not going to match -- well, we
10 want to do what we can to see that we do not reach
11 that level again. That is, that we're going to look
12 for ways to bring down the size of the freshman class
13 going forward. We're not prepared to make a
14 commitment in terms of numbers, but we are prepared to
15 say that we do not plan to have a freshman class of
16 that size again. It's somewhat of an art because it's
17 hard to hit a specific number. You make a certain
18 amount of offers and you see who accepts, but we will
19 do what we can to juggle the number of offers we make
20 to ensure that we don't reach this number again.

21 COMMISSIONER JEFFRIES: Okay. Thank you.

22 CHAIRPERSON MITTEN: Thanks. Mrs. Miller,
23 I know you weren't here for the testimony but you
24 heard some of the responses that they gave. Do you
25 have any questions on cross examination?

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1 MRS. MILLER: I do, but we've been sitting
2 in traffic for an hour and a half because they lit the
3 Christmas tree.

4 CHAIRPERSON MITTEN: But do you have any
5 questions?

6 MRS. MILLER: I know. I know. I have
7 some questions, but I haven't formulated them yet
8 because I'm still trying to get my breath from the
9 traffic.

10 CHAIRPERSON MITTEN: So are you saying
11 you're not going to take your opportunity for cross
12 examination, because it's --

13 MRS. MILLER: May I take it a little
14 later?

15 CHAIRPERSON MITTEN: No, it's now. I'm
16 sorry. Because we have another hearing later. So we
17 have to keep moving.

18 MRS. MILLER: I have been written some
19 more information that I wanted to share with you all.

20 CHAIRPERSON MITTEN: Well, that's when you
21 testify. This is time for cross examination.

22 MRS. MILLER: I know. I know. I know.
23 I'm trying to get there.

24 CHAIRPERSON MITTEN: Okay. I'm trying to
25 move it along.

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1 MRS. MILLER: I understand your problem.

2 CHAIRPERSON MITTEN: Okay.

3 MRS. MILLER: You probably don't
4 understand mine.

5 CHAIRPERSON MITTEN: No, I do, but mine's
6 more important. That's why I'm up here.

7 MRS. MILLER: They knew in the campus
8 plan, didn't you, that you were supposed to move these
9 students back on and get them out of the Foggy Bottom
10 area? That your students, if they weren't on campus,
11 were not to be housed in the Foggy Bottom area.

12 MR. BARBER: We knew what the campus plan
13 said, yes.

14 MRS. MILLER: But you haven't followed it,
15 have you?

16 MR. BARBER: We pursued our rights and
17 there was a stay of that condition and so we were
18 certainly not obligated to do that and we certainly
19 did not ignore it. We looked at it and we proposed
20 doing it and saw what kind of an adverse impact it
21 would have, not only on GW, but the community and so
22 we decided the better course was to follow the
23 procedures to seek an amendment of that condition
24 while we were still in compliance.

25 MRS. MILLER: You've never even followed

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1 the campus plan and now you want to amend it and it's
2 never been enforced anyway. So, that's what I have to
3 say.

4 CHAIRPERSON MITTEN: I want you to ask the
5 question. Just ask questions, not make your
6 statements. Okay? Do you have any more questions for
7 Mr. Barber?

8 MRS. MILLER: Not at this time.

9 CHAIRPERSON MITTEN: Okay.

10 MRS. MILLER: Because I haven't had a
11 chance to --

12 CHAIRPERSON MITTEN: I understand.

13 MRS. MILLER: -- prepare myself.

14 CHAIRPERSON MITTEN: Okay. Thank you.
15 Okay. Thank you.

16 Now, we're ready for the report by the
17 Office of Planning.

18 MR. FONDERSMITH: Madam Chair, members of
19 the Commission, I'm John Fondersmith with the Office
20 of Planning and I'm going to summarize the Office of
21 Planning report very quickly.

22 I don't think I need to over the
23 information about the building and HOVA and where it
24 is. You have those in your reports and you have it up
25 here on the oblique view. You can see HOVA several

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1 blocks from the university, from the George Washington
2 University campus boundary.

3 In our report, we've gone through the
4 background here and the requested revision by the
5 university, which they've talked about, of Condition
6 10, as they filed it, not of course with some of the
7 added position tonight.

8 And our summary recommendation was that
9 the Commission revise the fall of 2003 date to fall of
10 2005, not add the phrase "or within the Hall on
11 Virginia Avenue" as requested by the university and of
12 course the effect of not adding that phrase would be
13 to retain the main concept of Condition 10 that all
14 full-time freshman and sophomore students reside
15 within the campus boundary established by the Board.
16 And then we recommended deleting the last sentence of
17 Condition 10 as requested by the university
18 essentially just because reference to the fall of 2003
19 date was out of date.

20 We indicated here really, and I think the
21 crux of the Office of Planning argument goes back to
22 our first reports, our reports on the campus plan
23 where we were concerned about the intrusion of the
24 university into the community and the fact that there
25 could be a tipping point if that continued. At the

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1 same time, as we indicate in here, we have addressed
2 as the Commission has addressed over the last few
3 years a number of further processing cases involving
4 housing and other university facilities. And so we've
5 attempted to really move those projects, help move
6 those projects forward, at the same time lessening,
7 trying to avoid the impact of university facilities on
8 the surrounding campus.

9 So, there's been this, you might say, two-
10 edged approach of encouraging or certainly supporting
11 university efforts to provide more housing on campus
12 and yet we do believe that the existing Condition 10
13 should be maintained and the revision, as at least
14 originally granted by -- requested by the university
15 not be granted.

16 We think that for the reasons that have
17 been cited in the record about the relative immaturity
18 of the freshmen and sophomores, as indicated by the
19 university in their previous statements, that that
20 really is a good reason to preserve Condition 10 to
21 get freshmen and sophomores on campus.

22 CHAIRPERSON MITTEN: Could you share with
23 us your reaction to the compromise that Mr. Barber
24 made about allowing freshmen to use HOVA until August
25 of 2006?

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1 MS. McCARTHY: Could I address that, Madam
2 Chair?

3 CHAIRPERSON MITTEN: Please.

4 MS. McCARTHY: The Office of Planning
5 supports the policy of having freshmen and sophomores
6 on campus. Although this does seem to be an exemplary
7 group of students in HOVA and their rate of
8 infractions may be less than other freshmen, still, as
9 the university itself indicated in the campus plan
10 case, most, I believe their word was, freshmen and
11 sophomores account for most of the infractions under
12 GW student code of conduct. So we think it makes
13 sense as an overall policy to have freshmen and
14 sophomores be housed on campus.

15 We do find ourselves a little skeptical on
16 the issue of why this dormitory is inherently
17 incapable of housing juniors and seniors. There were
18 no floor plans submitted, no detailed information
19 about, you know, what do the doubles look like and the
20 triples. No way to really address the kind of
21 questions that Mr. Hildebrand asked earlier about what
22 about the possibility of combining some of the units.

23 We also, knowing the average number of
24 Domino Pizza boxes outside upper class dormitories as
25 well, find it just a little surprising that there is

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1 that great a burning desire for culinary excellence
2 that upperclassmen must have their own kitchens.

3 But basically, we do note that the
4 application itself and our witnesses tonight have
5 agreed or have indicated that HOVA is the most popular
6 freshman dorm, which may have something to do with the
7 fact that although it doesn't have its own kitchens,
8 they do basically have their own bathrooms. They're
9 not, you know, gang bathrooms down the hall. They are
10 on the waterfront. There are a lot of desirable
11 aspects to this dormitory. So we think that it's
12 certainly -- there's no reason shown why it couldn't
13 be converted to an upperclassman dormitory if there
14 are some aspects that are less than attractive at some
15 reasonable cost.

16 But with regard to the compromise that Mr.
17 Barber suggested, we do note to the best of our
18 recollection that in August of 2006 there will be a
19 new freshman dormitory available, the dormitory on
20 Square 103, and that it's approximately the same
21 number of beds. I think it may be somewhat fewer. I
22 don't remember the exact number. So that that would
23 give the university an opportunity, if they needed
24 some time to change over, to get the freshmen out of
25 HOVA, do the work and then permit juniors and seniors

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1 if there really was a need to modify some of the
2 units.

3 And it's definitely, as Mr. Barber
4 indicated, that the Office of Planning is hoping to
5 work on a joint planning effort with the community and
6 the university to address some campus planning issues
7 that do need to be ironed out around Square 54, but
8 broader than those. So staying this for a year and
9 having the opportunity to address some of those
10 broader issues, I don't think the Office of Planning
11 would have a problem with, but we do think that as a
12 longer term policy keeping the freshmen and sophomores
13 within the boundaries of the Foggy Bottom campus is
14 the best policy.

15 CHAIRPERSON MITTEN: Thank you. Mr.
16 Fondersmith, I sort of cut you off there, but --

17 MR. FONDERSMITH: I think we're
18 essentially --

19 CHAIRPERSON MITTEN: You're done? Okay.
20 Okay. Thank you.

21 Questions from the Commission for the
22 Office of Planning? Anybody? Ms. Dwyer, any
23 questions?

24 MS. DWYER: We have none. Thank you.

25 CHAIRPERSON MITTEN: Mrs. Miller, any

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1 questions for the Office of Planning?

2 MRS. MILLER: (Off microphone.)

3 CHAIRPERSON MITTEN: Would you turn on
4 your mike for me? Thank you.

5 MRS. MILLER: Thank you. I usually tell
6 everybody else to do that.

7 We once a time agreed with the Office of
8 Planning that this should not be done --

9 CHAIRPERSON MITTEN: Questions.

10 MRS. MILLER: I'm going to ask him. And
11 I think it should be not continued because if you read
12 the letter --

13 CHAIRPERSON MITTEN: Questions for the
14 Office of Planning.

15 MRS. MILLER: The question is the letter
16 that we sent with our statement showed that it's much
17 more injurious to the neighborhood --

18 CHAIRPERSON MITTEN: What's the question?

19 MRS. MILLER: The question is, why not
20 now? Why later when they've already had four years to
21 do it?

22 CHAIRPERSON MITTEN: Do you understand the
23 question?

24 MS. MCCARTHY: The question is why would
25 we support even a one-year extension of the deadline?

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1 MRS. MILLER: Absolutely. Because we
2 don't need it.

3 MS. MCCARTHY: I think we look at the
4 Court of Appeals' decision which strongly suggests
5 that there be some consideration of this issue and we
6 see a year's stay, as long as there's a commitment,
7 you know, as long as it's accompanied by an absolute
8 prohibition that after that period of time freshmen
9 and sophomores can't be there, as a way of having that
10 occur without any forces that would further GW
11 students to move into apartments in the Foggy Bottom
12 neighborhood.

13 MRS. MILLER: Are you aware that when they
14 build a dormitory for 700 that they increase the
15 enrollment of freshmen by about 3,000?

16 MS. MCCARTHY: I'm not saying there aren't
17 a number of other actions that would have to take
18 place to avoid that circumstance. I'm just saying
19 that what we're trying to do is keep our eye on the
20 prize and that is avoiding the tipping point that Mr.
21 Fondersmith was talking about, finding a way to
22 accommodate getting upperclassmen in HOVA without
23 dumping a lot of students into the neighborhood and
24 still taking advantage of an opportunity, which is
25 having a brand new freshman dorm coming on line and

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1 sort of making all those go together, along with
2 giving us a certain amount of time to just see whether
3 we can get this new planning effort underway and see
4 if we could bear some fruit and solve this problem in
5 a permanent-kind of way so we don't have to keep
6 spending our evenings here.

7 MRS. MILLER: Are you aware also that
8 they've built the two dormitories why they increased
9 enrollment that far exceeded the students they put in
10 the two dormitories and why can't we have these young
11 uncontrolled students on campus so the community can
12 stop baby sitting them?

13 MS. MCCARTHY: We are aware of the fact
14 that the enrollment increased.

15 MRS. MILLER: And are you aware they're
16 way over their enrollment cap right now?

17 CHAIRPERSON MITTEN: Mrs. Miller, you're
18 actually testifying in the form of a question.

19 MRS. MILLER: I'm asking her if she knows
20 this.

21 CHAIRPERSON MITTEN: She didn't testify to
22 it, so you're asking her.

23 MRS. MILLER: Well, I wasn't here.

24 CHAIRPERSON MITTEN: You were here when
25 she testified.

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1 MRS. MILLER: Yes, but what she says,
2 "Give them another year and another year and another
3 year."

4 CHAIRPERSON MITTEN: Did you have any
5 other questions?

6 MRS. MILLER: So I'm asking why.

7 CHAIRPERSON MITTEN: Did you have any
8 other questions?

9 MRS. MILLER: We better quit if I'm ahead.

10 CHAIRPERSON MITTEN: Okay. Thank you.
11 Thank you, all.

12 Let's see. Are there any other Government
13 agencies represented here? All right. Mrs. Miller,
14 you're back to the table. It's time to make your
15 report, give your testimony.

16 MRS. MILLER: I'm Dorothy Miller, chair of
17 ANC 2-A and the Commission voted that I should
18 represent the ANC 2-A tonight in this case.

19 And the ANC 2-A's response, I hope you
20 were able to look at some of the attachments I had
21 there, and tonight I have given you some more and one
22 of the ones that I wanted Mr. Jeffries to look at is
23 what other universities are trying to do because of
24 the explosion of people who wish to enroll in college.
25 Other universities just don't take everything in

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1 sight. They cut back because they know they have no
2 place for them, but GW never cuts back. They just
3 keep bringing them into the neighborhood.

4 The applicant for the above-titled project
5 appeared before the Commission, and I stand by my
6 original statement, appeared before on November the
7 10th at its regular-scheduled properly-noticed public
8 meeting, with a quorum present, made a presentation of
9 the modification that is being requested.

10 The ANC, by a majority vote, voted not to
11 approve this request and it feels it violates the
12 zoning regulations which requires GW to submit a plan
13 for developing the campus as a whole to demonstrate
14 that the campus will not create objectionable
15 conditions for the neighboring property. They keep
16 doing it piecemeal.

17 The Comprehensive Plan violations that
18 were included in the statement I previously filed, I
19 won't go over those again, but the Comprehensive Plan
20 includes a policy that GW should provide housing for
21 its student body within the campus plan boundaries and
22 should stop conversion of buildings outside of the
23 campus boundaries to dormitories and without
24 permission of the Zoning Commission for academic
25 purposes as well. And with my statement tonight, I'm

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1 giving you four places where they're violating that
2 without your permission.

3 For GW to stay in its statement of
4 existing and extended use that the campus plan
5 amendment proposes no changes to the existing campus
6 plan boundaries, I would like to know when were the
7 campus plan boundaries moved from 24th Street to 26th
8 Street, because that's what they're asking to do.

9 This modification request clearly shows
10 the flaws that were inherent in the original campus
11 plan submitted in 1999 and I think those who were
12 present at the time or have looked at it, both the
13 Office of Planning and the ANC said, "Don't approve
14 it, there was no planning in it," and there's still no
15 planning in it. All have failed to show a plan by GW
16 on how the university would arranged to meet the
17 requirement to house its students within the campus
18 boundaries in the time required by the plan. They
19 have yet to do that. It is past time for the request
20 from the Zoning Commission and the Office of Planning
21 demanding this plan. We need to see it.

22 The residents and the city need to know
23 what protection and enforcement they can expect from
24 their city government and its agencies.

25 Yes, the university has been building

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1 dormitories, but at the same time the university has
2 continued unabated to increase freshmen enrollment
3 every year since the plan was approved. So it's
4 builds a dormitory for 200 students; that was down at
5 1957, they increased students by 3,000. It builds
6 another dormitory for 735, the Ivory Tower, and I'm
7 not going into that tonight. That's driving us nuts.
8 But increases the enrollment another 3,000. Then it
9 asks for approval of a PUD to build a dormitory for
10 300 students and increases enrollment. When all else
11 fails, files a modification of what has been decided
12 and denied. Enclosed see a number of articles that
13 spell out this checker game that GW has been playing
14 with the city for some time and basically all it does
15 is support their real estate ventures because they do
16 more of that than they do education.

17 This modification request for student
18 housing confirms that GW has no intention of complying
19 with the dictates of the campus plan or of the
20 Comprehensive Plan and intends to pursue and ask the
21 Commission to bless its practice of expanding beyond
22 the campus boundaries in defiance of the Comprehensive
23 Plan. It is now time to put a stop to this sham. The
24 ANC requests that the Commission deny this
25 modification request. GW's current semi-annual

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1 reports, when they are submitted, are not under oath
2 as they're required, nor or they audited or certified.
3 This should be mandated so we have some control of
4 this out-of-control enrollment that's been going on.

5 And I hope you take time to look at some
6 of the articles that I have attached to my statement
7 tonight. It shows about the increases. It shows
8 about the number of students that are trying to get in
9 and GW can cut them back, but they do not.

10 CHAIRPERSON MITTEN: Okay. Thank you.
11 Questions from the Commission? Anybody? Commissioner
12 Hildebrand, you have a question?

13 COMMISSIONER HILDEBRAND: During the
14 testimony of the university they mentioned that there
15 have been no complaints filed against the HOVA complex
16 by the neighborhood. Is that true, to your knowledge?

17 MRS. MILLER: To my knowledge, we call the
18 police department, who is supposed to service the
19 residents of Foggy Bottom, not GW campus, who should
20 not even be in Foggy Bottom.

21 COMMISSIONER HILDEBRAND: And have there
22 been reports with the police department about HOVA?

23 MRS. MILLER: They have been filed with
24 me. Whether they filed them with the university or
25 not, I do not know and I attached a letter that

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1 outlined a person who lives right across the -- on I
2 Street, which is over the expressway of them hollering
3 out the windows, throwing bottles out the window and
4 remember they were going to block these windows so
5 nothing could get out of them and the first thing you
6 have is a man jumping off of the sixth or seventh
7 floor and killing himself. But the doors are supposed
8 to be fixed so you can't open them. The windows are
9 supposed to be fixed so you can't open them.

10 COMMISSIONER HILDEBRAND: So there's been
11 one complaint from the neighborhood?

12 MRS. MILLER: There's been more complaints
13 than that. And the other thing is, when they move in
14 and move out, they block the street down there and I
15 don't call GW for a complaint because I don't deal
16 with them if I can help it and they know why. They
17 never tell us the truth. They absolutely destroy our
18 neighborhood and we're supposed to thank them.

19 COMMISSIONER HILDEBRAND: Thank you.

20 CHAIRPERSON MITTEN: Anyone else? Mr.
21 Jeffries?

22 COMMISSIONER JEFFRIES: Just a quick
23 question, Commissioner Miller. What's your response
24 to the contention by GW about the fact that if the
25 freshmen had to move back on campus into these larger

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1 suites, that the upperclassmen would opt to move
2 within the Foggy Bottom neighborhoods and so forth?

3 MRS. MILLER: Let them try. We'd like to
4 see if they can do it because they haven't tried it
5 and I think if they got the freshmen out of there --
6 and on top of that, you don't realize they've closed
7 the restaurant down there so they have no food unless
8 they cross over to the Watergate. Now for the first
9 time you're getting vacancies in the Watergate and
10 nobody wants to even live -- have offices there
11 because of the students across the street. And when
12 they move in, they double-block the street. Where
13 they have a place to pull off, they don't do it. And
14 it's only three lanes. One lane turns into 66.
15 That's blocked by the students moving in and out. The
16 far left lane moves to -- turns into the Watergate, so
17 you have one lane going down to Rock Creek Park. And
18 now that the Kennedy Center is going to remodel and
19 throw all of its traffic on Virginia Avenue, welcome
20 to total chaos.

21 COMMISSIONER JEFFRIES: Okay. But I just
22 want you to answer my question --

23 MRS. MILLER: I'm trying.

24 COMMISSIONER JEFFRIES: -- and that is
25 this whole notion about the students, the

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1 upperclassmen moving off campus, opting not to go to
2 HOVA, but actually moving and dispersing themselves
3 across the Foggy Bottom neighborhood.

4 MRS. MILLER: They've been doing that all
5 along. They've never stopped. They've taken over 21
6 apartment buildings including mine.

7 COMMISSIONER JEFFRIES: But what GW has
8 just testified tonight is that those numbers could
9 increase. Do you have any concerns about that, or do
10 you think it's a bogus conception?

11 MRS. MILLER: It's funny, they never give
12 you anything to justify what they say and they can
13 never prove it. They just talk.

14 COMMISSIONER JEFFRIES: Okay.

15 MRS. MILLER: And that's the reason we
16 don't let them come before the ANC because they don't
17 tell us the truth and what they tell us isn't accurate
18 and they have nothing to back it up.

19 COMMISSIONER JEFFRIES: Thank you.

20 CHAIRPERSON MITTEN: Thank you. Mrs.
21 Dwyer, any questions?

22 MS. DWYER: No questions.

23 CHAIRPERSON MITTEN: Thank you. Thank you
24 very much.

25 Okay. Now we're ready to take

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1 organizations and persons in support. And I have a
2 long list of proponents here. I have about a dozen
3 people on it and I'm going to call folks up in panels,
4 but I'm going to ask that if people find that they're
5 hearing -- in the interest of time, we have another
6 hearing that was scheduled to start a few minutes ago,
7 so if you somebody testify to what you want to say,
8 then please, you know, either don't come forward or
9 just say, you know, "I'd like to endorse the comments
10 of my colleague."

11 So, I'm going to skip the names I can't
12 read at all and go with Mr. Lincoln. Kris Hart.
13 Jessica Stolee. Katie Musolino. I have a panel of
14 four. Okay. If you don't come up, I'm going to call
15 someone else. Okay. Billy Fetweis. Jonathan
16 Ostrower, it looks like. Okay. Brandon Sherr.
17 Daniel Miller. Okay. That fills out our chairs
18 there.

19 We'll let Mr. Lincoln go first.

20 MR. LINCOLN: Good evening, ladies and
21 gentlemen. My name is Donald V. Lincoln and I reside
22 at Watergate East, 2500 Virginia Avenue, N.W. here in
23 the District of Columbia.

24 I have lived at this Watergate address
25 just one week short of five years now.

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1 I'm here this evening to lend my support
2 to the George Washington University's continued use of
3 the Hall on Virginia Avenue, HOVA, for freshman
4 housing. I'm a strong believer that housing as many
5 students as possible on the campus is in the best
6 interest of the students, the university and the
7 surrounding community and that this is especially true
8 for freshmen, who in many cases, being away from home
9 and parental supervision, is a new life experience.

10 With its close proximity to Foggy Bottom
11 campus, HOVA is, for all practical purposes, on campus
12 housing and it provides the university with the
13 ability to monitor and control student behavior much
14 more than off-campus housing allows.

15 In the five years I've resided at
16 Watergate East I have never witnessed what I would
17 consider objectionable student behavior and as a
18 member of Friends, an organization intent on achieving
19 harmony and peaceably solving the problems that arise
20 from time to time involving the university and the
21 surrounding community, I'm very much aware of the fact
22 that the university has a policy for dealing with
23 student misbehavior that is well-publicized and is
24 being enforced.

25 In summary, I fully support the continued

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1 use of HOVA for freshman housing and I might add that
2 I'm happy to have the George Washington University as
3 a next door neighbor. Thank you.

4 CHAIRPERSON MITTEN: Thank you. And I
5 just want to remind you to give those cards to the
6 reporter, your witness cards. Okay? Thank you.

7 Go ahead.

8 MR. HART: Good evening, Chairman. Good
9 to see you again. Commissioners.

10 My name is Kris Hart. I'm a senior at the
11 George Washington University. I reside at 2301 E
12 Street, N.W., which is Columbia Plaza.

13 I'm here to testify against GW's expansion
14 into the community. The rate of growth at the George
15 Washington University, the student population is truly
16 alarming, as a community member. And I really don't
17 feel the city's found a way to properly control it.
18 I think that the student population, in numbers, is
19 what we need to be focusing on. It's really
20 frustrating that that hasn't happened and that I
21 haven't seen the city and the university work to find
22 that balance, but even with those concerns in mind,
23 with every issue that we're approaching, I'd like to
24 try to stay rational in my considerations of the
25 university, the city and our community members'

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1 perspectives.

2 I feel that this issue here is more of a
3 technicality in the overall campus plan that would
4 really hurt the community were you to vote against
5 this continuum. I believe that our ANC, with all due
6 respect to our honorable Commissioners, are fighting
7 just to fight, just to fight any issue that the
8 university is putting up. And it's ironic because
9 what we want is less students. We want less students
10 in the community. I want less students in my building
11 and most people in the community feel the same way.
12 And what this would do is promote more students to
13 move out without a doubt.

14 Last year I was president of the student
15 association, the George Washington University's
16 student body government and HOVA almost became a
17 junior/senior residence hall. And, Mr. Jeffries, you
18 brought you up how would the university entice juniors
19 and seniors to move into HOVA. They can do all they
20 want. They put together marketing plans, they put
21 together fancy brochures, I mean, they'll try hard,
22 but there's nothing that would entice me to move into
23 HOVA over my options, whether it be City Hall in the
24 campus boundaries, whether it be Columbia Plaza,
25 whether it be the Envoy or the 21 different apartment

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1 buildings that Mrs. Miller was talking about students
2 moving into.

3 Were you to vote against this, it would
4 cause a mass exodus of 454 juniors and seniors off
5 campus and into these apartment buildings. This would
6 only fill up more rooms, increase the rent and just
7 make more headaches for us community members. Charles
8 Barber said, "We're pretty confident of it," stating
9 that the juniors and seniors will move off. Well,
10 he's wrong. It's certain. It's a definite factor.
11 And I definitely don't want to see it happening to the
12 community.

13 This past election, I fortunately ran an
14 unsuccessful campaign for the ANC. Thank you, Mrs.
15 Miller.

16 CHAIRPERSON MITTEN: Well, she represents
17 you just like everybody --

18 MR. HART: She represents me well.

19 MRS. MILLER: I do.

20 MR. HART: And I'm glad. One of the main
21 reasons I ran for the ANC was that I believe that the
22 anti-GW views of the current ANC leadership are really
23 clouding their judgment. Again, anything that you
24 throw on the table that's really not a compromise,
25 like she said, "Let's not invite them for our

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1 meetings. Let's not sit down with them. No." And
2 that's just not the way that we should be doing
3 business. Case in point --

4 CHAIRPERSON MITTEN: You've got five
5 seconds.

6 MR. HART: Case in point is that HOVA is
7 definitely to the students moving out into the
8 community. I think that we should fight the fights
9 that are worth fighting and that is the basic
10 principle of the campus plan says limit the number of
11 students, cut back on the number of students, but stop
12 them from moving into the community. I thank you for
13 your time.

14 CHAIRPERSON MITTEN: Thank you.

15 UNIDENTIFIED SPEAKER: Madam Chair, I was
16 wondering if I could allow Mr. Miller to speak first?

17 CHAIRPERSON MITTEN: Yes, but whoever's
18 going to speak needs to turn on their microphone.

19 MR. MILLER: Hi. Good evening. How are
20 you? My name is Dan Miller. I am another GW senior.
21 I've worked with Kris in student government, but
22 actually on the other side of student government. We
23 worked together last year. I'm the president of an
24 organization at GW called the Residence Hall
25 Association. It's essentially the student government

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1 for students that live on campus at GW. Essentially
2 we represent the voice of the on-campus resident at GW
3 in the 30 resident halls throughout Foggy Bottom and
4 at Mount Vernon.

5 Tonight I'm here obviously to support, you
6 know, HOVA remaining a freshman building. I actually
7 lived there three years ago, so I can speak of some of
8 the experiences and I can also attest to the fact,
9 agree with Kris, that I would never return as an upper
10 division student to the Hall on Virginia Avenue. I
11 would not consider living there. And this is someone,
12 I want you to understand, I'm in a position where
13 obviously I've worked with a lot of residential staff
14 and I'm very cooperative and open to living in
15 obviously various buildings and there's a lot of
16 different kind of buildings that GW offers in terms of
17 amenities and sizes of rooms, etcetera, etcetera.

18 With that being said, I think, like Kris
19 said, it would be impossible to market the building to
20 upper division students. I would not see it happening
21 and we're in the business as an organization to try to
22 increase students to live on campus and to retain the
23 residency on campus in on-campus buildings. And I do
24 agree with Kris that people would want to move off.

25 Two years ago when there was an option

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1 like there was discussed earlier, people were very,
2 very upset and they felt very alienated and they felt
3 like they didn't have the rights of the students when
4 they thought that HOVA was going to turn into an upper
5 division building. It's definitely a perfect building
6 for freshmen. I can attest to that, having lived
7 there, with it being, you know, obviously one floor.
8 There's just sort of one row of rooms and you can
9 really just -- you know, it's a great building to just
10 sort of meet, have, you know, organization meetings
11 like all the living and learning communities that are
12 involved there. It's a perfect building for that kind
13 of setting.

14 So, obviously, with that being said, we're
15 in complete support as an organization to keep it as
16 a freshman building and I think it's the best
17 situation for the organization and the university to
18 retain its students on campus.

19 CHAIRPERSON MITTEN: Thank you.

20 MR. SHERR: Madam Chair, Commissioners, my
21 name is Brandon Sherr. I'm also an elected official
22 with the Residence Hall Association. I'm a second-
23 year student here at the George Washington University.
24 I'm technically a junior, but I was living in freshman
25 housing last year, freshman university residence

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1 halls, and I currently live in the Aston, which is a
2 university residence hall at 1129 New Hampshire
3 Avenue.

4 I can tell you that the Hall on Virginia
5 Avenue is one of the most highly requested freshman
6 residence halls on campus. The reason for that is
7 because it's really a hall that facilitates a great
8 sense of community. You have long halls with lots of
9 residents on them and freshmen who move in there,
10 unlike other apartment-style buildings where you maybe
11 have a few unites on each floor, there are many
12 freshmen on each floor, they really get to know their
13 neighbors and they form those bonds that are so
14 important to developing good relationships and to
15 really recreating a sense of family here on campus and
16 making those residence halls their homes. Those are
17 bonds that they'll carry with them through all four
18 years here at the university and they are absolutely
19 critical to a good sense of campus living.

20 In addition, there are numerous living and
21 learning communities in HOVA and a lot of those
22 communities are geared towards the history and the
23 experience of living in D.C., including the one which
24 relates to the history unique to that building with
25 regard to the Watergate building right across the

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1 street and the incident that happened there. And it's
2 something that really allows freshmen to experience
3 the excitement of history, the excitement of learning
4 and the excitement of living in D.C. I could go on
5 quite a bit on why HOVA is such a great opportunity
6 for freshmen.

7 I can tell you as a student who right now
8 lives in junior housing, all of our primarily
9 junior/senior housing residence halls are equipped
10 right now with kitchens. It's something that juniors
11 and seniors have come to expect on campus, as when you
12 become a junior, when you become a senior and you live
13 in a primarily junior/senior residence hall, you're
14 entitled to a kitchen. This is designed and this is
15 what students expect in order to promote independent
16 living. It serves as a great transition for students
17 from the college experience to the real world where
18 you have to cook your own meals of course and, you
19 know, I don't need to tell you that living in D.C. can
20 be expensive and that a lot of students, rather than
21 eating out, prefer to cook and prefer to get together
22 with their friends quite often and have meals
23 together. And it's really a great opportunity for
24 students and students do make use of their kitchens,
25 which is why if you were to offer HOVA, if you were to

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1 take it away as a freshman residence hall and make it
2 a junior and senior residence hall, it simply would
3 not be an attractive option. As I said, students
4 essentially expect the amenities that they're used to
5 and by offering HOVA and requiring juniors and seniors
6 to live there, they would simply prefer to live off
7 campus and that is an option they would take. There
8 are plenty of opportunities around the community,
9 buildings that are open to students and students would
10 simply move in there, which would go against the very
11 principles of the campus plan, which is to keep the
12 community self-contained. To keep a sense of
13 community within the campus, you'd end up with
14 students choosing --

15 CHAIRPERSON MITTEN: You need to wrap it
16 up.

17 MR. MILLER: -- to live off campus. Thank
18 you.

19 CHAIRPERSON MITTEN: Okay. Thank you.
20 Any questions for this panel? Anybody? Any
21 questions? Ms. Dwyer?

22 MRS. MILLER: (No audible response.)

23 CHAIRPERSON MITTEN: I'll get to you.

24 MRS. MILLER: Okay. I was going to say I
25 do.

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1 CHAIRPERSON MITTEN: Okay.

2 MS. DWYER: I have no questions.

3 CHAIRPERSON MITTEN: Okay. Now you're up.

4 Can you just allow Mrs. Miller to have
5 that mike there?

6 MRS. MILLER: The gentleman from the
7 Watergate, are you aware that GW founded the Friends?

8 MR. LINCOLN: Yes.

9 CHAIRPERSON MITTEN: Turn the microphone
10 on and answer into it.

11 COMMISSIONER HILDEBRAND: I understand it
12 was at the request of the community.

13 MRS. MILLER: No, it was not.

14 CHAIRPERSON MITTEN: No, you don't argue
15 with him. You just ask him questions.

16 MRS. MILLER: Oh, sorry. Sorry. Sorry.

17 Where did you hear it was at the request
18 of the community, because the community I know have
19 never made that knowledge --

20 CHAIRPERSON MITTEN: Just ask him the
21 question.

22 MRS. MILLER: Are you aware of that?

23 MR. LINCOLN: No, I'm not.

24 MRS. MILLER: And for the gentleman who
25 ran against me --

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1 MR. HART: Yes.

2 MRS. MILLER: I'd like to ask you, when
3 did you register to vote?

4 CHAIRPERSON MITTEN: How is that relevant?

5 MRS. MILLER: It's very relevant, had he
6 got my apartment building.

7 CHAIRPERSON MITTEN: No, it's not relevant
8 to this proceeding.

9 MRS. MILLER: GW --

10 CHAIRPERSON MITTEN: It's not relevant to
11 this proceeding, Mrs. Miller.

12 MRS. MILLER: It is because you're talking
13 about the students moving off campus into other
14 buildings. GW brought him there and put him in my
15 building.

16 MR. HART: As a point of personal --

17 CHAIRPERSON MITTEN: No, please don't.
18 Please don't answer that question.

19 Do you have another question?

20 MRS. MILLER: You, I think, belong to the
21 Friends as well.

22 CHAIRPERSON MITTEN: He didn't testify
23 about that. Ask him a question about something he
24 testified about.

25 MRS. MILLER: Well, he testified he moved

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1 into Columbia Plaza. How did you get in?

2 CHAIRPERSON MITTEN: It's not relevant --

3 MR. HART: By signing a lease.

4 CHAIRPERSON MITTEN: Just hold on a

5 second.

6 MRS. MILLER: It is relevant. GW put him
7 there.

8 CHAIRPERSON MITTEN: Mrs. Miller, it's not
9 relevant to this proceeding. We're talking about
10 HOVA. Okay?

11 MRS. MILLER: And that the students, if
12 the seniors don't live there, will move off campus
13 into other buildings. Right?

14 CHAIRPERSON MITTEN: So ask a question
15 that relates to his testimony that relates to that
16 issue.

17 MRS. MILLER: Well, he mentioned that he
18 moved into Columbia Plaza and I'm trying to figure out
19 how he got there, who brought him and put him in.

20 CHAIRPERSON MITTEN: But his particular
21 situation is not what is at issue. It's what are the
22 typical students -- you want to ask him about what
23 typical students might do?

24 MRS. MILLER: Yes, what would a typical
25 student -- GW brings them over and puts them in, are

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1 you aware of that?

2 MR. HART: I'm aware that students move
3 into Columbia Plaza, yes.

4 MRS. MILLER: Are you aware they have to
5 pay GW \$200 or \$300 to move in there and they --

6 CHAIRPERSON MITTEN: Why is that relevant,
7 Mrs. Miller? Let's find out what is the impact of --
8 if HOVA is not used for freshmen, how they move into
9 whatever facility they might move into. Whatever
10 facility they might move into or what the university
11 charges, that's not relevant. Okay? We're looking
12 for adverse impacts.

13 MRS. MILLER: Well, the adverse impact is
14 they say if they put the seniors down there, more of
15 them would move into our community.

16 CHAIRPERSON MITTEN: Okay.

17 MRS. MILLER: And I'm trying to prove that
18 GW puts them in our community because they have taken
19 over 21 apartment buildings, including mine. That's
20 what I'm trying to prove.

21 CHAIRPERSON MITTEN: Do you want to
22 address the general issue about whether or not you had
23 a choice about where you were going to live, which is
24 what I think you're driving at?

25 MRS. MILLER: That's very interesting

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1 because when he registered to vote, he didn't live
2 there.

3 CHAIRPERSON MITTEN: Okay. Mr. Hart, I'm
4 asking you the question.

5 MR. HART: Madam Chairman, thank you.

6 CHAIRPERSON MITTEN: Did you feel that you
7 had a choice about where you were going to live,
8 whether you were going to live in either an on-campus
9 dormitory or whether you were going to move into an
10 apartment off campus?

11 MR. HART: Yes, ma'am, of course I had a
12 choice and I made that choice with all the factors
13 that I had at my hands, at my disposal, and I chose
14 Columbia Plaza.

15 MRS. MILLER: Didn't you find out that
16 where you were living was not in the single--member
17 district ANC 2-A-05. Didn't you find that out?

18 CHAIRPERSON MITTEN: Mrs. Miller. Mrs.
19 Miller, come on now. Come on now.

20 MRS. MILLER: Well, I'm trying to prove a
21 point.

22 CHAIRPERSON MITTEN: I know, but it needs
23 to be relevant.

24 MR. HART: If -- If it makes --

25 MRS. MILLER: It is relevant. Had he got

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1 -- had he ran against me, had he got there and the
2 GW --

3 CHAIRPERSON MITTEN: We're way, way, way,
4 way off track now.

5 MR. HART: If I may just --

6 CHAIRPERSON MITTEN: No. No. No. Mrs.
7 Miller, I either want you -- the next question needs
8 to --

9 MRS. MILLER: I'll ask the next gentleman
10 one question.

11 CHAIRPERSON MITTEN: All right.

12 MRS. MILLER: Are you aware that the Aston
13 is outside of the campus boundary?

14 MR. SHERR: Yes, I am.

15 MRS. MILLER: And how did you get into
16 there? Don't do it again? All right.

17 CHAIRPERSON MITTEN: The relevancy of your
18 question, and I'm going to try and make it relevant,
19 is did you have a choice about where you were going to
20 live?

21 MR. SHERR: Yes, Madam Chair. All
22 students participate in the housing lottery
23 essentially every year and while we don't always get
24 our first choice, we usually get housing that we
25 prefer.

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1 CHAIRPERSON MITTEN: Okay. Thank you.

2 MRS. MILLER: But are you offered housing
3 on campus or off campus?

4 MR. SHERR: Once we make the decision to
5 commit to living in a university residence hall, any
6 residence hall that meets the qualifications for, for
7 example, a junior, as I was, any residence hall that
8 is eligible for juniors is an option to me, as long as
9 there are rooms there.

10 MRS. MILLER: Are you aware of the campus
11 plan that we're referring to tonight of which made
12 this fact possible, that the people at the HOVA or the
13 Hall on Virginia Avenue are supposed to be living on
14 campus? Are you aware of the campus plan part of
15 that?

16 MR. SHERR: I'm familiar with the campus
17 plan. Of course I don't represent the university's
18 administration. I was --

19 CHAIRPERSON MITTEN: She's just asking
20 about your general knowledge.

21 MR. SHERR: Yes, I suppose I'm familiar
22 with it.

23 MRS. MILLER: You've read the whole thing?

24 MR. SHERR: Well, no, I haven't read the
25 whole thing.

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1 MRS. MILLER: It's interesting because it
2 covers a whole --

3 CHAIRPERSON MITTEN: Did you have a
4 question for him?

5 MRS. MILLER: I'm trying to think of the
6 one I had for him, but there were too many up here at
7 one time. So, I'll just pass on this one.

8 CHAIRPERSON MITTEN: Okay. Thanks.

9 MR. SHERR: Thank you.

10 CHAIRPERSON MITTEN: Okay. Thanks to the
11 panel very much.

12 Now I'll just ask for anyone else who'd
13 like to testify in support to come forward now.
14 Anyone else who'd like to testify in support. Okay.

15 Why don't you go ahead while the other
16 folks take their seats?

17 MS. LONG: Good evening. I'm Catherine
18 Long. I have lived in Watergate East since 1976. I
19 support George Washington University's continued use
20 of HOVA for freshman housing.

21 From recent conversations with residents
22 of Watergate East and Watergate West, I heard no
23 complaints concerning any objectionable conduct by
24 students in this dormitory.

25 One prominent journalist who lives in West

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1 told me that she was apprehensive when she bought her
2 apartment thinking that living across from the
3 students might present problems. However, her fears
4 were not realized and she has found the students to be
5 good neighbors.

6 The manager of West, who certainly would
7 be the first to learn of any complaints and would pass
8 them to the board if he did, had no criticisms of the
9 students.

10 The students are good for Watergate
11 businesses in our mall. This was very evident during
12 Thanksgiving vacation when our stores were
13 conspicuously vacant of young people. I miss seeing
14 them as I enjoy living among these delightful
15 students. In my many visits to various stores, I have
16 never seen overcrowding by students, just young people
17 conducting business in a responsible manner.

18 Actually, there is less automobile traffic
19 and in particular less big tourist buses parking and
20 traffic. This has been an improvement. I am happy
21 the students have a secure home away from home and one
22 which is within easy walking distance of the Metro and
23 university classes and activities.

24 I support the continued use of HOVA. I
25 deeply appreciate living next door to our excellent

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1 George Washington University and to participating in
2 the GW Friends organization with its excellent
3 leadership and 175 members. Thank you.

4 CHAIRPERSON MITTEN: Thank you, Ms. Long.
5 Sir?

6 Would you turn off your microphone for us?
7 Thank you.

8 MR. LONG: Hi. My name is Graham Long.
9 I am a senior at the George Washington University and
10 also the ANC Commissioner for 2-A-06 single-member
11 district.

12 I would first like to make certain that my
13 testimony today is in no way meant to be construed as
14 reflecting that of the ANC's opinion or any other
15 decisions; it's my personal opinion.

16 I would like to say that I am in support
17 of the George Washington University being able to use
18 the Hall on Virginia Avenue for continued freshman use
19 and I'd like to address what I think is the crux of
20 the issue seems to be tonight, is that whether or not
21 the building could be used for upperclassmen. And one
22 of the things that hasn't come up yet is the financial
23 aspect. And I know for me, in my almost four years
24 now at the university, the number one decision for a
25 lot of people I know, and myself included, on whether

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1 to live on or off campus is pricing. It's incredibly
2 expensive to live on campus at our school. In many
3 instances, it's less expensive for students to live
4 off campus than to live in some of our buildings.

5 So the idea of having a building, that
6 even if it was made more attractive, is still less
7 attractive than other upperclassmen apartment-style
8 dormitories on our campus, is nobody is going to want
9 to move into that building because it's going to be
10 similar in pricing to those other buildings. So they
11 can go, I could go off and get an apartment that is
12 off campus cheaper than that. So I would like to say
13 that I absolutely agree with everyone who's testified
14 who says that there is no way this building could in
15 any way be used for upperclassmen. Thank you.

16 CHAIRPERSON MITTEN: Thank you, Mr. Long.

17 Ma'am?

18 MS. CHAMPAGNE: Good evening. My name is
19 Rita Champagne and for the last 28 years I have lived
20 at 2400 Virginia Avenue, N.W., Washington, D.C. I am
21 here to testify in support of George Washington
22 University's request to continue the use of the Hall
23 on Virginia Avenue, HOVA, for freshman housing.

24 I am a member of the Foggy Bottom
25 Association and a former Foggy Bottom Association

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1 board member, and was a former treasurer. However, I
2 must respectfully disagree with its position on this
3 issue. I believe that the ANC and the Foggy Bottom
4 Association have failed to see the larger picture and
5 this is the perfect case of cutting off your nose to
6 spite your face.

7 If the HOVA building cannot be used for
8 freshmen, hundreds of students will then move into the
9 neighborhood. Yet if some Foggy Bottom residents feel
10 that the students are a problem at HOVA, then let us
11 address that problem and not move it elsewhere.

12 The George Washington University has an
13 extremely effective and well-published community
14 concern policy. I'm attaching to this statement an
15 information sheet issued by the university on this
16 subject.

17 I have had personal experience with this
18 policy. I have called 994-6110 stating the problem
19 and giving my name, address and telephone number.
20 Within a few minutes the noise had stopped. The next
21 day I received a call from GW saying that they had
22 received a copy of my complaint and that the matter
23 had been taken care of.

24 It makes sense to me that if your house is
25 on fire, you call the fire department, not write a

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1 letter to your ANC Commissioner. Likewise, in this
2 case, if the students are a problem at HOVA, let's
3 work with GW and the students to correct this. I have
4 had good rapport with the students and I gladly offer
5 my help in this regard. I honestly don't believe that
6 there are problems seriously enough to discontinue the
7 use of HOVA for this freshman housing. In my opinion,
8 closing this facility to freshmen would only create
9 more problems, thus I support GW's application. Thank
10 you very much.

11 CHAIRPERSON MITTEN: Thank you, Ms.
12 Champagne.

13 Any questions for this panel?

14 VICE-CHAIR HOOD: Madam Chair, I just want
15 to ask Commissioner Long, were you present at the ANC
16 November the 10th meeting?

17 MR. LONG: Thank you. Yes, I was.

18 VICE-CHAIR HOOD: Do you know right of
19 what the vote was?

20 MR. LONG: Of hand, I believe it was 4-2
21 in favor of rejecting the George Washington
22 University's request.

23 VICE-CHAIR HOOD: Okay. All right.

24 MR. LONG: But I can't be certain.

25 VICE-CHAIR HOOD: Okay. Thank you.

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1 MR. LONG: You're welcome.

2 CHAIRPERSON MITTEN: Anyone else?

3 Questions? Ms. Dwyer, any questions?

4 MS. DWYER: No questions.

5 CHAIRPERSON MITTEN: Mrs. Miller? Would
6 you turn on the microphone for us?

7 MRS. MILLER: I'm sorry again. If you
8 were present at the November 10th meeting, you know we
9 were absent one Commissioner, correct?

10 MR. LONG: I believe -- wasn't that for
11 part of the time of the meeting?

12 MRS. MILLER: No.

13 MR. LONG: Well, I don't remember off
14 hand, so I can't say either way.

15 MRS. MILLER: And you think about it, you
16 might recall the majority vote was 3-2.

17 MR. LONG: It was 3-2, yes.

18 MRS. MILLER: Because we were short one.

19 MR. LONG: Yes, that does sound familiar.

20 MRS. MILLER: Okay.

21 MR. LONG: So, I think that might be the
22 case, yes.

23 MRS. MILLER: And the other reason I'd
24 like to ask Ms. Rita Champagne if her house was on
25 fire, would you call GW?

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1 CHAIRPERSON MITTEN: Come on now.

2 MRS. MILLER: Of course you would. They'd
3 put your fire out, right?

4 CHAIRPERSON MITTEN: Mrs. Miller.

5 MRS. MILLER: No, I'm really serious about
6 this one.

7 CHAIRPERSON MITTEN: What's the question
8 that's relevant to HOVA?

9 MRS. MILLER: The question is if her house
10 -- she said if her house was fire, you would call the
11 fire department. I'm asking her, she said she would
12 call GW. So I'm asking her if her house was on fire,
13 would you call GW?

14 CHAIRPERSON MITTEN: I'm going to ask you
15 to give a very short answer to that.

16 MS. CHAMPAGNE: No.

17 CHAIRPERSON MITTEN: Would you turn on
18 your microphone?

19 MS. CHAMPAGNE: The question was would I
20 call the fire department if my house was on fire?

21 MRS. MILLER: Correct.

22 MS. CHAMPAGNE: Sure, I would call the
23 fire department.

24 CHAIRPERSON MITTEN: Okay. And how --

25 MRS. MILLER: I said would you call GW?

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1 CHAIRPERSON MITTEN: Mrs. Miller.

2 MRS. MILLER: You say you would call GW --

3 CHAIRPERSON MITTEN: Mrs. Miller.

4 MRS. MILLER: All right.

5 CHAIRPERSON MITTEN: How is whether her
6 house is on fire or whatever relevant to HOVA?

7 MRS. MILLER: Okay. Are you aware where
8 you live at Columbia Plaza that we have policemen on
9 duty, that you only have to call the desk to get
10 results?

11 MS. CHAMPAGNE: I am aware of that.

12 MRS. MILLER: So why would you call GW?

13 CHAIRPERSON MITTEN: How is this relevant
14 to HOVA?

15 MRS. MILLER: Because they keep saying the
16 students, if they put the seniors there, will move
17 into our neighborhood and keep in mind 50 percent of
18 Columbia Plaza is owned practically by GW and they
19 manage it.

20 CHAIRPERSON MITTEN: but the issue that
21 you're asking Ms. Champagne about is --

22 MRS. MILLER: I think she said she would
23 call GW and that they respond right away and that the
24 noise stops.

25 CHAIRPERSON MITTEN: You are speaking of

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1 an adverse impact about where people live and the
2 adverse impact that you're exploring is whether or not
3 these are responsible students. So ask questions that
4 are relevant to the information you're trying to
5 elicit and educate the Commission with. Do you have
6 any of those kinds of questions?

7 MRS. MILLER: I have, for the first
8 person.

9 Now, she said that the Watergate East and
10 West. Are you aware that the Board voted to oppose
11 this both in the West and the East and sent copies to
12 the ANC?

13 MS. LONG: Well, they may have sent copies
14 to the ANC; I'm not aware of that, but they did not
15 send them to GW.

16 MRS. MILLER: Now I said the Board voted
17 to oppose this.

18 MS. LONG: I am not acquainted with that
19 issue at all.

20 MRS. MILLER: But you live there, but you
21 don't participate?

22 MS. LONG: I live at Watergate East.

23 CHAIRPERSON MITTEN: She's answered you
24 question.

25 MRS. MILLER: I'm talking about Watergate

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1 East and Watergate West. Are you --

2 CHAIRPERSON MITTEN: Mrs. Miller. She
3 answered your question. She's not aware of that. Did
4 you have another question for her?

5 MRS. MILLER: No, that will do it.

6 CHAIRPERSON MITTEN: Okay. Thank you.
7 Thank you, folks, very much.

8 Now we're ready for the folks in
9 opposition and I have one name on the list, which is
10 Sarah Elizabeth Roland for Foggy Bottom Association.

11 Is there anyone else who'd like to testify
12 in opposition? Come on forward now. Anyone else,
13 this is the time to come forward.

14 And, Mrs. Spillinger, I think you maybe
15 missed the swearing in, so we'll have to do that.
16 Mrs. Schellin will swear you in.

17 MRS. MILLER: So did I.

18 CHAIRPERSON MITTEN: Okay. Do you want to
19 get sworn in now?

20 MRS. MILLER: Yes.

21 (The witnesses were sworn.)

22 CHAIRPERSON MITTEN: Ms. Roland, why don't
23 you go ahead? And five minutes for Ms. Roland. Okay.

24 MS. ROLAND: Okay. I'm actually going to
25 be fairly brief. I represent Foggy Bottom

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1 Association. I'm not sure if that was said or not.

2 I think the Office of Planning lays out
3 pretty succinctly very good opposition to this
4 amending or modifying Condition 10. I think our
5 opposition generally has been aired well by Mrs.
6 Miller tonight and like I said is laid out very well
7 in the Office of Planning. And we would ask that you
8 also take into consideration that the Office of
9 Planning has made recommendations both ways on these
10 issues and this is not just a neighborhood against
11 university issue all the time and that that should be
12 given some weight in this instance.

13 And I think we'd ask that the Commission
14 take into account the long and litigious process that
15 has brought about Condition 10 and that while we
16 appreciate the popularity of HOVA and that students
17 want to choose where they want to live, students
18 across the country are subject to university
19 regulations requiring them to live either in specific
20 dormitories or on campus and given that we're
21 weighing, in a large part, the popularity of this
22 dormitory and the burden of converting it into a
23 junior and senior residence against this enormous
24 process that we've gone through to get to Condition
25 10, through the Court of Appeals and through the BZA

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1 orders, we would really just ask that you weigh this
2 issue as giving too much weight to just the popularity
3 of the dorm and the student preference we really feel
4 undermines the campus plan process and the appeal
5 process that it's gone through to get to this point.

6 And with that, we would just strongly
7 opposed modifying Condition 10.

8 CHAIRPERSON MITTEN: Okay. Thank you.
9 Mrs. Spillinger? Would you turn on the mike?

10 MRS. SPILLINGER: I apologize for being
11 late this evening. We did have a problem with the
12 Christmas tree lighting traffic.

13 CHAIRPERSON MITTEN: I know that the three
14 of you would have been on time if you could be.

15 MRS. SPILLINGER: All right. What I
16 wanted to ask, since I did miss the preliminary
17 discussion, was the letter that the Foggy Bottom
18 Association submitted put into the packet?

19 CHAIRPERSON MITTEN: Yes.

20 MRS. SPILLINGER: So you have seen it?

21 CHAIRPERSON MITTEN: Yes.

22 MRS. SPILLINGER: Very well. I will not
23 repeat that at this point.

24 I too would like to thank the Office of
25 Planning for their detailed report and say that we

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1 also endorse their opinion and their conclusions and
2 our main concern, which has just been voiced, is that
3 we have a campus plan and it has certain restrictions
4 and it has certain rules and we would like to see the
5 campus plan followed and endorsed, including Condition
6 10. And I think that in a nutshell that is our
7 position.

8 CHAIRPERSON MITTEN: Okay. Thank you.
9 Questions for -- any -- okay.

10 COMMISSIONER HILDEBRAND: And this may be
11 a question that you would have too. I'm curious to
12 know what your opinion is of the alternate proposal
13 that the university has put on the table tonight for
14 the first time and that is, to give them some
15 flexibility until the fall of 2006 to get the freshman
16 on campus and at which time they would then cease to
17 use HOVA as a freshman/sophomore residence hall.

18 MRS. SPILLINGER: This is of course the
19 first time that this has come up. It has not been
20 discussed by the Foggy Bottom Association Board. I
21 cannot speak for them. I would like a little more
22 time to sort of pursue the consequences on that.

23 Again, it's just unfortunate that every
24 time we get to a certain point with the campus plan
25 and with the university, they reappeal and object

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1 again to whatever has been decided.

2 MS. ROLAND: I would have to concur with
3 that because at this point my client has not had a
4 chance to discuss this in one of their meetings and
5 I'm here on behalf of them and with the materials that
6 we had before coming into this hearing today. So, I
7 can't speak to that either without permitting my
8 client to address those concerns.

9 CHAIRPERSON MITTEN: Okay. That's fair.
10 Anything else? Anyone else have questions? Ms.
11 Dwyer?

12 MS. DWYER: No questions.

13 CHAIRPERSON MITTEN: Okay. Mrs. Miller?
14 They didn't say a whole lot. Just remember that.

15 MRS. MILLER: I'm talking about HOVA.

16 Barbara, I know that you are aware,
17 because you were chair at the time of the campus plan,
18 right?

19 MS. SPILLINGER: Yes.

20 MRS. MILLER: And I know that you know or
21 are aware that every time we almost win getting them
22 on campus that they come back with a proposal to
23 extend it, correct?

24 MS. SPILLINGER: That has been the
25 history.

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1 MRS. MILLER: And I know that you are
2 aware --

3 CHAIRPERSON MITTEN: Come on now. What's
4 the question that you don't know what she already
5 knows?

6 MRS. MILLER: I'm getting to it.

7 CHAIRPERSON MITTEN: You're just
8 testifying and asking her to --

9 MRS. MILLER: I want her to confirm. I
10 want her to confirm.

11 CHAIRPERSON MITTEN: It's getting late and
12 there's a whole bunch of nice folks in the back row
13 that are waiting for their hearing to start.

14 MRS. MILLER: Did the Foggy Bottom
15 Association take a vote on this? They did, didn't
16 they?

17 MS. SPILLINGER: Yes, they did, which is
18 in the letter.

19 CHAIRPERSON MITTEN: Your mike is off
20 again.

21 MS. SPILLINGER: Wrong button. Sorry.
22 Yes, the Foggy Bottom Association did take a vote.

23 MRS. MILLER: And the vote was?

24 MS. SPILLINGER: To oppose any change to
25 Condition 10.

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1 MRS. MILLER: Thank you.

2 CHAIRPERSON MITTEN: Thank you. Thank
3 you, both. And I think now we're ready for a closing
4 statement.

5 MS. DWYER: Thank you. Mr. Barber's going
6 to give the closing statement. I just wanted to state
7 for the record that we would be happy to file
8 conditions along the lines that we discussed earlier
9 and reiterate that the university needs a decision in
10 order to make its housing decisions in February of
11 2006.

12 The other point I wanted to mention is
13 that the university has not been waiting and just
14 waiting for appeals and appeals. As Mr. Barber
15 testified and as we put in our submission, the
16 university has added over 2,000 beds on campus since
17 the campus plan. So it is moving forward very quickly
18 and as the Office of Planning pointed out, the Square
19 103 project will come on line in August of 2006, which
20 coincides nicely with the solution that Mr. Barber
21 offered this evening. We're looking for interim
22 relief, essentially a one-year period. And I think
23 that's very much in the spirit of negotiated
24 compromise that the court envisioned when it sent it
25 back to the BZA and from the BZA to the Zoning

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1 Commission this evening.

2 MR. BARBER: Thank you. I just have three
3 quick points. One, I think the data shows that
4 whether you have freshman in this residence hall or
5 upperclassmen, to the outside world it would be
6 virtually indistinguishable. I mean, at a minimum.
7 Actually, the better way to look at that data is that
8 you will have perhaps more well-behaved, better-
9 behaved students if we continue to operate HOVA, which
10 we will commit to do, as we have so far, given the
11 data on the rates of judicial incidents. That's point
12 one.

13 Point two, I think the testimony is
14 overwhelmingly that you deny this application, it will
15 result in more GW students residing in the community,
16 something that the university doesn't want. We want
17 to fill our residence halls and it's something the
18 community says it does not want.

19 And three, we would hope that you accept
20 our offer of compromise in the spirit in which it was
21 offered. We're trying to meet the community half way
22 and we think it is a logical compromise because it
23 does dovetail nicely with the new residence hall
24 coming on in August of 2006 and dovetails nicely with
25 the Condition 9 on the undergraduate housing. Thank

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1 you.

2 CHAIRPERSON MITTEN: Thank you. Okay.
3 Mr. Bastida, I'm just wanting, in terms of dates, to
4 work backwards from our January meeting and maybe
5 leave the record open for some period of time to allow
6 the ANC and the Foggy Bottom Association to, if time
7 permits, to submit their, if they want to take a
8 position on the compromise.

9 MR. BASTIDA: Yes. I would like to ask
10 the applicant how fast they are planning on filing
11 their documents and serving it on the party, which is
12 the ANC. And remember, the faster the better because
13 we're falling on the middle of the holidays.

14 MR. BARBER: What I have in my notes is
15 that we would draft bullets on how we are operating
16 HOVA and how we will commit to continue operating
17 HOVA. Is that --

18 CHAIRPERSON MITTEN: Well, you know, the
19 bullets --

20 MR. BASTIDA: But when are you going to
21 file that?

22 CHAIRPERSON MITTEN: Just a second.

23 MR. BASTIDA: That's what --

24 CHAIRPERSON MITTEN: Just one second.

25 MR. BASTIDA: Sorry.

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1 CHAIRPERSON MITTEN: Bullets that would be
2 the equivalent of conditions.

3 MR. BARBER: Yes.

4 CHAIRPERSON MITTEN: Okay. Not just a
5 description.

6 MR. BARBER: Yes. I appreciate that.

7 CHAIRPERSON MITTEN: Okay.

8 MR. BARBER: Yes.

9 MS. DWYER: We could file that by
10 Wednesday of next week.

11 MR. BASTIDA: That means Wednesday,
12 December the 8th at 3:00?

13 MS. DWYER: Yes.

14 MR. BASTIDA: Okay. We can give the
15 community up to December the 30th, 3:00, to file the
16 response.

17 CHAIRPERSON MITTEN: Okay.

18 MR. BASTIDA: Which is a Thursday.

19 CHAIRPERSON MITTEN: Thursday, December
20 30th. Okay.

21 MR. BASTIDA: Okay. And then that will be
22 on the agenda for Thursday, January the 13th, 2005.

23 CHAIRPERSON MITTEN: Okay. So the
24 applicant's response will be in by the 8th and then
25 responses to that as well as responses to the

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1 compromise proposal will be due by the 30th of
2 December?

3 MR. BASTIDA: Right. I would like to ask
4 the applicant when could they file the proposed
5 findings of facts and conclusions of law.

6 MS. DWYER: When would you like that by?

7 MR. BASTIDA: Well, the sooner the better,
8 so I mean, you know, when do you think you could do
9 it? That is something --

10 MS. DWYER: By December 30th? Is it
11 something you want on that date?

12 MR. BASTIDA: I would like to have it
13 before that, just in case the community wants to do
14 something.

15 MS. DWYER: Okay.

16 CHAIRPERSON MITTEN: But the community
17 doesn't get to weigh in on the findings.

18 MR. BASTIDA: That's right.

19 CHAIRPERSON MITTEN: Let's say the 30th
20 for everything then.

21 MR. BASTIDA: Okay. Fine. Thank you.

22 CHAIRPERSON MITTEN: Okay. All right. So
23 everybody's clear about dates? Mrs. Miller?

24 MR. BASTIDA: Three o'clock.

25 MS. DWYER: Yes.

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1 MRS. MILLER: We are not allowed to
2 respond to their findings of fact and conclusions of
3 law?

4 CHAIRPERSON MITTEN: No. Nope, never are.

5 MR. BASTIDA: You can file findings of
6 fact and conclusions --

7 MRS. MILLER: Don't we have a right to do
8 our own?

9 CHAIRPERSON MITTEN: Yes, you do, but you
10 don't have a right to respond to theirs.

11 MRS. MILLER: Respond to theirs?

12 CHAIRPERSON MITTEN: Right. You
13 absolutely have a right to do your own.

14 MRS. MILLER: I beg your pardon?

15 CHAIRPERSON MITTEN: You absolutely have
16 a right to do your own.

17 MR. BASTIDA: That means that your
18 findings of fact and conclusions of law are also due
19 on December 30th at 3:00 and that should include your
20 responses to what the applicant is filing.

21 MRS. MILLER: But they're not going to
22 file that until another week?

23 MR. BASTIDA: The 8th.

24 MRS. MILLER: The 8th?

25 MR. BASTIDA: It will be next week. Next

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1 Wednesday. Eight days from today. Basically seven
2 days because we are already -- Tuesday's gone, so it's
3 a week from tomorrow.

4 MRS. MILLER: Well, the problem is right
5 now --

6 CHAIRPERSON MITTEN: It's the 8th. It's
7 the 8th.

8 MRS. MILLER: We're at the 2nd. I know.

9 CHAIRPERSON MITTEN: Okay.

10 MRS. MILLER: And then we have to respond
11 to that, but we have got three more cases coming up
12 before you.

13 CHAIRPERSON MITTEN: This is --

14 MRS. MILLER: I know. I know.

15 CHAIRPERSON MITTEN: -- particularly time
16 consuming.

17 MRS. MILLER: We are only a few little
18 people.

19 CHAIRPERSON MITTEN: I understand.

20 MRS. MILLER: With limited funds and we
21 have no staff, no money like they have. They have an
22 unlimited staff.

23 CHAIRPERSON MITTEN: You know, this is
24 actually very narrow. The issue is very narrow. So,
25 you know, you won't have to write a lot. There may be

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1 other challenges, but this is not going to be one of
2 them. So I think it's ample time to respond in this
3 case. You have from the 8th of December to the 30th
4 to respond on narrow issues.

5 MRS. MILLER: We'll try.

6 CHAIRPERSON MITTEN: Okay. So everyone's
7 clear about the dates?

8 UNIDENTIFIED SPEAKER: Yes.

9 CHAIRPERSON MITTEN: And then the plan
10 will be, unless something comes up, that we will have
11 this on our agenda for the January meeting. January
12 2005. And I thank all of you who came down for the
13 first hearing tonight. And we'll take a break for
14 five minutes and let the next applicant get set up and
15 we'll reconvene --

16 (Whereupon, at 8:40 p.m. off the record
17 until 8:49 p.m.)

18 CHAIRPERSON MITTEN: Good evening again,
19 everyone. I'm going to read through this really
20 quickly what I need to read, the opening statement for
21 this particular hearing.

22 Today is Thursday, December 2nd. I'm
23 Carol Mitten. This is Anthony Hood, Commissioner
24 Hildebrand, Commissioner Parsons, Commissioner
25 Jeffries.

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1 The subject of the second hearing this
2 evening is Zoning Commission Case No. 04-13. This is
3 a request by Logan Phase II, LLC for approval of a
4 consolidated Planned Unit Development and the related
5 map amendment for property located at 1200 R Street,
6 known as Lots 14, 15, 16, 17, 18, 19, 20, 21, 22, 23
7 and 45 in Square 277.

8 Notice of today's hearing was published in
9 the D.C. Register on October 15, 2004 and copies of
10 the hearing announcement are available.

11 This hearing will be conducted in
12 accordance with the provisions of 11 DCMR Section 3022
13 and the order of procedure will be as follows:

14 Preliminary matters followed the
15 applicant's case, the report by the Office of
16 Planning, reports of any other Government agencies,
17 report by ANC 2-F, organizations and persons in
18 support, organizations and persons in opposition.

19 The following time constraints will be
20 maintained in the hearing:

21 The Applicant will have 30 minutes for
22 their presentation, organizations will have five
23 minutes, individuals will have three minutes.

24 The Commission intends to adhere to the
25 time limits as strictly as possible in order to hear

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1 the case in a reasonable period of time and we reserve
2 the right to change the time limits for presentations
3 if necessary and note that no time shall be ceded.

4 All persons appearing before the
5 Commission are to fill out two witness cards. These
6 cards are located on the table near the door. Upon
7 coming forward to speak to the Commission, please give
8 both cards to the reporter who's sitting to our right.

9 Please be advised that the proceeding is
10 being recorded by the court reporter and is also being
11 webcast live and so we ask you to refrain from making
12 any disruptive noises and ask you to turn off your
13 beepers and cell phones.

14 I just remind everyone that the decision
15 of the Commission in this case must be based
16 exclusively on the public record, so not to engage the
17 members of the Commission in conversation. Staff will
18 be available to answer any procedural questions.

19 Are there any preliminary matters?

20 MR. BASTIDA: Yes, Madam Chairman. The
21 applicant has filed an affidavit of maintenance and it
22 complies with the zoning regulations. That concludes
23 the preliminary matters that the staff has.

24 CHAIRPERSON MITTEN: Thank you. Mr.
25 Glasgow, anything?

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1 MR. GLASGOW: Just very quickly, Madam
2 Chair. The representative of the Advisory
3 Neighborhood Commission Mr. Hinterlong is here.

4 CHAIRPERSON MITTEN: Yes.

5 MR. GLASGOW: And we wanted to know
6 whether or not he could make his presentation before
7 the applicant.

8 CHAIRPERSON MITTEN: Sure. Whatever works
9 for you patient people, we're going to do.

10 But first, before I forget, because I
11 forgot in the last case, anyone who's going to
12 testify, now is the time to rise and take the oath and
13 Mrs. Schellin will administer the oath.

14 (The witnesses were sworn.)

15 CHAIRPERSON MITTEN: Mr. Hinterlong, you
16 want to scoot up and I'm sure they'll make room for
17 you.

18 MR. HINTERLONG: Thank you.

19 CHAIRPERSON MITTEN: You know this only
20 happens when you testify in support that they'll let
21 you go and take your turn.

22 MR. HINTERLONG: Oh. And if I'd known I
23 had an extra two hours, I would have had time to
24 change and bring my reading glasses, so you'll pardon
25 me on both.

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1 I'm Bob Hinterlong. I'm the ANC
2 Commissioner for ANC 2-F-06. 1200 R Street is located
3 within my single-member district.

4 The portion of the 1200 block of R Street
5 is a mix of non-conforming uses. From a use and
6 aesthetic point of view, the block has passed its time
7 where it's contributed to the neighborhood. The
8 proposed redevelopment of this site is important to
9 the area and to the city from a land planning and land
10 usage standpoint. It furthers neighborhood and city
11 objectives for the provision of housing in the
12 district and it removes incompatible non-conforming
13 uses. The project will provide an extremely well-
14 designed apartment building which is compatible with
15 the adjacent historic district.

16 The ANC has unanimously voted to support
17 this application. It is aware that the waiver being
18 requested from the minimum lot area provisions. It is
19 now aware that the project provides a green roof and
20 affordable housing far in excess of the present
21 criteria applied by the Office of Planning and Zoning
22 Commissions in the PUD cases and the additional FAR
23 are achieved. The amenities are important and
24 significant enough to the District and the
25 neighborhood to justify the approval of this project.

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1 This project is the maximum size it can be
2 without protruding into the historic district to the
3 west or involving the relocation of Vermont Avenue
4 Baptist Church to the south. I believe that in
5 applying the standards of the regulations, the
6 Commission should be cognizant of the surrounding
7 properties and/or land usage.

8 In addition, the property provides
9 significantly more parking than is required and the
10 spaces will be available for sale both within the
11 condominium and for the residents of the community.
12 This is also an important factor for granting approval
13 of this project.

14 In summary, as ANC representative for this
15 area and for the community in which it is located, I
16 strongly urge the Commission to approve this project
17 which is extraordinarily beneficial to the development
18 of the community and the city and furthers sound land
19 planning objectives.

20 CHAIRPERSON MITTEN: Thank you. Any
21 questions from the Commission for Mr. Hinterlong? Any
22 questions, Mr. Glasgow?

23 MR. GLASGOW: No questions.

24 CHAIRPERSON MITTEN: Okay.

25 MR. HINTERLONG: Thank you.

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1 CHAIRPERSON MITTEN: Thank you. Good to
2 see you.

3 MR. HINTERLONG: I'm out of here. Thank
4 you very much.

5 MR. GLASGOW: All right. Then we're ready
6 to start.

7 CHAIRPERSON MITTEN: Whenever you're
8 ready.

9 MR. GLASGOW: Thank you. All right. Good
10 evening, members of the Commission.

11 For the record my name is Norman Glasgow,
12 Jr. with the law firm of Holland & Knight representing
13 the applicant in this case which is Logan Phase II,
14 LLC. That is a wholly-owned subsidiary of Bogdan
15 Builders. Here with me tonight are Ms. Robin
16 Wertlieb, Mr. John Casey, both of Bogdan Builders,
17 Madeliene Dobbins on behalf of Metropolitan Baptist
18 Church, Eric Colbert who's the architect of the
19 project and Steven Suer, land planner. Mr. Colbert
20 and Mr. Suer are offered as expert witnesses and
21 residential architect and land planning, respectively.
22 Both have been qualified as witnesses, expert
23 witnesses before this Commission before, so they're
24 offered as such this evening.

25 CHAIRPERSON MITTEN: Now, I know not

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1 everybody has been here when -- at least Mr. Colbert
2 has been here. I don't know. Are you guys familiar
3 with his -- okay. So any objections?

4 UNIDENTIFIED SPEAKER: Oh, absolutely
5 none.

6 CHAIRPERSON MITTEN: Okay. Good. I just
7 want to make sure because you haven't see them. Okay.

8 MR. GLASGOW: All right. Thank you.

9 CHAIRPERSON MITTEN: Keep going.

10 MR. GLASGOW: All right. Thank you. Just
11 with respect to a very brief opening statement,
12 because I know we want to move the hearing along.

13 I understand the Commission members have
14 copies of all of our prehearing submissions and the
15 letter that was submitted in support by Council Member
16 Evans with the application.

17 We have met with the community on numerous
18 occasions and with the Logan Circle Citizens
19 Association. We're not aware of any party in
20 opposition to the application and we've had unanimous
21 support from the ANC and the Logan Circle Citizens
22 Association as we've proceeding with this process.

23 As provided for in Section 2401.2 of the
24 regulations, we have asked the Commission to waive not
25 more than 50 percent of the minimum area requirement

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1 applicable to this PUD. Normally, an R-5-B PUD has a
2 one-acre minimum requirement; that's 43,560 square
3 feet. We have asked for the PUD to be approved upon
4 a site that contains 23,251 square feet.

5 We believe the testimony will show that
6 the applicant complies with both Subsections A and B
7 of Subsection 2401.2. Subsection A allows the
8 Commission to make a finding that the development is
9 of exceptional merit and is in the best interest of
10 the city or country. We believe that this project is
11 of exceptional merit due to the unprecedented amount
12 of affordable housing being provided as a percentage
13 of the additional residential FAR being obtained
14 through the PUD process. The Commission has normally
15 required 15 percent of the additional residential FAR
16 to be devoted to affordable housing. In this case,
17 the applicant is providing almost twice that amount,
18 25 percent of the increase.

19 In addition, the affordable units are
20 weighted toward the larger two-bedroom, two-bath
21 units. There are five affordable units. Four will be
22 two-bedroom units, one will be a one-bedroom unit and
23 the one-bedroom unit also has a den. That is also
24 distinctive. The project has a green roof at the
25 uppermost level, as well be explained by the

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1 architect.

2 This project is also of exceptional merit
3 from a land planning standpoint as it takes a site
4 that is presently disjointed in its appearance and
5 use, having commercial, church office uses, apartment
6 use and two vacant lots and will organize the site
7 into a well-planned and designed apartment building
8 which further the goals and objectives of the
9 Comprehensive Plan and the zoning plan.

10 With respect to Subparagraph B, by our
11 calculations 100 percent of the gross floor area of
12 the development is devoted exclusively to dwelling
13 units and uses that are accessory to the dwelling
14 units, thereby meeting the test of that subparagraph.

15 The other aspects of the project will be
16 discussed in detail by the expert witnesses and if
17 there are no preliminary questions, I'd like to
18 proceed with the testimony of the witnesses.

19 CHAIRPERSON MITTEN: Just keep going.
20 That's fine.

21 MR. GLASGOW: All right. Thank you.

22 CHAIRPERSON MITTEN: Thank you.

23 MR. GLASGOW: Ms. Wertlieb, would you
24 please identify yourself for the record and proceed
25 with your testimony?

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1 MS. WERTLIEB: I'm Robin Wertlieb. Good
2 evening, Madam Chair and Members of the Zoning
3 Commission. I'm Robin Wertlieb, representative of
4 Logan Phase II, LLC and Vice-president of Acquisitions
5 and Sales for Bogdan Builders.

6 Logan Phase II, LLC is a wholly-owned
7 subsidiary of Bogdan Builders. Bogdan Builders has
8 been in business since 1987. We have done a number of
9 single-family homes, town homes and multi-family
10 projects in the District. Some of our past and
11 ongoing projects include the Hill at Irving, the
12 Villaggio, the Logan Condominiums, 1300 Kenyon, the
13 Ivy at Harvard and the Greens at Belmont. We are very
14 proud that our Phase I Logan project, the Logan
15 Condominiums, which is located right around the corner
16 from the subject property at 13th Street, has just
17 received a National Association of the Remodeling
18 Industry award for outstanding historical renovation
19 and restoration. We are very excited and look forward
20 to our Phase II Logan project.

21 Recently, we settled on the church
22 portions of this acquisition and are scheduled to
23 settle on the remaining two lots after the first of
24 the year. Our transaction with the church was a
25 smooth one as we worked together to meet the goals of

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1 all parties involved. One of the goals for the church
2 was based on a promise that had been made that it was
3 vital for the Metropolitan Church to keep a presence
4 in the community that it had served for a long time.
5 Every effort has been made to incorporate the needs of
6 the church in the new product in order to fill their
7 promise to the community and the city. You will hear
8 later testimony with regard to this from Madeliene
9 Dobbins, the representative for the Metropolitan
10 Church.

11 As the developer, one of our most
12 important goals was to solicit input from the
13 community and the District agencies, to be sensitive
14 to their needs and concerns and to insure that the
15 project responded to those concerns and then create
16 the best possible residential development for the
17 site.

18 With regard to design, we first met with
19 ANC representatives looking for their support and
20 input. We then met with the community association and
21 really listened and implemented their design ideas and
22 concerns. Since then, we have worked very closely
23 with the Office of Planning and following our last
24 hearing we have met with and have had a number of
25 discussions with Steve Callcott of the Historic

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1 Preservation Division staff. Although this property,
2 except for the western-most lot, is not located in an
3 historic district, we felt Steve could bring many
4 ideas to blend this property into the neighboring
5 historic district.

6 Steve has now worked closely with our
7 architect, Eric Colbert. You will hear from Eric a
8 bit later. He will describe what we believe is an
9 exceptional and exciting design for our project. I
10 don't think it would have been possible to have
11 achieved such a wonderful design without the hard work
12 and input from all the parties involved.

13 With regard to parking, at the last
14 hearing there were a number of questions raised about
15 how the additional parking spaces would be sold.
16 Similar to a number of our other projects, parking
17 would be deeded separately, allowing spaces to be sold
18 individually. Each space gets its own tax bill and
19 there is a separate monthly fee to maintain and manage
20 it. It has been well-received and has not presented
21 any problems in our other projects.

22 With regard to our amenities package, we
23 really feel we have listened and responded. We are
24 very proud and happy to contribute to the community
25 above and beyond what we believe other developers have

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1 committed in the past. We've increased the number of
2 historic signs. We've raised the dollar amount
3 committed for the 11th Street project by DDOT. We
4 have worked with our architect to design a green roof
5 system and I believe, most importantly, we have
6 increased the number of affordable housing units to
7 five and this includes four two-bedroom, two-full bath
8 units. As Chip had mentioned, this represents about
9 25 percent of the amount of additional square footage
10 achieved via the PUD being devoted to affordable
11 housing.

12 In conclusion, throughout this process we
13 have yet to encounter any opposition and feel we have
14 worked with all the necessary parties and have met all
15 of the requests, both made and desired. We hope you
16 view this project as favorably as we do and ask for
17 your approval. Thank you.

18 MR. GLASGOW: I'd like to call the next
19 witness, Ms. Madeliene Dobbins.

20 MS. DOBBINS: Good evening, Madam Chairman
21 and Members of the Zoning Commission. I'm Madeliene
22 Dobbins, Director of Legal Affairs for Metropolitan
23 Baptist Church. We are located at 1225 R Street,
24 N.W., Washington, D.C. and 96 Harry S. Truman Drive in
25 Largo, Maryland.

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1 It is my pleasure to testify before you
2 this evening in support of the proposed Planned Unit
3 Development and related map amendment at 1200 R
4 Street, N.W.

5 As the Commission is aware, most of the
6 properties that are the subject of this hearing, until
7 recently, belonged to the church. They have been the
8 site for church-sponsored programs and housing for a
9 number of District residents over the years. Indeed,
10 the church has been in the Shaw community for over 100
11 years and during that time has provided a multitude of
12 services to the surrounding community and the District
13 of Columbia at large.

14 After making the decision to expand the
15 church to Largo, Metropolitan sought to locate a
16 purchaser for the R Street properties who would assist
17 in maintaining housing on the site and provide for
18 Metropolitan to keep a promise that it made to the
19 Mayor of the District of Columbia, the Shaw community
20 and its congregation to maintain an urban ministry in
21 the District of Columbia on the site.

22 We are pleased that Logan Phase II, LLC
23 agreed to our requirements and is before you tonight
24 requesting approval of the proposed PUD and map
25 amendment.

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1 I would like to take a little time to talk
2 about the church community room that's included in the
3 project and which will belong to and be controlled by
4 the church.

5 The application includes the provision of
6 a 3,479-square foot community room. This is pursuant
7 to a requirement of the sales agreement between the
8 church and Logan Phase II, LLC. The community room
9 will be the site for Metropolitan Baptist Church to
10 keep its promise to the Mayor of the District of
11 Columbia, the Shaw community and the congregation.
12 The community will be used to operate the urban
13 ministries of the church that remain in the District
14 of Columbia and in the Shaw community.

15 The application provides examples of uses
16 including a chapel, a Christ-centered counseling and
17 therapy program, literacy programs, a museum for the
18 history of the church and community development
19 programs. All of these currently exist now, except
20 the museum.

21 The uses outlined in my testimony and in
22 the application are examples of the proposed uses, but
23 is not totally inclusive of all the uses for the
24 community room. The community room will also be
25 available for use by residents of the building and

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1 community organizations at least two days per month.
2 Additional times may be arranged through the church as
3 the room is available. As with the current church
4 facilities, the community is welcomed. We will invest
5 in the build out of the space with furnishings and
6 fixtures that are appropriate for our use and for that
7 of the residents and the community. It is our intent
8 that the space will truly be a flexible multi-purpose
9 space.

10 We are concerned that the Office of
11 Planning has recommended that the approval for the use
12 of the community room be limited to three years. We
13 have been in the community for over 100 years and our
14 programs have operated from the church building and
15 from three of the existing buildings on the PUD site.
16 Programs have operated from the church for over 100
17 years and from the three residential buildings across
18 R Street from the church for more than 15 years. The
19 three existing buildings on the PUD site that have
20 housed church programs are adjacent to residential
21 buildings and have had no adverse impacts due to noise
22 and traffic. The Office of Planning has based its
23 recommended three-year limitation on an assumption
24 that all church programs are operated from the main
25 church building at 1225 R Street, N.W., when in fact

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1 the church has been operating programs from three of
2 the buildings on the PUD site and they have been doing
3 that for many years. Therefore, contrary to the
4 Office of Planning's statement, the dynamics do remain
5 the same. The programs would simply continue to be
6 operated from a residential site.

7 As the Commission is aware, you are
8 empowered by Section 2405.8 of the zoning regulations
9 to approve the programs, the church programs, as part
10 of the PUD without applying special exception
11 standards, including the time limitations. We ask
12 that the Commission not require us to return for
13 approval to continue providing the services to the
14 community in the manner that we have provided them
15 over the past 15 years. And I thank you for your time
16 and attention to my testimony, and will answer any
17 questions.

18 MR. GLASGOW: Thank you. I'd like to now
19 call Mr. Eric Colbert. Would you please identify
20 yourself for the record and proceed with your
21 testimony?

22 MR. COLBERT: Good evening, Madam
23 Chairwoman and Members of the Commission. I'm Eric
24 Colbert and I'm the project architect.

25 As you know, this is the site, R Street.

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1 We have Vermont Avenue here on the right hand side and
2 then 13th Street. And this is actually the outline of
3 our proposed building. We're proposing to come in
4 with the parking and loading off of Vermont. R Street
5 is one way. The cars move fairly quickly and we just
6 felt that from this -- Vermont is very wide and
7 there's actually not a huge amount of traffic on that,
8 so from a loading -- and this is more of a non-
9 residential area here. We have the Vermont Baptist
10 Church Avenue and then Metropolitan Baptist Church
11 across the street.

12 I think it's a good thing to point out
13 that the apartment buildings that exist on the site,
14 there's kind of a small group of buildings that are
15 somewhat antiquated and what we're going to do here is
16 replace buildings that don't comply with the current
17 codes, they're not sprinklered, they don't have the
18 proper ease of egress. And also important too is the
19 fact that currently, according to my records, there's
20 about 25 residential units on the site with no parking
21 and what we're posing here is providing 63 dwelling
22 units in the new building and we would have 89 parking
23 spaces. So this is a very unusual project in the
24 proportion of significantly more than a one-to-one
25 ratio of parking will be provided. So we actually

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1 feel that this development can take existing cars off
2 the street in that neighborhood.

3 As was mentioned earlier, we have been
4 working very closely with the Local Circle Community
5 Association and the ANC who gave us a lot of input.
6 One thing is they asked us to create a design that has
7 the appearance of buildings that are broken down into
8 the rhythm of the town houses that you would see in
9 that neighborhood and we've done that. We've changed
10 the proportions of the bay to comply with the issues
11 that the community association had. We put the steps,
12 in most places, between the bays so that again it kind
13 of duplicates the effect of a residential town house
14 row. We've also manipulated the roof line of the
15 building so that there are certain cornice lines and
16 mouldings that give it a feeling of the roof line of
17 some of the historic buildings in the area.

18 And this drawing shows our proposed
19 construction and then there's an existing town house
20 on the west side that we will be retaining, which is
21 in the historic district, but you can see here that
22 what we're doing is we have the English basement
23 effect, which is another reference to the historic
24 buildings, but you can see the scale of our building
25 is very much in keeping with the existing buildings,

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1 both on R Street and then if you look at our Vermont
2 Avenue side, you can see again that it's definitely
3 not out of scale with the block, maintaining a
4 building height on the street at approximately 40 feet
5 to the roof.

6 Some of the issues that were mentioned,
7 that we developed a very extensive landscaping plan.
8 You have a copy of this in you package and we put a
9 lot more shade trees in there than we had initially to
10 respond to some of the community comments. And this
11 is a drawing of the cellar level and you can see the
12 location of the community room. Again, this has a
13 separate entrance going directly out to the street
14 from the building so that the folks that are using
15 this don't have to get intermingled with the
16 condominium. Also again, you have this wide street,
17 Vermont Avenue, which is easy to come and kind of park
18 and then drop people off much more conveniently than
19 on R Street. But again, having the community room
20 adjacent on a block to other church uses seems to be
21 consistent with an overall kind of planning concept
22 and then have the more residential aspect of the
23 building facing north on R Street.

24 One thing that was mentioned earlier was
25 the issue of a green roof and over half our roof will

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1 have that aspect. You do have a roof plan, here it
2 is, in your packet which I have a larger copy of here
3 and there are lots of advantages to this. One is that
4 it can help reduce energy consumption in a building by
5 reducing the heat gain in the building. Also it helps
6 with storm water management because the technique here
7 is that the water will be absorbed by the earth and
8 then discharge slowly in the storm system reducing the
9 need to expand the sewer system over a period of time.
10 And those are some of the major elements that we have
11 in our building.

12 In terms of relief, one of the requests
13 the community had was that they wanted us to have as
14 big a facade facing Vermont Avenue as possible, so we
15 were asked to bring this building almost to our south
16 property line along Vermont Avenue. Actually, the
17 rear yard, the way it's calculated, the average rear
18 yard does comply with the minimum rear yard in the R-
19 5-B zone. We are above the 60 percent lot occupancy
20 and the reason for that, there are two reasons really.
21 One is the top of the building, at 70 feet, is a very
22 good depth for an apartment building. And also, you
23 can see that this is the existing building and we're
24 maintaining the backs of the buildings. We're pretty
25 much in alignment with that. So, it's consistent with

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1 the lot occupancy of the other buildings on the block.

2 The other more important reason for doing
3 that is, in order to get the amount of square footage
4 that we needed to make the development feasible, we
5 had a goal that the developer needed to achieve based
6 on the cost of the land and we also were very
7 sensitive, not wanting to go with a main building
8 component over, you know, the English basement plus
9 three stories. So by making the building a little bit
10 deeper, it enabled us to keep the height of the
11 building along the street to a point where it didn't
12 really exceed the density of the adjacent buildings.

13 Those are some of the main issues of our
14 development. Thank you.

15 MR. GLASGOW: Now I'll call the last
16 witness, Mr. Steve Suer.

17 CHAIRPERSON MITTEN: Don't feel like you
18 have to use all of those nine minutes.

19 MR. SUER: This is two weeks in a row I
20 got almost 10 minutes. I don't know what to do about
21 that. All right. I won't even look at this thing.

22 Just a couple of issues. What you have
23 before you is a PUD proposed under the R-5-B District.
24 R-5-B normally allows 1.8 FAR and 50 feet in height.
25 Under PUD, it can go up to 3.0 FAR and 60 feet in

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1 height. We are at 2.71 FAR and 50-feet, six-inches in
2 height to the highest point. So, we are a little bit
3 more than R-5-B, as a matter of right, but well below
4 the PUD and below the maximum density.

5 What strikes you when you go out there and
6 look at this site is that the immediate context of
7 that site right now is established by the Vermont
8 Avenue Baptist Church, which is a very large and very
9 imposing structure, much bigger than what you would
10 expect in a typical R-4 development. To the south of
11 the property, it is, let me get the point here, here's
12 our property here. This is the Vermont Avenue Baptist
13 Church here. To the north of the property, you've got
14 the playing fields associated with the school which
15 actually fronts on S Street here. You got
16 Metropolitan Baptist Church. You got the Mazique
17 Child Care Center. And then down at this corner here,
18 you've got a four-story apartment house that looks
19 small on this map, but is actually fairly sizeable
20 given its location in the R-4 district. It's a four-
21 story building that essentially occupies 100 percent
22 of that triangular lot, so it's bigger than it looks.
23 And those things set the context for what happens
24 here.

25 As Eric indicated, we have number of areas

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1 where we deviate from the requirements of the
2 regulations. We've set those forth in our statement.
3 They're set forth in the outline. Let me talk about
4 them real quickly because they relate to the balance
5 of amenities and benefits versus the relief that we're
6 seeking from the Commission.

7 Number one, the lot occupancy. We are at
8 something in excess of 70 percent, where 60 percent is
9 normally permitted under R-5-B. And Eric talked about
10 his design reasons for coming up with that. Again,
11 we're at less than the maximum height permitted and if
12 the building is a little lower, it spreads out a
13 little bit. And also when you're looking at the sort
14 of typical apartment house, it wants to be somewhere
15 between 65 to 70 feet from one wall to the other wall
16 and if the lot's 100 feet deep, then you're in that
17 range of about 70 percent lot occupancy.

18 The second area is the yard. And again,
19 that occurs only at this corner of the property. And
20 by "this corner," I'm talking about where the alley
21 comes out to Vermont Avenue. We have a space that
22 runs behind the building, but then we have this space
23 here. And there are a couple of different ways to
24 look at that. We've called that a side yard because
25 in fact this is a corner lot fronting on three

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1 streets. There's a little bit of 12th Street right
2 here, so we've got one, two, three streets. So that's
3 the front, that's the rear, that's a side. The side
4 yard by height related to the width of the side yard
5 needs to be 12 feet. We're at nine feet. We've gone
6 as far as we can. You can see that the building gets
7 narrow as you go to the south here. If you kept
8 pulling that building all the way down, eventually you
9 wouldn't have anything left but a little point. So,
10 we've stopped that building at the point where we
11 thought we had a reasonable size and that's what
12 creates the yard that doesn't otherwise conform.

13 We have a 30-foot loading berth instead of
14 a 55-foot loading berth located in this area on the
15 south side of the building adjacent to the alley. We
16 have apartment units that average less than 1,100
17 square feet and they just don't need a 55-foot loading
18 berth to get that amount of stuff in to fill up those
19 apartments. So we're basically coming off a 10-foot
20 alley with a berth that can accommodate 30-foot trucks
21 rather than 55-foot trucks. We think that's all we
22 need.

23 Lastly, the question of getting the waiver
24 of the minimum area requirements as Mr. Glasgow
25 indicated at the very beginning. We have a

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1 requirement that this be one acre in size, 43,560
2 square feet. We are at 23,251, which means that we
3 are in approximately 54 percent of the minimum area
4 requirements. The Commission can waive those minimum
5 area requirements upon finding that the development is
6 of exceptional merit and in the best interest of the
7 city or country, that at least 80 percent of the gross
8 floor area is devoted to residential use. In this
9 situation, we have 100 percent of the gross floor area
10 devoted to residential use and because of the nature
11 of the amenity package and the benefits that the
12 project will offer to the city, we believe it is one
13 of exceptional merit.

14 What strikes me, frankly, and it doesn't
15 really come across as well in the photographs and
16 things that we've provided you, is if you go out there
17 and look at that site, it just doesn't look like it's
18 adding much to the neighborhood. It's got a mix of
19 buildings, two stories, one story. There's a vacant
20 lot at one end. There's a vacant lot in the middle.
21 There's a building that looks like a four-story
22 apartment house, but in fact was most recently used
23 for programs of the Metropolitan Baptist Church. It's
24 empty now. What we're going to do is take what is
25 almost, in historic district terms, you want to say

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1 "non-contributing." That's a term of art used
2 somewhere else. I call it "nondescript." It just
3 doesn't look like much and you'll replace it with a
4 much better-organized, much better-looking, much
5 better-functioning development.

6 The Commission has, over the course of
7 time, had occasion to have a number of cases that have
8 asked for waivers of the minimum area requirements and
9 we've done some research on that and I'd like to
10 submit a chart to you that shows the cases, that I
11 could find anyhow, where you've granted waivers. I
12 know you've got one case still working through the
13 process on 4600 Wisconsin Avenue where there's no
14 order issued yet. But on the other cases that we
15 found, the extent of the reduction or the percentage
16 of the site would be of the normal minimum required
17 area vary from as high as 98 percent, meaning a very
18 small reduction, to as low as eight percent, meaning
19 a very large reduction. What's the common thread
20 through all those cases is they were all tight sites.
21 They were all residential sites. They are all
22 situations where the city was trying to make a
23 difficult project work on a site that otherwise just
24 wasn't big enough. And the question was, how do you
25 get there?

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1 You can up zone these things to a zone
2 where you can all the stuff as a matter of right, but
3 then you run the risk of putting in a higher height or
4 greater density to accommodate something that you
5 don't need. So you come back here to the PUD process,
6 which is what the city, the Planning Office and the
7 Commission have basically been saying to people, "This
8 is the way we want you to do these things."

9 If you go back looking at the history of
10 area requirements and PUDs, go back to 1958, a PUD had
11 to have 10 acres and there was no waiver requirement.
12 That dropped to five acres, it dropped to three acres,
13 it dropped to one acre and now in some cases in
14 commercial zones it's dropped to 15,000 square feet.
15 Well, why is that? Why is that? Because the city has
16 determined that it needs a mechanism by which people
17 can come in here, put projects in front of the
18 Commission where the Commission and the neighbors and
19 the city can say, "We know this is what we're going to
20 get. We have the flexibility to address those things
21 where the normal regulations don't quite fit and this
22 is how we're going to do it. We're going to do it
23 through PUDs."

24 The waiver provision was added in 1969.
25 I don't know what the basis for it was. At that point

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1 the minimum area requirement I believe was five acres.
2 Originally it also required the concurrence of NCPC
3 because at that point there was no local planning
4 office. When NCPC ceased to have local planning
5 authority after home rule, they were taken out of
6 having to concur in the reduction and that's authority
7 just left with this Commission at this point.

8 I took longer than I thought I was going
9 to, but I believe that we have met our burden of proof
10 under the regulations that the project is one that is
11 worthy of your approval and that you should do so.

12 CHAIRPERSON MITTEN: Thank you.

13 MR. GLASGOW: We're finished.

14 CHAIRPERSON MITTEN: Okay. Questions?
15 Mr. Jeffries?

16 COMMISSIONER JEFFRIES: Yes. Ms. Dobbins,
17 I just want to make certain that I'm clear about the
18 role that Metropolitan Church will have with the
19 community space once it moves to Largo, Maryland.
20 Which, by the way, I was just there last night, just
21 saw your site. I'm just trying to get an
22 understanding sort of how that's going to work once
23 you're out in Largo.

24 MS. DOBBINS: Okay. Actually,
25 Metropolitan tried for a long time to stay in the city

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1 and we were unable to actually find a site for the
2 church to build a new church in the city. And the
3 city in fact was helping us look for a site throughout
4 the city and so that's when the promise came to
5 maintain the ministries in the District of Columbia.
6 Mayor Williams had staff helping Metropolitan look for
7 sites in the city and we were not able to find them.
8 And when it became pretty imminent that we were going
9 to move, then he requested that we maintain some of
10 our ministries in the city and we promised to do that.

11 And to get to your question, Metropolitan
12 has a number of seniors who probably will not come to
13 Largo. So we want to be able to provide them services
14 there. Chapel services, small funerals, small
15 weddings for people who want small weddings. There's
16 also a literacy program that's in the District, the
17 Metropolitan Delta Adult Literacy Program, and it's
18 still operating right now at 1218. That's provided
19 over the years literacy education for the District
20 citizens and people have just said, "You can't take
21 that out of the city." So that's one of the programs
22 that will stay and they will probably, hopefully,
23 expand that one to Largo.

24 COMMISSIONER JEFFRIES: And I understand
25 that the church that will purchasing Metropolitan,

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1 Unity --

2 MS. DOBBINS: Yes, across the street.

3 COMMISSIONER JEFFRIES: -- you haven't had
4 any conversations with them in terms of their usage of
5 the community room or anything?

6 MS. DOBBINS: No, and they've not
7 requested it.

8 COMMISSIONER JEFFRIES: Okay. Okay.

9 MS. DOBBINS: No, they've not requested
10 it.

11 COMMISSIONER JEFFRIES: Okay. Thank you.

12 MS. DOBBINS: Yes, it was just mainly for
13 Metropolitan to maintain its urban ministries and for
14 use by the residents of the building and community
15 organizations, the ANC, Logan Circle Citizens
16 Association, whoever, when it's available.

17 COMMISSIONER JEFFRIES: Okay. Thank you.

18 MS. DOBBINS: Yes.

19 CHAIRPERSON MITTEN: Thank you. Anyone
20 else? Mr. Hildebrand?

21 COMMISSIONER HILDEBRAND: I guess I'm
22 trying to understand how the community room use is
23 ancillary to the residential function and it is my
24 understanding that even if you consider the community
25 room space non-residential, that you still are in

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1 excess of the 80 percent requirement.

2 MR. GLASGOW: It's not an FAR space.

3 MR. SUER: Right. The term of art used is
4 gross floor area. The community room is in the
5 cellar.

6 COMMISSIONER HILDEBRAND: It's in the
7 cellar.

8 MR. SUER: It's not include din gross
9 floor area. So everything on floors one through four,
10 which is included in gross floor area, is residential.

11 COMMISSIONER HILDEBRAND: Now I understand
12 perfectly. Thank you for clarifying that.

13 It's just a small point, your side yard
14 request that you're asking for to be reduced from 12
15 to nine, looking at your floor plans it looks like the
16 side yard you're providing is 7-feet, three-inches.
17 Am I must misreading that on your plan A6? Of course
18 my eyes are so bad anymore, I could just be -- it's a
19 small number.

20 MR. COLBERT: You're right. At the
21 narrowest point on the property line, it is seven-
22 feet, three-inches. Steve may have been averaging
23 that, but --

24 COMMISSIONER JEFFRIES: Okay. I mean,
25 that's just a small clarification anyway.

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1 There are some inconsistencies between
2 your plans and your elevations and I just want to make
3 sure you're aware of them. Your plans are not showing
4 staircases at some of these entrances where you're
5 showing them on elevation. It would be nice to get
6 those made cohesive just to ensure that the plans
7 reflect what you're showing currently in the
8 elevations.

9 I had a question about what this wall was
10 going to look like in the back. In your rear
11 elevation of the project, you carry the building
12 elevation down to what looks to be the grade line, but
13 it looks as though there might be some substantial
14 wall of some description that creates a barrier
15 between the parking spaces and what might be a patio
16 behind certain units or the wall that creates a
17 barrier for the ramp down into the garage. What does
18 that look like from the alley side?

19 MR. COLBERT: That is correct that because
20 we do have the English basement concept in the plan,
21 you can see that this is a retaining wall so that the
22 lowest level units will have doors and little patios
23 directly out from those units and --

24 COMMISSIONER JEFFRIES: What's the height
25 on that wall from the parking surface?

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1 MR. COLBERT: It's about four feet down.

2 COMMISSIONER JEFFRIES: No, I mean, but
3 how high does it extend above grade?

4 MR. COLBERT: We don't anticipate that the
5 solid wall would extend above grade. One thing we
6 haven't shown on there is a guard rail, which would be
7 necessary and I imagine that would just be a light
8 metal guard rail.

9 COMMISSIONER JEFFRIES: Is that true for
10 the wall around the ramp entrance as well? It's just
11 going to be a curb with a railing of some type?

12 MR. COLBERT: Yes.

13 COMMISSIONER JEFFRIES: Okay. It would be
14 nice to see an elevation of that just to see what the
15 whole public image is going to be.

16 MR. COLBERT: Okay.

17 COMMISSIONER JEFFRIES: The parapet that
18 you're providing on the roof, is that an adequate
19 height for fall protection from the roof terrace
20 level? So there are no other additions you're going
21 to do to the elevations in the essence of railings or
22 anything that would be visible from the street?

23 MR. COLBERT: Yes, most of these parapets
24 are more than the three-and-a-half feet from the roof
25 surface that's required for a guard rail height.

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1 There are a few gaps where what we envision --
2 actually, we used this on the Rainbow Lofts project
3 recently where we just use a glass, a tempered glass
4 so you didn't really see --

5 COMMISSIONER JEFFRIES: So it's a
6 transparent thing? It's not --

7 MR. COLBERT: Right.

8 COMMISSIONER JEFFRIES: It doesn't have
9 any presence? Okay.

10 MR. COLBERT: Exactly.

11 COMMISSIONER JEFFRIES: What is the
12 material of the projecting bays that are shown dark?
13 Is that a metal of some type?

14 MR. COLBERT: We would probably use metal
15 panels for those that were --

16 COMMISSIONER JEFFRIES: Do you have a
17 material board for us to look at of what the actual
18 materials are?

19 MR. COLBERT: We do not have a material
20 board tonight.

21 COMMISSIONER JEFFRIES: Okay. It would be
22 nice to know exactly what you're proposing.

23 MR. COLBERT: Okay.

24 COMMISSIONER JEFFRIES: That was it.

25 CHAIRPERSON MITTEN: I'm sorry. I went to

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1 sleep. Anyone else? Mr. Parsons?

2 MR. PARSONS: I wanted to chat with Ms.
3 Dobbins a while. Some of my colleagues may not know
4 that Ms. Dobbins used to be Executive Director of this
5 fine Commission. I'm not going to ask her how long
6 ago it was because we're both probably embarrassed
7 about it and would remind ourselves that time flies
8 when we're all having fun.

9 I'm concerned about the problem that you
10 have with the EDR and that the Office of Planning
11 obviously has with this community room because we
12 ought to be able to resolve this. They're
13 recommending a three-year --

14 MS. DOBBINS: Limitation.

15 MR. PARSONS: -- limitation that I don't
16 understand. I'll ask them about that. But it seems
17 to me that somebody would have to come back here to
18 say, "We're still in business."

19 MS. DOBBINS: And that was my concern.

20 MR. PARSONS: "Give us another three
21 years." It's just bizarre to me. And at the same
22 time, you're offering this as an amenity to the
23 community, but apparently only making it available a
24 couple of days a month --

25 MS. DOBBINS: Well, for sure a couple of

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1 days a month.

2 MR. PARSONS: -- for open community use.

3 MS. DOBBINS: Yes.

4 MR. PARSONS: And I guess that's what's
5 troubling me the Office of Planning. I mean, is that
6 a firm thing? I mean, now that you know their
7 resistance or concern, have you rethought this at all?

8 MS. DOBBINS: I don't know if that's
9 mainly their concern. I mean, we were asked to give
10 a number that we thought we -- you know, so we gave a
11 number. That's a number we just totally agreed to,
12 but as I said in my testimony, as with the church
13 facility in the other facilities that we have in the
14 community now, they are open to the community. We
15 have a number of things that go on in the church all
16 the time. Community meetings. It's a voting place.
17 I mean, just a number of -- it's open all the time.

18 MR. PARSONS: Well, that's what I get from
19 what you've written.

20 MS. DOBBINS: Yes.

21 MR. PARSONS: But what the Office of
22 Planning seems to be writing is it's limited and I
23 don't sense that it is.

24 MS. DOBBINS: It's not.

25 MR. PARSONS: I mean, there's literacy

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1 programs and so forth that are open to members of the
2 community. I assume the chapel would be open.

3 MS. DOBBINS: It would be open.

4 MR. PARSONS: So I'm trying to broker an
5 understanding here.

6 MS. DOBBINS: Yes.

7 MR. PARSONS: In a hearing circumstance
8 and I guess that's not our role, but it seems to me
9 there's a misunderstanding of something.

10 MS. DOBBINS: And in reading the Office of
11 Planning's report, when I read it, I thought maybe it
12 was in fact based on the fact that they thought that
13 all of the programs were initially being operated from
14 the church building itself, which is a different kind
15 of a building than the residential building. Which is
16 why in my testimony I indicated that we do provide
17 services from three of the buildings that are in the
18 PUD site, that are adjacent to and that at some point
19 were in fact residential buildings.

20 MR. PARSONS: Now let's go to the long
21 term commitment then the church has to this community
22 room. I mean, is there something that could change
23 five years from now? The church is out in Largo, no
24 longer has a commitment, loss of continuity and
25 suddenly you cut this off?

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1 MS. DOBBINS: I don't think so.

2 MR. PARSONS: So you have a deeded
3 interest in this community room?

4 MS. DOBBINS: We do. It would belong to
5 the church.

6 MR. PARSONS: And its purpose is that in
7 that deed? I mean, it couldn't be -- are there any
8 restrictions as to what you can use it for over the
9 long term, or it just says, "We own this 3,400 square
10 feet for a community room?"

11 MS. DOBBINS: There are no, that I know
12 of, other than to use it for the purposes that we
13 would use in terms of church programs and community
14 programs, and things like that.

15 MR. PARSONS: So is that something the
16 church could sell and move on?

17 MS. DOBBINS: If the church no longer
18 wanted the space, I think we would have a conversation
19 again with maybe the homeowner's association or
20 somebody else to figure out what to do with the space,
21 but from what I can tell, the church will not give it
22 up. I mean -- I don't know. I mean, we're in it for
23 the long term.

24 MR. PARSONS: Okay. So we need to
25 define --

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1 MS. DOBBINS: There for at least 100
2 years.

3 MR. PARSONS: There we go.

4 MS. DOBBINS: At least 100 years.

5 MR. PARSONS: Well, all right. I think
6 you've been responsive. Thanks.

7 MS. DOBBINS: Okay.

8 CHAIRPERSON MITTEN: Anyone else? No one
9 else?

10 (No audible response.)

11 CHAIRPERSON MITTEN: Okay. Thank you.

12 Mr. Hinterlong's gone, so I guess we don't have to ask
13 him if he wants to cross examine you.

14 I guess we're ready for the Office of
15 Planning report now.

16 MR. MORDFIN: Good evening, Madam Chair
17 and Members of the Commission. I'm Stephen Mordfin
18 with the Office of Planning.

19 And this application proposes an area for
20 the PUD of 23,251 square feet or a 47 percent
21 reduction in the minimum area required for a PUD
22 within the R-5-B district. The Commission may reduce
23 this area up to 50 percent provided at least 80
24 percent of the GFA is residential and the development
25 is of exceptional merit.

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1 The building is more than 80 percent
2 residential and the Office of Planning believes that
3 the building is of exceptional merit due to some of
4 the amenities that are proposed by the applicant. One
5 is the green roof which will have a positive effect on
6 the Washington area by reducing the impact this
7 building will have on the heat island effect, reducing
8 storm water into regional waterways and also reducing
9 the need for air conditioning within the building, and
10 that will then reduce electrical consumption.

11 Few buildings within the District
12 currently have green roofs and the provision of this
13 green roof will not only positively affect the
14 community as a result of its physical characteristics,
15 but also serve to demonstrate to the local development
16 community that a green roof on a building such as the
17 one proposed is a viable alternative.

18 The other amenity that the Office of
19 Planning views as contributing to exceptional merit is
20 the affordable housing and approximately 25 percent of
21 the bonus density of this building is proposed as
22 affordable and typically the Office of Planning
23 recommends or requests of applicants a 15 percent
24 affordable housing, 15 percent of the bonus density as
25 affordable housing. And since this is significantly

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1 more, it is viewed as exceptional and therefore
2 contributes towards the exceptional merit of the
3 building.

4 The application also requests a reduction
5 of the minimum side yard and the maximum lot occupancy
6 and the Office of Planning recommends approval of
7 these because what they do is they allow for
8 increasing the building's facade along Vermont Avenue
9 and that improves the urban fabric along that street
10 and eliminates the vacant spaces between the
11 buildings. And the application does propose a variety
12 of amenities and public benefits. The amenities as
13 viewed by the Office of Planning are the affordable
14 housing, are the green roof, are the building design,
15 are the landscape plan, are the proffer for 20
16 historic signs and also the \$20,000 contribution to
17 DDOT's 11th Street streetscape plan.

18 The ones that are recognized as public
19 benefits are the additional housing that can be built
20 on the site as a result of the PUD, the community room
21 and the provision of 20 off-street parking spaces that
22 will be made available to members within two blocks of
23 the subject property.

24 The church program's use is permitted
25 under Section 216 of the zoning regulations and we

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1 have reviewed this application against those criteria.
2 And one of those criteria does recommend that the use
3 be permitted for a three-year time period before
4 returning for renewal. And the Office of Planning has
5 recommended that in this case the Commission approve
6 the use for only three years in order to ensure that
7 this use, which will now be located in a different
8 building and change the way -- its dynamics, the way
9 it relates to the community and therefore to ensure
10 that it doesn't adversely affect the community, the
11 Office of Planning recommends three years.

12 In the future when this use comes back,
13 assuming this use comes back again for a renewal, then
14 the Office of Planning would recommend that only that
15 aspect of the PUD be reviewed and not the rest of the
16 application. And the Office of Planning also
17 recommends that signage be permitted for the use for
18 the church program's use, but be limited to four
19 square feet at the church entrance built on Vermont
20 Avenue.

21 And the Office of Planning concludes that
22 the public benefits and the project amenities proposed
23 are capable of mitigating the increases requested by
24 the applicant and so therefore the Office of Planning
25 recommends that the PUD and related map amendment be

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1 approved, subject to the conditions contained within
2 the staff report.

3 CHAIRPERSON MITTEN: Thank you. Questions
4 for Mr. Mordfin? Did you want to start?

5 MR. PARSONS: I guess to maintain the
6 flow, I'll start.

7 Help me a little bit with this three-year
8 thing. I just don't get it. I figure it will take 18
9 months to two years to build this building and, you
10 know, maybe they'll be in there and operational in
11 three years, but that's irrelevant. You apparently
12 are going to the regulations finding that the Board of
13 Zoning Adjustment can approve a three-year period for
14 a facility like this and therefore applying it to this
15 case. I'm missing something here. Help me. Why are
16 we asking a PUD applicant to come back here on a use
17 like this that we're going to covenant into this thing
18 that has to be that way?

19 MS. MCCARTHY: Yes, Mr. Parsons, but first
20 of all we can't easily recall -- in order to say that
21 we have this vast range of models to choose from, it's
22 the only mixed-used project we can think of which is
23 mixed-use residential with church in basement, you
24 know, along with counseling and the other services
25 that are proposed. And so it's not -- first of all,

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1 there's no precedent to rely on to say, "Well, do we
2 know that these kinds of situations have occurred in
3 the past and they've operated without adverse impact
4 to that individual property or its neighbors?"

5 Secondly, I think our feeling was there's a really big
6 unknown about what happens when this church moves to
7 Largo. It's a very large church. It has a very large
8 number of congregants. We are talking about a chapel
9 that is going to be, we find out tonight, possibly
10 hosting weddings, it's going to be providing services
11 for the population that's left in the District and we
12 don't -- there is a potential for adverse impacts if
13 a lot of people decide it's a lot easier to stay in
14 the District than go to Largo. It operates so closely
15 with the residential use in that neighborhood that our
16 thought was we really need to know. We need to have
17 some experience to see if it's going to operate
18 without any adverse impact.

19 What we're anticipating is that the Board
20 would approve a PUD with the condition that there is
21 a community room which is opened and providing
22 community services. And so if at the end of that time
23 the church lost interest or there were adverse impacts
24 -- well first of all, if there were adverse impacts,
25 they come back, there's a hearing, the Board puts

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1 additional conditions like, you know, no weddings or
2 weddings can be no more than, you know, X-number of
3 people, whatever, to make sure that there's not
4 adverse impacts and then the use can go on.

5 If the church decides to discontinue it,
6 there's a provision in the PUD order that says this
7 has got to be for community benefit. List some of the
8 uses that are being discussed and the church simply
9 knows that if they sell it to somebody else, that
10 requirement, those kinds of community services have to
11 continue to be provided as part of the amenity package
12 for the PUD.

13 MR. PARSONS: So without precedent, we
14 can't anticipate all that you've just said and try to
15 craft something? We've got to wait three years to see
16 how it works out and have them come back? I'm
17 struggling with this.

18 MS. MCCARTHY: Well, I mean, this has been
19 a major struggle of ours through the whole negotiation
20 of this project. We've been trying to get more
21 specificity on the use so that we could either feel
22 comfortable that there was enough information in the
23 application putting some boundaries on this or that
24 there could be more definition. I mean, when we first
25 started talking to the applicant, it was a community

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1 room that had some connection to the church and it was
2 only much later in the process that we got the
3 specificity of yes, it will consist of a chapel in
4 addition to these other community uses. So, it's been
5 a little bit of a moving target and it's been a little
6 ill-defined. so we didn't have enough specificity to
7 have conditions that we felt comfortable in
8 recommending. Plus, typically that's something that
9 comes from the applicant.

10 MR. PARSONS: Well, why don't we ask the
11 applicant, having heard all this, to try another whack
12 at it?

13 MS. MCCARTHY: I think that would be fine.
14 I mean, we don't have a problem with the use per se.

15 MR. PARSONS: Okay.

16 MS. MCCARTHY: We just have a problem with
17 the potential for adverse impact. So if there's a way
18 to put some conditions on it that we'd control for the
19 adverse impacts, that would be fine.

20 MR. PARSONS: The way I read your report,
21 and I'm glad you clarified it, it was, I thought,
22 based on the lack of access to the community, you
23 know, of the community into the community room, not
24 potential adverse effects.

25 MS. MCCARTHY: Well, our concern in the

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1 very beginning was that that was being proffered as
2 one of the major amenities and we said, "Well then we
3 need it to be available for more time or we need more
4 guarantees or whatever," but subsequently to that, the
5 applicant added many other amenities, so we felt we
6 didn't need to rely on that as an amenity and there
7 were other things to require that. So then our
8 concern was just, "Okay. If it's going to basically
9 be a church use and not a public amenity, let's make
10 sure that there aren't any adverse impacts from the
11 church use."

12 MR. PARSONS: All right. Thank you.

13 CHAIRPERSON MITTEN: I just want to follow
14 up and clarify. In the list of public benefits and
15 project amenities, the community room is listed. So
16 is it the position of the Office of Planning that if
17 the community room was not there, that the applicant
18 still meets their burden. Because I mean, this is
19 important. Because if it's being proffered -- you
20 know, there are two aspects to this. One is the
21 potential for creating adverse impacts. But the other
22 is if it's an amenity, then there needs to be a
23 mechanism to make sure the amenity stays.

24 MR. MORDFIN: In the report, I didn't
25 categorize it as amenity. It's categorized as a

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1 public benefit, which is a lower level.

2 CHAIRPERSON MITTEN: Okay.

3 MR. MORDFIN: So that's the first thing.

4 CHAIRPERSON MITTEN: Okay.

5 MR. MORDFIN: And the second is, we did --

6 CHAIRPERSON MITTEN: I see. Okay. Sorry.

7 MR. MORDFIN: Okay. We did envision that
8 the community room, even if the church were to decide
9 to leave, which they haven't indicated that they plan
10 to do --

11 CHAIRPERSON MITTEN: Right.

12 MR. MORDFIN: -- the community room would
13 still be available, at least for the minimum amount of
14 time as the church has proffered it right now.

15 CHAIRPERSON MITTEN: Okay. Okay.

16 MS. MCCARTHY: And I guess the last thing
17 that we would ask the Commission to consider because
18 it wasn't clear to us exactly how to treat this, is
19 the provision of 216.7. Because if this were being
20 proposed to you as a church use, as a special
21 exception, the requirement that granting the special
22 exception, 216.7 says, "Any authorization by the Board
23 shall be limited to a period of three years, but may
24 be renewed at the discretion of the Board." In
25 effect, this is a special exception that's being

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1 rolled into the PUD. So we also felt that the three
2 years was a requirement based on the zoning
3 regulations and we assumed that it was directed at
4 making sure that there weren't any adverse impacts and
5 that the Board had the opportunity, or the Commission
6 in this case, to deal with any adverse impacts and
7 make those corrections.

8 COMMISSIONER HILDEBRAND: After the three-
9 year period, would the special exception go to BZA or
10 would it come back to the Commission?

11 CHAIRPERSON MITTEN: It will be in your
12 jurisdiction.

13 COMMISSIONER HILDEBRAND: It would stay
14 with us?

15 CHAIRPERSON MITTEN: Yes. Any other
16 questions for OP? Any questions?

17 MR. GLASGOW: No, no questions.

18 CHAIRPERSON MITTEN: Okay. I know there's
19 no one here from another government agency and we
20 didn't seem to have a report from DDOT. Was there --
21 did you have anything from DDOT?

22 MR. MORDFIN: No, I did not receive
23 anything from DDOT.

24 CHAIRPERSON MITTEN: Okay.

25 MR. MORDFIN: I did speak with them about

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1 their 11th Street streetscape program.

2 CHAIRPERSON MITTEN: But not about like
3 the loading berth or anything?

4 MR. MORDFIN: No, I did not get any
5 comments on the loading berth.

6 CHAIRPERSON MITTEN: Okay. They just want
7 their money, right? We know what that's like. Okay.
8 We already had the ANC report. Anyone else who'd like
9 to testify in support besides the applicant?

10 (No audible response.)

11 CHAIRPERSON MITTEN: Any opposition?

12 (No audible response.)

13 CHAIRPERSON MITTEN: How wonderful. Mr.
14 Glasgow?

15 MR. GLASGOW: Madam Chair and Members of
16 the Commission, obviously I'll make this very brief.

17 We do believe that we have met the burden
18 of proof for the waiver and for the granting of the
19 PUD. We understand that there are some plans that
20 have been requested to remove some of the
21 inconsistencies and with respect to the stairs and
22 what is in the elevations and that were shown this
23 evening in the others, but I think that we can submit
24 those for the record.

25 We certainly are anxious to move forward

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1 with this project. We have moved forward with the
2 church and have closed on that property. And if it is
3 possible, we would like to get a bench decision
4 subject to us submitting for the record those areas of
5 the plans that have been requested and the material
6 board, material sample.

7 CHAIRPERSON MITTEN: Okay. Anything else?

8 MR. GLASGOW: No, I think the record's
9 pretty complete as to where we are.

10 CHAIRPERSON MITTEN: Okay. I don't know
11 what my colleagues think, but I'll just say I think
12 this issue about the community room just bears a
13 little bit more input from you all to help us resolve
14 just the tension between the applicant and the Office
15 of Planning. And so I'd like to ask -- and I'd like
16 to say something specifically, but I just want to get
17 past the issue of having a bench decision tonight
18 first before I get specific and ask if there's anyone
19 else who -- what are people's thoughts about moving
20 ahead? My position is we should get the additional
21 submission first.

22 COMMISSIONER HILDEBRAND: I would agree
23 with that as well.

24 CHAIRPERSON MITTEN: Okay.

25 COMMISSIONER JEFFRIES: Yes, I would

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1 concur. I'm having some difficulty of just
2 understanding just structurally how this works,
3 particularly effectively as a condo and sort of, you
4 know, you're moving out to Largo. That's pretty far
5 away and I'd just like to get it little bit more
6 drilled down on the possibilities of what happens, you
7 know, should five years, three years, whatever, that
8 you might decide that you'd like to clearly centralize
9 all your activities and operations in Largo and what
10 happens to this condominium complex and there just
11 seems to be a number of things that could happen down
12 the road and I'd just like a little bit more drill
13 down on that.

14 MR. GLASGOW: All right. So you would
15 like to have a discussion with respect to the
16 condominium unit and how it operates. I think from a
17 technical standpoint, if there is proposed to be a
18 different use than the community room use, then that
19 would need to come back to the Commission as a
20 modification for the Planned Unit Development.

21 COMMISSIONER JEFFRIES: Could we at all
22 sort of get that addressed this go around --

23 MR. GLASGOW: Okay.

24 COMMISSIONER JEFFRIES: That's --

25 MR. GLASGOW: Okay.

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1 CHAIRPERSON MITTEN: I think there's two
2 things here. One is maintaining the public benefit.
3 So, what I think we really need to see is a proposed
4 condition that says, in the long run, what is it that
5 is being specifically committed to? You know, we know
6 what you plan is, but you know, what can we hold the
7 future owner of that condominium unit to? That's
8 point number one.

9 And then point number two is the issue
10 about adverse impacts. And one of the things that I
11 was thinking about when Mr. Parsons and Ms. McCarthy
12 were discussing this is is there a way -- I mean, the
13 adverse impact is going to be felt most significantly
14 by the occupants of the condominium. So is there some
15 way to -- you know, there would be a condominium
16 board. Is there some way to give them, you know,
17 oversight authority on this particular issue? So to
18 give that some thought. I'm just suggesting that.
19 There may be other ways to deal with it. But, so
20 there's the other aspect of just, you know, dealing
21 long term with any adverse impacts that might exist.

22 And then just to run down, as you said,
23 Mr. Glasgow, the other submissions that we're going to
24 need, just to have the inconsistencies resolved
25 between the elevations and plans, specifically as it

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1 relates to the stairs. We need an elevation of the
2 rear retaining wall and the guard rail that you
3 discussed with Mr. Hildebrand. And then the material
4 samples. And then we'll need the elevations that
5 indicate which material goes where on the elevation.

6 And if anyone has anything else, help me
7 out.

8 MRS. SCHELLIN: I was just going to say,
9 we did not get a written report from the ANC. I don't
10 know if you need that for great weight.

11 CHAIRPERSON MITTEN: You know, I think I
12 looked back and they voted so long ago that that may
13 have been in the previous -- I don't know if they had
14 submitted that prior to set down?

15 UNIDENTIFIED SPEAKER: Yes, I believe so.

16 MRS. SCHELLIN: No, I just checked the
17 file. I didn't see anything in there.

18 MR. GLASGOW: Right. It's in the
19 application.

20 MRS. SCHELLIN: Okay. Then maybe that's
21 what it is.

22 MR. GLASGOW: What's the exhibit number?

23 MR. BASTIDA: Yes, it is attached to the
24 original application.

25 MRS. SCHELLIN: Okay.

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1 CHAIRPERSON MITTEN: Okay. Yes, I thought
2 it was quite a while ago, so I thought it had come in
3 then.

4 MR. GLASGOW: Yes, we spent some time
5 working with the ANC and getting all of that done
6 before we filed it.

7 CHAIRPERSON MITTEN: Okay.

8 MR. SUER: It's Tab H in the applicant's
9 original May 20th, 2004 book.

10 CHAIRPERSON MITTEN: Okay.

11 Okay. So, how about a date, Mr. Bastida?

12 MR. BASTIDA: I was thinking, to give them
13 sufficient time, on Tuesday, December the 21st by
14 3:00. Can you submit at that time the findings of
15 fact and conclusions of law also? And then it will be
16 on the agenda for the January 13th, 2005 Zoning
17 Commission meeting. You are going to serve it on the
18 ANC and the ANC will have until the 30th at 3:00,
19 December the 30th, to provide any comments that they
20 so wish. But I'm giving the ANC such a short time
21 period because they have been working so closely with
22 them.

23 CHAIRPERSON MITTEN: I'm sure that will be
24 fine. And I have to apologize that our first hearing
25 went long, but we're glad this one went very smoothly.

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1 MR. GLASGOW: I learned some cross
2 examination techniques.

3 CHAIRPERSON MITTEN: Please don't use them
4 here.

5 MR. SUER: It's good for you.

6 CHAIRPERSON MITTEN: Gives me a workout
7 when that happens.

8 Thank you, all. And this hearing is
9 adjourned.

10 (The meeting was adjourned at 9:57 p.m.)
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