



## OFFICE OF ZONING STAFF PRESENT:

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## OFFICE OF PLANNING STAFF PRESENT:

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This transcript constitutes the minutes  
from the public hearing held on September 28, 2006.

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

6:45 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 28, 2006. My name is Carol Mitten and joining me this evening are Vice Chairman Anthony Hood and Commissioners Turnbull, John Parsons and Greg Jeffries.

The subject of this evening's hearing, as you know, is Zoning Commission Case 06-11 and 06-12 which is the G.W. University Campus Plan and PUD.

And I just remind folks of a few things before we get started. Everyone who plans on testifying has to fill out two witness cards and the cards are on the table by the door, and you bring those cards forward and give them to the Court Reporter as you come forward to testify.

And the Court Reporter is here to record the proceedings and we're also being webcast live. I say that so that you avoid making any disruptive noises in the hearing room during the hearing and I also ask you to turn off all beepers and cell phones at this time so as not to disrupt the hearing.

I think we have new faces again, so I'm

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1 going to ask anyone who hasn't been sworn in  
2 previously, if you're planning on testifying this  
3 evening, would you stand up, raise your right hand,  
4 direct your attention to Ms. Schellin and she will  
5 administer the oath.

6 (The witnesses were sworn.)

7 CHAIRPERSON MITTEN: Okay, where we left  
8 off last time is we were taking testimony from persons  
9 and organizations in support and individuals have  
10 three minutes to testimony and organizations have five  
11 minutes to testify, if you're speaking on behalf of an  
12 organization. We're going to get through that this  
13 evening and I have the witness list from the last  
14 time, so anyone who didn't come, I'll continue down  
15 the witness list and anyone who didn't sign up last  
16 time, we'll pick up the new folks tonight.

17 Then after we finish with folks in  
18 support, then we'll take up the parties in opposition  
19 and then we'll take up the individuals and  
20 organizations in opposition.

21 Yes, ma'am?

22 MS. DWYER: For the record, Maureen Dwyer.  
23 There were 10 who wanted to speak in support tonight,  
24 but in the interest of time, they asked that their  
25 testimony be submitted for the record, so I just

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1 wanted to submit the testimony of 10 persons in  
2 support.

3 CHAIRPERSON MITTEN: That would be great,  
4 okay. So maybe the more efficient thing, why don't I  
5 get a show of hands anybody else who would like to  
6 testify in support tonight that isn't submitting their  
7 testimony for the record that would like to speak,  
8 anybody else in support? Okay, so that wraps it up,  
9 that's good, thank you. We like that efficiency.

10 Okay, so now we're ready to have the  
11 presentation of the parties in opposition. We'll  
12 start with the Foggy Bottom Association as I think I  
13 had informed you in a prior session, each of the  
14 parties in opposition will have 35 minutes which is  
15 half the time that the Applicant took.

16 So Mr. Hitchcock?

17 MR. HITCHCOCK: Madam Chair, as a  
18 procedural matter we have a PowerPoint presentation,  
19 but we don't have the power cord yet here to run it.  
20 I was wondering if we could have WECA go first and  
21 hope that the person arrives by the time they are  
22 done.

23 CHAIRPERSON MITTEN: Okay, that's fine.

24 MR. HITCHCOCK: Thank you.

25 CHAIRPERSON MITTEN: I'm just trying to

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1 pull out your submission if you just give me a second.

2 MS. KAHLOW: Excuse me, I just gave it to  
3 Ms. Schellin.

4 CHAIRPERSON MITTEN: But you had submitted  
5 materials prior to that.

6 MS. KAHLOW: We had submitted party  
7 requests that ask for being qualified, as my being  
8 qualified as an expert witness.

9 CHAIRPERSON MITTEN: Right, and I wanted  
10 to ask you about that. What exactly are you, and it  
11 would help if I could pull that out right now.

12 MS. KAHLOW: It's dated August 16th, if  
13 that helps.

14 CHAIRPERSON MITTEN: Ms. Schellin is  
15 probably going to help me here. What is the nature of  
16 the -- I just don't understand the nature of what you  
17 would hope to help the Commission understand as an  
18 expert. I just don't understand the distinction.

19 MS. KAHLOW: Of course. I'm an expert in  
20 the regulatory process. I've spoken all over the  
21 country and I've spoken to officials all over the  
22 world on it for the U.S. Government. And since we  
23 believe, WECA believes, that the issues today are  
24 dependent on changes in regulation before you can go  
25 final, it's important for my testimony that I would be

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1 certified as an expert witness as I have been  
2 previously by the Zoning Commission.

3 CHAIRPERSON MITTEN: But are you -- unless  
4 you're proffering yourself as an expert in zoning, I  
5 don't understand -- first, I don't understand the  
6 relationship between your experience with the Federal  
7 Government and the regulatory process that is the  
8 zoning regulations. So what's the --

9 MS. KAHLOW: The zoning regulations are  
10 not different from any other regulations. Regulations  
11 are, of course, dependent on underlying statute. If  
12 somebody wants to do something that is not allowed  
13 under current regulations, no matter whose regulations  
14 they are -- federal, state, local, or whatever, they  
15 cannot proceed without a change in regulation or final  
16 change in regulations. That's the case law. That's  
17 our position.

18 I'm going to be explaining what changes in  
19 regulations would be necessary to proceed and I can  
20 explain it in more detail, but that's the reason why  
21 it doesn't matter if it's zoning law or not. It  
22 depends on what the regulatory process is all about.

23 It would be a waste of public resources.  
24 Let's use a simple example, 55 mile-an-hour speed  
25 limit. Let's pretend that there was a proposal to do

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1 65 mile-an-hour speed limit. It would be a waste of  
2 public resources to develop and entertain well, what  
3 kinds of signage would need to be done? What kind of  
4 this or that, etcetera, would have to be done?

5 First, we need a change in law or change  
6 in rules before you would waste public resource  
7 discussing the what ifs.

8 CHAIRPERSON MITTEN: I guess, I don't know  
9 how my colleagues feel about this, but that strikes me  
10 as a legal matter, and we have -- the Office of the  
11 Attorney General that advises us and if there was  
12 something in terms of, I mean, I would consider that  
13 the Zoning Commission is as expert as you can find,  
14 although we do have varying degrees of experience at  
15 this, that if there was something specific to the  
16 zoning regulations that we don't need the advice of  
17 experts in that realm, we have legal advice as to the  
18 matters that you are suggesting. I just don't know  
19 what assistance that you would be providing to the  
20 Commission, because experts are supposed to be  
21 providing expertise to the Commission that's not  
22 otherwise available to them.

23 MS. KAHLOW: Well, Chairman, I am not  
24 aware of anybody in the D.C. Government that knows as  
25 much about the regulatory process or in depth. I've

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1 never heard any of them speak anywhere in the world on  
2 this. Perhaps there is an expert I have not heard.  
3 But I've talked at length with some of them and none  
4 of them seem to understand the ins and outs of the  
5 regulatory process. But perhaps there is someone I  
6 don't know about. I would be happy to know about  
7 that.

8 I have been previously certified as an  
9 expert by Chairman Boesberg, because there was another  
10 case, actually it was the Old Blackie's Parking Lot  
11 Case, where he needed to talk about the regulatory  
12 process. But if you think there is another expert, I  
13 would be happy to know who that is and maybe somebody  
14 I've been familiar with. I'm pretty familiar with the  
15 research and the literature.

16 CHAIRPERSON MITTEN: I don't know how my  
17 colleagues feel. So far I'm not persuaded that this  
18 is expertise that would be helpful to the Commission  
19 or that's needed, frankly. So I'd like to hear from  
20 my colleagues.

21 COMMISSIONER TURNBULL: I agree, but I'm  
22 even more troubled by where she's going. Because  
23 apparently what she's bringing to this forum is  
24 whether we ought to proceed or not because of our  
25 regulatory process. It's something I thought we

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1 disposed of four weeks ago. If we're going to hear a  
2 half an hour of why we shouldn't proceed, I'm not sure  
3 how that's beneficial to us.

4 MS. KAHLOW: I promise it won't be a half  
5 hour on that point.

6 CHAIRPERSON MITTEN: We only have 35  
7 minutes. It's up to you.

8 MS. KAHLOW: I understand, but my point  
9 is, is that it --

10 CHAIRPERSON MITTEN: What I would, I would  
11 like to deny the request to qualify Ms. Kahlow as an  
12 expert in the regulatory process and you can  
13 certainly, unless there's an objection from a  
14 colleague. And you can certainly have your testimony  
15 stand on its own and there just won't be any special  
16 weight given.

17 Ms. Dwyer, did you have anything that you  
18 wanted to add?

19 Mr. Hitchcock, anything you want to add?

20 All right. I think we're ready to go  
21 then.

22 MS. KAHLOW: Thank you. I should have  
23 introduced myself for the Court Reporter. I'm Barbara  
24 Kahlow and live at 800 25th Street, Northwest. And I  
25 will be testifying today on behalf of the West End

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1 Citizens' Association, the oldest citizens'  
2 organization in the Foggy Bottom, West End Area. In  
3 fact, the WECA is the only citizens' organization  
4 centered east of 23rd Street, i.e., in the heart of  
5 the George Washington University.

6 Since my oral testimony is somewhat  
7 limited, I have attached various documents which I  
8 will be referring to. Since I have many points to  
9 cover today, I will be approaching each separately.

10 First, why now? Since G.W.'s current  
11 campus plan ends in 2009, why shouldn't the Zoning  
12 Commission wait until the revised and appropriate  
13 campus plan rules are in place to consider its massive  
14 20-year expansion dream. This dream incredibly calls  
15 for 43 percent increase on allowable floor area ratio,  
16 FAR, or density, from a maximum of 3.5 FAR, which they  
17 have not reached, to 5.0, which is in their  
18 application.

19 And this is despite the fact that the  
20 Office of Planning opined six years ago that the  
21 residential community was near a tipping point where  
22 it could transform into a university area. The  
23 Commission's April 20th set down of this year for the  
24 G.W. case has questioned this timing. Chair Mitten  
25 stated "We had made a commitment that we are going to

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1 rewrite the campus plan regulations, and here we are  
2 without. We're still kind of cobbling together the  
3 tools that are existing. We don't have new campus  
4 plan regulations to guide us. Vice Chair Hood  
5 perceptively stated "The campus plan regulations --  
6 I'm wondering if we're pre-empting the move forward."

7 Second issue: is the plan allowable  
8 without amendments to the current zoning rules? The  
9 answer is clearly no. In reviewing the legislative  
10 history back to 1958, having to go to the library, of  
11 D.C.'s campus plan rules and its rules governing PUDs,  
12 the Commission's intent has consistently been clear.

13 First, let's look at campus plan rules.  
14 When they would first come out in 1958, the first rule  
15 stated "the Board" -- now Commission -- "may vary the  
16 height, area and density regulations for the district  
17 in which located, but in no case shall the height,  
18 area and density to any proposed buildings or other  
19 structures exceed the limitations prescribed for the  
20 R-5-A district." The bottom line intent was all  
21 buildings, in whatever zoning district, were subject  
22 to a cap, i.e., upzoning such as to SP-2, C-3-C or C-  
23 4, all of which G.W. is requesting, would not exempt  
24 buildings from the height and density caps.

25 Currently, Section 210.3 provides in R-1,

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1 R-2, R-3, R-4, R-5-A and R-5-B districts the total  
2 bulk of all buildings and structures on the campus  
3 shall not exceed the gross floor area prescribed for  
4 the R-5-D district.

5 Section 210.4 speaks to the campus as a  
6 whole and Section 210.8 requires each new building to  
7 be within the FAR limit for the campus as a whole. In  
8 fact, G.W.'s documents contain a smoking gun. I use  
9 that term loosely or not as precisely as it could be.  
10 The bottom line is that since the current rules  
11 governing universities do not establish an FAR cap  
12 outside of the cap in 210.3 for R zoned properties,  
13 G.W. is seeking upzone various sites from an R zoning  
14 to SP or C zoning to exempt these sites from the only  
15 FAR cap that exists.

16 In its June 23, '06 pre-hearing submission  
17 for Square 80, the School Without Walls site, the  
18 footnote on page 3 states, "under the MOU between the  
19 D.C. Public Schools and G.W., the University will  
20 compensate D.C.PS for additional development rights  
21 generated by rezoning to SP-2 under the PUD which will  
22 remove the development from the aggregate floor area  
23 ratio cap that applies to residentially zoned land  
24 within the Foggy Bottom campus boundaries."

25 Provision 5 in Exhibit A of that

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1 submission which was the MOU, Memorandum of  
2 Understanding, is even more revealing. It states --  
3 underlined by them, not by me: "Avoidance of the  
4 aggregation rule. For the density to have the maximum  
5 value for G.W., it must avoid the aggregation rule set  
6 forth in 11 D.C.MR 210.8." That's not the 3.5 one.  
7 That's the one that says the campus as a whole, which  
8 limits overall development on its campus. "To ensure  
9 this development will not count against the  
10 University's aggregate cap, the PUD site currently  
11 zoned R-5-D must be rezoned to a nonresidential zone."

12 Provision 5 further states, again, the  
13 underlining is theirs, not mine: "Termination. In  
14 the event that G.W. and D.C. Public Schools are unable  
15 to obtain approval to rezone the PUD site to a  
16 nonresidential zone or if the aggregation rule set  
17 forth in 11 D.C.MR 201.8 applies to this PUD, then  
18 either party shall have the right to terminate this  
19 MOU" i.e., that it would no longer be a deal to go  
20 forward with the School Without Walls site.

21 Now let me get to the PUD regulatory  
22 history. Let's start with 1994. The Commission  
23 deposed longer time periods for PUDs. Mr. Parsons was  
24 on the Commission then. But in Order No. 785, the  
25 order stated, "the vice president of the Foggy Bottom

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1 Association" -- at that time that was me -- "testified  
2 in opposition to the proposal and criticized and  
3 opposed the five-year approved action time period  
4 proposed in Section 2407.8." Notice, five years for  
5 approval and action.

6 The Association preferred the two-year  
7 approval action time period provided in 2406.8. The  
8 final rule stated, the first state approval shall be  
9 valid for a period of one year unless the longer  
10 period is specified by the Commission. Even in 1979,  
11 the Zoning rules stated "the Planned Unit Development  
12 process shall not be used to circumvent the intent and  
13 purposes of the Zoning regulations" and that provision  
14 has been carried forward and was referenced by  
15 Commissioner Thomas.

16 The identical language, valid for one year  
17 unless a longer period is specified by the Commission  
18 remains today. It further stated "for second stage  
19 PUDs, the final PUD approved by the Zoning Commission  
20 shall be valid for a period of two years within which  
21 time frame the application shall be filed for building  
22 permit." That always remains today.

23 Moving to the next section, are there any  
24 precedents like G.W.'s plan? If you could turn to,  
25 while I'm speaking, Attachment A, it is a chart I

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1 prepared, being a statistician, that compares all of  
2 the cases cited by either the Office of Planning or  
3 G.W. as "precedent." None of them do it.

4 The answer is clearly there are no  
5 precedents. The rules do not anticipate the filing of  
6 an omnibus PUD covering 20 squares and with first  
7 stage or even first and second stage approval for 20  
8 years. Attachment A compares G.W.'s plan with each of  
9 the other cases cited by either OP or G.W. The chart  
10 reveals that only one case involve more than two  
11 squares, a federally-funded public housing project,  
12 not 20 squares, not more than two. And that no case  
13 involved a first-stage approval for more than three  
14 years. This one is for 20.

15 The Office of Planning cites the  
16 Washington Hospital Center Med Star case, but it  
17 involved only one large square and a one-year first  
18 stage approval with the support of its ANC, i.e., it  
19 in no way resembles G.W.'s plan.

20 Let's just look at this chart. Some  
21 people have more difficulty reading charts. There are  
22 five examples that were provided by OP, four by OP and  
23 one by the Applicant: Washington Hospital, Med Star  
24 Health, Atlantic Plumbing, Kapler Carlsburg, Waterside  
25 Mall. None involve a university. They all involve

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1 one or two squares, except for Kapler Carlsburg, the  
2 federal housing project. They involve first-stage  
3 approval of one or two years and G.W. wants 20. As  
4 you see, the ANC supported the one case that OP  
5 suggested, Washington Hospital Center Med Star, and  
6 then I provide some comments that give further  
7 elaboration, not having read all those orders.

8 My next section is does G.W. always honor  
9 its commitments, compliable to all federal and D.C.  
10 laws? Sadly, the answer is now and I will cite four  
11 specific areas.

12 First, as Chief of Grants Management,  
13 having certified as an expert, I was Chief of Grants  
14 Management in the Office of Management and Budget for  
15 25 years, most of that period, and I think I know more  
16 about the grants process than probably anybody in the  
17 country. The Americans With Disabilities Act. On  
18 February 22, '06, after trying unsuccessfully for  
19 months to work with G.W. to bring it into compliance  
20 with federal law which is required for every recipient  
21 of federal funds, I filed with the U.S. Department of  
22 Justice a Title 2 of the Americans With Disabilities  
23 Act, Section 504 of the Rehabilitation Act of 1973  
24 discrimination complaint form.

25 In a nutshell, on November 10, '05, I

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1 attended a public event, a musical play in a G.W.  
2 below-ground theater with elevator access to the  
3 handicapped and with no bathroom facility downstairs.  
4 Elderly and disabled attendees begged for my help.  
5 They couldn't get downstairs. They couldn't go to the  
6 bathroom. They said they've been in a situation like  
7 this. That's why I submitted. I called G.W., tried  
8 to work it out. Didn't work it out. Submitted  
9 Justice Department complaint.

10 In preparing for these hearings, I did  
11 some research on the Justice Department website and I  
12 found that this was not an isolated case, the Lisner  
13 downstairs ADA violation. In fact, G.W. signed a  
14 March 1998 settlement agreement with the U.S.  
15 Department of Justice for another ADA violation. This  
16 is very serious.

17 Two. Student parking. Thanks to this  
18 Commission, we're moving along and ahead on this one,  
19 but in Attachment B to my testimony is a letter from  
20 Vice President and Treasurer Louis Katz to the  
21 President of the West End Citizens Association, dated  
22 August 17, '01. The letter says that G.W. will  
23 restrict freshmen and sophomores living in the Foggy  
24 Bottom West End area from bringing cars to school or  
25 parking in the Foggy Bottom West End area.

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1           According to my web research and several  
2 G.W. student interns of mine while I was in Congress,  
3 G.W. had not alerted freshmen and sophomores to this  
4 restriction. It said G.W. had only discouraged cars.

5           I was happy to hear on September 21st that  
6 they now will add it as a new campus condition and I  
7 wanted you to know that other campuses in Washington  
8 such as Catholic and American have very strict  
9 restriction language and very strict penalties. So  
10 this is a wonderful development.

11           The students that we heard from on  
12 September 25th said that they heard it orally in an  
13 orientation. What was intended by this letter was for  
14 it to be in the catalog which has never been and for  
15 the parents to know so they won't send kids to campus  
16 with cars.

17           My interns told me, everyone of them, that  
18 they knew many freshmen and sophomores with cars and  
19 that they had no knowledge whatsoever of this  
20 restriction. I must admit that I retired in January  
21 of '05, so that was prior to that and since then,  
22 apparently, G.W. is now getting the word out.

23           Third example, alcohol. Quigley's, at 2036  
24 G Street, in an ANC meeting in which I was present,  
25 G.W. promised to convert this campus-owned space to a

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1 family-friendly restaurant, but on June 16, '06 in the  
2 D.C. Register, there was an application by the -- the  
3 intent of G.W. was to lease the facility for an  
4 alcoholic beverage restaurant, application for a  
5 restaurant with an occasional DJ or live band, six  
6 pieces maximum, temporary dance floor and banquet  
7 space only and requested hours until 2 a.m. on  
8 Saturday, on Sunday through Thursday, and until 3 a.m.  
9 on Friday and Saturday.

10 This disco equivalent will be very near  
11 not only many residential apartment buildings but also  
12 many dorms. Curiously, G.W. is seeking an ABC license  
13 for a new establishment within its Marvin Student  
14 Center. Since the application has not yet been filed  
15 with the requested terms, are unknown to the  
16 community. Since most students are under the legal  
17 drinking age in D.C., it is, I wonder how G.W. will  
18 police compliance. If you remember, the student  
19 president, whom I asked on cross, said that he knows  
20 nothing about it. It is up to the administration.  
21 That was his terms. And up to the administration  
22 would mean there's got to be some compliance because  
23 this is within the facility and it's pretty important  
24 because they spill out on to the community and they're  
25 loud and they're noisy.

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1           Fourthly, compliance with federal and D.C.  
2 environmental laws and rules. If I had been certified  
3 as an expert, I would have been able to speak as an  
4 expert on the National Environmental Policy Act. As  
5 staff director of the Government Reform Subcommittee  
6 on Energy Policy and Natural Resource and Regulatory  
7 Affairs, NEPA was under my jurisdiction. So I have  
8 great familiarity with it as I did at OMB, where I was  
9 there for 25 years.

10           In an August 17, '01 agreement, an MOU  
11 with the WECA, after G.W. failed to do an EIS for the  
12 then-new hospital, despite the community's request for  
13 one, after a lengthy debate and as president Batham  
14 said to me, sitting here he well remembers the lengthy  
15 debate, G.W. agreed to comply with the D.C.  
16 Environmental Policy Act "on all future campus planned  
17 construction projects," all after 2001. Federal rules  
18 state under timing "an agency shall commence  
19 preparation of an Environmental Impact Statement as  
20 close as possible to the time the agency is developing  
21 or is presented with a proposal. The statement shall  
22 be prepared early enough so that it can serve  
23 practically as an important contribution to the  
24 decision-making process and will not be used to  
25 rationalize or justify decisions already made and

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1 shall be commenced no later than immediately after the  
2 application is received."

3 D.C. rules are comparable in that they  
4 state "agencies, boards and commissions such as the  
5 Zoning Commission shall integrate the Environmental  
6 Impact Statement process, EIS process, with other  
7 planning processes at the earliest stages of their  
8 planning for major actions where the widest range of  
9 feasible alternatives is open for consideration."  
10 I'll give the statutory cites, the regulatory cites,  
11 both for the federal rules and for the D.C. rules.

12 Incredibly, on August 30th in a public  
13 meeting on its proposed streetscape plan, the G.W.  
14 representative admitted that it has "not yet begun an  
15 environmental analysis." And then boldly asserted  
16 that it is a building permit issue. As you'll recall,  
17 I asked the Office of Planning where there was a  
18 statutory or regulatory cite for building permit that  
19 overrode the federal law, federal regs and D.C. law  
20 and D.C. regs. There was none.

21 This is even more remarkable in the light  
22 of the D.C. Department of Health's December 9, 1999  
23 finding that there is essentially no remaining air  
24 resource margin on the 23rd Street corridor just south  
25 of Washington Circle. The D.C. Department of Health

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1 opined this when it approved, when it went through the  
2 process for the new hospital, moving from one site to  
3 the other site, and we were under the impression at  
4 that point that that was it for that corridor.

5 The, I have also attached as Attachment C  
6 that deals with auditor commitments. Another  
7 attachment with various statements that were made in  
8 error in their various applications. I'm not going to  
9 go through all of it. I just want to be sure that the  
10 Zoning Commission was not of the opinion that we were  
11 heard in this process. I participated in many of the  
12 meetings that went on, the various URI and community-  
13 based planning process. None of our issues, I can say  
14 almost none were reflective of any of the documents  
15 that we -- the issues list or anything else. I  
16 repeatedly got up and talked about that. It was a  
17 farce. The entire process was for show and we didn't  
18 feel we were heard. And of course, some of our most  
19 important points were over looked completely.

20 Now let's get to the next issue. Should  
21 some of G.W.'s proposed growth be moved to satellite  
22 sites? The Mayor's draft July 2006 revisions of the  
23 D.C. Comprehensive Plan states "promote the  
24 development of satellite campuses to accommodate the  
25 University growth, relieve growth pressures on

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1 neighborhoods adjacent to existing campuses, spur  
2 economic development and revitalization of  
3 neighborhoods' lagging market activity."

4 Speaking as an individual versus  
5 representing the WECA, I've been a broken record on  
6 this subject for years of G.W.'s need to explore  
7 putting its law school and other type schools  
8 elsewhere as Georgetown has done. It was curious to  
9 me and I asked Mr. Katz, under cross examination, the  
10 reason they were going ahead with this 43 percent  
11 increase was for research facilities. Well, research  
12 can be done anywhere. My twin sister is a professor  
13 and she collaborates with people all across the  
14 country and in other countries on research. You don't  
15 have to have it downtown in the middle of a  
16 residential neighborhood.

17 What conditions need to be added or  
18 changed? After the Commission adopts revised rules  
19 governing universities and possibly also PUDs, if you  
20 decide to go ahead with the 20-year omnibus PUD that's  
21 nowhere mentioned in the rules for university which is  
22 nowhere mentioned in the PUD rules, instead the  
23 traditional campus plan approach, the Commission  
24 should one, amend condition 8, additional G.W.  
25 purchases in Foggy Bottom West End. The revised

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1 condition, as I mentioned previously, in cross  
2 examination would include a prohibition on G.W.'s  
3 purchasing not only additional residentially-zoned  
4 properties outside of the campus plan boundaries in  
5 the Foggy Bottom West End area for University use, but  
6 also SP zoned properties, especially since current  
7 zoning rules allow dormitory use in SP zoned property.

8 I didn't have the examples on the top of  
9 my head when I spoke the last time. Now I have a  
10 couple specific examples of SP zoned property that  
11 would be of great problem to the community, if they  
12 were used for dormitory use. One is the former All  
13 State Hotel at 515 20th Street, Square 120, Lot 25.  
14 The BZA just issued an order, decision date May 2, '06  
15 about that property and it is still SP-2 zoned. It is  
16 right across from the campus.

17 The second is the southern part of the  
18 State Plaza Hotel, again a hotel and it is also SP-2.  
19 It is very important that it's not just R zoned  
20 property, but SP zoned. If you look at the map that's  
21 in the Office of Zoning's website and I think G.W.  
22 also presents it, you'll see a huge area that's SP-2  
23 and I just used two examples that could be helping our  
24 discussions of why it's so important to us to have to  
25 SP also.

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1                   Second condition, amend condition 23,  
2 student parking.       Replace the unenforceable  
3 "discourage" with a restriction.   Instead, restrict  
4 freshmen and sophomores living in the Foggy Bottom  
5 West End area from bringing cars to school or parking  
6 in the Foggy Bottom West End area.   This provision is  
7 enforceable since G.W., like other universities in  
8 D.C., could suspend any violators.   Also, if G.W. can  
9 require all freshmen and sophomores to live, reside in  
10 housing within the campus plan boundary, G.W. can also  
11 restrict student parking.

12                   Right before this meeting began I was  
13 handed something.   It's behind me but it was something  
14 that they were going to put in the record, I believe  
15 that talks about policies and Mount Vernon.   And in  
16 Mount Vernon, they specifically state no students can  
17 park in the residential neighborhood off campus  
18 period.   We would like such a restriction that they  
19 cannot park anywhere outside in the residential  
20 neighborhood in the Zone 2 stickers, meters, etcetera.

21                   Third condition, environmental compliance.  
22 Require G.W. to submit an EIS before further  
23 processing by the Commission of these cases, 06-11 and  
24 06-12 and require G.W. to simultaneously submit an EIS  
25 with each future major action proposal submitted to

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1 the Commission. That would be Square 54, School  
2 Without Walls, etcetera. Major is defined in the D.C.  
3 statute as \$1 million or more impact. All of them  
4 have that.

5 The next condition. Amend condition 9  
6 about the advisory committee to include a majority of  
7 community members instead of a 5-5 split with a  
8 majority being 5 G.W.. That's nonsense as we  
9 discussed earlier. And we would like the WECA as the  
10 current campus plan conditions state, to be included,  
11 specifically.

12 What should become a Square 54? The WECA  
13 has consistently maintained that for various reasons  
14 including safety, and to me as a single woman that's  
15 very important, safety. The frontage on F Street on  
16 Washington Circle should be no higher than current  
17 zoning allows, i.e., not 90 feet for a short distance  
18 and rising to 110 feet or 130 feet as proposed. I  
19 must put an aside here, as I mentioned to Ms.  
20 McCarthy, in the meeting that OP had with the  
21 community, she promised and she spoke for the  
22 Commission that the Commission would never approve a  
23 property in Square 54 with the frontage on Washington  
24 Circle that was higher than 90 feet, even though the  
25 current proposal is 110 and 130 after the setback.

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1           And we think it should be restricted to  
2 residential use, consistent with both sides of  
3 Pennsylvania Avenue in the Foggy Bottom West End area,  
4 west of the circle and around the circle. This is our  
5 neighborhood. Resident bring street life, retail  
6 brings street life, G.W. would like to maximize its  
7 income potential by having businesses there, which  
8 would create a dead block, a tall dead block with  
9 shadows and everything else. The expanded version of  
10 WECA's view on Square 54 were presented in the hearing  
11 that the Commission will be having separately in Case  
12 06-27. I just wanted to give you the context of that.

13           What does WECA support? Currently, D.C.  
14 zoning rules provide a cumulative FAR cap of 3.5 on  
15 height involved within the G.W. campus plan area that  
16 is zoned residential. G.W. is proposing expansion of  
17 5.0, a 43 percent increase. G.W. plans to exclude two  
18 large parcels, the old hospital site and the School  
19 Without Walls in this area from this cumulative FAR  
20 limits by upzoning these properties from  
21 residential/commercial and mixed use zoning and doing  
22 so via PUDs.

23           We believe that the Commission should  
24 approve only limited G.W. expansion in Foggy Bottom.  
25 Also, many Foggy Bottom residents currently live in

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1 the various townhouses and high rise apartment  
2 buildings within or abutting G.W.'s campus plan  
3 boundaries and east of 23rd Street. When they talk  
4 about they want to have it east of 23rd Street, there  
5 are many high rise apartments there with real people,  
6 many of whom who are elderly and on fixed incomes and  
7 they have no other choice. They have to continue to  
8 live there, even if they end up living in an area that  
9 becomes Manhattanized without the same quality of life  
10 they currently have.

11 Therefore, limiting expansion east of 23rd  
12 is still problematic. The WECA opposes any exemption  
13 of upzoned land from G.W.'s aggregate FAR limits.  
14 This is the key to this whole case. You need to have  
15 an FAR limit for the entire campus. R zoned, SP  
16 zoned, C zoned, whatever is upzoned, wherever there's  
17 PUDs, there's got to be some limits. Since the very  
18 beginning, the Zoning Commission has felt we've got to  
19 protect neighborhoods. There's got to be limits on --  
20 some limit. I don't know what the right limit is. I  
21 have my own opinions, but I think you need to  
22 establish a limit so that when the next president  
23 comes in, he doesn't, as I mentioned earlier, go from  
24 5.0 to 6.0. This could be endless. There needs to be  
25 a limit in rules. And that's why we filed our various

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1 motions asking for there to first be cases to hear a  
2 text amendment. And we had specific testimony on a  
3 proposed text amendment.

4 We believe that G.W. should explore,  
5 continue to explore in detail, expansion by satellite  
6 campus in underdeveloped areas of D.C. instead of in  
7 Foggy Bottom West End. I was struck by the candidates  
8 who were running for office this -- Democratic  
9 candidates running for office. They very much want  
10 development east of the river in under developed  
11 areas. We also do and they pledged to work with us to  
12 see that that happens, for universities and other  
13 types of things and to the extent I can help, I  
14 definitely would want to.

15 Attachment D is a copy of testimony we  
16 would have given on the text amendment which you can  
17 review on what changes we believe are needed in  
18 regulations. The penultimate sentence reads  
19 "additionally, Section 210.8 could be amended to set  
20 an aggregate cap within the FAR limit for the campus  
21 as a whole." I think that's the most important single  
22 thing that needs to be done, as I've said and I just  
23 wanted to point out where you would pick, do that and  
24 we explain in the text how one actually gets to that  
25 point.

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1           And I believe the public should have an  
2           opportunity because it would affect other campuses  
3           since campus plan regs are not just for G.W., for them  
4           also to be able to have public input because maybe  
5           they have more wisdom than all of us here and I always  
6           believe having run a regulatory process, that you have  
7           to be open minded and hear as much as you can what the  
8           public has to say and every time I wrote a reg, a  
9           regulation, I made so many changes. The final one  
10          didn't even resemble the original. And of course,  
11          when there was substantial changes then I repropose  
12          it, because that it -- you do a regulation, a  
13          regulatory process.

14                 So you start with version A, you change it  
15                 slightly. You can go to final. If you start with  
16                 version A, change to version B which is substantially  
17                 different, you need to repropose version B before you  
18                 can finalize a B equivalent version, a B prime  
19                 version.

20                 And I wanted to go through the process.  
21                 I don't know that all of you are experts in it. I, of  
22                 course, am available to help anybody understand the  
23                 process and hopefully this is helpful testimony.

24                 This concludes our presentation. I'm more  
25                 than willing to take questions.

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1 CHAIRPERSON MITTEN: Thank you. Questions  
2 from the Commission for Ms. Kahlow?

3 Anybody have questions?

4 Mr. Hood?

5 VICE CHAIRMAN HOOD: Ms. Kahlow, just one  
6 question. I guess it depends on how you answer,  
7 whether I have another one. I'm just curious. The  
8 West End Citizens Association, how many members? I  
9 may have asked you this previously, but how many  
10 members?

11 MS. KAHLOW: About a hundred.

12 VICE CHAIRMAN HOOD: About a hundred?

13 MS. KAHLOW: Many are dying off, I'm sorry  
14 to say.

15 VICE CHAIRMAN HOOD: And you're the vice  
16 president?

17 MS. KAHLOW: I am not an officer at all.  
18 I'm representing in pro se. I'm not on their board.

19 VICE CHAIRMAN HOOD: So normally, they get  
20 you and I'm talking about, I've noticed since I've  
21 been here that you're always representing the West End  
22 Citizens Association and I'm sure at some point in  
23 time you had an office, right?

24 MS. KAHLOW: I have never had an office.  
25 When I was working in Congress, my chairman, Tom

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1 Davis, would not allow me to be on boards of  
2 commissions. When I was at the Office of Management  
3 and Budget, I had to get a waiver from the White House  
4 counsel during those 25 years when I did the vice  
5 president of Foggy Bottom Association and it was their  
6 preference for me not to serve as an officer of an  
7 association.

8 But I feel it's my civic duty to voice,  
9 use my expertise as a good citizen to help other  
10 people.

11 VICE CHAIRMAN HOOD: But that was an  
12 internal issue over at OMB?

13 MS. KAHLOW: At OMB and I have the same  
14 kind of restrictions, but even more, I had to reveal  
15 everything in my financial disclosure because I was a  
16 staff director in Congress. I had to reveal all of my  
17 board memberships, so there was no conflicts or  
18 anything else. As I say, Chairman Tom Davis would not  
19 allow me to be an officer.

20 VICE CHAIRMAN HOOD: And who is your  
21 current president, Mr. Batham?

22 MS. KAHLOW: John Batham. He sat next to  
23 me every day except for today. He couldn't come  
24 tonight.

25 VICE CHAIRMAN HOOD: Are there other

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1 members in the audience?

2 MS. KAHLOW: There are. Ms. Maddux, Mr.  
3 Kreuzer are both board members. I have to look and  
4 see if there are any other board members, but there  
5 are two other board members here.

6 Another member, but I don't think he's on  
7 the board. There are a number of people here that are  
8 members, but you're asking if they're board members  
9 here. Again, some of them are elderly that don't come  
10 out at night, I'm sorry.

11 VICE CHAIRMAN HOOD: I understand.

12 MS. KAHLOW: I know another one was here,  
13 day 2, Chris Hart. There have been -- they come and  
14 go, hard to get them here at night.

15 VICE CHAIRMAN HOOD: I think I asked this  
16 -- I mean in all of your testimony and I have to kind  
17 of review it to come up to speed on exactly everything  
18 you're mentioning, but I'm sure you were involved with  
19 the campus plan that's going on now, am I correct?

20 MS. KAHLOW: I was not involved with the  
21 last campus plan. I was then under a similar  
22 restriction at the White House and I could not. I was  
23 also just too busy. It's only now that I have enough  
24 time to devote to research, going to the libraries for  
25 hours, on the web. This has taken about a hundred

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1 hours to prepare this testimony and I'm embarrassed  
2 saying that, but it takes that long.

3 VICE CHAIRMAN HOOD: I know you put a lot  
4 of work in it and I appreciate all the time and effort  
5 you put in. It does not go unnoticed or does not go  
6 unreviewed.

7 MS. KAHLOW: Thank you.

8 VICE CHAIRMAN HOOD: My question is what  
9 do you think about a 20-year -- I think you mentioned  
10 it here in your testimony. I don't want to say 25  
11 years because they're proposal is 20 years. What do  
12 you think about a 20-year plan?

13 MS. KAHLOW: I think it makes no sense  
14 whatsoever. The fact that the other campuses are less  
15 makes more sense. The world changes. I mean think  
16 about what happened on 9/11. The whole world changed.  
17 Something else could happen that's major. I think you  
18 need a smaller time period.

19 I also think and I tried to say it  
20 clearly, you need to look at the city as a whole.  
21 What you've brilliantly stated that maybe we're  
22 preempting this, we need something that works from the  
23 Zoning Commission, not the BZA for special exception,  
24 for the whole city and we need a specific time period  
25 of no more than 10 years or something. I think that

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1 there's no rush right now. This president is leaving,  
2 Trachtenberg, let's get it right and let's have a time  
3 period that makes sense. There's several years left.  
4 Twenty years makes no sense whatsoever. It will be  
5 amended multiple times and I worry what Mr. Jeffries  
6 asked about in terms of the historic district.

7 I discussed at great length last night  
8 with one of the staff of the Historic Preservation  
9 Review Board, is this usual that the person who is the  
10 primary land owner doesn't make the application? He  
11 said absolutely not. D.C. does not usually submit  
12 these things. It's the primary land owner. And G.W.,  
13 if they were really sincere, should be doing this.

14 I worry that these buildings are in  
15 jeopardy. We've had one after another building that  
16 has been destroyed that was of historic quality during  
17 the last campus plan period and the most obvious were  
18 all the townhouses and square which now houses Ivory  
19 Tower. I may not have the exact right name of that,  
20 but it's a dormitory where Mr. Kreuzer lives, Dr.  
21 Kreuzer lives, excuse me.

22 There are so many examples, 20 years isn't  
23 going to work and since they're stretching out the  
24 streetscape over 20 years, we may not see the best  
25 streetscape things until the end of 20 years. We may

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1 not see the best historic preservation stuff until the  
2 end of 20 years. I'm not sure I get much out of this  
3 lengthy period.

4 VICE CHAIRMAN HOOD: Okay, I have one last  
5 question. My time is about up, but --

6 CHAIRPERSON MITTEN: You're not on the  
7 clock, Mr. Hood, take your time.

8 COMMISSIONER PARSONS: I was going to make  
9 a suggestion about that.

10 (Laughter.)

11 VICE CHAIRMAN HOOD: I was told -- I  
12 thought we had two-minute rounds. I didn't know.

13 My next question is the Advisory Committee  
14 Panel, whatever it's called. Are the West End  
15 Citizens Association willing to sit at the table on  
16 this Advisory Committee?

17 MS. KAHLOW: Yes, if it's properly  
18 constructed.

19 VICE CHAIRMAN HOOD: And properly  
20 constructed is what you --

21 MS. KAHLOW: Right now, the proposal is  
22 for a 5-5 split, G.W. if they attend and nobody else  
23 attends, that's a quorum. That's not fair. You've  
24 got to have something where the community has a  
25 majority. We've had other organizations that the West

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1 End has been on and there's always a majority with  
2 G.W. and there's always a majority of community  
3 members. I think that's important.

4 I also think the issue of credibility. I  
5 don't understand how we are going ahead when there's  
6 still all these issues about current compliance. I  
7 mean why can't we get those resolved and then look at  
8 this. I mean that's why the community has felt so  
9 betrayed that they just keep moving along and our  
10 voices are not heard. I use the example this process.  
11 I had to go to all these meetings. Being retired, I  
12 couldn't say no unless I was out of the country or out  
13 of town and otherwise and I wasn't heard. I mean they  
14 heard it, but they didn't reflect it on a piece of  
15 paper. I mean the safety issue is really important to  
16 us and the scale has to do with safety. All these  
17 110, 130 foot buildings, you know, there are shadows  
18 everywhere. What's going to happen to our people?

19 VICE CHAIRMAN HOOD: Thank you. Thank  
20 you, Ms. Kahlow.

21 Thank you, Madam Chair.

22 CHAIRPERSON MITTEN: Anyone else,  
23 questions for Ms. Kahlow?

24 Okay, I have a couple. Maybe you could  
25 explain to me -- I am not entirely sure I understood

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1 your last point about the height of buildings and  
2 safety. You just mentioned shadows, but typically  
3 there's street lights, so I'm just not clear.

4 MS. KAHLOW: It doesn't work. What we  
5 did, the one I got very involved in with the BZA was  
6 2501 Penn and we had all kinds of shadow studies. And  
7 what we found is that it blocked their light to homes  
8 in that instance as well as the street. Even with  
9 street lights, it's dangerous.

10 If you look at Washington Circle and I  
11 cross it to go from my home to the club I work out on,  
12 at night, it's dark, it's scary as it is now. If  
13 there were shadows on top of it, there's no way I  
14 would walk there. It would be unsafe.

15 Street lights won't do it. There's too  
16 much land area and avenues.

17 CHAIRPERSON MITTEN: Okay.

18 MS. KAHLOW: If you have them too bright,  
19 you would go into people's windows, like at 3  
20 Washington Circle.

21 CHAIRPERSON MITTEN: Maybe I'm just not  
22 able to grasp it because I live downtown and I'm not  
23 -- I don't sense a different feeling. I don't have a  
24 different feeling of safety when I'm walking in a  
25 residential block in Dupont Circle versus walking on

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1 an office block in Dupont Circle, but --

2 MS. KAHLOW: I do.

3 CHAIRPERSON MITTEN: Okay.

4 MS. KAHLOW: Maybe I'm a scaredy-cat, but  
5 I do.

6 CHAIRPERSON MITTEN: Okay. In your  
7 testimony, you focused on the precedence of various  
8 PUDs and how certain things hadn't been done before  
9 and I'm wondering if you find, because I agree, there  
10 are certain things that PUDs are -- it's funny, we --  
11 sometimes we get testimony from people who think that  
12 the use of PUDs for single parcels is totally wrong,  
13 because the original intent was that it would be for  
14 a larger land area and that the first stage would  
15 actually have a purpose where there would be this  
16 establishment of where uses would be located and  
17 massing and so on. And then we would go into a second  
18 stage that would be more meaningful as opposed to  
19 having all those consolidated PUDs that are single  
20 parcel focused.

21 So it's kind of ironic that you're looking  
22 in the other direction saying like this is too big,  
23 but what I'm wondering is --

24 MS. KAHLOW: This is huge. I mean it  
25 includes areas that are not owned by the University.

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1 It includes apartment buildings such as The President  
2 that's not owned by the University. It includes  
3 townhouses --

4 CHAIRPERSON MITTEN: Maybe I could just  
5 get to my question.

6 MS. KAHLOW: I'm sorry.

7 CHAIRPERSON MITTEN: So what I'm wondering  
8 is while you point out precedence where we perhaps  
9 haven't done 20 square blocks before and we haven't  
10 done a PUD for this length of time, although I think  
11 we have one that's for 17 years.

12 MS. KAHLOW: Actually, the 17 years, if  
13 you look at the footnote on the last row, it's 17  
14 years, if the first stage is in the three years and  
15 the rest has been five years.

16 CHAIRPERSON MITTEN: Thanks for the  
17 clarification.

18 MS. KAHLOW: But do you find that what's  
19 being proposed here violates the PUD statute because  
20 inclusion of multiple squares is provided by the  
21 regulation. We have the discretion to set the time  
22 period, so I'm wondering if you can say that it's not  
23 appropriate because Chapter 24, Section X precludes a  
24 particular aspect of it.

25 MS. KAHLOW: What I did point out which I

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1 thought maybe not as clearly as I wanted to, that the  
2 Commission has gone through a rulemaking where they  
3 considered longer time periods and rejected it. And  
4 I gave you the citations for what happened in the '94  
5 case.

6 The Commission opined that it was unwise  
7 to have -- they had considered five years. They went  
8 back to no more than two years and for action and  
9 approval and action. That is the legislative history.  
10 So 20 years has never been considered. You considered  
11 five and rejected it. So as a consequence, if you go  
12 to 20 and anybody were to litigate this, they were to  
13 say my goodness, you've already opined that it can't  
14 be more than two.

15 CHAIRPERSON MITTEN: I guess what I'm  
16 asking is and I should probably grab the regs so that  
17 I can be clear, but I thought that the Commission had  
18 the discretion to change the time limit.

19 MS. KAHLOW: It does. And what the reg  
20 says, as I say in my testimony, it says one year,  
21 unless a longer period is specified by the Commission.  
22 But, when you're looking at something, you have to  
23 look at the legislative history and the legislative  
24 history said five was excessive. So it says maybe  
25 one, maybe two, maybe three. It wouldn't be 20. It

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1 would be inconsistent with your own legislative  
2 history. That was the point of my having presented  
3 it.

4 Now why I went back and got my diary is,  
5 is I've been involved in so many PUDs, I'm looking at  
6 each of them from '91 through here that I've  
7 represented different groups, myself or whatever and  
8 all of them have been one square or they are broader  
9 issues like linkage retail, Garfinkel's, etcetera, but  
10 they've all been one square and I think that's what  
11 most of them are that you've seen and I think that  
12 makes sense because you're trying to give amenities to  
13 the immediately-impacted community. If you recall --

14 CHAIRPERSON MITTEN: Just focus on my  
15 question which is do the rules preclude this?

16 MS. KAHLOW: The legislative history does,  
17 yes. Not the rules. The rules, as I quoted, one  
18 year, unless a longer period is specified by the  
19 Commission. You could arguably use 20, but anybody  
20 who would litigate it would say you have a case that  
21 shows that you rejected 5 as too long, ever.

22 CHAIRPERSON MITTEN: Let me ask you this  
23 as somebody who has written regulations for a living.  
24 It would strike me that if anybody at any point in  
25 time could go back to the actions of a body or

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1 discussions of a body like the counsel or this  
2 Commission, and say well, no, at one point in time  
3 people didn't think this -- people thought that it  
4 should be two years for a PUD, I'm told PUD would  
5 lapse or anything, any matter that had been previously  
6 discussed by a body and say well, you can't -- if you  
7 write a rule, a different rule, that you're bound by  
8 this former legislative history. The rule says we  
9 grant ourselves discretion.

10 MS. KAHLOW: However, exactly your  
11 question. Can you revisit something, if you do it in  
12 a rulemaking with public notice and comment, yes. You  
13 could go back and say how should we interpret one year  
14 unless a longer period is specified. Can we go up to  
15 5, 10, 20? You need public input. That's why you  
16 already have had regulatory proposal on this and  
17 you've already acted. To do anything longer, you need  
18 a change in rules. I don't think, however, that you  
19 need to change the PUD rules. I think the PUD process  
20 was not what G.W. originally wanted. It doesn't make  
21 sense. It's fitting a round peg in a square hole, or  
22 whatever that's called.

23 I think you need to change the campus plan  
24 rules, because I don't know that you want PUDs for 20  
25 years for longer periods. If you see the testimony,

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1 I didn't read out loud, I footnoted how we talked  
2 about other PUDs that had kept getting extended,  
3 extended, extended, and nothing ever got built in  
4 Foggy Bottom. It's been a disaster for our community.  
5 And I've used a particular site at 26th and L.  
6 Finally, something got built by the Egyptian military.

7 But all these extended PUDs have been  
8 really problematic. I think the important thing is  
9 yes, you could make a change but you need to do it  
10 through the rulemaking process, not through an  
11 individual case. That's why since you've already had  
12 a rulemaking case, you can't do it by an individual  
13 case is my position.

14 CHAIRPERSON MITTEN: Okay, well we'll give  
15 that some further thought. I was wondering, you  
16 testified, and this is just something that I've been  
17 curious about for awhile and I don't want to have an  
18 extended discussion about something that is not in our  
19 jurisdiction to enforce, but you did in your  
20 testimony, you talk about the fact that in the  
21 hospital case, that the Department of Health had  
22 submitted a statement for the record that says that  
23 there is essentially no remaining air resource margin  
24 in the 23rd Street corridor, just south of Washington  
25 Circle.

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1           And I know that in the time that I've been  
2           on the Commission, we've approved further processing  
3           under the existing G.W. campus plan. And buildings  
4           have been built as a consequence of that. So I'm  
5           wondering how those building permits got issued if  
6           that is in fact true.

7           MS. KAHLLOW: Not on the 23rd Street  
8           corridor, to my knowledge. Not in that immediate  
9           Washington Circle area, and that's where it was  
10          restricted to. As you know, D.C. is out of compliance  
11          with the federal air quality standards. It's one of  
12          many states that it is seriously under compliance, and  
13          it has to get into compliance. So something like this  
14          could be construed as an action that would be to the  
15          detriment of air quality.

16          But the other ones, there is one down --  
17          Ivory Tower, or whatever it is called, down the  
18          street. That's the only one I can think of that was  
19          down the street, the 23rd Street corridor. It wasn't  
20          in the Washington Circle heavily trafficked one that  
21          was going to the Whitehurst and going down to the  
22          business district, etcetera. That's a little bit  
23          different air, but the air margin was meant in the  
24          Washington Circle vicinity.

25          CHAIRPERSON MITTEN: Okay. Have you --

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1 you testified about a series of amendments and  
2 conditions that have been proposed and new conditions.  
3 And I remember when you were cross examining the  
4 Applicant, you were sort of negotiating some  
5 conditions through your cross examination. Have you  
6 discussed any of these, either what you were trying to  
7 elicit from the Applicant the night you cross  
8 examined, or these additional proposals? Have you  
9 discussed them with the University?

10 MS. KAHLOW: They caved on the student  
11 parking, but they gave me a document today that's  
12 discourage again. We want the straight restriction  
13 language. So we don't have exact language, but we  
14 have an understanding. They have not agreed on the  
15 more important one of all, which is to make sure that  
16 they will not buy residentially-zoned properties. We  
17 want also SP-2 zone properties, because those could be  
18 used as dorms. They specifically have told us that  
19 they will not agree to it.

20 So I had to come up today, come up with  
21 examples for you of real properties, the All State  
22 Hotel and the State Plaza where the community could  
23 really be in jeopardy, outside of the boundaries, more  
24 -- they're buying the building and they could use it  
25 for dormitory use. So we haven't agreed on that.

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1           We have not -- we've talked about NEPA, we  
2 got something from them in writing and they haven't  
3 followed it, so we need you to put it in writing  
4 because our MOU apparently didn't have any standing.  
5 The Advisory Committee have not discussed with them  
6 further.

7           I'm more than willing to sit down with  
8 them. I think that would be very constructive if we  
9 sat down with OP as a facilitator and actually the  
10 different parties talked about some of these  
11 conditions so we're not as one of you brilliantly  
12 said, Mr. Hood or Mr. Jeffries, we're going to just  
13 decide if you all don't talk to each other. I think  
14 we're willing to talk about conditions. No one has  
15 ever had that conversation with us.

16           When we talked to the Office of Planning,  
17 you remember the cross examination? Nothing got in  
18 the record. Every single thing we've mentioned wasn't  
19 in the OP report. We got a commitment from McCarthy,  
20 she backs away. We need to actually talk directly  
21 with the University because Office of Planning didn't  
22 work.

23           CHAIRPERSON MITTEN: Okay, one of the  
24 things that I just want to advise you of is there's  
25 conditions that are meant to mitigate adverse impacts.

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1 And then there are conditions that are meant to  
2 provide amenities and benefits as part of the PUD  
3 process. The conditions that are meant to provide  
4 amenities and benefits, we can't manipulate because  
5 another party would like the condition to include more  
6 and the restriction on buying residential properties  
7 is in the category of amenities and benefits.

8 MS. KAHLOW: I don't think so. I think  
9 that's the heart of the matter. We're doing a campus  
10 plan. Do you want them to basically have a de facto  
11 campus plan boundary? I mean I think that all of  
12 these particular ones I mentioned were non-amenities  
13 were actually what you do for a living. And I think  
14 that's what this is all about. That you've got to say  
15 you can't have de facto expansion in SP zone  
16 properties.

17 CHAIRPERSON MITTEN: We discussed at  
18 length in the prior campus plan that it's not the  
19 prerogative of the Zoning Commission to dictate who  
20 can buy what property.

21 MS. KAHLOW: No, they can buy whatever  
22 they want.

23 CHAIRPERSON MITTEN: And they use it for  
24 any lawful purpose.

25 And so we can't restrict that. That's

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1 just not going to happen. That's why they're  
2 volunteering it. But the other matter that I just  
3 want to call to your attention is what's happening in  
4 this case is that the community folks that are in  
5 opposition expect that it's almost understood, without  
6 having to prove it that student parking is a problem,  
7 that student behavior is a problem, that noise is a  
8 problem. But you're not making a record to prove it.  
9 It's -- you're saying that the proffer from the  
10 University about discouraging parking for students  
11 isn't good enough, that's something we can manipulate  
12 if you were making a record that that's a problem.  
13 But we haven't had testimony about that, only in a  
14 very cursory way.

15 MS. KAHLOW: I know at least one witness  
16 is focusing today that I asked to testify on noise.  
17 She has filed a variety of noise complaints and she's  
18 an expert in it. She's filed them and I wanted to  
19 have her do it. Parking, we easily can supplement the  
20 record. There's been -- Mr. Batham, he has made it is  
21 cause celebre to write down all the student license  
22 plates and he has repeatedly sent the information into  
23 the city and asked for them to be ticketed. We easily  
24 could submit that information for the record since  
25 he's been doing it for years.

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1 CHAIRPERSON MITTEN: Well, you just can't  
2 -- I'm just telling you you just can't take for  
3 granted that it's understood when we have a lot of  
4 testimony in support that students are causing all  
5 these problems.

6 MS. KAHLOW: But if you would let us do a  
7 submission on student parking, we'd be willing to do  
8 so.

9 CHAIRPERSON MITTEN: Well, whatever you  
10 think the adverse impacts are, you have to prove it,  
11 not just a survey. Without proving it, especially  
12 when we've had testimony that is -- that is the  
13 opposite of that.

14 MS. KAHLOW: Thank you.

15 CHAIRPERSON MITTEN: Anybody else? Mr.  
16 Parsons?

17 COMMISSIONER PARSONS: Well, Madam  
18 Chairman, I feel a need to jump into the discussion,  
19 if you will, about PUDs.

20 The PUD process was really established  
21 around Watergate as a major, major project in the city  
22 that -- our zoning regulations had no capacity to deal  
23 with, but what it was designed to do and has evolved  
24 in a different direction is to be a two-step process:  
25 a large tract of land to be analyzed in a large

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1 context, to be built in phases and as those phases  
2 came forward they would come forward as a Phase 2.  
3 The most recent one we did on that scale was Parkside.  
4 And while Ms. Kahlow is correct, when we got into a  
5 habit of doing square by square PUDs in a consolidated  
6 fashion, that is, first step and second step combined,  
7 they were projects of some urgency, if you will.

8 They were going to be completed, and we  
9 kept those deadlines tight. But it was never  
10 discussed in those deliberations in the mid-90s about  
11 time frame. What we would do in a circumstance, if we  
12 went back to a large track, two-step process. These  
13 decisions were really focused on a one-step  
14 consolidated process, and I just wanted, I guess  
15 provide testimony, which is not my role.

16 MS. KAHLOW: Mr. Parsons?

17 COMMISSIONER PARSONS: I felt a need to do  
18 that.

19 MS. KAHLOW: Mr. Parsons, in the original  
20 PUD case in 1979 --

21 CHAIRPERSON MITTEN: Wait a second. Ms.  
22 Kahlow. There's not a question pending from Mr.  
23 Parsons. So did you want a response from Ms. Kahlow?

24 COMMISSIONER PARSONS: No, I do not.

25 CHAIRPERSON MITTEN: Okay, thank you.

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1           Anyone else? Questions? Ms. Dwyer, questions?

2                   MS. DWYER: I have just a couple of  
3 questions, let me propose closer, and some of them  
4 have actually been addressed by the Commission. But  
5 I wanted to ask Ms. Kahlow since she's very familiar  
6 with the PUD regulations and the 1994 amendments to  
7 them, under Section 2401, the PUD regulations provide  
8 area requirements and in Section 2401.1, a minimum  
9 area requirement.

10                   And my question then is, is there a  
11 maximum area requirement under the PUD regulations?

12                   MS. KAHLOW: Not to my knowledge.

13                   MS. DWYER: Turning to your chart that you  
14 prepared, where you list the squares that were the  
15 subject of these various cases, isn't it true that  
16 although MedStar Health is only one square, it is 34  
17 acres?

18                   MS. KAHLOW: It is something in that  
19 order. I don't know the exact number, but yes. I  
20 actually have the case here. I could like it up.  
21 It's around that.

22                   MS. DWYER: And didn't the Commission in  
23 that case give second state approval for a 10-year  
24 period, not the two years you cite?

25                   MS. KAHLOW: Not in the orders I read.

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1 Perhaps there is something that's not on their website  
2 that you know that I don't know. I went through their  
3 website.

4 MS. DWYER: All right, there is an order  
5 that's a matter of public record which I think speaks  
6 for itself.

7 Kapler Carlsburg which one of the MedStar,  
8 the --

9 MS. KAHLOW: First one, 2002.

10 MS. DWYER: The 2002, later 02-43?

11 MS. KAHLOW: Yes.

12 MS. DWYER: I can look it up, but I did  
13 read it and it was one year for the first stage and  
14 you're saying the second stage was 10 years.

15 MS. KAHLOW: The PUD itself had a 10-year  
16 period.

17 MS. DWYER: So the first stage was one  
18 year and then the rest was 10 years, is that what  
19 you're saying?

20 MS. KAHLOW: That is correct.

21 MS. DWYER: I see. Well, the first stage  
22 was what I was focusing on, but you could be right.  
23 It wasn't in the web search that I found it.

24 All right, Kapler Carlsburg you said was  
25 14 squares. Is that not 33 acres?

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1 MS. KAHLLOW: Something in that order.

2 MS. DWYER: Waterside Mall, which you say  
3 is two squares, is that 13 acres?

4 MS. KAHLLOW: Don't know.

5 MS. DWYER: Is it fair to say that even  
6 though these may have small numbers of squares, these  
7 are very large sites, comparable to the G.W. campus?

8 MS. KAHLLOW: I don't think they're  
9 comparable because they're one campus. G.W. has other  
10 buildings in it that are not owned by G.W.

11 MS. DWYER: The Kapler Carlsburg project,  
12 there were no other buildings that were not part of  
13 that PUD to your knowledge?

14 MS. KAHLLOW: I don't remember.

15 MS. DWYER: All right. One final question  
16 about the historic district. I think you stated that  
17 most historic district applications are filed by the  
18 property owner?

19 MS. KAHLLOW: If there's a principal  
20 property owner as in this instance, I was told -- I  
21 don't know it by myself. I was told by the HPO's  
22 staff that that's the normal practice.

23 MS. DWYER: We have a representative of  
24 HPO so we can probably get the correct answer, but I  
25 wanted to ask you, is it not the case usually that

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1 these applications are filed by the D.C. Preservation  
2 League, the Foggy Bottom Conservancy, the Dupont  
3 Circle Conservancy or the ANCs?

4 MS. KAHLOW: Historic districts, I don't  
5 have enough -- I've not done my research. I could  
6 provide that research. I don't know off the top of my  
7 heard. I'd have to research it.

8 MS. DWYER: Do you know whether the  
9 Historic Preservation Office is in the process of  
10 expanding historic districts city-wide and initiating  
11 applications on its own?

12 MS. KAHLOW: I'm not well enough informed  
13 to answer that question.

14 MS. DWYER: Do you know whether when the  
15 University met with the Historic Preservation Office  
16 they had already been thinking about this kind of  
17 district and the University's interests were in  
18 concert with the Historic Preservation Office?

19 MS. KAHLOW: I don't know.

20 MS. DWYER: All right, thank you.

21 CHAIRPERSON MITTEN: Mr. Hitchcock? Okay,  
22 thank you, Ms. Kahlow.

23 MS. KAHLOW: Thank you.

24 CHAIRPERSON MITTEN: Do you have all your  
25 equipment now, Mr. Hitchcock?

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1 (Pause.)

2 (Off the record.)

3 CHAIRPERSON MITTEN: Okay, we're back on  
4 the record, for the long-awaited Foggy Bottom  
5 Association PowerPoint presentation.

6 MR. HITCHCOCK: I want to thank you for  
7 your indulgence and we will try to make it worth every  
8 minute, Madam Chair.

9 (Laughter.)

10 Two preliminary matters. Mr. Oberdorf,  
11 our planning expert, and Mr. Mehra our traffic expert  
12 need to be qualified. Their résumés were submitted  
13 previously. Both have been qualified as experts  
14 before, so I would move that they be allowed to  
15 testify in that fashion.

16 CHAIRPERSON MITTEN: Is there any  
17 objection from the Commission? Okay, without  
18 objection, then they will be qualified as experts in  
19 their proper fields.

20 MR. HITCHCOCK: Thank you, Madam Chair.  
21 We have submitted two documents. The first is the  
22 paper version of the long awaited PowerPoint. The  
23 second is a spiral bound document contains longer  
24 documents plus some appendices that individuals will  
25 talk on. We have a panel of four witnesses. The

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1 first witness is Ms. Joy Howell who is the President  
2 of the Foggy Bottom Association and who will make some  
3 general opening remarks. The next witness is  
4 Elizabeth Elliott who is an officer of the  
5 Association, a former ANC chair. Mr. Oberlander will  
6 talk about the planning issues that are presented by  
7 this case and Mr. Mehra will discuss some of the  
8 traffic issues that are presented here and we'll try  
9 to coordinate it with the presentation.

10 To respond to a point the chair made with  
11 Ms. Kahlow earlier, there are a number of people here  
12 who are willing to testify, who are willing to provide  
13 the kind of specifics. One of the problems in these  
14 cases is someone has to go first and someone has to go  
15 last and there's not much you can do but cross examine  
16 until it's your turn, so we are delighted to be here  
17 and to present a story about how this application will  
18 affect the people most directly affected by it, the  
19 neighbors in the Foggy Bottom area.

20 And with that, I will introduce to the  
21 Commission, Joy Howell.

22 MS. HOWELL: Thank you, Con. Madam Chair  
23 and Members of the Commission, my name is Joy Howell  
24 and I live at 955 26th Street, N.W., and I'm the  
25 President of the Foggy Bottom Association. I have

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1 lived in Foggy Bottom for the past seven years.  
2 Unlike the chair and some of the previous witnesses,  
3 I am not a veteran of the 2000 campus plan and I came  
4 to this with a fresh perspective.

5 When I became president of the Foggy  
6 Bottom Association in June 2005, it was my goal to  
7 find a way to resolve the well-documented distrust of  
8 G.W. by the community. I immediately engaged in two  
9 meetings with University officials to discuss Square  
10 54 and I attended an ANC meeting on Square 54. I also  
11 asked for and attended a meeting with Ellen McCarthy  
12 and OP officials, hoping that G.W.'s interest in  
13 moving forward on Square 54 would provide an  
14 opportunity to resolve the long-standing problems.

15 Sadly, that was not the case. I call your  
16 attention to the letters submitted for the record by  
17 Ron Cocham, my predecessor. In it, he describes how,  
18 with OP support we worked out a plan to have the  
19 Association, the ANC, OP and G.W. sit down and try to  
20 resolve some of these issues and discuss Square 54.  
21 We prepared for those meetings. We hired an attorney.  
22 We put a lot of time into it, but we were quickly  
23 disappointed. On the very first day, the negotiations  
24 were to start, G.W. announced a series of public  
25 meetings. The goals seemed to be to avoid negotiation

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1 with the FBA and ANC 2A and instead, have dog and pony  
2 shows that could be built around G.W. University's  
3 sponsored "Friends" group to marginalize the Foggy  
4 Bottom Association and the ANC.

5 The focus of the meetings was Square 54,  
6 not a brand new, 20 year plan with a massive increase  
7 in density. Instead of an honest negotiation with the  
8 neighborhood association and the ANC, G.W. negotiated  
9 behind closed doors with OP. The result is the  
10 application that you have before you today. G.W.  
11 could have worked with us to find common ground, but  
12 it did not. OP could have insisted on it, but it did  
13 not. And instead, OP negotiated with G.W. without our  
14 input and agreed to support G.W.'s plan without our  
15 input.

16 You're distinguished professionals at the  
17 height of your careers, but I'd like to take you back  
18 to childhood, to that bully that you knew once. You  
19 appealed to the responsible adult in your life to  
20 intervene, to enforce the rules, to prevent the bully  
21 from beating you up, just as we appealed to OP, the  
22 Zoning Administrator and the Mayor. The G.W. we know  
23 bulldozes charming, century-old rowhouses over  
24 Christmas break; strong arms neighbors to sell their  
25 houses cheap and then builds a 10-story dorm over them

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1 when they refuse. The G.W. that we know came to our  
2 meetings and acted as if they were G.W. meetings. The  
3 G.W. that we know has vowed to "take G.W. all the way  
4 to the river." according to President Trachtenberg and  
5 was called by The Washington Post "the University that  
6 ate Foggy Bottom."

7 It's laughable now that G.W. comes here to  
8 ask you to decimate a neighborhood on the premise of  
9 a dream university. It's a bit like Tony Soprano  
10 trying to be the statesman Martin Luther King. G.W.  
11 has a dream all right and it is a dream of wiping out  
12 Foggy Bottom and only if you give them what they want  
13 do they promise in condition 2 not to sue you.

14 There are two points I would like to make  
15 in closing. First, there is no good reason to discard  
16 the campus plan. The BZA found that G.W.'s on-campus  
17 activities were causing a variety of objectionable  
18 conditions. The BZA ordered changes to be phased in  
19 over 10 years. We are only a little more than halfway  
20 through that time.

21 Second, enforcement is the major issue  
22 here. The concept of the 2000 plan was good, but it  
23 needs enforcement. The community thought it had  
24 genuine protection in the head count limits in the  
25 2000 campus plan. Yet, G.W. has magically turned

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1 24,000 students into 19,000 students. A so-called  
2 independent audit accepts G.W.'s figures at face  
3 value. This Commission has said it's not interested  
4 in enforcement. There seems to be no adult willing to  
5 stand up. That is what makes so many of my neighbors  
6 feel outraged and betrayed.

7 You are our last hope. This Commission  
8 has an obligation and a responsibility to protect  
9 what's left of the community and to mitigate the  
10 irrevocable damage that we pointed out repeatedly.  
11 Only you can save what's left of our neighborhood.  
12 We ask you to deny G.W.'s application and to let the  
13 2000 campus plan run its course. Thank you.

14 MR. HITCHCOCK: Ms. Elliott is our next  
15 witness.

16 MS. ELLIOTT: Madam Chair and  
17 Commissioners, good evening. I'm Elizabeth Elliott.  
18 I'm a 26-year resident of the York Apartments, located  
19 at 532 20th Street, N.W. which G.W. would view as  
20 being on the periphery of its campus.

21 As you know, I have appeared numerous  
22 times before this Commission representing the  
23 community as the former chair of ANC-2A. In addition,  
24 I participated in the 2001 campus plan remand  
25 proceedings. As Mr. Parker testified in a recent BZA

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1 hearing, and as I and my neighbors can tell you from  
2 personal experience, our community is still under  
3 siege.

4 The 2000 plan took a strong stand in terms  
5 of prodding G.W. to house more of its undergraduate  
6 students on campus. However, that task is not yet  
7 finished. G.W. only recently and reluctantly moved  
8 freshman out of the Hova and sent them over to the  
9 east side of the neighborhood, even closer to off-  
10 campus residences. The Aston and Columbia Plaza are  
11 still major student havens and will be for the next  
12 few years. It's too soon to be talking about the next  
13 campus plan when the current one hasn't been fully  
14 implemented.

15 I wish that I could tell you that our  
16 neighborhood has made significant progress since 2000  
17 in terms of restoring the residential nature of Foggy  
18 Bottom, but I can't. Too many of the problems the BZA  
19 heard about in 2000 are still with us today. G.W.  
20 states in its August 2006 compliance report that it  
21 has nearly 6400 University beds to serve 8200  
22 undergraduates. That means that 1800 undergraduates  
23 are not housed in University beds, let alone on  
24 campus. It also means that another 10,000 graduate  
25 students and other students are also not housed on

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1 campus along with 4,000 other students who G.W. is not  
2 counting for its own reasons.

3 This is in an area that according to the  
4 2000 census had a total population of 11,900 including  
5 University dormitory facilities. In many places  
6 throughout Foggy Bottom on campus is directly abutting  
7 off campus. The sheer numbers of students traveling  
8 up and down public sidewalks in large groups to and  
9 from classes crowd pedestrians off the sidewalks. The  
10 same objectionable effect occurs when tour groups of  
11 potential students and their families numbering in the  
12 thousands every year travel on these same sidewalks.

13 Too many students still start their  
14 weekends on Thursday nights. It is quite common for  
15 students to be partying on the street or in their off-  
16 campus apartments in a raucous fashion into the wee  
17 hours on Friday morning when many of us have to get up  
18 and go to work in the morning and we don't appreciate  
19 becoming hall monitors either in our homes. The  
20 disciplinary system is inadequate. Incident reports  
21 may or may not lead to disciplinary actions or proper  
22 deployment of security personnel to where the problems  
23 are most severe.

24 G.W. sponsors many events, seven days a  
25 week and draws far more people to Foggy Bottom than

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1 students. Lisner Auditorium, the Marvin Center, the  
2 Elliott School and the Smith Center are very busy.  
3 During basketball season, there are boisterous crowds  
4 out on our streets before and after games. Lisner  
5 performances invariably create traffic jams around  
6 that location.

7 The negative effects of G.W.'s on-campus  
8 facilities and activities are in the midst of our  
9 community. There's more. We urge you to read the  
10 file to see the letters that people are sending and  
11 detailing their own experiences. Many of these  
12 problems result from G.W.'s over enrollment. G.W.  
13 achieves compliance with the 2000 plan only by  
14 omitting thousands of students from its reports. G.W.  
15 is asking you to ignore its bad behavior and craft a  
16 new plan that could suffer from the same loopholes.

17 I'd note too that G.W. has changed its  
18 counting methodology along the way. In its February  
19 2003 report, G.W. was including continuous enrollment  
20 students in determining head count. In February 2005  
21 and 2006, G.W. is subtracting continuous enrollment  
22 students from its head count calculations. We've  
23 included the reports in our Exhibit 4 so you can judge  
24 for yourselves. Nearly a year ago, we asked the Mayor  
25 to help us obtain an independent audit so that we

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1 could get the numbers on the table, not only students,  
2 but also faculty and staff. Unfortunately, the ZA  
3 relied heavily on G.W.'s advice on how to count  
4 students. He did not include faculty or staff numbers  
5 and he also let the auditor omit categories of  
6 students that add to the intensity of use on G.W.'s  
7 campus such as continuing education students who may  
8 not be pursuing a degree, but who are coming to Foggy  
9 Bottom for class.

10 We're submitting the relevant  
11 correspondence and emails as Exhibit 4 to show that we  
12 didn't get a fair shake in the process.

13 The ZA made one important recommendation,  
14 namely, to count all students who are physically  
15 present in the neighborhood attending classes at the  
16 Foggy Bottom campus, even if they are housed on Mount  
17 Vernon or elsewhere. Under this benchmark, G.W. would  
18 have been out of compliance in fall 2005 in terms of  
19 full-time equivalent student count. That ties into  
20 our major concern here. In 2000, the community  
21 thought that using head count, rather than simply  
22 enrollment would provide us with protections. It  
23 hasn't worked because G.W. is not using a single  
24 absolute definition of head count. We still think  
25 that head count is important because it has to be part

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1 of a legitimate determination of the impact of the  
2 total intensity of use of the Foggy Bottom  
3 neighborhood.

4 The number of students is only one factor  
5 in deciding whether or not to approve a campus plan,  
6 but the number of students is directly related to  
7 other issues such as noise, traffic congestion and so  
8 forth. Thus, you need to count students and others  
9 who are using the campus, even if some of the students  
10 and others are housed elsewhere. If we look at what  
11 G.W. is proposing, the new 20,000 limit offers no  
12 protection. It's not clear who G.W. would be counting  
13 and G.W. would omit students traveling to and from the  
14 Mount Vernon campus where plans are already being  
15 discussed to enlarge G.W.'s dormitory capacity there.  
16 That's a huge loophole.

17 It would also be easy for G.W. to bring in  
18 students from Loudoun County which is not subject to  
19 any limits under G.W.'s proposal. Additionally, G.W.  
20 is asking for a loophole to exceed the limits as long  
21 as it substantially complies, whatever that means.

22 You also need to count faculty and staff  
23 separately which is done in the current plan. There's  
24 no reason to combine the two and as Mr. Oberlander  
25 demonstrated in his affidavit earlier in the case,

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1 G.W. is way over the limit under current standards.

2 Finally, you need to make any head count  
3 standard clear and simple and without loopholes.  
4 That's what we thought we were getting in 2000.

5 To understand the magnitude of the problem  
6 please look at this map which shows how nearly 4,000  
7 students are living along the southern campus boundary  
8 across the street from private apartment buildings  
9 which also have large student populations. This will  
10 not change under the proposed campus plan. These  
11 students will not be moving towards the so-called  
12 campus core. As you know, G.W. is proposing to build  
13 yet another huge out of scale dormitory and add nearly  
14 500 students along this strip.

15 Why not move students who live here, who  
16 may be disturbing the neighborhood and whose sheer  
17 numbers have overwhelmed this area into Square 54  
18 instead of building yet another dormitory along this  
19 corridor. In our view, any cap that's adopted should  
20 set a limit that realistically measures the impact of  
21 usage of the Foggy Bottom campus and to the extent the  
22 Commission uses head count, the standard should be  
23 objective, clear and enforceable. If the Commission  
24 is inclined to move towards G.W.'s definition, you  
25 should lower the cap.

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1 I want to note our agreement with the  
2 point made by Commissioner Thomas last week that the  
3 criteria for campus plan relief have not been met and  
4 you'll hear more about that in a moment.

5 We also disagree with G.W.'s attempt to  
6 downplay the negative impacts by focusing on so-called  
7 amenities. For example, G.W. tasks the creation of a  
8 new historic district which would not constrain G.W.  
9 to operate solely within the campus plan boundaries.  
10 G.W. can and does operate outside the campus plan  
11 boundary if the operation can exist as a matter of  
12 right.

13 Also, G.W. can keep expanding, for  
14 example, buying residential buildings. The proposed  
15 limits are ineffective. Our bottom line is simple.  
16 Neither historic district nor any of the other self-  
17 dealing proffers that will allow G.W. to improperly  
18 cram new construction equivalent to 75 percent of the  
19 size of the Pentagon in Foggy Bottom are legitimate  
20 amenities.

21 In short, G.W.'s proposed plan has a lot  
22 to offer G.W. It has nothing to offer the community  
23 nor does it repair the damage this community has  
24 already sustained. There is no reason to believe that  
25 this plan would last 20 years or anything close to it.

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1 There is no reason to believe that his plan would  
2 solve the problems you have seen in this case in the  
3 2000 case.

4 The time has come to deal with the problem  
5 head on. Just say no to G.W..

6 Thank you.

7 MR. HITCHCOCK: Mr. Oberlander.

8 MR. OBERLANDER: Madam Chair, we have the  
9 statement --

10 CHAIRPERSON MITTEN: Will you pull the mic  
11 closer?

12 MR. OBERLANDER: Madam Chair and Members  
13 of the Commission, you have my statement in the  
14 booklet that was passed out to you which is an 11-page  
15 statement with four maps. I will, in the time that I  
16 have, try to rush through this. You can follow the  
17 outline on the screen.

18 As you know, the BZA approved the current  
19 campus plan and it has a validity of time frame up to  
20 2009. It authorized the construction of 950,000  
21 square feet of gross floor area. The University has  
22 not built out that amount of square footage that it  
23 has authority to build. George Washington's current  
24 magnitude is 5,600,000 square feet. Just to give you  
25 an example of what that magnitude is the average

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1 office building built in the District of Columbia is  
2 around 200,000 square feet. Dividing 200,000 into 5.6  
3 million, you get an average 28 average sized downtown  
4 office buildings. That is the magnitude of the  
5 existing campus right now.

6 You've heard a lot about the tipping point  
7 concerns and I don't want to dwell on that too much,  
8 except that the idea is that it's becoming solely a  
9 University use and that is not what the intent of the  
10 Comprehensive Plan is or of the zoning regulations.

11 George Washington is asking for another  
12 1,700,000 gross square feet. If allowed to develop,  
13 it would be contrary to the regulations' intent to  
14 protect residential areas. This 1.7 million doesn't  
15 include the million square feet for Square 54 and  
16 Square 80. I'm a little surprised that you're hearing  
17 testimony on Square 54 and Square 80. It's not in the  
18 campus plan, so how can you allow testimony to be  
19 presented to you on that.

20 Regardless, the 1.7 million square feet  
21 that they're wanting to build is like adding another  
22 eight or nine office buildings in this area. The OP  
23 Report did not, and the Commission cannot evaluate  
24 this whole proposal without including Square 54 and  
25 Square 80. Section 210.4 of the regulation says that

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1 the Commission is to evaluate "the campus as a whole."  
2 If the new campus plan is approved with whatever  
3 number of conditions that you stipulate it will  
4 violate this section of the regulations.

5 210.4 also requires a description of all  
6 activities and capacity of all present and proposed  
7 buildings. There is nothing in the PUD application or  
8 in the campus plan application that gives you that  
9 amount of activity.

10 The Commission has an obligation, in my  
11 opinion to examine the effectiveness of the conditions  
12 that BZA imposed to make sure that the limits are  
13 effective and can be enforced. The slide before you  
14 indicates where I discuss each of these limits  
15 throughout the 11-page statement.

16 There's no significant public amenity or  
17 economic benefit identified in the OP Report, public  
18 amenities. On page 7 and 8 of my statement, I quote  
19 from an economic professor of the University of  
20 Milwaukee, Professor Shallot who testified in the BZA  
21 case back several years ago where he presented a  
22 report which shows the limited economic benefits of  
23 letting G.W. grow as a development strategy. And I'd  
24 like to quote quickly from that report.

25 Professor Shallot's main point that the

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1 September 24, 2000 BZA hearing was "constraints on  
2 growth and expansion are never going to originate  
3 within the University, but must come only from the  
4 regulatory body set up for that very purpose." He  
5 went on to explain that "the growth is surely not a  
6 University right. It is a privilege. Zoning Boards  
7 and Planning Commissions evince no hostility to higher  
8 education and need not feel guilty when they curb the  
9 appetite of urban universities and impose strict  
10 limits on their expansion. They are just doing their  
11 job."

12 The next slide will show that the PUD is  
13 really, in my opinion, inadequate or not proper. The  
14 PUD process does not provide for an extensive or  
15 overall PUD. There's no mention of that in Chapter  
16 24. The attorney for the University pointed out there  
17 are minimum site requirements. It's mute on maximum.  
18 And it was never the intent as Mr. Parsons pointed out  
19 was the original intent of the PUD to be so massive.  
20 Watergate development was the first one under the PUD  
21 and it's history.

22 The overall PUD has no specific  
23 development proposals. There are five lot assemblages  
24 or 18 sites as the application says and the square  
25 numbers are shown on the -- well, they're not shown on

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1 the screen, but -- yes, they are. They are 41, 55,  
2 56. It covers only George Washington-owned  
3 properties, yet there are private additional private  
4 properties within the campus boundaries. To compare  
5 this PUD proposal with the Washington Hospital Center,  
6 in my opinion, is invalid.

7 Look at the maps attached to the  
8 statement. It shows the contained, the singularly  
9 contained Washington Hospital Center area which has  
10 one access road. It is not part of the street grid of  
11 the city as the George Washington University area is  
12 and you really cannot compare uptown or midtown area  
13 with a downtown area for zoning purposes.

14 There's no context for rezoning to C-3-C.  
15 If you look at the zoning map, there is no C-3-C  
16 anywhere near the locations where they're putting up  
17 the PUDs or proposed to put up the PUDs. There is  
18 one, the red line row that the Commission, previous  
19 Commission authorized which faces out to Pennsylvania  
20 Avenue and that is several blocks away.

21 Section 2400.4 of the regulations  
22 specifically point out that "PUD process shall not be  
23 used to circumvent the intent and purpose of the  
24 zoning regulations." In my opinion that's what would  
25 be happening if you rezone under the PUD provisions

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1 when this is really a special exception case.

2           Grow up and not out. The planning  
3 philosophy. A slogan, but it's not a planning  
4 strategy. No planning justification for what George  
5 Washington University proposes is contained in the  
6 Comprehensive Plan as it now exists. A building  
7 taller in the center does not reduce overdevelopment  
8 impacts. Impacts still are objectionable to  
9 neighborhood properties due to noise, number of  
10 students and all the other objectionable conditions  
11 which are spelled out in Section 210.2. Section 210.3  
12 intent is and I quote "to prevent unreasonable campus  
13 expansion into improved low-density districts."

14           My statement at page 4 through 8 discusses  
15 the inadequacies and limitations of the OP report and  
16 I very briefly, hurriedly because I've got time  
17 limitations here, OP never defines what the maximum  
18 capacity is for this area. The major omission, as I  
19 see it as stated in my -- on page 8 of my statement is  
20 that there are dozens of University activities on the  
21 campus, performing arts, sporting events, which are  
22 not assessed as part of the traffic, noise and  
23 congestion impacts.

24           Lisner Auditorium, for example, has 2,000  
25 plus seats. Marvin Center has 435 seats. The Media

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1 and Public Affairs Building and of course, the Smith  
2 Center, the Sports Center. The Comprehensive Plan  
3 gives very little guidance to this Commission in terms  
4 of whether or not this can be made compatible with it  
5 or not inconsistent with it.

6 The institutional designation does show  
7 institutional use or University use, but that is a  
8 generalized blue area on the map. That overlaps the  
9 residential that is underneath that blue.

10 Section 1358 says the expansion of George  
11 Washington University has resulted in diminishing of  
12 housing. That's stated in the current Comprehensive  
13 Plan. And it goes on to say this and other commercial  
14 usage is of grave concern. Now that's a warning to  
15 whoever is assessing this area. Do not diminish any  
16 more of the housing that is still left in this area.  
17 The I Street retail corridor that they suggest is a  
18 commercial zoned kind of use and what kind of zoning  
19 is that going to require in a residential zone?

20 The University-generated traffic already  
21 has had a negative effect on the residential area.

22 We're just making things worse by adding  
23 another 1,700,000 square feet to the existing  
24 conditions. OP Report does not examine the over  
25 development issue. There's no study of trip

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1 generations for the new 1,700,000 square feet. The  
2 3.65 overall FAR proposed for currently zoned  
3 residential exceeds the maximum that is under the  
4 Section 210 requirement.

5 Rezoning to C-3-C circumvents, in my  
6 opinion Section 210 density maximums. Of course, this  
7 is all beyond the Square 54 and the Square 80 issue.  
8 It's difficult to understand how you are allowing this  
9 to be part of the application. The basic issue  
10 problem is that the area is already over the tipping  
11 point and if I may have one more minute to allow me to  
12 refer to my former professional life with NCPC, I have  
13 witnessed since the early 1970s the growth of this  
14 urban university in an unremitting fashion. It looks  
15 like a way of life for the University with growth  
16 itself as the goal.

17 Thank you. I'll be happy to answer any  
18 questions that you may have.

19 MR. HITCHCOCK: Mr. Mehra?

20 MR. MEHRA: Thank you. Madam and Members  
21 of the Commission, my testimony is going to be based  
22 on the traffic study that was done for the University  
23 by Wells and Associates and prepared in their report  
24 dated August 24, 2006.

25 In terms of the existing conditions, Wells

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1 collected an extensive set of traffic data to do the  
2 analysis. However, some of the critical data elements  
3 were not presented in the report and may not have been  
4 observed or collected in the field. Data items  
5 include truck trips, their travel patterns and the  
6 percent of total travel in the traffic stream.

7 Truck trips to the University include all  
8 sorts of deliveries as well as trash pickup. The  
9 higher the truck proportion the lower the level of  
10 service.

11 Another missing data item is the existing  
12 queues at existing intersections and the spillback on  
13 to adjacent intersections. Pennsylvania Avenue and K  
14 Street are congested during peak hours. And queues  
15 extend back into the adjacent intersection. This is  
16 critical to the analysis and impacts the levels of  
17 service.

18 The observed traffic counts data that was  
19 summarized in the Wells Report was compared with the  
20 data used to compute the levels of service for the  
21 existing conditions. There were significant  
22 differences in the two data or databases. For  
23 example, the southbound observed traffic counts and  
24 this is based on Wells Report, on 21st Street and I  
25 Street were 634 vehicles in the p.m. peak hour.

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1           However, the number used to computer the levels of  
2           service is 434. That is 200 vehicles. This is almost  
3           a 50 percent difference and impacts the levels of  
4           service. Similar discrepancies are also noted at  
5           other intersections.

6                        The next point I'd like to bring about is  
7           the determination of the peak hours for the street as  
8           well as the University because it's critical to the  
9           analysis. The Wells Report states that the street  
10          peak hours are generally 8:30 to 9:30 in the morning  
11          and 5:30 to 6:30 in the afternoon. Further, the  
12          report states that the University peak hours are 8 to  
13          9 a.m. and 5 to 6 p.m. This suggests that the  
14          University traffic only overlaps the street traffic  
15          for one half hour.

16                       I reviewed the data for 31 intersections  
17          that were included in the Wells Report. Using their  
18          data and their summaries, the data shows that 23 out  
19          of the 31 intersections have street peaks that are  
20          earlier than 8:30 to 9:30 a.m. The Wells data also  
21          shows that 21 out of the 31 intersections have street  
22          peaks that are earlier than 5:30 to 6:30 p.m. This  
23          means that the University peak occurs generally at the  
24          same time as a street peak and not a half an hour  
25          earlier. Therefore, most of the traffic analysis

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1 presented for the future conditions with the  
2 University expansion would not be valid.

3 In terms of the existing trip generation,  
4 Wells used two different data sources. The first one  
5 was the parking lot observation to come off at the  
6 existing trip generation and trips. The parking lot  
7 observations were increased by 25 percent to account  
8 for University trips that do not park at the  
9 University parking facilities. Based on this  
10 computation, Wells came up with 804 and 909 trips  
11 during the a.m. and p.m. peak hours strictly based on  
12 the data as shown in this slide.

13 Wells also collected a travel survey of  
14 students and faculty and staff to obtain the trip  
15 rates and mode of travel to and from the University.  
16 Using these trip rates, I computed the existing  
17 University trips to be 1,522 trips during the a.m.  
18 peak hour and 862 trips during the p.m. peak hour. As  
19 shown in the slide, you can see there's a significant  
20 difference in the a.m. and p.m. hours. The parking  
21 data shows almost half the number of trips compared to  
22 the travel survey, at least during the a.m. peak hour.

23 I also used the IT trip generation report  
24 to see what the IT report shows that number is almost  
25 4,000 trips during the a.m. and also during the p.m.

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1 peak hour. This data suggests that there is some  
2 problem in the travel survey data for the p.m. peak  
3 hour.

4 One of the things was that the travel  
5 survey showed that the faculty and staff generate one  
6 person trip for every three employees during the a.m.  
7 peak hour and only one person trip for every 13.6  
8 employees during the p.m. peak hour. This data seems  
9 to be quite low compared to the IT a.m. and p.m. peak  
10 rates.

11 Further, Wells report stated that about  
12 2500 travel survey responses were received. Table 3-2  
13 of the report shows the response of 2470, where as  
14 Table 3-3 shows 3,080 responses. Again, this  
15 difference needs to be explained.

16 In terms of the future conditions, Wells  
17 assumed half a percent per year growth rate to the  
18 Year 2025. DDOT recently released a study called the  
19 lower West End Traffic Study in July of this year and  
20 in that study which has a overlap of the study with  
21 the University. The DDOT assumed 1 percent per year  
22 growth rate, so essentially if you use DDOT trips,  
23 excuse me, if you use a DDOT growth rate, Wells data  
24 will be as much as 400 vehicles per hour less than are  
25 used in the DDOT study.

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1           In terms of the levels of service, the  
2 existing condition shows that 9 out of 37  
3 intersections have some reports failing in the  
4 existing conditions, that is level of service, E or F.  
5 With the expansion, with the future conditions and  
6 without the mitigation, 16 out of 37 intersections  
7 analyzed will have some approaches that will fail.

8           After mitigation, 15 out of 37  
9 intersections still failed. If the DDOT growth rates  
10 were used, the unit street trips are corrected, then  
11 it is conceivable that some or all of the  
12 intersections that are projected to operate at a level  
13 of service D may fail. So potentially, six more  
14 intersections could fail.

15           The Wells Study has presented a  
16 transportation management plan for the University.  
17 The plan is very generic. It does not include any  
18 specifics and there are no binding actions included in  
19 the TMP. Based on the TMP, it may show that there's  
20 no significant reduction in trips.

21           In conclusion, the Wells Report is very  
22 extensive in its coverage and has several technical  
23 inconsistencies and deficiencies that impact the study  
24 results including the levels of service. Due to these  
25 reasons the study results are invalid.

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1 Thank you.

2 CHAIRPERSON MITTEN: Thank you.

3 MR. HITCHCOCK: That concludes our  
4 presentation, Madam Chair.

5 CHAIRPERSON MITTEN: Well done. Eight  
6 seconds left.

7 (Laughter.)

8 Questions from the Commission for the  
9 Panel? Questions?

10 Mr. Parsons? Thank you.

11 COMMISSIONER PARSONS: Ms. Howell, I'm  
12 trying to get into the point where discussions, if  
13 that's the right term, maybe the polite term, broke  
14 down. It seems from what you were saying that the  
15 initial discussions upon which you hired an attorney  
16 in anticipation of those negotiations was really  
17 centered around Square 54.

18 Is that true? In other words, it wasn't  
19 the campus plan, it was Square 54 where things broke  
20 down?

21 MS. HOWELL: That's absolutely correct.  
22 You zeroed in on the right issue.

23 COMMISSIONER PARSONS: So at that point,  
24 not only did you abandon discussions on Square 54, but  
25 the campus plan as well?

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1 MS. HOWELL: We have no knowledge that  
2 there was a plan for a 20-year campus plan being  
3 discussed.

4 COMMISSIONER PARSONS: I see. So because  
5 Square 54 negotiations broke down, you didn't talk to  
6 one another, if that's the way to put it and therefore  
7 this campus plan became a surprise to you?

8 MS. HOWELL: All we can say is that in  
9 January we were told that there was a 20-year campus  
10 plan that had been discussed and agreed to in  
11 principle by OP and G.W. and that was the first  
12 knowledge that we had of it.

13 COMMISSIONER PARSONS: I see. Okay, thank  
14 you.

15 Mr. Oberlander, I'm curious about your  
16 feeling about the fact that there's no amenity to the  
17 community here.

18 MR. OBERLANDER: No public amenities.

19 COMMISSIONER PARSONS: How about the  
20 proffer, if you will, of establishing an historic  
21 district. Is that not a public amenity because it's  
22 inside the boundaries? Is that your feeling?

23 MR. OBERLANDER: Sure, it's a general  
24 amenity to the neighborhood because you're designating  
25 and you're preserving, hopefully, the historic sites,

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1 but it is not the normal type of public amenity  
2 associated with a specific development site which is  
3 what the PUD requirements are.

4 COMMISSIONER PARSONS: Well, wouldn't you  
5 expect that to come in the second stage as we review  
6 individual projects, rather than some amenity that --  
7 I mean that's when we traditionally get into those  
8 kinds of amenities is when we look at a specific  
9 project, rather than this larger planning effort, if  
10 you will.

11 MR. OBERLANDER: If you look at the maps  
12 that the application includes, there are five  
13 assembled sites for PUDs and then there is this  
14 overall PUD for the entire campus.

15 COMMISSIONER PARSONS: Right.

16 MR. OBERLANDER: The plan doesn't really  
17 show where the historic boundaries fall into this  
18 because it hasn't been established yet. The  
19 boundaries are still being negotiated or haven't been  
20 settled yet, to my knowledge. Maybe the  
21 representative of the Historic Preservation Office can  
22 correct me on that, but the exact location and the  
23 exact properties that are going to be preserved and  
24 who will preserve them is still to come in terms of  
25 the next stage or in fact, it's going to be after

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1 stage 2 because that's what the application requests.

2 COMMISSIONER PARSONS: Okay. Do you feel  
3 the street scape proposal, the retail corridor that's  
4 proposed will be an amenity to the community?

5 MR. OBERLANDER: Conceivably, yes. The  
6 improvements to the sidewalk, putting in benches,  
7 lighting, signage, yes, that is an improvement. But  
8 again, it is not associated with a particular PUD.  
9 Conceivably, you can think of it as being associated  
10 with the overall PUD, but it only starts from Square  
11 54 which is not in this application and it goes to the  
12 east and I don't know where it would end, so it's a  
13 nice idea. It's a tremendous improvement and if the  
14 University is going to pay for all of this, that's  
15 great, but it still is not the typical kind of public  
16 amenity associated with a particular PUD site.

17 COMMISSIONER PARSONS: Thank you.

18 Ms. Elliott, you made an impassioned plea  
19 that the existing plan should run its course and do  
20 you feel that there's any benefit to -- excuse me, you  
21 also went forward and said there's many things wrong  
22 in the community that they're not adhering to or  
23 things that are not right. And don't you feel that  
24 there's some benefit in moving forward to refine the  
25 2006 plan to get more of a commitment from the

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1 University or you're really willing to put up with  
2 this until 2009 and start at that point?

3 MS. ELLIOTT: It's kind of a compound,  
4 complex question. I'm not sure --

5 COMMISSIONER PARSONS: What I mean is it  
6 doesn't seem like you feel there's any benefit to us  
7 proceeding to pin down the University any more. It's  
8 just let the 2000 plan run for another three years and  
9 we'll see what happens. I'm confused by that.

10 Maybe you're confused by my question.

11 MS. ELLIOTT: I don't think, as I  
12 testified, I don't think that this proposal pins them  
13 down any more than the current campus plan does.

14 COMMISSIONER PARSONS: I guess what I was  
15 suggesting is maybe you could give us something more  
16 concrete to lock this down rather than saying it isn't  
17 working.

18 MS. ELLIOTT: Well, it hasn't been allowed  
19 to work, in that we haven't gotten enforcement and  
20 we're playing a numbers game as we have described  
21 here. And if that were allowed to happen, I think  
22 there would be a -- you would see this plan more  
23 effective.

24 COMMISSIONER PARSONS: So you would have  
25 us deny this application and run, let the 2000 plan

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1 run its course as I grasp it. Is that your testimony?

2 MS. ELLIOTT: Yes.

3 COMMISSIONER PARSONS: And even though  
4 it's not working, you think possibly over the next  
5 three years it will work?

6 MS. ELLIOTT: No, I said there are certain  
7 elements that have not been allowed to work which is  
8 look at what's going on here, look at the impact that  
9 is still going on because of the over enrollment and  
10 no one is willing to take a look at that and hold  
11 G.W.'s feet to the fire on that.

12 COMMISSIONER PARSONS: Okay, thank you.  
13 That clarifies it for me.

14 Madam Chairman, I don't have any questions  
15 of Mr. Mehra, but I find some of his testimony very  
16 persuasive and of course, on rebuttal, I'm sure we'll  
17 hear from the University, but I would urge them -- I'm  
18 persuaded by his analysis of the rush hour and many  
19 other points that he made, but I don't have any  
20 specific questions.

21 CHAIRPERSON MITTEN: Well, if I could just  
22 pick up on that.

23 Mr. Mehra, have you referred your report  
24 to DDOT to alert them to your findings?

25 MR. MEHRA: No.

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1 CHAIRPERSON MITTEN: Well, we're going to  
2 have DDOT come back and do some follow up, so I think  
3 what would be helpful is if in the meantime you gave  
4 them your report so that DDOT in addition to the  
5 Applicant's expert could respond.

6 MR. MEHRA: Definitely, and I'll be glad  
7 to answer any questions they may have in my report.

8 CHAIRPERSON MITTEN: So we would ask you  
9 to make that effort and if you need any assistance,  
10 the Office of Planning can help you get in touch with  
11 the right people.

12 MR. MEHRA: Okay.

13 CHAIRPERSON MITTEN: Because I think these  
14 are things that need to be addressed because it's --  
15 because you don't have a separate report to offer, but  
16 you're showing perhaps some shortcomings and other  
17 experts' reports really would be helpful for us to get  
18 them resolved.

19 MR. MEHRA: Okay.

20 CHAIRPERSON MITTEN: Anything you could do  
21 to help us.

22 MR. HITCHCOCK: Madam Chair, for  
23 clarification, there is a text version of Mr. Mehra's  
24 report that was submitted separately, but we'd be  
25 certainly happy to work with DDOT and OPM on this

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1 issue.

2 CHAIRPERSON MITTEN: Sure, great. Mr.  
3 Jeffries?

4 COMMISSIONER JEFFRIES: Thank you, Madam  
5 Chair, and I would agree with Commissioner Parsons.  
6 For me, days or weeks since I've been here, one of the  
7 most compelling things that has been discussed is  
8 traffic and I think -- so I would agree. I think it  
9 would be very helpful for me to get a better  
10 understanding of whether there could be some  
11 reconciliation around your analysis of the Wells  
12 Report and so forth to get comfortable with that. But  
13 my question is for Mr. Oberlander and I thought you  
14 said something about diminishing the housing and the  
15 residential.

16 My question -- I'm trying to get my arms  
17 around how does buildup or increase in FAR in the  
18 center of campus away from some of the edges that you  
19 know start to intersect with the residential, how does  
20 that sort of diminish Foggy Bottom housing?

21 MR. OBERLANDER: It's the character of the  
22 areal that changes with the taller buildings and in  
23 the center which is an appearance a diminishing of the  
24 character of the housing or residential character that  
25 the area now has.

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1 COMMISSIONER JEFFRIES: Okay.

2 MR. OBERLANDER: I was quoting the  
3 Comprehensive Plan. This was not my own planning  
4 philosophy. The plan says diminishing. It recognized  
5 back in 1984 already that the -- when this was -- the  
6 document was first initiated and amended several times  
7 since then and those paragraphs remained in which is  
8 that the University was really diminishing the housing  
9 in the area.

10 COMMISSIONER JEFFRIES: Wasn't that  
11 somewhat more general, I mean I guess I'm still going  
12 back to where the Applicant has placed density. I  
13 mean it would seem to me just intuitively that if  
14 there was considerable density on the perimeter that  
15 was really adjacent to the residential, that argument  
16 around sort of character clearly holds and would  
17 definitely be in keeping with the Comprehensive Plan.  
18 But I'm trying to get around to exactly where this  
19 density is being proposed and how that really deals  
20 with the diminishment of the residential district.

21 I heard you say character. I mean the  
22 character of it, but I guess I'm still not fully  
23 convinced.

24 MS. ELLIOTT: Can I jump in, Commissioner  
25 Jeffries?

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1 COMMISSIONER JEFFRIES: Sure.

2 MS. ELLIOTT: I actually live on the  
3 southern boundary on the 20th Street area and I think  
4 you need to go back to that map that we submitted on  
5 the southern boundary to see that just in University  
6 housing there is half the undergraduate population is  
7 located two blocks in either direction of my  
8 apartment. There really isn't any more place to  
9 develop down there other than on the Square 80 site  
10 which you're not considering.

11 And there will be incredibly more pressure  
12 in terms of the numbers of students they want to put  
13 almost 500 more students on that site. And there are  
14 six residential apartment buildings that are off-  
15 campus directly across the street from that. So  
16 that's what's going on. They don't want to put this  
17 density at the core.

18 COMMISSIONER JEFFRIES: Thank you. I will  
19 circle back on that, Ms. Elliott. I will focus a  
20 little bit more on that.

21 And the other question that I had is that  
22 there was a lot of testimony by G.W. students and in  
23 many ways they've been like the best spokespeople for  
24 the plan on behalf of the University, around this  
25 whole notion of the University wanting to attract

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1 world-class students, faculty and researchers and a  
2 lot of these individuals would end up remaining in the  
3 District and becoming tax-paying contributors to the  
4 District. That's a very attractive thing, I would  
5 imagine to the District.

6           Could someone comment on that? Again, I  
7 asked the question before about is there information  
8 that talks about retention of students that come to a  
9 University that stay in the District and contribute  
10 not even, I guess we can measure how many that  
11 actually stay, but you know, those numbers that to me  
12 then start to talk about benefits. I know they're not  
13 proffering that, but I thought it was a very  
14 compelling thing that a number of students brought  
15 that up and I just wanted to know if anyone could  
16 comment on that.

17           MS. HOWELL: I would just say that what  
18 we've seen is fewer and fewer tax-paying District  
19 residents as G.W. has expanded out into the Foggy  
20 Bottom area and what's replaced that is a population  
21 of students that is by nature transient. I don't know  
22 the figures on how many stay, but what I can tell you  
23 is that they replace income tax paying, sales tax  
24 paying, property tax paying Foggy Bottom residents.

25           COMMISSIONER JEFFRIES: Okay, and you have

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1 clear evidence of that assertion?

2 MS. HOWELL: Absolutely, no question about  
3 it. I mean we can even -- the D.C. Agenda is one item  
4 we could submit for the record, just anecdotally I  
5 could tell you that we could submit voter rolls to  
6 show you that in the last few years we have fewer  
7 Foggy Bottom voters in various of our polling places  
8 because of the replacement by students.

9 MR. HITCHCOCK: Ms. Elliott has done some  
10 work on Census data she may be able to share.

11 MS. HOWELL: Actually, I've located a --  
12 there was a poverty report on the District of Columbia  
13 from D.C. Agenda that's now defunct, but it was an  
14 initiative of the Federal City Council. And they did  
15 a poverty report on the city and Foggy Bottom has the  
16 highest poverty rate in the city. It's something like  
17 31 percent and they actually took our entire planning  
18 cluster out of the report because the data were so  
19 skewed from the number of -- from the population of  
20 students in the area.

21 I'd also like to say from my long  
22 residency there and watching the nature of that area  
23 change, there really isn't any place for graduating  
24 students to live and one fact that always strikes me  
25 in the number of presentations that I've appeared for

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1 G.W. is that most of the folks in the administration  
2 that are appearing don't live in Foggy Bottom and most  
3 professors don't live in Foggy Bottom and most staff  
4 doesn't live in Foggy Bottom. There isn't any place  
5 for them to live at this point. So I just wanted to  
6 make that comment, thank you.

7 COMMISSIONER JEFFRIES: Thank you. And  
8 then my last comment is the top 25 major universities  
9 in the country, top 50, it's very competitive. It's  
10 so competitive as it relates to attracting  
11 researchers, top faculty and so forth, making certain  
12 that you have the right facilities that attract so  
13 that it's competitive. It's like anything else. And  
14 so what would you have G.W. do as it relates to making  
15 certain that it maintains its edge as a cutting edge  
16 university, making the case for wanting to build  
17 greater facilities and attract more scholars and so  
18 forth. What would you have the University do? Are  
19 you effectively saying that you want things to stay  
20 the way they are? That just seems to be sort of  
21 counter-intuitive.

22 I'm just trying to get a sense of how, in  
23 the perfect world how would you see the University  
24 proceeding?

25 MS. HOWELL: When I first met with G.W.,

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1 I asked them why they didn't develop their satellite  
2 campuses. I have an M.B.A. I understand business.  
3 I understand that they need to continue to have a  
4 strong revenue stream and that they need to diversity  
5 that in a lot of ways. What you're looking at is a  
6 community that would just like to see a balance with  
7 the University. We're not saying University go home.  
8 But we do think that we need a balance and it's a very  
9 fragile residential neighborhood in terms of what is  
10 actually left in Foggy Bottom.

11 So sooner or later, I believe they're  
12 going to have to diversify outside Foggy Bottom and if  
13 those students use the Foggy Bottom campus, they  
14 should be counted in some way against the intensity of  
15 use for Foggy Bottom.

16 COMMISSIONER JEFFRIES: That's the  
17 difficulty and I think the counsel for the Applicant  
18 brought that up because you make the case about  
19 creating these satellite campuses, but at some point  
20 they're going to come back to Foggy Bottom and then  
21 we're back at square zero, ground zero here. I guess  
22 I'm --

23 MS. HOWELL: They could put the research  
24 facilities in other places. They could also have  
25 different degree programs in other places. I mean

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1 there's got to be a way to do it. If Georgetown can  
2 put its law school across town, I don't know why G.W.  
3 couldn't be a first class university with many recall  
4 first rate graduate schools and not have them all in  
5 Foggy Bottom.

6 COMMISSIONER JEFFRIES: I mean law  
7 schools, but law schools, medical schools being  
8 satellite, I got that. But I would imagine -- well,  
9 this is probably something for the Applicant to bring  
10 up. I'm just again somewhat curious about how we deal  
11 with the whole notion of the satellite. I think Ms.  
12 Kahlow brought the same thing up. You can do research  
13 anywhere. But I would imagine there's some  
14 researchers that still like to be in the center of  
15 things and having that sort of synergy with other  
16 scholars and so forth. So I'm just curious to really  
17 understand and you've answered that to some degree in  
18 terms of how a university might sort of grow up  
19 without growing up or growing out.

20 Thank you.

21 CHAIRPERSON MITTEN: Thank you, Mr.  
22 Jeffries. I wanted to just follow up on a point that  
23 you started to explore which has to do with the  
24 density and where it's located on campus and one of  
25 the things that is shown by the slide that's up right

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1 now is we did approve a number of new dormitories that  
2 are -- since I've been here, since this campus plan  
3 has been in place. We approved a number of new  
4 dormitories that are on the southern part of the  
5 campus and that's one of the flaws with the existing  
6 campus plan, the aggregation of FAR. You can't  
7 control where it goes, just as long as they're within  
8 the cap.

9 So do you find anything redeeming about  
10 the use of the PUD that you can actually dictate where  
11 the density goes?

12 MR. OBERLANDER: I don't believe that you  
13 can actually dictate other than through a particular  
14 site that you have a PUD on. What is being done, the  
15 overall FAR is being calculated. It's a mathematical  
16 relationship being calculated over the rest of the  
17 residential area, but in terms of the specific PUD, or  
18 the 18 sites or the 5 assembled sites, will have  
19 specific densities associated with that. That's the  
20 only control that you have. You don't have control on  
21 the other locations.

22 CHAIRPERSON MITTEN: Maybe you don't  
23 understand what's being proposed, but the idea would  
24 be that that is the only -- those sites are the only  
25 places where new development would occur. So we do

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1 have control on everything --

2 MR. OBERLANDER: Only if the Zoning  
3 Commission doesn't get another request in the future  
4 for making changes to the plan.

5 CHAIRPERSON MITTEN: I know. There's no  
6 circumstance under which you could control for that.  
7 None. So dwelling on that is really a waste of time.  
8 I mean it's the same thing. We face it all the time.  
9 It's like you're changing something. It's the nature  
10 of things. No one is going to promise statis for 20  
11 years. It's just not going to happen.

12 MR. OBERLANDER: Madam Chairman, I  
13 respectfully submit that denying the application and  
14 letting the current plan get filled out, let the  
15 University build what it was authorized to build,  
16 wherever it's going to build it within the campus.

17 CHAIRPERSON MITTEN: I guess that's why  
18 I'm asking you this question. Do you find nothing  
19 redeeming about this construct using the PUD that  
20 instead of having it be wherever it can go, we could  
21 actually dictate where it goes?

22 MR. OBERLANDER: I don't believe that's  
23 what's happening.

24 CHAIRPERSON MITTEN: You don't want to  
25 admit there's anything redeeming about the use of a

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1 PUD as an overlap with the campus plan.

2 Just yes or no, right now, just yes or no,  
3 say it. Pick one.

4 (Laughter.)

5 MR. OBERLANDER: It's a maybe, but I would  
6 tend to the no.

7 CHAIRPERSON MITTEN: Okay. For an extra  
8 2 million square feet. I'm asking a more generic  
9 question than that. I'm trying to find if there's  
10 anything that you find beneficial because frankly as  
11 I've tried to express before, if you have a problem  
12 with density, let's talk about density, let's not  
13 attack -- I think there's something very redeeming  
14 about using a PUD so that you can target the density,  
15 but we'll find out if my colleagues share that when we  
16 get to deliberation at some time.

17 MS. ELLIOTT: Commissioner Mitten, could  
18 I respond to that?

19 We've had the PUD applied and you've just  
20 talked about how it really hasn't worked because we've  
21 had it used in the Elliott School case which wasn't  
22 part of the original campus plan application and then  
23 we had another PUD which is the dormitory on F Street  
24 that's just opened up.

25 CHAIRPERSON MITTEN: Right.

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1 MS. ELLIOTT: So we've had a specific use  
2 of the PUD and it's created more problem and there's  
3 no proposition about moving anything other than  
4 facilities up towards the core and then there's talk  
5 about using another PUD specifically to add more  
6 dormitories to that area.

7 CHAIRPERSON MITTEN: Let me ask another  
8 question about -- one of the things that I'm getting  
9 -- that I'm gathering from some of the comments that  
10 have been made by West End Citizens and also by Foggy  
11 Bottom is you don't come right out and say this, but  
12 you say -- you do come right out and say which is that  
13 the PUD is not intended as it says in the regulations,  
14 it's not intended to circumvent the other -- I don't  
15 know exactly what the quote is, but objectives of  
16 their zoning rules.

17 And there's -- this is the part that's not  
18 being said which is there's suggestion that it's  
19 inappropriate to rezone within the campus in the  
20 context of a PUD, when we often have PUD-related map  
21 amendments. So one of the things that I wanted to ask  
22 Mr. Oberlander is I have the campus plan open and the  
23 existing zoning is before me and so we have a campus  
24 that's largely zoned R-5-D and if we were to want to  
25 -- given that the generalized land use map isn't any

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1 help as far as density goes for an institutional use,  
2 what guidance could we take from the larger context of  
3 the existing zoning about what appropriate density  
4 might be, given that we have C-3-C which is a 6.5 FAR  
5 and depending on, I guess we have a receiving zone  
6 over there, so I guess it goes up to 8 or 8.5 FAR and  
7 a receiving zone, maybe more. I can't remember. And  
8 then we have C-4. So we have C-3-C to the northeast.  
9 We have a little bit of C-4 to the east. We have R-5-  
10 E and SP-2 to the south, both of which have maximum  
11 density of 6 FAR. We have the Watergate which is at  
12 SP-2, another 6. And then the area where we have R-5-  
13 -- I guess we have more R-5-E then to the west which  
14 is also maximum of 6 FAR, the west and the northwest.  
15 So I'm wondering why it is that there doesn't seem to  
16 be any suggestion that it might be appropriate, at  
17 least in certain areas that more than 3.5 FAR could  
18 work.

19 MR. OBERLANDER: If the map that you're  
20 referring to the proposed zoning shows a C-3-C  
21 basically north of Pennsylvania Avenue with some  
22 properties facing the south side of Pennsylvania  
23 Avenue which have been rezoned either under a PUD that  
24 is Square 119 which by the way was sold by the  
25 University to the IMF and is still shown in the campus

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1 boundaries. My testimony mentions that, but I didn't  
2 highlight that and there are a couple of other things  
3 that the campus boundaries are not that exact. There  
4 are University properties that are outside the campus  
5 boundaries. The Old Main Building is one of those.

6 But to put on H Street and 22nd Street  
7 which becomes the center of a new grow up and not out  
8 area, C-3-C zoning, there is no context for that.  
9 This is --

10 CHAIRPERSON MITTEN: I'm asking you a  
11 different question. I'm asking you what guidance, if  
12 we thought we wanted to -- forget about the proposal.  
13 If we thought we wanted to and wouldn't we take our  
14 cues, given that we don't have any guidance from the  
15 generalized land use map regarding density, wouldn't  
16 we take our cues from the zones that ring the campus?

17 MR. OBERLANDER: But you have a basic  
18 residential zone on the campus. That's the guidance  
19 that you should -- that's the beginning point. You  
20 can rezone, but there has to be some reasons for the  
21 rezoning.

22 CHAIRPERSON MITTEN: And I'm asking you,  
23 given the -- if we determine that yes, we in fact do  
24 want to rezone, where would -- how would we take our  
25 cues from all the surrounding zoning?

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1 MR. OBERLANDER: Again, and I don't want  
2 to belabor the point, but this is a special exception  
3 use because that's how the regulations allow a campus  
4 to be located in a residential zone. So now the  
5 creative Planning Office has thought of the idea of  
6 let's use the PUD process and that way we get more  
7 FAR, more height and all the things that the  
8 University is seeking for and then, of course, slap on  
9 the C-3-C zoning which the Attorney General's Office  
10 claims has to be put on every PUD.

11 When PUDs first were initiated, they  
12 didn't have a zoning change made to it. It kept the  
13 existing zoning and had a PUD additional height,  
14 additional bulk added to it, but there was no  
15 rezoning. Then later and I don't know what year it  
16 happened, some time in the early '80s, the then  
17 General Corporation Counsel ruled that there has to be  
18 a rezoning to each of these PUDs.

19 CHAIRPERSON MITTEN: No, that's actually  
20 not -- there may be, there needn't be.

21 MR. OBERLANDER: Well, I'm glad to hear  
22 that because --

23 CHAIRPERSON MITTEN: We don't often, but  
24 we do have proposals that come to us that don't  
25 involve PUD-related map amendments.

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1 I can tell I'm not going to get anywhere  
2 with my question, so I'll ask if Mr. Hood or Mr.  
3 Turnbull have any questions?

4 COMMISSIONER TURNBULL: Thank you, Madam  
5 Chairman. I would like to ask Ms. Elliott. I guess  
6 we had a lot of testimony last time from a lot of  
7 residents who took advantage of the facilities at  
8 George Washington and seemed to be excited by the fact  
9 that they could, there were special benefits for them  
10 for being either to take courses or go to auditorium.  
11 There was a lot of amenities to being near that.

12 Do you take advantage of that or is that  
13 not something that you do not -- are you so opposed to  
14 the University that --

15 MS. ELLIOTT: No, it's not my cup of tea.  
16 I have access to facilities and other things other  
17 than the University.

18 COMMISSIONER TURNBULL: Ms. Howell, I  
19 guess I'm just curious. You've got such an  
20 institution here that -- do people take advantage of?

21 MS. HOWELL: Absolutely. I think it's  
22 great to be near a university. I have bought two  
23 places there. I like that. I just want a balance to  
24 the neighborhood.

25 COMMISSIONER TURNBULL: Okay. Again, we

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1 talked about we've got a plan in place now which  
2 doesn't seem to be working. There are pieces of it  
3 that aren't fitting in quite right and I think what  
4 we're trying to strive for here is a balance with a  
5 new plan that maybe we incorporate some of those  
6 issues and try to strengthen it.

7 MS. HOWELL: So with all due respect, the  
8 new plan has many of the same flaws as the old plan  
9 and I guess since it's several million more square  
10 feet to be allowed to develop. Our chief concern, at  
11 least one of the major ones I think you've heard is  
12 the head count issue, and as I understand the new  
13 plan, there's nothing to stop the University from  
14 putting 50,000 students at Loudoun campus or another  
15 campus and they wouldn't be counted in the head count.

16 COMMISSIONER TURNBULL: But those bits and  
17 pieces are things that we could deal with. I'm  
18 thinking about the overall organizing plan of this  
19 PUD, which I think the Chairman was trying to allude  
20 to, that the fine points that you're concerned about  
21 can be addressed.

22 What we're looking at is an organized --  
23 I mean, you're concerned about the cap, the head  
24 count, density. Those are issues that this Commission  
25 can deal with, looking at the organizing principle of

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1 the PUD itself.

2 MS. HOWELL: It seems to me that the core  
3 issue is still enforcement, and so far what we're not  
4 seeing is enforcement of the current plan. Buying  
5 houses in Foggy Bottom isn't addressed, for example.  
6 Buying up residential buildings for, you know, non-  
7 university uses, for investment uses, that isn't  
8 addressed. The head count issue of satellite campuses  
9 and having students come in and be bussed in and use  
10 the Foggy Bottom area isn't addressed.

11 So to throw out this plan and say that the  
12 new plan somehow has more enforceability I guess -- I  
13 guess that's where we would part ways. We would think  
14 that the current plan has enforceability. What seems  
15 to be missing is a will to enforce it.

16 COMMISSIONER TURNBULL: I guess that's all  
17 my questions. Thank you.

18 CHAIRPERSON MITTEN: Mr. Hood?

19 VICE-CHAIRPERSON HOOD: Thank you, Madam  
20 Chair.

21 Ms. Howell, being the President of Foggy  
22 Bottom, in I guess seven years I'm going to say from  
23 other people I've seen down here my eight years or  
24 nine years being down here, I guess you're relatively  
25 new.

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1 MS. HOWELL: By Foggy Bottom standards.

2 (Laughter.)

3 VICE-CHAIRPERSON HOOD: Let me ask you --  
4 you mentioned about putting something across there.  
5 I actually have stuff in my neighborhood I'd like to  
6 put across town, too.

7 MS. HOWELL: Right.

8 (Laughter.)

9 VICE-CHAIRPERSON HOOD: But I will tell  
10 you that -- and that's transfer stations, but I will  
11 tell you that --

12 (Laughter.)

13 -- each -- this city is unique. Each  
14 neighborhood has issues. And when I hear you say --  
15 put it across it dawned on me, have there been any  
16 recommendations? Because obviously I know when you  
17 first come in you're sitting at the table, and,  
18 believe me, being steamrolled is not a pleasant -- I  
19 think you may have mentioned steamrolled or being run  
20 over or overlooked and your discussions not being  
21 taken seriously.

22 Have any discussions been exactly where,  
23 if you want to do something off -- not in the Foggy  
24 Bottom area, say across town, any areas in particular  
25 that have been mentioned to the university?

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1 MS. HOWELL: We probably haven't mentioned  
2 any, but, I mean, I can personally think of several.  
3 I mean, you know, why not put a cancer center in  
4 Anacostia, for example? I mean, I know what they  
5 would say. They would say, "Well, we want to cluster  
6 it near our medical facility, near our hospital." But  
7 why couldn't a research center be somewhere else? Why  
8 couldn't -- why couldn't this university use its  
9 wealth to be able to stir development in other  
10 neighborhoods who really need it?

11 VICE-CHAIRPERSON HOOD: Let me ask you a  
12 question. What if I say in another -- and this may  
13 not be relevant, but I just want to get your thoughts  
14 on it. There are some things maybe, say, in my  
15 neighborhood, I said, "Why not put that over in your  
16 neighborhood," how would you feel? How would you like  
17 it if a transfer station -- I'm just asking, I'm not  
18 saying your idea is not -- how would you like it if I  
19 took a transfer station and said let's put it over in  
20 Foggy Bottom?

21 MS. HOWELL: Well, at this point, sir,  
22 you'd have to find a place for it.

23 (Laughter.)

24 VICE-CHAIRPERSON HOOD: Okay. Well,  
25 that's true.

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1 MS. HOWELL: It's just getting so crowded  
2 there is the only thing, but --

3 VICE-CHAIRPERSON HOOD: Okay. Okay. So  
4 you would be open to something like that.

5 MS. HOWELL: Well, I'm just saying, I take  
6 your point. I think what you're struggling with and  
7 what we're struggling with is: how do you find a  
8 balance here? Universities are inherently good things  
9 when properly sited and facilities are properly  
10 planned for. We all moved into the neighborhood  
11 knowing there was a university there. So, you know,  
12 it's not like that was a surprise.

13 How do we strike a balance here between  
14 their needs and growing a really good, first-class  
15 university, a world-class university, and still having  
16 a world-class neighborhood and a city made up of  
17 world-class neighborhoods?

18 VICE-CHAIRPERSON HOOD: Ms. Howell, I know  
19 that our discussion -- I want you to understand that  
20 I think that you raise a good idea. Why not in  
21 Anacostia? Why not in Ward 5? I would agree with  
22 that.

23 But let me ask you: when do you get to a  
24 point -- and I read Dr. Shalik -- is it Shalik? Dr.  
25 Shalik's piece. I was reading it while we were going

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1 over again, refreshing, because I've seen it before.  
2 And then, I was -- I was going, and then it got to the  
3 part where the counterpoints -- which I said, "Okay,  
4 here we go again, back to striking the balance." I  
5 thought I was getting somewhere. We'll be right back  
6 where it is.

7 But then, on page 8 -- and I want to thank  
8 Mr. Oberlander for -- I guess he provided this, or  
9 whoever provided it -- on page 7, number 8, it talks  
10 about growth constraints must come from outside. And  
11 Mr. Oberlander alluded to this I think in his  
12 testimony.

13 How do we know -- and I want to ask you  
14 and Mr. Oberlander this, and anyone else -- how do we  
15 know we've gotten to the optimum size?

16 MS. HOWELL: Well, I guess -- I mean,  
17 there are a number of objective criteria that you  
18 would look at. Some of them would be traffic impacts,  
19 I don't know, noise, other objectionable impacts to  
20 the neighborhood.

21 I think in 2000 we were willing to live  
22 with 20,000 students. That's what we thought we were  
23 all working towards, and I guess what is so  
24 distressing to us is that, you know, we now are  
25 experiencing more than that. We all first-hand can

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1 give you lots of anecdotes of why that doesn't seem to  
2 be working, why it's not a pleasant neighborhood to  
3 live in with those impacts.

4 So I guess, you know, all I can say is  
5 that you have to try a little bit of this and a little  
6 bit of that. I think we've got too many now. And was  
7 20,000 too many? You know, I can't answer that, but  
8 we certainly all agreed to that, and I think we should  
9 stand by our word, frankly.

10 VICE-CHAIRPERSON HOOD: So looking at this  
11 plan, you don't think this plan -- and I agree about  
12 the enforcement. Without enforcement, it doesn't make  
13 -- sitting there we can legislate all day long. If we  
14 don't have enforcement --

15 MS. HOWELL: Right.

16 VICE-CHAIRPERSON HOOD: -- we all might as  
17 well pack up and go home. But do you think that this  
18 plan gives you more leverage to make it enforceable to  
19 a point? And it also gives you more -- I guess some  
20 control measures and more ways of being able to have  
21 discussions with the university in this 20-year plan?

22 MS. HOWELL: Honestly, sir, I don't. I  
23 think that we have the mechanisms to be able to talk  
24 to the university right now. The reason the previous  
25 advisory committee broke down is that there was a

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1 feeling on our part that the university was not  
2 complying with the other conditions in the campus  
3 plan.

4 I think that advisory committee or an  
5 advisory committee could certainly work, and I think  
6 it's a good idea. I will tell you that none of us  
7 like the one that is currently proposed that OP has  
8 designed with the university for all of the reasons  
9 that you've heard. I don't think I need to go back  
10 over that. But we're more than willing to work with  
11 the university on mitigating impacts.

12 VICE-CHAIRPERSON HOOD: Okay. Mr.  
13 Oberlander, can you also -- thank you, Ms. Howell.  
14 Mr. Oberlander, can you also just explain to me, how  
15 do we get to optimum size? How do I know we've gotten  
16 to -- other than I understand about the traffic --

17 MR. OBERLANDER: From a planning  
18 perspective, it's capacity. What is the capacity of  
19 the area that you are planning, whether it's the  
20 campus boundaries or somewhat broader area or the  
21 Foggy Bottom area? That is what the comprehensive  
22 plan should establish.

23 And as Chairman Mitten said, the  
24 comprehensive plan doesn't give density considerations  
25 for the campus as such. It does in terms of what the

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1 zoning -- the underlying zoning for the residential  
2 area of -- where the blue area was put on top on the  
3 generalized land use map that is still in effect.

4 So, and it will be the same in the new  
5 plan as well. There is no specific density  
6 established for the university. That is a judgment  
7 that the either BZA or the Zoning Commission is  
8 required to make, because there is a provision in the  
9 regulation, which says there's a special exception.  
10 And that special exception provision gives a maximum  
11 FAR of three and a half.

12 Now that, in my opinion, gives you the  
13 capacity, gives you the -- now, you can change it by  
14 rezoning the whole area, make it all commercial. From  
15 my perspective it doesn't make sense, but that's in  
16 effect what these PUDs and these squares will look  
17 like over time when it's rezoned to C-3-C.

18 VICE-CHAIRPERSON HOOD: All right. Thank  
19 you. The other thing, Madam Chair, you and I think  
20 Mr. -- Commissioner Parsons mentioned earlier about  
21 Mr. Mr. Mehra's report. You know, normally I ask  
22 level of service questions, but I, too, would like for  
23 VDOT to look at that. And then, I don't know if it  
24 would be -- if I can ask Mr. Mehra questions at that  
25 point in time, but hopefully it will be a chance to do

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1 that. Okay. Thank you.

2 CHAIRPERSON MITTEN: Great. Mr. Turnbull?

3 COMMISSIONER TURNBULL: Madam Chair, I  
4 just had one more question for Ms. Howell. We've  
5 heard before from different people about the makeup of  
6 the advisory committee. You and Mr. Hood just had a  
7 discussion now about -- and you had said that you  
8 didn't like the way it was structured -- what would  
9 your structure be for the advisory committee?

10 MS. HOWELL: Well, first of all, let me  
11 just make one overarching point about that, if we  
12 could just keep in mind that you're asking volunteer  
13 citizens to volunteer their time --

14 COMMISSIONER TURNBULL: Absolutely.

15 MS. HOWELL: -- with paid university  
16 representatives. I don't know how to get around that.  
17 But putting that aside for a moment, I certainly  
18 wouldn't have five university representatives being  
19 able to constitute a quorum, and I wouldn't have  
20 probably the ANC determining who was going to be on it  
21 exactly. I would have some more equal representation.

22 COMMISSIONER TURNBULL: Okay. Thank you.

23 CHAIRPERSON MITTEN: Mr. Hood reminded me  
24 of something, which is -- it was a comment that Ms.  
25 Howell made, and I just wanted to end with this, which

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1 is it's not that we're not interested in enforcement.  
2 We are interested in enforcement, because, as Mr. Hood  
3 said, we can sit up here all day and do whatever we  
4 want to do. If it's not in force, it doesn't mean  
5 anything, so we've wasted our time.

6 I just want to make the point that it's  
7 not -- it's not the function of this hearing to  
8 explore enforcement, but we're very interested in  
9 enforcement. So I just wanted to close out with that.

10 Ms. Dwyer?

11 MS. DWYER: All right. I have a number of  
12 questions, and I think I'd like to start with Mr.  
13 Oberlander. There has been a lot of discussion about  
14 special exception versus the PUD and that the PUD  
15 can't usurp the special exception process. Doesn't  
16 Section 2405.7 of the regulations say that the  
17 Commission reserves the option under the PUD to  
18 approve any use that is permitted as a special  
19 exception and that would otherwise require the  
20 approval of the Board of Zoning Adjustment?

21 MR. OBERLANDER: Yes.

22 MS. DWYER: Do the regulations say that it  
23 includes every special exception except a campus plan?

24 MR. OBERLANDER: No.

25 MS. DWYER: All right. Does Section

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1 2405.8 state that approval of the Board of Zoning  
2 Adjustment shall not be required for any use approved  
3 by the Commission under a PUD and that the Commission  
4 is not even required to apply the special exception  
5 standards normally applied by the Board?

6 MR. OBERLANDER: Well, that's what it  
7 says, but they don't necessarily have to exactly  
8 follow that. They can also say that we will stick  
9 with what the special exception maximum FAR is.

10 MS. DWYER: Right. But do the PUD  
11 regulations, then, give the Commission authority to  
12 approve a PUD and a special exception at the same  
13 time, is that not correct?

14 MR. OBERLANDER: Well --

15 MS. DWYER: I refer you back to the  
16 language that I just cited. Is that language not  
17 clear, that the Commission retains that authority?

18 MR. OBERLANDER: Oh, it has the authority.  
19 Yes, it took it from the BZA. That's how it got the  
20 authority.

21 MS. DWYER: So in this case the Commission  
22 has the authority under the PUD to also consider the  
23 special exception, and that is not going against the  
24 zoning regulations.

25 MR. OBERLANDER: Well, not in that sense.

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1 But in the sense of -- in the sense of rezoning the  
2 area to C-3-C when that is the only way you can do it  
3 through a PUD, that is, in my opinion, contrary to the  
4 intent and purpose of the special exception  
5 provisions.

6 MS. DWYER: So your issue is more with the  
7 rezoning as opposed to the PUD.

8 MR. OBERLANDER: Well, but the rezoning  
9 becomes an integral part of the PUD.

10 MS. DWYER: All right.

11 MR. OBERLANDER: It couldn't be built  
12 without rezoning that particular site to C-3-C or some  
13 other classification.

14 MS. DWYER: I would agree with you there.  
15 And we'll talk about the rezoning in just a minute.  
16 I wanted to ask another question of you, though,  
17 because you started or said a lot in your testimony  
18 about the fact that this application doesn't even meet  
19 the special exception requirements, because the  
20 Commission does not have before it the campus as a  
21 whole. And I think you said the application doesn't  
22 include, at least in concept, Square 54 or the School  
23 Without Walls PUD. Is that correct?

24 MR. OBERLANDER: That's correct, yes. The  
25 footnotes in the document keep saying this does not

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1 include Square 54 or Square 80. So when I read that,  
2 from a planning perspective I personally couldn't see  
3 the OP agreeing to recommending this plan, because it  
4 is not a complete plan.

5 MS. DWYER: Have you reviewed the campus  
6 plan document that was filed in the record?

7 MR. OBERLANDER: Yes.

8 MS. DWYER: And on page 2 where it  
9 discusses School Without Walls, have you reviewed  
10 those sections?

11 MR. OBERLANDER: I've read it.

12 MS. DWYER: And on page 3 where it talks  
13 about Square 54, a unique opportunity --

14 MR. OBERLANDER: But look up the map  
15 pages, which is what a planner looks at more than the  
16 words --

17 MS. DWYER: Right.

18 MR. OBERLANDER: -- and the footnotes are  
19 always excluding 54 and excluding Square 80. So to  
20 me, that is not a complete whole plan.

21 MS. DWYER: Well, I would refer you  
22 specifically to Exhibit T, and that provides the  
23 existing gross floor area, the proposed gross floor  
24 area, and it includes all of the rezonings in both the  
25 Square 54 and Square 80 applications, does it not?

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1 MR. OBERLANDER: No, it does not include  
2 land area or development contemplated on Square 54.

3 MS. DWYER: It says, "Includes proposed  
4 land area and gross floor area included in the  
5 development plan set forth in the Foggy Bottom campus  
6 plan and the consolidated PUD applications for  
7 Square 54 and Square 80." It's the bottom chart.

8 MR. OBERLANDER: Exhibit T?

9 MS. DWYER: It's the bottom chart.

10 MR. OBERLANDER: In my book, Exhibit T  
11 does not have that.

12 MS. DWYER: Well, I am not sure where you  
13 got your book from, but the material that was filed in  
14 the record, Exhibit T, is a chart. And it has a space  
15 summary, and it definitely includes Square 54 and  
16 Square 80.

17 MR. HITCHCOCK: Ms. Dwyer, perhaps if you  
18 could clarify if it's the campus plan exhibit or the  
19 PUD exhibit, that --

20 MS. DWYER: It's the campus plan exhibit.

21 MR. OBERLANDER: Campus plan Exhibit T is  
22 called Exhibit T, Space Summary, and it has two boxes,  
23 one showing existing GFA FAR, which is 1,669,744 land  
24 area, and the other is proposed GFA, which is a total  
25 of 1,551,000.

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1 MS. DWYER: I think your counsel has the  
2 right Exhibit T in front of him.

3 MR. HITCHCOCK: I have one with three  
4 boxes in it. I don't know --

5 MS. DWYER: Yes. And that's the one that  
6 has been filed in the record, which includes both  
7 Square 54 and Square 80. So I just wanted to clarify  
8 for the record that this -- this campus plan  
9 application does include, in terms of square footage,  
10 and then if you look at all of the other exhibits --

11 MR. HITCHCOCK: Excuse me. Could Mr.  
12 Oberlander respond to your question when he has the  
13 document in front of him?

14 MS. DWYER: Certainly.

15 MR. OBERLANDER: Well, let me just say the  
16 document that I do have and that I have studied over  
17 the last several months explicitly excludes in each  
18 table Square 54 and Square 80. So to me that means  
19 that this is not part of the application. You have a  
20 separate PUD application pending for both of those --

21 CHAIRPERSON MITTEN: Mr. Oberlander? Mr.  
22 Oberlander?

23 MR. OBERLANDER: -- and so --

24 CHAIRPERSON MITTEN: Mr. Oberlander?  
25 What's the date on the document you have?

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1 MR. OBERLANDER: February 16, 2002, filing  
2 date.

3 CHAIRPERSON MITTEN: What's the cover --  
4 what's the date on the cover?

5 MS. DWYER: That was the date that the  
6 allegations were filed. The July 13th was the  
7 prehearing submission.

8 CHAIRPERSON MITTEN: Okay.

9 MS. DWYER: And that was when the  
10 development plans for both of those sites were  
11 included, and it was a complete record -- the heights,  
12 the uses, the densities, part of the campus plan.

13 CHAIRPERSON MITTEN: Okay. I think we're  
14 clear.

15 MR. OBERLANDER: What counsel has handed  
16 to me now is dated July 13, 2006. So obviously it's  
17 a subsequent submission --

18 CHAIRPERSON MITTEN: Right.

19 MR. OBERLANDER: -- which I have not seen  
20 before.

21 CHAIRPERSON MITTEN: Okay.

22 MR. OBERLANDER: Regardless, Madam  
23 Chairman, it is still -- the campus is not being  
24 considered as a whole. There is no land use map  
25 associated with the campus plan that shows --

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1 CHAIRPERSON MITTEN: I think we understand  
2 your position on that.

3 MS. DWYER: Well, then, I'm going to have  
4 to ask a little but further now that you have the  
5 document in front of you -- doesn't Exhibit I to that  
6 document show the land uses? Doesn't Exhibit K show  
7 the heights? Doesn't Exhibit M show the parking,  
8 Exhibit O the zoning, and then we have Exhibit T  
9 showing the square footages for both Square 54 and  
10 Square 80?

11 MR. OBERLANDER: Well, it may. I haven't  
12 seen this before. The documents that I have seen did  
13 not show any of that.

14 MS. DWYER: All right. And are you  
15 familiar at all with the extensive line of D.C. Court  
16 of Appeals cases in which the court has interpreted  
17 the standard under Section 210, that in terms of  
18 concept approval of the campus plan information as to  
19 use, height, bulk, parking, and zoning, is all that's  
20 required?

21 MR. HITCHCOCK: Objection. That asks for  
22 a legal conclusion. He's not a lawyer.

23 MS. DWYER: All right. I'll withdraw the  
24 question.

25 Mr. Oberlander, you state in your

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1 testimony that under Section 210.3 the regulations are  
2 intended to prevent unreasonable expansion into  
3 improved low density districts, and, therefore, the  
4 PUD and rezoning should not be approved. Could you  
5 please state for the record where abutting the  
6 university there is a low density residential  
7 district?

8 MR. OBERLANDER: Well, the R-5-D is not  
9 directly a low -- it's a medium to high density. But  
10 it -- the intent of the language is for residential  
11 areas. That's what -- the intent of the way it was  
12 written. So that, in my reading of it, it includes  
13 all of the residential areas, whether they are low  
14 density, medium density, or higher density.

15 MS. DWYER: This is your reading of the  
16 phrase "low density residential" to mean R-5-D and R-  
17 5-E?

18 MR. OBERLANDER: Well, there is no R-5-E  
19 within the campus. I'm talking about -- campus  
20 boundaries. I'm talking about the R-5-D.

21 MS. DWYER: Right. You were talking about  
22 expanding the campus into low density districts, and  
23 that would be R-5-E, which abuts the campus on the  
24 south.

25 MR. OBERLANDER: No.

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1 MS. DWYER: Is it not?

2 MR. OBERLANDER: I was talking about the  
3 university expanding more than it already has into the  
4 R-5-E, yes.

5 MS. DWYER: I was going to ask you about  
6 the context for the C-3-C zoning, but I think that  
7 those questions were covered by the Chair. I did want  
8 to ask you about something -- about something you said  
9 about the phrase "grow up, not out." And I think you  
10 said that this phrase has no basis in planning or  
11 zoning and is simply a public relations slogan.

12 MR. OBERLANDER: No, I said it has no  
13 basis in the comprehensive plan for the national  
14 capital, district elements or federal elements.

15 MS. DWYER: Have you reviewed the draft  
16 2006 comprehensive plan that was submitted to the City  
17 Council on July 14th?

18 MR. OBERLANDER: Yes, that's a proposal  
19 which has no effect. There is an existing  
20 comprehensive plan which has no reference to this  
21 "grow up and grow" --

22 MS. DWYER: I'm asking you about this  
23 draft plan, though. You said you reviewed it.

24 MR. OBERLANDER: Yes.

25 MS. DWYER: And does it include as a

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1 policy -- in policy NNW 2.5.3 -- support for the  
2 concept of increasing density on the GW campus for all  
3 future space and facility needs?

4 MR. OBERLANDER: Well, that's -- yes, it  
5 does, and that's exactly what this application is  
6 trying to achieve already. But the document that is  
7 in effect and is under the Home Rule Act in effect  
8 today is -- does not have any reference to that.

9 MS. DWYER: Do you recall when the "grow  
10 up or grow -- grow up and not out" concept was  
11 actually first used with respect to university  
12 campuses?

13 MR. OBERLANDER: To be directly -- to  
14 answer your question directly, it has only come to my  
15 attention through George Washington University's use  
16 of it. It's a nice slogan. It's just like saying  
17 smart growth. Smart growth is urban planning. If the  
18 planning is any good --

19 CHAIRPERSON MITTEN: Mr. Oberlander?

20 MR. OBERLANDER: -- it could be --

21 CHAIRPERSON MITTEN: Mr. Oberlander? Mr.  
22 Oberlander, just try and answer the question.

23 MR. OBERLANDER: Yes, but it's all this  
24 language. It's all these words that --

25 CHAIRPERSON MITTEN: I know, but you have

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1 a tendency to lecture in your answers, and I think  
2 you --

3 MR. OBERLANDER: I usually teach planning,  
4 yes.

5 (Laughter.)

6 CHAIRPERSON MITTEN: And we appreciate  
7 that, but it --

8 MS. DWYER: If we can put aside the  
9 language, the "grow up, not out" and I'll ask you  
10 again, can you recall when the concept of more  
11 intensive use of existing university campus property  
12 was first used in a planning sense in the District?

13 MR. OBERLANDER: Well, the campus has  
14 always been shown in the previous comprehensive plans,  
15 yes. I was just handed a document that I worked up  
16 back in 1967, which showed the university in its  
17 present location. But it did not show the magnitude  
18 at that time of the 5,600,000 square feet that it  
19 already reached.

20 MS. DWYER: You were the Long-Range  
21 Planning and Regional Affairs Director --

22 MR. OBERLANDER: That's right.

23 MS. DWYER: -- of NCPC at that time?

24 MR. OBERLANDER: That's right.

25 MS. DWYER: All right. And in this 1967

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1 document, does it talk about on page 105 that existing  
2 major colleges and universities will experience  
3 significant increases in enrollment?

4 MR. OBERLANDER: Yes, it did.

5 MS. DWYER: And does it talk about on  
6 page 106 that -- I quote -- "vertical rather than  
7 horizontal expansion should be encouraged, both to  
8 emphasize the identity of the institution and to  
9 protect the adjacent neighborhoods."

10 MR. OBERLANDER: That's correct, and that  
11 has happened.

12 MS. DWYER: And that would be considered  
13 a "grow up, not grow out" strategy?

14 MR. OBERLANDER: Well, it wasn't termed  
15 that way in the proposed comprehensive plan back then.

16 MS. DWYER: And is George Washington  
17 University on page 107 specifically called out as a  
18 university that is limited in space and must expand  
19 vertically?

20 MR. OBERLANDER: It has, yes. The  
21 buildings that have been built have all been taller  
22 than the original buildings.

23 MS. DWYER: So your testimony is basically  
24 that the university is at the maximum, and, therefore,  
25 there should not be any further development.

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1 MR. OBERLANDER: I didn't say it in  
2 exactly that way. I said that the -- there is a  
3 campus plan that was approved by BZA and is the  
4 current plan in effect, and it still has several  
5 years' life left to it in which the university can  
6 build up or can build sideways, any way they think  
7 best.

8 And I would certainly encourage building  
9 up but not to 130 feet or 110 feet as in some of  
10 these; 90 feet is probably the maximum that the  
11 university should build on these narrow streets.  
12 You'll remember the zoning is based on the width of  
13 the street plus 20 feet. And this is a maximum or  
14 capacity kind of restriction that exists.

15 MS. DWYER: And are you saying that in  
16 this plan the university is proposing to violate the  
17 1910 Height Act by doing heights taller than --

18 MR. OBERLANDER: No, I didn't say that at  
19 all.

20 MS. DWYER: Okay. I just wanted to  
21 clarify that. Your argument seems to be that the  
22 university, in terms of square footage, is at  
23 capacity, and you're not focusing at all on the fact  
24 that the enrollment cap caps the growth of the  
25 university.

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1           MR. OBERLANDER: Well, that's another  
2 aspect of it. But what I -- the enrollment is a  
3 capacity that's under the existing plan, and that  
4 shouldn't be changed.

5           MS. DWYER: But if the enrollment doesn't  
6 change and is already capped, your statement is that  
7 additional square footage is a problem?

8           MR. OBERLANDER: Yes, because it generates  
9 -- it will generate more students or research people.  
10 It may not be students. It may be adults who are  
11 doing research. It may be more activities. And the  
12 plan as presented by OP did not examine the numbers of  
13 students, the head count of students, and all of these  
14 other people that are actually coming to and going  
15 from this campus. That is not adequately assessed.  
16 And by adding another 1,700,000 square feet you're  
17 going to be intensifying that activity.

18           MS. DWYER: Can I direct your attention  
19 to, in the report that was filed in the record by Saul  
20 Shalik -- he is obviously not here to cross examine  
21 him. I would note that the report is six years old,  
22 and a lot of the information is dated. But if I could  
23 call your attention, since you rely on it, to page 38  
24 of that report, and what he says is, "What is the  
25 appropriate measure of a university's size,

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1 enrollment, acres of land, total square footage?"

2 And what he concludes is, "Since a  
3 university's size and its impact on the community are  
4 driven by the number of students, it follows that  
5 enrollment is a legitimate and appropriate measure of  
6 size." Do you agree with that statement?

7 MR. OBERLANDER: That's one in -- one  
8 aspect of size, yes.

9 MS. DWYER: But in his report he says it  
10 doesn't -- square footage of real estate is  
11 immaterial. It is strictly enrollment. So you  
12 disagree with his conclusion here?

13 MR. OBERLANDER: Well, I would say that  
14 from a planning perspective you don't just include a  
15 number of students. You look at all the activities  
16 that take place there.

17 MS. DWYER: And I guess my question is --  
18 you were relying on this report, but you would  
19 obviously disagree with the conclusion in this report.

20 MR. OBERLANDER: Well, that wasn't the  
21 conclusion.

22 MS. DWYER: I think -- if you read  
23 page 38, I think it says, "Since the university's size  
24 and its impact on the community are driven by the  
25 number of students, it follows that enrollment is the

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1 legitimate, appropriate measure of university size.  
2 It is the only effective policy parameter for  
3 regulating the growth and expansion of the District's  
4 private universities."

5 MR. OBERLANDER: Well, I would disagree  
6 with the word "only." Okay?

7 CHAIRPERSON MITTEN: We don't seem to have  
8 page 38. Ours goes up to 22.

9 MS. DWYER: Oh. Oh, I'm sorry. It's  
10 page 38 on the fax. It's page 17 in the report.

11 CHAIRPERSON MITTEN: Oh, okay.

12 MR. OBERLANDER: He was looking at it from  
13 the economic aspect of the --

14 CHAIRPERSON MITTEN: There's no question  
15 pending.

16 MR. OBERLANDER: I look at it from the  
17 economic --

18 CHAIRPERSON MITTEN: Mr. Oberlander?

19 MR. OBERLANDER: -- social and the --

20 CHAIRPERSON MITTEN: Mr. Oberlander?

21 MR. OBERLANDER: -- planning aspects.

22 CHAIRPERSON MITTEN: She didn't ask a  
23 question.

24 MS. DWYER: Thank you, Mr. Oberlander.

25 I have a couple of questions for you, Mr.

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1 Mehra, and you probably need to -- and you need to  
2 pull that close to you.

3           You state in your critique of the Wells  
4 report that truck data was not presented in the report  
5 and may not have been observed or collected in the  
6 field. But didn't the study use a default of two  
7 percent heavy vehicles at every intersection?

8           MR. MEHRA: I went through the whole  
9 report. It's not there. And I requested that data  
10 through our counsel, through you, and I was told that,  
11 "We will give you only what we've given to DDOT." So  
12 that data was not provided.

13           MS. DWYER: All right. If that data is in  
14 fact in the report, would this be a standard practice  
15 in the District?

16           MR. MEHRA: Do you mean assuming two  
17 percent?

18           MS. DWYER: Yes.

19           MR. MEHRA: It depends on if you have a  
20 heavily traveled car or truck traffic, then you cannot  
21 use two percent. And I don't think it's standard  
22 practice to use two percent everywhere throughout the  
23 District.

24           MS. DWYER: And wasn't each intersection  
25 also coded as being in the central business district

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1 to account for characteristics such as narrow street  
2 rights of way, vehicle blockages, taxis, and bus  
3 activity?

4 MR. MEHRA: Yes. There was some  
5 information in terms of the lane widths in the  
6 computer printout. But, again, the details were not  
7 provided, and that was one of the information I was  
8 requesting, so I can look at the details of the  
9 analysis that was done.

10 MS. DWYER: All right. You state that the  
11 street peak usually -- or actually occurs earlier than  
12 what was reported in the Wells study, and that the GW  
13 peaks and the streets peaks in fact coincide. But in  
14 that report, don't they take the number of trips  
15 generated by the university during the university peak  
16 hour and apply that to the street peak hour, so,  
17 therefore, it's a conservative analysis?

18 MR. MEHRA: Well, I think the main point  
19 that the report made was that the two peaks do not  
20 overlap. And the data provided in this report shows  
21 that the two peaks overlap more rather than do not  
22 overlap. That's number one point.

23 The second point is that the traffic  
24 generation for the university was based on street peak  
25 hours, which is, again, earlier than the GW peak

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1 hours. There is a difference between the two.

2 MS. DWYER: Right. I guess the question  
3 I was asking you: doesn't it do both? Doesn't it do  
4 the university peak hour and apply it to the street  
5 peak hour, so that it's in fact conservative?

6 MR. MEHRA: I don't think so.

7 MS. DWYER: All right. You state that  
8 there are discrepancies in the a.m. and p.m. peak hour  
9 trip generation when comparing those based on parking  
10 lot observation data versus the travel survey of  
11 students, and then you compare that with the ITE trip  
12 generation data?

13 MR. MEHRA: Yes.

14 MS. DWYER: Now, isn't the ITE data based  
15 on four studies -- one done in 1976 for the Delaware  
16 Department of Highways, a 1991 study in Rochester, New  
17 York, a 1991 to '95 study in Oregon, and an undated  
18 study in California? I'm just trying to understand  
19 the relevance of those studies in that ITE formula to  
20 the GW campus plan situation.

21 MR. MEHRA: Okay. The reason I included  
22 the ITE trip rates and the trip generation for the  
23 university was basically to show that the a.m. peaks  
24 and the p.m. peaks are almost the same as shown in  
25 that table, that in the morning peak you have almost

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1 4,000 trips, in the afternoon you've got almost 4,000.

2 The parking data that Wells collected and  
3 is shown in the report also shows that the a.m. peak  
4 and the p.m. peak is almost the same, within margin of  
5 error. That's 804 versus 909. When you use the  
6 information from the travel survey, it shows the  
7 morning peak as 1,522, whereas the afternoon is only  
8 862.

9 CHAIRPERSON MITTEN: I guess Ms. Dwyer's  
10 question is: what's the relevance of the ITE report?

11 MR. MEHRA: That's --

12 CHAIRPERSON MITTEN: How does it relate to  
13 this situation?

14 MR. MEHRA: The only relation I was trying  
15 to show is that the a.m. and p.m. peaks have a good,  
16 let's say, equal number in terms of the magnitude,  
17 whereas the travel survey that was done shows that the  
18 a.m. is almost twice as much as the p.m. peak hour.

19 CHAIRPERSON MITTEN: So you --

20 MR. MEHRA: The early normally -- and I  
21 think the report needs to explain why there is such a  
22 big difference.

23 CHAIRPERSON MITTEN: So it's not so much  
24 the number itself, but the disparity between the --

25 MR. MEHRA: Right.

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1 CHAIRPERSON MITTEN: -- a.m. and p.m.?

2 MR. MEHRA: Yes. I'm not trying to show  
3 or say that GWU, you know, it should also have 4,000  
4 trips. No.

5 CHAIRPERSON MITTEN: Okay.

6 MR. MEHRA: The only thing I'm trying to  
7 show is the fact that --

8 MS. DWYER: You just need the report to  
9 explain --

10 MR. MEHRA: -- the a.m. and the p.m. --

11 MS. DWYER: -- why there's a difference.

12 MR. MEHRA: -- the difference between --

13 MS. DWYER: What's unique about the GW  
14 campus that creates that difference.

15 MR. MEHRA: Right. And even the fact that  
16 the parking data also shows that the a.m. and p.m. are  
17 almost equal.

18 MS. DWYER: But you have no basis to know  
19 whether there are unique situations applicable to the  
20 GW campus. That would skew the numbers that way.

21 MR. MEHRA: No. The other reason is that  
22 the study used the travel survey data to project  
23 future traffic. So that's why it's very critical to  
24 know why the p.m. peak hour data is so low.

25 MS. DWYER: You state in your testimony

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1 that the Wells report used a .5 percent annual growth  
2 rate, whereas DDOT used a one percent growth rate.  
3 Didn't Mr. Wells testify that he based his analysis in  
4 part on traffic counts for other projects he had done  
5 in the area over the last several years?

6 MR. MEHRA: Unfortunately, I wasn't here,  
7 but I'm looking at the DDOT report which was just  
8 released. It has the same major streets, it's got K  
9 Street, it's got Pennsylvania Avenue, it's got 24th  
10 Street, and it's assuming one percent a year growth.  
11 So, therefore, I find there's a big difference in  
12 terms of the -- what the Wells report has used for the  
13 university project versus what DDOT has just used as  
14 of July of this year.

15 MS. DWYER: But are you aware that this .5  
16 percent that Wells used in their report was reviewed  
17 by DDOT and found to be acceptable and correct in this  
18 situation?

19 MR. MEHRA: It may be, but that's one of  
20 the things that I think the Chairperson has just  
21 mentioned, that we should sit down with DDOT and  
22 discuss it with them, that obviously if you are using  
23 half a percent in one study for the same road, and one  
24 percent on the same road for another study, there is  
25 a discrepancy in the total future traffic.

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1 MS. DWYER: All right. One final  
2 question. You state that under existing conditions  
3 nine of the 37 study intersections have at least one  
4 failing approach, and that under future conditions 16  
5 will have at least one failing approach. But when you  
6 make this statement, did you determine the impact that  
7 was attributable outside of the GW campus? Isn't  
8 there a certain percentage of growth that will impact  
9 these intersections regardless of what happens at GW?

10 MR. MEHRA: Yes, that's correct.

11 MS. DWYER: And didn't the Wells analysis  
12 show that even with the additional faculty and staff  
13 there are only two intersections where a lane group  
14 would operate at a level of service E or F that would  
15 not operate at a level of service E or F under future  
16 conditions without the campus plan?

17 MR. MEHRA: I think those are based on  
18 different assumptions. They are based on half a  
19 percent per year growth rate, and they are based on  
20 future trips that are based on the travel survey data  
21 which is suspect. With those conditions, yes, there  
22 is, you know, 1,537 intersections are still failing  
23 after mitigation.

24 MS. DWYER: Are you aware that all of the  
25 assumptions that Wells used were reviewed by the

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1 Department of Transportation, and that they recommend  
2 adoption of the plan, that they feel that it will not  
3 have any adverse impacts and they concur with these  
4 findings?

5 MR. MEHRA: Well, it may be, but I think  
6 maybe after they read my report they may want to  
7 revisit and check on their conclusions.

8 MS. DWYER: All right. One final  
9 question. You state that the transportation  
10 management plan is very generic and doesn't include  
11 any specifics. Do you have specific measures that you  
12 would like to propose for the transportation  
13 management plan?

14 MR. MEHRA: Well, I have not sort of sat  
15 down and do all the specific measures. The only thing  
16 I'm saying is that what's presented in the report is  
17 kind of very generic. You could literally take this  
18 same TMP and apply it to the World Bank or any other  
19 site, and everything would be still sort of generally  
20 applicable.

21 MS. DWYER: But you're not --

22 MR. MEHRA: It's not specific to George  
23 Washington University as such.

24 MS. DWYER: But you have nothing specific  
25 to suggest, based on your analysis or review.

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1 MR. MEHRA: No, I have not sort of sat  
2 down. I can definitely look at it and suggest some  
3 measures.

4 MS. DWYER: All right. Thank you.

5 MR. MEHRA: Thank you.

6 MS. DWYER: I have a couple of questions  
7 for Ms. Elliott. I think you stated that the Foggy  
8 Bottom Association did not know that under the 2000  
9 plan the Mount Vernon students were excluded from the  
10 cap. Was that your statement, in response to a  
11 question?

12 MS. ELLIOTT: That was in my testimony.

13 MS. DWYER: Is it your -- based on your  
14 knowledge of the 2000 plan, is it your understanding  
15 that the Mount Vernon students are excluded from their  
16 cap?

17 MS. ELLIOTT: Of the 2000 plan, yes, yes.

18 MS. DWYER: Okay. And is it your  
19 understanding that the university has consistently  
20 reported its numbers over the last six years that way  
21 with the exclusion of the Mount Vernon students?

22 MS. ELLIOTT: Yes.

23 MS. DWYER: Thank you. I think you  
24 mentioned the D.C. Agenda report on poverty in the  
25 District of Columbia.

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1 MS. ELLIOTT: In response to a question  
2 from the Commission, yes.

3 MS. DWYER: Right. Do you recall what the  
4 date of that report was?

5 MS. ELLIOTT: That was 2002.

6 MS. DWYER: 2002.

7 MS. ELLIOTT: Yes. I'm not sure -- I  
8 think it might have been in the spring of 2002.

9 MS. DWYER: And when it came up with the  
10 -- I guess the conclusion that the Foggy Bottom  
11 community was one of the -- what was the phrase that  
12 you used, one of the poorer communities, is that --

13 MS. ELLIOTT: It was -- it was in a  
14 footnote. Well, there were several things. It said  
15 it had the highest -- poverty rate hovering around 31  
16 percent.

17 MS. DWYER: And did that area that they  
18 were looking at include the George Washington  
19 University campus?

20 MS. ELLIOTT: Yes. Yes.

21 MS. DWYER: So it included the students  
22 that were living on the campus.

23 MS. ELLIOTT: It included -- in the  
24 footnote that's why it -- why it removed the entire  
25 cluster, including the campus, West End, and Foggy

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1 Bottom historic area.

2 MS. DWYER: All right. Are you -- since  
3 the date of that report, since the last 2000 campus  
4 plan, let's say, are you aware that the university has  
5 added 2,800 beds on campus?

6 MS. ELLIOTT: According to your reports,  
7 yes.

8 MS. DWYER: And are you also aware of  
9 developments in your community that have increased  
10 housing, including the Ritz Carlton development and a  
11 number of the ones that are now under construction or  
12 have been developed along 24th and 25th Street?

13 MS. ELLIOTT: Yes.

14 MS. DWYER: And is it your testimony that  
15 the number of residents in the neighborhood has  
16 actually gone down, even though the students have  
17 moved out and more families have moved in?

18 MS. ELLIOTT: I would have to -- my  
19 testimony is that in my end of the neighborhood  
20 there's almost no adult population based on my  
21 experience at the polls.

22 MS. DWYER: All right. And that's just --  
23 you're just talking about your particular  
24 neighborhood, which is just south of the campus as I  
25 understand it.

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1 MS. ELLIOTT: It's on the -- it's in the  
2 E Street area.

3 MS. DWYER: All right. Thank you.

4 Ms. Howell, I just have a couple of  
5 questions for you. I think -- first of all, I think  
6 you mentioned the Georgetown University example and  
7 their Law Center as sort of a model to look to in  
8 terms of satellite campus. Is that what you would  
9 say?

10 MS. HOWELL: Yes.

11 MS. DWYER: And I assume that in that  
12 situation the law students wouldn't -- the law  
13 students who are at the Law Center campus should not  
14 count under the main campus cap.

15 MS. HOWELL: Yes.

16 MS. DWYER: What if those law students  
17 came to the main campus and used the Yates sports  
18 facility, for example? Would they count in that  
19 situation?

20 MS. HOWELL: I think that's really hard to  
21 quantify.

22 MS. DWYER: I'm just trying to understand  
23 at what point do the faculty and students at another  
24 campus begin to count at a main campus.

25 MS. HOWELL: If they use it, I guess they

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1 should count in some way. But I think it's very hard  
2 to quantify that. I think that the 2000 plan did try  
3 to get at the caps on faculty and staff to try to get  
4 at that. I think it's really hard to measure if  
5 someone goes to the Lizner Auditorium, do they count.

6 MS. DWYER: Well, you mentioned that the  
7 university should consider a research facility east of  
8 the river. And if there were researchers there that  
9 happened to come back to the main campus for a panel  
10 program or to use the health and wellness center,  
11 would they then count within the cap on the Foggy  
12 Bottom campus?

13 MS. HOWELL: I don't see how we could do  
14 that, frankly. I really don't. I think this is an  
15 imperfect system, but I do think that the bulk of the  
16 use and intensity of use would be somewhere else.

17 MS. DWYER: So it's where the primary  
18 activities are, the primary use.

19 MS. HOWELL: No, I wouldn't say "primary."  
20 I'd say -- I mean, if someone is coming back to take  
21 classes at the Foggy Bottom campus, then, yes, I think  
22 they should count. If they're coming back to be staff  
23 at the Foggy Bottom campus, they should count. If  
24 they are teaching, then they should count towards the  
25 faculty count.

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1 MS. DWYER: And I'm just trying to  
2 understand, if they're taking one class at Foggy  
3 Bottom and let's say they're doing the rest of their  
4 work at the satellite facility east of the river,  
5 would that count in the Foggy Bottom campus?

6 MS. HOWELL: Well, there's currently an  
7 FTE equivalent ability to count students that take  
8 part-time at the Foggy Bottom campus. I don't know  
9 why there couldn't be a similar system.

10 MS. DWYER: And what about the faculty  
11 that would teach there? The same rationale would  
12 apply?

13 MS. HOWELL: I think you could do that.

14 MS. DWYER: So unless the university had  
15 a completely separate satellite campus, every activity  
16 that took place on a satellite campus would count to  
17 some degree under FTE or head count on their main  
18 campus?

19 MS. HOWELL: Well, again, all we're trying  
20 to measure is intensity of use of the Foggy Bottom  
21 area.

22 MS. DWYER: All right. I think you said  
23 in your testimony that you took over as President of  
24 the Foggy Bottom Association in June of 2005?

25 MS. HOWELL: Yes, that's correct.

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1 MS. DWYER: And that at that point in time  
2 you wanted to reach out to university?

3 MS. HOWELL: Well, I was perfectly willing  
4 to meet with the university. I think they actually  
5 called me for lunch, and we met twice.

6 MS. DWYER: In October of 2005, did your  
7 association adopt a resolution barring university  
8 employees and students from attending your meetings?

9 MS. HOWELL: We adopted a resolution  
10 saying that residents could be members of the Foggy  
11 Bottom Association, and that all of our meetings were  
12 open to residents.

13 MS. DWYER: But not to university  
14 employees or students who were not members of your  
15 association?

16 MS. HOWELL: Students certainly qualify as  
17 residents. You are absolutely correct on university  
18 staff and employees.

19 MS. DWYER: No, I'm just trying to  
20 understand. I thought the resolution limited your --  
21 the attendance at your meetings to members of the  
22 association, is that not correct?

23 MS. HOWELL: That is not correct. It was  
24 -- our meetings are always open to residents of Foggy  
25 Bottom. That could include university faculty staff

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1 and students. What we -- what we are trying to get is  
2 a neighborhood association of people who reside in the  
3 neighborhood.

4 MS. DWYER: And so beginning in October of  
5 2005, university employees who are not residents who  
6 may want to attend a meeting to hear what's going on  
7 in the community were prohibited.

8 MS. HOWELL: We were forced to do this,  
9 yes, because, as I sort of alluded to earlier, we --  
10 our meetings had been disrupted by university staff,  
11 and we felt that it was important to have a place  
12 where the community and residents could meet and talk  
13 about a number of issues, including university issues.

14 MS. DWYER: Can you just tell me, how were  
15 their meetings interrupted by university staff?

16 MS. HOWELL: By rude, belligerent  
17 behavior, by dominating meetings, by a lack of respect  
18 for the Chair, by taking over the council members who  
19 came to our meetings and escorting them in and out as  
20 if they were their meetings.

21 MS. DWYER: Are you aware of any other  
22 association in the District of Columbia that restricts  
23 attendance at its open meetings?

24 MS. HOWELL: I don't know.

25 MS. DWYER: One final question. Has the

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1 Foggy Bottom Association ever invited the university  
2 to make a presentation to your association on its  
3 campus plan?

4 MS. HOWELL: No, we have not.

5 MS. DWYER: Thank you.

6 CHAIRPERSON MITTEN: Are you done, Ms.  
7 Dwyer?

8 MS. DWYER: Yes, I'm done. Thank you.

9 CHAIRPERSON MITTEN: Ms. Kahlow, did you  
10 have cross examination questions?

11 MS. KAHLOW: I do not.

12 CHAIRPERSON MITTEN: Okay. Great. Thank  
13 you all very much. Do you need any time to unplug Mr.  
14 Hitchcock?

15 (Laughter.)

16 Then, maybe, if you don't mind, you could  
17 do that and we'll call up a panel. I'm going to start  
18 with the witness list that we had from the last  
19 session, and then we'll pick up the folks that signed  
20 up tonight. Ellie Becker, Barbara Zartman, Dr.  
21 Kreuzer -- don't forget to turn in your witness cards  
22 as you come up -- Russ Conlan.

23 Ms. Becker, you're up first. Good to see  
24 you.

25 MS. BECKER: Thank you. I've been here

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1 before, but it's been a while. I thank you for the  
2 opportunity to testify, and I'm sorry to deluge you  
3 with a little extra paper, but I'm a writer and that's  
4 what happens when you're a writer.

5 I'm Ellie Becker, and I live in the  
6 neighborhood and have since 1963. I originally signed  
7 up to testify solely on the subject of the  
8 proliferation and overuse of planned unit developments  
9 in our city.

10 In that -- in my statement I state the  
11 strong opinion that the original intent of PUDs is  
12 being prostituted, and that the amenities mandated in  
13 our neighborhood have been ridiculous, even silly,  
14 totally out of proportion to the benefits to the  
15 developer, and completely inadequate in compensating  
16 the community for the dangers -- for the damages done.

17 I'm submitting my original statement. It  
18 is rather short, and I hope you will read it. I'm  
19 asking that you just start to say no to them,  
20 beginning with those requested by GW in this and other  
21 cases before you.

22 Mr. Jeffries on Monday asked a witness  
23 what he expected when he moved into this neighborhood.  
24 That brought back to me my early years here beginning  
25 in 1963 when I moved to be near my work and my church.

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1 For the first 10 or 15 years, one hardly realized a  
2 university even existed right next door. That most  
3 certainly is not the case now.

4 Then, I found myself in a true urban  
5 neighborhood, came to know and care for many of the  
6 people, and decided it was worth working for. There  
7 followed years on the Foggy Bottom Association board  
8 and 18 years as Editor and Circulation Manager for the  
9 Foggy Bottom News.

10 It saddens me to realize many of my  
11 efforts as a news editor to foster a neighborhood  
12 spirit have been trashed by a university which seems  
13 to care only for its cashflow. I have seen -- sadly  
14 seen many of the people who lived in and loved Foggy  
15 Bottom driven out by a small minority of students who  
16 do not know how to behave, who trash our streets, and  
17 disturb our peaceful existence, and by a university  
18 which closes its eyes to any considerations but its  
19 own.

20 Last year I wrote a paper on GW, and I  
21 found it interesting to read it again today. I'm  
22 enclosing it as well in case it will provide some  
23 perspective, if just a little bit biased.

24 As I watched the juggernaut of witnesses  
25 for the university on Monday, it also saddened me to

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1 realize that less than 20 years ago this was a united  
2 and caring neighborhood when we could produce a  
3 respectable turnout for important hearings. It's not  
4 so easy now, as our houses and apartments are occupied  
5 by students and by many folks from other cities and  
6 countries who are part-time or temporary, not real  
7 residents who give a fig for their neighbors.

8 CHAIRPERSON MITTEN: I need your closing  
9 thought, but we will read your whole submission.

10 MS. BECKER: Okay. GW tries to absolve  
11 itself of the blame for harming our neighborhood, but  
12 in my book -- and I hope in yours -- that absolution  
13 will not be forthcoming. Please place a heavy reign  
14 on GW's unfettered growth.

15 Thank you.

16 CHAIRPERSON MITTEN: Thank you.

17 Ms. Zartman for the Committee of 100.

18 MS. ZARTMAN: Thank you, and apologies for  
19 my voice. I'm here on behalf of the Committee of 100.  
20 I'm the immediate past Chairman. The Committee of 100  
21 strongly opposes the application before the Commission  
22 in connection with the GW campus plan. We believe it  
23 greatly weakens the special exception process upon  
24 which so many residential communities depend, opening  
25 the potential for parallel undermining of special

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1 exceptions across the District.

2 We believe the Commission should end these  
3 proceedings, because it is not timely to adopt a new  
4 plan. PUDs may not, we believe, be located in campus  
5 plans. It is inconsistent with the comprehensive  
6 plan, and it's consistent with the special exception  
7 regulations for campus plans. My statement gives  
8 detail and citation for these.

9 The current plan does have years to run.  
10 It has been often asked why the Foggy Bottom community  
11 wouldn't want to try something better. The existing  
12 campus plan has been the subject of just almost  
13 unending litigation by the university. It has been  
14 successfully defended in every court to which it has  
15 been brought.

16 You're asking the community to give up  
17 this flawed but understood and tested instrument in  
18 favor of PUDs which are, by their very nature,  
19 extremely flexible instruments, very difficult to  
20 enforce, compared to the limited but still clear ways  
21 in which one can enforce special exception regulations  
22 governing campus plans.

23 We very much agree with the analysis that  
24 Michael Thomas offered in connection with the conflict  
25 of Section 210 and Section 24, but the committee

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1 suggests there is still a further problem and that's  
2 with the language that says that a PUD shall not be  
3 found to be unacceptable, but shall instead be found  
4 to be either, and you know the circumstances.

5 As written, this would appear to be an  
6 irrefutable presumption, actually a reverse IP,  
7 denying affected areas the ability to argue harmful  
8 impact to any effect. Further, this mandate of  
9 acceptance of PUDs undermines the independence of this  
10 Commission, making its action arbitrary and  
11 capricious, and it specifically denies the citizens  
12 the protections under 210 and their due process  
13 rights.

14 Moreover, the administrative rules adopted  
15 to transfer jurisdiction, as have been alluded to by  
16 Ms. Dwyer, contain their own prohibitions. I go on to  
17 cite the ways in which the PUD does not meet the  
18 requirements of 11 DCMR, and I would disagree with Ms.  
19 Dwyer in some of the ways in which she interprets that  
20 language. This massive upzoning of residential  
21 properties cannot be any good for communities that  
22 rely on you for the protections they thought they had  
23 when they read the campus plan and the zoning  
24 regulations.

25 The Office of Planning report, I would

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1 add, is overgenerous to George Washington's interests.  
2 There is a recitation of the history of GW and it  
3 ignores the reputation it has for demolition and  
4 neglect of historic and other properties. Even as it  
5 promises a different future, it speaks of preserving  
6 several blocks of campus where there are largely  
7 intact streetscapes of Victorian rowhouses, but  
8 doesn't refer to the many other blocks that have been  
9 raised to meet GW's needs.

10 Even retention of such properties does not  
11 assure that they will be maintained appropriately as  
12 the current condition of GW rowhouses surely makes  
13 clear. It is also unmentioned that these historic  
14 properties can be designated and protected by means  
15 totally divorced from this plan and the university by  
16 others who care about historic districts.

17 GW's commitments under this plan are  
18 highly conditional, allowing abandonment of seeming  
19 agreements on mere words of disagreement. This  
20 Commission and the BZA have seen case after case in  
21 which such commitments failed to materialize.

22 I have appended to the statement the  
23 definition of terms that I think may be helpful, since  
24 this plan relies on terms you have found -- you and  
25 the BZA have consistently found difficult to define.

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1 I have also included a listing of two dozen policies  
2 in the comprehensive plan -- land use element or the  
3 Ward 2 plan -- that specifically speak for greater  
4 protections of residential neighborhoods, not only  
5 from universities but from commercial development.

6 The OP report cites merely one in the  
7 Ward 2 plan that is very limited in its scope. I  
8 agree with the comments about the mechanism for  
9 enforcement of this proposed plan.

10 The committee asks that the Zoning  
11 Commission reject the entire package. We know it will  
12 take courage to do that. But we also believe it is  
13 time to reject the increasingly unacceptable burdens  
14 on residential neighborhoods.

15 CHAIRPERSON MITTEN: Thank you, Ms.  
16 Zartman.

17 Dr. Kreuzer?

18 DR. KREUZER: Hi. I'm Dr. Kreuzer. I  
19 live in what you would call -- or what you have called  
20 the buffer block between the university and the  
21 citizens. It's 23rd and Virginia Avenue.

22 My reality there is a little different  
23 from everybody else's that come here, because I'm  
24 right there on the front lines. And what I would  
25 suggest, and I provided for you, is that you read "The

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1 university that ate Foggy Bottom." It's a good  
2 example of what's going on.

3 And if you talk about trust the university  
4 and the fine points that they should be adhered to,  
5 there is an exhibit showing you townhouses that they  
6 tore down when they were told not to, and now they're  
7 talking about, you know, a historic district. And  
8 these townhouses were there over 30 years before they  
9 even moved into Foggy Bottom.

10 And these are the same townhouses that in  
11 Anacostia, in barracks row, they're, you know, touting  
12 same design, same style that have been restored and  
13 looks beautiful. But what I'm here for, really, is to  
14 say that the student lifestyle and habits are  
15 incompatible with an adult environment. And this is  
16 my experience. Do you think that these human  
17 activities constitute an objectionable impact on a  
18 residential community? And Trachtenberg does agree.

19 Noise, communications, students screaming  
20 at each other, the 23rd Street corridor has been  
21 turned into fraternity row. They catch balls in the  
22 middle of the night, basketballs bouncing at 3:00 in  
23 the morning, yelling for taxicabs, drunk and  
24 disorderly conduct, dorms not wired for telephones, so  
25 all the students go outside to use their cell phones.

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1                   Student behavior -- vandalism, a '74  
2                   Porsche that I owned was vandalized, mirrors torn off,  
3                   hoods of the cars kicked in, students using cars as  
4                   walkways coming back from Georgetown instead of the  
5                   sidewalks, vomit, urine behind retaining walls, plants  
6                   missing, planters smashed, pool parties on 23rd  
7                   Street, cigarettes out of windows starting fires in  
8                   the shrubbery around dorms, condoms and underwear and  
9                   feminine items thrown out of windows.

10                   And I have pictures of some of that. Add  
11                   street people to that. How about Miriam's Kitchen?  
12                   You know, garbage -- my garbage is strewn throughout  
13                   the neighborhood, feces behind my car, cars broken  
14                   into. My house was broken into because of -- due to  
15                   George Washington University workmen negligence, and  
16                   my life was threatened. That was fun. Trash cans  
17                   were -- I retrieved my trash cans from underneath the  
18                   overpasses, missing car covers.

19                   Traffic -- you talk about the Mount Vernon  
20                   shuttle. Well, there's a Metro shuttle, there's the  
21                   Georgetown Metro Connection. There's the Kennedy  
22                   Center shuttle. There's the State Department  
23                   shuttles. And what about the ambulances? Ambulances  
24                   running up and down 23rd Street.

25                   Would you move --

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1                   CHAIRPERSON MITTEN: I need your closing  
2 thought, Dr. Kreuzer.

3                   DR. KREUZER: In closing, I would say ask  
4 yourself -- would I live here? You don't, and the  
5 people right behind me don't. Trachtenberg tried to  
6 personally negotiate the George Washington  
7 University's purchase of my property. And when he did  
8 he said to me, "No normal person will ever want to  
9 live there, because we are going to put 1,000 students  
10 around you."

11                   And when I accepted that, he says, "Oh,  
12 and by the way, I'm going to put fraternity houses  
13 around you, too. You can't stand that, can you?" And  
14 when I didn't flinch on that he says, "Oh, but then  
15 we're going to put restaurants and a grocery store."  
16 And I didn't know where he was going with that, but it  
17 was sure intimidation.

18                   But what I'm asking you is: don't let his  
19 prediction come true. Let normal people live in Foggy  
20 Bottom and not be taken over by the university. And  
21 if the enforcement is lax and the penalties aren't  
22 high enough to discourage them, then don't approve  
23 their plan and application at this time, please.

24                   CHAIRPERSON MITTEN: Thank you, Dr.  
25 Kreuzer.

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1 Mr. Conlan.

2 MR. CONLAN: Good evening. My name is  
3 Russell Conlan, and I have been a resident of the  
4 Foggy Bottom Historic District for the past 16 years,  
5 the first five as an owner at the Griffin Condominium  
6 at 955 25th Street, and the last 11 as an owner of a  
7 rowhouse at 2415 I Street.

8 I was first drawn to the -- to Foggy  
9 Bottom by its convenient location, close to Metro,  
10 Georgetown, the Kennedy Center, and to its  
11 architecturally historic character. I soon discovered  
12 that Foggy Bottom is a unique community. People get  
13 involved, truly care about the city, and watch out for  
14 each other and their neighborhood. It's like a  
15 village in the middle of the city. It is also one of  
16 the last, if not the last, truly residential  
17 neighborhoods in downtown Washington.

18 What I mean by that, if you take a look at  
19 this swatch from Foggy Bottom and cut all the way  
20 across the city, you're hitting all of the central  
21 business corridor. It is that character that I  
22 believe is worth fighting to preserve. Since moving  
23 to Foggy Bottom, I have witnessed the negative impact  
24 of GW's expansion of the student body and its  
25 facilities on the community.

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1 Over the years, GW has increased its  
2 student population well beyond its ability to house  
3 that population on campus in university-owned  
4 facilities. The result: GW has forced students to  
5 seek off-campus housing in apartment buildings such as  
6 The Statesman, The York, and Columbia Plaza, turning  
7 them into de facto dormitories. And there are  
8 increasing numbers of students in group homes  
9 throughout the Foggy Bottom historic district.

10 Drop by any Thursday, Friday, or Saturday  
11 night between 10:00 p.m. and 4:00 a.m. and witness the  
12 results. The off-campus buildings and rowhouses have  
13 become party central. Keggers -- some charging an  
14 admission fee -- are weekly events. Living in a  
15 large, expensive condominium building, such as The  
16 Watergate or The Plaza, with minimal street presence  
17 or student renters, it's easy to be removed from many  
18 of these problems.

19 The problem is, if you live in a historic  
20 rowhouse, you experience those problems every night.  
21 I can't tell you how many times I've been awakened in  
22 the middle of the night by parties spilling out into  
23 the front yards of group houses by inebriated partiers  
24 screaming their way up the street to the community --  
25 and completely oblivious to the community around them.

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1           At 4:00 a.m., on one such occasion I asked  
2 a group to please quiet it down. This after listening  
3 to them carry on for 10 minutes, expecting they would  
4 either wear themselves out or move on. I explained  
5 that one of the residents in the neighborhood, one of  
6 my neighbors, had just come back from undergoing  
7 cancer surgery and treatment and he needed quiet. I  
8 was shocked with the response when I received that the  
9 historic district was actually a part of the campus  
10 and that "we can do whatever we want."

11           And, of course, the day after these  
12 parties are over -- beer bottles, plastic party cups,  
13 and other trash are found in tree boxes, shrubs, and  
14 gutters throughout the area.

15           At one time the campus extended more or  
16 less to 23rd Street. Then, the university determined  
17 it wanted more intensive use between 23rd and 24th.  
18 What followed was the university's acquisition and  
19 demolition of nearly two city blocks of rowhouses to  
20 make the way for huge university buildings. Its  
21 assertion that its new plan is to limit future growth  
22 strictly to the center of the campus is disingenuous  
23 at best.

24           CHAIRPERSON MITTEN: I need your closing  
25 thought, Mr. Conlan.

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1 MR. CONLAN: It's not simply a question of  
2 the students; it's a question of parking. And it's  
3 not simply the university itself. The hospital --  
4 when the hospital was built, I had actually approached  
5 the university. I had approached the gentleman who was  
6 in charge of putting the hospital together about doing  
7 underground parking for that facility.

8 I was told that that situation was  
9 impossible, because it was close to a Metro station.  
10 Yet when you go and you take a look at their proposed  
11 plan, lo and behold right beside the Metro tunnel they  
12 can put 1,000 spaces nice and easy. And so during the  
13 daytime you try to find parking, it's completely  
14 impossible to do so.

15 CHAIRPERSON MITTEN: Thank you, Mr.  
16 Conlan.

17 MR. CONLAN: Thank you.

18 CHAIRPERSON MITTEN: Thanks. Questions  
19 for the panel? Questions? Mr. Jeffries?

20 COMMISSIONER JEFFRIES: I just want to ask  
21 Dr. Kreuzer and the gentleman to your left -- Conlan  
22 -- I want to get clarity as to exactly where you live,  
23 because I'm looking at a map. Mr. -- Dr. Kreuzer, you  
24 live where?

25 DR. KREUZER: I live on the corner of 23rd

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1 and Virginia Avenue. I live right beside the Ivory  
2 dorm, which was just built.

3 COMMISSIONER JEFFRIES: Okay. Mr. Conlan?

4 MR. CONLAN: And I live about a block and  
5 a quarter in from 24th Street on I Street, so there  
6 are two -- it's part of the six-block historic  
7 residential area. So as you're going down the I  
8 Street corridor, there is 24th and then there's 25th,  
9 and finally 26th Street.

10 COMMISSIONER JEFFRIES: So have either of  
11 you gentlemen -- I mean, how often have you used this  
12 hotline that I've been hearing about from the  
13 university? I mean, have you put in many phone calls  
14 to the hotline?

15 MR. CONLAN: At the beginning I had, but  
16 it's to the point that, you know, why bother, because  
17 the university was non-responsive to those issues.  
18 The fact of the matter is that every year it's the  
19 same thing. The students have -- and I'm not -- I'm  
20 not trying to diss the students at all, you know,  
21 because I was a student myself, and I went out and I  
22 -- I will let them go and have a party. I won't try  
23 to interfere with that.

24 But the problem is that there is no  
25 respect when they leave those parties. They act as if

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1 they are out in some remote area, and then they can  
2 carry on as much as they want to. So the point comes  
3 to -- for me is, well, the university was not  
4 responsive during those times, so why am I going to  
5 waste my time and effort in order to try to deal with  
6 them.

7 DR. KREUZER: My experience with the  
8 campus police and calling the hotlines and asking for  
9 assistance is it's a poor response time, rude  
10 dispatchers, an attitude when they come, incompetence  
11 when they come, and they challenge you when they come,  
12 you know, almost like I'm the bad guy.

13 And one instance was very interesting.  
14 When I had a very bad situation, I called the campus  
15 police, waited for their response. I called the D.C.  
16 Police. They responded. And I'm standing outside  
17 with the D.C. Police, and the young lady that was the  
18 D.C. Police officer said, "Go back and call them  
19 again." I went back in. I called six times. The  
20 sixth time that I called them the dispatcher said,  
21 "Sir, the officer has come by, they have met with the  
22 parties, the situation has been resolved, and don't  
23 call back here again."

24 I'm the party. I'm waiting there with a  
25 D.C. policeman, and that was their response. So when

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1 you say, you know, "What's your experience with them?"  
2 it has been very poor. And then, when they do take  
3 notes, sometimes they don't have a pen, they take a  
4 piece of scrap paper out and I'm thinking, are they  
5 going to make a report from this?

6 They even ticketed my car, and my car was  
7 parked in my driveway, you know, so I think they're  
8 incompetent and the response is poor.

9 COMMISSIONER JEFFRIES: And so there is  
10 record in terms of your treatment here? I mean,  
11 you've gone to the university, you've taken it up  
12 another level or two, or -- I mean, have you been able  
13 to review --

14 DR. KREUZER: No.

15 COMMISSIONER JEFFRIES: -- a log? I mean,  
16 I'm just trying to get a sense of what the -

17 DR. KREUZER: If I went through my life  
18 that I had to document and photograph everything, I  
19 would -- it would drive me crazy. And it is driving  
20 me crazy, because every -- and I mentioned some  
21 things. I look out my window, and I see things all the  
22 time. I have provided you photographs of them.

23 You know, tour buses coming in for the  
24 Sizzling Express. You know, cafeterias that are  
25 supposed to be for the students, now there are five or

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1 six tour buses with high school students there during  
2 rushhour.

3 You know, I come back from a meeting, and  
4 I try to park my car in the driveway, and I can't  
5 because somebody going to the Smith Center is there  
6 for a basketball game, and the police tell me I can't  
7 do anything about it. And what you do is you don't --  
8 you do not antagonize anybody that is violating, let's  
9 say, my rights because I could get stabbed.

10 The police would say, "Well, how do you  
11 know if it's a GW student?" Well, you see four kids  
12 that are college age from your window smashing your  
13 car in or running on top of it. You're putting on  
14 your socks at 3:00 in the morning, looking for your  
15 shoes, looking for your, you know, glasses, trying to  
16 put your pants on and get down the stairs, and the  
17 you're going to run after them. And when you call the  
18 police the police say, "You're better off not, because  
19 if they're drunk, you're going to be in trouble. You  
20 can get stabbed. You can get hurt."

21 So, you know, you go through life, you get  
22 frustrated, and you say, "You know, what am I doing?"  
23 Now, I could have given you a lot more pictures, but  
24 I don't go through life with a camera on my hip.

25 COMMISSIONER JEFFRIES: Thank you.

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1 CHAIRPERSON MITTEN: Anyone else,  
2 questions? Any questions?

3 (No response.)

4 Okay. Thanks to the panel. Thank you  
5 very much.

6 Rebecca Mathis Soams, Patrick Ryan, Sarah  
7 Maddox, Maria Yuz. Is Ms. Soams here? Dorothy  
8 Miller.

9 PARTICIPANT: I just want to say I lost my  
10 fight with my computer.

11 CHAIRPERSON MITTEN: Okay. So would you  
12 like to submit that later?

13 PARTICIPANT: I'll file my statement  
14 later.

15 CHAIRPERSON MITTEN: Okay, great. Thanks.  
16 I'm sorry about that.

17 PARTICIPANT: I am, too. It was a  
18 struggle.

19 CHAIRPERSON MITTEN: Okay. Then, we'll  
20 start with Mr. Ryan.

21 MR. RYAN: My name is Patrick Ryan. I  
22 live in Burke, Virginia. I'm an alumni of the  
23 university, a second year master's student, a graduate  
24 teaching assistant, and a student association, Clemens  
25 College of Arts and Sciences graduate representative.

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1 I'm here to voice my opposition to the Foggy Bottom  
2 campus plan. This plan is hurried, far from  
3 comprehensive, and has little relevance to the  
4 university and neighborhood reality.

5 The plan is the result of what I call  
6 "blind economics," a desire to suck as much profit  
7 from GW's greatest asset -- its geography -- and blind  
8 to many of the true costs of its single-minded and  
9 thoughtless planning.

10 I find it offensive that the university  
11 has invoked the L'Enfant plan with its democratic  
12 ideals to sell this real estate development plan. The  
13 university seems more willing to litigate its idea of  
14 a plan than to actually spend the time planning  
15 comprehensively and truly including all stakeholders.

16 GW's testimony referred to L'Enfant's plan  
17 for the 23rd Street corridor and sight line. In  
18 addition keeping the building height to 90 feet rather  
19 than 110, I would like to know how this plan, as well  
20 as previous GW development on that street, have  
21 respected the corridor.

22 I remember quite well GW's attempt in the  
23 development of the Lerner Health and Wellness Center  
24 to build a brick wall right up to St. Mary's Church,  
25 blocking sunlight from its beloved stained glass

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1 windows. That wasn't respectful of anything but the  
2 bottom line.

3 L'Enfant's plan was concerned with open  
4 spaces. The open space component of this plan does  
5 nothing more than eyewash, diverting attention from  
6 the true purpose of the plan -- open space  
7 exploitation. This plan seeks to make economic use of  
8 as much available open space as possible through the  
9 guise of "grow up, not out."

10 I could point to an number of examples if  
11 you would like -- the enclosing of university yard,  
12 Square 102A tops my list. To call this plan "smart  
13 growth" and then not be able to respond to  
14 Commissioner Turnbull's question about sustainability  
15 with anything more than a declaration that this was  
16 transit-oriented development is proof of how little  
17 comprehensive thought went into the plan. This plan  
18 is anything but smart. And just because you build on  
19 top of a Metro station does not make the development  
20 TOD.

21 I challenge any of GW's witnesses to give  
22 me a definition of sustainability. As a student of  
23 geography, I was personally offended by the maps the  
24 university used to show intersection levels of  
25 service. When Commissioner Hood noted that they were

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1 misleading, he got the runaround by the so-called  
2 transportation specialist. You, sir, were consciously  
3 misleading, even purposely lying, when, the classified  
4 level of service A through D in the same category.

5 The university has promised to minimize  
6 traffic disruption through the buildout of this plan.  
7 If their plan to minimize disruption is anything like  
8 it was this summer when they closed the sidewalk and  
9 one lane of traffic on a major thoroughfare to do a  
10 simple job on the facade of Thurston Hall, I predict  
11 20 years of headache with the major construction and  
12 demolition called for and not properly addressed in  
13 this plan.

14 I challenge the university to find one  
15 slug commuter who lines up daily on 19th Street  
16 between E and F who would state their commute was not  
17 severely inconvenienced.

18 The President of the university was  
19 recently quoted as saying, "The university is a major  
20 real estate developer that teaches some classes on the  
21 side." I would like Mr. Trachtenberg or Mr. Katz to  
22 convince me that GW hasn't completely lost sight of  
23 its academic mission under their tenure. It certainly  
24 has lost control of its budget under their leadership.

25 I would like Mr. Katz to answer me why the

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1 university debt has grown immensely in my five years  
2 at the university, while existing academic facilities  
3 have continued to deteriorate, and student-to-teacher  
4 ratio has grown to a point where the quality of  
5 education is negatively affected. It's important to  
6 take care of what you have before you ask for more.

7 CHAIRPERSON MITTEN: Mr. Ryan, I need you  
8 to close it up.

9 MR. RYAN: Thank you. My peers mentioned  
10 many aspects of the plan they were excited about.  
11 However, they failed to mention how those components  
12 came about. The best parts of this plan have been the  
13 result of university engagement with the student body.  
14 Unfortunately, this engagement began very late in the  
15 process, was severely limited, and tended not to seek  
16 student input, but rather to seek their unquestioning  
17 support.

18 I urge the Commission to reject GW's  
19 proposal. There are four years remaining on the  
20 current plan. This time should be spent working on a  
21 truly comprehensive plan. Why does the university  
22 want to rush this process when many good ideas have  
23 been the result of it?

24 Thank you.

25 CHAIRPERSON MITTEN: Thank you, Mr. Ryan.

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1 Ms. Maddox?

2 MS. MADDOX: Thank you. Good evening,  
3 Chairman. I am particularly energized by Commissioner  
4 Jeffries' comment of this is a land use thing. And I  
5 went home and it kept echoing in my head. And then,  
6 Commissioner Hood's comment about transfer stations,  
7 and I thought, oh my God, that brings up some of the  
8 same issues.

9 So this is a land use, and it's linked up  
10 with what Michael Thomas said about density. And I  
11 was remembering land use and density usage when I grew  
12 up out west, and you'd bring cattle in and they'd  
13 graze it down, but then you would take them away so it  
14 would grow back. And it could be used again and  
15 again.

16 But anyway GW builds is there forever, and  
17 you can't take it away if there are problems. And one  
18 of the issues or problems was the lady from the  
19 Department of Transportation who says, "We have to  
20 rely on citizen complaints to go and fix things." So  
21 when you all are asking us to bring documentation of  
22 what's wrong, part of it is perspective of what's  
23 going to be wrong by what we have lived through. So  
24 if you could bear with me on that on a couple of quick  
25 issues.

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1           So we have the impact of people, which is  
2           the density issue, and the auxiliary -- and the  
3           auxiliary people who will come with all of this. And  
4           small samples -- walking down the sidewalks. When the  
5           elderly get pushed off the sidewalks, or people are  
6           trying to walk, there is no respect for others. And  
7           students on the sidewalk are pushing people around.  
8           The elderly now try to walk in the neighborhood  
9           between classes -- when classes are in session, so  
10          they don't get pushed off the sidewalks.

11           Then, we have the issue of -- on 23rd  
12          Street of the jaywalking across close to where Dr.  
13          Kreuzer is. And what we're going to have there,  
14          because of the traffic issue, is some day a terrible  
15          tragedy. There's going to be a student's life lost,  
16          and there's going to be a driver who is forever  
17          changed by all the jaywalking and the problems with  
18          the rushhour traffic.

19           And the traffic throughout, as they  
20          pointed out -- they have given you the best-case  
21          example, not the real-life example, on a 24-hour  
22          basis. And also, we suspect some of those counts have  
23          been done during slack times instead of normal times  
24          -- when they are not there at the end of summer, when  
25          they're gone on student break, when they're gone

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1 during holidays.

2 And the destruction of property is rife  
3 throughout the area. Our condominium has had to  
4 replace plants that have been torn up and thrown  
5 across the street. Anything that isn't nailed down is  
6 stolen. If we put up holiday decorations during the  
7 holidays, we wait until the students leave because it  
8 gets stolen. The theft problem is unreal.

9 Public drunkenness and lewd behavior on  
10 the streets are unreal. And if you want to know about  
11 the theft problem, every week all you have to do is  
12 read the District Weekly crime column, and it lists  
13 the thefts in the GW dorms. And those are the ones  
14 that are reported probably for insurance purposes.

15 We have voter fraud, because they register  
16 to vote in places that are not residences. We have  
17 noise late at night screaming and yelling, and you can  
18 hardly call the police when this police department is  
19 busy taking care of our terrible crime issue.

20 I'm sorry I can't go to more. And I only  
21 have one other point, but I appreciate your attention  
22 to this point.

23 CHAIRPERSON MITTEN: Thank you.

24 Ms. Hughes?

25 MS. HUGHES: With your permission, I will

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1 change my seat here. I don't hear very well on the  
2 right.

3 CHAIRPERSON MITTEN: Whatever makes you  
4 comfortable. I need you to turn on the microphone for  
5 us.

6 MS. HUGHES: How do I do that?

7 CHAIRPERSON MITTEN: Press the button in  
8 the base.

9 MS. HUGHES: Okay. Thank you very much.  
10 Good evening, Madam Chairman, and the members of the  
11 Commission. I am Maria Hughes, living at  
12 2400 Virginia avenue, N.W., Apartment C501,  
13 Washington, D.C.

14 I have been in Foggy Bottom area for 33  
15 years. I have three advanced degrees, two are from  
16 GW. I am considered medical alumni. I have written  
17 seven books, four of them at GW Medical Library, in  
18 the Ross Hall, and I worked for -- at the U.S.  
19 Department of Labor, OSHA, Occupational Medicine, and  
20 I did research on noise -- noise and construction.

21 I am opposing GW campus plan, because tall  
22 buildings have been built without consideration for  
23 the noise abatement from the cooling towers. I am the  
24 person who has fought like a tiger the noise from the  
25 cooling towers, because it has a tremendous impact on

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1 Foggy Bottom residents, and it is in conflict with  
2 20 DCMR Section 27.1, which is the qualification for  
3 noise that says, "60 decibels during the day and 55 at  
4 night." Okay?

5 The noise from the cooling tower comes  
6 from Ivory Tower, which is 616 23rd Street. I live  
7 across from the tower. Then, townhouse row, which is  
8 around the corner, which is at 607 23rd Street, N.W.,  
9 and Smith Center, 200 22nd Street, N.W. These three  
10 -- all these three buildings are around me.

11 What have I done to prove that there is  
12 noise? I have invited the housing inspector, DCRA  
13 housing inspector, who documented high volume noise.  
14 Then, I testified at Jim Graham's hearing on noise in  
15 November. Mr. Aiken have seen me.

16 Then, I have asked Peter Kalmy, who is the  
17 Executive Director for Maintenance, to measure the  
18 noise. He came to my balcony on May 10, 2006, at 6:30  
19 and measured 60 to 72 db. In other words, it's above  
20 the permissible levels.

21 Then, I sent a letter on September 23rd.  
22 Then, on October 5 and November 5, 2005, and again  
23 April 24, 2006, asking them to -- that's Attachment 1  
24 -- asking them, would you please reduce the noise?  
25 Then, Federation of Citizen Associations, ANC-2A, and

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1 Foggy Bottom Association sent their letters on  
2 June 22nd asking them to reduce the noise. Noise  
3 continues.

4 Then, I filed a case with the DCRA, which  
5 is a tenant petition, which has two sections. One is  
6 I live in Columbia Plaza, where there is a tremendous  
7 noise from the mechanical equipment. Columbia Plaza  
8 is today -- sorry --

9 CHAIRPERSON MITTEN: I need you to just  
10 give us your closing thought now.

11 MS. HUGHES: Okay. And I need one more --  
12 well, whatever. The closing thought is the noise from  
13 the cooling towers, from the mechanical equipment is  
14 tremendous. If we permit more buildings, we will have  
15 more noise. And if you just turn to your page 5, you  
16 can see what the -- are the health implications of  
17 noise.

18 The noise comes through the ear, all  
19 right, and goes through the central nervous system,  
20 causes high blood pressure, high cholesterol, hearing  
21 impairment. Okay?

22 CHAIRPERSON MITTEN: Thank you.

23 MS. HUGHES: And there is only one more  
24 thing. September 26th New York Times said that  
25 hearing impairment is number three infliction on the

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1 people. So we will have a whole generation of people  
2 who cannot hear.

3 Thank you very much.

4 CHAIRPERSON MITTEN: Thank you. Questions  
5 for the panel from the Commission?

6 VICE-CHAIRPERSON HOOD: Madam Chair? Ms.  
7 Maddox, you said you had one point, and briefly just  
8 give me that. I wanted to hear what your one point --  
9 you had one additional point you --

10 MS. MADDOX: One additional point? Yes,  
11 the issue of moving for people who live in rent  
12 control buildings, particularly our retired citizens.  
13 If they move, they lose the protection of rent  
14 control. And a lot of them couldn't afford it, so  
15 they would be forced to move to Virginia or way out to  
16 Maryland.

17 Secondly, as a condominium owner, for  
18 instance, if I sell my condo I incur significant taxes  
19 and commission fees. So it would be a very costly  
20 thing for us to give up our homes, to leave to go find  
21 another place to live.

22 VICE-CHAIRPERSON HOOD: Okay. That was  
23 your additional point.

24 MS. MADDOX: Yes.

25 VICE-CHAIRPERSON HOOD: Okay. All right.

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1 MS. MADDOX: Thank you kindly.

2 VICE-CHAIRPERSON HOOD: Okay. Thank you.

3 Thank you, Madam Chair.

4 CHAIRPERSON MITTEN: Anyone else? Mr.

5 Jeffries?

6 COMMISSIONER JEFFRIES: Just a quick  
7 question for Mr. Ryan. Did you at all participate in  
8 any discussions around the existing plan and any  
9 discussions around this plan?

10 MR. RYAN: The first I heard about this  
11 plan was Michael Aiken came and did a presentation for  
12 a class I was in in the spring semester of last year.  
13 And I've been participating since in my student  
14 association capacity as well as just --

15 COMMISSIONER JEFFRIES: So you've been  
16 going to meetings and you've heard the university make  
17 presentations, and so forth?

18 MR. RYAN: I've been to a few meetings,  
19 yes, sir.

20 COMMISSIONER JEFFRIES: Okay. Thank you.

21 CHAIRPERSON MITTEN: Anyone else? Ms.  
22 Dwyer, did you have any questions?

23 MS. DWYER: No.

24 CHAIRPERSON MITTEN: Mr. Hitchcock, any  
25 questions?

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1 MR. HITCHCOCK: No questions.

2 CHAIRPERSON MITTEN: Okay. Thank you very  
3 much.

4 MS. HUGHES: Would it be possible that I  
5 say something?

6 CHAIRPERSON MITTEN: You had your three  
7 minutes already. If you want to just submit anything  
8 else in writing for the record, we'd be pleased to  
9 read it.

10 MS. HUGHES: I already did. But I didn't  
11 know that you will ask me what else I have done. They  
12 have taken out --

13 CHAIRPERSON MITTEN: And we're not asking  
14 you, so we're going to read whatever you submitted for  
15 the record. Thank you. We want to give everybody a  
16 chance to testify who came tonight.

17 Vince Micone, Marilyn Rubin, Lawrence --  
18 I'm apologizing in advance for this -- M-R-O-Z-I-N-S-  
19 K-I -- Lucia Pollock.

20 Just when we get to it, Ms. Rubin, are you  
21 going to take the five minutes for Columbia Plaza?  
22 Are you representing Columbia Plaza tonight? Okay,  
23 great. So we'll have Commissioner Micone go first,  
24 and then we'll have Ms. Rubin after that.

25 Go ahead.

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1 MR. MICONE: Thank you for the opportunity  
2 to provide testimony. My name is Vince Micone, and I  
3 am the current Chairperson of ANC-2A. My first  
4 experience dealing with matters related to GW occurred  
5 prior to my -- in my prior neighborhood, Dupont, where  
6 I also served as an ANC Commissioner.

7 During my tenure, a fire occurred in a  
8 private residence where several students lived. The  
9 residents did not have proper fire suppression  
10 equipment and had more residents than allowed.  
11 Tragically, a resident died, and others lost  
12 everything. So when I move to Foggy Bottom West End,  
13 I was not unfamiliar with the impact of the  
14 institution and the pressures caused by intense uses  
15 in small areas.

16 Immediately upon my election in 2004, and  
17 prior to my swearing in, I was pressured by OP and GWU  
18 officials to participate in negotiations related to  
19 Square 54. A mediator and consultants had been  
20 selected. When ANC-2A was seated in January 2005, I  
21 was able to work with my colleagues to authorize our  
22 participation in negotiations as proposed by OP.

23 However, after a few sessions with the  
24 pre-selected mediator, negotiations collapsed as it  
25 became apparent that the expectations shared with us

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1 by OP were inconsistent with the expectations shared  
2 by the university. In an effort to continue a  
3 dialogue, I worked with OP to co-sponsor a series of  
4 listening sessions last summer.

5 These were not ever framed as negotiation  
6 sessions, and did not result in any recommendations  
7 other than the list of concerns and issues outlined by  
8 some of the participants in those sessions. You are  
9 aware that ANC-2A passed a resolution in November  
10 addressing concerns about compliance with the campus  
11 plan. That resolution did not bind, nor restrict,  
12 ANC-2A, though some Commissioners and others have  
13 erroneously viewed it as such. It was a statement of  
14 position not related to any application.

15 As a matter of fact, ANC-2A has voted to  
16 support every GW application during my tenure on the  
17 Commission. One such application heard by this  
18 Commission even passed unanimously.

19 OP on its own, and without consultation or  
20 even notice to ANC-2A, developed the framework and the  
21 campus plan application before you behind closed  
22 doors. You heard testimony by ANC Commissioners who  
23 suggested that there was some mysterious yet organized  
24 effort to keep GW matters off the agenda. Nothing  
25 could be further from the truth. I am in frequent

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1 touch with Commissioners and university officials.

2 Our agendas require approval at the  
3 beginning of each meeting. I have worked to schedule  
4 informal Commissioner briefings and to organize ANC  
5 scheduling so that final versions of applications are  
6 considered as zoning hearings approach. If there were  
7 matters that Commissioners felt were important but  
8 were not on the agenda, those were not shared with me.

9 There has been some discussion about the  
10 Advisory Committee provided for in the campus plan  
11 order. I received one letter from Mr. Katz regarding  
12 this issue. I not only have no objections to meeting  
13 with GW officials and discussing ways to improve  
14 issues, I discuss such matters frequently and many are  
15 addressed.

16 Building community relationships, even in  
17 good circumstances, takes time and cannot be  
18 prescribed in zoning proceedings. I inherited a  
19 framework that had a troubled beginning despite the  
20 merits of the idea, and was asked to initiate efforts  
21 for parties over whom the ANC has no control. I have  
22 chaired and worked on successful advisory committees  
23 created as a result of regulatory action.

24 The structure outlined in the campus plan  
25 order was not a formula for success. The structure

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1 proposed in the application here is doomed to the same  
2 failure for the reasons outlined in the ANC's  
3 testimony.

4 CHAIRPERSON MITTEN: I need you to -- is  
5 that is?

6 MR. MICONE: The rest I think you have  
7 before you.

8 CHAIRPERSON MITTEN: Great. Thank you,  
9 Commissioner Micone.

10 Ms. Rubin?

11 MS. RUBIN: Good evening. I'm Marilyn  
12 Rubin, President of Columbia Plaza Tenants  
13 Association, a five-building complex with 800 units  
14 located at 2400 Virginia Avenue, N.W., in Foggy  
15 Bottom. I have lived there 35 years.

16 Thank you for this chance to tell you why  
17 we oppose the campus plan and our experiences with  
18 George Washington University at Columbia Plaza. To  
19 summarize the issue, as ANC Commissioner Michael  
20 Thomas stated clearly when he quoted the BZA, "Once  
21 the properties become part of the university  
22 inventory, they are irretrievably lost to the  
23 residential community."

24 Now, as GW expands more and more,  
25 absorbing more homes and apartment buildings, they

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1 continue to be, quoting The Washington Post, the  
2 university that ate Foggy Bottom. We have witnessed  
3 apartment buildings emptied of their residents or  
4 overtaken by a student population. We have no problem  
5 with the students, but with the university's policy of  
6 increasing enrollment each year they deny housing to  
7 the very people that -- for whom Columbia Plaza was  
8 built -- moderate income residents wishing to live and  
9 work downtown.

10 The frequent student turnover at Columbia  
11 Plaza has allowed rents to escalate, and unfortunately  
12 become unaffordable to many people. To call this a  
13 town-gown issue, or to say that this is a campus town  
14 is absurd. This is a federal city, and the laws  
15 passed by the District to protect residents are not  
16 being enforced.

17 GW operates as -- in a residential  
18 neighborhood under zoning regulations which allow for  
19 the exception, provided that they will not become  
20 objectionable and/or violate the quality of life for  
21 the residents. Three elements named are traffic,  
22 noise, and the numbers of student population. All  
23 three issues have had a big impact on our neighborhood  
24 and the building residents during the past years when  
25 a student population dominated the building.

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1           We have learned through the years promises  
2           made by GW to this neighborhood are later adjusted for  
3           their growing needs. They are known to violate every  
4           campus plan they present and agree to, including the  
5           current one. Even in these hearings they acknowledge  
6           that in another few years they could come back and ask  
7           for changes again.

8           Now, GW's purchase of almost 30 percent of  
9           Columbia Plaza in a secret agreement allows GW the  
10          first right to rent -- to fill all empty units in the  
11          five rental buildings with both undergraduate and  
12          graduate students, thereby keeping out tax-paying  
13          residents. In our suit to obtain information, we also  
14          learned through discovery that they also have the  
15          first right to purchase all partnerships as they  
16          become available.

17          Our permanent residents feel that since GW  
18          became a partner we're living with the certainty of  
19          their future intent to take over the ownership or  
20          control of the complex. We were shocked with the  
21          remark by Mr. Trachtenberg a few years ago stating,  
22          "We will wait until they all move to cemeteries."

23          We have witnessed the discriminatory  
24          practice of holding the university's share of  
25          approximately of 200 apartments for students directly

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1 with additional apartments held by the rental office  
2 for more students. Then, when GW sends these extra  
3 students over, they rent directly from the rental  
4 office.

5 And I'd like to add at one point before I  
6 said it GW was charging a \$300 service fee or finder's  
7 fee to those students when they were sending them over  
8 to Columbia Plaza. Once the students are settled, the  
9 building will rent to other people. However, until  
10 this point, even though they do exist, applicants are  
11 told that there are no vacancies and to call back  
12 daily.

13 We fear that GW's promise of not  
14 purchasing any more properties in Foggy Bottom does  
15 not imply to investment properties such as Columbia  
16 Plaza. We, too, like living near a university. We  
17 just don't want it to destroy our homes or the quality  
18 of life we have enjoyed here in Foggy Bottom.

19 Thank you.

20 CHAIRPERSON MITTEN: Thank you.

21 Sir?

22 COL. MROZINSKI: Thank you, Madam  
23 Chairman, the members of the Commission. I am Colonel  
24 Lawrence Mrozinski. I reside in 2301 E Street, N.W.,  
25 where I serve as one of the Board of Directors on the

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1 Foggy Bottom Association.

2 What I originally wrote today didn't  
3 really marry up with what I felt I heard here today,  
4 and also some of the residents that I've met in my  
5 residency here in Foggy Bottom. So what I'm about to  
6 tell you is coming from my heart, and what I truly see  
7 and I want you to reflect on as Commissioners.

8 I'm not going to cite the well-documented  
9 facts of the George Washington University  
10 administration legacy of failure to comply with the  
11 campus plan. It is shameful that students who pay a  
12 large share of the costs have a legacy of  
13 administration that cares more about income generation  
14 to protect their salaries at the expense of our future  
15 leadership. Now, that's what you have before you.  
16 That's what you're challenged with. This is not just  
17 something to go home and go sleep tonight. It's to  
18 think about what we're teaching also our students.

19 From as early as 1985 to the present, the  
20 Foggy Bottom residents, some with broken hearts and  
21 others now deceased, which one has taken place since  
22 I've been here, have as individuals tried to sustain  
23 in their community a sense of community only to be  
24 taken advantage of.

25 George Washington University is the -- in

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1 the eye of the law, is an individual. Just like a  
2 well-intentioned individual or an irresponsible one,  
3 its reputation is tarnished because those leaders who  
4 pledged to maintain the integrity of the community  
5 have failed, because they have not shown the requisite  
6 integrity, just as an allegiance to financial gain.  
7 Read blatant GW statements lauding real estate. It  
8 wasn't the school that I went to.

9 Our community students, some born after  
10 1985 when GW first promised compliance with its campus  
11 plan, have been deprived of ample college dorm space  
12 and classrooms, because the university has  
13 consistently pursued commercial interests in past,  
14 present, and future. This student body already pays  
15 amongst the most exorbitant tuitions in our great  
16 country.

17 I urge you to do what some of our City  
18 Council chose not to do -- uphold the city codes and  
19 enforce the law, enforce compliance, and send a  
20 message that this is a city that this leadership --  
21 and it does not, shall I say, take charge in  
22 protecting its people, then we don't have leadership.

23 The 1995-2000 plan was submitted but not  
24 enforced, yet a new campus plan was proposed in 1999,  
25 but not approved until 2000, but still remains non-

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1 compliant.

2 CHAIRPERSON MITTEN: Colonel, I need your  
3 closing thoughts.

4 COL. MROZINSKI: It is obvious what we  
5 should do with the decision you have before you, which  
6 is ethical and moral -- I ask you not to approve the  
7 community of which I and others love and live in.

8 Thank you for responding to my call.

9 CHAIRPERSON MITTEN: Thank you.

10 Ms. Pollock?

11 MS. POLLOCK: Ladies and gentlemen, I am  
12 Lucia Pollock, a 40-year resident of Foggy Bottom, and  
13 a member of the D.C. Preservation League, Historical  
14 Society of Washington, National Trust for Historic  
15 Preservation, and the National Building Museum over  
16 the past 25 years.

17 I've attended many hearings on various  
18 issues to show interest and concern -- the same reason  
19 I've attended all the hearings on the GW application.  
20 This is the first time I've ever testified, and I only  
21 decided to do so after last Monday's hearing.

22 I attended a hearing on GW's 2000 campus  
23 plan application. However, I was -- and I'm not one  
24 of the totally negative voices repeatedly referred to  
25 by proponents of GW's proposal, who incidentally have

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1 reiterated some of the same citations of GW's good  
2 works for the neighborhood and city as in 2000. Most  
3 of these services cannot be disputed. However, my  
4 response was then, and is now, that these good works  
5 are not pertinent to the consideration or merit of the  
6 proposed campus plan.

7 Citing good works for the community cannot  
8 erase any negative impact on that community -- past,  
9 present, or future. I have lived in Foggy Bottom  
10 during all phases of my adult life, from four years  
11 after college to retirement, and I have seen many  
12 changes in the neighborhood, some good, some not. I  
13 feel sad when I think of the 23rd Street townhouses  
14 that were mentioned by Dr. Kreuzer, which were  
15 destroyed by GW a few years ago.

16 I have tried to be objective about GW's  
17 proposals, plans, and actions, and I am not convinced  
18 that the extent and density of the proposed campus  
19 plan, particularly the Square 54 PUD, is an example of  
20 good urban planning and land use. Three new condos  
21 have just been built in the old Columbia Hospital  
22 block, one square block of greatly increased density  
23 only about three blocks from Square 54.

24 Especially since GW has tied the expansion  
25 and growth of the institution to its Square 54

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1 commercial development investment, I fail to be  
2 convinced that this plan will not adversely impact the  
3 residents of the Foggy Bottom West End neighborhood.  
4 Can it tolerate the results, such as traffic  
5 congestion, of such density? It has become  
6 increasingly difficult to preserve the quality of life  
7 and ambiance which make this convenient area liveable?

8 Convenience of location is one of the main  
9 things that keeps me in Foggy Bottom. This plan seems  
10 in conflict with the efforts of the Mayor and the  
11 Office of Planning over the past several years to  
12 encourage and facilitate downtown living. The issue  
13 remains: why should the current plan be abandoned,  
14 and a new longer-term plan established? I, for one,  
15 have not read or heard sufficient or convincing  
16 reasons for this exception.

17 GW has its needs, desires, and goals, but  
18 this does not relieve it of its responsibility for  
19 giving serious and sincere consideration to the impact  
20 on the residents of the community, and, thus, to our  
21 needs and desires. GW's lack of such consideration is  
22 the source of many residents' mistrust of the  
23 institution.

24 The lack of interaction and dialogue  
25 between the two parties is regrettable, but I realize

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1 some of the reasons for this situation.

2 Thank you.

3 CHAIRPERSON MITTEN: Thank you very much.

4 Questions from the Commission for the  
5 panel? Any questions? Any questions? Mr. Turnbull.

6 COMMISSIONER TURNBULL: Commissioner  
7 Micone?

8 MR. MICONE: Yes.

9 COMMISSIONER TURNBULL: Welcome.

10 MR. MICONE: Thank you.

11 COMMISSIONER TURNBULL: I was just going  
12 -- I was trying to finish the last part of your  
13 statement that -- and I guess you had in one -- in  
14 your one statement you said it was the most divisive.  
15 But you see this as -- in your tenure, this has been  
16 one of the divisive issues that you've observed with  
17 the community, and that you see this going forward.

18 And you're obviously not in favor of the  
19 PUD plan. But at some point, even if the university  
20 continues on with the current plan, they're going to  
21 come back, then, with another PUD plan. I'm just --  
22 having been Commissioner, been in the trenches and  
23 working on this, where do you see this going? What do  
24 you think is going to be the successful resolution?

25 MR. MICONE: Well, as I see it, the ink

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1 was not yet dry on the Judge's order which finally  
2 settled this campus plan when a neighborhood that was  
3 very divided for many years was asked once again to  
4 come back to the table and negotiate and talk about  
5 another term of a new campus plan.

6 That's an awful lot to expect of a  
7 neighborhood, particularly after how divisive -- and  
8 you all know this, I don't need to tell you about this  
9 -- how divisive the campus plan was in 2000. So  
10 essentially folks have been working to see this  
11 through the litigation with the city, and as soon as  
12 that was done and after we thought something was  
13 settled for a few years where we might be able to work  
14 on building community relationships that were  
15 stronger, we have to start all over again.

16 That doesn't build trust within a  
17 neighborhood, when you say something is going to be  
18 litigated and soon as that's done, oh, yeah, we want  
19 to start all over again. And so, you know, you see  
20 people who are very committed to their neighborhood,  
21 aren't necessarily opposed to and probably like living  
22 by a university BART, but are concerned about enormous  
23 implications of the type of growth and development.

24 I mean, it was brought up earlier in the  
25 testimony to look at T, Exhibit T, in the space. I

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1 mean, we're talking about going from 5.6 million  
2 square feet to 8.4 million square feet two blocks  
3 south of where I live. When I purchased my property,  
4 I could never imagine that there would be a proposal  
5 for that much space. I knew about Square 54, and  
6 reasonable people understand that that's going to be  
7 developed. But when we started to see the extent of  
8 the request, it was overwhelming under the best of  
9 terms.

10 COMMISSIONER TURNBULL: Do you see -- I  
11 mean, I guess -- I guess in your feeling -- and I  
12 don't want to put words in your mouth, but you feel  
13 that the university ought to complete the current  
14 plan, as stated.

15 MR. MICONE: I believe the purpose of  
16 planning is to have something that all parties can  
17 depend on. September of 2005 we had something that  
18 all parties could depend on for a few more years. And  
19 through that period of a few more years perhaps  
20 working together we could figure out some sense of a  
21 future plan, not maybe 20 years, because I think  
22 that's far too far in advance for a university or for  
23 a neighborhood.

24 I mean, I will be 60 years old by the time  
25 this campus plan is done, and I believe that some

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1 group of folks are going to be back in front of  
2 another Zoning Commission with another campus plan  
3 before I turn 60 for GW. So unless you have some  
4 short term that you can depend on, it again doesn't  
5 allow your community and your institutions to learn  
6 how to grow together, because all you're doing is  
7 fighting over growth. You're not learning how to live  
8 together.

9 COMMISSIONER TURNBULL: Thank you.

10 CHAIRPERSON MITTEN: I'm glad you asked  
11 for Commissioner Micone's advice, because I was going  
12 to do that. In the interest of full disclosure, when  
13 I served on the Dupont Circle ANC, Vince Micone was  
14 the Chair, and I know he has a tremendous capacity to  
15 manage difficult issues and dialogue among parties  
16 that don't agree.

17 And short of outright denial, which is  
18 what is being advocated by the ANC and the Foggy  
19 Bottom Association, is there anything that you would  
20 recommend that the Zoning Commission can do to improve  
21 the -- to improve the conversation? I mean, part of  
22 what we're hearing is, I mean, it sounds like -- it  
23 sounds like a married couple who can't listen to each  
24 other anymore, because we're hearing people say,  
25 "Well, you didn't invite us." "Well, no, that's

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1 exactly what I said." You know, we get all this back  
2 and forth and it's very -- it's not helpful to us.

3 Do you think there's anything that we  
4 could recommend that would be helpful, or just need  
5 some breathing room?

6 MR. MICONE: Well, I would think the first  
7 thing we need is some breathing room. But I think  
8 that -- and I don't want to speak to the ANC's  
9 testimony that has been decided and shared and  
10 disclosed. I think, though, part of the reason -- and  
11 I know this Advisory Committee came up many, many  
12 times, and I think it was doomed for failure in the  
13 beginning, because in the advisory groups that I have  
14 worked on that have been successful the neighbors have  
15 majority, not an equal stake with the institution that  
16 is the focus of this dialogue.

17 And so when I sort of popped into the  
18 middle of this advisory group issue that came up,  
19 which I think is the crux of what you're talking  
20 about, how you can talk and figure out issues  
21 together, I was thrown in the situation where the  
22 neighborhood had to come up with five individuals from  
23 three different organizations -- an ANC and two  
24 community associations -- and the university would  
25 come up with five, and somehow we were supposed to

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1 solve all of the issues that you haven't been able to  
2 solve and that litigation has been held over.

3 That doesn't work, and what's in the  
4 proposed PUD plan is even worse, because if one person  
5 doesn't show up from the community standpoint, then  
6 the university writes the whole rules. The corollary  
7 to me would be if the student association was told all  
8 of a sudden that 50 percent of all the student  
9 association elected representatives must be university  
10 folks -- and, by the way, if one of you doesn't show  
11 up, they will write the rules and that is tough.

12 You know, also in terms of successful  
13 advisory committees in this part, the one that was  
14 most successful that I've been involved with, we  
15 actually put in a way for the Advisory Committee to  
16 actually have some teeth in terms of enforcement.

17 We all know going to OZ or going to DCRA  
18 is going to be frustrating and long at very best and  
19 may result in nothing. And what we did, because we  
20 were very mindful of that, when we created an advisory  
21 group that works, we gave the advisory group the  
22 ability to go to mediation to resolve issues with a  
23 fine structure, so that if the institution failed to  
24 live up to the zoning order and a mediator found it  
25 so, without even having to go to DCRA or OZ, a fine

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1 could be levied against that institution by the  
2 mediator.

3 That's where you begin a conversation  
4 about an advisory committee that is supposed to be  
5 empowered with enforcement. If you have an advisory  
6 committee that is just talking about improving town  
7 and gown issues, well, that's something different.  
8 But what's envisioned in the campus plan order that  
9 currently exists -- and the one that is proposed  
10 before you -- talks about enforcement. And so  
11 enforcement for what when you're five and five?

12 CHAIRPERSON MITTEN: Thank you.

13 Anybody else? Ms. Dwyer?

14 MS. DWYER: Just a couple of questions.  
15 Mr. Micone, I think you said that once the litigation  
16 ended the university -- the community was depending on  
17 the last campus plan? There was certainty with that  
18 plan.

19 MR. MICONE: In my opinion, there was  
20 certainty with the plan as it existed, and certainly  
21 there was a relief when the ruling came down that  
22 supported that campus plan.

23 MS. DWYER: Was there certainty over the  
24 conditions, over the way the university reported  
25 enrollment?

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1           MR. MICONE: I can't speak to the full  
2 history of that. I can only say in terms of the  
3 reports that I saw in terms of enrollment, it seemed  
4 to me -- and this is personal, not on behalf of the  
5 ANC -- that, you know, why -- when all of this stuff  
6 is still in litigation, why would you begin a fight  
7 over how you're counting? I mean, let's have the  
8 Judge finish the ruling on that, and then we could  
9 begin that process.

10           MS. DWYER: All right. So the Judge  
11 finishes the ruling. You now have a campus plan  
12 order, and you say the community was relying on that.  
13 But wasn't the community, in fact, challenging the  
14 university's counting of students, faculty, and staff?  
15 I mean, wasn't that the resolution they passed?

16           MR. MICONE: Well, the context of  
17 everything that was going on between -- or last year  
18 was moving towards where we're at now. I mean,  
19 literally from the day I was elected I was called by  
20 OP and asked to join in mediation regarding Square 54.  
21 So this is before I have even taken office there was  
22 pressure on me personally to get in this game about  
23 Square 54.

24           So the whole context for the last two  
25 years has been focused on growth and development as it

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1 relates to GW. So last September when the ruling came  
2 out there was some hope we might be able to live with  
3 that ruling and live with the campus plan, but we all  
4 knew very well that we were going to end up in front  
5 of the Zoning Commission facing an application.

6 MS. DWYER: But when that ruling came out,  
7 isn't that when the ANC adopted the resolution calling  
8 for an audit of the university's enrollment numbers,  
9 calling for an EIS for any project, basically saying  
10 they're not going to consider any development on the  
11 campus?

12 MR. MICONE: Well, the ANC in that  
13 resolution -- and I reviewed it again today -- didn't  
14 say that the ANC couldn't consider anything. It  
15 offered a framework for consideration by city  
16 agencies, and there have been concerns that have been  
17 expressed about enforcement of the current campus plan  
18 by many in the community focusing primarily on  
19 headcount issues.

20 So the resolution came about actually  
21 after the Judge's order, and at the conclusion of --  
22 a few months after the conclusion of the process that  
23 we had all jointly participated in to discuss campus  
24 issues.

25 MS. DWYER: All right. I'm just trying to

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1 understand how we can -- how you can say that there  
2 was a decision by the Court of Appeals, and basically  
3 reliance by the community on that decision in the  
4 campus plan when every aspect of that plan was being  
5 challenged.

6 MR. MICONE: Well, we were not challenging  
7 every aspect or indeed every condition of the plan.  
8 And primarily, what we were most focused on, again as  
9 it related to Square 54, because at the time that that  
10 resolution was passed there was some vague idea that  
11 the university would need potentially some additional  
12 growth on its main campus, but there was absolutely no  
13 concept that we would be facing another whole campus  
14 plan for 20 years with the extent of the space that's  
15 on the table right now.

16 That was not known in last November, and  
17 so were most exercised at the time about Square 54 and  
18 making sure that we got the headcount issue  
19 established. And I think reasonable people would say  
20 that having a look at environmental issues makes good  
21 sense in the context of looking at planing, and these  
22 are the things we were asking for.

23 MS. DWYER: And clarification of  
24 conditions, the way the university counts enrollment,  
25 faculty and staff, those are not things that you think

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1 can be addressed in this proceeding?

2 MR. MICONE: Well, I think that, you know,  
3 we're still at loggerheads in terms of even counting  
4 students right now. I mean, we received -- we  
5 requested -- the ANC requested an audit of the  
6 headcount. We received the results of that audit the  
7 day of the first hearing, a few hours before we came  
8 here.

9 It would have been very helpful to have  
10 that information earlier in the process when in fact  
11 we requested it in November and followed up with a  
12 resolution in May to perhaps share that information,  
13 look at it, and see what we could work with. And this  
14 is what we get for an enforcement request from the  
15 Office of Zoning.

16 MS. DWYER: But let me just clarify. The  
17 ANC gets biannual reports from the university where it  
18 goes through its enrollment numbers, do you not?

19 MR. MICONE: Yes. And, frankly, looking  
20 at those numbers as someone who is not an accountant,  
21 who doesn't like numbers, I like the bottom line. And  
22 when I read the report, I see a lot of carveouts. And  
23 when I read the plain text of the zoning order that is  
24 the current campus plan, I don't see carveouts.

25 And I wasn't involved in discussions as to

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1 why that may not have been challenged earlier, but the  
2 point we were getting to in November 2005 after the  
3 Judge's order came through was to begin to look at  
4 those issues very seriously. And that came in the  
5 same context that we were beginning what we thought  
6 would have possibly been some relief to the current  
7 campus plan, not a new campus plan.

8 MS. DWYER: One further question. You  
9 talked a little bit about the Advisory Committee, and  
10 you -- do you not think that the Advisory Committee  
11 would have had a role had you participated in looking  
12 at some of these issues over the last several years?

13 MR. MICONE: You know, I think advisory  
14 committees that can pull together stakeholders are  
15 wonderful. But the fact of the matter is I can call  
16 Mike Aiken and say, "There's a noise issue. Let's  
17 work on resolving it." And I don't need a committee  
18 to do that. A committee might be helpful to resolve  
19 some issues, but a committee that's specifically  
20 focusing on enforcement issues related to a contested  
21 and hard negotiated campus plan where there were hard  
22 feelings is not the direction to go.

23 I think the university is doing better in  
24 terms of responding to complaints about student  
25 behavior. They are not perfect by any means. An

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1 advisory committee is only one way to resolve some of  
2 those issues and not all of them. An advisory  
3 committee might help you deal with some other issues.  
4 You know, I have no problem talking to Mr. Katz, to  
5 any one of these fine individuals from the university,  
6 about matters that come up that my constituents tell  
7 me about. And we work to resolve those.

8 I don't need to go to another meeting to  
9 resolve those. I'd rather just get them resolved by  
10 the phone and take care of those concerns right away.

11 MS. DWYER: No further questions.

12 CHAIRPERSON MITTEN: Okay. Mr. Hitchcock?  
13 Ms. Kahlow, any questions for this panel?

14 (No response.)

15 MR. MICONE: I was hoping you were going  
16 to ask me if I had a car, Barbara.

17 (Laughter.)

18 CHAIRPERSON MITTEN: Thanks.

19 Okay. I think this will be our last  
20 panel. Susan Wallace, Abby Gilbert. Anybody else who  
21 would like to testify in opposition should come  
22 forward now. Don't forget to drop off those witness  
23 cards on your way.

24 Ms. Wallace, go ahead.

25 MS. WALLACE: Madam Chair, Commissioners,

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1 my name is Susan Wallace. I have lived in the  
2 District of Columbia since February of 1993. I chose  
3 the District of Columbia over Virginia and Maryland,  
4 even after financial consultants and other people told  
5 me that I would be a fool to live in the District  
6 because of the high taxes, the crime, and the other  
7 activities that you incur. But I chose D.C. because  
8 I love D.C.

9 I have lived in Foggy Bottom since fall of  
10 1996, and I have been a homeowner in Foggy Bottom  
11 since spring of 1997. When I first moved to Foggy  
12 Bottom in '96, there was a very nice balance between  
13 students, retired people, and people like myself who  
14 had careers who were working and who were paying  
15 taxes.

16 However, after a few years and once the  
17 neighborhood became overrun by students, thanks to  
18 George Washington University buying up Howard  
19 Johnson's, taking out a 15-year lease with the  
20 St. James Hotel, and also taking up residence in  
21 Columbia Plaza, it soon became apparent to any of us  
22 who live in the neighborhood, pay taxes -- property,  
23 sales, and income -- that we had a problem and that  
24 our life was out of balance.

25 You might ask: so what's the big deal?

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1 Well, time and again, planners have shown that cities  
2 are only as healthy as their live-in, full-time  
3 populations -- populations that pay taxes, take a  
4 personal, committed interest in the affairs and life  
5 of the city, and are dedicated to the health and  
6 welfare of the city as a whole.

7 Foggy Bottom has become so overrun with  
8 students that living at 2532 I Street I cannot find  
9 parking four out of five nights without spending 30 to  
10 45 minutes looking, even though I pay my taxes and I  
11 own a house there.

12 Traffic takes me 15 minutes to go up  
13 I Street, around the corner to get through Washington  
14 Circle, not only because of cars and motor vehicle  
15 traffic but also pedestrians. I no longer get a  
16 peaceful night's sleep from September through until  
17 June on Thursday, Friday, or Saturday evenings, as  
18 students return from parties slightly to extremely  
19 intoxicated.

20 It's difficult to walk down the street.  
21 Let share just a few specific examples since you asked  
22 for some. About a year ago, I was awakened in the  
23 middle of the night with screaming, and a student who  
24 was very drunk had pulled over a trash can with a  
25 cement bottom. The police had to come out and take

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1 over it.

2 Marijuana and other drugs passed hands in  
3 a small park next to my house, where I called out the  
4 D.C.'s finest several times last year where arrests  
5 were made and undercover agents were active and  
6 undercover police.

7 Brick columns were smashed about six to  
8 eight months ago everywhere throughout the  
9 neighborhood on 25th Street and I Street and 26th  
10 Street. I constantly pick up feces in the side yard,  
11 and I have witnessed as late as last night a student  
12 who was publicly urinating in a neighbor's yard.

13 CHAIRPERSON MITTEN: I need your closing  
14 thought, please.

15 MS. WALLACE: I urge you to look for a  
16 balance. All the testimony and all the comments I  
17 heard today, I did not once hear anybody from GWU  
18 speak about that balance. And I am asking you to look  
19 for that balance. You, the Commissioners, hold the  
20 scale that can help us to achieve that balance.

21 Thank you.

22 CHAIRPERSON MITTEN: Thank you.

23 Ms. Gilbert?

24 MS. GILBERT: I, too, came to Foggy  
25 Bottom, and one of the things --

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1 CHAIRPERSON MITTEN: Would you state your  
2 name for the record?

3 MS. GILBERT: Oh, I'm sorry. Abby  
4 Gilbert.

5 CHAIRPERSON MITTEN: Thank you.

6 MS. GILBERT: I've been in Foggy Bottom  
7 for 30 years at Columbia Plaza.

8 CHAIRPERSON MITTEN: Thank you.

9 MS. GILBERT: One of the things that drew  
10 me here was the George Washington University. It adds  
11 a lot to the community, but in the past 10 years it  
12 certain has gone the other way. It is destroying the  
13 neighborhood and destroying our quality of life, and  
14 a lot of it has to do with the rude behavior of the  
15 increasing number of students who no longer live on  
16 the campus but live -- not only live in residential  
17 properties around it but are removing apartment space,  
18 particularly in Columbia Plaza, for the very people  
19 the building was built for -- the working community  
20 that could live and work downtown.

21 I will just cite a number of instances.  
22 Students who throw metal furniture, bottles, and cans,  
23 not only onto other people's balconies but down into  
24 the plaza, so much so that the management has had to  
25 do something about that. They vomit and urinate in

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1 elevators, hallways, stairwells. They leave food,  
2 cans, and, yes, even the perennial banana peels in the  
3 stairwells, which is extremely dangerous. I've had to  
4 go to the front desk personally nights and weekends to  
5 get it removed, because if the building has to be  
6 evacuated at night people can slip and fall on this  
7 debris that's in the stairwells.

8           They shout and yell back and forth across  
9 balconies. Once in a while is one thing, but  
10 constantly is another. And they do things that are  
11 not only annoying, but that are dangerous. There are  
12 a lot of senior citizens in the neighborhood, and the  
13 things that the students do endangers their ability  
14 just to walk casually down a street.

15           Finally, they do things like they steal  
16 carts from the Safeway. This makes it extremely  
17 difficult to shop. You have to go down twice. You  
18 can't go to the CVS, carry your packages, put them in  
19 the cart, and bring your groceries home. You have to  
20 go back, because you cannot carry what else is in your  
21 hand and the baskets, because the carts are gone.

22           So I agree with my neighbors. We think a  
23 balance has to be struck, and something has to be done  
24 about the rude student behavior that is totally  
25 destroying the quality of the life of the taxpayers of

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1 Foggy Bottom.

2 CHAIRPERSON MITTEN: Thank you.

3 Sir?

4 MR. CARNAHAN: Hi. My name is Kevin  
5 Carnahan, and I live at 3 Washington Circle, so I'm at  
6 the north side of the campus. Basically, 3 Washington  
7 Circle had its annual meeting in the beginning of  
8 September, right before these meetings. And at the  
9 meeting I got up and said, "Hey, does anybody know  
10 what's going on at the Zoning Commission hearing?"  
11 Nobody knew.

12 Nobody knows about the density issue.  
13 I've since told them, but nobody knew about it  
14 beforehand. And so now the Board is in the middle of  
15 drafting a letter against the proposal, hoping that  
16 you guys will consider it. On behalf of our 50 units,  
17 we've got about 100 people living and working there  
18 between the doctor's offices and the residents.

19 And, you know, I was little floored when  
20 I came and heard that OP and GW both said that the  
21 neighborhood was behind it. And I kept thinking, who  
22 are they talking to? Because it's apparently some  
23 sort of passive contact with the neighborhood rather  
24 than active contact with the neighborhood, which is  
25 really distressing considering all of the issues that

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1 are going on.

2 I mean, obviously, there are a lot of  
3 issues with, you know, being a closeby resident. But  
4 one of the things that nobody seems to be talking  
5 about as well is the things that will affect the rest  
6 of D.C., such as all of the failed intersections right  
7 around the circle, right in front of the emergency  
8 room, which will affect, you know, people in wards  
9 further away than Ward 2, because we've lost how many  
10 emergency rooms in the last 5, 10 years, right?

11 Walter Reed is about to close down. So,  
12 I mean, it sounds fantastic to say this, but who is  
13 going to have to die before anybody cares? You know,  
14 with emergency services, DDOT says, "Hey, take the  
15 Metro." You can't say that with the emergency  
16 services.

17 So, I mean, from a city perspective, what  
18 they're proposing is ridiculous. From a citizen  
19 perspective, living across the street, the noise is  
20 out of control, and not from the traffic, from the  
21 students. I mean, I can't have a conversation in my  
22 front room. I can't be on my cell phone, I can't be  
23 talking to somebody, I can't watch a television show  
24 with the windows open. I mean, you can't do it. It's  
25 ridiculous.

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1           Parking is out of control. Literally, a  
2 parking space off street costs \$50,000. I mean, that  
3 tells you how rare they are. I park illegally all the  
4 time. I do. Admit it, wholeheartedly. I do. I get  
5 tickets for it, and I pay them, because, you know  
6 what? \$50,000 is a lot of money. So you've got that.

7           I've seen a lot of violence. I've called  
8 the police a number of times. I have seen a lot of  
9 waste of emergency services. And, you know, just a  
10 lot of alcohol abuse and -- I'm pretty much done here  
11 -- but just -- just to wrap it up, I don't begrudge GW  
12 for wanting to make it a better place. That's great.  
13 But 2.8 million square feet, I mean, that's just  
14 ridiculous. So that's it.

15           CHAIRPERSON MITTEN: Thank you, Mr.  
16 Carnahan.

17           MR. CARNAHAN: Sure.

18           CHAIRPERSON MITTEN: Questions from the  
19 Commission for the panel? Any questions? Any  
20 questions, Ms. Dwyer? Mr. Hitchcock?

21           MR. HITCHCOCK: One question for all three  
22 panelists. How effective have you found the  
23 university's hotline or police reaction to be to the  
24 types of situations you describe?

25           MR. CARNAHAN: I didn't know GW had a

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1 hotline.

2 CHAIRPERSON MITTEN: Ms. Wallace, did you  
3 want to address that?

4 MS. WALLACE: I tried their police once.  
5 There was no response. All it takes it just once, so  
6 after that I went to -- I live in D.C. I pay my taxes  
7 in D.C. So I called the D.C. Police, who come out.

8 CHAIRPERSON MITTEN: Ms. Gilbert, did you  
9 have any comment on that?

10 MS. GILBERT: I personally have not  
11 called. I know neighbors that have. They have had  
12 poor response. And my only feeling is GW has a  
13 student code of conduct, some of which they sort of  
14 laxly apply in my apartment building. But my question  
15 is: if this is how they deal with student problems,  
16 how are they going to keep their promises about this  
17 campus plan?

18 CHAIRPERSON MITTEN: Thank you.

19 Anything else, Mr. Hitchcock? Ms. Kahlow,  
20 any -- okay, thanks to the panel. Thanks for hanging  
21 in there with us until this late hour.

22 Okay. Now we have to -- we're out of the  
23 four days. We've completed the four days that we had  
24 set aside, and now we clearly are not done. So we  
25 have to pick a hearing day for continuation. And

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1 rather than stick to our regular hearing nights of  
2 Monday and Thursday, because if we did that we would  
3 be in February before we could come together again,  
4 the Commission has agreed to meet on a Wednesday. And  
5 the two dates to propose are the 11th and the 18th of  
6 October.

7 Now, just to remind everybody what we have  
8 left to do, we have the cross examination of the  
9 additional submissions by the applicant, and those  
10 were the ones that were received a week ago. DDOT  
11 will return. We're inviting the ZA to join us to --  
12 let's say, we'll have a submission date for that --  
13 what we'd like him to consider, and then we'll have  
14 rebuttal testimony from the university and cross  
15 examination on all that good stuff.

16 So we kind of need everybody. We need --  
17 you know, I think everybody would want to have their  
18 experts here, and so on.

19 Ms. Dwyer?

20 MS. DWYER: Either date works for us.

21 CHAIRPERSON MITTEN: Okay. Mr. Hitchcock?

22 MR. HITCHCOCK: The 18th is the ANC meeting  
23 date.

24 CHAIRPERSON MITTEN: Okay. So how does  
25 the 11th work?

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1 MR. HITCHCOCK: That's fine with us.

2 CHAIRPERSON MITTEN: Ms. Kahlow, does that  
3 work?

4 MS. KAHLOW: Yes.

5 CHAIRPERSON MITTEN: Okay. Wow, that was  
6 easier than I thought it was going to be.

7 Okay. Now, to make a good-hearted effort  
8 to get through in one more session, we're going to  
9 start at 5:30.

10 So now what I'd like to be able to do is  
11 give the -- let's give -- let's see if we can work  
12 with this, to give the Zoning Administrator -- the  
13 purpose of bringing the Zoning Administrator -- what's  
14 that?

15 MS. DWYER: I just checked with Mr. Katz.  
16 he has an Audit Committee meeting that day, and he  
17 cannot be here until 6:30 on the 11th.

18 CHAIRPERSON MITTEN: Can you live without  
19 him until -- for an hour?

20 MS. DWYER: Well, it sounds like we're  
21 starting with a cross examination of the  
22 September 21st filing.

23 CHAIRPERSON MITTEN: Why don't we do this?  
24 If there are any questions for Mr. Katz that crop up,  
25 we'll save those until he can get here. But I really

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1 want to start at 5:30.

2 MS. DWYER: Okay. He is going to be  
3 answering all of those.

4 CHAIRPERSON MITTEN: Oh, all of those.

5 MS. DWYER: So maybe we can start with  
6 DDOT --

7 CHAIRPERSON MITTEN: That's fine.

8 MS. DWYER: -- and the Zoning  
9 Administrator.

10 CHAIRPERSON MITTEN: Fine, we'll do that.

11 MS. DWYER: And then do the cross.

12 CHAIRPERSON MITTEN: Fine. Okay. The  
13 purpose of bringing -- the principal purpose of  
14 bringing the Zoning Administrator here is to advise us  
15 about the proposed conditions. And so what I would  
16 need for that is notwithstanding -- I mean, we do  
17 understand that the position of the Foggy Bottom  
18 Association and the West End Citizens Association and  
19 the ANC is that this should be denied.

20 But in the event that it isn't, it would  
21 be helpful to have all the proffered conditions, so  
22 that we can get a reaction as to enforceability and  
23 clarity from the Zoning Administrator. But we need to  
24 give them time to digest that. So I'd like to give  
25 them a week and hope they can accommodate the -- you

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1 know, the purpose of the additional session. But we  
2 need everybody to submit those by the 4th of October  
3 to the Zoning -- directly to the Zoning Administrator,  
4 as well as to us.

5 MR. HITCHCOCK: These are our questions to  
6 be submitted to the Zoning Administrator for comment?

7 CHAIRPERSON MITTEN: No proposed  
8 conditions, so that he can advise us about if we  
9 adopted such a condition, is that something -- is it  
10 clear enough, is it -- you know, does he have the  
11 resources to enforce the conditions on.

12 MS. DWYER: And we would file these in the  
13 record, serve on all parties, and also hand-deliver to  
14 the Zoning Administrator.

15 CHAIRPERSON MITTEN: Yes. By October 4th.  
16 Ms. Kahlow?

17 MS. KAHLOW: I'm a little unclear. I  
18 thought we were also going to be asking him so that  
19 before we can write these conditions exactly how is he  
20 enforcing the various conditions now, so we can see  
21 what the failings are in those, and then we can come  
22 up with proper language. I had a whole series of  
23 questions for him about that.

24 CHAIRPERSON MITTEN: Well, you can ask him  
25 those questions when he's here. It's just that to use

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1 him to best effect, you know, let's try and -- you can  
2 ask him all those questions, but to the extent that  
3 you have conditions that you'd like to suggest,  
4 because I'm -- because I know you do, in particular,  
5 because you've been suggesting them to us, let's get  
6 his reaction to those. Is everybody clear?

7 Okay. So we will, at our next session,  
8 which will be -- which will be October 11th at 5:30,  
9 we will begin with the DDOT representative, who I know  
10 the Office of Planning is going to invite, and I would  
11 like Mr. Laden to be that person, and we'll begin with  
12 the DDOT representative, and then we'll have the  
13 Zoning Administrator give us his reaction to the  
14 proposed conditions as well as he'll be presenting  
15 himself for cross examination on his existing  
16 interpretations, but not to dwell on the enforcement  
17 -- the audit, other than to as to it relates -- other  
18 than as it relates to his interpretations.

19 Then, we'll have the cross examination of  
20 the additional submissions by the applicant, and  
21 hopefully by that time Mr. Katz will have joined us  
22 and then we'll have rebuttal. Everybody clear?

23 MR. HITCHCOCK: One additional question.  
24 On the DDOT, I take it it's going to be going over the  
25 material -- the DDOT report that was filed prior to

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1 the hearing? I mean --

2 CHAIRPERSON MITTEN: Well --

3 MR. HITCHCOCK: -- and I'm asking in part  
4 because we will provide Mr. Mehra's report to Mr.  
5 Laden, so he can have commentary on that as well.

6 CHAIRPERSON MITTEN: Right. We already --

7 MR. HITCHCOCK: I'm just trying to --

8 CHAIRPERSON MITTEN: We had the woman  
9 whose name I can't remember --

10 MS. DWYER: Charlene Reed.

11 CHAIRPERSON MITTEN: -- Charlene Reed, who  
12 was here for DDOT.

13 MR. HITCHCOCK: Yes.

14 CHAIRPERSON MITTEN: And we asked her to  
15 follow up on a number things, and so we'll be looking  
16 for that followup as well as the DDOT representative's  
17 reaction to Mr. Mehra's --

18 MR. HITCHCOCK: Would it be possible to  
19 request getting a copy of that in advance, so we can  
20 talk it over with experts? I mean, it's difficult  
21 getting these technical reports two hours before the  
22 hearing.

23 CHAIRPERSON MITTEN: I agree with you, but  
24 it's -- the bigger challenge is getting anybody from  
25 DDOT to actually come. So we'll do the best we can.

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1 MR. HITCHCOCK: Okay.

2 CHAIRPERSON MITTEN: I mean, I think  
3 Office of Planning will convey your request. I mean,  
4 we like to see it in advance, too. We'll do the best  
5 we can.

6 MR. HITCHCOCK: Okay.

7 CHAIRPERSON MITTEN: We can only ask.

8 MR. HITCHCOCK: Understood.

9 MS. DWYER: And I have one related  
10 question. Since Mr. Laden wasn't here, is it possible  
11 he can get a transcript, because we asked for specific  
12 information.

13 CHAIRPERSON MITTEN: Right.

14 MS. DWYER: If you could give him that.

15 CHAIRPERSON MITTEN: Is that available  
16 yet?

17 SECRETARY SCHELLIN: Probably not. It  
18 takes about three weeks.

19 CHAIRPERSON MITTEN: Well, did anybody  
20 keep track of what we had been asking for in terms of  
21 additional submissions? And Ms. Reed was nodding at  
22 me, and not taking any notes.

23 SECRETARY SCHELLIN: Excuse me. We  
24 ordered an expedited transcript, so --

25 CHAIRPERSON MITTEN: Oh, you did. Can you

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1 -- so can you share that and maybe sure everybody  
2 knows what she agreed to? Okay. That's great.

3 MR. HITCHCOCK: And just to confirm, the  
4 record is still open for any additional comments from  
5 the community?

6 CHAIRPERSON MITTEN: Absolutely. The  
7 record is still open, and as of this point I don't  
8 know when we're going to close it. So it will be open  
9 at least until the 11th.

10 So I thank you all again for staying with  
11 us on the late night. And if you're interested, we'll  
12 be back on the 11th.

13 (Whereupon, at 11:29 p.m., the  
14 proceedings in the foregoing matter were  
15 adjourned.)

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