

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ZONING COMMISSION

PUBLIC HEARING

Modification to a previously Case No. 97-16M
and 97-16M(l)
Approved PUD-Lowell School

Thursday,
April 2, 1998
Hearing Room 200
441 Fourth Street, N.W.
Washington, D.C.

The above-entitled matter came on for hearing, pursuant to notice, at 7:00 p.m.

BEFORE:

MAYBELLE TAYLOR BENNETT Chairperson
HERBERT M. FRANKLIN Commissioner
JERRILY R. KRESS Commissioner

STAFF PRESENT:

MADALIENE H. DOBBINS, Director, Zoning Office
STEFANIE BROWN, Office of Zoning
JILL DENNIS, Director, Office of Planning
ALBERTO BASTIDA, Office of Planning

On Behalf of Lowell School:

of: PHIL T. FEOLA, ESQ.
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AGENDA

	<u>Page</u>
Opening Statement	4
Certification of the Maintenance of Posting	6
Identification of Parties	6
Applicant's Case	8
Report of the Office of Planning	36
Report of Advisory Neighborhood Commission 4A	38
Parties and Persons in Support	
Ethel J. Hackney	41
Joyce Stanley Batipps	48

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

7:09 p.m.

CHAIRPERSON BENNETT: Good evening, ladies and gentlemen. My name Maybelle Taylor Bennett. I'm Chairperson of the Zoning Commission for the District of Columbia. This evening joining me are Commissioners Franklin and Kress. I declare this hearing open.

The case that is the subject of this hearing is Case No. 97-16M, an application on behalf of the Lowell School. The application requests a modification of a previously approved planned unit development granted by D.C. Order 387 for property located in Square 2745F, lots 80 and 815, at the premises address 1640 Kalmia Road, N.W. It was most recently used as the northwest campus of Galludet University pursuant to the PUD approval.

Lowell proposes to upgrade and renovate the existing school buildings and make minor additions to the main building as well as other potential minor additions. Notice of today's hearing was published in the D.C. Register on February 20th, 1998, and the Washington Times on February 16th, 1998.

This hearing will be conducted in accordance with the provisions of 11 DCMR 3022.

The order of procedure will be as follows. First, preliminary matters including the certification of the maintenance of posting and the identification of parties. Second, the applicant's case. Third, the report of the Office of Planning. Fourth, the report of other agencies. Fifth, the report of Advisory Neighborhood Commission 4A; parties and persons in support and parties and persons in opposition.

The Commission will adhere to this schedule as strictly as possible. Those presenting testimony should be brief and nonrepetitive. If you have a prepared statement, you should give copies to staff and orally summarize the

1 highlights only. Please provide copies of your statement before summarizing.

2 Each individual appearing before the Commission must complete two
3 identification cards and submit them to the reporter at the time you make your
4 statement. If these guidelines are followed, an adequate record can be developed in
5 a reasonable length of time.

6 The decision of the Commission in this case must be based
7 exclusively on the record. To avoid any appearance to the contrary, the
8 Commission requests that parties, counsel, and witnesses not engage the members
9 of the Commission in conversation during any recess or at the conclusion of the
10 hearing session. While the intended conversation may be entirely unrelated to the
11 case that is before the Commission, other persons may not recognize that the
12 discussion is not about the case. The staff will be available to discuss procedural
13 questions.

14 All individuals who wish to testify, please rise to take the oath.

15 (Whereupon, all witnesses were duly sworn.)

16 CHAIRPERSON BENNETT: All right. Let's begin with the
17 certification of the maintenance of posting. Yes, let's do that first.

18 MS. DOBBINS: Madam Chairman, members of the Commission, I
19 have in front of me an affidavit of maintenance of posting for the property that's the
20 subject of the application and it is in order. And the staff is not aware of any
21 requests for party status in this case.

22 CHAIRPERSON BENNETT: All right. Thank you very much. And
23 it does appear in order.

24 Identification of parties. The only party of which I am aware would
25 be the Advisory Neighborhood Commission and they are an automatic party.

26 The next preliminary matter that I would have would be
27 acknowledge the expert witnesses. Mr. William Gridley, expert in architecture, has
28 been identified as an expert before this panel before, in the past.

1 MR. FEOLA: Madam Chair, Mr. Gridley, unfortunately, has
2 pneumonia and is not here. In his stead is his partner, Cal Bowie and I have Mr.
3 Bowie's resume to pass.

4 CHAIRPERSON BENNETT: That's fine.

5 MR. FEOLA: And ask that he be recognized as an expert in lieu of
6 his partner.

7 CHAIRPERSON BENNETT: Hasn't Mr. Bowie been before us
8 before?

9 COMMISSIONER KRESS: Yes.

10 CHAIRPERSON BENNETT: And recognized as an architectural
11 expert.

12 COMMISSIONER KRESS: Absolutely.

13 CHAIRPERSON BENNETT: But we appreciate having his
14 qualifications before us.

15 Mr. George, expert in traffic engineering and transportation has
16 also been before us before. We are familiar with him and his expertise. And
17 colleagues, if that is satisfactory to you?

18 COMMISSIONER KRESS: Absolutely.

19 CHAIRPERSON BENNETT: And they have been accepted as
20 experts in the fields that you have identified.

21 I want to get down now to the time. You suggested one hour.
22 And, Phil, you know I like cutting it in half, right off the top. Is that possible?

23 MR. FEOLA: I think we will be -- Madam Chair, for the record, Phil
24 Feola, with Wilkes, Artis, Hedrick & Lane, on behalf of the Applicant.

25 I think we will be well short of an hour, whether it's 45 minutes or
26 35 minutes, I'm not sure. But we'll be well short of an hour. Thank you.

27 CHAIRPERSON BENNETT: Why don't we proceed, then, if there
28 are no other preliminary matters. Are there any in the audience, colleagues?

1 (No response.)

2 CHAIRPERSON BENNETT: Seeing none, why don't we start with
3 the Applicant's case.

4 MR. FEOLA: Thank you, Madam Chair. For the record, Phil
5 Feola, Wilkes, Artis, Hedrick & Lane on behalf of the Lowell School which is the
6 owner of a slightly less than nine acre tract at 17th Streets and Kalmia Road in
7 northwest, formerly the Marjorie Webster Junior College and subsequent to that the
8 Galludet Northwest Campus of which the Zoning Commission approved the PUD in
9 1982.

10 CHAIRPERSON BENNETT: Hold on, Mr. Feola, just one second.

11 Mr. Franklin said his mike is not working. Mine is working.

12 Are you picking us up? Do you have us on a separate --

13 COURT REPORTER: I have you and the witness, so far.

14 CHAIRPERSON BENNETT: We're going to need another one.

15 MS. DOBBINS: If we could have a moment, thank you.

16 (Whereupon, briefly off the record.)

17 CHAIRPERSON BENNETT: Go right ahead. Sorry.

18 MR. FEOLA: Usually they're trying to shut off my microphone.

19 We're here tonight to seek a modification to the PUD that the
20 Commission granted in 1982. The Lowell School is currently a pre-K through third
21 grade school located on 16th and Decatur Street, and actually at a second site as
22 well. It proposes to increase the years that it teaches kids at this new facility from
23 pre-K through six. And will, though, in virtually every land use impact category,
24 number of students, number of faculty, number of staff, number of cars that come to
25 and from the campus, be significantly less than the restrictions placed on Galludet in
26 1982. So, we have a much less intense use taking over the same campus that the
27 Commission approved a few years ago. And so, consequently, the impact
28 on the surrounding community will be less as well.

1 Lowell's use, just to reiterate, is consistent with the comprehensive
2 plan which designates a site for institutional use. It's consistent with the zoning
3 regulations which permit private schools in the R-1 district. And probably most
4 significant, it's consistent with the long history of use on this site of over 70 years for
5 institutional higher education.

6 Two unusual factors that I'd like to bring your attention to that we'll
7 have some testimony on, are maybe not unusual. It's too strong a word. Kind of
8 different circumstances. The first of which, Lowell has asked that a portion of the
9 PUD be carved away from the PUD. And we'll get back to that in a second. And the
10 second is we are asking for the flexibility if the Commission approves this
11 modification to allow an interim use for one school year. And we'll get to that as
12 well.

13 The carving out piece. The campus has, and you'll hear testimony
14 about this shortly, seven buildings on its site currently. Four of those buildings are
15 clearly built and have been utilized for institutional purposes. Three of those
16 buildings were formerly built as houses in the late '30s and early '40s, single family
17 houses, subsequently converted to institutional uses. The Lowell School intends to
18 immediately upon renovation and fixing up, to move into two of the four institutional
19 buildings and hold the other two institutional buildings in abeyance until it has funds
20 and resources to renovate them and use them for Lowell purposes.

21 But, in its longest range plans, it cannot foresee any need to utilize
22 the three former single family house for its program. And also, it could use the
23 money from the sale of those houses to offset the costs of moving into this facility.
24 For that reason, we have asked that the properties that were formerly single family
25 houses be carved out of the PUD and be allowed to be sold back into their housing
26 stock for single family uses.

27 An issue arose with the Office of Planning and members of the
28 community that -- a concern rose that these houses, if they were carved out of the

1 PUD, could be used for other than single family purposes. We have agreed with the
2 community and taken up a suggestion from the Office of Planning to sell these
3 houses, if we're able to, with a deed restriction that prohibits their use for anything
4 but single family purposes. We will provide some more information about that in the
5 future. We think with that, we have satisfied the objections that have been raised
6 and clearly we want to get them out of the PUD because of the encumbrance the
7 PUD brings to those single family houses for at least one of your members who sat
8 through the Rafferty case, it can be very cumbersome for somebody wanting to put
9 a dormer on their house if they have to come back tot his Commission.

10 CHAIRPERSON BENNETT: Oh, yes. I think this was my first
11 PUD, too. The --

12 MR. FEOLA: This one?

13 CHAIRPERSON BENNETT: Yes. I think so. So, we're kind of
14 coming back full circle.

15 MR. FEOLA: The second different factor of this is that the Lowell
16 School has, as I said before, they own an existing building at 16th and Decatur
17 Street which is where they are currently located. Clearly, when they move to this
18 campus, they will have no need for that building. They would like to sell it and use
19 the money to offset the costs here.

20 Fortuitously, there is a start up private school that has sought to
21 buy the Lowell School existing facility. And there's a letter of intent that's been
22 executed between the parties to allow that to happen. The start up school needs to
23 be operational, if you will, by September of this year. And as you'll see, Lowell won't
24 be able to occupy its needs on this campus by that time. And so, we have offered in
25 the application towhead if this application is approved, that for one school year this
26 new private school, which will be significantly smaller than Lowell, would occupy one
27 of the other buildings on the campus and then Lowell will move out onto this
28 campus. The school would move into the Decatur Street facility.

1 Those are the two unusual aspects of this application. And with
2 that, I'll introduce our witnesses. We really have sort of three main witnesses and an
3 ancillary witness, if we need him. Abigail Wiebenson to my right who is the head of
4 the school; Randy Smith who is chair of the Board of Trustees of the school who is
5 our ancillary witness, our hidden gun; and Cal Bowie who we've talked about as
6 architect; and Osborne George, a traffic consultant.

7 And I think with that, I'd just like to introduce Ms. Wiebenson and
8 ask her to state her name and address for the record.

9 MS. WIEBENSON: Good evening. My name is Abigail
10 Wiebenson and I am the director of Lowell School.

11 MR. FEOLA: Ms. Wiebenson, briefly, discuss the history of the
12 school, the reason for the move, the need for this facility, and so forth.

13 MS. WIEBENSON: Yes. The school was founded in 1965 by two
14 mothers who wished to provide a nursery school for some neighborhood children in
15 Cleveland Park. And it was first located at the Congressional Church in Cleveland
16 Park at the corner of 34th and Lowell Street, which is why it got its first name, Lowell
17 Street School.

18 Subsequent to that time, and over the years, it added
19 kindergarten. And then in 1978, moved across the park to the Sixth Presbyterian
20 Church, 16th and Kennedy, where the pre-primary still is. The 3s, 4s, and early 5s
21 still are there. It then began to add on other grades. It being at the behest of
22 parents who wanted their children to stay there, and so we subsequently added on
23 first, second, and third grade.

24 In 1988, some property became available, the Himmelfarb
25 Mansion, at 16th and Decatur, and the school bought that. That was the same year
26 that I came to the school as the director. And the school renovated that building and
27 we have moved the kindergarten, first, second, and third grade there. We are a
28 school of 200 children now who range in age from age three to age eight, spanning

1 the three year olds through the pre-primary and the primary school.

2 MR. FEOLA: Briefly describe, then, the program as you envision it
3 on the new campus.

4 MS. WIEBENSON: From the earliest times, really, that the school
5 was formed, it has wanted to do a number of things. One of those is to be a
6 consolidated school and to own its own property. And so, what we're pleased about
7 in buying this property that we will finally be a school that has one campus and we
8 will be a school that owns that campus. We will have facilities for the children to
9 play outside in and have fields to run in, and to have athletic and physical activities
10 in. And that has been a great desire of the school.

11 Because it is a progressive school, and because we have our
12 curriculum founded on knowledge of developmental understanding of children and
13 how they progress in physical and cognitive, and social/emotional ways, we would
14 like to have the school go through all the years of childhood. And so, this new
15 campus allows us to add a fourth, fifth, and a sixth grade in consecutive years. And
16 that will give us the full range of childhood.

17 MR. FEOLA: Could you comment on the interaction towhead
18 you've had with the community folks surrounding the school and the ANC?

19 MS. WIEBENSON: I certainly can. And it's sort of long and deep
20 in that the school, being on the east of the park for many years, has quite a large
21 alumni population as well as some faculty who live in towhead neighborhood as well.
22 And so, it has been a great pleasure for us to explore the use of this campus with
23 the neighborhood Neighbors, Inc., Shepard Park Citizen's Association, the ANC,
24 which is the same ANC that serves the campus at 16th and Kennedy Street.

25 So, Mr. Herston and the other commissioners are well known to
26 the school and to me. I have gone a number of times in front of the ANC. As well,
27 the school runs summer programs so I've been in front of the ANC to describe those
28 summer programs and we've had to get BZA variances as well. So, it is an ANC

1 that I know well and respect a lot, and have been very forthcoming with us.

2 We've spent since last September when the Board voted to go
3 ahead with the feasibility study and the subsequent purchase of the property, we
4 have been in repeated conversation having gone before the ANC three times. Met
5 with the Park Citizen Association a couple of times. We have been in the home of
6 Joyce Batipps who is also a witness today, and she has opened her home for
7 discussions about traffic management along with Osborne George.

8 And in addition to that, it's just been interesting to hear neighbors
9 and friends in that neighborhood talk about why they are pleased to have us there,
10 to ask questions about what's going on and how we're going to proceed in that. And
11 as well, one of the requests of Mr. Hirston and the people who live west of 16th
12 Street was to have a playground. So, when we went to the playground design
13 process, we invited two neighbors, Lizzy Satoff who lives literally adjacent to the
14 property, and Lucille Johnson who lives up the street and is a retired landscape
15 architect to come and help us in the thinking about those playgrounds so that they
16 would be safe and they would also be enjoyable for residents of the neighborhood.

17 MR. FEOLA: Has the ANC taken a position on this application?

18 MS. WIEBENSON: Yes, they have. At the third meeting in which
19 we went before them in February, they voted unanimously to approve this project.

20 MR. FEOLA: I'd like to ask Cal Bowie to briefly describe the
21 project as it's now envisioned.

22 MR. BOWIE: I will quickly give you a walking tour of the site. The
23 streets are Kalmia Road right here along this, the southern, the bottom side, of this
24 exhibit, and 17th Street which abuts the park along the right-hand side of the exhibit.

25 There's a through driveway that exists currently and parking, adequate, lots
26 of parking, located along there along that driveway, as well as 32 parking spaces
27 located off of 17th Street in the back.

28 The neighborhood, in general, is one -- is a lovely neighborhood of

1 mature plantings and trees, large Georgian and colonial houses well maintained.
2 And its primary asset, of course, is that Rock Creek Park is abutting along 17th
3 Street on the right-hand side of the exhibit.

4 The three houses that have been -- are a part of this subject
5 discussion this evening are located along Kalmia Road. They are lots 105, 106, and
6 107. And there is a driveway that exists between 106 and 107 to access the back of
7 Frasier Hall, one of the buildings on the campus, one of the ones that is not intended
8 for current use.

9 The main building on the campus sits high on the hill. It's call
10 Main Hall. It has a swimming pool and a gymnasium located in the left-hand wing of
11 it. Classrooms on three stories across the middle, a cafeteria on the right-hand side.
12 And currently, there's an existing breezeway driveway that goes back into a small
13 area in the back on the right-hand side. And that's the subject of our additions to
14 this building.

15 The other main building son the site are Webster Hall which was --
16 is a house scaled building that sits really as gate house on this property, and
17 Memorial Hall which sits along the park side over here. Memorial Hall is the building
18 that is proposed for the interim use. It consists of classrooms and a small theater on
19 the first floor. And really what were dormitory rooms, or much smaller spaces, on
20 the upper stories.

21 In general, the site has very mature landscaping. It is well
22 buffered from the neighboring properties by the landscaping that was put in, some of
23 which was put in pursuant to the Galludet's use of the property after Marjorie
24 Webster. The wonderful thing about the property, of course, is that it still has

25 a large piece of open and flat land located on the corner which is appropriate for
26 playing fields and for a school of this nature.

27 Briefly, the additions that we propose to the building in the initial
28 occupancy by Lowell are three small additions that are built around the end of the

1 right-hand end of the building. They are one-story additions only and they will allow
2 that lower area which was partly enclosed to be the home of the pre-K and keep the
3 whole school occupying the main building. We looked at all of the other alternatives
4 on the site as far as how you could use the other buildings, and ultimately
5 economics and the philosophical operating dictates of the school made everyone
6 conclude that the best thing to do was to add a small addition to the building in order
7 to keep everybody consolidated within one building rather than open up one of the
8 other two buildings and have more space than the school could occupy and also
9 have them in separate structures.

10 I think that covers it unless there are any questions.

11 MR. FEOLA: Do you want to show, Mr. Bowie, the elevations of
12 the building and the addition, then?

13 MR. BOWIE: Sure. The left-hand drawing shows the building as it
14 exists today. It's stucco style, Spanish colonial style building. It's really quite an
15 eccentric and lovely building, having towers and garrets, and all kinds of red tile
16 roofs along the top. There is one other small addition that we are proposing, and
17 that is enclosing an open terrace on the second floor. So, in other words, putting a
18 piece of roof over top of it and windows. That exists right here right now.

19 The new additions are sited over here. As I said, they're on the
20 right-hand side of the exhibit. As I said, they're one story additions and they would
21 have their own entrance and identity for the littlest kids which is appropriate and a
22 very important part of the program. Walking around on the 17th Street side of the
23 building, this is what those additions would look like. Two wings and a piece in the
24 back, and an entry piece in the front. And an outdoor terrace in between them.

25 COMMISSIONER KRESS: I'm a little confused. Would you point
26 out again, because it's hard to read the line drawing on the left, would you point out
27 again what the changes are that you're proposing on the right?

28 MR. BOWIE: Right now there's an open driveway that goes under

1 the building right here. And we're proposing a piece of an addition that goes in front
2 of that and closes it in, as well as extending further out on the side.

3 On the drawing, that piece is right here on the plan, in front of the
4 building, and then wraps around the side. Right there, wraps around the side. This
5 is really an open deck in the middle. And then there's a piece right there and
6 another small piece in the back. And a flat area in the back.

7 I think one other thing that I should say is that there are a number
8 of small play areas proposed for development around the site. One in the back
9 behind the gymnasium, one along the side over where the smaller kids are, and in
10 the front. And then play areas down in the very front, hard and soft scape across
11 the driveway. And they're all -- they will all be developed in an age appropriate way
12 for the different age groups of the school.

13 COMMISSIONER FRANKLIN: Mr. Bowie, one question. If you
14 could put that back up. I was noting earlier the driveway that you said exists
15 between 106 and 107. Is that going to be retained?

16 MR. BOWIE: That is planned to be retained because in fact it
17 serves as a fire lane to the rear of this building. And it is an important fire access to
18 the back of that building. I think it's going to be retained as a deeded right-of-way is
19 the proposal. And posted as no parking.

20 COMMISSIONER FRANKLIN: But other than a fire lane, will it be
21 used for daily ingress and egress?

22 MR. BOWIE: Most likely no. I mean, the service for the main
23 building is most conveniently, and it's really panel truck service largely, most
24 conveniently comes off of the main driveway. Largely because this is a level path in
25 to an elevator that exists in this corner of the building right now. This driveway and
26 parking lot are quite a bit lower in elevation.

27 COMMISSIONER FRANKLIN: So, are you saying to us that you
28 have to maintain that driveway as a matter of law?

1 MR. BOWIE: Yes, we believe that to be the case.

2 MR. FEOLA: Mr. Franklin, to answer your question, it will not be
3 used for anything but fire emergency and other emergency vehicles. But the idea is
4 to create an easement there if we are able to sell those houses with that easement.

5 COMMISSIONER FRANKLIN: Yes, I would imagine you'd do
6 better without the easement in terms of sale.

7 MR. FEOLA: Absolutely. Absolutely. Which is one of the reasons
8 why we hope to carve this out of the PUD, because, as you can see, there are a lot
9 of other constraints on these sites. The lots are small lots for R-1-A. They don't
10 have big back yards. So, we're looking at a market constraint anyway. And we think
11 the DV added on to it will just make it even that much harder.

12 COMMISSIONER FRANKLIN: Thank you.

13 MR. FEOLA: Mr. Bowie, in your professional opinion, is there
14 anything on this plan that you would deem to be objectionable to neighboring
15 properties?

16 MR. BOWIE: No, there's not.

17 MR. FEOLA: And the use of the property, likewise?

18 MR. BOWIE: Right.

19 MR. FEOLA: Thank you.

20 MR. BOWIE: Thank you.

21 MR. FEOLA: Madam Chair, I'm sorry.

22 CHAIRPERSON BENNETT: I want to go back to the question of
23 carving them out of the PUD. So what we have before us is a PUD which excludes
24 those properties?

25 MR. FEOLA: Yes, ma'am. It proposes to allow those properties to
26 be moved out of the PUD, yes.

27 CHAIRPERSON BENNETT: That's it.

28 COMMISSIONER FRANKLIN: But the Office of Planning's

1 recommending, as I understand it, a condition to the modification that would be
2 addressing some assurance that those would be single family?

3 MR. FEOLA: That's correct.

4 CHAIRPERSON BENNETT: That's right.

5 MR. FEOLA: And we've proposed by abide by a deed restriction
6 type condition, yes.

7 Mr. George, would you please state your name and address for
8 the record?

9 MR. GEORGE: My name is Osborne George. I address at 1738
10 Elton Road in Silver Spring, Maryland.

11 MR. FEOLA: Mr. George, are you responsible for the three
12 reports that are contained in the Applicant's prehearing submission, numbers D, E,
13 and F?

14 MR. GEORGE: Yes, I am.

15 MR. FEOLA: And they represent your expert opinion with regard
16 to traffic issues relating to this campus?

17 MR. GEORGE: Yes sir, they do.

18 MR. FEOLA: Could you briefly for the Commission summarize
19 those reports?

20 MR. GEORGE: Yes sir. We conducted an analysis of the
21 potential impact of using the subject site by Lowell School as they currently propose.
22 We conducted our analysis in three elements. One, following the typical guidelines
23 established by the Office of Policy and Planning, we conducted an overall
24 assessment of the adequacy of the area road network to accommodate the
25 proposed use.

26 Secondly, we looked at the access needs of the site considering
27 the arrival and departure patterns of the attendees of the school, and looked at
28 particular traffic management measures towhead would need to be incorporated in

1 order to minimize any adverse impacts in the immediate vicinity of the school.

2 And thirdly, it was the request from the Lowell School
3 management that we work with the neighbors to examine the impacts of cut through
4 traffic, not necessarily or certainly not caused by the school, but current cut through
5 traffic within the neighborhood immediately to the south.

6 Describing briefly, the site is located off of Kalmia Road. Sixteenth
7 Street is the major north/south artery. And the access points to the site are off
8 Kalmia Road and off 17th Street.

9 We studied seven intersections within the general vicinity of the
10 site, five along 16th Street and two along Kalmia Road. Sixteenth Street is a
11 principle arterial in the city's highway network. Kalmia Road is designated as a
12 collector street. All the other roadways are designated as local roadways.

13 Our evaluation is that currently the roadway network operates
14 quite satisfactory with levels of service at B or better, very minimal delays. Part of
15 the reason is that 16th Street is a major arterial. It's part of the city's computerized
16 signal system and there are adjacent signals approximately four blocks to the north
17 and four blocks to the south which allows for gaps in traffic for the traffic
18 approaching along the side streets. So, we find acceptable levels of service
19 currently.

20 We used the school's population data, the enrollment as well as
21 staff, and projected the situation to the proposed build out of the site. We used the
22 ultimate population of 327 students and the staff of 50. I might add, Madam Chair,
23 that we had very good data on which to base our projections because of the fact that
24 Lowell School has indicated to us they have had a very stable student population
25 over the years. And so we are privy to the distribution of the student clientele and
26 we conducted a survey of the current residents in order to come up with projections
27 of the distribution of traffic. We also had data on the level of carpooling which took
28 place which was quite significant. And so, we used all of that data in order to project

1 the future traffic situation.

2 As far as the site is concerned, it's important to point out real
3 quickly the hours of operation. During the morning, students come in at the
4 prescribed time, between 7:30 and 8:15 in the morning, and that's it. The afternoon
5 peak hour is very much disbursed. Students begin leaving at 12:00 and it goes on
6 until around 6:30. So, the school really only impacts the adjacent roadway network
7 during the morning peak hour. Only 20 percent of the students leave the school
8 during the afternoon peak hour which is from 5:00 to 6:00 p.m.

9 Again, using that data and projecting to the future, even adding
10 growth in through traffic, we find that the level of service would remain, and these
11 are shown on the chart before you. The level of service only at two intersections
12 would drop marginally, that at 16th and Kalmia and at 17th and Kalmia. And
13 however, even in the future, the level of service would be C or better. And I think
14 those are pretty good grades for traffic engineering.

15 As far as the access needs of the site, particularly during the
16 morning we have a bit over 200 students coming in primarily from two approaches,
17 from Kalmia Road to the east and to the west. There's considerable stacking within
18 the internal circular roadway, a total roadway length of over 800 feet. And so, that
19 allows for considerable stacking. There are two drop off areas which I think Mr.
20 Bowie pointed out on his graphics.

21 The school also has an arrangement which currently exists at their
22 campuses whereby they have a number of staff assist students as they arrive. And
23 so, they expedite the process as they come in to and leave the school.

24 However, we felt that in order to insure that operations at the two
25 access points were efficient, we recommended that the school employ manual traffic
26 control at those two points, specifically using off duty officers of the city's police
27 department to control traffic at those points.

28 With regard to the neighborhood traffic impact, we worked with a

1 task force of citizens immediately to the south. It is quite apparently looking at the
2 roadway network that there is some travel time advantage gained by commuters
3 cutting through local streets such as 17th, Juniper, and Holley in order to get
4 between the area to the northwest and 16th Street.

5 We did surveys which showed that indeed some of the local
6 streets serve greater volumes in an average weekday, greater volumes than
7 collector streets such as Kalmia Road. Marginally above or 20 percent above those.
8 We also found that there was some degree of speeding along those roadways. And
9 so, we worked in conjunction with the effected residents to come up with a menu of
10 measures which we think could solve those problems. These include striping of the
11 pavement width so that drivers would perceive that they're traveling within a
12 narrower, restricted travel way; all way stop signs; potentially having turn restrictions
13 off 16th Street so that cut through traffic would be eliminated; and perhaps modifying
14 the signal phasing and the geometry of this intersection in a minor way in order to
15 better facilitate turning traffic at 16th and Kalmia which would be the intersection
16 used by traffic along the collector route.

17 We have these menu of measures and we've discussed them with
18 the city's Department of Public Works, and they are awaiting a formal request from
19 the neighbors in order to determine what measures will be implemented.

20 And so, we think we've addressed the major concern of the
21 department, the city's review agencies, and of the neighborhood, and we think that
22 we can say professionally that based on the overall traffic impact, on the immediate
23 access needs of the school, and with regard to the impact on the adjacent
24 neighbors, that the school would not have any appreciable adverse impact.

25 Thank you, Madam Chair. I'd be glad to answer any questions.

26 CHAIRPERSON BENNETT: Thank you, Mr. George.

27 MR. FEOLA: Madam Chair, that ends our direct presentation.

28 And I'd like to save a few minutes for closing remarks if that pleases the Chair.

1 CHAIRPERSON BENNETT: No problem. Thank you very much.

2 MR. FEOLA: I would --

3 CHAIRPERSON BENNETT: Colleagues, questions of our panel?

4 COMMISSIONER FRANKLIN: I just have one for Ms. Wiebenson.

5 You indicate the plan is now to expand the school through the sixth grade. In terms

6 of the longer range plan, do you see this school expanding beyond the sixth grade?

7 MS. WIEBENSON: Certainly not in my tenure.

8 COMMISSIONER FRANKLIN: That sounds pretty forthright.

9 MS. WIEBENSON: Right. I also feel very strongly having worked

10 in a number of schools that do go beyond that, I also feel that there's a real sense in

11 the vision of the school that it should be a school for children in childhood. And once

12 you get beyond age 12, you are into a different kettle of fish and it does feel to me

13 as though certainly within the tenure of the board and of the faculty and staff, and

14 certainly myself, I don't foresee that this is going to change soon.

15 COMMISSIONER FRANKLIN: So, what you're saying is that the

16 bedrock philosophy of the operation is not consistent with expanding it beyond the

17 sixth grade?

18 MS. WIEBENSON: I wish that I had said that myself.

19 COMMISSIONER FRANKLIN: Thank you.

20 MS. WIEBENSON: I think it would be important, though, for the

21 Commission to know that we did in the fall of 1996 create a -- have a retreat of

22 alumni of staff, of the Board of Trustees, and the faculty, of course. And also,

23 alumni students. And during that very long and interesting discussion of a day, there

24 was produced a strategic plan and that strategic plan was -- listed the things that

25 you said there as well as a lot of other things. But it was certainly a great desire of

26 the school to have a consolidated campus and to expand. And it was breathtaking

27 that two months that this opportunity came to pass because we did not do it with the

28 thought that there was going not be this opportunity coming to pass.

1 COMMISSIONER FRANKLIN: And at that strategic planning
2 session, was there any discussion of extending the operation beyond the sixth
3 grade?

4 MS. WIEBENSON: There was not.

5 COMMISSIONER FRANKLIN: Thank you.

6 CHAIRPERSON BENNETT: Thank you. Other questions?

7 MR. FEOLA: I'd like to pass out a set of proposed conditions that
8 we have worked with the community on that address, I think, most of the concerns
9 that have been addressed by OP and by the community for your consideration and
10 for the record.

11 CHAIRPERSON BENNETT: Has ANC 4A come in yet?

12 Would you like to cross examine the witnesses at all? This is a
13 time for questions as opposed to your coming in presenting the conclusions of the
14 ANC. This is an opportunity since you are an automatic party to the case. You have
15 an opportunity to pose questions, should you have any, based on the presentation
16 that was just made.

17 Hold on. You cannot really tell me that from the audience. You've
18 got get next to a mike. And introduce yourself, your name and your home address.

19 MR. SLOAN: My name is Douglas Sloan. I reside at 1639
20 Primrose Road, Northwest, Washington, D.C. I am the ANC commissioner that
21 represents the single member district on which the site is located.

22 And I am familiar with the presentation. I've seen it before. And
23 we --

24 CHAIRPERSON BENNETT: So you have no questions?

25 MR. SLOAN: No questions. Three separate meetings, and we
26 have run them through the wringer on everything.

27 CHAIRPERSON BENNETT: I know that's right. All right. Thank
28 you. Thank you very much.

1 MR. SLOAN: But I do plan to make a presentation.

2 CHAIRPERSON BENNETT: No problem. That will be later on in
3 the order of business.

4 Only parties are allowed to ask questions.

5 FEMALE AUDIENCE MEMBER: What's a party? I applied to
6 testify. Doesn't that make me a party?

7 CHAIRPERSON BENNETT: No. The question from the audience
8 was whether or not other people could ask questions and I indicated that only
9 parties could ask questions. And if staff would show the lady who posed the
10 question what is required of parties on the back of the public hearing notice. Just
11 give her a copy of that, then that would help her understand our procedures a little
12 bit better.

13 What she's handing you is on page 2 of the Notice of Public
14 Hearing. It outlines the requirements for party status. And what you ha to do in
15 order to secure it.

16 At this point in our proceeding, we will now go to the report of the
17 Office of Planning.

18 You will have an opportunity to testify. But to ask questions, you
19 must be a party to do that.

20 Ms. Dennis.

21 MS. DENNIS: Thank you, Madam Chair. I would just like to
22 briefly talk about our recommendation. In the Office of Planning's opinion, the
23 proposed use of the site for the Lowell School would maintain the existing character
24 of the area. Additionally, the proposal would return three existing single family
25 structures presently used for office space to residential use. As Mr. Feola said, our
26 concern was that we find a way, that the Applicant try and find a way to insure that
27 those three residents be returned to residential use.

28 We offered several options to the Applicant and we are very

1 pleased to see that they followed some of our suggestions. We therefore support
2 the project.

3 But let me also say that if you have any further questions Mr.
4 Bastida is here.

5 MR. BASTIDA: Madam Chairperson, I would just like to ask the
6 Applicant one question because when we discussed the project, they have the
7 intention of perhaps locating the British school here for a year and I think that
8 perhaps you might want to request that flexibility to do so. And the Office of
9 Planning took that into account but didn't put it in the report, and we have no
10 objection to such a flexibility.

11 CHAIRPERSON BENNETT: That's the interim use?

12 MR. BASTIDA: The interim use, right.

13 CHAIRPERSON BENNETT: Did you want to --

14 MR. BASTIDA: And I don't see it on the conditions as stated here.

15 MR. FEOLA: Thank you, Madam Chair. Phil Feola for the
16 Applicant.

17 Actually, it is on the condition. It is listed on number 8. We didn't
18 identified in the proposed condition the specific potential elementary school, but Mr.
19 Bastida has said who it is. But that would be the interim use for a year.

20 Thank you.

21 MR. BASTIDA: I just wanted to make sure.

22 CHAIRPERSON BENNETT: Thank you.

23 Questions of the Office of Planning, colleagues?

24 I see no other agencies. We come to that portion of the
25 proceeding where we invite the Advisory Neighborhood Commission to make their
26 presentation.

27 Good evening.

28 MR. SLOAN: Good evening.

1 Please note, before I begin, the typo on the first letter of the first
2 sentence of the testimony. That should be changed from Mister to Madam Chair.

3 CHAIRPERSON BENNETT: Any old time.

4 MR. SLOAN: Madam Chair and members of the Zoning
5 Commission, my name is Douglas Sloan. I reside at 1639 Primrose Road,
6 Northwest. I am the ANC commissioner and represent the single member district
7 where the site is located. The chair of ANC 4A, Mr. Joseph Haristan, has
8 authorized me to represent the ANC in this matter before the Commission.

9 ANC 4A supports the proposed modification to the approved PUD
10 submitted by Lowell School at the site formerly occupied by Galludet University.
11 The ANC met at its regularly scheduled public meeting on March 3rd, 1998. This
12 meeting was officially convened with a quorum present at 6001 Georgia Avenue,
13 Northwest. The application to consider the proposed PUD modification was
14 discussed at the meeting which was given proper public notice. Flyers were
15 distributed in the ANC area at least seven days prior to the meeting. A vote was
16 taken to support the application by Lowell School to modify the PUD and it was
17 adapted -- excuse me, adopted, unanimously.

18 This matter was also considered at two prior ANC meetings
19 providing the residents of the community and Lowell School the opportunity to
20 express their views and concerns. Other civic associations and community groups
21 held meetings in the areas adjacent tot he site to discuss the PUD.

22 Lowell School occupies two school sites in the ANC 4A area and
23 recently appeared before the ANC for recertification of the pre-primary and primary
24 schools located at two locations on 16th Street. Lowell School is a long time valued
25 member of our ANC community which has established an excellent reputation for
26 cooperating with the residents.

27 The children in our community attend the Lowell School and their
28 parents and our residents are active participants in the school's programs. The view

1 of the residents is that the modification proposed to the PUD represent the best use
2 of the Galludet site which was used as a school. In fact, this is a continuation of the
3 use of the site as an educational facility. It is consistent with the residential
4 character of the community.

5 We are pleased that Lowell School will be occupying the site
6 because it is now vacant, which is not conducive to a safe and pleasant living
7 environment.

8 We are also pleased that Lowell School plans to return the three
9 houses used for administrative purposes to the market for residential use.

10 We also note that Lowell School will not go beyond the sixth grade
11 in line with its educational mission. This will insure long term stability to the
12 community. Other considerations, like increased traffic, parking, and related
13 transportation concerns do not pose an issue and have been addressed in this
14 application for PUD.

15 Madam Chair, that concludes my statement that expresses the
16 official view of the issues and concerns of the ANC which represents the residents of
17 this effected community. I request that the views of the ANC be given great weight
18 in your consideration of the proposed modification to the PUD. I also request that
19 you approve the application.

20 Thank you very much for the opportunity to express the views of
21 the ANC and I am open to any questions you may have.

22 CHAIRPERSON BENNETT: Thank you, Mr. Sloan.

23 Questions, colleagues, of Mr. Sloan?

24 Can't get much clearer than that.

25 COMMISSIONER KRESS: Terrific presentation. Thank you.

26 MR. SLOAN: Thank you. That was my first one.

27 COMMISSIONER KRESS: I didn't even know that.

28 CHAIRPERSON BENNETT: Do come back.

1 Moving right along, we have three persons in support -- I'm sorry,
2 two persons in support, who are listed. There are no other parties outside of the
3 ANC. And we have first Ms. Ethel J. Hackney.

4 MS. HACKNEY: Good evening, members of the Commission.
5 And thank you for the opportunity to be here this evening. My name is Ethel J.
6 Hackney and I live in Square 2745F which is the same one which includes the
7 proposed Lowell School. I have lived there since 1963. So you can see, I have a lot
8 of my life and soul invested in this community and what happens there. And I have
9 been to the Zoning Commission many, many times on what has been proposed and
10 what has happened in our community over the years.

11 I do not come as an opponent. I come as a proponent because I
12 think Lowell School can be a good neighbor as was Galludet. But I rather come as a
13 conditional proponent because I think for this good marriage to work there has to be
14 some very definite, unambiguous guidelines set. Because it's been our experience
15 in previous years that if there is a loophole, things will ooze through the hole and
16 people will have their own agendas.

17 I have seen where when that has happened, an organization takes
18 over, they stretch, they elude, they evade, or they ignore zoning regulations and
19 those things operate to the detriment of the community. I'm not saying that Lowell
20 School would do any of these. I don't believe they will. But, I would just request that
21 all of the guidelines and stipulations be very firm and unambiguous.

22 So therefore, I'm asking that this cap that Lowell School proposed
23 be put on the maximum number of students and faculty. I'm asking that there can
24 be no rental of this property to anyone. That no subsidiary organization can be set
25 up or given, shall we say, use of the property. And that no organization other than
26 Lowell School, except for this interim use they speak of, can have use of this
27 property.

28 We see that happening in other things in our neighborhood right

1 now with the Ethical Society. I live right there. And so, I know that these loopholes
2 exist and every advantage is taken for the organization to impose on the community.
3 People park in our yards. We have noise all night long and churches are not
4 supposed to rent their property. But they say this is their members. They had a bar
5 mitzvah there. I wonder how many Jewish members really belong to the Ethical
6 Society. I don't think that's the case. They rent this property out and they always
7 say that these are our people. But we know that that's not always the case. This is
8 why I'm asking that a very strict regulations be put on what can and what cannot
9 happen.

10 I want to close a loophole in item 7 on page 8 of the application
11 which deals with the school's intention of complying with guidelines. That item
12 forbids the use for organizations whose missions are unrelated, holding fund raisers
13 and from profit making organizations using the site. Now, that loophole would allow
14 any educational group whose mission would obviously be related to Lowell School,
15 or any not for profit group, to use the property for a fund raiser. We ask that that
16 loophole be closed and it be restricted to Lowell School.

17 I'm asking that you deny the rezoning of these residential houses
18 because those lots are too small to qualify under zoning for an R-1-A neighborhood.
19 And I'm afraid that opening the door to lower zoning will just create problems for us
20 in the future. It's unfortunate that Lowell has bought a property that's too big for their
21 uses but I don't think that we, as people who live right there in the same square,
22 should be penalized by having our property values possibly lowered in order to
23 accommodate them.

24 As for the traffic plan, it's interesting that Mr. George didn't talk to
25 us who live -- He talked to the people who live south of the campus. Those of us
26 who live in the same square and to the north are the ones that all this traffic that is
27 diverted by one way signs, no turn off of 16th Street, would feel the brunt. We
28 weren't consulted about this, Mr. George.

1 We suffered enough when Galludet came there. We didn't want
2 traffic going down 17th Street or going down Jonquil. They wanted all Galludet
3 traffic to enter through Kalmia. So, how did that effect us? Parking on the south
4 side of Kalmia was banned totally. Parking on the north side was banned during
5 rush hour.

6 Now, I live on 16th Street, and you know I can't park there. And
7 you know when it snows, the city does not one thing to clear the alley. My car's in
8 the alley for the duration of the snow storm. I used to could bring it out and put it on
9 Kalmia but to benefit Galludet, and to keep the traffic off of 17th Street and Jonquil, I
10 can no longer do that. Now they want to put no turn signs at certain places on 16th
11 Street and bring all the traffic down there. I don't see why I should be made to suffer
12 any more for the convenience of the school or anybody who lives south of it. Traffic
13 is a way of life and I think all of us have to accept our full share. And it's totally
14 unfair to make one part of the neighborhood the brunt of the traffic problems.

15 Besides, I have to go down those streets myself, and I feel that I
16 should have that privilege just as the people who live there have the privilege to
17 drive in front of my house. Many times I can't get down there to get to my garage
18 because Ethical Society's people have the alley blocked. I have to go around the
19 block. Now, if you're going to tell me I can't turn there, you're going to have me in
20 court every day because I'm going to violate that law and go home.

21 But I think it's grossly unfair to us to put in any kind of -- any more
22 restrictions. I want to ask that those be removed that are there. Because we, too,
23 are taxpayers and citizens and we have a right, the same rights, that anybody else
24 has.

25 And I might add that 16th Street was not designed as a highway.
26 Those of you who have been around a long time like I have know that it was
27 designed as a wide boulevard for beautiful homes and churches, and whatnot. It
28 was made into a highway by usage because so many people and so many cars

1 came. So, it was not designed as Interstate 95. That was never its purpose. We
2 don't see adding to that just because it's evolved into that. So, I ask kindly to
3 consider in your petitions to the traffic people, don't impose on us for the benefit of
4 other people in the neighborhood. It's totally unfair.

5 The question I wanted to ask -- I totally misunderstood because it
6 said in the paper that I had gotten that any person or individual could apply to be a
7 party by following the certain guidelines. I went through those guidelines so I
8 considered myself a party. And it also said that parties could ask questions. That's
9 why I wanted to ask a question.

10 And the question I wanted to ask from the Galludet -- I'm sorry,
11 Lowell people is what use they plan to make of Frasier Hall?

12 CHAIRPERSON BENNETT: Why don't I ask. What use do you
13 plan to make of Frasier Hall?

14 MS. WIEBENSON: For the foreseeable future, no use. The -- we
15 are mothballing the two buildings, Memorial Hall and Frasier Hall, until we know
16 what it is that we can afford and what would be proper for the school. So, we are
17 not planning for any use for them.

18 MS. HACKNEY: Thank you.

19 My concern was I know that property is extremely large for the
20 size of the student body they propose. And I would just hope that we would not be
21 back down here again trying to make sure that no unauthorized use takes place in
22 that building.

23 Thank you very much.

24 CHAIRPERSON BENNETT: All right. Thank you.

25 Questions of Ms. Hackney?

26 COMMISSIONER FRANKLIN: I can only say that the school is
27 fortunate that you're not an opponent.

28 CHAIRPERSON BENNETT: I know that's right.

1 MS. HACKNEY: I'm a proponent but I want the guidelines
2 followed because I have seen too many instances right in my neighborhood where
3 they have not been followed.

4 Thank you.

5 CHAIRPERSON BENNETT: Thank you.

6 COMMISSIONER KRESS: Thank you.

7 CHAIRPERSON BENNETT: Ms. Joyce Stanley Batipps.

8 Good evening.

9 MS. STANLEY BATIPPS: Good evening, Madam Chair and
10 members of the District Zoning Commission. I'm Joyce Stanley Batipps and I'm the
11 owner of property at 1645 Jonquil Street, Northwest, in Ward 4, where my family and
12 I have resided since 1980. I'm a native Washingtonian and I'm committed to living in
13 the District of Columbia.

14 My home is one block south of the campus on 17th and Jonquil, at
15 that intersection there. And as a property owner, I welcome Lowell School to our
16 community. As we all probably appreciate, a good school enhances property values
17 and certainly a school with a reputation of Lowell's will further enhance our property
18 values. As potential home sellers some day, as we go into our more senior years,
19 it's good to know that if we need to sell our homes to younger families, there are
20 schools there to support those families.

21 I welcome Lowell and I welcome Lowell with some conditions.
22 Essentially my concerns were the increase of traffic generated by the dropping off
23 and picking up of the children in the morning. We've met with Lowell's legal
24 representatives and Ms. Wiebenson on several occasions to iron out many of my
25 concerns. And I feel pleased that we have worked many of them out.

26 I'm a member of a traffic task force that was formed to address
27 some of the concerns that were raised by me and my neighbors about the
28 carpooling and the drop off. When Mr. George made his presentation, he mentioned

1 that the 17th Street entrance, existing entrance there, will be the principal main entry
2 way for carpooling in the morning hours, in the peak hours. But he mentioned only
3 the Kalmia Road access. Also traffic will come from 17th Street and converge. So,
4 there will be three lanes of traffic converging into the entrance.

5 Because I live at 17th Street, which is a street that neighbors have
6 fretted over for many years because it has an inordinate flow of traffic, mainly
7 commuter traffic, going at increasingly higher speeds each year we note, and failing
8 to stop at the stop signs. Although that's a street there of four intersections
9 converging, people run the stop signs. And it represents quite a dangerous point in
10 my neighborhood.

11 So, we were certainly concerned that 17th Street would feel even
12 more impact. We were told that certainly carpool lines might act as a traffic calming
13 measure and that, too, is appreciated. But I also have a sense that commuter traffic
14 will seek some lower level limits and will find another way to creep through our
15 neighborhoods. So, we know that problems may persist. Even though we have
16 these snaking lines going into the campus, we may have problems with traffic
17 resulting from commuter traffic trying to find another way out of the neighborhood.

18 Lowell has addressed many of our concerns by taking up some of
19 the measures that were suggested by the community, the traffic mitigation
20 measures, and we appreciate that. We have sort of left with Lowell that if after
21 Lowell is there for some length of time, and I don't know if we specified a period, but
22 that we will revisit the issue of traffic. And if need be, we will look at the plan and
23 hopefully revise it to correct any glitches that are now unforeseeable.

24 In addition, we, too, have had concerns about the three houses
25 along Kalmia Road and what would happen to those houses because they are on
26 substandard sized lots. And we, too, agree with the suggestion by the Office of
27 Planning that these properties be sold with some deed restrictions so that they can
28 be limited to single family use. So, Ward 4 community has suffered with having an

1 inordinate amount of group homes and we would hate to see those properties, which
2 have as one neighbor put it, some warts on them, used for alternative uses because
3 they can't be sold as single family homes. So, we would like to ask that the
4 Commission certainly look to Lowell's request to have these properties excluded
5 from the PUD but with restrictions on the deed for single family use.

6 In closing, I just want to comment Lowell and its representatives
7 for both opening the lines of communication with the neighbors and for making
8 certainly a good faith effort to allay our concerns and fears. I welcome Lowell to
9 their beautiful campus and we want to establish a community relations board. We
10 feel that that is a way of keeping an ongoing dialogue with Lowell which we feel will
11 be important in the future as these problems crop up, or if they don't crop up, it
12 would just be nice to have a way to access Lowell as a good neighbor.

13 So, we encourage Lowell, as they have put in their proposed
14 conditions, to help us formulate the community relations council to keep our dialogue
15 going in the future.

16 Thank you.

17 CHAIRPERSON BENNETT: Thank you, Ms. Batipps.

18 Questions?

19 COMMISSIONER FRANKLIN: No.

20 CHAIRPERSON BENNETT: Thank you very much.

21 I never did ask the ANC if you had questions of either Ms. Batipps
22 or Ms. Hackney? No.

23 Are there other persons in support who wish to testify? There are
24 no parties in opposition. Are there persons in opposition who wish to testify?

25 Seeing none, we have closing remarks.

26 COMMISSIONER FRANKLIN: I have a question perhaps Mr.

27 Feola can answer in his closing remarks. In looking at the three single family

28 houses on substandard lots, would you say the houses themselves are substandard

1 in relationship to the neighborhood?

2 MR. FEOLA: No, I would not say that and maybe Mr. Bowie could
3 comment on it. The houses were built in the late '30s. One of them was built in '41,
4 I believe. They're pretty standard for the other houses in the neighborhood that
5 were built that way. What has happened is that the building that is called Frasier
6 Hall, which is the U-shaped building, was built after the institution bought those
7 houses. So, it lopped off what is the back yard.

8 Two of the -- One of the houses is in fairly good shape for
9 residential use as we speak. The house most east on the property, closer to 16th
10 Street. The other two have been used for offices for Galludet and other
11 administrative uses, and they will take some work to bring them back. I mean, they
12 have residential fixtures and bathrooms, and things like that, but there are partitions
13 and things that will have to come down.

14 But no, the house envelope, the shell, is-- they look just like the
15 other houses in the neighborhood. And they're in pretty good shape externally and
16 structurally.

17 COMMISSIONER FRANKLIN: The reason I asked was to explore
18 whether it's feasible or whether you would wish to have the flexibility to replat to get
19 the lots larger and have one of them, or both, or all three, taken down and
20 somebody building a new single family residence on the larger lot.

21 MR. FEOLA: That is a possibility, Mr. Franklin. We had not
22 precluded that. What we have asked is that these be carved out and that these
23 three properties either be used in our proposed order as a single family house use,
24 or open space. It could be one single family house with a lot of open space or it
25 could be two carving up those three lots into two. So, that is very possible.

26 COMMISSIONER FRANKLIN: Would that also entail revisiting
27 whether that fire lane is really something that could be rearranged so that -- There
28 seems to be another access to the property on Kalmia, just below the eastern most

1 house. And if that were done, would you be able to create a fire lane that would
2 enter there and get to wherever fire trucks have to go?

3 MR. FEOLA: It's possible. There is a fairly significant slope from
4 the rear of those houses to the driveway. And so, it would be a big cut and a very
5 large retaining wall. And I'm not sure the fire department would want to negotiate
6 around those sort of tight curves. The reason that fire lane was put in there was at
7 the request of the fire department so they didn't have to do that.

8 But, yes, I think the school would love to be able to relocate that
9 road, if necessary.

10 COMMISSIONER FRANKLIN: Are those two single family homes
11 that are indicated in the very light outline to the west?

12 MR. FEOLA: Yes. They are -- those are privately owned single
13 family houses, that's correct.

14 MR. BOWIE: And you can see that these two are really --

15 COMMISSIONER FRANKLIN: Oh, I see. Yes. Right.

16 MR. BOWIE: The next two houses up are in current single family
17 use. This, the first footprint, is virtually identical to that. Probably the mirror of that
18 house. And these two are really larger houses, actually than many.

19 COMMISSIONER FRANKLIN: Thank you.

20 CHAIRPERSON BENNETT: Let me ask a technical question,
21 maybe a legal question. The federal government had the property and when it did
22 so, it became unzoned. Then Galludet got the property and it had a PUD with an R-
23 1-A zoning base zoning. Now we snatch the PUD off of these houses. Are they
24 unzoned? Or, do we have to apply R-1-A zoning?

25 I'm looking at Ms. Hackney's concerns, top of page 2. And it
26 occurred to me that if we take them out of the PUD where it had base zoning, does it
27 revert back to what it was on zone?

28 MR. FEOLA: We actually looked at that, Madam Chair. The

1 condition of the Galludet order, and I'd be happy to pass this out once I read it,
2 doesn't make the condition of the change in zoning from unzoned to R-1-A a part of
3 the PUD. It basically says, and I'll read it to you, "The change in zoning from
4 unzoned to R-1-A shall be effective upon recordation of a covenant as required by
5 Subsection 7501," blah, blah, blah, "of the Zoning regulations."

6 I read that to mean that this entire property is now zoned R-1-A.
7 We can't do anything within that zone unless we modify the PUD. But it has a zone
8 classification. It is no longer unzoned. And it isn't tied to the PUD.

9 CHAIRPERSON BENNETT: To the PUD only.

10 MR. FEOLA: Once this PUD was effectuated, there is an R-1-A
11 zoning. And I see Ms. Dobbins wanting to look at this.

12 CHAIRPERSON BENNETT: You see the wrinkles between her
13 eyes.

14 MR. FEOLA: A little unusual, by the way, for PUDs. But
15 somebody was --

16 CHAIRPERSON BENNETT: You can't keep talking to me if you
17 don't have a mike.

18 MR. FEOLA: Because we looked at that initially, whether we
19 would have to apply for a zone for these and we came to the conclusion towhead
20 that number 20 condition created a zone. And on the zoning map that's published
21 by the city, it shows as R-1-A.

22 CHAIRPERSON BENNETT: Page 20, colleagues.

23 MR. FEOLA: No, number 20.

24 CHAIRPERSON BENNETT: Number 20.

25 MR. FEOLA: Oh, it is page 20.

26 CHAIRPERSON BENNETT: It is page 20. Number 20, page 20.

27 "The change in zoning from unzoned to R-1-A shall be effective...."

28 What it doesn't say shall be effective regardless of the

1 effectiveness of the PUD. I could have used a few more words on here to make it
2 absolutely clear. But --

3 MR. FEOLA: But it doesn't tie it to any part of the PUD that if
4 Galludet went away or it doesn't say that the other things here if not fulfilled. It just
5 says, file the covenant, it becomes zoned. That's the way we read it.

6 CHAIRPERSON BENNETT: Walk me through this. The covenant
7 is the thing that conveys the benefits and responsibilities of the PUD onto the
8 property?

9 MR. FEOLA: That's correct.

10 CHAIRPERSON BENNETT: So, if you take the PUD off of that
11 property, does it not take off the covenant, leaving it naked?

12 MR. FEOLA: Not if the --

13 CHAIRPERSON BENNETT: Zoning wise.

14 MR. FEOLA: Not if the zoning order says it doesn't. I mean, let's
15 take an example. If the zoning order says you shall build a building three feet high
16 and two feet wide and you do that, and then you tear the building down, does that
17 violate the covenant? Still there or not there. So, I don't see it as a legal matter
18 changing the zoning. Maybe I'm wrong but --

19 COMMISSIONER FRANKLIN: Why don't we in our own order just
20 simply clarify that.

21 MS. DOBBINS: I was about to say the Zoning Commission
22 probably needs to make that determination in its subsequent order.

23 CHAIRPERSON BENNETT: That's kind of where I'm going. First
24 of all, I wanted to proffer to my colleagues that I'd like to dispose of this case, at
25 least take proposed action this evening. But to do so, we have to examine the
26 conditions carefully that you have offered, examine the concerns that folk brought to
27 us in light of that, and determine very clearly how we handle the zoning for those
28 pieces that come out from under the covenant.

1 MR. FEOLA: And in number 7 of our proposed conditions, the first
2 sentence is, "The zoning of the residential lots," which is a defined term, "shall be R-
3 1-A." So, if there is any misunderstanding, that clarifies it.

4 CHAIRPERSON BENNETT: Now, let me tell you why that poses
5 a little problem. Maybe I'm just being persnickety. But, if you lift the PUD from those
6 buildings, then what in the conditions of the PUD we still have left can govern
7 something that doesn't have the PUD on it anymore? You know what I'm saying? It
8 almost feels as though we need to have this set of conditions for what is now going
9 to be Lowell School, and we need to have another little quick case, a zoning case,
10 that says Lots 105, 106, and 107, shall be R-1-A. Because, what we're asking is for
11 conditions that rule one piece of land to govern another piece of land which is no
12 longer attached to it as a PUD.

13 MR. FEOLA: Yes, but see, I would differ because I don't think that
14 the condition number 20 in the original Galludet order makes it arguable that that
15 property isn't 1-A. I mean, I think it's pretty clear that once that covenant was
16 recorded for all time until this Commission changes it, this is zoned R-1-A.

17 CHAIRPERSON BENNETT: And I would have agreed except that
18 the language says effective upon recordation of a covenant.

19 MR. FEOLA: Period.

20 CHAIRPERSON BENNETT: Which --

21 MR. FEOLA: Doesn't say building permit. It doesn't say doing any
22 of the other conditions. It just says you record this covenant. The zoning of this
23 unzoned federal land becomes R-1-A. I mean, I --

24 CHAIRPERSON BENNETT: And I guess I just thought it was a
25 part of -- it was tied to something.

26 MS. DOBBINS: And I'm not sure that that language is very much
27 different from when you have a PUD under the current regs. This one recites the
28 older regs that has an associated or related map amendment. So, that's -- I have

1 the same concern that you have.

2 And it's typically been determined that when zoning -- when a map
3 amendment is associated with the PUD, that it's specifically for the PUD.

4 CHAIRPERSON BENNETT: For the PUD. And that's where I
5 was coming from.

6 MS. DOBBINS: Exactly.

7 CHAIRPERSON BENNETT: I mean, I would, for simplicity's sake,
8 I wish this hadn't come up. You know what I mean. Because I'd just as soon be
9 able to get on with this. But it is a concern and I know because the ANC has
10 brought it up and you have worked this out, I know it to be a concern of the
11 neighbors. And we would not want to leave it to chance if someone should come
12 along and differently interpret all of this.

13 COMMISSIONER FRANKLIN: Would it help -- I don't want to
14 complicate this further.

15 CHAIRPERSON BENNETT: Uh oh, we've got a lawyer.

16 COMMISSIONER FRANKLIN: Well, Madam Chair, for a non-
17 lawyer, I think you hold your own very well.

18 How about leaving it within the PUD. I understand you don't want
19 the PUD there for market reasons. And just simply say that all conditions of the
20 PUD shall expire upon the sale of these lots except for the R-1 zoning, R-1-A. And
21 just wipe out all the conditions. I mean, that's what you're concerned about, you
22 don't want the conditions of PUD to exist because it complicates your title.

23 CHAIRPERSON BENNETT: Hamper your ability to market it.

24 MR. FEOLA: Yes, but if it's part of the PUD, and I think if
25 somebody were to go to the Zoning Administrator's off to put a rear porch on the
26 back of that property and it's within the PUD boundaries, I'm afraid we'd be right
27 back in front of this Commission.

28 I think, and maybe there needs to be -- I don't agree with this, but

1 if the Commission feels comfortable, maybe you need to issue a separate order for
2 those three houses creating an R-1-A lot. I don't think it needs to be readvertised. I
3 don't think it needs to have another hearing. I think this is what we've just done.
4 And there can be a separate order issued creating the zone on this piece of
5 property.

6 COMMISSIONER FRANKLIN: I agree with the Chair that I think
7 we should take proposed action. I don't see why this technical issue needs to hold
8 us up if the staff can work it out in a way that's appropriate. I agree with Mr. Feola, I
9 don't see any need to readvertise.

10 MS. DOBBINS: And I think Mr. Feola's right. It's actually been
11 advertised. I mean, they said the PUD site is R-1-A. Everybody in here assumes
12 it's R-1-A. There's been enough information in the public hearing notices, et cetera.
13 But I still think the Zoning Commission needs to take the opportunity now to zone
14 those separate lots R-1-A if you are intending to take them from the PUD site itself.

15 And, I don't think it's a problem. I can give you a case number
16 right now. And --

17 CHAIRPERSON BENNETT: That sounds like a very good idea.

18 MS. DOBBINS: You can designate those lots.

19 CHAIRPERSON BENNETT: But that sounds -- that makes me
20 feel a lot better.

21 MS. STANLEY BATIPPS: Madam Chair.

22 CHAIRPERSON BENNETT: You have to come to a mike.

23 MS. STANLEY BATIPPS: Madam Chair, I have a question. I
24 understand the need to certainly keep these properties as R-1-A. But my concern is
25 that all R-1-A property is not single family property, at least my understanding. And
26 we have a definite concern in our neighborhood to keep this as a single family
27 residences. Is there any protection for the community if these houses are carved
28 out singling as R-1-A?

1 CHAIRPERSON BENNETT: I thought that that's taken care of in
2 the deed restriction that was proposed.

3 MS. STANLEY BATIPPS: The deed restriction would also follow?

4 CHAIRPERSON BENNETT: Oh, yes. As I understood it.

5 Now, let me ask this, glad you raised that. Because here, again,
6 we have a case --

7 Mr. Feola, because we just got these conditions, I haven't had a
8 chance to read each one. Do you mention the deed restriction in here?

9 MR. FEOLA: Yes ma'am.

10 CHAIRPERSON BENNETT: Well, then my question becomes of
11 my lawyers in the house. Can we call for a deed restriction in the context of
12 conditions for one piece of property that will take effect on another piece of
13 property? Or, since we're talking about zoning, separately zoning, these properties,
14 can we -- is it appropriate for us to call for deed restrictions in the course of applying
15 that zoning? Or is that overstepping our bounds?

16 MR. FEOLA: Madam Chair, I think if I might. It's really two
17 separate issues. If you feel like you need to create a zone for these lots, that's one
18 issue. The second issue is a set up conditions which will allow these lots to be
19 carved out of the PUD. One of those -- For example, these lots are all smaller than
20 the required lot sizes for R-1-A lots. They also have undersized side yards. They
21 have probably exceed their lot occupancies. I haven't done all the calculations.

22 You can make as a condition to allow those lots to be created
23 which is what we -- how we set this up, a deed restriction that they be used for only
24 single family houses. And that would be a condition of the subdivision and the sale.
25 And that would be something that if Lowell didn't do, they couldn't get the
26 subdivision and subsequently couldn't sell the property.

27 So, it's really two separate things.

28 CHAIRPERSON BENNETT: But that, then, would be

1 appropriately set forth in these conditions?

2 MR. FEOLA: In the PUD order, that's correct. I believe so.

3 CHAIRPERSON BENNETT: All right.

4 Madam Director, does that comport with your understanding?

5 MS. DOBBINS: Yes. Yes.

6 CHAIRPERSON BENNETT: All right. I didn't again want to mix
7 apples and oranges.

8 MS. STANLEY BATIPPS: Thank you, Madam Chairperson.

9 MS. HACKNEY: May I ask another question?

10 CHAIRPERSON BENNETT: Ms. Hackney.

11 MS. HACKNEY: It's really two questions now that I think -- One is
12 --

13 CHAIRPERSON BENNETT: I'm going to send you home.

14 MS. HACKNEY: One is, if we allow those smaller lots, does that
15 open the way for some builder to come in and say, well, those lots are substandard,
16 why can't I make my mine smaller so I can get more houses on my piece of
17 property?

18 CHAIRPERSON BENNETT: No.

19 MS. HACKNEY: No, she says. Good.

20 CHAIRPERSON BENNETT: No, these are pre-existing condition.

21 MS. HACKNEY: That's the first question. Good. The second
22 question I have, are these covenants enforceable throughout eternity? Because
23 when I bought my house, there was a covenant that said that people with brown skin
24 couldn't live there.

25 CHAIRPERSON BENNETT: Now, eternity is a long time.

26 MS. HACKNEY: But it was not enforceable. SO I just wanted to
27 know, if such covenant as they are talking about on the property, is that breakable in
28 the courts? Is that enforceable?

1 COMMISSIONER FRANKLIN: Only so long as the land continues
2 to exist.

3 MS. HACKNEY: Pardon?

4 COMMISSIONER FRANKLIN: Only so long as the land continues
5 to exist.

6 MS. HACKNEY: Because the other one didn't exist as long as the
7 land. That's why I raise the question or it would have kept me from buying the
8 property.

9 COMMISSIONER FRANKLIN: As long as the land is there.

10 CHAIRPERSON BENNETT: That is a legal question I can't
11 answer.

12 MR. FEOLA: I think Mr. Franklin answered it. You can't create a
13 covenant that violates the Constitution or law. And the Constitution -- a deed
14 restriction based on race or gender, or discrimination is illegal constitutionally. And
15 so that's why those deed restrictions have been deemed to be illegal. Keeping
16 something a single family house doesn't raise to a constitutional level. So, I don't
17 see that ever being a problem.

18 MS. HACKNEY: Thank you.

19 CHAIRPERSON BENNETT: You're welcome.

20 Is there a motion?

21 COMMISSIONER FRANKLIN: Madam Chair, I move the approval
22 of the application with the conditions that have been suggested by the Applicant. I
23 have a minor suggested modification to one of the conditions. And that would be to
24 in condition 10 --

25 CHAIRPERSON BENNETT: You have read through them
26 already.

27 COMMISSIONER FRANKLIN: Well, I've read through some of
28 them.

1 CHAIRPERSON BENNETT: All right.

2 COMMISSIONER FRANKLIN: To strike the words, "unrelated to
3 the mission of Lowell," so it would just say, no outside individuals or organizations or
4 agencies shall be permitted, et cetera.

5 CHAIRPERSON BENNETT: That helps -- that addresses Ms.
6 Hackney's concerns.

7 COMMISSIONER FRANKLIN: Yes, that addresses Ms.
8 Hackney's concerns.

9 CHAIRPERSON BENNETT: On the bottom of page 1.

10 COMMISSIONER FRANKLIN: Right. And then where it says
11 "except that community related activities," I would insert thereafter the words,
12 reported in advance to the community relations council which is referred to in
13 condition 9. So at least when there are community related activities, the community
14 relations council has some advanced notice of that. Just to give some additional
15 comfort to people who are concerned about the use of the premises.

16 CHAIRPERSON BENNETT: So we're striking the second, the
17 unrelated to the mission of Lowell?

18 COMMISSIONER FRANKLIN: Yes.

19 CHAIRPERSON BENNETT: All right.

20 COMMISSIONER KRESS: I would second that, Madam Chair.

21 CHAIRPERSON BENNETT: Let me ask this, then, colleagues.
22 And again, I've been busy asking questions and the like and have not had a chance
23 to read these conditions. But one of the other concerns Ms. Hackney raised,
24 because she is seeing the impacts from a different angle, had to do with the
25 proposed traffic measures that some folks find useful but she is concerned may
26 themselves have some impact on her. How say you about those? And, if you could,
27 since you have had a chance to read this, if you could direct my attention to those
28 conditions having to do with any resignalization.

1 I see manual traffic control. I'm on page 2 now, under B. I see the
2 closure of the entrance, the 17th Street entrance, during off peak. And the provision
3 of two-way access on Kalmia. I see school advance sign, school crossing signs. I
4 see geometric signal phasing improvements.

5 MR. FEOLA: Madam Chair?

6 CHAIRPERSON BENNETT: Yes sir.

7 MR. FEOLA: At the risk of being ruled out of order.

8 CHAIRPERSON BENNETT: No, go right ahead.

9 MR. FEOLA: The proposals that are in our proposed order deal
10 only with the campus and access to the campus with the one exception is the light at
11 Kalmia and 16th Street. As Mr. George testified, all external to the campus
12 suggestions need to be -- are really outside of the jurisdiction of this Commission
13 and need to be implemented by the Department of Public Works.

14 CHAIRPERSON BENNETT: By DPW.

15 MR. FEOLA: We have been advised that what Mr. George had
16 come up with are past the smell test, if you will, from DPW. But DPW will not
17 contemplate implementing any of them on the public streets unless there is a
18 community consensus, which I think, if Ms. Hackney has had a chance to participate
19 in, would surely want to participate in. It would be sponsored by the ANC. Lowell
20 has offered Mr. Osborne George's services to help on the technical side. But it's
21 going to be the community's call which streets get closed or opened, or the three
22 directed are outside really the scope of what Lowell School can do.

23 CHAIRPERSON BENNETT: So, what we have here, since, again,
24 I haven't had a chance to read this. I was scanning. Do we recommend in any of
25 these conditions any changes in traffic patterns?

26 MR. FEOLA: No.

27 CHAIRPERSON BENNETT: Because I didn't see any.

28 MR. FEOLA: No.

1 CHAIRPERSON BENNETT: I saw a number of the things that I
2 just read but I didn't see turning one stuff one way and all that good stuff.

3 All right. And Ms. Hackney has had a chance to review these
4 conditions? She's not a party, I understand this. We're trying to work by consensus.

5 Colleagues, did you want to --

6 MS. DOBBINS: There's a motion and a second.

7 CHAIRPERSON BENNETT: We have a motion and a second.
8 And we're in discussion at this point. Is there any further discussion, particularly of
9 the conditions before us based on the testimony that we've heard, on the materials
10 that we've received?

11 COMMISSIONER FRANKLIN: My only comment at this point and
12 it may be totally off base, is to perhaps have the staff look at the conditions that
13 existed in the previous order to see whether any of them -- I know they were
14 obviously addressed to the specific concerned raised by the Galludet use. But there
15 may be, although a quick glance doesn't suggest any, but there may be some that
16 staff would recommend be continued for whatever reason.

17 As I say, in scanning it, I don't see any.

18 MS. DOBBINS: The original order will remain in effect as it relates
19 to the property if the conditions are appropriate still.

20 COMMISSIONER FRANKLIN: It will?

21 MS. DOBBINS: These just -- the modification will only amend the
22 conditions.

23 COMMISSIONER FRANKLIN: All right. That clarifies that. So,
24 I'm ready to vote.

25 CHAIRPERSON BENNETT: Well, except where we tighten
26 something up. In the case where we're taking Ms. Hackney's suggestion and
27 closing that -- what she described as a loophole, that was a carry over from the
28 existing PUD and we modified that specifically.

1 And anyway, this is proposed action. We will see it again. And we
2 get a chance to take a look at that based on what we see abstract.

3 So, is there further discussion, colleagues? Hearing none, all
4 those in favor sign by aye.

5 (Whereupon, a chorus of ayes.)

6 CHAIRPERSON BENNETT: Opposed?

7 (Whereupon, no response.)

8 CHAIRPERSON BENNETT: Abstention?

9 (Whereupon, no response.)

10 CHAIRPERSON BENNETT: The ayes have it. So ordered.

11 MS. DOBBINS: Staff would record the vote as 3-0 to approve the
12 modification in Case 97-16M, with the proposed conditions as indicated and
13 modified.

14 I'd ask the Commission to take an additional vote related to the
15 change of the zoning on the three residential lots.

16 CHAIRPERSON BENNETT: All right. Now, will this be
17 memorialized in a separate --

18 MS. DOBBINS: I have put it as 97-16M(I).

19 CHAIRPERSON BENNETT: We have an opportunity for another
20 motion.

21 COMMISSIONER KRESS: I move that we set aside and make a
22 separate motion to handle the residential lots and set aside that zoning and
23 reconfirm it as R-1-A, is that correct?

24 CHAIRPERSON BENNETT: That's right.

25 COMMISSIONER KRESS: Separate and apart from the PUD, I'm
26 sorry. You have to give me some of the words.

27 CHAIRPERSON BENNETT: Is there a second?

28 COMMISSIONER FRANKLIN: Second.

1 CHAIRPERSON BENNETT: Further discussion? Hearing none,
2 all those in favor sign by aye.

3 (Whereupon, a chorus of ayes.)

4 CHAIRPERSON BENNETT: Opposed?

5 (Whereupon, no response.)

6 CHAIRPERSON BENNETT: Abstentions?

7 (Where upon, no response.)

8 CHAIRPERSON BENNETT: The ayes have it.

9 MS. DOBBINS: Staff would record the vote as 3 to zero to zone
10 the properties, or lots, with the premise address of 1626, 1630, and 1636 as R-1-A
11 separate and apart from the PUD.

12 CHAIRPERSON BENNETT: Ladies and gentlemen, I want to
13 thank you for your testimony this evening and your assistance in this hearing. The
14 case record is now going to be closed and once this record is closed, the
15 Commission will make a decision on the case at one of its regular monthly meetings.
16 Well, we have just done that. These meetings are generally held at 1:30 p.m. on the
17 second Monday of each month and are open to the public. Any person who is
18 interested in following this case further may contact the staff to determine whether
19 this case is on the agenda of a particular meeting. What we took tonight is
20 proposed action.

21 You should also be aware that if the Commission proposes to
22 approve the application, which is what we did this evening, the proposed decision
23 must be referred to the National Capital Planning Commission for federal impact
24 review. The Zoning Commission will take final action at a public meeting following
25 the receipt of the NCPC comments after which a written order will be published.

26 I declare this hearing closed and thank you very much.

27 (Whereupon, 8:47 p.m., the Commission hearing was concluded.)

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