

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

REMAND PUBLIC HEARING

+ + + + +

FRIDAY

SEPTEMBER 21, 2001

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:00 a.m., Sheila Cross Reid, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

SHEILA CROSS REID	Chairperson
ANNE MOHNKERN RENSHAW	Vice Chairperson
GEOFFREY H. GRIFFIS	Board Member
DAVID LEVY	Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

CAROL J. MITTEN	Commissioner
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COMMISSION STAFF PRESENT:

Jerrily R. Kress, Director
Sheri M. Pruitt, Secretary, BZA
Beverly Bailey, Office of Zoning
Paul O. Hart, Office of Zoning
John K. A. Nyarku, Office of Zoning

OTHER AGENCY STAFF PRESENT:

David King, Office of Planning
Julie Wagner, Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

Alan Bergstein, Esq.
Lutz Prager, Esq.
Marie Sansone, Esq.

C-O-N-T-E-N-T-S

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Washington, D.C. 20037-1128	
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P-R-O-C-E-E-D-I-N-G-S

(10:15 a.m.)

CHAIRPERSON REID: Good morning, ladies and gentlemen. Please pardon our delay this morning. There's just so much information that's coming forth regarding this particular case. We received submissions 10 minutes prior to us coming out so we had to take a little time to try to read over what we can see as very important materials. Nonetheless, now we'll get started.

This is the continuation of the public hearing of the Board of Zoning Adjustment that began on Monday, September 17, 2001. Today is Friday, September 21, 2001.

My name is Sheila Cross Reid, Chairperson. Joining me today is Vice Chair Anne Renshaw, Board Member Geoffrey Griffis, NCPC Representative David Levy and Zoning Commission Representative Carol Mitten.

The subject of this hearing is a remand of BZA Application No. 16553, the application of George Washington University for approval of a new campus plan. The hearing left on Monday was the questioning of the Applicants by Mr. Lutz Prager, Special Counsel of the Corporation Counsel.

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1 The hearing will resume with the Applicant
2 responding to the outstanding questions posed by Mr.
3 Prager. Thereafter, the Board will ask the Applicant
4 any questions it might have. This will be followed by
5 the testimony of the parties.

6 Each party will have 15 minutes to present
7 testimony. The parties may combine their allotted
8 time. Cross examining will follow and then questions
9 by the Board.

10 Questions called as witnesses are to fill
11 out two witness cards. These cards are located at
12 each end of the table in front of us. When you come
13 to speak before the Board please give both cards to
14 the reporter who is sitting to my right.

15 After the parties have testified, the
16 Applicant may provide rebuttal testimony and then
17 there may be cross examination or Board questions as
18 deemed necessary.

19 This will close the fact-finding portion
20 of today's hearing. As you well know, this is a
21 rather irregular hearing, so that's the first segment
22 of this morning's hearing, today's hearing.

23 We will then go into the second phase of
24 the second segment which is the proposal for the
25 remand action section. The Applicant -- each party

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1 and the Office of Planning may have 15 minutes to
2 present proposal recommendations concerning what
3 changes the Board should make to remand the order.
4 Following this testimony, the Board will go into
5 executive session, after which the Board will announce
6 the next steps in this proceeding. And this will be
7 predicated on what comes out of this morning's
8 session.

9 Before asking the Applicant to come
10 forward, does the staff have any preliminary matters?

11 SECRETARY PRUITT: No, Madam Chair.

12 CHAIRPERSON REID: Do the parties have any
13 preliminary matters?

14 (No response.)

15 Okay, we'll proceed with the hearing.

16 At this time, I'll ask all persons who plan to testify
17 and who were not placed under oath on Monday to please
18 stand.

19 (Witnesses were sworn.)

20 We'll now proceed with this morning's
21 proceedings.

22 Ms. Dwyer?

23 MS. DWYER: Madam Chair, Members of the
24 Board, for the record, Maureen Dwyer with Shaw,
25 Pittman, representing the Applicant, George Washington

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1 University.

2 We filed this morning and provided copies
3 for all parties of the materials we understood we were
4 to bring to the hearing today. And in listening to
5 your description of the hearing procedure, it appears
6 that items 3, 4 and 5 of our filing are better
7 addressed by us later since they involve proposed
8 changes to those conditions.

9 CHAIRPERSON REID: Right.

10 MS. DWYER: Also, in looking through my
11 copies of the filing, it seems to me that Exhibits 1
12 and 2 are reversed in the package. Let me just go
13 through the two things that we filed that are items 1
14 and 2. Number one, we were asked to respond to
15 questions by Mr. Lutz Prager from the December 17th
16 public hearing and in my copy those responses are Tab
17 or Exhibit 2.

18 CHAIRPERSON REID: Someone was in a hurry
19 this morning.

20 MS. DWYER: In a hurry this morning, yes.
21 And then there was also a question at the hearing that
22 we were asked to provide additional clarification and
23 that question had to do with the carve-out, what was
24 the carve-out that the University used back in the
25 spring when it had to estimate to the Court what the

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1 undergraduate numbers were and if you apply that same
2 methodology today, what would the carve-out be and
3 that is the other material that we filed with you.

4 CHAIRPERSON REID: Thank you.

5 MS. DWYER: If there are specific
6 questions of those materials, Mr. Barber is here to
7 answer them, but otherwise, I think the materials are
8 self-explanatory.

9 In terms of the carve-out, both in the
10 spring and again in the fall, when you take the
11 categories of students that the Board indicated the
12 University could exclude from the definition of full-
13 time enrollment, it's basically a 15 percent carve-out
14 and that explains why after you take the undergraduate
15 number and the carve-out, the number of students that
16 are subject to either the cap or the housing
17 requirement is a lower number and that's because of
18 the 15 percent carve-out.

19 In terms of the responses to the questions
20 posed by Mr. Prager, one of them had to do with --
21 actually, the first question had to do with a
22 projection of what would the quote shortfall of beds
23 be in Year 2005 if you assume that the University's
24 enrollment grew and what we did is take the larger of
25 the numbers which was the 8500 number and walk through

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1 what that would mean I think it shows that if the
2 University were to grow to that number which again was
3 only a projection and not a definitive number and then
4 you subtract the carve-out, you count the beds on
5 campus today and then the future beds for both Squares
6 43 and 57 which would be in place by 2005. It
7 indicates that the University would be -- would have
8 a shortfall of 50 beds in five years from the 70
9 percent requirement.

10 I think the other questions are fairly
11 self-explanatory and again, Mr. Barber is here if the
12 Board has further questions on the basis of the
13 materials in Exhibits 1 and 2.

14 MR. PRAGER: Madam Chair?

15 CHAIRPERSON REID: Yes, Mr. Prager?

16 MR. PRAGER: I notice that there is no
17 answer to Question 3 and in fact, that there is an
18 objection to Question 3. I would like to state why I
19 believe that question is relevant to the Board's
20 proceedings if that's --

21 CHAIRPERSON REID: Thank you.

22 MR. PRAGER: The purpose of Question 3 is,
23 in part, to allow the Board to determine whether a cap
24 on the number of students at the University is a
25 realistic and feasible plan, given the uncertainties

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1 of the admissions process. It also is relevant to the
2 question of whether or not the Board's time table for
3 decision which was predicated on the assumption that
4 much of the admissions process occurred in December
5 and January, whether that time table is -- could be
6 adjusted, given the fact that admissions seem to be
7 much later than that, including admissions of people
8 who are put on the waiting list. And finally, it has
9 a bearing on the question of the Board's assessment of
10 the University's ability to meet condition 9 in 2001.
11 So I think for all those reasons the objection should
12 be overruled.

13 MS. DWYER: Madam Chair, I would just say
14 that we believe that the details of the admission
15 process and that particular component of it, the wait
16 list issue is not relevant to the question that's
17 before you which is the number of undergraduates and
18 the number of beds that the University should be
19 providing.

20 I think when the Court reviewed this issue
21 it felt that the University in the fall starts an
22 admissions process that is then underway for the year
23 and to try and take out one piece of that and say
24 we're going to try and identify the wait list piece
25 and use that as a date or trigger is very difficult

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1 and the Court recognized that really in the fall, once
2 the University starts its admissions process. It is
3 by that date that it needs to know with any degree of
4 certainty from the Board what the restrictions are
5 going to be on the University for the year and we
6 don't believe that just separating out the wait list
7 and in particular, asking what happened last year in
8 terms of the wait list has any relevance to the Board
9 going forward and deciding the number of beds that it
10 believes are appropriate for the University and the
11 timing of those beds going forwards.

12 MR. PRAGER: If I could just respond very
13 briefly. This Board is obviously not bound by
14 anything that the Court did on a preliminary
15 injunction. The Board acted -- the Court acted
16 without much evidence before it and this particularly
17 the sort of evidence that this Board should have when
18 it makes a decision as to the future, as well as the
19 ability of the University to comply with its condition
20 as it currently exists.

21 MS. DWYER: And I would just state again
22 I know of no other special exception application
23 before the board for any University where the Board
24 gets into that level of detail in terms of the wait
25 list requirements of the admissions process in terms

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1 of addressing the zoning issues which are the subject
2 of the special exception. If there is additional
3 information that the Court may want, then there are
4 discovery procedures in the Court for obtaining that
5 information, but I think in terms of the Board and the
6 zoning issues and the impact issues, the particular
7 timing of the wait list process as a piece of an
8 admissions process as a piece of a larger University
9 process is not relevant to this zoning issues.

10 CHAIRPERSON REID: Let me just before
11 ruling on this, let me just ask a question as to Mr.
12 Prager's question. When are wait list applicants
13 normally informed that they have been placed on the
14 wait list? I need to understand if there is such a
15 thing as normal within the scope of the administrative
16 and academic planning? Is there a date certain that
17 is set aside each year at which time the wait list
18 students would be informed?

19 MS. DWYER: I would ask Mr. Barber to
20 address that in general terms.

21 MR. BARBER: There is a general procedure.
22 It involves a range of dates. There's no hard and
23 fast date, but there is a general procedure, yes, in
24 terms of timing.

25 CHAIRPERSON REID: That's what I was

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1 asking. Is there a time line that is set up, in other
2 words, is it consistent each year so that it could be
3 deemed -- it could be determined that it would be like
4 normal, for example, by October 19th each year? Is
5 there such a date that would be attributable to the
6 normal aspect of this?

7 MR. BARBER: There are not hard dates for
8 the admission process. There is a time line which
9 typically follows a pattern of a range of times and so
10 we talk about --

11 CHAIRPERSON REID: Do the dates fluctuate?

12 MR. BARBER: Only within that range.

13 CHAIRPERSON REID: Within the range, I'm
14 saying.

15 MR. BARBER: Right.

16 CHAIRPERSON REID: If it's between October
17 and December or something like that, there's not a
18 date certain that there's within a certain time range,
19 is that what you're saying?

20 MR. BARBER: Yes. The fluctuation is not
21 that big for the kind of decisions we're talking
22 about, but there is a fluctuation in terms of the
23 month and the time of month that these types of
24 decisions are made typically.

25 CHAIRPERSON REID: Then my second question

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1 would be when -- is that attributable also to A and B,
2 as the question as to when they're informed they have
3 been placed on the wait list, one -- A and B, and when
4 they are normally informed that they have been
5 accepted, is this within the -- something that is
6 concise or is it something that fluctuates?

7 MR. BARBER: Again, there are no hard
8 dates, but it typically occurs within a range of time,
9 a similar time, a range each year, but no hard dates
10 by when these decisions are made.

11 CHAIRPERSON REID: As to -- is there a
12 procedure, a concise procedure by which the University
13 determines the number of students that will be on the
14 waiting list, is there some criteria that's utilized?

15 MR. BARBER: No, that's pretty broad. The
16 size of the waiting list is determined by the overall
17 quality of the applicant pool, that's basically what
18 they look at. They don't make first round decisions
19 of people being offered admissions right away. People
20 they decide to wait list because if they have a lot of
21 well qualified people, they'll make more decisions up
22 front and put fewer on the wait list. If they have a
23 less qualified pool, they send out fewer in the
24 beginning and more on the wait list. I think
25 generally that's the way it works, but there's no

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1 defined --

2 CHAIRPERSON REID: So it depends.

3 MR. BARBER: It really depends upon the
4 quality of the pool that you get every year.

5 CHAIRPERSON REID: Is that the only
6 variable, the quality of the pool? Are there any
7 other variables?

8 MR. BARBER: It all fits in with the
9 admissions process and the variables that are driving
10 the admissions process and that varies from year to
11 year.

12 CHAIRPERSON REID: Can you just give us
13 some examples?

14 MR. BARBER: Yes.

15 CHAIRPERSON REID: And some samples of
16 what the variables are that you utilize from year to
17 year?

18 MR. BARBER: The admissions process, as we
19 say, is more of an art than a science, but the
20 University is looking at what kind of response is it
21 going to get from students it offers admissions to.
22 First of all, what is our -- are the students going to
23 be coming back in the numbers they came last year? So
24 our retention rate is one factor.

25 And then for the new students, for the

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1 freshmen, will fewer students be coming this year
2 because the economy is weaker this year because we're
3 a fairly expensive University. What has been
4 happening in past years in terms of the response that
5 we've gotten both on an overall process in the yield,
6 but also in early decisions and different segments of
7 the admissions process. And those are the normal
8 variables.

9 Quite frankly, this year it's going to be
10 even tougher because what the University is talking
11 about internally is what do the events of the recent
12 past, with terrorist activities, what effect might
13 that have on our enrollment, graduate and
14 undergraduate? Are people going to be more afraid to
15 the nation's capital? Are government agencies going
16 to be moved out of the city that might affect our
17 graduate enrollment? There are those kinds of
18 variables and it's even more -- there are even more
19 variables this year than in previous years.

20 CHAIRPERSON REID: In other words, there
21 are a plethora of variables depending on the
22 situation, several factors, the economy, the political
23 climate?

24 MR. BARBER: Yes.

25 CHAIRPERSON REID: The quality of the

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1 applicants?

2 MR. BARBER: That's right.

3 CHAIRPERSON REID: And those variables
4 fluctuate from year to year?

5 MR. BARBER: That's right.

6 CHAIRPERSON REID: Now the other one was
7 were normal procedures used for the class admitted in
8 Year 2001? And that is a question that I think --
9 while we've not been able to extract exact answers to
10 those questions, I understand that, but I think that
11 we need to be able to get enough information to give
12 us the ability to kind of get an idea as to what we're
13 dealing with.

14 Obviously, I don't think that there's an
15 apparatus in place for us to be able to precisely and
16 specifically and concisely determine those answers to
17 those questions. Nonetheless, I think that this
18 question is very important in that when you talk about
19 normal procedures, you've already said that there is
20 no quote unquote normal per se, but Mr. Prager, if you
21 will indulge me into rephrasing the question a little
22 bit, perhaps -- was there any difference in the
23 procedures utilized this year than were utilized
24 previously, historically, as to the admission process?

25 MR. BARBER: In general, no. The

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1 procedures were generally the same. The factors,
2 judgments, based upon circumstances vary from year to
3 year, but the procedures followed before this past
4 spring were generally the procedures we followed in
5 the past.

6 CHAIRPERSON REID: Okay, then I would
7 sustain the objection. Excuse me, I would sustain the
8 objection. Mr. Prager tried to extract in the course
9 of my questioning what -- before sustaining it what
10 information that I thought may be useful to the Board
11 are useful to you and responsive to the question.

12 Yes, Ms. Mitten?

13 COMMISSIONER MITTEN: There was
14 information -- there was at least the availability of
15 information that you gleaned from Mr. Barber that I
16 would hope you would allow to be put to the University
17 which is you were asking Mr. Barber about what the
18 general procedure is about -- I'm not as concerned
19 about Point No. A, I'm more concerned about Point No.
20 B and Question 3 and he said that while there is the
21 date fluctuates from year to year, the range of dates
22 generally does not fluctuate. So there is something
23 relatively specific that is available information that
24 I think would be helpful to us and just on the point
25 that the general objection --

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1 CHAIRPERSON REID: Well, there's nothing
2 that would prevent you from asking that question.

3 COMMISSIONER MITTEN: I just wanted to
4 make certain that we weren't totally shutting down --

5 CHAIRPERSON REID: No, I objected -- I
6 sustained the objection to the questions as they were
7 asked.

8 COMMISSIONER MITTEN: All right.

9 CHAIRPERSON REID: Nonetheless, we will
10 have an opportunity ask our own questions.

11 COMMISSIONER MITTEN: Great.

12 CHAIRPERSON REID: We'll certainly have
13 the opportunity to ask our own questions.

14 COMMISSIONER MITTEN: I'll do it then.
15 Thank you.

16 CHAIRPERSON REID: All right. Ms. Dwyer?

17 MS. DWYER: That concludes our
18 presentation of the responses to the questions. If
19 there are no further questions, otherwise, we're
20 available, Mr. Barber is available from any questions
21 from the Board on the testimony from the last hearing.
22 As I indicated, we'll reserve the last three exhibits
23 for later in the hearing process.

24 CHAIRPERSON REID: Okay, now the floor is
25 open from Board Members to direct questions to the

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1 Applicant.

2 COMMISSIONER MITTEN: Could I just pick up
3 where I was going to go while it's still fresh in my
4 mind?

5 CHAIRPERSON REID: Sure.

6 COMMISSIONER MITTEN: I would like to know
7 what that range of dates is during which time you
8 would notify wait listed applicants that they've been
9 accepted for admission?

10 MR. BARBER: In a typical year, late
11 April, early May.

12 CHAIRPERSON REID: That was for what
13 category?

14 COMMISSIONER MITTEN: Wait list. That's
15 the date, the range of dates that they are normally
16 informed that they've been accepted for admission. So
17 that would be in response to --

18 CHAIRPERSON REID: Wait listed.

19 COMMISSIONER MITTEN: Right. On the
20 response that's under Exhibit 1, in terms of the
21 carve-outs.

22 MR. BARBER: Yes.

23 COMMISSIONER MITTEN: Could you just walk
24 through each of the numbers and say -- I know you were
25 telling us on Monday that some of these numbers are

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1 relatively precise because we have some information
2 and others were estimates. Could you just tell us
3 which are based on precise information and which are
4 estimates, for the married students, students with
5 disabilities and so on?

6 MR. BARBER: Sure. They're all estimates
7 and let me just tell you how we got them.

8 COMMISSIONER MITTEN: Okay.

9 MR. BARBER: Married students, students
10 with children, the students with children are not very
11 large. They may count for less than 5. But the
12 married students are typically international students,
13 so we talk to the service organizations that serve
14 foreign students. They give us an estimate. That
15 hasn't changed from last year to this year. I think
16 that's relatively constant.

17 The students with disabilities
18 inconsistent with resident hall life, that's a little
19 bit more difficult to get a handle on. We have -- we
20 did a similar check. That is we went to the service
21 organizations that serve the students and we're
22 talking about a range of disabilities, not simply
23 physical disabilities, but mental disabilities,
24 behavioral disorders and the number have gone up
25 significantly over the last three years. It is

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1 estimated that the total population, disabled
2 population is about 10 percent and so that number may
3 increase in the future. But this is a conservative
4 number. This is simply not by all means all the
5 disabled students, but those who have disabilities
6 that may make them -- it may be improper to require
7 them to live in residence hall. We glean from talking
8 to the student services that deal with disabled
9 students.

10 Students with religious beliefs
11 inconsistent with residence hall life, that again --
12 I'm sorry, let me just make one point about disabled.
13 That went up, the disabled population went up about 30
14 based upon our recent numbers for the admissions for
15 this fall, again talking to the disabled student
16 services organization and these are people who
17 identify -- self-identify themselves as disabled.

18 The students with religious beliefs
19 inconsistent with resident hall life. That's another
20 hard category. For that, we went to an organization
21 that's not a G.W. organization, Hillel provides a lot
22 of services to Jewish students and they track
23 Orthodox, traditional Jews who for various religious
24 beliefs feel they cannot live in the residence hall.

25 Now it's a conservative number because,

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1 for example, we did not branch out and try to identify
2 Muslims who might have religious beliefs that are
3 inconsistent with residence hall life and quite
4 frankly when we looked at this number for this time
5 around, given today's climate, we just simply didn't
6 want to ask the question. So we just left it at 100.
7 It's a conservative number.

8 COMMISSIONER MITTEN: Okay.

9 MR. BARBER: Now the final number,
10 students who commute from outside the District of
11 Columbia. We base this number on what our records
12 show about zip codes for current addresses. We were
13 quite candid with this Board last spring that our data
14 for where students currently live is not perfect.

15 We think it's reasonably reliable, but we
16 recognize there are gaps and we explain that because
17 as students move off campus, they don't always give us
18 new current addresses and in this day of the internet,
19 so much can be done via the internet, grades,
20 registration and the bill goes home to Mom and Dad in
21 Poughkeepsie or Anacostia, wherever they are, that
22 there hadn't been a real need to closely track that.

23 At the direction of this Board, we
24 suggested it, but the Board directed it, we have put
25 in place mechanisms to accurately count, accurately

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1 gather that information which will kick in this fall
2 with student registration. So now when students
3 register for the spring semester, they will be
4 required to update their local addresses and we've
5 adopted a policy saying it's a violation of student
6 code of conduct if you give a false address and we'll
7 be auditing those numbers.

8 So these are in approximation. We believe
9 it's gone up and that number is shown here, but it is
10 an estimate based upon the best data we have available
11 today.

12 COMMISSIONER MITTEN: Let me ask you a
13 question and you don't have to agree with the premise
14 of the question.

15 MR. BARBER: Okay.

16 COMMISSIONER MITTEN: If we were to
17 maintain a cap on undergraduate enrollment and if we
18 were to require that a certain percentage of those
19 undergraduates be housed on campus, would it be
20 preferable from a -- would it be preferable from
21 whatever perspective that instead of a carve-out, we
22 simply take the 15 percent and make the adjustment and
23 apply the percentage to the overall enrollment?

24 MR. BARBER: I appreciate the question and
25 of course I reserve the right to object to the

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1 premise.

2 COMMISSIONER MITTEN: Okay.

3 MR. BARBER: And we thought about that.
4 What we think makes sense, not 15 percent. We think
5 the commuters should be defined. We should count them
6 and we should carve-out the commuters. We think that
7 concept makes sense with the other categories and the
8 other categories, married students, students with
9 children, disabilities, religious beliefs, is about 5
10 percent and we think that remains constant. And that
11 population is just so hard to get a handle on and you
12 don't want to be so intrusive in asking questions
13 every year. So we think it makes sense to make that
14 a 5 percent. Perhaps we can revisit it to make sure
15 that's consistent, but 5 percent for that population
16 and then whatever the commuters are. So if it turns
17 out that the commuters are 10 percent this year --
18 that could go up. The number may be -- the point is
19 we can get accurate numbers and this should be an
20 accurate number.

21 COMMISSIONER MITTEN: Okay, so you don't
22 consider the necessity to acquire or assemble the
23 information regarding commuters to be so burdensome
24 that you would just as soon not do it?

25 MR. BARBER: No.

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1 COMMISSIONER MITTEN: All right. You're
2 not going away, are you?

3 MR. BARBER: Pardon me.

4 COMMISSIONER MITTEN: When you testified
5 on Monday, you spoke about the proposal that the
6 University had made and you said that what you all had
7 proposed originally was more or less a flexible cap
8 and then you went on to say that given that that's a
9 flexible cap, in fact, it would require the University
10 to limit its enrollment to some extent.

11 Now you all have objections to us trying
12 to make you hit targets or hit below targets. How is
13 it that under your scheme you could live within a
14 flexible cap and somehow control enrollment, but for
15 our purposes, you can't do it?

16 MR. BARBER: Let me explain that. The key
17 to that is what housing can we count? How much
18 flexibility do we have in providing housing, if a
19 population goes up? An illustration of that is what
20 happened last spring. Unexpectedly, our population
21 went up. That would have without fault on our own
22 would have violated the Board's order and under the OP
23 approach a one for one, you have to provide a single
24 -- an additional bed for every new additional
25 undergraduate on campus. There's no way we could have

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1 met that.

2 What we did though was move to acquire
3 housing and not displace long-term residents and
4 acquire transient housing. So if we have available
5 housing and that's why our proposal gives us some
6 flexibility in the sense it allows us to count what we
7 have in the existing off-campus and gives us some room
8 for growth, we can manage that. We can manage those
9 two variables: our housing and our full-time
10 undergraduate population. But the key to that is
11 having some access to housing that allows us to manage
12 that.

13 Knowing that we are committed to construct
14 new housing on campus and we've moved aggressively to
15 do that, but it takes at least three years to do that.
16 So we need to have either in place or accessible some
17 housing that we can house our students in. The key,
18 the balance that needs to be struck and one that we've
19 tried to strike and operationally we have accepted for
20 purposes of this hearing is to do so in a way that
21 does not displace long-term residents. And that's
22 what our proposal is based upon and we're ready to
23 expound upon that. But that's our goal.

24 COMMISSIONER MITTEN: Okay, so it sounds
25 really more like what you feel more like doing is

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1 controlling the supply of housing, rather than
2 controlling the number of students?

3 MR. BARBER: It's really both though.
4 It's really both. The supply of housing is certainly
5 never going to be infinite or even in any one
6 particular year, huge. But we can control your
7 student population. You have more flexibility on the
8 population if you have some flexibility on your
9 housing. So both variables are important.

10 COMMISSIONER MITTEN: Okay. Let me ask
11 you a question about money. And my understanding from
12 all the hearings and my understanding from the
13 additional submissions that you've made is that
14 tuition doesn't pay all the bills. Is that -- I'm
15 going to speak simply. I think that tuition is your
16 largest source of income.

17 MR. BARBER: Correct.

18 COMMISSIONER MITTEN: But it doesn't cover
19 100 percent of operating expenses. Is that correct?

20 MR. BARBER: That's correct. It doesn't
21 cover 100 percent of operating expenses, that's
22 correct.

23 COMMISSIONER MITTEN: Okay, maybe just in
24 simple terms we have tuition and then what else do we
25 have to cover -- just operating, how do you -- where

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1 does the rest of the money come from?

2 MR. BARBER: Let me give you my big
3 picture view as far as I know it. There are certainly
4 fees that are also generated from students that are
5 not tuition directly. You have fees and you have
6 housing fees that also generate income.

7 COMMISSIONER MITTEN: Okay.

8 MR. BARBER: We have medical programs that
9 generate income. We have not entirely divorced
10 ourselves from the hospital and the medical faculty
11 associates, so there's income coming from the medical
12 side to a certain extent, although that's become more
13 of an outflow in recent years. But that's one source
14 of income.

15 And the endowment is a separately managed
16 pool. There are investments that the University has
17 and I'm sorry, I'm exceeding my knowledge to the
18 extent to which the investment income goes directly to
19 our operating expenses.

20 COMMISSIONER MITTEN: But do you think --
21 there's some reference and I'm going to go to it later
22 and ask you probably some more questions after other
23 folks go, but there is some sense from the financial
24 documents, the rating services provided that there is
25 some money taken out of the endowment that goes

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1 towards at least part of the operating, so without
2 knowing how much, there is some of that.

3 MR. BARBER: Some of that.

4 COMMISSIONER MITTEN: Okay. And is there
5 anything else you can think of?

6 MR. BARBER: Those are the big categories.

7 COMMISSIONER MITTEN: Okay, so answer me
8 this question. Given that you seem to really want to
9 have more students is good because they give us more
10 money, they provide more tuition money, but doesn't in
11 a sense each student cost you more because you have
12 another gap to fill? If you're losing money on each
13 student, you're not going to make it up in volume.

14 MR. BARBER: I understand the question.
15 There are limits to the number of students that we can
16 and should bring on and we recognize that.

17 COMMISSIONER MITTEN: Can you help us
18 understand how you would assess the limit?

19 MR. BARBER: The 20,000 cap on our total
20 enrollment. We look at it as a total limit.
21 Unfortunately, we've been kind of pushed to try to
22 come up with a limit on part of our total enrollment.
23 We have tuition from the full 17,000 students that are
24 enrolled in our institution and what that mix of
25 students is will vary, but that income is important.

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1 For every 500 students, it's about \$10 million from
2 what I'm told. So the answer to your question is
3 don't you have expenses when you increase your
4 enrollment?

5 You do, but within certain parameters and
6 the parameters we've tried to lay out in terms of the
7 total cap and in terms of where -- how the 70 percent
8 would work to try to limit our undergraduate
9 enrollment. We can afford that because every
10 additional student, he pays full tuition, but the cost
11 is not the same. So there's only a marginal increase
12 in cost.

13 You don't have to hire a full professor
14 just because you have one more student. If you have
15 50 more students, you might have to hire another
16 professor. So it's not a one for one relationship.
17 There are limits certainly. Part of our concern this
18 past spring when we received students than we expected
19 was not simply a housing crunch, but it was also those
20 kinds of things you were talking about: faculty,
21 classroom space.

22 So we are mindful of those limits. There
23 are those kind of natural limits. It's not a hard and
24 fixed limit, and one student won't do it because one
25 student will pay full fare and the expenses are not

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1 one for one. But yes, there are gradually, the slopes
2 increase differently. The income increases this way,
3 the expenses will be lower, but they do increase.

4 I hope I've answered the question.

5 COMMISSIONER MITTEN: I understand what
6 you said. I'll defer the rest of my questions until
7 some of the other Board Members have had a chance,
8 Madam Chair.

9 CHAIRPERSON REID: All right, Mr. Griffis,
10 do you have any questions at this time?

11 Ms. Renshaw?

12 VICE CHAIRPERSON RENSHAW: I don't have
13 many questions at this time, but I just want to start
14 off and acknowledge G.W.'s part in emergency response.
15 You have a really fine emergency medical department
16 and we have to recognize that during this time of
17 heightened tension and alerts in the nation's capital
18 and I just want to mention that G.W. has one of a very
19 few decontamination units in the city.

20 MR. BARBER: Yes, that's right. Thank
21 you.

22 VICE CHAIRPERSON RENSHAW: And we are
23 going to be needing that expertise in the months and
24 years to come.

25 MR. BARBER: I appreciate that.

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1 VICE CHAIRPERSON RENSHAW: I just wanted
2 to have you refer back to Exhibit 2 which answers --
3 this is the submission of Shaw Pittman that we
4 received today, dated September 21st. It does not
5 have an exhibit number yet, where you were talking
6 about the projected enrollment to 2005 with the
7 projection of 8,000 to 8,500 students and with the 70
8 percent requirement it would mean a shortfall of 50
9 beds by I take it 8,005. Is that correct?

10 MR. BARBER: Yes.

11 VICE CHAIRPERSON RENSHAW: I wanted to
12 know whether this was, this projection was with or
13 without a change in boundaries?

14 MR. BARBER: This was without a change in
15 boundaries.

16 VICE CHAIRPERSON RENSHAW: Was without?

17 MR. BARBER: Yes, I think the assumption
18 was there was the requirement imposed by the Board in
19 its March 29th order which was 70 percent
20 undergraduates housed on campus as defined by the BZA.

21 VICE CHAIRPERSON RENSHAW: Well, I just
22 wanted to make it clear that that was without the
23 boundary change.

24 MR. BARBER: That's true.

25 VICE CHAIRPERSON RENSHAW: As you have

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1 proposed in Exhibit 310 and also 309, submitted on the
2 17th of September. And just one other point that I
3 wanted to make at this time, and then I will yield to
4 Mr. Levy.

5 Earlier in the testimony on Monday, I
6 forget the dates, we've been here so long this week,
7 you talked about transient students and this is off-
8 campus housing and you noted for the Board's benefit
9 this shift from transient use to student use and that
10 you did not see a problem in that.

11 Now I would just like to ask you what is
12 your definition of transient?

13 MR. BARBER: Transient, those uses that
14 are not long-term, like hotels, like boarding houses.
15 The person does not establish a domicile here, a
16 person comes for a limited period of time. And
17 there's a definition in the comp. plan and let me
18 refer to it. I'm looking at the Ward 2 comp. plan,
19 section 1325.3. Transient use, hotel, de facto hotels
20 and corporate apartments. Those are transient uses.

21 VICE CHAIRPERSON RENSHAW: But as far as
22 the person goes, if you are -- you're in that category
23 if you're here for a short term?

24 MR. BARBER: That's right.

25 VICE CHAIRPERSON RENSHAW: So are your

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1 students in that category also, that they would be
2 transient because they are here for a limited period
3 of time?

4 MR. BARBER: I don't consider them in the
5 same category. Our students are here, some of them
6 are here for a limited period of time. Some graduate
7 and stay. But in that particular housing they may be
8 there from one year to four years and I don't think
9 that falls into the same category of transient use.
10 It's certainly more -- let me say this, it is not in
11 the same category as those who are there for a few
12 days, a few weeks or even a few months, so it's not
13 transient in that sense.

14 VICE CHAIRPERSON RENSHAW: Well, you're
15 contrasting your students versus someone who would
16 come in for a hotel stay?

17 MR. BARBER: Hotel, corporate apartment or
18 boarding house, those transient uses that are cited in
19 the comp. plan.

20 VICE CHAIRPERSON RENSHAW: Or a business
21 use, who could come into town for several months or
22 something like that?

23 MR. BARBER: Right.

24 VICE CHAIRPERSON RENSHAW: And after the
25 students live in that particular domicile that had

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1 been a transient use in the past, do you make sure
2 that they are out of there or can they continue to
3 stay in that rooming arrangement if they are going on
4 to grade school or they're going to be back the next
5 year?

6 MR. BARBER: Now we're talking about
7 University-owned and controlled housing?

8 VICE CHAIRPERSON RENSHAW: Yes. Such as
9 City Hall, that you said was transient, formerly
10 transient.

11 MR. BARBER: Right. Their license to use
12 that room will expire by the end of the year and so if
13 they want to stay they will have to reapply and
14 through our housing lottery system and depending upon
15 where they are in that housing lottery system, they
16 may or may not return to that unit. We have changed
17 the lottery system now to give preference to freshmen
18 and sophomores and so they may have a stronger chance
19 to stay in that same place. Juniors and seniors will
20 not have a higher priority. So I hope I answered the
21 question.

22 VICE CHAIRPERSON RENSHAW: Yes, well, I'm
23 just wanting to focus in on the word transient because
24 it does seem to me with this housing lottery program
25 that your use of these buildings is very similar to

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1 the short-term use that it had been in the past and
2 yet you did not see an adverse impact. You stated on
3 the 17th that you did not see an adverse impact to the
4 community.

5 MR. BARBER: For a solid year, you have
6 the same population day in and day out. No, it is not
7 like an apartment building in the sense that they may
8 have longer term users, but it is certainly longer
9 term and more stable than these people who come in for
10 shorter periods of time.

11 For example, Hall of Virginia Avenue was
12 a motel and you have people coming in day and day out.
13 You have buses lined up, much more frequent turnover.
14 Now you have a stable population that may turn over
15 once a year and the students are in and they're out
16 and then you have another stable population.

17 So yes, I do think there's a difference
18 between students' use and transient uses, although I
19 recognize student uses are for a specified duration.

20 VICE CHAIRPERSON RENSHAW: But if someone
21 were to rent that facility for a year and then move,
22 would that be a transient, nonstudent?

23 MR. BARBER: If a nonstudent were to lease
24 an apartment for a year?

25 VICE CHAIRPERSON RENSHAW: Uh-huh, and

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1 then move.

2 MR. BARBER: I wouldn't consider a year's
3 lease a transient use.

4 My understanding of these transient uses
5 they're typically leased for shorter periods of time.

6 VICE CHAIRPERSON RENSHAW: So a turnover
7 within a year or within 6 months is what you're
8 referring to?

9 MR. BARBER: Yes.

10 VICE CHAIRPERSON RENSHAW: Thank you.
11 I'll reserve the right to come back and ask more
12 questions later.

13 MR. BARBER: Fine.

14 CHAIRPERSON REID: I have a couple of
15 questions at this time. The segue on Ms. Renshaw's
16 questioning, Mr. Barber, you said that the definition
17 of transient and non-transient is a factor as to the
18 length of time someone may reside at a particular
19 place. And I guess it goes to like temporary housing
20 and permanent housing. If -- what is the -- let me
21 just rephrase the question I was about to ask.

22 When a student, an undergraduate student
23 comes to the University, do they typically remain at
24 the housing provided for the entire term? In other
25 words, one year to four years, but if the degree

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1 program is at least four years, is it more typical
2 that they would remain there for the four year
3 duration or would they -- would it be more typical --
4 in other words, what would be more the norm in this
5 instance as far as your knowledge is concerned when
6 one student takes occupancy in one of these
7 facilities?

8 MR. BARBER: Okay. A large number of our
9 students come as freshmen, reside in University
10 residence halls and stay in University resident halls
11 for their entire tenure at the University. I can't
12 give you those figures, but we have guaranteed -- we
13 have said, if you come and start in our housing and
14 don't leave our housing, we will always guarantee you
15 space and a large number of them stay throughout their
16 four years.

17 They may not stay in the same residence
18 hall. We have some residence halls that are more
19 typically, are more geared towards freshmen, quite
20 frankly. They have fewer amenities. And other
21 residence halls are more geared towards upper
22 classmen. So it is not unusual if they stay in the
23 residence halls to move from one residence hall to
24 another and maybe live in two residence halls during
25 their tenure here at the University.

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1 CHAIRPERSON REID: So --

2 MR. BARBER: They go from a freshmen dorm
3 -- there are a number of pedagogical numbers that we
4 have freshmen together.

5 CHAIRPERSON REID: Sure.

6 MR. BARBER: So you have freshmen dorms
7 and then they will leave the freshmen dorm and if they
8 stay in a University resident hall, they will go to
9 one of our other residential facilities.

10 CHAIRPERSON REID: Okay. My other
11 question, I was referring to the submission of the day
12 in Tab 1. In response to the question as to how the
13 number of 6200 full-time undergraduates was calculated
14 by Mrs. O'Donnell. You didn't break out the number of
15 full-time undergraduates and then show the number of
16 carve-out categories.

17 MR. BARBER: Right.

18 CHAIRPERSON REID: As to -- you have
19 students who are coming in from outside the District
20 of Columbia. Is there a category for those who
21 commute from inside?

22 MR. BARBER: No. We think that -- it's
23 certainly a concern for us. We think commuters should
24 be defined as people who reside outside the Foggy
25 Bottom West End area. We are blessed, one of our

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1 advantages is being on a subway line. And we have
2 students who live not only in Alexandria and Silver
3 Spring, but live in Anacostia, who live in Shaw, other
4 parts of the District of Columbia who commute here to
5 the University, take the subway here and we think
6 that's a good thing. We don't think there's a need to
7 house them. We don't think there's a need to bring
8 them in from other parts of the District of Columbia
9 to the Foggy Bottom West End area. In fact, the Board
10 -- one of the conditions was to increase the usage of
11 the Metro by the students and we're taking actions to
12 do that. So we think commuters more properly defined
13 would be those students who reside outside the Foggy
14 Bottom, West End area as opposed to outside the
15 District of Columbia.

16 CHAIRPERSON REID: Okay, then -- but you
17 don't have that reflected?

18 MR. BARBER: No. This is calculated based
19 upon the Board's order and the Board's order had
20 defined commuters of living outside the District of
21 Columbia. So we were using that definition and
22 running the numbers on that basis.

23 CHAIRPERSON REID: Okay, because what
24 comes to mind is that wouldn't it be two categories,
25 those students who commute from inside the District of

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1 Columbia meaning that they have other housing that
2 they've acquired and then those who are residents in
3 the District of Columbia?

4 MR. BARBER: It does include both
5 categories and no, we don't typically distinguish, if
6 somebody lives in the District of Columbia are they
7 there because they were native Washingtonians or lived
8 in Washington before and decided to go to G.W. and
9 stay at home --

10 CHAIRPERSON REID: Right.

11 MR. BARBER: As opposed to students who
12 come from other areas, decide to find an apartment
13 house in Capitol Hill.

14 CHAIRPERSON REID: Or anywhere else.

15 MR. BARBER: Right, we have not
16 distinguished those. I think for purposes of defining
17 commuters, I'm not sure there should be a distinction.

18 CHAIRPERSON REID: Right, I'm just trying
19 to get my arms around what we're talking about here as
20 far as commuters are concerned. So there is no
21 category for those persons who commute within the
22 District of Columbia.

23 MR. BARBER: Under the Board's order those
24 persons commuting inside the District of Columbia are
25 not considered commuters and I don't think that's

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1 appropriate.

2 CHAIRPERSON REID: Okay. And of course,
3 I think we're really far-fetched to try to get an
4 estimate of what that figure would be.

5 MR. BARBER: We'll have it later this
6 semester when we do our more accurate count of current
7 addresses.

8 CHAIRPERSON REID: Okay, thank you so
9 much.

10 Any other questions, Board Members? Mr.
11 Levy.

12 MEMBER LEVY: I have two questions.
13 Following up on Ms. Renshaw's question regarding the
14 submittal from today, September 21st, in your -- in my
15 copy it's Exhibit 2 which are the responses to Mr.
16 Prager's questions.

17 MR. BARBER: Yes.

18 MEMBER LEVY: Ms. Renshaw asked about your
19 definition of the campus or you said it was without a
20 change in boundaries.

21 MR. BARBER: Right.

22 MEMBER LEVY: Just for further
23 clarification from me, you say beds on campus in
24 quotes there, in response to Question 1. "Beds on
25 campus today, 4801." Do you see that?

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1 MR. BARBER: Yes, yes.

2 MEMBER LEVY: Can you just clarify for me
3 what you mean exactly by "on campus"?

4 MR. BARBER: It refers to the definition
5 in the question "housed on campus as currently defined
6 by the BZA."

7 MEMBER LEVY: Okay. Thank you. The
8 second question I have is the other facility that
9 you've recently leased besides city hall, I believe
10 you refer to it as Pennsylvania House?

11 MR. BARBER: Yes.

12 MEMBER LEVY: Would you characterize the
13 nonstudent residents of that building as transient?

14 MR. BARBER: Pennsylvania House has been
15 used for transient purposes. There are longer-term
16 residents in the Pennsylvania House and so it has had
17 a mixture, but it's certainly been used for a number
18 of years as a hotel, long and shorter term stay. So
19 there's a mix usage, but in terms of the total use,
20 are there longer-term residents there, I understand
21 that there are, but in terms of the use of the
22 facility it has certainly been used for transient use
23 purposes.

24 MEMBER LEVY: Thank you.

25 VICE CHAIRPERSON RENSHAW: Madam Chair,

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1 I'd like to follow up on Mr. Levy's question but turn
2 to Columbia House where I understand you have a 28
3 percent interest?

4 MR. BARBER: Twenty five --

5 VICE CHAIRPERSON RENSHAW: Twenty-five
6 point eight?

7 MR. BARBER: I'm sorry, 28.5.

8 VICE CHAIRPERSON RENSHAW: Twenty-eight
9 point 5 interest. I wanted to know as apartments
10 become available you are, as I understood it, you are
11 exercising your right as a partner in this and putting
12 students in Columbia House?

13 MR. BARBER: Recommending students, yes.

14 VICE CHAIRPERSON RENSHAW: Recommending
15 students. First of all, do the other partners in the
16 venture also have equal time to propose others to live
17 in those apartments or do your needs take precedent?

18 MR. BARBER: The other partners would have
19 a right to do so. I don't know if they've exercised
20 that right and we wouldn't have precedence over their
21 right. We have a smaller interest than certainly the
22 majority owners.

23 VICE CHAIRPERSON RENSHAW: But of the
24 apartments that have become available in Columbia
25 House, have you been filling them over the other

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1 partners' recommendations?

2 MR. BARBER: Again, I don't know if the
3 other partners have been making recommendations. They
4 may have rights. The way I understand it, there is a
5 leasing management company on site and they lease to
6 whoever comes in the door based upon apartment
7 availability. Our arrangement doesn't take priority
8 over that, so no one else -- there's no one else
9 suggesting people who should be in there. Ours is
10 being run -- we recommend students as unit become
11 available up to our 28.5 percent interest to the
12 leasing management company. And other units that
13 become available are leased to the general public.

14 VICE CHAIRPERSON RENSHAW: And you're
15 recommending -- now who makes the decision that it
16 will be a G.W. student versus someone who walks in off
17 the street?

18 MR. BARBER: The leasing company. I mean
19 the management company.

20 VICE CHAIRPERSON RENSHAW: The management
21 company and the management company is independent of
22 G.W.?

23 MR. BARBER: Yes. It's retained by the
24 general partner. We are not the general partner.

25 VICE CHAIRPERSON RENSHAW: And when did

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1 you start to place students in Columbia House?

2 MR. BARBER: Columbia Plaza.

3 VICE CHAIRPERSON RENSHAW: Columbia Plaza,
4 thank you.

5 MR. BARBER: I think it's been two years
6 now.

7 VICE CHAIRPERSON RENSHAW: Can you provide
8 the Board with any information about the number of
9 units in which you have placed students versus the
10 number of walk-ins?

11 MS. DWYER: Madam Chair, I would object.
12 I think this goes beyond the scope of the hearing, but
13 a lot of information on Columbia Plaza and the number
14 of students was provided in the record of the campus
15 plan case so there are figures in that record of the
16 800 apartments how many are actually used by students
17 and I don't think we need to go back --

18 VICE CHAIRPERSON RENSHAW: I was trying to
19 get further clarity.

20 CHAIRPERSON REID: Where is the
21 information?

22 MS. DWYER: There was information in the
23 campus plan record. Columbia Plaza is not within the
24 campus plan boundaries. It's not being counted by the
25 University as part of any of its proposals and I think

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1 it's beyond the scope of today's hearing to try and
2 get into those issues.

3 VICE CHAIRPERSON RENSHAW: Well, I
4 disagree with that, but I understand your point.

5 CHAIRPERSON REID: Sustained.

6 MS. DWYER: Thank you.

7 CHAIRPERSON REID: Was that your last
8 question?

9 VICE CHAIRPERSON RENSHAW: It will be for
10 now.

11 CHAIRPERSON REID: Ms. Mitten?

12 COMMISSIONER MITTEN: I'd be happy to wait
13 for you if you had some other questions?

14 CHAIRPERSON REID: Go ahead.

15 COMMISSIONER MITTEN: There are some
16 figures in -- let's see, it's Exhibit F of your August
17 31st submission and it talks about the major projects
18 under construction and the amount of money that's
19 budgeted for each?

20 MR. BARBER: Yes.

21 COMMISSIONER MITTEN: And I was wondering
22 if you could just help us to understand. It seems, I
23 just divided the cost for the dormitory proposed for
24 Square 43 by the number of beds and I divided the
25 number of cost for the dormitory on Square 57 by the

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1 number of beds and on a per bed basis it's going to
2 cost a third more to build the dormitory on Square 43
3 even though it's bigger. And I was wondering if you
4 could help explain what's going to make that so much
5 more expensive and in the converse, what's going to
6 make the dormitory on Square 57 that much cheaper?

7 MS. DWYER: Do you know that information,
8 Mr. Barber?

9 MR. BARBER: Not in any kind of detail.
10 You build a bigger building, there are a number of
11 other things you have to provide and provide for more
12 students. And so the cost per bed goes up, but not
13 much more than that, I'm afraid.

14 COMMISSIONER MITTEN: Okay, and I'm going
15 to ask some questions that relate to finances and the
16 reason I'm asking the questions is because despite
17 what you might think we really don't want to do
18 anything that I won't say that cost you money, but we
19 don't want to put you in financial straits, but we
20 don't mind pressing on your resources, but we don't
21 want to hurt you too bad.

22 MR. BARBER: Thanks.

23 COMMISSIONER MITTEN: So I just want to
24 understand some things about the finances.

25 Tell me a little bit about the endowment

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1 since we know that at least a portion of the endowment
2 is paid out to help pay for operating costs and
3 perhaps to pay for other things. In the information
4 from the rating services, it talks about a payout
5 policy. Is that something that is reviewed from time
6 to time?

7 MR. BARBER: Yes.

8 COMMISSIONER MITTEN: So the payout could
9 change if it were --

10 MR. BARBER: Typically, the way an
11 enrollment works it's interest to a certain extent,
12 generated by the endowment is available for operating
13 expenses, but the principal stays in the endowment
14 because again the purpose of the endowment is long-
15 term survivability of long-term needs of the
16 University.

17 COMMISSIONER MITTEN: Okay.

18 MR. BARBER: Yes, the answer to your
19 question. The policy is reviewed, but it's typically
20 restricted and the principal stays in the endowment.

21 COMMISSIONER MITTEN: It does say that
22 you've been very successful in your investments and
23 that's really what has made the University what a good
24 credit risk it is because of that, because you have
25 been experiencing operating deficits in the recent

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1 past. So what happens in the event that you have a
2 payout policy that right now is 5.5 percent and what
3 if your return on investment exceeds that which I
4 assume it does, so you have this -- you have money
5 that's really not principle and it's sort of like
6 accrued interest that has not been dispersed. Is that
7 money available to fund capital projects, for
8 instance?

9 MR. BARBER: The intricacies of how a
10 University is funded is beyond my immediate knowledge.
11 Let me give you my understanding from spending time
12 with the Vice President for Business and Fiscal
13 Affairs.

14 There is some flexibility in the use of
15 that endowment and I take issue that we've been
16 successful partly because of the endowment and partly
17 because of the strength of our student demand. I
18 think the -- we need to point that out as well. While
19 there's some flexibility there, it's like you're
20 eating into your nest egg and quite frankly in the
21 recent months it hasn't been so good because of
22 performance that has declined and that's what you have
23 to watch out for.

24 So while you have some flexibility there
25 and the endowment provides some backup, there are

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1 limits to that because you can't always count on your
2 investments doing well, one, and two, again, you're
3 looking for this endowment to help you fund your --
4 for the long term. For a University of this size and
5 for at the level we aspire to be, we have a fairly
6 small endowment compared to some of other more
7 prestigious universities who have more flexibility
8 because they have a much larger endowment.

9 COMMISSIONER MITTEN: Let me ask you what
10 I think is a straight forward question and it may over
11 simplify things, but this is just something that's
12 troubled me for a long time in terms of trying to
13 understand what your capacity is to accommodate the
14 goals that the Board was trying to promote and that
15 the Office of Planning was trying to promote through
16 this process.

17 George Washington University seems to have
18 available money to make investments in properties that
19 are strictly investment properties like One Washington
20 Circle and seems to have money available to buy
21 residential properties off-campus like HOVA and other
22 places and you seem to have money available to sign
23 what I assume must not be the most favorable terms for
24 leases on the St. James and 2424 Pennsylvania Avenue,
25 and yet when we say look, we really would like you to

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1 build some dorms within these campus boundaries, you
2 go hey, we can't afford it.

3 MR. BARBER: No, that's not true.

4 COMMISSIONER MITTEN: Okay, so help me.

5 MR. BARBER: We want to build and we want
6 to build on campus. That's why we have filed on
7 Square 43, Square 57 applications two weeks to, 900
8 beds. We had planned to build on that site. We
9 speeded up those plans specifically to address the
10 concerns raised by this Board and because we want
11 housing that we can control that's close to where our
12 students go to school. That's what we want.

13 COMMISSIONER MITTEN: Great, so we want
14 the same thing.

15 MR. BARBER: We do.

16 COMMISSIONER MITTEN: Okay, so how --

17 MR. BARBER: We do. The question is the
18 time frame and also for us, it's a balancing of other
19 institutional needs. While we are moving aggressively
20 to build housing on properties that we own and
21 properties within the campus plan and we're looking at
22 other properties that also might become available in
23 the longer term, the Grant School site, there are some
24 other sites, Square 54, there are also academic needs
25 and we don't have the luxury of looking at only one

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1 aspect of our needs of housing. We also have to
2 provide for the other aspects of this institution and
3 you'll see on this chart, on construction projects, we
4 have two academic projects also in development, a new
5 School of Business and Public Administration, a minor
6 extension to the academic facility. So we have to do
7 both. We can't afford if we just build housing, our
8 academic -- the reason we're here would suffer. So it
9 is not -- we are not resisting building housing for
10 lack of money. That's a misread of this.

11 COMMISSIONER MITTEN: Okay. I just want
12 to repeat that. We are not resisting building housing
13 for lack of money?

14 MR. BARBER: That's correct. When we put
15 proposals on the table of how we will provide this
16 housing, we assume that we're going to spend some
17 money to provide housing in some of these areas that
18 don't -- where housing doesn't already exist and where
19 we talked about on Square 5881, where we can possibly
20 -- our proposal to expand housing. We're going to
21 have to spend some money. We're ready to spend some
22 money on housing. The question is where it is and
23 what's the most appropriate location. And for the
24 University being able to balance that need against its
25 academic, part of the problem we have with the March

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1 29th order is it put housing to the top of the list to
2 the exclusion of academic and didn't allow us to do
3 that kind of balancing because until we reach the 70
4 percent goal within the campus boundaries, we couldn't
5 come forward with any kind of project, we couldn't
6 build anything that wasn't housing or at least 50
7 percent housing and we thought that was unfair. But
8 yes, we're ready to commit funds to build dormitories.
9 We are.

10 COMMISSIONER MITTEN: Terrific.

11 CHAIRPERSON REID: Ms. Mitten, may I just
12 ask, you made the assertion earlier and I couldn't
13 follow you that you are saying as if you were quoting
14 from somewhere where the applicant had stated that
15 they couldn't -- didn't have the money or didn't want
16 to invest the money to build housing on campus?

17 COMMISSIONER MITTEN: So I said the
18 general impression --

19 CHAIRPERSON REID: Excuse me, where did
20 you get that impression from?

21 COMMISSIONER MITTEN: I can say with
22 certainty from the filings that they made with the
23 Court about why our order was inappropriate. I can
24 say with certainty it was in there and we were
25 certainly given that impression during the hearings,

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1 but I don't have the transcript in front of me.

2 CHAIRPERSON REID: I just wondered,
3 because I didn't have that impression.

4 COMMISSIONER MITTEN: Okay, now we're all
5 on the same page and there's no lack of clarity on my
6 part or anyone else's.

7 CHAIRPERSON REID: Right. Was someone
8 else trying to say something? Ms. Dwyer or Mr.
9 Barber, were you trying to say something as I was
10 talking?

11 MR. BARBER: I think in reference to what
12 we said before and consistently with the Court, we
13 have a concern about artificially capping and too
14 stringently capping our enrollment because our
15 enrollment drives so much of our operating budget
16 including our development and while we should not be
17 able to and we're not advocating unlimited enrollment,
18 we want the right to have reasonable student
19 enrollment growth. That is a financial issue, so it's
20 not a lack of willingness to spend dollars on the
21 residential development. We are willing to do that
22 and we have shown that. But there are financial
23 constraints in terms of enrollment that we hope that
24 you don't curtail us in.

25 COMMISSIONER MITTEN: Okay.

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1 CHAIRPERSON REID: Are you done?

2 COMMISSIONER MITTEN: I think so.

3 CHAIRPERSON REID: The segue into this
4 same line of questioning, Mr. Barber, this is
5 something, this is the area that seems to be of a lot
6 of concern and my question is if, in fact, and your
7 representation to us in Tab E regarding the finances
8 of the University on August 21st submission was that
9 the University's endowment payout policy contributes
10 5.5 percent of 12 quarter will be market value of
11 endowment which Ms. Mitten just alluded to.

12 What happens if -- is there any scenario
13 wherein -- is that 5.5 percent figure carved in stone?

14 MR. BARBER: No. And I think Moody
15 highlights it because it's higher than other
16 universities, other institutions pay out. Most
17 institutions are very conservative with their
18 endowment. The idea is your endowment is not there to
19 by and large to finance your operating expenses.
20 That's not what your endowment is there for. Moody
21 says the 5.5 percent that G.W. is paying out was kind
22 of on the high side, but they said that's okay because
23 we have raised some money frequently, but we're going
24 to have to look at that. We're going to have to look
25 at that for two reasons. We have to look at that

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1 depending on how our investments do in this economy --

2 CHAIRPERSON REID: That was my next
3 question, that 5.5 percent figure is a function of
4 what?

5 MR. BARBER: A number of factors, how the
6 investment, what kind of earnings we get on our
7 investments, how our fundraising efforts go and what
8 the needs of the institution is. And that could drop,
9 that could change.

10 CHAIRPERSON REID: That was my next
11 question. It could. So conceivably while that may be
12 the figure today, over time, depending on other
13 economic macro and micro factors, that figure could
14 fluctuate?

15 MR. BARBER: That's correct.

16 CHAIRPERSON REID: Then my next question
17 is in regard to your overall budget, and the various
18 parameters that contribute thereto, is the -- are the
19 level of revenues that includes the University and the
20 amount of expenses fairly consistent over time or is
21 that something that fluctuates?

22 MR. BARBER: That does fluctuate,
23 depending upon various factors, depending upon our
24 enrollment and it depends upon how other revenue
25 generating aspects to the University is doing. For

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1 example, the Medical Center. In years past, 10 years
2 ago, the Medical Center was a substantial contributor
3 to the operating expenses of the University. In the
4 last five years or so, that's not true. That's a
5 volatile area with a lot of risk. So yes, the
6 revenues and expenses fluctuate.

7 CHAIRPERSON REID: When the financial
8 projection models were structured as to the operation
9 of the University, who does that? Who actually sets
10 up your projections, for your operating models and as
11 to your budgetary needs? How is that done?

12 MR. BARBER: Well, there is a Finance
13 Committee of the Board of Trustees and a key member of
14 that is, of course, the Vice President for Business
15 Affairs, the Treasurer and he has a staff and they
16 will meet with the committee of the Board and look at
17 various trends and set those kinds of policies with
18 the Board.

19 CHAIRPERSON REID: Just as you have major
20 categories contributing to your revenue such as your
21 enrollment fees, what are the major categories that
22 contribute to your expenses? Is the academic and the
23 capital budget? What are those major categories?

24 MR. BARBER: Well, staff, of course, is --

25 CHAIRPERSON REID: Payroll?

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1 MR. BARBER: Payroll is the biggest
2 component, both on the academic side and on the non --
3 the faculty, professors and the non-academic. And
4 then we have construction capital budgets, you know,
5 monies we have earmarked, of course, for this housing
6 and other campus construction. Those are the -- the
7 whole facility's budget which includes construction
8 and renovation and operating and maintenance are also
9 large categories and those can fluctuate.

10 CHAIRPERSON REID: So if you look at the
11 --

12 MR. BARBER: I'm sorry, and the other
13 category, of course, not just payroll is the whole the
14 whole benefits package which is health benefits, those
15 kinds of things, also fluctuate and have gone up in
16 recent years.

17 CHAIRPERSON REID: So within your budget
18 forecast as to the revenue and expenses, if there's a
19 short -- do you anticipate if there's a shortfall in
20 one category, how is it covered?

21 MR. BARBER: It depends on how big the
22 shortfall is.

23 CHAIRPERSON REID: I guess where I'm going
24 with this is that if, in a given year, obviously, it's
25 not going to be the same, like your capital expenses

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1 may be quite substantial and so that would have to be
2 taken from some other area to make you be able to be
3 financial viable. So how do you reconcile those types
4 of things?

5 MR. BARBER: It's a balancing act. Part
6 of the mixture also comes into borrowing for our
7 capital projects, both in the taxable markets and the
8 tax-exempt markets. So then we have to figure out can
9 we afford the debt service and that's what this bond
10 rating is all about. Moody's and Standards & Poor are
11 rating outstanding bond debt that the University has.

12 CHAIRPERSON REID: And interest expenses.

13 MR. BARBER: And the interest. And their
14 ratings will directly impact our interest, how much we
15 will have to pay out on that debt and that's why to
16 their mind and to us our enrollment directly impacts
17 how we're going to pay that debt and that's a big
18 issue in our credit rating and it's a big issue for
19 us. I told you if we lose 500 students that's \$10
20 million loss and if the fall off is significant, we
21 cut into our endowment at a certain point, but you
22 don't want to cut into it too much so we have to start
23 looking at layoffs. I mean those are the kinds of
24 factors that we have to, as a University, consider and
25 it's complicated.

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1 CHAIRPERSON REID: So it seems to be
2 extremely complicated, but if in these projections
3 there is a scenario where you have over time, I'm
4 sure, you have to have -- are your projections
5 intervals like 5 or 10-year intervals or what?

6 MR. BARBER: We look out 5 years or so.

7 CHAIRPERSON REID: So if you have -- your
8 projections for 5 years as to what you feel the needs
9 are for the University to be economically viable, if
10 something occurs within that 5-year period of time,
11 where you have a loss of enrollment to the extent that
12 there's a loss of say \$10 million, whatever, however
13 figure that is and you are unable to cut into your
14 endowment or your endowment has dropped, then you
15 would go to -- are you saying you would go to layoffs?
16 Are you saying you'd go to layoffs and the amount of
17 layoffs, the amount of persons who would then be
18 without employment would be predicated on the amount
19 that you need to break even or to bring it to that
20 figure for you to be able to continue to function?

21 MR. BARBER: That is essentially correct.

22 CHAIRPERSON REID: Thank you.

23 VICE CHAIRPERSON RENSHAW: Question, Madam
24 Chair.

25 Mr. Barber said just a few moments ago

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1 that G.W. wants the right for reasonable student
2 growth and that you hoped that the BZA would not
3 curtail the University.

4 MR. BARBER: Yes.

5 VICE CHAIRPERSON RENSHAW: You just said
6 that. Reflecting back on the October -- to include
7 other sites into the campus plan. That is something
8 that you passed along to us earlier. I think it's
9 Exhibit 310.

10

11 MS. DWYER: I'd like to make an objection.
12 First of all, I want to object because the focus of
13 today's hearing and the cross examination is Mr.
14 Barber's testimony and the current information as
15 opposed to going back in the campus plan number 1.

16 CHAIRPERSON REID: That is correct.

17 VICE CHAIRPERSON RENSHAW: I object to her
18 objection.

19 (Laughter.)

20 CHAIRPERSON REID: The Office of Planning
21 does have a segment at which time you'll be able to
22 ask -- you're asking them about the Office of Planning
23 Report?

24 VICE CHAIRPERSON RENSHAW: I am asking for
25 clarification of Mr. Barber's statement that he made

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1 just a few moments ago about this right for reasonable
2 student growth. And we have been talking about
3 placement and boundaries and I wanted to know if this
4 right for student growth, in other words, having more
5 students accepted into the University because that's
6 going to impact on your financial base, is going to
7 tip the balance, the 40 to 60 percent balance which
8 now seems to be in place.

9 MS. DWYER: Madam Chair, I continue to
10 object to the premise in the question which number
11 one, takes a statement in the Office of Planning
12 Report which we challenged and corrected at the time
13 of the campus plan hearing and assumes that it is
14 valid.

15 CHAIRPERSON REID: Okay.

16 MS. DWYER: And second, it's asking for an
17 assumption that Mr. Barber did not testify to and it's
18 mixing growth and enrollment for physical expansion
19 and I think Mr. Barber can answer the question as to
20 what he meant by the right to reasonable growth and
21 enrollment, but I do not want the record to reflect
22 that he is in any way responding to any of the
23 underlying assumptions in your question.

24 VICE CHAIRPERSON RENSHAW: Well, Madam
25 Chair, if I may ask --

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1 CHAIRPERSON REID: We have to ascertain
2 whether or not the assumption that's reflected in the
3 Office of Planning is correct, it's an assumption. I
4 don't know -- can we rephrase it, maybe, to make it
5 more palatable to the Applicant? It's kind of
6 throwing us.

7 VICE CHAIRPERSON RENSHAW: Well, I'm
8 standing on what the Office of Planning has submitted
9 for the record and I am not going to assume any other
10 percentages, but what I read in the Office of Planning
11 Report.

12 MS. DWYER: Then I would submit that
13 question needs to be asked of the Office of Planning,
14 not Mr. Barber.

15 VICE CHAIRPERSON RENSHAW: Then we will --

16 MR. BERGSTEIN: Let me step in just for a
17 second. First of all, I think -- I want to clear one
18 thing up in terms of what the record is on this
19 remand. The record on this remand is the record
20 that's being created today and the prior record. That
21 is the entire record. Secondly --

22 CHAIRPERSON REID: Prior record, what
23 bands of time, Mr. --

24 MR. BERGSTEIN: From the beginning of this
25 proceeding.

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1 CHAIRPERSON REID: What date?

2 MR. BERGSTEIN: From the date, I don't
3 know the exact date of the first hearing that this
4 proceeding was from this application --

5 CHAIRPERSON REID: Over what period of
6 time? Can you please be specific? We've had so many
7 hearings.

8 MR. BERGSTEIN: I don't have that
9 information but in our words, whatever the record was
10 on which you based your final decision.

11 CHAIRPERSON REID: You mean the whole
12 campus plan?

13 MR. BERGSTEIN: Yes.

14 CHAIRPERSON REID: Now wait a minute,
15 that's not my understanding. My understanding is this
16 is in response to the questions that were remanded
17 back and as they pertain specifically to condition
18 number 9.

19 MR. BERGSTEIN: The remand from the Court
20 of Appeals was a general remand. It was not specific
21 to any particular issue. Your decision --

22 CHAIRPERSON REID: I'm sorry, excuse me.
23 If I'm not mistaken, I guess I have to go back and
24 look at it, but my understanding is it was pertaining
25 to condition 9.

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1 MR. BERGSTEIN: No. And in the record,
2 when you make your decision on what you do on this
3 remand, it is not just limited to what you are doing
4 today.

5 CHAIRPERSON REID: I'm sorry Mr.
6 Bergstein, this is on page 3 of the District of
7 Columbia Court of Appeals, reply in support of the
8 Board of Zoning Adjustments emergency motion to remand
9 immediately. On page 3b it says "Board of Zoning
10 Adjustment wishes to revisit its decision in light of
11 the District Court action to determine whether to
12 voice central objective to increase more campus
13 housing can be achieved in some manner other than
14 through Condition 9, especially as currently written.
15 That was my understanding of what we were here for
16 today.

17 COMMISSIONER MITTEN: Madam Chair, I would
18 just like to help clarify perhaps. Later on in the
19 day we have Tab 3 from the University's latest
20 submission where they're going to offer some new --
21 going to make recommendations regarding condition 9.
22 Tab 4, they're going to make recommendations regarding
23 condition number 2 and based on that --

24 CHAIRPERSON REID: Well, we can't or
25 cannot deal with that, but the point I'm making by the

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1 order that was remanded back to us these proceedings
2 were germane to condition 9 and as such the Applicant
3 was asked to respond to certain questions which they
4 did and then we had the onset of the hearings on
5 Monday and I think that if, in fact, we open this up
6 to the complete campus plan we're going to be all over
7 the place. I think we need to be specific and stay
8 focused on what we're supposed to be doing about this
9 particular order that has come to us and if Ms.
10 Renshaw would like to ask that question of Office of
11 Planning I have no problem with that because that's
12 the Office of Planning Report that contributed to
13 Condition 9. I have no problem with that, but I don't
14 think that is something to ask the Applicant because
15 Office of Planning is the one that submitted it.

16 VICE CHAIRPERSON RENSHAW: Well, then let
17 me -- I'll hold on that question and we'll bring it up
18 when the Office of Planning is here. But I just want
19 to ask again back to Mr. Barber's statement about this
20 right for reasonable student growth, is this
21 reasonable student growth going to be with or without
22 physical expansion?

23 MR. BARBER: We envision some physical
24 expansion and we have -- our proposals are ready to
25 address that in a way that does not displace long-term

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1 residents.

2 VICE CHAIRPERSON RENSHAW: Is that going
3 to be within the present campus boundaries?

4 MR. BARBER: No. We don't think it's
5 necessary to avoid the impact of displacement. We
6 don't think it's necessary. We have a right in the
7 zoning regulations to provide for some of these needs
8 outside the campus and we think we have a way to do so
9 that again avoids and impact on long-term residents.
10 We think that's a valid goal.

11 CHAIRPERSON REID: Mr. Barber, is that
12 part of your proposal and recommendation?

13 MR. BARBER: Yes, it is.

14 CHAIRPERSON REID: Ms. Renshaw, so it
15 won't be taken out of context, just be kind of thrown
16 out there, can we await until he gives his proposal
17 and then ask questions accordingly?

18 VICE CHAIRPERSON RENSHAW: I'll look for
19 it again.

20 CHAIRPERSON REID: Thank you.

21 COMMISSIONER MITTEN: Madam Chair, I had
22 one more question before we go on.

23 CHAIRPERSON REID: Okay.

24 COMMISSIONER MITTEN: This would be Tab 3
25 to your September 7th submission and it's in response

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1 to Question 10A. There's a little chart there on top.
2 September 7th.

3 MR. BARBER: I have it.

4 COMMISSIONER MITTEN: Are you with me?

5 MR. BARBER: Yes, I am.

6 COMMISSIONER MITTEN: See the last column
7 where it says "deposit date"?

8 MR. BARBER: Yes.

9 COMMISSIONER MITTEN: Is that the
10 deadline? Is that the equivalent of the deadline?

11 MR. BARBER: Yes. It's when we get the
12 money.

13 COMMISSIONER MITTEN: Say again?

14 MR. BARBER: It's when we get their money.

15 COMMISSIONER MITTEN: So that's when you
16 know they're serious?

17 MR. BARBER: Right.

18 COMMISSIONER MITTEN: So could you just
19 flip now to Tab 4 and help me understand, if you have
20 all of these regular decision people who are supposed
21 to pay their money to lock in their spot by May 1st,
22 how come we have so many people and I know this is
23 just freshmen, but I would assume they were somehow
24 representative of what goes on, you have all these
25 people that are accepting their admission way, way

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1 after the deadline?

2 MR. BARBER: You're assuming there's a May
3 1st deadline?

4 COMMISSIONER MITTEN: That's what I
5 understood you to say to my first question.

6 MR. BARBER: Oh, your very first question?

7 COMMISSIONER MITTEN: I said does deposit
8 date mean that that's the deadline for them to lock in
9 their thing --

10 MR. BARBER: I see what you're saying.
11 There's a --

12 COMMISSIONER MITTEN: I want to be
13 enrolled. You offered me admission and I want to be
14 enrolled. Here's my money and I understood you to say
15 that May 1st was the deadline.

16 MR. BARBER: I see what you're saying.
17 I'm sorry.

18 COMMISSIONER MITTEN: So then I turned the
19 page and I would expect that you'd have this like huge
20 bunch of people that would have ponied up their money
21 by May 1 and yet it looks like most of the people do
22 that well later. So I am just trying to reconcile
23 that.

24 MR. BARBER: There is some fluctuation
25 based upon the later admissions on the waiting list.

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1 The May 1 and I don't know if that's a hard date,
2 quite frankly, as to get their deposit. I know we say
3 in our literature that's when it should be in, but we
4 oftentimes accept deposits later. They've indicated
5 they're going to come and they get their deposits a
6 little later. We often at times accept that.

7 COMMISSIONER MITTEN: Could you provide us
8 some additional information to -- I mean it really
9 doesn't look like there's a little slippage. It looks
10 like there's a lot.

11 MR. BARBER: I don't see that and I will
12 find that out on the break about that May 1 deposit
13 date, how that acts -- what role that plays in the
14 admissions process and to make -- to see how -- to let
15 you know how that is consistent with in Tab 4. So I'd
16 have to make a call and find out for you.

17 COMMISSIONER MITTEN: And maybe just so
18 you know completely what's in my mind so to the extent
19 you have to ask another question, is the idea that you
20 would be doing your wait list, making your decisions
21 about your wait list, late April, early May, if your
22 deadline, your May 1st deadline is really not a
23 deadline, then it seems like you're deciding about
24 wait list people before you have really any sense at
25 all how your regular admissions process is going?

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1 MR. BARBER: That's not true. I know it's
2 a rolling process, so we will have a number of
3 responses both affirmatively saying we're coming and
4 deposits prior to May 1. We'll have some early
5 decisions and then from the regular process we'll have
6 some as early as April, people who will respond right
7 away to Office of Admission. It's a rolling process
8 and it does roll out past May 1st, but again, I can
9 get you more precise information on how that deposit
10 date fits into the admissions process.

11 COMMISSIONER MITTEN: Okay, and maybe I'll
12 just ask one more question on this which is just so
13 I'm clear about the regular decision people as opposed
14 to the wait list people, is there just like one push,
15 here's all the mailings for the regular decision
16 people. We do it all at once. That day may be
17 different every year, but we do it all at once.
18 That's not a rolling process, is it?

19 MR. BARBER: We generally send out our
20 regular admissions, the initial push on a single time.
21 So some people will get an offer of admission. Some
22 people will get notified that you are on the wait
23 list.

24 COMMISSIONER MITTEN: So at one point in
25 time you're either offered regular admission or you're

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1 on the wait list and there is no sort of rolling
2 process of regular admission?

3 MR. BARBER: No. That's not true. There
4 will be the bulk of decisions going out first and then
5 as we start getting responses back, further letters
6 will go out. But let me clarify that.

7 COMMISSIONER MITTEN: Okay, thank you.

8 MEMBER GRIFFIS: Ms. Mitten, can I just
9 ask you a clarification concerning Question 10B, part
10 2. You're talking about the numbers that are listed
11 beyond May 1st essentially which is indicated as the
12 regular decision deposit date and I'm looking at a
13 total number of that as 54, is that what you're --

14 COMMISSIONER MITTEN: No, that's not a --
15 oh, I see. I see what you're saying.

16 MEMBER GRIFFIS: Because I think what you
17 were saying is perhaps on May 11 you received 1744
18 deposits, is that the correct way to read this or is
19 that cumulative?

20 COMMISSIONER MITTEN: This says cumulative
21 weekly counts, but see, that's just the freshmen
22 class.

23 MEMBER GRIFFIS: I understand that. What
24 I'm trying to figure out is you indicated not a
25 number, but you said it seems to be a large amount.

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1 What number are we actually talking about?

2 COMMISSIONER MITTEN: If you did the math,
3 then you're right.

4 MR. BARBER: It's not a large amount.
5 It's about 50 students.

6 MEMBER GRIFFIS: Okay.

7 MR. BARBER: That's all it is. But I'll
8 clarify that.

9 CHAIRPERSON REID: Thank you very much.
10 We'll now go to the testimony of the parties -- each
11 -- remember, we had set timelines. Each party had
12 asked for or agreed to 15 minutes in order to present
13 your testimony. I'd very much you appreciate coming
14 up at this time.

15 How many people are going to testify? Let
16 me just kind of get an idea about that. Five? Six?
17 Five or six. Okay. All right.

18 Okay, now, then there are five. All
19 right, so then that being the case, then we could go
20 into the segment and finish up at 1:15 or 1:30?

21 Be sure to put the timer on. Okay, thank
22 you.

23 (Pause.)

24 The Board has asked for a five minute
25 break before we go into this segment, just to kind of

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1 take a breather and take care of what they need to and
2 be right back. Thank you. Please indulge us.

3 (Off the record.)

4 CHAIRPERSON REID: Okay, we'll now proceed
5 with the testimony from the parties and there was a
6 message to me that sometimes you can't hear me and in
7 the event you cannot hear me, at any time during these
8 proceedings, just raise your hand and let me know and
9 I'll make sure that you can.

10 Thank you.

11 MR. BARBER: Excuse me, Madam Chair, a
12 housekeeping matter. I'd like permission to keep
13 myself on for a few minutes to get the call, trying to
14 get the answer to Ms. Mitten's question?

15 CHAIRPERSON REID: Sure.

16 MR. BARBER: Thank you.

17 MR. DRAUDE: Good afternoon, Madam Chair
18 and Members of the Board. I am James Draude, I am
19 counsel of record for Advisory Neighborhood Commission
20 2-A. With me is Elizabeth Elliott, chair of ANC 2-A
21 who will present testimony on behalf of the ANC.

22 MS. ELLIOTT: Good afternoon, Madam Chair
23 and Board Members. I'm Elizabeth Elliott, chair of
24 ANC 2-A. I live at 532 20th Street, N.W., where I've
25 resided since January of 1980. I'm here to speak for

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1 ANC 2-A and to reaffirm the positions ANC 2-A has set
2 forth in all of the documents it has previously filed
3 in this case.

4 ANC 2-A also endorses and adopts the
5 testimony of Mr. Jim McCloud, regarding the
6 Pennsylvania House.

7 Today, I will address events that have
8 occurred since the Board of Zoning Adjustment rendered
9 its decision in this case on February 13, 2001 and
10 testimony that GW has introduced since this case has
11 been remanded back to you.

12 Our focus today should not obscure the
13 larger record in this case which establishes that
14 G.W.'s application for approval of its proposed campus
15 plan should be denied as both ANC 2-A and the Office
16 of Planning recommended.

17 GW's actions since February 13, 2001,
18 demonstrate that the Board's order in this case has
19 not protected and cannot protect in its current form
20 the Foggy Bottom West End neighborhood from the
21 adverse effects created by the University. Even GW
22 students were feeling the pain of overpopulation and
23 editorializing about it in the school newspaper, the
24 GW Hatchet throughout this past spring, begging GW to
25 close the floodgates. If the non-University community

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1 is to survive this order must be strengthened.

2 The District of Columbia comprehensive
3 plan which has been enacted into law recognizes the
4 adverse impact of housing large numbers of students
5 in the Foggy Bottom West End neighborhood outside the
6 campus plan boundaries and provides that the
7 University should house its students within these
8 campus plan boundaries.

9 After February 13, 2001, GW has, among
10 other actions to expand its presence in Foggy Bottom,
11 continued to convert properties outside the campus
12 plan boundaries to student housing. This has included
13 conversion of the former St. James Hotel to student
14 housing, conversion of a portion of the Pennsylvania
15 House to student housing and a proposal to use part of
16 the AGC project for student housing.

17 GW has also confirmed that it has used its
18 partnership interest in Columbia Plaza to place 240
19 students in that off-campus residential complex. In
20 addition, the University has converted undergraduate
21 to graduate law student housing within the campus plan
22 boundaries at Francis Scott Key Hall, adjacent to the
23 G.W. Law School.

24 The record shows that the University's
25 current undergraduate population is more than 1,000

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1 over the limit established by the Board's order. The
2 University should be required to reduce admissions
3 during the next two years sufficiently to return to
4 the undergraduate population limit established by the
5 Board's order.

6 The so-called carve-outs which the
7 University says it can only estimate only provide the
8 University with an opportunity to manipulate the
9 numbers. If the Board adopts any exception for these
10 carve-outs there must be an enforceable procedure to
11 verify the number of students that fall within the
12 exception.

13 The Board's requirement that the
14 University house only 70 percent of its undergraduate
15 population completely sidestepping the issue of the
16 thousands of G.W. graduate students also seeking
17 housing within the campus plan boundaries is
18 inadequate to relieve the adverse effects of large
19 numbers of students living in the Foggy Bottom West
20 End neighborhood.

21 Jeff Marootian, one of my fellow ANC
22 commissioners, had only one place that he could live
23 that was not student housing that he was able to find
24 to maintain his single member district position after
25 he graduated from GW last spring. He's now a graduate

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1 student at the University.

2 The University proposes that students
3 housed in University-owned or controlled properties
4 outside the campus plan boundaries count as if those
5 students are housed within the campus plan boundaries.
6 Under that proposals, Exhibit 307 introduced during
7 Mr. Barber's Monday testimony, shows that the
8 University has already met the 70 percent level. If
9 the Board adopts this University proposal, the
10 University will have met its obligation and there will
11 be no changes to the current circumstances.

12 As part of Mayor Williams' Neighborhood
13 Action Initiative, I took part in several workshops
14 and three planning sessions starting in June,
15 actually, it was May of this year. During these
16 sessions, we identified numerous properties within
17 G.W.'s current campus plan boundaries that are
18 available for construction of student housing. These
19 include Square 54, the southwest and center east
20 portions of Square 56, the western portion of Square
21 57 which G.W. has presented in its Monday testimony,
22 the southwest portion of Square 79, center sections of
23 Square 80, the southeast portion of Square 101 and the
24 northern half of Square 103. Other smaller parcels
25 are also available.

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1 The Board should be aware that the
2 University has also disposed of property within the
3 campus plan boundaries that could have been developed
4 to house students. For example, Square 119 which is
5 the current site of the PEPCO building at 1900 Penn
6 which still remains inside the campus boundaries was
7 sold to the IMF in 1996. In the five years since that
8 time, the University has roughly doubled its
9 undergraduate student population with no concomitant
10 increase in housing construction within the campus
11 boundaries.

12 Additionally, the eastern half of Square
13 121 is within the campus boundaries and is occupied by
14 World Bank offices.

15 Finally, in sum, the record in this case
16 establishes that the only way to curb the University's
17 adverse impact on the Foggy Bottom West End
18 neighborhood and to maintain a nonstudent residential
19 population neighborhood is to impose a verifiable and
20 enforceable cap on the undergraduate student
21 population and a requirement that the University house
22 its undergraduate student population within the
23 current campus plan boundaries within five years.

24 Thank you.

25 CHAIRPERSON REID: Thank you very much.

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1 Now cross examination. Ms. Dwyer? Would you like to
2 have a moment? Okay.

3 COMMISSIONER MITTEN: Ms. Elliott, do you
4 have a written copy? Are you going to submit your
5 statement in writing?

6 MS. ELLIOTT: It's just notes.

7 CHAIRPERSON REID: While you're getting
8 ready, basically the end of your recommendations were
9 (1) that there be a cap. And how much a cap did you
10 recommend or did you?

11 MS. ELLIOTT: Just a verifiable and
12 enforceable cap.

13 CHAIRPERSON REID: Verifiable gap?

14 MS. ELLIOTT: Yes.

15 CHAIRPERSON REID: Just on undergraduate
16 enrollment?

17 MS. ELLIOTT: Undergraduate student
18 population and a requirement that they're housed
19 within the current campus plan boundaries within five
20 years.

21 CHAIRPERSON REID: And require that they
22 be housing provided on campus within five years?

23 MS. ELLIOTT: Yes.

24 (Pause.)

25 VICE CHAIRPERSON RENSHAW: And Ms.

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1 Elliott, just to go over your point on the carve-outs,
2 ANC 2-A wants to have an enforcement procedure to
3 verify the number of carve-outs? Is that what you
4 said?

5 MS. ELLIOTT: Yes. It seems to be an iffy
6 area so anything enforceable.

7 CHAIRPERSON REID: I thought --

8 VICE CHAIRPERSON RENSHAW: To enforce
9 procedures to verify the numbers.

10 CHAIRPERSON REID: Do you have any
11 suggestions as to what type of enforcement procedures
12 could be used? You say enforcement procedures to
13 verify the number of carve-outs. I mean that category
14 of carve-outs, like what for example? Help us to
15 understand.

16 MS. ELLIOTT: We have some definitions,
17 we've been given some definitions of what the makeup
18 of those carve-outs, what the categories of the carve-
19 outs are.

20 CHAIRPERSON REID: I thought you said that
21 you wanted them to be able to verify -- but I didn't
22 hear you say to enforce --

23 MS. ELLIOTT: Well, enforceable or
24 verifiable, something to make that a little less --

25 CHAIRPERSON REID: Quantitative measures

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1 or?

2 MS. ELLIOTT: No --

3 CHAIRPERSON REID: When you say
4 enforcement --

5 COMMISSIONER MITTEN: Could I just make a
6 suggestion about what she might be driving at?

7 CHAIRPERSON REID: Yes.

8 COMMISSIONER MITTEN: Is like instead of
9 saying well tell us how many commuter students you
10 have and they say well, here's the number. And we say
11 what's that based on and they say just trust us, we
12 have the numbers and that's the number. As opposed to
13 that they could print out a thing that would not
14 identify individual student names, but say the print
15 out the number of students residing in zip code --

16 CHAIRPERSON REID: I understand that but
17 what I don't understand is in the enforceable part.

18 COMMISSIONER MITTEN: To the extent that
19 something would -- an attempt would be made to verify
20 it and they would be out of compliance then it's the
21 same kind of enforcement that applies to any other
22 zoning violation. It would go to the zoning
23 administrative and they would say well, they're in
24 violation of the campus plan order and he would have
25 to take it from there.

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1 CHAIRPERSON REID: Is that what you meant?
2 In answering the question that I directed to you based
3 on her interpretation, but I really would like to hear
4 what you have to say.

5 MS. ELLIOTT: I think the number seems to
6 be fungible because it was 200 or 300 or 400 the last
7 time and now it looks like 1,000 or something, so and
8 it's a higher percentage and so on and so forth, so
9 something that makes it more specific.

10 CHAIRPERSON REID: Okay, I think we've got
11 --

12 MR. DRAUDE: Let me clarify. The ANC's
13 position is when we say "enforceable" we mean it has
14 to be in the order, the order itself once issued is
15 enforceable. But the problem the ANC has is that the
16 numbers -- we essentially have to take G.W.'s word for
17 the numbers and that's what the ANC does not like. It
18 wants some way to verify if the Board adopts
19 carve-outs, it wants some way incorporated into the
20 order some procedure by which someone other than the
21 University could verify what that number is --

22 CHAIRPERSON REID: Who would that be?

23 MR. DRAUDE: Well, it can be -- depends on
24 what the Board decides to put in its order. There was
25 in the prior order, if I recall correctly, some kind

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1 of a joint advisory committee established. I don't
2 know whether the Board intends to include that kind of
3 a mechanism. Obviously, the ANC will be around for
4 any number of years and information provided to the
5 ANC in some kind of verifiable form could allow the
6 neighbors to do that.

7 CHAIRPERSON REID: What about the category
8 of religion? That's kind of touchy, isn't it?

9 MR. DRAUDE: Well --

10 CHAIRPERSON REID: And suppose too if you
11 were to try to ascertain how many people are in that
12 category, suppose you got responses like do not want
13 to disclose or something like that. Just to be rather
14 --

15 MR. DRAUDE: Well, let's go back to the
16 underlying problem which is the use of the carve-outs
17 at all.

18 CHAIRPERSON REID: Uh-huh.

19 MR. DRAUDE: For a variety of reasons,
20 some of which -- it depends on the University telling
21 us and in some of those -- commuters, presumably the
22 University says that they can get that information.
23 But those other categories depends on the people
24 telling the University and you're quite right. It may
25 be difficult to gather that information. What was the

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1 purpose of the carve-outs to begin with? The
2 underlying ANC position is that there should be a cap.
3 There should be a verifiable cap and it should be
4 rolled back to the point at which it was on February
5 13th when you first made your decision over a period
6 of two years. That is what the cap should be.

7 Our position is that the carve-outs are so
8 problematic in terms of verifying them that you should
9 not use them. Just impose a cap and if you have real
10 concerns that there are -- impose a cap and require
11 the University to house its undergraduates within the
12 campus. If you are concerned there are certain
13 categories of students who are essentially not
14 suitable for living in University housing on campus,
15 provide a small percentage under the cap.

16 CHAIRPERSON REID: In other words,
17 something that --

18 MR. DRAUDE: Give the University --
19 require them to house all their undergraduate student
20 on the campus with say a 5 percent flexibility for the
21 University when there are students, as Mr. Barber
22 calls it, self-identify themselves as having religious
23 scruples against residing in a residence hall, allow
24 a certain small percentage of flexibility for the
25 University to deal with those situations.

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1 In that situation, it would not be -- the
2 University would not be required to inquire of
3 anybody. They would only be allowed a flexibility to
4 deal with the situation where an undergraduate student
5 presents himself or herself as being unwilling to live
6 in the residence hall for some, one or the other of
7 these reasons.

8 That would be, in our view, that is a
9 preferable -- it's preferable in making these
10 categories and then having the University go out and
11 tell us what the numbers are.

12 CHAIRPERSON REID: It's been brought to my
13 attention that that may be kind of getting ahead of
14 ourselves because remember, this afternoon, you do
15 have an opportunity to be able to make recommendations
16 and our thought was predicated upon all the
17 information that comes out now, then I guess when we
18 go --

19 MR. DRAUDE: I understand. We're probably
20 overlapping.

21 CHAIRPERSON REID: Right, right, and we
22 kind of just --

23 MR. DRAUDE: I'll stop right there.

24 CHAIRPERSON REID: We inadvertently
25 started down that road, but I think, I hear where you

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1 go with that and we appreciate -- it sounds like to me
2 that there's been some thinking, alternative thinking
3 as to proposals and what may work and what can
4 possibly work and what are you comfortable with and
5 that's what we need to hear and appreciate that.

6 MR. DRAUDE: I was just trying to answer
7 the questions, but we are overlapping here, you're
8 quite right.

9 CHAIRPERSON REID: Thank you, thank you.

10 MR. DRAUDE: So I'll stop.

11 CHAIRPERSON REID: Okay. Ms. Dwyer, did you
12 have any cross examination questions?

13 MS. DWYER: Just a couple of questions.
14 Ms. Elliott, you've talked about the ANC's interest in
15 having the University build more on-campus housing,
16 are you aware and it's based on the information we've
17 provided, that the University has added over 900 beds
18 on campus in the last five years?

19 MS. ELLIOTT: Uh --

20 CHAIRPERSON REID: Just yes or no.

21 MS. ELLIOTT: I'm not aware of that, no.
22 Maybe --

23 MS. DWYER: And are you aware of the
24 University's filing of the two applications for
25 Squares 43 and 57 to add an additional 900 beds?

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1 MS. ELLIOTT: Yes, I mentioned that.

2 MS. DWYER: You mention a number of
3 squares that were identified by the community as
4 appropriate for housing. Are you aware that several
5 of these squares have been identified by the
6 University in its longer range housing sites on
7 campus?

8 MS. ELLIOTT: No, I wasn't aware of that.

9 MS. DWYER: Are you familiar with the time
10 that's involved in taking an application through the
11 BZA process for further processing and approval by the
12 Board and generally the amount of time that is
13 required for construction of buildings?

14 MS. ELLIOTT: Yes.

15 MS. DWYER: Would you estimate that that
16 process could take anywhere from 3 to 5 years?

17 MS. ELLIOTT: I would assume that based on
18 some knowledge of that process.

19 MS. DWYER: Are you aware that the
20 University has agreed to the creation of an advisory
21 committee and also putting in place the mechanism to
22 identify where students live and that that information
23 will be provided to the advisory committee?

24 MS. ELLIOTT: Yes, I am. I actually
25 signed up on that advisory committee.

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1 MS. DWYER: And do you feel that that
2 information will enable you to identify those students
3 who are commuters as opposed to those students who
4 might require housing within the Foggy Bottom
5 community?

6 MS. ELLIOTT: Could you ask that question
7 again?

8 MS. DWYER: You were discussing earlier
9 some concern about the carve-out and my question is do
10 you feel that the information that the University will
11 provide on where students live will enable you to have
12 the verification of the commuter carve-out category?
13 For example, if the University provides you with
14 addresses of students who live in Maryland and
15 Virginia, would you agree that they would be
16 appropriately categorized as commuters?

17 MS. ELLIOTT: Well, as we just discussed,
18 I would go along with that if they were identified as
19 living in the other state, in Virginia or outside of
20 the District, but I'm not quite sure what you're
21 asking.

22 MS. DWYER: My question is if the
23 University -- you raise an issue about needing
24 verification on these carve-outs. If as the
25 University has agreed to do, provide you with a list

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1 of students and those students' addresses indicate
2 they live in Virginia and Maryland, is that the
3 verification that would enable you to say they are
4 commuters?

5 MS. ELLIOTT: Well, if they self-identify
6 that they're commuters, yes.

7 MS. DWYER: And if it turns out that about
8 20 percent, for example, of the undergraduate
9 population is commuters, is it your position that the
10 University nonetheless has to provide housing for them
11 or that they could be carved out of a housing
12 requirement?

13 MS. ELLIOTT: Well, if they're commuters,
14 they could be part of this questionable carve-out
15 issue.

16 MS. DWYER: All right, thank you.

17 CHAIRPERSON REID: Thank you very much.
18 Next person to testify, Ms. Spillinger.

19 MS. SPILLINGER: Madam Chair, I appreciate
20 your permitting me to go next as I have a funeral this
21 afternoon and will have to leave at 2 o'clock --

22 CHAIRPERSON REID: Did you have a
23 recommendation that someone else could present for you
24 this afternoon?

25 MS. SPILLINGER: Yes.

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1 CHAIRPERSON REID: Okay.

2 MS. SPILLINGER: My statement starts good
3 morning, I guess it's good afternoon, but anyway,
4 Chairman Reid and Members of the Board, my name is
5 Barbara Spillinger. As I sit here facing the Board,
6 with G.W. and the community behind me, I really do
7 feel this is deja-vu all over again. This time,
8 however, I am appearing not as chair of ANC 2-A, but
9 as Vice President and Member of the Board of the Foggy
10 Bottom Association.

11 Still, I believe you will find there is
12 great unanimity of opinion among the ANC, the Foggy
13 Bottom Association, other parties to the case and the
14 majority of the residents in Foggy Bottom West End
15 that G.W. used incessant, incremental expansion as
16 substantiated by the statistics provided by Shaw
17 Pittman in its respond to the BZA order of August 8th
18 is destroying the residential character of the Foggy
19 Bottom West End neighborhood.

20 I call your attention to Exhibits 5 and 6
21 listing the domestic and international student count
22 which together show total undergraduate enrollment as
23 of spring 2001 at 6885 and in the fall of 2001 at
24 7881, an increase only 4 persons shy of 1,996 in just
25 six months. At the same time, Exhibits A and C list

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1 the number of on-campus beds at 3,772. By including
2 Riverside Towers and the Dakota, this total is
3 increased to 4,108. Subtracting this number from the
4 enrollment shows that 3,773 students had a need for
5 alternative housing with the majority conveniently for
6 them settling in Foggy Bottom which according to the
7 2000 census had a total 12,521 people.

8 This is not a one time phenomenon. In May
9 1999, see Exhibit B, the University finding itself
10 with -- and I quote the word "unexpectedly" large
11 freshmen enrollment purchased the Howard Johnson Hotel
12 on Virginia Avenue adding 371 beds. Then this fall,
13 against Exhibit C, with another unexpected increase in
14 the freshman class, G.W. entered into a 15-year lease
15 with the St. James Hotel for 543 beds, a 3-year lease
16 with 2424 Pennsylvania on converted doubles at HOVA to
17 triples for a total of 789 additional off-campus beds
18 in the Foggy Bottom West End community which
19 significantly increases the density of the area's
20 student population and still leaves 2,984 almost 3,000
21 students in off-campus housing.

22 Without some sort of constraint a cap on
23 enrollment, couple with a requirement that a
24 substantial percentage of undergraduates live on
25 campus, what creative annexation can the community

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1 expect next year when the University is again blind
2 sided by yet another unexpected surge in new
3 enrollment?

4 The accompanying map on the easel to my
5 right identifies properties owned by the University
6 outside of the campus boundaries as of February 13,
7 2001. This is the same map that was presented by
8 Michael Thomas, president of Foggy Bottom Association
9 at that time. The properties owned are in red. The
10 properties with predominant student populations, over
11 50 percent, are in blue. Where students are less than
12 50 percent, they're indicated in orange and the
13 properties acquired since February 2001 are noted by
14 the three yellow tabs that I have added.

15 And I might just add that several of those
16 properties that are colored orange, I believe since
17 February have gone over the 50 percent quota and
18 actually now should be blue, the Elise being one and
19 I think there are several others.

20 One glaring omission in Exhibits B and C
21 is that there's no reference to Columbia Plaza and the
22 fact that the apartment complex is now officially a
23 part of the student housing lottery, giving students
24 preference over permanent D.C. taxpaying applicants
25 and moving students into what was designed to be and

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1 for many years was, an in-town rental property for
2 permanent medium income population.

3 Also, as evidenced by the reply to
4 question 20, the University has again neglected to say
5 what it plans to do with the old hospital, Square 54,
6 when the new hospital becomes operational.
7 Obviously, this is prime dormitory space.

8 In its order of March 29, 2001, at page
9 10, the BZA recognized that the District's
10 comprehensive plan accurately reflects the situation
11 in Foggy Bottom. I know we have been through this
12 before, but I'd like to read the paragraph one more
13 time, especially since we have two new Members on the
14 Board.

15 "The expansion of the University has
16 resulted in the diminishment of housing and the
17 construction of buildings for the University purposes.
18 This and other commercial usage is of grave concern to
19 the Foggy Bottom residential community. Intense
20 student pressure on Foggy Bottom's housing stock
21 outside the campus, combined with the impact of
22 University-generated traffic has had a negative effect
23 on residential Foggy Bottom. The University must
24 continue to construct student dormitories to alleviate
25 the pressure on the housing stock outside the

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1 boundaries of the campus plan. The University must be
2 sensitive to the surrounding residential
3 neighborhood."

4 The Board concluded on the same page that
5 -- and I quote "both factors, the insufficient supply
6 of on-campus housing and expansion of University use
7 through off-campus acquisition, are likely to
8 exacerbate objectional impacts on neighborhood
9 property unless steps are taken to prevent that
10 outcome. The Board notes especially the concerns of
11 the Office of Planning about the continued viability
12 of the Foggy Bottom and West End neighborhoods as
13 pressures associated with University expansion
14 threaten their liveability and residential character."

15 Before closing, I'd like to make one
16 additional point. With reference to the exchange
17 during Monday's hearing between Jim McCloud and Mr.
18 Barber regarding 2424 Pennsylvania Avenue, Mr. Barber
19 testified that 2424 is a transient use building. BZA
20 should not accept this allegation without evidence.
21 BZA should take official notice that 2424 is duly
22 registered with DCRA as a non-exempt rent-controlled
23 building under the Rental Housing Act which prevents
24 conversion of rent-controlled units to transient use.
25 If there is proof that units at 2424 Pennsylvania have

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1 been put to transient use, there is proof of violation
2 of the Rental Housing Act. G.W.'s requirement that
3 students vacate at times specified by the University
4 also violates the Rental Housing Act which strictly
5 controls when and how evictions are permitted, thus,
6 there is violation of the Rental Housing Act rights of
7 students and older tenants alike.

8 In closing, I would like to thank both the
9 Board of Zoning Adjustment and the Office of Planning
10 for the sensitivity they have shown and the support
11 they have given the community in efforts to protect
12 the Foggy Bottom West End residential neighborhood.
13 We support the order's undergraduate enrollment cap,
14 efforts to limit numerically, the undergraduates in
15 Foggy Bottom and a requirement that most undergraduate
16 students be housed on campus by the Year 2005.

17 Thank you for the opportunity to present
18 our views.

19 CHAIRPERSON REID: Thank you very much.

20 MS. DWYER: I just have a couple of
21 question.

22 Ms. Spillinger, in your testimony your
23 focus seems to be on concern about loss of the
24 residential character or residential housing in the
25 Foggy Bottom West End community, is that correct?

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1 MS. SPILLINGER: Yes. Character and
2 housing, both.

3 MS. DWYER: And you reference a number of
4 sites that the University has either purchased or
5 leased space off campus to address its housing needs.
6 The Howard Johnson site, was that not formally a
7 hotel?

8 MS. SPILLINGER: It was.

9 MS. DWYER: And the St. James, is that not
10 formerly a hotel?

11 MS. SPILLINGER: Yes.

12 MS. DWYER: So in both those instances at
13 least, there was no loss of long-term residential use?

14 MS. SPILLINGER: In those two only.

15 MS. DWYER: One other question. You
16 mention in your testimony that with an enrollment of
17 7881 from the chart that we filed on Monday, that
18 means that 3,773 students have a need for alternative
19 housing. Isn't it true that some of those students
20 would be looking for housing in Maryland and Virginia
21 and other parts of the District of Columbia?

22 MS. SPILLINGER: Yes, they would not all
23 be in Foggy Bottom, obviously, but a majority of them
24 are.

25 MS. DWYER: Thank you.

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1 MS. SPILLINGER: Thank you.

2 CHAIRPERSON REID: All right, questions?
3 One thing that you mentioned, Ms. Spillinger, that I
4 had a question about and that was regarding the
5 Pennsylvania House and the issue as to whether or not
6 the building was for transient use. You said that
7 that it should be noticed, the BZA should not accept
8 this allegation without evidence. The BZA should take
9 note, take official note that 2424 is duly --

10 COMMISSIONER MITTEN: I think you need to
11 speak up. You had asked people to raise their hand,
12 Madam Chair.

13 CHAIRPERSON REID: I should speak into the
14 mike because I'm reading. BZA should not accept this
15 allegation without evidence. BZA should take official
16 notice that 2424 is duly registered with DCRA as a
17 non-exempt rent-controlled building under the Rental
18 Housing Act.

19 Okay now, is there an official note of
20 that? I mean do we have something to --

21 MS. SPILLINGER: I just learned of this
22 last evening and therefore added it to my statement at
23 that time. I am not a lawyer and cannot absolutely
24 vouch for this, but I understood from a lawyer that
25 this is the case.

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1 CHAIRPERSON REID: But Ms. Spillinger, in
2 the assertion, when you're asking for a verification
3 of this, that and the other, then if you are making an
4 assertion when you're saying we should take note of an
5 official notice, take official notice, then certainly
6 it would have been great to have had something that
7 would verify for us this assertion that you're making
8 within -- so that we could better be able to make
9 decisions.

10 MS. SPILLINGER: Perhaps I could provide
11 you with some follow up on that. I just couldn't, as
12 I say, just learning last night, that this was the
13 situation, I don't know whether the General Counsel
14 has any knowledge of this or not.

15 MS. DWYER: Madam Chair, I would just
16 object. This is beyond the scope of the BZA. If
17 there are issues of the Rental Housing Act, they can
18 be brought up with the Rental Housing Act, but to
19 interpret something from that Agency --

20 CHAIRPERSON REID: I did not ask for that.
21 I just asked her if she had something to basically
22 corroborate for us, this particular assertion to date.

23 MS. SPILLINGER: I really don't have it.

24 CHAIRPERSON REID: Thank you very much.

25 MS. SPILLINGER: Thank you.

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1 MEMBER GRIFFIS: Madam Chair, if I may ask
2 a question and I do agree. I think we're stepping
3 into a detail that we don't necessary need to get
4 into, but just for my clarification and understanding
5 your testimony, you give a reference also to Columbia
6 Plaza and make the statement there's a preference over
7 permanent D.C. taxpaying applicants, but then you go
8 on to state that this was actually an in-town rental
9 property for permanent median income population. Is
10 it your understanding and your testimony that there's
11 actually an income cap allowable in the Columbia Plaza
12 as first established?

13 MS. SPILLINGER: No, but it was a HUD
14 project that was --

15 MEMBER GRIFFIS: Which might have an
16 income requirement attached to it?

17 MS. SPILLINGER: Yes.

18 MEMBER GRIFFIS: Therefore, someone would
19 have to move essentially if their income went out of
20 range that was allowable for the unit?

21 MS. SPILLINGER: I really don't know
22 whether it goes to that extent or not, but I know when
23 Columbia Plaza and I think there will be other
24 testimony on this, but when it was established it was
25 HUD and it was supposed to be median income --

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1 MEMBER GRIFFIS: The clarification I
2 needed it's a HUD program or property?

3 MS. SPILLINGER: Yes.

4 MEMBER GRIFFIS: Thank you.

5 CHAIRPERSON REID: Thank you very much.

6 MS. SPILLINGER: Thank you.

7 CHAIRPERSON REID: Next testimony, who
8 wants to come? Okay. Ms. Tyler, come up.

9 MS. TYLER: Good afternoon, Madam Chair
10 and Members of the Board. My name is Maria Tyler. I
11 am ANC Commissioner in 2-A, District 3. My address is
12 947 25th Street, Northwest.

13 I would like to mention first of all that
14 may I have the right to reply, if necessary, to the
15 submission which we just had received from G.W. today.
16 I obviously had not addressed those points in my
17 testimony.

18 CHAIRPERSON REID: Sure, whatever you want
19 in your time frame, you certainly --

20 MS. TYLER: May I do that later?

21 CHAIRPERSON REID: Sure.

22 MS. TYLER: May I submit? Thank you,
23 Madam Chair.

24 CHAIRPERSON REID: No, wait a minute. You
25 want to respond --

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1 MS. TYLER: It was given to us during the
2 hearing and it's impossible to analyze figures while
3 you want to listen also to the hearing. That was my
4 point.

5 CHAIRPERSON REID: I'm not sure what
6 you're asking. I'm sorry, what are you asking?

7 MS. TYLER: What I'm asking is whether I
8 can submit, if I deem it necessary, reading the
9 submission today carefully, whether I then may submit
10 comments on what was submitted by G.W. today to us
11 during the hearing? And I did not have the time,
12 unfortunately, to analyze those figures while
13 listening to the hearing.

14 CHAIRPERSON REID: I see.

15 MS. TYLER: And therefore, I'm not
16 addressing it in my statement.

17 CHAIRPERSON REID: Let us see how the day
18 progresses. Perhaps when we have the lunch break you
19 may be able to read it and then respond.

20 MS. TYLER: I will try, but I cannot
21 promise. Some of these questions are very -- the
22 answers are very convoluted.

23 The Foggy Bottom West End neighborhood is
24 a vibrant community and the kind of intensive
25 residential development that the District of Columbia

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1 is currently so anxious to foster. In the 1960s and
2 the 1970s it was -- it had been populated by permanent
3 residents, income taxpaying residents. It was truly
4 a cohesive neighborhood. These residents had the
5 long-term interests of the neighborhood at heart and
6 worked hard for it.

7 The D.C. government has consistently made
8 it clear that preserving residential neighborhoods is
9 a priority of the comprehensive plan which is a D.C.
10 law. Equally, the administration has consistently
11 advocated strengthening the D.C. tax base. The D.C.
12 government is empowered to regulate land use of
13 universities in our city. However, the BZA's past
14 regulations of G.W. has permitted a very large
15 expansion of the University into our neighborhood.
16 Thus, the previous campus plan increased the total
17 enrollment headcount from 15,000 to 20,000 within a
18 situation already oversaturated by out of town
19 students and without a cap on full-time undergraduate
20 students, the fast rising category of the student
21 body, as the documents submitted have shown. The
22 large increase of full-time undergraduate students
23 grossly in excess of existing on-campus housing has
24 formed them to compete with permanent income tax
25 paying residents for housing in the neighborhood.

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1 This has been achieved by G.W. purchasing or leasing
2 off-campus properties in the residential neighborhood
3 as shown in the exhibits and students renting or
4 purchasing either directly or through their parents
5 townhouses and apartments, including condominiums and
6 cooperatives. Many of these buildings have been
7 turned into virtual dormitories and the fabric and
8 cohesiveness of our neighborhood as well as the city's
9 tax base have been damaged.

10 I would like to draw your attention to the
11 fact that the townhouses shown on this map are
12 probably incomplete by now, the markings of the
13 townhouses and that the townhouses are, of course, 100
14 percent inhabited by students and then probably some
15 other additions to be made. We have not had the time
16 to update that, Madam Chair.

17 During the facilitation meetings between
18 the community and G.W. representatives in April 2000,
19 it was made clear that the driving engine of G.W.'s
20 expansion has been its student enrollment, in
21 particular, undergraduates. Following these
22 discussions, the Office of Planning concluded in its
23 submission to the BZA that the off-campus neighborhood
24 had reached a tipping point. Based on data now
25 submitted by G.W., the fall 1999 at the time when we

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1 were having our so-called facilitation meetings, the
2 fall 1999, full-time undergraduate student enrollment
3 amounted to 6,399 and I would like to distribute. If
4 I may ask -- and Mr. Prager, also.

5 Well, could that be distributed now,
6 please, because otherwise my testimony doesn't make
7 sense.

8 (Pause.)

9 Sir, I would like to pass this on as far
10 as Mr. Prager, please.

11 (Pause.)

12 If there are not enough copies, maybe one
13 of my colleagues can make a copy, an additional copy
14 on the machine here.

15 (Pause.)

16 Are there enough copies? It's impossible
17 to follow the testimony otherwise.

18 CHAIRPERSON REID: Mr. Hart, we have
19 enough, don't we?

20 MS. TYLER: All right, I'm repeating.
21 Based on data, now submitted by G.W., the fall 1999
22 full-time undergraduate student enrollment amounted to
23 6,339 of which only 51 percent lived within the
24 approved campus boundaries and I'm referring you to my
25 paper.

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1 In the context of devising a new campus
2 plan, OP and the BZA gave every consideration to
3 accommodate G.W.'s interests, that is obvious from the
4 OP Report. Although a quote unquote restriction was
5 stipulated for further growth of full-time
6 undergraduate students in the fall of requiring 70
7 percent of such students to live on campus, the base
8 figure to which the 70 percent was to apply was not
9 the fall of 1999 enrollment when the situation was
10 also deemed by the Office of Planning tipping point,
11 but a yet unknown figure two years later, February 13,
12 2001 and on the basis of the enlarged campus
13 boundaries provided by the BZA order. This obviously
14 allowed further enrollment increases.

15 The table which I have distributed shows
16 that over a mere two year period between 1999 and
17 2001, the numbers of full-time undergraduates
18 increased by the huge number of 1482 or 23 percent to
19 reach almost 8,000, not counting graduate students.
20 Note that this compares with the total Foggy Bottom
21 West End population of around 12,000.

22 The BZA had no idea of such a possible
23 increase when it wrote its order. Of this increase,
24 only 343 were housed within the campus boundaries,
25 only because the boundaries were expanded. Yet,

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1 despite this expansion, the proportion of the student
2 body living within the old campus boundaries in 1999
3 and the expanded campus boundaries remained virtually
4 unchanged at 52 percent. Why? This is, of course, is
5 explained by the enormous increase in enrollment
6 accommodated by a further significant intrusion into
7 our neighborhood. The data clear show the futility of
8 working with percentages alone. The intrusion has not
9 been only in the St. James and the Pennsylvania House.
10 You can sense it all over the neighborhood. The
11 neighborhood, indeed, has become virtually a campus
12 plan and it should not. It's a very valuable asset to
13 the District of Columbia.

14 Moreover, I asked the Board to note and I
15 believe the previous speaker already alluded to that,
16 to note that the 70 percent shown in G.W.'s exhibit
17 307, submitted on Monday -- I believe it was 307 --
18 during the hearing on September 17th, bears no
19 relationship to the 70 percent in the BZA order which
20 order specifies that this percentage should be
21 achieved through housing within the campus boundaries
22 and you cannot add the University's properties that
23 they keep acquiring. That's what they have done. Any
24 university is entitled, as a condition of its
25 enrollment, to require full-time undergraduate student

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1 to live on campus. And the BZA should incorporate in
2 its order the requirements for full-time
3 undergraduates to live on campus. A new order should
4 deal with absolute numbers and should, as a minimum,
5 provide a significant reduction in enrollment to
6 reverse the damage inflicted on the neighborhood. The
7 new data the Board requested and which was submitted
8 to it, demonstrate the relevance of ANC 2-A's position
9 presented to the Board in Resolution No. 004F of April
10 17, 2000. There are adequate sites available within
11 the campus boundaries to construct enough new
12 dormitories to house all G.W.'s full-time
13 undergraduate students within the campus boundaries
14 with the BZA establishing a reasonable time frame to
15 achieve this.

16 That was our resolution essentially in
17 April 17, 2000. And I therefore -- this is indeed my
18 final statement. The G.W. should adjust its
19 enrollment to available campus housing. It should not
20 just present its appetite and achieve this appetite on
21 the backs of the residents and the city's tax base.

22 CHAIRPERSON REID: Thank you very much,
23 Ms. Tyler. Cross ex., please, Ms. Dwyer.

24 MS. DWYER: Ms. Tyler, in looking at the
25 map that you reference, I just wanted to understand

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1 it. The blue on that map represents townhouses owned
2 by private property owners. Is that correct?

3 MS. TYLER: No, the blue on that map
4 represents number one, apartment buildings which house
5 more than 51 percent of --

6 MS. DWYER: Excuse me, Ms. Tyler, my
7 question is whether they're owned by private property
8 owners as opposed to the University. Does the blue
9 represent private property ownership?

10 MS. TYLER: Not always.

11 MS. DWYER: Are you saying that some of
12 the blue --

13 MS. TYLER: Yes, it's private property.
14 What the blue on this map --

15 MS. DWYER: That's all I asked. Thank
16 you.

17 MS. TYLER: Excuse me, you cannot just cut
18 me off because the answer has to be given in full,
19 otherwise you get wrong impression.

20 MS. DWYER: No, I think you gave the
21 answer in full. I asked if it was in private
22 ownership and you said yes.

23 MS. TYLER: It reflects the shortage of
24 campus dormitories and the overflow of students into
25 our neighborhood, by what ever means.

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1 CHAIRPERSON REID: Ms. Tyler, the question
2 was is it privately owned?

3 MS. TYLER: It's in my statement.

4 CHAIRPERSON REID: Thank you.

5 MS. DWYER: In the chart that you
6 submitted, well, in the early part of your testimony
7 you expressed a concern about a loss of permanent
8 residents in the Foggy Bottom community, is that
9 correct?

10 MS. TYLER: Indeed.

11 MS. DWYER: On your chart, you list the
12 Howard Johnson Hotel now being used for student
13 housing. Did that represent a loss of permanent
14 residents?

15 MS. TYLER: Well, not the Howard
16 Johnson's, no, not the Howard Johnson's. What it does
17 represent is the tax loss.

18 MS. DWYER: And what about the St. James?
19 Was that a loss of permanent residents?

20 MS. TYLER: The St. James is not a loss of
21 permanent. We established that during -- on Monday.
22 The St. James was a hotel and created important tax
23 revenue to the District of Columbia.

24 MS. DWYER: One final question, in your
25 chart you indicate that according to your figures

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1 2,388 students are being housed off-campus in non-G.W.
2 owned or controlled properties. Do you know how many
3 of that number would be in properties in Maryland or
4 Virginia?

5 MS. TYLER: We have asked G.W. to submit
6 this information to us because G.W. has an office
7 which is called Office of Institutional Research and
8 that office at one time I was able to contact that
9 office. It appeared to be quite competent and I did
10 not understand why after all these facilitation
11 meetings and all these questions that we put, G.W.
12 still has not been able to submit us these data.

13 MS. DWYER: Is it your testimony then that
14 you do not know how many of these, of this number,
15 live in Maryland and Virginia?

16 MS. TYLER: I do not have an Office of
17 Institutional Research. We don't even have a staff
18 assistant.

19 MS. DWYER: Thank you.

20 CHAIRPERSON REID: Is the answer "no", Ms.
21 Tyler?

22 MS. TYLER: Excuse me?

23 CHAIRPERSON REID: Is the answer to the
24 question "no."

25 MS. TYLER: There is no way that I could

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1 know that, no. That's right.

2 CHAIRPERSON REID: Thank you. All right,
3 the next person to testify, would that be Ms. Miller?
4 I'm sorry, Mr. Shalit, please come up.

5 (Pause.)

6 MS. DWYER: Madam Chair, in looking at the
7 testimony I was just handed, I'm going to renew my
8 objection to the extent that his testimony goes back
9 in time. I think the Board had decided on Monday that
10 the purpose of this hearing is not to go back and try
11 and track what happened last year, but to look forward
12 and present information that would help the Board in
13 refashioning its Condition 9. And in reviewing this
14 testimony, it seems to be going back in time over the
15 last year and trying to track dates on which students
16 were enrolled and numbers and information that the
17 Board had ruled was not relevant.

18 MR. SHALIT: May I address that?

19 CHAIRPERSON REID: Yes.

20 MR. SHALIT: First of all, let me
21 introduce myself. For the record, I'm Sol Shalit and
22 I'm a member of the board of the Foggy Bottom
23 Association and live in 2500 Virginia Avenue,
24 Northwest, Washington, D.C. 20037.

25 In September 13th order for this hearing,

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1 the Board established the scope -- no, this is the
2 response to her. I'm just reading what your order
3 said. The order said I want to show Commissioner
4 Mitten that I've learned my lesson and I've learned
5 what she said, not to go over the past. So I looked
6 what I can do and here is where it is. The quote from
7 this here is that parties were given an opportunity
8 and I quote "to present testimony and evidence
9 pertaining to the factual information and evidence
10 requested in the Board's order issued August 8, 2001,
11 subject to cross examination by the Applicant and
12 questions from the Board." My testimony today is
13 given pursuant to this order. I'm going to address
14 nothing of the past. I'm not going to rehash
15 anything. All I'm doing, I am looking exactly at
16 question 7 through 12, take these numbers, tabulate
17 them, plot them, so it will give you a context in
18 which you can look at that admission process and what
19 did the University do and was the University surprised
20 or not?

21 What I've done I've taken 7 to 12
22 questions from Shaw Pittman's letter of August 31 and
23 September 7 and I hope that this time doesn't count
24 for this cross examination, because I'll run out of
25 time. And so what you have here in the table is a

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1 replication taken directly from the time line of the
2 University. The table is divided into three parts.
3 One, the left part is a chronology of events. The
4 middle part is the actual. I'm talking about Table 1
5 that you have in front of you, okay? This is a graph
6 --

7 COMMISSIONER MITTEN: Madam Chair, I think
8 we're now getting into the substance and I think we
9 now need to establish the --

10 CHAIRPERSON REID: Yes.

11 MS. DWYER: Madam Chair, when we filed the
12 information in response to the questions by
13 Corporation Counsel, we indicated that we have
14 objections to some of the information and questioned
15 its relevance, particularly information going back to
16 1998 and 1999 and things that happened in the past.

17 And we also testified on Monday and
18 pointed out to the Board that the whole issue what the
19 University did or didn't do last year was decided by
20 the Court. The Court enjoined the condition and sent
21 it back to the Board to look at ways it could change
22 Condition 9 going forward. And I think that -- and I
23 thought the Board had ruled on Monday that it was not
24 within the scope of this hearing or germane or
25 particularly relevant to go back over the last year

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1 and try and figure out who knew what on which date and
2 how many applicants were admitted and that again is
3 the scope of the testimony that Mr. Shalit is about to
4 present and we would object to it.

5 MR. SHALIT: May I respond to that?

6 CHAIRPERSON REID: Okay, wait a minute.
7 I was looking -- I was trying to get -- looking over
8 what you were going to present and to try to get an
9 idea of where you were going with this. Part of it is
10 on page 4, it goes into where does the Board go from
11 here? I surmise that those will be your
12 recommendations.

13 MR. SHALIT: That's correct. I'm talking
14 only about the first part.

15 CHAIRPERSON REID: Now let's look at that.

16 MR. SHALIT: Which essentially ends on
17 page -- I'd say 3 or 4.

18 CHAIRPERSON REID: Mr. Shalit, can you
19 please tell us in brief what it is that you are
20 attempting to establish and then maybe I'll have a
21 better idea of what we're working with?

22 MR. SHALIT: Could you repeat that
23 question?

24 CHAIRPERSON REID: Can you tell us in
25 brief what it is that you are attempting to establish

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1 with your presentation?

2 MR. SHALIT: What am I trying to
3 establish? What I'm trying to establish is to show
4 that the University claiming surprise of the
5 over-enrollment was intentionally, it was by design.
6 I also think that the Judge was not given the
7 information that the University was forced later on to
8 give to this body and I believe had the Judge known
9 and seen the information detailed in this table and in
10 the other side, at least I'll have an opportunity to
11 go through that, this hearing is perfunctory.

12 The Office of Corporation Counsel spent a
13 lot of time preparing very detailed incisive questions
14 for you to go and get to the bottom of it. And now
15 are you telling me that this is all perfunctory? If
16 you ask something that is not new, it is redundant,
17 but if you ask something that is new, then it's out of
18 the scope.

19 You can ask redundant questions,
20 perfunctory questions, get perfunctory answers. The
21 scope is so narrow as to not being able to examine
22 these very numbers that the University was supposed to
23 give in detail? What's the point in asking them for
24 all these details if I cannot present it and analyze
25 it? I want to analyze those numbers. Is not this

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1 Board interested in analyzing these numbers? Why am
2 I being foiled here at every turn to even open my
3 mouth.

4 Okay, questions and answers,
5 interrogatories. I understand. I couldn't be a very
6 good cross examiner, all right. But now I thought for
7 15 minutes I have a time to explain what I've done or
8 what the University has done. Why is there such a
9 vehement objection to expose what the University has
10 done. I want to analyze it. Numbers mean nothing.

11 MS. DWYER: Madam Chair?

12 CHAIRPERSON REID: Thank you. One second.
13 Just one second, okay. Let me confer.

14 (Pause.)

15 CHAIRPERSON REID: I'm sorry. We have a
16 little side bar on this issue.

17 (Pause.)

18 CHAIRPERSON REID: Okay, let's see. We're
19 going to overrule the objection to this extent, Mr.
20 Shalit, Professor Shalit. The information, you can
21 present information as to the basis for your
22 contention as to show us how you came up with your
23 conclusions, all right? Now wait a minute, but to the
24 extent that it is based upon a negative depiction of
25 the University, that part, Ms. Dwyer probably can

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1 object to any of those portions. If you want to
2 basically give us a presentation and show us your data
3 and how you interpreted your data and as a result if
4 your interpretations of your data, what conclusions
5 you came to, that would be the extent of it, but not
6 for you to go into analyzing how your data compares to
7 G.W.'s data, that is what we will be charged to do.
8 We will be the ones that would make a determination as
9 to what makes sense.

10 Do you see what I'm saying? Because other
11 than that, it just gets too bogged down. It goes to
12 -- as everyone knows, given certain data, it can be
13 manipulated to come up with conclusions as to how you
14 want it to come out and that's okay, but just give us
15 your take and then we will make a decision, okay?

16 MR. SHALIT: Fair enough.

17 MS. DWYER: Madam Chair, I just want to
18 preserve my objection for the record then.

19 CHAIRPERSON REID: You can preserve your
20 objection and at any point if you feel he exceeds the
21 instructions that we've given, then you can object and
22 even to object to portions being deleted from the
23 record, if necessary.

24 MS. DWYER: Thank you.

25 MR. SHALIT: I have tabulated in the

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1 tables that you have here the University's answers to
2 Questions 7 through 12 and chart 1, in chart 1 you
3 have a picture of the left side, a picture of the left
4 side of the four column, early, regular, transfer and
5 total which are taken from the numbers that the
6 University has supplied. The left side gives you a
7 chronology of the major event in this time table. The
8 right side of the table under planning is the decision
9 making process of G.W. and I labeled it planning and
10 I'll explain it in a minute.

11 I want to emphasize that all the numbers
12 that are here are taken from G.W.'s data. And it
13 looks at a time line based on the information
14 available to the University at the time that the
15 University took action. There's no hindsight, there's
16 no foresight.

17 In other words, we're not looking in
18 retrospect. All we're look at is what is available,
19 what did the University on certain dates. And
20 definitions are very simple and straight forward since
21 the admission process is really not mysterious or
22 complex. It is a simple kind of inventory problem.
23 You start with beginning inventory and then you add
24 additions, you take subtractions and that gives you
25 the ending inventory. So in the planning stage, in

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1 Table 1, let me show the other chart which is Chart 2.

2 (Pause.)

3 So what you have in the planning one you
4 begin with what you have -- the beginning inventory is
5 what you already have. The column cumulative, meaning
6 the total of what you have accepted already which is
7 the early admissions, which was already over by March
8 1st, according to the data given by the University and
9 you have the regular, you have the transfer all taken
10 from the table of the University and then you get the
11 total. So the column cumulative just cumulates that.

12 The ending inventory, so this is the
13 cumulative, what you are doing. This is the beginning
14 inventory. And then you have the column -- you have
15 to have a target. What are you aiming at? The target
16 is the BZA cap. It's the number of students on
17 February 13; 6,200 according to the University
18 testimony in court. It makes no difference if this
19 number is precise or not precise. We're talking about
20 planning. We're not talking about anything else here,
21 but we want to see how the University planned, what is
22 the surprise? A simple count, okay? And this is
23 explained at footnote A, so footnote A talks about the
24 aim because what you have to do now is given your
25 target, you have to calculate your aim, what you need

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1 to do to reach the target.

2 Since, as explained, footnote A, this
3 simply amounts to adding the early admission, the 632
4 to what you already have which is 6200 and subtract
5 the graduating class, in other words, outflow of the
6 inventory to get the aim. The aim is 5012. The
7 column deviation tells you how close to the target you
8 are by simply taking the difference between the target
9 and what you already have which is the cumulative plus
10 the aim. The decision rule is very simple.

11 What you do is you continue to admit, so
12 long as the deviation is negative, short of the target
13 and stop further admission once the target is reached.
14 Deviation, then of course, is positive. As you can
15 see it here, the total, the cumulative, the target,
16 the deviation and you can see the deviation goes below
17 zero and whether you still need to recruit more
18 students and then it goes positive, means you have
19 like a surplus. You're over the target.

20 The results, you have here in chart 2.
21 Please bear in mind that these are not number of
22 students of particular date. These are just numbers
23 expected at each day to prevail in the fall, given the
24 action that have been taken against the context of
25 what is available. And essentially what you have

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1 here, I think, is a flight data recorder and since
2 this is a fact-finding hearing, here are some of the
3 facts.

4 One, by March 1st, if you look at the
5 table, by March 1st, early admission was complete.
6 With 632 students on board and 556 short of the final
7 goal, if you look at the deviation. Based on the
8 rather stable historical yield of .29 which is the
9 only way they could have gone by without hindsight,
10 it's a stable rate of .29, G.W. should have sent 1,917
11 additional admission to enroll them. But three weeks
12 later, when regular admission started on March 23rd
13 instead the facts show that it sends out 6,426, not 10
14 percent more, not 50 percent more, but 335 percent
15 more. These are the orders of magnitude we are
16 talking.

17 Fact two, by April 27, G.W. knew from the
18 high rate of student acceptance that it was already
19 above target. Around this time. You can see it on
20 your graph 2.

21 By April 27th, around it, G.W. had
22 information from the high rate of student acceptance
23 that it was already above the target and could have,
24 should have, stopped admitting additional students.
25 Instead, the facts show that if continue to admit, 654

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1 additional transfer student right up to a few weeks
2 ago. And may well be admitting them even as we speak.

3 Number three, by May 1st, G.W. knew it was
4 a 852 students above the target. This was May 1st.

5 Now again, how much above target it is
6 does not matter, the exact number. It is a planning
7 tool, but it is obvious then that they were above
8 target, above the freeze, above the cap, that was the
9 deadline for the regular admission. I'm just echoing
10 what Commissioner Mitten was asking.

11 As reported in the enclosed articles in
12 Newsweek and U.S. News and World Report, other
13 universities with the student influx by canceling
14 admissions to those failing to meet the deadline.
15 This is a fact. The other universities were concerned
16 by the influx. They didn't just send them all over
17 the neighborhood. G.W. could have done likewise, but
18 the facts show it chose instead to admit 394
19 additional students. It did not have to.

20 Number four, as reported by the enclosed
21 article in Newsweek and U.S. World Report, other
22 universities attempted to cope with the influx of
23 students by offering financial and housing incentives
24 to students already admitted in order to induce to
25 postpone their enrollment to next fall. There is no

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1 evidence G.W. attempted any of that.

2 Number five, the facts above show that
3 after May 1st when the large over-enrollment was
4 plainly in evidence, G.W. has done nothing to stop or
5 slow down this enrollment and everything to speed it
6 up. It admitted close to 1,000 additional students.
7 It did not have to. This is what the University has
8 done, but this is not what it has said.

9 Both in federal court and before this
10 Board, G.W. has testified that the fall 2001
11 over-enrollment exceeding the cap by 1,681 students or
12 by 27 percent was unintentional and has caught it by
13 surprise. It blamed the results on three factors:
14 (a) the admission process was an imprecise effort,
15 they say; (b) the admission process being already
16 underway when the BZA cap was imposed; and (c) an
17 unexpected increase in the yield rate.

18 MS. DWYER: Madam Chair --

19 MR. SHALIT: I have one more last
20 sentence.

21 MS. DWYER: This goes beyond. I thought
22 you had indicated that any testimony that was to
23 create a negative depiction of the University was not
24 going to be within the scope or allowed.

25 CHAIRPERSON REID: Sustained. Mr. Shalit,

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1 move on. Go ahead.

2 MR. SHALIT: I'll say one more sentence,
3 if I may. The facts above show that none of the three
4 factors account for the results since the University
5 has both the information I say and evidence shows and
6 the means to comply with the cap. But it decided to
7 ignore it.

8 CHAIRPERSON REID: Okay, at that point.

9 MR. SHALIT: The over-enrollment is
10 intentional. Thank you.

11 CHAIRPERSON REID: All right. Now, are
12 you stopping at that point because it seems like it
13 gets into a little --

14 MR. SHALIT: I have more.

15 CHAIRPERSON REID: Negativity here.

16 MS. DWYER: I would object to the next few
17 paragraphs, Madam Chair, because it definitely goes
18 into an area that you had excluded.

19 CHAIRPERSON REID: Okay, I would sustain
20 that objection and then you have -- that's the last
21 paragraph on page 5 and on -- I'm sorry, on page 3 and
22 then --

23 MR. SHALIT: Are you asking me a question?

24 CHAIRPERSON REID: No, this is the area
25 that we're talking about as far as the objection is

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1 concerned and down to the bottom of paragraph, the
2 bottom of page 4 where it goes to where does the Board
3 go from here?

4 MR. SHALIT: Yes.

5 CHAIRPERSON REID: And at that point
6 that's your proposal?

7 MR. SHALIT: That's correct.

8 CHAIRPERSON REID: I think that you've
9 given us an adequate amount of information that will
10 assist us in making the determination.

11 COMMISSIONER MITTEN: Could I ask a
12 question or two of Dr. Shalit?

13 CHAIRPERSON REID: Yes.

14 COMMISSIONER MITTEN: I want to ask you
15 general questions because I think that in your -- I
16 found your analysis, what you were attempting to
17 illustrate was helpful because it helps to understand
18 the admissions process, but I think the raw numbers
19 are perhaps in error because the target number has
20 carve-outs and none of the other numbers do. So
21 really the target should be the raw enrollment, sort
22 of grossed up for the carve-outs, but notwithstanding
23 that.

24 When we -- if you want to talk about it
25 like inventory or whatever so we have this basket that

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1 is the University and we're going to add because we
2 want to fill the basket up to a certain point and
3 given that we're not plucking individual oranges off
4 the shelf, but we're ordering in bulk, if you will,
5 because we send out a whole bunch of admissions, would
6 you based on your analysis say that rather than
7 holding the University -- given that there clearly is
8 some art to this because there are unknowns, would you
9 say that the more important thing is shooting at a
10 target, having an organized way of -- to the extent
11 there were a cap in place, having an organized way of
12 attempting to achieve it as opposed to -- and being
13 held to that as opposed to being held to actually
14 achieving it since there are so many unknowns
15 associated with that?

16 MR. SHALIT: Well, there are many ways of
17 actually answering the question. As a planning tool,
18 while it is true that the admission process is an
19 inexact science and there is some variability in what
20 you expect and what you get, I am not so sure that the
21 Board ought to get into the internal -- running
22 University affair and trying to manage that. That was
23 not my intention. The intention here was simply
24 because you don't need a great precision here to
25 understand the planning because all I wanted to say

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1 here and to show that there is enough evidence that
2 there was no surprise here. That is what I meant.

3 COMMISSIONER MITTEN: Right, I want you to
4 kind of get into help us -- whether there was surprise
5 or not, we don't care. What we care about is trying
6 to, to the extent that we want to keep a cap in place,
7 we want to know should the University, is it
8 appropriate as we were attempting initially, is it
9 appropriate to hold the University accountable for
10 hitting the target because there are so many
11 uncertainties or is it more appropriate to hold them
12 accountable for aiming the -- taking the best aim at
13 the target? That's what I'd like you to respond to,
14 not did they do that before, but what do you think is
15 the best approach?

16 MR. SHALIT: I think there's a great deal
17 of mystery around imprecision. There is some
18 variability around it. I think you can hold the
19 University accountable within a certain percentage,
20 within some error, but I don't think you would just
21 hold them for just aiming unless you are willing to go
22 for an analysis like this which is very easy to do.
23 And then a good effort aim is enough.

24 One could look at the intention, if there
25 is good faith effort. It is very easy. A model like

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1 this which is very simple, we all can add and
2 subtract, there's no rocket science here. It's a very
3 simple addition. You can do and you can find the
4 intentions right there if you get a time line like
5 this and you can tell, of course, this precision is
6 not necessary at all for admission and monitoring by
7 the Board's purposes.

8 It is crucial, the precision is crucial
9 for processing because if they violate the quota, then
10 you need precision. That's a different area. I am
11 making a distinction, Commissioner Mitten between two
12 different settings; decision making of the Board,
13 process or not process, versus is the University in
14 good faith trying to blow the road block that we have
15 put there or was it really genuinely surprised? This
16 you can tell.

17 COMMISSIONER MITTEN: I understand. Thank
18 you. I understand.

19 CHAIRPERSON REID: Cross examination
20 questions?

21 MS. DWYER: Just a couple of questions.
22 Mr. Shalit, in looking at your chart, you indicate in
23 the first column that the BZA final order was February
24 13th. Are you aware that the order was not issued
25 until March 29th and did not become final until April?

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1 MR. SHALIT: Yes, I am aware of that, but
2 I am also aware that Mr. Barber was here and I'm sure
3 as soon as he got to his office he wrote a memo, an
4 internal memo informing --

5 MS. DWYER: Do you have personal knowledge
6 of that?

7 MR. SHALIT: No, I'm saying I would be
8 surprised if he didn't write an order to the admission
9 officer there is a freeze.

10 CHAIRPERSON REID: Mr. Shalit, please.
11 Let's keep the questions and the answers factual, not
12 conjecture and not speculation. Just answer the
13 question predicated upon what you're being asked.

14 MR. SHALIT: To answer the question, yes
15 I am aware that the order was announced on February 28
16 and actually it went out in written form later on.

17 MS. DWYER: And are you aware of other
18 situations where the Board has announced a decision
19 and conditions and changed that between the time of
20 its announcement at a meeting and the issuance of an
21 order?

22 MR. SHALIT: I'm not aware, but I wouldn't
23 rule it out.

24 I don't think it makes a difference here.

25 MS. DWYER: Do you think that's why any

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1 requirements that the Board imposes can only be as of
2 the date that the order becomes final and effective?

3 MR. SHALIT: This is a legalistic question
4 that I'm really not feeling quite qualified --

5 CHAIRPERSON REID: Just yes or no, do you
6 know that? Yes or no.

7 MR. SHALIT: Could you repeat the
8 question, please, again.

9 CHAIRPERSON REID: Either he knows or he
10 doesn't.

11 MS. DWYER: Are you aware, is that not why
12 the zoning regulations say that until an order is
13 final and effective the conditions and the
14 requirements of the Board do not take effect?

15 MR. SHALIT: Presumably, yes.

16 MS. DWYER: Thank you. At the time that
17 the Board's order became final and effective in April,
18 are you aware that the University was, in fact, in the
19 middle of its admissions process?

20 MR. SHALIT: The question is how do you
21 define --

22 CHAIRPERSON REID: Yes or no? Yes or no?
23 This is not your time to ask her questions. She's
24 asking you a question.

25 MR. SHALIT: Yes, I was aware, but it

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1 could be stopped, too.

2 MS. DWYER: And are you aware that Judge
3 Uberdorfer concluded that the admissions process began
4 in the fall and further concluded that it was a
5 holistic process and that it was unreasonable to stop
6 it or change it midcourse?

7 MR. SHALIT: Yes, I am aware of that, but
8 I'm also aware he was not given the information that
9 we have right here.

10 MS. DWYER: Are you aware that that case
11 is still pending and there is an opportunity, if you
12 want to provide information?

13 MR. SHALIT: I am aware and I certainly
14 will take advantage of that.

15 MS. DWYER: And do you think it is this
16 Board's role to review and overturn a decision of the
17 U.S. District Court?

18 MR. SHALIT: No, I am not saying that.

19 MS. DWYER: Thank you. One final
20 question, are you aware that some of the University's
21 best students come very late in the admissions
22 process, when those students who may have qualified,
23 they thought, for other more prestigious universities,
24 do not get in and choose to come to G.W.?

25 MR. SHALIT: I'm not aware of it and I

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1 consider that entirely irrelevant.

2 MS. DWYER: Thank you.

3 CHAIRPERSON REID: Ms. Renshaw, can you
4 please contain yourself?

5 MEMBER RENSHAW: I'll try.

6 CHAIRPERSON REID: Thank you. Any other
7 questions?

8 MS. DWYER: That's it.

9 CHAIRPERSON REID: I have a couple.
10 Professor Shalit, in regard to on page 2, number 1,
11 you refer to "based on its rather stable and
12 historical yield rate of .29 G.W. should have sent out
13 1,970 letters." Where did that yield rate come from?

14 MR. SHALIT: The yield rate is a stable,
15 historical thing, comes from G.W. data and I have it
16 here and I'll quote it to you right here. If you want
17 me I can submit it as an exhibit.

18 CHAIRPERSON REID: Just tell me where it
19 came from?

20 MR. SHALIT: George Washington University
21 Fact Book Undergraduate Admission Selectivity, Fall
22 1994 to Fall 2000, published by the Office of
23 Institutional Research Staff and it says --

24 MS. DWYER: Madam Chair, I would object.
25 We haven't seen this chart. It's not part of the

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1 information we filed. We have no idea where the
2 information came from.

3 MR. SHALIT: This does not come from my
4 head. It comes from them.

5 CHAIRPERSON REID: Exactly. I just need
6 to know the basis for the --

7 MR. SHALIT: Every number is based the
8 same way.

9 CHAIRPERSON REID: And then the other
10 assertion you make as to how many students were
11 admitted when also came from some report or some --

12 MR. SHALIT: Yes.

13 CHAIRPERSON REID: From the University?

14 MR. SHALIT: Which number are you talking
15 about?

16 CHAIRPERSON REID: All the numbers. I
17 don't want to go into --

18 MR. SHALIT: All the numbers I can --

19 CHAIRPERSON REID: 6,420 --

20 MR. SHALIT: All of them. I think most of
21 the numbers --

22 CHAIRPERSON REID: Admissions, 335 percent
23 more and so forth and so on. These figures come from
24 where?

25 MR. SHALIT: Every number comes from a

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1 different source.

2 CHAIRPERSON REID: Okay.

3 MR. SHALIT: Tell me which number you want
4 and I'll tell you.

5 CHAIRPERSON REID: Every figure that
6 you're presenting to us was substantiated by some
7 legitimate source?

8 MR. SHALIT: Not legitimate, G.W. source.

9 CHAIRPERSON REID: From George Washington.

10 MR. SHALIT: From George Washington.

11 CHAIRPERSON REID: From George Washington
12 University.

13 MR. SHALIT: I cannot characterize it as
14 legitimate or not, but I know it came from them.

15 MS. DWYER: Madam Chair, may I have a
16 point of clarification then? The target that he has
17 in his column of 6200 as of February 13th, can you
18 tell me where from the University we see that
19 information?

20 MR. SHALIT: It was in the G.W., one of
21 the --

22 MS. DWYER: You're not referring to any
23 information that the University's filed in the record
24 of this proceeding.

25 MR. SHALIT: No, this number did not come

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1 from this proceeding.

2 MS. DWYER: Then I would object to this
3 number even being included in the chart. It has -- it
4 did not come from the University in this proceeding.
5 It does not relate to any of the materials that we
6 provided and I think it invalidates the chart.

7 COMMISSIONER MITTEN: Madam Chair --

8 MR. SHALIT: This is, if I may speak to
9 that. This is a very technical definition of how to
10 look at testimony that is fact-finding. It would be
11 a sad day to strike it all out.

12 MS. DWYER: Well, Madam Chair, unless
13 there is a basis for him stating where this number
14 came from and evidence that it in fact was a target
15 established by the University on February 13, I don't
16 think it can be considered by the Board.

17 CHAIRPERSON REID: Okay. Ms. Mitten?

18 MR. DRAUDE: May I speak?

19 CHAIRPERSON REID: Wait one second,
20 please. Ms. Mitten.

21 COMMISSIONER MITTEN: What I was going to
22 say is in terms of it being in the record, it is in
23 the record because it was -- and I'm sure Mr. Draude
24 was just going to say that -- that there was an
25 extensive discussion on Monday about carve-outs, and

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1 there was a number and it was discussed on Monday that
2 was provided -- and I think it was actually not
3 precisely 6,200 -- that was reflective enrollment for
4 the year 2000 with carve-outs. And then we had this
5 other number, and we were trying to compare.

6 MS. DWYER: But that is a very different
7 number than this. He is showing this as a target --

8 COMMISSIONER MITTEN: Right.

9 MS. DWYER: -- that the University had on
10 February 13, which it did not. It was not a target,
11 and that's a very different number than the number
12 he's using here as a basis for this chart and the
13 assumptions that he's making from this chart.

14 COMMISSIONER MITTEN: And I would agree
15 with that, which is why when I started to ask Dr.
16 Shalit questions is that number has carve-outs in it
17 for however he wants to represent that number. And so
18 all the other numbers don't have carve-outs, so
19 they're not appropriately compared, so we just have to
20 accept that 6,200 is an orange and everything else is
21 an apple.

22 MS. DWYER: Right. And on that basis, I
23 would submit that this entire chart is invalid. There
24 are no assumptions that can be drawn from it.

25 CHAIRPERSON REID: Okay. Before that,

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1 before we go there, let me hear from Mr. Draude and
2 then also I have another couple questions to ask and
3 other Board members if they do too, so we can just try
4 to glean as to what we have and what we're doing here.

5 Yes, Mr. Draude?

6 MR. DRAUDE: I just wanted to clarify and
7 confirm Commissioner Mitten's recollection. Mr.
8 Barber testified on cross-examination on Monday that
9 the University submitted the number of 6,200 as the
10 full-time undergraduates as of February 13, 2001. So
11 that number is in the record in this case, and in fact
12 it is the subject of what is marked as Exhibit 1 of
13 the University's submission this morning. What
14 conclusions you choose to draw from it is certainly up
15 to the Board, but it cannot be excluded as if it is
16 not in the record. It is in the record.

17 MS. DWYER: And I'm not suggesting that.
18 I'm suggesting that it was submitted as a number of
19 the undergraduates on that date. It was not submitted
20 as a number that was a target for the University. And
21 the way it is used in this chart suggests something
22 very different than what that number truly reflects.

23 CHAIRPERSON REID: Okay. Now -- okay.

24 MR. SHALIT: Can I respond to that? No.

25 CHAIRPERSON REID: Yes, go ahead.

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1 MR. SHALIT: What the number truly
2 represents is a matter of interpretation -- your
3 interpretation or the Board's interpretation. But you
4 cannot say it's improperly used. And the whole idea
5 of carve-outs is all relevant here, if I may address
6 Commissioner Mitten's concern here. The reason is we
7 are -- it makes no difference that we are not allowing
8 or allowing a carve-out, because that has nothing to
9 do -- as long it does not change from year to year if
10 it's stable. All I'm saying is that for planning
11 tools, if this is the aim, you start with a beginning
12 inventory. It makes no difference if it includes
13 carve-outs or not, and you get in-flows and out-flows
14 at each of these dates. And you are admitting people.
15 Then you get an outcome that you can look at and it
16 makes no difference if there is a carve-out. The
17 absolute number doesn't matter. It's the magnitude
18 that we're talking about, the deviation, the gross
19 deviation.

20 CHAIRPERSON REID: Okay. Thank you very
21 much for that.

22 MR. SHALIT: Oh, I'm sorry, I'm sorry.

23 CHAIRPERSON REID: Now, the other question
24 I have is, "As reported by" -- number 3 on the same
25 page, "As reported by the enclosed articles in

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1 Newsweek and U.S. News --

2 MR. SHALIT: I cannot hear you, I'm sorry.

3 CHAIRPERSON REID: "As reported by the
4 enclosed articles in Newsweek and U.S. News & World
5 Report, other universities cope with the student
6 influx by canceling admissions to those failing to
7 meet the deadline." It says, "GW could have done
8 likewise, but the facts show us they admitted 94
9 additional students they did not have to." My
10 question, number one, is do you know or is there any
11 evidence that you have that supports this contention
12 that GW did not cancel any of the admissions that
13 failed to meet the deadline?

14 MR. SHALIT: They will be able to
15 contradict me. I don't -- if they have done that, I
16 presume I would have seen it in the newspaper.

17 CHAIRPERSON REID: No, my question is did
18 you have any evidence to support that --

19 MR. SHALIT: I said I don't have any
20 evidence that they've done that.

21 CHAIRPERSON REID: Okay. Then my other
22 question is "That some other universities" -- and this
23 is number 4, reported by Newsweek and U.S. News &
24 World Report, that they cope with the student influx
25 by offering financial and housing incentives to

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1 students already admitted in order to induce them to
2 postpone their enrollment till next fall." Then it
3 says, "There is no evidence of GW attempting any of
4 that." Do you have anything to substantiate that
5 particular assertion that there was not any -- that GW
6 did not attempt to make these incentives or offer
7 these incentives?

8 MR. SHALIT: I don't have to have an
9 answer --

10 CHAIRPERSON REID: My question is a yes or
11 no answer. Do you know, do you have any evidence, can
12 you demonstrate that this was actually the case is my
13 question?

14 MR. SHALIT: One cannot prove a negative,
15 but they would have an opportunity to say they did it.
16 I don't believe they did it, and I don't -- and I have
17 reason to believe --

18 CHAIRPERSON REID: Okay. So you're saying
19 you don't believe they did it.

20 MR. SHALIT: It's not that I don't
21 believe. It's a matter of this would have gotten
22 great publicity as some sensitivity to the community.
23 I presume that if they had done it, it would have been
24 written all over the newspaper, every bits of
25 information from the publicity machine, which is

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1 substantial.

2 CHAIRPERSON REID: All right. Thank you.
3 Thank you very much.

4 And my last question was in regard to --
5 excuse me for one second, let me look at my notes.
6 Oh, in your table that you submitted, and the table is
7 predicated upon the information on the planning in
8 regard to the target date -- that target figure, I'm
9 sorry, target figure of 6,200.

10 MR. SHALIT: Yes.

11 CHAIRPERSON REID: And then you go to the
12 submission of September 21, which shows that same
13 figure. And the question is, it was calculated the
14 number of 6,200 full-time undergraduates as of 2-13-
15 01. Now, it appears to me that -- looks like to me
16 that this was a calculation -- when the question was
17 asked of George Washington, it was calculated after
18 the fact as to how that number came about, which seems
19 to depart from your assertion here on the chart that
20 it was a target. Now, there seems to be a discrepancy
21 with that.

22 MR. SHALIT: Okay.

23 CHAIRPERSON REID: And if that is the
24 case, and if your chart then is built around that,
25 then it would appear to me that it would be flawed.

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1 MR. SHALIT: No. The chart and the table
2 is built on when the information was available. As
3 soon as the order was given and since the University
4 gave -- the data were available to the University.
5 They may not have wanted to communicate to us, but the
6 data were available to the University about who they
7 -- how much they have admitted and about the number of
8 students, because they gave it just in probably March
9 to the court.

10 CHAIRPERSON REID: The calculation is what
11 we're talking about.

12 MR. SHALIT: The calculation of 6,200?

13 CHAIRPERSON REID: Yes.

14 MR. SHALIT: They can --

15 CHAIRPERSON REID: Wasn't it predicated
16 upon the deletion of the carve-outs?

17 MR. SHALIT: This number, I'd say -- it
18 doesn't matter the carve-out, as I said. The carve-
19 out does not here, because we're not talking about the
20 precise magnitude. All we want to know is the
21 University stepping on the breaks when it should -- or
22 is it stepping on the gas? And that's all I'm saying.
23 And surprisingly with all these crude assumptions, you
24 see that you end up the outcome with 8,000 students,
25 which is not very far, given the crude parameters here

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1 from what it ended up doing, really, according to its
2 own numbers. So it's not that far fetched. It looks
3 very crude, you see. Of course, one can complicate
4 this model a great deal by 25 variables, and I'm sure
5 there's nothing that GW would love more, because it
6 makes it difficult to understand.

7 CHAIRPERSON REID: Mr. Shalit, please. We
8 know that you have strong feelings, and we understand.

9 MR. SHALIT: Okay. I'm sorry, I
10 apologize.

11 CHAIRPERSON REID: Don't sully your
12 testimony by those negative references. Just stay on
13 course to give us the facts. That's all we're trying
14 to ascertain here. That's all.

15 MR. SHALIT: Okay.

16 CHAIRPERSON REID: And I think that you've
17 given me -- I just wanted to know, just looking at the
18 data and just trying to determine how different
19 conclusions came from the same set of data and --

20 MR. SHALIT: Okay.

21 CHAIRPERSON REID: -- to try to get an
22 understanding of what was calculated, when and how and
23 what was the target and how it was a target, if it was
24 a target, and how this figure came about and how this
25 figure factors into your whole table and how we then

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1 will be able to utilize it, if we can, as a matter of
2 making our decision. And I thank you very much for
3 that.

4 MR. SHALIT: Do you expect an answer to
5 that?

6 CHAIRPERSON REID: Well, I thought you
7 answered me.

8 MR. SHALIT: Okay.

9 CHAIRPERSON REID: Now I just gave you the
10 follow-up.

11 MR. SHALIT: Okay. What I'm saying here
12 is that the number 6,200 was available to the
13 University from its own sources to calculate at the
14 time the order came. At least it was available when
15 they filed the lawsuit, because they gave a number
16 6,200. So it was available to them. They knew what
17 the number was. So if they really were bent on
18 obeying the freeze, there are many yellow lights here
19 at different dates here in which they could have taken
20 corrective action, given that number.

21 CHAIRPERSON REID: Okay. Thank you very
22 much, Professor Shalit. Any other questions or any
23 cross examination? Thank you.

24 MS. TYLER: Madam Chair, is it possible
25 for me -- I don't think I used up my 15 minutes. Is

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1 it possible for me to just make one brief sentence?

2 CHAIRPERSON REID: You will have another
3 opportunity to speak, Mrs. Tyler.

4 MS. TYLER: I will?

5 CHAIRPERSON REID: Yes.

6 MS. TYLER: When?

7 CHAIRPERSON REID: After we break for
8 lunch, we come back and hear everyone's proposal for
9 what they think should happen.

10 Okay. Now, the last one to testify, Ms.
11 Miller.

12 VICE CHAIRPERSON RENSHAW: As Ms. Miller
13 is coming up, Dr. Shalit, I just wanted -- Dr. Shalit,
14 right over here. I wanted to just clarify you are a
15 doctor, not Mr.; is that correct?

16 MR. SHALIT: Say --

17 VICE CHAIRPERSON RENSHAW: You are doctor.

18 MR. SHALIT: Yes.

19 VICE CHAIRPERSON RENSHAW: And would you
20 just tell me, because it's not in the introduction of
21 your text, are you a retired professor of economics?

22 MR. SHALIT: Yes. I am an emeritus
23 professor of economics at the University of Wisconsin
24 School of Business, and I got my Ph.D at the
25 University of Chicago in Economics under three nobel

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1 prize lawyer.

2 VICE CHAIRPERSON RENSHAW: Thank you very
3 much.

4 MR. SHALIT: Thank you.

5 CHAIRPERSON REID: Okay. Ms. Miller?

6 MS. MILLER: Good afternoon. I'm Dorothy
7 Miller, Commissioner for ANC-2A-05, and I want to
8 apologize, I'm having eye problems. I've had a couple
9 of operations and need another one. I didn't get a
10 chance to get my paper proofed.

11 CHAIRPERSON REID: Oh, okay.

12 MS. MILLER: So I would like an
13 opportunity to give you corrected copies, and she told
14 me to please put it on the record.

15 CHAIRPERSON REID: Sure.

16 MS. MILLER: And I gave you copies because
17 I wanted you to have the attachments.

18 CHAIRPERSON REID: Okay.

19 MS. MILLER: Okay? And I will correct it.
20 My proofer was not available as usual at this time.

21 It is my understanding that as a party to
22 the above case that I am allowed to submit material on
23 factual issues raised in the order issued August the
24 8th, 2001 and to present testimony and evidence
25 pertaining the Applicant's responses thereto. I would

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1 appreciate the leeway afforded parties, as stated in
2 the Administrative Procedures Act, Section 2-509,
3 which says that every party, quote, "Every party shall
4 have the right to present in person or by counsel his
5 case or defense by oral or documentary evidence, to
6 submit rebuttal evidence and to conduct such cross
7 exam as may be required for full and true disclosure
8 of the facts," end of quote.

9 The key here has been getting GW to
10 disclose accurate information for rebuttal and
11 defense. My community's problem with GW has been and
12 is the University's inability to curb its aggressive
13 and excessive enrollment and its uncooperativeness in
14 considering the needs of the residents.

15 CHAIRPERSON REID: Okay. Now wait a
16 minute, Ms. Miller. Before you go into any negative
17 depiction of the Applicant and assertions and
18 unfounded representations, I would ask that you move
19 to what you can -- what's factual, not opinions but
20 what's factual.

21 MS. MILLER: Well, may I suggest that the
22 facts speak for themselves considering where we are
23 today?

24 CHAIRPERSON REID: Okay. That's fine.

25 MS. MILLER: Okay. Now, where was I?

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1 CHAIRPERSON REID: So dropped down to --
2 wait a minute.

3 MS. MILLER: No, the community's problem
4 with GW.

5 CHAIRPERSON REID: No, no. I understand
6 that, but that's what I'm talking about that may be
7 objectionable. Drop down to --

8 MS. MILLER: Yes, but that's the fact; it
9 is objectionable. It has ruined our community, and
10 that's a fact.

11 CHAIRPERSON REID: We understand that, but
12 then you're going into issues regarding what their
13 intent is and all of that. So why don't you pick up
14 at the campus plan?

15 MS. MILLER: Okay. The campus plan is
16 submitted by the Office of Planning and approved in
17 large campus boundaries. That is what the community
18 is requesting be included in the revised campus plan,
19 not 70 percent, as suggested by GW -- a number that
20 can be fudged and would be difficult to verify if they
21 have more on campus except for whatever your cut-outs
22 are that we have been discussing this morning.

23 Another recommendation by OP to further
24 protect this fragile community was an overlay
25 surrounding the campus boundaries which would include

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1 an area that OP defines in its report as the
2 boundaries of the Foggy Bottom/West End.
3 Undergraduates students should be discouraged from
4 seeking rental accommodations and GW would not be able
5 to make arrangements with management and owners of
6 residential properties for student housing. This was
7 unacceptable to the students for the neighborhood
8 protection and not to GW and its desire to grow and
9 increase its real estate holdings.

10 As directed in the BZA order, establishing
11 a schedule on remand, issued August the 3rd, 2001,
12 steps were taken by the community to comply. The ANC
13 and Foggy Bottom Association met with the Office of
14 Planning to discuss the unresolved and controversial
15 issues between the University and the community and
16 what the community wanted to be included in the campus
17 plan order. Attached is a copy for you of the
18 Washington Business Journal's Colleges and
19 Universities, and it shows the enrollment plan income
20 that GW has in relationship to other universities and
21 that it is not being harmed financially or in growth.
22 I thought you'd like a copy of that, if you'd like to
23 look at it.

24 Charles Barber's statement is not correct
25 that the ANC had made no effort to comply with the

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1 BZA, quote, "direction," because you can't order, to
2 try to resolve disputed issues and areas of
3 disagreement.

4 A written request to Charles Barber, GW's
5 Senior Counsel, dated August, and I can't remember the
6 date on that, by our lawyer, James Draude, requested
7 GW to submit its list of issues to ANC-2A for
8 consideration and ANC-2A would submit, through its
9 lawyer, a list of Commission issues and concerns. The
10 lawyers would then meet for discussion. The ANC
11 unanimously approved this arrangement. The lawyers
12 would then meet for discussion.

13 The ANC -- well, I read that. The ANC
14 tried to develop a credible proposal to offer to GW.
15 Our lawyer met with Barber to present our proposal,
16 and they subsequently met again to talk about GW's
17 counter offer. The results of the meeting: We
18 concluded the sides were too far apart to reach any
19 agreement.

20 The D.C. Corporation Counsel, in a letter
21 to the University's lawyer, Shawn Pittman, dated
22 August 3, and I've given you a copy of that, signed by
23 Charles Reischel and Lutz Prager, for Robert Rigsby,
24 Corporation Counsel, stated, quote, "The Board of
25 Zoning Adjustment's March 29 order remains in effect

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1 until further order of the Board except to the extent
2 that the March 29 has been judicially enjoined."

3 So the real issue before the Board today
4 should be George Washington's lack of compliance with
5 the conditions that are in effect in the order and not
6 just areas of disagreement between the Applicant and
7 the parties concerning condition 9, and a copy of the
8 letter is attached.

9 Campus boundaries defined in the order
10 were expanded to include University-owned property in
11 Square 43, the Dakota Apartments, the Riverside
12 Towers, two additional addresses at 22nd Street and
13 two additional addresses on F Street. Mr. Barber, in
14 his testimony on the 17th, stated GW would like the
15 boundaries to be expanded further. Further expansion
16 to the campus boundaries is unacceptable.

17 It is now known that the University in the
18 fall of 2001 enrolled the largest number of
19 undergraduate students in GW's history, which indicate
20 that GW had no intention of trying to comply with the
21 suggested enrollment cap. University expansion into
22 the residential neighborhood for undergraduate housing
23 outside of the enlarged campus boundary continued at
24 an accelerated pace, making a mockery that the campus
25 plan, as written, could protect the residential

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1 neighborhood.

2 The order needs to be written in a way
3 that could prevent the University from making such
4 arrangements as have been made with the St. James and
5 the Pennsylvania House, and you've heard it's a 15-
6 year plan where they lease and that they call it not
7 permanent residence but --

8 CHAIRPERSON REID: Transient.

9 MS. MILLER: St. James is not but
10 certainly the Pennsylvania House is. And I agree with
11 Mr. McCloud in his statement, which was very clear as
12 to what was there before they moved in to take it
13 over. The order, as approved, failed to protect again
14 our neighborhood.

15 Condition number 17, starting in the fall
16 of 2001, GW's registration process is required to
17 gather information about local addresses for the full-
18 time undergraduate position, population and record
19 legislation of car licenses. GW is to submit a
20 verifiable number of enrolled students and where they
21 are housed. This is due to be filed with the court
22 and the BZA and the ANC by September the 30th. Mr.
23 Barber, in his testimony on Monday, stated that GW had
24 placed 240 through the housing lobby at Columbia
25 Plaza. If and when this information is filed, you

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1 will find close to 800 being housed there. And by the
2 way, I stopped at the resident at the office and found
3 out that the Columbia Plaza, you might be interested
4 to know, has 800 rental apartments. Three hundred and
5 four are efficiencies, 335 are one bedroom, 158 are
6 two bedrooms, and three are three bedrooms, making the
7 total for 800. And I've got in my testimony, I'm
8 coming to in just a bit, what I spoke about the other
9 day but couldn't put it in.

10 The most egregious violation of this order
11 for me is that it offers no protection from GW's
12 assault on the Columbia Plaza apartment complex. The
13 barren building is one of five buildings that make up
14 Columbia Plaza apartment complex. The apartments were
15 built with federal funds to help the District increase
16 its tax base and to strengthen its financial stability
17 by providing affordable, moderate-income housing to
18 bring back tax-paying citizens to live in the
19 District. Since GW is investment in part ownership of
20 the apartment complex the student population has
21 increased, as I stated, to almost 80 percent, and we
22 think it really is more.

23 The quality of life has diminished, and
24 the safety of the residents has been compromised.
25 I've attached a copy of the notice from management

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1 that a student was held up with a gun in my lobby.
2 And I've been there 25 years, and this was quite
3 shaking.

4 The BZA's Chairs suggested to our small
5 ANC with limited funds and no staff the use of
6 services of a mediator. This was tried in the first
7 half of the year at the suggestion of OP and the
8 Mayor, and the expense was covered by the District.
9 It failed to produce any tangible results. The
10 meetings between OP and GW for the rest of the year
11 failed to resolve any of the basic issues and concerns
12 that would ensure protection of the residential
13 neighborhood.

14 Chairman Reid refers to the results of the
15 Phillips Gallery mediation. It worked because you
16 were dealing with responsible people who wanted to
17 work with the community for what is best for all. I
18 spoke with the person who mediated this agreement and
19 talked about our problem. Phillips, it seemed, paid
20 the fee and put up \$50,000 in addition to see that the
21 agreement was kept. I can't conceive GW would do
22 that.

23 CHAIRPERSON REID: Okay.

24 MS. MILLER: I know I'm not supposed to
25 say that.

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1 CHAIRPERSON REID: No dispersions.

2 MS. MILLER: Okay. All right. I took it
3 out of my statement.

4 A good example of what it takes to make
5 mediation work: The Securities Exchange Commission
6 was invited to send a Board member to South America to
7 assist in setting up a stock exchange for South
8 America -- and I know these things from a fact, by the
9 way. He returned saying the stock exchange is built
10 on trust, and he failed to find people there who could
11 make an agreement, shake hands on it, and keep it.
12 The same request was made to the Securities Exchange
13 by Japan, and today they have a viable, worldwide
14 stock exchange. It works where there is trust.

15 You cannot mediate without trust. And the
16 real issue today between GW and Foggy Bottom/West End:
17 The lack of trust that GW will keep any agreement that
18 is made. The University failed to comply with a 1985
19 campus plan order by acquiring most of the property in
20 Square 43 which they now have filed to build on, in
21 defiance of the campus plan order that this square was
22 to be a buffer between the University and the adjacent
23 residential community. The District failed to enforce
24 the condition of the previous order and no penalties
25 were levied.

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1 The University is failing again to abide
2 by the condition, as information now available and
3 submitted with this statement shows the campus plan
4 2000 through 2009. GW is once again expanding
5 enrollment of freshman over the quota permitted under
6 this plan and housing them in the residential
7 community. I recommend that Condition 9 and the date
8 set for the benchmark enrollment cap of the order
9 should be kept.

10 And the attachment, I have put some news
11 clippings and you'll be happy to see exactly the
12 results of their over-enrollment so that you all can
13 see for yourself. To comply with the enrollment cap,
14 as provided on campus housing, any information
15 included in an agreement with GW should be able to be
16 verified, and I hope you enjoy the attachments.

17 CHAIRPERSON REID: Okay. Thank you, Ms.
18 Miller. Any cross examination, Ms. Dwyer? Okay.
19 Questions by the Board members? Okay. At this point,
20 then, we will now break for lunch, a late lunch at
21 that. And when we return, we will then have
22 recommendations by the Applicant and the persons in
23 opposition as well as the Office of Planning. Now --

24 MR. BERNSTEIN: Madam Chair, if the
25 University has rebuttal, they would be able to do that

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1 before you go into the second phase.

2 CHAIRPERSON REID: Okay. Right. I'm
3 sorry. Rebuttal by the University -- thank you, Mr.
4 Bernstein. Rebuttal by the University, then we'll
5 move on to the second phase. Ms. Dwyer, Mr. Barber,
6 any rebuttal? We changed it.

7 MS. DWYER: We were going to do rebuttal
8 as part of our recommendations, because it's very much
9 tied in with that. So we thought after we come back
10 from lunch it could be incorporated in that.

11 CHAIRPERSON REID: Okay. Can we
12 resequence it?

13 MR. BERNSTEIN: That's fine, but we had
14 envisioned cross examination for rebuttal but no cross
15 for the recommendation, so if you do tie it in, then
16 the parties would have an opportunity to cross examine
17 your witnesses even though you're presenting it in
18 terms of recommendation. Whereas you're not going to
19 be able to cross examine in terms of recommendations.
20 So I just want to clarify that if you do that, that
21 would be the import of that.

22 MS. DWYER: Well, can we separate the
23 rebuttal then and just do a very short rebuttal after
24 lunch and then close it?

25 CHAIRPERSON REID: Okay.

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1 MS. DWYER: And then proceed with
2 recommendations.

3 CHAIRPERSON REID: That would be okay,
4 wouldn't it?

5 MR. BERNSTEIN: Sure.

6 CHAIRPERSON REID: All right. We'll do
7 rebuttal and then if there is any cross. And then
8 while we are at lunch I would ask that it appears to
9 me that for the most part the parties in opposition
10 are of one accord, from what I can garner, and that
11 the proposals that you make, if you could, if it's
12 possible, rather than for five people to say the same
13 thing, to just basically tell us what things you
14 recommend together. And if there is something that
15 deviates from those recommendations by a party, give
16 us that separately. Do you understand what I'm
17 saying? Does that follow?

18 MR. DRAUDE: Madam Chair, James Draude
19 representing the ANC. To summarize, what you're
20 saying is don't repeat yourselves.

21 CHAIRPERSON REID: Right. I mean if --
22 exactly. Thank you. That's enough said on that. So
23 we'll go into lunch, and we'll return, Board members,
24 half an hour since we're kind of running over? At
25 2:45? Does that give everyone enough time to -- three

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1 o'clock, three o'clock. You all can come to us with
2 a joint proposal telling us what you want. I'd
3 appreciate that very much. And then the Applicant
4 will also give us a proposal and Office of Planning.
5 So let's see what we can do. Thank you.

6 (Whereupon, the foregoing matter went off
7 the record at 2:05 p.m. and went back on
8 the record at 3:11 p.m.)

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A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

3:11 p.m.

CHAIRPERSON REID: Okay. Now, let's see, we are to begin with the rebuttal by the Applicant, which will then follow by the closing of the fact-finding part and into the second segment, which is the presentation of proposals for what everyone would like to see done. Okay? All right. Thank you.

MS. DWYER: All right. We have a very brief rebuttal, and that's going to be given by Charles Barber.

MR. BARBER: Thank you. Briefly, to get to Ms. Mitten's question on reconciling Exhibits 3 and 4 in the September 21 submission, the regular admissions process had a deadline for applicants to respond to the Office of Admissions by May 1. They had to be postmarked by May 1, so there were some coming in for a while that came in after May 1. There weren't many. I think there was about -- the numbers reveal about 50. In addition, there would have been a few on the waiting list who have been told relatively late in April who would have been allowed a little bit extra time. So that explains the carryover past May 1. The basic deadline was a May 1 deadline to have it postmarked, their response.

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1 On the broader issue of the admissions
2 process, I'm not going to spend a lot of time on what
3 happened last year, but I think it's important to know
4 that we began our process in the fall. And it is a
5 holistic process. It's a process that has to hang
6 together, that has different parts and pieces, but we
7 were well on our way and right in the midst of it when
8 the February 13 meeting date occurred. And we had
9 some idea of what the order would look like. I've
10 been around too long to believe that you can rely on
11 an oral decision because oral decisions change. And
12 in point of fact, our order did change. Condition 9
13 changed in a significant manner.

14 And so when the March 29 order came out,
15 we were already sending out admissions letters, and we
16 still did not really know what the freeze meant. It
17 capped on the basis of a carve-out and carve-outs that
18 we had proposed as a housing concept not as an
19 enrollment concept, and so it took us a good little
20 while to figure out what approximately that might mean
21 as an enrollment concept.

22 In point of fact, we did have a target.
23 I mean I don't want people to think we did not have a
24 target. I mean based upon our process. Our process
25 we always have a target. A target was set back in the

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1 fall. What this last spring showed is notwithstanding
2 the fact that the University may have a target things
3 can happen outside the University's control that will
4 dictate that you have a larger response and that you
5 will miss your target, and that is significant.

6 What I think the -- what must be
7 recognized what the University did when it became
8 aware of that. It didn't simply say, "Well, we have
9 these students, and we're just going to admit them and
10 they can go fend for themselves out into the
11 community." We moved aggressively to try to
12 accommodate and find housing for them, housing that
13 was not going to bump long-term residents, and we made
14 a significant commitment to do so. And I think that
15 speaks well of the University.

16 Briefly, on Columbia Plaza, it's in the
17 record that we estimate there are about approximately
18 1,600 people in Columbia Plaza -- 800 rooms,
19 approximately 1,600 people. Last fall, we estimated
20 approximately 400 students there with a combination of
21 people who had walked in on the street in the
22 University's program, and we estimate 242, 240
23 approximately from the University's program this fall.
24 I don't know how many have walked in off the street.
25 I don't think the 800 figure is realistic, however.

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1 It's been said that we violated the 1985
2 campus plan order. That is an error. Square 43 was
3 once in the campus plan, it was taken out in '85, and
4 now it's been put back in. When it was taken out, the
5 Board never ordered the University not to acquire
6 property in Square 43. I don't think it could have.
7 And that was the alleged violation, that we acquired
8 property in Square 43, and that was certainly not a
9 violation of the 1985 campus plan order. I think
10 that's all the rebuttal I have.

11 CHAIRPERSON REID: Board members?
12 Questions?

13 COMMISSIONER MITTEN: Madam Chair, I'd
14 like to ask a question about the rebuttal and then if
15 I could just ask a couple of follow-up questions that
16 came to mind over the course of the other testimony.

17 CHAIRPERSON REID: Sure.

18 COMMISSIONER MITTEN: When we were talking
19 before and you had kindly got the response to my
20 questions about the deadlines and the admissions and
21 so on, is that May 1 -- and the exhibits related
22 specifically to freshman, do you have happen to know
23 is the deadline for people to pony up their money the
24 same for students returning so that you would have the
25 retention information at about the same time?

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1 MR. BARBER: I understand the question.
2 Let me think for a minute. Students returning will
3 indicate that earlier, but there is not a deposit
4 deadline. And so we may or may not know that until
5 much later the exact number of returning students.

6 COMMISSIONER MITTEN: Okay. So --

7 MR. BARBER: They will indicate -- they
8 will give an indication, but they won't make --
9 they're not required to put down a deposit.

10 COMMISSIONER MITTEN: Do you know if there
11 is a deadline? There's got to be a deadline at some
12 point where they want to show they're serious.

13 MR. BARBER: Well, if they say they're
14 coming back, we plan for them to come back. And then
15 now there's some who may be dropping out or deciding
16 to stay or not stay during this time period, and
17 there's a final cutoff date for registration. So
18 they're eligible to register if they pre-registered.
19 And then we take a final count six weeks into the
20 semester to get our final enrollment.

21 COMMISSIONER MITTEN: Okay. The numbers
22 that we have for transfer students coming into the
23 University in terms of -- my question is, it seems
24 that there is not the same sort of finite process
25 regarding transfer students where there's a date that

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1 the letters go out and then there's a deadline for
2 them to respond with whether or not they're accepting
3 your offer of admission. Is that true? Is the
4 transfer process more of a rolling process that is
5 more flexible in terms of when you make the offers and
6 when the responses are forthcoming?

7 MR. BARBER: Yes.

8 COMMISSIONER MITTEN: So people -- would
9 you say it's possible people would be offered -- or
10 would be seeking admission and would be offered
11 admission from the University in May or June for
12 transfer?

13 MR. BARBER: Yes.

14 COMMISSIONER MITTEN: Okay. And then when
15 we were having our conversation earlier about the
16 financial impact on the University of controlling the
17 number of undergraduates and the impact that has on
18 tuition and how important tuition is to your operating
19 budget and so on, can you explain to us if you did
20 have a cap on undergraduate enrollment and you have
21 some flexibility with the overall cap, why it's
22 automatically -- why you can't make up the difference
23 with graduate student enrollment?

24 MR. BARBER: That's a good question.
25 These enrollment figures are not spigots that you can

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1 turn off and on. You cannot automatically say, "Well,
2 look. We are going -- the undergraduate is limited
3 and so we're going to bump up the graduate
4 enrollment." You can make efforts to do that. You
5 can try to beef up your program, you can send out some
6 more admissions, but that really is dependent upon
7 some factors, again, kind of outside your control in
8 terms of demographics, how many people are interested
9 in graduate programs, how your graduate programs rank
10 up against others whom you are competing with. We are
11 interested in increasing our graduate enrollment, and
12 we've made efforts, but we haven't always been
13 successful in that, so it's not something you can
14 automatically say, "All right, I'm short here; I will
15 automatically make it up in here."

16 COMMISSIONER MITTEN: Just to follow up,
17 and I understand, especially in a given year you don't
18 just go, "Oh, yes, you know, I sent out more letters
19 to the graduate students."

20 MR. BARBER: Right.

21 COMMISSIONER MITTEN: But there is -- it's
22 not -- would it be fair to say that just because you
23 have the inability to, say, capture some additional
24 undergraduates, that doesn't necessarily mean that
25 it's appropriate to suggest that forever that level of

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1 income is unavailable to you, because there is some
2 opportunity to make up the difference with graduate
3 students?

4 MR. BARBER: Over time, the University
5 could do that, depending upon how successful it was in
6 its graduate programs. No guarantee, but that
7 possibility exists, yes.

8 COMMISSIONER MITTEN: Thank you.

9 CHAIRPERSON REID: I'll follow-up on that.
10 Mr. Barber, a segue with what Ms. Mitten just said,
11 what roughly is the percentage of undergraduate to
12 graduate students, the ratio?

13 MR. BARBER: It is about 50/50. What I'm
14 hesitating on is I don't know the part-time. So if
15 you're talking about total head count, we have about
16 600 to 700 full-time graduates compared to -- I'm
17 sorry, 6,000 or 7,000 full-time graduates as opposed
18 to 8,000 full-time undergraduates, but I don't know
19 how the part-time split comes into play to make up our
20 total enrollment. But it's roughly 50/50.

21 CHAIRPERSON REID: Okay. In the assertion
22 that there's a possibility of being able to make up
23 any shortfall in the undergraduate enrollment by the
24 increased graduate enrollment, how probable, how
25 plausible is that?

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1 MR. BARBER: It's a crap shoot. The
2 University, if it knew that, it could patent that. I
3 mean that's the kind of thing that colleges and
4 universities struggle with all the time. Sure, an
5 institution might like to grow a particular part of
6 the student population, but it's ability to do so is
7 quite limited. A lot of it is demographics, some are
8 accreditation issues. We have a number of factors
9 that impinge on our effort to dictate what our
10 enrollment would be in any particular category, even
11 over a period of, say, five years. The things you can
12 do, you can try to make your graduate program more
13 attractive, but you can't necessarily increase the
14 enrollment. It's not a given. It's a -- you can't
15 say it's probable at all.

16 CHAIRPERSON REID: Okay. One last
17 question: As to accreditation --

18 MR. BARBER: Yes.

19 CHAIRPERSON REID: -- what is the
20 accredited entity for George Washington?

21 MR. BARBER: For the undergraduates, it's
22 the Middle States Atlantic, and then different schools
23 have different accrediting bodies, like the law school
24 has the ABA and the medical school has the ABA -- AMA.

25 CHAIRPERSON REID: Okay. Now, the

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1 accreditation entities like Middle States Atlantic is
2 what you said?

3 MR. BARBER: Yes.

4 CHAIRPERSON REID: Do they have guidelines
5 that you have to adhere to as to the percentage of
6 undergraduate and graduate enrollment?

7 MR. BARBER: No. No one kind of dictates
8 that.

9 CHAIRPERSON REID: What then would be some
10 of the parameters that would pertain to accreditation
11 as it relates to --

12 MR. BARBER: Enrollment?

13 CHAIRPERSON REID: -- enrollment?

14 MR. BARBER: Yes. Faculty/student ratio,
15 number of classrooms --

16 CHAIRPERSON REID: Okay.

17 MR. BARBER: -- type of facilities in
18 terms of laboratories and the like.

19 CHAIRPERSON REID: Okay. All right.
20 Thank you very much. Ms. Renshaw?

21 VICE CHAIRPERSON RENSHAW: First, just a
22 short statement, Madam Chair. I want to put on the
23 record that I was and am very uncomfortable this
24 morning with eliminating or curtailing or censoring
25 any testimony that comes before this Board. No answer

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1 or response is necessary. I just wanted to make that
2 statement.

3 And my question to Mr. Barber, in response
4 to an earlier question from Ms. Mitten, you made the
5 comment -- she had asked, "Why can't you make up the
6 difference with graduate enrollment," and you said
7 something about, "Well, it depends on who you're
8 competing with." And so I wanted to know who is GW
9 competing with? I take it that that's another
10 university or universities. And are you competing on
11 the undergraduate level or on the graduate level
12 programs?

13 MR. BARBER: We compete across the board,
14 and it may be different institutions based upon the
15 segment of the -- which segment of the institution
16 you're talking about. We have what's known as a
17 market basket of institutions on the undergraduate
18 level with whom we are competing: Georgetown, Johns
19 Hopkins, several others come to mind. On the graduate
20 level, there are different institutions. I don't know
21 them off the top of my head, but we are -- the people
22 who run the graduate program know who their
23 competitors are. They know where the people who may
24 apply to GW where they also apply to other
25 institutions and where they may decide to go.

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1 So we know who we're competing with, and
2 we know who we lose students to, but the concept is a
3 market basket of schools for each -- not each separate
4 program but certainly on a graduate and undergraduate
5 level. Same is true for the law school, same is true
6 for the medical school.

7 VICE CHAIRPERSON RENSHAW: Okay. So
8 you're very market-driven.

9 MR. BARBER: Yes.

10 VICE CHAIRPERSON RENSHAW: All right.
11 Thank you.

12 CHAIRPERSON REID: Okay. All right.

13 MR. BARBER: And may I make one other
14 point?

15 CHAIRPERSON REID: Yes.

16 MR. BARBER: On the graduate enrollment,
17 our graduate enrollment has declined since 1985. It
18 hasn't been a steady decline. It went up, and then
19 since 1990 I think it has declined. And, again, it is
20 sensitive to a number of forces, demographics being
21 one, the economy being another, particularly since
22 '95. As the economy got better, our graduate
23 population went down. And the thinking was as people
24 -- as jobs were plentiful, people decided to take jobs
25 rather than go back to school or get an advanced

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1 degree.

2 Will that turn around if the economy goes
3 into a recession? We don't know; we'll look at that.
4 But, again, it's those kinds of factors outside the
5 University's control which would cast doubt on whether
6 the University could, because it will -- because it
7 has an intention to increase its graduate program,
8 whether it will in fact be able to do so.

9 VICE CHAIRPERSON RENSHAW: Mr. Barber, has
10 GW's not-for-credit courses increased over the, say,
11 the last two years where people are attracted to the
12 University campus, not necessarily to get degrees but
13 for enrichment purposes? Have you -- because you say
14 your graduate population went down, you are still,
15 again, in this marketing mode, you need to have money
16 coming into the University, so you're offering, say,
17 non-credit courses for the general public.

18 MR. BARBER: Yes. We do have that.

19 VICE CHAIRPERSON RENSHAW: And how many
20 programs do you have? And have they -- have the
21 numbers of those courses gone up over the past, say,
22 two years?

23 MR. BARBER: Our continuing education
24 program is successful, but success in that area means
25 you're not talking about a large number of students or

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1 a large amount of income, because we're not talking
2 about full tuition. We're talking about short courses
3 at a flat-fee rate. And so it performs a valuable
4 service, but it's not a significant source of income
5 or a significant source of bodies, of people coming to
6 the Institution. And some of these programs are not
7 even run at the Foggy Bottom campus.

8 VICE CHAIRPERSON RENSHAW: Are not run?

9 MR. BARBER: Yes. Some of them are not.

10 VICE CHAIRPERSON RENSHAW: Can you tell me
11 how many are and are not?

12 MR. BARBER: No, not off the top of my
13 head. Continuing education is not a significant
14 source of students on the Foggy Bottom campus. We
15 have programs off of K Street and in other parts of
16 the City, sometimes in coordination with other
17 institutions. I don't know how many really are at GW
18 at the Foggy Bottom campus, per se.

19 CHAIRPERSON REID: Okay. Thank you. Any
20 other questions, Board members? All right. Let's see
21 now, where are we? Than then --

22 MR. BERGMAN: Give me a cross examination.

23 CHAIRPERSON REID: If anyone has any cross
24 examination or questions for rebuttal, you're welcome
25 to do so at this time. If in fact there are cross

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1 examination questions regarding the rebuttal
2 statements, only the rebuttal statements, if you have
3 a question that you want to ask regarding the rebuttal
4 statement, then -- Ms. Tyler, you do?

5 MS. TYLER: Yes.

6 CHAIRPERSON REID: Okay. Come forward.

7 MS. TYLER: Thank you. My name is Maria
8 Tyler, ANC-2A-03. It's not cross examination. I only
9 wanted to verify Mr. Barber's figure. He mentioned
10 the total number of graduate students, and I would
11 like confirmation of that. I understood it to mean
12 full-time and part-time to be now around 6,700. In
13 '99, the figure was 8,470. So that is a decrease of
14 about over 50 percent. And I just want you to confirm
15 that that is what you Office of Institutional --
16 whatever it's called -- Research has provided to you.

17 MR. BARBER: I was only speaking about the
18 full-time graduate program. I told you I --

19 MS. TYLER: Only the full-time.

20 MR. BARBER: -- wasn't sure about the
21 part-time graduate.

22 MS. TYLER: That means that the full-time
23 graduate enrollment has increased during this period
24 from '99 -- from 1999, not decreased but increased.
25 You mentioned a decrease.

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1 MS. DWYER: Madam Chair, I object. I
2 think she's testifying as opposed to --

3 MS. TYLER: No. From --

4 CHAIRPERSON REID: I was hoping that she
5 would make that into a question if she said, "That
6 means that, da, da, da, doesn't it?"

7 MS. TYLER: Okay, yes.

8 CHAIRPERSON REID: Or something like that.
9 I was assuming that's where she was going with that.

10 MS. TYLER: Sorry, Madam. Am I correct
11 then to understand that instead of a decrease in full-
12 time graduate students which you mentioned that has
13 occurred in fact since 1985 a figure of 6,700 would
14 actually indicate a not insignificant increase.
15 Because the figure, for example, in 1999 was --

16 MS. DWYER: Madam Chair, I would object.
17 She's --

18 MS. TYLER: -- 4,619.

19 MS. DWYER: Madam Chair, she's referring
20 to a document that is not in the record, and I would
21 just ask Mr. Barber to answer the question based on
22 the testimony he gave, as opposed to responding to a
23 document that's not on the record.

24 MS. TYLER: Well, I only ask my question
25 based on the testimony that Mr. Barber made right now,

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1 and I limited it just to that. I wanted to have a
2 clarification of the figures, because it's the
3 enrollment figures that drive the engine, and we
4 really would like to get on top of them once and for
5 all.

6 CHAIRPERSON REID: Okay. Mr. Barber, if
7 you can --

8 MR. BARBER: I said I was focused on full-
9 time graduate enrollment, and it has fluctuated since
10 1985, but it has generally declined in the '90s.
11 That's my testimony.

12 CHAIRPERSON REID: And the question that
13 was put to him, unfortunately, I proffered the
14 question to him based on -- I simply said graduate
15 enrollment, and I didn't specify what the breakdown
16 would be.

17 MS. TYLER: Yes, but I wanted to clarify
18 Mr. Barber's statement that the graduate enrollment
19 has gone down. And he mentioned a figure of 6,700,
20 and he now just mentioned that these were full-time.

21 MR. BARBER: No, 6,000 or 7,000 is what I
22 --

23 MS. TYLER: Sixty seven hundred.

24 MR. BARBER: Six to seven thousand. I
25 said --

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1 MS. TYLER: All right, 6,000 to 7,000.
2 And you mentioned in that same vein, didn't you, that
3 the graduate full-time, or whatever, the graduate
4 enrollment has gone down? Well, 6,000 to 7,000 is a
5 not insignificant increase over the 4,619.

6 MS. DWYER: Madam Chair --

7 MS. TYLER: And I'm asking Mr. Barber to
8 correct his previous statement or maybe I
9 misunderstood his previous statement.

10 MS. DWYER: I would object again.

11 CHAIRPERSON REID: Okay. I think --

12 MS. DWYER: She's challenging his
13 testimony.

14 CHAIRPERSON REID: Okay. Sustained,
15 sustained. I think that -- Ms. Tyler, this is just --
16 I think that we don't have enough information, and
17 then you get into the matter of what do you mean?
18 Full-time or part-time or full-time and part-time
19 combined? I think that he was talking about -- I just
20 asked as far as graduate students. I think he meant
21 full-time. And then you're asking about full- and
22 part-time combined. And it just gets to be -- I think
23 that it's not something that you can just answer --

24 MS. TYLER: Madam Chair, it's because his
25 testimony that he presented now was not clear.

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1 CHAIRPERSON REID: Okay.

2 MS. TYLER: Therefore, I came forward not
3 necessarily even to cross examine but just to clarify
4 it, because I did not understand what figures he was
5 talking about. Because if it included both graduate
6 and undergraduate, then in fact there was a decline,
7 a decrease. But if he just mentioned that this 6,000
8 to 7,000 is only full-time graduates, then in fact
9 there was a significant increase between '99 and now.

10 MS. DWYER: Madam Chair, what I would
11 suggest is we -- I know -- I don't have it in front of
12 me to say definitively to say what the numbers are,
13 but I know that we have in the record -- there's a
14 summary that the University provided that shows in
15 1985 about the full-time equivalent undergraduate,
16 full-time equivalent graduate, and we can compare that
17 to the new information that we have. So it's not
18 productive to debate this right now. We have
19 information in the record that we can use.

20 MS. TYLER: Up to the present time, up to
21 the present time, the figures that he's --

22 MR. BARBER: I can make a call if
23 necessary. I mean this is from the top of my head.

24 CHAIRPERSON REID: I think --

25 MS. TYLER: If that is in the record, I

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1 don't have any further questions. But I just --

2 CHAIRPERSON REID: I asked Mr. Barber to
3 give me an estimate, and I think that it would be
4 better when we break the next time if you would get
5 the exact figure. Because I mean this is so -- this
6 whole -- the count and the numbers are just so
7 important that I guess we just don't want to leave
8 them to guesstimation and estimation, and we can get
9 better figures for you, Mr. Tyler, if that would help.

10 MS. TYLER: Thank you, Madam Chair.

11 CHAIRPERSON REID: Thank you.

12 MR. BARBER: That's fine.

13 CHAIRPERSON REID: Boy, why did I go
14 there? I didn't mean to open that up like that.
15 Okay. Come forward, please.

16 MR. SHALIT: I just have a couple of
17 questions. The first one relates to Mr. Barber's
18 response to Ms. Renshaw's questions about courses that
19 are non-credit and non-degree and enrichment type.

20 COMMISSIONER MITTEN: That was not part of
21 the rebuttal testimony. That was follow-up testimony
22 by Ms. Renshaw.

23 MR. SHALIT: Oh. So I cannot ask a
24 question on that?

25 CHAIRPERSON REID: No, not on that.

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1 MR. SHALIT: Okay. Can I ask a question
2 about Mr. Barber's statement right now about the
3 enrollment as influenced by the economic conditions
4 that he's -- can I --

5 CHAIRPERSON REID: Yes.

6 MR. SHALIT: Can I say that?

7 CHAIRPERSON REID: Yes, you can.

8 MR. SHALIT: Okay. My question was is if
9 indeed when the economy improved fewer people were
10 enrolled, as I think I heard him say that, why was it
11 that the University tried, according to the record, to
12 compensate for an economy that is going to slow down,
13 according to the record of the University, by
14 increasing the number of admissions? Why is that in
15 the opposition direction of the experience? I just
16 don't understand that.

17 MR. BARBER: I'm not sure I understand the
18 question.

19 CHAIRPERSON REID: Well, I'm not sure I
20 understand either. Can you simplify that a little
21 bit, Dr. Shalit? Make it a little simpler.

22 MR. SHALIT: The question is the
23 University has argued that one of the reasons for
24 sending a lot of letters of admissions, the action --

25 CHAIRPERSON REID: Right.

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1 MR. SHALIT: -- one explanation was that
2 they tried to head off a slowdown in the economy and
3 therefore they wanted to send more. Now, if the
4 effect is just the opposite, how can you explain that?

5 CHAIRPERSON REID: Okay. Let's stop there
6 with the premise. Is that true?

7 MR. BARBER: No.

8 MR. SHALIT: It was in Dr. Napa's
9 testimony.

10 CHAIRPERSON REID: Whose testimony?

11 MR. SHALIT: Dr. Napa's testimony.

12 CHAIRPERSON REID: Who?

13 MR. BARBER: Madam Chair, I think we're
14 going into the issue of what happened last year, as
15 opposed to a more general question.

16 MR. SHALIT: I withdraw the question.

17 CHAIRPERSON REID: Oh, okay. Okay. Thank
18 you. All right. Now, we conclude now the portion of
19 this hearing as to the fact-finding aspect, and we go
20 now to the presentation of proposals. I guess the
21 Applicant to go first, then Office of Planning, and
22 then from the opposition of the community.

23 MS. DWYER: All right. Madam Chair, on
24 behalf of the Applicant, we have filed in writing the
25 proposal that you're going to hear about from Mr.

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1 Barber. The University is proposing new language for
2 Condition Number 9, which is contained at Exhibit 3 to
3 our filing today. And as a result of that, it
4 necessitates a change to Condition Number 2, which is
5 what we've included at Exhibit 4.

6 Mr. Barber is going to address that, and
7 in doing so, he will discuss the rationale for the new
8 proposal by the University. And some of the materials
9 that lay the basis for the suggested language can be
10 found at Exhibit 5, and he will be referencing those
11 as he speaks.

12 CHAIRPERSON REID: Okay. You know, we
13 have limited the proposal presentations to 15 minutes.
14 Can you do it within 15 minutes?

15 MS. DWYER: Yes, we can.

16 MR. BARBER: Yes.

17 CHAIRPERSON REID: Okay. Thank you.

18 MR. BARBER: Thank you. We have taken as
19 a goal for the purpose of this that the University's
20 goal in its operations and this proceeding is to
21 maximize, to increase the amount of housing for full-
22 time undergraduates that we provide in a way that does
23 not displace long-term residents. And I've told you
24 about the concerns we've had about displacement,
25 legally and as a moral basis, that this a community

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1 that students should be limited in. And we do not
2 adhere or buy into that. But for the purpose of -- we
3 recognize we want to live in this community and get
4 along with our neighbors. For this purpose, we've
5 come up with this proposal. And, again, the key is to
6 increase the housing without displacing long-term
7 residents.

8 In that vein, what we propose is that
9 where we house our students would be on campus, as
10 presently defined. We think Square 122 should be
11 included in that, because as we've talked about,
12 Square 22 -- and let me put the map up -- is owned
13 almost entirely by the University with the exception
14 of a commercial parking garage. But the housing we
15 are currently building that is on that site is not now
16 counted with the campus boundaries, because that site
17 is not entirely within the campus boundary.

18 And the next three are existing off-campus
19 facilities: a hall on Virginia Avenue, Aston, and
20 City Hall, all within one to two blocks of the
21 University. They were transient housing. Their uses
22 were transient housing. They have been acquired,
23 either purchased or in City Hall a long-term lease, a
24 15-year lease, 14-year option to buy, a substantial
25 investment for the purpose of housing students -- a

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1 legitimate purpose under the zoning regulations for
2 those facilities and that do not involve displacement,
3 because, again, they were transient houses.

4 We have not included, for the purposes of
5 this proposal, the Pennsylvania House, which has been
6 discussed here. We would not count that in our
7 housing commitment. We have not included any
8 students, whether through a University program or on
9 their own reside in Columbia Plaza. That would not
10 count in our housing program.

11 What we have included is in case we get a
12 bump where can we look to provide housing? We propose
13 to include transient and commercial housing in Square
14 58 and 81.

15 MS. DWYER: And behind Exhibit 5 included
16 in that is a colored map that better shows Squares 58
17 and 81. And this is the same map and exhibit that
18 was previously filed in the campus plan case, so it's
19 not a new exhibit. It was Exhibit Number 271. And it
20 gives you an idea of what is happening in those
21 squares and shows you that from the University's
22 perspective and the city's we do not believe that
23 those squares represent long-term residential use.
24 They are predominantly transient and commercial.

25 MR. BARBER: There are two townhouses in

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1 Square 58 that are used for private residential
2 purposes and four in 81. And we're not talking about
3 including all those squares in the campus plan,
4 although that is a possibility. What we have proposed
5 is that we could acquire transient or commercial uses
6 in those squares and put housing on them. This is
7 directly adjacent to our campus. Again, there would
8 be no displacement.

9 What we would achieve with this housing is
10 maintain, at a minimum, going forward, a commitment to
11 house 70 percent of our full-time undergraduate
12 population in these areas. We had proposed earlier
13 before the remand to house 70 percent in five years,
14 and we had some conditions to those kinds of sites.
15 This is a firm commitment. This housing is already in
16 place.

17 In three years, we believe we can get to
18 75 percent, 75 percent as a minimum, as a bottom line
19 commitment, by fall of 2004, assuming that we can go
20 forward with the development that we've already filed
21 for on Squares 43 and 57 and assuming, of course, that
22 122 is concluded, which it's scheduled to be concluded
23 by fall of 2003. Again, we believe we can get to 75
24 percent within this three-year time frame.

25 We would then -- we think an 80 percent

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1 goal is a realistic goal. We have identified it as a
2 goal within the time frame of the campus plan, because
3 here we get into contingencies. There are spaces on
4 the University campus that might be developed for
5 housing, but several of them have contingencies and we
6 don't feel comfortable about committing to 80 percent,
7 given those contingencies. We do commit to work in
8 good faith to removing -- to address those
9 contingencies, but we think the 80 percent goal makes
10 sense.

11 These housing commitments take into
12 consideration the carve-outs. The carve-outs, as I
13 said, are appropriate for a housing commitment.
14 They're not appropriate for an enrollment kind of
15 concept. And I think the preferred course of action,
16 which I discussed with Commissioner Mitten, which is
17 to count the commuters, count the people who reside
18 outside the Foggy Bottom/West End area who have
19 housing and don't need to be brought into this area,
20 exclude them, and to apply a five percent to the other
21 categories.

22 And I've shown you the numbers, why that
23 five percent makes sense. I, quite frankly, think
24 it's a conservative number. I think that five percent
25 could go up, because we're seeing a higher population

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1 of our students who are disabled. But I think for
2 ease of reporting, ease of calculation, that five
3 percent plus the actual number of commuters makes
4 sense as a carve-out.

5 Once the housing on Square 43 and 57 is
6 available, we will commit that we would not include in
7 the Columbia Plaza Referral Program or we would limit
8 that only to graduate students and students with
9 children. We think that more mature population should
10 ameliorate some of the concerns.

11 We have, finally, a significant sanction.
12 There has been a lot of discussion about what happens
13 if we don't meet this housing commitment, and there
14 was some -- in this hearing and in past hearings. And
15 so we've taken a significant step forward in that
16 regard. We are proposing that if the University fails
17 to meet this housing requirement, either in one, two
18 or three, or in a, b, and c, that we pay a fine of
19 \$100,000. It's a significant amount of money.

20 We think the fine should go to a public
21 benefit purpose in the Foggy Bottom/West End area.
22 We're not going to define exactly what that is today,
23 but it could be public schools, could be public
24 libraries, could be public improvement of public
25 space, some non-GW public benefit in the Foggy

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1 Bottom/West End area. And that the University be
2 given a one-year opportunity to cure the deficiency.
3 The principle here is preserving housing for -- not
4 taking housing from long-term residents but allowing
5 the University the flexibility to operate its
6 business.

7 We've had a lot of discussion about how
8 that business works, and there's some very bright
9 people on this Board. But as many questions as you
10 ask, you will not know how this University works as
11 well as the University does. I've been in higher
12 education for 16 years -- ten years with Howard
13 University, six years with George Washington. There
14 are aspects of the operation of George Washington
15 University that I'm still learning.

16 I think we need conditions that are
17 feasible. A freeze or even a restrictive cap on our
18 undergraduate population, a separate cap on our
19 undergraduate population we don't believe is feasible.
20 That's been the experience of this past spring.

21 With all due respect to the Office of
22 Planning, the time and effort that they've put into
23 this case, their recommendation of one for one, to
24 have one new bed for every additional undergraduate --
25 full-time undergraduate student, we don't think is

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1 feasible. By the time we knew that we had more
2 students than we had planned for we could not provide
3 that number of beds on campus. It takes at least
4 three, sometimes five years to build new beds.

5 This proposal focuses on maintaining the
6 proper balance between our undergraduate enrollment
7 and the amount of housing we provide. And if you give
8 us the flexibility of where that housing can be
9 provided and what we have provided is to protect the
10 long-term residential properties, then we think we can
11 maintain that proper balance. And the stick is, of
12 course, is that \$100,000 fine which is, in my mind and
13 my experience, unprecedented for any type applicant in
14 this situation.

15 The other full consideration, where else
16 could would we be able to provide housing? Outside
17 the Foggy Bottom/West End area also should be included
18 in the bullets under A. The thinking is if need be
19 the University could look to Reston or other parts of
20 the City for that matter to rent a hotel in order to
21 house the students and if necessary to run a shuttle.
22 That would not be our preferred approach, but that
23 would, again, operate as a safety valve. So, again,
24 if we find our enrollment shoots up, we have a way to
25 try to deal with that expeditiously without infringing

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1 on the long-term residents of Foggy Bottom/West End.

2 CHAIRPERSON REID: Mr. Barber, do you say
3 Reston? Did you say Reston and did you mean Rosslyn?

4 MR. BARBER: It was just an example. I
5 probably said Reston. Reston's a little too far out,
6 isn't it?

7 CHAIRPERSON REID: Right.

8 MR. BARBER: Might as well go to
9 Pittsburgh.

10 (Laughter.)

11 CHAIRPERSON REID: Right. Rosslyn is more
12 like right across the bridge.

13 MR. BARBER: Right. Right. Rosslyn.
14 Yes.

15 VICE CHAIRPERSON RENSHAW: Reston would be
16 fine.

17 (Laughter.)

18 MR. BARBER: You like Reston. Yes, I'm
19 sure. That, in essence, is our proposal. Again, we
20 had offered the one that we mentioned at the last
21 hearing on the student parking as a substitute for
22 15(c). I think it's wrong to get the University
23 involved with the registration of -- the enforcement
24 provisions of District law for registering student
25 cars. And that's what the existing Condition 15(c) I

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1 believe does.

2 And what we have proposed is a policy that
3 discourages students from bringing cars to campus and
4 specifically says that sophomores and freshman
5 residing in Foggy Bottom should not bring cars to
6 campus. I'm sorry, it's a substitute for 15(e) in the
7 current order. We think that will be a better way to
8 go.

9 We think, quite frankly, cars are a
10 distraction for our students, and so we feel such a
11 policy would be a good thing. We don't believe that
12 there's anything in the record that supports, again,
13 that our students are parking on Foggy Bottom/West End
14 streets in large numbers, certainly not in any kind of
15 numbers that would justify 15(e). So we think our
16 policy of discouraging students would be a preferable
17 one and a substitute for 15(e).

18 I believe that's the totality of the
19 recommended conditions.

20 CHAIRPERSON REID: Thank you very much.
21 Board members?

22 COMMISSIONER MITTEN: Can we just ask a
23 question or two about the proposal?

24 CHAIRPERSON REID: That's what I'm saying.

25 COMMISSIONER MITTEN: Okay.

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1 CHAIRPERSON REID: It's time now for
2 questions from our Board members.

3 COMMISSIONER MITTEN: Great. Shall I
4 proceed? Mr. Barber, you said you wanted to add to
5 the list of places in 9(a); that you would want to
6 include facilities outside the Foggy Bottom area. And
7 wouldn't those students then be -- they would be
8 carved out of the count, right?

9 MR. BARBER: Yes, they would be commuters.

10 COMMISSIONER MITTEN: Okay.

11 MR. BARBER: Right. That's why -- I
12 thought it was kind of implicit because they are
13 commuters and would be carved out, but I thought I'd
14 make it explicit that this was something that -- this
15 was an area also that the University could -- I guess
16 there are two different ways of looking at it: One,
17 they're carved out so you don't count them or as a way
18 of meeting our 70 or 75 percent housing commitment,
19 you could also count the students that we house in
20 Columbia Heights. That's the concept.

21 COMMISSIONER MITTEN: Madam Chair, I would
22 just like you to indulge me in one question that grows
23 out of this proposal that I just -- it's too tempting
24 not to ask.

25 CHAIRPERSON REID: Okay.

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1 COMMISSIONER MITTEN: If I could just ask
2 one, which is given the fact that you've lived with
3 this whole process for so long so you know all the
4 sensibilities and you know what the Ward's been trying
5 to do and all of that and you have made this proposal
6 that you would want to -- it wouldn't be your first
7 choice but in order to help to alleviate this problem,
8 you would consider housing students outside the Foggy
9 Bottom area. When you had this over the excessive
10 size of the freshman class that caught you by surprise
11 why didn't you seek a place outside of this highly
12 sensitive area to put them?

13 MR. BARBER: I will respond to that.
14 We've had a dialogue about housing -- acquiring
15 housing and housing students outside the Foggy Bottom
16 area. That, quite frankly, is not our first choice.
17 Our administration believes that people come to the
18 District to be close to the downtown area. That's why
19 they come -- I'm sorry, they come to George
20 Washington. And that building a community here in
21 Foggy Bottom with our neighbors is our first priority.
22 If it became necessary in order to meet our housing
23 requirement, that's something that we should look to,
24 but that's not what we would look to first.

25 What this says, though, is that we -- it

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1 specifies where we would look in order to meet our
2 housing requirement. We'd have to -- most of these
3 are existing. Square 58 and 81, there are a few
4 properties, not many, but there are a few that we
5 might purchase that could be used for housing. But to
6 the extent that we couldn't make our housing
7 requirement based on that, then we would be forced to
8 look outside of Foggy Bottom/West End area, and that
9 is a concession. That's not something that we have
10 traditionally done.

11 Quite frankly, our administration feels
12 that students want to be close to the University, but
13 we're putting that on the list as something that we
14 would consider in order to meet this housing
15 requirement so that we're not flooding the local
16 neighborhood with students in the event that we have
17 a bump in our enrollment.

18 COMMISSIONER MITTEN: Thank you.

19 MEMBER LEVY: Madam Chair?

20 CHAIRPERSON REID: Yes.

21 MEMBER LEVY: I have a couple of
22 questions. You had said -- Mr. Barber, you talked
23 about the contingencies tied to certain parcels.
24 Could you elaborate on that, what those are?

25 MR. BARBER: We're looking at schools

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1 without walls sites. The school without walls is
2 located in the middle of the University's campus. It
3 has properties surrounding it, and we have some vacant
4 property, some tennis courts and some other property.
5 We would like, and we've made no secret of this, to
6 enter into a joint development that would include a
7 new school without walls as well as student housing.
8 And we could, if we did a joint development, have more
9 housing on that site than we could by simply using GW
10 property. That's by no means a guarantee. We've had
11 some initial preliminary discussions about that. We
12 hope to pursue that, but that's one of the
13 contingencies.

14 We're also looking at what replaces the
15 existing hospital site. That's a prime real estate on
16 commercial corridor, and we have done some planning
17 about what make sense for that site, both from a land
18 use policy and a traffic and an environmental
19 standpoint. Housing could be part of that mix, but
20 that's a contingency. It would require some rezoning,
21 we believe, for the kind of mixed use we think is
22 appropriate for that commercial site, and that
23 rezoning is a contingency that comes into play. Those
24 are two big ones.

25 MEMBER LEVY: Okay. Also, in 9(a), you

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1 talk about Square 122.

2 MR. BARBER: Yes.

3 MEMBER LEVY: Are you referring -- is that
4 the site that's -- is that the PUD that's currently at
5 the Zoning Commission?

6 MR. BARBER: Yes, it is.

7 MEMBER LEVY: Okay.

8 MR. BARBER: That's the one we had recent
9 agreement on the West End Citizens' Association on
10 retail use and so forth.

11 MEMBER LEVY: Right. And Squares 43 and
12 57, those are the two applications you have in now?

13 MR. BARBER: Yes.

14 MEMBER LEVY: For residential.

15 MR. BARBER: Yes. And that's why we
16 believe in three years it would make sense to count
17 those, assuming we can go forward with those.

18 MEMBER LEVY: Okay. And, in general, you
19 talk about Conditions 9 and 15(e)?

20 MR. BARBER: Yes.

21 MEMBER LEVY: In the package, there's
22 information related to Condition 2?

23 MR. BARBER: Yes, I'm sorry. Condition 2
24 is more of a housecleaning. It falls -- if the
25 conditions that the University proposes in nine are

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1 accepted, then two would have to be adjusted
2 accordingly to include the property in Square 122.
3 That's what Condition 2 is.

4 MEMBER LEVY: Oh, okay.

5 MR. BARBER: It's tied to nine as a
6 housekeeping kind of -- for consistency kind of
7 proposal.

8 MEMBER LEVY: Okay. Thank you.

9 MR. BARBER: Okay.

10 VICE CHAIRPERSON RENSHAW: Just to
11 clarify, I'm looking at Exhibit Number 310, the map
12 that you had provided on the 17th of September. In
13 Square 122, it would be just the dotted line
14 arrangement, not the entire square?

15 MR. BARBER: What we would propose is
16 bringing the campus plan boundary around the Elliott
17 School site. It makes sense to include the entire
18 square, but if you want to carve out the commercial
19 office -- the commercial parking garage, I mean we
20 don't own that, I think our preference would have the
21 entire square in. It doesn't adversely impact the
22 owner of the commercial parking garage, and if the
23 University were to ultimately acquire that, we could
24 fold that into our operations. But we can go either
25 way on that. The main intent is to include the

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1 Elliott School within the campus plan boundary. And
2 right now the Elliott School site is outside the
3 campus plan boundary.

4 VICE CHAIRPERSON RENSHAW: Right. And you
5 had mentioned Square 81 and 58 --

6 MR. BARBER: Yes.

7 VICE CHAIRPERSON RENSHAW: -- that you
8 want to be in housing, in the housing mix.

9 MR. BARBER: Yes.

10 VICE CHAIRPERSON RENSHAW: And I see the
11 dotted line on Exhibit 310 is around, it looks like,
12 most of 58, if not all of 58, and then it cuts back
13 up. And most of 81 is not in your proposal.

14 CHAIRPERSON REID: That's the one that --

15 MR. BARBER: Let me explain further. Let
16 me look at the other map and see if that's clear.

17 MS. DWYER: Ms. Renshaw, the map that
18 you're referring to, which Mr. Barber is getting,
19 those are the redrawn BZA boundaries, which include
20 some of the squares but not all.

21 VICE CHAIRPERSON RENSHAW: Understood.

22 MR. BARBER: Let me explain. This shows
23 it a little bit better. But, basically, only part of
24 81 and a part of 58 are included in the campus plan
25 boundary. What the Board did with its March 29 order

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1 was say the properties that the University owned as of
2 March 29 in those -- in Squares 43, 58, and 81 were
3 included into the campus boundary. Let me show you
4 the -- we have not provided a definitive map because
5 there were some errors about naming specific addresses
6 in those squares, but if you look at the map that we
7 gave you today in Tab 5, Square 58, it's basically
8 those shaded areas that shows GW's ownership in
9 Squares 58 and 81 which were brought into the campus
10 plan. The other areas remain outside the campus plan.
11 What we have proposed is if there's an objection to
12 bringing all those squares into the campus plan, then
13 let us do housing as one of the possible sites on
14 transient and commercial uses in those two squares.
15 That's the proposal.

16 CHAIRPERSON REID: Okay. I just had a
17 quick question. Mr. Barber, in regard to the carve-
18 out on your proposed Condition Number 9(b) --

19 MR. BARBER: Yes.

20 CHAIRPERSON REID: -- it goes into, "For
21 ease of reporting and in deference to the sensitive
22 nature of these categories, students in these
23 categories would be covered by a flat five percent
24 carve-out." Now, let me understand this. You're
25 saying that you want to rather than that number

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1 fluctuating and trying to put your arms around a
2 definitive number, that you just want to make it just
3 a straight five percent across the board.

4 MR. BARBER: For those categories -- the
5 married students, students with disabilities, students
6 with religious --

7 CHAIRPERSON REID: Right. Yes, I
8 understand that.

9 MR. BARBER: Yes, but not the commuters.

10 CHAIRPERSON REID: That's where I'm going.

11 MR. BARBER: Okay.

12 CHAIRPERSON REID: Now, the commuters. So
13 it's five percent plus the commuters?

14 MR. BARBER: That's right.

15 CHAIRPERSON REID: All right. Now, is
16 there -- do you think that there's a possibility of
17 being able to increase the five percent to a number
18 that would encompass the commuters as well, rather
19 than that being a number that is just kind of --

20 MR. BARBER: The other way to go, I
21 suppose, is to have a 15 percent carve-out. I mean
22 based upon current data, this carve-out is a -- this
23 year and last year is about 15 percent of our full-
24 time undergraduate population. I just -- I think
25 we're going to have the data on commuters, and the

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1 University, I think, would just as soon use the exact
2 numbers on commuters. The other ones are harder to
3 get. That's why it makes it sense to have that be an
4 assigned number.

5 CHAIRPERSON REID: Okay. In other words,
6 you're saying that to allocate a percentage to the
7 other categories with the carve-outs and then the
8 commuter number's more quantifiable --

9 MR. BARBER: Right.

10 CHAIRPERSON REID: -- so that -- okay. So
11 then that can be --

12 MR. BARBER: And we would quantify that
13 every year.

14 CHAIRPERSON REID: You can present that or
15 you can submit that, and that's -- okay, I got you.

16 MR. BARBER: Okay.

17 CHAIRPERSON REID: Okay. All right.
18 Thank you very much. Now, let's see, where do we go?
19 All right. Now, presentations? Office of Planning's
20 presentation, please.

21 MR. KING: Madam Chair, my name is David
22 King. I'm Chief of Staff in the Office of Planning.
23 I'm joined by Julie Wagner who's Associate Director in
24 our office.

25 CHAIRPERSON REID: Okay. Would you be

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1 able to contain your presentation within 15 minutes?

2 MR. KING: We're simply giving
3 recommendations.

4 CHAIRPERSON REID: Oh, okay. Great.

5 MR. KING: We're here to assist the BZA in
6 recrafting its March 29, 2001 order. One of the
7 things that we'd like to do is sort of remind the
8 Board that the Office of Planning's original
9 recommendations were based on extensive analysis,
10 study, consultation, and negotiations intended to
11 achieve the following.

12 Our recommendations were intended to
13 protect communities adjacent to the George Washington
14 University that absorb a disproportionate number of
15 students, University facilities, and University-
16 related or student-related uses in activities. Our
17 recommendations were intended to ensure that the West
18 End community is included as one of these adjacent
19 communities. Our recommendations were intended to
20 provide the University the flexibility to determine
21 sound strategies for encouraging students to look at
22 housing options in other parts of the City or region.
23 Our recommendations were intended to allow the
24 University to further its academic mission, including
25 the flexibility to grow within its current enrollment

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1 cap. This is the enrollment cap prior to the Board's
2 order. And those recommendations were also intended
3 to adequately incorporate an enforcement mechanism to
4 help incentivize the University to follow through on
5 its commitments.

6 Based upon the Board's orders, conclusions
7 of law, and opinion -- this is the order of March 29
8 -- it's clear that the Board shared many of the goals
9 that the Office of Planning does. Our view at this
10 point is that all that really stands in the way of
11 achieving these goals is very minor modifications that
12 can be made to the Board's March 29 order. We believe
13 that the Office of Planning's original
14 recommendations, particularly those related to
15 housing, would, we believe, help cure the BZA order.

16 Our recommendations on housing, to
17 reiterate, were -- this is the housing commitment
18 recommendation that the Office of Planning made, and
19 it should be located in maybe 47 or 50 different
20 locations in front of you. It was that the University
21 shall provide one new bed in the housing opportunity
22 area or outside of the Foggy Bottom area for each
23 full-time undergraduate student added to the
24 University's enrollment beginning in fall of 2001.
25 The University may not increase its enrollment until

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1 the beds are available. The University may buy or
2 lease apartments or houses in the housing opportunity
3 area or anywhere outside of the Foggy Bottom area to
4 meet this goal.

5 The housing opportunity area shall be
6 defined as existing University residential facilities,
7 properties currently owned by the University located
8 in Squares 43 and 122, and any property located within
9 the campus plan boundary. And then the Office of
10 Planning further recommended that the Foggy Bottom
11 area be defined -- we recommended the definition for
12 the Foggy Bottom area which the Board adopted, so I
13 don't have to go into the streets and everything else.

14 Further, until the -- this one for one
15 would be in place until the University housed 70
16 percent of its students either on campus or outside of
17 the Foggy Bottom area, as defined.

18 That, Madam Chair, is essentially the
19 heart of our recommendations. There's a couple of
20 points that I think that have to be made to clarify
21 the recommendation in light of some of the other
22 things that we've been hearing since the time we made
23 that recommendation. One is on implementation. The
24 one-for-one scheme, the one-for-one recommendation
25 would allow a phased implementation that would allow

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1 the University to lease space outside of the Foggy
2 Bottom area to meet any sort of overage that happens.
3 This is not on campus only. This is to the point that
4 you raised, Madam Chair. This could be properties
5 that could be leased outside of the Foggy Bottom area,
6 which means that it could be in Reston, Rosslyn, Mr.
7 Barber suggested Pittsburgh, wherever, as long as it
8 was outside of the defined area. We believe that this
9 would provide a great deal of flexibility to the
10 University and in fact it's something that can be
11 done.

12 In the year since we made this
13 recommendation, the University did face an
14 extraordinary circumstance where they had many more
15 students than they anticipated, and they were very
16 quickly able to enter into long-term leases on a
17 number of properties, number of apartment buildings.
18 Under our scheme, those apartment buildings would not
19 have been allowed. Under our scheme we would have
20 wanted those apartment buildings to be outside of the
21 Foggy Bottom area, because our feeling is that the
22 community, the Foggy Bottom community, even though
23 it's not the first priority of the University, the
24 community should not bear the brunt of those sort of
25 unexpected circumstances faced by the University.

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1 Another benefit of our recommendation,
2 Madam Chair, is that there's no -- we don't provide
3 any caps, there's no arbitrary numbers imposed,
4 there's no freezes. So as a consequence, being
5 percentage-based, there aren't any numbers that
6 arbitrarily kick in at a given date and time, given
7 period of time.

8 Our recommendation specifically avoids the
9 carve-out situation that we've been hearing quite a
10 bit about. This a new element. The Office of
11 Planning hasn't had an opportunity to really evaluate
12 how these carve-outs are being defined. One of our
13 concerns is that it appears that this can be a
14 complicated -- it could be a very complicated scheme
15 and adds new complexity to the situation. We've heard
16 five percent, we've heard 15 percent. It's a little
17 bit confusing about how you define the carve-out. I
18 mean conceivably you can -- conceivably you could
19 define the carve-out in such a way so that you're
20 carving everyone out except for those students who
21 live within the campus plan boundary, thus allowing
22 the University to say, "We house 100 percent of our
23 students, except for those who are carved out." I
24 think that's a dangerous road for the Board to be
25 moving down.

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1 Additionally, Madam Chair, on Squares 43
2 and 122, in our original recommendations, we
3 recommended that these squares be used as part of the
4 housing opportunity area. We note that the Board
5 added Square 43 to the campus plan boundary.
6 Consistent with this, the Office of Planning would not
7 oppose inclusion of the Elliott School site of Square
8 122 into the campus plan.

9 Our recommendation also included an
10 enforcement mechanism which we feel is fairly simple
11 and straightforward. The enforcement mechanism is if
12 the University is found to be out of compliance with
13 any condition contained in the order, the Zoning
14 Administrator will be so notified and that no further
15 processing of cases will be accepted for filing except
16 for housing cases, and no pending cases will be
17 allowed to proceed. This is, I hate to use the word
18 punishment, but in this instance the enforcement meets
19 -- the enforcement mechanism meets the infraction
20 versus having a dollar amount that may not bear any
21 real relationship to what could well be a permanent
22 incursion into the neighborhood.

23 CHAIRPERSON REID: Repeat the enforcement,
24 please.

25 MR. KING: If the University is found to

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1 be out of compliance with any condition contained in
2 the order, the Zoning Administrator will be so
3 notified and no further processing of cases will be
4 accepted for filing except for housing cases, and no
5 pending cases will be allowed to proceed.

6 CHAIRPERSON REID: Until such violation is
7 remedied?

8 MR. KING: Until -- exactly, until the
9 violation is cured.

10 And I think, Madam Chair, that's it. The
11 only other thing I would add is I want to come back
12 real quick to this carve-out commuters five percent
13 scheme. If the Board -- if you combine that with the
14 University's desire to acquire certain properties in
15 Squares 58 and 81 and now the so-called City Hall and
16 also the 2424 Pennsylvania, potentially, what you end
17 up with is a situation where, again, by sort of facile
18 definitional mechanisms the University can say, "Yes,
19 we're housing 70, 75, 80, 85, 90 percent of our
20 students," when in fact you're just changing
21 definitions around, and you're actually not changing
22 the situation on the ground, the protection of the
23 Foggy Bottom neighborhood and maintaining that as a
24 viable neighborhood, a vibrant neighborhood, a mixed
25 used residential neighborhood.

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1 I think that's it, Madam Chair. Both
2 myself and Ms. Wagner will be happy to entertain any
3 questions you have or any other members of the Board.

4 CHAIRPERSON REID: Ms. Renshaw?

5 VICE CHAIRPERSON RENSHAW: Yes. I want to
6 go back to an earlier question that I had posed, and
7 it was the thought of the Chair at the time this
8 morning that I should wait and ask the Office of
9 Planning, so here's my opportunity. I would like Mr.
10 King to refer to page 4 of your October 25, 2000
11 report to the Board. And this has to do with the
12 comment that you made since 1912 when the University
13 first moved into Foggy Bottom: "It has acquired
14 nearly 40 percent of the Foggy Bottom neighborhood.
15 Alarming, the trend is not abating." And my
16 question to the Office of Planning is what will be the
17 percentage if the University acquires this additional
18 property, as outlined in Map 310, that is an Exhibit,
19 and the other properties purchased or leased in the
20 Foggy Bottom area? What is the percentage going to
21 be?

22 MR. KING: At this point, Commissioner
23 Renshaw, we're not -- I can't give you that
24 percentage. I can get that to you, but I think it
25 would in fact bear out the second sentence of that

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1 statement that you just read and that we presciently
2 wrote almost a year ago, which is that, and I quote,
3 "Alarminglly, the trend is not abating." But I'll get
4 that figure to you.

5 VICE CHAIRPERSON RENSHAW: Do you have any
6 feeling at the moment that it's over the 50 percent?

7 MR. KING: There's no way -- I'm sorry,
8 there's no way that we can tell at this point.

9 VICE CHAIRPERSON RENSHAW: You just can't
10 do it until you analyze the figures.

11 MR. KING: Yes. We did some fairly
12 detailed statistical and geographic analysis, and I'd
13 have to talk to our person who helped us do this to
14 get you -- I want to give you an accurate answer.

15 VICE CHAIRPERSON RENSHAW: All right. We
16 were looking at one of the maps you provided in that
17 same report, and it's George Washington University
18 Acquisitions 2000, and I was just comparing that map,
19 which is based on the '99 D.C. Assessment Directory
20 Volume 1, against the Exhibit Number 310, and I wonder
21 if in your analysis you would look at the two
22 together.

23 MR. KING: Yes, ma'am.

24 CHAIRPERSON REID: Is that it?

25 VICE CHAIRPERSON RENSHAW: Yes.

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1 CHAIRPERSON REID: Okay. Other questions,
2 Board members?

3 MEMBER GRIFFIS: Yes. Quick question, Mr.
4 King. Regarding your recommendation for providing
5 one-to-one housing opportunities, you made the
6 statement that that would continue until 70 percent of
7 the housing was provided on campus or outside. Do you
8 see -- can you project out a little bit further on
9 what that recommendation would do in terms of
10 continued growth or is that frankly being recommended
11 as a limiting aspect? I mean I'm trying to project
12 out the different scenarios that might happen with
13 that if there's a fixed amount of housing that was
14 provided on campus. Therefore, to go increase the
15 enrollment in the University they would have to be
16 providing totally outside of the area, and that's the
17 intent; is that correct?

18 MR. KING: Totally outside of the area or
19 within the campus plan boundary.

20 MEMBER GRIFFIS: Right.

21 MR. KING: We've heard a number of squares
22 and sites within the campus plan --

23 MEMBER GRIFFIS: Right.

24 MR. KING: -- that could provide housing
25 opportunities.

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1 MEMBER GRIFFIS: I understand. I guess
2 what I'm doing is projecting, frankly, fairly out in
3 that there will be a finite number that will be
4 provided, that will be defined, whether we define it
5 or not, what 70 percent will be. And then the
6 intention is, obviously, that it doesn't expand beyond
7 that but in other neighborhoods or elsewhere.

8 MR. KING: That's right.

9 CHAIRPERSON REID: Okay. Let's see.
10 Cross examination, Ms. Dwyer? Did you have any
11 questions?

12 COMMISSIONER MITTEN: Madam Chair, I think
13 --

14 MR. KING: I thought there would be no
15 cross examination on the recommendations.

16 CHAIRPERSON REID: Oh, I'm sorry. You're
17 right. Okay. Except for Board members. Okay. Then,
18 let's see now. In regard to the -- let me see if I
19 understand this correctly. You're saying that in
20 order to encourage no further expansion to the Foggy
21 Bottom community that GW is to provide for each new
22 undergraduate enrolled student a one-for-one bed
23 anywhere, anywhere. In other words, while they are in
24 the process of supplying the on-campus housing,
25 building it or however else that they're able to

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1 provide it, that in the interim you want to have the
2 one to one somewhere else other than Foggy Bottom.
3 And then once that threshold is met, then what?

4 MS. WAGNER: Julie Wagner. I want to just
5 let you know that this is both an interim and a
6 permanent solution. What we're trying to say is that
7 we are so focused on trying to protect the Foggy
8 Bottom area that we see that there is equal value in
9 either building on campus or outside of the Foggy
10 Bottom area. There are other sections of the City
11 that we would applaud focused housing concentrations
12 that could combine other economic development efforts
13 in the City or elsewhere outside of the City. But we
14 see this as both a short-term and a long-term goal.

15 So, for instance, if -- one of the
16 challenges that we heard from GW today with respect to
17 saying that part of the problem with respect to the
18 previous order was the fact that they were not able to
19 build beds fast enough. This strategy then allows
20 them to do what they just did with the St. James but
21 outside of the Foggy Bottom area. They could continue
22 that. They could go to north of Massachusetts Avenue.
23 They could rent, they could build --

24 CHAIRPERSON REID: Oh, I understand.

25 MS. WAGNER: Okay.

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1 CHAIRPERSON REID: I understood the
2 concept, but my question was, just to further
3 understand it, and this is only until such time that
4 they're able to provide the 70 percent housing of
5 undergraduates on campus. And then the one to one --
6 then that's --

7 MR. KING: That's 70 percent on campus and
8 also outside of the Foggy Bottom area. So the housing
9 opportunity area that we define is sort of like a
10 doughnut really, and the center of the doughnut is the
11 campus plan, the doughnut itself is the Foggy Bottom
12 area, and then outside of that doughnut is the rest of
13 the world. And as long as 70 percent of the students,
14 undergraduate population, are housed either in the
15 center of the doughnut or outside in the rest of the
16 world, then that meets the requirements of our
17 recommendation. So if there are students -- if more
18 than 30 percent --

19 MS. WAGNER: That's correct.

20 MR. KING: Yes.

21 MS. WAGNER: So the effect then would be
22 if the University was not at 70 percent, they then
23 would have just cause to either, through incentives,
24 to build more housing on campus or rent or do
25 something outside of the Foggy Bottom area to

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1 essentially syphon off students from the Foggy Bottom
2 area. It is an incentivized approach. So if they are
3 not at the 70 percent, they know that they have to do
4 the one for one. So you can either do it on campus or
5 you can do it outside of the Foggy Bottom area.

6 MR. KING: And Madam Chair, just to give
7 an extreme example under our recommendation, the
8 University could have zero percent of their students
9 on campus and still be in compliance.

10 CHAIRPERSON REID: They could have what?

11 MR. KING: They could have zero percent of
12 their students on campus, and they would still be in
13 compliance as long as they had 70 percent outside of
14 Foggy Bottom.

15 MS. WAGNER: That's an extreme example.

16 MR. KING: That's an extreme example.
17 That's an extreme example, but it gives you a sense of
18 how flexible our approach is.

19 CHAIRPERSON REID: Wait a minute.

20 VICE CHAIRPERSON RENSHAW: Anybody want to
21 pick this up?

22 CHAIRPERSON REID: They have to -- now,
23 wait a minute. Maybe I'm missing something. Seventy
24 percent on campus --

25 MR. KING: Either on campus or outside of

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1 the Foggy Bottom area. So if you combine --

2 MEMBER GRIFFIS: Perhaps you should put it
3 in the reverse in that you are limiting a maximum of
4 30 percent of the student population to live in the
5 Foggy Bottom/West End neighborhood.

6 MR. KING: That's another way of putting
7 it.

8 MEMBER GRIFFIS: It's probably safer too.

9 MR. KING: Yes. In other words, no more
10 than 30 percent of the undergraduate population can
11 live in the doughnut part --

12 CHAIRPERSON REID: Until they reach --
13 that's what I'm trying to get to -- until they reach
14 the threshold of 70 percent on campus.

15 MR. KING: No. That 70 percent doesn't
16 have to be on campus. It can be anywhere. It can be
17 anywhere in -- literally anywhere in the world.

18 CHAIRPERSON REID: Okay. Okay.

19 VICE CHAIRPERSON RENSHAW: Mr. King, that
20 70 percent could also be en masse in another section
21 of the City.

22 MR. KING: That's exactly -- exactly.

23 VICE CHAIRPERSON RENSHAW: Aren't we
24 compounding a lot of problems here? I mean are you
25 going to make a gesture towards a particular location

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1 or are you just going to say que sera sera, let it go,
2 wherever it goes it goes? I'm just thinking about,
3 for instance, the road impact as these students are
4 shuttled or drive back and forth to classes down in
5 the Foggy Bottom area.

6 MR. KING: Yes, but also one of the nice
7 about the University is they are metro accessible.
8 We've heard that repeatedly. There's at least two
9 metros which are within walking distance of the
10 University. There's a -- and I think it's
11 unrealistic, quite frankly, Commissioner Renshaw, to
12 expect that all 70 percent of these -- 70 percent of
13 the University's population would suddenly decide to
14 move to Albermarle and Wisconsin. I mean I think that
15 the further away from the University you get there
16 will be a greater diffusion so that there will be less
17 of a concentration. And, of course, many of these
18 students could live anywhere in the region, but I
19 don't think that you're going to suddenly get a lump,
20 sort of bolus, of students, 70 percent, moving to one
21 neighborhood.

22 VICE CHAIRPERSON RENSHAW: But that's just
23 your feeling right now. No study has been done to
24 prove out that point.

25 MR. KING: That's true.

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1 MS. WAGNER: Right. What we did do in the
2 course of our negotiations, gosh, almost a year ago
3 was really talking with the University about where
4 could the City help them in looking at other options.
5 NOMA was one example, St. Elizabeth's was another
6 example to try to help also drive some of the other
7 City goals. And so this is very much in line with the
8 mission and some of the directives that we've been
9 trying to focus on. And we have looked at specific
10 places that we would like to encourage and had
11 suggested with the University that we'd be willing to
12 partner with them on that.

13 CHAIRPERSON REID: Okay. And you're
14 recommending that Square 122 be included in the campus
15 boundary.

16 MR. KING: We have recommended that as
17 part of the housing opportunity area that we define
18 that the Elliott School portion be included in that.

19 CHAIRPERSON REID: Okay. All right. Any
20 other questions, Board members?

21 COMMISSIONER MITTEN: I have a question,
22 Madam Chair. I just want to understand your
23 recommendation and maybe give you some perspective in
24 light of where we are now and see if -- because we did
25 not lightly reject your recommendation, and I remember

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1 why we went in a different direction. So let me just
2 walk you through a couple numbers right now, okay?
3 Because I want to show you what the status quo is with
4 your formula.

5 What we have now -- if we look at the
6 housing opportunity area and what's in the housing
7 opportunity area right now, on campus we have 4,108
8 beds. We have -- in off-campus buildings, we have 930
9 beds which is comprised Riverside, the Dakota, Hova,
10 2144 F Street, 2208 F Street. Then -- and this is
11 part of the status quo. This might not be what you
12 would otherwise -- I'm sure you didn't intend
13 originally that this would be in your formula. But we
14 also have students in Pennsylvania House and the St.
15 James, and I'm just counting those. I'm not counting
16 potential beds in Square 43 or 122, because they're
17 not there now. I'm not counting properties outside
18 the Foggy Bottom area, because we don't have any
19 numbers on any of that. So I'm just talking about the
20 status quo. That total is 5,747 beds.

21 At the current enrollment, as we know it
22 now, which we'll get better numbers soon, of 7,881, 70
23 percent with no carve-outs, which is your proposed
24 formula, is 5,517. So right now the status quo, as it
25 exists, meets your formula. They are in compliance

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1 under your formula. So I don't really think anything
2 has changed for the better since your recommendations,
3 and I don't know if you can respond to it right now,
4 but I'd like you to think about that, think about
5 whether your recommendations are still viable in light
6 of the fact that the status quo is in compliance with
7 your formula.

8 MS. WAGNER: I have a number of 5,038, so
9 can you just walk me through the numbers again,
10 because it's a number game at this point.

11 CHAIRPERSON REID: Where are you reading
12 from?

13 COMMISSIONER MITTEN: I'm reading from a
14 variety of sources. I'm reading from -- well, let's
15 just all go through the numbers together and I'll add
16 them up again.

17 MR. KING: Carol, if I might, I think the
18 confusion is that you never gave a number for two of
19 the properties that you included in the Pennsylvania
20 since they don't count.

21 COMMISSIONER MITTEN: Okay. Let's just do
22 the numbers together then.

23 CHAIRPERSON REID: Tell us where you are,
24 which document.

25 COMMISSIONER MITTEN: Right. Okay. Like

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1 I said, this is coming from a variety of sources.

2 CHAIRPERSON REID: Okay. The one that
3 you're reading from right now.

4 COMMISSIONER MITTEN: Okay. Well, this
5 piece of paper Mr. Prager provided to us, so that's
6 not the original source; that's just a summary.

7 CHAIRPERSON REID: Okay.

8 COMMISSIONER MITTEN: Well, can I --

9 CHAIRPERSON REID: Go ahead.

10 COMMISSIONER MITTEN: -- do the numbers
11 instead of telling you where the numbers come from?
12 I mean I can trace back every number, sure. Four
13 thousand one hundred and eight is I think an
14 undisputed number of existing beds on campus. Then we
15 go to the exhibit that the University provided August
16 31, which has at Tab B, "Fall 2000 total off-campus
17 buildings: 930." That's 5,038.

18 MS. WAGNER: Right.

19 COMMISSIONER MITTEN: Okay. Then we go to
20 -- and this is part of the status quo; this would not
21 have been in your original formula, but this is part
22 of the status quo --

23 MS. WAGNER: Can I just make a correction
24 to that, if I could, just to clarify?

25 COMMISSIONER MITTEN: Yes.

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1 MS. WAGNER: That's fall 2000, and since
2 that time the boundaries were changed so you are
3 double counting some numbers.

4 COMMISSIONER MITTEN: Okay.

5 MS. WAGNER: For example, the Dakota is no
6 longer off-campus. It's included in the on-campus
7 4,108.

8 COMMISSIONER MITTEN: Okay.

9 MS. WAGNER: And the Riverside.

10 COMMISSIONER MITTEN: Okay.

11 MS. WAGNER: And 2124.

12 COMMISSIONER MITTEN: Okay.

13 MS. WAGNER: So that's why in our chart,
14 which is 307, we had footnote 2 to explain.

15 COMMISSIONER MITTEN: Okay. So now we're
16 going to back out the 132, and we're going to back out
17 204. Now we're at 4,702. Now we're going to add the
18 Pennsylvania House which we had testimony. I don't
19 know where this is. I wrote this down, because
20 someone testified to it -- 166 beds in Pennsylvania
21 House and 543 beds in City Hall. And even though now
22 the numbers have shifted slightly, the total that I
23 just added was 5,411 versus what would be the 70
24 percent requirement, which is 5,517, which is within
25 two percent of what would be required. Now, maybe

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1 I've done something wrong. Yes, I have done something
2 wrong.

3 MR. KING: We're counting slightly
4 differently --

5 COMMISSIONER MITTEN: Okay.

6 MR. KING: -- Commissioner Mitten. Under
7 our scheme, neither Pennsylvania House nor City Hall
8 count.

9 COMMISSIONER MITTEN: And I know that they
10 would not have counted, but think of it in terms of
11 this is what exists in Foggy Bottom right now, okay?
12 This is the status quo in Foggy Bottom right now. And
13 if you were to count those two, is the status quo in
14 Foggy Bottom right now acceptable to you? That's what
15 I'm trying to get you to focus on.

16 MS. WAGNER: This is not acceptable. I
17 mean what -- and that's actually the reason why we
18 went back with our original proposal, because what we
19 would like to happen is for these two units, the St.
20 James and the City Hall, for this to not be -- for
21 there not be any reason why the University would even
22 consider doing what they just did. So if you don't
23 include that in the 70 percent, my hunch is they're
24 not going to -- they're going siphon those students
25 out of those units, and they're either going to rent

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1 out of the Foggy Bottom area or they're going to think
2 through how they can do it strategically so they can
3 build on campus as quickly as possible to meet that 70
4 percent, because this is not what we're -- we don't
5 applaud this. In fact, we are trying to provide an
6 incentive so they don't do this again.

7 COMMISSIONER MITTEN: Okay. Then I need
8 to ask another question to the University, Madam
9 Chair, if you'll permit me, which is we had testimony
10 that they have a 15-year lease. Now, I don't know if
11 that's a series of one-year leases with options to
12 renew, but if they have a 15-year lease, they're not
13 going to walk away from that.

14 CHAIRPERSON REID: You mean at the St.
15 James?

16 COMMISSIONER MITTEN: Or at the
17 Pennsylvania House. I don't --

18 CHAIRPERSON REID: I think the
19 Pennsylvania House is -- isn't that three?

20 COMMISSIONER MITTEN: Well, I don't know,
21 but maybe we could get some clarification about that.
22 So that in terms of whether or not the status quo will
23 be maintained, we could say, "Oh, well, we're not
24 going to let them count the St. James," but if in fact
25 they're going to stay there for 15 years, then, you

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1 know, they're de facto -- it doesn't matter if we
2 count it or not, they're there.

3 CHAIRPERSON REID: Just let me jump in
4 here. I think that from what I'm being able to glean
5 from the Office of Planning is that the idea -- the
6 approach is rather punitive in trying to protect the
7 Foggy Bottom community. I think there needs to be
8 some movement as to trying to make this work rather
9 than trying to make it more difficult, because if you
10 just proceed within the manner in which you are
11 proceeding, which is one of, "Well, we want to make
12 sure that George Washington doesn't do this and George
13 Washington doesn't do that," but at the same time --
14 let's not lose sight of what they are trying to do.

15 And so with that in mind, the idea is to
16 try to see how there can be some resolution to the
17 problem. Because the bottom line is that this
18 community and George Washington has to co-exist down
19 there, and rather than create a hostile situation try
20 to bring about some type of reconciliation so that
21 they can live partially or somewhat in a somewhat
22 peacefully -- or even more so how they can come to try
23 to work together for the betterment of that community
24 as a whole.

25 MR. KING: I think, Madam Chair, that

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1 that's exactly the goal that the Office of Planning
2 has had all along. I think what we've been trying to
3 do is tell the -- recommend rather, recommend to the
4 Board not that the Board tell the University what they
5 can't do but rather help them to do the right thing.
6 Help direct them to say, "This is what you can do
7 while maintaining the integrity of the Foggy Bottom
8 neighborhood."

9 CHAIRPERSON REID: And try to do that. I
10 mean I agree with that. I think that should be the
11 objective is to give some guidance, as the
12 representatives of the Mayor, to that community so
13 that there can be some type of compromises made to the
14 community so they have some solace as to their
15 property, at the same time allow the co-existing of
16 the two entities there so that they can be --

17 MR. KING: Exactly, Madam Chair. And
18 that's actually one of the things that we want to do
19 is we want to actually help the University so that it
20 can provide as much housing as it deems fit for its
21 population --

22 CHAIRPERSON REID: But you just mentioned
23 something -- I'm sorry, not to cut you off --
24 something about that you don't want to see them
25 acquire like, for example, like the idea was in

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1 acquiring these properties recently was to try to
2 house more students to alleviate some of the
3 difficulty down there. But you said you don't want to
4 see that.

5 MR. KING: No. In the spirit of the
6 balance I think -- in the spirit of balancing that you
7 were just talking about, the University would be able
8 to acquire an apartment building, such as 2424
9 Pennsylvania in an area just across the street from
10 the Foggy Bottom neighborhood. Unfortunately, the
11 community who lives down there, the neighbors, don't
12 have that option. So in other words, the neighbors
13 don't have real control over -- or the neighborhood,
14 rather, doesn't have a lot of control over the
15 University's enrollment policies, but the University
16 does. And so if the University wants to increase its
17 enrollment, it can acquire properties anywhere in the
18 City outside of this very small little area.

19 CHAIRPERSON REID: No, I understand that.

20 MR. KING: And the University has the
21 ability to do that. I mean we've seen that they've
22 done it in the last year. Unfortunately, we are
23 trying to balance interests here. The Foggy Bottom
24 community doesn't have the wherewithal needed, the
25 financial wherewithal nor the actual physical ability

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1 to sort of up and move somewhere else, whereas the
2 University actually does have the ability to up and
3 move the location where some of its students can live,
4 while still maintaining the integrity of the
5 neighborhood.

6 CHAIRPERSON REID: All right. Other
7 questions?

8 COMMISSIONER MITTEN: I'm just going to
9 remind you, Madam Chair, to the extent that you think
10 it's worthwhile information, for us to understand the
11 nature of the University's commitment at the St. James
12 and their commitment at 2424 Pennsylvania Avenue. So
13 I mean they're not -- I mean can we ask them that,
14 because I think it's relevant.

15 CHAIRPERSON REID: Oh, sure, if you'd like
16 to.

17 COMMISSIONER MITTEN: Okay.

18 MR. BARBER: Yes, Charles Barber. The St.
19 James is a 15-year commitment with a 14-year option.
20 It is a long-term and substantial commitment. The
21 Pennsylvania House is shorter-term. It's a three-year
22 lease.

23 COMMISSIONER MITTEN: So at the St. James
24 you're committed to a minimum of 15 years.

25 MR. BARBER: That's correct.

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1 COMMISSIONER MITTEN: Okay. Thank you.

2 CHAIRPERSON REID: Okay. All right. Now
3 -- are you done?

4 COMMISSIONER MITTEN: Could I just ask a
5 follow-up now that we have that bit of information to
6 the Office of Planning?

7 CHAIRPERSON REID: All right.

8 COMMISSIONER MITTEN: Which is just now
9 that we know that the status quo is changed, whether
10 or not you want to count that or not, it exists. And,
11 you know, you had said about counting University
12 residential facilities. Well, this has become one
13 whether we choose to count it or not. So not counting
14 it isn't going to change the fact that they're there.
15 So do you have any guidance or any thoughts?

16 MR. KING: I think that they have a lease,
17 and it's a 15-year lease with a 14-year option, but
18 they are not committed to house students,
19 undergraduate students, in that property. The
20 University has told us several times that they have
21 investment properties throughout the City. And so
22 that would be my answer. I don't think that there's
23 a requirement that they house undergraduate students
24 in those properties.

25 COMMISSIONER MITTEN: Okay. Okay. Or I

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1 guess they could use it to exceed their 70 percent
2 requirement.

3 MR. KING: No. That are wouldn't count.

4 COMMISSIONER MITTEN: Right, right, right.
5 Okay.

6 CHAIRPERSON REID: Okay. Other questions?
7 All right. Now for the opposition. Mr. Draude, are
8 you going to give the position of the opposition in
9 its entirety? No? Yes? Let me understand what's
10 happening.

11 MR. DRAUDE: Madam Chair, James Draude,
12 Counsel of Record for the ANC-2A. I am going to
13 present ANC-2A's position, its recommendations in
14 their entirety. I believe that the other --

15 CHAIRPERSON REID: Okay, so -- oh, go
16 ahead.

17 MR. DRAUDE: I believe that the other
18 opposing parties will have little, if anything, to add
19 to the ANC's position, but since I don't represent
20 them, I can't --

21 CHAIRPERSON REID: Okay. Excuse me, I'm
22 seeing someone shake their head. Are you --

23 MS. LEMIRE: Foggy Bottom Association.
24 I'm sitting in for Barbara Spillinger.

25 CHAIRPERSON REID: Oh, well, wait a

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1 minute. So you have a different --

2 MS. LEMIRE: We have a different
3 presentation.

4 CHAIRPERSON REID: Okay. All right.
5 Thank you. Mr. Draude?

6 MR. DRAUDE: Good afternoon, Madam Chair,
7 members of the Board. I am going to present you with
8 ANC-2A's recommendation. There are four topics that
9 I will address. The first is level of enrollment.
10 The ANC's position is that the full-time undergraduate
11 population should be capped at 7,380. That is the
12 number that was in existence on February 13, 2001.
13 The University should be given two academic years to
14 get back to that level since we know that they're
15 above that level at this point. That would be a
16 temporary transition provision.

17 CHAIRPERSON REID: Two-year period to the
18 year 2003? What date?

19 MR. DRAUDE: Well, what date is your order
20 going to come out on?

21 CHAIRPERSON REID: Okay.

22 MR. DRAUDE: Two full academic years.

23 CHAIRPERSON REID: I see. I have you. As
24 of the date of the issuance of the order?

25 MR. DRAUDE: Two full academic years to

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1 get back to that level.

2 CHAIRPERSON REID: That would be excluding
3 this year?

4 MR. DRAUDE: Well, now they've already
5 done --

6 CHAIRPERSON REID: Two full years after
7 the order.

8 MR. DRAUDE: This year they are over that
9 level.

10 CHAIRPERSON REID: Okay. But two years
11 after the issuance -- subsequent to the issuance of
12 the order, the year --

13 MR. DRAUDE: They should be back to that
14 level.

15 CHAIRPERSON REID: Okay. All right.

16 MR. DRAUDE: Now it's a temporary
17 transition provision. As a permanent provision on the
18 level of enrollment, the University should be allowed
19 the flexibility to go five percent above that cap in
20 any given academic year, provided that they adjust the
21 admissions in the subsequent academic year to get back
22 to the level. That allows for the variability of
23 admissions, but it, as a long-term matter, preserves
24 the enrollment cap at that level.

25 CHAIRPERSON REID: Repeat that again,

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1 please.

2 MR. DRAUDE: As a permanent provision, the
3 University in any given academic year would be allowed
4 to have an enrollment level that is five percent
5 higher than that cap, provided that in the following
6 academic year they adjust the admissions to get back
7 to the cap level. And that would be a permanent part
8 of the order. That's not simply transition, that's
9 just to provide a little flexibility for variations in
10 admissions.

11 CHAIRPERSON REID: Did you have a copy of
12 your proposal for us?

13 MR. DRAUDE: No. I am synthesizing this
14 from the ANC's prior positions and what we've heard in
15 this hearing this week. That's the level of
16 enrollment.

17 The second point deals with housing the
18 full-time undergraduate students. The ANC's position
19 is that all of the undergraduate -- full-time
20 undergraduate students should be housed within the
21 current campus plan boundaries -- and I emphasize the
22 word "current" -- within five years.

23 CHAIRPERSON REID: What percentage?

24 MR. DRAUDE: A hundred percent.

25 CHAIRPERSON REID: Hundred percent.

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1 MR. DRAUDE: The 70 percent rule in the
2 Board's order is simply totally inadequate. What it
3 does is it leaves 30 percent of the full-time
4 undergraduate students free to live in the Foggy
5 Bottom/West End area, and that's not acceptable. It
6 just doesn't work. As Ms. Elliott pointed out in her
7 testimony, if you take that and apply it to the
8 current situation, they're already in compliance. We
9 know we have problems. The additional problem with
10 using a percentage other than 100 percent is that if
11 the enrollment rises, you've got 30 percent of the
12 higher number. Of course, if you have an enforceable
13 cap, that wouldn't present a problem, but that is a
14 problem that has to be addressed unless you have a
15 cap.

16 Third point, there should be no carve-outs
17 with one minor exception, and this exception is not
18 actually a carve-out, as the term has been used in
19 this proceeding. There are three categories of people
20 -- married, disabled students, and students with
21 religious beliefs -- who might not want to or be able
22 to live in University residence halls. The
23 University's rules on student housing should allow
24 persons in those categories to apply for an exception,
25 rather than trying to say in advance how many that is.

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1 Let them apply for an exception, and if they qualify,
2 they fall within that category and then the University
3 can grant them an exception from the requirement to
4 live within residence halls in the campus plan
5 boundary.

6 This has to be verifiable, and we suggest
7 that it be verifiable by requiring the University to
8 report on the exceptions that have been granted on a
9 quarterly basis to the Advisory Committee that was set
10 up in the Board's original order. Implicit in this is
11 our recommendation that that Advisory Committee remain
12 in place. It is currently in place and scheduled to
13 meet quarterly.

14 As to the commuters, there should be no
15 carve-out for the commuters. The commuters are a
16 problem for a number of reasons. You can't verify
17 just by using the zip codes of their permanent address
18 as to whether they in fact live outside the Foggy
19 Bottom area. What the University might have is the
20 parent's address in Maryland and Virginia, but the
21 student is actually living downtown. In addition to
22 which commuters involve traffic and parking impacts.
23 Our focus has been on housing, but I want to remind
24 you that in the record as a whole there is a
25 considerable amount of evidence on traffic and parking

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1 impacts in the Foggy Bottom area. You cannot just
2 assume that the commuters are all going to take metro.
3 So we simply avoid this by not carving out commuters.

4 Fourth point, dealing with campus
5 boundaries. The ANC was disappointed in the boundary
6 changes the Board made originally. It is adamantly
7 opposed to any further boundary changes. And let me
8 address a few reasons for that. First of all, Square
9 122. That is the AGC project that is subject of a PUD
10 proceeding before the Zoning Commission. A
11 substantial issue in that case is whether that site is
12 appropriate for University use. I think one could
13 make an argument that this Board actually lacks
14 jurisdiction at this point to deal with that Square,
15 but even if you have the jurisdiction we strongly
16 recommend that that not be included in the campus plan
17 boundary. We believe that this proposal by the
18 University is an attempt to end run that Zoning
19 Commission proceeding.

20 Let me deal with a couple of the others:
21 Square 81 and 58. There are some hotels and offices
22 on those squares, and the University's argument is
23 that, "Well, you shouldn't be concerned about
24 eliminating those because they're not permanent
25 residents." Certainly, our focus during this

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1 proceeding and focus of the comprehensive plan is on
2 the permanent residents.

3 The focus of the comprehensive plan also
4 includes the tax base, in addition to which this is a
5 mixed use neighborhood, and it is not appropriate land
6 use planning to take what is a mixed use neighborhood
7 and tell the University it can get all the rest of the
8 properties except for the permanent housing, because
9 then you turn it into permanent residents and a whole
10 bunch of University people. In addition to which, you
11 know, the University expansion, even if it's not used
12 for housing, involves considerable impacts on the
13 community.

14 So those are the reasons we are opposed to
15 any further boundary changes. Square 122, in
16 particular, and these other two squares, or any other
17 things that they might think up, they're not
18 appropriate to have the University out there wiping
19 out the mixed uses outside the current campus plan
20 boundaries.

21 Those are the four points of ANC 2A's
22 recommendation. But now we have an alternative.

23 CHAIRPERSON REID: Oh, boy.

24 (Laughter.)

25 MR. DRAUDE: The problem we are addressing

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1 is caused by the effects of students living outside
2 the campus plan boundary in ANC-2A. And I will say
3 here that we refer to ANC-2A and its legal boundaries.
4 We don't accept the Office of Planning's truncated
5 definition of Foggy Bottom/West End. So when I refer
6 to these boundaries, I refer to ANC-2A's boundaries.
7 The problem is students living in ANC-2A outside the
8 campus plan boundaries.

9 A direct solution to that problem is for
10 the University to adopt a rule for its students that
11 prohibits them from living in ANC-2A. When this idea
12 was raised at some point by the Office of Planning,
13 the University argued that such a rule violates the
14 D.C. Human Rights Act. And the Office of Planning
15 promptly abandoned the idea.

16 I do not accept the University's legal
17 analysis. I invite the Board and the Corporation
18 Counsel to revisit that question. I do not believe
19 that the Human Rights Act prohibits the University
20 from adopting rules for its students because they are
21 students. And I invite -- I'm not going to argue a
22 legal question here, but I invite the Board in its
23 deliberations and the Corporation Counsel to revisit
24 that question. Because such a rule makes all the rest
25 of this stuff unnecessary. You don't have to talk

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1 about enrollment, carve-outs, et cetera.

2 And that's the sum total of our
3 recommendations.

4 CHAIRPERSON REID: So, Mr. Draude, you're
5 saying that your recommendations are what you laid
6 forth first.

7 MR. DRAUDE: That's correct.

8 CHAIRPERSON REID: And then --

9 MR. DRAUDE: I am suggesting an
10 alternative way to go about this, which was abandoned
11 -- was raised in this proceeding but abandoned --

12 CHAIRPERSON REID: Wait, wait. Let me
13 finish my question. So then are you saying -- am I
14 understanding you to say that in the alternative, if
15 the alternative solution is adopted, then the first
16 recommendation is off the table?

17 MR. DRAUDE: That's correct. It would not
18 be necessary.

19 CHAIRPERSON REID: So you're saying -- I'm
20 just making sure I understand this -- that all you
21 want to see is that you don't see any students living
22 in the ANC-2A boundaries, and then --

23 MR. DRAUDE: Outside the campus plan
24 boundaries.

25 CHAIRPERSON REID: Right. Outside the

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1 campus plan boundaries and ANC-2A boundaries, and then
2 all is well, as far as you're concerned.

3 MR. DRAUDE: It's an enforceable rule that
4 is implemented that directly solves the adverse
5 effects that we've been talking about.

6 CHAIRPERSON REID: Then you don't care
7 where else students live within the Foggy Bottom/West
8 End community?

9 MR. DRAUDE: Well, ANC-2A includes the
10 whole Foggy Bottom/West End community.

11 CHAIRPERSON REID: Oh, is it all -- is it
12 the entire -- is ANC-2A -- I'm not looking at any map
13 -- that is Foggy Bottom, all of Foggy Bottom?

14 MR. DRAUDE: It's the Foggy Bottom/West
15 End Advisory Neighborhood Commission. It includes --
16 when people talk here about the Foggy Bottom
17 neighborhood or the West End neighborhood, it's all in
18 ANC-2A.

19 CHAIRPERSON REID: Tell me just briefly
20 what are the boundaries?

21 MR. DRAUDE: Let me ask --

22 CHAIRPERSON REID: Just for the heck of
23 it.

24 MR. DRAUDE: That's a matter of public
25 record. Can we --

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1 CHAIRPERSON REID: No, I mean but you know
2 basically what the boundaries are, don't you?

3 MR. DRAUDE: Frankly, I don't.

4 CHAIRPERSON REID: Okay. All right. I
5 just wondered.

6 MEMBER LEVY: Madam Chair, could I --

7 CHAIRPERSON REID: Sure.

8 MEMBER LEVY: I would just further
9 clarify, before we get off this point, so that I
10 understand what you're saying, that if the alternative
11 were to be adopted, you would drop all four of the
12 other proposal recommendations, right, including the
13 expansion of the campus boundaries?

14 MR. DRAUDE: Well, no.

15 MEMBER LEVY: I think we need to be clear
16 on that, because I'm not sure what it's an alternative
17 to.

18 MR. DRAUDE: All right. It's not an
19 alternative to the boundary because part of the
20 alternative rule is students may not live in ANC-2A
21 outside the current campus plan boundary. So the
22 boundary is still relevant to the rule.

23 CHAIRPERSON REID: Okay. So that would
24 still be in.

25 MEMBER LEVY: So you'd keep number four.

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1 MR. DRAUDE: Right, that's correct. I
2 overspoke on that.

3 MEMBER LEVY: You would drop one, two,
4 three?

5 MR. DRAUDE: They would not be necessary.

6 MEMBER LEVY: Just number four you'd keep.
7 Okay. Thank you.

8 CHAIRPERSON REID: That's interesting to
9 say the least. All right.

10 VICE CHAIRPERSON RENSHAW: Mr. Draude,
11 ANC-2A doesn't have any position on the cars, the
12 vehicles, the registry of vehicles?

13 MR. DRAUDE: Well, we were satisfied with
14 the Board's order to begin with on that point, so I
15 think it's a little beyond what we understood to be
16 the scope of the hearings here, so we didn't really
17 develop a position. We have a position on it in the
18 record about the parking and traffic impacts outside
19 the campus plan boundaries. We weren't necessarily
20 totally satisfied with what the Board did, but we
21 don't have any current recommendations regarding that
22 specific --

23 CHAIRPERSON REID: Okay. All right.
24 Thank you very much, Mr. Draude. Now, the next --

25 MEMBER LEVY: Madam Chair, could I just

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1 ask one more quick question of Mr. Draude --

2 CHAIRPERSON REID: Sure.

3 MEMBER LEVY: -- before you get away, just
4 so I'm clear. In your proposal number two where you
5 talk about housing and you said 100 percent of
6 undergraduate students would live within the current
7 campus plan boundaries, and you don't want to carve
8 out commuters, so you're suggesting that anyone that
9 wants to attend George Washington University as an
10 undergraduate would have to purchase their housing
11 from GW.

12 MR. DRAUDE: Live within the campus plan
13 boundaries, yes.

14 MEMBER LEVY: Okay. Thank you.

15 CHAIRPERSON REID: Okay. Did we answer
16 your question all right?

17 MEMBER LEVY: Yes.

18 CHAIRPERSON REID: Okay.

19 MEMBER LEVY: I'm sorry, that's all I had.
20 Thanks.

21 CHAIRPERSON REID: All right. Now, next
22 -- okay.

23 MS. LEMIRE: Foggy Bottom Association?

24 CHAIRPERSON REID: Sure. You can come.

25 MS. LEMIRE: Good afternoon, Madam Chair,

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1 Board members. My name is Jacqueline LeMire. I'm the
2 President of the Foggy Bottom Association. The
3 proposal I'm going to present this afternoon is the
4 approved proposal by the Foggy Bottom Board.

5 We wanted to do two things in our
6 proposal. We wanted to assure that there's no
7 opportunity for GW to access additional housing in
8 Foggy Bottom, and we want to return Columbia Plaza and
9 Pennsylvania House to housing for permanent residents.
10 The figures that I'm using today are -- we hadn't seen
11 the new figures that GW had presented this morning on
12 total enrollment, so I'm using the figures that they
13 gave us last Monday.

14 And another thing is that our figures --
15 we are not including a carve-out in our figures, and
16 it will be clear -- either be clear or I certainly can
17 explain why we're not proposing a carve-out.

18 Our proposal is that undergraduate
19 students be capped at the current enrollment of 7,881
20 until 75 percent are housed on the campus. Seventy-
21 five percent would be 5,911. Thereafter, there must
22 be one additional on-campus bed for each additional
23 student enrolled. The 75 percent figure must be
24 reached by the fall of 2004 and would include new beds
25 in Squares 43, which is going to be 700 --

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1 MEMBER LEVY: I'm sorry, excuse me, Madam
2 Chair. Would you just slow down a little bit? I'm
3 having a hard time following you.

4 MS. LEMIRE: Oh, sure.

5 CHAIRPERSON REID: I really wish that you
6 all had given us these proposals in writing, because
7 --

8 MS. LEMIRE: Well, I have my proposal in
9 writing. Would you like --

10 CHAIRPERSON REID: Please. Yes.

11 DIRECTOR KRESS: I'll copy it and hand it
12 out.

13 MS. LEMIRE: I have copies.

14 DIRECTOR KRESS: Oh, do you? That would
15 be fabulous.

16 CHAIRPERSON REID: Okay. That would be
17 most helpful.

18 MS. LEMIRE: I'm sorry, I should have
19 handed them out. Okay. Seventy-five percent would
20 add up to 5,911 beds. And this could be reached by
21 the fall of -- it would have to be reached by the fall
22 of 2004, and we would include the new beds planned for
23 Squares 43, which will be 700, Square 57, which would
24 be 200, and we would want these to be occupied first
25 by the students then living in Columbia Plaza and in

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1 Pennsylvania House. In other words, when this new
2 housing goes up, we would like those two buildings
3 which had housed permanent residents to return to
4 housing for permanent residents. And they could be
5 moved into the new planned housing.

6 And we would ask, too, that GW would also
7 remove Columbia Plaza from the student housing lottery
8 with the results that the apartments coming on the
9 market would be open to the general public. If the
10 general public is graduate students or whatever it is,
11 so be it, it's the general public.

12 The beds that would be acceptable to us to
13 be considered on campus, and then I will tell you what
14 our new definition of on campus is, but the beds that
15 would be considered to be acceptable would be those
16 beds already on campus as of fall 2000, which was
17 3,583, those added on campus as of 4-12-2000, which is
18 189, Riverside Tower's beds, the Dakota. We would add
19 the Aston and 2144 and 2208 F street. And the total
20 beds on campus that we would find to be considered on
21 campus as of now would be 4,336. Coming online would
22 be another 900. So by the fall of 2004, GW would have
23 5,236 beds. By the way, all of these numbers are the
24 figures provided to us by GW.

25 This means that by fall 2004, barring

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1 further beds on campus becoming available, GW would
2 fall 675 beds short of their 75 percent objective.
3 However, it is assumed that additional on-campus
4 housing will gradually become available. And when the
5 75 percent benchmark is reached, any additional
6 enrollments must be housed on campus. With the
7 definition of campus changed to include any student
8 housing GWU might buy, lease, rent, construct or
9 otherwise acquire outside of the Foggy Bottom area,
10 meaning ANC-2A, and we have just been through a long
11 discussion where OP had a similar proposal.

12 In summary, this means that GW would not
13 have an opportunity to access additional housing in
14 Foggy Bottom, and then the new beds coming online
15 would move 1,575 students onto campus from the
16 surrounding area. Fifteen hundred and seventy-five
17 students would go either in where the campus
18 boundaries are now or outside of ANC-2A. And if GW
19 wanted to lease a building, as it did in the Foggy
20 Bottom, the St. James, and they wanted to lease it
21 outside of ANC-2A, it would be with our blessing, or
22 any other housing that they would want outside of that
23 area.

24 And this would not -- we are not counting
25 -- as you can see, we're not counting Hover as on-

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1 campus or the St. James as on-campus for a number of
2 reasons. One of them, of course, is that they have
3 crossed over -- we do not want anything west of 24th
4 Street. But that does not mean that they can't count
5 them to the 25 percent that they can keep off of
6 campus. It's up to them what that 25 percent number
7 is.

8 And the carve-outs would not be necessary,
9 because any commuters would be considered on campus
10 under the new definition. So if you live in Silver
11 Spring or in Arlington or whatever and you're
12 commuting from your parent's home, you would be
13 counted as on campus.

14 That's my presentation.

15 CHAIRPERSON REID: Okay. Now, I have a
16 question for you. Now, Ms. LeMire, when you say no
17 carve-outs as regards to the commuters, what about the
18 other categories?

19 MS. LEMIRE: The other category was very
20 small, and we're saying 25 percent can be off campus.
21 Those people are going to be off campus just per se.
22 I mean if you have a carve-out, that means they're not
23 --

24 CHAIRPERSON REID: That would be included
25 in the 25 percent.

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1 MS. LEMIRE: -- they're in the community
2 somewhere. So when you've got a 25 percent, that they
3 can be included in that 25 percent. And it would make
4 it simpler. Somebody talked this morning about
5 fudging the numbers or being kinder about it. Some
6 things are difficult to get a handle on. You could
7 put in your database, I would think, students -- now
8 they have a database where you can tell what zip code
9 people are living in et cetera. You could put a
10 general question of, "Do you fall under any of these
11 categories: Disability, religious reasons?" But just
12 check one box that nobody would know why you are
13 considering you should have exception. But I think an
14 easier way is just to say it's a small number and it
15 could fall under the 25 percent, and we don't need any
16 carve-outs at all. And then we wouldn't have to play
17 the number game.

18 CHAIRPERSON REID: Okay. Did you mention
19 -- I'm sorry, I was reading it at one point -- the
20 Square 122?

21 MS. LEMIRE: No, I did not. No. That was
22 not in my --

23 CHAIRPERSON REID: So you don't --

24 MS. LEMIRE: No. I have a --

25 CHAIRPERSON REID: That's something that

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1 you don't want to include.

2 MS. LEMIRE: The problem with Square 122
3 is because it's being litigated or about to be or I
4 don't -- I'm not up on the details of it, but we did
5 not include 122.

6 CHAIRPERSON REID: What about 58 or 81?

7 MS. LEMIRE: No. But, again, someone this
8 morning -- we're saying on campus. Someone this
9 morning, in fact I think it was Ms. Elliott, who
10 indicated that there are a number of properties that
11 could be built on campus, and I don't know -- well, 58
12 and 81 are not on campus, are they?

13 CHAIRPERSON REID: Not expand. You're
14 saying that you don't want to see the expansion to
15 those?

16 MS. LEMIRE: Yes. No, no, no.

17 CHAIRPERSON REID: All right. Thank you.

18 MS. LEMIRE: You're welcome.

19 CHAIRPERSON REID: Other questions?

20 MEMBER LEVY: Yes, kind of related to
21 that. Nothing in your proposal regarding expansion of
22 the campus boundaries.

23 MS. LEMIRE: No.

24 MEMBER LEVY: No conditions.

25 MS. LEMIRE: No. No, but, you know,

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1 again, we're saying you can go out of ANC-2A. You can
2 go across the river to Rosslyn or Arlington or
3 Alexandria or wherever you want to or Ward 4 or
4 wherever you want to.

5 MEMBER LEVY: Right. But I'm speaking in
6 general of the University expanding its campus
7 boundaries to adjacent squares. Just in general, not
8 specifically related to housing undergraduate
9 students. But nothing regarding that included in your
10 proposal one way or the other.

11 MS. LEMIRE: No. Well, in a way, you know
12 your order of last April said 43 and -- Square 43 and
13 we're not opposing that. I mean that is an addition.
14 That could be changed, but we're saying, "Okay, we'll
15 support 43 being included in the campus boundaries."

16 MEMBER LEVY: Maybe it's just me. It's
17 late in the day.

18 MS. LEMIRE: It might be me.

19 MEMBER LEVY: Meaning you don't -- I don't
20 want to put words in your mouth -- but do you or do
21 you not object or do you care in your proposal whether
22 the University would try to expand their campus
23 boundary in the future?

24 MS. LEMIRE: We care about whether they
25 expand their boundaries; yes, we do. We're saying

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1 leave -- go beyond ANC-2A.

2 MEMBER LEVY: I'm not sure I --

3 MS. LEMIRE: We're saying if you feel that
4 -- if this University feels that with the number of
5 properties that we've already identified, that have
6 been identified by Ms. Elliott, for example, this
7 morning is not sufficient to provide housing, then the
8 University can go beyond ANC-2A and lease housing or
9 buy or construct or whatever. But as far as the
10 boundaries within where the campus is now, no, we are
11 not supporting any additional boundaries.

12 MEMBER LEVY: Okay. Thank you.

13 CHAIRPERSON REID: Okay. Well, thank you
14 very much.

15 MS. LEMIRE: You're welcome.

16 CHAIRPERSON REID: Next would be Mr.
17 Tyler.

18 MS. TYLER: Thank you, Madam Chair,
19 members of the Board. My name is Maria Tyler. I'm
20 ANC Commissioner for 2A-03 and party to the case. And
21 I live at 947 25th Street.

22 First of all, I would like to support
23 wholeheartedly ANC-2A's proposals, as delineated just
24 briefly before me by our attorney. Between these two
25 proposals I prefer the second one, because it is very

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1 clean, and the essence of it was adopted in our ANC-2A
2 resolution of April 17, 2000. I can leave that
3 resolution with you. It is a very clean proposal
4 because it covers the entire neighborhood, off-campus
5 neighborhood.

6 I oppose rather strongly the FBA proposal,
7 because to my mind it is discriminatory.

8 COMMISSIONER MITTEN: Madam Chair, I don't
9 know that this is -- the purpose is to rebut other
10 people's proposals but to make your own.

11 CHAIRPERSON REID: Right.

12 MS. TYLER: Yes. Well, all right. I feel
13 that the reason why our proposal is so good is because
14 it is totally non-discriminatory. It protects the
15 entire neighborhood rather than just certain sections.
16 It does not say we contain the present situation. The
17 present situation, as it has been presented to this
18 Board, is already unsustainable. It is the tipping
19 board. There are large segments of our neighborhood
20 that need relief, and the ANC proposal addresses
21 itself to the entire Foggy Bottom neighborhood. It
22 doesn't leave out anybody. And it is for that reason
23 that I think it is such an excellent proposal and so
24 doable. There is no reason why GW cannot say no to an
25 application for enrollment.

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1 That is really all I want to say. It does
2 protect the entire Foggy Bottom neighborhood. It does
3 not contain the present situation, which is damaging
4 and which is especially impacted on certain sections
5 but very important in large sections of our community
6 that they need protection. So I urge the Board to go
7 that way. Thank you very kindly.

8 CHAIRPERSON REID: Thank you. All right.
9 Any questions? If not, the last one will be Ms.
10 Miller.

11 MS. MILLER: I'm Dorothy Miller, party to
12 the case for ANC-2A-05. And to give you some idea
13 where 2A is located, we start at Rock Creek Park, we
14 go the Virginia shoreline, we go over to 15th Street,
15 we go up to Pennsylvania Avenue, down to New Hampshire
16 Avenue, and up to the N. That's an ANC-2A.

17 CHAIRPERSON REID: Okay. Rock Creek Park
18 --

19 MS. MILLER: We start with Rock Creek Park
20 on the west.

21 CHAIRPERSON REID: On the west.

22 MS. MILLER: We go south to the Virginia
23 shoreline. We go to the east to 15th and Pennsylvania
24 Avenue and down Pennsylvania Avenue to New Hampshire
25 and up to N, and N over to the Park.

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1 CHAIRPERSON REID: And N to where?

2 MS. MILLER: N over to the Park.

3 CHAIRPERSON REID: Oh, back to the Park.

4 MS. MILLER: See the Park divides.

5 CHAIRPERSON REID: Got you.

6 MS. MILLER: And the south side of N
7 Street is 2A; the north side is Dupont Circle.

8 CHAIRPERSON REID: Okay. Go ahead.

9 MS. MILLER: And I want to say I'm very
10 pleased with the proposal that 2A has put forward and
11 they did say that the handicapped people could apply
12 for an exception but they would have to have an
13 exception to be a carve-out at all, and I agree with
14 that. And I do not agree with the idea that just
15 putting children and married people and people of
16 whatever religious persuasion could be put in Columbia
17 Plaza. I do not agree with that suggestion made by
18 the campus.

19 I do not believe in any further
20 enlargement of the campus area, because they have been
21 taking it and they have used some illegally, and I
22 think it's about time we put the skids on,
23 particularly Square 43 when they put students out and
24 tore those houses down when they were in perfectly
25 good shape until they were ready to build. And I

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1 think that they shouldn't be rewarded for having
2 destroyed perfectly good housing.

3 And I think -- let me see, I have one more
4 point. And I don't think there should be any carve-
5 out for commuters. And I want you to know there's a
6 new thing being tried in the District. They've only
7 done it in one place, and they are faxing me the
8 information, and I want you to know I'm going to put
9 it in effect in Foggy Bottom. The police department
10 and the citizens of Foggy Bottom with the policemen
11 and a computer will go around and track the cars that
12 are parked in Foggy Bottom and West End, and we'll
13 mark the number of times cars with out-of-town
14 licenses are found more than once. And the third time
15 they're towed and they're fined.

16 Because the campus plan suggested that GW
17 assist the students in registering their cars. And
18 when they say the cars are not parked, I told you once
19 before, they park when we're trying to have a vote.
20 When the people come to vote, the senior citizens
21 can't park because the students are pulling in, and
22 these are not full-time students. These are --

23 MEMBER GRIFFIS: Madam Chair, can I ask a
24 question.

25 MS. MILLER: I'm just trying to tell you.

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1 MEMBER GRIFFIS: No, I understand. Are
2 you actually proposing then in your recommendation
3 that the local residents police the non-residential
4 parking?

5 MS. MILLER: We're going to. We're going
6 to.

7 MEMBER GRIFFIS: So that would come off
8 the table in terms of what we're interested in terms
9 of putting together what you were recommending to the
10 University.

11 MS. MILLER: No. I'm just telling them
12 that this is coming down, because it's being tried
13 right now in one section of town, and no section of
14 town needs it more than Foggy Bottom.

15 MEMBER GRIFFIS: For my advocacy and
16 frankly for the time of day that this is, if you want
17 to put that together in terms of recommendations of
18 things that we need to deliberate on, then that would
19 be most important.

20 MS. MILLER: Okay. Well, I haven't gotten
21 it yet. The person who's been working on it --

22 MEMBER GRIFFIS: Is it part of a
23 recommendation that we should deliberate on?

24 MS. MILLER: Not necessarily.

25 CHAIRPERSON REID: No.

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1 MEMBER GRIFFIS: Then we probably
2 shouldn't take our time and your time or the others --

3 MS. MILLER: Okay. But I just want them
4 to know that when they say that their cars aren't
5 parked --

6 MEMBER GRIFFIS: Now it's known. I think
7 we should move on.

8 MS. MILLER: Okay. Very good. And I
9 think that what has been put forward by Foggy Bottom
10 Association -- I mean not the Foggy Bottom
11 Association, because I don't think theirs is anywhere
12 nearly as good as ours, and I highly endorse ANC-2A's
13 recommendations as being a solution that I think for
14 the next ten years could work to the betterment of the
15 residents in the community.

16 CHAIRPERSON REID: Okay. Thank you very
17 much. All right.

18 VICE CHAIRPERSON RENSHAW: Madam Chair,
19 will the Attorney Draude be giving us a written
20 summary of his proposal for 2A?

21 CHAIRPERSON REID: I would appreciate it
22 if he would.

23 MR. DRAUDE: Yes. If you want to hold the
24 record open, I'll write it up and submit it.

25 VICE CHAIRPERSON RENSHAW: I think that

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1 should be done, Madam Chair.

2 CHAIRPERSON REID: All right. He can
3 submit his testimony. I don't know yet whether we'll
4 leave the record open. Just let me make a decision on
5 that, because we have to decide what we're going to
6 do.

7 MR. DRAUDE: And if it would assist the
8 Board and avoid holding the record open, I believe
9 that ANC-2A would be willing to purchase from the
10 reporter the transcript of my remarks, and that's
11 automatically part of the record. I don't know when
12 you would anticipate getting the full transcript, but
13 certainly we can purchase that small portion on a
14 somewhat expedited basis and it's automatically part
15 of the record, so you don't have to hold the record
16 open.

17 CHAIRPERSON REID: Okay. Thank you.

18 MR. DRAUDE: If that's what you'd like to
19 have us do, then we'll do that.

20 CHAIRPERSON REID: Okay. All right.

21 COMMISSIONER MITTEN: Madam Chair, Mr.
22 Barber has the information on the graduate numbers if
23 you would like that provided for the record.

24 MR. BARBER: Charles Barber. In fall of
25 2000, the University had a graduate population, full-

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1 and part-time, of approximately 8,500. So I believe
2 I misspoke when I was talking about only full-time was
3 up at that level. It's full- and part-time graduate
4 at approximately 8,500.

5 CHAIRPERSON REID: As of what date?

6 MR. BARBER: That was fall of 2000.
7 Currently it's looking a little less than that, about
8 approximately 8,400. Compare that to 1985 when we had
9 a graduate population, full- and part-time, of over
10 10,000.

11 CHAIRPERSON REID: I'm sorry, when was
12 that?

13 MR. BARBER: In 1985.

14 CHAIRPERSON REID: Nineteen eighty-five.

15 MR. BARBER: We had a graduate population
16 of full- and part-time of approximately 10,000.

17 CHAIRPERSON REID: Okay. All right.
18 Thank you.

19 MS. DWYER: One other question, Madam
20 Chair. Will the Applicant have any opportunity to
21 respond to any of the proposals that came today or is
22 it your understanding that there is no response by the
23 Applicant to --

24 CHAIRPERSON REID: Just one second. Let
25 me talk to Corp Counsel. All right. Okay. Well,

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1 what we'll do is we will take a -- let us do this:
2 Let us take a short --

3 MR. DRAUDE: Madam Chair, may I throw in
4 my two cents here? If the Applicant's going to get a
5 chance to comment on the other people's, we first
6 received the Applicant's this morning, so we would
7 want a chance to comment on theirs. I'm not sure that
8 any of that's too useful since it --

9 CHAIRPERSON REID: Well, let us do this:
10 Right at this point in time, we're going to go to
11 recess. And when we come back we will be able to
12 better instruct you as to what happens next, I think.
13 Any other questions? Thirty minutes?

14 MS. MILLER: You told me I could correct
15 my statement, and I'll take out the ugly remarks
16 before I file it.

17 CHAIRPERSON REID: I appreciate that. And
18 also I just wanted to say that --

19 MS. MILLER: Normally my proofer takes
20 them out.

21 CHAIRPERSON REID: -- with regard to Mrs.
22 Renshaw's remarks what we try to do is to not have a
23 hearing where you have any dispersions or any
24 negativity or any provocative type of language going
25 back and forth. I don't allow it from one side, and

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1 I don't allow it from the other side. And that then
2 has everyone respecting the decorum and the proper
3 procedures of this particular hearing room. And this
4 is why it's very important to discourage that,
5 although people do try to get it in. But if we can
6 possibly discourage it, this is what we try to do and
7 eliminate it from the record, because it does not
8 serve any good purpose.

9 MS. MILLER: I appreciate it. My proofer
10 normally takes it out but didn't have a chance to
11 proof.

12 CHAIRPERSON REID: But you read it,
13 though.

14 MS. MILLER: Well, unfortunately, because
15 I couldn't get it out.

16 CHAIRPERSON REID: Thank you. Okay. Now,
17 we want to take 30 minutes, because it's --

18 VICE CHAIRPERSON RENSHAW: Why can't we do
19 this in less than 30, because --

20 CHAIRPERSON REID: I just got a request
21 from this side for 30.

22 COMMISSIONER MITTEN: Ms. Renshaw, I think
23 knowing us, realistically, it's going to take 30
24 minutes, knowing us.

25 CHAIRPERSON REID: And everyone can kind

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1 of just take a deep breath and just kind of get some
2 air. It's been a long day, so this is a good time to
3 do that.

4 (Whereupon, the foregoing matter went off
5 the record at 5:29 p.m. and went back on
6 the record at 6:21 p.m.)

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1 E-V-E-N-I-N-G S-E-S-S-I-O-N

2 (6:21 p.m.)

3 CHAIRPERSON REID: All right, ladies and
4 gentlemen, we now will proceed. You'll be happy to
5 know that the Board has made -- taken a vote and made
6 a decision germane to this particular order, and here
7 are the results thereof. Just kidding, just kidding.
8 Little levity, little levity. You know, here late
9 hour, everybody's tired, kind of wake you up.

10 (Laughter.)

11 We wish. Just kind of like -- it's Friday
12 night, you know.

13 Anyway, what's happening is at this point
14 -- you know what? There's one thing that I do have --

15 (Consult with Corp Counsel.)

16 CHAIRPERSON REID: All right. At this
17 point, what we're going to do is to give instructions
18 as to what the Board will need and a timeline as to
19 when it will be due, and also a date for a decision
20 meeting.

21 Now, one of the first things we wanted to
22 request was of the Office of Planning. Hello, down
23 there.

24 MS. WAGNER: I'm sorry.

25 CHAIRPERSON REID: Of the Office of

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1 Planning, we wanted to have an analysis of the
2 recommendations that have been proposed here today.
3 And Ms. Mitten will give further instructions as to
4 how that is to be structured.

5 COMMISSIONER MITTEN: We'd like it set up
6 as a matrix that would help us guide the issues that
7 we need to make decisions about. So using categories
8 -- you could expand the categories -- but similar to
9 what Mr. Draude how he delineated his proposal, like
10 level enrollment would be one thing and then housing
11 might be another, campus plan boundaries might be
12 another and so on. And then in each of those
13 categories summarize for us the recommendations by
14 each party and the University. And then in response
15 to each of those, the analysis that we would like is
16 for each of those recommendations pros and cons of
17 that particular recommendation.

18 CHAIRPERSON REID: Okay. All right. Now
19 the other thing -- and due when?

20 DIRECTOR KRESS: You decided that you
21 would like that due October 1, Madam Chair.

22 CHAIRPERSON REID: Okay. All right.

23 COMMISSIONER MITTEN: Ms. Wagner, is that
24 achievable?

25 MS. WAGNER: Will I have in writing all of

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1 the -- I mean will I have the testimony or will --
2 because I don't have all of ANC's --

3 CHAIRPERSON REID: I think we're talking
4 about expediting the --

5 MR. BERGMAN: I think maybe you better
6 discuss what you want from Mr. Draude, because that
7 might help OP understand what they'll have.

8 CHAIRPERSON REID: Mr. Draude, we're going
9 to request that you submit your written -- your
10 recommendations, as submitted here today, in writing
11 by September 25.

12 MR. DRAUDE: We have -- we are ordering an
13 expedited copy of that portion of the transcript. I
14 will be here on September 25 in another case, so --

15 CHAIRPERSON REID: Well, we thought that
16 rather than the transcript, just basically give us a
17 summation of what --

18 MR. DRAUDE: I will do that if I can do it
19 by the 25th. I may ask to have till the 26th, because
20 I am in a Zoning hearing here on the 25th.

21 CHAIRPERSON REID: Is the 26th agreeable,
22 Board members.

23 MR. DRAUDE: I'll certainly do it earlier
24 if it's possible, but I just know that I'm not going
25 to be in the office on that day.

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1 CHAIRPERSON REID: Would that be adequate
2 enough time for you, Ms. Wagner, to be able to --

3 MS. WAGNER: Do it on the -- it would be
4 great if I could have a full week.

5 MR. DRAUDE: I'll see if I can do it by
6 Monday.

7 CHAIRPERSON REID: All right. That would
8 be most helpful. I mean because, basically, we all
9 have notes, and you just had your --

10 MR. DRAUDE: I understand. I will do it.
11 I will do it by Monday.

12 CHAIRPERSON REID: Okay. Thank you.
13 Appreciate that. Then it was the submission --

14 MR. DRAUDE: Shall we -- do you want that
15 filed here and possibly served on the other parties;
16 is that correct?

17 COMMISSIONER MITTEN: And especially on
18 the Office of Planning.

19 MR. DRAUDE: And especially on the Office
20 of Planning, okay.

21 COMMISSIONER MITTEN: Right.

22 CHAIRPERSON REID: All right. Now, the
23 other thing was from the Applicant, the enrollment
24 figures that are to be submitted as a part of the
25 court order by October 1. And that that be into this

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1 office by what date was that, Mrs. Kress?

2 DIRECTOR KRESS: The words were that --
3 were quoted which are due September 30 to the courts
4 be filed here on September 30.

5 CHAIRPERSON REID: Okay.

6 DIRECTOR KRESS: So if that's a Sunday,
7 excuse me, then that's the 1st.

8 CHAIRPERSON REID: The 1st, the Monday
9 after that? Okay?

10 DIRECTOR KRESS: Yes. We don't intend to
11 be here on Sunday.

12 CHAIRPERSON REID: All right. Then Ms.
13 Renshaw had a request of the Office of Planning.

14 VICE CHAIRPERSON RENSHAW: Yes, a further
15 request of the Office of Planning. And this refers to
16 the Office of Planning's October 25, 2000 report to
17 the Board, page 4, the reference that since 1912 the
18 University has acquired nearly 40 percent of the Foggy
19 Bottom neighborhood. And I asked what will the
20 percentage be if George Washington University acquires
21 additional property as outlined and depicted on Map
22 310, plus property purchased or leased in the Foggy
23 Bottom/West End area. And then I had asked that the
24 map in your report of the same date, which is headed,
25 "George Washington University Acquisitions 2000 Based

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1 on 1999 D.C. Assessment Directory," be contrasted with
2 Exhibit Number 310, a map that George Washington
3 University provided on September 17.

4 CHAIRPERSON REID: Okay. Now, were there
5 any other items, Mrs. Kress, before --

6 DIRECTOR KRESS: Yes. We --

7 MR. BERGMAN: I'm sorry, but was there a
8 due date for that, what Ms. Renshaw just indicated?

9 VICE CHAIRPERSON RENSHAW: What is going
10 to be the due date for these further Office of
11 Planning --

12 DIRECTOR KRESS: I believe you wished
13 October 1 as well.

14 VICE CHAIRPERSON RENSHAW: October 1, is
15 that possible?

16 MS. WAGNER: Yes, that's possible.

17 CHAIRPERSON REID: Okay.

18 DIRECTOR KRESS: And then the last item,
19 which was not mentioned, I don't believe it's been
20 stated again, but it was Dorothy Miller's corrected
21 testimony.

22 CHAIRPERSON REID: Okay. All right. And
23 then the last thing was --

24 DIRECTOR KRESS: Which we should have --
25 you might want to set a due date on that, and it

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1 probably should be the 24th as well, if possible.

2 CHAIRPERSON REID: Okay. On the 24th.
3 All right. Then the last item was the announcement of
4 the decision meeting, which will be on Tuesday,
5 October 9 at nine o'clock a.m.

6 MS. MILLER: Nine?

7 CHAIRPERSON REID: Nine o'clock a.m.
8 Okay. Now, was there anything else? All right. I
9 think --

10 DIRECTOR KRESS: That was everything on my
11 list, Madam Chair.

12 CHAIRPERSON REID: No other questions,
13 comments. We're done? All right. Thank you very
14 much, ladies and gentlemen. This will conclude
15 today's hearing.

16 (Whereupon, the Board of Zoning Adjustment
17 Public Meeting was concluded at 6:30 p.m.)

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