

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

IN THE MATTER OF:

The Application of  
University of Notre Dame  
for a special exception to  
establish a university at  
premises 1615 New Hampshire  
Avenue, N.W.

Case No.  
02-25

Thursday,  
September 12, 2002

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

The public hearing of Case No. 02-25 by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room at 441 4th Street, Northwest, Washington, D.C., Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN      Chairperson  
ANTHONY J. HOOD      Vice Chairperson  
JAMES HANNAHAM      Commissioner  
PETER MAY              Commissioner  
JOHN PARSONS          Commissioner

COMMISSION STAFF PRESENT:

Alberto Bastida  
Sharon Sanchez

APPEARANCES:

On Behalf of the Applicant:

PHIL T. FEOLA, Esquire  
of: Shaw, Pittman, Potts & Trowbridge  
2300 N Street, N.W.  
Washington, D.C. 20037  
(202) 663-8800

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

(6:32 p.m.)

CHAIRPERSON MITTEN: Good evening, ladies and gentlemen. This is a public hearing of the Zoning Commission of the District of Columbia for Thursday, September 12, 2002.

My name is Carol Mitten. Joining me this evening are Vice Chairman Anthony Hood and Commissioners Peter May and James Hannaham. We are expecting Mr. Parsons to join us shortly.

The subject of this evening's hearing is Zoning Commission Case Number 02-25. This is a request by the University of Notre Dame for a special exception approval of a campus plan and further processing to allow the use of an existing building located at 1615 New Hampshire Avenue, Northwest for a university pursuant to Sections 507 and 31-04 of the District of Columbia's zoning regulations 11 DCMR.

Notices of today's public hearing were published in the D.C. Register on July 19, 2002 and in the Washington Times on July 29, 2002. This hearing will be conducted in accordance with the provisions of 11 DCMR Section 31-04, which are the Board of Zoning Adjustment procedures for special exceptions.

Copies of the hearing announcement are available to you and are located on the table near the door. The order of procedure will be as follows: preliminary matters followed by the presentation of the applicant's case; report by the Office of Planning; reports of other agencies; report of Advisory

1 Neighborhood Commission 2B; parties and persons in support;  
2 parties and persons in opposition; and, finally, rebuttal by the  
3 applicant.

4 The following time constraints will be maintained  
5 in this hearing. The applicant will have 30 minutes. Parties  
6 will have 15 minutes. Organizations will have five minutes.  
7 Individuals will have three minutes.

8 The Commission intends to adhere to these time  
9 limits as strictly as possible in order to hear the case in a  
10 reasonable period of time. The Commission reserves the right to  
11 change the time limits for presentations, if necessary, and notes  
12 that no time may be ceded.

13 Parties may at any time object to questions posed  
14 to a witness by another party or to evidence sought to be  
15 introduced into the record if it is irrelevant, immaterial, or  
16 unduly repetitious. The commissioners as well may request that  
17 such testimony or evidence not be received or that such evidence  
18 be stricken from the record.

19 All persons appearing before the Commission are to  
20 fill out two witness cards. These cards are located on the table  
21 near the door. Upon coming forward to speak to the Commission,  
22 please give both cards to the reporter, who is sitting to our  
23 right.

24 The decision of the Commission in this case must be  
25 based exclusively on the public record. To avoid any appearance

1 to the contrary, the Commission requests that persons present not  
2 engage the members of the Commission in conversation during any  
3 recess or at any other time.

4 The staff will be available throughout the hearing  
5 to discuss procedural questions. If you have any questions,  
6 please direct them to Mr. Bastida. Please turn off all beepers  
7 and cell phones at this time so as not to disrupt these  
8 proceedings.

9 At this time the Commission will consider any  
10 preliminary matters. Mr. Bastida, do we have any preliminary  
11 matters?

12 PRELIMINARY MATTERS

13 MR. BASTIDA: The staff has one preliminary matter,  
14 Madam Chairman. The notice of posting has been filed, and the  
15 applicant has complied with the regulations regarding posting and  
16 advised the Commission that they might consider that fulfilled  
17 and go forward with the hearing.

18 CHAIRPERSON MITTEN: Thank you.

19 Are there any other preliminary matters?

20 (No response.)

21 CHAIRPERSON MITTEN: Would all individuals planning  
22 to testify this evening please rise now to take the oath? Ms.  
23 Sanchez, would you administer the oath?

24 (Whereupon, all witnesses were duly sworn.)

25 CHAIRPERSON MITTEN: Thank you.

1                   Mr. Feola? We're going to put 30 minutes on the  
2 clock, but if you need a few extra minutes. It's just to guide  
3 you.

4                   MR. FEOLA: Thank you, Madam Chair.

5                   PRESENTATION OF APPLICANT'S CASE

6                   MR. FEOLA: For the record, my name is Phil Feola,  
7 the law firm of Shaw, Pittman here on behalf of the University of  
8 Notre Dame, which is the contract purchaser of the subject  
9 property, 1615 New Hampshire Avenue, Northwest.

10                   We are here to ask the Commission to allow the  
11 university to establish a permanent home for its Washington  
12 program on these premises. The building, as was pointed out in  
13 the opening statement, is a completed building, was built in the  
14 mid '80s pursuant to a BZA order.

15                   The property itself is approximately 6,600 square  
16 feet on the corner of New Hampshire Avenue and Corcoran Streets  
17 in the D.C. SP-1 zone district. As the Chair pointed out in the  
18 opening statement, university use is permitted in the SP zone  
19 pursuant to Section 507. That is a special exception granted by  
20 this Commission.

21                   As noted in the Office of Planning report, we are  
22 seeking approval of the campus plan, a single-building campus  
23 plan, I might add, and the further processing of that plan for  
24 immediate occupancy by the university pending purchase and  
25 expiration of the existing tenant leases.

1           The Commission can grant this application provided  
2           that the university, which is not likely to become objectionable  
3           to neighboring properties because of noise, traffic, number of  
4           students, and other objectionable conditions. And that does not  
5           adversely affect the use of neighboring properties or the zone  
6           plan.

7           We show tonight that the university's use of the  
8           property will actually lessen the impact of this building on its  
9           neighboring properties. The current building has 16,650 square  
10          feet of office space as permitted by the BZA and 12 apartments.

11          Approximately 40 full-time employees work in that  
12          building as we speak. It doesn't have now but has the capacity  
13          to have anywhere from 16 to 19 residents.

14          The university is proposing the use of this  
15          building that will have at its maximum eight employees. So,  
16          instead of the current 40 9:00 to 5:00 employees, it will have 8  
17          employees: 4 adjunct professors who will come one day a week  
18          after hours for a couple of hour classes as adjuncts and then 50  
19          students. The 50 students would occupy the residential space and  
20          you'll see converting part of the office space to residential as  
21          we get into the proposal, but those students will not have  
22          automobiles.

23          Thus, it is our opinion that the total occupancy  
24          load of the building will actually decrease. The number of  
25          persons, amount of traffic will decrease. The noise level will

1 not change. And there will be no exterior alterations to the  
2 building.

3 We have three witnesses on direct. I will just  
4 introduce them. We have a small presentation on Powerpoint that  
5 we'll let them walk through. The first witness is Father Timothy  
6 Scully, who is the executive vice president of the University of  
7 Notre Dame in South Bend. The second witness is Tom Kellenberg,  
8 who is the executive director of the Washington program. And the  
9 third witness is Craig Tiller, who is with the university's  
10 architectural office.

11 And also in the audience from South Bend is Carol  
12 Kastlebyer, who is the general counsel for the University of  
13 Notre Dame.

14 With that, I would like to ask Father Scully.

15 FR. SCULLY: My name is Father Tim Scully. I live  
16 on the campus of the University of Notre Dame in a student  
17 residence hall, Fisher Hall. It is one of 27 residence halls.  
18 All of our residence halls have chaplains, sisters, priests, and  
19 brothers living in them. And I live in one of them. I'm the  
20 executive vice president, as Phil mentioned.

21 CHAIRPERSON MITTEN: Welcome to Washington.

22 FR. SCULLY: Thank you very much. Thank you very  
23 much, Madam Chairman, and thank you very much, sirs, for giving  
24 us an opportunity to explain to you why we would like to open a  
25 study program here in the District of Columbia.

1 I would like to just take perhaps four to five  
2 minutes of your time. I don't want to presume that you know much  
3 about the University of Notre Dame. So I thought I would just  
4 tell you something about our university.

5 We are about 160 years old. We are in the forests  
6 of northern Indiana on about a 1,250-acre campus. It's a very  
7 beautiful part of the country and was founded by the Catholic  
8 church.

9 Our fundamental mission statement is to create a  
10 sense of human solidarity and concern for the common good that  
11 will bear fruit as learning becomes service to justice. Our  
12 university aspires to serve America's leadership group by forming  
13 people of deep social and moral conscience.

14 We have about 10,800 students. About  
15 three-quarters of those students are undergraduates. I might  
16 mention that of the 3,500 colleges and universities across the  
17 United States, Notre Dame has consistently ranked in the top 20  
18 for its undergraduate programs. So we tend to recruit a  
19 relatively select student body. Those are the kinds of students  
20 who would be coming to this facility.

21 Just to give you a sense for what we teach, we have  
22 five colleges at the university. The largest college and the  
23 college that would potentially send the largest number of  
24 students to this program is in the College of Arts and Letters.  
25 We also have a school of architecture, school of business

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1 administration, engineering, and science. In all of those fields  
2 plus law, we give doctoral degrees as well as professional  
3 degrees.

4 Just to give you a sense for the university, we  
5 have been very fortunate. Our operating budget is about \$600  
6 million. We have the 16th largest endowment in higher education  
7 of about \$3 billion the last time I checked this morning anyway,  
8 Madam Chair. I'm not quite sure the way things have gone lately.

9 It was considerably over \$3 billion.

10 We are one of only nine large private universities  
11 with an AAA bond rating from Moody's. I only mention that not  
12 for any kind of pretention but just to suggest to you that our  
13 ability to handle the kind of opportunity financially that this  
14 represents would not represent for the university a major  
15 concern.

16 Our president, who is a native of Washington, D.C.,  
17 likes to say our campus is in South Bend, but our classroom is  
18 the world. We are of America's research universities, one of two  
19 of the largest, Brandeis being the largest, university that sends  
20 students off our campus to study either abroad or on sites off  
21 campus in the United States.

22 These are some of the international study programs  
23 which we operate in roughly half of them, we own the facility.  
24 The other half, we operate the facility. We would like to add  
25 Washington, D.C. to that list in terms of proprietary

1 relationships because we would like to serve the District of  
2 Columbia and continue the Hesburgh program in public service  
3 named after Father Hesburgh.

4 You may know our former president is just a  
5 wonderful man who received the Congressional Gold Medal of Honor  
6 last year, America's Congress' Medal of Freedom, and we named the  
7 program after him because it's the kind of program that we want  
8 to represent the kind of service dimension that Notre Dame is  
9 committed to.

10 I'll just mention that we have a longstanding  
11 relationship with the community here in Washington, D.C. We have  
12 the second largest number of congressional staffers in  
13 Washington, second only to Harvard University.

14 We have over 5,600 active and supportive alumni  
15 numbers in the larger area. I should point out this will not be  
16 an alumni center, however. It's exclusively meant to be a  
17 teaching and learning center for our students.

18 If I may, Madam Chairman, I would like to turn this  
19 over now to the executive director of our program, who lives with  
20 his family here in Washington, D.C. Thank you.

21 CHAIRPERSON MITTEN: Thank you, Father Scully.

22 MR. KELLENBERG: I would also like to thank the  
23 Commission for giving us this opportunity tonight to address you  
24 and address any concerns you might have about the university's  
25 project here in Washington, D.C.

1 My name is Thomas Kellenberg. I am the executive  
2 director of the University of Notre Dame Washington program. My  
3 address is 2807 Connecticut Avenue, Northwest in Washington, D.C.

4 The program was established in 1997, five years  
5 ago. It's currently housed in a building owned by Boston  
6 University in the Woodley Park neighborhood. The program was  
7 founded because of a strong demand on campus for opportunities  
8 for public service and community service. And we hope to do that  
9 here in Washington, D.C.

10 We have successfully matriculated more than 150  
11 students from the University of Notre Dame. I have taught each  
12 and every one of those students. I can tell you I have two  
13 children myself, and I hope that my two children, a boy and a  
14 girl, grow up to be the kinds of students I have taught in this  
15 program.

16 They're outstanding individuals. They are a select  
17 group of students from the university. Most of them are honor  
18 students with a GPA in excess of 3.6 on a scale of 4.0. This is  
19 a very select program for a very distinguished group of young  
20 scholars.

21 Over 80 percent of our students volunteer in  
22 community-based service while at Notre Dame. I can tell you that  
23 nearly 100 percent of them volunteer during their semester in  
24 Washington, D.C. We make regular trips to Martha's Table up at  
25 14th and V to serve meals to the homeless, to tutor kids. This

1 is a group of students that is firmly committed to the  
2 Washington, D.C. area while they are here.

3 Many of them also return to Washington, D.C., to  
4 teach in schools, to work for nonprofits, to work for nonprofits,  
5 to work on Capitol Hill. This is an experience for them that  
6 they will never forget. And they come back ready and wiling to  
7 do what the District needs them to do upon their graduation from  
8 the university.

9 The program itself is extremely rigorous. It does  
10 not give them much time to do other than to work and to study.  
11 The students are in internships in government, business, and in  
12 nonprofit organizations on Mondays, Tuesdays, Wednesdays, and  
13 Fridays all day. They are then in classes on Monday, Tuesday,  
14 and Wednesday evenings with various adjunct faculty and with me  
15 in class all day on Thursdays.

16 The weekends are spent doing their course work,  
17 catching up on their internship work. And, as I said, this is a  
18 program that takes an awful lot of stamina and an awful lot of  
19 intelligence to get through.

20 They also while they are here are engaged in  
21 community service and also in co-curricular activities, regular  
22 trips to the Kennedy Center, the Shakespeare Theatre, as well as  
23 other sites in Washington, D.C.

24 The program administration is an important element  
25 of the program. There was a faculty committee on campus that

1 oversees our program here. The chairperson of that committee,  
2 Professor Bob Small, actually teaches in the program as well.

3 The on-site direction and supervision is rigorous.

4 I live within several miles of the facility now and would live  
5 within several miles of the Dupont Circle facility that we're  
6 attempting to purchase. And I am available 7 days a week, 24  
7 hours a day.

8 We also have commuting faculty from campus that  
9 come in usually for a day. They fly in and usually fly back to  
10 campus the next day while they're teaching a course during the  
11 semester. We also have adjunct faculty from Howard University,  
12 from Georgetown, from many of the surrounding universities who  
13 teach classes in the evenings for our students.

14 As I mentioned, the screening process for the  
15 program is extremely rigorous. The students need a  
16 recommendation from their rectors and resident assistants in the  
17 dormitories where they live on campus. Any kind of disciplinary  
18 action that resulted in penalties against the student would  
19 disqualify them from the program. We have not had in the  
20 five-year history of the program one single neighborhood  
21 complaint from anybody. I take great pride in that.

22 And I can tell you that the university does take  
23 discipline very seriously and that if any incident occurred, the  
24 student would be subject to immediate discipline back on campus,  
25 including possible expulsion from the program and possibly from

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1 the university. The university takes discipline very seriously,  
2 and I take it seriously as the director of the program.

3 The building in question, 1615 New Hampshire  
4 Avenue, is located on a Dupont Circle arterial. There are  
5 embassies and other buildings, large buildings. It contains 12  
6 apartments on the top 2 floors and contains existing classroom  
7 and office space.

8 The International Law Institute currently runs  
9 classes on its ground floor and lower level. There is also a law  
10 firm in the building and an embassy in the building. There is a  
11 surplus of underground parking for the university's needs.

12 And I can tell you that the university would  
13 prohibit students from bringing cars to Washington, D.C. In the  
14 five-year history of the program, I believe that we have had only  
15 one student with a car for special circumstances. And the  
16 special circumstances would relate to either a handicap or a  
17 disability that necessitated that student having a vehicle. But  
18 under no other circumstances would a student be allowed a vehicle  
19 in Washington, D.C.

20 We're hoping for a phased use of the facility  
21 beginning in September of 2003 with administrative offices moving  
22 in during the summer of that year.

23 I would now like to turn the rest of the  
24 presentation over to Craig Tiller from the university architect's  
25 office. Again, thank you for giving us this opportunity this

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1 evening.

2 CHAIRPERSON MITTEN: Thank you.

3 MR. TILLER: Good evening. Thank you again for  
4 having us here this evening. My name is Craig Tiller. I am an  
5 architect with the university, work with the university  
6 architect's office.

7 We have got a few pictures here to show you the  
8 facility assuming that you all are not aware of which building it  
9 is. It is a very attractive building, five levels, as you can  
10 see from the picture on the left, with an underground parking  
11 level that's demonstrated in the middle picture, which contains  
12 11 parking spaces, and then just in general that it's a very  
13 well-kept building, well-maintained building, and it would be our  
14 expectation that we would maintain and keep the building in like  
15 condition.

16 The ground and first floors currently have existing  
17 classroom and office space, as Tom has mentioned. We see that as  
18 a great benefit for us. It would require little to no  
19 modification for us just to move in and to make use of that  
20 facility for classroom and office purposes. It's adequate for  
21 the size of the program that we have now.

22 On the fourth and fifth floors is where you'll find  
23 the 12 residential units that were mentioned previously. There  
24 are five studio apartments and also seven one-bedroom apartments,  
25 for a total of 12, the fifth floor being 100 percent residential

1 and then the fourth floor shares the residential with about 1,500  
2 square feet of existing office space.

3 The phased occupation plan, should everyone be in  
4 agreement, this is a good purpose for this building and it's an  
5 agreeable use, would be to, first of all, consider the  
6 residential availability for the Fall of '03.

7 It would be available in June of '03 for any  
8 modifications or any renovation that would be necessary to bring  
9 it up to par. That would include five one-bedroom apartments,  
10 which we see there is a capacity of 20, and one studio, for an  
11 additional capacity of one, giving us a total of 21.

12 The student occupancy would actually be anticipated  
13 to be 19 given that we would assume that the rector would be  
14 housed in a one-bedroom apartment, thereby taking up two of the  
15 spaces that are available.

16 Looking to the fourth floor, where there's the  
17 1,500 square feet of office space, anticipating a conversion of  
18 that space for the Fall of '03, there is potential based on the  
19 layout that is currently above it on the fifth floor for that  
20 space to be turned in to a single one-bedroom apartment and then  
21 one studio apartment, giving us five additional spots for  
22 students to attend, bringing the total to 26 at that point.

23 Anticipating the ability to make use of additional  
24 space, which currently is leased, -- and that's dependent on  
25 whether all of the residential tenants were to actually complete

1 their leases and move out -- there are two one-bedroom  
2 apartments, which are currently still under lease, and also three  
3 studios, which are still under lease, for a capacity of nine,  
4 bringing a total capacity at the expiration of those leases to a  
5 total of 35, again 33 students and a single rector.

6 And then office and classroom availability would be  
7 limited to the lower level and the first floor, which is  
8 approximately 10,200 square feet, which at this point would meet  
9 the need of the university's program.

10 Looking forward to Fall of '04, again, residential  
11 availability, in December of '03, anticipating that that space  
12 would become available at the end of a lease, there is potential  
13 for additional four one-bedroom apartments and also three studio  
14 apartments. That's based on the current layout of the fifth and  
15 the potential layout of the fourth floor.

16 It would make economic sense for us to repeat that  
17 pattern to stack utilities and services. It's a very efficient  
18 use of that floor as well. So that would give us an additional  
19 capacity of 17 more students, bringing the total to 52, but,  
20 again, anticipating that a rector would take one of those  
21 one-bedroom apartments, giving us a capacity for 50 students  
22 total.

23 Looking forward to the Fall of '05, again, should  
24 the second floor become available in January of '05. There are  
25 two possible uses there, and it would be an evaluation of the

1 program at the time. But if there was need demonstrated for  
2 additional classroom space or office space to serve the faculty's  
3 needs, obviously that would be considered.

4 But probably a preferred option would be because of  
5 our tenancy on campus back in South Bend, to really stress  
6 residentiality and put the amenities into the dormitories. We  
7 really look at this as an opportunity to expand some residential  
8 amenities, if you will, for the kids that are living there,  
9 giving them social spaces, TV lounge, study, and reading rooms,  
10 game room, those types of spaces, to enhance the residential  
11 stake because they are coming from an atmosphere on campus that  
12 has those amenities and sort of continue to promote that  
13 residentiality that we have in Notre Dame. We see that as a  
14 great benefit for them.

15 Also, another possibility would be that if there  
16 were an opportunity to add residential units, to decrease the  
17 density of the current units, still keeping the total occupancy  
18 of 50. It would give a little more breathing room to the kids in  
19 the apartments that exist.

20 That concludes the slide presentation.

21 MR. FEOLA: Thank you Mr. Tiller.

22 I would like to ask Mr. Kellenberg a question, if I  
23 might.

24 DIRECT EXAMINATION

25 BY MR. FEOLA:

1 Q Mr. Kellenberg, have you read the Office of  
2 Planning report?

3 A I have.

4 Q Have you read the conditions that are attached to  
5 that report?

6 A I have.

7 Q Do any of those conditions present a problem for  
8 the program or the university if the Commission were to go  
9 forward and approve this project?

10 A The university I believe could fully support most  
11 of the recommendations, especially the recommendation regarding  
12 student vehicles. There are one or two conditions, I believe,  
13 that are a cause of concern, specifically conditions number three  
14 and four.

15 Q Could you explain why for the Commission?

16 A With respect to condition number three, capping the  
17 student enrollment at 31, I believe that that number is  
18 significantly less than I think the building could use initially.  
19 And I believe that we should be able to use the space  
20 efficiently and house 35 students initially, rather than 31.

21 Q And condition number four is?

22 A Condition number four relates to returning for  
23 further processing regarding the second and the third floors.  
24 With respect to the second floor -- excuse me -- the third floor,  
25 that floor will become available in December of 2003, roughly the

1 same time that we would be beginning the occupancy of the  
2 building in the fall of that year. And so it would pose a  
3 problem in the sense that it would be coming back just as we were  
4 moving into the new building for further proceedings before the  
5 Commission.

6 With respect to the second floor of the building,  
7 the anticipated use of the second floor, which would become  
8 available in January of 2005, would be merely expanded classroom  
9 space but would not be further incremental expansion of the  
10 number of students in the program.

11 It would be easing some of the tightened classroom  
12 and office space and giving the students perhaps more room for  
13 library, computer room space, and other social space, but it  
14 would not involve an expansion of the program.

15 So, consequently, with respect to recommendations  
16 three and four, we would like to have those restrictions loosened  
17 if at all possible.

18 MR. FEOLA: Thank you.

19 Madam Chair, if it pleases the Commission, that  
20 concludes our direct presentation. As a sort of sum-up, I think  
21 our university's position is that the reuse of this building for  
22 university purposes will actually have a beneficial effect on the  
23 potential adverse impact caused by the current occupancies. The  
24 reduction in the daily office users goes from 40 plus or minus to  
25 8.

1           The residential use, while the population increases  
2           from 18 or 19 to 50, none of those 50 students will be able to  
3           have automobiles and will be a self-contained university use  
4           within the building. So we see absolutely no adverse impact  
5           caused by this change of use.

6           I will point out that it is ironic that if the  
7           current owner or subsequent purchaser were to change this  
8           building to be a residential apartment with 50, not  
9           university-related, rooming house, for example, and 2 floors of  
10          office, they could do it as a matter of right. So it's an  
11          interesting kind of quirk in the zoning regulations that has this  
12          as a special exception before this body.

13          So, with that, I think I will let the case rest and  
14          be available for questions from the Commission.

15                   CHAIRPERSON MITTEN: Thank you, Mr. Feola.

16                   Any questions from the Commission? Mr. Hannaham?

17                   COMMISSIONER HANNAHAM: Mr. Kellenberg, I think you  
18                   mentioned something about a Dupont Circle facility that you were  
19                   considering purchasing. Is that facility in any way related to  
20                   this in terms of satisfying the same kinds of student needs? Is  
21                   that related at all to this particular site?

22                   MR. KELLENBERG: The facility that I mentioned is,  
23                   in fact, this facility in Dupont Circle.

24                   COMMISSIONER HANNAHAM: Oh, that's what you  
25                   mentioned. So that's this facility?

1 MR. KELLENBERG: That's this facility.

2 COMMISSIONER HANNAHAM: It is close to the Fort  
3 Dupont Circle. Right.

4 The other thing is I remember a slide that you  
5 showed some 20 or more countries where you had either control of  
6 or partial involvement with programs in these different countries  
7 in the international sector. Were those all similar to this  
8 where Notre Dame students were the primary beneficiaries of those  
9 programs?

10 MR. KELLENBERG: That's correct. Father Scully  
11 could probably address more in detail the actual legal  
12 arrangements made, but it's my understanding that in at least  
13 half of those countries, the university owns the facility itself.

14 And in the other half of those countries, the university leases  
15 space for student occupancy as well as for classrooms and  
16 offices.

17 COMMISSIONER HANNAHAM: I was very impressed. I  
18 wasn't aware of anything that I was aware of by other schools and  
19 the states that was as extensive as that. Maybe it's something  
20 very unique, but I think that's a very good thing to do.

21 MR. KELLENBERG: Thank you very much, sir.

22 COMMISSIONER HANNAHAM: Thank you. That's all I  
23 have, Madam Chairman.

24 CHAIRPERSON MITTEN: Thank you, Mr. Hannaham.

25 Any questions? Mr. May?

1 COMMISSIONER MAY: Thank you. I have a couple of  
2 questions.

3 I don't want to get too far into the details of  
4 what you're doing with the plans for the building, but I guess  
5 the basic question is with the existing apartment layout and the  
6 additional use, are there major reconfigurations planned or  
7 significant? I mean, there are issues. I mean, just from the  
8 math, it looks like you're packing them in pretty tight.

9 MR. TILLER: Actually it would be very little  
10 modification. It wouldn't be reorganizing the apartments. We  
11 would use them as is. And we did look at it as a gross square  
12 foot number per student and compared it back to our facilities at  
13 Notre Dame.

14 We have about 1.6 million square feet at Notre Dame  
15 for I think about 6,250 students, which comes out to roughly 250  
16 square foot per student. And here we're looking at just over 300  
17 square foot per student. So it's less density than we see back  
18 on campus.

19 COMMISSIONER MAY: Including the classroom space  
20 and office space or --

21 MR. TILLER: No.

22 COMMISSIONER MAY: That's just for residential?

23 MR. TILLER: That's strictly the residential space,  
24 yes.

25 COMMISSIONER MAY: So these one-bedroom apartments

1 are in the neighborhood of 600 square feet something like that?

2 MR. TILLER: Roughly, yes.

3 COMMISSIONER MAY: And you're going to be putting  
4 four students in some of them, maybe more?

5 MR. TILLER: Well, we're going to be putting four  
6 students and some of them two in the smaller versions.

7 COMMISSIONER MAY: Two in the smaller ones?

8 MR. TILLER: Yes. And then we can only get one in  
9 the studios. But it's actually if you look at it from a  
10 dormitory-type setup as far as the number of kids that you put in  
11 that space, it actually works out to be a better ratio.

12 And the way these kids live at the university if  
13 they get four kids in two rooms, they have one living room and  
14 one bedroom. So it's a very similar setup. It works out very  
15 well for them.

16 COMMISSIONER MAY: Okay. I remember living like  
17 that.

18 The next question, maybe this is stated somewhere,  
19 but I assume that there is no allowance for students living off  
20 campus?

21 MR. KELLENBERG: That's correct. Students live in  
22 the building at the university, and they would be required to  
23 live in the building in the program here.

24 COMMISSIONER MAY: And I guess my last question is  
25 I didn't study this question and when I looked at the plans, but

1 it occurred to me as you were talking about it. The building is  
2 split between the front door for office entry and the back door.

3 It looks like a back door for the residential entrance.

4 Will the students be coming and going from that  
5 back door and sort of commuting around to the front door for  
6 offices or are there connections within the building? And are  
7 they, therefore, going to be coming and going from the front door  
8 primarily?

9 MR. KELLENBERG: There are connections between the  
10 elevators so the students could only use the front door if the  
11 Commission felt that that were required.

12 The actual entrance now for the top two floors  
13 where the residents come and go is the back, which is on  
14 Corcoran. And there's a separate elevator that takes them up to  
15 the top two floors.

16 COMMISSIONER MAY: But you can still use the office  
17 elevator to access the upper floors as well?

18 MR. KELLENBERG: That's correct.

19 COMMISSIONER MAY: I just didn't remember that from  
20 the plans. That sort of split identity doesn't make any sense  
21 any more if you're going to be using it for that one purpose.

22 I think that's it, but I'll see what everybody else  
23 has.

24 CHAIRPERSON MITTEN: Thank you.

25 Mr. Hood?

1                   VICE CHAIRPERSON HOOD: I just have one or two  
2 questions. Mr. Scully, you mentioned a very extensive schedule  
3 for the students. How do they have time to volunteer?

4                   MR. KELLENBERG: The students have time to  
5 volunteer. We usually do the volunteer work on Thursdays. The  
6 students spend all day with me on Thursdays. Sometimes we're in  
7 class, but for the majority of the afternoons, we're out in the  
8 community in one place or another visiting people, meeting  
9 residents from the District of Columbia, volunteering.

10                   And it's very similar to the life of the students  
11 back on campus. One of the things that make the University of  
12 Notre Dame very, very special is its commitment to community and  
13 public service.

14                   And the students when they're here, this isn't a  
15 demand that is placed on them by me or by any other faculty  
16 member. This is a demand that comes from the students asking,  
17 "What can we do while we're here to make a difference?" And, as  
18 I said, it's a real pleasure to work with students like that.

19                   VICE CHAIRPERSON HOOD: Unfortunately, I didn't  
20 have an opportunity to receive any opposition letters in my  
21 preparation. These were just handed to us as we came in. You  
22 mentioned in the past we are -- you have had no adverse impacts  
23 within the neighborhood where you are now. And also you have not  
24 had any problems with the police department being called where  
25 your students have just not been a problem. Is that your

1 testimony?

2 MR. KELLENBERG: It is my testimony that we have  
3 had no complaint ever made against any students from the  
4 University of Notre Dame during the history of my involvement in  
5 the program. I can tell you that these are excellent students.

6 VICE CHAIRPERSON HOOD: My question, as you phase  
7 out the tenants that you have now and i think I kind of know  
8 where some of this opposition may come from, your expansion  
9 process, once you outgrow that building, then are you going to  
10 start expanding and then we'll have a University of Notre Dame  
11 Phase II here in Washington, D.C.?

12 MR. KELLENBERG: No. I can't imagine that we would  
13 ever expand beyond the building there on New Hampshire Avenue.  
14 That is the building that we would love to have for the  
15 university here in Washington, D.C. And it would more than  
16 satisfy our needs, both academic and administrative, for the  
17 program.

18 VICE CHAIRPERSON HOOD: The students, I'm sure they  
19 have social events. Do they have parties and whatnot?

20 MR. KELLENBERG: These students don't have time,  
21 seriously, to be involved with parties while they're here in  
22 Washington, D.C.

23 The other thing that I should point out is that  
24 back on campus, there is a system where priests and nuns live in  
25 the dormitory residences. They're the rectors and the

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1 rectresses. We fully intend to have a rector or rectress on duty  
2 24 hours a day, 7 days a week in this facility while the students  
3 live there.

4 It is a part of the Notre Dame tradition, and it is  
5 something that distinguishes the university in that respect by  
6 having a religious -- they are available for discipline, for  
7 counseling, and for any other purpose that is required.

8 FR. SCULLY: Mr. Commissioner, may I simply say I  
9 mentioned in my introduction that i live in a student residence  
10 hall. I have for 12 years since I have been at the university.

11 There are 185 students in Fisher Hall who live  
12 there and, again, it would be my testimony to tell you that I  
13 have never been awakened in 12 years of living in a student  
14 residence hall by noise from a student party.

15 Now, that may mean that I am a heavy sleeper, but I  
16 quite honestly mean that, that it doesn't happen. So I wanted to  
17 simply add that because --

18 VICE CHAIRPERSON HOOD: Thank you. I will  
19 definitely take your word for it.

20 Once the tenants there now are phased out of that  
21 particular building, how many students -- forget about the case  
22 you have in front of us. I'm looking down the line. How many  
23 times are you going to come back in front of the Commission and  
24 ask us to increase your cap?

25 I mean, I'm asking you to kind of predict the

1 future. Maybe I need the Father to do it.

2 MR. KELLENBERG: I can tell you that we do not  
3 intend to proceed beyond 50 students under any scenario. And  
4 Father Scully I think could address any other concerns that you  
5 might have, but it is the intention of the program not to expand  
6 beyond 50 students living in the building.

7 VICE CHAIRPERSON HOOD: That is just a blanket  
8 statement. Twenty years from now we will have 50 students.

9 MR. KELLENBERG: Twenty years from now you will  
10 have no more than 50 students from the University of Notre Dame  
11 living in that building.

12 VICE CHAIRPERSON HOOD: Thank you, Madam Chair.

13 CHAIRPERSON MITTEN: Can you tell me, according to  
14 the BZA order that originally permitted this building to be  
15 constructed, there are 999 square feet of residential recreation  
16 space. Where is that located?

17 MR. TILLER: I don't believe that it was ever  
18 constructed that way. We have a set of existing of the original  
19 documents in our office versus the actual buildout of the  
20 building, and they do differ significantly.

21 The only thing that I could think that they might  
22 be referring to is it was a combination of two apartment units at  
23 one point to one apartment, but it's still maintained as an  
24 apartment facility, as far as I know, an apartment unit.

25 CHAIRPERSON MITTEN: No residential recreation

1 space?

2 MR. TILLER: Not that I am aware of. Now, I have  
3 not been able to see every nook and cranny of the building  
4 because there have been restrictions on what we could see and  
5 what we couldn't see. So it's possible, but not that I'm aware  
6 of.

7 CHAIRPERSON MITTEN: That's interesting. I wanted  
8 to clarify as well, if I understood your phasing program  
9 correctly, you intend to put student housing on the third floor.  
10 It would be fifth, fourth, and third floor?

11 MR. TILLER: Yes.

12 CHAIRPERSON MITTEN: In the Office of Planning  
13 report, they mention that it would be the first floor. So that's  
14 an error?

15 MR. TILLER: Right.

16 CHAIRPERSON MITTEN: Okay. Is the fact that you  
17 don't have any of the students having cars just a coincidence or  
18 do you have a specific requirement that they not bring cars to  
19 the Washington campus?

20 MR. KELLENBERG: In the past, we have strongly  
21 discouraged them from bringing vehicles to Washington, D.C. In  
22 the history of the program, I can only recall one student ever  
23 having a vehicle here under special circumstances, but the  
24 university has no problem in making a blanket prohibition on  
25 students with perhaps an exception if the student were disabled

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1 or handicapped and needed a vehicle in order to reach his or her  
2 internship site.

3 CHAIRPERSON MITTEN: All right. In terms of the  
4 phasing that would be suggested by the condition number six, the  
5 condition number six that was proposed by the Office of Planning,  
6 the tenant that occupies the space on the second floor, how many  
7 spaces, how many parking spaces, are allocated to them currently?  
8 Do you know that?

9 MR. TILLER: I believe that each of the tenants on  
10 the second and the third floors is allocated three parking  
11 spaces.

12 CHAIRPERSON MITTEN: So reserving six parking  
13 spaces for commercial tenants, that meets the current commitment  
14 to those tenants?

15 MR. TILLER: That does.

16 CHAIRPERSON MITTEN: All right. I have no other  
17 questions. Any other questions from the Commission? Mr. May?

18 COMMISSIONER MAY: Maybe this is really obvious and  
19 I just missed it, but what was the original special exception  
20 granted for? What was the required exception or the exceptions  
21 necessary to build the building?

22 MR. FEOLA: The property was then in the SP-1 zone.  
23 It wasn't a Dupont Circle overlay. And it required an approval  
24 for office as a special exception on the site. It was to be  
25 built a brand new building.

1 I believe that was. I was not involved in it, but  
2 I believe that's what the special exception was, office in an SP  
3 zone with the add-on for the housing.

4 COMMISSIONER MAY: Thank you.

5 CHAIRPERSON MITTEN: Thank you all.

6 FR. SCULLY: Thank you.

7 CHAIRPERSON MITTEN: We'll move now to the report  
8 by the Office of Planning.

9 REPORT BY THE OFFICE OF PLANNING

10 MS. McARTHY: First, Madam Chair, Commission  
11 members, applicant, members of the audience, we wish to apologize  
12 for showing up late. There was some electrical failure in our  
13 building, and we were trapped in the parking garage. So we're  
14 sorry.

15 And Veneeta Ray, who compiled this report, had a  
16 death in her family and had to go catch a plane to California.  
17 So we're giving her report for her tonight. And, actually,  
18 Jennifer Steingasser will be giving the report.

19 MS. STEINGASSER: My name is Jennifer Steingasser.  
20 I'm with D.C. Office of Planning.

21 The Office of Planning reviewed the subject  
22 property, subject to the conditions in Section 210, requirements  
23 for campus plan, and Section 507, special exception for  
24 university buildings in the SP zone. We found the analysis to be  
25 fairly straightforward being it is a single building. All the

1 uses are contained within the building.

2 We're willing to stand on the written record with  
3 the exception that OP now recommends that the third floor not be  
4 required to return for further processing and that it be included  
5 in the current further processing, as we stated in condition two.

6 If the Commission would like us to go further  
7 through the report, we would be happy to do so.

8 CHAIRPERSON MITTEN: Just so we're clear, what  
9 you're recommending --

10 MS. STEINGASSER: Condition four?

11 CHAIRPERSON MITTEN: Yes.

12 MS. STEINGASSER: We had originally through our  
13 supplemental report recommended that the applicant return for  
14 further processing of the second and third floors.

15 CHAIRPERSON MITTEN: Right.

16 MS. STEINGASSER: Through discussions with the  
17 applicant's representative this afternoon, it became clear that  
18 the third floor could come online reasonably quickly and that to  
19 require them to come back for further processing would be a very  
20 redundant activity. So we agreed to remove the condition and  
21 require only the second floor to return for further processing,  
22 either in four years or at such time that it converts to  
23 university space.

24 CHAIRPERSON MITTEN: Just while we're on that, I  
25 think it was right before you came in that Mr. Kellenberg had

1 mentioned the fact that they were troubled by condition number  
2 four on the third floor, as you have said. And then for the  
3 second floor, the planned use of the second floor would not  
4 entail the ability or facilitate them intensifying the enrollment  
5 in the program, which is why they found that inclusion of the  
6 second floor and the later further processing to be problematic  
7 for them. So can you respond to that?

8 MS. STEINGASSER: If it's the intention that it not  
9 be used for additional housing, residential use, and additional  
10 students, then I think we would be satisfied that it could be  
11 further processed this evening and the full condition be removed.

12 Our main concern was at this point we recognized  
13 that the university hadn't fully detailed every floor of the use  
14 and we were still in the process of formulating a program. We  
15 were concerned about the transitional period, where there would  
16 be office use, some student housing, and some campus activities,  
17 classrooms, on site. And it was that transition period that  
18 worried us more than the current use as commercial, residential,  
19 or the future complete use as university with residential.

20 So if the Commission is satisfied and the applicant  
21 has stated on the record -- again, I apologize that we weren't  
22 here; I understood that there would be some additional  
23 information presented -- that the second floor would not add to  
24 the intensity of the use through the increase of students or  
25 through the increase of additional commercial tenants after these

1 tenants expire, we would be happy to remove that condition.

2 CHAIRPERSON MITTEN: Then given that we wouldn't be  
3 anticipating any further processing because the third floor would  
4 be available relatively quickly, second floor would not intensify  
5 the use, then could you revisit for us proposed condition number  
6 three, which holds the enrollment at a level of 31 students for  
7 the first 4 years?

8 Mr. Kellenberg said that, at least initially, they  
9 would have the capacity to house 35 students and in relatively  
10 short order, they can provide the housing on the third floor at  
11 the fifth floors.

12 Would you still be advocating a phase-in of the  
13 enrollment?

14 MS. McARTHY: The major reason that we had written  
15 the condition that way was because there were no details from the  
16 university about the housing and what they were putting into  
17 those floors and how much they were still holding out the  
18 possibility of reserving a potentially substantial portion of the  
19 building for commercial tenants.

20 So our concern was that we not create an instant  
21 slum by crowding too many people into the building if there was  
22 insufficient space permitted for residential. So that was the  
23 reason for the staging and the reason for the limitation.

24 Since we weren't here to hear the update, --

25 CHAIRPERSON MITTEN: I understand.

1 MS. McARTHY: -- we will just explain to the  
2 Commission that was our concern. And the Commission can feel  
3 free to weigh that against what they heard this evening.

4 CHAIRPERSON MITTEN: All right. In the more  
5 lengthy report, not the one with the proposed conditions but the  
6 one submitted on the 5th, on Page 5, near the bottom, you are  
7 discussing the fact that they don't meet the off-street parking  
8 requirement.

9 How did you calculate what would be the  
10 requirement? Since, for at least the existing program of use,  
11 the 11 spaces are sufficient, what would the new requirement be?  
12 And how did you determine what it was?

13 MS. STEINGASSER: I believe the calculation was  
14 performed on kind of a guesstimating based on conversations with  
15 the applicant as to each floor taking into account classroom  
16 space as an assembly and then the existing commercial space and  
17 the residential space and calculating up on the figures that we  
18 had from the original hearing statement filed in June.

19 We also felt, however, that it's close proximity to  
20 the Metro station and the university statement that students do  
21 not drive to this program was sufficient to waive those three  
22 parking spaces. I believe that is how the original calculations  
23 were done.

24 CHAIRPERSON MITTEN: All right. Any questions from  
25 the rest of the Commission? Mr. May?

1 COMMISSIONER MAY: I have questions, but, actually,  
2 I think I would need to ask them of the applicant.

3 CHAIRPERSON MITTEN: All right. Well, we'll have  
4 them back up at the end.

5 COMMISSIONER MAY: Okay.

6 CHAIRPERSON MITTEN: Anyone else? Questions for  
7 the Office of Planning?

8 (No response.)

9 CHAIRPERSON MITTEN: All right. Thanks. Glad you  
10 could make it.

11 Are there any other government agencies represented  
12 here this evening that would like to make a report?

13 (No response.)

14 CHAIRPERSON MITTEN: Anyone representing ANC 2B?

15 (No response.)

16 CHAIRPERSON MITTEN: I will just note for the  
17 record that we have a letter from ANC 2B stating that they  
18 support the application and it's based on their understanding  
19 regarding the policy that the university has prohibiting students  
20 from bringing vehicles. That seemed to be the primary concern  
21 there.

22 Do we have a witness list going, Mr. Bastida?

23 MR. BASTIDA: Yes. We are in the process of  
24 retrieving it to bring it to the Chair.

25 CHAIRPERSON MITTEN: All right.

1 MR. BASTIDA: Thank you.

2 CHAIRPERSON MITTEN: If you'd just bear with me for  
3 a moment, we'll get the witness list. And then we'll call up  
4 persons in support who signed up to testify.

5 All right. I'll call up the folks who have signed  
6 up to testify in support. Jacqueline Rey-Hipolito. Perhaps I  
7 didn't say that right. Michael Vitlip and Aaron O'Donnell. If  
8 you would all come forward and take a seat at the table?

9 You'll each have three minutes to testify. When  
10 you begin speaking, just press the button in the center of the  
11 mike, and a light will come on. That means the mike is on. Just  
12 introduce yourself for the record.

13 So we'll start on this end.

14 PARTIES AND PERSONS IN SUPPORT

15 MR. VITLIP: For the record, my name is Michael  
16 Vitlip. I am originally from Steubenville, Ohio. I am a junior  
17 at the University of Notre Dame. I had the privilege of being  
18 selected to take part in the Washington program from Notre Dame  
19 here this semester currently.

20 In the three weeks that I have been here, I would  
21 like to testify that it has been probably one of the best  
22 experiences I have ever had and absolutely the best experience of  
23 my college career. I have learned more in the three weeks here  
24 than I have learned in an entire semester of taking courses  
25 because the work that you do --

1 CHAIRPERSON MITTEN: Father Scully is a little  
2 uncomfortable right now.

3 MR. VITLIP: The work that you do here when you do  
4 work and working with different things such as your internship, I  
5 am currently interning upstairs for the Office of the Corporation  
6 Counsel in the Criminal Division.

7 When you do work there, you actually see the  
8 results of your work. You're not just being tested on  
9 memorization of facts. on thinking, how you think, actually how  
10 you can put all the thinking that you do in the classroom to  
11 work.

12 Taking classes such as Congress and public policy,  
13 I found that there is no better way to learn about Congress and  
14 public policy than to come to Washington, D.C., where the people  
15 who are actually affecting public policy and working on Congress  
16 are housed and where they are actually doing their work.

17 I have learned an unexplainable amount through my  
18 internship. My internship I've done many things, such as writing  
19 motions and attending sessions in the courtroom. I've even taken  
20 part in the CTI meetings for the fourth ward. I've done many,  
21 many different things and had many experiences here so far that  
22 have already made it probably the most memorable experience I  
23 will have and will take with me from Notre Dame.

24 CHAIRPERSON MITTEN: Terrific. Thank you, Mr.  
25 Vitlip.

1 MS. REY-HIPOLITO: For the record, my name is  
2 Jacqueline Rey-Hipolito. I am an alum of the University of Notre  
3 Dame. I graduated this past May. And I had the privilege of  
4 participating in the Notre Dame Washington program last fall,  
5 2001. Right now I am currently working for a congressman from  
6 California, which is my home state.

7 I would just like to echo everything that he just  
8 said about the program providing an experience that is  
9 unparalleled anywhere else, especially not back on campus in  
10 South Bend. I was provided with the opportunity to do an  
11 internship on Capitol Hill, which I think provided the foundation  
12 for the work that I do now coming back here to work for a  
13 congressman.

14 And I would just like to add that had I not  
15 participated in the program and had I not been exposed to what it  
16 is like to have a real job and have to commute on the Metro and  
17 work 9:00 to 5:00, i probably wouldn't have considered coming  
18 back to D.C. and getting a job with a congressman, which I really  
19 enjoy now.

20 Thank you.

21 CHAIRPERSON MITTEN: Thank you.

22 And Mr. O'Donnell?

23 MR. O'DONNELL: Yes. My name is Aaron O'Donnell.  
24 I currently reside in the District. I am originally from  
25 Indianapolis, Indiana. I am a Notre Dame Class of 2000 graduate.

1 I participated in the program now three and a half  
2 years ago. I can easily say that it is an honor to be here today  
3 to speak on behalf of the program, that, just as these two said,  
4 it is an amazing experience. And that's why I'm in Washington,  
5 D.C. today.

6 I would not probably have considered Washington as  
7 a place to live after growing up in Indiana and going to Notre  
8 Dame, going to the University of Notre Dame, but I am here today.

9 And of the 23 people that were in the program with me, I think  
10 there are 4 or 5 that are here today living in the District. And  
11 I think there are about four or five that are at graduate schools  
12 right now planning to move to the District upon graduation.

13 So we're looking at about 50 percent of the people  
14 I was with who all are coming back. And I think all but one are  
15 from places other than Washington, D.C. or the surrounding area.

16 So it had quite the impact on our group, who are  
17 now great friends and just an incredible group of people. I  
18 think that that is probably what was most important, an  
19 incredible group of people having an incredible experience that  
20 all really appreciated it and will come back. I think that's  
21 something that, just as I said before, students will come back  
22 and students will participate in the city.

23 Thank you.

24 CHAIRPERSON MITTEN: Good news. Folks are finding  
25 an attractive place to come back and live and work. I want to

1 see if the commissioners have any questions for you. Any  
2 questions? Questions?

3 (No response.)

4 CHAIRPERSON MITTEN: Thank you all for coming down  
5 tonight. Anyone else who would like to testify in support of  
6 this application?

7 (No response.)

8 CHAIRPERSON MITTEN: All right. We'll move to  
9 folks in opposition. I'm just going to call a panel. We'll just  
10 deal with panels of three. Linda Eilertsen. Please come  
11 forward. Take a seat at the table. Robert Meehan. Lisa  
12 Bernhardt. Did you all turn in your cards previously? All  
13 right. Ms. Eilertsen, you can go first. You'll each have three  
14 minutes.

15 PARTIES AND PERSONS IN OPPOSITION

16 MS. EILERTSEN: I'm a resident in the Ward 2.

17 CHAIRPERSON MITTEN: Would you identify yourself  
18 for the record as you can?

19 MS. EILERTSEN: Yes.

20 CHAIRPERSON MITTEN: Thanks.

21 MS. EILERTSEN: Linda Eilertsen, E-i-l-e-r-t-s-e-n.  
22 I'm a resident in the area. I'm a retired government worker. I  
23 walk to work currently at the International Law Institute. From  
24 my point of view, I would like to continue to walk there. I  
25 would like to see the institute stay there, if possible, maybe

1 having the option to buy the property.

2 The displacement of residents in the area who are  
3 voting is a concern for me because we have been losing housing in  
4 the area. And there is not enough housing for people as it is to  
5 avoid the commuting situation that's already a nightmare. And it  
6 would be kind of nice to see some support from the city to help  
7 the residents that are there to possibly own their apartments and  
8 to take over the current building and keep things in a more  
9 normal situation as they are now.

10 We may have classes during the day, but at night  
11 it's quiet. And the residents like it that way. To have  
12 classrooms during the day and night, people coming and going all  
13 the time, will be a definite change in the area plus traffic and  
14 whatever.

15 So, basically, I'm coming from the point that the  
16 price tag may be very high, but it would be nice to have the  
17 option. And it would also be very nice to keep the institute in  
18 the area because they do have -- people come from all over the  
19 world, but they don't come to live here. They come here to learn  
20 things about integrity in government, whatever, and to go back to  
21 their country, and to help develop trade with the United States.

22 It would be nice to keep them convenient to Metro and to keep  
23 them in the area.

24 Thank you.

25 CHAIRPERSON MITTEN: Thank you.

1 Mr. Meehan?

2 MR. MEEHAN: Good evening. My name is Bob Meehan.

3 I am a resident of the area within 200 feet of the building on  
4 Corcoran Street. I have been there since 1969. Please excuse me  
5 if I look at my notes because with three minutes, I'm not as  
6 eloquent a speaker as the university trained their students. I  
7 need to compress this.

8 Actually, I'm now running for ANC because our ANC  
9 never advised us on Corcoran Street that this proposal was coming  
10 before them. And at the meeting I'm told no one from Corcoran  
11 Street said a thing. So if you see a lot of people here today on  
12 Corcoran Street, it's because of the confusion of we were  
13 supposed to have a chance to look at it.

14 I respect the proposal because their counsel is a  
15 good friend of mine, and I know how good his work is. I respect  
16 the university. And with an Irish name like mine, Meehan, I only  
17 wish they came to Connecticut to sell me their program.

18 Our neighborhood is besieged right now.  
19 Seventeenth Street was supposed to be a commercial area for the  
20 residents. It's now a tourist attraction with 24-hour buses  
21 coming in and people coming to bars from Virginia and Maryland.  
22 So traffic and cars are the big thing.

23 Now we have 50 students and faculty who will live  
24 in this building, which is equal to the total population on the  
25 northern side of Corcoran Street. When you look at all of those

1 buildings, there are about 14 buildings. There are only about  
2 three to four people who live in those buildings because they are  
3 all condos now. That is a huge increase in the area.

4 Now, my concern is everything that has been said  
5 here is in terms of what the university is offering you as a  
6 basis for making a decision. But the counsel also pointed out  
7 none of this is restrictive on the building. Should the  
8 university sell this building, we have a precedent. That's my  
9 concern.

10 So how would the District make sure that these  
11 students or no one in the future would have cars that live in  
12 this place? Just to give you an example of my confidence in the  
13 city, for several years recently, the government couldn't record  
14 my taxes. So I kept on getting cumulative bills.

15 This month I got two bills, my mortgagee got two  
16 bills, from the District, one with a \$58 credit and one for a \$58  
17 bill when the actual bill is \$1,800. I have a concern that the  
18 city can, in fact, ensure that there will be no residential  
19 parking stickers for the people in this building that are  
20 students.

21 CHAIRPERSON MITTEN: You need to wrap it up now,  
22 Mr. Meehan.

23 MR. MEEHAN: So if that can be done, I'd like to  
24 know how that can be done. But there is nothing on the building  
25 itself, and I think that's what you need to reassure us, that, in

1 effect, you have put something there that is not based on the  
2 university but is tied to the building. This building did meet  
3 parking requirements when it was first set up.

4 CHAIRPERSON MITTEN: Thank you.

5 Ms. Bernhardt?

6 MS. BERNHARDT: Hello. My name is Lisa Bernhardt,  
7 and I own a condominium at 1751 Corcoran Street. The condo is at  
8 the end of Corcoran Street next to New Hampshire Avenue and is,  
9 thus, directly next to the planned university and dormitory.  
10 Because of that, I feel like that those of us who live -- there  
11 are four condos in this condo association -- we would be most  
12 adversely affected by this new use for the building.

13 My main concern is noise. The back of my condo and  
14 my patio directly face the back of the embassies on New Hampshire  
15 Avenue, which is next to the building in question. I can tell  
16 you we do hear a great deal of noise from these embassies, but  
17 that noise is mostly during the day.

18 Dorms, however, are not occupied just during the  
19 day. They're occupied 24 hours a day. Dorms I believe are  
20 essentially or just inherently noisy places, especially one with  
21 50 students.

22 I'm also very concerned that the back entrance to  
23 the proposed dorm is directly behind my unit. And I'm concerned  
24 about the noise coming from the increased foot traffic of  
25 students coming in and out of that entrance.

1 I also have no doubt that the students coming to  
2 the university are very good, hard-working students, but since I  
3 was one myself not so long ago and since I worked with several  
4 interns on Capitol Hill, I can assure you that they do work very  
5 hard, but they also know how to cut loose and have a good time.

6 I guess fundamentally I am opposed to this plan  
7 because I moved to Corcoran Street and Dupont Circle because it  
8 was a quiet and residential neighborhood and a very quiet and  
9 residential street. I believe the dormitory would drastically  
10 change that.

11 I have no objection to students coming to D.C. and  
12 taking classes. I think it's a great introduction to the city  
13 and to public policy. I just wish they would put a dormitory  
14 somewhere else.

15 CHAIRPERSON MITTEN: Thank you.

16 Any questions for this panel from the Commission?  
17 Any questions?

18 (No response.)

19 CHAIRPERSON MITTEN: All right. Thank you all for  
20 coming down. Okay. Here is the tough one for me, Geurgen  
21 Karapetyan. I apologize. K. A. Lynch. Steven Wynor. Is it  
22 Wynor? We'll let you go first. Say your name again so we all  
23 know how to say it.

24 MR. KARAPETYAN: For the record, my name is Geurgen  
25 Karapetyan. I know it's hard to pronounce. It's okay. I live

1 in the building in question, 1775 Corcoran Street, which is the  
2 residential side. It has a separate address.

3 I would like to say why I chose this area to live,  
4 because that area, that particular area, is although being right  
5 in the center, the heart, of the town, at the same time, it is  
6 very quiet and peaceful.

7 If you ever had a chance to go down, say, K Street  
8 after 5:00 o'clock, you would see that it's like a dead city.  
9 But if you go up to Dupont Circle and to the area of 17th Street  
10 and surrounding neighborhood, you will see that it is a very  
11 lively atmosphere there. And that makes for residents very  
12 attractive. At the same time, it is a very peaceful and safe  
13 neighborhood.

14 This change would reduce the available number of  
15 affordable residential units. And as a resident in that area,  
16 it's a concern because it's hard to find this kind of -- and you  
17 would see also as you saw on the slide show, the building is very  
18 well-maintained, but at the same time it's affordable. So it is  
19 a very attractive place for people to live.

20 At the same time, I was listening to the students.

21 And I was thinking, well, they have a great experience. And if  
22 I were management in Notre Dame University, I would increase my  
23 program because they have such a great experience. It's a very  
24 beneficial thing.

25 And if we look at an example of George Washington

1 University, we would see that they do have this experience of  
2 increasing their programs because they are successful. And  
3 eventually they are increasing also their dorms, as we have the  
4 situation in the Farragut North neighborhood.

5 So for me, the convincing speech of the management  
6 of the university that they are not going to expand, I think it's  
7 kind of questionable because if they are successful, they should  
8 expand because it's a good program.

9 So what I want to convey is that i think this area  
10 is a very unique area, which is a mix of residential and  
11 commercial and international usage of the buildings. I think  
12 keeping it that way probably would be best for the area.

13 CHAIRPERSON MITTEN: Thank you.

14 Ms. Lynch?

15 MS. LYNCH: Yes. I'm Kathleen Lynch. I'm  
16 president of the Corcoran Muse Condo Association. We have three  
17 buildings diagonally across the street with 35 units in it. We  
18 are concerned, mainly because of the density of the student  
19 population. It's projected to be what, 35 next year? Well,  
20 three years ago, one student just testified there were only 23 in  
21 the program. And ultimately by 2005, there are to be 50.

22 It also looks as if a successful program has got to  
23 expand. It looks to us that way. There would be nothing to  
24 prevent the complete conversion of that building to a student  
25 population of 300 square feet per student; whereas, the rest of

1 the residences in our block are much larger.

2 They're individual family units. They're  
3 individual condos. It is a residential area. And I am just  
4 afraid or all of us are afraid of the increased traffic in the  
5 area, the increased noise.

6 Many of our bedrooms front on Corcoran Street; in  
7 other words, directly opposite this student dormitory. It seems  
8 to us that a preferable use would be the mixed use that it has  
9 now or a conversion totally to condominiums or apartment uses but  
10 apartments of normal sizes for adult populations, not students.

11 As wonderful as the experience in Washington is for  
12 students, the other thing that I wonder about -- and this is  
13 perhaps not germane -- is isn't it better for the District to be  
14 collecting taxes on the businesses occupying that building and  
15 also personal income taxes than foregoing all of the tax income  
16 on that property, which the District badly needs. It just can't  
17 afford to give up tax revenue.

18 CHAIRPERSON MITTEN: Okay. Thank you.

19 And Mr. Wynor?

20 MR. WYNOR: My name is Steven Wynor. I live at  
21 1739 1/2 Corcoran Street, Northwest. It's about 100 yards from  
22 the property in question. I live here in D.C., and I have lived  
23 here since 1975.

24 I own a home here. I pay taxes here. I vote here.

25 I am not a \$3 billion university. I don't have a Powerpoint

1 program. I certainly lack the persuasive skills of the Catholic  
2 church.

3 I think this is a fabulous program, but I don't  
4 understand why they have to place a dormitory in my residential  
5 neighborhood. I'll echo what others have said, that this is a  
6 quiet residential neighborhood. The presence of a university  
7 there is a I think very negative one.

8 I first lived here in Washington at 24th and H,  
9 Northwest, right next to George Washington University. Over 25  
10 years, I watched as George Washington University completely  
11 devoured much of the residential housing in the Foggy Bottom  
12 neighborhood.

13 This is just the wrong sort of use for this  
14 building in this residential neighborhood. I wouldn't want a  
15 factory here. I wouldn't want a prison here. I wouldn't want a  
16 rooming house here.

17 This is a neighborhood of single-family dwellings  
18 and condos. And I think placing a densely populated dormitory  
19 here is a bad idea.

20 In spite of the fact that all of these students are  
21 quite virtuous and serious, I have great concerns about the  
22 noise. Despite the fact that they are not going to have cars, I  
23 really don't believe that one. I think that we will have parking  
24 problems, as we already do. I am concerned about noise and  
25 litter.

1           The house that backs up to mine is rented to law  
2 students. They're very virtuous, and I have called the police to  
3 that property several times.

4           I echo the concerns about loss of tax revenues.  
5 This is both a university facility and a church-related facility.

6           The Catholic church has extensive university facilities on the  
7 campuses of Georgetown University and Catholic University. I  
8 don't understand why these students can't be housed on those  
9 existing campuses.

10           We can't be giving up tax-generating property for  
11 more organizations that do not pay taxes. I pay income tax here.

12           I pay real estate tax here. And I think the District of  
13 Columbia needs to support its residents who own homes here.

14           CHAIRPERSON MITTEN: Thank you.

15           MR. KARAPETYAN: And, also, may I add that we  
16 actually share their concern about this issue with the  
17 neighborhood residents. And we have collected petitions, which I  
18 filed some of them.

19           CHAIRPERSON MITTEN: Yes.

20           MR. KARAPETYAN: but I have additional that I want  
21 to.

22           CHAIRPERSON MITTEN: Please pass those to Mr.  
23 Bastida. Before you do that, let's see if the Commission has any  
24 questions.

25           VICE CHAIRPERSON HOOD: Madam Chair, I just have

1 one question.

2 CHAIRPERSON MITTEN: Mr. Hood?

3 VICE CHAIRPERSON HOOD: Do any of the three of you  
4 ever attend your ANC meetings? Did you attend the meeting where  
5 this vote was taking place?

6 MS. LYNCH: I didn't even know about it.

7 MR. WYNOR: None of us were.

8 MR. KARAPETYAN: We didn't know.

9 MR. WYNOR: Until we saw the signs for this  
10 meeting, none of us on the block were even aware that this was a  
11 proposal.

12 MR. KARAPETYAN: And I was surprised that I read in  
13 the file that out of six members, there were four present, of  
14 which only two voted, four against and one abstained. So out of  
15 six, only two expressed their opinion essentially.

16 CHAIRPERSON MITTEN: And I take it -- I don't know  
17 how close you are -- none of you received the notice if you're  
18 within 200 feet of the property?

19 MR. KARAPETYAN: No.

20 MR. WYNOR: I am within 200 feet. I received no  
21 notice.

22 MR. KARAPETYAN: Not even the least of people that  
23 were supposed to.

24 CHAIRPERSON MITTEN: All right. Well, we'll have  
25 to investigate that aspect of it.

1 MS. LYNCH: It was totally out of the blue.

2 VICE CHAIRPERSON HOOD: I guess, Madam Chair, this  
3 is probably inappropriate for me to ask this question because  
4 obviously they didn't know anything about the meeting but the one  
5 abstention. I was just wondering.

6 I was actually just trying to figure out who was  
7 the ANC commissioner in which this area was under. And i wanted  
8 to find out who that person was who was representing his  
9 constituents.

10 Thank you, Madam Chair.

11 CHAIRPERSON MITTEN: Thank you, Mr. Hood.

12 Anyone else? Go ahead, Mr. Parsons.

13 COMMISSIONER PARSONS: Ms. Lynch, you are president  
14 of an association.

15 MS. LYNCH: Yes.

16 COMMISSIONER PARSONS: Does the ANC normally  
17 communicate with you about their agendas?

18 MS. LYNCH: No. They never have.

19 COMMISSIONER PARSONS: So this is not unusual.  
20 This is the norm.

21 MS. LYNCH: No. But I didn't see a notice of it.  
22 I haven't seen anything.

23 COMMISSIONER PARSONS: So they don't send you  
24 notices on a routine basis as to what their monthly meeting  
25 agendas are?

1 MS. LYNCH: No. But normally I read about it in  
2 the Intowner or I pick it up on the internet or somehow I find  
3 out about issues that are of interest to my neighborhood.

4 COMMISSIONER PARSONS: So it's kind of newspaper  
5 account after the fact that you are learning about what is going  
6 on?

7 MS. LYNCH: Yes.

8 COMMISSIONER PARSONS: Very unfortunate. Thank  
9 you.

10 CHAIRPERSON MITTEN: I was just looking on the  
11 list. So far I was just scanning through. Ms. Lynch, your name  
12 is on the list of people who should have received a notice.

13 MS. LYNCH: I never did.

14 CHAIRPERSON MITTEN: We'll ask Mr. Feola.

15 MS. LYNCH: My mail has been coming, though. I  
16 must tell you that. I found out something else I didn't receive  
17 today.

18 CHAIRPERSON MITTEN: Okay. So there might just be  
19 a -- let me find out. Mr. Meehan, did you get a notice being  
20 within 200 feet? Just nod or shake your head.

21 MS. BERNHARDT: I'm the one right next door.

22 Just a moment. Come forward and get on the mike  
23 for me.

24 MS. BERNHARDT: Lisa Bernhardt again, who lives  
25 right next door to the proposed facility.

1 I used to be on an e-mail list. The ANC used to  
2 send out e-mails to people.

3 CHAIRPERSON MITTEN: Right.

4 MS. BERNHARDT: And, for some reason, at the  
5 beginning of the summer, that stopped. So, for whatever reason  
6 --

7 CHAIRPERSON MITTEN: There should have been a  
8 separate notice that was mailed to you about this case because  
9 you're close enough, not coming from the ANC.

10 MS. BERNHARDT: There was no. Our mail has been  
11 very reliable. Never received anything.

12 CHAIRPERSON MITTEN: All right. Yes, I see you  
13 here. You're on the list as well. Yes. Well, we'll ask Mr.  
14 Feola about that.

15 I just wanted to comment on a few things. In  
16 making decisions about land use, the Commission does not examine  
17 the tax status of the entities. That's one thing. So that's  
18 beyond our review authority.

19 And there is a fundamental presumption of  
20 compatibility in special exception cases. So there's a  
21 fundamental presumption of compatibility as long as any adverse  
22 impacts can be dealt with of a university in a residential zone.

23 So that's why we'll be focusing on making sure that there are no  
24 adverse impacts that result, just so that you know where we are  
25 coming from. All right? Thank you.

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1 Susan Meehan, Jean Berube. And is there anyone  
2 else who would like to testify in opposition this evening? Come  
3 forward at this time. Mrs. Meehan, we'll let you go first.

4 MS. MEEHAN: Thank you.

5 CHAIRPERSON MITTEN: You need to turn on the  
6 microphone and introduce yourself for the record. There you go.

7 MS. MEEHAN: I'm Susan Meehan. I have lived on  
8 this street since 1968. I have to say my husband was a little  
9 confused. We did not receive a notice. What he thought was a  
10 notice was, in fact, what was tacked on our door by people who  
11 lived around the corner in the building. So that's what he  
12 thought was the notice.

13 CHAIRPERSON MITTEN: All right.

14 MS. MEEHAN: I can give just a very little quick  
15 history of that building because I know what it was and why it  
16 was there. For many years, that place was a parking lot. In the  
17 earlier times, it was a parking lot because that side of Corcoran  
18 Street was going to be the ramp for the inner-city freeway that  
19 was going to go around on Florida Avenue.

20 We fought very hard during the early years to try  
21 and get housing put up in there because there was a lot of  
22 prostitution and a lot of bad things that happened on that side  
23 of the street at that time.

24 The current building there came in kind of  
25 underneath our radar sight because there was an extremely ugly

1 building that had been planned for there. The neighborhood spent  
2 a great deal of time fighting that building. And they just sort  
3 of fell back, gasped, and were tired when that, the current  
4 building, there came into being.

5 It looked attractive. Nauru Embassy sounded like a  
6 pretty romantic and quiet thing. And nobody had any objections  
7 at that time. We're all disappointed that Nauru has folded as  
8 far as that is concerned.

9 I think the major problems are that when you try  
10 and retrofit undergraduates into a highly dense urban community  
11 that does not contain an undergraduate university in the  
12 neighborhood and one in which there already are parking problems  
13 and density problems, this is not a good fit.

14 It's bad enough in places like Georgetown and Foggy  
15 Bottom, where there are universities present and the residents  
16 are warned, as it were. But we don't have undergraduate  
17 universities in our neighborhood, and we do have density  
18 problems.

19 For example, the Safeway at the corner has the  
20 highest walk-in traffic of any Safeway on the entire East Coast  
21 of the United States.

22 CHAIRPERSON MITTEN: You need to wrap it up now.

23 MS. MEEHAN: Okay. Most of the out-of-state  
24 universities that have sites in the area are here just for  
25 lobbying, not for residences. I think that this is not a good

1 use.

2 I would like to say that university creep has  
3 always been a problem. I don't believe that, as one of the other  
4 persons said, if it's a good program, they're going to stop at  
5 50. They'll buy another building and expand. And we can't. Our  
6 neighborhood can't take that kind of density.

7 CHAIRPERSON MITTEN: Thank you. I am going to have  
8 to close it out there.

9 MS. MEEHAN: We'll live, then. We'll move away.

10 CHAIRPERSON MITTEN: Would you mind just waiting to  
11 see if the Commission has any questions for the panel? Thank  
12 you.

13 Ms. Berube.

14 MS. BERUBE: Hi. I'm Jean Berube.

15 CHAIRPERSON MITTEN: Sorry. I'm not doing well  
16 with names.

17 MS. BERUBE: Okay. It has accents on the "e."  
18 Mutilated all the time. Don't worry about it.

19 CHAIRPERSON MITTEN: Sorry.

20 MS. BERUBE: I am a D.C. resident. I have lived in  
21 the city since 1990. I live on Corcoran Street, at 1754 in  
22 Corcoran Muse, directly across the street, within 200 feet of the  
23 proposed dormitory. I wanted to tell you about the nature of the  
24 neighborhood.

25 I know that some people have said that there is a

1 lot of traffic , that is's under siege. It's a very peculiar  
2 street because it's one of the most quiet streets in the city.

3 I have lived next door to the current location of  
4 the University of Notre Dame's program. There could not be a  
5 more vast difference between Corcoran Street and Connecticut  
6 Avenue right off Cathedral. And I have lived in other parts of  
7 the city as well.

8 I'm glad to know that there have been no complaints  
9 on Connecticut Avenue, but, as you may know, that's right next to  
10 the zoo. It's a major thoroughfare. And having lived there  
11 myself, it's not a small community. It's not a neighborhood, as  
12 the Corcoran Street is.

13 Despite the Safeway, use of the Safeway and the  
14 restaurants on the street, there are not a lot of cars going down  
15 Corcoran Street. It's a one-way street. It's really quiet. And  
16 I think that it would be very adverse.

17 I'm very surprised that there was a fundamental  
18 presumption of compatibility when you're looking at doubling the  
19 occupancy of an entire street by one building.

20 I can say really nice things about the University  
21 of Notre Dame and their students. And this program seems to be  
22 really great. But I think they made the U.S. News and World  
23 Report list for party schools. So their reputation is something  
24 that concerns my neighbors. You know, kids are kids. And I  
25 think that it would be a really bad thing to have this on my

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1 street.

2 Thank you for letting me speak.

3 CHAIRPERSON MITTEN: Thank you.

4 MS. BURNS: Hi. I'm Carole Burns. I live at 1775  
5 Corcoran Aim, which is the residential portion of this building  
6 that's up right now.

7 I also just feel that a dormitory is not  
8 appropriate for this neighborhood. We have a wonderful, vibrant  
9 neighborhood. It's the quietest and one of the prettiest streets  
10 around.

11 I used to live in Foggy Bottom. As much as I think  
12 universities contribute so much to our cultural life, students  
13 are students. And they will have loud parties.

14 I don't understand how Notre Dame can control some  
15 of the problems that we're concerned about. I don't see how they  
16 can control whether a student owns a car. I don't see how in a  
17 dormitory they could control a loud party, but often what happens  
18 is students don't want to live in dormitories after a while.  
19 They want to live in the neighborhood. Then at that point there  
20 is really no controlling that aspect.

21 And then what I saw happen in Foggy Bottom is that  
22 landlords realized that they don't have to maintain their  
23 buildings to rent at high prices to students. And so the housing  
24 stock goes down a little bit.

25 The main thing, it seems to me, is that you're the

1 experts on zoning law. And I imagine that this neighborhood was  
2 set up with this zoning for a particular reason. I feel that  
3 this building is a viable building, as it is now. I'm sure that  
4 Nauru could get another buyer, that a zone change would not be  
5 necessary to have this building continue and to have it not  
6 disrupt the neighborhood at all.

7 I also have a letter that I wrote that I would like  
8 to submit.

9 CHAIRPERSON MITTEN: Please do. You can give that  
10 to Mr. Bastida.

11 Let me just see if the Commission has any  
12 questions.

13 MS. BERUBE: Just also I did not get any  
14 notification of the ANC meeting as well.

15 CHAIRPERSON MITTEN: Or did you get any notice of  
16 the fact that this case was coming forward?

17 MS. BERUBE: We knew. As residents of the  
18 building, we were told of the proposal of the offer for sell, but  
19 we didn't know of any of the -- we knew a zone change would be  
20 necessary, but we were not informed of when various meetings  
21 would go forward.

22 CHAIRPERSON MITTEN: All right. Any questions from  
23 the Commission for this panel? Mr. May?

24 COMMISSIONER MAY: I just had one question for Ms.  
25 Berube. And that was that I see her name on the list here as

1 having received the notice. Did you receive a notice in the  
2 mail?

3 MS. BERUBE: No, I did not. And I have no problems  
4 with my mail.

5 CHAIRPERSON MITTEN: We have a problem.

6 Anybody else? Questions?

7 (No response.)

8 CHAIRPERSON MITTEN: All right. Thank you all.

9 MS. MEEHAN: Madam Chairperson, I was the ANC  
10 commissioner in the neighborhood for 12 years. In those 12  
11 years, there was no problem about making sure that people in the  
12 community were aware of stuff like that.

13 CHAIRPERSON MITTEN: I understand. Anyone else who  
14 wishes to testify in opposition this evening?

15 (No response.)

16 CHAIRPERSON MITTEN: All right. Mr. Feola?

17 MR. FEOLA: Thank you, Madam Chair.

18 REBUTTAL BY THE APPLICANT

19 MR. FEOLA: I guess to answer a couple of questions  
20 first, if I might. Mr. Hood asked the question about the ANC  
21 meeting. Unfortunately, no one from the ANC is here. Someone  
22 testified there were four commissioners present. The vote was  
23 two to zero with one abstention.

24 The abstention -- and I have an e-mail from the  
25 abstainer. Vince Micone, who is chairman of that ANC, says --

1 and I will just read it for the benefit of the audience. This is  
2 from Micone to one of my colleagues. "Dear Ms. Dale; Actually,  
3 my letter was correct. As chair, I only vote on issues in my  
4 district or in cases of ties. I rarely vote in other matters and  
5 didn't in this case. The correct vote was stated in the letter,  
6 2:0:1" because we were confused. We thought it was 3:0:1 when we  
7 were at the meeting.

8 The single --

9 CHAIRPERSON MITTEN: Well, if there are four people  
10 there, why are there only three votes? He doesn't count himself?

11 MR. FEOLA: "I rarely vote in other matters and  
12 didn't in this case." So he did not vote, did not abstain, did  
13 not yea or nay.

14 CHAIRPERSON MITTEN: Okay.

15 MR. FEOLA: I can't answer. I'm just --

16 CHAIRPERSON MITTEN: Okay.

17 MR. FEOLA: The single-member district is David  
18 Jolis. He did vote in favor of the application, to answer Mr.  
19 Hood's question. And I'll turn this in for the record.

20 I obviously can't speak about the ANC notice. I  
21 have no idea how they distribute their --

22 CHAIRPERSON MITTEN: And the letters that go to  
23 folks, who actually physically mails them?

24 MR. FEOLA: The Office of Zoning does. We provide  
25 the list.

1 CHAIRPERSON MITTEN: Okay. Because we have a whole  
2 bunch of returns, but --

3 MR. FEOLA: We provide the list and the labels as  
4 part of the applicant's responsibility.

5 CHAIRPERSON MITTEN: All right. Anything else?

6 MR. FEOLA: A couple of things I'd just like to say  
7 in wrap-up. One is clearly there is some miscommunication or  
8 misinformation that's out there.

9 On the one hand, we heard some comments that the  
10 area is too congested. There is not enough parking. It is very  
11 hard-pressed because of the overcrowding. On the other hand, we  
12 hear that it is quiet residential street, almost not a part of  
13 Dupont Circle as it was described.

14 I'm not sure which is really right, but I have to  
15 reiterate that the university's use of this building will reduce  
16 the demand on parking in the neighborhood, that this Commission.

17 If the university's agreed to a condition that no student has a  
18 car, that means there will be no cars.

19 I am sure -- and we should have asked one of the  
20 tenants who was up here testifying in opposition -- whether they  
21 have a car and where they park it. None of the 50 students when  
22 this property is finished will have automobiles. There will be  
23 eight workers coming to this building when there are now 40.

24 If all eight of the university workers drive -- let  
25 me say this. I would suspect that more than eight of the 40

1 workers in that building now drive to work. They have to park  
2 someplace. There are three set aside for each of the commercial  
3 tenants in the three floors.

4 So we still see this as a very reduction in impact  
5 as it affects the external community. By the way, with regard to  
6 expansion, the university plans to expand. That's why we're  
7 here. The current program -- I don't think Mr. Kellenberg  
8 testified, but today's Washington semester program in Washington  
9 has 18 kids in it in the lease space on Connecticut Avenue.

10 The reason we're here is to expand. I think what  
11 you heard testimony from Mr. Kellenberg and from Father Scully is  
12 that that's the extent of our expansion.

13 We hope to get the 50. It's going to take us a few  
14 years to get there. But that would be the box that we would  
15 propose to live in. And that would be the cap that I'm assuming  
16 the Commission will put on the university.

17 Again, we do not believe the character of the  
18 neighborhood is going to change. This building could be  
19 converted tomorrow as a matter of right to a rooming house. You  
20 could have 50 people living in the building.

21 It's 26,000 square feet. That's almost 600 square  
22 feet per person. That's plenty of space to accommodate residents  
23 with possibly cars that the university won't have here.

24 Just one final piece. We're not asking for a  
25 zoning change, as you know. This is an unusual case before the

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1 Commission, but this is a special exception. This use was  
2 predetermined to be approved by the Zoning Commission when it  
3 established the SP zones. And our obligation is to show that  
4 this use won't have an adverse impact.

5 With that, I would like to thank you for your time  
6 and effort.

7 CHAIRPERSON MITTEN: Thank you. I think Mr. May  
8 had maybe a follow-up question or two.

9 MR. FEOLA: For the witnesses?

10 COMMISSIONER MAY: Just a couple of questions. I'm  
11 confused about the numbers, particularly given what the Office of  
12 Planning originally described as recommended conditions and how  
13 that has been changed and the whole question of further  
14 processing and whether we're adding any students at some point.

15 In the testimony, as I recall, instead of 31, you  
16 were suggesting 35 students. Is that right? Is that the number  
17 you are sticking with at this point, even with the Fall '03  
18 occupancy or the December '03 increase to that space?

19 MR. FEOLA: That's correct. Yes, that's correct.  
20 I'll explain. The building in the spaces that the university  
21 would control in December 2003, which is the first floor and the  
22 lower lobby, which would be for academic purposes, and the third,  
23 fourth, and fifth floors, would allow for 35 students if the  
24 existing tenants chose to leave. They have a right to stay as  
25 long as they want, as long as they pay rent.

1 COMMISSIONER MAY: To me that implies that there is  
2 some necessary further processing that would have to occur if  
3 we're starting out with a theoretical limit or a cap --

4 MR. FEOLA: Excuse me. I was just corrected by  
5 someone else.

6 COMMISSIONER MAY: Okay.

7 MR. FEOLA: The third, fourth, and fifth would  
8 allow the full program to be housed there.

9 COMMISSIONER MAY: So, in other words, you --

10 MR. FEOLA: The second floor would be the amenity  
11 space, as Mr. Tiller testified to.

12 COMMISSIONER MAY: Okay.

13 MR. FEOLA: sorry about that.

14 COMMISSIONER MAY: I was getting different signals  
15 there. So you're asking for --

16 MR. FEOLA: Apparently so was I.

17 COMMISSIONER MAY: -- full 50 student occupancy.  
18 And the only question is when.

19 MR. FEOLA: When.

20 COMMISSIONER MAY: In December '03, in theory, you  
21 would have sufficient space to have full occupancy, assuming all  
22 of the renting tenants have left.

23 MR. FEOLA: That's correct.

24 COMMISSIONER MAY: The last question I have is will  
25 there be or are there any plans, given any consideration to any

1 sort of public use of the classrooms or the assembly spaces that  
2 either exist in the building now or might be created when you  
3 eventually gain that last floor?

4 MR. KELLENBERG: I believe that the university  
5 would be open to that depending on the circumstances, but there  
6 may be a classroom space that might be available to various  
7 groups. And, again, that would be something that we would take  
8 into consideration when the requests came in.

9 COMMISSIONER MAY: This is kind of a two-edged  
10 thing because outside use could be encouraging automobile  
11 traffic, parking problems in the evening, things like that. But,  
12 then, again, it also could be a public benefit to the  
13 neighborhood if neighborhood organizations had that space. It  
14 would be helpful to understand where the --

15 MR. FEOLA: The issue came up at the ANC. Would  
16 the university be willing to let groups like the ANC, Dupont  
17 Circle Good Citizens Association. I think Mr. Kellenberg told  
18 the ANC that it would. I don't think it's the university's  
19 intention to allow outside users that aren't community uses. Is  
20 that correct?

21 MR. KELLENBERG: That's exactly right.

22 COMMISSIONER MAY: Okay. That's good. Thank you.

23 FR. SCULLY: Madam Chair?

24 CHAIRPERSON MITTEN: Yes, Father?

25 FR. SCULLY: Just a brief, if I may. If the vision

1 for the use of this building were as characterized by our  
2 prospective neighbors, whom we hope to have soon as treasured  
3 friends and neighbors, I would oppose it as well.

4 I have stated under sworn testimony that we do not  
5 and will not place more than 50 students in this building. We do  
6 not have any plans to purchase additional buildings. I can't  
7 imagine the circumstances under which we would be interested in  
8 doing that in this neighborhood.

9 So you have my sworn testimony that that is not our  
10 intention, it is not our purpose. And I would object to any such  
11 plans for the same reasons that the neighbors were currently  
12 living in that neighborhood.

13 We love the neighborhood as well. We love it just  
14 as it is. And we believe that our involvement in that  
15 neighborhood will enhance and preserve the current condition of  
16 the neighborhood.

17 I would also like to say that we are perfectly  
18 capable of preventing our students from coming to the District  
19 with vehicles. I don't know what university wouldn't be. But I  
20 can tell you at the University of Notre Dame, we tell our  
21 students what they can have and when they can have it. We tell  
22 our students when they can have visitation in their rooms and  
23 when they can't. We have a relatively different set of  
24 expectations for our students. I can guarantee you that if a  
25 student shows up in Washington, D.C. with an automobile, he or

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1 she will go right back home.

2 So the reason we love that neighborhood is  
3 precisely the same reason that the current neighbors love it. We  
4 propose to be great neighbors. And we will not bring cars. We  
5 will not creep. I might add that we haven't crept in terms of  
6 our own university. We're 10,000 today. We were 10,000 20 years  
7 ago. And we will be 10,000 20 years from now.

8 Thank you.

9 CHAIRPERSON MITTEN: Thank you, Father. I think we  
10 would like to introduce you to a few university presidents here  
11 in town. Thank you.

12 As we decide about closing the record, I think we  
13 need to be mindful of the fact that we have heard from everybody  
14 who ordinarily would have gotten an individual notice, that they  
15 did not receive the notice.

16 The returns I have show that these went out in  
17 July. The ANC meeting was August 14th. And the property was  
18 probably not posted at the time of the ANC meetings. So our  
19 backup notification came after the ANC meeting.

20 MR. FEOLA: That's correct. It was not.

21 CHAIRPERSON MITTEN: So what I would like to do is  
22 give these folks an opportunity to make their voices heard at the  
23 ANC. I don't know how to put the ANC on notice that there's been  
24 this notification problem so that the issue can be put on their  
25 agenda.

1                   Would you take the responsibility for notifying the  
2 chair, Mr. Bastida?

3                   MR. BASTIDA: Yes. The office will get in contact  
4 with the chair tomorrow. We'll follow it up with correspondence  
5 requesting the consideration to do so. We cannot tell them what  
6 to do.

7                   CHAIRPERSON MITTEN: Certainly.

8                   MR. BASTIDA: We just can request that they do so.

9                   CHAIRPERSON MITTEN: Right. And I believe they  
10 have a meeting next week. Let's see. If we gave until the end  
11 of September until we close the record, that would give these  
12 folks a chance to make their voices heard at the ANC.

13                   And if the ANC wanted to submit any kind of  
14 supplemental report, we could accept it at that time and still  
15 not be pressing anyone too much.

16                   MR. BASTIDA: That is correct, Madam Chairman,  
17 because the October meeting would be probably late in the month.

18                   CHAIRPERSON MITTEN: All right.

19                   MR. BASTIDA: So we will have plenty of time. We  
20 can even give them until October the 4th, on a Friday. So maybe  
21 for the record, we should give them approximately three weeks.

22                   CHAIRPERSON MITTEN: Let's do that.

23                   MR. BASTIDA: Okay.

24                   CHAIRPERSON MITTEN: So the record will remain open  
25 until the 4th of October.

1 MR. BASTIDA: Correct.

2 CHAIRPERSON MITTEN: And you'll contact the chair  
3 of ANC 2B that there has been a problem with notification. And  
4 then all of you at least can tell your neighbors that there will  
5 be an additional opportunity to have their voices heard before  
6 the ANC.

7 Any additional filings must be in the office no  
8 later than 3:00 P.M. on October the 4th. Will we have findings  
9 affecting conclusions of law?

10 MR. BASTIDA: We would like to have an order, draft  
11 order, filed by October 18th.

12 CHAIRPERSON MITTEN: All right. So we'll have  
13 filing of proposed order by 3:00 P.M. on the 18th.

14 MR. BASTIDA: Friday, October 18th.

15 CHAIRPERSON MITTEN: All right.

16 MR. FEOLA: And I assume that the applicant has  
17 seven days after the 4th to respond to the filing?

18 CHAIRPERSON MITTEN: Yes.

19 MR. BASTIDA: That is correct. That's what I was  
20 suggesting, that you do the order two weeks after the 4th.

21 CHAIRPERSON MITTEN: Tell me again the date of our  
22 October meeting.

23 MR. BASTIDA: It's Monday, October 28th. It's  
24 already posted in the office, was sent to the Register. We're  
25 using every means we can to advertise it widely, even though the

1 regulations require a very short period of time to do so.

2 CHAIRPERSON MITTEN: All right. Just want to let  
3 everyone here know that the schedule that we set now with  
4 extending the time for you all to testify again at the ANC if you  
5 desire, we will put this on the agenda for our October monthly  
6 meeting, which is late. We have had to reschedule it.

7 So it will be October 28th. Our regular meetings  
8 are at 1:30. So if you want to follow this further and be here  
9 for the deliberation of this case before the Commission, that's  
10 when you would attend, October 28th at 1:30.

11 If you have any additional questions, please  
12 contact Mr. Bastida in this office.

13 I now declare this public hearing closed.

14 (Whereupon, at 8:18 p.m., the foregoing matter was  
15 adjourned.)

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