

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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:
IN THE MATTER OF: :
:
(American University - Campus: Case No.
:
Plan and Further Processing) : 11-07
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Thursday,
October 6, 2011

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

The Public Hearing of Case No.
11-07 by the District of Columbia Zoning
Commission convened at 6:30 p.m. in the
Office of Zoning Hearing Room at 441 4th
Street, N.W., Washington, D.C., 20001,
Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman
KONRAD W. SCHLATER, Vice Chairman
MICHAEL G. TURNBULL, FAIA,
Commissioner (OAC)
PETER MAY, Commissioner (NPS)

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Board of Zoning Adjustment
District of Columbia
CASE NO. Transcript
EXHIBIT NO. null

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director,
Development Review & Historic
Preservation
JOEL LAWSON

The transcript constitutes the
minutes from the Public Hearing held on
October 6, 2011.

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

6:30 p.m.

CHAIRPERSON HOOD: Good evening,
ladies and gentlemen. My name is Anthony
Hood. Joining me this evening are Vice
Chairman Schlater, Commissioner May and
Commissioner Turnbull.

Before I go too much further in
opening statement, I'm going to ask the
Honorable Council Member from Ward 3 if she
can come forward. And also, we have a staffer
from Council Member Orange's office. If they
can come forward.

Trying to expedite it because I
know the Council Member's schedule is very
busy and I'm sure the staffer, Council Member
has you very busy also. Only thing we need to
do; and I'll come back to the opening
statement for the rest of us, is to swear you
in. So if you could rise and take the oath.

(The witnesses were sworn.)

CHAIRPERSON HOOD: Okay. We're

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1 going to start with Council Member Cheh,
2 Honorable Council Member from Ward 3.
3 Welcome.

4 COUNCIL MEMBER CHEH: Thank you
5 very much. Commissioners, I appreciate this
6 opportunity to come to speak to you tonight
7 about the American University Campus Plan.
8 I've been closely following the evolution of
9 this plan for about two years now. The
10 proposal of AU to invest hundreds of millions
11 of dollars in developing it's campus plan over
12 the next decade presents an opportunity to
13 bring improvements to Ward 3, to the
14 university, to the surrounding neighborhoods
15 if it is done correctly. And tonight I want
16 to share with you many of the views that Ward
17 3 residents have expressed to me and to focus
18 your attention on four important areas that I
19 believe need to be closely scrutinized.

20 First, I should note that Ward 3
21 residents have expressed a diversity of
22 opinions about AU's campus plan, and I do want

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1 to acknowledge even that I received
2 approximately three dozen letters and emails
3 from Ward 3 residents who endorse AU's campus
4 plan, have expressed theirs support for the
5 university, its proposal to build dorms on the
6 east campus and its plan to move the law
7 school to the Tenley Campus. Yet a great
8 many, a great many other residents have
9 contacted me to express their concerns about
10 the proposed development at AU. These
11 residents fear an ever-expanding university
12 encroaching on their neighborhood, negatively
13 affecting their quality of life and making
14 traffic worse.

15 The Zoning Regulations set forth
16 the standard for review for campus plans; and
17 I'm reading now, which I'm sure you're very
18 familiar with. "In approving the submitted
19 plan, the Commission shall determine that the
20 use is located so that it is not likely to
21 become objectionable to neighboring property
22 because of noise, traffic, number of students

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1 or other objectionable conditions."

2 Tonight I want to highlight three
3 parts of the plan that likely rise to this
4 standard of being objectionable to neighboring
5 property owners: First, aspects of the
6 development of the East Campus; second,
7 aspects of the development of the Tenley
8 Campus; and third, the proposed enrollment
9 growth.

10 First, the East Campus. This is
11 perhaps the most contentious component of the
12 AU plan, and it's the development on the
13 Nebraska Avenue parking lot into a residential
14 site known as the East Campus. As a
15 preliminary matter I do support; and I hope we
16 all support the concept of developing the
17 parking lot, because removing eight acres of
18 asphalt and replacing it with environmentally-
19 friendly buildings and green space would be a
20 big improvement over the site's current
21 conditions. I also want to acknowledge that
22 AU has made significant changes to its

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1 proposal for the East Campus during the past
2 two years.

3 Comparing the success of proposals
4 offered by the university makes this fairly
5 easy to see. The number of student proposed
6 to be housed on the East Campus has been
7 reduced from around 1,000 initially to 770
8 this spring and then to 590 in the latest
9 proposal. The university has also changed the
10 size, location and position of the proposed
11 dorms in an attempt to mitigate their impact
12 on the neighbors. Yet, I remain very
13 concerned about the effect that this
14 construction will have on the neighbors
15 nearest to the East Campus, particularly the
16 Westover Place residents whose homes abut the
17 property line.

18 Students may wind up living on the
19 East Campus for just a semester or two, but
20 building dorms on the East Campus will have a
21 permanent effect on the taxpaying citizens of
22 Westover Place. Therefore, I urge you to

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1 carefully consider the plans for East Campus
2 and make the necessary changes to limit the
3 impact on Ward 3 residents.

4 In particular, let me mention the
5 following: Any dorms on the East Campus must
6 be positioned in a way that minimizes the
7 sight lines from the buildings and the noise,
8 light and sound from the students who will be
9 housed there. It's also critical that there
10 be a sufficient and sizeable buffer between
11 the Westover homes and any dorms. The buffer
12 needs to be fully landscaped with mature
13 trees, not plantings that will take years to
14 achieve a proper shield. The buffer area
15 should be free from all use, formal or
16 informal, and access to the buffer area should
17 be restricted. The area should be secured so
18 that it does not become a haven for illicit
19 activities.

20 I also ask you to require AU to
21 use its best efforts to maximize the setback
22 distance between the university's buildings

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1 and the residents' homes and to provide an
2 appropriate and meaningful spacing of the
3 buffer. The current buffer is, in my opinion,
4 inadequate. Obviously I'm not a developer or
5 a builder, but I believe, for example, that
6 there could be greater distance between
7 Westover and the university and I ask that you
8 press the university to do better.

9 Continuing with the East Campus,
10 many neighbors have a real and legitimate fear
11 that AU's proposed development of that campus
12 will also substantially worsen traffic in the
13 neighborhood. During morning and afternoon
14 rush hour Massachusetts and Nebraska Avenues;
15 and maybe some of you are familiar with this,
16 and many of the smaller streets nearby become
17 clogged with vehicles, many of which are from
18 Maryland. Residents are right to worry that
19 housing hundreds of students on the East
20 Campus will make Nebraska Avenue more
21 congested as students cross Nebraska Avenue
22 throughout the day.

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1 The university has submitted
2 traffic studies concluding that its campus
3 plan will not adversely affect traffic
4 congestion and safety. Although I'm also not
5 a traffic engineer, I'm skeptical of that
6 conclusion because common sense would suggest
7 that more development and more people will
8 result in more traffic and create
9 objectionable conditions. Recently a group of
10 neighbors commissioned a study by another
11 traffic engineering firm questioning AU's
12 traffic study. Therefore, I would ask the
13 Commission and the District Department of
14 Transportation to closely and carefully
15 scrutinize AU's traffic studies, vigorously
16 challenge their assumptions and independently
17 evaluate the impact that AU's proposed
18 expansion will have in Ward 3.

19 Next, the Tenley Campus. AU
20 proposes transforming its Tenley Campus by
21 building a new law school there. This plan
22 would dramatically increase the use of the

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1 Tenley property and more than quadruple the
2 number of students and staff using the
3 facility. It would require constructing
4 taller, larger buildings, some of which would
5 be located very near homes, two schools and a
6 church. This development will have a
7 significant effect on the residents who live
8 near the Tenley Campus.

9 At the outset I do want to
10 compliment the university for engaging ANC 3E,
11 neighbors, community groups and
12 preservationists in a design process that has
13 resulted in a more lively, energetic and
14 aesthetically-appealing design for the Tenley
15 Campus. However, if the university is going
16 to relocate its law school to the Tenley
17 Campus, AU must affirmatively act to preserve
18 the green space on the western portion of the
19 Tenley Campus, the part of the property that
20 is closest to homes.

21 AU is known for its landscaping
22 and for considering its Main Campus as an

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1 arboretum. Similarly, the western part of the
2 Tenley Campus could be turned into a
3 landscaped park-like setting that would
4 benefit not only students, faculty and staff,
5 but also the neighborhood. I urge the
6 Commission to consider imposing a condition of
7 this nature.

8 I'm particularly concerned about
9 the effect that moving the law school to
10 Tenley will have on traffic in the
11 neighborhood. Residents currently have a
12 difficult time parking in the community and
13 local streets are often heavily used by
14 commuters. The prospect of significantly
15 increasing the number of people at the Tenley
16 Campus threatens to make an already difficult
17 traffic situation worse.

18 At the last hearing DDoT testified
19 that AU's traffic plan for the Tenley Campus
20 is insufficient in several respects. These
21 deficiencies obviously must be addressed. I
22 ask that the Commission require AU to provide

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1 a complete traffic analysis prior to the
2 hearing on the further processing application
3 for the Tenley Campus. Without this necessary
4 information it would be impossible to know
5 whether AU's plans would create traffic
6 conditions objectionable to neighboring
7 property owners.

8 I would also ask that the
9 Commission require AU to vigorously enforce
10 its parking policies at the Tenley Campus.
11 The university should strongly and
12 affirmatively discourage students from having
13 a car. And when they register for classes,
14 students should be required to either register
15 a car and purchase a parking permit or to
16 certify that they will not drive to campus.
17 And, once available campus space is taken up,
18 no more parking permits should be issued.
19 Students who violate their certification not
20 to have a car, or who later bring a car and
21 fail to register it, should be subject to
22 discipline up to and including honor code

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1 violations.

2 Third is caps. I'm also concerned
3 about the university's project enrollment
4 growth. Including the law school, AU has
5 approximately 12,100 students. AU proposes
6 establishing an overall enrollment cap of
7 13,600, which would allow for an additional
8 1,500 students over the next 10 years, which
9 amounts to about a 12 percent increase above
10 the current enrollment. AU has stated that it
11 only proposes a 1.3 percent increase in
12 undergraduate enrollment and the remaining
13 students would be graduate students. And I
14 have several concerns about that proposal.

15 First, an overall cap, which is
16 what AU proposes, would not restrict AU from
17 changing its mind in a few years and adding
18 1,000 new undergraduates instead of 1,000 new
19 graduate students. Therefore, I ask the
20 Commission to require AU to keep its
21 enrollment growth in relatively the same
22 proportion of graduate and undergraduate

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1 students as it now proposes.

2 Similarly, AU's proposal for just
3 an overall cap could allow AU to allocate all
4 of its additional students to the law school
5 if it so chose and nearly double its law
6 school enrollment. Therefore, I believe there
7 should also be a separate enrollment cap
8 identified for the law school. I also support
9 the Office of Planning's recommendation that
10 AU be required to provide on campus housing
11 for 67 percent of its undergraduates, an
12 increase in the current requirement of 55
13 percent.

14 Finally, if AU should decide to
15 add any students to its building at the 4801
16 Massachusetts Avenue building after the law
17 school leaves that building, or if indeed if
18 it adds students to any other property outside
19 of the campus plan, the Commission should
20 require AU to include those students in its
21 overall enrollment cap.

22 And finally, in addition to those

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1 three areas of concern that relate
2 specifically to the AU plan, I want to make a
3 recommendation about the Zoning Regulations
4 and how they should be amended for the future.

5 Currently the regulations exclude
6 commercially zoned property owned by
7 universities from the campus plan process.
8 This practice ignores the fact that
9 universities own an ever-expanding amount of
10 commercial property. As is the case with AU's
11 law school, universities sometimes use
12 commercial property for educational purposes
13 and the ownership of commercially zoned
14 property by universities can have a
15 significant impact on neighborhoods.

16 Therefore, I strongly believe that
17 it's important to consider all of the
18 properties of the universities and their
19 effects on the communities as a whole.
20 Accordingly, I urge you to amend the Zoning
21 Regulations to expand the scope of campus
22 plans to include property owned by

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1 universities that is in commercially zoned
2 areas.

3 Finally, I just want to thank you
4 very much for allowing me to testify here
5 today, and I want to thank each of you, of
6 course, for your service to the District of
7 Columbia.

8 CHAIRPERSON HOOD: Okay. Thank
9 you very much, Council Member Cheh.

10 Let me see, we have any questions?
11 Commissioners, any questions? Commissioner
12 May?

13 COMMISSIONER MAY: I just had a
14 question following up with the Office of
15 Planning about the proposed change to the
16 regulations, and I honestly don't recall what
17 we have discussed so far with regard to campus
18 plans. Have we discussed anything like what
19 Council Member Cheh proposed here?

20 MS. STEINGASSER: We have not --
21 when we first did the revision -- when we
22 first proposed and discussed the proposed

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1 changes to the campus plan, which was about
2 three years ago, before these campus plans had
3 begun -- and since that time I think we've
4 felt that we should revisit those
5 recommendations in light of lessons learned
6 from these campus plans that have been in
7 force for the last year. And we certainly
8 starred this issue and heard testimony.

9 COUNCIL MEMBER CHEH: Thank you.

10 CHAIRPERSON HOOD: Thanks. Okay.
11 Good. That's good. Council Member, thank you
12 for specific points in your testimony, for
13 things that we should watch out for and look
14 for as we deliberate. We greatly appreciate
15 it.

16 Let's do cross-examination.

17 COUNCIL MEMBER CHEH: No, let's
18 not. No, I'm sorry. I was joking. Joking.
19 I was joking.

20 CHAIRPERSON HOOD: Well, I will
21 tell you usually it goes well when the Council
22 Members -- we usually don't cross, but I

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1 shouldn't have said that until after I
2 finished. But does the applicant have any
3 cross-examination?

4 (No audible response.)

5 CHAIRPERSON HOOD: Okay. ANC 3D
6 have any cross-examination?

7 (No audible response.)

8 CHAIRPERSON HOOD: Okay. ANC 3F?

9 (No audible response.)

10 CHAIRPERSON HOOD: Neighbors for a
11 Livable Community?

12 PARTICIPANT: No.

13 CHAIRPERSON HOOD: Okay. Spring
14 Valley-Wesley Heights Citizens Association?

15 (No audible response.)

16 CHAIRPERSON HOOD: Tenley Campus
17 Neighborhood Association?

18 (No audible response.)

19 CHAIRPERSON HOOD: Okay. Tenley
20 Neighbors Association? Okay. Mr. Herzstein?

21 (No audible response.)

22 CHAIRPERSON HOOD: And I think I

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1 called ANC 3, didn't I, or did I? I didn't?

2 Okay. ANC 3. I'm looking at my list here.

3 ANC 3E?

4 (No audible response.)

5 CHAIRPERSON HOOD: Okay. True to
6 form. No questions for you.

7 COUNCIL MEMBER CHEH: They're
8 saving them.

9 CHAIRPERSON HOOD: Okay. Mr. Long
10 for Council Member Orange's staff. Okay.

11 Council Member Cheh, you're
12 welcome to stay, but I want -- I know you have
13 a very busy schedule. Greatly appreciate your
14 testimony and coming out and giving us these
15 points.

16 COUNCIL MEMBER CHEH: Thank you
17 very much.

18 CHAIRPERSON HOOD: Thank you.
19 Okay. Mr. Long, let me first apologize to
20 you. At the time when I saw you in the
21 audience I did not know that you worked for
22 Council Member Orange. But now that I know

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1 that, I want to apologize, because you have --
2 this is like your third night, and I want to
3 apologize for not recognizing you to be able
4 to do this at a earlier time. So you may
5 begin.

6 MR. LONG: Thank you. I'll start
7 out by saying this is the second of two
8 letters that we've submitted on behalf of the
9 office. I will not make you go through the
10 first one, so I'm going to read the second
11 one, but just note of the record.

12 "Dear Chairman Hood, and the
13 Members of the Commission: By letter dated
14 June 21, 2011 to the Zoning Commission I
15 highlighted concerns of residents with the
16 2011 American University Campus Plan. The
17 overall unprecedented growth proposed in the
18 2011 AU plan will impact all of the
19 communities adjacent to the university.

20 "AU is proposing to add about
21 900,000 gross square feet of new construction,
22 10 times what it built over the 10 years, with

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1 70 percent of this plan for locations
2 immediately adjacent to low-density Spring
3 Valley and Wesley Heights neighborhoods. Much
4 of this construction will provide new housing
5 for approximately 1,300 undergraduate
6 students.

7 "AU should be congratulated for
8 recognizing the need to build new
9 undergraduate student housing, but the
10 university's newfound and long-overdue
11 commitment to build this housing comes only
12 after AU has expanded the undergraduate
13 student enrollment beyond its existing housing
14 capacity. Now that the university has found
15 itself with a housing crisis that it has
16 manufactured, AU officials argue their only
17 option for new housing is to build high-rise
18 dorms at locations that have served as buffers
19 between the low-density residential
20 neighborhoods and the Main Campus.

21 "In effect, these housing
22 proposals will further expand AU's reach into

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1 the surrounding Spring Valley and Wesley
2 Heights neighborhoods. Instead of choosing
3 sites that would have had fewer and perhaps no
4 impact on residents, AU selected locations for
5 housing that the university officials knew
6 would provide controversial and objections to
7 the residents. Alternatively, AU could build
8 these dorms on the core of the campus at other
9 sites that the university administrators
10 identified earlier in the process to avoid the
11 negative impact on adjacent neighborhoods.

12 "As with its plan to relocate the
13 law school, AU has not assessed the full scope
14 of the plan on the city's transportation
15 infrastructure. The areas around the proposed
16 new East Campus where AU plans to locate
17 nearly half of its new housing is already
18 among one of the most congested and dangerous
19 transportation corridors in the city.
20 Moreover, AU's transportation study does not
21 assess the scope or impact of the university's
22 use of commercial property in the

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1 neighborhoods. There has not even been an
2 adequate or reliable assessment of the impact
3 of the university's use of neighborhood
4 streets for parking.

5 "In its proposal AU has also
6 failed to plan for the appropriate buffers
7 with adjacent residential homes, especially in
8 Spring Valley and at the Westover Place town
9 homes in Wesley Heights. AU has seemingly
10 been indifferent to residents' concerns about
11 traffic, pedestrian safety, noise and the
12 visual impact of the campus plan, a proposal
13 suggesting the university has failed to engage
14 in meaningful dialogue with the community.

15 "Also, as I shared the community's
16 concerns with AU's purchase of nearly 600,000
17 gross square feet of commercial space in the
18 neighborhoods in recent years, with most of
19 that space now being used for university
20 purposes, over the years residents have lost
21 valuable retail space at existing commercial
22 centers, along with medical and other

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1 professional services as AU expands its
2 neighborhood footprint, perhaps beyond the
3 purview of the Zoning Commission and the
4 campus' planning process.

5 "When assessing the totality of
6 the campus plan proposal, I encourage the
7 Zoning Commission to consider the university's
8 use of commercial property to assess the
9 overall impact of AU's proposed growth on the
10 surrounding residential neighborhoods.

11 "Residents have expressed great
12 frustration with AU's approach in preparing
13 this campus plan for your review. They
14 suggest AU's meetings with residents in
15 anticipation of filing this plan were
16 perfunctory instead of being consultative or
17 collaborative. Moreover, residents report
18 that AU has minimized the significance of
19 their views by stressing that community
20 reaction was not important because AU would
21 eventually prevail with the city agencies at
22 the Zoning Commission. AU seems to think it

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1 has little reason to modify its proposal to
2 address neighbors' objections.

3 "In short, the 2011 AU Campus
4 Plan, if approved as proposed, would put
5 strong and stable low-density residential
6 neighborhoods adjacent to the university at
7 risk. I would encourage you to require AU to
8 renew its dialogue with the community with a
9 goal of bridging differences and building
10 consensus in a way that addresses the
11 university's needs without jeopardizing the
12 future of these highly valued residential
13 neighborhoods.

14 Sincerely, Vincent B. Orange,
15 Senior Council Member at Large."

16 CHAIRPERSON HOOD: Thank you very
17 much, Mr. Long, and thank the Council Member
18 for us for giving us his view on how you think
19 things are going with the campus plan issue
20 with American University.

21 Let me ask, do we have any
22 questions of Mr. Long?

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1 (No audible response.)

2 CHAIRPERSON HOOD: Any cross? Let
3 me just ask, any cross-examination?

4 (No audible response.)

5 MR. FERENBACH: I have a question.

6 CHAIRPERSON HOOD: Okay. You can
7 come forward. Could you come forward and --
8 cross-examination. If you can identify
9 yourself and who you represent, and we'll go
10 from there.

11 MR. FERENBACH: Greg Ferenbach
12 with Tenley Campus Neighbors Association. And
13 not a cross-examination, but just a question
14 for the record. Could you clarify what the
15 first letter was about?

16 MR. LONG: Yes, the first letter
17 pretty much overall covered the same topic,
18 just did not go as in depth, and I think it
19 did not touch upon anything at the law school
20 expansion. So this letter is a little bit
21 more comprehensive, because we had not
22 reviewed the concerns of the law school as

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1 completed.

2 PARTICIPANT: (Off microphone.)

3 MR. LONG: In reverse order; I'm
4 sorry. Yes, thank you.

5 MR. FERENBACH: Thank you very
6 much.

7 CHAIRPERSON HOOD: Okay. Any
8 other cross-examination?

9 (No audible response.)

10 CHAIRPERSON HOOD: Okay. Thank
11 you very much, and you can let the Council
12 Member know that we say thank you.

13 Okay. Let me go back to the
14 opening statement, because I know, as I
15 stated; and I appreciate everyone's
16 indulgence, I know the Council Members and
17 their staff are very busy, three and four
18 meetings a night, five meetings a night, or
19 whatever.

20 Okay. I think we all know who's
21 up here. Office of Planning, Mrs. Steingasser
22 and Mr. Lawson.

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1 The subject of this evening's
2 hearing is Zoning Commission case No. 11-07.
3 This is a request by American University for
4 special exception relief pursuant to 210
5 and 3104.1. As already been stated, this is
6 a continuation of a hearing of the campus plan
7 of American University.

8 The hearing will be conducted in
9 accordance with the provisions of 11 DCMR
10 3117 as follows: Preliminary matters, Report
11 of the Advisory Neighborhood Commission,
12 tonight 3E and 3F; organizations and persons
13 in support; presentations by the parties in
14 opposition, if we get that far; organizations
15 and persons in opposition; rebuttal; and
16 closing by the applicant.

17 The following time constraints
18 will be maintained in this meeting: The ANCs,
19 60 minutes each, if needed; parties, if we get
20 this far, 61 minutes combined total;
21 organizations, 5 minutes; individuals, 3
22 minutes.

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1 Please turn off all beepers and
2 cell phones at this time so not to disrupt
3 these proceedings.

4 Would all individuals wishing to
5 testify please rise and take the oath.

6 Ms. Schellin, would you please
7 administer the oath?

8 MS. SCHELLIN: Yes.

9 (The witnesses were sworn.)

10 MS. SCHELLIN: Thank you.

11 CHAIRPERSON HOOD: Okay. At this
12 time the Commission will consider any
13 preliminary matters.

14 Does the staff have any
15 preliminary matters?

16 MS. SCHELLIN: No, sir.

17 CHAIRPERSON HOOD: Okay. I have
18 one preliminary matter. I want to announce an
19 additional date. I think we have one date
20 already so noted. November the 3rd at 6:30.
21 We will add that, if needed. It's kind of
22 like the championship basketball game. Game

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1 7, if needed. And we will add this November
2 3, if needed. We do have one more date
3 already scheduled, and that's --

4 MS. SCHELLIN: Next Thursday the
5 13th.

6 CHAIRPERSON HOOD: Next Thursday.
7 One week from today. And if needed, we'll do
8 November 3.

9 Ms. Schellin, I think we had one
10 other preliminary matter. Can't remember what
11 it was.

12 Oh, the witness list will be taken
13 up today and they will not be put out for
14 those remaining two meetings, because if we
15 keep adding to the list, 10 years will have
16 went by and we'll still be -- we'll have two
17 campus plans from American University in front
18 of us. So at some point we have to cut the
19 list off and tonight will be the last night of
20 being able to sign on the list.

21 Okay. With that, let's get
22 started. Let's go straight to ANC 3E. Mr.

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1 Bender? Commissioner Bender.

2 Commissioner Bender, as you get
3 settled, are you going to take the whole 60
4 minutes?

5 MR. BENDER: (Off microphone.)

6 CHAIRPERSON HOOD: Turn your
7 microphone on.

8 MR. BENDER: I believe our panel
9 will take the whole 60 --

10 CHAIRPERSON HOOD: Okay.

11 MR. BENDER: Good evening,
12 Chairman --

13 COURT REPORTER: Excuse me, can
14 you introduce yourself first? I don't have
15 that.

16 MR. BENDER: Yes, I've given it to
17 you before. I'm Jonathan Bender, which I was
18 going to say.

19 Good evening, Chairman Hood and
20 Commissioners. I'm Jonathan Bender. I'm the
21 chairman of ANC 3E. And we appreciate the
22 ability to testify before you tonight.

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1 ANC 3E covers the area in which
2 the proposed Tenley Campus and Nebraska Hall
3 projects are located. It includes the Katzen
4 Art Center, the current law school and other
5 American University commercial properties.
6 ANC 3E is adjacent to the north to the balance
7 of the AU campus. A significant number of
8 university students live within ANC 3E in off-
9 campus private housing.

10 Our testimony tonight supplements
11 but is consistent with our previous written
12 submissions to the Zoning Commission and takes
13 into account post-submission developments.
14 Although we will briefly discuss the
15 university's proposal to relocate its law
16 school to its Tenley Campus tonight, we expect
17 to address that topic in considerably detail
18 at the hearing on AU's further processing
19 application for the law school.

20 We'll present four witnesses
21 tonight. First up will be Elizabeth Leamy, a
22 resident who lives on 4335 Van Ness Street,

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1 Northwest. Ms. Leamy will testify concerning
2 her experiences living next door to a
3 disruptive AU group house and her attempts to
4 work with the students and AU to remedy the
5 problems associated with the house.

6 I will testify after Ms. Leamy
7 concerning problems ANC 3E perceives with AU's
8 current conduct code and how those problems
9 might be remedied.

10 After that Commissioner Beverly
11 Sklover will testify about concerns about the
12 current proposal for relocation of AU's law
13 school to the Tenley Campus.

14 Finally, Commissioner Matthew
15 Frumin will deliver the testimony of the
16 Commission on the AU Campus Plan as a whole.

17 And with that, I'm going to cede
18 the floor to Ms. Leamy.

19 MS. LEAMY: Okay. Hello. I
20 actually live at 4360 Van Ness Street, and the
21 problem house is 4335, directly across the
22 street. And I'm basically here to urge you to

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1 block American University's expansion plans
2 until the school gets serious about the
3 disruptive student group homes that are
4 ruining my neighborhood.

5 My husband and I spent our life
6 savings on this house when we were ready to
7 start a family. And sure enough, soon after
8 we had a baby the house across the street was
9 rented to six loud hard-partying college
10 students. These guys are loud even when they
11 are not throwing a party. They smoke and
12 drink and shout and joke on their front stoop
13 until the wee hours of the morning. I've
14 tried working with the various groups of
15 students that come and go, I have begged,
16 begged the landlord not to rent to them
17 anymore, I've submitted written complaints to
18 AU and I've tried calling the cops. Nothing
19 has worked. Now American University wants
20 something from you which gives you
21 extraordinary power to help solve this
22 problem.

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1 So let me show you the house.

2 There it is. the house across the street from
3 me, 4335 Van Ness, which I know from speaking
4 with neighbors is actually one of the least
5 offensive AU party houses in the neighborhood.
6 We have only had to deal with loud parties
7 that last until 3:00 or 4:00 in the morning,
8 only had to watch drunken students stumbling
9 through people's yards when they arrive, and
10 only been awakened when they slam their doors,
11 honk and peel out as they leave. Only twice
12 have we gone outside to leave ourselves and
13 found that their guests were parked directly
14 in front of our driveway trapping us. And
15 we've only had to look out the window to
16 witness party guests urinating on the front
17 lawn. We've only had to pick up beer bottles,
18 cigarette butts, fast food wrappers, used
19 condoms and of course those telltale red
20 plastic beer cups in the streets and our yards
21 the morning after parties.

22 Another picture for you. You

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1 don't have to take my word for it on any of
2 this. This picture is of the annual Halloween
3 party that the students throw downloaded from
4 one of their own Facebook pages. You can tell
5 it was taken at 4335 Van Ness because of the
6 distinctive blue/gray color of the door there
7 to the right of the screen, which you notice
8 is wide open letting their noise pour out into
9 the neighborhood.

10 I'm going to show you another one.
11 This shows a big pile of those unmistakable
12 beer cups. This was also downloaded from one
13 of their Facebook pages. I haven't attended
14 the parties and gotten inside to take pictures
15 like this myself. But the parties are always
16 centered around alcohol. Just a couple of
17 days ago I found another of their party
18 invitations on Facebook talking about all the
19 drunken grunts who were going to show up at
20 the party. So I have that to look forward to.

21 Now let me show you a very
22 different picture. This is my daughter Kelsey

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1 who's now four years old. This summer she
2 started insisting on wearing her winter
3 earmuffs to bed because she thinks they will
4 help block out the noise from the house across
5 the street and cut down on her chronic
6 nightmares. It's sweet and sad.

7 To our dismay 4335 Van Ness is now
8 being used as a fraternity meeting house for
9 pledge activities and parties. Again, don't
10 take my word for it. That picture was taken
11 right in front of the house and it's from the
12 Delta Phi Epsilon home page. Turns out
13 there's also a second official AU student
14 group, a veterans club that is even more
15 closely associated with the house. So it's a
16 double whammy. We're now checking to see if
17 they have the occupational permit to operate
18 these clubs and organizations at the house,
19 and I sincerely doubt it. Our greatest fear
20 is that the house will now be passed down to
21 other students indefinitely and we'll never
22 get any relief.

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1 It was the fraternity affiliation
2 that made us finally get serious about
3 fighting back. We'd always been afraid of
4 retaliation before. And sure enough, when we
5 started actively calling the police the
6 residents lashed out. What you're looking at
7 is an email that was sent to me accidentally
8 by one of the members of the house, sent to me
9 that was about me. First it talks about their
10 plans to keep holding big parties and how
11 they're going to evade the cops by posting a
12 lookout. And then, forgive me, you may need
13 a bleeper. This is their foul language, not
14 mine. They say about me, "She's such a bitch.
15 I liked your strategy of doing all the minor
16 shit that bothered her. I say screw what she
17 thinks. We do what we want."

18 One week after I received that
19 email, they sent taxicabs to my house at 3:00
20 and 3:30 in the morning and had food delivered
21 to my house at 4:00 a.m. Luckily, I figured
22 out what was going on and videotaped the whole

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1 thing. And what you're seeing there is a
2 screen grab. They eventually admitted the
3 food was theirs, accepted it and paid for it,
4 and I videotaped that. D.C. police are now
5 considering criminal charges against my
6 neighbors.

7 So now that's what I wanted to
8 tell you about the American University
9 students, but of course this is a hearing
10 about the university itself. Here's what it's
11 been like to ask AU for help dealing with my
12 neighbors, its students. And please remember
13 the college chose these people; I didn't.

14 I first complained to AU almost
15 exactly a year ago. AU's conduct code now
16 applies to off-campus behavior and allows the
17 university to sanction, suspend or expel
18 students, so I was hopeful. Associate Dean of
19 Students Michelle Espinosa and Community
20 Relations Director Penny Pagano said they
21 would call the students in and talk to them.

22 I emailed back two or three times

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1 and they never got back to me to say whether
2 this meeting had even taken place. There are
3 some privacy considerations, but they never
4 told me whether the meeting had even happened.
5 I emailed about fresh noise situations a few
6 more times and never got any reply. I later
7 learned from the students themselves that AU
8 had simply verbally warned them to behave.

9 Two weeks ago, after receiving the
10 incriminating email showing the students'
11 intent to harass me and evade the police, I
12 emailed Pagano and Espinosa again. With an
13 email showing intent to harass and then this
14 video or actual harassment I thought American
15 University would finally use its conduct code
16 to make an example of these students.

17 But by this time four of them had
18 graduated, so AU no longer had authority over
19 them, though unfortunately they live across
20 the street from me still. If only AU had done
21 something when I first complained a year ago,
22 maybe my neighborhood would be tranquil.

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1 Maybe I wouldn't be up nights writing
2 presentations like this. Maybe my daughter
3 would not be wearing earmuffs to bed.

4 As for the two remaining students,
5 the school determined they were not
6 responsible for the harassment with the food
7 and the taxicabs and so forth. Once again met
8 with them, gave them another warning, gave
9 them another chance.

10 My question is when is somebody
11 going to give us a chance to enjoy our homes
12 in peace? I've now gathered signatures from
13 50 neighbors that I'd be pleased to turn over
14 to you. We are hoping you members of the
15 Zoning Commission will be that somebody.
16 Please use American University's request to
17 expand its campus further into our community
18 to force the university to solve the problems
19 it has caused in our community.

20 MR. BENDER: The issues Ms. Leamy
21 outlined in her testimony are not unique to
22 her. Although most AU students living off

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1 campus are good neighbors, there seems to be
2 about 6 to 10 houses per year that create
3 chronic disturbances in the community. More
4 than once at ANC meetings we've heard from MPD
5 officers that the students in these houses are
6 well-versed at evading police enforcement.
7 One police lieutenant said, referring I
8 believe to the house next to Ms. Leamy, "These
9 kids are lawyers and they know they don't have
10 to provide identification if I ask for it at
11 the door." Except that the kids aren't
12 lawyers; they're undergraduates. Bright
13 undergraduates, apparently.

14 And this combination of bad
15 behavior by smart and clever actors makes it
16 hard for the police to get situations like the
17 one Ms. Leamy described under control. And
18 especially in a time of budget retrenchment we
19 shouldn't be diverting law enforcement
20 officers from more important duties.
21 Ultimately the university needs to take the
22 lead in preventing and addressing situations

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1 like Ms. Leamy's.

2 In 2009, at ANC 3E's urging, the
3 university extended its student code of
4 conduct to apply more easily to off-campus
5 behavior. In some cases the university
6 appears to have applied its code to head off
7 incipient off-campus misbehavior, yet we
8 continue to see persistent and troubling
9 problems of the sort described by Ms. Leamy
10 that the university has been either unable or
11 unwilling to address. We believe that the
12 student code continues to create one standard
13 of conduct for students on campus and another
14 potentially more lax standard for conduct off
15 campus.

16 To take one example, we heard Ms.
17 Espinosa from AU say on cross-examination that
18 it might be difficult under the code to
19 discipline students living in a group house
20 for misconduct by their guests, yet at the
21 same time, it would be trivial to discipline
22 students for on-campus misconduct by their

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1 guests.

2 Much, if not all, of the
3 misconduct at problem houses is related to
4 alcohol use. Again, AU appears to maintain a
5 double standard for behavior on campus versus
6 behavior off campus. The university maintains
7 a dry campus policy which prohibits otherwise
8 lawful drinking on campus by students over the
9 age of 21. This creates an incentive for
10 students old enough to drink to go off campus
11 to do so.

12 We heard Ms. Espinosa say that a
13 primary reason AU maintains a dry campus is
14 for safety both of the student who drinks and
15 of others she might put at risk. The
16 university thus takes the position that it is
17 too dangerous for students old enough to drink
18 legally to do so on campus where they could be
19 supervised, but it is not too dangerous for
20 students to drink legally off campus. This is
21 untenable. AU's dry campus policy, to the
22 extent that it's enforced, merely transfers

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1 drinking problems from the campus to the
2 broader community.

3 Our recommendations. We recommend
4 that the Zoning Commission require the
5 university to abandon this dry campus policy
6 and to establish a viable mechanism to deal
7 with the inevitable, if number limited number
8 of serious off-campus behavior issues in and
9 around group homes. The student conduct code
10 must be further extended. The university, for
11 example, should at a minimum be required to
12 have students who choose to live off campus
13 provide a specific signed commitment to
14 respect the rights of any neighbors and the
15 community generally and to accept a
16 university-imposed enforcement mechanism akin
17 to the one applied for on-campus behavior.

18 Thank you, Commissioners, for your
19 consideration and I will now turn the floor
20 over to Commissioner Sklover.

21 MS. SKLOVER: For the record my
22 name is Beverly Sklover. Chairman Hood,

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1 Commissioners, my single member district
2 covers the -- am I on? Here we go. Now I'm
3 ready to go.

4 CHAIRPERSON HOOD: It's on. You
5 just may want to pull it up a little bit.
6 There we go.

7 MS. SKLOVER: My single member
8 district covers the neighbors most affected by
9 the proposed move of American University's
10 Washington School of Law to the Tenley Campus.
11 And what I want to do is talk to you about the
12 implications of this.

13 ANC 3E would really like to
14 support the law school's move to the Tenley
15 Campus, but can't do so at this time.
16 Presently the university simply does not meet
17 the legal requirements for receipt of a
18 special exception to move into this
19 neighborhood of low-density single family
20 homes.

21 Are we there yet?

22 PARTICIPANT: NO.

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1 MS. SKLOVER: The low-family,
2 single family homes?

3 Shortly you will see low-density
4 single family homes. The requirement is the
5 school is not -- the requirement for the
6 special exception, as you so well know, is the
7 school is not likely to be objectionable to
8 neighboring properties because of noise,
9 traffic, number of students or other
10 objectionable conditions. I believe; and I
11 may be wearing rose-colored glasses, that with
12 your help we can obtain AU's compliance in
13 addressing otherwise objectionable conditions.

14 I'll talk with you first about the
15 procedure followed and issues raised, then
16 about our recommendations about how to resolve
17 the issues, and finally about what we'd like
18 to have you do before you make any decisions
19 regarding any portion of the proposed AU plan.

20 AU began holding meetings about
21 their campus plan over two years ago. For the
22 first year-and-a-half or more of meetings AU

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1 presented little about the Tenley Campus
2 despite the fact that I in fact asked every
3 month. We presume and can understand to a
4 degree that the reason for this was their
5 focus on the Main Campus. However, at some
6 point the issues of concern that were
7 expressed early on need to be addressed.

8 These concerns have a profound
9 impact on our neighbors' quality of life,
10 traffic, student and faculty parking, and one
11 that is specific to the Tenley Campus, a
12 desire for some certainty for the residents
13 about what kind of development they will face
14 beyond the 10-year time horizon of the campus
15 plan. We are still waiting for these to be
16 addressed in a suitable and reasonable
17 fashion.

18 Traffic. AU states of the
19 increase of more than 2,000 students, faculty
20 and staff; that's over what's currently there
21 on the Tenley Campus, will have no adverse
22 impact on traffic. This statement is made

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1 even though no students on the current Tenley
2 Campus are permitted to have cars. 42nd
3 Street, one side of the campus, has been cited
4 by the Rock Creek Livability Study as being in
5 need of traffic calming measures, and things
6 will only get worse.

7 Our newly renovated Janney
8 Elementary School, which is beautiful, is
9 going to be beautiful, is less than a block
10 away, will use 42nd Street for drop off and
11 pick up of young children. That's creating
12 greater tension on the road. And St. Columbus
13 Nursery School, a scant block away, uses 42nd
14 Street for drop off and pick up. By AU's
15 projections alone at least 24 percent of their
16 students, faculty and staff will make left
17 turns on 42nd Street adding further traffic to
18 42nd Street, without significant traffic
19 calming and restrictions will worsen an
20 already terrible situation.

21 Nebraska Avenue, the entrance to
22 the proposed law school's underground parking

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1 lot, is likewise congested. American
2 University has provided no lay back or queue
3 line for traffic entering the parking lot. So
4 we can anticipate another lane of traffic that
5 is at an absolute standstill while people turn
6 in and out of the parking lot.

7 DDoT has found that AU's traffic
8 plan is not yet adequate to support a decision
9 by DDoT as to whether AU's plan for the Tenley
10 Campus would cause an undue traffic burden.
11 We understand that AU continues to refine its
12 traffic study and will present a revised
13 version at some point.

14 We recommend that American
15 University submit an adequate traffic study as
16 soon as possible. We recommend that they fund
17 traffic calming measures made in the Rock
18 Creek II West Livability Study for 42nd Street
19 and the two Warren Street entrances. We
20 recommend that they work with DDoT to either
21 close Warren Street east of 42nd Street or
22 make Warren Street one way in an easterly

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1 direction. And we recommend that they provide
2 a lay back or queue line for traffic entering
3 the proposed underground parking lot.

4 And now we get to parking.

5 Greg, do you have some photographs
6 of the single family homes and the parking
7 situation?

8 AU states that its good neighbor
9 policy, as slightly amended, prevents
10 students, faculty and staff from parking in
11 the neighborhood. We believe that locating
12 the school close to a Metro stop will probably
13 increase the number of students who use mass
14 transit relative to the law school's current
15 location. Nevertheless, we do not believe
16 AU's good neighbor policy is strong enough to
17 discourage students who have cars from using
18 them and parking in the neighborhood.

19 On approach that could work is an
20 opt out proposal along the following lines:
21 When a student registers, or a faculty or
22 staff members accepts a job, they are required

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1 to purchase a pass to us the university-
2 provided parking and display a parking
3 sticker. If they don't wish to have a parking
4 space, they have to sign a statement that they
5 will not use a car to get to or from campus.
6 If they then use a car and park in the
7 neighborhood, they are in violation of the
8 judiciary code in the case of students, or
9 terminations of employment in the case of
10 faculty or staff. In the case of law students
11 this could be a reason for either dismissal or
12 non-acceptance to the bar on character
13 grounds. In the case of faculty or staff it
14 is a possible ground for dismissal.

15 An additional issue relates to
16 surface parking. AU proposes 50 or more
17 surface parking spaces on the Tenley Campus.
18 Surface parking is a poor land use. Further,
19 with it's impermeable surface it precludes
20 water absorption. And I know that the Office
21 of Planning, while it has not said anything
22 about this specific issue, has been adamant

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1 about reducing impermeable membranes
2 throughout the city in terms of surface
3 parking.

4 Importantly, access to the surface
5 parking lot is proposed to be from Yuma
6 Street. The curb cuts are near the alley from
7 Yuma Street that faculty and staff will use to
8 enter the underground parking lot at Janney
9 Elementary School and where St. Ann's students
10 are frequently dropped off and picked up.
11 These curb cuts pose a potential hazard.

12 We recommend that American
13 University adopt the opt out parking plan, or
14 otherwise the good neighbor plan, so that
15 repeat offenders know they will receive severe
16 discipline if caught. We recommend that they
17 build exclusively underground parking and
18 return the current surface parking or the
19 proposed current surface parking to a more
20 natural treed state. And we recommend that
21 they eliminate curb cuts on Yuma Street.

22 Now the western part of the site.

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1 I turn now to the nearby neighbors' legitimate
2 desire to know what AU will build at the law
3 school beyond the 10-year horizon of the
4 campus plan. As you know, and I think people
5 testified about it before, and you will hear
6 much more about it after we leave, ANC 3E, in
7 1986, on behalf of the residents near Tenley
8 Campus, entered into an agreement with
9 American University resolving the use of the
10 Tenley site.

11 The agreement stated there would
12 be no more than 500 students and 125 faculty
13 and staff on the site, that no students could
14 have a car and there would be no new
15 construction. The residents believe the
16 agreement is still binding. AU disagrees.
17 But in light of the '86 agreement, regardless
18 whether a legal technicality prevents this
19 judicial enforcement, the neighbors have asked
20 for and we believe deserve assurances that
21 construction will not take place on the
22 western part of the site for a significant

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1 period of time considerably beyond the 10-year
2 duration of the plan.

3 We recommend that American
4 University take steps to provide long-term
5 protection against future development on the
6 western portion of the site.

7 Chairman Hood and Commissioners,
8 we hope that you'll recommend that AU work
9 with the ANC to resolves these issues. We've
10 had many, many, many meetings with AU, and
11 although we've made progress on some issues,
12 we haven't even been able to secure an
13 adequate resolution or explanation for why
14 American University will not address the
15 issues I've described.

16 ANC 3E opposes the Washington
17 School of Law's move to the Tenley Campus at
18 this time.

19 CHAIRPERSON HOOD: Can we stop the
20 clock for a minute?

21 Commissioner Sklover --

22 MS. SKLOVER: Yes?

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1 CHAIRPERSON HOOD: -- do we have
2 your testimony?

3 MS. SKLOVER: Yes, you should have
4 my testimony.

5 CHAIRPERSON HOOD: Okay. Maybe I
6 just need to find it.

7 MS. SKLOVER: Did you bring my
8 testimony, John?

9 PARTICIPANT: It should be up
10 there.

11 MS. SKLOVER: Did you not have it?

12 MS. SCHELLIN: I have whatever he
13 passed forward.

14 MS. SKLOVER: Let me give you my
15 original copy. I don't know what happened.

16 CHAIRPERSON HOOD: We actually
17 don't have it.

18 MS. SCHELLIN: And I don't think
19 we have a copy -- did you previously submit
20 your PowerPoint, because that wasn't included
21 in what you handed up this evening either.

22 MR. BENDER: There are a number of

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1 slides in what I handed up. I don't know if
2 it covered --

3 MS. SCHELLIN: It doesn't cover
4 all of it. So we're going to need that.

5 CHAIRPERSON HOOD: That's okay.
6 Okay. Thank you.

7 Okay. If we can start the clock
8 back.

9 MR. FRUMIN: Good evening. My
10 name is Matthew Frumin and I will be
11 delivering the ANC 3E general testimony on the
12 AU 2001 Campus Plan.

13 The university and the neighboring
14 communities have evolved together for more
15 than a century. Throughout AU has contributed
16 significantly to the community, indeed serving
17 as a catalyst for residential development, and
18 created strains on it.

19 We view the 10-year campus plan
20 process as an opportunity to address areas of
21 friction and increase areas of contribution.

22 The 2001 campus plan process,

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1 which dates back to September 2009, has been
2 a contentious and difficult one. In some
3 cases the university has been slow to provide
4 detailed plans and information and it has been
5 clear that there are areas where it disagrees
6 with neighbor groups. In other cases
7 opponents of the plan have declined to engage
8 on what could be compromised solutions or
9 acknowledge where the university had made
10 modifications in response to community
11 suggestions.

12 Nevertheless, the campus plan
13 overall, as currently proposed, has been
14 shaped in some positive ways by the process
15 and subject to certain reservations, and
16 conditions described below, the eventual
17 approved campus plan can offer a promising
18 road forward for the university and nearby
19 communities.

20 In addition to the specific
21 proposed building projects included in the
22 plan, there are three important overarching

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1 issues: Enrollment caps; on-campus housing
2 requirements; and the regulation of student
3 behavior.

4 Enrollment caps. The university
5 has experienced steady growth over the course
6 of the last 20 years while at the same time
7 also moving up in the rankings of national
8 universities and the rankings of those
9 committed to community service. The
10 university seeks to continue that growth.

11 As described earlier among the
12 most significant strains on the community is
13 the presence and sometimes misbehavior of
14 undergraduates living in nearby residential
15 neighborhoods. Given that, the issues
16 relating to any enrollment cap are
17 inextricably bound up with issues relating to
18 on-campus housing requirements and the
19 regulation of student behavior.

20 The university proposes to move to
21 a cap of 13,600 students and suggests that
22 6,400 of those students, up from 6,318, will

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1 be undergraduates. AU suggests a faculty and
2 staff cap of 2,900.

3 The governing student and faculty
4 and staff figures in different periods are
5 counted in different ways by different
6 parties. Part of the confusion comes from the
7 fact that the law school has sometimes been
8 within the campus plan figures when located on
9 campus and sometimes not been included when
10 located off, but notionally the cap should
11 account for the law school, which has always
12 been in the same general area.

13 The 13,600 and 2,900 proposed
14 figures in the 2011 campus plan include the
15 law school. The 2000 campus plan caps, when
16 the law school is included, were approximately
17 12,500 and 2,600 for faculty and staff. The
18 1989 campus plan caps, which included the law
19 school, were 11,233 and 2,200 faculty and
20 staff. The pattern of growth is consistent, a
21 approximately 1,200 students and 400 faculty
22 and staff in each cycle.

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1 Underlying the proposed caps the
2 university has pointed to figures for
3 different categories. Six thousand four
4 hundred undergraduates, two thousand law
5 students, eight hundred in the other category,
6 forty-four hundred graduate students. The
7 vast majority of the growth in these figures
8 would be in the graduate and law school
9 categories.

10 In our view, if these category
11 figures were hard caps, neither those caps nor
12 the overall projected figures should be
13 objectionable with the important caveat that
14 we reserve judgment on the proposed caps for
15 the law school pending consideration of the
16 further processing application for it.

17 While the proposed growth is not
18 insignificant, if the steps described below to
19 lower and effectively cap the number of
20 undergraduates living off campus are taken,
21 and more is done to regulate off-campus
22 student behavior, as described previously, the

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1 package together should improve the experience
2 of the community and serve both it and the
3 university.

4 Unfortunately, however, AU
5 apparently seeks to use the category figures
6 as projections, not caps. The university, not
7 surprisingly, desires flexibility, but the
8 nearby neighborhoods deserve predictability.
9 If the categories are simply projections, then
10 the neighbors by the law school will be
11 reasonably concerned that law school
12 enrollment will significantly exceed the cited
13 figure making that project increasingly
14 intolerable from their perspective.

15 In the meantime, the community
16 generally will be legitimately concerned that
17 the number of undergraduates will grow more
18 significantly than is being currently
19 advertised, a proposition many would find
20 objectionable.

21 Recommendation. Require AU to
22 treat the figures it has proposed as

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1 projections for covered categories as hard
2 caps while reserving judgment on the law
3 school caps until consideration of the further
4 processing application for it. To the extent
5 that the university may be concerned that if
6 a higher percentage of students accept
7 admission in a given a year than anticipated,
8 that will cause them inadvertently to crest
9 over a cap, allow the university to measure
10 compliance using three-year rolling averages.

11 On-campus housing requirements.

12 The university is currently subject to a
13 requirement that it house two-thirds of its
14 undergraduates on campus. It is in breach of
15 that requirement and only comes close by
16 providing housing at the Berkshire Apartment
17 Building on Massachusetts Avenue and in
18 triples in existing dorms. Moreover, despite
19 the fact that AU proposes to build sufficient
20 beds to house two-thirds of its projected
21 number of undergraduates on campus by the
22 middle of the 2011 campus plan period, the

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1 university nevertheless seeks to lower its on-
2 campus housing requirement to 55 percent.

3 There are multiple potential
4 explanations for this disconnect. The
5 university may fear that there will be periods
6 when on-campus housing supply will not be
7 sufficient to serve two-thirds of the
8 undergraduates even if it will be sufficient
9 eventually. If that is the case, then
10 accommodation can and should be made for such
11 a lag in the plan requirements.

12 Another explanation could be that
13 AU hopes to exceed its projected 6,400
14 undergraduates. And if it grows beyond that
15 figure, then the available on-campus housing
16 supply would not be sufficient to serve two-
17 thirds of the more than 6,400 students. If
18 that is the case, the university should
19 certainly not be allowed to use such a ruse to
20 evade a hard student cap.

21 We note that the Zoning Commission
22 has imposed and the Office of Planning has

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1 asked for higher on-campus student housing
2 requirements for other area universities in
3 the 10-year campus plan process. George
4 Washington University houses 73 percent of its
5 undergraduates on campus; Georgetown, 76
6 percent. Regardless of the student cap and
7 the minimum percentage of students housed on
8 campus imposed, the net result of this campus
9 plan process should be that fewer
10 undergraduates live off campus in the future
11 than now.

12 Recommendation. Require the
13 university to house no less than 70 percent of
14 undergraduates on campus based on an
15 undergraduate enrollment of 6,000, which would
16 result in 4,200 on-campus beds. Allow the
17 university to increase undergraduate
18 enrollment up to a hard cap of 6,400 but
19 require that for each addition to the
20 undergraduate enrollment above 6,000 at a
21 minimum one on-campus be added.

22 In such a setting if AU took full

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1 advantage of the 6,400 undergraduate student
2 cap, it would need to provide 4,600 on-campus
3 beds which would serve approximately 72
4 percent of all undergraduates. Such an
5 approach would ensure that no more than 1,800
6 AU undergraduates would live off campus in the
7 future, a decline of approximately 20 percent
8 off of current conditions, taking 500 students
9 out of the neighborhoods. An important
10 prerequisite of this recommendation is that
11 the Zoning Commission authorize the university
12 to build adequate and attractive housing to
13 serve 4,600 undergraduates.

14 Regulating student behavior. The
15 issue has been described in detail earlier.
16 It is worth stressing that the primary issue
17 arises from students living off campus in
18 unsupervised houses in residential
19 neighborhoods. Last year there were
20 approximately 240 undergraduates living in
21 such houses in our area. The vast majority of
22 them were well behaved. As described

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1 previously, however, the university has not
2 found or implemented an effective way to
3 address the issues when they arise, and it
4 must.

5 Building projects. As a general
6 matter we urge the university to use the
7 campus plan projects to pursue the goals of
8 sustainability and transit-oriented
9 development. We note that in many cases the
10 university has done just that in its proposed
11 plan and acknowledge the university has been
12 a leader in green building and hope that
13 leadership will continue in the implementation
14 of any eventually approved campus plan.

15 Campus plan level proposals. We
16 believe that the proposed revisions to the
17 vehicular circulation and expansions of green
18 space on the Main Campus, the Beeghly
19 addition, South Hall, multipurpose gymnasium
20 and sport center annex replacement, as well as
21 the addition to the Kay Spiritual Life Center
22 and the enclosure of the Butler tunnel will

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1 strengthen the university with no significant
2 adverse impacts on the neighborhoods. We
3 recognize there remains some controversy
4 surrounding the plans for the Reeves Field and
5 Beeghly addition.

6 We recommend that you approve
7 these components of the plan and encourage a
8 reasonable resolution of any issues remaining
9 relating to the Reeves Field and Beeghly
10 addition, perhaps through any further
11 processing applications for them.

12 Less controversial further
13 processing applications. We support the
14 further processing applications for Nebraska
15 Hall and the Mary Graden additions. We
16 believe those projects will strengthen the
17 university with no significant adverse impact
18 on the neighborhoods.

19 Now, I want to linger a bit on the
20 Nebraska Hall project. And you can see on the
21 slide that there's -- in the orange box is
22 where the Nebraska Hall addition will go. And

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1 the proposal is to add 150 beds on that site
2 and it involves significant addition to
3 student housing in an area in close proximity
4 to a residential neighborhood. Here's another
5 view. You can see the orange box with the
6 Fort Gaines neighborhood at the back.

7 Given the contentiousness of the
8 campus plan process, one might have expected
9 a high degree of controversy surrounding this
10 project, particularly since another project
11 bordering the same neighborhood, the Katzen
12 Center project, was highly contentious. It is
13 noteworthy that there has been no controversy
14 regarding the proposed significant addition of
15 beds on the Nebraska Hall site as the
16 neighborhood and the university were able to
17 work collaboratively on it over the course of
18 the planning process.

19 Moreover, the experience on this
20 site reflects the fact that dormitories near
21 residential neighborhoods are not necessarily
22 an adverse use. Nebraska Hall has been a

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1 dormitory for many years, and in the face of
2 that experience the nearby neighbors have
3 agreed to more than doubling the number of
4 beds on that site. In fact, they agreed to a
5 doubling of it and then late in the day were
6 asked to accept more and accepted more. The
7 Tenley Campus neighbors, meanwhile, have been
8 content with the use of that site for
9 residential use, though they are very
10 concerned about the increased use of it for
11 the law school.

12 One final relatively un-
13 controversial further processing application
14 relates to the recently filed plans for North
15 Hall. We support in principle the plans for
16 North Hall. We understand that the university
17 is working with ANC 3D to consider revisions
18 to those plans. It is our hope that while
19 such discussions may result in aesthetic
20 improvements to the plan, they will not result
21 in a reduction of the number of beds planned
22 for that site. In any case, we will comment

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1 further in more detail on that proposal in the
2 further processing hearing on it.

3 Recommendation. Approve the
4 further processing applications for Nebraska
5 Hall and the Mary Graden additions, approve in
6 principle the idea of the inclusion of North
7 Hall, but reserve judgment on the specifics of
8 that for the further processing application.

9 East Campus. The university's
10 proposal to place student housing on the
11 eight-acre parking lot across Nebraska Avenue
12 from the Main Campus has been among the most
13 contentious topics in the campus plan process.
14 The neighbors have adamantly opposed including
15 student housing there throughout. The
16 university has indicated that it believes
17 housings can be accommodated there and should
18 be to achieve overall university goals.

19 In principle, we agree that
20 including student housing on that site is
21 appropriate and can and should be accommodated
22 and approved. Providing adequate and

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1 attractive undergraduate housing is an
2 important goal for the university, but also
3 serves the interests of the wider community.

4 The university initially proposed
5 including between 800 and 1,000 beds on that
6 site. It then reduced the figure to 860, then
7 to 850, then to 765, then to 590. As the
8 proposed number of beds on the East Campus
9 declined, that factor and others contributed
10 to the university's lowering its target number
11 of beds upon completion of the 2011 campus
12 plan from 4,900 to 4,326.

13 Nearly uniformly the Office of
14 Planning contribution to the AU campus plan
15 process has been important, constructive and
16 sensible. The one glaring exception is its
17 recommendation that no more than 400 beds be
18 allowed on the East Campus. OP claims to have
19 come up with that figure by considering the
20 percentage of total university land area
21 accounted for by the East Campus and assigning
22 it that proportion of total beds. At the same

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1 time, OP acknowledged that the nearby Nebraska
2 Hall site, which also abuts a residential
3 neighborhood, could accommodate a
4 significantly higher percentage of beds than
5 suggested by its land area. The North Hall
6 also will be called upon to absorb an even
7 more dramatic proportions of beds than
8 suggested by its land area. The Office of
9 Planning's rubric simply makes no sense.

10 Now, this is a team project and
11 one of our commissioners put together a series
12 of charts to try to show this, and let me see
13 if I can explain them to you.

14 What he's tried to do is he's got
15 the -- you have -- you can see the Nebraska
16 Hall site and you can see the East Campus
17 site. The Nebraska Hall site is in the orange
18 and the East Campus is in the yellow.

19 And then on the right you can see
20 a graphic that's blown up here. And what it
21 shows is with 400 beds on the East Campus site
22 that's how much of the space is filled when

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1 you have a uniform size of beds. With 150
2 beds on the Nebraska Hall addition site, you
3 can see the boundary and you can see how the
4 beds go outside of the boundary of the site,
5 one way of seeing that the density would be
6 significantly higher. A different way of
7 showing it is if the beds are the size that
8 150 of them fit inside the orange line, that's
9 how much of these -- the inside of the yellow
10 box is how much of the East Campus would be
11 used up by the beds. Lastly, if you -- if the
12 -- with a different sizing of the beds to
13 almost fill the East Campus, that it would --
14 400 beds, you could fit around 70 on the
15 Nebraska Hall site. And lastly, if 150 beds
16 fit snugly inside of the Nebraska Hall site,
17 900 beds would fit inside of the East Campus
18 site to have the same kind of density.

19 The way to evaluate a proposal for
20 the East Campus is to assess its likely impact
21 on the neighbors, not to apply an artificial
22 proportion. The relevant metrics to measure

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1 the likely impact on the neighbors are the
2 adequacy of the relevant buffers and the
3 impact on traffic and pedestrian movement
4 flowing from the proposed use compared to
5 other potential uses.

6 On the buffer the university has
7 taken substantial steps to provide an adequate
8 buffer. In fact, they've proposed various
9 different buffers at different times, but
10 they've taken substantial steps to propose an
11 adequate buffer with the adjacent Westover
12 condominiums. One of the challenges in that
13 regard is that while the university proposes
14 to place its buildings at least 40 feet from
15 the property line; and you can see that shown
16 on the graphic, and an average of more than 50
17 feet from that line, and dormitory buildings
18 at least 100 feet from the property line, the
19 Westover condominiums themselves are placed
20 very close to the property line, in some cases
21 15 feet.

22 That's a map of the Westover Place

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1 town houses that was part of the -- one of the
2 submissions showing how the town houses border
3 the boundary with AU and the density at the
4 town houses there.

5 OP has urged that the university
6 widen the buffer between the buildings and the
7 property line to be at least 65 feet and keep
8 residential uses at least 100 feet from the
9 property line. As a practical matter the
10 proposed OP changes to the buffer would appear
11 to be minor, which cuts both ways. On the one
12 hand, AU should be able to accommodate them.
13 On the other, the resulting changes would not
14 appreciably alter conditions.

15 In an ideal world the buffer would
16 be designed with constructive input from the
17 nearby neighbors. If those neighbors were
18 willing to work with the university to design
19 a buffer consistent with the OP
20 recommendations, the university should be
21 called upon to work with them and provide a
22 final revision to its plan reflecting that

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1 collaboration. If, on the other hand, the
2 neighbors continue to demand and even wider
3 buffer and fewer units on the site, the
4 university should not be required to make
5 further concessions that would still leave the
6 neighbors fundamentally in opposition when in
7 our view the current proposed buffer is
8 adequate.

9 On traffic and pedestrian issues
10 it's important to know that the current use
11 imposes traffic and pedestrian issues with the
12 parking lot serving as a car magnet and
13 students and faculty and staff crossing back
14 and forth across Nebraska Avenue to access it.
15 In the meantime, early in the process
16 opponents of dormitories on the Tenley Campus
17 proposed that the law school be located on
18 that East Campus site, which would have
19 entailed 2,000 students and 500 faculty and
20 staff routinely accessing the site posing
21 traffic and pedestrian issues far more
22 daunting than those that would flow from

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1 locating 590 beds and limited retail on this
2 site. Yet the proposal was held out as the
3 neighborhood consensus.

4 Any use of the eight-acre East
5 Campus site will raise traffic and pedestrian
6 issues. The challenge will be to manage them.
7 We believe they can be managed with the amount
8 of density proposed by the university,
9 including with 590 beds proposed by the
10 university.

11 In that regard, we note the
12 testimony at the last hearing by ANC 3D
13 relating to the Tenley Campus. That ANC took
14 the position that the Tenley Campus, which is
15 also an eight-acre site, could and should
16 accommodate not only the relocated law school,
17 but also student housing. We emphatically
18 believe that if the law school does come to
19 the Tenley Campus that would be quite enough
20 for that site.

21 But consider the claim that you
22 heard at the last hearing. The eight-acre

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1 Tenley Campus site surrounded on three-and-a-
2 half sides by residences can accommodate a
3 300,000-square-foot law school with 2,000
4 students and 500 faculty and staff and student
5 housing, but the eight-acre East Campus lot
6 bordered on one side by residences and three
7 by institutional uses cannot accommodate
8 270,000 square feet of development and 590
9 beds. Frankly, the claims are astonishing
10 when considered together.

11 This is another of the graphics.
12 My colleague is better at math than graphics,
13 but 2,000 students on the Tenley Campus site
14 and 400 -- or 400 students, that's the OP
15 recommendation, but you could imagine it at
16 590. The kind of density is completely -- our
17 community is asked to accept significantly
18 more density than is being asked of on the
19 East Campus site.

20 Finally, the university has
21 proposed 17,020 square feet of retail on the
22 East Campus site and OP has suggested that it

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1 be limited to 3,020. There has been a
2 schizophrenic quality about the discussion of
3 retail in this area. On the one hand, nearby
4 neighbors have argued that the university has
5 driven retail out of the area, and on the
6 other hand they have strenuously opposed
7 retail on the East Campus site.

8 In our view appropriate retail on
9 the East Campus site could serve both the and
10 the nearby community. Under the circumstances
11 the university should develop a retail plan
12 for the East Campus site for review by the
13 Zoning Commission with any final proposal for
14 that site. AU should seek input from the
15 community on that plan and that plan should be
16 based on that expectation of providing 17,020
17 square feet of retail on the site.

18 Our ultimate recommendation is
19 that the university be called on to present
20 one final rendition of its plan for the East
21 Campus, make clear that the plan should
22 include a minimum of 590 beds and 17,020

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1 square feet of retail, urge AU and the nearby
2 neighbors to work together to refine the
3 buffer in a manner suggested by the Office of
4 Planning, but indicate that if a consensus
5 proposal cannot be reached the current buffer
6 will be deemed sufficient.

7 Tenley Campus. My colleague has
8 spoken to the issues earlier. As she said,
9 ANC 3E would like to support the Washington
10 College of Law of American University's move
11 to the Tenley Campus, but cannot do so at this
12 time; in fact, opposes the move at this time.

13 Capitalizing on opportunities to
14 work together. As divisive as the campus plan
15 process has been, it will be important for the
16 university and community to come back together
17 after this process in support of projects that
18 can advance the interests of both. There are
19 at least five such projects in our ANC that
20 are obvious candidates for such collaboration
21 and in which the university has expressed
22 interest, many of which have already been

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1 raised in this hearing.

2 The Friends of Turtle Park; and
3 you can see the kind of pentagon shape inside
4 of the orange border is Friendship Park, known
5 as Turtle Park, have sought to secure
6 improvements to that park for some time. The
7 park is quite near the AU campus. The city's
8 resources are limited, but the needs of the
9 park are growing. The university can make a
10 very positive contribution to the community by
11 supporting the improvement of that park.

12 There is an effort to build a
13 coalition to make significant streetscape
14 improvements on Wisconsin Avenue near two AU-
15 owned buildings. This could include under
16 grounding utilities in conjunction with the
17 redevelopment of a lot adjacent to an AU-owned
18 property. The university should be an active
19 supporter of those efforts.

20 There are increasing calls to
21 rework and improve traffic management of Ward
22 Circle as evidenced, for example, by the

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1 recommendation of DDoT's Rock Creek West II
2 Livability Study. The university has shown
3 significant interest in playing an active role
4 in this and should follow through aggressively
5 on the initiative. The livability study also
6 identified the area by the Tenley Metro
7 station at 40th and Fort Drive; that's the two
8 parallel lines that you see to the far right,
9 as an area calling for significant rethinking.
10 The AU shuttle buses use that area and there
11 are nearby AU buildings. The university
12 shares an interest in making that area
13 function as well as possible and should play
14 an active role in formulating a plan to
15 improve the management of traffic and
16 pedestrians there.

17 Finally, the livability study also
18 identified the area behind the Tenley Campus
19 on 42nd Street; you can see the sort of curved
20 line coming behind where the Tenley Campus is
21 towards the right quadrant, as in need of
22 traffic calming measures. The university

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1 should fund the implementation of those
2 improvements as part of any improvements it
3 might make on the Tenley Campus; indeed should
4 do so as promptly as possible and well in
5 advance of commencing work on any Tenley
6 Campus project.

7 Conclusion. The campus plan
8 process has been a long and contentious one
9 and there still remain important questions to
10 resolve relating to the Tenley Campus
11 proposals, enrollment caps, on-campus housing
12 requirements and regulating off-campus
13 behaviors. Nevertheless, we are moving
14 towards a campus plan that can serve the
15 university and community, and hopefully with
16 strategic input from the Zoning Commission to
17 close those gaps we can get there. Thank you
18 very much for your time and consideration.

19 MR. BENDER: And that concludes
20 our testimony.

21 CHAIRPERSON HOOD: Thank you very
22 much. for your presentation.

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1 Mr. Frumin -- I think it's Frumin.
2 Frumin? Let's go right to the -- I just want
3 to ask this, because I didn't understand. I'm
4 trying to understand on the -- let's go to
5 your slide, the one where you're showing the
6 relationship of the students, 2,000 students
7 versus the 400 students proposed for East
8 Campus parking area and the 2,000 on Tenley
9 Campus. Can you just explain that to me
10 again? What are we -- I think I understand.
11 I think I understand. I'm probably the only
12 one in the room who don't understand it, so if
13 you could help me.

14 MR. FRUMIN: (Off microphone.)

15 CHAIRPERSON HOOD: Is your
16 microphone -- turn your microphone on.

17 MR. FRUMIN: Oh, I apologize. The
18 law school plan calls for 2,000 students. So
19 the kind of density of usage that you would
20 see on the Tenley Campus under the proposal is
21 2,000 students on that site. Now, the Tenley
22 Campus proposal is 590 beds. Now, OP had

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1 suggested it should be no more than 400. So
2 what we're trying to do there is students to
3 students, how many students would be on that
4 site and how does that compare in terms of
5 density?

6 Now, I use this as an illustration
7 really of the point of when ANC 3D suggests
8 that for the Tenley Campus it should have the
9 law school and student housing, and by
10 contrast, the expectations of what kinds of
11 things might go on the East Campus lot. I
12 think that contrast is preposterous. Did it
13 help or hurt?

14 CHAIRPERSON HOOD: No, I still
15 don't quite -- I think I do. I have my own
16 rationale for it, but I don't know. That's
17 not -- that's irrelevant. I'm just trying to
18 get your point.

19 Also, Commissioner Sklover?

20 MS. SKLOVER: Yes, sir?

21 CHAIRPERSON HOOD: I'm trying to
22 find -- you mention in your testimony -- I

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1 think it's -- you said presently the
2 university does not meet the requirements for
3 receipt of a special exception to move into
4 the neighborhood of low-density single family
5 homes. Did you show us a slide? Didn't you
6 show us a slide in relationship, or did you --
7 was that an aerial view?

8 MS. SKLOVER: I was showing you
9 homes in the area and showing you that the
10 standard for the special exception -- and I
11 don't have the exact language with me because
12 I don't have my testimony any longer, but the
13 -- that noise, that space, that traffic are
14 indeed objectionable unless we can begin to
15 deal with the matters that we've requested
16 them to deal with for two-and-a-half years,
17 things like the west side of the campus and
18 retaining that as an open area, things like --
19 I mean, and of course when the community asked
20 for this, there was no negotiating process at
21 all. AU simply said no. Things like closing
22 off the Yuma Street curb cuts and doing away

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1 with the surface parking. And when AU was
2 asked about this, there was no negotiating
3 about this in the two-and-a-half years. AU
4 simply said no.

5 There are a series of
6 objectionable things that could be overcome if
7 AU were willing to bend and actually work with
8 the community and the ANC on facilitating the
9 -- on continuing the quality of life that the
10 neighbors have and want to continue to enjoy.

11 CHAIRPERSON HOOD: Let me ask you
12 this:

13 MS. SKLOVER: Sure.

14 CHAIRPERSON HOOD: If this
15 Commission were to -- and I'm not saying we
16 are or not. You never know what's going to
17 happen, but I was just saying. I'm just
18 asking if this Commission were to allow
19 additional time -- because you all have been
20 working with AU now for what, two --

21 MS. SKLOVER: Two -- over two
22 years. I've missed two meetings in two years.

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1 It is incredible.

2 CHAIRPERSON HOOD: So in that two
3 years it looks like some things have come
4 closer together. I might have asked this --

5 MS. SKLOVER: On these -- in these
6 areas that I have raised with you; Yuma
7 Street, surface parking, the west side of the
8 campus being -- you know, retaining no
9 structures for a period extending far beyond
10 the 10-year plan, those are three areas, and
11 the whole parking which I raised the second
12 meeting, because it was based upon the parking
13 plan at Gilford College that -- where one of
14 my sons was in school, that worked. In these
15 areas, with the exception of parking where
16 there has been some bending, there has been no
17 movement whatsoever.

18 You know, Chairman Hood, at our
19 first or second session you said something
20 that I thought was absolutely profound; and
21 I'm probably going to paraphrase it wrong, but
22 I'm going to try to. And here's what I think

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1 you kind of said: It was a very wise
2 admonition. You said there's a big difference
3 between holding meetings and negotiating in
4 good faith. And candidly, I thought that
5 maybe you were sitting right next to me for
6 two-and-a-half years at those meetings,
7 because when it came to the Tenley Campus,
8 first of all, they didn't even hire their
9 architects until late last year, early this
10 year. You haven't even seen their architects
11 for the Tenley Campus. They've only presented
12 you with the folks for the other campus.

13 When we asked every single week --
14 and Don, when he came in, can attest to this;
15 he came in as a facilitator. Every meeting
16 would begin with my asking them do you have
17 anything new about the Tenley Campus? And
18 every single meeting they did not. In fact,
19 we got so excited that at the May ANC meeting
20 -- Penny Pagano was there and she said we will
21 have information about the Tenley Campus for
22 you on May the 17th.

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1 Why do I know it was May the 17th?
2 Because it was my 30th wedding anniversary and
3 I told my husband I was going to go to the AU
4 meeting and we would have to postpone dinner
5 until the next night. It's true. It's
6 absolutely true. And we got there and guess
7 what? No information forthcoming. Indeed,
8 one of my fellow commissioners turned to me
9 and said they sure as hell make it hard to
10 support them, don't they?

11 CHAIRPERSON HOOD: So let me just
12 ask so -- I'm trying to go somewhere. You all
13 have been working for two-and-a-half years.

14 MS. SKLOVER: Yes.

15 CHAIRPERSON HOOD: Working with
16 AU.

17 MS. SKLOVER: Yes.

18 CHAIRPERSON HOOD: Or at least I
19 believe the whole community. If this
20 Commission were to allow additional time --
21 I'm just asking -- I'm not saying it's going
22 to happen -- would you say what, six months?

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1 And we could -- and here's the thing: We're
2 having problems with two-and-a-half years.
3 What if we would allow six -- I'm just trying
4 to figure out how this -- how we're going to
5 hash thing out -- six months for additional
6 time of discussions, or is it that the -- I
7 mean, the applicant has agreed to some things
8 and maybe not agreed to all? I mean, is that
9 safe to say?

10 MS. SKLOVER: No, that's not.

11 What the applicant has done is taken those
12 issues that they want to talk about and talked
13 about them and remain totally intransigent on
14 those issues they don't want to talk about,
15 things like the easement or something that
16 will retain an unbuilt area on the western
17 side of the campus for a period beyond the 10-
18 year plan. They don't want to talk about it.
19 They don't want to talk about removal of
20 surface parking and doing all underground
21 parking. They don't want to talk about
22 closing off the curb cuts on Yuma Street that

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1 are going to create a tremendous traffic
2 hazard.

3 What I think, Chairman Hood, is
4 that just giving them six more months is not
5 going to do it. I think that what you have to
6 do is tell them that they have to negotiate
7 with the ANC and with the community.

8 CHAIRPERSON HOOD: But I heard --
9 and I forgot. I just heard testimony from one
10 of the other commissioners that there are a
11 number of things where you all agree.

12 MS. SKLOVER: Design issues.
13 Design issues were -- I mean, they have been
14 wonderfully responsive on design issues. We
15 are very concerned as a Commission about LEED
16 certification. They have promised us that all
17 structures being constructed would be LEED
18 certified. There are a series of things --
19 they are making the campus more amenable to
20 Metro. These are all good things they're
21 proposing. But on the basic elements that we
22 came in with two-and-a-half years ago, the

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1 intransigence is stifling.

2 MR. BENDER: Mr. Chairman, I just
3 wanted to suggest that what might be helpful
4 is for in whatever order, hypothetical order
5 that the Commission might issue essentially
6 directing AU to spend some more time talking
7 with the neighbors, if you were to weigh in
8 and provide some guidance in areas -- on the
9 areas that you the Commission believe are not
10 there yet. And I agree with Commissioner
11 Sklover that absent such guidance I'm not sure
12 that the time, the extra time would work. But
13 we do want to try to pursue this --

14 MS. SKLOVER: Do you know what
15 might work, Chairman Hood? What might work is
16 if you simply said as a Commission we will not
17 entertain any further processing until you sit
18 down with the community and good faith
19 negotiate with the community. Otherwise, we
20 will simply stop further processing until we
21 see evidence that you, American University,
22 have been willing to work with the community.

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1 MR. FRUMIN: I want to add
2 something here, also. I want to beg you not
3 to provide more time. This has been a process
4 that's gone on for an awful long time. And,
5 frankly, there's differences of opinion and
6 ultimately it's going to be up to you guys to
7 decide. Now, maybe you guys can give guidance
8 at this point about certain issues. But
9 American University's going to come forward
10 with a plan. If it's not acceptable to you,
11 it's not acceptable to you. We've been
12 talking -- the amount of time it takes for
13 them to come up with different answers to the
14 things that Commissioner Sklover's talking
15 about, it doesn't take time. They can decide
16 they want to do it or they can decide they
17 don't want to do it. Frankly, the two-and-a-
18 half-year process where there were difference
19 of opinions that couldn't be bridged between
20 people who had differences of opinions had to
21 come to an end and we had to get here where an
22 arbiter is going to make those decisions.

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1 So by all means if you have if you
2 have strong feelings about what should be
3 done, urge them to do it, but let's bring this
4 to closure so that you guys who are charged
5 with making this decision can make the
6 decision.

7 CHAIRPERSON HOOD: Okay. Ms.
8 Leamy, let me ask you: You mentioned that the
9 three students who were in the house across
10 the street have now graduated and there are
11 two or so that's still there. How is that
12 working now, the two -- I mean, I think I
13 heard you say they're still partying, but is
14 there any oversight from the university with
15 the other two, or how is that working?

16 MS. LEAMY: There are six
17 students, or six people total living across
18 the street from me; four recent graduates; two
19 still students. And the understand has been
20 calling in and speaking to the two that are
21 two -- still students. But it has only been
22 talking, warning.

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1 CHAIRPERSON HOOD: So the four
2 graduates, are they still there, or --

3 MS. LEAMY: Yes.

4 CHAIRPERSON HOOD: -- have they
5 moved on?

6 MS. LEAMY: And the new guy who
7 moved in tonight; my husband called me when I
8 was on my way here, so maybe there are seven
9 now. Goody.

10 CHAIRPERSON HOOD: Okay. All
11 right. Thank you.

12 Let me open it up for questions.
13 Commissioner Turnbull?

14 COMMISSIONER TURNBULL: Thank you,
15 Mr. Chair.

16 Ms. Leamy, sounds like you and
17 your husband are very patient people. Tell me
18 you've never thought of reciprocating?

19 (Laughter.)

20 COMMISSIONER TURNBULL: You know,
21 like 100 pizzas to the president of AU. Tell
22 me that's never crossed your mind?

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1 PARTICIPANT: I object, Your
2 Honor.

3 COMMISSIONER TURNBULL: Okay.
4 Okay.

5 (Laughter.)

6 PARTICIPANT: Take the 5th or
7 something here.

8 COMMISSIONER TURNBULL: I think
9 I'm putting thoughts in your mind that
10 probably shouldn't be there.

11 PARTICIPANT: I advise my client
12 not to --

13 COMMISSIONER TURNBULL: No, well
14 it sounds like we have the campus issues, but
15 I guess focusing on some of your comments on
16 the off-campus issues. You get into parking
17 and you get into these group houses. How many
18 group houses are in your neighborhood?

19 MR. BENDER: Well, we think that
20 at any given time there are perhaps six to ten
21 problem houses, and there are probably quite
22 a few more group houses overall.

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1 COMMISSIONER TURNBULL: But
2 they're all privately owned and these students
3 just go there and -- so they're not controlled
4 by the university, although the students are
5 in theory governed by the code of conduct?

6 MR. BENDER: That's correct.

7 MS. LEAMY: We think the
8 university could have a lot more influence
9 over the students, evidenced by something else
10 they do, which is that they ticket cars on the
11 city streets because they are trying to be
12 helpful and not have their students park on
13 the city streets. But they're ticketing our
14 cars and our, you know, workers' and friends'
15 cars. So why can't they similarly have
16 something that applies to off-campus behavior
17 by students when they rent a house, some sort
18 of agreement or code they have to sign?

19 COMMISSIONER TURNBULL: You want to have
20 something with -- in this code that's got
21 something that bites, that can really hold
22 these students accountable, something more

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1 than -- I mean, from what you in your
2 testimony -- it sounded like, you know,
3 whether perception is half -- whether the
4 university drag their feet or not, it sounded
5 like they thought that if enough time went
6 through things would simply go away. I mean,
7 I have a feeling that you felt that things
8 weren't happening fast enough, that the
9 university was not responsive, that it was --
10 you were falling on deaf ears, they -- only
11 verbal discussions with the students, nothing
12 really binding that would go along with the
13 code of ethics that would say if it happens
14 again, you're expelled.

15 MS. LEAMY: I would suggest that
16 you as a Commission ask the university how
17 many times they've actually implemented their
18 conduct code in cases of problem group houses.
19 I don't know of any. I've heard about a lot
20 of warnings.

21 COMMISSIONER TURNBULL: Okay.
22 Now, do you have a parking issue in your

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1 neighborhood?

2 MS. LEAMY: There happens to be a
3 street next to me that has a lot of parking
4 because it surrounds a reservoir.

5 COMMISSIONER TURNBULL: Okay.

6 MS. LEAMY: So we're not in such
7 bad shape as some of the other streets.

8 MR. FRUMIN: But and that parking
9 issue relates to the Homeland Security site
10 where people -- it's not an RPP street, so
11 people from out of state park there and then
12 walk the three blocks over to the Homeland
13 Security site.

14 COMMISSIONER TURNBULL: Okay. All
15 right. Thank you.

16 CHAIRPERSON HOOD: Any other
17 questions? Commissioner May?

18 COMMISSIONER MAY: Thanks. Ms.
19 Leamy, I just had a -- it wasn't clear from
20 your testimony, how long have you been living
21 with this particular group of students across
22 the street?

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1 MS. LEAMY: There have been
2 college students in the home across the street
3 for a total of four years; this particular
4 group for about two. There's one student in
5 common between the first group that came in
6 four years ago and the second group.

7 COMMISSIONER MAY: And is it the
8 second group that's really been the problem
9 or --

10 MS. LEAMY: Oh, no, they've all
11 been a problem.

12 COMMISSIONER MAY: They've all
13 been a problem? Okay.

14 MS. LEAMY: And new ones keep
15 coming. So as soon as we get one group
16 trained to be slightly more considerate, a new
17 crop comes and I have to start again.

18 COMMISSIONER MAY: Okay.

19 MS. LEAMY: And it's not my job.

20 COMMISSIONER MAY: Right. Well I
21 understand. Very sympathetic to the issue.
22 I mean, to say that the vast majority of

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1 students who are living off campus are not a
2 problem, it doesn't really matter if one of
3 them happens to be living next to you or
4 across from you, or whatever. It's an
5 insufferable problem. I just -- I am very
6 sympathetic to what you're facing.

7 MS. LEAMY: Thank you.

8 COMMISSIONER MAY: Okay. And I
9 guess I -- you know, you said that you have
10 gotten -- called the police out for this, and
11 it seems to me that the police would actually
12 have greater sanctions to bear on this. I
13 mean, have you really had no success at all
14 with police breaking up parties or arresting
15 people for serving minors or anything like
16 that?

17 MS. LEAMY: The police have also
18 warned them, talked to them.

19 COMMISSIONER MAY: Yes.

20 MS. LEAMY: There is a strong new
21 noise -- night noise provision as part of the
22 disorderly conduct code that was passed about

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1 a year ago that allows for a \$500 fine or 90
2 days in jail, or both. I love it. But the
3 police are hesitant to actually enforce it
4 because they think it's hard to pursue in
5 court.

6 COMMISSIONER MAY: Yes.

7 MS. LEAMY: So they keep coming
8 out and warning them. They say they'll only
9 really give them that ticket if they have to
10 come out twice in one night.

11 COMMISSIONER MAY: Okay. And who
12 have you been working with in the police? I
13 mean, you're just calling up the phone number?
14 Are you talking to the commander in charge of
15 that area or, you know --

16 MS. LEAMY: I've been working with
17 Commander Reese who's the commander for 2D,
18 and also Lieutenant Hill who's the lieutenant
19 for PSA 204, I think mine is. Two oh two;
20 excuse me.

21 COMMISSIONER MAY: Yes.

22 MS. LEAMY: And then calling 911

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1 on the evenings in question.

2 COMMISSIONER MAY: Okay.

3 MS. LEAMY: Which is what they
4 asked me to do. For a long time I wouldn't
5 call 911 because I feel 911 should be for life
6 and death situations, but they have asked me
7 to call 911.

8 COMMISSIONER MAY: Yes. Okay.

9 All right. Commissioner Sklover, with regard
10 to your specific interests in the Tenley
11 Campus, so I understand it, I mean, I get the
12 impression that perhaps their development
13 plan, with some exceptions, is generally okay,
14 but that they're not -- what they're not doing
15 is they're not eliminating the surface parking
16 that you'd like to see eliminated and they're
17 not agreeing to preserve the green space in
18 perpetuity.

19 MS. SKLOVER: Perpetuity would be
20 lovely, but we're not even talking perpetuity.
21 We're talking about a period beyond the 10-
22 year --

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1 COMMISSIONER MAY: Well, you
2 talked about an easement, and an easement
3 typically speaks to perpetuity.

4 MS. SKLOVER: We have many --
5 there are many languages we can use for it,
6 but yes.

7 COMMISSIONER MAY: Right.

8 MS. SKLOVER: But somehow even a
9 pledge, or as Mary Cheh said today -- you
10 know, Mary Cheh suggested a tree planting, an
11 arboretum.

12 COMMISSIONER MAY: Yes.

13 MS. SKLOVER: Anything.

14 COMMISSIONER MAY: So but if it
15 were essentially preserved as they would
16 propose to develop it, is that sufficient from
17 your point of view, or are you looking for
18 their proposed development to be scaled back
19 or buildings moved or --

20 MS. SKLOVER: We're not even
21 asking for the buildings to be scaled back
22 because they're not proposing construction

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1 right now on that western side at all. We're
2 just saying please don't build on it.

3 COMMISSIONER MAY: Right. So but
4 what they're proposing you're essentially okay
5 with with some other issues?

6 MS. SKLOVER: That's correct. The
7 problem that we have specifically relates to
8 the surface parking and the impermeable
9 membrane that creates, as well as, you know,
10 just the eyesore. The curb cuts along Yuma
11 Street.

12 COMMISSIONER MAY: Yes. Now,
13 those are actually being reduced in their
14 plan, right?

15 MS. SKLOVER: They're -- you know,
16 I spoke -- when I was here last Thursday, I
17 spoke with Anna about that and DDoT. None of
18 us can really figure out exactly where -- the
19 traffic plan is so goofy that it's hard to
20 figure out exactly where their curb cuts are.
21 Anna couldn't and I couldn't, and she was
22 asking me whether I had figured it out yet.

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1 COMMISSIONER MAY: Well, I mean --

2 MS. SKLOVER: You know, one --

3 COMMISSIONER MAY: -- it's pretty
4 clear from the plan that's here.

5 MS. SKLOVER: Well, if you look at
6 the later "Blue Book" that their traffic
7 people brought in; I think that's the one; I
8 can't tell for sure, on one page they show the
9 curb cuts at one location and on a subsequent
10 page the curb cuts are a different location.
11 Anna asked me whether I'd figured it out yet.
12 I told her I hadn't and I said I was hoping
13 that she had.

14 COMMISSIONER MAY: Well, I assume
15 that's something that they can clarify very
16 easily --

17 MS. SKLOVER: Of course.

18 COMMISSIONER MAY: -- for us.

19 MS. SKLOVER: Of course. Even if
20 they do, even if they do reduce the curb cuts,
21 we still have this problem. The St. Ann
22 parents use an alleyway to enter the rear of

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1 St. Ann's School. The Janney teachers, once
2 the underground parking lot at Janney is
3 completed, will be using the Yuma Street side,
4 the alleyway, the same alleyway to go into
5 Janney. And parents and kids walk in through
6 that Yuma Street area to get to the Janney
7 site, especially the safety patrols. The
8 problem is you've got a lot of conflicting
9 uses at one location, one location within a
10 very short distance. You have the curb cut
11 for the alleyway, or the alleyway itself, you
12 have the curb cut for the loading dock almost
13 immediately across the street, then you have
14 the curb cut for access and egress for the
15 surface parking.

16 MR. FRUMIN: But I think that curb
17 cut for the loading dock is the one that's
18 going to go away.

19 MS. SKLOVER: I don't know the --
20 when we -- when I asked about it the last
21 time, that was not the answer I got, so I --
22 you could be right, Matthew, and you could be

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1 wrong. I don't know.

2 COMMISSIONER MAY: Well, of the
3 existing curb cuts what they show in the plan
4 is that the one in the middle is the one that
5 goes away. I don't know which one that is.

6 MS. SKLOVER: That's not the
7 loading -- the loading dock is the one that's
8 almost across from the alley.

9 COMMISSIONER MAY: Well, I mean,
10 what's left is not across from the alley. The
11 middle one -- well, I mean, they're not really
12 -- neither of them are across from the alley
13 now.

14 MS. SKLOVER: But close to.

15 COMMISSIONER MAY: They're
16 equidistant.

17 MS. SKLOVER: The scale on these
18 is -- pardon me? Are they equidistant?

19 COMMISSIONER MAY: Two of them are
20 equidistant on this plan. I guess maybe there
21 is some confusion about where they are. Well,
22 I guess, you know, it's hard for me to, I

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1 guess, on a certain level appreciate the
2 importance of, I guess, eliminating the curb
3 cuts. The curb cuts have to be somewhere and
4 they are reducing from three to two.

5 MS. SKLOVER: If they do away with
6 surface parking --

7 COMMISSIONER MAY: Well, but if
8 there's --

9 MS. SKLOVER: If they do away with
10 surface parking and they only have a loading
11 dock --

12 COMMISSIONER MAY: There's access
13 to the parking --

14 MS. SKLOVER: -- I'm not worried
15 about because that --

16 COMMISSIONER MAY: There's access
17 to the parking under the building as well off
18 -- I think there's access to the parking under
19 the building from the one --

20 MS. SKLOVER: No. No, no. The
21 access to the -- no, no, no. The access to
22 the parking under the building is on Nebraska

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1 Avenue.

2 COMMISSIONER MAY: Okay.

3 MS. SKLOVER: And that's where I
4 start talking about the queues for people to
5 line up in.

6 COMMISSIONER MAY: Yes. Well, and
7 if -- okay. But if that's the case, then
8 that's an existing surface parking lot.

9 MS. SKLOVER: That is correct.

10 COMMISSIONER MAY: And so are you
11 saying that this problem exists right now and
12 you want them to fix the existing problem?

13 MS. SKLOVER: No, because there
14 are so few people that use that campus. There
15 is so few people that use that campus.

16 COMMISSIONER MAY: So that surface
17 parking lot is not full on a daily basis?

18 MS. SKLOVER: Oh, no. Oh, no.

19 COMMISSIONER MAY: Is that --

20 MS. SKLOVER: I mean, right now
21 it's being used -- right now Janney's sharing
22 it until their underground parking goes in.

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1 COMMISSIONER MAY: Okay.

2 MS. SKLOVER: I mean, and I think
3 that it's fabulous that American University
4 has been so gracious as to allow the Janney
5 teachers and staff to use those empty spaces.

6 COMMISSIONER MAY: Okay. So but
7 even with them being used for that purpose,
8 it's still not full?

9 MS. SKLOVER: It hasn't been when
10 I've been there.

11 COMMISSIONER MAY: Yes.

12 MS. SKLOVER: And I go there with
13 some frequency.

14 COMMISSIONER MAY: Okay.

15 MS. SKLOVER: It's part of my
16 walking.

17 COMMISSIONER MAY: Well, I mean, I
18 think we're waiting to get at some point in
19 this process; maybe it's in the further
20 processing -- getting further information
21 about the traffic counts and the impacts
22 there.

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1 MS. SKLOVER: That would be nice.

2 COMMISSIONER MAY: And that
3 certainly would need to be assessed. But, you
4 know, given the number of curb cuts that are
5 on that block and the length of the block and
6 so on, it's certainly not the worst condition
7 I've ever seen.

8 MS. SKLOVER: No, it's just the
9 relationship with that alley.

10 COMMISSIONER MAY: Yes.

11 MS. SKLOVER: And the fact that
12 you have young children using it, traversing
13 it. And the need for -- you know, the
14 questionable need for the surface parking
15 anyway. You know, Commissioner May, I don't
16 understand why they don't just -- you know, if
17 they want more parking, they ought to put more
18 parking underground.

19 COMMISSIONER MAY: It's only a lot
20 more expensive to put it underground.

21 MS. SKLOVER: I understand that.
22 I understand that, but you as a Zoning

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1 Commission have wonderfully enforced this and
2 we -- you know, you've been marvelous about
3 it, and OP has been wonderful about it.

4 COMMISSIONER MAY: No, and we
5 certainly prefer it to be underground.

6 MS. SKLOVER: Exactly.

7 COMMISSIONER MAY: But not
8 everything gets to go underground immediately,
9 and particularly not when there is --

10 MS. SKLOVER: If they're spending
11 this much money to build a law school campus,
12 the amount is -- while it sounds huge to me,
13 is de minimis.

14 COMMISSIONER MAY: Yes.

15 MS. SKLOVER: We're talking about
16 this for the long run. If you amortize the
17 underground parking over a period of time, it
18 seems to make imminent sense to put the money
19 up front, create a good product, you know, and
20 have people use the underground parking as
21 opposed to surface parking.

22 COMMISSIONER MAY: Yes, I mean,

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1 I'm no fan of surface parking, believe me.

2 MS. SKLOVER: Yes.

3 COMMISSIONER MAY: But I think we
4 certainly have had cases where we have not put
5 our foot down and insisted on surface parking
6 when there's been an economic case or when
7 there's been other good planning rationale for
8 it. So, anyway, I'm going to move onto some
9 other topics.

10 I guess back to Commissioner
11 Frumin: I thought it was sort of interesting,
12 diagrams of beds and so what, and it's not
13 really an apples to apples kind of comparison
14 because of the heights of buildings and
15 because of the overall amount of development.
16 For example, the East Campus right now is only
17 proposed to be -- you know, only two-thirds of
18 the land is proposed to be developed. The
19 other third is going to remain that surface
20 parking, and that will eventually developed
21 for something else. So, I mean, interesting;
22 not necessarily that compelling. And

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1 certainly comparing that as a rationale to do
2 something different over at Tenley or for --
3 you know, sort of push space back and forth
4 and say that it's better suited over there,
5 better suited over there. I think it's a very
6 difficult argument to make, but I appreciate
7 some attempt to kind of illustrate this
8 graphically.

9 I wanted to go back to the issue
10 of the overall cap and the concern that that
11 could lead to some abuses of, you know, the
12 numbers. If we don't specify exactly how many
13 undergraduates or how many law students, or
14 what have you, that there could be a lot of
15 monkeying around with the numbers and you
16 could wind up with either a lot less students
17 housed on campus or a lot less -- you know, a
18 lot more students, you know, housed in
19 buildings that are being -- instructed in
20 buildings that wind up being more of an --
21 having more of an impact than we anticipate in
22 the plan.

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1 So I'm wondering if the university
2 would like to preserve some flexibility. I
3 mean, I like the idea of an overall cap,
4 because we've seen a lot of different numbers
5 games played on campus plans, I think, over
6 the years, and so I like the idea of the
7 overall cap. And if the university needs to
8 have some flexibility within those caps and,
9 you know, they're telling us what their
10 projections are, but they don't want to be
11 held to them, if they were to establish
12 instead of a projection a range of what they
13 thought the number of students would be,
14 number of undergraduates would be, you know,
15 6,200 to 6,600 or something like that, I mean,
16 do you think something like that would be
17 effective?

18 MR. FRUMIN: Well, I think
19 ultimately you need a cap, frankly, and
20 part --

21 COMMISSIONER MAY: Well, it would
22 effectively be capped because it would be no

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1 more than --

2 MR. FRUMIN; A range --

3 COMMISSIONER MAY: -- the high
4 number.

5 MR. FRUMIN: If the high end is a
6 hard cap, then you have to look at what that
7 range is.

8 COMMISSIONER MAY: Yes.

9 MR. FRUMIN: But this is a
10 situation where you have campuses on different
11 sites. So the law school's in one place and
12 the Main Campus is in another place. And so
13 an overall cap that applies to both really has
14 a different feel. If you could have a
15 significantly bigger population at the law
16 school than people had been led to believe
17 would be the case, that makes a bad situation
18 from the perspective of the neighbors way
19 worse.

20 We also -- in terms of the
21 undergraduate component of it, it is important
22 because we do -- you hear about these problems

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1 in the neighborhood. It's not all the kids,
2 but part of the reason why we want to see more
3 housing built is to get kids out of the
4 neighborhoods, get as many of the kids on the
5 campus or near the campus as possible and make
6 the campus attractive as a place to be. If
7 the undergraduate cap is too flexible, then
8 one of our major goals, which is to support
9 the plan in order to bring kids back closer to
10 the campus or on it, gets undermined. So the
11 caps -- the category caps actually are quite
12 important to us.

13 Council Member Cheh, when she
14 spoke, she addressed that issue as well. And
15 it may be in other settings that category caps
16 aren't as important because it's one compact
17 site, but here I think they're pretty
18 important.

19 COMMISSIONER MAY: Yes. Okay.
20 Well, I wasn't suggesting that -- I wasn't
21 really arguing their case. I was just
22 positing something different to see whether

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1 that would satisfy.

2 MR. FRUMIN: Well, I mean, we're
3 five commissioners on our commission --

4 COMMISSIONER MAY: Yes.

5 MR. FRUMIN: -- and so one's
6 reluctant to say, but what -- you can see what
7 our compass points are. Our compass points
8 are having fewer undergraduates in the
9 neighborhood and supporting housing on campus.

10 COMMISSIONER MAY: Right. Okay.
11 Thanks.

12 CHAIRPERSON HOOD: Just a quick
13 question. Only five commissioners? Do you
14 ever have a problem getting a quorum?

15 MR. FRUMIN: No.

16 CHAIRPERSON HOOD: Okay. I just
17 wanted --

18 MR. FRUMIN: Not yet.

19 MR. BENDER: Five motivated,
20 highly opinionated commissioners.

21 CHAIRPERSON HOOD: And I'm on the
22 redistricting task force in my ward. I was

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1 curious, because that did come up. Okay. So
2 that was a side note. Thank you.

3 Any other questions? Vice-
4 Chairman Schlater?

5 VICE-CHAIRMAN SCHLATER: Thank
6 you, Mr. Chairman.

7 First to Ms. Leamy: I certainly
8 sympathize with the ordeal you've been
9 through. And from your testimony it certainly
10 doesn't sound like the mechanism for
11 addressing off-campus student behavior is
12 working, at least in that case. And I
13 definitely want to endorse, you know, right
14 now that we do need to establish a viable
15 mechanism to deal with off-campus behavior
16 issues. There's no doubt about it. I think
17 the hard thing is is coming up with the proper
18 mechanism and one that's enforceable and one
19 that's actually going to help you and the six
20 to ten other -- you know, the people who live
21 around the six to ten other houses that are
22 problems a year. So I'm sorry about that and

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1 we'll do our best to figure out the proper
2 mechanism.

3 MS. LEAMY: Thank you.

4 VICE-CHAIRMAN SCHLATER: Just to
5 clarify on the caps, the request was to use
6 projections for covered categories as hard
7 caps. What are the specific categories that
8 you want the hard caps to apply to?

9 MR. FRUMIN: Well, I think in all
10 the graphs that they provide on enrollment
11 they show undergraduates, law school
12 graduates, and there is an other category. I
13 think they've been defined. I think you guys
14 asked about this in an early housing, what is
15 meant by graduates, what are in these
16 categories? And so, I think the data about
17 what those categories represent is on the
18 record.

19 It's those categories. And the
20 key ones really are the law school, which is
21 its own independent site, or would be its --
22 it is now and would be its own independent

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1 site. And undergraduates, which has all the
2 issues and freight associated with it -- with
3 them.

4 VICE-CHAIRMAN SCHLATER: Now, the
5 other request is to house no less than 70
6 percent of undergrads on campus. And I just
7 wonder, if the problem is limited to six to
8 ten houses within the neighborhood, is the
9 proper response building a lot of new on-
10 campus housing, or is it really working on
11 this off-campus behavior code, because it
12 seems like even if you build a lot more
13 housing, if you have problem students they're
14 going to live off campus anyways.

15 MR. FRUMIN: We're going to have
16 this issue and the university has to come up
17 with a better way to solve it in the instances
18 where it comes up. If you build more housing,
19 you have fewer kids in the neighborhood and
20 other incidental issues that come from just
21 having the students in the neighborhood and
22 you make the campus a more attractive place to

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1 be. But that alone will not solve the issue
2 of the few instances where you have a terrible
3 house. And just because it's few doesn't mean
4 it's not terrible to the people who live next
5 door.

6 The university a couple of years
7 ago, at our insistence on ANC 3E, extended the
8 student code to apply to off-campus students.
9 That's one step, but it's not -- there's other
10 things, and that clearly wasn't enough.
11 There's more that can be done. The kind of
12 agreement that Commissioner Sklover was
13 talking about where you have an opt out, some
14 kind of -- if a student lives off campus, they
15 sign an agreement saying that they will abide
16 by the student code and that becomes a vehicle
17 for enforcement on them, something like that.
18 But more needs to be done, that's clear.

19 MR. BENDER: If I might just
20 follow up, I mean, one of the things we saw
21 when we looked at the code is that there's --
22 essentially for off-campus behaviors there's

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1 a clause that says -- and I'm paraphrasing,
2 but essentially if what happens off campus
3 constitutes a serious threat to the off-campus
4 community, then the university may enforce.

5 For on-campus housing there are
6 just a laundry list of very specific things
7 that takes away for instance what might be
8 evidentiary protections. You don't -- for
9 instance, if somebody in student housing
10 causes a problem, causes noise, they're
11 responsible even if it's their guests who are
12 involved. So the university doesn't have to
13 determine who was there. Ms. Espinosa was
14 saying with regard to off-campus housing they
15 probably would have to determine who was
16 there. And there was also -- she said there
17 was a question as to the degree to which the
18 owners or the residents of the house could
19 control their guests. Again, none of that is
20 implicated when you have the same situation
21 happening on campus, and it's not clear to me,
22 and I think to us, why that should be the

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1 case.

2 VICE-CHAIRMAN SCHLATER: Okay.

3 Thank you very much. No further questions.

4 CHAIRPERSON HOOD: Any other
5 questions?

6 (No audible response.)

7 CHAIRPERSON HOOD: Okay. And I do
8 want to associate myself with the comments of
9 Vice-Chairman Schlater about how we're going
10 to deal with that off-campus. So I saw them
11 actively taking notes when you were talking
12 about, so that's a good sign for me.

13 Let's go down the cross-
14 examination. Does the applicant have any
15 cross-examination?

16 (No audible response.)

17 CHAIRPERSON HOOD: ANC 3D have any
18 cross-examination?

19 MR. SMITH: Good evening, Mr.
20 Chairman and Commissioners. I actually just
21 have one question, one --

22 CHAIRPERSON HOOD: Hold tight. I

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1 think that is actually the microphone that
2 doesn't work. Is that one working now? I was
3 told last week that one didn't work. Let's
4 try that one.

5 MR. SMITH: Let's try this one. I
6 just have one question. If I could --

7 CHAIRPERSON HOOD: Oh. Oh,
8 introduce yourself.

9 MR. SMITH: Oh, I'm sorry.

10 CHAIRPERSON HOOD: Oh, okay.

11 MR. SMITH: Yes, my name is Tom
12 Smith, chair of Advisory Neighborhood
13 Commission 3D.

14 Just so I clearly understand your
15 testimony, is it your testimony that the
16 university should mandate that 70 percent of
17 undergraduates live on campus, or that the
18 university make housing available for 70
19 percent of the undergrads that are enrolled if
20 they choose to live on campus?

21 MR. FRUMIN: Well, what we want to
22 see -- and I don't know exactly how it's

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1 implemented in the setting of the other campus
2 plans. As I understood it, for example, the
3 Office of Planning had suggested that 100
4 percent of Georgetown students eventually live
5 on campus. And so, I think our goal is that
6 a vehicle be put in place so that we have 70
7 percent of the undergraduates or 72 over time
8 living on campus. And part of that means
9 building attractive housing that will be
10 available to them.

11 MR. SMITH: Thank you.

12 CHAIRPERSON HOOD: Okay. Thank
13 you. ANC 3F?

14 (No audible response.)

15 CHAIRPERSON HOOD: Okay.
16 Neighbors for a Livable Community and Westover
17 Place Homes?

18 MS. HORVITZ: Good evening.

19 CHAIRPERSON HOOD: Good evening.

20 MS. HORVITZ: This is Laurie
21 Horvitz on behalf of Westover Place and
22 Neighbors for a Livable Community.

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1 Let me start with a few questions
2 for Commissioner Sklover. Certainly ANC 3E is
3 very concerned, are they not, about the
4 traffic implications of the campus plan?

5 MS. SkLOVER: Clearly we are, and
6 I reflected that in my comments.

7 MS. HORVITZ: And in fact you
8 talked to some extent about the 42nd Street
9 corridor, correct?

10 MS. SKLOVER: Yes.

11 MS. HORVITZ: Now isn't Ward
12 Circle also a severely problematic
13 intersection already?

14 MS. SKLOVER: It is, but that's
15 not an area I'm going to. I'm addressing
16 exclusively and solely the Tenley Campus
17 issue. And I would suggest that you talk to
18 my other commissioners about it. Yes, since
19 I live right -- very near Ward Circle I can
20 attest to the fact that it is, however,
21 addressing it would be inappropriate on my
22 part because that's not the position that I'm

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1 in tonight.

2 MR. HORVITZ: Well, is there
3 another commissioner before us who could
4 address the issue of whether or not Ward
5 Circle is currently a severely problematic
6 intersection?

7 MR. FRUMIN: Ward Circle is a
8 serious issue, and one of the things that ANC
9 3E has called for many times is a long-term
10 solution to significantly improve the
11 conditions at Ward Circle.

12 MS. HORVITZ: And Ward Circle is
13 already a very dangerous intersection, is it
14 not?

15 MR. FRUMIN: It is.

16 MS. SKLOVER: As by the way is
17 Tenley Circle.

18 MS. HORVITZ: Well the reason I
19 asked the question about Ward Circle is that
20 there have been a lot of comments about East
21 Campus and you're expressing a lot of opinions
22 about East Campus, but there was no discussion

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1 of the traffic implications for East Campus.
2 Have you undertaken an analysis of that issue
3 as ANC 3E?

4 MR. FRUMIN: We haven't undertaken
5 an independent analysis of that issue, but I'd
6 say that part of the goal of building housing
7 on the East Campus is to bring -- it's not as
8 if the idea is to take students out of Main
9 Campus and put them in East Campus. The idea
10 is to build on the East Campus which would
11 bring students who are further away now
12 closer. All of those students would have to
13 cross streets now to get to the Main Campus in
14 any case.

15 The other thing is on the flip
16 side, on the Nebraska Hall side, ANC 3D and
17 others have clearly said it's perfectly fine
18 to do the additional development at the
19 Nebraska Hall site. Well, that's adding
20 students also on the other side needing to
21 cross the street around Ward Circle. Whatever
22 use happens on the East Campus is going to

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1 have people going back and forth across that
2 street. The question is how to manage it.
3 And the question is whether or not the numbers
4 involved are so great that it really creates
5 that serious of a problem when you're taking
6 into account the other issues that the
7 university faces and the community faces about
8 providing housing for students.

9 MS. HORVITZ: Well, I guess my
10 question was much narrower than that, which is
11 did you undertake a traffic analysis specific
12 to the implications of East Campus?

13 MR. FRUMIN: And I think I
14 answered it initially no.

15 MS. HORVITZ: It was no? As
16 compared to the ANC that actually has
17 jurisdiction over East Campus which hired a
18 traffic expert, correct?

19 CHAIRPERSON HOOD: Was that a
20 question, or what was that?

21 MR. FRUMIN: Well, I answered --

22 MS. HORVITZ: There was a

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1 "correct" at the end.

2 Ms. Leamy, you certainly have
3 testified very eloquently about the harmful
4 impacts associated with off-campus student
5 behavior. That was the subject of your
6 testimony, correct?

7 MS. LEAMY: I was talking about my
8 experience at my house and AU's response to
9 it. That's how I would describe it.

10 MS. HORVITZ: And with respect to
11 your experience were some of the harmful
12 impacts that you eloquently described
13 associated with alcohol use?

14 MS. LEAMY: Yes.

15 MS. HORVITZ: But at the same time
16 the ANC that you were sharing the platform
17 with is advocating a wet campus for children,
18 correct?

19 MS. SKLOVER: For children? No.
20 For children.

21 MR. BENDER: If I can answer that.
22 No, for students who are of age who may

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1 legally drink.

2 MS. HORVITZ: So my question for
3 Ms. Leamy is is it your expectation that if
4 students drink off campus that they might also
5 drink on campus even now?

6 MS. LEAMY: I'm sorry, I don't
7 have an opinion about that and I'm not a part
8 of the ANC in that way. I'm a resident.

9 MS. HORVITZ: Well, do you have
10 any thoughts as to how many students would be
11 consuming alcohol at 3:00 in the morning on
12 the East Campus parking lot if there's a dorm
13 next door?

14 MS. LEAMY: I sorry, I have no
15 idea.

16 MS. HORVITZ: I would like to know
17 whether anybody on the panel has reviewed AU's
18 publicly-available information about
19 disciplinary proceedings for on-campus
20 misbehavior.

21 MR. FRUMIN: You know, I've not
22 reviewed it, but I think it's actually sort of

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1 an important point, because they have
2 disciplinary proceedings for on-campus
3 behavior, because they can supervise on-campus
4 behavior. And part of the issue, if there
5 were that bad of a student behavior in the
6 dorms that are adjacent to residential
7 communities, we'd be hearing an outcry about
8 that now about the Nebraska Hall. We'd be
9 hearing an outcry about that now about the
10 residences on the Tenley Campus. We're not
11 because there's a vehicle for supervision.
12 That vehicle for supervision and the
13 enforcement of whatever code is what's
14 important.

15 MS. HORVITZ: Well, did you read
16 the prehearing statement that was submitted by
17 Westover and the Neighbors for a Livable
18 Community which actually attached data about
19 disciplinary proceedings on campus? Did you
20 read that?

21 MR. FRUMIN: I read it some time
22 ago, but --

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1 MS. HORVITZ: And do you -- you're
2 here testifying. Do you have any personal
3 knowledge about whether the disciplinary
4 process as applied to the on-campus students
5 is in fact effective for controlling student
6 behavior?

7 MR. BENDER: Yes, you know, what
8 we testified to was whether or not the code is
9 adequate, whether or not the toolbox is there,
10 not whether or not the university has -- what
11 the university has done with its toolbox.

12 MS. HORVITZ: So, for example, we
13 now have a toolbox that theoretically
14 encompasses the behavior of off-campus
15 students, but that toolbox has not worked yet,
16 correct?

17 MR. BENDER: Well, but what we
18 testified to, counselor, is a disparity in the
19 tools available for on-campus enforcement
20 versus off campus.

21 MS. HORVITZ: But just to clarify,
22 you are not offering testimony as to whether

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1 or not the disciplinary process works with
2 respect to on-campus student behavior,
3 correct?

4 MR. FRUMIN: We're not offering
5 testimony to that effect, but I think the
6 illustrative examples of the buildings in our
7 ANC which -- Nebraska Hall, which is more than
8 doubling with the complete acquiescence of the
9 nearby neighbors. If it had been an issue, it
10 would have come up in that process. It hasn't
11 come up in that process. The same goes on the
12 Tenley Campus.

13 Now, have I delved into the
14 numbers to see how many enforcement provisions
15 have been taken? I have not; you're right.
16 But what -- we're in interface with the
17 community and we're not housing that that's an
18 issue with regard to dormitories next to
19 residential communities inside of the
20 boundaries of our ANC.

21 MS. HORVITZ: How many
22 undergraduate students currently reside within

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1 the boundaries of ANC 3E in on-campus
2 facilities?

3 MS. SKLOVER: We don't really
4 know.

5 MR. FRUMIN: Well, it's Nebraska
6 Hall. There are around 600.

7 MS. SKLOVER: Oh, you're talking
8 about in residence halls? Nebraska Hall is
9 the -- in Fort Gaines.

10 MS. HORVITZ: So how many
11 students --

12 MR. BENDER: I believe Tenley
13 Campus is.

14 MS. SKLOVER: Yes.

15 MR. BENDER: Oh, right. And there
16 are about 500 -- I believe there are about 500
17 students at the Tenley Campus, aren't there,
18 at a given time?

19 MS. SKLOVER: No, a little less
20 than that. Little less than that. There are
21 about 350 at the Tenley Campus and about, what
22 is it, 120 at Fort Gaines.

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1 MR. BENDER: Nebraska Hall. And I
2 cannot recall in my time in the ANC ever
3 receiving a complaint about the students on
4 the Tenley Campus.

5 MS. SKLOVER: Or the students in
6 Fort Gaines.

7 MS. HORVITZ: So a total of what,
8 maybe 400, 450 out of a total undergraduate
9 population of how many?

10 MR. BENDER: Sixty-three hundred
11 and eighteen.

12 MS. HORVITZ: I mean, most of the
13 undergraduates who live on campus are not in
14 ANC 3E, correct?

15 MR. SKLOVER: Well, most of the
16 kids who are in dormitories are not, no.

17 MS. HORVITZ: Correct.

18 MS. SKLOVER: But, you know, we're
19 talking about 400 and some odd students
20 totally, and you're talking -- and, you know,
21 the proposal is to build only 490 units of --
22 no, the proposal by OP is to build only 400

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1 units on eight acres. And we're talking
2 about, you know, a number that is
3 significantly -- that is really quite similar.

4 MS. HORVITZ: Well, let's talk
5 about that.

6 MS. SKLOVER: And we've had
7 absolutely zero complaints.

8 CHAIRPERSON HOOD: Ms. Horvitz,
9 let ask this question: What are you trying to
10 show? What are you trying to show?

11 MS. HORVITZ: What I am trying to
12 establish is that there is a dearth of factual
13 basis for the individuals who are sitting
14 before you to testify as to the overall
15 behavior of undergraduate students on campus
16 because most of those undergraduates don't
17 even live within their jurisdiction.

18 MR. BENDER: But that's sort of
19 outside the scope because we didn't testify to
20 that. We testified about --

21 CHAIRPERSON HOOD: Commissioner.
22 Commissioner, that was my question.

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1 MR. BENDER: I'm sorry.

2 CHAIRPERSON HOOD: That was my --
3 I was trying to understand her answer. Okay.
4 I'm going to let it go for a little longer,
5 because you're actually right, you didn't --
6 some of that you didn't testify to.

7 So I would like for you to keep it
8 to what they testified to.

9 MS. HORVITZ: Okay. I heard some
10 testimony about Nebraska Hall, and what I
11 would like to know is how tall is Nebraska
12 Hall?

13 MR. FRUMIN: I don't have the
14 drawings with me right now. I don't believe
15 that Nebraska Hall is any taller than the
16 buildings at the back of what would be on the
17 East Campus.

18 MS. HORVITZ: How many stories is
19 it?

20 MR. FRUMIN: You know, I just
21 don't have it handy.

22 MS. HORVITZ: You don't know

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1 the --

2 MR. FRUMIN: I don't know if it's
3 two or three stories.

4 MS. HORVITZ: It's not five
5 stories, correct?

6 MR. FRUMIN: No, it's not five.

7 MS. HORVITZ: And it's certainly
8 not six?

9 MR. FRUMIN: It's not six.

10 MS. HORVITZ: Okay.

11 CHAIRPERSON HOOD: Ms. Horvitz --

12 MR. FRUMIN: But nor --

13 CHAIRPERSON HOOD: Let's do this:
14 You said you didn't know.

15 MR. FRUMIN: Yes.

16 CHAIRPERSON HOOD: So you don't
17 know.

18 MS. HORVITZ: Okay. And who lives
19 in Nebraska Hall, mostly upperclassmen?

20 MR. FRUMIN: Yes, it's mostly
21 upperclassmen.

22 MS. HORVITZ: Because it's what, a

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1 suite style?

2 MR. FRUMIN: I believe that it is.
3 I think that there are supposed to be suite
4 style, sub-suite style apartments in the East
5 Campus as well.

6 MS. HORVITZ: That's your
7 understanding?

8 MR. FRUMIN: I think so.

9 MS. HORVITZ: Now, you've
10 mentioned that the neighbors near Nebraska
11 Hall have not weighed in here in opposition to
12 the plan, correct? That's the Fort Gaines
13 neighborhood, right?

14 MR. FRUMIN: Yes.

15 MS. HORVITZ: Well, with respect
16 to the addition to Nebraska Hall that's being
17 proposed, how far away will the Fort Gaines
18 neighbors' homes be to the addition?

19 MR. FRUMIN: You know, it may
20 be --

21 MR. BENDER: Well, I can testify
22 to that from personal knowledge. I had asked

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1 a fellow commissioner who said the closest one
2 is 50 feet and that there were others that
3 were further from that.

4 MS. HORVITZ: My question speaks
5 to the addition; not to any existing building,
6 to the addition that is being proposed. How
7 far will the nearest home be to the addition?

8 MR. FRUMIN: We can get you the
9 answer to that. I believe that it's not
10 particularly different than the distance
11 between where the Westover town houses would
12 be and the first of the dorms. Not the buffer
13 building, but the dorms.

14 MS. HORVITZ: Mr. Frumin, you
15 testified twice that Westover is a
16 condominium. It's in fact a town house
17 community, is it not?

18 MR. FRUMIN: I don't know that I
19 -- I don't think the word "condominium" is in
20 here, but I think I referred to it as town
21 houses. It is town houses.

22 MS. HORVITZ: And your

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1 recommendations about East Campus, just to be
2 clear and make sure the Zoning Commission
3 understands, ANC 3E does not have within its
4 jurisdiction East Campus, correct?

5 MR. FRUMIN: No.

6 MS. HORVITZ: That's outside of
7 your province, correct?

8 MR. FRUMIN: Well, no, I wouldn't
9 say it's outside of our province. At the last
10 hearing Commissioner Smith from 3D testified
11 about the Tenley Campus, made a suggestion
12 about the Tenley Campus, that it includes
13 student housing. And the reason for that is
14 this is an integrated whole where the amount
15 of housing that's provided matters to
16 everyone. Our ANC is across the street from
17 East Campus and we are testifying on all of
18 the things in the campus plan because, as
19 Commissioner Smith said at the last hearing,
20 it is an integrated whole and the integrated
21 whole with things like housing, on-campus
22 housing requirements and enrollment caps is

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1 relevant to all of the adjacent ANCs.

2 MR. BENDER: I just wanted to
3 follow up to say that we were -- for the
4 purposes of this hearing at least, or for this
5 proceeding, these proceedings, we were all
6 made parties. There weren't any stipulations
7 placed on that status.

8 MS. HORVITZ: Now, you have
9 recommended, ANC 3E has recommended that AU
10 houses many students as possible on campus,
11 right?

12 MR. FRUMIN: Yes.

13 MS. HORVITZ: All right. And in
14 your resolution which you filed from June 21,
15 2011 you defined the campus that you were
16 recommending should house as many student as
17 possible, but you defined that specifically to
18 exclude the Tenley Campus, isn't that correct?

19 MR. FRUMIN: Yes, you know, there
20 has been discussion and at different times
21 people who have opposed dorms on the East
22 Campus have suggested dorms should go on the

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1 Tenley Campus and the law school should go on
2 the East Campus, and from our perspective
3 that's fundamentally nonsensical. The
4 students -- you don't put students three-
5 quarters of a mile away from the Main Campus
6 where they're taking classes. You put them as
7 close as possible to the Main Campus and you
8 don't put a separate campus right at the heart
9 of Ward Circle. You put it close to the Metro
10 station.

11 So, yes, we think that the East
12 Campus, which is adjacent to the Main Campus,
13 is appropriate for student housing and we
14 think that Tenley Campus does not make as much
15 sense. Tenley Campus, any students housed on
16 Tenley Campus, maybe they take the shuttle or
17 maybe they walk down Nebraska Avenue, but if
18 they do the latter they also have to cross
19 streets associated with Ward Circle.

20 MS. SKLOVER: Well, the bulk of
21 the students who are housed on the -- and I
22 would have to get confirmation about this from

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1 AU, but my understanding is that the bulk of
2 the students who are housed on the Tenley
3 Campus currently are students who are taking
4 the Summer in Washington Program, which is
5 taught on the Tenley Campus. The kids live on
6 the Tenley Campus. They don't have cars.
7 They're not allowed to have cars. And they --
8 you know, everything relates to the Tenley
9 Campus as opposed to the Main Campus. They
10 may occasionally go to Main Campus, however,
11 my understanding is the bulk of their activity
12 is confined to the Tenley Campus.

13 MS. HORVITZ: Right, and I
14 appreciate that clarification, Commissioner
15 Sklover, because in fact what's going to
16 happen to those Washington semester students?
17 Are they going to be moved to Main Campus and
18 now going to have to commute over to the Metro
19 for their internships?

20 MS. SKLOVER: You'd have to talk
21 with AU about that. I have no idea, but I
22 thank you for asking.

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1 MS. HORVITZ: Now, have any of you
2 reviewed the roadside framework that was filed
3 in this case by the Neighbors for a Livable
4 Community?

5 MR. FRUMIN: I'm not familiar with
6 it.

7 MS. HORVITZ: All right. So you
8 don't have any opinions as --

9 MS. SKLOVER: I don't think I ever
10 get a copy of it, so I haven't seen it.

11 MS. HORVITZ: Having personally
12 done the Certificate of Service, I won't
13 comment. Do you have any opinions then as to
14 whether or not there might be other sites on
15 the Main Campus that could accommodate
16 additional student housing further away from
17 the neighborhood?

18 MR. TUMMONDS: I'm going to
19 object. This is not based on any of their
20 testimony. They said they didn't even know
21 this alternative framework plan.

22 I'm sorry. Thank you. For the

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1 record Paul Tummonds with American University.
2 Got the high sign from the --

3 MR. FRUMIN: But I actually -- now
4 that you're referring to it in this way I
5 think I am familiar with it, and I think I did
6 see the different plans. And I --

7 CHAIRPERSON HOOD: Let me ask you
8 this: Did you testify to it?

9 MR. FRUMIN: I didn't.

10 CHAIRPERSON HOOD: Okay. So I'm
11 going to uphold what Mr. Tummonds -- can you
12 move on?

13 MS. HORVITZ: Sure.

14 CHAIRPERSON HOOD: Thank you.

15 MS. HORVITZ: In the testimony in
16 support of the East Campus housing can you
17 tell me what were the -- strike that. You
18 mentioned that ANC 3E is very committed to
19 goals of sustainability and responsibility.
20 At least that's in your written submission, in
21 your resolution that you filed in this case.
22 Is that correct?

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1 MR. FRUMIN: Yes.

2 MS. HORVITZ: Those were driving
3 goals associated with how you formulated ANC
4 3E's positions in this case?

5 MR. FRUMIN: Yes, they're
6 important goals.

7 MS. HORVITZ: Okay. Now, are
8 those goals the same as the Zoning Regulation
9 standards that govern this body?

10 MR. FRUMIN: Well, no, but we
11 formulated our recommendations taking into
12 account the Zoning Regulation standards, and
13 in addition the goals of sustainability.

14 MS. HORVITZ: Well, did you for
15 example consider the likelihood of increased
16 noise from the proposed development on East
17 Campus?

18 MR. FRUMIN: Well, we do, but we
19 also take heart from what was done with the
20 design in terms of the orientation of the
21 buildings which Council Member Cheh talked
22 about. The buildings don't face the

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1 residences to the back. There is a buffer
2 building at the back. I think a number of
3 steps have been taken to take into account
4 those things. One of the things that we urged
5 is that the Westover community work with the
6 university if it thinks there are ways that it
7 can be refined. But, yes, we took that into
8 account and, yes, we believe that as the plans
9 have evolved the university has as well.

10 MS. HORVITZ: Well, has the
11 university to your knowledge offered to make
12 sure that the windows of the buffer buildings
13 won't open?

14 MR. BENDER: This really is
15 outside the scope.

16 MS. HORVITZ: Well, I'm sorry, but
17 he's expressed opinions about the
18 appropriateness as a whole of East Campus and
19 he's now just testified that he considered the
20 noise implications and that he's fully
21 satisfied with what AU has done. So it seems
22 to me that I should be given some latitude to

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1 explore how -- in what detailed manner he
2 analyzed the noise implications for neighbors
3 who are going to be 55 feet from these
4 windows.

5 CHAIRPERSON HOOD: Did you analyze
6 whether the windows could open or close?

7 MR. FRUMIN: Not specifically --

8 CHAIRPERSON HOOD: Okay.

9 MR. FRUMIN: -- but actually --

10 CHAIRPERSON HOOD: Okay. Thank
11 you. Okay. Next question?

12 MS. HORVITZ: Now, a similar
13 question: With respect to the academic
14 administrative buildings that you just
15 referenced, will students and faculty be able
16 to see into the bedroom windows of Westover
17 residents? Is that something you considered
18 when recommending East Campus?

19 MR. FRUMIN: It's not a thing that
20 we specifically considered, but in terms of
21 what our recommendation was, in relation to
22 the buffer if there are things that should be

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1 adjusted that can still accommodate 590 beds
2 on the campus, by all means work with the
3 university to make sure that those things are
4 solved. The kinds of things you're talking
5 about are solvable. And if there are issues,
6 we would hope that they would be solved.

7 MS. HORVITZ: With respect to the
8 retail issue, Mr. Frumin, ANC 3E has taken the
9 position, have they not, that there is a
10 dearth of good retail options around Ward
11 Circle, correct? That was in your submission,
12 written submission, correct?

13 MR. FRUMIN: I mean, was that in
14 an earlier resolution? I don't believe it was
15 in my testimony now.

16 MS. HORVITZ: In your July 21 --

17 MR. FRUMIN: Yes, I believe that
18 was --

19 MS. HORVITZ: I mean, your June 21
20 letter.

21 MR. FRUMIN: I think that was in
22 our resolution, yes.

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1 MS. HORVITZ: Right. So that's
2 your position, that there's a dearth of good
3 retail options around Ward Circle?

4 MR. FRUMIN: That's the stated
5 position of ANC 3E.

6 MS. HORVITZ: All right. Are you
7 aware that AU has bought multiple commercial
8 buildings in the area and eliminated many of
9 the retail establishments in buildings on New
10 Mexico Avenue and on Mass?

11 MR. FRUMIN: Well, I mean, this
12 goes to the point that -- what I said about
13 schizophrenia. I'm not sure that AU has
14 eliminated the retail in those places. I
15 think that we've had businesses that have gone
16 out of building for a variety of reasons. And
17 there is a call in the community for better
18 retail, and we share that view. That's why
19 what we're suggesting is that AU be compelled
20 to have a retail plan where it describes the
21 kind of retail that would be in these places,
22 not an Apple store that would be a magnet for

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1 people from farther, but the kind of
2 neighborhood-serving retail that people think
3 is missing. And the idea that AU has been the
4 source of driving businesses out of the area,
5 I personally -- it doesn't make sense to me
6 and I don't think that that's the case.

7 MS. HORVITZ: You're not disputing
8 the fact that AU currently owns a number of
9 commercial properties near East Campus, are
10 you?

11 MR. FRUMIN: No, I absolutely am
12 not, but what I'm disputing is the idea that
13 there reason why, for example, Balducci's went
14 out of business is because of AU. Balducci's
15 went out of business because Balducci's went
16 out of business.

17 MS. HORVITZ: But --

18 CHAIRPERSON HOOD: What would be
19 good is if we just answer the question,
20 because when we start talking about Balducci's
21 and everything else, then you have to
22 elaborate on that. So just let me --

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1 MR. FRUMIN: All right.

2 CHAIRPERSON HOOD: Okay.

3 MS. HORVITZ: Where I'm heading,
4 Commissioner Frumin, is why can't AU put the
5 retail that it wants in commercial buildings
6 that it already owns that are commercially
7 zoned for retail in the nearby area?

8 MR. FRUMIN: Did we testify that
9 they couldn't?

10 MS. HORVITZ: But why are you not
11 supportive of that and instead want -- and
12 recommend retail on East Campus, which is a
13 residentially-zoned --

14 MR. BENDER: That, counselor --
15 I'm not sure that we testified to that, so I
16 don't believe that's a proper question.

17 MS. HORVITZ: You testified that
18 you were in favor of more than \$17,000 --
19 17,000 square feet of retail, correct?

20 MR. BENDER: Is that correct?
21 I --

22 MR. FRUMIN: Yes, the testimony

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1 was that we think that the plan should include
2 that -- the amount of retail that had been
3 proposed. And we testified that there should
4 be an effort to develop a retail plan in
5 consultation with the community. That isn't
6 to say that we don't think AU should also have
7 retail in other places. By all means we think
8 that there should -- that AU should not be a
9 barrier to retail in other places.

10 MS. HORVITZ: Well, why not put
11 the retail that -- the 17,000 square feet of
12 retail in the commercially-zoned and already
13 AU-owned properties instead of on East Campus?
14 Would you support that?

15 MR. FRUMIN: Well, I think when
16 you go back and you say that we think there's
17 a dearth of retail there, we think that you
18 could -- the community could support the
19 retail at the new sites on New Mexico in the
20 commercial buildings and on the East Campus.

21 MS. HORVITZ: Have you undertaken
22 any traffic or parking analysis of the

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1 implications of the 17,000 square feet of
2 retail on East?

3 MR. FRUMIN: Well, we haven't, but
4 I think that it actually depends on the kind
5 of retail, which is why the retail plan is
6 important.

7 MS. HORVITZ: In your -- the
8 resolution that you filed in this matter you
9 also recommended against a fence or barrier
10 along Nebraska Avenue. Is that still your
11 position, because you didn't mention that in
12 your testimony.

13 MR. FRUMIN: I think that the
14 overarching theme was that this incorporates
15 our past testimony.

16 MS. HORVITZ: All right.

17 MR. FRUMIN: So if that was part
18 of our past resolution, then yes it stands.

19 MS. HORVITZ: Well, did you
20 understand that that barrier was intended to
21 reduce jaywalking?

22 MR. FRUMIN: And we think there

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1 are -- and we think that methods to reduce
2 jaywalking or avoid jaywalking are important.

3 MS. HORVITZ: And in the
4 resolution that you filed before the Zoning
5 Commission you also said, "We also believe
6 that AU should consider the location of the
7 roadway on Nebraska Avenue which as currently
8 designed interrupts the urban fabric of that
9 block." Do you recall that resolution?

10 MR. FRUMIN: You know, these are
11 group efforts, these resolutions, and the
12 person who has expressed the strongest view on
13 this issue isn't here right now, so I don't
14 want to profess to be an expert on those
15 issues.

16 MS. HORVITZ: Well, is the current
17 site of the Nebraska Avenue parking lot an
18 urban center?

19 MR. FRUMIN: Well, no.

20 MS. HORVITZ: Okay. You're in
21 fact -- are you advocating a more urban
22 character for East Campus?

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1 MR. FRUMIN: I did not in this
2 testimony. I think in the idea that we live
3 in a city and we have communities -- we have
4 -- there are needs for retail in different
5 places. And to that extent we are suggesting
6 that the presence of retail on these campuses
7 can make sense.

8 MS. HORVITZ: So what you're
9 advocating is an actual change in the
10 character of the neighborhood that is near
11 East Campus, correct?

12 MR. FRUMIN: Well, we're
13 advocating changing East Campus from a giant
14 asphalt parking lot to a place where people
15 live.

16 MS. HORVITZ: And to create an
17 urban fabric?

18 MR. FRUMIN: Well, to create the
19 places that people would go to in a community
20 that they live.

21 MS. HORVITZ: And, Mr. Frumin, did
22 you vote in favor of the resolution that was

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1 submitted to the Zoning Commission?

2 MR. FRUMIN: Do you recall? I
3 don't know.

4 MR. BENDER: I believe it was
5 unanimous.

6 MS. HORVITZ: And can you tell me
7 where your wife works?

8 MR. FRUMIN: Yes. My wife works
9 for the Osher Lifelong Learning Institute and
10 which is associated with American University.
11 And at different times I have been accused of
12 having a conflict.

13 Now, the resolution, the testimony
14 that I read was endorsed by five people. At
15 the beginning of this process I went to the
16 Office of Campaign Finance and asked for an
17 opinion about whether or not the fact that my
18 wife works at the Osher Lifelong Learning
19 Institute created a conflict and I was told
20 no.

21 I then published a letter in the
22 Northwest Current taking positions about the

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1 AU Campus Plan, which everyone under the sun
2 read, and it opened by saying that my wife
3 worked at the Osher Lifelong Learning
4 Institute.

5 In response to that, I went back
6 to the Office of Campaign Finance to say you
7 told me I don't have a conflict. Here are all
8 the facts. Do I have a conflict? And they
9 said no.

10 So, yes, my wife works at the
11 Osher Lifelong Learning Institute.

12 CHAIRPERSON HOOD: Let me ask:
13 And that's associated with American
14 University, correct?

15 MR. FRUMIN: It's housed at
16 American University.

17 CHAIRPERSON HOOD: And basically
18 your ANC took a vote in opposition, pretty
19 much? You all are in opposition, right, of
20 the campus plan?

21 MR. FRUMIN: Well, our --

22 MR. BENDER: Well, yes, and our --

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1 I mean, our current position --

2 CHAIRPERSON HOOD: Yes, is in
3 opposition. So I don't -- okay. Let's --

4 MR. FRUMIN: No, well --

5 MR. BENDER: Yes, we're -- I
6 mean --

7 CHAIRPERSON HOOD: Maybe I missed
8 something.

9 MR. BENDER: No, no. The
10 resolution said that we oppose, the one that
11 we sent.

12 CHAIRPERSON HOOD: Right.

13 MR. BENDER: So we have a number
14 of concerns. We --

15 CHAIRPERSON HOOD: So I guess, Ms.
16 Horvitz, what we want to do is make sure --
17 and I really don't understand even why that
18 conflict issue came up. I mean, his wife or
19 whatever is associated and here he is, you
20 know, his organization's in opposition. So I
21 don't understand why that even came up. What
22 you -- what we want to do is ask questions

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1 that's going to benefit the four guys up here.
2 That's what we want to do.

3 MS. HORVITZ: Thank you for that
4 guidance.

5 CHAIRPERSON HOOD: You didn't
6 really mean that. You just --

7 (Laughter.)

8 MS. HORVITZ: It's -- it was that
9 clear, huh?

10 Just to close that; maybe my point
11 has not been made clear, and I would ask the
12 latitude to ask two more questions about OLLI
13 and then I'll be done.

14 Where on the campus would the
15 classroom or administrative space for OLLI be
16 located?

17 MR. FRUMIN: Where would it be?
18 Right now the office is in the Tenley Campus.
19 OLLI pays rent, market rent for that office.
20 Most of the classes are at a church, which is
21 a little bit to the north of Nebraska Hall
22 that's not an American University property.

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1 Other classes are at a Unitarian church on
2 River Road.

3 MS. HORVITZ: And my question was
4 if this campus plan is approved, is there
5 going to be any new administrative or
6 classroom space built anywhere on the campus?

7 MR. FRUMIN: For OLLI?

8 MS. HORVITZ: Anywhere. I mean,
9 isn't it true that the only new classroom
10 space that's proposed is on East Campus that
11 you're supporting?

12 MR. FRUMIN: No, I'm not sure I
13 understand. Where would OLLI go? I have no
14 idea where OLLI would go. Yes, the campus
15 plan proposes building on different places on
16 the campus.

17 MS. HORVITZ: That's all I have.

18 CHAIRPERSON HOOD: Thank you very
19 much. Let's go to ANC -- no, is it -- no.
20 Did we do ANC 3F? Did we do -- oh, okay.

21 VICE-CHAIRMAN SCHLATER: I think
22 we're into the neighborhood --

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1 CHAIRPERSON HOOD: It's been so
2 long, I done got confused. Okay. Let's go to
3 Spring Valley. Thank you. Spring Valley-
4 Wesley Heights Citizens Association, you have
5 any cross-examination?

6 MR. MAZZUCHI: Good evening.
7 Michael Mazzuchi from the Spring Valley-Wesley
8 Heights Citizens Association. I have
9 questions I think mostly based on Commissioner
10 Frumin's testimony.

11 Commissioner Frumin, you mentioned
12 that the -- I think that the cap historically
13 has gone up with each cycle of campus
14 planning?

15 MR. FRUMIN: Yes.

16 MR. MAZZUCHI: Yes, are you
17 familiar with how the Zoning Commission
18 arrived at the current cap that applies in the
19 2001 campus plan order?

20 MR. FRUMIN: Not specifically.

21 MR. MAZZUCHI: Well, are you aware
22 that they reduced it from 11,233 to 10,600

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1 because of the location of the law school on
2 the campus?

3 MR. FRUMIN: Oh, I'm sorry. Yes,
4 I am familiar with it. And what they did was
5 they reduced it but then they put in half of
6 the number of anticipated law school, so it
7 still represented a growth over the previous
8 one. This is what makes it complicated when
9 you look at these figures about what's been
10 happening with the enrollment cap, because in
11 the 1989 the law school's in, in the 2001 it's
12 not, and now in this one it's back in. But
13 when you put the law school in, then you --
14 what you see is a relatively stable pattern.

15 Now there are people who think
16 that that pattern -- it's -- you know, we're
17 to the place where it's the straw that broke
18 the camel's back and it's 1,000-person straw.
19 So, you know, a person can have that position.
20 But the pattern of growth is relatively
21 constant.

22 MR. MAZZUCHI: How would you

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1 regard reducing the cap as raising it?

2 MR. FRUMIN: Because the law
3 school came out. And because what -- the way
4 in which they did it; exactly the mechanism
5 that you're talking about, they subtracted the
6 law school from the 11,023, but to subtract it
7 would have gotten you down into the 9,000s.
8 And then they added in half of the number of
9 the law school. So it -- so they -- in effect
10 when you include the law school under the
11 tent, it increased.

12 MR. MAZZUCHI: But if you bring
13 the law school back on campus, why wouldn't
14 you just go back to the 11,233 cap?

15 MR. FRUMIN: Well, the 11,233 cap,
16 I think I was trying to be clear that it in
17 effect -- because of the way the law school
18 was treated, it increased over the 11,233.
19 The law school is 1,800. The cap that you're
20 talking about, 10,600, if you add the law
21 school in, that's 12,400. That's higher than
22 11,023 -- 11,233. That's the increase. Now

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1 here we are, the law school is back under the
2 tent and what does it go to? It goes from the
3 12,400, or whatever it is, to 13,600. That's
4 an increase. But to go back to 11,233 is not
5 to go back to the status quo ante. It's to go
6 back to something that existed 10 years
7 earlier.

8 MR. MAZZUCHI: Is there some
9 reason to think that the level of enrollment
10 that would cause adverse effect on neighbors
11 from the same land area just goes up with
12 every campus planning cycle?

13 MR. FRUMIN: Well, I think that's
14 the argument of people who feel like the cap's
15 already too high and say don't let it go
16 higher. That's not the position that we've
17 taken. We've taken the position that if you
18 do other things associated with it, which is
19 bring the students closer by providing more
20 housing, improve the off -- the regulation of
21 off-campus behavior, that the proposed cap is
22 sustainable. But it's only sustainable if

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1 those categories are firm so that those other
2 things can be dealt with.

3 MR. MAZZUCHI: Are you aware that
4 over 100 residents of ANC 3E who live within
5 a few blocks of AU's border have petitioned
6 ANC 3E to keep the 11,233 cap?

7 MR. FRUMIN: I think you emailed
8 it to me.

9 MR. MAZZUCHI: Yes. And do you
10 give any weight to the views of those
11 residents of ANC 3E?

12 MR. FRUMIN: I give weight to the
13 views of those residents. We give weight to
14 the views of those residents. There's lots of
15 residents in ANC 3E who have various views
16 about the role of the university in the
17 community.

18 MR. MAZZUCHI: Are you aware in
19 particular that 40 residents of Fort Gaines,
20 that three-block area where you say the plan
21 is not controversial, have signed that
22 petition?

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1 MR. FRUMIN: You know, I hadn't --
2 I didn't know that.

3 MR. MAZZUCHI: If housing is such
4 a priority concern, why aren't you opposing
5 the destruction of 500 beds of housing at
6 Tenley in order to make room for the law
7 school?

8 MR. FRUMIN: Well, I think that
9 Tenley isn't the right site for undergraduate
10 student housing. It's three-quarters of a
11 mile from the campus. I think a more
12 appropriate site for housing is closer to the
13 campus.

14 MR. MAZZUCHI: Is there something
15 difficult about undergraduate students walking
16 three-quarters of a mile, or biking, or taking
17 a shuttle bus?

18 MR. FRUMIN: No, it's --

19 MR. MAZZUCHI: Like they do on
20 many, many other campuses?

21 MR. FRUMIN: No, it's not the end
22 of the world, but it's not the best way to do

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1 it and it's not the best for their experience.

2 MR. MAZZUCHI: You mentioned in
3 your recounting of the proposals on housing at
4 East Campus an initial proposal by AU for
5 building 800 to 1,000 beds, is that right?

6 MR. FRUMIN: Yes.

7 MR. MAZZUCHI: When AU made that
8 proposal do you know what percentage of the
9 new beds they were going to build on East
10 Campus?

11 MR. FRUMIN: I don't recall
12 specifically.

13 MR. MAZZUCHI: Would it refresh
14 your recollection if I told you it was all of
15 them?

16 MR. FRUMIN: If that's the case,
17 then it would refresh my recollection.

18 MR. MAZZUCHI: You mentioned that
19 AU reduced that proposal of 800 to 1,000 to
20 860. How is that a reduction?

21 MR. FRUMIN: Well, I think that
22 most of the people who heard 800 to 1,000

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1 thought that means 1,000, so 860 looked like
2 a reduction. But you're right; it's still in
3 the range.

4 MR. MAZZUCHI: And then you
5 mentioned that the 860 number was reduced to
6 590, right?

7 MR. FRUMIN: Eventually.

8 MR. MAZZUCHI: And then you
9 mentioned that the total number of beds that
10 AU had sought in terms of their housing stock
11 went down from 4,900 to 4,300, is that right?

12 MR. FRUMIN: Right.

13 MR. MAZZUCHI: So the majority of
14 the reductions in beds actually came from
15 somewhere else, not East Campus, is that
16 right?

17 MR. FRUMIN: Yes, and I tried to
18 be careful there to say that this was one of
19 the factors, not the only factor. And one of
20 the things that -- AU floated many proposals
21 to put dorms in different places and, frankly,
22 every single one of them was fought except for

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1 the Nebraska Hall addition.

2 MR. MAZZUCHI: Wouldn't it meet
3 ANC 3E's concerns about increased housing on
4 campus if the beds that AU needs were built in
5 the campus interior and not on East Campus?

6 MR. FRUMIN: You know, it might in
7 a way, although, like I said, there were
8 various proposals to build dorms in different
9 places and all of them were fought by someone.
10 But another thing about this is that some of
11 the proposals -- and it goes back to a
12 question you didn't want answered; and I'm
13 talking too much and this is going on too
14 much, but some of the places that were
15 proposed to put dorms took big chunks out of
16 green space inside of the campus.

17 Now, you could say, oh, there's --
18 what -- why should there be green space inside
19 of the campus? But frankly, if what we want
20 is for the campus to be a hospitable place
21 where the students congregate and go, then
22 having the Main Campus be an attractive place

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1 also while it serves the university, serves
2 the community -- because what we want is for
3 that -- the university community to focus in
4 on itself.

5 MR. MAZZUCHI: You're familiar
6 with the Office of Planning's recommendation
7 that AU find a location other than East Campus
8 for 190 beds, is that right?

9 MR. FRUMIN: Yes, and I think some
10 of what happened in response to that was the
11 North Hall, but yes, the Office of Planning --
12 I made a lot out of the idea that the Office
13 of Planning recommendation that they down to
14 400 is one place in which we think the Office
15 of Planning erred.

16 MR. MAZZUCHI: Okay. Do you
17 disagree with the Office of Planning's view
18 that an alternative site must exist for those
19 190 beds?

20 MR. FRUMIN: In the abstract might
21 there be another place? Maybe, but it'll be
22 fought, too. And then the real question, or

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1 a question is is the -- are the beds on the
2 East Campus such an egregious imposition or an
3 imposition? And when we look at all the
4 various factors around it, we think that
5 housing on the East Campus is an appropriate
6 use.

7 MR. MAZZUCHI: How do you know
8 that there wouldn't be a proposal to spread
9 housing more evenly around the campus that
10 would be mostly acceptable to people in the
11 community? How do you know that?

12 MR. FRUMIN: I didn't say I know
13 that. Well, oh, I guess how do I know that it
14 won't be acceptable to people in the
15 community? I went to all of those meetings.
16 I saw all of those proposals. Those were
17 iterations of different kinds of proposals for
18 beds in different places. I saw the push back
19 on every single one of them. And, frankly,
20 the North Campus proposal, which was part of
21 the alternative proposal, American University
22 came forward with the North Campus proposal

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1 and that, too, has then faced resistance.

2 PARTICIPANT: Mr. Chairman, I just
3 want to say I think this is way outside the
4 scope, and the witness went along with it, but
5 we didn't testify that moving housing
6 elsewhere would be unacceptable to ANC 3E. So
7 this is a lot of what would Mr. Frumin do not
8 to -- you know, what would the -- we just --
9 we didn't take that specific --

10 CHAIRPERSON HOOD: You didn't
11 testify to it, then Mr. Frumin won't answer.
12 The next time just kick him under the table.

13 (Laughter.)

14 CHAIRPERSON HOOD: Okay. If you
15 can go to your next question?

16 MR. MAZZUCHI: You mentioned that
17 there would be pedestrian risks associated
18 with any usage of the current use campus
19 parking lot site, is that right?

20 MR. FRUMIN: There'd be pedestrian
21 pressures from any usage, yes.

22 MR. MAZZUCHI: But, well, you're

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1 aware that Gorove/Slade has projected a large
2 increase in pedestrian trips associated with
3 the East Campus development, right?

4 MR. FRUMIN: I think that almost
5 any development where the site gets used more
6 is going to create more pedestrian trips.

7 MR. MAZZUCHI: And how did you
8 conclude that the increased pedestrian trips
9 wouldn't result in increased risk of
10 accidents?

11 MR. FRUMIN: Well, I'm being
12 kicked.

13 MR. BENDER: All right. The
14 witness has been kicked, which constitutes and
15 objection.

16 (Laughter.)

17 CHAIRPERSON HOOD: Well, I guess
18 seriously though if you didn't testify to it
19 or, you know, you can't answer, just do that.

20 MR. FRUMIN: All right.

21 CHAIRPERSON HOOD: And that way we
22 can move on. I can't remember everything, you

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1 know, that you testified to, so --

2 MR. BENDER: Well, neither can we.
3 He just goes on and --

4 MR. FRUMIN: Everybody wants --
5 everyone wants this and me to stop, so --

6 MR. MAZZUCHI: It is something you
7 testified to, but I'll just pause for a
8 second.

9 I have no further questions.
10 Thank you.

11 CHAIRPERSON HOOD: Thank you.
12 Let's see, Tenley Campus Neighborhood
13 Association, any questions?

14 MR. FERENBACH: I just have a
15 quick question.

16 CHAIRPERSON HOOD: Sure. Mr.
17 Ferenbach?

18 MR. FERENBACH: Greg Farenbach,
19 TCNA. Just a couple questions for Ms.
20 Sklover, Commissioner Sklover.

21 Commissioner Sklover, on page 6 of
22 the AU Campus Plan AU characterized the

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1 community concerns as keeping the facility
2 within the existing footprint, maintaining
3 existing access points; which I think is those
4 pesky curb cuts you and Commissioner May were
5 talking about, and preserving the historic
6 character of Capital Hall and Dump Lane. Is
7 that an accurate description of your
8 constituents' concerns?

9 MS. SKLOVER: No, I think my
10 constituents' concerns are related, No. 1, to
11 traffic; No. 2, to parking; No. 3, to
12 retention of the area; and No. 4, to the curb
13 cuts and safety for children crossing within
14 the area. So I think that it was a -- I think
15 it's too simplistic to give that as our great
16 concern.

17 MR. FERENBACH: Is it fair to say
18 that your constituents' concerns go also to
19 the size and scale of the project?

20 MS. SKLOVER: Clearly.

21 MR. FERENBACH: The special
22 exception language refers to neighboring

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1 properties, and I'm curious whether any of the
2 neighboring properties that you know if
3 support the AU Campus Plan for Tenley.

4 MS. SKLOVER: You have shared with
5 me in the past a slide that shows that no one,
6 virtually no one in the neighborhood supports
7 the Tenley Campus, the law school on the
8 Tenley Campus.

9 MR. FERENBACH: Let me just ask
10 quickly about traffic: AU has asserted in
11 their plan for Tenley, and you've stated in
12 your testimony that there will be no traffic
13 impact, is that correct?

14 MS. SKLOVER: I stated that their
15 statement was facially absurd. Well, I don't
16 think I used that language. I think I used
17 language that it was incomprehensible or
18 unbelievable.

19 MR. FERENBACH: So as someone who
20 lives in the area you don't believe that?

21 MS. SKLOVER: I don't believe
22 their assertion that there would be no traffic

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1 implications by taking 25 people and plopping
2 them down in an area. No, I don't think there
3 -- I think that that -- there's something
4 about that that does not -- that rings hollow.

5 MR. FERENBACH: You meant 2,500,
6 correct?

7 MS. SKLOVER: I meant 2,500.

8 MR. FERENBACH: Would you agree
9 that the traffic impacts at Tenley are an
10 extremely key piece of information for this
11 Commission to understand?

12 MS. SKLOVER: I do, and that's --
13 yes, I certainly do. And I think that there
14 is an area that needs to be addressed that is
15 the pedestrian traffic as well as automobile
16 traffic. And, you know, we're all hoping that
17 the bulk of the students, faculty member,
18 staff come to the Tenley Campus by subway,
19 because you know, the subway's only about a
20 block-and-a-half, two blocks -- well, two
21 blocks away, and we're all hoping that's how
22 they'll traverse. But there's an additional

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1 problem that's not addressed by any of the
2 traffic studies up to this point. That
3 additional problem is pedestrian traffic
4 crossing Tenley Circle. Tenley Circle,
5 according to American University, already
6 operates -- if you use their 2009 standards,
7 at a dangerous level. And it seems to me that
8 we need to look at the implications of both
9 the pedestrian and the increased automobile
10 traffic on the safety at Tenley Circle itself.

11 MR. FERENBACH: What do you make
12 of the fact that there is no traffic study
13 that meets DDoT requirements after two years?
14 Do you draw an implication from that?

15 MR. BENDER: When did you stop
16 beating your wife?

17 (Laughter.)

18 MR. BENDER: No, I mean, obviously
19 we're disturbed by it.

20 MR. FERENBACH: Well, no, no, no.

21 MS. SKLOVER: Yes, clearly I'm
22 very upset. No, answering your question

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1 candidly, the opportunity to prepare a traffic
2 study has been available for a very long time,
3 and it hasn't happened. And at each of the --
4 each of the things we received, each of the
5 booklets we received, each of the studies we
6 received said they would later on address the
7 Tenley Campus. Everything was we will later
8 on address the Tenley Campus. And we are not
9 faced with a situation where a piece of really
10 very slap shoddy work has come out called
11 traffic studies.

12 I mean, you know, I remember
13 several weeks ago, Commissioner May, you asked
14 a question about the modal study, and I was
15 thinking about that after you asked the
16 question. I mean, I don't know whether you
17 inferred the same thing from --

18 CHAIRPERSON HOOD: Is that part --
19 let me ask this:

20 MS. SKLOVER: Beg your pardon?

21 CHAIRPERSON HOOD: Commissioner
22 Sklover, is that part of a question he asked

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1 a week ago, or is that answering the
2 question --

3 MS. SKLOVER: Yes, I'm sorry.
4 That was inappropriate.

5 CHAIRPERSON HOOD: We want to stay
6 focused on the question.

7 MS. SKLOVER: I'm sorry, that was
8 inappropriate of me. I apologize.

9 CHAIRPERSON HOOD: That's okay,
10 but we want to stay focused with this.

11 MS. SKLOVER: Okay. Good.

12 CHAIRPERSON HOOD: Commissioner
13 May will have plenty of time to ask you that
14 question, whatever it was.

15 MR. FERENBACH: Yes, well, I guess
16 in your opinion, Commissioner Sklover, do you
17 think further processing hearings would be
18 appropriate without this further DDoT
19 information?

20 MS. SKLOVER: In my personal
21 opinion I think we ought to stop further
22 processing until we have a logical traffic

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1 study that DDoT accepts and until we have a
2 situation where Chairman Hood and his
3 Commissioners are able to get AU to negotiate
4 on the elements that I raised earlier.

5 MR. FERENBACH: And I have one
6 final question: Your commission has quite a
7 diversity of views and I was just wondering if
8 you could say what the vote was on your
9 testimony.

10 MS. SKLOVER: Oh, I don't
11 remember.

12 PARTICIPANT: The vote was 5-0.

13 MS. SKLOVER: Oh, the vote was --
14 the substantive part, the substantive portion
15 of my testimony was 5-0 in favor of it.

16 MR. FERENBACH: Thank you.

17 MS. SKLOVER: You're welcome.

18 CHAIRPERSON HOOD: I think I've --
19 in my 13 years I only seen that done once
20 before, but I have seen it done.

21 Okay.

22 MR. BENDER: What? Seen what?

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1 CHAIRPERSON HOOD: Never mind.

2 PARTICIPANT: I don't want to do
3 it again.

4 (Laughter.)

5 CHAIRPERSON HOOD: Okay. Tenley
6 Neighbors Association, Ms. Chesser.

7 MS. CHESSER: Hello. Judy
8 Chesser, Tenley Neighbors Association. I'm
9 going to try to go as close as possible to Mr.
10 Frumin's testimony.

11 You had said -- you opened your
12 testimony praising AU and then you said that
13 opponents have declined to engage. Who are
14 the opponents?

15 MR. FRUMIN: Well, I think in
16 candor, we also call for some sort of a
17 discussion on the East Campus about the buffer
18 and we have suggested a number of times that
19 housing on that site makes sense --

20 MR. BENDER: I think we should
21 just answer the question.

22 MR. FRUMIN: The opponents of

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1 housing on the East Campus.

2 MS. CHESSER: Okay. So the
3 neighbors? The ANC commissioner -- you're the
4 ANC commissioner and the neighbors are the
5 opponents, is that what you're saying?

6 MR. FRUMIN: Well, no, I think
7 there's a lot of opponents.

8 MS. CHESSER: Okay.

9 MR. FRUMIN: There have been
10 opponents at different -- in different roles.

11 MS. CHESSER: Okay. You made a
12 suggestion as to numbers for caps. I know
13 that AU has not agreed they're caps. They've
14 suggested they just be projections and have no
15 restraints. The numbers that you proposed;
16 6,400 for undergraduate; 2,000 for the law
17 school; 800 for other; and 4,400 for graduate
18 students, these are the same numbers that AU
19 has proposed?

20 MR. FRUMIN: Yes.

21 MS. CHESSER: As projections?

22 MR. FRUMIN: I think the testimony

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1 was the things that they've said as
2 projections should be hard caps.

3 MS. CHESSER: Okay.

4 MR. BENDER: Yes, I just want to
5 -- point of -- I don't think that anybody
6 testified as to what the cap should be, only
7 that if the cap -- there is a cap, it should
8 be hard cap and should -- there should be
9 subcategory caps. Is that fair?

10 MS. CHESSER: So these numbers are
11 not -- you're not suggesting that these
12 numbers be adopted?

13 MR. BENDER: Well, I think
14 actually what we -- what's said in the
15 testimony is that the overall cap seems
16 reasonable, that the category caps should be
17 hard caps, but there's a -- I think you'll see
18 the words are important caveat in that the
19 number for the law students -- we reserve
20 judgment on the number for the law students as
21 part of the further processing application.

22 MS. CHESSER: Because how many

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1 people are currently on the Tenley Campus?

2 MR. FRUMIN: I think that the
3 reference was to something like 500 students
4 living on the Tenley Campus. It may be --

5 PARTICIPANT: Students, faculty
6 and staff.

7 PARTICIPANT: Students, faculty
8 and staff would be 500.

9 MR. FRUMIN: Oh, I don't have a
10 number.

11 MS. CHESSER: And the 2,000 that
12 you mentioned includes who?

13 MR. FRUMIN: That's just the
14 students.

15 MS. CHESSER: Okay. And how many
16 faculty?

17 MR. FRUMIN: Five hundred.

18 MS. CHESSER: We couldn't hear
19 you.

20 MR. FRUMIN: Five hundred.

21 MS. CHESSER: And how many people
22 other than students and faculty, continuing

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1 learning, etcetera? I'm just trying to get
2 how many people you're suggesting.

3 MR. FRUMIN: No, but I mean,
4 specifically on the Tenley Campus we're
5 actually not suggesting anything.

6 MS. CHESSER: Okay.

7 MR. FRUMIN: And we're saying that
8 we're going to -- we'll comment on that in
9 further processing.

10 MS. CHESSER: Okay. And you did
11 -- at some point you had said that the 2,500
12 in the law school, you said something -- you
13 used the word "daunting" to describe the
14 traffic and pedestrian issues there?

15 MR. FRUMIN: I was using that in
16 the setting of Ward Circle, that as compared
17 to the 590 that are proposed in the student
18 housing the 2,500 at Ward Circle, where you're
19 presumably not near a Metro and so more usage
20 by car, that would create pretty serious
21 issues.

22 MS. CHESSER: I'm confused. The

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1 2,500 are on Tenley Campus.

2 MR. FRUMIN: No, but I brought it
3 up in the context of the proposal that had
4 been floated to have the law school go on the
5 East Campus. And to say if it -- compared to
6 what's -- that was what was held out as a
7 neighborhood consensus, what's been proposed
8 to what is held out as a neighborhood
9 consensus a year ago is much less daunting.

10 MS. CHESSER: Do you think that as
11 caps are set for the AU overall and individual
12 caps that there is a potential that the caps
13 could be set even at a level below their
14 current enrollment? I mean, there are 1,770
15 law students. If they're moving into R-1-B
16 might those numbers be even below their
17 current enrollment?

18 MR. FRUMIN: Well, I mean, I think
19 that in theory it could, and particularly on
20 the law school I think we -- I tried to be
21 clear that we're not saying a number there.

22 MS. CHESSER: Okay. I'm going to

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1 ask you a question which doesn't have to deal
2 with the position of the; I'm trying to
3 remember what it is, the Office of Ethics.
4 I'm asking you a different factual question.
5 Did two of the parties that are parties to
6 this proceeding ask you to recuse yourself in
7 the interest of avoiding the appearance of a
8 conflict of interest?

9 MR. FRUMIN: People have asked me
10 to recuse myself in the -- to avoid the
11 appearance of a conflict of interest. I feel
12 that I have a duty to do my job. I know in my
13 heart I have no conflict of interest and I
14 think that I chose not to do that. If I face
15 criticism for that, I'll face criticism for
16 it. It was published in the Northwest
17 Current. Everything is fully disclosed. My
18 position has absolutely nothing to do with my
19 wife's job.

20 VICE-CHAIRMAN SCHLATER: Let's
21 just limit the answer to the question that's
22 being asked.

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1 MS. CHESSER: Thank you.

2 CHAIRPERSON HOOD: Okay. Thank
3 you. Let's go -- Mr. Herzstein? Okay.

4 MR. HERZSTEIN: Mr. Frumin, I
5 think you testified that South Hall would not
6 have an objectionable impact. Am I
7 remembering correctly?

8 MR. FRUMIN: Yes.

9 MR. HERZSTEIN: Have you studied
10 the South Hall situation with regard to
11 potential visual and noise impacts on
12 neighbors?

13 MR. FRUMIN: I personally have
14 not.

15 MR. HERZSTEIN: Pardon?

16 MR. FRUMIN: I personally have
17 not.

18 MR. HERZSTEIN: Thank you.

19 CHAIRPERSON HOOD: Okay. That's
20 it for cross-examination of ANC 3E. I want to
21 thank you all for your testimony. I greatly
22 appreciate it.

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1 MR. FRUMIN: Thank you, Chairman
2 Hood.

3 MS. SKLOVER: Thank you, Mr.
4 Chairman, for hearing this.

5 CHAIRPERSON HOOD: Sure. It is
6 now 9;28. I think we can do another ANC,
7 which is the last ANC. I'm just not sure if
8 we're going to make it through -- well, let's
9 just wait and see, because we may be able to
10 start the list with people in support. Didn't
11 nobody kick me up here, so I guess we --

12 (Laughter.)

13 PARTICIPANT: Would anyone like to
14 borrow my shoe?

15 CHAIRPERSON HOOD: No, believe me,
16 they'll throw something at me.

17 So I'm going to ask if ANC 3F,
18 Commissioner Wiss, if she can come forward.

19 Okay. Let me just let everyone
20 know, we actually are not taking a break.
21 We're just letting Commissioner Wiss get
22 straight so we can get ready for her

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1 testimony.

2 MS. WISS: Sure.

3 CHAIRPERSON HOOD: And once you're
4 ready you may begin.

5 MS. SCHELLIN: Chairman Hood, if I
6 may confirm that the individuals in support
7 will not be testifying this evening, that is
8 correct, so that they can leave.

9 CHAIRPERSON HOOD: Let me ask this
10 question: Commissioner, about how long will
11 your testimony -- how long you think your --

12 MS. WISS: I hope it will be
13 brief, and it will not take an hour.

14 CHAIRPERSON HOOD: What, 20
15 minutes? Thirty minutes?

16 MS. WISS: It's 20 PowerPoint
17 slides, but then we have cross-examination.

18 CHAIRPERSON HOOD: Okay. That'll
19 be a good stopping point. I just can't
20 predict it. So what we'll do --

21 MS. WISS: Well, I can't predict
22 that.

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1 CHAIRPERSON HOOD: Right.

2 MS. WISS: Also to say I'm
3 focusing only the Tenley Campus.

4 CHAIRPERSON HOOD: But I'm not
5 sure how much cross.

6 MS. WISS: Yes.

7 CHAIRPERSON HOOD: So I guess the
8 best thing for us to do is those who are in
9 the support list we will not -- we will
10 hopefully start there when you come back on --

11 MS. SCHELLIN: Next Thursday.

12 CHAIRPERSON HOOD: -- next
13 Thursday. So we'll just end at this point.
14 We'll start with the persons in support on
15 next Thursday.

16 MS. SCHELLIN: However, to add
17 what you announced earlier this evening,
18 anyone who does not put their name on the list
19 this evening will not testify whether in
20 support or opposition. The name must be on
21 the list tonight.

22 CHAIRPERSON HOOD: Okay. So we're

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1 going to try to hear ANC 3F's testimony and
2 finish cross-examination.

3 MS. WISS: Good evening, Chairman
4 Hood and Commissioners. My name is Cathy
5 Wiss. I represent ANC 3F, the ANC on the
6 Wisconsin and Nebraska Avenue sides of the
7 Tenley Campus.

8 I live at 3810 Albemarle Street,
9 Northwest on the east side of Wisconsin
10 Avenue. Of all the ANC commissioners I live
11 the closest, about three blocks away. When I
12 attend meetings at the Tenley Campus, I walk.
13 It takes five minutes. I say this not just to
14 prove I am a near neighbor, but also to show
15 that my neighborhood would be a convenient
16 parking lot for students, staff, faculty and
17 visitors to the law school.

18 Like the surrounding neighborhood
19 in ANC 3E, the adjacent neighborhood and ANC
20 3F is also made up of -family detached houses
21 like these homes on Nebraska Avenue which face
22 the proposed entrance to the underground

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1 parking garage which will have 400 to 500
2 spaces. Behind them are more homes and more
3 homes. Altogether 106 people live in the
4 blocks across Nebraska Avenue from the Tenley
5 Campus; and we know that from the census,
6 however, thousands more live across Wisconsin
7 Avenue.

8 Throughout this process AU has
9 said that it's focusing its development at the
10 eastern end of the site away from nearby
11 residential areas. The fact is that the
12 eastern side of the campus is also bordered by
13 single-family detached homes like these.
14 Pushing development to the eastern side of the
15 campus, as AU has done, does not alleviate the
16 problems for the neighborhood. It simply
17 shifts them to another group of people.

18 Now, I need to explain a little
19 bit. ANC 3F is here because you granted us
20 party status. There is no part of the campus
21 that is in ANC 3F, but -- and we have tried to
22 become part of this process. It has not been

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1 that easy. Starting in February I asked AU to
2 please come to our ANC meeting. They have not
3 come to our ANC meeting yet. I did hold a
4 single member district meeting on May 2
5 because I did want them to be able to meet
6 with my constituents, and they did come and
7 meet. We had a meeting at the Tenley library.
8 We are hopeful that they will come to our
9 October meeting. They said they weren't going
10 to come in September, so hopefully they will
11 come in October.

12 This shows you the -- the yellow
13 border is the division between ANC 3E and ANC
14 3F. So it shows you that in fact ANC 3F is
15 very close, and in fact we are right across
16 the street.

17 Now, we've talked about the AU's
18 presence in commercial areas in Spring Valley
19 or Wesley Heights. They do have some
20 buildings north of this map in ANC 3E, but
21 they do have a significant presence in ANC 3F.
22 4000 Brandywine Streets houses WAMU. And

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1 there's the AU flag out in front. There's a
2 big American University sign on the top of the
3 building. 4200 to 4228 Wisconsin Avenue, two
4 office buildings are also owned by American
5 University. 4200 has the Greenberg Theater.

6 Another activity of AU in ANC 3F
7 is the AU shuttle bus which comes to the Kiss
8 'n Ride at the Metro stop that's in ANC 3F.
9 So you notice there is a very long line of
10 people getting on the AU shuttle bus. The AU
11 shuttle bus is actually very, very successful.
12 They run very frequently. They are always
13 packed. And I really credit the campus plans
14 with having developed this. It is a great
15 amenity and it does bring an awful lot of
16 people from AU to the shopping district on
17 Washington, D.C. and it does help a lot of
18 people take the subway. So it's always been
19 a question of mine as to why the law school
20 needs to get closer so that it will encourage
21 people to take the subway, because the shuttle
22 bus does go to the law school.

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1 Okay. We believe that locating
2 the Washington College of Law at the Tenley
3 Campus will have an impact on ANC 3F. In
4 particular, there'll be an awful lot more cars
5 driven through the ANC. Right now the
6 students who are housed there don't drive cars
7 through our ANC. But these will be driven on
8 a daily basis by students, faculty, staff and
9 visitors, in particular faculty, staff and
10 visitors because students are more likely to
11 take Metro and other means of public
12 transportation, and even ride bikes.

13 The entrance and exit to the
14 parking garage is on Nebraska Avenue, which is
15 in ANC 3F, and it will have an affect on the
16 single-family homes. It will affect traffic
17 there and it will be used from early morning
18 until late at night. Parking garages have
19 lights in them. They'll be on all the time.
20 And also congestion and safety concerns. It's
21 very difficult to drive around Tenley Circle
22 and then suddenly be on Nebraska Avenue. The

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1 cars are fast, it's a blind curve and, you
2 know, you're probably on the traffic coming in
3 and out of the parking garage before you know
4 it. And so there's a possibility of
5 accidents.

6 Another issue for us is cut-
7 through traffic on local streets; and I'll
8 show you a slide about that in a minute, but
9 that is a big issue. And also the building on
10 Nebraska Avenue will be larger and taller.
11 It'll be especially noticeable because the
12 single-family homes across the street are
13 rather small and low. And we've learned that
14 this will house the law library, which will be
15 open 24 hours a day. I have to say I've sat
16 in meetings when AU has told residents on Yuma
17 Street, oh, they've done everything possible
18 to mitigate the effect of the building there
19 because they'll only put faculty offices and
20 you know the faculty don't use their offices
21 late at night and very often. Well, they're
22 just shifting it over to the other side of the

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1 campus because the law library will be on --
2 open 24 hours a day. There's a lobby there.
3 They'll have their lights on 24 hours a day,
4 too.

5 Now, this slide shows you what we
6 expect -- where we expect the traffic to
7 drive. In ANC 3F we have several north-south
8 arterials; Wisconsin Avenue, Nebraska Avenue,
9 but also Reno Road, which you can see off to
10 the right, and Connecticut Avenue. And these
11 bring people from the north and south, from
12 communities not even in Washington, but say
13 Silver Spring, Kensington, Chevy Chase, from
14 the south, people from Virginia. And what
15 they do -- and also we have cross-town traffic
16 that comes across either Tilden Street or
17 Brandywine to Albemarle Street. So we expect
18 that people will use the arterials, but a lot
19 of times they sort of peel off the arterials
20 and they sort of wind through the
21 neighborhood. So you can see that these
22 arrows do use some arterials, but they also

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1 wind through the neighborhood.

2 I want to point out there's an
3 arrow that crosses Wisconsin Avenue just to
4 the right of Tenley Campus. That's Warren
5 Street. In AU's traffic study they did not
6 show that there was a stop light here, but in
7 fact there is. We had one put in because it
8 is right next to the fire house and we wanted
9 the -- when they needed to get the trucks in
10 and out, they needed a stop light there. So
11 because of that stop light this will become a
12 very attractive means of getting to the law
13 school and to the parking garage.

14 And this shows you what it looks
15 like on that street. There's the traffic
16 light. The parking entrance will be a little
17 bit farther along than the AU shuttle bus.
18 And this is a little local street. It's not
19 very long. It's just a couple half blocks.
20 But I think that people that are trying to
21 come from the south in particular, they're
22 going to turn onto Warren Street rather than

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1 going up to the circle and go around it and
2 getting caught at a lot of stop lights. So
3 they will go west on Warren Street here and
4 then hang a right and then a left into the
5 garage. In reverse, it'll be very easy for
6 them to turn right out of the garage and then
7 turn left onto Warren Street. Even if they
8 want to go north, it might keep them from
9 having to wait to turn left. And I've got a
10 slide about that later.

11 Another intersection that AU has
12 not studied, and like the other one that I
13 just -- Warren and Wisconsin, DDoT said they
14 thought that this -- all of these would be
15 good to study -- is 41st Street and Nebraska
16 Avenue. This is at most half a block from the
17 AU Tenley Campus. In fact, you can see the
18 buildings through the trees. This is a small
19 local street, although a few years back a boy
20 was hit and killed on 41st Street by a
21 commuter. So, safety is a big concern in the
22 neighborhood, particularly with cut-through

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1 traffic.

2 Another intersection they did not
3 study was Nebraska Avenue and Albemarle
4 Street. Both are major routes to the Tenley
5 Campus from communities north and east.
6 Nebraska Avenue from Chevy Chase, D.C. and
7 Maryland, and Silver Spring, Albemarle from
8 across the park. It is a complex
9 intersection. It includes Nebraska Avenue,
10 Albemarle Street, 39th Street and Grant Road.
11 It's only two blocks from the Tenley Campus
12 and it is a major pedestrian through street
13 because the subway is just a block away. Now,
14 they did study the streets near the subway,
15 but not this one, and DDoT said that this one
16 should be studied.

17 Just to show you what it looks
18 like from the other direction, the counts in
19 AU's transportation plan seemed a little low.
20 This is typical of every morning, the backup
21 from Tenley Circle along Nebraska Avenue
22 that's north of the circle. I took this in

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1 June when traffic was light. but typically it
2 -- the queue goes all the way to Brandywine
3 Street. And cars will stop at Albemarle
4 Street for more than 30 seconds of a light
5 because they just can't get through.

6 Now, one thing; I took this
7 picture about 10:00, 10:30 in the morning,
8 even at non-peak hours traffic west of the
9 circle backs up. And this is right in front
10 of where the parking garage entrance and exit
11 will be, so that if you're trying to turn left
12 out of the parking garage, it would be very
13 difficult because of the queues. So the more
14 likely maneuver will be to turn right and then
15 use local streets like Warren either by
16 turning left to go towards Wisconsin or by
17 turning right to go into the neighborhood to
18 get to where they're going.

19 So for a more thorough traffic
20 study, AU should study the nearby
21 intersections at 41st Street, Nebraska Avenue,
22 Warren and Wisconsin and Albemarle and

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1 Nebraska, which were in the ANC 3F resolution
2 and which I have not found that they have done
3 anything about in the further processing. But
4 they also need to take daily and hourly
5 traffic counts during the school year at the
6 proposed entrance to the underground parking
7 garage, not just during standard peak hours.
8 They need to consider safety of and
9 anticipated routes of travel to the proposed
10 parking garage, particularly taking into
11 account its proximity to Tenley Circle, the
12 high traffic volumes on Nebraska Avenue, the
13 use of local streets and traffic generated by
14 nearby local institutions.

15 Now we've talked about the various
16 schools; St. Ann's, Janney, St. Columbus
17 mentioned by ANC 3E, and also Homeland
18 Security, but the truth is that a big
19 generator of traffic is Fanny Mae, which is
20 located just a couple of blocks south on
21 Wisconsin Avenue. They provide parking for
22 all of their employees. The lot has some --

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1 well over 1,000 spaces and they go in and out
2 of that parking lot all the time, so it's very
3 congested.

4 Now, parking we believe we will be
5 an issue. Currently the law school has its
6 own parking garage, but there are several
7 other parking garages that are used by
8 faculty, staff, students and visitors. And
9 this slide just shows you where those lots are
10 located. So it seems that they have an ample
11 supply of parking spaces, although I
12 understand that a fair number of students do
13 park on street, and maybe even faculty.

14 However, in Tenleytown there's
15 very limited off-street parking available so
16 that what AU provides in its underground
17 parking will be the only garage that they'll
18 be able to rely on because the others are
19 stores that provide parking to their
20 customers. But there's not really that much
21 extra space. It's really hard to find a space
22 in the CVS parking lot and there are times

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1 when it's hard to find a place at Whole Foods.

2 Now Wilson High School, lots of
3 people park in the neighborhood because they
4 do not have what's required for zoning and the
5 pool was built without parking.

6 Now down at 4200 Wisconsin Avenue,
7 the AU building that has the Greenberg Theater
8 in it. It's also an office building so I'm
9 not sure if there are any spaces available for
10 people from the law school, but it may be
11 unlikely because of the other tenants in the
12 building.

13 So we in ANC 3F expect that our
14 streets will become the de facto parking lot
15 for students, faculty, staff and visitors of
16 the law school. And this just shows you all
17 the local neighborhood streets where we think
18 that people will decide to park, there to the
19 -- on the right side of the picture.

20 So one thing, in order for AU to
21 successfully move its law school to the Tenley
22 Campus they really need to work to change the

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1 culture of driving and parking. So to start
2 out, I would recommend that they actually do
3 an in-depth study of students, faculty and
4 staff to find out how they travel to the law
5 school now. They did the study a year-and-a-
6 half ago. Where they travel from? Do they
7 come from their homes? Do they come from
8 jobs? Do they come from their children's
9 school? You know, trying to get out, well,
10 why do they need a car? Are there other modes
11 of transportation that are available to them?
12 I mean, if people are living in Bethesda or
13 Silver Spring, they may not really have good
14 public transportation to get to the law
15 school.

16 And then just to work with them to
17 try to figure out what it would take to get
18 them to switch to public transportation. AU
19 has said it would adopt incentives for taking
20 public transportation, but let's make those
21 strong. Let's provide Metro fare free of
22 charge for a period long enough for users to

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1 become accustomed to taking it. And maybe
2 that should just be an incentive. You get
3 free Metro fare or you have to pay for
4 parking.

5 Adopt disincentives to driving
6 such as raising parking fees. But that could
7 actually cause more people to park in the
8 neighborhood, so it would have to be coupled
9 with stricter penalties for on-street parking.

10 And then establish overall targets
11 for reducing driving to the law school such as
12 what we heard at the last hearing,
13 establishing a peak hour auto trip tag. I
14 can't say I really understand how that could
15 be done, but I think working with DDoT and
16 with their transportation people, that they
17 could come up with a way to -- a program. And
18 then to work with the students, faculty and
19 staff to develop a plan to meet their goals,
20 not just send out some sort of notice, but
21 actually work with them.

22 They need to really manage law

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1 school parking so it does not become a burden
2 on residents or shoppers. They need to extend
3 the Good Neighbor Program to streets in ANC 3F
4 as far as Reno Road on the east, Upton Street
5 on the south and at least Chesapeake Street on
6 the north and devise a meaningful way to
7 enforce it.

8 Consider class scheduling changes
9 to reduce the peak parking load and also find
10 out if there's some way to increase public
11 transportation through scheduling changes.

12 Schedule programs that draw
13 outsiders during non-class hours. I think
14 they say that that's what they do, although
15 the truth is when I looked at their calendar
16 on their Web site for all of their programs,
17 they run throughout the day and there are many
18 of them, far more than they have listed for
19 us.

20 Now, one of the problems is that
21 they also have continuing legal education
22 classes, and maybe the answer is that they

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1 should hold these at other AU buildings like
2 4200 Wisconsin Avenue or the current law
3 school building where parking's adequate to
4 meet the needs of visitors. I just believe
5 that many of them are likely to come by car,
6 particularly if they're practitioners that
7 have parking spaces downtown and do not live
8 anywhere close to the Tenley Campus.

9 And then make sure that AU
10 disseminates information on public
11 transportation to those visitors, as well as
12 to faculty, students and staff.

13 Now, we were talking about
14 enrollment caps with ANC 3E. We believe that
15 there should be an enrollment cap for the
16 Tenley Campus, and thus for the law school.
17 Then for the rest of the university the Tenley
18 Campus is physically separate from the rest of
19 the university. It's in a totally different
20 neighborhood and it will have its own impacts
21 on the community, particularly those of
22 traffic, parking, lights and views, and it

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1 should depend on how successful AU is in
2 reducing its traffic and parking demand for
3 the law school. That's the purpose of having
4 a cap, to make sure that it does not have an
5 objectionable effect on the community.

6 So that unless they can show that
7 they can reduce traffic and parking demand,
8 the student cap should be reduced rather than
9 increased above the current enrollment level.
10 I say current enrollment level. When this
11 case started they had 1,770 students. I think
12 I heard that they now have a little bit more
13 than that. But 2,000 seems like an awfully
14 big number unless they can get the traffic and
15 parking under control.

16 Now, ANC 3E said that they were
17 rather pleased with the design issues,
18 however, since we have been in very few
19 meetings with AU, what we have seen of the
20 plans for Nebraska Avenue are either unformed
21 or they have indeed pushed it as close as they
22 can over to that side of the campus, and thus,

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1 they will have an impact on homes across the
2 street.

3 I have to say maybe I'm cheating
4 because we did not get anything showing us how
5 close the new building would be to Nebraska
6 Avenue in anything submitted for this case,
7 but I did look ahead into the further
8 processing and the building is now projected
9 to be less than 13 feet from Nebraska Avenue,
10 and that is closer than the existing building,
11 although I can't tell you exactly what the
12 existing building's distance is because I
13 haven't seen that on any of their plans, at
14 least not from Nebraska Avenue.

15 The building will be more massive
16 than the existing building, much larger than
17 the small homes across the street. The top
18 floor will be 63 feet higher than grade.
19 That's certainly a lot higher than the homes
20 across the street. It'll be 122 feet higher
21 than the existing building. The penthouse
22 will be 742 feet above the grade of the

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1 street. This is in an R-1-B zone where in
2 fact your homes are limited to 40 feet. It
3 will house a law library, which will be open
4 24 hours a day, and have large expanses of
5 glass through which light will shine at all
6 times of the day into the homes across the
7 street. So significant architectural
8 mitigation and tall landscaping will be needed
9 to screen nearby homes from light, noise and
10 visual impacts.

11 Now, this shows some of the trees
12 in front of the current campus on the Nebraska
13 Avenue side. There also are some very tall
14 magnolias, which are evergreen and do screen
15 views of the buildings from the people living
16 across the street. So the new landscaping
17 plan must also include tall trees to provide
18 privacy for these nearby homes and shield them
19 from the light emanating from the law school.

20 And in conclusion, I ask that
21 American University continue to work with ANC
22 3F on matters pertaining to the Tenley Campus

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1 and that this be included as a condition in
2 the campus plan. Thank you.

3 CHAIRPERSON HOOD: Thank you very
4 much, commissioner.

5 Commissioners, any questions?
6 Commissioner Turnbull?

7 COMMISSIONER TURNBULL: Yes, thank
8 you, Mr. Chair.

9 Commissioner Wiss, I just had -- I
10 wonder if you go back to the -- I'm trying to
11 figure out the slide with the stop light on
12 Warren Avenue.

13 MS. WISS: Yes.

14 COMMISSIONER TURNBULL: I'm just
15 confused at which way I'm looking. Am I
16 looking down Warren Avenue --

17 MS. WISS: You're looking --

18 COMMISSIONER TURNBULL: -- toward
19 Nebraska?

20 MS. WISS: Oops. Oh, I'm sorry.
21 I'll get that back. You're looking west.
22 You're on -- you're looking west on Warren

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1 Street.

2 COMMISSIONER TURNBULL: Looking at
3 Nebraska? Is that bus down there?

4 MS. WISS: Yes, the bus is on
5 Nebraska. Yes.

6 COMMISSIONER TURNBULL: So where
7 the arrow is is that 41st Street?

8 MS. WISS: No, the arrow points to
9 where the parking entrance will be on Nebraska
10 Avenue. 41st Street --

11 COMMISSIONER TURNBULL: Well, yes,
12 you have to make a right on Nebraska, then
13 make a left.

14 MS. WISS: Left into the parking
15 garage.

16 COMMISSIONER TURNBULL: Right.

17 MS. WISS: Yes.

18 COMMISSIONER TURNBULL: Okay. I
19 just --

20 MS. WISS: And 41st actually
21 intersects --

22 COMMISSIONER TURNBULL: Yes.

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1 MS. WISS: -- just a little to
2 left of this picture, but you know, you can't
3 see that here.

4 COMMISSIONER TURNBULL: Okay. I
5 just wanted --

6 MS. WISS: No, I appreciate that,
7 because it is hard to say --

8 COMMISSIONER TURNBULL: Yes, I --

9 MS. WISS: -- to know where you're
10 looking.

11 COMMISSIONER TURNBULL: I was just
12 confused, but thank you.

13 MS. WISS: No, absolutely. This
14 is looking west on Warren Street from
15 Wisconsin Avenue. They took it on the other
16 side of Wisconsin. And that's Nebraska Avenue
17 in the distance.

18 COMMISSIONER TURNBULL: And one of
19 the things you were -- you talk about the
20 height of the building and the size. One of
21 the things that we do -- will get into in the
22 future processing is this Commission will look

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1 at architectural elements such as that.

2 MS. WISS: Yes. Yes.

3 COMMISSIONER TURNBULL: And we've
4 done that in the past where if we felt that
5 something was not compatible, we've asked
6 applicants to scale back, tailor it, make the
7 changes and --

8 MS. WISS: Yes.

9 COMMISSIONER TURNBULL: Do law
10 students really need all that glass? I don't
11 know. Do they?

12 (Laughter.)

13 MS. WISS: But I appreciate that
14 very much --

15 COMMISSIONER TURNBULL: Just a
16 little bit humor there for our attorneys in
17 the --

18 MS. WISS: -- but I don't know
19 whether they need glass or not. I brought
20 these up here because these are questions that
21 I have been asking AU and I would like them to
22 address them sooner rather than later. I

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1 think that would help all of us.

2 COMMISSIONER TURNBULL: And
3 believe me, we won't let anything get by us.

4 MS. WISS: Okay. Thank you.

5 VICE-CHAIRMAN SCHLATER: Ms. Wiss,
6 is ANC 3F opposed to the law school locating
7 on the Tenley Campus?

8 MS. WISS: Well, our resolution
9 says -- we asked that it be postponed so that
10 we could go over these very issues that I'm
11 raising now, and this was -- our resolution
12 was in May.

13 VICE-CHAIRMAN SCHLATER: So that
14 sounds like if certain issues can be resolved.

15 MS. WISS: So, we said postpone it
16 or, in the alternative, we oppose. I have to
17 say that the law school will have a much
18 greater impact than the current dorms. I
19 don't -- I've never had a complaint about the
20 dorms. They're pretty quiet whenever I've
21 been over there and never heard anything about
22 them, so it will be a great change.

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1 VICE-CHAIRMAN SCHLATER: So you're
2 opposed unless some of these --

3 MS. WISS: Yes. Yes.

4 VICE-CHAIRMAN SCHLATER: -- key
5 issues can be addressed?

6 MS. WISS: So the "oppose" is in
7 there. It's in the second resolution clause.

8 VICE-CHAIRMAN SCHLATER: Okay.

9 MS. WISS: "Be it further resolved
10 that if the Zoning Commission is unable to
11 continue this case, ANC 3F opposes the campus
12 plan as currently drafted."

13 VICE-CHAIRMAN SCHLATER: Thank you
14 very much.

15 MS. WISS: Yes.

16 CHAIRPERSON HOOD: So,
17 commissioner, in your case, as opposed to the
18 other ANCs who have been working on this for
19 two-and-a-half years, as far as the Tenley
20 Campus is concerned, you all have not really
21 been that much engaged with AU. Is that your
22 testimony?

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1 MS. WISS: Well, let me explain a
2 little bit: AU actually has been inviting
3 people to come to monthly meetings for two
4 years now. I was invited to those meetings.
5 They were just with people in general, not
6 with ANCs in particular. Unfortunately, I was
7 either taking or teaching classes every
8 Tuesday night and that was when they were
9 holding their meetings, so I was not able to
10 go to many of those meetings. But I did
11 invite them formally to come to our February,
12 March, April, May meetings and September, and
13 they now say they will come in October. So
14 they will be --

15 CHAIRPERSON HOOD: When is your
16 meeting in October? When is your meeting?

17 MS. WISS: It's on --

18 PARTICIPANT: The 17th.

19 MS. WISS: -- the 17th. Thank you.
20 The third Monday, the 17th.

21 CHAIRPERSON HOOD: So what is our
22 meeting date next week? What's our meeting

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1 date next week? That's --

2 PARTICIPANT: 13th.

3 CHAIRPERSON HOOD: -- that's the
4 13th.

5 MS. SCHELLIN: October 13.

6 CHAIRPERSON HOOD: Oh, okay. So,
7 the way things are going we'll get a status on
8 the November 3 meeting. Okay. I'm just
9 curious of what the results would be after you
10 come out, because it doesn't seem like you're
11 that far apart, and it doesn't seem like you
12 even had a chance to have discussions, from
13 what I'm gathering, other than the general
14 meeting everybody's been invited to on
15 Tuesday.

16 MS. WISS: Well, there have been
17 discussions in a sense. Mary Cheh set up
18 small meetings with ANC 3E commissioners
19 throughout the summer, and Commissioner Bender
20 did invite me to come to some of them, but not
21 the whole commission. So that, you know,
22 these are the issues that I'm raising. These

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1 are the issues that have not been addressed.

2 So I'm not sure whether we're far apart or
3 not.

4 CHAIRPERSON HOOD: And your whole
5 commission is --

6 MS. WISS: Like there was one
7 meeting; I don't know when it was, but a
8 couple of other of our commissioners did go to
9 it and they could not supply me with the date.
10 I wasn't sure when that was.

11 CHAIRPERSON HOOD: Okay.

12 MS. WISS: But, you know, I have
13 tried to keep everyone apprised of what
14 happened at the single member district
15 meeting. And they have reviewed the plans.
16 I have to say we finally did get a copy of the
17 campus plan in time for your May meeting. And
18 we've now gotten -- at least I've gotten copy
19 of the further processing. I think that
20 everybody got copies of that. So they have
21 received those.

22 CHAIRPERSON HOOD: Okay. Thank

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1 you. Any other questions, Commissioners?

2 (No audible response.)

3 CHAIRPERSON HOOD: Okay. Let's
4 see if we have any cross-examination. Does
5 the applicant have any cross?

6 (No audible response.)

7 CHAIRPERSON HOOD: ANC 3D?

8 (No audible response.)

9 CHAIRPERSON HOOD: ANC 3F -- oh,
10 this is 3F. ANC 3E?

11 PARTICIPANT: No, Your Honor.

12 CHAIRPERSON HOOD: Okay. That's
13 fine. I'll go with that one.

14 (Laughter.)

15 CHAIRPERSON HOOD: Okay. What
16 about Neighbors for a Livable Community and
17 Westover Place Homes?

18 PARTICIPANT: No.

19 CHAIRPERSON HOOD: Okay. Spring
20 Valley?

21 PARTICIPANT: No.

22 CHAIRPERSON HOOD: Okay. Tenley

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1 Campus? Tenley Neighbors?

2 PARTICIPANT: No, sir.

3 CHAIRPERSON HOOD: Mr. Herzstein?

4 MR. HERZSTEIN: (No audible
5 response.)

6 CHAIRPERSON HOOD: Okay. I think
7 that is a good breaking point. It's too bad
8 we let everybody go, because we could have
9 done everybody in support tonight.

10 Okay. This is a breaking point.

11 Ms. Schellin, do we have anything
12 else before we --

13 MS. SCHELLIN: No, and --

14 MR. TUMMONDS: I would maybe --

15 CHAIRPERSON HOOD: Sure.

16 MR. TUMMONDS: Knowing that we
17 discussed earlier the possibility of the
18 November 3 hearing date, I think it's
19 realistic to assume that we will be going into
20 that November 3 hearing date. I think that
21 looking at the schedule and looking at what we
22 have in order for us, I was wondering if it

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1 would make sense that if we looked at -- so
2 next -- our next hearing is next Thursday the
3 13th. If we just determined that at that
4 hearing we would do persons in support, our
5 parties in opposition with their 61 minutes,
6 persons in opposition. Then on November 3 we
7 could start with applicant's closing rebuttal,
8 cross-examination of that and then
9 hopefully --

10 MS. SCHELLIN: I'm not sure we're
11 going to get through everything at the next
12 meeting. There's quite a few individuals in
13 opposition, so we may not get through
14 everything next week.

15 MR. TUMMONDS: Okay.

16 MS. SCHELLIN: But that is the
17 order we're going in; you're correct.

18 MR. TUMMONDS: That is the order,
19 like I said?

20 MS. SCHELLIN: Yes.

21 CHAIRPERSON HOOD: So, Mr.
22 Tummonds, your point -- I'm just trying to --

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1 MR. TUMMONDS: My point is is
2 that, okay, you know, if all our stars came
3 into alignment and we got to a point at 9:30,
4 9:45 next Thursday night, would that be an
5 appropriate time to say -- and we got through
6 persons in opposition, that would be an
7 appropriate to stop and say, okay, applicant,
8 you go with rebuttal closing on November 3?

9 MS. SCHELLIN: I've already looked
10 at the list and it would be nice if all the
11 stars fell into place and all the angels came
12 out and sang and everyone was just real happy,
13 but the list is like probably six pages long
14 now, and I just don't think it'll happen. If
15 it does, it does and, you know --

16 CHAIRPERSON HOOD: Actually, the
17 way things are going, Mr. Tummonds, I believe
18 we need to find another date besides the
19 November 3 date. That's -- you know,
20 that's --

21 MS. SCHELLIN: That's what we're
22 afraid of.

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1 MR. TUMMONDS: I agree.

2 MS. SCHELLIN: Yes, the list is
3 quite long.

4 CHAIRPERSON HOOD: I mean, if we
5 have to do it, we'll do it.

6 MS. SCHELLIN: Yes, the list is
7 quite long. But what you're saying makes
8 sense. Just like tonight, we cut it off at a
9 good stopping point.

10 COMMISSIONER MAY: I'm just
11 wondering, I mean, are you asking basically
12 should be prepared to do rebuttal at the next
13 meeting, or on the 3rd?

14 MR. TUMMONDS: That is correct.

15 COMMISSIONER MAY: The 3rd would be
16 the earliest.

17 CHAIRPERSON HOOD: The 3rd or the
18 one after the 3rd.

19 PARTICIPANT: Right.

20 CHAIRPERSON HOOD: Hopefully it'll
21 be the 3rd.

22 MR. TUMMONDS: Let's hope it'll be the

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1 3rd. Thank you.

2 MS. CHESSER: (Off microphone.)

3 CHAIRPERSON HOOD: Come on to the
4 table, Ms. Chesser.

5 MS. CHESSER: Judy Chesser. Can I
6 just ask a quick question? You might have
7 just answered this question, but maybe I
8 didn't quite understand it. The first people
9 up next week are going to be the individuals
10 opposed -- or excuse me, supporting.
11 Supporting. When will the individuals
12 opposing be up, right after those people are
13 done? No.

14 MS. SCHELLIN: No, the parties --
15 all of you guys are going to do your
16 presentation after that, your 61-minute
17 presentation, or less.

18 MS. CHESSER: Okay. After the
19 individuals in support?

20 MS. SCHELLIN: Correct.

21 MS. CHESSER: And then after that
22 we'll be --

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1 MS. SCHELLIN: Then the
2 individuals in opposition.

3 MS. CHESSER: Okay. Do you think
4 those people will be up next week? I'm trying
5 to figure out when we should tell those --

6 MS. SCHELLIN: Possibly.

7 MS. CHESSER: They might be?
8 Okay.

9 MS. SCHELLIN: They might be.

10 MS. CHESSER: Sort of very late in
11 the evening? Okay.

12 MS. SCHELLIN: They should be
13 here.

14 MS. CHESSER: Okay.

15 MS. SCHELLIN: If they're called.

16 CHAIRPERSON HOOD: Actually
17 everybody should be here, because here's the
18 issue:

19 MS. SCHELLIN: If you're called,
20 you're called.

21 CHAIRPERSON HOOD: The issue is we
22 cannot put time limits on cross-examination.

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1 That's why we try to stick specifically to the
2 subject. So that's the issue. That's the
3 unknown. But Mr. Tummonds brought up a good
4 point: It would be nice if we could stick to
5 that. I would say, Ms. Schellin, it depends
6 on how things go when we come back next week.
7 We may need to look at another date for
8 November 3. At least the way things have been
9 going, that's just my assumption.

10 MS. SCHELLIN: Great.

11 MR. TUMMONDS: Thank you.

12 CHAIRPERSON HOOD: All right.

13 Anything else?

14 MS. SCHELLIN: No, sir.

15 CHAIRPERSON HOOD: Okay. So with
16 that, we will see everyone one week from today
17 at 6:30. Good night.

18 (Whereupon, the meeting was
19 adjourned at 10:08 p.m.)
20
21

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