

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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=====X
IN THE MATTER OF: )
) Case No.
COMPREHENSIVE ZONING REGULATIONS ) 08-06-7
)
REWRITE: CAMPUS/INSTITUTIONAL )
)
=====X

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Thursday,
December 11, 2008

The Public Hearing of Case No. 08-06-7 by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room at 441 4th Street, N.W., Washington, D.C. 20001, Anthony J. Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairperson
- GREGORY N. JEFFRIES, Vice Chairperson
- MICHAEL G. TURNBULL, FAIA, Commissioner
(AOC)
- PETER G. MAY, Commissioner (NPS)

BOARD OF ZONING ADJUSTMENT MEMBER PRESENT:

RUTHANNE E. MILLER, Chairperson

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary
ESTHER BUSHMAN, ESQ., General Counsel

OFFICE OF PLANNING STAFF PRESENT:

TRAVIS PARKER

The transcript constitutes the minutes
from the Public Hearing held on December 11,
2008.

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

6:37 p.m.

CHAIRPERSON HOOD: Good evening ladies and gentlemen. This is a public hearing of the Zoning Commission of the District of Columbia for Thursday, December 11, 2008. My name is Anthony Hood and joining me shortly will be Vice Chairman Jeffries, Commissioner May and Commissioner Turnbull.

We are also joined by the Office of Zoning staff, Ms. Sharon Schellin and Ms. Bushman, also the Office of Planning Staff will join us shortly. And also joined by the BZA Chair Ms. Ruthanne Miller.

This proceeding is being recorded by a court reporter and is also web cast live. Accordingly, we must ask you to refrain from any disruptive noises or actions in the hearing room.

The subject of tonight's hearing is Zoning Commission Case No. 08-06-7. This is a request by the Office of Planning for the

1 Commission to review and comment on proposed
2 concepts for text amendments to the Zoning
3 Regulations.

4 This is one in a series of
5 hearings on various subjects currently under
6 review as part of a broader review and rewrite
7 of the Zoning Regulations. Tonight's hearings
8 will consider regulations applicable to campus
9 plans and institutions.

10 Notice of that hearing was
11 published in the D.C. Register on October 24,
12 2008 and copies of that announcement are
13 available to my left on the wall near the
14 door.

15 This hearing will be conducted in
16 accordance with the provisions of 11 DCMR 3021
17 as follows: preliminary matters, presentations
18 by the Office of Planning, reports of other
19 government agencies, reports of the ANCs,
20 organizations and persons in support,
21 organizations and persons in opposition.

22 The following time constraints

1 will be maintained in these hearings: ANCs,
2 government agencies and organizations, five
3 minutes; individuals three minutes. The
4 Commission intends to adhere to the time
5 limits as strictly as possible in order to
6 hear the case in a reasonable period of time.

7 All persons appearing before the
8 Commission are to fill out two witness cards,
9 these cards are located to my left on the
10 table near the door. Upon coming forward to
11 speak to the Commission, please give both
12 cards to the reporter sitting to my right
13 before taking a seat at the table.

14 When presenting information to the
15 Commission please turn on your microphone and
16 speak into the microphone, first stating your
17 name and home address. When you are finished
18 speaking please turn your microphone off so
19 that your microphone is no longer picking up
20 sound or background noise.

21 The staff will be available
22 throughout the hearing to discuss procedural

1 questions. Please turn off all beepers and
2 cell phones at this time so as not to disrupt
3 these proceedings. At this time the
4 Commission will consider any preliminary
5 matters. Ms. Schellin, do we have any
6 preliminary matters?

7 MS. SCHELLIN: No sir.

8 CHAIRPERSON HOOD: Okay. We are
9 also joined by the Office of Planning, Mr.
10 Parker, and we will begin with Mr. Parker.

11 MR. PARKER: Good evening. Thank
12 you Mr. Chairman. I'm Travis Parker with the
13 D.C. Office of Planning.

14 The campus and institutional
15 subject area began in July of 2008 and a
16 working group met through the month of July.
17 At that point at the end of that group, the
18 Office of Planning made a series of
19 recommendations that were passed through our
20 task force at their September meeting and have
21 been on the public web site for review since
22 September.

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1 There are six recommendations that
2 I want to chat with you about tonight that
3 were in our report and you should have a copy
4 of that in front of you.

5 The first is very similar to the
6 recommendations you've seen in a lot of our
7 other subject areas and has to do with
8 reducing the list of uses and consolidating
9 into single categories and in this case
10 institutional being the category, and you
11 actually gave us some guidance on Monday night
12 regarding this subject and gave us some
13 preliminary approval to go ahead and
14 categorize our uses, and in this case the
15 institutional uses would be treated similarly.

16 And I want to talk about the comp
17 plan that gives us some guidance particular to
18 institutional uses in this method. It talks
19 about ensuring that large non-profits, service
20 organizations, private schools, seminaries,
21 colleges and universities and other
22 institutional uses that occupy large sites

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1 within residential areas are planned, designed
2 and managed in a way that minimizes
3 objectionable impacts in adjacent communities.

4 The Zoning Regulations should
5 ensure that the expansion of these uses is not
6 permitted if the quality of life of adjacent
7 residential areas is significantly or
8 adversely affected.

9 So the comp plan gives us some
10 basic guidance to find some rules or some
11 regulations to proactively plan for
12 institutional uses, including all of those
13 mentioned, specifically institutional uses in
14 residential zones. So that's the fundamental
15 point in recommendation No. 1 which, as I
16 mentioned, is a follow up to the general
17 guidance that you gave us Monday at your
18 hearing on retail uses.

19 So to move on to recommendation
20 No. 2 which has to do with the threshold
21 between special exceptions and campus plan.
22 The general theory behind these

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1 recommendations is that above a minimum matter
2 of right for institutional uses in each zone,
3 institutional uses would require a special
4 exception, much like private schools do now.
5 Anything above that GFA threshold or
6 potentially student threshold would require
7 special exception up to a point. Above a
8 threshold of 300,000 square feet, that use
9 would then require a campus plan and I'm going
10 to get in in the subsequent recommendations
11 about the requirements of a campus plan and
12 special exceptions. They are very similar but
13 there are some important differences that I
14 want to talk about.

15 But in terms of this
16 recommendation I want to chat a little bit
17 about how we reach that threshold and what
18 that would mean.

19 We did a survey of the
20 institutional uses in our city on large sites
21 in residential areas and specifically
22 universities, private schools, hospitals and

1 churches. And what we found is that there is
2 a great variety of these uses in the 50,000 to
3 250,000 square foot range, especially private
4 schools tend into the 100,000 to 200,000 range
5 and there are some significantly large church
6 lots in that range as well.

7 Then there's a large gap before we
8 get to hospitals and our largest seven or
9 eight universities. And when we had
10 originally come to the task force we had
11 recommended or came out of the working group,
12 we had recommended a threshold of about
13 150,000 but subsequent data in terms of a lot
14 of private schools between 150,000 and 250,000
15 showed us that there was a more
16 distinguishable gap between the very large
17 institutions and everybody else above 250,000,
18 around the 300,000 square foot range.

19 So the idea of this would be that
20 only the very large institutions would be
21 required to submit a campus plan.
22 Institutions below that would have the option.

1 They would be able to submit a special
2 exception if and when they chose, when they
3 wanted to raise their enrollment or expand
4 their facilities or they could go through a
5 process of just submitting a campus plan every
6 ten years and then having matter of right
7 expansions or construction based on that
8 campus plan throughout the course of that ten
9 years.

10 So it offers a lot of flexibility
11 for the run of the mill and the normal size
12 institutions and the very large ones that the
13 universities and the largest hospitals would
14 have a requirement to do that planning up
15 front at the beginning of the ten years.

16 A couple of notes on that from our
17 report. We had mentioned GFA, that
18 measurement would be 300,000 square foot of
19 GFA. Our task force recommended and we would
20 second that that also include cellar space.
21 Our current GFA counts don't include cellar
22 space but clearly non-parking or loading

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1 cellar space also holds classrooms and people
2 and should definitely be included in that
3 count.

4 And another note on that one, one
5 outstanding issue in terms of this
6 recommendation has to do with multiple
7 institutions that sit adjacent to each other
8 or sit on what could be described as a single
9 campus. There are private schools or
10 seminaries around universities that function
11 under different organizational structures but
12 could be described as sitting on the same
13 campus or parcel of ground and we've gone back
14 and forth about how to define when several
15 different uses comprise one campus or
16 different campuses.

17 We posed the question to OAG but
18 our preliminary indication is that there's no
19 real way to require a unified campus plan for
20 multiple different organizational structures
21 so our preliminary recommendation on that
22 specific question would be that each

1 individual organization would submit their
2 special exception or campus plan and could be
3 requested through that to address the
4 cumulative impact of the different related
5 organizations.

6 Our third recommendation lays out
7 the requirements of the campus plan. A lot of
8 the work of our working group is determining
9 how to better standardize campus plans and how
10 to better ensure that campus plans or campuses
11 were proactively planned, that the work was
12 done up front to identify buildings and uses
13 and impacts.

14 And we did a survey of campus
15 planning techniques from around the country
16 and worked with all of our existing campus
17 plans in the city and chatted with the working
18 group and we came up with eight categories of
19 items that need to be addressed in terms of
20 these institutional uses in residential zones.

21 And very quickly the background
22 history of the institution, the mission and

1 guiding principles of the institution, the
2 facility's plan, and that would include
3 existing conditions and proposed conditions
4 and I'm going to get a little bit more into
5 that in a second, neighborhood context and
6 that includes everything from employee counts,
7 student counts to the interaction between the
8 community and the institution, the edge
9 conditions of the campus.

10 Fifth would be accessibility and
11 this can include a traffic plan, a loading
12 plan, a multi-modal transportation study.

13 Six would be conservation and this
14 deals with historic preservation,
15 sustainability, environmental impacts.

16 Seventh would be landscaping and
17 open space and eighth would be streetscape
18 treatment, things like signage and sidewalks,
19 etc.

20 These are intentionally not taken
21 into further detail because of the uniqueness
22 of all of our campuses. There are some

1 campuses where one of the main considerations
2 is historic impact and others that have no
3 specific historic significance. So the level
4 of detail that each of these would be covered
5 in a particular campus plan would shift from
6 institution to institution, the idea being
7 that each campus plan is organized similarly
8 and at least addresses each of these key
9 issues versus our current practice of we just
10 say there shall be no adverse impact but don't
11 lay out what needs to be addressed in campus
12 plans.

13 So this was a lot of the work of
14 our working group.

15 Two additional points that have
16 arisen on this one based on comments that I
17 want to call out; first regarding the student
18 and/or employee counts, in some universities
19 there's caps on students and caps on faculty,
20 others there may not be and we didn't
21 necessarily prescribe that this be a counter
22 or cap, that it just be addressed in terms of

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1 these institutions.

2 But one comment that was made that
3 we certainly agree with is that we should
4 create a uniform method of making those
5 counts, whether that count is turned into a
6 cap or not, so that institutions follow the
7 same general rules and principles when making
8 those counts.

9 And the second was the potential
10 for a category for corporate citizenship. We
11 do get into in neighborhood context community
12 benefits of the university but there's the
13 idea of more general contributions of the
14 university and that's certainly an option to
15 put either as a separate requirement or
16 something under one of the existing
17 categories.

18 So those are two comments that
19 have come up that we certainly consider
20 friendly amendments.

21 The fourth recommendation has to
22 do with second stage review.

1 CHAIRPERSON HOOD: Mr. Parker?

2 MR. PARKER: Yes sir.

3 CHAIRPERSON HOOD: I think we
4 have six recommendations. Why don't we just
5 split them up. We've heard three, or you want
6 us to continue?

7 MR. PARKER: If I could. I'm
8 going to tie back between them a little bit.

9 CHAIRPERSON HOOD: Okay. Well go
10 on with the rest of your presentation. Okay?

11 MR. TRAVIS: Well, the tie
12 between the fourth and the third is
13 particularly important and I think maybe we
14 can stop after that. In laying out these
15 specific things that need to be addressed in
16 a campus plan, the goal is to do more up front
17 planning and to have these institutions, these
18 private schools, these campuses and hospitals
19 that either choose or are required to go
20 through the campus planning process address up
21 front what their needs are over the next ten
22 years in terms of enrollment, in terms of

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1 building additions and do that planning at the
2 outset in conjunction with the community, in
3 conjunction with the Office of Planning.

4 So the idea is that unlike today's
5 plans where we identify the max FAR of a
6 campus will be 3.5 and we'll have buildings
7 here, here and here that fit these general
8 categories, this will be a lot like what you
9 saw with the recent GW plan but maybe even
10 more specific, we're going to out our science
11 center here and we expect that we'll need
12 100,000 square feet, and we'll put X building
13 over here and we expect that we'll need 80,000
14 square feet and it'll be this high. And
15 actually go through a more specific planning
16 process for each building up front.

17 And the idea being that then
18 there's less need to come back and review each
19 project again a second time later on down the
20 road in five or seven years.

21 Now this recommendation has
22 shifted a bit. When we came out of the

1 working group we had at first recommended that
2 there still be a second stage review for the
3 very large projects, the new buildings of
4 20,000 square feet or more or use changes of
5 50,000 square feet or more.

6 The discussion at the task force
7 actually pulled us back and said, you know, if
8 our up front review is as comprehensive as we
9 intend and if we do get into what the FAR and
10 the height and the impacts of each building
11 will be, then there's less of a need to do
12 that at the second stage.

13 So in the report that you have now
14 we actually pulled that requirement for second
15 stage review at all if the up front review is
16 as intensive as we had planned it to be. Two
17 things that come from that though, there still
18 needs to be review for unanticipated projects,
19 projects that aren't part of the campus plan
20 need to be reviewed but we've set a threshold
21 of 3,500 square feet for de minimis projects,
22 ADA stairwell, things like this. So projects

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1 under 3,500 square feet that weren't
2 anticipated can continue but anything above
3 that would certainly require a change in
4 review of the campus plan.

5 And there was a second point to
6 that but it has slipped my mind.

7 So I guess we could certainly stop
8 there before we get into the special exception
9 ancillaries if you'd like.

10 CHAIRPERSON HOOD: Let's keep
11 going. Let's just keep going. We're almost
12 finished.

13 MR. PARKER: All right. So the
14 fifth recommendation has to do with special
15 exception review. And our intent is that the
16 special exception review would be strikingly
17 similar. It's got five of the same eight
18 categories that were proposed for campus plan
19 review. We've taken off streetscaping
20 treatments since that's usually less of a
21 concern and we don't deal with the background
22 and history or the mission and guiding

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1 principles.

2 But for the most part, a special
3 exception in this context deals with the exact
4 same issues as the comp plan and theoretically
5 in some cases the review would go just as
6 deep. These are certainly smaller
7 institutions in most cases and won't have the
8 depth and breadth of issues of the larger
9 institutions so they may not, but certainly we
10 want to cover the facility's plan and the
11 neighborhood context and any conservation that
12 needs to be done.

13 The main difference between the
14 special exception and the campus plan is the
15 campus plan is done proactively every ten
16 years and is good for ten years. The special
17 exception is done reactively, it's done when
18 an institution knows that they have an
19 impending increase in students or when a
20 hospital knows they need to add beds.

21 So the main difference is that
22 these are done mainly project specific and

1 would have to be redone for each new project
2 or each new increase in employees or each new
3 change in the conditions.

4 So the idea between the special
5 exception is that anything under that 300,000
6 square feet limit would have the choice. They
7 could do an up front plan under the campus
8 plan requirements or they could do a more
9 reactive special exception when they needed
10 it. But the special exception doesn't carry
11 forward. It needs to be done every time that
12 they plan a new addition that wasn't addressed
13 in the previous one.

14 And the final recommendation would
15 be ancillary uses. Campuses, especially
16 universities and hospitals, campuses of this
17 size tend to have ancillary uses, things like
18 retail shops. Campuses have restaurants and
19 certainly hospitals have gift shops and
20 offices and similar things.

21 The idea between No. 6 is that
22 we'd address that where it's not addressed in

1 the current regulations and allow that only
2 through campus plan reviews. So uses that
3 aren't traditionally allowed in these
4 neighborhoods, in residential neighborhoods
5 specifically, would be allowed only as part of
6 a full campus plan review and only when they
7 are ancillary to the campus itself.

8 One question that's arisen from
9 this one, because this was designed thinking
10 about offices and gift shops and restaurants
11 and retail, was the idea of actual industrial
12 production in terms of power plants. For
13 example, Georgetown produces power on the
14 site. So the concern would be that there
15 should be maybe some limits on what could be
16 considered ancillary uses.

17 Our office's preliminary thought
18 on this, and this is a new concept to us that
19 we didn't review as part of the working group
20 or task force, but our preliminary thought on
21 this is that in the future we don't expect
22 necessarily that industrial uses would take

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1 the form of a coal or oil-powered plant but
2 they might take the form of things like
3 geothermal power or maybe solar power
4 production on a university and production in
5 a district energy system, as we're learning in
6 our sustainability working group where a
7 campus of buildings shares power production
8 and shares heat and cooling resources,
9 actually is more efficient and more
10 sustainable than buildings of that size
11 pulling it off the grid.

12 So we certainly don't want to do
13 anything that would prevent local energy
14 production and local district energy systems
15 so we're hesitant to put limits on industrial
16 uses per se for that reason and we feel like
17 the protection would be through the campus
18 plan review. I certainly suspect that the
19 Zoning Commission would be loath to approve
20 new coal firing power plants in residential
21 zones I hope.

22 But I wanted to throw that issue

1 out there that has been raised in terms of
2 this ancillary use.

3 Three issues not related to
4 ancillary uses but three general issues that
5 have also come up. First, is the interim
6 process for universities. Even if all of these
7 recommendations are approved in concept by
8 you, it's still 2010 before new Zoning
9 Regulations would be adopted and we have
10 several universities that are coming up
11 between now and 2010 in terms of new campus
12 plans.

13 So one thing that we as OP will
14 have to think of and that you as the Zoning
15 Commission might have to think of is whether
16 these are something that universities will be
17 able to follow in the more near term of
18 whether this is something that only
19 submissions made after 2010 would be
20 applicable.

21 The second issue that I'm sure
22 you'll hear more about tonight is the

1 relationship between campus plans and PUDs.
2 This came up certainly with the GW case and
3 this is an issue that we don't think is
4 resolvable right not because we don't know
5 what our PUD system will look like at the end
6 of this Zoning -- that's one of our later
7 working groups, one of later subject areas and
8 we're going to dedicate an entire working
9 group just to the PUD process and what that
10 can and should look like. And we think that
11 that might be the appropriate place to
12 determine what the relationship is between
13 PUDs and campus plans.

14 But we certainly want to make sure
15 and flag that for you tonight as I'm sure
16 others will as well.

17 And, thirdly, a final issue that's
18 come up is this idea of special exceptions for
19 institutions. Right now special exceptions
20 for campus plans are heard by the Zoning
21 Commission and special exceptions for other
22 things are heard by BZA and the idea is who

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1 would hear what.

2 We think that that's also
3 something that we shouldn't resolve now. We're
4 going to have some our last working groups
5 will be on, OZ will be working on special
6 exceptions and variances and things and we
7 think that's probably the appropriate time to
8 decide who hears what and at what level, etc.

9 So those are the three other
10 general issues that have come up but that
11 concludes my presentation and I'm happy to
12 answer your questions.

13 CHAIRPERSON HOOD: Okay. Thank
14 you very much Mr. Parker. Ms. Schellin, we're
15 going to start with eight minute rounds and
16 I'm going to go to Commissioner Turnbull
17 first.

18 COMMISSIONER TURNBULL: Thank you
19 Mr. Chair. Mr. Parker, you touched on it
20 briefly in your last three items, how do we
21 implement the new campus plan process and you
22 mentioned GW. We've already approved a campus

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1 plan that goes for so many years and there's
2 other universities that have campus plans that
3 have begun. How do you see this being rolled
4 in? On a phased basis?

5 MR. PARKER: Well, clearly any
6 plan that's been approved, whether it be a
7 special exception for a private school or a
8 campus plan for a university, should still
9 continue for the life that it was approved
10 for.

11 It seems to me that anything
12 approved after this is implemented, or
13 anything maybe submitted after this is
14 implemented, would be subject to this and
15 plans approved prior to the implementation of
16 this would continue to be subject to the
17 older, the second stage review and the rules
18 that exist today.

19 But that's a question. I mean if
20 we're requiring more up front, in the interim
21 in 2009 more up front review, is there some
22 give on second stage review for plans that are

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1 approved in that interim period? And that's
2 an open question right now.

3 COMMISSIONER TURNBULL: Okay. I
4 guess the other aspect of the campus plan
5 issue is how do you rule in satellite
6 facilities?

7 MR. PARKER: Well satellite
8 facilities are a separate campus. They have
9 their impact somewhere else. So a satellite
10 Mount Vernon for example from GW requires a
11 separate campus plan. The Foggy Bottom campus
12 has its plan and Mount Vernon has its plan and
13 each need to address the impacts on their
14 local area.

15 COMMISSIONER TURNBULL: What
16 about just again small one building?

17 MR. PARKER: Well, there's a
18 couple of answers to that question. There are
19 a lot of one building schools in D.C. but the
20 vast majority of them are in commercial zones
21 and they're allowed as a matter of right.

22 COMMISSIONER TURNBULL: Okay.

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1 MR. PARKER: Or in our five zones
2 where they tend to be more allowed. We're
3 talking specifically here about in residential
4 areas and specifically low and moderate
5 density residential areas. Again, the one
6 buildings they'd be well below the campus plan
7 threshold, they could generally almost always
8 come in as a special exception should they
9 still be in the neighborhood that requires
10 that.

11 COMMISSIONER TURNBULL: Okay. I
12 guess the last question is, and I'm glad when
13 we talked about it, you mentioned the
14 ancillary uses and you talked about
15 industrial, whether it's production. I think
16 you are right in looking at the fact that we
17 don't know at this point how we're doing to be
18 picking up energy.

19 There is a lot of opportunities
20 for things in the future so I'm glad you're
21 leaving that in abeyance.

22 MR. PARKER: It's something that

1 did need to be raised but you're right, there
2 are a lot of issues to be considered.

3 COMMISSIONER TURNBULLL: Okay.
4 Thank you. Mr. Chair, I'll yield right now.

5 CHAIRPERSON HOOD: Thank you. Let
6 me just say it's always good to see the former
7 chair and member of this commission, Miss
8 Bennett, good evening. Okay. Who would like
9 to go next? Vice Chair?

10 VICE CHAIRPERSON JEFFRIES: Yes.
11 You can put me but I'm not going to take all
12 my time. I have a question, Mr. Parker, in
13 terms of the working groups was there any
14 discussion around churches in terms of
15 churches that might become campuses? I mean
16 I guess we don't see much of that or any of
17 that or any of that really in the District but
18 we certainly see it in some of our suburban
19 neighbors.

20 Obviously that's a matter of right
21 but how was that addressed?

22 MR. PARKER: Well we didn't have

1 as much discussion in the working group
2 although I have had some discussion and heard
3 some comments since.

4 The issue is that right now
5 churches are allowed at any size in any
6 neighborhood as a matter of right. And to
7 some extent that should definitely continue,
8 especially for existing churches we don't want
9 this to create new burdens for existing
10 churches to continue their mission.

11 The thought process behind all of
12 this, and I assume behind the comprehensive
13 plan that sort of gave us our direction in
14 this, is that there comes a size of
15 institutional use in a single family
16 residential neighborhood that has impacts in
17 terms of the number and so the types of new
18 churches that we're seeing today, not
19 necessarily in D.C. but like you say
20 elsewhere, are not neighborhood corner
21 churches. They're mega 10,000 square feet
22 churches.

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1 So should one of those want to
2 open its doors in a residential neighborhood,
3 right now that would be a matter of right.

4 VICE CHAIRPERSON JEFFRIES:
5 Right.

6 MR. PARKER: And the idea under
7 the new system is that institutional uses that
8 are small in neighborhood size are still a
9 matter of right. Above a certain size though
10 they're going to have to start requiring a
11 special exception and above yet a higher size,
12 that 300,000 square foot which by the way is
13 the size of about four National Cathedrals.
14 I think the National Cathedral, even though
15 it's huge interior space it's only one story
16 obviously the footprint's only 75,000 square
17 feet, something in that neighborhood. Ah
18 basement, fair enough.

19 But then once you cross that
20 300,000 square feet and have that many people
21 coming in and out of whatever use it is, it
22 requires yet that next stage of review.

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1 So the thought being we certainly
2 don't want to and I have had discussions about
3 whether there should be exemptions for small
4 additions to existing churches and things like
5 that because we don't want to pull existing
6 churches into having to do a campus plan for
7 a small addition or for a change in the types
8 of things that they do in their building. But
9 we certainly want to have neighborhood review
10 for large new uses.

11 VICE CHAIRPERSON JEFFRIES: Yeah,
12 I have personal experience with this in
13 Chicago, I mean my beloved church. But it
14 would continue to buy buildings in the general
15 area, buy lots and the next thing you know on
16 Sundays, and in fact even some week nights it
17 was probably a huge strain on that community.

18 So it's just interesting and I'm
19 sort of surprised there hasn't been more of
20 that, maybe because there are so many older
21 churches and it's just so little horizontal
22 expansion that can happen in the District.

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1 So at this point what's being
2 proposed is that even for a church, after a
3 certain size it would still require a special
4 exception?

5 MR. PARKER: Right.

6 VICE CHAIRPERSON JEFFRIES: Okay.
7 Great. The other question I have and I'm going
8 to go to the campus plan, the second stage
9 review. So your question was if its situation
10 during the first stage that is fairly
11 comprehensive, meaning that the university has
12 said four years from now we're going to build
13 100,000 square foot building at X place and
14 then another location we're going to build a
15 gym and they sent those square footages off
16 and they put the plan in place, they have all
17 the transportation, all the various things to
18 get us comfortable that this is going to make
19 sense and not have any impact on the adjacent
20 communities, what will trigger a review if
21 there is a change in the certain square
22 footage of a building.

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1 Let's say they're telling us
2 during the first stage it will be 100,000. Is
3 there going to be a number that triggers a
4 second review because obviously plans change?

5 MR. PARKER: Well, I guess that's
6 the question, are you talking about a number
7 more than 100,000?

8 VICE CHAIRPERSON JEFFRIES:
9 Right.

10 MR. PARKER: I would say that
11 103,500 square feet I mean we offered that.

12 VICE CHAIRPERSON JEFFRIES: The
13 3,500 would trigger?

14 MR. PARKER: That would make
15 sense, yes. I guess that had been anticipated
16 for additions to existing buildings that were
17 unanticipated. I hadn't though before you
18 asked the question whether that could be
19 applied. It probably shouldn't. If we go
20 through a planning process and say the maximum
21 this will be is 100,000 then it probably
22 should be the maximum of 100,000 and it could

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1 go down.

2 VICE CHAIRPERSON JEFFRIES: I
3 mean would it be viewed as almost a minor
4 modification of some sort? I mean I would
5 imagine if we're looking at 100,000 square
6 foot building then it grows 2,000 feet, it
7 shouldn't have to come back through there.

8 But I mean it's just something to
9 think about in terms of what's the trigger
10 there.

11 MR. PARKER: And keep in mind
12 that our original recommendation had been,
13 regardless of how thorough the up front review
14 is, that projects of a certain size, 50,000
15 square feet or something, should still go
16 through a second stage review.

17 Now we've gone away from that and
18 said you know we expect the first stage to be
19 comprehensive enough that it's not needed, but
20 we're still open to the idea of a threshold of
21 second stage review.

22 VICE CHAIRPERSON JEFFRIES: And

1 then my last question is the PUD versus campus
2 plan. Just refresh my memory in terms of the
3 concern, without getting too deep into it, is
4 the question in these campus plans that there
5 should be amenities that enure to the adjacent
6 community in the campus plans that somehow get
7 missed? What's the tension?

8 MR. PARKER: I think the concern
9 is, and I'll be corrected if I'm wrong, I
10 think the concern is that campus plans lay out
11 a series of rules and we know your campus you
12 have to play by these rules, you can go up to
13 this height and you can apply for these
14 things. Whereas a PUD is more negotiated and
15 less certain up front. And I think the
16 concern is that the PUD allows more discretion
17 and flexibility that isn't necessarily
18 appropriate in the campus plan.

19 Now the campus plans as it lies
20 here requires campus to address all off these
21 things but it certainly allows flexibility in
22 where buildings are placed and how much total

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1 FAR. So I suspect that there will be less
2 need or less demand ever to combine a PUD with
3 a campus play like we did with GW. That was
4 a function of limitations in our current
5 system. But it remains to be seen what the
6 PUD system ends up looking like.

7 VICE CHAIRPERSON JEFFRIES: Okay.
8 Thank you.

9 CHAIRPERSON HOOD: Okay. Chair
10 Miller, you want to go next?

11 BZA CHAIR MILLER: Okay. Sitting
12 on the BZA I only see half of this equation
13 basically, that being the special exceptions.
14 And I guess I'm wondering, you're recommending
15 a very basic change to regulate institutions
16 from type to land size, and I'm wondering if
17 you can identify what was wrong with the
18 system that's in place now and why is the new
19 way of doing it better?

20 MR. PARKER: Well, the thought
21 being that there's more impact on a
22 neighborhood based on the size of institution

1 than its name, so a private school with 1,000
2 kids has more impact than a university with
3 100.

4 So there's more relationship
5 between a large private school and a large
6 university than there is between -- or a
7 large, you know what I'm saying, the name has
8 less to do with the impact than the number of
9 users. Same for a hospital, same for every--
10 I mean a church has a matter of right use but
11 a church with 10,000 people coming in and out
12 of it has more impact than a small private
13 school which has to go through a review.

14 So that's the general concept
15 behind it. It's how it's done in a lot of
16 other places and it's the direction that the
17 comprehensive plan gave us that we need to do
18 more proactive planning in terms of all of
19 these institutional uses.

20 BZA CHAIR MILLER: Okay. That's
21 a good explanation. I'm wondering have you
22 gotten any feedback from religious

1 organizations with respect to a greater burden
2 on them to come under special exception?

3 MR. PARKER: I have and I know
4 there's a concern about you know they are
5 traditionally matter-of-right and everything
6 that they do under their mission is matter of
7 right and there is a concern of existing
8 institutions being required to do a special
9 exception for a minor addition or a minor
10 change and that's certainly something that
11 we're aware of.

12 The intent of this is for big
13 changes in program, big additions or, even
14 more importantly, big new uses would have to
15 go to this process and we're certainly open to
16 some minor flexibility for existing uses.

17 The difficulty comes in when we
18 say that we're regulating institutional uses
19 the same and then calling one out for
20 exceptions that we don't call the others out
21 for.

22 BZA CHAIR MILLER: Okay. And you

1 did say for instance if there's an independent
2 school that has two separate campuses and each
3 campus falls under the threshold for--

4 MR. PARKER: Separate
5 geographically?

6 BZA CHAIR MILLER: Yes,
7 geographically. They're just treated
8 individually because of their impact on the
9 specific neighborhood right?

10 MR. PARKER: Correct. Correct.

11 BZA CHAIR MILLER: Okay. I think
12 you also talked about in the master plan if
13 there were like minor changes that were going
14 to be made they wouldn't have to come back for
15 approval, is that right? Like you know to
16 comply with the ADA requirements?

17 MR. PARKER: Yes. The
18 recommendation is if you complete a campus
19 plan it's good for ten years and you can come
20 in and do anything that's in your campus plan
21 as a matter of right. If it's not in your
22 master plan you have to come back to the

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1 Zoning Commission for review but we've set
2 that threshold at 3,500 square feet so if you
3 have an unanticipated, like you said ADA
4 addition or stairwell that you need or
5 something like that that's under that 3,500
6 square feet, you know the size of a large
7 house, then you can continue through that as
8 a matter of right.

9 BZA CHAIR MILLER: Okay. My
10 question is did you consider that for the
11 special exception as well? I mean I ask that
12 because every once in a while we do see
13 somebody come back and it's such a minor thing
14 it doesn't seem like they really should have
15 to come back.

16 MR. PARKER: That's fair. The
17 difference being that the campus plan has done
18 an up front planning process and said this is
19 what our campus will look like over the next
20 ten years. The special exception might be 15
21 years old or an existing institutional use
22 without a special exception.

1 I see your point that if you've
2 had a recent special exception approved and
3 the addition that you requested bumped up
4 slightly, there should be some minor
5 modification allowed to that.

6 BZA CHAIR MILLER: I mean it's
7 something say a school has a locker room or
8 something, it's clearly minor.

9 MR. PARKER: Right.

10 BZA CHAIR MILLER: And I just
11 wanted to see if that was something that you
12 considered or you might want to consider?

13 MR. PARKER: We're open to that.

14 BZA CHAIR MILLER: Pkay. That's
15 all I have right now.

16 CHAIRPERSON HOOD: All right.
17 Commissioner May?

18 COMMISSIONER MAY: I'll speak for
19 less than eight minutes. I can't guarantee
20 what Mr. Parker will say though. You never
21 know how long he'll take. No, actually my list
22 is fairly short today.

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1 The first is sort of a minor
2 clarification. I think when you're talking
3 about ancillary uses you mentioned that it
4 would really only be applicable if there was
5 a campus plan.

6 MR. PARKER: Um-hmm.

7 COMMISSIONER MAY: So what you're
8 projecting is that there wouldn't be any
9 ancillary use for relatively small private
10 school kind of situation?

11 MR. PARKER: Any uses not
12 traditionally allowed, any retail stores or
13 power plants.

14 COMMISSIONER MAY: Right. I'm
15 not imagining power plants but I am
16 remembering that the private school that I
17 once attended had a very small bookstore in
18 it. And I mean it was a room within the
19 building but it was an actual bookstore, you
20 had to pay and buy the book. Go and pay for
21 your books and you could buy sweatshirts and
22 that sort of stuff.

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1 MR. PARKER: I mean we'd be open
2 to some minor.

3 COMMISSIONER MAY: I think there
4 needs to be, I think that an automatic trigger
5 of having to have a campus plan in order to
6 have ancillary uses, you either have to very
7 carefully tailor the ancillary uses or you
8 have to have some sort of other process for
9 that.

10 MR. PARKER: That's fair.

11 COMMISSIONER MAY: Because some
12 of these things I think can be very small but
13 they would still technically fall into those
14 other categories.

15 MR. PARKER: Fair enough.

16 COMMISSIONER MAY: The campus
17 plan versus a PUD, this is just a couple of
18 mentions of things that I think are things to
19 keep in mind as you step into the PUD process.
20 I have no specific direction here or thoughts
21 about it, I just want to make a reminder that
22 with GW there have been I don't know how many

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1 PUDs in total, I'm aware of two with GW and
2 one was a joint effort of the School-Without-
3 Walls which had its extenuating circumstances
4 which made it really the only viable means of
5 doing that development. So I would hope that
6 something like that is kept in mind in how
7 this is formulated.

8 And then of course there was
9 another case where there was I believe a
10 hospital in which the Zoning Commission
11 insisted that it be treated as a PUD in its
12 development.

13 VICE CHAIRPERSON JEFFRIES:
14 Sibley?

15 COMMISSIONER MAY: It was
16 Washington Hospital Center. Remember that
17 one?

18 VICE CHAIRPERSON JEFFRIES: Oh I
19 definitely remember. I was wondering why you
20 were looking this way.

21 COMMISSIONER MAY: I was looking
22 at you. I don't remember much of the lessons

1 learned there but I think there probably were
2 some lessons learned there so it's just
3 another thing to keep in mind.

4 And lastly is what about public
5 schools? I am a big supporter of public
6 schools and I'm not looking to complicate the
7 already complicated lives in the development
8 of public schools.

9 However, because of the expanding
10 use of Charter Schools and even the evolution
11 of the public school system whereas it used to
12 be exclusively a neighborhood serving
13 enterprise and more and more there are
14 locations that are children are driven to
15 because they're going to school out of
16 boundaries or what have you.

17 And of course in the Charter
18 Schools which are inherently not or usually
19 not neighborhood serving and so there's a
20 greater automobile impact, and I'm wondering
21 if in the process of considering this whether
22 you're actually going to look at the

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1 definition of public schools and how they
2 should be either incorporated or addressed
3 separately to deal with those unique
4 circumstances.

5 MR. PARKER: They are
6 specifically excluded from this and we had
7 proposed in our report on uses, a separate
8 category for local government uses including
9 public schools and Charter schools and we
10 haven't looked at what the requirements on
11 those uses would be, but that is on our radar.

12 COMMISSIONER MAY: I think it is
13 something that needs to be addressed one way
14 or another. I think the idea of doing it as
15 part of local government uses might be
16 appropriate but you might be dealing with a
17 completely different set of impacts so you're
18 dealing with a model that's less closely
19 aligned. It may be that it actually does fit
20 better here in certain ways, particularly
21 since at a certain level of development it
22 could be treated as a matter of right.

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1 And I think if we're focusing on
2 impacts that's a good way to get to that. And
3 then you get out of the whole question of you
4 know public school, Charter school, private
5 schools. I mean I know we already asked and
6 answered the question of whether a Charter
7 school is a private school but I'm not sure
8 that answer's completely settled with
9 everybody. So thanks.

10 CHAIRPERSON HOOD:

11 Congratulations Commissioner May.

12 COMMISSIONER MAY: Two fifty to
13 go.

14 CHAIRPERSON HOOD: Thanks to Mr.
15 Parker. Chair Miller had a follow up and then
16 we'll see if we need to do another round.

17 BZA CHAIR MILLER: I just want to
18 respond to Commissioner May's comment about
19 the bookstore in the school. Under the law
20 now it's treated as an accessory to the
21 school, it's incidental to the school, so it's
22 allowed. If the school's allowed, its

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1 accessory is basically allowed but there would
2 be a distinction between ancillary and
3 accessory things.

4 I guess an ancillary thing would
5 be something more separate. If they had a
6 café that other people outside of the campus
7 attended or something or a commercial
8 bookstore or something but not one where
9 they're selling their own supplies.

10 MR. PARKER: We've definitely
11 struggled with this primary accessory uses
12 when we get into this idea of use categories
13 versus particular uses, and it's something
14 that we're struggling with as far as how to
15 define accessory uses, whether to define
16 accessory uses, because you're right. There
17 are some things that are clearly accessory but
18 there comes a point where the bookstore is big
19 enough to have -- where a Barnes & Noble inner
20 use has an effect.

21 So again it's getting away from
22 what it's called and trying to get down to the

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1 size and impacts.

2 CHAIRPERSON HOOD: So just to
3 clarify, accessory uses are going to survive
4 in this process?

5 MR. PARKER: We're working that
6 out.

7 CHAIRPERSON HOOD: Or you're
8 trying to address them under the category of
9 ancillary uses in this structure?

10 MR. PARKER: This was intended to
11 be, or this was addressed at stand alone, at
12 a McDonald's, you know, at a use not within
13 the building or accessory to. But we haven't
14 yet created an adequate definition of
15 accessory. But that's on our agenda.

16 CHAIRPERSON HOOD: Okay.

17 COMMISSIONER MAY: All right.

18 Thanks.

19 CHAIRPERSON HOOD: Okay. Mr.
20 Parker, in recommendation two and I'll read
21 the first sentence, "Institutional uses in
22 residential zones with 300,000 square feet of

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1 total gross floor area, or more, would be
2 required to submit a campus master plan before
3 they can be established or expanded."

4 I'm not going to call on any
5 particular college or university but I think
6 that there was an instance where the Office of
7 Planning started talking about reaching the
8 tipping point. I think that was a new word, at
9 least it was new for me, it may not have been
10 new for anyone else.

11 How will this recommendation
12 relate to when we start looking at the tipping
13 point?

14 Case in point I've always thought
15 about Jackson, Mississippi when Jackson State
16 got read to expand they just bought the land
17 and kept on moving out. Unfortunately, right
18 now in this city we can't do that. And
19 colleges should have the right to expand to
20 some degree but how are we going to strike
21 that balance and find a balance, especially
22 when I look at this and it says "establish and

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1 expand" 300,000 square feet you know when do
2 we stop? I guess it's a question.

3 MR. PARKER: If I could answer
4 that question you'd have to pay me a lot more.
5 No, I mean that's something you have to
6 examine with every campus plan. I mean every
7 campus plan has unique issues, has unique
8 neighborhoods and has unique relationships
9 between the two. And the goal of this is to
10 get as much information on the table as
11 possible and have every university and every
12 neighborhood know up front what they're
13 addressing and what's on the table.

14 Then it comes down to our job and
15 your job to balance between all those things
16 and determine when to put the brakes on.

17 CHAIRPERSON HOOD: Okay. And I
18 know you asked us not to look at whether the
19 BZA or the Zoning Commission should handle
20 certain things. That was an issue for me, I
21 guess about a year or so ago and that's
22 something that will come later.

1 But I think, and I would like to
2 hear from others, when it gets to that point
3 it should be basically in one place. That's
4 the way I feel about it.

5 Now whether it's the BZA, I know
6 the Zoning Commission took some of it back, I
7 just think this should be predictable as to
8 what the government, or at least this mayor,
9 is trying to do, it needs to be predictable.

10 MR. PARKER: I agree.

11 CHAIRPERSON HOOD: And the only
12 other thing I would ask is when you look at
13 best practices start leaving Chicago out
14 because I have two people from Chicago to my
15 left. Okay.

16 VICE CHAIRPERSON JEFFRIES:
17 Because of the recent things right.

18 CHAIRPERSON HOOD: By the way
19 Vice Chair, where was that church at?

20 VICE CHAIRPERSON JEFFRIES:
21 Trinity United Church of Christ, Jeremiah
22 Wright's church.

1 CHAIRPERSON HOOD: Oh in Chicago?

2 VICE CHAIRPERSON JEFFRIES: Yes
3 in Chicago, right.

4 CHAIRPERSON HOOD: Did the
5 president-elect go to church for a few years?

6 VICE CHAIRPERSON JEFFRIES: Yes,
7 he did.

8 CHAIRPERSON HOOD: Oh okay.
9 Chicago. Any other questions colleagues?

10 COMMISSIONER TURNBULL: Mr. Chair,
11 I just had one more.

12 CHAIRPERSON HOOD: Sure.

13 COMMISSIONER TURNBULL: On the
14 300,000 limit you've listed several
15 universities and colleges that are about that
16 threshold. Without going back, are they well
17 above that?

18 MR. PARKER: They're in the
19 millions, yes.

20 COMMISSIONER TURNBULL: Are there
21 any private schools like K through 12 that are
22 bordering that or close to that?

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1 MR. PARKER: I think there are
2 some in the 250,000 range to the best of my
3 knowledge, 250,000, 260,000 range. That
4 300,000 square foot threshold was meant to be
5 above all of the existing private school and
6 all of the existing conglomeration of uses
7 that are below that level, and it's quite a
8 bit below the uses on the list in that report.
9 So yes, to the best of my knowledge it is
10 larger than any private school we have now.

11 COMMISSIONER TURNBULL: Okay. I
12 guess I was just looking at the, I think we've
13 had a couple of comments or in letters but
14 possibly a hardship issue for some schools in
15 that range that if they get above that--

16 MR. PARKER: Only if they do a
17 lot of expanding.

18 COMMISSIONER TURNBULL: Okay.
19 Thank you.

20 CHAIRPERSON HOOD: Okay. Any
21 other questions? Okay. Let's go with our
22 witness list and what I'm going to I'm going

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1 to call Mr. Ron Lewis, ANC-2E up first and he
2 has a question mark for both. Oh I'm sorry.
3 Let me ask you this then.

4 VICE CHAIRPERSON JEFFRIES:
5 Plagiarism.

6 CHAIRPERSON HOOD: Are you a
7 proponent or opponent?

8 MR. LEWIS: It's fair to say
9 we're both. There are many things we like a
10 lot as you'll hear about this, and then we
11 have to serious questions.

12 CHAIRPERSON HOOD: Okay. Well
13 it's only one person down like that so we'll
14 go ahead Mr. Lewis and you can begin.

15 MR. LEWIS: Thank you sir. My
16 name is Ron Lewis. I live at 3400 Reservoir
17 Road, I've lived there for many years and I'm
18 an ANC-2E commissioner for the communities of
19 Georgetown, Burleith and Hillandale.

20 We have a big stake in these
21 proposed regulations because Georgetown
22 University and Georgetown Hospital are in our

1 community. There's a lot to like about our
2 university and our hospital. We know this and
3 we appreciate this.

4 At the same time, along with the
5 good they bring very substantial and often
6 adverse impacts on our community. We all
7 know what they can be, student conduct and
8 drinking off campus including late night noise
9 and disruption, crowded group houses, the
10 impact of a university and hospital
11 transportation system that carries over a
12 million and half passengers a year through our
13 neighborhood.

14 On campus events and facilities
15 that draw large crowds, the heightened effect
16 of all of this on the fragile infrastructure
17 and built environment of one of the nation's
18 only communities to be designated a national
19 historic landmark area.

20 These and other impacts need to be
21 regulated carefully and we welcome this
22 comprehensive review of the applicable zoning

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1 regulations.

2 I have only three points to make
3 this evening. The first is genuine praise and
4 appreciation for the overall job the Office of
5 Planning has done on this, including
6 stakeholder input. We support the focus of
7 the proposed regulations which follow the comp
8 plan's direction to ensure that large
9 universities minimize objectionable impacts on
10 adjacent communities. That's at the heart of
11 it and we strongly support that.

12 We particularly appreciate the
13 specific inclusion of student and employee
14 counts and the recognition that caps can be
15 appropriate regulatory tools.

16 Our university, for example,
17 includes a big for profit hospital with
18 significant expansion aspirations, an on
19 campus hotel and a to be proposed convocation
20 center. And these and other such uses can
21 have major community impacts. So employee
22 counts no less than student counts really are

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1 an important tool for these regulations and
2 we're glad OP has included that.

3 Our second major point is that we
4 urge further work on the issue of second stage
5 review to strike a better balance between too
6 little and too much. And I was pleased that
7 Mr. Parker's comments suggested that that area
8 is still in a state of examination and that
9 this might be possible.

10 Having everything done up front is
11 maybe theoretically possible but it's a
12 radical change from the regulations that exist
13 now and it puts a lot of pressure on a huge
14 amount of information coming within an already
15 complex plan.

16 When the inevitable changes are
17 made down the road, because some of the
18 buildings in these plans aren't even built,
19 they don't even go to construction, you know,
20 design development for five, six, seven and
21 eight years, when the inevitable changes come
22 an all up front system invites controversies

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1 over whether the use has changed sufficiently
2 to treat the actual project as one not
3 included in the original plan. And we want to
4 avoid those controversies if we can.

5 So our suggestion is to look for
6 something in-between that maybe has a safety
7 valve, certainly for projects such as
8 Georgetown's that are going to come up within
9 the next year. I mean they have not been
10 preparing for all up front. They can speak
11 for themselves but I know they're working hard
12 on the plan, we're working very cooperatively
13 with them to the maximum extent possible.

14 There needs to be some kind of
15 transition arrangement. We've suggested
16 possibly one in our written submission to
17 treat as national historic area as requiring
18 secondary review because they have to come in
19 anyway for historic design review. And it's
20 not a big penalty or inconvenience to come in
21 also for second stage.

22 There may be other mechanisms. For

1 example, have second stage review if one of
2 two things happens. One is the university
3 asks for it, which could happen, if they're
4 not prepared to do all the work up front. And
5 the other is if the ANC asks for it.

6 CHAIRPERSON HOOD: Let me go
7 ahead and get your closing thought. Go ahead.

8 MR. LEWIS: The closing thought
9 I'll mention very briefly our third point. I
10 was delighted to hear the discussion about
11 industrial uses, that Georgetown does have a
12 big power plant and if they want to make it
13 bigger it shouldn't be fossil fuels and I was
14 very happy to hear that discussion.

15 With that I will conclude the
16 presentation and be happy to address any
17 questions you might have.

18 CHAIRPERSON HOOD: Okay. Any of
19 my colleagues have any questions of
20 Commissioner Lewis? Okay. Thank you very
21 much.

22 MR. LEWIS: Thank you very much.

1 CHAIRPERSON HOOD: Okay. We're
2 going to begin with the proponents, Ms. Sally
3 Kram, Elizabeth Downes and I guess we have,
4 okay, let's see, Kate Lindsey and let's see if
5 we can get one more, Kathleen Minardi.
6 Hopefully you can correct me when you get-- We
7 have five? Okay. Five, okay, that's fine.
8 Okay, we'll begin with Ms. Kram and I think
9 this whole panel has five minutes right?
10 Okay. Each. You all have five minutes each.
11 We'll start doing five minutes collectively.

12 MS. KRAM: Thank you Chairman
13 Hood and it's K-r-a-m just for the record.

14 CHAIRPERSON HOOD: Thank you very
15 much.

16 MS. KRAM: Good evening Chairman
17 Hood, Commissioners and staff. My name is
18 Sally Kram and I'm the Director of Government
19 and Public Affairs for the Consortium of
20 Universities of the Washington Metropolitan
21 area, a regional organization representing the
22 15 major institutions of higher education in

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1 the Greater Washington community.

2 I'm here this evening to speak on
3 behalf of the District of Columbia members who
4 would be affected by changes to the zoning
5 code as it relates to campus plans and
6 university development. Those members are
7 listed in my written testimony.

8 I want to thank the Commission for
9 the opportunity to testify tonight as well as
10 the Office of Planning for its good work and
11 inclusion of our organization in this process.
12 And I want to list one by one our comments on
13 the individual recommendations.

14 On recommendations 1 and 2 we
15 support.

16 Recommendation 3 we also support
17 but with the following caveats. As Mr. Parker
18 mentioned on the good citizen kind of
19 discussion we support the addition of a 3A
20 citywide benefits. The effect of campuses on
21 their immediate community must be considered
22 always in this process but we believe the

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1 comprehensive plan took a broader view
2 proposing that higher education sector
3 presents an important asset to the District
4 economy and thereby allowing some balance
5 between the specific neighborhood impacts and
6 the broader need for growth.

7 We therefore think it's only
8 appropriate that the campus plan regulations
9 allow for a specific delineation of how the
10 institution contributes to the District's
11 character, culture and economy, which is
12 language from the comprehensive plan also.

13 As to the discussion of counts or
14 caps, we recommend that, well we strongly urge
15 that the Zoning Regulations omit any reference
16 to population caps at all, and I distinguish
17 between caps and counts.

18 We believe caps are inappropriate
19 and unnecessary.

20 Regulations addressing the size
21 and number of buildings as well as traffic
22 impact studies adequately address the impacts

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1 of the institutional populations on
2 surrounding communities. Caps on employment
3 are particularly problematic since they
4 directly conflict with comprehensive plan
5 language which, as described in my written
6 testimony, condones the growth of universities
7 as employment centers.

8 Student caps are not specifically
9 discussed in the comprehensive plan but we
10 believe that regulating them would be a
11 mistake and that what the Commission might
12 want to consider is retaining its policy of
13 flexibility towards these caps in order to
14 craft them to reflect the unique circumstances
15 and context of each campus and its community.

16 Three. Clarify the language in
17 the historic considerations and environmental
18 impact requirements of the conservation
19 section. There is some confusion as to what
20 this language intends beyond what is already
21 required by law, particularly in historic
22 preservation and environment. And we would

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1 ask the Commission to assist in more clearly
2 defining the types of review materials that
3 would be necessary at the campus planning
4 stage as opposed to what's generally required
5 subsequently at the construction stage and
6 permitting stage.

7 As to point 5, we support this
8 section as well with the caveat we believe
9 that projects consistent with the campus plan,
10 where the detailed information has been
11 provided, should go forward without additional
12 review.

13 We have concerns about a proposal
14 presented on page 11 of the OP Report calling
15 for review of campus master plan conditions
16 for each building or certificate of occupancy
17 application. We think it would unnecessarily
18 delay C of O considerations. As to permits,
19 we think that it would add another layer of
20 review in already review laden process, even
21 further delaying construction of projects that
22 have already been approved. So we would

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1 suggest that that recommendation be
2 reconsidered.

3 The Consortium has no position on
4 the 5th recommendation because it doesn't
5 apply to universities.

6 On the 6th recommendation we had no
7 position when I wrote this testimony but
8 hearing the discussion on ancillary uses we
9 would like to continue the conversation on
10 particularly the energy issue going forward.

11 Thank you for giving me this
12 opportunity to present the views of the
13 Consortium and I welcome any questions you may
14 have.

15 CHAIRPERSON HOOD: Okay. Thank
16 you Ms. Kram. Ms. Downes?

17 MS. DOWNES: Yes. Good evening.
18 Thank you for giving me the opportunity to
19 present to you tonight. My name is Elizabeth
20 Downes, I'm the executive director of the
21 Association of Independent Schools of Greater
22 Washington. AISGW is a non-profit voluntary

1 organization made up of 84 schools in the
2 District of Columbia, Maryland and Virginia.

3 Twenty-five of these schools are
4 located in the District, 16 of those are in
5 Ward 3.

6 AISGW provides professional
7 development and information sharing services,
8 encourages high educational standards and
9 monitors the collective interests of the
10 area's independent schools. The Association
11 is not a lobbying organization, nor does it
12 represent the specific interest of any
13 individual member schools.

14 The Association as well as its
15 member schools participated in the working
16 group process and we're very pleased to be
17 here tonight to support generally OP's
18 recommendations as well as to recommend a few
19 additional ideas.

20 Given the difficult and
21 unpredictable experiences our member schools
22 have had with the BZA special exception

1 process, we applaud OP's efforts to provide
2 consistency and predictability in the
3 regulations and hopefully to achieve a more
4 streamlined and less expensive process for our
5 schools.

6 We also support having all of the
7 institutional uses being heard by the Zoning
8 Commission, whether it's the campus plan or
9 special exception process. AISGW values
10 variety and diversity in its membership. Our
11 schools range in size from 51 to 1,400
12 students. The average enrollment is 440
13 students.

14 These include boarding and day
15 schools, single sex and co-educational
16 schools, elementary, middle and upper schools
17 with various combination in-between,
18 traditional and alternative schools, non-
19 sectarian church and church-related schools.
20 Each school is government by a Board of
21 Trustees, is independent in its governance and
22 finance, has a stated policy of non-

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1 discrimination and admission and employment
2 and is incorporated on not-for-profit basis.

3 All schools are accredited except
4 those newly established which are undergoing
5 the process of becoming accredited.

6 Let me provide a few quick
7 statistics. Almost 24 percent of the students
8 enrolled in D.C. schools attend non-public
9 schools, a total of over 2,100 students,
10 11,000 of those are enrolled in AISGW schools.

11 AISGW schools actively recruit
12 students from diverse backgrounds and provide
13 significant financial aid, 19.6 percent of
14 students attending our member schools receive
15 need-based aid, and these are funded by the
16 schools themselves at a cost of approximately
17 \$28 million dollars annually. 34.5 percent of
18 the students enrolled in our schools are
19 students of color. For most of these schools
20 salaries are well below public schools
21 salaries, endowments are very modest, staffing
22 is tight and budgets, especially these days,

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1 are very stretched.

2 Given the costs associated with
3 the campus plan process we support OP's
4 recommendation No. 2 which gives institutional
5 use the option of either doing a campus plan
6 or a special exception, the current procedure.

7 Additionally, we would like to
8 clarify that the size threshold of 300,000
9 applies to GFA and not below grade space.

10 We'd also like to clarify that if
11 more than one school or institutional use is
12 located on a campus, each is treated as a
13 separate use in terms of determining the size.

14 And, lastly, we'd like to support
15 the recommendation that once a campus plan is
16 approved all construction and uses approved in
17 the plan may proceed without further
18 commission review.

19 We also support OP's
20 recommendation No. 4 which allows
21 unanticipated projects to proceed as a matter
22 of right provide they contain fewer than 3,500

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1 square feet of GFA.

2 We recommend, however, that the
3 threshold be higher and would like to see
4 5,000 square feet. We also recommend that the
5 same threshold apply to the special exception
6 process, a point that was made here earlier
7 tonight.

8 We support OP's recommendation
9 No.5 which outlines the information required
10 as part of the special exception application.
11 Our additional comments regarding No. 5 relate
12 to the student and faculty count issue. To
13 the extent that OP is going to come up with a
14 standard definition applicable to all schools,
15 the schools would like to be engaged in that
16 process with OP.

17 Also, if any new definition
18 results in a school being raised over its cap,
19 an adjustment would be made to raise the cap
20 in order to ensure compliance with the new
21 definition.

22 Discussion of items listed under

1 conservation, that being historic
2 sustainability and environmental issues,
3 should be in a general context and should not
4 be interpreted to mean the designation of
5 landmarks or the preparation of an EISF. The
6 Commission should continue to defer to the
7 agencies that have authority over historic
8 preservation and environmental issues.

9 CHAIRPERSON HOOD: Can you give
10 us your closing thoughts.

11 MS. DOWNES: Finally, we support
12 OP's No. 6 recommendation to permit ancillary
13 non-residential uses within campuses. However,
14 we would like this to also extend to the
15 special exception process. We recommend that
16 schools be permitted the same flexibility to
17 serve the needs of their students with non-
18 residential uses.

19 I have submitted a copy of my
20 testimony and I thank you for this opportunity
21 and I'm glad to answer any questions.

22 CHAIRPERSON HOOD: Okay. Thank

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1 you. Ms. Minardi? Hopefully I'm pronouncing
2 it right.

3 MS. MINARDI: You are pronouncing
4 it right. Good evening, I'm Kathy Minardi
5 form the Aidan Montessori School, a small non-
6 profit board governed school located in the
7 Woodley Park community.

8 I'm pleased to be here this
9 evening representing the small schools that
10 are a part of the Association of Independent
11 Schools and to present testimony in support of
12 OP's recommendations.

13 Let me start by telling you a
14 little about our school and our history with
15 the zoning process as it currently exists.

16 Aidan accommodates toddler, pre-
17 school and elementary grades for children
18 between the ages of 18 months and 12 years.
19 Since its founding in 1996, our school has
20 accepted children without regard to race,
21 color or creed. Of the 155 families currently
22 served by our school, 70 percent live in the

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1 District and 32 percent are from our nearby
2 neighborhood.

3 We provide the community with much
4 needed educational programs, particularly for
5 children under five. This is especially
6 important in the D.C. Public School system
7 since it does not provide pre-kindergarten
8 programs for all families in need of such
9 services and provides no nursery and toddler
10 programs.

11 In 1991 we were displaced from our
12 location at the Temple Sinai Building at 3100
13 Military Road because of the success of the
14 Temple's religious school and its desire to
15 develop its own child development center.

16 We sought special exception
17 approval to relocate at 5501 Utah Avenue,
18 immediately adjacent to St. John's College
19 High School. Our application was filed in
20 1990, public hearings were held in 1991 and in
21 the fall of 1993 we were turned down despite
22 our many, many efforts to revise our plans to

1 accommodate the communities and the OP's
2 concerns.

3 Subsequently we were able to
4 relocate at 2700 27th Street, N.W., our
5 current location. In 2004 we filed an
6 application to make modest changes to our
7 school and again met with community opposition
8 from that neighborhood.

9 Not willing to undergo another
10 costly and time consuming legal battle, we
11 withdrew that application.

12 Based on our experience and that
13 of other schools we support OP's
14 recommendations to provide consistency and
15 clarity to the special exception process.
16 Right now the regulations provide only vague
17 guidance as to identifying impacts from
18 institutional uses. The phrase quote "so that
19 it is not likely to become objectionable"
20 unquote leaves it up to the community and OP
21 to anticipate the impacts and the phrase has
22 even been used to suggest that the sound of

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1 children's voices is an objectionable impact.

2 We support OP's recommendation No.
3 5 to create special exception criteria for
4 institutional uses. We also want to
5 recommend, however, that for small schools
6 such as Aiden, which has only 18,000 square
7 feet of GFA and a small student population,
8 that the level of detail required in its
9 submission should be less than what would be
10 required for the larger schools.

11 Specifically, we offer the
12 following recommendations. A school that is
13 simply coming before the Commission to change
14 its student or faculty caps or for some other
15 minor issue should not be required to address
16 all of the criteria. A simple statement that
17 these are not applicable should suffice.

18 Further, the level of detail
19 required should also reflect the unique
20 characteristics of the school, particularly
21 pre-schools and schools that have lower GFA
22 and hence lower impacts.

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1 In terms of proposed conditions,
2 future needs, we recommend that this
3 information is only required if the school is
4 proposing new buildings. Otherwise, a simple
5 statement that it is not applicable should
6 suffice.

7 Finally, community benefits should
8 not mean negotiation of an amenities package
9 similar to a PUD application, and a community
10 benefit should also include recognition of the
11 role that the school has played in the large
12 community. Like other schools, Aidan has a
13 strong commitment to the community and we
14 instill in our students that message.

15 Every day Aidan students are
16 actively involved in community activities and
17 the celebration of fundamental human values.
18 We respect individual differences, value
19 partnership, seek cooperative approaches in
20 our planning and problem solving, believe in
21 hard work and aiming for one's personal best.

22 CHAIRPERSON HOOD: Just give us

1 your closing thought.

2 MS. MINARDI: Okay. Aidan is
3 fortunate to have developed close partnerships
4 in our neighborhood but aside from being a
5 good neighbor, those partnerships have been
6 formed because our neighborhood would oppose
7 our adding any additional space such as a gym
8 or a meeting room.

9 We have spent a great deal of time
10 and effort developing strong relationships
11 across the District, including community
12 service to many needy, underprivileged
13 children in the area.

14 Thank you so much for the
15 opportunity and I'm happy to receive your
16 questions.

17 CHAIRPERSON HOOD: Okay. Thank
18 you very much. Ms. Lindsey?

19 MS. LINDSEY: I'm Katie Lindsey,
20 I'm the chief financial officer at the
21 Georgetown Day School. Georgetown Day is a
22 private independent school established in 1945

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1 as the first racially integrated school in the
2 District of Columbia.

3 I'm here this evening to support
4 OP's recommendations and to thank them for
5 listening to our concerns as we went through
6 the working group process over the summer.

7 Let me begin by telling you a
8 little bit about Georgetown Day. The school
9 was founded by seven families who wanted to
10 create a school that was committed not only to
11 academic excellence but also academic and
12 educational innovation and a value system
13 emphasizing appreciation and respect for
14 others.

15 Because they wanted the children
16 of all races to learn together, the founders
17 established GDS as a school where all would be
18 welcome. The school strives to maintain a
19 diverse community of students, teachers and
20 parents. Approximately 37 percent of students
21 as well as faculty are of color. Committed to
22 fostering the intellectual and ethical and

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1 spiritual dimensions of the students, GDS
2 encourages respect for a variety of beliefs
3 represented in the student body.

4 GDS is based on two separate 5-
5 acres campuses in Northwest D.C., the lower
6 middle school at 4530 MacArthur Boulevard and
7 the high school at 4200 Davenport. The high
8 school was recently completed with a large
9 expansion and renovation. The facility now
10 features a spacious student forum, humanities
11 and science wing, extensive performing arts
12 complex, athletic facilities that include a
13 double gymnasium, indoor track, all weather
14 field, home and visitor locker rooms, fitness
15 and wrestling rooms and a new administrative
16 suite of space, as well as an underground
17 parking garage that accommodates 150 cars.

18 The lower middle school which was
19 renovated and expanded in 1998 accommodates a
20 variety of needs from pre-K to 8th grade
21 students with a new playground, all weather
22 athletic field, full gym, black box theater,

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1 science labs, library, art studios, technology
2 and media labs and a student lounge for the
3 7th and 8th graders.

4 The lower school's large multi
5 purpose room serves as a center for after
6 school activities.

7 Georgetown Day School was
8 established, the high school at its present
9 location in 1985, the school is permitted to
10 enroll up to 465 students and employ 95 full
11 time equivalent faculty and staff.

12 The school's mission, the students
13 are required to complete a very rigorous
14 community service and an interdisciplinary
15 academic program. In 2002 the school applied
16 for a special exception to increase its
17 student enrollment. The application was
18 approved by the BZA order of 16-9-44. The
19 order approved the student enrollment of the
20 current 465 and a faculty and staff of 95.

21 In 2004 the BZA application 17-1-
22 70 approved the major expansion of the

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1 facility. We have recently filed an
2 application with the BZA to increase our
3 student enrollment from 465 to 500 and our
4 staff from 95 to 100 to incorporate some new
5 and expanded academic programs including the
6 use of Arabic and advanced sciences.

7 I am here today specifically to
8 support OP's recommendation that each campus
9 be treated as a separate institutional use and
10 also to recommend that the community benefits
11 concept include city wide benefits.

12 As to the first point, each of our
13 campuses is unique and is located within a
14 separate ANC and community association.
15 Accordingly, it makes the ultimate sense to
16 treat each as a separate institutional use. OP
17 has proposed that and we support that
18 recommendation completely.

19 We also believe that to the extent
20 that there's more than one institutional use
21 on a single campus site, for example the
22 National Cathedral and St. Alban's, each

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1 should be considered a separate us in terms of
2 calculating whether the use crosses the
3 300,000 GFA threshold, 300,000 square foot
4 threshold.

5 With regards to the community
6 benefits we strongly recommend that this
7 concept includes consideration of city wide
8 benefit. Community service is an integral
9 part of our academic program, it provides a
10 link between the classroom and the outside
11 world that brings together greater relevance
12 and meaning to both.

13 The reinforcing of academic
14 skills, participation in the program enables
15 students to become socially adept in ways that
16 will provide vitally important opportunities
17 throughout their academic careers. The real
18 life situations that students encounter
19 instill decision making skills, improve self
20 reliance and develop the ability to act
21 responsibly. Involvement in community service
22 provides GDS students with an invaluable

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1 education navigating an increasingly multi-
2 cultural and independent world.

3 Recent and upcoming community
4 service projects just this year alone include
5 the December gift giving. This year our
6 holiday gift giving will focus on KID Power,
7 mitten tree, the Thanksgiving pie bake and the
8 coat drive.

9 CHAIRPERSON HOOD: Just give us
10 your closing thoughts.

11 MS. LINDSEY: Okay. As you can
12 see from the list that we have submitted as
13 formal testimony, our community service
14 addresses the city as a whole and we believe
15 the regulation should recognize these
16 important city-wide benefits and I welcome any
17 questions that you might have.

18 CHAIRPERSON HOOD: Thank you all
19 for your testimony. Colleagues, any questions
20 of this panel?

21 BZA CHAIR MILLER: I do.

22 CHAIRPERSON HOOD: Chair Miller

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1 and then we'll go to Commissioner May.

2 BZA CHAIR MILLER: Is it Ms.
3 Minard?

4 MS. MINARDI: Minardi.

5 BZA CHAIR MILLER: Okay. I just
6 want to ask you are you of the opinion that
7 the change in the regulations being proposed
8 by Office of Planning would alleviate legal
9 battles from community opposition?

10 MS. MINARDI: Well certainly the
11 process includes the give and take between a
12 community and a school but it would create
13 really a greater template that would be
14 followed without variance so that there is an
15 actual process that's used in each and every
16 case. So that would be welcome.

17 BZA CHAIR MILLER: I mean is your
18 point you think it would be preferable, for
19 instance, if you didn't have general language
20 about objectionable impacts that instead they
21 were specified more clearly so that there was
22 more predictability as to what would be looked

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1 at?

2 MS. MINARDI: I think that
3 objectionable impacts need to be more deeply
4 clarified, particularly I personally as an
5 educator find it offensive to see children's
6 voices as an impact unless there was some
7 extenuating circumstance because of that.

8 And so I would want the
9 objectionable impacts to be more sensitively
10 detailed as to a private school. Certainly
11 traffic impacts are one that any school would
12 expect to have to deal with.

13 BZA CHAIR MILLER: And I'm sorry,
14 I've forgot, is it Ms. Dawns? Is that your
15 name?

16 CHAIRPERSON HOOD: Downes.

17 BZA CHAIR MILLER: Downes. I
18 can't read my own handwriting. Okay. I guess
19 I also want to follow up with you about you
20 referred to difficult experiences with the BZA
21 special exception process and it's not that
22 I'm looking to advertise the problems that

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1 there have been but I really am looking at
2 what you see in what's been proposed that
3 would redress some of the problems that you
4 might have had?

5 MS. DOWNES: I think I'd probably
6 echo a lot of what Kathy Minardi just said,
7 that perhaps a higher degree of predictability
8 with stronger boundaries and a sense of where
9 the process was going and what would be
10 involved in it I think would eliminate some of
11 the free-for-all that happens sometimes in
12 anticipation of these issues coming forward.

13 So I guess being optimists we have
14 great hope that should there be greater
15 clarity about what the expectations were, that
16 would result in easier deliberations back and
17 forth and not have so many open ended
18 questions that would be kind of presented to
19 schools. Sometimes presented prospectively
20 and sometimes during the process and sometimes
21 at the very end.

22 So I guess it's along the same

1 lines of maybe some predictability and
2 organization would make it more peaceful to go
3 through.

4 BZA CHAIR MILLER: Okay. Now
5 that's very useful just for me to hear
6 feedback wise because I've been on the Board
7 for almost five years and when I started out
8 that basically was somewhat of the goal of the
9 Chairman before me and the Board as a whole
10 that our decisions would be more consistent
11 and predictable but it's not necessarily in
12 the language that you might have read in the
13 regulations per se. But that is a goal that
14 I think is a really worthwhile one to try to
15 achieve in different ways.

16 MS. DOWNES: Yes, and with
17 recognition that the difficulty sometimes is
18 that the applications and the uses and the
19 types of school are so varied and different
20 sometimes that it's not an easy thing. It
21 sounds easy to just have a checklist and go
22 through but it's very distinct uses that are

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1 coming out we understand.

2 BZA CHAIR MILLER: I have one
3 other question and I forget which of you made
4 it but that there wouldn't be a need for caps
5 or counts at least on employees or students
6 because the impacts could be discerned just
7 based on the size. And I know that the Office
8 of Planning has gone in that direction by
9 saying we don't need to look at the type of
10 institution, we can just look at the size of
11 the land and make these judgments.

12 So do you have an understanding or
13 are you of the opinion basically that we
14 wouldn't need to know those numbers? Or just
15 that they shouldn't be caps, they should just
16 be basic information that's there as one of
17 the considerations for impact?

18 MS. KRAM: Thank you. I am
19 suggesting that it should be informational for
20 purposes of the Zoning Commission's
21 deliberations. But I'm suggesting that caps
22 themselves become the fulcrum for a very

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1 significant and fractious discussion that may
2 not necessarily meet the goals of either the
3 city, the community or the campus, from the
4 standpoint that if the goal is to determine
5 precisely what the impact could be and how the
6 plan could mitigate it, you want to know how
7 many cars are on and off. You want to know
8 generally the number of people that might be
9 on and off campus during any given day but
10 fighting over precisely how many students.

11 As to employment caps, once again,
12 people that walk to their jobs probably have
13 very little impact versus people that drive to
14 their jobs, versus people that bicycle to
15 their jobs. So the actual number of
16 employees is not necessarily helpful per se.

17 The comprehensive plan has
18 language, and I've cited it in my testimony,
19 that says that the city would like
20 universities to consider becoming employment
21 centers and focusing on preparing D.C.
22 residents for employment potentially on

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1 campuses.

2 So to that extent we think that
3 employment caps don't serve the broader goal
4 that the city put before us in the
5 comprehensive plan itself.

6 BZA CHAIR MILLER: Thank you.

7 CHAIRPERSON HOOD: Any other
8 questions? Mr. May and then Mr. Turnbull.

9 COMMISSIONER MAY: I just have one
10 quick one for Ms. Lindsey. You mentioned the
11 number of students in the high school, what is
12 the gross floor area of the school at this
13 point?

14 MS. LINDSEY: At the high school
15 the gross square feet is approximately 125,000
16 above grade, 38,000 below grade, so about
17 170,000 all in.

18 COMMISSIONER MAY: 170,000.
19 What's below grade? I mean is that all usable
20 space?

21 MS. LINDSEY: It's a complex of
22 gymnasium, wrestling room, performing arts

1 studio, weight training, the athletic
2 trainers' space and the changing rooms for
3 the teams.

4 COMMISSIONER MAY: And that's for
5 465 students?

6 MS. LINDSEY: Yes.

7 COMMISSIONER MAY: That's 350
8 square feet per student, or roughly.

9 MS. LINDSEY: Right.

10 COMMISSIONER MAY: That's big.
11 Anyway I'm just curious because I'm trying to
12 get a gauge on you know how close any of these
13 schools are to hitting that 300,000 square
14 foot threshold. But at that size you are
15 still some distance away.

16 MS. LINDSEY: Thank heaven.

17 COMMISSIONER MAY: Anyway,
18 thanks.

19 CHAIRPERSON HOOD: Finished?

20 COMMISSIONER MAY: Yes.

21 CHAIRPERSON HOOD: Okay. Mr.
22 Turnbull?

1 COMMISSIONER TURNBULL: Thank you
2 Mr. Chair. I wonder if we can get back into
3 the caps and count thing and maybe get Mr.
4 Parker. We've run through this a lot of times
5 with different educational institutions that
6 have been trying to get into a neighborhood
7 and a lot of times the neighbors look at the
8 caps and the counts as a way of judging impact
9 or looking at the number of people that are
10 going to be going on.

11 I wonder, Mr. Parker, it seems
12 like you're sort of saying we'll get away from
13 the caps.

14 MR. PARKER: Not at all.

15 COMMISSIONER TURNBULL: Not at
16 all?

17 MR. PARKER: No. We're saying
18 that an employee and student count should be
19 the part of any submission to the Zoning
20 Commission. I think that there will be often
21 cases where that count or some number just
22 above it is turned into a cap. But we

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1 certainly didn't want to proscribe that every
2 institution has to have a cap. That would be
3 the choice of the Zoning Commission at the
4 hearing.

5 The discussion of how many users
6 of that institution there are should be a part
7 of the submission but it can be a
8 determination of the community and the Zoning
9 Commission and the institution collectively
10 whether that number needs to be capped or not.

11 COMMISSIONER TURNBULL: Okay. I'm
12 just looking at institutions wanting growth.

13 MR. PARKER: Right.

14 COMMISSIONER TURNBULL: And which
15 is always going upwards, that's the nature of
16 growth. And I'm just trying to resolve, it
17 sounds like they're looking at the freedom to
18 be able to use that and I'm trying to see how
19 this is a manageable balance between looking
20 at the neighborhood who's very concerned about
21 overgrowth and the further impacts on the
22 community and what are we trying to achieve by

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1 this then?

2 It looks like it's still kind of
3 mushy.

4 MR. PARKER: Well, we're trying
5 to achieve -- in the language that we've
6 proposed we're trying to achieve the
7 identification of all possible impacts and
8 initiate the discussion of those impacts. The
9 regulations can't for a series of unique
10 institutions across the city say that every
11 one of them should have a limited number of
12 users. There are cases where that certainly
13 should be the case where any more users of a
14 particular institution will cross that
15 theoretical tipping point of a particular
16 area. But there are smaller institutions or
17 institutions in different parts of the city
18 where that's less of a concern.

19 So the point of our recommendation
20 is to standardize the list of potential
21 impacts that will be addressed by every
22 application and then it's the subject of

1 discussion in front of the Zoning Commission
2 whether certain ones of those, including an
3 employee count, should be turned into a cap or
4 a maximum limit.

5 COMMISSIONER TURNBULL: Okay. So
6 we really don't or we're not losing the fact
7 that when we go to a hearing the neighborhood
8 impact looking at this is still going to be
9 there. And we're still going to have the
10 community coming in looking at these numbers
11 and saying--

12 MR. PARKER: Absolutely. You
13 can't get away from that.

14 COMMISSIONER TURNBULL: Okay. I
15 just wanted to clarify that those discussions
16 are still going to be present with us in this,
17 that we're not circumventing any kind of
18 discussion on this point?

19 MR. PARKER: Correct.

20 COMMISSIONER TURNBULL: Okay.
21 Thank you.

22 VICE CHAIRPERSON JEFFRIES: Mr.

1 Chair, if I could just sort of add to that.
2 So Ms. Kram's concern it sounds as if you're
3 going to have the kind of flexibility you
4 need. I mean that we're not prescribing to an
5 outright cap. I mean certain situations
6 depending on variables within that community
7 the Commission might prescribe a cap but it
8 looks like there's some flexibility there. Is
9 that your understanding? Because I got the
10 impression that you thought we might be
11 looking at clear cap.

12 MS. KRAM: I wanted to request
13 that the Commission not mandate caps for all
14 campuses as part of the regulations. And I
15 want to echo what Mr. Parker has said which is
16 we understand that counts are going to be part
17 of the discussion because it's part of the
18 impact.

19 I think with the university which
20 is somewhat unique is there are situations
21 that occur that the public interest might be
22 served -- let me give the example of Katrina.

1 Several hundred students who were in
2 university in New Orleans were admitted to
3 Washington area universities for the semester
4 where their campuses were closed. And they
5 were able to not lose a semester, in some
6 cases a year, while their campuses were
7 underwater.

8 Now if we had a hard cap on every
9 single university in the District, that
10 facilitation wouldn't have been possible.

11 We've heard our University of the
12 District of Columbia is planning to open a
13 community college which could have impacts on
14 how many students go to that campus.

15 And I see questioning looks but
16 what I'm trying to get across is that counts
17 are an important part of the impact discussion
18 but an inflexible mandate that caps be imposed
19 by statute is problematic because every campus
20 is a different entity and every neighborhood
21 is a different environment.

22 VICE CHAIRPERSON JEFFRIES: Okay.

1 So maybe there's some confusion because I
2 guess I'm not hearing from Mr. Parker or from
3 this Commission of a mandate on caps, unless
4 I'm missing something. Am I hearing that?
5 I'm not hearing that.

6 MS. KRAM: Okay. I'm trying to
7 very proactive.

8 VICE CHAIRPERSON JEFFRIES: Okay
9 that's fine. Fine. Because I'm hearing some
10 level of--

11 MS. KRAM: Addressing the
12 potential concern.

13 VICE CHAIRPERSON JEFFRIES: I
14 mean clearly I think it's a good thing that we
15 have a lot of prescription here and we're
16 setting forth and I think that's a good thing.
17 But clearly there needs to be some areas where
18 there's some flexibility that we can look at
19 the dynamics in a particular community and
20 make some different determinations.

21 But I was struck by your testimony
22 and then the exchange between Commissioner

1 Turnbull and Mr. Parker and it sounds like we
2 had you covered.

3 MS. KRAM: The phrase "staff
4 caps" appears in the announcement which is
5 what raised our concerns as opposed to staff.
6 Well it was "staff caps" is the phrase that
7 actually appears in the proposed regulations.
8 And that was the phrase that got us a little
9 bit concerned.

10 VICE CHAIRPERSON JEFFRIES: Oh,
11 okay.

12 MS. KRAM: And that's why that
13 was in my testimony.

14 VICE CHAIRPERSON JEFFRIES: So
15 Mr. Parker, in terms of staff caps, I mean
16 would the same thing apply? Or would that be
17 something that would be clearly prescribed?

18 MR. PARKER: No. The intent
19 again for both students in universities or
20 staffs for either universities or other
21 institutional uses would be that the
22 application needs to address the count.

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1 VICE CHAIRPERSON JEFFRIES: Okay.

2 MR. PARKER: And that the Zoning
3 Commission can or cannot, you know, can choose
4 whether or not to impose caps.

5 VICE CHAIRPERSON JEFFRIES: Okay.
6 And the other question I have for Ms. Downes,
7 you mentioned in terms of additional
8 recommendations you clarify that the size
9 threshold only applies to GFA and not below
10 grade space.

11 Now is the assumption that this
12 below grade space is not useable space?

13 MS. DOWNES: No, that wasn't the
14 assumption. I think it was just a worry, maybe
15 a little belt and suspenders approach on our
16 part to make sure that definitionally that
17 wouldn't include useable below ground space.

18 VICE CHAIRPERSON JEFFRIES: Yes,
19 but if it's useable then obviously you know
20 that could have some level of impact. I mean
21 I guess I'm trying to understand why you would
22 carve that out.

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1 MS. DOWNES: It could be that my
2 understanding of GFA definitionally is a
3 little faulty. I thought that that applied to
4 at or above ground level and didn't apply to
5 below.

6 VICE CHAIRPERSON JEFFRIES:
7 Anyway that's not my understanding. I mean
8 Mr. Parker, do you want to comment on that?

9 MR. PARKER: Well, our existing
10 definition of GFA doesn't apply to below
11 ground level. And a discussion we had at the
12 task force was that some areas of the
13 regulations include cellar space in a count
14 and some don't. And our original application
15 did not. The task force had mentioned that
16 maybe it should and at the task force meeting
17 we agreed that, yes, useable space below
18 ground could have the same impact as useable
19 space above ground.

20 That's where our recommendation
21 stands but we're open to that either way.

22 VICE CHAIRPERSON JEFFRIES: Well

1 I mean obviously we all have experiences about
2 lots of below grade useable space being very
3 active and being used for a number of things
4 at any institution. I mean it would be
5 interesting to hear some of the other
6 communities sort of speak about that but you
7 can have a significant amount of underground
8 useable space and I would imagine that space
9 could have some impact on the community. But
10 it would be interesting to hear some of the
11 residents speak, other residents speak about
12 it.

13 And also Ms. Lindsey, I wanted to
14 tell you I have a friend who has a son who
15 just went to Georgetown Day School and he
16 absolutely loves it.

17 MS. LINDSEY: Very happy to hear
18 that.

19 VICE CHAIRPERSON JEFFRIES:
20 Right. He just loves it.

21 MS. LINDSEY: Is he from Chicago
22 too?

1 VICE CHAIRPERSON JEFFRIES: No,
2 no, no, he's from here. No, no he's from
3 here. Okay. Let me just ask-- okay, go ahead.

4 BZA CHAIR MILLER: Mr. Parker, I
5 just wanted to ask you a follow up with
6 respect to counting the GFA for cellars
7 underground. Before, you said there was a
8 correlation with the amount of GFA that you
9 targeted and impact. So I'm just wondering if
10 you were going to, or have, looked at there's
11 some kind of correlation between underground
12 space and impact.

13 I mean wouldn't that be the basis
14 for deciding whether to keep it in the
15 calculation or not, include it?

16 MR. PARKER: Theoretically, but
17 it's a lot harder to tell. Our records are
18 not good at distinguishing the two. Yes, in
19 theory that would be good information to have.
20 I don't think it's something that we're going
21 to be able to get enough information on how
22 many of these schools have below ground space

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1 and what that space is versus the above ground
2 space. Ultimately I think it's going to have
3 to be a judgment call.

4 BZA CHAIR MILLER: Is the record
5 open in case others have information to
6 submit?

7 MR. PARKER: That's up to you
8 all.

9 BZA CHAIR MILLER: It's not up to
10 me.

11 VICE CHAIRPERSON JEFFRIES: And
12 again, I mean I'm just still of the belief
13 that there are certain things that this
14 Commission will need to weigh in you know and
15 that may be one of the things that's not
16 necessarily prescriptive and we'll have to
17 judge on a case by case basis. Or whoever's up
18 here.

19 CHAIRPERSON HOOD: That's a good
20 lead in to my question. I think I it in Ms.
21 Kram's testimony and also Ms. Downes'
22 testimony about the comprehensive requirements

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1 which was on page 10 I think you mentioned of
2 the Office of Planning Report. And talks
3 about environmental impacts. And I'm not sure
4 who mentioned it.

5 I'm not sure if you read it. I
6 read it up here in your testimony where you
7 said in the past the Commission has always let
8 other agencies deal with environmental impacts
9 or assessments. But I can tell you this
10 Commission has been asked to do an EIS on many
11 occasions. I think one of the persons who
12 asked us is actually in the room. I'm not
13 going to call their name but they're shaking
14 their head. And since I've been here they've
15 always asked.

16 What are you asking Ms. Kram? Are
17 you asking us to take that element out of a
18 review process? What exactly are you asking?
19 I saw it in your testimony and just didn't get
20 a chance to read all of it.

21 MS. KRAM: Well not at all. As I
22 understand it an EIS is a term of art and it's

1 something that's expected as a part of the
2 project and it's currently under the
3 jurisdiction of the Department of the
4 Environment.

5 And I think there are some
6 elements the DCRA, I'll probably be corrected
7 as the evening progresses but the part of my
8 testimony that addressed that question was not
9 to remove consideration of environmental
10 elements from the front end of the
11 comprehensive plan, or campus plan I'm sorry.
12 The goal was to get some clarification on
13 precisely what the Commission intended
14 because, as we understand it, the Commission
15 has not taken jurisdiction over those specific
16 investigations, the EIS.

17 CHAIRPERSON HOOD: And you're
18 exactly correct. Ms. Downes, did you want to
19 respond? I think I've got my answer but if
20 you want to respond I think I saw it in your
21 testimony. Turn your microphone on.

22 MS. DOWNES: So sorry. I think

1 just paralleling what Sally has said that
2 basically we're looking at conservation in the
3 general context of things and thought through
4 this process we shouldn't find that at the
5 tail end of it as school that has 200 students
6 now has a landmark building or something.

7 CHAIRPERSON HOOD: Okay.

8 MS. DOWNES: And that that kind
9 of, that seems like a redundancy with what
10 other agencies are already charged with. And
11 so that would be part of a general
12 consideration going into it in terms of the
13 level of specificity that would have to be
14 involved to come up with the more detailed
15 decisions that other agencies are doing we
16 think shouldn't be replicated here.

17 CHAIRPERSON HOOD: Okay. Now I'm
18 going to go to Mr. Parker because I'm trying
19 to understand where we're going here.

20 Mr. Parker, are we being asked, I
21 don't think we're being asked to look at an
22 EIS, we're being asked to maybe look at an

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1 environmental assessment more or less. It
2 says environmental impacts and I know the
3 former Chair and the Chair before that and I
4 know myself has always said when Ms. Kahlow
5 asked us about environmental impact statement
6 or study.

7 MR. PARKER: This is not meant to
8 be a replacement of the formal EIS process at
9 the building permit. This is meant to be
10 things that can be addressed or should be
11 addressed in the application including
12 historic considerations, sustainability
13 considerations and environmental impacts.
14 This could be sustainability measures, green
15 building measures; these are meant to be
16 positives that the university can or the
17 private school or whatever institution, can
18 share about what they're doing to make their
19 buildings greener to reduce the environmental
20 or to mitigate environmental challenges on
21 their campus.

22 This is meant to be a discussion

1 of these things and not replace any process.

2 CHAIRPERSON HOOD: All right.

3 Any other questions of this panel? Chair

4 Miller?

5 BZA CHAIR MILLER: I'm sorry.

6 Ms. Lindsey, I just want to follow up on your
7 point about when you have a few institutions
8 sharing one piece of property, why is it that
9 they should be treated individually instead of
10 as a whole?

11 MS. LINDSEY: Well, I think the
12 Cathedral's perhaps the best example of what
13 we're talking about where you have four
14 individual schools with individual Boards who
15 don't necessarily share space or necessarily
16 have overlapping uses of space where the
17 footprint of the overall campus appears to be
18 one uniform piece of property but, in fact,
19 there are fairly tightly delineated spaces
20 whether it's playing fields, the actual
21 academic classrooms of those individual sites.

22 So the PECF which is the largest

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1 of the group really represents the best
2 example I can give where these individual
3 schools, mandated with individual missions in
4 some cases, Board of Trustees and academic
5 expectations and elements, feel that they need
6 to be treated individually and looked at
7 individually, that they shouldn't be piggy
8 backed on top of each other for the square
9 footages that each represents on the same
10 footprint.

11 It would be like two independent
12 schools that happen to share the same city
13 block being lumped together. It's the same
14 type program. That's exactly what the
15 Cathedral experience would end up being then.

16 BZA CHAIR MILLER: Well, let me
17 just ask you though, doesn't the Cathedral or
18 some place like it I guess we're using the
19 Cathedral though, have a master plan for the
20 whole area in any event? And they have an
21 underground garage for the whole area? I mean
22 some of it's integrated.

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1 MS. LINDSEY: I do believe what
2 happens is the individual schools submit their
3 individual plans to the larger whole and that
4 they're reviewed. But they go into the
5 process as individual and distinct schools.
6 They don't go in as each school being
7 dovetailed to the next project. It's not a
8 rolling process. So I would characterize them
9 as very distinctly different plans, but happen
10 to have one kind of oversight managing body at
11 the PECF top. But they go in individually.

12 BZA CHAIR MILLER: Okay. So when
13 one school wants to take some action and do a
14 little building, it works just to look at that
15 one school. And actually we have looked at
16 the BZA obviously at their schools and then we
17 do look at the cumulative impact in any event
18 of the parking or whatever.

19 MS. LINDSEY: Right.

20 BZA CHAIR MILLER: Okay. Thank
21 you.

22 CHAIRPERSON HOOD: Just so I'm

1 clear on this though, the property is all
2 owned by a single entity?

3 MS. LINDSEY: It's all part of
4 the Foundation. The site is part of the
5 Foundation but the individual schools are
6 individually managed and run by individual
7 Boards.

8 CHAIRPERSON HOOD: Okay.

9 COMMISSIONER MAY: I have a
10 follow up to Mr. Parker if that's all right.
11 Have you given thought to the cumulative
12 impacts? I mean I was just thinking
13 theoretically if you treat these as individual
14 schools and you have a circumstance where
15 they're all next to each other, is there
16 provision and consideration of a master plan
17 or the special exception process that you
18 actually look at the cumulative impacts of
19 those things?

20 MR. PARKER: I think that's the
21 compromise solution. I mean the two choices
22 being require these different organizations to

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1 somehow unite and create one master plan for
2 all four, or to allow them each to do their
3 own. I think the compromise position is to
4 allow each to do their own but each one should
5 at least acknowledge the existence of
6 cumulative impacts and potentially address
7 that if possible.

8 COMMISSIONER MAY: Okay. Because
9 I mean if you were not doing environmental
10 assessments or environmental impact statements
11 but we were and reviewing that I mean that is
12 one of the big sections that you have to deal
13 with is cumulative impacts and adding up
14 everything else that's going on.

15 MR. PARKER: True.

16 CHAIRPERSON HOOD: Okay. Any
17 other questions for this panel? Okay. We
18 want to thank you all for your testimony and
19 coming here provide us your comments.

20 BZA CHAIR MILLER: Thank you.

21 CHAIRPERSON HOOD: Okay. Let's
22 see if I can get the rest of the organizations

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1 and persons that are in support to the table.
2 At least according to my list I don't see Mr.
3 Glasgow. Mr. Sher? He doesn't need but 40
4 seconds. Commissioner Gates. Mr. Barber and
5 Mr. Williams.

6 Now is there anyone else
7 representing an organization or a person, oh
8 in support. Mr. Herzstein I have you down.
9 Are you in support? Oh okay. Anyone else,
10 organization or person in support who would
11 like to testify tonight?

12 MR. WILLIAMS: Mr. Chair, I'm Mr.
13 Williams and I'll submit my card just for the
14 record but I'm not going to say anything. I'm
15 trying to listen again and I will submit to
16 you a written report in lieu of speaking
17 tonight. Thank you.

18 CHAIRPERSON HOOD: Okay. Thank
19 you. We're actually going to start with Ms.
20 Gates from my left to my right. I'm sorry,
21 from right to left, I'm all confused. You're
22 on my left but start to my right. Ms. Gates?

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1 MS. GATES: Good evening,
2 Chairman Hood and members of the Commission.
3 My name is Alma Gates and I am representing
4 ANC 3D-05.

5 It is widely acknowledged that
6 Section 206 of the current Zoning Code does
7 not provide residential neighborhoods with the
8 tools of protections when zoning relief is
9 sought by private schools. Neighborhoods are
10 asked to balance school needs against their
11 quality of life.

12 The proposed changes listed under
13 the Office of Planning's November 19
14 memorandum, Section 5 Special Exception
15 Review, are much broader than the current not
16 likely to become objectionable criteria. And
17 the proposed core requirements establish a new
18 baseline for special exception applications.

19 For the first time, a substantial
20 body of information for gauging the depth and
21 breadth of potential impacts would be
22 furnished and private schools would be asked

1 to address sustainability issues.

2 Also, it would be useful for the
3 Zoning Commission to require a mission
4 statement to provide the framework within
5 which private schools will operate.

6 One of the issues raised during
7 discussion in the work group was caps versus
8 counts. Caps on both numbers of students and
9 faculty and staff have been critical
10 components of special exceptions. Each
11 faculty staff member should be counted as a
12 whole body rather than allowing full time
13 equivalent. Caps set a limit on the number of
14 non-residents moving in and out of a
15 neighborhood each day.

16 The addition of a conservation
17 element is extremely timely. As the
18 sustainability work group continues to meet
19 and develop new zoning regulations aimed at
20 improving and preserving the environment, it
21 is essential to include environmental
22 considerations in the private schools special

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1 exception planning process.

2 Another desired outcome here is to
3 improve school-community relations. The
4 quarterly meetings mandated for some private
5 schools in zoning orders provide an
6 opportunity for dialogue between an
7 institution and the neighborhood, and in my
8 experience have been extremely useful and
9 positive.

10 The proposed special exception
11 criteria could be strengthened further by the
12 addition of a periodic reporting requirement
13 and establishment of a clean hands threshold.
14 Both of these requirements are found in the
15 recommendations put forth by the Ward 3
16 private school expansion task force
17 established by Council Member Kathy Patterson.

18 In conclusion, the proposed
19 changes found under special exception review
20 are a necessary and welcome improvement over
21 the current 206 regulations. Inclusion of the
22 recommendations put forth by the Patterson

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1 task force in the new regulations would
2 provide additional and needed guidance on
3 compliance measures.

4 CHAIRPERSON HOOD: Give us your
5 closing thought.

6 MS. GATES: It is useful that OP
7 recognizes that the impacts of smaller
8 institutions are just as wide ranging as those
9 of larger institutional uses and they should
10 be regulated within the same comprehensive
11 framework.

12 CHAIRPERSON HOOD: Thank you. Mr.
13 Sher -- if you could hold your seat. Mr. Sher?

14 MR. SHER: Good evening Mr.
15 Chairman and Members of the Commission and Ms.
16 Miller. For the record, my name is Steven E.
17 Sher, the Director of Zoning and Land Use
18 Services with the law firm of Holland &
19 Knight.

20 I'd like to hit on a bunch of
21 things which have actually come up, a lot of
22 this has already come up in discussion from

1 Mr. Parker and from some of the other persons
2 who've appeared this evening. But a couple of
3 things have not.

4 The first sort of comment/question
5 we had was how are we going to define what is
6 an institutional use? The notice has talked
7 about private schools, churches, chanceries
8 and hospitals, chanceries have been sort of
9 left out at the moment. But what about other
10 uses permitted in residential zones? We had
11 some discussion about public schools and other
12 public and government uses, and then you have
13 things like museums, clinics, job enrollment
14 centers. Is anything that's not a residential
15 use in a residential zone going to wind up
16 being an institutional use and subject to
17 whatever comes out of this? Just a thought
18 and a question and I'm not sure I have an
19 answer.

20 Second question is what about
21 other zones that currently have discretionary
22 review facilities uses but aren't residential

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1 zones? A college or university has to go to
2 BZA and SP and CR, a hospital or clinic has to
3 go to BZA and CR. But we're not talking about
4 that I don't think so I don't know where that
5 fits into the whole institutional use
6 situation.

7 I had wanted to suggest that we
8 were going to ask you to confirm our
9 assumption that campus planning cases would go
10 to the Zoning Commission and special
11 exceptions would go to the BZA but apparently
12 that may not be the case so I don't know that
13 anybody can confirm that yet because that
14 hadn't been decided. But we thought that was
15 the logical distinction and that may not be
16 the case.

17 Going back though to what is an
18 institutional use, the second half of that
19 question is what is the minimum threshold, the
20 minimum threshold to be subject to review. We
21 know the 300,000 above and below says you go
22 left or you go right, but if you're a church,

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1 if you're a clinic, if you're a child
2 development center, where do you have to come
3 in at all?

4 If a church right now is a matter
5 of right use in every zone district, what
6 level are we going to establish that says a
7 church is no longer a matter of right use,
8 it's got to come in for whatever review it is
9 that it's got to come in for. And I don't see
10 any of that in here to have any idea of where
11 the minimum threshold kicks in.

12 We raise the question what about
13 uses that are previously or are now subject to
14 a campus plan review where the plan is going
15 to expire because it had some time limit on it
16 but where the institution is not proposing to
17 change anything, not proposing to build a new
18 building, not proposing to change the
19 enrollment or any of the other things that
20 were factors. Do they have to come in for some
21 kind of approval or are they just able to
22 continue until they want to change something

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1 at some point in the future.

2 I don't know how that's dealt with
3 here and it doesn't seem to be and there was
4 some discussion about it but I don't know
5 whether it quite got to that point.

6 We think the special exception
7 process for private schools has worked well,
8 that it's got the same sort of citizen
9 participation level that the campus plan has
10 and you get to the same kind of review process
11 so we think that should be left as is.

12 When you talk about the criteria
13 for what goes into a campus plan or a special
14 exception application, you've got the whole
15 list of things that Office of Planning
16 proposed. What I don't read this to say is
17 what is the criteria that the Commission of
18 the Board apply to evaluate that information.
19 You've got a whole long list of things that
20 people have to give you but then what do you
21 do with it? How do you make a judgment about
22 whether that information is adequate or the

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1 proposed is proper?

2 I think what's missing here are
3 the standards, and there was some comment that
4 the sort of generic standard of not likely to
5 be objectionable is too generic and too
6 objectionable, but if it is what do you
7 replace it with? And that's not here.

8 We've also suggested, and I think
9 Office of Planning is basically in agreement,
10 that there be some flexibility in terms of the
11 level of response. If you don't have any
12 historic preservation considerations you ought
13 to just be able to say not applicable and go
14 on to the next one. If you don't have multi
15 modal transportation plans you ought to be
16 able to say we don't have any and not be
17 forced to go through the whole process of
18 preparing something that you don't need to do.

19 I'd like to go to the last point
20 which was this discussion of ancillary versus
21 accessory. Accessory isn't used anywhere in
22 here but there's all kinds of things that have

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1 accessory uses. Every hospital has a gift
2 shop, regardless of size, every hospital has
3 a flower shop where you can go buy flowers,
4 every hospital's got an ATM machine. Most
5 churches have places where they sell religious
6 articles or whatever.

7 Are we saying that because they
8 fall below the threshold but because they want
9 to do these things they've got to do a campus
10 plan as opposed to going to BZA? We think the
11 BZA can deal with those impacts, it's been
12 doing it all these years and we don't see any
13 reason why that can't continue.

14 CHAIRPERSON HOOD: Give us your
15 closing thought?

16 MR. SHER: I'm done. I'm closed.
17 Thank you very much.

18 CHAIRPERSON HOOD: Okay. Thank
19 you. Mr. Barber?

20 MR. BARBER: Good evening
21 Chairman Hood and members of the Commission.
22 My name is Charles Barber, I'm deputy general

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1 counsel at George Washington University.

2 I've been working on campus plans
3 for about 20 years now. My first campus plan
4 was at Howard University, the 1988 campus
5 plan. I worked on the Howard University 1989
6 west campus plan and since I've been at GW
7 I've worked on three campus plans, the 1999
8 Mount Vernon campus plan, the 2000 Foggy
9 Bottom campus plan and, most recently, the
10 2007 Foggy Bottom campus plan where many of us
11 had so much fun over those months.

12 And I appreciate this opportunity,
13 this opportunity for us all to reexamine some
14 rules that have been in place for a mighty
15 long time. And in that kind of macro context
16 I don't find what's proposed here to be a
17 radical change. I think there are some
18 significant changes and on the whole positive
19 ones, but not radical in the sense we're still
20 talking about large institutions that are in
21 residential zones having to come in
22 periodically and address a standard of

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1 objectionable impacts.

2 And that remains consistent and I
3 think that's generally appropriate.

4 I do think it addresses an issue
5 that for many years someone who wants to get
6 their hands on what a campus plan process is
7 about can't really get that from reading the
8 current zoning regulations. You can interpret
9 it, and it has been interpreted, but it's a
10 matter of practice that has been developed or
11 as the lawyers call it, case law, it's not in
12 the Code, it's in cases. And I think one of
13 the positive things this does -- it's a good
14 thing.

15 And I also understand and support
16 that one of the thrusts of these changes with
17 respect to colleges and universities is that
18 in exchange for a well defined robust campus
19 plan then there will be in many cases no need
20 to do a further processing second stage
21 review. And I think that's good. I think far
22 too much time, expense and money quite frankly

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1 is spent on campus development, and that is
2 more consistent with how campus development is
3 approached around the country. This two-stage
4 review process is pretty unusual here in the
5 District of Columbia. And so I think that's
6 a good thing to where you can truncate that
7 into a one process, singular process.

8 I will say at the outset I do have
9 three concerns which I will try to be brief
10 and touch upon. I will say at the outset that
11 I recognize that if this is enacted as
12 proposed, most of this probably won't have a
13 big impact on the Foggy Bottom campus plan,
14 most of you or several of you recall that that
15 include not only a campus plan but a first
16 stage PUD. So we will have to go back for a
17 second stage review on every project on that
18 campus even if the second stage campus plan
19 review is done away with.

20 So I have more than an academic
21 interest, I do have an academic interest but
22 my other interest is that the Mount Vernon

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1 campus plan also would be impacted to a far
2 greater extent than the Foggy Bottom campus
3 plan.

4 The three issues that I have, how
5 much detail should be required in a campus
6 plan, I'm not sure this is a matter for the
7 text but I think it's something just to think
8 about. There needs to be a balance, there
9 needs to be sufficient detail for you to make
10 a decision whether there's an objectionable
11 impact, knowing that these buildings that are
12 being proposed for the campus plan won't have
13 been fully designed at the campus plan stage.
14 So there will have to be some balancing around
15 that and maybe some general language about
16 that balance needs to be in the text.

17 Is the value an institution
18 provides to the city as a whole a relevant
19 factor in reviewing campus plans and
20 determining appropriate conditions? I think
21 it is but if it is it's not in the current
22 campus plan regulations and it's not in the

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1 proposed campus plan regulations.

2 And this, quite frankly, has
3 always baffled me. I understand that the
4 central issue for a campus plan is
5 objectionable impacts on a surrounding
6 community. And that's as it should be. I
7 have worked with community people long enough
8 to recognize that there are challenges living
9 next to a large institution, I appreciate
10 that, benefits and challenges.

11 But I never thought it was right
12 that that would be the only question where
13 making major decisions on how a university
14 that is about education and good things is to
15 operate. Universities educate thousands of
16 students, they employ thousands of people.
17 They are engines of economic growth. We've
18 calculated GW generates about \$1 billion
19 dollars of economic growth, economic impact in
20 the District of Columbia, 70 percent of our
21 budget is spent in the District, we employ
22 District residents but there's nothing in the

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1 current regulation or in the proposed
2 regulation that says that you take that into
3 consideration when fashioning conditions. And
4 I just think there needs to be a balance
5 there.

6 There is some mention in the
7 proposed regulations about community benefits
8 but not city-wide benefits.

9 My last point--

10 CHAIRPERSON HOOD: Your closing
11 thought.

12 MR. BARBER: Yes. Environmental
13 sustainability issues, should they be
14 addressed? Yes, to a degree. I think we've
15 touched upon this. There are certain things
16 that can be done at the campus plan level not
17 an environmental impact review statement,
18 leads for neighborhoods have these kind of
19 planned concepts for environmental
20 considerations which are appropriate but only
21 to a degree. Thank you.

22 CHAIRPERSON HOOD: Thank you. I

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1 thank this panel. Let me see if we have any
2 questions for this panel.

3 VICE CHAIRPERSON JEFFRIES: I
4 have a quick question. So Mr. Barber, so this
5 understanding that there should be more
6 balance, that it shouldn't just be a
7 discussion around objectionable impacts to
8 adjacent neighborhood but you know city-wide
9 as well as community benefits.

10 And you're saying that should be
11 part of the prescribed things that would be
12 included and evaluated. Would you tie that
13 then to Mr. Sher's comment about standards,
14 how we would actually judge what's the
15 appropriate? I mean the standards tied to
16 something like that?

17 MR. BARBER: My initial idea was
18 that among the issues that a university is to
19 address there should be an added one that
20 would speak to city-wide benefits.

21 VICE CHAIRPERSON JEFFRIES: Okay.

22 MR. BARBER: And so that the

1 Commission would have that information in
2 fashioning conditions. And these cases are
3 almost always are all about the conditions.
4 And I think that piece of information though
5 is missing so when you're considering should
6 there be an employment cap let's talk about
7 whether employment is a good thing for the
8 city.

9 It doesn't mean that dictates the
10 decision one way or the other. I think it's
11 just a relevant factor.

12 The question about the standards,
13 that's a tougher one. I'm not sure I have a
14 better standard than likely to be
15 objectionable to surrounding community but I
16 would add, you know, given the positive roles
17 that universities play in the city as a whole,
18 that concept, whether it's articulated that
19 way, I think should be in there.

20 VICE CHAIRPERSON JEFFRIES: But I
21 mean you do realize that a lot of the
22 residents in the adjacent neighborhoods are

1 saying when you get into this discussion about
2 city-wide benefits, the adjacent communities
3 are feeling like they are effectively, are
4 really sort of accommodating for the overall
5 city.

6 I mean we just had a discussion
7 around the Convention Center hotel and while
8 that hotel's going to provide lots of benefits
9 to the city as a whole, it's the Shaw
10 residents who are going to get the brunt of
11 that impact.

12 MR. BARBER: I appreciate that.

13 VICE CHAIRPERSON JEFFRIES: And
14 so I just wanted to put that on the record in
15 terms of this concern about city-wide versus
16 the community.

17 MR. BARBER: It's always going to
18 be a balance and you won't be able to get away
19 from the need to balance. I think my point is
20 there's nothing in the existing Code or the
21 proposed Code that says part of that balance
22 you should consider as city-wide benefits.

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1 I think it's still going to be a
2 tough call but I think on its face it's too
3 myopic. I think the end of the day, even I
4 think if you accepted my suggestion, you would
5 have some element there that says consider
6 city-wide benefits, but you as Commissioners
7 would still have to wrestle with that balance
8 in terms of what kind of impacts are there on
9 the community and at what point does that
10 become too big even though it does generate
11 city-wide benefits.

12 VICE CHAIRPERSON JEFFRIES: Okay.
13 And Mr. Sher, so this whole business about
14 standards, I understand what you're saying, I
15 mean how prescriptive do you want this Code to
16 be? At some point you know some of these
17 things are going to be tailored based on the
18 context of the application or the plan we're
19 looking at. So I mean do you want the Code
20 to be so prescriptive? I mean I'm trying to
21 understand just what exactly are you looking
22 for in terms of standards.

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1 MR. SHER: I'm not one who thinks
2 narrowly about these things so to the extent
3 that the Commission or the Board takes into
4 account all the things that are relevant to a
5 decision, as Charles was just saying, the
6 relevance of how much employment a particular
7 institution provides is something I think you
8 need to know.

9 Now it may not over weigh the fact
10 that there's going to be gridlock around the
11 campus 24 hours a day seven days a week. But
12 if you can tolerate the impacts and at the
13 same time you get some benefits that the city
14 as a whole gets, isn't it worth weighing that?

15 And so the question is how do you
16 establish the standard that says what are the
17 things you're going to take into account?

18 VICE CHAIRPERSON JEFFRIES: But
19 how do we know that ahead of time?

20 MR. SHER: Well, again, in
21 general terms I think you can set some
22 criteria and I thought that was part of what

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1 this was about. It was trying to say not only
2 are we going to be a little more explicit
3 about what institutions need to you tell you,
4 you're going to be a little more explicit
5 about what you're telling those of us sitting
6 on this side of the table, institutions,
7 community groups and observers, that here are
8 the things we're going to take into account.

9 VICE CHAIRPERSON JEFFRIES: Such
10 as affordable-

11 MR. SHER: In a PUD for example
12 you say we balance. Benefits and amenities on
13 one side, development incentives and impacts
14 on the other side. In special exceptions it's
15 not quite like that. It's here are some
16 requirements you have to meet. You have to
17 show that you have X number of square feet per
18 student, you have to show that you know there
19 are certain of those standards that are
20 reasonably quantifiable and they don't need to
21 be debated a whole lot.

22 And I'm just going to think

1 without citing a specific case of theoretical
2 building site special exceptions. There are
3 a lot of specific standards that are out
4 there. You have to show this, you have to
5 show that. Your roadways have to be at least
6 25 feet wide and all the rest of that stuff.

7 But in the final analysis there's
8 a judgment call and the judgment call is, is
9 this likely to have an adverse impact, is it
10 likely to be objectionable?

11 I don't know whether you can make
12 that standard any tighter. But listening to
13 some of the comments that were up here before,
14 people seem to be looking for that. People
15 seem to be looking for a greater degree of,
16 confidence isn't the right word, a greater
17 degree of reliability, specificity.

18 VICE CHAIRPERSON JEFFRIES:
19 Predictability.

20 MR. SHER: Predictability. If I
21 come in and show you all these things this is
22 what you're going to judge that against and I

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1 have a better idea where I'm going to come out
2 on that.

3 VICE CHAIRPERSON JEFFRIES:
4 There's something about that just strikes as
5 being overly clinical. I mean I understand
6 predictability and I think that's a great
7 thing, but I think there's some texture you
8 know that you want to keep part of the process
9 I mean if the thing is so incredibly
10 prescribed and you know it's just a checklist,
11 I mean I just--

12 MR. SHER: You can have a
13 checklist.

14 VICE CHAIRPERSON JEFFRIES: We
15 don't need to be here and then, yes, you can
16 just fill out the checklist.

17 MR. SHER: Fill out the
18 checklist and you add up the points at the
19 bottom and you know where you are.

20 VICE CHAIRPERSON JEFFRIES:
21 Absolutely.

22 MR. SHER: Obviously there's

1 judgment that has to be imparted here.

2 VICE CHAIRPERSON JEFFRIES: Okay.
3 Well I mean Mr. Parker, I mean what are your
4 thoughts about these standards that he's
5 speaking of because when we look at PUDs, you
6 know, normally I'll look at a PUD application
7 and I'll look at sort of the level of relief
8 that's being requested and I'll somehow sort
9 of tie that to what I think it an appropriate
10 amenities package based on that.

11 But I don't have a clear road map
12 so what are you thoughts about this business
13 of standards?

14 MR. PARKER: Well, I guess Mr.
15 Sher's right, we've laid out the universe of
16 consideration. We have laid out the things
17 that are on the table for them to submit and
18 for you to review. We haven't been able to
19 come up with a more expressive term than
20 objectionable impact as to what weighs on this
21 side versus what weighs on this side.

22 I mean in terms of what the

1 standards are, when a project is good enough
2 or when it's not, there's no better way that
3 we've come across than how to define that than
4 a no objectionable impact or some similar
5 language.

6 Our recommendation is simply
7 saying we need to define what the universe of
8 considerations are. But Mr. Sher is right,
9 there still ultimately has to be what's the
10 standard on which these are judged.

11 VICE CHAIRPERSON JEFFRIES: So
12 that's coming?

13 MR. PARKER: I guess right now we
14 don't have any recommended improvement for
15 each of these, this is not objectionable to
16 the neighborhood.

17 VICE CHAIRPERSON JEFFRIES: Mr.
18 Parker, I'm asking you a question. I mean
19 you're saying that Mr. Sher is right.

20 MR. PARKER: Right.

21 VICE CHAIRPERSON JEFFRIES: Do
22 you think that we should have standards and,

1 if so, are you going to be recommending those?

2 MR. PARKER: There is no way to
3 create a standard for all the unique cases.

4 VICE CHAIRPERSON JEFFRIES: Okay.
5 I'm done. I think that the time is up.

6 CHAIRPERSON HOOD: Okay.
7 Commissioner Turnbull?

8 COMMISSIONER TURNBULL: Thank
9 you, Mr. Chair. Getting back to Mr. Sher's
10 epistle that he's getting a barrage of
11 comments, Mr. Parker, this I'd like some
12 input. I mean the basic question he had is
13 the definition of an institutional use and he
14 mentioned a few zones where we haven't really
15 addressed. Is this something you're still
16 going to be working on?

17 MR. PARKER: Well, yes, there's
18 two questions there and the first is the
19 definition of institutional use. We've got a
20 preliminary definition that was in our
21 discussion of uses that culminated in Monday
22 night's decision and I don't have that

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1 definition in front of me but I think it's
2 educational or religious or a few other types
3 of institutions.

4 Obviously there are other things
5 that are allowed, you know, retail, office,
6 other types of uses that don't fit into that
7 but the types of uses that fit into this would
8 be clearly defined and examples given of what
9 those uses are. So basically things that are
10 dedicated to education or religious or
11 diplomatic means with the question still open
12 on the diplomatic of course. But not final.
13 I mean we're still working on holes in those
14 definitions that we proposed as part of that
15 report.

16 The second part of your question,
17 the CR and SP districts are not districts that
18 we've tackled yet and we will get to looking
19 at medium and high density mixed use districts
20 including those two districts. And at that
21 time we'll decide whether the campus plan
22 requirements should be carried forward, in

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1 which case they'll have to meet these
2 requirements, or whether they should be
3 allowed as a matter of right in those
4 districts. So yes, that's ahead of us.

5 COMMISSIONER TURNBULL: Okay.
6 The other and it occurred to me but I didn't
7 ask it before but Mr. Sher brought it up, we
8 talked about the 300,000 GFA limit. He
9 mentioned the minimum threshold. Any thoughts
10 on the minimum threshold?

11 MR. PARKER: It's not a universal
12 number, it's different for every district. In
13 the R-1 district it's obviously lower than in
14 the R-4 or in the R-5-D and that's another
15 standard that we'll eventually have to have a
16 discussion on but that's not, I mean these are
17 universal rules for institutional uses and
18 that is not one of them.

19 COMMISSIONER TURNBULL: Okay.
20 The other thing I just want to kind of
21 question here, I think Mr. Sher was the second
22 person, I don't know if it was Ms. Downes who

1 mentioned it before about the 3,500 square
2 foot number, and that maybe that ought to be
3 raised? I think Ms. Downes said 5,000. I
4 forget. Do you have a comment on that?

5 I mean I guess the question is you
6 singled out 3,500.

7 MR. PARKER: Sure.

8 COMMISSIONER TURNBULL: And why
9 was that?

10 MR. PARKER: And we did have some
11 discussion on that in the task force as well.
12 The comment in Mr. Sher's document is that
13 that's less than one percent of the entire
14 university or institutional use and that's
15 true. The question we had in the task force
16 is whether that is cumulative or individual
17 project. And the intent was that that was
18 individual project. And a building on a
19 campus could do a 3,000 square foot addition
20 as a matter of right and a couple of years
21 later another one that needed a similar
22 addition could do that. So that it wasn't

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1 necessarily a cumulative limit and so
2 therefore it's not necessarily less than one
3 percent of the whole use.

4 But it was a number that we based
5 on our research. No other municipality had
6 that exact number but it was based on the
7 maximum size that we thought could reasonably
8 be assumed to have minimal impact is the best
9 I can say based on our looking around at other
10 institutional guidelines.

11 COMMISSIONER TURNBULL: So it's
12 not etched in stone yet?

13 MR. PARKER: No, no.

14 COMMISSIONER TURNBULL: You're
15 still working on it. Okay. Thank you.

16 CHAIRPERSON HOOD: Any other
17 questions for this panel? Chair Miller?

18 BZA CHAIR MILLER: Well I guess
19 I'm going to address it to Mr. Parker but it
20 goes to I guess one of the points Mr. Sher
21 raised and you have already addressed it
22 somewhat.

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1 But I'm just focusing now on the
2 part that I think the previous panel was
3 talking about that it would be better in the
4 new regulations than the old ones with respect
5 to the specific criteria you say here, "create
6 special exception criteria for institutional
7 uses that address the full range of possible
8 impacts associated with these uses."

9 But did you say to Commissioner
10 Jeffries that, no, you really can't do that?
11 What does that really mean?

12 MR. PARKER: No, no. We're
13 saying that we have tried to describe the full
14 range of possible impacts. So all of these
15 things, and a plan that addresses all of these
16 things, will address the full range of
17 impacts. The question for the Zoning
18 Commission and/or the BZA is to determine
19 whether those impacts are too great for the
20 neighborhood, whether the impacts that result
21 from the proposed facilities and the student
22 count and all these other things are too much

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1 or are acceptable.

2 So it's the standard under which
3 those impact. So we've identified the impacts
4 that need to be addressed, it's up to the
5 Zoning Commission to determine what that
6 standard is and when those impacts reach
7 objectionable limits.

8 BZA CHAIR MILLER: I guess I'm
9 just trying to understand how it will be
10 different. For instance, if the Board is
11 looking at a special exception case for a
12 private school and we're thinking about
13 impacts, we're looking at traffic, we're
14 looking at noise, we're looking at trash,
15 we're looking at parking and we're looking at
16 counts of perhaps employees and visitors and
17 students. How is it going to be different?
18 Is it just going to be identifying things like
19 they'll have to give the Board information
20 with respect to traffic counts?

21 MR. PARKER: That's part of it
22 and part of it it's standardized and it's

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1 codified what has to be addressed, so that the
2 community knows what's on the table, the
3 university or school knows what's on the
4 table, so that it's clear to all parties what
5 needs to be addressed in that submission and
6 by the Zoning Commission.

7 BZA CHAIR MILLER: Okay. Well
8 it's not written yet but it doesn't
9 necessarily have to be limited just to that in
10 the event that there's some other
11 objectionable condition that is not
12 anticipated or something.

13 MR. PARKER: Theoretically not.
14 I mean, yes, the Zoning Commission or BZA can
15 always put conditions on or require more
16 information, these are the things that would
17 be required in any submission, even if it says
18 not applicable.

19 BZA CHAIR MILLER: I see what
20 you're saying but it's kind of like what Mr.
21 Sher was saying, you're telling the
22 participants what they need to provide but

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1 you're not saying what the Board will be
2 considering but there should be a correlation
3 right?

4 MR. PARKER: Yes, the Board will
5 be considering these things but whether you
6 weigh on whether it's too much or just right
7 is something that you can't codify.

8 BZA CHAIR MILLER: Thank you.

9 CHAIRPERSON HOOD: Any other
10 questions? Okay. I want to thank this panel
11 and we appreciate you coming out.

12 MR. BARBER: Mr. Hood, in
13 addition to handing in my testimony I've been
14 asked to deliver six letters in support from
15 Foggy Bottom residents and I'll hand that into
16 the record as well.

17 CHAIRPERSON HOOD: Oh okay.

18 MR. BARBER: Thank you.

19 CHAIRPERSON HOOD: Thank you all
20 for you testimony.

21 VICE CHAIRPERSON JEFFRIES:
22 Support letters from Foggy Bottom? Wow.

1 CHAIRPERSON HOOD: And you
2 delivered them.

3 COMMISSIONER MAY: Didn't you
4 already see the ones we already have?

5 VICE CHAIRPERSON JEFFRIES: Yeah,
6 this is crazy.

7 CHAIRPERSON HOOD: Okay. We're
8 going to go to opposition. I'm going to ask
9 Ms. Barbara Kahlow, Ms. Barbara Zartman and
10 Mr. Herzstein.

11 MS. KAHLOW: Are you ready Mr.
12 Hood?

13 CHAIRPERSON HOOD: Give me a few
14 seconds.

15 MS. KAHLOW: Sure.

16 CHAIRPERSON HOOD: Thank you.
17 You may begin.

18 MS. KAHLOW: Thank you. Is this
19 on? Yes. I, Barbara Kahlow, live at 800 25th
20 Street, N.W. I am testifying on behalf on the
21 West End Citizens Association, the oldest
22 citizens organization in the Foggy Bottom-West

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1 End area.

2 The organization is primarily
3 interested in maintaining and improving the
4 quality of life of the existing residential
5 community in Foggy Bottom-West End.

6 I participated in the working
7 group meetings and I submitted detailed
8 comments which have largely not been addressed
9 in the proposal before you tonight. In fact,
10 the major outstanding issues are still
11 completely missing so we believe another
12 Zoning Commission hearing on this subject will
13 be necessary.

14 To begin, I would like to
15 summarize the key community protections and I
16 will try to fold in during my discussion all
17 the different questions or at least refer to
18 the different questions members have asked.

19 First, existing Regulation Section
20 210 for college and universities and I quote
21 the section "not likely to become
22 objectionable to neighboring property."

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1 Another part of Section 210 "the total bulk of
2 all buildings and structures on the campus
3 shall not exceed the gross floor area
4 prescribed in a particular district."

5 So there's the cumulative FAR
6 impact.

7 And then for private schools,
8 those are not likely to become objectionable
9 to adjoining or nearby property.

10 For current law there is a new
11 provision in the most recently enacted comp
12 plan and it talks about minimizing
13 objectionable impacts on adjacent communities.

14 So next I'd like to turn to how
15 the proposal does or doesn't correspond to
16 that. First, as Mr. Sher said, there is no
17 impact standard. Currently it says not likely
18 to become objectionable to neighboring
19 property. OP doesn't have an impact standard.

20 There are many ways to do this.
21 I'm a statistician and the way we do this in
22 the government for measurable performance

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1 measures is that we take a percentage
2 increase, for example, is there an X percent,
3 5 percent increase over existing conditions,
4 10 percent increase. You can easily write
5 standards. I'd be willing to sit down and help
6 people learn how to do that if that's
7 necessary.

8 Two, there's no cumulative FAR
9 floor area ratio standard as there is in the
10 current regs. This is very important to
11 communities, and there's no standard to
12 replace it.

13 Three, there's no definition of
14 minimize objectionable impacts, and I stated
15 in my comments that I submitted that were not
16 unfortunately shared with the task force or
17 anyone else, the regulatory text should define
18 minimize to ensure true protection of the
19 quality of life in our neighborhoods and
20 because without a tight definition the term
21 would be subjectively interpreted. In fact,
22 the goal should be to eliminate adverse

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1 impacts.

2 And, lastly, the 800 pound gorilla
3 in the room, there are no provisions,
4 including restrictions on campus use of PUDs
5 and most importantly omnibus PUDs. In the GW
6 case they went for an omnibus PUD affecting 20
7 city squares over a 20 year period. And the
8 reason they used that was to avoid the
9 cumulative FAR restrictions and to avoid the
10 objectionable impact provisions that govern
11 campus plans.

12 Instead, OP's paper is
13 establishing basically a paper process where
14 they're defining different things. I want to
15 say with respect with PUDs if you will let me
16 afterwards I'll answer precisely Mr. Jeffries
17 and Mr. May's questions about what the
18 problems are.

19 Recommendation 2 would not require
20 a second stage review. Mr. Barber clearly
21 said we won't be fully designed yet. Well if
22 it's not going to be fully designed yet, we

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1 need them to come back because we don't want
2 a carte blanche for something that we don't
3 know what we're going to be getting, a pig in
4 a poke and a 10 year and in our case 20 year
5 campus plan.

6 Recommendations 3 and 5 would be
7 addressing impacts and, for example, I talk
8 about environmental impacts. The answer to
9 Mr. Hood's question was incorrect when OP said
10 we only want to define positive, The entire
11 process was to define everything, to show the
12 full range of impacts.

13 The difference between an EA and
14 EIS is in those National Environmental Policy
15 Act requirements they require you to define
16 alternatives for consideration and a whole
17 bunch of other stuff. But just defining the
18 possible impacts is important for the Zoning
19 Commission to see what's possible, not to
20 debate it but to define them.

21 Another example is the published
22 notice states "the Commission may consider

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1 granting flexibility for matter of right
2 standards based on the public benefits that
3 will arise from the use." We oppose this
4 flexibility, it could directly be at our
5 expense.

6 Recommendation 4 is unclear.
7 Recommendation 6 is incredibly problematic,
8 allowing less than half of the total GFA for
9 the campus for ancillary uses is excessive and
10 unjustified, one to 5 or 10 percent standard
11 would be better.

12 And then I close with the same
13 points that Mr. Sher made, without standards
14 and definitions there would be no basis for
15 Zoning Commission decision making process
16 which could be measured and understandable to
17 all affected parties. Instead, decisions will
18 be subjective and challengeable.

19 I look forward to having a
20 subsequent hearing and if you would let me
21 I'll answer your questions precisely about
22 PUDs. Thank you.

1 CHAIRPERSON HOOD: Okay, thank
2 you very much. Let's go to Ms. Zartman.

3 MS. ZARTMAN: Thank you, Mr.
4 Chairman and Members. My name is Barbara
5 Zartman and I'm speaking for the Committee of
6 100 on the Federal City tonight.

7 We have different reactions to the
8 different recommendations from Office of
9 Planning and I start by saying we agree with
10 Recommendation No. 1's goal of a common
11 regulatory structure for all institutions.
12 But not with the recommendation that the type
13 of use be left out of the regulatory scheme
14 using just GFA and impacts in their
15 recommendation.

16 A hospital is different from a
17 college campus which is different from a
18 secondary school which is different from a
19 charity's office or a research institution.
20 Vastly different provisions need to reflect
21 these different uses.

22 From what I read of the OP report

1 and the public hearing notice, all
2 institutional uses are to be considered and
3 there are thousands of institutions in the
4 District of Columbia, presumably they will all
5 be subject to these provisions and I think
6 that amounts to an unmanageable reality.

7 Another change that's suggested in
8 Recommendation 2 is the establishment of
9 matter of right institutional uses in
10 residential zones. A rezoning in R zones up
11 to some as yet unspecified level of size you
12 would be able to as a matter of right locate
13 an institutional use in a R-1 through R-4
14 zone.

15 That is unacceptable. That is a
16 use variance, a standard that normally is the
17 highest you have to deal with. It's included
18 in recommendation No. 2 though not called out
19 specifically. I think this would be a very
20 big mistake and we would encourage you to
21 strike that out of your direction to the
22 Office of Planning. We also believe that--

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1 CHAIRPERSON HOOD: Excuse me, Ms.
2 Zartman. Do we have Ms. Zartman's--

3 MS. ZARTMAN: No, you don't have
4 the statement. I'll be happy to provide that
5 to you.

6 CHAIRPERSON HOOD: Oh okay. All
7 right.

8 MS. ZARTMAN: We believe that
9 the 300,000 GFA trigger for campus plans is
10 too high. In the working group the Office of
11 Planning itself recommended 100,000 and found
12 that there were too many institutions in the
13 middle range between 1 and 3 and so moved the
14 threshold to 300,000 which is a very high
15 standard. As was mentioned, the National
16 Cathedral is 75,000 square feet. If that comes
17 in the block next to your home you're going to
18 be impacted by it.

19 And the other reality is that
20 these institutions always grow. They do not
21 become smaller over time. And I think the
22 need to have a plan for them is incredibly

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1 important for the welfare of neighborhoods.

2 Also having those who filed campus
3 plans be relieved of second stage review for
4 the duration of the plan is unfair to the
5 community. There can be unforeseen
6 consequences for some of the originally
7 planned activities that the community will
8 want to ask someone to redress and without
9 second stage review they are without recourse.

10 There is a suggestion of
11 substituting a zoning administrator process
12 for second stage review which I think would be
13 very inadequate for meeting community needs
14 and protections. And quite honestly it would
15 require setting up a new bureaucracy because
16 in order for the zoning administrator to
17 become knowledgeable about late night parties
18 or carousing in Burleith he's going to have to
19 hear it from someone other than the clerk
20 processing the building permit.

21 Recommendation No. 3 deals with an
22 alternative to this present system of review.

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1 It may not cure many of the problems that we
2 now see with the review process for campus
3 plans. We believe that there are things that
4 could be very helpful in structuring a new
5 system of regulation.

6 I agree with Mr. Sher, we need
7 standards, we need definitions. Part of the
8 problem we have is the not likely to become,
9 not be but become objectionable is so
10 subjective, there was a time when I thought it
11 was never going to be arrived at, that no one
12 would ever find anything objectionable or
13 likely to become objectionable.

14 In the 2000 Georgetown University
15 campus plan we believed we provided handcars
16 full of documentation of objectionable
17 circumstances, traffic, parking, trash,
18 numbers of students, and it was not deemed to
19 be objectionable. Some conditions were put in
20 the record.

21 But I mean when you reach that
22 standard, something more than a small

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1 condition is what has to be done.

2 It would be very helpful if the
3 Office of Planning worked with the attorney
4 general to identify how you perfect conditions
5 so that they are not likely to be tossed by
6 DCCA, so that they are clearly understood,
7 using the record of case law will help us come
8 to better definitions and standards.

9 CHAIRPERSON HOOD: Just give us
10 your closing thought.

11 MS. ZARTMAN: My closing is that
12 I'd be happy to provide a full statement to
13 you along with an article in the New York
14 Times that talked about the impact of student
15 housing in Georgetown. Actually in the
16 Georgetown district because it was so
17 horrible. This is off campus student housing.

18 CHAIRPERSON HOOD: Can you give
19 us that article?

20 MS. ZARTMAN: Uh-hmm.

21 CHAIRPERSON HOOD: Oh great. I'd
22 like to request that. Someone asked what year

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1 was it?

2 MS. ZARTMAN: Oh it was this
3 year. It was within the last month.

4 CHAIRPERSON HOOD: Okay. So we
5 may have some additional questions. Mr.
6 Herzstein?

7 MR. HERZSTEIN: Thank you Mr.
8 Hood. I'm Robert Herzstein president of
9 Neighbors for a Livable Community. For more
10 than 20 years our organization has served the
11 residents of Spring Valley concerned about the
12 impacts of American University on our quiet
13 residential community.

14 We've gained a great deal of
15 experience with the problems created by this
16 large institution crowded into a relatively
17 small parcel of land abutting, literally
18 abutting our homes. And we have also learned
19 a lot about the processes of the D.C.
20 government that are supposed to safeguard the
21 interests of residents who rely on zoning to
22 protect the enjoyment and value of their homes

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1 from non-residential uses.

2 I think, Mr. Hood, you probably
3 will recall the pleasure of our last campus
4 plan proceeding about seven or eight years
5 ago. Are we a proponent-

6 CHAIRPERSON HOOD: They say I'm
7 getting old, that's what they say.

8 MR. HERZSTEIN: Are we a
9 proponent or an opponent of these new
10 regulations? Well I had trouble checking one
11 or the other of those boxes because in general
12 we think the recommendations are a step
13 forward but we have very serious concerns
14 about a few of the recommendations and we urge
15 you to give attention to those.

16 First, we believe the Commission
17 should make clear what may be already assumed
18 but it would be good to make it explicit in
19 the guidance to the Office of Planning that
20 there should be no weakening of the basic
21 standard regulating university uses that is
22 contained in the existing regulation, that is

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1 the not likely to become objectionable
2 standard.

3 That standard is fully mandated we
4 feel by the comprehensive plan itself which
5 says that the planners should ensure that
6 colleges and universities that occupy large
7 sites within residential areas are planned,
8 designed and managed in a way that minimizes
9 objectionable impacts, and that the expansion
10 of these uses is not permitted, not permitted
11 if the quality of life in adjacent residential
12 areas is significantly adversely affected.

13 If you look at that standard then
14 you look at these recommendations, there's a
15 certain erosion taking place there. They're
16 not really living up to that fundamental
17 standard.

18 OP's recommendation No. 3 would
19 codify campus plan criteria as has been
20 pointed out and that's probably a good idea.
21 However, we have three concerns about that.
22 First, the new regulation should make clear

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1 that the burden of establishing that the
2 criteria have been met falls upon the
3 university, that the standard has been
4 observed, the standard of objectionable impact
5 has been observed, falls upon the university
6 that is seeking approval of its plan.

7 In our past experience it's been
8 very unclear who has the burden of proof in
9 these proceedings, and the general assumption
10 has been that if the university proposes
11 something it's going to be accepted unless the
12 neighbors come in and show that it's going to
13 be objectionable.

14 This puts a very heavy burden on
15 neighborhood groups. They don't have
16 resources, they don't have existing staffs and
17 general counsels and planners and so forth.
18 I think it should be made clear that the
19 university, which is seeking an exception to
20 a rule that protects neighbors should have the
21 burden of showing that that exception will not
22 be likely to have an adverse impact on the

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1 neighbors.

2 This burden of proof issue would
3 do a great deal to clarify your proceedings I
4 think and give you a better basis for making
5 decisions. You can say well there's a lot of
6 evidence on that, there's evidence here, who
7 had the burden, there's stuff on both sides.
8 Well who had the burden of proof? And did he
9 meet it? And if he met it, did the other
10 side successfully defeat it? I think it would
11 clarify the decision making.

12 The new regulation should also
13 make clear that the economic development, or
14 city wide benefits, should not trump the
15 interests of individual homeowners. In our
16 view the zoning regulation when it sets forth
17 a standard strikes that balance. It's saying
18 that in a residential neighborhood residences
19 take priority. If a university wants to be in
20 a residential neighborhood it has to observe
21 the standard of no impact. If it wants to do
22 something else, with great city wide benefit,

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1 it can go to another neighborhood where
2 there's no zoning restriction or it can go
3 seek to go through the takings process, take
4 over neighborhood homes and pay for them under
5 some kind of city mandate.

6 But the point is that that balance
7 has been struck. I don't think that should be
8 up to this Commission to make the balance.

9 CHAIRPERSON HOOD: Let's get your
10 closing thought, Mr. Herzstein.

11 MR. HERZSTEIN: Our statement
12 makes the final point that the second stage
13 review process should not contain an
14 exception. We believe that's a very important
15 protection also. Thank you very much.

16 CHAIRPERSON HOOD: Okay. Thank
17 you all. Let's see if we have any questions.
18 Mr. Turbull?

19 COMMISSIONER TURNBULL: Thank
20 you, Mr. Chair. I guess I want to pick up on
21 something that Mr. Herzstein has brought up
22 and that is this burden of proof. And I guess

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1 I'm looking back on what Mr. Parker was
2 looking for on the campus plan and in No. 4,
3 neighborhood context, you go down and list
4 about five items: identification, mitigation
5 of impacts, noise, lighting, special events.

6 Mr. Herzstein puts a little twist
7 on it saying that the burden of proof be on
8 the applicant or in this case the educational
9 institution. Do you see that as something
10 worthwhile in this section?

11 MR. HERZSTEIN: I'm not sure how
12 to answer that.

13 COMMISSIONER TURNBULL: I know.
14 It's kind of difficult but it has an
15 interesting aspect to it because we've had any
16 number of cases, hearings where we've gone
17 back and forth and neither institution will
18 present why it's great and then the community
19 comes in and I'm just wondering if on
20 different projects that are going forward.

21 MR. PARKER: I think I always see
22 it as the applicant's place to, the burden of

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1 proof is generally on the applicant to provide
2 that they meet the standard and if the
3 standard is not likely to become objectionable
4 then I just assumed that it's the applicant's
5 burden to meet that test.

6 Are you asking should it be more
7 explicit?

8 COMMISSIONER TURNBULL: Well, I
9 don't know. I mean do you feel comfortable
10 with the way you're going on it?

11 MR. PARKER: I'm happy to take
12 guidance. I guess I had thought that that was
13 an assumed part of setting a standard but I'm
14 happy to take guidance.

15 COMMISSIONER TURNBULL: Okay.
16 No, Mr. Herzstein brought it up and I'm just
17 wondering then if there is a point here that
18 it may not be clear on who has to do this.

19 MR. PARKER: Okay.

20 COMMISSIONER TURNBULL: Thank
21 you.

22 CHAIRPERSON HOOD: Okay. Any

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1 other questions?

2 MS. SCHELLIN: Popcorn.

3 CHAIRPERSON HOOD: This has
4 gotten to be very distracting with popcorn.
5 Oh it's burned?

6 VICE CHAIRPERSON JEFFRIES: I
7 actually Mr. Chair just a quick question. I
8 think Ms. Zartman, and I really do apologize
9 I got a little distracted up here, but you
10 brought up a point and I believe it was around
11 the type of uses and I think you were
12 referring to Mr. Sher's comments about being
13 clear-

14 BZA CHAIR MILLER: Define
15 institutional.

16 VICE CHAIRPERSON JEFFRIES:
17 Right. Define institutional. I mean would you
18 just expound on that. I mean are you
19 concerned sort of with what Mr. Sher had had
20 that there might be certain institutions that
21 are in residential zones, like museums and so
22 forth, that might have impact and they need to

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1 be in the same special exception.

2 MS. ZARTMAN: Well, from what
3 one reads in the public hearing notice and the
4 OP report, it is intended to apply to all
5 institutions. And that covers an awful lot of
6 non-profit organizations. We all know about
7 the think tanks and the study centers, some of
8 which are very sizeable institutions.

9 And if the small ones can come in
10 of right and the big ones can come in as long
11 as they're under 300,000 square feet, that's
12 a change in the neighborhood.

13 VICE CHAIRPERSON JEFFRIES: Yes.
14 I mean obviously I know what we're trying to
15 do in this rewrite. We're trying to
16 consolidate and simplify and I'm still
17 remembering the 607 uses of commercial which
18 was downgraded from 1,200. I mean is there a
19 way in which we can consolidate or how does
20 that handle?

21 MR. PARKER: Well, I mean our
22 definition of institutional will be somewhat

1 concerted. I mean again we're talking not
2 just about anything that's non-profit, we're
3 talking about educational and religious and
4 hospitals, things like that. We're not talking
5 about non-profits that are offices because
6 those would fall into an office category.

7 VICE CHAIRPERSON JEFFRIES:
8 Right.

9 MR. PARKER: So it is the things
10 that are traditionally accessory to or located
11 in residential neighborhoods; schools and
12 churches and hospitals and universities.
13 Sorry, in my train of thought I've sort of
14 lost your question.

15 VICE CHAIRPERSON JEFFRIES: Well
16 no, I'm really just responding to Ms. Zartman
17 in terms of making certain that we can define
18 institution. And if we're going to throw in
19 a number of things that are institution I mean
20 how do you go about consolidating that in such
21 a way that we're not having long lists of
22 things that are in the--

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1 MR. PARKER: Well, I think it's a
2 definition that encapsulates these things.

3 VICE CHAIRPERSON JEFFRIES: Okay.

4 MR. PARKER: And we threw a crack
5 at it and I wish I had it with me, we had our
6 original proposal of it in our retail and use
7 report that laid out our proposal for the 20
8 categories.

9 VICE CHAIRPERSON JEFFRIES:
10 Right. That matrix? Okay.

11 MR. PARKER: And talked about
12 institutional and what the proposed definition
13 of that was. And I apologize for not having
14 that with me.

15 VICE CHAIRPERSON JEFFRIES: Okay.
16 Well thank you.

17 CHAIRPERSON HOOD: Okay. Any
18 other questions?

19 MS. KAHLOW: May I answer the
20 question?

21 CHAIRPERSON HOOD: We'll start
22 with you Mr. Herzstein.

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1 MS. KAHLOW: May I answer the
2 questions asked about the difference between
3 the PUDs and the campus plans? Do you want an
4 answer to the questions you posed?

5 VICE CHAIRPERSON JEFFRIES:
6 Actually yes, Ms. Zartman. Sorry, Ms. Kahlow.
7 I'm sorry, it's the Barbaras.

8 MS. KAHLOW: Well I want to give
9 a simple answer and I couldn't fit it in my
10 five minutes. The major difference was that
11 the university in our instance was using a PUD
12 as a way to avoid the protective provisions in
13 the campus plan rules.

14 One, an omnibus PUD for a whole
15 campus which was unheard of but the three
16 different standards were one, an objectionable
17 impact standard didn't apply; two, a
18 cumulative FAR cap didn't apply, there was a
19 3.5 FAR cap they increased to 5.0 if you
20 remember; three, they get in the PUDs more
21 height, more density, all kinds of additional
22 things. They can have more lot occupancy,

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1 etc.

2 So this was a way to avoid all the
3 protections we had before. And we wanted to
4 have whatever there were in the existing regs
5 an honest discussion about the campus plan.
6 And I was trying to make a shorthand so I
7 could say we had nothing to do with amenities.
8 And you asked was it amenities, and that
9 wasn't the issue.

10 VICE CHAIRPERSON JEFFRIES: Okay.
11 So really you're saying that George Washington
12 somehow circumvented--

13 MS. KAHLOW: The entire purpose
14 of Section 210. That's exactly right. And
15 what I think is so important in our testimony
16 is for you to consider university regs you
17 have to decide are single PUDs okay? Are
18 omnibus PUDs okay? If they can have an
19 omnibus PUD then there's no reason whatsoever
20 to have the campus plan process. And that was
21 the fundamental core issue, the 800-pound
22 gorilla, that you need to think about. Having

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1 a discussion put off till later, you can't
2 really talk about universities until we can
3 work on that.

4 We never anticipated, nor did you
5 anticipate, nor did the zoning rules
6 anticipate that they were going to use PUDs.
7 Yes, for individual sites like the School
8 Without Walls but not combining all of the
9 different things.

10 And besides the School Without
11 Walls, before that there was one other
12 dormitory use. So there had been two examples
13 on the campus. We didn't object to those
14 because they were specific institutional type
15 of situations that were different and we
16 thought they were okay but this is a very
17 different situation.

18 CHAIRPERSON HOOD: Okay. I was
19 about to ask Mr. Barber to come back up but
20 let's not try that case again.

21 MS. KAHLOW: We weren't thinking
22 it was amenities. Does that help at least?

1 VICE CHAIRPERSON JEFFRIES: Yes.

2 Yes.

3 CHAIRPERSON HOOD: Okay. Mr.

4 Herzstein?

5 MR. HERZSTEIN: Mr. Chairman, if
6 you could indulge me just for a second to call
7 attention to the scoreboard example on the
8 bottom of page 3 of our testimony as a
9 particularly dramatic example of why the
10 minimum square foot exemption to second stage
11 review undermines the protections for
12 neighborhoods.

13 The American University built a
14 large lighted scoreboard which has a sound
15 siren built into it on its playing field
16 within clear view of neighbors. Now that
17 clearly would fall under the second stage
18 exception and yet it's a major imposition on
19 the neighborhoods.

20 We feel they should have come in
21 for an amendment to the campus plan. They
22 didn't do so and we will, of course, call that

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1 to the Commission's attention the next
2 opportunity we have. But that's just an
3 example of why this square foot exemption is
4 not effective.

5 VICE CHAIRPERSON JEFFRIES: I
6 mean I would certainly, obviously this looks
7 somewhat egregious here. I would imagine that
8 we're going to have in the Code, I mean in the
9 provisions to address not just buildings but
10 all kinds of elements that could trigger a
11 secondary review. I mean I appreciate your
12 point here.

13 CHAIRPERSON HOOD: Let me ask.
14 Mr. Herzstein I remember the discussion about
15 the bleachers, but was the scoreboard, was
16 that ever discussed with American U's campus
17 plan, the scoreboard?

18 MR. HERZSTEIN: I'm sorry?

19 CHAIRPERSON HOOD: Was the
20 scoreboard ever discussed? I remember the
21 issue about the bleachers but I'm just trying
22 to remember the scoreboard. Was the

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1 scoreboard ever discussed?

2 MR. HERZSTEIN: The scoreboard wa
3 never mentioned in the campus plan. In fact,
4 since the campus plan discussion at that time
5 there was discussion of bleachers on the main
6 playing field.

7 CHAIRPERSON HOOD: I remember the
8 bleachers. I remember that, that's the only
9 thing I remember was the bleachers. I don't
10 remember the scoreboard.

11 MR. HERZSTEIN: And that was
12 approved. They've also though taken what was
13 the old intramural field which was just what
14 they called a patch of grass, and turned that
15 into a large intercollegiate playing field
16 with artificial turf on it which now hosts
17 intercollegiate games which create a lot more
18 noise than the old intramural games, and they
19 put the scoreboard there.

20 We've called that to the attention
21 of the zoning administrator two or three years
22 ago and gotten zero response from them, which

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1 is another reason why we need second stage
2 review here because there's no enforcement on
3 the other part of the D.C. government or maybe
4 there's 10 percent enforcement. But we
5 haven't been able to get any relief there.

6 CHAIRPERSON HOOD: Okay. Not
7 putting anybody on the spot but they have a
8 new ZA and you might want to try it again.
9 You have a new zoning administrator and you
10 might want to try it again.

11 MR. HERZSTEIN: Okay. Thank you.

12 CHAIRPERSON HOOD: Okay.
13 Anything else.

14 VICE CHAIRPERSON JEFFRIES: I
15 mean Mr. Parker in terms of our exchange here,
16 I mean do you have any comments as it relates
17 to caps so it's not just GFA but there could
18 be other aspects too.

19 MR. PARKER: Right. And those
20 things are addressed, I mean noise, lighting
21 and special events are things that are
22 addressed in the list of items that have to be

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1 addressed.

2 VICE CHAIRPERSON JEFFRIES: Okay.

3 MR. PARKER: And, yes, I think
4 that limits could be set on all of those
5 things.

6 VICE CHAIRPERSON JEFFRIES: Okay.
7 I mean Mr. Turnbull here is really focused on
8 lighting and I mean that's how it sits now but
9 he usually catches those types of
10 objectionable things and so forth. And so
11 that's why I'm like this had to have happened.

12 COMMISSIONER TURNBULL: Well so
13 does--

14 VICE CHAIRPERSON JEFFRIES: Let
15 me just in defense of my colleagues who were
16 here previously, so does Mr. Parsons. If
17 anybody remembers Mr. Parsons he was the
18 signage guru and lighting and all that. So
19 again it goes back to what Mr. Herzstein said,
20 enforcement. And I think even with the Office
21 of Planning, regardless of what you put down
22 we're going to have to have some enforcement

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1 because we spend many nights down here doing
2 that and it's kind of appalling to me to now
3 find out that all that negotiating, even
4 though it might not have been a win-win for
5 everybody but to try to find that balance and
6 then to find out this went on. Anyway I can
7 harp on that all night.

8 CHAIRPERSON HOOD: Okay. Do we
9 have anything else? Well I want to thank
10 this panel. We appreciate it.

11 MS. KAHLOW: The record's going
12 to be open because I know our ANC wants to
13 submit something.

14 CHAIRPERSON HOOD: What I was
15 going to do is I think it was two items that
16 we were asked. I know Ms. Zartman's testimony
17 was one and there was somebody else who was
18 giving us a newspaper article. Okay. You
19 know what, give us some dates. Let's leave
20 the record open. Let's do that. I was trying
21 to help us with some reading but anyway let's
22 leave the record open.

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1 MS. SCHELLIN: Two weeks?

2 CHAIRPERSON HOOD: Two weeks?

3 Let's do two weeks.

4 MS. SCHELLIN: That would put us
5 at oh Christmas Day.

6 CHAIRPERSON HOOD: Let's do three
7 weeks then.

8 MS. SCHELLIN: How about till
9 December 29th?

10 CHAIRPERSON HOOD: Yes, that's
11 good.

12 MS. SCHELLIN: That's better,

13 CHAIRPERSON HOOD: Is that good
14 for everyone. Okay.

15 VICE CHAIRPERSON JEFFRIES: I'm
16 so used to getting Ms. Zartman's written
17 testimony and going through it as she speaks
18 and so I was somewhat at a loss up here. So
19 anyway, I mean there are certain people we pay
20 close attention to. In the future--

21 CHAIRPERSON HOOD: We pay close
22 attention to everyone.

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1 VICE CHAIRPERSON JEFFRIES:
2 Everyone. But there are certain people that
3 keep us honest.

4 MS. ZARTMAN: I do have written
5 testimony but I think the discussion tonight
6 suggested to me there were some other things
7 that needed to be added.

8 CHAIRPERSON HOOD: Okay.

9 MS. SCHELLIN: Chairman Hood,
10 could we find out from Mr. Parker, I mean are
11 you guys expecting something else back from
12 him so we can anticipate when we might put
13 this on an agenda?

14 MR. PARKER: I didn't take any
15 notes of anything that you had asked me for.

16 MS. SCHELLIN: Yes, and I didn't
17 either.

18 CHAIRPERSON HOOD: But let me ask
19 this. We're going to leave it open till the
20 29th. But Mr. Parker, for the sake of the
21 task force, let's walk through this one.
22 What's going to happen now?

1 MR. PARKER: Well, people had
2 asked for the opportunity to respond to any
3 supplemental that OP submits but if we don't
4 have an OP supplemental then we should be
5 fine.

6 CHAIRPERSON HOOD: So in this
7 case we're not going to have an OP submittal
8 so it won't be a problem. Okay. I just
9 wanted to make sure. I'm probably going to
10 ask that after we do a few of these again so
11 we can make sure we're all on the same page.

12 MS. SCHELLIN: And how long do
13 you think, Mr. Parker, before you might have
14 a worksheet for the Commission?

15 MR. PARKER: I'll have to talk to
16 Mr. Bergstein. When did you set the--

17 MS. SCHELLIN: I haven't. I'm
18 waiting on you to tell me how much time you
19 think you guys need.

20 MR. PARKER: I'd have to talk to
21 him. I'm sure that we could do it in January
22 some time. When's your next available date?

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1 MS. SCHELLIN: January 12th.

2 MR. PARKER: Oh.

3 MS. SCHELLIN: See that's the
4 problem.

5 CHAIRPERSON HOOD: Do we have a
6 second meeting?

7 MS. SCHELLIN: We do have a
8 second meeting. It's getting pretty full.

9 CHAIRPERSON HOOD: Well
10 Commissioner Keating, our new Commissioner is
11 going to need to probably read the record.

12 MS. SCHELLIN: Read the record.
13 Then we may have to shoot for the February
14 9th. Is that going to be okay?

15 MR. PARKER: No, we can
16 definitely do that.

17 MS. SCHELLIN: Okay. So we'll
18 take it up at the February 9th meeting.

19 MS. KRAM: Mr. Chairman?

20 CHAIRPERSON HOOD: Yes, Ms. Kram?

21 MS. KRAM: May I just ask a point
22 of clarification?

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1 CHAIRPERSON HOOD: Sure.

2 MS. KRAM: As to the record being
3 open it's open for all submissions not merely
4 the two you identified?

5 CHAIRPERSON HOOD: Oh no, no.
6 We're going to open it up for all submissions.

7 MS. KRAM: Thank you.

8 CHAIRPERSON HOOD: Okay.

9 BZA CHAIR MILLER: Chairman
10 Hood, just on that point. I have raised the
11 issue that there were people concerned about
12 whether underground GFA should be counted.
13 And I believe Mr. Parker said that was really
14 difficult to determine and that he couldn't
15 say that Office of Planning could address
16 that.

17 So I would think that the record's
18 open though in the event that any of the
19 public might want to try to address that
20 right?

21 MS. SCHELLIN: It's open for
22 anything that relates to the regulations.

1 BZA CHAIR MILLER: Okay. Thank
2 you.

3 CHAIRPERSON HOOD: Okay. So
4 we're all on the same page. With that I want
5 to thank everyone for their participation
6 tonight. We appreciate your very thoughtful
7 and thought out comments and with that this
8 hearing is adjourned.

9 (Whereupon, the Public Hearing I
10 the above-entitled matter went off the record
11 at 9:38 p.m.)

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