

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA
2 Zoning Commission
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9 Public Hearing

10 Case No. 11-07F [American University - Modification
11 of Condition No. 5 of Z.C. Order No. 11-07 - Approved
12 Campus Plan.]
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16 7:12 p.m. to 9:55 p.m.

17 Thursday, July 14, 2016
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21 Jerrily R. Kress Memorial Hearing Room
22 441 4th Street, N.W., Suite 220 South
23 Washington, D.C. 20001
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1 Board Members:

2 ANTHONY HOOD, Chairman

3 MARCIE COHEN, Vice Chair

4 PETER MAY, Commissioner

5 ROBERT MILLER, Commissioner

6 MICHAEL TURNBULL, Commissioner

7

8 Office of Zoning:

9 SHARON SCHELLIN, Secretary

10

11 Office of Planning:

12 JOEL LAWSON

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

2 CHAIRPERSON HOOD: Okay. Let's go into the
3 next case. Those who are going to participate in
4 Case No. 11-07, the applicant, if you could come
5 forward?

6 [Discussion off the record.]

7 CHAIRPERSON HOOD: Oh, for those -- we have a
8 new system. I mentioned that for those who are going
9 to testify if you can sign up. Not anybody with the
10 applicant, right? Yeah. So those, any persons who
11 are here in support or opposition, we have a new
12 kiosk and if you have any questions or problems
13 please check with Ms. Schellin and she can assist you
14 with getting signed in if you haven't already signed
15 in. Do we have anybody signed in?

16 MS. SCHELLIN: Only one person has signed in,
17 so.

18 CHAIRPERSON HOOD: So we only have one person
19 who is going to testify, because we have to keep that
20 for a record. Okay. So we only have one person who
21 is going to testify in this case. If you want to
22 testify though, you can sign in to my left. And this
23 is still new. I don't think we -- have we ever used
24 it yet? We used it last week.

25 MS. SCHELLIN: We used it last night.

1 CHAIRPERSON HOOD: I didn't use it, but okay.
2 Okay. All right. So yeah, this is new. We need to
3 get started using that for our bigger cases.

4 Okay, Ms. Schellin, do you have any
5 preliminary matters?

6 MS. SCHELLIN: Yes. Once again we have a
7 party status application. Actually we have two and
8 they're both in opposition. At Exhibit 14 we have
9 the Spring Valley Wesley Heights Citizen's
10 Association. Mr. Kraskin, again, is the
11 representative. And then at Exhibit 16 we have
12 Jessica Herzstein and we'd ask the Commission to
13 consider both of these applications. They were both
14 submitted on time and ask the Commission to consider
15 those.

16 CHAIRPERSON HOOD: Okay. Let's go with
17 Spring Valley, Wesley Heights. Colleagues, we have
18 their submission which is our Exhibit 14. What is
19 your pleasure? Any objections or any comment?
20 Anybody? You fine with it? Okay.

21 [Discussion off the record.]

22 CHAIRPERSON HOOD: All right. So we will
23 grant them party status, a party in opposition to
24 Spring Valley Wesley Heights. And they'll be
25 represented by Dr. Kraskin.

1 Okay. Next one is Exhibit 16.

2 MS. SCHELLIN: Yes.

3 CHAIRPERSON HOOD: And this is Jessica
4 Herzstein. Is Ms. Herzstein here? Okay. You know,
5 I don't necessarily have an issue, but I looked at
6 the submission. The submission actually relitigates
7 most of the things that we dealt with in the case for
8 me. Especially when we talk about the field and
9 other issues, some of the things that we talked about
10 in our original case. But let me open it up.

11 Any comments, because I just don't see the
12 merits of what was submitted. Now, Ms. Herzstein
13 will be able to testify as a person in opposition,
14 and I'll give her sufficient time because a party, at
15 least from what I read, I don't see where it warrants
16 it. But I'll open it up and see what my colleagues -
17 - you know. Vice Chair Cohen?

18 MS. COHEN: Well, the question I had is, you
19 did only ask for 10 minutes, so that's testimony more
20 than cross-examination. And again, I concur with the
21 Chairman in saying that we have already dealt with
22 the noise issues, in the original hearings, and there
23 were quite a few of them. So I would suggest that we
24 acknowledge that you're in opposition and allow you
25 the testimony. Unless anybody else has other

1 opinions.

2 CHAIRPERSON HOOD: Any other opinion on that?

3 MR. MAY: Yeah, Mr. Chairman.

4 CHAIRPERSON HOOD: Commissioner May.

5 MR. MAY: You know, I would tend to agree
6 that the concern that gives rise to the party status
7 request seems to be focused on issues that don't bear
8 directly on what we are considering today in terms of
9 the modification. I mean, I understand, the party is
10 an abutting neighbor and to that in general terms the
11 enrollment on campus is a concern. But I think the
12 overall cap on students is not what's changing here.
13 It really has to do with how many are housed on
14 campus.

15 So, I don't really see the connection as much
16 as I would for the, you know, the Citizen's
17 Association in general, for example. So, I would
18 agree with you, Mr. Chairman, I don't see the
19 connection and wouldn't necessarily support the party
20 status.

21 CHAIRPERSON HOOD: Okay.

22 MR. MAY: I certainly want to hear the
23 testimony.

24 CHAIRPERSON HOOD: Yeah. Ms. Herzstein,
25 we're going to deny your party status, but we would

1 allow you time to come up and give us your testimony.
2 And, okay? All right.

3 I'm sorry, did you all -- I didn't come to
4 you all. Commissioner Miller.

5 MR. MILLER: You've already had three. You
6 already had the three, that's why you didn't come to
7 us.

8 CHAIRPERSON HOOD: All right. Okay. Any
9 other preliminary matters?

10 MS. SCHELLIN: No, sir.

11 CHAIRPERSON HOOD: Okay. Mr. Tummonds, you
12 ready?

13 MR. TUMMONDS: We're ready.

14 CHAIRPERSON HOOD: Okay. Let's go.

15 MR. TUMMONDS: Good evening, Mr. Chairman,
16 Paul Tummonds, Goulston and Storrs on behalf of
17 American University. We have two witnesses here this
18 evening, Linda Argo and Dave Dower, and their
19 testimony will be focused very quickly, succinctly on
20 the need for the requested modification and more
21 importantly I think you'll also address the five
22 bullet points in the ANC 3D resolution that was
23 submitted in this case. So we'll kind of hopefully
24 get that wrapped up, address any questions that you
25 may have, and then we'll go from there.

1 So first I'll have Ms. Argo present her
2 testimony.

3 MS. ARGO: Good evening, Commissioners. I'm
4 Linda Argo. I'm Assistant Vice President at American
5 University. And we are here today with what we hope
6 is a simple request to delay the application of
7 Condition 5 from our Zoning Order 11-07, from the
8 Fall 2016 semester, in to the fall of '17.

9 And we will, if we go to that slide, the next
10 slide, this shows you -- in fact I think we've
11 submitted this before in the earlier proceedings.
12 This shows you essentially where our housing capacity
13 is at the current time and why we're requesting the
14 modification. The existing order calls for us to
15 have our east campus beds, 590 beds that we proposed
16 to you back in 2011, open and ready for business in
17 the fall, at the start of the fall semester of '16.

18 There have been challenges, numerous
19 challenges in this project, and Mr. Dower will go
20 over a few of those that have delayed the ability of
21 us to open these resident's halls at the start of the
22 fall semester.

23 So you can see from this slide we started
24 with -- at the beginning of the campus plan. It
25 shows our existing capacity, the buildings we had to

1 take down at Tenley to build a new law school. The
2 addition, which we added. This is all part of our
3 camps plan, 2011 plan. And the additions and the new
4 Cassell residence hall that we developed and it lets
5 you see what the capacity is and essentially what the
6 percentages are. So we fall below the percentages
7 because we have not been able to open the 590 beds
8 and will not be able to by August of '15. I mean, of
9 '16.

10 So that's where we are. And hence the
11 request. And we will give you a brief overview of
12 the project and where we are, the project, on the
13 east campus. We're close, but we're not close
14 enough.

15 MR. DOWER: Good evening. My name is David
16 Dower. I'm an Assistant Vice President of Planning
17 and Project Management at American University.

18 What I want to do is first walk you through
19 where we currently are in the status of work, and
20 I'll follow up with where we believe we will be for
21 bringing the buildings to completion.

22 So the first slide here is a series of photos
23 that are about a week old at this point. And what
24 you can see on the top from left to right is what we
25 refer to as Buildings one, two, and three. These are

1 residential halls. And then the photographs on the
2 bottom left-hand side is building 4. And then the
3 last two photographs are the two courtyards that are
4 created by the buildings.

5 So buildings 1, 2, and 3 are residential
6 buildings. And as you can see the exteriors are
7 substantially complete at this point, and we're at
8 various stages of interior fit-out in those.
9 Building 4 and 6, again, in the bottom left-hand
10 corner, those are the buffer buildings for those of
11 you who remember. They're two-story structures that
12 create a visual and acoustical buffer from the
13 residential buildings and the Westover Place. And
14 we're not 100 percent complete on the exterior of
15 that.

16 The last two photos, again, are of courtyard
17 areas. And as you can see in both of those photos,
18 the hardscape is significantly moved along. The
19 challenge we've run into on the project is in the
20 interior of the buildings.

21 Again, cycling through these photos, and I
22 apologize, what you see on the screen doesn't match
23 the handout. The text boxes disappeared for some
24 reason. Same sequence, though, from left to right,
25 top, is building 1. The middle is building 2. And

1 the last one on the top is building 3. The two --
2 actually the three on the bottom are actually
3 buildings 4 and 6. Building 6 being the far right-
4 hand side, and building 4 being the left-hand side.

5 So as you can see, building 1, we haven't
6 even begun drywall yet. We're still in the steel
7 stud phase. Building 2, in the middle, that
8 photograph is the walls being painted and we'll very
9 shortly actually start installing their work and
10 finishes and things like that. And then building 3,
11 which is the one on the right-hand side of the top is
12 at a state, we're actually beginning to tape the
13 buildings.

14 Four and six are behind schedule and our hope
15 is at this point to finish up the exterior of those
16 and commence with interior fit-out of those.

17 The next slide I regretfully have to ask you
18 to go to the handout. What you'll see is an east
19 campus progress update. There's a progress map and
20 then some text to the side. And it will tell you
21 where we believe we will be with the end of the
22 project. To orient you, the buildings in red are
23 residential. Again, it's buildings 1, 2, and 3. The
24 buildings in blue are the buffer buildings. They're
25 administrative in academic uses, nonresidential

1 facilities. And then it's -- these are placed on the
2 existing, or what would be the finished site plan for
3 the location.

4 Building 1, which we call Constitution Hall
5 now, which is 281 beds, we forecast exterior
6 completion. This is roof, caulking, literally 100
7 percent done on the exterior of the building with the
8 exception of punch list, by the end of August.

9 The interior completion is forecasted in
10 January of this year. And then we forecast occupancy
11 in February of 2017. Excuse me. Interior complete,
12 January of 2017, and occupancy February of 2017.
13 Buildings 2 and 3, or building 2, the exterior is
14 actually complete. The interior will be complete by
15 October of this year. And we anticipate occupying
16 that building in November sometime, or the ability to
17 occupy the building in November sometime.

18 Building 3, which is Federal Hall. Building
19 2 is 134 beds. Building 3, Federal Hall is 175 beds.
20 We anticipate the exterior being completed this
21 month. And then again, that's caulking, roofs,
22 windows, everything. The interior completed in
23 November of this year, and forecasted occupancy in
24 December of this year.

25 I'll finish through the rest of the buildings

1 and then I'll loop back in terms of how that relates
2 to the order. The buildings 2 and 4, which we call
3 the teaching and innovation buildings, we anticipate
4 the exterior of those buildings being completed by
5 August of this year. In fact, the precast will be
6 done early next week and we have one large clean, and
7 that will be removed. The only thing remaining on
8 the exterior of that building would be windows and
9 caulking and then final roof to be put on.

10 The interior, unfortunately, I think as the
11 photos showed, will lag behind until February of this
12 year. We've been focusing our attention, at least on
13 the interior fit-out on the residential components of
14 the building, not the, what we call the TIB.

15 The site work and utilities are complete --
16 are scheduled to be completed in September of this
17 year, with landscaping completed in October. We're
18 trying to avoid doing planting in August and we
19 really want to shift it to September and October
20 where temperatures and conditions are a little bit
21 more favorable.

22 MR. TUMMONDS: Perfect. Great. Ms. Argo?

23 MS. ARGO: Okay. So at this point I will
24 turn on my mic and I would like to provide a response
25 at this point to the five recommendations made in the

1 resolution from ANC 3D. The first one -- sorry.
2 Paraphrasing, this basically repeats what our
3 modification is. We agree with the ANC resolution
4 here, and this is the heart of our modification
5 request. And I think most importantly the point I
6 want to make to the commissioners is that as soon as
7 we open East Campus and we have these 590 beds
8 online, we will be fully compliant with Condition No.
9 5 of the zoning order which requires us to have on-
10 campus housing available for 67 percent of our full-
11 time undergraduates, and 100 percent of our full-time
12 freshman and sophomores.

13 The second point of their resolution
14 basically repeats what I showed you our percentages
15 will be for the fall of '16, until '17, and we agree
16 with that with one minor modification. We will have
17 61 percent of housing available for full-time
18 undergraduates, not 62.

19 We agree with the third condition, to work
20 with the neighbors on the issues that the ANC raised.
21 We're happy to agree to this part of the resolution.

22 We also agree with the request to submit a
23 parking utilization report to DDOT. We have been
24 collecting the data. We have actually prepared the
25 reports, but they have not gone to DDOT. And that is

1 our failure not to -- not getting them there. We can
2 file them as early as this week.

3 And we've institutionalized a process to make
4 sure that these annual reports will be filed timely
5 throughout the rest of the campus plan.

6 And finally, the part of the resolution that
7 asks us to honor the requirement that the buffer
8 buildings be sequenced so that they will be completed
9 no later than the opening of the student housing, we
10 agree and we've said consistently throughout the
11 process in the community meetings and other forums
12 that we've had, that the buffer buildings will be
13 completed before students begin to occupy the
14 residence halls on campus.

15 The exterior will be fully complete and
16 enclosed and the buildings will serve the purpose for
17 which they were intended as an affective and -- an
18 affective acoustic and visual buffer, primarily for
19 the residents of the Westover Place Townhomes that
20 are directly adjacent to the property. In fact, they
21 are very nearly complete now as you've heard, from
22 the exterior. And we've already had feedback from
23 Westover residents that they have effectively muffled
24 construction and other noise from the East Campus
25 site.

1 MR. TUMMONDS: That concludes our
2 presentation. We're available to answer any
3 questions you may have.

4 CHAIRPERSON HOOD: Okay. And thank you all
5 for your presentation. Let's see if we have any
6 questions or comments up here. Vice Chair Cohen?

7 MS. COHEN: Thank you, Mr. Chairman. Again,
8 you ran into some significant construction issues
9 that delayed the work on the site, but you did ask
10 for extended hours, you asked for weekends, and again
11 you know, the neighborhood cooperated. I mean, they
12 were reluctant but they cooperated.

13 And my question is, is your general
14 contractor, what are some of the delays attributed to
15 -- because didn't they have performance measurements?
16 You know, like did you have to -- I just don't
17 understand the somewhat the lack of professionalism
18 that appeared. I do sympathize. I've been involved
19 with a number of construction projects and not one of
20 them comes in on time. But I thought that by trying
21 to work with you and give you the extra, you know,
22 boost in hours, I don't understand the general
23 contract or what went wrong with their performance.

24 MR. TUMMONDS: In summary I think Mr. Dower
25 is looking at me to protect him from saying the

1 things that he'd really like to say. But, you know,
2 I think that there were significant concerns about
3 the performance of the general contractor. The
4 university and that general contractor have had
5 significant discussions of, you know, of a nature
6 that are such that AU strongly, strenuously voiced
7 their objections, their concerns with the process. I
8 don't want to put Mr. Dower in a position where if at
9 a later date there are other issues that have to be
10 addressed in a different forum -- but that being
11 said, to give you understanding too. We fully
12 recognize the impact that this has in the community.
13 And I can tell you from a financial perspective, no
14 one wanted these dorms to come online more than AU.

15 The revenue stream for these, for the bonds,
16 were anticipated on having revenue coming in in Fall
17 2016. That's not happening.

18 The revenue that it takes to put the more
19 leases at the Berkshires, so I know that's not a --
20 that is not an answer other than AU tried, pushed,
21 did as much as we could. This is not a situation
22 that absolutely AU wanted to put the community in, or
23 put themselves, or more importantly, the students in
24 for this year.

25 MS. COHEN: But reading the record makes me

1 believe that AU wasn't consulting with the
2 neighborhood. It just, you know, it seems to be that
3 lack of understanding maybe by the neighborhood, but
4 they didn't appear to have that kind of information
5 of the obstacles you faced because they're really now
6 pretty angry. And I just am concerned that we're in
7 a position where we really can't do anything but. I
8 mean, you really need to accomplish what you set out
9 to do, and you're six months delayed at least in most
10 cases, and it's sad.

11 But there's really, you know, no place else
12 to really vent except here. And I don't know what
13 else you can do to satisfy the community other than
14 being as transparent as possible during the stages.
15 So, I just kind of am at a loss of what else can we
16 do. We've got to have this housing complete. And if
17 it's the fault of the contractor I hope you take the
18 necessary steps to have them be accountable.

19 CHAIRPERSON HOOD: Okay. Any other comments?
20 Commissioner Miller?

21 MR. MILLER: Thank you, Mr. Chairman. So,
22 the American -- AU is agreeing to, you said all the
23 conditions in the ANC resolution other than the minor
24 change to 61 percent instead of 62 percent on -- in
25 terms of that reference in the second paragraph.

1 But you also did not mention the last point
2 of the ANC's resolution which called on our
3 commission to convene a separate hearing on the
4 enrollment; enrollment issue and possibly imposing an
5 enrollment cap because of the increase in enrollment.
6 So could you just comment on that?

7 MS. ARGO: We have some information we could
8 share tonight if the Commission is interested in
9 talking about enrollment. If the Commissioners I
10 think Commissioners need to respond to that condition
11 in terms of at least that part of the resolution in
12 terms of your interest in hearing more about the
13 enrollment issue.

14 I think we feel very -- we feel very strongly
15 that when we get the resolution aside, when these
16 beds open, despite our growth in undergraduate
17 enrollment, we will be compliant. We will have the
18 housing. The housing numbers were intended to act in
19 their own way as a cap for our undergraduate
20 enrollment, and we will meet those numbers as soon as
21 we're able to bring East Campus online.

22 MR. TUMMONDS: But I mean we have, I guess we
23 have information data on admissions in the last four
24 or five years. We are prepared to present that and
25 testify to that tonight if you think it would be

1 beneficial. We were trying to -- keeping with the
2 tone and tenor of you will, of tonight's hearing
3 being on this one-year time extension. But we will
4 take our cues from you and if you want information on
5 our admissions process and what we've been doing,
6 we're happy to present it.

7 MR. MILLER: Well, I'll defer to the Chairman
8 on what information we want for this hearing. But I
9 think we're going to hear -- we're about to -- I
10 think we're going to hear from the community on that
11 topic, so I think you're going to -- whether now or
12 in rebuttal to what they're going to say, you're
13 going to have to provide some information.

14 I saw some information in the record that you
15 did provide. I think you -- I mean, I saw in the
16 submissions that you had information on that. So I
17 think maybe just generally a statement right now
18 might be appropriate.

19 MS. ARGO: Okay.

20 MR. MILLER: I think they're going to raise
21 that. If they don't, if they want to leave that as a
22 separate issue that's --

23 MS. ARGO: Sure.

24 MR. MILLER: -- I'm happy to go that route as
25 well and make this a shorter evening.

1 MS. ARG0: Well, I can talk about that first.
2 I think what we have is some general information and
3 this is information that has been presented to the
4 community as well. I think that the -- yeah, I have
5 it here. The enrollment issue has come up primarily
6 because not really because of housing, but because of
7 the growth in AU's undergraduate enrollment as
8 compared to those that the University projected back
9 in 2011.

10 The AU -- maybe you should do that other
11 chart first. I'm sorry. Yeah. And we filed this --
12 the other chart. No.

13 [Pause.]

14 MS. ARG0: We filed this with our earlier
15 submission and what this shows is that we projected
16 at the time of the campus plan, a modest growth in
17 undergraduate admissions, leveling out at about
18 6,400. If you look down you can see that in that
19 first -- in that top chart where it says full-time
20 undergraduate enrollment and you can run it across
21 from 2011 to 2020.

22 You'll see in the bottom chart, the same line
23 shows where the undergraduate enrollment has -- what
24 it has actually done over that same time period. And
25 that has caused concern in the community and with the

1 ANC, and they've submitted some of that information
2 to you as part of the record.

3 We used the best information we had at the
4 time in 2011. And that included information that led
5 us to believe that we would see double-digit
6 increases in master's programs, in less than double-
7 digit but substantial increases in doctoral and law
8 programs, and our projected undergraduate growth at
9 the time, which I've already alluded to, was modest,
10 around three percent.

11 What has occurred, actually, as a result of
12 changing academic programs, changing demand, market
13 forces, has flipped the forecast on its head, and
14 we've seen substantial declines in graduate and law
15 programs, and significant growth in our undergraduate
16 programs, both the -- primarily the demand for our
17 undergraduate programs.

18 And if we could go to that first slide on
19 admissions? So what you see here is information we
20 prepared for the ANC. And I'll summarize it briefly.

21 We saw, particularly, a large surge in high
22 quality undergraduate applications starting in 2014
23 and extending to 2015, and we'll see the same in
24 2016.

25 Admissions applications have actually

1 increased by 28 percent over the past three years.
2 This is the highest jump that we've ever seen. To
3 manage this growth in applications, we dramatically
4 reduced our offers of admission, over 39 percent over
5 the past three years. At the same time students were
6 accepting our admissions at an increased rate, over
7 14 percent over the past five years.

8 This fall will be our most selective
9 admissions cycle in our history. So, this coupled
10 with the admissions activity and what's happened in
11 the marketplace, coupled with literally the reverse
12 affect that we've had from the projections that we
13 made, has led to the increasing undergraduate
14 enrollment. We've been, however, very aware that we
15 needed to, as these numbers increased, pay particular
16 attention to mitigating any potential impact of the
17 increased number of undergraduate students on the
18 surrounding community.

19 We now have what's been referred to as a
20 model education program for our students who choose
21 to live off campus. And in the community. And the
22 number of reports that we've had related to student
23 conduct and our adjacent neighborhoods has gone down.
24 And I'm trying to think if we need to -- that's it.
25 It's a summary that we have available of the

1 neighborhood reports, and this has to do with student
2 conduct in the neighborhood and how we've dealt with
3 those, how we receive the reports, and how we've
4 educated our students that come in at the beginning
5 of the year that intend to live off campus, has made
6 a dramatic difference and we've seen -- as we said,
7 we've seen a decline. So we're also aware that
8 parking can also be an impact of increased enrollment
9 and we haven't seen -- we've had very little response
10 or reaction from the community on our parking
11 program, our good neighbor program, you may remember,
12 that operates in the surrounding neighborhoods. We
13 believe it's been very effective. I think --

14 MR. MILLER: So I see on your chart that
15 you're reaching a peak full-time undergraduate
16 enrollment this fall of \$6,730. But you're showing
17 on that chart steady declines for each of the next
18 four years whereby 2020, fall 2020, you'll be at --

19 MS. ARGO: Right. Right.

20 MR. MILLER: -- 64/40, and you think that
21 that's realistic? Is it because of your acceptance?
22 You're going to keep your acceptance rate at the very
23 -- at a much --

24 MS. ARGO: At a tighter level? I think it's
25 a result of these big classes that started coming in,

1 moving through the system. And a result of a
2 declining acceptance rate. And I mean, these are
3 projections that are made by the folks that know this
4 business. We also, for example, we know we -- I
5 wouldn't say we know yet, but based on every
6 information that we have at this point, our number
7 that we've projected for fulltime undergraduate
8 enrollment for this coming fall will be lower than
9 we've projected because of some of the measures we've
10 put into place to taper this off.

11 Oh, yeah. And I think one of the points that
12 we've made at our meetings with the community also is
13 that we are not in a -- we're not in a growth mode.
14 We're not intending to grow our undergraduate
15 programs to a capacity that we can't absorb, which is
16 one of the reasons we put some of these measures into
17 place. We do need to balance our total enrollment
18 with our cap. But we also don't have the academic
19 facilities. We don't have the footprint to build a
20 lot of, you know, a lot more academic buildings to
21 create new programs or to house a dramatically higher
22 undergraduate enrollment. We just don't have it and
23 that's not part of the university's intent or in its
24 strategic plan quite frankly.

25 MR. MILLER: Okay. Well, I appreciate your

1 response and I appreciate that you, on each of the
2 other conditions in the ANC's resolution that you've
3 substantially agreed to comply with each of those.
4 So that's --

5 MS. ARGO: We appreciated their support of
6 the modification.

7 MR. MILLER: Well, I'll of course wait to
8 hear from the community. I may have other questions
9 afterwards, but thank you very much.

10 CHAIRPERSON HOOD: Okay. Thank you. Any
11 other questions or comments up here? Mr. Turnbull?

12 MR. TURNBULL: Oh, thank you, Mr. Chair.
13 Well, Mr. Dower, you should give thanks to Mr.
14 Tummonds for restraining you for responding because
15 you could be deposed later on at some point.

16 MR. DOWER: No doubt.

17 MR. TURNBULL: Because usually it's not so
18 much the owner bringing the lawsuit, as the
19 contractor going after the owner for a delay issue.
20 So that usually comes up. Been there done that and
21 it's not pleasant, so.

22 But whatever the issues were I sympathize. I
23 assume you have your own project management staff
24 that also are following this that work with the -- if
25 you have a construction manager or whatever on this

1 process or --

2 MR. DOWER: [Speaking off mic.]

3 MR. TURNBULL: Yeah.

4 MR. DOWER: Yes, that is correct.

5 MR. TURNBULL: Yeah. So it's a difficult
6 process. It's awkward, I know. Spent my life doing
7 a lot of that.

8 Just go back on the continuing on with what
9 Commissioner Miller was talking about on the
10 students. You still will have graduate students at
11 Wesley. Is that -- are you going to have graduate
12 students at Wesley?

13 MR. TUMMONDS: Yes. Yeah. And right now
14 there is no -- graduate students are not in the --

15 MR. TURNBULL: In the mix.

16 MR. TUMMONDS: In the mix, right. Yes.

17 MR. TURNBULL: Yes. But you still have them
18 over there. You're still going to carry that on for
19 any number of years or whatever.

20 MR. TUMMONDS: I think right now I think --
21 we, knowing that some of the financial issues that
22 Wesley had mentioned, when graduate students ask AU
23 for, do you know of available housing in the area,
24 one of the things, one of the areas that they are
25 pointed to is Wesley. Obviously too, if they point

1 out that Wesley has its own restrictions on --

2 MR. TURNBULL: Right. Right, for --

3 MR. TUMMONDS: -- the people who will --

4 yeah, lifestyle of choices, yes.

5 MR. TURNBULL: Okay. Well, and I appreciate
6 that and I think we heard from ANC and the neighbors
7 that they were in support of that continuing
8 relationship.

9 But and again, on the -- and I would echo
10 Commissioner Miller's comments about working with the
11 ANC and coming to terms with their point. But we'll
12 wait to hear from them too, so thank you.

13 CHAIRPERSON HOOD: Question or comments?

14 Ms. Argo, you mentioned on this -- I'm
15 looking at the neighborhood. Maybe I misunderstood
16 or I might have been looking at the wrong chart. But
17 you mentioned the neighborhood reports are received.
18 Is that the chart where you're talking about the
19 calls from the community, because it looks like it
20 was up. Some places it may have went down and then
21 in '15, '16 it went right on back up.

22 MS. ARGO: Oh, on the neighborhood -- sorry.

23 CHAIRPERSON HOOD: Yeah.

24 MS. ARGO: On the neighborhood reports?

25 CHAIRPERSON HOOD: Right.

1 MS. ARG0: Yes, these are the reports that we
2 receive from the community that come in to -- yeah.
3 Yeah, it did go up from 2013 to 2014 and '15. We had
4 also a different way of receiving those reports and
5 how we were accounting for them. But I won't belabor
6 that.

7 Yes, they did go up. They've gone down again
8 this year. And again, if you look on the report,
9 which we tried to combine here, there may have -- now
10 this is 50 -- you know, this is 50 calls over a year.
11 This is over a full year. And many of those are
12 about the -- so it's not 50 different properties.
13 Many of those are reports on us single residents and
14 -- yeah, and it's -- yeah, and it is down from where
15 we were at the campus plan when the campus plan was
16 considered and approved.

17 And again, we put a whole new program into
18 place. Our office of campus life on how we work with
19 our students that are living off campus, both in the
20 master leases at the Berkshire apartments and other
21 apartment buildings close to the campus that they
22 live in. But particularly those that are living in
23 single-family homes in the neighborhood.

24 So there is a -- you know, there is an
25 education program that is fairly extensive and

1 seminars that we hold when the students first come to
2 campus. We've worked closely with DCRA on issues
3 involving property maintenance where we're -- and
4 we're also reporting on licensed property on a
5 regular basis where we find students might be trying
6 to rent. So we really have activated some things
7 that we haven't had -- that we didn't have in place
8 when we were going through the initial campus plan.

9 CHAIRPERSON HOOD: Did you know who to call
10 at DCRA?

11 MS. ARGO: Yeah, I do.

12 CHAIRPERSON HOOD: That was a joke. That was
13 a joke. That was a joke.

14 MS. ARGO: Yeah, we know who to call.

15 CHAIRPERSON HOOD: Okay. Any other questions
16 up here? Any other questions?

17 Okay. Does the ANC, Chairman Smith, you have
18 any cross-examination?

19 MR. SMITH: Just one -- well, two questions,
20 Mr. Chairman.

21 Ms. Argo, you mentioned that once the
22 buildings are constructed that you'll be able to
23 comply with the 67 percent housing requirement. To
24 do that how many triples do you need to utilize?

25 MS. ARGO: We will have to -- we will have to

1 use at least 300 -- probably at least 300 to 375
2 triples. And that will depend on what our enrollment
3 actually is this fall. And we don't have a number.
4 We don't know that number yet.

5 MR. SMITH: And how does that compare with
6 what you projected to the ANC in the 2011 campus
7 plan?

8 MS. ARGO: Oh, the number of triples for the
9 16 -- we had thought that we would be able to reduce
10 the triples by about half.

11 MR. SMITH: To about how many?

12 MS. ARGO: To about 150.

13 MR. SMITH: For what year?

14 MS. ARGO: Fall of '16.

15 MR. SMITH: And then what about after that?

16 MS. ARGO: And after that we were -- it's in
17 the chart that you have a copy of that shows that we
18 were trying to -- it's a descended projection on
19 triples. And we also have indicated that we believe
20 we'll have to build another residence hall that was
21 part of our campus plan in 2011, that would come on
22 line before the end of the campus plan in order to
23 meet our housing requirement.

24 MR. SMITH: Okay. Thank you. That's all.
25 That's all I have.

1 CHAIRPERSON HOOD: Okay. Okay, thank you.
2 Dr. Kraskin, you have any cross?

3 MR. KRASKIN: Yes.

4 CHAIRPERSON HOOD: Okay.

5 MR. KRASKIN: Ms. Argo, and I think it would
6 be you, you all do have housing for all the students,
7 so that's not the issue. You have housing for all
8 students coming in, in August of 2016. You have a
9 place, a bed for each one of them, correct?

10 MS. ARGO: We have a bed for all the students
11 who have asked for campus housing.

12 MR. KRASKIN: Who have requested one.

13 MS. ARGO: Yes.

14 MR. KRASKIN: Okay.

15 MS. ARGO: Right. And we have the capacity
16 that was indicated in the chart that we showed you.

17 MR. KRASKIN: And if we went back to the --
18 which the chair of the ANC and I at a public meeting,
19 we made a request or a comment of, if you would have
20 accepted the master leasing at present lease, which
21 is at the Berkshire, as housing as on campus, which
22 was done in the prior campus plan, would you not be
23 able to have then met the order number 5, which we're
24 here tonight about? You would have been able to meet
25 the 61 percent -- 67 percent of students. You would

1 have been able to meet all of the requirements and no
2 modification would have been needed. Would that not
3 be correct.

4 So the only modification we would have had to
5 make tonight is to accept the master lease as part of
6 on campus housing.

7 MS. ARGO: If we were allowed to include the
8 master leased properties as part of the -- we
9 wouldn't -- the master leases we have, we didn't have
10 quite enough beds in that master lease. If we had
11 counted it we wouldn't have quite enough beds to meet
12 the 67 percent requirement.

13 MR. KRASKIN: You talked about the word,
14 "completion," of the buffer buildings.

15 MS. ARGO: Yes.

16 MR. KRASKIN: Do you know where the word,
17 "completed," is defined in the zoning code that you
18 can tell us?

19 MS. ARGO: Yes.

20 MR. KRASKIN: Where is it defined in the
21 zoning code, the word, "completed?"

22 MS. ARGO: Well, it's not -- completed I
23 don't -- oh, I'm sorry. I thought you were talking
24 about where the findings of fact is that talks about
25 that.

1 MR. KRASKIN: No. No.

2 MS. ARGO: I don't know what the completed
3 definition is in the zoning code.

4 MR. KRASKIN: Okay. And can you tell us why
5 the sequence of building the buffer buildings is
6 different than that which was in the zoning order and
7 presented to this Commission during the long and
8 arduous zoning hearings? Why the buffer buildings
9 are even being clad last than the residence halls?
10 Why is the -- why did the sequence change?

11 Or, Mr. Dower, maybe you can explain this to
12 US.

13 MR. TUMMONDS: Well, I think, and maybe I'll
14 start with the first part of it and I'll let you go
15 to the construction, how the construction occurs on
16 site.

17 I think all along the requirements for the
18 sequencing was that the buffer buildings be there and
19 be completed. Now we think completed was having, you
20 know, walls, structure, so that it could serve the
21 purpose of being a buffer building for both noise and
22 activity on the main campus. The idea was, that
23 would be there by the time students come in.

24 With regards to how the actual construction
25 occurs while that process is going on, I think Mr.

1 Dower -- maybe I'll -- I know there was a crane
2 location. You had to move the cranes around and you
3 had the -- obviously we were going to make sure that
4 the taller buildings, buildings 1, 2, and 3 went
5 first. So that's why the --

6 MR. DOWER: Well, the sequencing was simply
7 this; we started with the garage of the building. No
8 surprise, it's under the structures. When we came
9 out of the ground the residential buildings are
10 actually all concrete buildings. And there was two
11 centralized cranes serving the construction of those
12 buildings. So they went up first. The buffer
13 buildings are actually steel frame structures, go up
14 much quicker.

15 So we always sequenced it such where those
16 would follow behind. It's delayed, you know, the
17 buildings in terms of completing the same time as the
18 other. But we were always operating under the
19 premise we could actually make all buildings arrive
20 at the same time.

21 So it was logistics of the site, the type of
22 construction that was going on that drove the
23 sequencing of how the construction went. The delays
24 were the delays we incurred.

25 MR. TUMMONDS: And maybe I point to finding

1 of fact, number 133, which addressed the buffer
2 buildings. And the last sentence says that, "The
3 construction of buildings 4 and 6 will be sequenced
4 so that those buildings will be completed no later
5 than the opening of the student housing buildings on
6 the East Campus." And that's why we believe that
7 what we're proposing now is consistent with what was
8 in the order.

9 MR. MAY: I'm sorry. Can I ask a
10 clarification on that? So, the buildings will be
11 completed and ready to occupy before any students
12 move into the housing.

13 MR. TUMMONDS: No. We're going to have to --
14 they'll be completed but the tenant fit out, so --

15 MR. MAY: Yeah. I mean --

16 MR. TUMMONDS: Yeah.

17 MR. MAY: You know, you're parsing what the
18 definition of --

19 MR. TUMMONDS: Right.

20 MR. MAY: -- completed means.

21 MR. TUMMONDS: I think the intent certainly
22 was -- I mean, it goes back to -- and if you
23 remember, during the [garbled speech] process there
24 was a lot of concern about the operations, the light,
25 the things, the what's going to happen in these

1 buildings. Our goal was to get these things --

2 MR. MAY: I think perhaps your argument would
3 be more effective that the intention of having those
4 buildings there as a buffer is met when the
5 building --

6 MR. TUMMONDS: Okay.

7 MR. MAY: -- exterior is completed and
8 skinned and everything else. In fact, it might be a
9 better buffer when there's nobody in it. I don't
10 know.

11 MR. TUMMONDS: That's kind of where we're
12 going with it, yeah.

13 MR. MAY: You know, but, because you know, to
14 say that it's completed when -- it's completed but
15 the tenant fit-out isn't completed, that's just -- I
16 think that's the point you're trying to make, right?

17 MR. KRASKIN: Well, I didn't want to testify
18 at this point, so.

19 MR. MAY: I understand that.

20 MR. KRASKIN: If you'd like --

21 MR. MAY: But we, you know, we got the point.

22 MR. KRASKIN: My point is that really as I've
23 learned from another zoning case recently, when not
24 there we go to Webster's and we look at Webster's
25 according to everything. And Webster's says very

1 clearly, "Not requiring more work; entirely done," is
2 the factor.

3 And my point of the question, and I'll go
4 back, is Mr. Dower was not there because he was not
5 employed by the university at the time. But Mr.
6 Tummonds, you were here, did not -- the predecessor
7 to Mr. Dower, Mr. Abut (phonetic) did he not present
8 to this Commission and to the community, a sequence
9 that clearly stated the buffer buildings will be
10 built first. And we can go back to the transcripts
11 if it were important. But that was the statement.
12 The buffer buildings we built first and landscaping
13 will be completed. Mr. Turnbull asked questions
14 regarding that back then. I'm not sure if Mr. May
15 did.

16 Those were the questions raised. So we're
17 trying to understand why was this not done because
18 this is where we've having some challenges.

19 MR. TUMMONDS: I understand. Mr. Dower,
20 address the construction feasibility of --

21 MR. DOWER: Well, the way the buildings go
22 together they're all precast facades. And there was
23 no way to construct buildings 4 and 6 before
24 buildings 2 and 3, because of the overlap of the
25 precast. So I don't understand why somebody would

1 have said it back then. But the reality of how the
2 buildings had to be put together, the sequence in
3 which we did it was appropriate. We just didn't meet
4 the dates we were anticipating.

5 MR. MAY: All right. I mean, I think the
6 point is it would have been -- it all would have been
7 moot if everything had held to schedule, right? And
8 all the buildings would have been occupied at the
9 same time. Okay. I think we've got it.

10 MR. KRASKIN: I have one more question
11 because Ms. Argo raised the point in going into this
12 further discussion which we were hoping could have
13 its own separate hearing and we still believe you
14 should. But you raised the point of another building
15 referred to as South Hall. Is South Hall presently
16 in the planning? Is it ready for further processing
17 because it's, according to your chart, is scheduled
18 to go online in two years, in 2018?

19 MR. TUMMONDS: Sure. Yeah, I mean, South
20 Hall is still is very much in the planning.
21 Obviously the focus and attention of the university
22 has been on getting East Campus up and running. So
23 yes, we originally had East Campus being ready now
24 and then moving forward on South Hall. The intention
25 absolutely is to move forward with South Hall.

1 MR. MAY: Just to be clear, you're expecting
2 it to come online in fall of 2018. That's what you
3 testified to?

4 MR. TUMMONDS: I'm sorry. No, I'm sorry.
5 Because of the delays we've had here we're not. No,
6 I think we're pushed back, probably like --

7 MR. MAY: So you'll have to come back for --

8 MR. TUMMONDS: We were always going to have
9 to come back for a further processing.

10 MR. MAY: Got it.

11 MR. TUMMONDS: Yeah.

12 MS. ARGO: Right.

13 MR. KRASKIN: I will hold the other
14 questions.

15 CHAIRPERSON HOOD: All right. Any other
16 questions?

17 Okay. Let's go to Office of Planning. Mr.
18 Lawson.

19 MR. LAWSON: Good evening, again. Once
20 again, the Office of Planning will just stand on the
21 record and be available for questions. Thank you.

22 CHAIRPERSON HOOD: Thank you, Mr. Lawson.
23 Any questions of Mr. Lawson?

24 Okay. Does the applicant have any questions
25 of Office of Planning?

1 MR. TUMMONDS: No questions.

2 CHAIRPERSON HOOD: Chairman Smith, you have
3 any questions?

4 MR. SMITH: No, sir.

5 CHAIRPERSON HOOD: Dr. Kraskin, you have any
6 questions?

7 MR. KRASKIN: No.

8 CHAIRPERSON HOOD: Okay. Let's go to the
9 ANC's report. Chairman Smith.

10 MR. SMITH: Just to lead off, a couple of
11 comments. I do want to stress to you that we're not
12 here tonight to complain about students living in the
13 neighborhood. That is not an issue that we need to
14 raise to you, which we're very glad about. Nor do we
15 consider it to be germane to this hearing.

16 I also want to correct the reference you made
17 to the 92 percent. Actually, that was a
18 typographical error on our part. The 62, thank you.
19 The 62 percent. We actually support the language
20 that AU has requested, the 61 percent. That was a
21 typo and I apologize for that.

22 Also, I wanted to apologize to you as well
23 for us only getting our report to you a week ago.
24 But the reason that we could only get our report to
25 you a week ago was because of the timeline for

1 completion of the construction has been a moving
2 target for more than months. And actually we had AU
3 scheduled to come before the ANC the month previous
4 to deal with this, and AU was uncertain at that point
5 in time when these buildings would be constructed.

6 So, you know, we would like to be able to
7 rely on the dates that we had been provided -- that
8 we were provided the other night at our ANC meeting,
9 and that you've been provided to tonight. But we've
10 seen so many dates come and go that it's hard to rely
11 on them completely.

12 The other thing that I want to mention had to
13 do with enrollment. And Ms. Argo and I had been
14 meeting constantly since January. I have probably
15 spent more time with Linda than I have with any ANC
16 commissioner. And even some members of my family.

17 And frankly, we all are pretty much in
18 agreement on what has to be done. As Commissioner
19 Cohen said, we have no choice but to accept this
20 modification. The construction delays are real. We
21 don't like the construction delays, but we've got to
22 be realistic about this. That's why we came to you
23 at the last modification hearing and said to you,
24 this is what you should be focused on because given
25 the magnitude of the delays this is what you're going

1 to eventually have to deal with, and that's what
2 we're here dealing with.

3 If American University was willing to put in
4 writing, and this is what we indicated to Ms. Argo,
5 put in writing the projected numbers that they're
6 showing you tonight of enrollment, going out to 2020,
7 the decline in enrollment, we would be here, 100
8 percent supportive of everything that AU is
9 proposing.

10 But AU has said to us, they will not put that
11 commitment in writing. And that's our concern. As
12 we've gone about this process what we've come to
13 learn, and I'm going to pay attention to my Rabbi
14 this time and go back to my written testimony. But
15 this 10 percent spike in undergraduate enrollment,
16 since approval of the 2011 campus plan, from \$6,116,
17 the \$6,730 has complicated what should otherwise be a
18 very simple and straight forward proceeding. The
19 enrollment increase is germane in this case because
20 the 67 percent housing requirement in condition
21 number five was intended in the words of the Zoning
22 Commission to effectively serve as a cap on
23 undergraduate enrollment.

24 Condition No. 5, which is a slightly modified
25 version of language that was in the 2001 campus plan

1 has not served as a cap in any sense of the word
2 according to the enrollment numbers provided to ANC
3 3D as part of this case. History shows that AU was
4 unable to comply with the 67 percent housing
5 requirement in the 2001 campus plan, which at that
6 time did not even require that housing provided by AU
7 be located on campus. AU's undergraduate student
8 enrollment grew under that plan by 27 percent. The
9 Zoning Commission adopted a modified version of
10 Condition No. 5 in the 2011 campus plan, requiring AU
11 to provide housing on campus for 59 percent until the
12 East Campus residence halls were occupied in fall of
13 2016.

14 In fall of 2016 AU would be required to
15 provide the housing on campus for 67 percent of all
16 undergraduate students. AU did not meet the 59
17 percent housing requirement in 2015, and it would not
18 be able to meet the 67 percent housing requirement in
19 fall of 2016, even if the East Campus residence halls
20 could be occupied on time, as you've been told
21 tonight, if, if AU held to the commitments it made to
22 the Zoning Commission and the community in the 2011
23 campus plan to eliminate university provided off-
24 campus housing and reduce its use of triples in fall
25 of 2016.

1 In the course of less than 15 years AU's
2 full-time undergraduate student population has
3 increased from \$4,967 to \$6,318, a nearly 36 percent
4 increase. Sorry, \$6,730. Yet the campus boundaries
5 have not changed over that time. If AU continues on
6 its current trend its undergraduate student
7 enrollment will reach nearly 7,300 students by 2020,
8 a 19 percent increase over the life of the current
9 campus plan.

10 AU testified before this body on June 9th,
11 2011, saying that it's undergraduate student
12 enrollment for the life of the 2011 campus plan would
13 not grow beyond 6,400 full-time undergraduate
14 students. AU representatives added under questioning
15 from this body, that its growth and enrollment would
16 occur mainly as increases in graduate and law school
17 enrollment, and not as increases in the number of
18 undergraduate students.

19 AU now has told ANC 3D that it should never
20 have made those statements, and that it has increased
21 its undergraduate enrollment because graduate
22 enrollment has not grown and law school enrollment is
23 depressed across the country.

24 But it is the number of undergraduate
25 students that strains AU's infrastructure and creates

1 conflicts and objectionable conditions for the
2 community. Already AU has put on hold, discussions
3 with the community about a modification to add a new
4 life sciences building because its enrollment growth
5 may require construction of additional student
6 housing on campus during the life of this campus
7 plan, beyond what you've already approved.

8 Condition No. 5 is intended to protect
9 against this type of growth and undergraduate student
10 enrollment. There is a pattern dating back to the
11 2001 campus plan to suggest it has not worked. We're
12 deeply concerned that AU's undergraduate student
13 enrollment will continue to grow despite the verbal
14 comments from AU representatives to the ANC that
15 enrollment will decline. Words are not enough to
16 ensure AU follows through on its commitments.

17 Although AU has known at least since January
18 -- AU has been talking to us two months after you all
19 approved the last modification about the fact that
20 they could not comply with Condition No. 5. So
21 although they've known since January that its new
22 housing would not be ready for fall 2016, it took no
23 substantive action to impose additional controls to
24 reduce the number of new admissions this year.

25 Instead, AU boasts of a lower admit rate, but

1 this means nothing because the application pool has
2 increased. AU is accepting as many students for fall
3 2016, as it did last year when its enrollment
4 exceeded projections and it could not meet its
5 housing requirements. Without additional
6 requirements imposed by this body, AU has no
7 incentive to keep its undergraduate enrollment in
8 check.

9 We have learned through this proceeding that
10 AU, at any time, can add as many as 400 triples to
11 its housing inventory. This is the equivalent of two
12 new residence halls. Part of the reason for building
13 these campus was to eliminate use of the triples.
14 But these 400 triples provide AU with a housing
15 contingency that also enables them to increase
16 enrollment and still meet its housing requirements
17 under Condition No. 5, despite telling you and the
18 community in 2011 that it would reduce its use of
19 triples from 2015 to 2020, from 200 to 50. Instead
20 AU will use about 330 triples this fall and now we
21 need here, more than 300 next fall.

22 For AU this has become an exercise in simple
23 math, but for the neighborhood it's about impacts.
24 This uncontrolled growth is creating traffic,
25 parking, and other pressures in the community,

1 including a greater use of AU's fields. And there
2 has been no effective outlet for neighbors to work
3 with AU on resolution of these issues. The community
4 liaison committee, established in the zoning order,
5 has not been effective at addressing these conflicts.
6 The failure of AU to share information about its
7 initial plans to house undergraduate students at
8 Wesley Seminary as part of this proceeding is
9 symptomatic of the CLC's failure.

10 We learned about the plan, as I said, from a
11 group of AU graduate students. One week earlier we
12 had had a meeting of the CLC and no mention was made.
13 This contrasts sharply with ANC 3D's experience as a
14 participant in the Georgetown University Community
15 Partnership, a process that works largely because
16 Georgetown has fully engaged with neighbors and works
17 diligently and in a timely way to address and solve
18 problems that may arise.

19 On the same night that the ANC took action on
20 this issue, we heard a presentation from Georgetown
21 on their campus plan and we'll vote most likely to
22 support that campus plan next month when we meet.

23 Although we encourage you to support this
24 modification, the 10 percent increase in
25 undergraduate student enrollment over the span of the

1 last four years, sets off an alarm that you should
2 not ignore. We're asking that you continue this
3 proceeding, consider convening a separate hearing to
4 put AU on notice, to hold their feet to the fire by
5 assessing whether this enrollment increase warrants
6 additional changes to Condition No. 5, or other
7 language that would prove more effective in capping
8 or limiting AU's undergraduate student enrollment.

9 I won't point out again the failures, the
10 transportation failures, the reports, we've heard all
11 about that already. But I do want to mention
12 something that wasn't mentioned here tonight by AU.
13 Often times we think about community impacts in the
14 terms of the student cycle, the fall, the spring
15 semesters when the university is at full student
16 capacity. Frankly, we're experiencing more problems
17 now in the summer than in the fall and winter -- in
18 the fall and spring semesters. Primarily because of
19 the way the university is renting out its campus over
20 the summer for special events and other groups. We
21 have had more parking problems this summer than we
22 have probably had in the last year.

23 Today, I had to call 911 to have buses
24 removed from neighborhood streets that were idling on
25 neighborhood streets, that were there to go to pick

1 up people at AU. That just shouldn't be necessary.

2 AU's selective approach to compliance has
3 contributed to the increasing strains between the
4 University and its immediate neighbors.

5 Finally, AU's request does not seek a
6 modification of Condition No. 38 in the order, which
7 requires AU to sequence the East Campus buffer
8 buildings so that those buildings are completed no
9 later than the opening of the residence halls. The
10 buffer buildings will actually be the last completed.

11 So we're perplexed that AU is ignoring this
12 requirement in the order. The ANC believes AU should
13 be required to comply with the original sequencing.
14 If a change in sequencing would enable AU to open the
15 student residence halls on time, we might feel
16 otherwise. But the student residence halls will not
17 open on time. And AU has not demonstrated that
18 adhering to the sequencing of the building plan now
19 will significantly impact the timeline for occupancy
20 of the residence halls.

21 We recognize that the Westover community is
22 divided on this issue. Those who live closest to the
23 worksite have expressed their strong views to ANC 3D
24 that AU be required to comply with the sequencing.
25 Adhering to the original sequencing will not change

1 the project completion date. AU offered this
2 sequencing as a way to mitigate objectionable
3 impacts, and we believe there is nothing in the
4 record of this case to suggest the sequencing should
5 be altered. If AU wants to alter the sequencing it
6 should submit a modification request to allow for a
7 hearing on the issue.

8 So in conclusion, ANC 3D supports the
9 language proposed by AU to modify Condition No. 5.
10 But we're also encouraging additional steps by the
11 Zoning Commission outlined in our July 7th report to
12 you, that might give AU more incentive to reach a
13 resolution with residents on compliance issues, and
14 to address the spike in undergraduate student
15 enrollment.

16 Thank you for the opportunity to testify.

17 CHAIRPERSON HOOD: Okay. Thank you, Chairman
18 Smith. Let me open it up. Any questions of the ANC?
19 Okay. I will -- Vice Chair Cohen.

20 MS. COHEN: Thank you, Mr. Chairman. Again,
21 it's my understanding and correct me, anybody, if I'm
22 wrong, but the sequencing issue seems to be resolved
23 if you have the building there. The building will
24 absorb, even though it's not, quote, completed,
25 meaning the interior is not finished.

1 I think I have an expert on the Commission
2 who can -- although he's not paying attention to me.

3 CHAIRPERSON HOOD: I am paying attention.

4 MS. COHEN: Oh, you too? Okay. The experts
5 are listening to me and they may want to comment but
6 that's my understanding is that that building will
7 absorb the noise and serve as a buffer. Other than
8 that I have no other comments.

9 MR. SMITH: You know, frankly we don't know
10 that. I mean, we simply don't know that because also
11 there's probably been more progress made in those
12 buildings in the last month than there has been in
13 the last year, you know, from a -- from the
14 standpoint of just observing the construction that's
15 been going on there. We don't know the answer to
16 that.

17 But even if that's the case, AU should be --
18 I mean, this would be my recommendation to AU. And
19 in fact it's one I've already made. You should be
20 including it for safety purposes, including it as
21 part of your request for a modification. If you're
22 going to change the sequence of the order.

23 You know, the order doesn't -- the order
24 doesn't parse the word complete. The order doesn't,
25 you know, suggest, you know, why these buildings have

1 to be completed sooner than another. The record
2 does, if you go back to the record. And its beyond
3 just noise. It was beyond just noise. There was
4 also the issue, the aesthetic issue of having these
5 buildings that are immediately adjacent to a
6 residential neighborhood, done. Done. You know?

7 And it was the incentive to make sure, this
8 sequencing, the idea behind the sequencing as my
9 memory suggests, was that it was the way to ensure
10 that those buildings were done before the student
11 buildings.

12 The problem, and I'm sorry for going on so
13 long, but I do think there's a problem here. I mean,
14 the problem is, what we're hearing tonight and what
15 we've heard over the last year about several issues
16 related to the East Campus, is that many aspects of
17 the project had to be redesigned because the original
18 designs, the engineering designs, the engineering
19 work that was put before you is part of the further
20 processing wasn't functional. We heard that about
21 the garage. If you recall. And so what happened?
22 You had to come here to request a modification to ask
23 for a two-story garage instead of a one-story garage.

24 And you know, it was part of that initial
25 problem but there are all kinds of engineering issues

1 that just didn't work.

2 MS. COHEN: And that is a common -- well,
3 that's a common problem but I don't want to, you
4 know, get into the debate over that. I just am
5 acknowledging some of the possibilities that, you
6 know, we're moving ahead, we're going to have some
7 finishing, unfortunately six months down the road.
8 And I know you're -- the impatience of people because
9 it happens in every neighborhood now.

10 So I just wanted to raise that because I
11 thought it would suffice as a buffer. Yes, not
12 aesthetically, but at least what seems to be coming
13 up over time is noise.

14 MR. SMITH: Uh-huh.

15 MS. COHEN: So.

16 CHAIRPERSON HOOD: Okay. Any other? What
17 I'm hearing, Chairman Smith, from you, which is very
18 disappointing to me, is that the CLC is not working.
19 Is --

20 MR. SMITH: No.

21 CHAIRPERSON HOOD: That is very troubling.
22 That is very troubling because I know, one of the
23 things I push for all universities and always was
24 sending people to Howard because it seemed like all
25 their community groups came down in unison with the

1 same letter, and working in tandem with the
2 university issues. Not saying they don't have them,
3 but they work them out.

4 So maybe I need to send Maybelle Bennett over
5 to American University because obviously what -- I
6 know in this case, I believe, the CLC and some other
7 things, we really push. And I hate when these
8 conditions don't get taken up on and followed through
9 because to come down and still say that you support
10 the language in Condition 5, the change, but the
11 other issues that are there, which gives me
12 consideration to think about, and recommend it to my
13 colleagues, that maybe we should have some type of
14 hearing and I would have to work with legal counsel
15 to see what it is and find out how come our
16 conditions are not being enforced. I know that's
17 probably another arm of the government, which is the
18 Zoning Administrator. But obviously if we're still
19 having these problems and people want to use this
20 forum, and don't have another forum to get their
21 points across, then I have a problem.

22 But I really have a serious concern about the
23 CLC and why it's not working.

24 MR. SMITH: Mr. Chairman, may I give you an
25 example? I mean, if --

1 CHAIRPERSON HOOD: Give me one example.

2 MR. SMITH: I'll give you one.

3 CHAIRPERSON HOOD: Get more frustrated.

4 MR. SMITH: One example. AU went -- a noble
5 objective became a no-smoking campus. And, you know,
6 who can complain about that. Unfortunately, what
7 happened was it pushed all the students out on to the
8 neighborhood streets to smoke.

9 So what we have had a real problem with for
10 the last several years are groups, sometimes very
11 large groups, of students who gather on a
12 neighborhood street, in this case Rockwood Parkway,
13 and also on Glenbrook Road, who are smoking to the
14 point where there have been instances when police
15 have had to be called, neighbors have complained.

16 And we pointed this out to the university,
17 asked for some help in solving this. It took more
18 than a year for the university to acknowledge that
19 there was -- and we did it through the CLC. You
20 know, and ultimately, you know, we did get a private
21 meeting and a resolution was -- a resolution was put
22 -- was advanced. What was created was a small bus
23 shelter on the campus to house four people. Four
24 people can sit there. That's just not, that's not
25 going to solve the problem and it hasn't solved the

1 problem.

2 CHAIRPERSON HOOD: I don't want to go too far
3 off.

4 MR. SMITH: But we have to sort of fight to
5 get the problem recognized.

6 CHAIRPERSON HOOD: Let's see if we can
7 resolve some of that and get back to Condition 5
8 where you was -- let me ask you, who is on the CLC
9 again, if I remember? Is it ANC has a part?

10 MR. SMITH: Yeah, the ANC has a part.
11 Actually two ANCs have part, 3D and 3E. It's just
12 about every community group in Ward 3 almost. I
13 mean, because of the large scope of the campus.

14 And also there's an advocacy group for
15 example, on it, that relates to development. It's
16 not really a citizen's group or the like. So we have
17 -- there are -- there are people who come who live in
18 neighborhoods that -- where AU has no presence, but
19 who have an interest either because they're alumni or
20 whatever in AU issues.

21 So, you know, it's -- in some ways it's too
22 big.

23 CHAIRPERSON HOOD: Well, I don't want to get
24 too far off.

25 MR. SMITH: And it's in contrast with

1 Georgetown. It's not a partnership.

2 CHAIRPERSON HOOD: Let me say this, I want
3 that CLC before this Commission votes on anything,
4 Condition 5, 6, 7, or 8 or anything. I want to see
5 that CLC convene, during the summer months, and
6 coordinate some of these conditions, even though it's
7 outside the scope. But I want to see that done
8 because I'm going to tie that to this. I'm going to
9 tie it to this because I have a problem with the CLC.
10 And you tell me it's not working.

11 I'm sitting here thinking, and this is the
12 second or third time tonight I'm hearing stuff is not
13 working. And we spent all nights, I think -- how
14 many hearings did we have on AU? Eight? We had
15 eight. So plus the ones I had the first, when we
16 first took over AU, add those four to it. So I've
17 spent a lot of time down here with AU. So for the --
18 and I'm not taking sides, and I don't want to debate
19 that issue because I hear you all say you support
20 Condition 5. I have no problems with that.

21 But you all need to convene, Ms. Argo, Mr.
22 Vice President. And work out some of the other
23 conditions that this Commission worked hard for you
24 to put in place, because it sounds like you have a
25 cooperative and willing to work community. That's

1 what I see. And I'm not going to say who is right or
2 who's wrong. But the facts always come out. The
3 facts, the material facts will always come out.

4 But anyway, any other questions? Mr.
5 Turnbull?

6 MR. TURNBULL: No, I just wanted to comment
7 that one forum where all of this will come to a head
8 will be on a further processing. I mean, that's when
9 it's really -- the blank is going to hit the fan
10 because the proof of the pudding has to be presented
11 by AU and further processing for sure. So, I mean,
12 that's -- I know that's not what you're looking to
13 hear, but I mean --

14 CHAIRPERSON HOOD: The question is, when is
15 the next further processing? Do we have one in the
16 pipeline?

17 [Discussion off the record.]

18 CHAIRPERSON HOOD: South Hall. South Fall.

19 MR. TURNBULL: We don't know when that is
20 but --

21 CHAIRPERSON HOOD: Yeah, so when is the next
22 -- do we know when the next one is?

23 [Discussion off the record.]

24 CHAIRPERSON HOOD: And that's my point. So
25 why we going to wait, because wait always breaks the

1 wagon. And then we'll be down here until 12:00 five
2 nights as opposed to trying to resolve some things
3 right now through the summer while this is really
4 fresh. Why are we waiting?

5 So anyway, any other comments? Okay. Yeah,
6 I do know we have a tool, but I didn't know we had
7 anything coming so if it's not coming all it's going
8 to do is fester and get worse. Okay?

9 All right. Does the applicant have any
10 cross?

11 MR. TUMMONDS: Just one question. Mr. Smith,
12 you talked about the sequencing in, was it Condition
13 38?

14 MR. SMITH: Yes.

15 MR. TUMMONDS: So, I'm looking at Condition
16 No. 38 of the order.

17 MR. SMITH: I'm sorry. I'm sorry, I don't
18 have the order in front of me. It was whatever we
19 have in our testimony.

20 MR. TUMMONDS: Thank you. That's not
21 Condition No. 38.

22 MR. SMITH: right. So, I mean, maybe -- I
23 understand.

24 MR. TUMMONDS: So, Condition No. 38 doesn't
25 say anything about the sequencing of the buildings.

1 Condition No. 38 talks about the siding of the
2 buildings. So I mean, it's --

3 MR. MAY: So, is there a condition that talks
4 about the building having to be complete before it --

5 MR. TURNBULL: Well, I think he was referring
6 to when it said about being complete.

7 MR. TUMMONDS: Yeah, finding of fact and then
8 it goes to the completion.

9 MR. SMITH: Are you asking me a question?

10 MR. MAY: It's a finding of fact.

11 MR. SMITH: Are you asking me a question or
12 are you --

13 MR. MAY: No, I'm asking him a question.
14 We're just trying to get to the root of the matter.
15 You know, is there a commitment or not?

16 MR. TUMMONDS: And I think there is. And I
17 think -- so the commitment that was in there was the
18 finding of fact I talked before, so maybe it's what
19 Commissioner Cohen talked about, what is complete?
20 Is the complete the interior --

21 MR. MAY: Okay. Don't try to parse what is
22 complete.

23 MR. TUMMONDS: Okay. Then I think going back
24 to what you said --

25 MR. MAY: That doesn't mean anything. In my

1 view anyway.

2 MR. TUMMONDS: Right. But then it goes to
3 the addition of, there is no condition that we need
4 to amend.

5 MR. MAY: To modify, right.

6 MR. SMITH: Actually, I would disagree with
7 that. Condition No. 38 makes reference to exhibits
8 that were submitted as part of the campus plan. And
9 it is in those exhibits that you will see that the
10 plan is outlined for sequencing.

11 MR. TURNBULL: A lot of times when we refer
12 to complete it often requires to a C of O,
13 certificate of occupancy often is the point where we
14 say it's complete. So, that's not in our
15 regulations. That's not defined per se, but I think
16 that's been standard that we've always looked at.

17 MR. TUMMONDS: If I might just add on brief
18 comment? The issue of the sequencing was one that
19 was brought to us by the residents at our meeting on
20 July the 6th. It was not something that we were
21 anticipating actually talking to you about, and
22 including in our resolution. But it was something
23 that residents felt very strongly about. And after
24 hearing about it the Commission as a whole voted
25 unanimously to include that as part of our position,

1 to support the sequencing.

2 CHAIRPERSON HOOD: Okay. Any other -- oh,
3 you were doing cross.

4 MR. TUMMONDS: I'm sorry. No other --

5 CHAIRPERSON HOOD: Okay.

6 MR. TUMMONDS: No other questions.

7 CHAIRPERSON HOOD: All right. Dr. Kraskin,
8 you have any cross?

9 Okay. Thank you, Chairman Smith. Let's go
10 to our party -- you all are not in support this time
11 right? Yeah. Okay. Do we have any organizations
12 and persons who would like to testify here in support
13 of this application? Okay.

14 Let's go to the party in opposition, Dr.
15 Kraskin. If you can start?

16 MR. KRASKIN: Sure. Thank you. Again, let's
17 start with the words consequences, responsibility,
18 and now integrity of what we're hearing even playing
19 over one little word, complete.

20 The reason we have a problem with just going
21 along to get along is that we have gone along to get
22 along for every modification so far, and now we have
23 residents who live right against this construction,
24 who you all gave a modification that said, sure, let
25 them build on Saturday so it will get done and it

1 will be done. And guess what, they don't have their
2 summer this year because this Commission gave that
3 modification, let them keep building on Saturdays.
4 They've asked, you're not going to finish it, why
5 can't you at least give us our Saturdays during this
6 summer. AU says, no.

7 They tell you about the numbers, and we're
8 here about this modification which is about the
9 number. And if you go back to the chart that Ms.
10 Argo gave you of the 2011 campus plan, if we go to
11 the actual number that they proposed, that they told
12 us, we're going to have 6,400 people. That's 300
13 less than they have now. They could be meeting their
14 obligation. But why do they have 300 more people?
15 They have 300 more people because sadly you all, in
16 doing what was right because they were removing dorms
17 at the Tenley Campus, said, we'll make it less
18 percentage while you build this East Campus. If
19 someone had integrity and responsibility, we wouldn't
20 see it at 6,700. And when we in the community ask
21 AU, how did your numbers get there? How did you do
22 this? And they showed you their pictures of their
23 enrollment, their answer to us has been, it's the
24 applicants' fault.

25 And you sit there and go, what do you mean

1 it's the applicants' fault? It's the students? How
2 is that possible? It's the applicants' fault
3 according to the AU people. It is the applicants'
4 fault because too many students, too many applicants
5 accepted their letters of acceptance. And that's how
6 we got to where we are of these higher numbers.

7 Why? Because you all gave them the
8 opportunity to have a lower percentage to house. And
9 now why are we not in favor of this? Because they're
10 asking you to extend it for another year, and we
11 already know as presented, which was not stated here
12 tonight on the chart given to you of this year's
13 upcoming numbers, we were told, this year it will be
14 1,700 class right now, and that happens to be an
15 increased accept rate of 33 percent.

16 So this whole modification, and that's why I
17 asked about just if you would include the off campus,
18 the master lease within the on campus number, then we
19 don't have a problem. And that keeps them to their
20 numbers. It keeps their feet to the fire. Right now
21 there is absolutely no responsibility and I expect to
22 be back here in a year because they're going to be
23 asking for another modification and saying, look, we
24 got the East Campus on target, but you know, we
25 haven't further processed that South Hall, and we've

1 got too many people and we can't meet that number so
2 we need to do it again.

3 And that's why it's really hard to sit here
4 and just go along to get along, when they say well,
5 too many students accepted our acceptance. I've
6 said, you know, thank goodness we don't have the AU
7 Airlines, because that would be like us all going to
8 the airport to get on and them saying, oops, we
9 oversold so we're just going to put some folding
10 chairs down the aisle and take off. It's okay.
11 Don't worry about it. You'll be fine.

12 Well, it isn't fine. We're getting more and
13 more and these numbers have grown and grown and there
14 are no checks, and there is no responsibility. We
15 sat here during the original hearings about tripling,
16 and we're told, tripling is awful. It's awful to the
17 student's learning environment. It's a terrible
18 thing. We need to bring it down.

19 And now the Vice President of campus life
20 says tripling is wonderful. It helps in the student
21 comradery and getting together. It helps reduce the
22 fees for the students. So that's why we're going to
23 keep tripling. It's not just about housing. They
24 now love tripling. What is right, what is wrong? We
25 keep not having the consequences.

1 Chairman Hood, you mention about, you know,
2 what's with the CLC? The consequences, where is it?
3 Chairman Smith just made a comment about -- one
4 comment about smoking. I can go back specific to
5 this construction, this issue, and that on the day
6 that American University had their first construction
7 meeting and I looked at the materials about the
8 parking garage, the changes, sequence, I said, and
9 sent notes and I have the e-mail for it, asking from
10 the Citizen's Association, for a special meeting of
11 the CLC. Not a quarterly. We need to talk about it
12 now.

13 And I have repeated notes from AU saying,
14 "No. No. That's not the way we run the CLC. We're
15 not going to give you a special meeting."

16 In fact, the only special meeting we've
17 really had was when the ANC just recently, because of
18 those graduate students that he mentioned in the
19 Wesley case, were arguing. And finally, yes, AU had
20 a special CLC meeting to discuss that. And do you
21 know, Chairman Hood, when that meeting was convened
22 what was said? What was said was, thank you all for
23 coming. We're so glad you could come to the special
24 meeting that we, AU, have convened because we, AU,
25 are concerned. Not thank you to the community for

1 bringing this to our attention.

2 There is no consequences going on here.

3 There's no responsibility. And certainly there's
4 lack of integrity. When it comes to the Saturday
5 building hours I've just mentioned. When it comes to
6 the Jacob field, yeah, it's not part of this case.
7 And Ms. Herzstein is here representing her late
8 father. But sorry, the attitude on that has been,
9 yes, we've got students, we just do what we want.

10 The parking that Commissioner Smith just
11 mentioned. The events. Yeah, he talks about one the
12 other day. I talked about one on this past Friday.
13 We talked about all the events they do. These things
14 need another hearing. We don't need to spend tonight
15 to solve it. But we really believe strongly if you
16 just simply go along to get along again, we're going
17 to be back here. So there's got to be some tightness
18 put on. If you're going to accept this tonight, you
19 need to have some grip that these numbers do not just
20 freely fly and we're all back here again.

21 So, I thank you for taking the time to
22 listen, and I hope that you will think this through
23 fully. Thank you.

24 CHAIRPERSON HOOD: Okay. Thank you. Any
25 comments up here, Commissioners?

1 Not seeing any, Mr. Tummonds, you have any
2 cross?

3 MR. TUMMONDS: No cross.

4 CHAIRPERSON HOOD: Chairman Smith, you have
5 any cross?

6 MR. SMITH: No, sir.

7 CHAIRPERSON HOOD: Okay. Ms. Herzstein.

8 MS. HERZSTEIN: Just going to --

9 CHAIRPERSON HOOD: Is there anyone else here
10 who'd like to testify, a person who'd like to testify
11 in opposition? Okay, you can come forward. Anybody
12 else? Okay. You can come forward. You can sit over
13 here on this side. That way. Unless you want to sit
14 down -- yeah, okay. There you go.

15 Okay. We'll begin with you, Ms. Herzstein
16 and then we'll hear from you. You may begin.

17 MS. HERZSTEIN: Thank you, Mr. Chairman and
18 Commissioners.

19 Some of you knew my parents who participated
20 in past campus plan proceedings. In 1989, in 2000,
21 and in 2011, 2012, and my father, Robert Herzstein
22 was a party to the Zoning Case No. 11-07. He passed
23 away in February of 2015.

24 The issues that I address here relate to the
25 Zoning Commission case and American University's

1 request for a modification, both of which address the
2 issue of noise from Jacob's Field adversely affecting
3 persons on our property. I'm submitting a longer
4 written testimony which I handed out but I'm going to
5 be very brief now. I'm dealing with long-standing
6 issues that are impacting the quality of life of
7 adjacent residents. And that are worse due to
8 noncompliance of the university and due to the
9 unprecedented growth of the student population. Both
10 of those are contributing.

11 The issues that were subject to the Zoning
12 Order 11-07, Sections 17 to 25, have not been
13 resolved. They should have been. It's due to
14 dysfunction of the CLC and the other mechanisms that
15 were set up there and lack of consequences.

16 The noise from Jacob's field remains a
17 serious nuisance and concern. AU is not in
18 compliance in letter or in spirit with some of the
19 provisions of the order and I ask that you take a
20 look at Exhibit A, where I've detailed, concisely I
21 believe, what they are arguing and how that makes no
22 sense with respect to the order that was put in
23 place.

24 AU has hosted periodic meetings with us, and
25 we appreciate that. But the ongoing discussion is

1 not equivalent to resolution. At the same time there
2 has been a huge increase in the number of events on
3 Jacob's Field, and the timing and number of the
4 events are causing and will cause greater disruption
5 for us and the immediately adjacent neighbors, and
6 others in the neighborhood as well.

7 The increases in numbers of undergraduate
8 students create pressures on the campus facilities,
9 including Jacob's Field, as you've been hearing,
10 which is experiencing the greater increased use and
11 more frequent events with potentially greater numbers
12 of people, especially spectators and thus higher
13 noise levels.

14 Moreover, the increase in the field use and
15 the noise generated by players and spectators and
16 music and horns including weekends and summer months
17 substantially interferes with our normal use of our
18 property, even indoors and especially outdoors.

19 In conclusion as my father wisely and
20 pruriently wrote five years ago in the earlier
21 proceeding, the Commission's mandates must now be
22 detailed, specific, and unambiguous. Otherwise the
23 university will again ignore them to suit its
24 convenience. And given the sad and repeating track
25 record the neighbors must also be given a mechanism

1 to resolve disputes expeditiously. I think that's a
2 recurring them you're hearing here.

3 The university has shown itself very adept
4 when pressed to conversation, but is less interested
5 in resolution, whether it is about student numbers or
6 about the orders that this Commission issues about
7 noise that afflicts the neighbors.

8 I agree very strongly with presentations by
9 Dr. Kraskin and Chairman Smith. We do need an
10 additional hearing on enrollment numbers, and we do
11 need to address mechanisms for compliance and
12 following through on ensuring that there is -- that
13 American University sticks to its commitments and
14 takes action where the zoning order has asked. It's
15 the lack of enforcement mechanisms here that I
16 believe are partly at fault.

17 And yes, I completely agree that the CLC
18 needs to be reengineered. There's a potentially good
19 source there. There's good people at the table. And
20 it's not functioning. Thank you.

21 CHAIRPERSON HOOD: Thank you. Next? Turn
22 your mic on and identify yourself. You may begin.

23 MR. TESSLER: Hi. I'm Ben Tessler from
24 Westover Place. I spoke to a few of my neighbors and
25 I'm here to speak for myself and for them.

1 We strongly urge the Zoning Commission to
2 accept the proposal passed by the ANC at their last
3 meeting. We have great concerns that AU is not doing
4 enough to monitor student growth. We would be very
5 supportive of a cap to alleviate the constantly
6 increasing number of students at the university. The
7 construction schedule, meeting projected dates and
8 deadlines, as well as lack of adherence to that which
9 was agreed to between all parties to the campus plan,
10 is also of concern.

11 The zoning order specified that a buffer,
12 which consists of buffer buildings and a fenced
13 landscape buffer, be completed before other buildings
14 and no later than the opening of the student housing
15 buildings on the East Campus as found in Number 133
16 in the campus plan.

17 The purpose of the buffer was to mitigate
18 impact to Westover residents from construction,
19 noise, student use, and further separation of our
20 community from these campuses. I remember speaking
21 to Mr. Abude, and I wasn't quite sure before coming
22 here tonight, but my memory was that those buffer
23 buildings should have been long completed and the
24 landscape buffer, also completed. It's changed, but
25 that's what he assured us.

1 The entire East Campus was to have been
2 completed before occupancy. There was no mention of
3 intent of staggered completion and opening of
4 buildings or partial occupancy which now sounds like
5 the university's intent. That violates the zoning
6 order, is unacceptable, and quite frankly dangerous
7 to students who would be living on a construction
8 site.

9 We just hope that there will be more
10 responsibility on the university's part, more
11 transparency. We hope that the university will, in
12 the future, act in compliance of the zoning order,
13 plan better for whatever else is going to be on the
14 East Campus, whether this plan or the next, and more
15 accurately as they finish the building of the East
16 Campus. Thank you.

17 CHAIRPERSON HOOD: Okay. Thank you. Let me
18 begin by saying to Ms. Herzstein, and I spent a lot
19 of -- a number of us have spent a lot of time down
20 here working on some issues that your dad would bring
21 to our attention. So I'm kind of taken aback again
22 because I know specifically, I can't remember exactly
23 which one it was, but we really did a lot dealing
24 with the field and making sure that there were some
25 measures there, and now I'm hearing that that has not

1 even been done. Or even attempted. And I believe
2 that's what I heard. I may be incorrect, but I
3 thought I heard that.

4 MS. HERZSTEIN: Yes, we don't have
5 resolutions. We've had meetings and we've had some
6 measurements recently which is helpful, but we
7 haven't had --

8 CHAIRPERSON HOOD: So we're just getting the
9 measurements.

10 Okay. Well, I'll give you all time, but I
11 don't want to -- but anyway, this is very troubling
12 and I'm sure that you will have a story for me. But
13 I'm going to have some things, and I need to also
14 find out from our legal counsel what our part is. I
15 don't know if we have always been in forces, but I
16 don't mind putting things off until people have some
17 ways to resolve some of these issues. And if you
18 have to do a little legwork in the summer, maybe
19 that's what it takes instead of waiting for further
20 processing. If I have the support to do that then
21 that's what I'm going to be recommending.

22 Any other questions or comments up here? Mr.
23 Turnbull?

24 MR. TURNBULL: Yeah, Mr. Chair. Just
25 commenting with -- on Ms. Herzstein. I mean, we have

1 Exhibit 25. I mean, Item No. 25, which clearly calls
2 out a lot of different things for Jacob's Field. And
3 it sounds like you may not be in compliance with all
4 of that. We talk about university, about scheduling
5 events, about notifying neighbors. Sound
6 amplification produced by public address systems and
7 loud speakers, blah, blah, blah, shall not be
8 permitted to unreasonably interfere with or disturb
9 neighbors' enjoyment of their property.

10 It goes on and on so I'm just wondering where
11 have we fallen -- it just sounds like a lot of these
12 things aren't being followed up.

13 MS. HERZSTEIN: Well, there are a lot of
14 sources of noise as the field use continues to
15 increase. And there's more spectators and more
16 players. So, there is a limit on sound -- on
17 amplified sound, and I have no knowledge of whether
18 that's adhered to or not. But on days when I don't
19 hear amplified sound there's still very loud noises.

20 Recently shock clocks are being added to
21 games and to practices. So there are all kinds of
22 sources of noises that are coming across. And with
23 the increased field use, sometimes all day into the
24 evening, and most of the weekends it's very -- it
25 really interferes with the neighborhoods. So I think

1 it's -- there's no question there needs to be more,
2 not only more discussion, but more focus on solutions
3 and I certainly think there are solutions available
4 that we can implement, but we haven't.

5 MR. TURNBULL: One of the items talks about
6 special events, that it's going to be limited to 12
7 per calendar year. And they can only go between 8:00
8 a.m. until dusk. Is that -- that's not --

9 MS. HERZSTEIN: The issue is that there is a
10 -- the way we understand what a special event is, is
11 not the way American University understands it. And
12 we have been discussing that for the year and a half
13 that I've been involved.

14 And my father, I have e-mails back for years
15 before that where he was discussing it before he
16 passed away. So I think that there's some
17 intervention needed from the Commission here in order
18 to reinstate exactly what does this mean. Otherwise
19 American University just says, well, a special event
20 can be any athletic event. It doesn't have to be
21 related to AU, it doesn't have -- it can be athletic.
22 You know, that's not what it says in there.

23 But anyway, I think we need to have a hearing
24 or some kind of meeting.

25 MR. TURNBULL: Yeah. I was looking in Item

1 25, and maybe we were wrong but it says, special
2 event. And it's got i.e., not a university related
3 athletic event as defined in Condition 23, such as a
4 graduation, homecoming, picnics, reception, or
5 charitable events. That's what sort defines this as
6 a special event.

7 MS. HERZSTEIN: All I can say is there is a
8 disagreement about this.

9 MR. TURNBULL: Yeah.

10 MS. HERZSTEIN: And the way they're
11 implementing it reflects their understanding.

12 MR. TURNBULL: Okay. All right. Thank you.

13 MS. COHEN: Any other comments or questions?
14 Commissioner Miller.

15 MR. MILLER: Thank you, Madam Vice Chair.

16 So, I guess for Ms. Herzstein and for Dr.
17 Kraskin, I heard the comment that -- and Dr. Kraskin,
18 you just don't want to go along to get along anymore.
19 But why isn't it sufficient for you -- I don't know
20 if that's the way I should phrase it.

21 The ANC asked for a condition which AU has
22 agreed to. It reads, "AU agrees to continue to work
23 with neighbors to solve concerns about compliance
24 related to Jacob's Field, parking, and the community
25 liaison committee, and set a deadline for resolving

1 those issues of no later than December 15, 2016. And
2 if those issues are not resolved by that date AU
3 agrees to invoke the mediation provisions outlined in
4 Zoning Commission Order 11-07."

5 So the ANC obviously thought that was one
6 approach to trying to resolve those outstanding
7 issues. But you don't think that that's going to
8 work?

9 MR. KRASKIN: I guess if you had the
10 opportunity to sit in the CLC meetings --

11 MR. TURNBULL: Well, that's one of the
12 issues --

13 MR. KRASKIN: -- [simultaneous speech].

14 MR. TURNBULL: -- that needs to be resolved.

15 MR. KRASKIN: -- I think in that one, for
16 these past years it's very hard to any longer accept
17 that anything is going to change. It's not changing.

18 The American University knows this. And
19 again, unless there is some form of consequences --
20 go to mediation. This is not an answer to Mr. Hood's
21 idea on how the CLC should operate. This is not a
22 partnership. The issue of the CLC is no different.
23 And I hate to say it this way but I will. I've said
24 it before, publicly.

25 When we went through the campus plan process

1 it was, let's stack the deck against the immediate
2 neighbors. Let's find people, when you asked about
3 who is a member, you have in your order a very
4 specific list of who is a member. But go look and
5 see what the invitation -- the invitation is a basic
6 Ward 3 invite for a quarterly update of reports from
7 AU. It's not, let's deal with an issue.

8 You asked specifically to have a cabinet
9 member so decisions could be made. No decision, or
10 very rarely are decisions ever made. So, the concept
11 of now, let's put another piece in this decision
12 tonight, great, let's try it. But my point is even
13 more about the modification and accepting the
14 numbers. Where are you going to hold people so that
15 numbers do not grow?

16 MR. TURNBULL: Okay. Thank you. And since I
17 invoked the ANC's name, you may want to say
18 something.

19 MR. SMITH: Just really briefly. I don't
20 want to suggest to you that because we included that
21 language in our resolution that we necessarily
22 thought it was the ideal solution. I mean, the ideal
23 solution would be the way the Georgetown University
24 Community Partnership solves their problems. They
25 sit around, they talk, and they solve their problems

1 and there's a commitment to solving their problems.

2 I think our feeling was perhaps sensing -- I
3 mean, feeling some of the same frustration that you
4 have, that we're frustrated too about hearing
5 problems going unresolved and so maybe this is the
6 only way that we can solve them is to invoke the
7 mediation clause. It's not an ideal solution and you
8 can't keep doing that year in, year out, problem in,
9 problem out. At some point in time all the parties
10 have to agree to sit down and work together and make
11 that commitment. But it requires a process, and the
12 CLC is not the Georgetown University Community
13 Partnership.

14 And I hate to point it out as a gold
15 standard, but as we are also a part of that. And
16 when we compare that versus the CLC it's night and
17 day.

18 MR. MILLER: Okay. Thank you. I'm sure
19 we'll hear from the applicant on rebuttal.

20 CHAIRPERSON HOOD: I'm glad to hear that the
21 Georgetown is working because it hasn't always been
22 that way. And this Commissioner really pushed that.
23 Right? I know. I was one of the commissioners, but
24 I had the support of the Commission when we pushed
25 that. Only problem I had with that, and I been

1 wanting to say this publicly, when everybody was
2 holding hands and they had the big press conference,
3 I wasn't invited. But anyway.

4 But I think we can get the same thing here.
5 I know we can get the same thing here. Again, I
6 think if you look at -- I keep directing, and I know
7 Ms. Bennett will probably kill me, but if you look at
8 what she does with Howard University, and I think I
9 might have recommended Georgetown go talk to them.
10 Maybe AU needs to go talk to her. But I can tell
11 you, it can be done, and it works. And it --

12 MR. SMITH: Chairman, we've talked to her.

13 CHAIRPERSON HOOD: Oh, you all have talked to
14 her.

15 MR. SMITH: We have. We have talked to her.

16 CHAIRPERSON HOOD: Okay.

17 MR. SMITH: Because she's offered us a great
18 amount of advice.

19 CHAIRPERSON HOOD: Okay.

20 MR. SMITH: And guidance. It's a tremendous
21 resource.

22 CHAIRPERSON HOOD: Good. Good. Okay. Any
23 other questions up here? Comments? Okay. Where are
24 we at. Where are we at? Rebuttal? Are we at
25 rebuttal?

1 Okay. I'm sorry, Dr. Kraskin, did you all
2 have cross? Did we do cross?

3 MR. TUMMONDS: We have no cross of the
4 witnesses.

5 CHAIRPERSON HOOD: Chairman Smith, you have
6 any cross?

7 MR. SMITH: No, sir.

8 CHAIRPERSON HOOD: Okay. So we're good. All
9 right. Thank you, all. We appreciate you coming
10 down and providing testimony.

11 Let's go to rebuttal. Have any rebuttal?
12 And then we'll do any cross on rebuttal. And then
13 we'll do closing.

14 MR. TUMMONDS: Great. Thank you. Well, Ms.
15 Argo just address a couple issues first with regards
16 to the CLC.

17 MS. ARGO: Especially to Chairman Hood, I
18 think it's imperative that I respond to some of the
19 comments that have been made about the CLC not
20 working. My experience and my understanding is that
21 the concept of the CLC not working is limited to a
22 very small number of people, most of whom are here
23 tonight that have participated in the CLC.

24 The criticism that I have heard from those
25 who don't think the CLC is working, and again I think

1 that's probably less than five people, based on my
2 experience and my work with the CLC since the Zoning
3 Commission established it. I have been told that
4 they have brought it up tonight that the CLC is too
5 inclusive. And we did make an effort to reach out to
6 organizations and citizen's organizations, and other
7 organizations that have an interest in American
8 University and its impact on the community. And we
9 did include organizations that were not necessarily
10 listed in the order, but other groups that apparently
11 some people feel that it's not so much gotten too
12 big, but it is literally too inclusive and that there
13 only should be members of the CLC that are in the
14 neighborhoods directly adjacent to the campus. And
15 that isn't the concept that we share. I'll be very
16 blunt about it.

17 The CLC has met regularly since the beginning
18 of the campus plan. We followed the order and had a
19 meeting within whatever the order said, a quarter --
20 you know, within the quarter, first quarter after the
21 campus plan was passed. We've met regularly. We
22 have I think the leadership of the CLC has been --
23 has actually been extraordinary from our Vice
24 President for Campus Life. We've had a lot of
25 information shared. We've had a lot of -- I think if

1 you were to poll the members of the CLC who I think
2 represent maybe over 20 organizations, I think almost
3 to a person within those organizations they would
4 certainly say that they have been functional and that
5 they have been working and that they have been
6 effective in the efforts that have been made to
7 provide information to try to resolve concerns.
8 Sometimes those can't be resolved at CLC and they
9 have been resolved in smaller meetings with other
10 groups.

11 But I think it's important that you
12 understand that, and that not only do we meet, but
13 we're attentive, we produce minutes, we use it as an
14 opportunity to exchange information. And again,
15 we've included organizations and individuals
16 representing organizations that are beyond what was
17 actually prescribed in the zoning order but have
18 received feedback almost exclusively except from a
19 few people that live in Spring Valley that is, you
20 know, it's a well-functioning organization.

21 MR. TUMMONDS: Could you address the use of
22 Jacob's Fields? Jacob's Field?

23 MS. ARGO: Yeah, I think that -- I mean, all
24 I'd want to say about that, I think there's two
25 things to say. We agree with the -- to Mr. Miller's

1 point, we have agreed with the resolution that the
2 ANC passed and are happy to work towards the
3 resolution of some of these issues and to move into a
4 mitigation process if it doesn't prove to be
5 successful.

6 I think that we can show and we could submit
7 information for the record, or we can leave it to
8 this process of communication that there has not been
9 any substantial increase in the use of Jacob's Field,
10 especially tied to any increase in undergraduate
11 enrollment.

12 I feel like I'm going to take one step
13 further and say I think that some of the testimony
14 that you heard was somewhat disingenuous. We have
15 made every effort to meet with Ms. Herzstein and her
16 husband. We have set up -- we had a meeting not just
17 even a couple of months ago where we offered several
18 different possible solutions to some of the noise
19 issues that they were raising.

20 And I think the most important point is most
21 of the issues that are in the order in terms of
22 mitigating sound, the use of amplified sound,
23 replacing I think it was the horn or whatever at the
24 beginning, so we had something that met the
25 definitions that were in, or the request that was in

1 the order. All of that has been accomplished and
2 that was -- most of that was accomplished when Mr.
3 Herzstein was alive, and we worked through most of
4 those issues initially.

5 We have responded to requests from Ms.
6 Herzstein and her husband on information and have
7 suggested meetings. And again, specifically
8 suggested mitigation strategies in this last meeting
9 that I think we had in May or June. So I want to
10 make sure that that's on the record.

11 MR. TUMMONDS: The concerns about having
12 students on a construction site and --

13 MS. ARGO: Mr. Tessler raised the issue
14 about, again, the sequencing and having us reach a
15 point where we had students actually occupying a
16 construction site. There's absolutely no intention
17 that that would happen. And in fact I'll invoke the
18 agency again. We've already had preliminary
19 conversations with DCRA on how we would actually go
20 about receiving conditional certificates of occupancy
21 as we open these buildings, and they're not going to
22 grant a conditional certificate of occupancy unless
23 all considerations of life safety are in place, and
24 that we're not operating on a construction site. We
25 expect to have all hardscape and landscaping complete

1 before any of these buildings are open. I wanted to
2 be clear about that.

3 MR. TUMMONDS: That concludes the rebuttal.

4 CHAIRPERSON HOOD: Commissioner May.

5 MR. MAY: Okay. So I'm a little surprised
6 that that's where the rebuttal ended. What about the
7 fact that, you know, you've provided us numbers on
8 the enrollment, but the statement that you're not
9 willing to commit those to paper?

10 MR. TUMMONDS: Oh, I'm sorry. Yes.

11 MS. ARGO: Okay. Yes, that was going to be
12 part of the rebuttal.

13 We were not asked to agree to put numbers in
14 writing. What we were asked by the ANC to do was to
15 agree to cap our increase in enrollment at a certain
16 percentage before the end of the campus plan.

17 MR. TUMMONDS: So I mean, that was our
18 interpretation of -- we can talk about that, but I
19 think the goal was, that sounded an awful lot like an
20 undergraduate enrollment cap. And I think that was
21 how it was interpreted from AU providing those
22 numbers. And obviously we've said we don't believe
23 an undergraduate enrollment cap is appropriate, so
24 there may be a misunderstanding of what the ANC was
25 asking of AU. But AU viewed that as akin to agreeing

1 to an undergraduate enrollment cap.

2 MS. ARGO: That's right.

3 MR. MAY: What about the question of the
4 condition that refers to a sequencing plan? Do you
5 recall were there actually the plan -- I mean, the
6 condition having to do with East Campus and when it
7 gets built out. Did that -- did the original plan
8 include a sequencing of buildings?

9 MR. TUMMONDS: I don't think it did. When I
10 read Condition No. 38 it says, buildings 1 through 6
11 shall be cited as shown on Exhibits 589 and 602 of
12 the record. Those were the plans where -- if you may
13 -- you probably don't remember. It was about the
14 siting of the buildings, the depth of the buffer. I
15 don't envision, I can't remember that Exhibits 589
16 and 602 would have anything related to sequencing.
17 It talks about the siting of the buildings. The rest
18 of Condition No. 38 says, the East Campus shall
19 maintain a maximum of 590 beds for undergrad
20 students, and a maximum of 3,000 square feet located
21 in Building 1 devoted to retail use.

22 I will go back and look at Exhibits 589 and
23 602, but I don't think that they would say something
24 about sequencing.

25 MR. MAY: Okay. And then this is not -- I

1 mean, it was mentioned in the -- in some of the
2 testimony. But what about the South Hall? I mean,
3 you said yourself that South Hall is not going to be
4 online in fall of 2018 as it is shown in the chart
5 that you gave us, both in the projected and in the
6 actual. But you're saying that actually the actual
7 is not that. So what is the actual? You following
8 me? I'm going by your little -- your chart.

9 MS. ARGO: No, we're following you.

10 MR. TUMMONDS: Yes. Yes.

11 MS. ARGO: Yeah, we understand.

12 MR. TUMMONDS: Right.

13 MR. MAY: That didn't change. So when is it
14 going to be?

15 MS. ARGO: We would hope that we would bring
16 it forward this fall. And if we can't bring it
17 online in the fall of '18 it would be the fall of
18 '19.

19 MR. MAY: Okay. So I heard earlier that it
20 cannot be the fall of '18. You're saying that --

21 MS. ARGO: Most likely not.

22 MR. MAY: -- if it cannot. Likely cannot.

23 MR. TUMMONDS: Right.

24 MR. MAY: Okay. So fall of '19 is three
25 years from now.

1 MS. ARGO: Right.

2 MR. MAY: And so you're expecting to bring it
3 forward for further processing when?

4 MR. TUMMONDS: This fall.

5 MR. MAY: This fall. Okay. I mean, Mr.
6 Tummonds, you seem pretty certain that it's
7 definitely not going to be '18. I know you're not
8 the university, you're just their lawyer.

9 MR. TUMMONDS: Based on the experience we've
10 had to date.

11 MR. MAY: Probably hire a different
12 contractor, I know.

13 So I guess, I mean, that's a bit of a concern
14 because if you really think that it's not going to be
15 the fall of '18, then this chart is incorrect on the
16 bottom part. And so that means that you've got to
17 find a place to put 200 students in order to meet the
18 percentages.

19 MS. ARGO: Correct.

20 MR. MAY: And does that mean that you'll just
21 continue to do the tripling, most likely?

22 MS. ARGO: Yeah, that would most likely --
23 and that was the -- thank you for reminding me. If I
24 could add, yes, we would have to make up for that if
25 those beds are not available, primarily by optimizing

1 the rooms that -- you know, the rooms that we have.
2 You like that?

3 MR. MAY: Optimizing rather than tripling,
4 okay.

5 MS. ARGO: Right. And we can call it
6 tripling. We made the -- one of the things that was
7 alluded to earlier, I want to be clear what we have
8 said about tripling. We have also learned in the
9 last -- in the years since the campus plan was put
10 into place, that there are a number of students that
11 prefer a tripled room. That was not the case up
12 until I think about 2012, 2013, that prefer a tripled
13 room because of the decreased cost involved. And the
14 rooms that we do triple, with I think a few
15 exceptions are -- accommodate, easily accommodate.
16 It's not shoving three beds into a room that was just
17 designed for two. And so, it has been more
18 acceptable to more students than I think was imagined
19 when we first discussed it.

20 So we are not adverse to continuing some
21 level of tripling. It's not the ideal, but that
22 would be how we would be able to add to our capacity
23 to make up for not having new construction and new
24 beds available by the time that we had forecast.

25 MR. MAY: So I don't have a huge problem with

1 tripling. I mean, you know, when I went to college
2 there was all sorts of strange things that happened,
3 and believe it or not there were numerous dorm
4 buildings that weren't completed on time and students
5 had to be relocated to, you know, a mile away at
6 different times.

7 So all these things are not that surprising.
8 But I think what is concerning is the fact that you
9 have this capacity for tripling and you have this
10 enrollment projection, and you are still trying to
11 meet the requirements of the campus plan to house 67
12 percent of the students, you know, what happens if
13 you -- you know, you're going to be down around 6,400
14 in the fall of '19. And at that point the South Hall
15 will be in place and you know, what happens, you
16 know, is the University going to be -- maybe relax
17 the admission standard a little bit and drive that
18 6,400 number up, 6,500 number up, because even though
19 it's not a cap on undergraduates, I think that we did
20 rely in good faith --

21 MS. ARGO: Yes.

22 MR. MAY: -- on that being the number of
23 undergraduates who really are the most likely to
24 cause difficulties with the neighbors, I think. I
25 mean, perhaps not in terms of driving more cars.

1 Graduate students are probably more likely to drive
2 cars and park in the neighborhood, but they're not as
3 likely to be you know --

4 MS. ARGO: Disruptive.

5 MR. MAY: -- disruptive. Right. Thank you.
6 That's a good word.

7 So, you know, what's to say that we wouldn't,
8 in 2019, wind up with, you know, a few 100 tripled
9 dorm rooms so that you could get back up to the 6,700
10 number that you have now? I mean, I think that's
11 part of the concern.

12 But we don't have any -- you don't have any -
13 - you can't promise is anything. You can't tell us
14 anything that's going to reassure us.

15 MR. TUMMONDS: Well, I think during --

16 MS. ARGO: We'll work on it.

17 MR. MAY: Or you're not so far.

18 MS. ARGO: Well, I think that the university
19 I think understands for a number of reasons that the
20 optimal solution, and we'll move it ahead as rapidly
21 as we can, is to add new facilities and additional
22 beds and reduce the number of triples that we need to
23 meet our capacity requirement.

24 MR. MAY: Uh-huh.

25 MS. ARGO: The new housing is not just to get

1 beds. It's also better housing and housing that is
2 designed differently than a lot of the dorms are that
3 we have on campus now.

4 MR. MAY: Right.

5 MS. ARGO: In suit style, and that is
6 preferred and more attractive for the student that's
7 coming in 2016, than it was perhaps 10 years ago.

8 MR. MAY: Right.

9 MS. ARGO: So --

10 MR. MAY: Okay. All right. I mean, that's
11 it for my questions. I have more comments to make
12 but I'll hold that for the moment.

13 CHAIRPERSON HOOD: Okay. Any other
14 questions? Mr. Turnbull?

15 MR. TURNBULL: Thank you, Mr. Chair. Ms.
16 Argo, are you on the CLC?

17 MS. ARGO: I attend the CLC, yes.

18 MR. TURNBULL: You do attend.

19 MS. ARGO: As a university.

20 MR. TURNBULL: So you --

21 MS. ARGO: I'm on it as a university
22 representative.

23 MR. TURNBULL: Are you the top university
24 official represent --

25 MS. ARGO: No, the top university official is

1 the Vice President for Campus Life.

2 MR. TURNBULL: Okay.

3 MS. ARGO: Dr. Gail Hanson, and she is the
4 chair.

5 MR. TURNBULL: Okay.

6 MS. ARGO: And she is on the President's
7 cabinet, which is one of the things that was
8 discussed --

9 MR. TURNBULL: Right.

10 MS. ARGO: In the campus plan.

11 MR. TURNBULL: The other organizations that
12 were added that weren't in the order, are they like
13 partners of the university or associates or --

14 MS. ARGO: No, they're --

15 MR. TURNBULL: Are they businesses you deal
16 with or what?

17 MS. ARGO: They're neighborhood associations
18 and citizen groups, and one of the ones that has come
19 up. And I think somebody may have even mentioned it
20 earlier. Ward 3 Vision --

21 MR. TURNBULL: Okay.

22 MS. ARGO: -- is a member. We have people
23 from McClean Gardens, if you're familiar with that
24 housing facility. But they, you know, they weren't
25 anticipated. But we do have a number of students

1 that live down by McClean Gardens and some who live
2 in McClean Gardens, and they wanted to be
3 represented. And we have representatives from some
4 of the other housing, or some of the other facilities
5 around Fox Hall Apartments, the Greenbrier
6 Apartments. They literally send board members. And
7 from the Berkshire, send board members to the CLC and
8 are members of the CLC.

9 CHAIRPERSON HOOD: Can I piggyback on that?
10 Do they send the same board members or different
11 board members?

12 MS. ARGO: They have -- you mean are they
13 consistent with the people that come to the meeting?

14 CHAIRPERSON HOOD: Consistent. Right.
15 Right.

16 MS. ARGO: Yeah, that's been my experience.

17 CHAIRPERSON HOOD: Okay. So you pretty much
18 have the same people.

19 MS. ARGO: Yeah, pretty much.

20 CHAIRPERSON HOOD: It seems like -- it seems
21 like to some degree, you know, I always like to see
22 the people who are most affected. It seems like from
23 what you're describing I could be on the CLC, and I
24 live way over in Ward 5. And I'm just curious, are
25 people -- and I've heard this argument, are people

1 who are really affected, people who have to deal with
2 the impacts, are they on the CLC?

3 MS. ARGO: Oh, yeah. Sure.

4 CHAIRPERSON HOOD: Okay. And how many would
5 you represent?

6 MS. ARGO: We have representatives from --

7 CHAIRPERSON HOOD: How many is on the CLC. I
8 know we had it in an order. I don't have it with me.

9 MS. ARGO: I think there are -- I think there
10 -- I think there are 20 organizations; around 20 that
11 are represented on the CLC.

12 CHAIRPERSON HOOD: Is that what the order
13 called for, or is that what you all extended?

14 MS. ARGO: No, it's more than what the order
15 called for.

16 CHAIRPERSON HOOD: How many did the order
17 call for?

18 MS. ARGO: We can look. I'm sorry, I don't
19 have that --

20 CHAIRPERSON HOOD: And I think if we put an
21 odd number in it I think we did that for a reason.
22 I'm not sure. I don't have -- it's like Mr.
23 Turnbull, I don't have the order in front of me. I'm
24 going off of memory.

25 MS. ARGO: We have it here, we can check.

1 But I think that the neighborhoods that are generally
2 considered to be contiguous with the university and
3 bordering the university are all represented on the
4 CLC. So we have Fort Gains, and Spring Valley,
5 Wesley Heights, Westover Place, Homes Corporation
6 always sends a number of members to the CLC. Or, you
7 know, the most proximate neighbors, obviously, to the
8 new East Campus.

9 CHAIRPERSON HOOD: And I'm going to go back
10 to Mr. Turnbull, but it's very ironic how we can -- I
11 can hear two different sides of the same meeting.
12 And I always ask myself, were they sitting in the
13 same meeting. So I heard --

14 MS. ARGO: I understand.

15 CHAIRPERSON HOOD: -- two totally opposite
16 sides. And I know some of it may be with
17 disagreement of how things are done, some of them may
18 not be. But I'd like to see us do like Georgetown
19 and other colleges, and kind of bring that gap
20 together, of where the issues are. But anyway, Mr.
21 Turnbull, I'm sorry.

22 MR. TURNBULL: Thank you, Mr. Chair. My wife
23 and I never have that problem. When I was getting
24 married a friend of mine said, there's only two
25 things you need for a successful marriage. You've

1 got only two things you have to remember; it's your
2 fault, and you started it. He says if the male
3 remembers that, he's fine.

4 Unfortunately, I told my wife that and so I
5 get reminded of it anything comes up, so it's always
6 a -- I'm always a loser on that.

7 Let me --

8 MS. COHEN: And I'm sure your wife is always
9 true.

10 MR. TURNBULL: Well, we've been married
11 thirty-odd years so I think that's -- it's working.

12 Let me ask you about on Buildings 4 and 6,
13 it's all clad, it's finished, it's completed, it's
14 enclosed, windows on it, everything is -- what I am
15 wondering on is that's the buffer buildings. So four
16 and six are completed. Usually we don't do
17 landscaping until the very end.

18 MS. ARGO: Correct.

19 MR. TURNBULL: Is there any reason why
20 landscaping at the rear of the building can't be
21 accelerated?

22 MR. DOWER: No. In fact, the dates that I
23 described to you would make efforts to actually
24 complete the exteriors of the building. So the only
25 thing remaining after we could potentially occupy the

1 residence, would be the fit-out, the internal fit-
2 out, tenant fit-out, of buildings 4 and 6.

3 MR. TURNBULL: So by October of 2016,
4 November 2016, the back of those buildings could be
5 completely landscaped and finished off so that that
6 would add to whatever soundproofing or whatever
7 you're doing inside the buildings.

8 MR. DOWER: That is correct. That's our
9 plan.

10 MR. TURNBULL: Can you commit to that?

11 MR. TUMMONDS: Yes.

12 MR. TURNBULL: Okay. All right. Thank you.

13 CHAIRPERSON HOOD: Any other questions or
14 comments up here on rebuttal?

15 Okay. Mr. Tummonds, you have any closing?

16 MR. TUMMONDS: Cross on rebuttal.

17 CHAIRPERSON HOOD: Cross on rebuttal.

18 MR. SMITH: Are you no longer anticipating
19 coming forward with the further processing for the --
20 I'm sorry, for the modification and further
21 processing for the New Life Sciences building?

22 MR. DOWER: We're anticipating coming
23 forward. We're just still working through the design
24 to a point where we'd have something to actually
25 present.

1 MR. SMITH: Do you have any idea when -- and
2 I realize you had contacted us about that more than
3 six months ago. Do you have any idea when you are
4 anticipating building that, when that's going to
5 happen?

6 MR. DOWER: No, not at this point. No.

7 MR. SMITH: Okay. Also, Linda you, in our
8 conversations, you mentioned something. You
9 suggested that AU had an interest in building an
10 additional dorm at the current location of the tennis
11 courts, in addition to the South Hall dorm. Is that
12 still something that you're anticipating?

13 MS. ARGO: My recollection of the
14 conversation was that we talked about different sites
15 that the -- that AU was looking at for its next
16 residence hall project. And it was not --

17 MR. SMITH: It was --

18 MS. ARGO: And it was not in addition to
19 South Hall, that it would be South Hall or we were
20 looking at the sites down -- a site down by the
21 tennis courts.

22 MR. SMITH: In other words, a substitute for
23 the --

24 MS. ARGO: Correct.

25 MR. SMITH: -- South Hall location that

1 you --

2 MS. ARGO: Correct.

3 MR. SMITH: -- proposed and that was approved
4 in the campus plan.

5 MS. ARGO: Correct.

6 MR. SMITH: Okay. Also, didn't we discuss a
7 range of alternatives that, as it related to securing
8 a commitment from AU to meet the projections that
9 you're proposing out to 2020? Including even just
10 both formal and informal? Even just including
11 language to that affect in the narrative of the
12 zoning -- the application for this modification.

13 MS. ARGO: My --

14 MR. SMITH: In other words, didn't we discuss
15 a range of options over the course of several months
16 about how the ANC could support this without any
17 issues as it related to the cap?

18 MS. ARGO: Yes. Yes.

19 MR. SMITH: Related to the enrollment
20 numbers?

21 MS. ARGO: Yes.

22 MR. SMITH: It wasn't just that we proposed a
23 -- something that you interpreted as a cap?

24 MS. ARGO: No, we talked about a number of
25 things. I agree.

1 MR. SMITH: Okay. All right.

2 MS. ARGO: Right.

3 MR. SMITH: That's it. Thank you very much.

4 CHAIRPERSON HOOD: Okay. Dr. Kraskin, any
5 cross?

6 MR. KRASKIN: To answer, it's party a cross.
7 To answer your question, Mr. Chair, it's 10 community
8 groups, plus the ANCs.

9 MR. TUMMONDS: For the CLC.

10 MR. KRASKIN: For the CLC. It was number
11 208, so you could find that answer.

12 MR. TUMMONDS: But doesn't it in fact say,
13 "In addition to its representatives the university
14 will invite community groups to become members of the
15 committee, including representatives of ANC 3D, 3E,
16 3F, and 10 community groups?"

17 MR. KRASKIN: And 10 community groups.
18 That's true, correct? But yet we already just heard,
19 did we not, that there are more than that?

20 MR. TUMMONDS: But didn't I say --

21 MR. KRASKIN: Is there an Oxford comma that
22 we're dealing with?

23 MR. TUMMONDS: I'm not going to parse this
24 out. I'm sorry.

25 MR. KRASKIN: And does that, in that whole

1 discussion of CLC, back to things that have been
2 going on here tonight, it also says that at each
3 meeting there will be reports to transportation
4 demand management programs. But tonight didn't you
5 just say for the first time you're doing that after
6 all these years?

7 CHAIRPERSON HOOD: Mr. Kraskin, you
8 usually --

9 MS. ARGO: No, we weren't talking about that.

10 CHAIRPERSON HOOD: You usually -- let me
11 help.

12 MR. KRASKIN: I understand. I could limit it
13 to --

14 CHAIRPERSON HOOD: Right. But let me help
15 you.

16 MR. KRASKIN: -- rebuttal. But it's just --

17 CHAIRPERSON HOOD: Right. No, but let me
18 help you. I'm going to answer that question.

19 Usually when they come down in front of the
20 Zoning Commission they start it like a few days
21 before they get here.

22 MS. ARGO: Right.

23 CHAIRPERSON HOOD: And I'm just saying, not
24 just AU, but a lot of people. We're used to that.

25 MR. KRASKIN: Well, you are but --

1 CHAIRPERSON HOOD: But you aren't. Okay. I
2 understand.

3 MR. KRASKIN: But we're getting used to it.
4 Thank you.

5 CHAIRPERSON HOOD: Okay. Well, we want to
6 make sure --

7 MR. KRASKIN: Nothing else.

8 CHAIRPERSON HOOD: -- we correct that.

9 MR. KRASKIN: Please. Thank you.

10 CHAIRPERSON HOOD: Because that's not the way
11 this city should be moving forward.

12 Mr. Tummonds. And one thing about you, Mr.
13 Tummonds, and I've worked with you on a lot of cases
14 and you always come back with everybody holding
15 hands. So you know where I'm going. But I'm going
16 to let you do your closing.

17 MR. TUMMONDS: Okay. I think we've proposed
18 an application this evening to request the
19 modification that I think everyone has recognized we
20 need, to recognize where we are with the East Campus
21 construction. And that is postponing for one year,
22 the date at which AU will be able to satisfy its 67
23 percent on campus housing requirement. That is, I
24 think, what we need to -- what we ask for your
25 approval and that we will not be able to meet that

1 come fall 2016.

2 I think what we've heard this evening is that
3 we can provide, and whether that can be in a separate
4 meeting, a separate public hearing, or through
5 written submissions, information that we believe
6 details how we are -- have been meeting the
7 requirements with regards to Jacob's Field, how we
8 believe the CLC has been an effective organization,
9 and I think also address the issue of the sequencing
10 of the buildings, buffer buildings 4 and 6.

11 Leave it up to you if you'd like to have that
12 be a special public meeting. We're willing to do
13 that. I think that's what the ANC requested. Or we
14 can do it through written submissions. We will work
15 with you in whatever way you think would be the best
16 forum to provide that information to allow the dialog
17 to occur.

18 CHAIRPERSON HOOD: All right. I am, and let
19 me just say this, colleagues, I think that the
20 request tonight is warranted. I think it's needed.
21 But I also don't -- I'm also not in a rush to do it.
22 I think that we need to revisit some of those other
23 issues, which are going to be very germane to a
24 further proceeding. I would like to see -- I don't
25 necessarily know if we need another hearing. I know

1 that's what you're asking for. I would like to see
2 the CLC work, like it works everywhere else. And
3 maybe we need to rewrite it and instead of having --
4 who's chairing it now, Ms. Argo?

5 MS. ARGO: The Vice President for -- Vice
6 President for Campus Life.

7 CHAIRPERSON HOOD: Maybe we need to have two
8 chairs, the Vice President of whatever, Campus Life,
9 and a community person chair together. Maybe that
10 what needs -- we need to be creative because
11 obviously, I don't know which meetings everybody has
12 been going to, but I've heard two different meetings.
13 One may have been on a Tuesday and the other one was
14 on Wednesday. So, we need to do that because I think
15 it work. It works everywhere else.

16 And I'm not saying we didn't have some of
17 these problems at the other places, because we did.
18 But some of those other places now work, and they're
19 working in tandem, and they're coming down here
20 supporting, and they're coming down here working
21 together.

22 I'm not sure how we get that, which is within
23 the legal requirement of the Zoning Commission, how
24 we get there. If we need to have another hearing, we
25 will. But I think it can be resolved without us. I

1 really think so. It can be resolved without us.
2 We'll make the decision on what we need to make it
3 on. But I don't think coming down and rearguing what
4 this side and that side are going -- I think you all
5 can work that out. I think you all can work that
6 out. If you all have 10 years, you all have 10
7 years, I think you all can work it out.

8 And what I heard clear from Dr. Kraskin is
9 that they've been on promised land for so long that
10 they're tired of being on promised land. And one of
11 the things that disturbs me when I see Ms. -- hold on
12 -- Herzstein, is that actually the first -- and it's
13 got to know your history so you know where you're
14 going.

15 The first campus plan that this Commission
16 did actually sat on, when the council and everybody
17 wanted the Commission to do campus plans, and it was
18 AU. And some of the same things that I heard the
19 late Mr. Herzstein talk about then, 15 years later or
20 so I'm still hearing some of the same thing because
21 I've been here. And that's disturbing.

22 Now I know we've probably made some progress,
23 but it seems like we still talking about the same
24 things that we did in 2000, or whenever the first one
25 was, and that's sad. So anyway, that's what I'm

1 going to -- so let me hear what my other colleagues
2 have to say. I'm sure they have their views on this,
3 Commissioner May.

4 MR. MAY: Okay. So, I mean, this is an
5 interesting point to be back on this case. I mean,
6 we're five years into the campus plan, I guess, or
7 almost. And I am frankly not very happy that we're
8 at the state we're at. I mean, this campus plan came
9 on the heels of a lot of the early discussions with
10 Georgetown University, and it is heartening to know
11 that -- and we see evidence here, we see evidence in
12 other circumstances that what happened with
13 Georgetown turned things around very, very
14 significantly. But we also know that there was a
15 difference between the Georgetown campus plan and
16 their issues, and this campus plan.

17 However, where Georgetown has turned things
18 around and huge progress, I think what's happened
19 here is that the university has made some progress
20 but not nearly enough. And it's not the sort of
21 opportunity -- I mean, when Georgetown came here and
22 they kind of tried to bully their way through an
23 approval and this Commission stood up and frankly
24 gave the university a bit of a tongue lashing on
25 where they were falling down. And they took it to

1 heart and they really did turn things around, and
2 they hired a great facilitator who helped them get
3 through it. And it really made a difference.

4 And I don't know if you use a facilitator
5 now. Maybe that's necessary, because what I'm seeing
6 here is people who are talking past each other. And
7 it seems to me that that is probably what's happening
8 on a regular basis. And I mean the fact that much of
9 the CLC's work is effective and the views of the
10 university, I think that has some merit. But the
11 fact that the ANC and the neighborhood civic
12 association are not on the same page is a substantial
13 problem. They should be on the same page. If
14 there's anybody that you should be in agreement with,
15 it's the ANC.

16 Now, granted you know, there is a lot of
17 history and there are a lot of -- there's a lot of
18 baggage that -- probably in both directions. That
19 was certainly the case in Georgetown but they managed
20 to turn it around. And I see signs of progress. I
21 see a much more civil discussion here than -- and
22 much more agreement than I've seen in some past
23 discussions and I comment the university and the ANC
24 and the civic association for all taking steps in the
25 right direction. I think that there has been

1 progress. But it's clearly not enough, and I think
2 that the university has to -- I don't think we need a
3 hearing to do it because we'll be back with further
4 processings soon. But I think -- and we're not going
5 to change anything because I'm sure that your numbers
6 are going to be what their numbers are going to be
7 for the fall, and then we'll see what they are and
8 when the next further processing comes in we can
9 examine the numbers then.

10 But, you know, this chart is a great way to
11 track it and if you are going off from what's here,
12 the next further processing isn't going to be
13 approved, probably without having to add a cap. And
14 I think you need to understand that. I mean, I see -
15 - you know, what I see here is a reasonable plan to
16 get to adjust to what you have experienced and to
17 ratchet down the numbers to get it back to where the
18 number of students is appropriate for a campus this
19 size, and with housing facilities that you will have.

20 But it's meaningless if it's ignored and if
21 admissions continue to go up and enrollment continues
22 to go up. So I think that there's work that needs to
23 be done. I think when it comes to some of the finer
24 points of this, I do think that a commitment on the
25 part of the university to complete the exterior of

1 buildings 4 and 6, and the landscape that surrounds
2 it is sufficient from my perspective to provide the
3 buffering that was required, regardless of the
4 definition of complete; regardless of whether it was
5 committed to or not. But if you can commit to that
6 now I think that largely fulfills that requirement.

7 And I do think it is important to get the
8 students on to the campus. And I think that that can
9 work, you know, again, regardless of what was
10 committed to before. But I just think, you know,
11 there's more work to be done and I'm hoping that by
12 the time you come back for further processing that we
13 will see the necessary progress.

14 You know, in terms of when we make a decision
15 on this, I think there are a few things that we need
16 to see in writing before we can make a decision on
17 this. Those are my thoughts.

18 CHAIRPERSON HOOD: Okay. Thank you. Anybody
19 else? Vice Chair.

20 MS. COHEN: Thank you, Mr. Chairman. I think
21 that Commissioner May summarized tactfully and
22 concisely a lot of what I was thinking as well. I
23 understand that nerves are raw when construction goes
24 beyond everybody's expectations. But again, I have
25 never seen too many construction projects put on time

1 on budget in my past, over 40 years of experience.
2 So I totally understand, though, how the neighboring
3 residents feel about what's happening and the lack of
4 enjoyment that they're getting because of the
5 construction. But I think the best thing is, is to
6 you know, move on, proceed, and get it completed.

7 As I said, I just think that I don't want to
8 parrot and take a lot of time that Commissioner May
9 has summarized so well.

10 CHAIRPERSON HOOD: Okay. Commissioner
11 Miller.

12 MR. MILLER: Yeah, thank you, Mr. Chairman.
13 I would associate myself with my colleagues'' remarks
14 and in particular on Commissioner May's satisfaction
15 that if the exterior and the landscaping is completed
16 for those 4 and 6 buildings that buffer prior the
17 student halls being occupied at that, that that's
18 sufficient.

19 And in terms of the comments about a
20 facilitator, it may be the maybe I am familiar with
21 that facilitator in the Georgetown case. I'm sure
22 the university is as well. I think maybe it would be
23 useful to engage that facilitator sooner, rather than
24 later.

25 But I think we have to -- so maybe we can get

1 -- I think a lot of good information has been -- good
2 information has been provided. The enrollment
3 numbers, I agree with Commissioner May that the chart
4 is a useful benchmark that should be further explored
5 at the time of further processing this fall, be
6 anticipated this fall for the other -- the South Hall
7 residence building.

8 But I think we have to act before we go on to
9 our own recess because the fall semester begins and
10 they're going to be out of compliance with this
11 order. I mean --

12 CHAIRPERSON HOOD: [Speaking off mic.]

13 MR. MAY: You know, I think we've -- there
14 have been campuses that have been out of compliance
15 with their plans in the past because they haven't
16 gotten approvals. I mean, it's not going to really
17 make a difference. I don't know.

18 CHAIRPERSON HOOD: My back is not up against
19 the wall. I'm not --

20 MR. MAY: Yeah, I mean, I would rather get a
21 thorough submission and deal with this in September
22 than try to hurry it up and deal with it in a, you
23 know, in 10 days.

24 MR. MILLER: I think we could get a thorough
25 submission in 10 days but --

1 MR. MAY: Well, maybe. But we'll have to
2 listen to the --

3 MR. MILLER: If the Commission is comfortable
4 with -- of course, I mean, we're dealing with this as
5 soon as we could deal with it, based on when the
6 application and modifications were made to it. So I
7 mean, it appears that toward the end of our July
8 session it isn't necessarily our fault because that's
9 when it came in and there was a lot of things being
10 worked out with the neighborhood, and I appreciate
11 all that was worked out, but there obviously has to
12 be more worked out.

13 But I'm comfortable with moving forward. I
14 think there are opportunities to deal with these
15 issues going forward. I think the ANC recognized
16 that and so -- but whatever you know, the majority of
17 the commissioners want to do and, I'll go along with.

18 CHAIRPERSON HOOD: Okay. Commissioner
19 Turnbull.

20 MR. TURNBULL: Thank you, Mr. Chair. I think
21 we're at a point where -- we're at a point where we
22 cannot deny this. I mean, the university has got to
23 complete these buildings and they have to be able to
24 go ahead and do them, or else we're at a serious
25 problem.

1 So I think it's between a rock and a hard
2 spot whether you approve or you don't. I think you
3 have to go ahead and approve this. I think the
4 issues that have been brought up, though, by the ANC
5 and by Dr. Kraskin, and Ms. Herzstein, are very
6 critical and I think they need to be addressed as we
7 go ahead.

8 I would think that approving number 5 is only
9 one part of the problem. I think for me, when we
10 talk about buildings 4 and 6, I think you have to --
11 we may have to go back and, under Item 38 that we've
12 all talked about, you would have to add -- I would
13 like to add language that said, on building 4 and 6,
14 the landscaping at the rear of those buildings gets
15 completed. And I would put a date whether it's, I'm
16 going to say September 15th, October 15th, some type
17 of a hard finish date so that we've got something --

18 MR. MAY: I mean, what about just before any
19 of the resident -- the dormitories are occupied?

20 MR. TURNBULL: That's fine too. But I think
21 we need language in there that says --

22 MR. MAY: Yeah.

23 MR. TURNBULL: -- that the rear of those
24 buildings facing Westover are going to be totally
25 completed, landscaping.

1 MR. MAY: Not just the landscaping but the
2 skin of the building.

3 MR. TURNBULL: The exterior.

4 MR. MAY: Yeah. Exterior of the building.

5 MR. TURNBULL: The skin of the building.

6 MR. MAY: Yeah.

7 MR. TURNBULL: Would be done. So --

8 MR. MAY: That's what I would support, yeah.

9 MR. TURNBULL: So, I think we need to add
10 something to Number 38 that would -- I mean, it's not
11 answering the question of what the -- it's not
12 fulfilling what --

13 MR. MAY: I mean, it could be --

14 MR. TURNBULL: -- Commissioner Smith wants,
15 but at least it's getting us closer to at least
16 defining that part being finished.

17 MR. MAY: I mean, it could simply be a
18 condition of the order associated with this action.

19 MR. TURNBULL: Yes.

20 MR. MAY: I would think.

21 MR. TURNBULL: Okay.

22 MR. MAY: Right?

23 CHAIRPERSON HOOD: I am, again, not inclined,
24 and I understand that this needs to be moved. I'm
25 not inclined to move on this this evening. I'm more

1 inclined to find out how this CLC, I'm tying it to
2 that, to a point. I think that the CLC and how
3 they're starting to work together, and I understand
4 all about the further processing that could be done
5 with the -- let's kick it on down the road again and
6 keep kicking them down the road.

7 But I think, now the action as far as what
8 Mr. Turnbull mentioned, Condition 5, I agree with. I
9 know it has to be done, but I don't think it has to
10 be done this evening. Okay?

11 I think what needs to be done, what needs to
12 be done is this little time that you all have before
13 we take this action, that you work on some -- start
14 working, and the CLC start coming up to par to where
15 it needs to be, you know? I'm going to -- sometime
16 we got to look at what's going on because we can't
17 keep kicking the can down the road, keep putting
18 everybody on promise land, the neighborhood putting
19 the AU, AU putting the community, everybody is
20 putting everybody on promised land.

21 And then, okay, what we do the next time we
22 come down, and what can we tell the Zoning Commission
23 then? Or what should the neighborhood say to the
24 Zoning Commission then? We need to first of all get
25 in the same meeting. The same CLC meeting, because

1 obviously you all go to different meetings. Or the
2 people who go.

3 And if you don't agree, let's not come out
4 with -- and you all been doing this much longer than
5 I have. So you know what? You all know what to do.
6 I don't need to tell you. You all know what to do.
7 I've done it. But you all know what to do.

8 I don't know how you all want to proceed, but
9 I can tell you, I am not ready to move forward with
10 this tonight. I know that -- I think it's warranted.
11 I think I can support it. But I also want to see
12 some moving and some actions with going on with the
13 CLC. Okay?

14 MR. MAY: Mr. Chairman, I would agree with
15 you, we're not ready to move forward tonight. I
16 think we do need some further submissions from the
17 applicant on this.

18 I do think it is a valid question. I think
19 some of the things that we've asked for that are
20 specific could happen in time for us to take it up on
21 the 25th, right? But it has to be specific written
22 submission on some of the things. Hold on, let me
23 just finish talking.

24 MR. TURNBULL: I'm meaning to laugh because
25 you're not going to be here.

1 CHAIRPERSON HOOD: Yeah, the 25th --

2 MR. MAY: I understand that. But I'm going
3 to be reviewing --

4 CHAIRPERSON HOOD: Got the 25th for us.

5 MR. MAY: I'm going to be reviewing all of
6 the submissions on the 23rd and I will give you
7 extensive --

8 CHAIRPERSON HOOD: From the beach, and I'll
9 be here all night.

10 MR. MAY: I'll give you -- no, I won't be
11 going to the beach yet. But I'll give you extensive
12 written comments on it.

13 MR. TURNBULL: Okay. All right. All right.

14 MR. MAY: No, but we haven't asked the
15 applicant how much time they want. I'm just
16 suggesting its theoretically possible that it could
17 be taken up on the 25th.

18 The bigger question, which is the
19 relationship between the university and the neighbors
20 and how the CLC works is, it is a bigger question.
21 But unless we're asking for something specific to
22 come out of that, other than, you know, get together
23 and see more -- I mean, they're not asking for
24 specific conditions at this point other than another
25 hearing on you know, on the question of enrollment.

1 You know, things like that. I think that's the, sort
2 of the one unresolved question that was a specific
3 request.

4 What I would suggest though, is that we try
5 to dispatch with this particular change as quickly as
6 possible, and require the university to meet with --
7 whether it's through the CLC or simply, you know, the
8 ANC and the university to spend more time together, I
9 know Chairman Smith wants to spend more time with Mr.
10 Argo. I'm sure that's a high priority for him.

11 I'm just thinking that when they come back
12 for the further processing, I would think that we
13 wouldn't even want to hear it until they are both on
14 the same page, and put that as sort of the
15 precondition because otherwise I don't know what we
16 are asking for.

17 CHAIRPERSON HOOD: Well, the only --

18 MR. MAY: If we delay a decision. Sorry.

19 CHAIRPERSON HOOD: Let me just say this. The
20 reason that we're saying now we don't want to hear
21 it, because I think we wrote that entire regulations
22 about not hearing further process until everything
23 was in order, there was a time on this Commission,
24 there was still the same problems, and we would still
25 hear it. We say we weren't going to do something and

1 we still would do it anyway.

2 So I think to solve that problem, I think we
3 took care of that. But all I'm asking is right now -
4 - and I'm not tying it to what they're asking for per
5 se. What I'm saying is, since we're asking for some
6 additional things, and this ain't nothing new, you
7 all can have a conversation, even if it's not the
8 full CLC. You all -- I'm watching how you all are
9 interacting, even here. Have those conversations
10 among you all, the ones who are here tonight and
11 maybe bring some others in. And have that kind of
12 conversation and I think you'll make some headway.

13 Because I think what's proposed in front of
14 us tonight, I think is, you know, we need to deal
15 with it. I understand that. But and if we need to
16 do it on the 25th when Commissioner May is not here,
17 but even with that little bit of time I'd like to see
18 you all do just what I just saw a few minutes ago,
19 Chairman Smith, and Mr. Tummonds. Just what I just
20 saw. I'd like to see that in the same meetings.

21 Doesn't mean that you have to agree, or if
22 you five points and you agree on three points, that's
23 better than if you have five points and you come out
24 and you have one set of five points and somebody else
25 has another set of five points.

1 Now, I'm not down here lecturing. I just
2 know it works. I know the Vice Chair didn't say I
3 was lecturing. As many lectures as I heard her give.
4 Okay.

5 So that's where I am on that. Anybody else?

6 Okay. So we want to talk about -- Mr.
7 Turnbull, I'm not sure how we get to your language
8 but --

9 MR. TURNBULL: Well, if we're going to have
10 another submission maybe Mr. Tummonds wants to take a
11 look at adding something to Number 38 that would
12 address the back -- what we just talked about, the
13 completion, the skin of the building, the rear facing
14 the neighborhoods, that that would be complete and
15 pick a date if you could --

16 MR. TUMMONDS: I guess I'm trying to get --
17 the information that you'd like from us to make a
18 decision on July 25th is, is it -- and I think that's
19 like -- the issue about the CLC we're not going to be
20 able to give anything.

21 CHAIRPERSON HOOD: But you can let me know
22 that you all did have a conversation. And you can
23 let me know that you're well on your way. That's
24 kind of what I'm looking for.

25 MR. TUMMONDS: So, I mean --

1 CHAIRPERSON HOOD: You can do that in 10
2 days.

3 MR. TUMMONDS: I mean, so it is the 14th. In
4 order to get on the 25th, I'm not -- can we do this?
5 I mean, and I recognize -- I mean, I am not --

6 MR. MAY: Well, I mean, it seems to me that
7 if by the middle of next week you can provide a
8 written response to the, you know, the issue of the
9 sequencing of the East Campus and the completion of
10 those, I think that's a pretty straight forward thing
11 to do.

12 MR. TUMMONDS: Yeah.

13 MR. MAY: I think you need to update the
14 chart with the enrollment to indicate what you truly
15 project. And I think some statements about how you
16 intend to use that tool going forward because just,
17 you know, giving us that tool and then giving us an
18 update and it shows the numbers going up. I mean,
19 how are you going to use that to monitor and manage,
20 and what can we expect to see when we see further
21 processing and those sorts of -- you know, some
22 statements about that.

23 What else was I going to ask about? And I
24 think that yeah, some indication that you've had
25 further conversations with the ANC and the neighbors,

1 whether it's a CLC meeting and what have you, you
2 know, if you can do that by the middle of next week,
3 and if we could have some kind of feedback from the
4 ANC at that time, I mean, because we'd have to have
5 response from the ANC and the party, right?

6 Yeah, I don't know, maybe it isn't possible.

7 MS. SCHELLIN: You know, if I could make a
8 suggestion? Is it possible to have a special public
9 meeting on the 28th at 6:00? If so, then if the
10 applicant could provide their submission, say by the
11 20th, then the parties would have until the 27th and
12 then you would have it the day before, if that's a
13 possibility.

14 MS. COHEN: I think that's a reasonable idea,
15 Ms. Schellin, thank you.

16 CHAIRPERSON HOOD: Yeah, I like that.

17 MR. TUMMONDS: So, Commissioner Smith and I
18 have talked and I think that -- let's wait until
19 September. I think that will -- you know, I
20 recognize that we will technically be out of
21 compliance with the fall, but I think that this is --
22 we've heard here today, you know, I've heard from
23 Commissioner Smith, and we recognize where we are. I
24 think it will serve us better to have a little more
25 time to kind of come to grips with everything that

1 you want and I think, you know, it's helpful for
2 Commissioner May to kind of outline that for us, and
3 then more importantly, you know, this is the big
4 discussion here. And we can have that more with more
5 time.

6 And so maybe we should be looking at having
7 the first date in September. Second.

8 MS. SCHELLIN: That's the 12th.

9 MR. TUMMONDS: That's what we would -- yeah.
10 But that's when we would take it up, but our
11 submissions would be do coming off of that.

12 [Discussion off the record.]

13 MR. TUMMONDS: How about the fourth one in --
14 fourth Monday in September?

15 MS. SCHELLIN: The 26th is our second
16 meeting.

17 MR. TUMMONDS: We can make that one work.

18 MS. SCHELLIN: Okay. So then we would need
19 your submission by the 12th and the responses from
20 the parties, the ANC, and Spring Valley by the 19th,
21 3:00 p.m.

22 MR. SMITH: May I say something, Mr. Chair?
23 Mr. Chairman, I appreciate that because I think that
24 gives us -- you've given us the guidance that we need
25 to go back and talk. You've sort of set the table

1 for us. And having that time to be able to do that
2 hopefully will enable us to work through many of the
3 issues that were talked about tonight. And it does
4 take time to have those conversations. We have other
5 ANC commissioners we had to go back to. They have
6 their folks that they need to go back to who make
7 decisions as well. So, I think it would be very,
8 very helpful.

9 CHAIRPERSON HOOD: Okay. And I think you've
10 already made some headway because you all agreed on a
11 date. Again, I will suggest, though that if you
12 don't agree on everything try to start working it out
13 because we do need to move on this action. I will
14 say that.

15 But, you know, let's not come down and be as
16 divided as we are now. Let's give and take, and I'm
17 sure that from what I've -- you know, we watch
18 things. From what I'm seeing out here, I think it
19 will work. Okay? All right. Anything else?

20 MR. TURNBULL: I just want to thank Dr.
21 Kraskin for a new term, a new set of terms, go along
22 to get along. So.

23 CHAIRPERSON HOOD: Go along to get along.

24 MR. TURNBULL: It sounds like something, like
25 a cowboy song Gene Autry would have sang or

1 something, from the '50s.

2 CHAIRPERSON HOOD: Okay. Anything else, Ms.
3 Schellin?

4 MS. SCHELLIN: I would just ask the
5 applicant, and if the ANC and Spring Valley chooses
6 to do so, to also provide -- I would need the draft
7 findings of fact, conclusions of law by the 12th. I
8 need it two weeks prior to the meeting.

9 MR. TUMMONDS: Okay.

10 MS. SCHELLIN: So, you know, you guys don't
11 have to do it if you don't want to, but the applicant
12 definitely needs to provide me with one.

13 MR. TUMMONDS: Okay.

14 MS. SCHELLIN: Thank you.

15 CHAIRPERSON HOOD: All right. So with that,
16 we're all on the same page. And with that, I thank
17 everyone for their participation. This hearing is
18 adjourned.

19 [Hearing adjourned at 9:55 p.m.]

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