

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

+ + + + +

IN THE MATTER OF:

THE GEORGE WASHINGTON
UNIVERSITY/LEARNER HEALTH AND
WELLNESS CENTER

Case No.:
02-26A

Tuesday,
November 15, 2007

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

The Public Hearing of Case No. 02-26A by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room at 441 4th Street, Northwest, Washington, D.C., Anthony J. Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD Chairperson
GREGORY JEFFRIES Vice Chair
CURTIS ETHERLY Commissioner
MICHAEL G. TURNBULL Commissioner (AOC)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN Secretary
DONNA HANOUSEK Zoning Specialist

OFFICE OF PLANNING STAFF PRESENT:

TRAVIS PARKER

This transcript constitutes the minutes from the Public Hearing held on November 15, 2007.

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

6:36 p.m.

CHAIRPERSON HOOD: All right.

First of all, let me apologize for being maybe 10 minutes late. We were taking care of a matter. Good evening, ladies and gentlemen. This is the Public Hearing of the Zoning Commission of the District of Columbia for Thursday, November 15, 2007.

My name is Anthony J. Hood. Joining me this evening are Vice Chairman Greg Jeffries, also Commissioners Curtis Etherly and Commissioner Mike Turnbull. We are also joined by the Office of Zoning staff Ms. Sharon Schellin and Donna Hanousek, and the Office of Planning, Mr. Travis Parker.

This proceeding is being recorded by a Court Reporter and is also webcast live. Accordingly, we must ask you to refrain from any disruptive noises or actions in the hearing room. The subject of this evening's hearing is Zoning Commission Case No. 02-26A.

1 This is a request by George Washington
2 University for special exception relief
3 pursuant to 210 and 3104.1 of the Zoning
4 Regulations.

5 Notice of today's hearing was
6 published in the D.C. Register on October 5,
7 2007 and copies of the announcement are
8 available to my left on the wall near the
9 door. This hearing will be conducted in
10 accordance with the provisions of 11 DCMR 3117
11 as follows:

12 Preliminary matters, applicant's
13 case, report of the Office of Planning, report
14 of other Government agencies, report of the
15 Advisory Neighborhood Commission 2A,
16 organizations and persons in support,
17 organizations and persons in opposition,
18 rebuttal and closing by the applicant.

19 The following time constraints
20 will be maintained in this meeting. The
21 applicant I think has requested 20 minutes.
22 The organizations 5 minutes, individuals 3

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1 minutes. The Commission intends to adhere to
2 the time limits as strictly as possible in
3 order to hear the case in a reasonable period
4 of time. The Commission reserves the right to
5 change the time limits for presentations, if
6 necessary, and no time shall be ceded.

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

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

21 The decision of the Commission in
22 this case must be based exclusively on the

1 public record. And to avoid any appearance to
2 the contrary, the Commission requests that
3 person present not engage the Members of the
4 Commission in conversation during any recess
5 or in any other time.

6 The staff will be available
7 throughout the hearing to discuss procedural
8 questions. Please, turn off beepers and cell
9 phones, at this time, so not to disrupt these
10 proceedings.

11 Would all individuals wishing to
12 testify, please, rise to take the oath? Ms.
13 Schellin, would you, please, administer the
14 oath?

15 (Whereupon, the witnesses were
16 sworn.)

17 MS. SCHELLIN: Thank you.

18 CHAIRPERSON HOOD: At this time,
19 the Commission will consider any preliminary
20 matters. Does the staff any preliminary
21 matters?

22 MS. SCHELLIN: We do have two

1 requests for party status. However, the West
2 End Citizens Association I had communication
3 with them today and they have withdrawn their
4 request, because they are not able to attend
5 this evening, so that leaves one party status
6 request from Mrs. Miller. And one other small
7 one, we need the Affidavit of Maintenance from
8 the applicant.

9 CHAIRPERSON HOOD: Okay. So
10 colleagues, you have heard the report from Ms.
11 Schellin. The West End Citizens Association
12 has withdrawn their party status application.
13 No noted.

14 We now have a request, which is
15 Exhibit 02-26A -- I'm sorry, that's the Case
16 No. Exhibit No. 15 from Mrs. Dorothy Miller.
17 I know Ms. Miller has been an advocate out
18 here in this process for a long time, but when
19 I read her submittal, I didn't think it met
20 the test of 3022.3.

21 And I also noticed on here that
22 Ms. Miller had asked for 3 minutes. And we

1 also have something submitted that she is
2 representing Columbia Plaza Tenants
3 Association in which she will get 5 minutes.

4 So I am in the mindset of denying
5 her party status and she will be able to
6 present her testimony to us as a
7 representative of Columbia Plaza Tenants and
8 she would also have 5 minutes. Her request
9 for party status asked for 3 minutes. So
10 unless there are some other issues, I would
11 move that we deny Ms. Dorothy Miller party
12 status in Zoning Commission Case No. 02-26A.
13 May I ask for a second? I ask for a second,
14 if not --

15 COMMISSIONER ETHERLY: Second it,
16 Mr. Chair.

17 CHAIRPERSON HOOD: Okay. It has
18 been moved and seconded. Any discussion?

19 COMMISSIONER JEFFRIES: Chairman,
20 before we move forward, I just -- can you
21 speak a little bit about your concern about
22 Mrs. Miller not qualifying, the motion for

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1 party status?

2 CHAIRPERSON HOOD: Well, when I
3 look at her submittal and I have a lot of
4 respect for Ms. Miller, but I look at her
5 submittal, what she submitted, she talks about
6 located one block from the property. And the
7 property -- I'm reading off of page 2 of her
8 submittal.

9 COMMISSIONER JEFFRIES: Um-hum,
10 um-hum.

11 CHAIRPERSON HOOD: As described
12 more fully in my substantive statement, The
13 George Washington University building has and
14 will continue to have an effective number of
15 people. Our regulations specifically say, and
16 I stand to be corrected, how someone is
17 uniquely affected.

18 COMMISSIONER JEFFRIES: Right.

19 CHAIRPERSON HOOD: But in her own
20 testimony, she negates herself. That's the
21 way I see it.

22 COMMISSIONER JEFFRIES: Okay. Do

1 you --

2 CHAIRPERSON HOOD: I mean, I'll
3 take my motion off the table.

4 COMMISSIONER JEFFRIES: Oh, no,
5 no, no.

6 CHAIRPERSON HOOD: Okay. I feel
7 like I'm on the witness stand, but I --

8 COMMISSIONER JEFFRIES: Oh, no,
9 no, no, no. I just wanted just to make
10 certain that just for the record that we
11 actually spoke to the outright concern. And
12 I would agree, Mr. Chair, that, you know, this
13 whole notion of party status, you know, should
14 be somewhat of a pure test and a strict test.
15 And so I would concur and particularly given
16 the fact that, you know, I think that she will
17 be able to -- she will get 5 minutes in terms
18 of speaking. Do you have anything?

19 CHAIRPERSON HOOD: Okay. Any
20 further discussion? Okay. All those in
21 favor?

22 ALL: Aye.

1 CHAIRPERSON HOOD: Any opposition?

2 So staff, would you record the vote?

3 MS. SCHELLIN: Staff records the
4 vote as 4-0-1 to deny party status to Dorothy
5 Miller. Commissioner Hood moving,
6 Commissioner Etherly seconding, Commissioners
7 Turnbull and Jeffries in favor, Commissioner
8 Parsons not present, not voting.

9 CHAIRPERSON HOOD: Okay. So I
10 guess we can move now to the applicant's case.
11 Mr. Moore?

12 MR. MOORE: Good morning, Mr.
13 Chairman, good afternoon, good evening, Mr.
14 Chairman.

15 CHAIRPERSON HOOD: I hope it's not
16 morning.

17 MR. MOORE: Members of the
18 Commission.

19 CHAIRPERSON HOOD: It's been a
20 long day.

21 MR. MOORE: Yeah, that's what
22 happens when you get old.

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1 COMMISSIONER JEFFRIES: Afternoon,
2 early evening.

3 MR. MOORE: I'm Jerry A. Moore,
4 III, of the Law Firm of Venable, here today as
5 outside counsel to Howard -- GW, George
6 Washington University. With me is the Senior
7 Counsel of the University, Charles K. Barber
8 and the Director of Real Estate Operations,
9 who is Ms. Alicia O'Neil. There are also a
10 number of people in the audience who are --
11 have come here tonight to express their view
12 as to this application.

13 This is the fourth time that this
14 particular building has been before the Zoning
15 Commission and as such, there are a number of
16 entries into the record, not only in this
17 case, but in the previous cases. We have
18 tried very hard to put a substantial case into
19 the record which would be bolstered by
20 testimony here tonight, but we are willing to
21 stand on that record and answer questions
22 should the Commission have any if that is to

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1 the Commission's liking.

2 In addition, I would like to just
3 give a summary statement to the Commission
4 summarizing the evidence which already is in
5 the record and then we would have questions.
6 I would offer my witnesses for questions. We
7 also have Ms. Nicole White, who is the
8 President of Symmetra Designs, who the
9 Commission has previously accepted on many
10 occasions as an expert in transportation and
11 parking affairs.

12 In addition to the summary
13 statement that I would just ask the Commission
14 for 3 minutes to make, I would ask the
15 Commission to hear just briefly from the
16 citizens who have come here to testify on this
17 record on this application. They have taken
18 the time to write out statements. They have
19 taken the time to come out here on this cold
20 and rainy evening to testify and I would like
21 the Commission just to hear them briefly.

22 We have tried to organize them in

1 the form of panels, but that is up to the
2 Commission as to how the Commission would like
3 to handle that.

4 CHAIRPERSON HOOD: Let me do this.
5 Let me see if it's okay for you to give us an
6 expedited presentation of 3 minutes.

7 MR. MOORE: Yes.

8 CHAIRPERSON HOOD: I think that's
9 what you asked for and then the rest is done
10 on the record and we can ask questions.

11 MR. MOORE: Yes. And Mrs. Miller,
12 I understand, is going to give testimony. I
13 would like to have just a couple of minutes,
14 should I choose to use them to respond to Mrs.
15 Miller's testimony. I believe Mrs. White --
16 Ms. White has a document she would like to
17 submit to the record which amends a
18 transportation and parking report that is
19 already in the record.

20 CHAIRPERSON HOOD: Let me see.
21 Again, colleagues, my question is do we want
22 the expedited version? The quick version?

1 That sounds good. Thank you.

2 MR. MOORE: Thank you. Let me
3 speak to just a couple of the issues that are
4 before the Commission. The locational issue,
5 there are some concerns expressed by Mrs.
6 Miller about whether this is the right place
7 for this particular facility. Well, that's
8 already been decided. The Commission decided
9 in 1998, the Commission decided in 2004 this
10 is the right place, therefore, for the Health
11 and Wellness Center to be. It decided just
12 recently in this year on the campus plan this
13 is the right place to be. So the locational
14 issue is already decided.

15 Impact on the existing users,
16 well, there -- the users that we propose here
17 are no different from those that we have
18 proposed before and that have been accepted by
19 the Commission, not only in 1998, but in 2004
20 as well. The impact of additional users has
21 been set forth in the statement that we have
22 submitted into the record.

1 The OP report corroborates that
2 statement as does the unanimous report of the
3 ANC. And we also have an expert report of
4 transportation and parking in the record. The
5 issue as to the incidental public users, well,
6 in a Residential Zone that has been raised by
7 Mrs. Miller, well, that issue has been
8 addressed repeatedly. Incidental public users
9 and university users in Residential Zones
10 have been repeatedly authorized by the BZA and
11 the Zoning Commission in previous cases. And
12 that having non-university people use
13 university uses in residential zones on an
14 incidental basis, it's common to universities
15 not only in the city, but common to
16 universities around the country.

17 The impact on the use and
18 enjoyment of neighboring property, again, we
19 rely on the statement that's in the record as
20 buttressed by the Office of Planning report
21 and by the persons who are here in support of
22 the application, many of whom live around the

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1 Health and Wellness Center.

2 The reasons the Board curtailed
3 the university's previous request in 1994,
4 there was an application to build the building
5 at its current location, that application was
6 denied by a vote of 3-2, based mainly on the
7 opposition of the Saint Mary's Church and the
8 Commission, the Board of Zoning Adjustment's
9 feeling that it did not want medical uses in
10 that building at that location.

11 In 1998, things changed. The
12 Saint Mary's Church became a supporter of the
13 project and only the opposition of the ANC and
14 the Foggy Bottom Association was entered into
15 the record. The Office of Planning asked that
16 the application be approved without conditions
17 and it was. The application was approved, but
18 it had certain conditions restricting the
19 number of people who could use the facility.

20 In 2004, the Commission continued
21 the uses of the student, faculty and staff of
22 the George Washington University, Foggy Bottom

1 Campus and it added some other users at the
2 Mount Vernon Campus, The School Without Walls
3 and the board of trustees. This was done over
4 the opposition of the ANC and the -- with the
5 Office of Planning recommending a compromise
6 position, which was ultimately accepted by the
7 Commission.

8 Now, what we have is we have the
9 uncondition -- in 2007, after six years of
10 operations of that facility, we understand how
11 it operates. We understand what the impact it
12 has -- that it has caused on the community,
13 which is none. And we understand the
14 university's continuing use to be a service to
15 this particular community.

16 We are pleased to say that the
17 Office of Planning and -- both the Office of
18 Planning and the Advisory Neighborhood
19 Commission 2A have offered their unconditional
20 support of this application. And with that,
21 we would rest on the record and be available
22 to answer any questions that the Commission

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1 might have as to the operations of this
2 facility and to the future.

3 CHAIRPERSON HOOD: Thank you very
4 much, Mr. Moore. I'm going to start off,
5 because this will help me to get through. You
6 were nice enough to provide the old order, in
7 which I voted on previously. And I would like
8 for you to go to page 7 in conclusions of law.
9 I know you don't need me to read it to you,
10 but I'm going to read it out loud for the
11 record.

12 It says "The Commission concludes
13 that the other categories of expanded
14 membership proposed by the university, the
15 Office of Planning and persons in support of
16 the application lack sufficient connection to
17 the university use of the center and will,
18 therefore, be incompatible with the special
19 exception allowing the university use in a
20 Residential Zone." And it talks about those
21 categories.

22 Members of the President's Club,

1 we know that didn't happen and other things,
2 but what has changed from that? And maybe you
3 explained it and maybe I missed it.

4 MR. MOORE: No.

5 CHAIRPERSON HOOD: But what has
6 changed from that, what this Commission has
7 decided previously which two of us sat on, as
8 opposed to now?

9 MR. MOORE: May I be quite frank
10 on that? I believe that that ultimate
11 conclusion by the Commission was reached as a
12 result of a compromise between what the
13 university would like to see and what the
14 opponents would like to have had. The law has
15 not changed at all. The -- that university
16 use in Residential Zoning can, in fact, by law
17 offer those services to incidental public
18 users as a matter of law.

19 Not only as found by this
20 Commission, but found by the D.C. Court of
21 Appeals as well. If you look at the footnote
22 in my -- in our statement, it details the law

1 that has been applied to this. There has been
2 -- there have been numerous instances where
3 this Commission, this Commission has approved
4 the university, this university and other
5 universities using university facilities,
6 offering university facilities to the
7 surrounding community and to the community at
8 large.

9 I give you the Quigley case. I
10 give you the case where the university can
11 offer services from its Marvin Center Food
12 venues. It offers services from the Lisner
13 Auditorium. It offers services from other
14 food service venues. Howard University offers
15 services to university services in Residential
16 Zones to the public at large, as does
17 Georgetown, George -- and American University.

18 So I think we have said in the
19 record the clear -- a clear statement of law
20 where not only the Commission, but the D.C.
21 Court of Appeals has ruled and repeatedly
22 authorized the universities to offer

1 university services in Residential Zones to
2 incidental public users.

3 It started out with the Georgetown
4 co-generation case in --

5 MR. BARBER: Could I add to that?

6 CHAIRPERSON HOOD: Sure.

7 MR. MOORE: Charles Barber.

8 MR. BARBER: I'm sorry, Charles
9 Barber, Senior Counsel at George Washington.
10 In addition to the -- I think that was sound
11 position on the law. There is a factual
12 distinction between this application, the last
13 application. The last application had a
14 variety -- we had proposed to have a variety
15 of additional users. Some of them had, quite
16 frankly, less connection to the university
17 than others.

18 They all had some tie. But, for
19 example, we had the President's Club, which
20 was going to be a group of people, perhaps
21 donors and others who had less of a
22 connection. The application before you, all

1 of the proposed additional uses have a direct
2 connection to the university. There are the
3 alumni of GW who live in the Foggy Bottom/West
4 End area that have a direct connection to the
5 university. And then the only other
6 additional users would be those who are
7 immediately adjacent to the center.

8 We're not talking about the
9 neighborhood at large. I think at one time we
10 were talking about all the neighbors and all
11 the people who worked in Foggy Bottom/West
12 End. This is not that application. This
13 application is focused on those people who are
14 immediately adjacent to the center and those
15 alumni who live in the Foggy Bottom/West End
16 area.

17 CHAIRPERSON HOOD: I guess I'm
18 looking at adverse impacts. And I think the
19 previous order, and I forget the number right
20 off we were asking for.

21 MR. MOORE: 06 test, 26.

22 CHAIRPERSON HOOD: No, no.

1 MR. MOORE: Structured as --

2 CHAIRPERSON HOOD: No, the number
3 of -- that would include with the Board what--

4 MR. MOORE: 1,199.

5 CHAIRPERSON HOOD: A total of 199.

6 MR. MOORE: No, 1,199.

7 CHAIRPERSON HOOD: 1,199. That's
8 what we are asking previously.

9 MR. MOORE: Okay.

10 CHAIRPERSON HOOD: So now, we are
11 coming back and we're just asking for 300 on
12 a smaller scale. How do you -- and I thought
13 we had this discussion last time. How do you
14 get the GW alumni in that area? And this may
15 -- and I'm opening it to my colleagues, but
16 how do you give them access and not the GW
17 alumni in my neighborhood? How do you do
18 that?

19 MR. MOORE: The wish here is to be
20 of service to the immediate community, not to
21 the community at large. The university made
22 a conscious decision as is its right to do as

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1 a management issue to offer these memberships
2 to the people who live in the area,
3 recognizing the Commissions and the Office of
4 Planning's previous concerns about being --
5 offering its ability to -- an ability to use
6 the center too broadly.

7 So we tried to be smart about this
8 application and limit the uses that we would
9 offer to the immediate community, people would
10 will be most impacted by the operation of the
11 facility.

12 CHAIRPERSON HOOD: So in other
13 words I guess it's a trade-off. Not
14 necessarily, I don't want to use the word
15 trade-off, but it's a concession?

16 MR. MOORE: Well, we're trying to
17 be smart about it.

18 CHAIRPERSON HOOD: Okay.

19 MR. MOORE: And we tried to
20 present a case that the Commission would be
21 attracted to.

22 MR. BARBER: And that is

1 consistent with what we have done with other
2 facilities in terms of Gelman Library, for
3 example. We opened that to the immediate
4 neighbors. There may be others who live in
5 your neighborhood, quite frankly, who might
6 want to use Gelman Library, but we have
7 restricted that to the immediate neighbors.

8 Similarly here, we are sensitive
9 to the issues that are raised about traffic
10 and parking. Now, if you open it up to people
11 in another neighborhood, they might want to
12 drive and there is those traffic issues. And
13 so we deliberately restricted it to those
14 people who live in the Foggy Bottom/West End
15 area, so that they would be walking.

16 The only small exception is Saint
17 Mary's Church located immediately to the
18 south. They, of course, don't live there, but
19 they come there and they worship there and to
20 the extent that those 50 people might drive,
21 we have a commitment from them that they will
22 park in off-street parking that Saint Mary's

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1 Church provides.

2 So there would be no traffic
3 impact. So that's why we restricted it to
4 those people who reside in Foggy Bottom/West
5 End area.

6 CHAIRPERSON HOOD: Okay. I have
7 some more questions, but I'm going to yield to
8 my colleagues.

9 MR. MOORE: Of course.

10 CHAIRPERSON HOOD: Commissioner
11 Etherly?

12 COMMISSIONER ETHERLY: Sure.
13 Thank you.

14 CHAIRPERSON HOOD: Commissioner
15 Etherly.

16 COMMISSIONER ETHERLY: Thank you
17 very much, Mr. Hood. Let me just follow-up on
18 your line of questioning. I understand the
19 rationale that has been provided. And as you
20 indicated in the Cogen case, it is a fairly
21 straightforward language that speaks to the
22 issue of accessory uses and incidental users,

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1 if you will.

2 It is referenced in the report
3 that is provided from Brailsford and Dunlavey,
4 but I wanted to just speak to it more directly
5 on the record. Put this proposed use scheme
6 in the context of other facilities, either
7 here in the District of Columbia by other
8 universities or universities that have been
9 looked at in other parts of the country, in
10 terms of what is a more typical format.

11 Because I think your submittal
12 suggests that the proposal that is on the
13 table here is not the typical arrangement that
14 you normally see with respect to community
15 users, alumni users and member guests. For
16 example, Georgetown, Yates Field House, how
17 does this compare to Yates Field House and
18 their setup?

19 MR. BARBER: Well, I would submit
20 that this argues GW's use of the Health and
21 Wellness Center is pretty atypical. I can
22 speak generally to colleges and universities

1 and how they run their athletic centers. They
2 are generally open to certainly alumni and
3 frequently open to members of the community.

4 I have a lawyer in my office who
5 is from Oklahoma. She said she could go back
6 to Oklahoma today and use the Health and
7 Wellness Center at the University of Oklahoma.
8 I mean, and that is typical. We have provided
9 a chart in the record that shows that
10 Georgetown University has community
11 memberships and alumni memberships and member
12 guests.

13 And many -- and that's typical of
14 many universities. Indeed, if you look at
15 George Washington University on our Mount
16 Vernon Campus, we have a community swimming
17 pool and we offer community residents
18 memberships to that swimming pool. And
19 basically, what we are trying to do is put
20 this on par with how other collegiate
21 facilities typically operate.

22 And quite frankly, with the 300,

1 it's still well below what other universities
2 do with their athletic facilities.

3 COMMISSIONER ETHERLY: Thank you.
4 Thank you, Mr. Chair.

5 COMMISSIONER JEFFRIES: So let me
6 -- if you can just -- I just need a little
7 clarity. So what's the driver of this
8 decision? Is it just that the center is just
9 not being fully utilized? I mean, what's
10 driving the decision to introduce to this new
11 population?

12 MR. MOORE: Two things. Number
13 one, the university has had numerous
14 conversations with its neighbors and the
15 university has said to its neighbors, we would
16 like to offer these community benefits to you
17 as a trade-off for the imposition that the
18 center will have to your neighborhood.

19 And number two, we think that
20 having the --

21 COMMISSIONER JEFFRIES: So there
22 was no catalyst for that. You just decided

1 one day to --

2 MR. MOORE: Well, let me finish
3 addressing.

4 COMMISSIONER JEFFRIES: Okay.

5 MS. O'NEIL: For the record,
6 Alicia O'Neil, Director of Real Estate
7 Operations at GW. And there are two
8 underlying reasons. The first as Jerry
9 alluded to is that when the university
10 proposed this center, we did make commitments
11 to our immediate neighbors that we intended to
12 allow them to utilize the center.

13 Secondly, as we look at alumni and
14 our community and the benefits that our
15 students receive from interacting with our
16 community as they do in many other forms
17 through alumni, of course, audit, open events
18 that we have, cultural events, athletic
19 events.

20 COMMISSIONER JEFFRIES: Um-hum.

21 MS. O'NEIL: Arts events. We
22 believe it is an important part of the student

1 experience at GW, interacting with the
2 community and the District at large.

3 COMMISSIONER JEFFRIES: So and why
4 weren't they included as a population in the
5 previous one?

6 MS. O'NEIL: They --

7 MR. BARBER: Well, I was there,
8 I'm sorry. We proposed that. The Commission
9 decided not to admit them. And quite frankly,
10 I think it was -- there was some opposition
11 and they decided to draw the line somewhere
12 and so they limited the -- they allowed the
13 facility to go forward, but limited the users.
14 I think we have a lot of experience now in
15 terms of our use to show that we can operate
16 this facility without having objectionable
17 impact and, quite frankly, within the sphere
18 of the number of people who could actually use
19 this, 300 is a drop in the bucket.

20 COMMISSIONER JEFFRIES: Okay. I
21 do have a question for Office of Planning, but
22 I'll wait until that portion of the hearing

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1 happens. And I'm going to make a reference to
2 Ms. Miller's statement. And I think it's a
3 little bit tied to, you know, this question
4 about she says the problem of incrementalism
5 and, you know, I'm just -- I mean, what
6 happens another two years from now if you
7 decide that there is some more populations
8 that should perhaps, you know, utilize the
9 wellness center?

10 I mean, I clearly buy the whole
11 notion of, you know, being able to offer
12 services to the immediate community and so
13 forth. I'm really clear on that, but I just
14 want to make certain that, you know, we're not
15 doing this sort of two-step, you know, every
16 two years. So just if you could speak a
17 little bit to that?

18 MR. BARBER: I would say the
19 application before you encompasses the entire
20 plans of the university, at this time. Can I
21 tell you that we will never come back and ask
22 for anything further in this regard? No, but

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1 I think today what we have before you we think
2 is a reasonable application that doesn't
3 happen to have adverse impact. Any
4 application, would that be judged on its own
5 merits --

6 COMMISSIONER JEFFRIES: Right.

7 MR. BARBER: -- in the future.

8 You can certainly turn it down. We don't have
9 any plans to come back and ask for more in two
10 years, but, you know, events do change and we
11 could take another look at it. And I think we
12 could always file. What you do with that, I
13 think, is certainly up to the Commission.

14 COMMISSIONER JEFFRIES: Right.

15 MR. BARBER: But that is not our
16 intention with this.

17 COMMISSIONER JEFFRIES: Okay.

18 Thank you.

19 COMMISSIONER TURNBULL: Thank you,
20 Mr. Chair. I guess I have -- if you could
21 clarify something for me in your executive
22 summary on page 13? After the three bullets,

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1 the sentence following if the restrictions are
2 modified as proposed, the university will
3 extend membership to a maximum of 300 new
4 users, the mix of which will be determined by
5 the university judged principally by demand.

6 And then you footnote 10, in which
7 you -- the comment is "The university commits
8 to making at least 50 of these memberships
9 available to immediate adjacent residents as
10 previously defined."

11 Could you go into that a little
12 bit more for us?

13 MR. MOORE: Sure. You want to
14 start first, Alicia?

15 MS. O'NEIL: Sure. Within the
16 class that we are proposing, these 300
17 additional users, the initial demand indicates
18 that, approximately, 50 of those memberships
19 would be utilized by the immediate neighbors
20 and that would be our commitment moving
21 forward, that at least 50 of those would be
22 provided to those immediate neighbors, that's

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1 based on current demand, so that's the
2 language saying that we would modify that
3 based on demand, either between the user
4 groups as events change or certainly moving
5 forward.

6 MR. BARBER: But we would be -- if
7 there had to be a condition that said, you
8 know, it could be no less than 50 going to the
9 immediate neighbors, that's certainly
10 something we could live with as well. We
11 think that's comfortable given what we know
12 with what the demand is. And let me explain
13 a little bit of something about the 50.

14 These are 50 that are going to the
15 immediate neighbors. They will manage -- the
16 organizations, the management of those
17 respective organizations will manage those
18 passes that we will provide free of charge.
19 And, you know, there could be more than the 10
20 or 15 we allow each organization, because on
21 any given day, it would only be 10 or 15, but
22 they could rotate among their membership.

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1 So with that flexibility, we feel
2 we would meet the needs as expressed by these
3 immediate neighbors. The number would never
4 change. The total number would still be 50
5 for those immediate neighbors and that again
6 reflects what their desires are.

7 COMMISSIONER TURNBULL: Well, what
8 is included, I guess, in immediate neighbors
9 under the 50?

10 MR. BARBER: We have identified
11 that as Saint Mary's Court, Saint Mary's
12 Church, The Remington, that's it.

13 MS. O'NEIL: Yes.

14 COMMISSIONER TURNBULL: So The
15 School Without Walls is part of the 250 then?

16 MR. BARBER: No.

17 MS. O'NEIL: No.

18 MR. BARBER: The School Without --
19 let me explain. There are two parts to this
20 application. The School Without Walls'
21 students under an organized program was
22 approved in 2004.

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1 COMMISSIONER TURNBULL: All right.
2 That explains.

3 MR. BARBER: We have to renew
4 that. That was good for three years.

5 COMMISSIONER TURNBULL: Okay.

6 MR. BARBER: That we're asking to
7 renew and make permanent.

8 COMMISSIONER TURNBULL: All right.

9 MR. BARBER: In addition, this 300
10 would be on top of that. The 250 would be for
11 the local alumni. The 50 of the 300 would be
12 towards the immediate neighbors, those three
13 groups I mentioned.

14 COMMISSIONER TURNBULL: Well, I
15 guess, what do you mean by the mix will be
16 determined? If the other 250 are internal GW,
17 they are alumni?

18 MR. BARBER: They are alumni.

19 COMMISSIONER TURNBULL: How does--
20 I guess I'm confused by what you are trying to
21 control by that wording, the mix of which will
22 be determined by the university.

1 MR. MOORE: I think what the
2 university is trying to do is it's trying to
3 manage the flow into the center itself. For
4 zoning purposes, what we are asking for is to
5 give us a maximum of 300 new users from the
6 immediate neighborhood. And the numbers that
7 will come from each category within that
8 particular neighborhood would be managed
9 according to the ebbs and flows of demand by
10 the university.

11 So we don't want to have to come
12 back to the Zoning Commission for -- to say
13 that -- to ask that the Saint Mary's Church be
14 given 51 instead of 50, because of the -- we
15 underestimated the demand at Saint Mary's
16 Church. So for zoning purposes, we're asking
17 for 300 and that's point number one.

18 Point number two is we're asking
19 you to let us manage within that 300 among the
20 groups.

21 COMMISSIONER TURNBULL: So again,
22 Mr. Barber, you said so maybe it might say a

1 minimum of 50 for the adjacent?

2 MR. BARBER: Yes, we could do
3 that.

4 COMMISSIONER TURNBULL: And then I
5 guess I want to be sure that we are looking
6 strictly at alumni in the 250, not going to
7 come back with the President's Club idea.

8 MR. BARBER: No. The President's
9 Club is off the table.

10 COMMISSIONER TURNBULL: Okay.
11 Thank you.

12 MR. BARBER: Sure.

13 CHAIRPERSON HOOD: Is it off the
14 table for now?

15 MR. BARBER: It's not in this
16 application. I think I had mentioned --

17 COMMISSIONER JEFFRIES: The point
18 is you keep the population small each time.

19 CHAIRPERSON HOOD: Well, and
20 that's why when I was reading this
21 application, and I've been here nine years.

22 MR. BARBER: Yes.

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1 CHAIRPERSON HOOD: And not as long
2 as you, Mr. Barber, but I will tell you --

3 MR. BARBER: From my gray hair,
4 huh?

5 CHAIRPERSON HOOD: -- you said it.

6 MR. BARBER: Yes.

7 CHAIRPERSON HOOD: But the issue
8 is trust.

9 MR. BARBER: yes.

10 CHAIRPERSON HOOD: A trust factor.

11 MR. BARBER: I appreciate that.

12 CHAIRPERSON HOOD: And when I look
13 at the original application, BZA case, the
14 conditions talked about being university use.

15 MR. BARBER: Yes.

16 CHAIRPERSON HOOD: And I started
17 looking at it and the way I read it, and I'm
18 not what they crafted in '94, but the way I
19 read it, I think it was '94, is for university
20 students and personnel to utilize that
21 facility. That's the way I read it.

22 MR. BARBER: Right.

1 CHAIRPERSON HOOD: But now we are
2 asking for, and this leads to my next
3 question, Saint Mary's Court, Saint Mary's
4 Church. I'm not too familiar with -- I know
5 Saint Mary's is a church, but do those people
6 specifically live in the neighborhood? The
7 people who -- the parishioners at Saint Mary's
8 Church?

9 And another question -- well, you
10 can answer that first.

11 MR. BARBER: All right. Well,
12 there is a representative from Saint Mary's
13 Church here tonight who can address that
14 directly. I can tell you some do and some do
15 not. And that's why we addressed the traffic
16 issue with respect to the Saint Mary's Church
17 parishioners specifically, because we
18 recognized that some of the parishioners do
19 not live in the area and so we wanted to avoid
20 any kind of traffic impact from the users by
21 Saint Mary's Church.

22 And so they will be -- if they do

1 drive, and not all of them do, because some of
2 them do live in the neighborhood, but to the
3 extent that they do drive, they will commit to
4 park off-street on Saint Mary's Church
5 property.

6 CHAIRPERSON HOOD: And Saint
7 Mary's Church is where? Across --

8 MR. BARBER: It's right directly
9 to the south. I'm sorry, directly north of
10 the center.

11 CHAIRPERSON HOOD: And the court?

12 MR. BARBER: Saint Mary's Court is
13 directly to the west of the center.

14 CHAIRPERSON HOOD: Okay. Thank
15 you for helping me with my orientation.

16 MR. BARBER: All right. And the
17 last one, Remington, is directly to the south
18 across G Street.

19 MS. O'NEIL: That's right.

20 CHAIRPERSON HOOD: Okay. Now,
21 when I look at the ANC vote, it was not
22 unanimous, because in two phases they voted.

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1 MR. BARBER: Right.

2 CHAIRPERSON HOOD: They voted in
3 favor 5-0 for what the uses to regain those
4 three years for the uses you already had, the
5 classifications you already had. But also,
6 the way I read it, Remington and Foggy Bottom/
7 West End alumni of GW, some -- well, let me
8 say this. Some -- there were some who voted
9 against that.

10 MR. BARBER: Sure.

11 CHAIRPERSON HOOD: And I'm sure I
12 can ask the ANC. Do you know if that person
13 who voted against that was the Single Member
14 District Commissioner?

15 MR. BARBER: I don't know.

16 CHAIRPERSON HOOD: If not, I'll
17 ask them when they -- hopefully they are here.

18 MS. O'NEIL: Yes.

19 MR. MOORE: Yes, it was.

20 CHAIRPERSON HOOD: They were?

21 MR. MOORE: Yes.

22 CHAIRPERSON HOOD: Okay.

1 MS. O'NEIL: Yes.

2 CHAIRPERSON HOOD: And do we know
3 what -- what is Catholic University doing? Do
4 they have open policy for people to use their
5 facility?

6 MR. BARBER: I can see what's in
7 our chart. I don't know off the top of -- I
8 don't know of my own knowledge. I can see if
9 it's in our -- I know we did a survey. I
10 think we looked at American, we looked at
11 Georgetown, but -- and I believe we also know
12 about Howard, which does have a more open
13 policy, but I don't know specifically about
14 Catholic.

15 CHAIRPERSON HOOD: Okay. I'm
16 being told it is in Tab C.

17 MR. BARBER: Yes, I don't see
18 Catholic on our list.

19 CHAIRPERSON HOOD: Yes, I saw
20 that, but I didn't see Catholic. Okay.

21 MR. BARBER: Okay.

22 CHAIRPERSON HOOD: I had a number

1 of questions, but I'm going to stop. Any
2 other questions?

3 MR. MOORE: Mr. Hood, I might just
4 add that Saint Mary's Court is a residential
5 facility. It's right next to the center to
6 the north. So your question was do they live
7 in the community and yes, sir, they do.

8 CHAIRPERSON HOOD: Saint Mary's
9 Court?

10 MR. BARBER: Saint Mary's Court.

11 MR. MOORE: Court. As opposed to
12 Saint Mary's Church.

13 CHAIRPERSON HOOD: Because the way
14 I see it and I hope I'm not -- I'm just
15 putting it out there. The neighborhood will
16 have 25 people living in Virginia and Maryland
17 who will be utilizing the facility and the
18 neighbors won't.

19 MR. MOORE: No, that's not right.

20 CHAIRPERSON HOOD: Okay. So I'm
21 all wrong about that?

22 MR. MOORE: Yes.

1 CHAIRPERSON HOOD: Okay.

2 MR. BARBER: That's absolutely
3 right. And the number of people we are
4 talking about --

5 MR. MOORE: That's absolutely
6 wrong.

7 MR. BARBER: Fine.

8 MR. MOORE: You're right, but
9 you're wrong.

10 CHAIRPERSON HOOD: Okay. I'm
11 right, but I'm wrong, okay. All right. Any
12 other questions?

13 COMMISSIONER JEFFRIES: Just a
14 quick question. I mean, you know, 300
15 additional users clearly, in terms of your
16 case here, is not going to really make -- will
17 have no detrimental impact on the immediate or
18 adjacent community. Would 600? I mean, is
19 there any sense of what that number would look
20 like? I mean, in terms of what you think is
21 sort of the tipping point?

22 MR. MOORE: In our 2004 case, we

1 asked for 1,199 and we had expert testimony in
2 the record from the transportation parking
3 consultant.

4 COMMISSIONER JEFFRIES: Um-hum.

5 MR. MOORE: And from Brailsford
6 and Dunlavey, and plus a number of witnesses
7 who testified to the Commission that even that
8 number would have an insignificant impact on
9 the --

10 COMMISSIONER JEFFRIES: That was
11 how much? How many?

12 MR. MOORE: 1,199.

13 COMMISSIONER JEFFRIES: Okay.

14 MR. MOORE: And in the 1998 case,
15 we didn't ask to limit it at all and the
16 Office of Planning wrote a report supporting
17 the application without condition. So what I
18 think, as I said before, Mr. Jeffries, the
19 previous actions of the Commission were based
20 on what the Commission, at that time, thought
21 was a reasonable solution to a contested case.

22 COMMISSIONER JEFFRIES: Right,

1 right.

2 MR. MOORE: Now, since that time,
3 the case has -- the opposition to the broader
4 use has diminished.

5 COMMISSIONER JEFFRIES: Okay.

6 MR. MOORE: And I use the good
7 Office of Planning and I use the ANC vote,
8 which we are very proud of as evidence of
9 that. Neither of those entities were 100
10 percent behind us in the previous cases.

11 COMMISSIONER JEFFRIES: Okay.
12 Just, you know, obviously, I mean, you know,
13 my question again is, I mean, if you are
14 leaving room on the table as relates to this
15 particular application for, you know, two
16 years down the road the possibility of, you
17 know, coming back, and I understand what you
18 are saying, Mr. Barber, that, you know, things
19 change, change in demographics, you know,
20 university needs and so forth and so on.

21 You know, this sort of drip, drip,
22 drip business is -- you know, concerns me

1 somewhat. I mean, you know, I have been very
2 supportive of GW and its efforts to expand and
3 make the university world class. And I think
4 by and large you have been a pretty decent
5 neighbor to the adjacent community.

6 But, you know, I mean, if you are
7 putting down 300 new users because in the
8 context of this application, that's something
9 that can easily go through at this particular
10 time, that's fine. But, you know, I just
11 would really like to see a situation where you
12 think you are covering yourself for the next
13 number of years and so you're being -- I'm not
14 saying you're not being honest here.

15 MR. BARBER: Yes, I appreciate
16 that.

17 COMMISSIONER JEFFRIES: But you
18 are really trying to cover your bases and
19 really address what you consider to be, as you
20 go forward, the real needs of the university
21 as it relates to the wellness center. Because
22 from what I'm reading, you can -- this

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1 wellness center can take on a lot --

2 MR. BARBER: It should and it
3 could.

4 COMMISSIONER JEFFRIES: -- of
5 users, you know. But you clearly know that if
6 you come in here with, you know, 900 more --

7 MR. BARBER: Right.

8 COMMISSIONER JEFFRIES: -- you're
9 going to get a lot more opposition. And so
10 this incremental strategy, you know, that's
11 all I'm speaking of.

12 MR. BARBER: I understand that.

13 COMMISSIONER JEFFRIES: And I will
14 judge this based on the 300 you put forward,
15 but I just wanted to put that on the record
16 that, you know, it's just not missed by me
17 that, you know, from what it appears to be, as
18 Ms. Miller would say, you know,
19 incrementalism.

20 MR. BARBER: I appreciate that.
21 And I think the university is well-aware that
22 if we came back in two years with another

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1 application for additional users, the kind of
2 reception we would be -- we would likely get.
3 All I can tell you is when I canvased the
4 administration and spoke to them about what
5 they might see, since we had to come back
6 anyhow, these are the only groups that came
7 up. There was nothing else mention to me at
8 all.

9 COMMISSIONER JEFFRIES: Okay. So
10 you feel you have done your due diligence.
11 You have queried everyone and this is the
12 number for now as we speak? Snapshot?

13 MR. MOORE: Yes.

14 COMMISSIONER JEFFRIES: Okay.
15 Thank you.

16 CHAIRPERSON HOOD: Okay. I had
17 another question, but it left me. Anyway, any
18 other questions?

19 COMMISSIONER ETHERLY: I'll jump
20 in that breach, Mr. Chair.

21 CHAIRPERSON HOOD: Okay. Mr.
22 Etherly?

1 COMMISSIONER ETHERLY: While you
2 contemplate what the question was. It might
3 be helpful to -- to an extent, our
4 conversation has been somewhat abstract and I
5 just want to be sure we're also very clear
6 about the business that the center is doing
7 now. And Mr. Jeffries, to an extent, touched
8 upon it.

9 If I understand correctly, and I
10 believe Mr. Moore you indicated that Ms. White
11 from Symmetra is here. I don't necessarily
12 need her to come forward, but I'm going to
13 breeze somewhat into that report's work. So
14 maybe just to tee it up. Welcome, Ms. White.
15 Thank you.

16 The current daily usage is, if I'm
17 reading the appropriate chart correctly at
18 page 4 of the Symmetra report, well, the
19 weekday average for the center, Monday through
20 Thursday, is 2,225 persons.

21 MR. MOORE: Total.

22 COMMISSIONER ETHERLY: Total.

1 MR. MOORE: Not at one time.

2 COMMISSIONER ETHERLY: Not at one
3 time, but just total throughout the week. And
4 based on the conclusions of the Symmetra
5 report at page 10 of 10, it is estimated or it
6 is offered that only 25 percent of the
7 proposed 300 new users would be expected to
8 use the center each day, 75 people, in
9 essence.

10 MS. WHITE: Right. That is based
11 on the Brailsford and Dunlavey report from
12 when we were here before. And I must also
13 raise my hand as an old-timer, I was a young
14 looking old-timer, but I was here for the 1997
15 case and so I worked on all of the traffic
16 studies.

17 MR. MOORE: You were here in 2004,
18 too, weren't you?

19 MS. WHITE: I was there then, yes.
20 I've been here each time, I believe. But that
21 25 percent is based on the Brailsford and
22 Dunlavey report. But I do want to point out

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1 that based on the potential total number of
2 users that the university has, it's,
3 approximately, 8 to 9 percent of that number
4 that uses the center on a daily basis. So
5 that's a little lower than the 25 percent. We
6 were being aggressive and conservative, shall
7 we say, when we said 25 percent of the 300
8 would use it on any particular day.

9 COMMISSIONER ETHERLY: And your
10 total universe of potential users, 29,000 or
11 30,000?

12 MS. WHITE: 25,000. I have two
13 numbers and they could be transposed. Is it
14 29?

15 MS. O'NEIL: 29.

16 MS. WHITE: 29,590.

17 COMMISSIONER ETHERLY: Okay. So
18 the point that I'm seeking to elicit from the
19 questions are that -- is that you are most
20 certainly well below your capacity, well below
21 what can be accommodated by the center?

22 MR. MOORE: Let me take that. In

1 1998, the Board of Zoning Adjustment approved
2 the building for 2,000 users. And at the
3 time, we thought that those 2,000 users would
4 come from the faculty, students and staff of
5 the Foggy Bottom Campus.

6 The Fire Marshal has assigned a
7 figure of 1,973 as the maximum.

8 COMMISSIONER ETHERLY: At any one
9 time?

10 MR. MOORE: Right, at any one
11 time. The charts that we have currently show
12 that the -- on an hourly basis, the users at
13 the center most often are less than 100, fewer
14 than 100. So there is a tremendous gap
15 between what the Commission, Board of Zoning
16 Adjustment first approved and what the actual
17 uses patterns are and what the Fire Marshal
18 has approved.

19 The Brailsford and Dunlavey study
20 also said in 2004 that the maximum number of
21 users that could use the equipment at any one
22 time without having to wait is 675.

1 COMMISSIONER ETHERLY: Um-hum.

2 MR. MOORE: But still, the numbers
3 that we have looked at based on the usage
4 pattern, both when school was in session and
5 when school is not in session, are
6 significantly below that number. So we're not
7 talking about a whole lot of people coming
8 into the center still, even though the center
9 was built and approved for 2,000 people.

10 COMMISSIONER ETHERLY: Okay. And
11 as was indicated, I'm going to jump a little
12 bit away from the Symmetra report, in your
13 submission at page 11, the university has some
14 experience with incidental users in other
15 university contexts as well.

16 MR. MOORE: Oh, absolutely.

17 COMMISSIONER ETHERLY: In
18 particular, it was referenced that recent
19 surveys conducted at a sandwich shop located
20 in the --

21 MR. MOORE: Right across the
22 street.

1 COMMISSIONER ETHERLY: -- there
2 you go. Showed that no more than 80 percent
3 of the customers -- that more than 80 percent
4 of the customers are university-related. And
5 that's a sandwich shop that is open and
6 accessible to members of the general public.

7 MR. MOORE: That is correct.

8 COMMISSIONER ETHERLY: Okay. So
9 is it -- would it be accurate then to say that
10 based on your experience in that vein, if you
11 will, and based on everything that you have
12 looked at with respect to the center, wellness
13 center, that pattern most certainly would
14 continue here?

15 MR. BARBER: It certainly would.
16 It would actually be far below that, because
17 we won't be letting in 20 percent new users.
18 But even if we were letting in more users, the
19 predominant use would still be university use.
20 We would expect that trend to continue, yes.

21 COMMISSIONER ETHERLY: And here is
22 my final question and to an extent the Chair

1 and Mr. Jeffries and Mr. Turnbull have all
2 touched upon it and we have referenced it in
3 terms of talking about the Citizens Coalition
4 case, which to me, I think, represents
5 probably the best kind of, if you will,
6 ceiling that we could kind of speak to.

7 And again the Citizens Coalition
8 case speaks to the issue of accessory uses on
9 the part of a university can, indeed, be made
10 available to incidental users from the general
11 public. How do you -- what -- I'm trying to
12 figure out how to phrase it. I try to stay
13 away from hypothetical questions.

14 But I think as the Chair
15 indicated, part of the challenge here is
16 trust, not to suggest that I don't trust you
17 or that the Commission doesn't trust you, but
18 clearly there is a very active and energetic
19 history here. All of which Mrs. Miller and
20 many other members of the community have been
21 very actively engaged in.

22 So with that in mind, I'm perhaps

1 compelled to ask, in looking at the Citizens
2 Coalition case, how would you read that case
3 in terms of setting a limit on what the
4 ultimate end game could be? Again, that's a
5 tough question, because it's a hypothetical.
6 And as you have said, Mr. Barber, we're not
7 here asking for 500 or 2,000 people. We're
8 asking for 300 very specific, very clearly
9 identified.

10 But Citizens Coalition to an
11 extent speaks for a university's ability to
12 accommodate incidental users up to a certain
13 amount, if you will, without saying what it
14 is. You want to offer any thoughts on that?

15 MR. BARBER: Well, can you cutoff
16 yours? Thank you. The additional users
17 compared to the total universe of those who
18 can use it now is 1 percent. 300 as compared
19 to 30,000. So clearly, we're not reaching the
20 upper limit there. We have the Cogen
21 situation which you referred to and just a
22 little background on that. That was a BZA

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1 appeal case.

2 The Certificate of Occupancy was
3 appealed. And the argument was that that was
4 a commercial use in a Residential Zone and
5 therefore not permitted. And the Board of
6 Zoning Adjustment upheld the Zoning
7 Administrator in holding that that was a
8 predominantly university use and 20 percent of
9 community use was still incidental.

10 COMMISSIONER ETHERLY: Um-hum.

11 MR. BARBER: So 1 percent is
12 certainly not the upper limit. I would submit
13 that 20 percent is not the upper limit based
14 on that case. And I think that's as far as I
15 can go, because that's as far as I need to go,
16 quite frankly.

17 COMMISSIONER ETHERLY: That's
18 helpful, that puts it into context. Thank
19 you. Thank you, Mr. Chair.

20 MR. MOORE: Mr. Etherly, let me
21 also add in the Cogen's case, the Cogen's
22 facility is open to the general public. And

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1 what we are seeking is just 300 more users
2 from the immediate vicinity. People who are
3 already there. So it's going to be a further
4 distinction between the two.

5 CHAIRPERSON HOOD: Okay. All
6 right. I think we have -- any other
7 questions? I just have to respond. You
8 said --

9 COMMISSIONER TURNBULL: I just had
10 one.

11 CHAIRPERSON HOOD: Okay.

12 COMMISSIONER TURNBULL: In going
13 to the Brailsford and Dunlavey report, which
14 is included here, it shows that the most
15 busiest days are Monday through Thursday, with
16 Wednesday being the peak day and weekends go
17 down dramatically. And even with the new
18 increase, it's still you are projecting that
19 it's still Monday through Thursday will still
20 be that -- those people.

21 So the additional adjacent
22 neighbors won't be -- you don't see them using

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1 the facility more on weekends then?

2 MR. BARBER: Can I speak to that?
3 The university is going manage this use for
4 our present users and for the additional users
5 in the best way, in the best interest of all
6 concerned. And so we have already had
7 discussions with certain additional users that
8 we may ask them or steer them to a specific
9 time when it is not a higher use, whether that
10 may be particular times of the day or
11 particular times of the week.

12 That kind of managerial
13 flexibility, the university would like to
14 reserve to itself. We recognize that the
15 center is used more often at certain times,
16 certain times of the day, certain times of the
17 week and others, and we will take notice of
18 that as we manage this facility.

19 COMMISSIONER TURNBULL: Now, just
20 looking at your charts, the projections look
21 like it's going to continue. You are assuming
22 or your estimates assume --

1 MR. MOORE: Let me say this. I
2 think it's even more interesting that, you
3 know, during the times of the day the peak
4 usage will come only like in the evenings,
5 from 5:00 to 8:00.

6 COMMISSIONER TURNBULL: Um-hum.

7 MR. MOORE: And the rest of the
8 day it's the usage falls off dramatically. So
9 there are opportunities for us to manage this
10 facility, based upon a daily use, the ebb and
11 flow, and based on the weekly use.

12 COMMISSIONER TURNBULL: Okay.
13 Thank you.

14 COMMISSIONER ETHERLY: If I could,
15 Mr. Chair, let me just jump into that question
16 just to get a sense and then I'm done, because
17 I think I have a clear understanding of this.
18 How frequently, and this might be for you, Mr.
19 Barber or perhaps for you Ms. O'Neil, does the
20 university analyze the usage patterns of the
21 center? How often are you taking a look?

22 So, for example, if there were

1 some consistent uptick, not getting to your
2 29,000 person ceiling, but let's say your
3 usage patterns did begin to move upward for
4 whatever reason, everyone decided that they
5 just simply wanted to exercise and do it more
6 consistently. Not just New Year's
7 resolutions, but as an ongoing thing.

8 How frequently do you look at that
9 and kind of assess what is happening?

10 MR. BARBER: Well, first of all,
11 we're keeping track of it as with our
12 managerial staff at the center. Laura O'Shea
13 is here and they would notice immediately. I
14 think we would -- as we move into this new
15 group, particularly where the -- the 300, I
16 think this is something we're going to have to
17 take a look at, at least annually, because in
18 particular with the alumni, there will be an
19 application process, a renewal process.

20 And so we will have to assess our
21 needs at least annually, but we will be
22 looking at this on a continuing basis.

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1 COMMISSIONER ETHERLY: Okay.
2 Thanks. That answers my question. Thank you.

3 MS. WHITE: I'm just going to give
4 one more response from a gym user that give
5 credit to -- people adjust to times when a
6 center may be less crowded. Like I don't go
7 to the gym from 5:00 to 6:00 p.m., because
8 sometimes there are more people there than I
9 would like. So I've adjusted my patterns to
10 go during times when it's not as busy. So I
11 think that there is an opportunity for that as
12 well.

13 CHAIRPERSON HOOD: Do you use the
14 George Washington? You use the Lerner Center?

15 MR. BARBER: She's not allowed.

16 CHAIRPERSON HOOD: Excuse me?

17 MR. BARBER: She's not allowed.

18 CHAIRPERSON HOOD: Oh, trick
19 question. Let me just say this, Mr. Barber.

20 MR. BARBER: She doesn't live in
21 Saint Mary's Court.

22 CHAIRPERSON HOOD: You also were

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1 asking, I think you asked that these
2 classifications be permanent without any
3 further approval.

4 MR. BARBER: Yes.

5 CHAIRPERSON HOOD: Would you
6 discount -- I'm not sure which way the
7 Commission is going to move. Would you
8 discount again an additional three year -- if
9 this -- if we were to add this, because we
10 haven't.

11 MR. BARBER: Yes.

12 CHAIRPERSON HOOD: Would you have
13 a problem or would the university have a
14 problem with us continuing the three year
15 review process, especially in this instance?

16 MR. BARBER: Well, not that I
17 don't enjoy coming back here. There are two
18 answers. There are two parts to that. I
19 mean, there is the first part that was granted
20 in 2004 and we're back here three years later.
21 I don't think there is any question about
22 those groups. I think that should be

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1 permanent.

2 It would be our preference, quite
3 frankly, that this -- the additional 300 is
4 such a small number, it's hard to see what
5 kind of objectionable impact they could
6 create. Certainly, the Commission is free to
7 do what it will. If you think we should come
8 back in three years, I just don't think it's
9 necessary.

10 CHAIRPERSON HOOD: Thank you. And
11 that's all the questions I think we have. Is
12 the ANC, let me see if I can find the letter
13 here. I think the name was Corsen,
14 Commissioner Corsen? Yes, Commissioner
15 Corsen? Is the ANC-2A represented?

16 UNIDENTIFIED SPEAKER: They are
17 not represented.

18 CHAIRPERSON HOOD: Okay. Let me
19 just read the letter and Ms. Miller said that
20 long-time Commissioner in 2A. But let me just
21 -- we have Exhibit No. 18. And it talks about
22 -- let me just read the second paragraph and

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1 this is for the record.

2 "ANC-2A considered whether the
3 application will result in an objectionable
4 impact on the neighborhood. In a vote of 5-0,
5 ANC-2A voted to support continued access for
6 Mount Vernon students, School Without Walls'
7 students and board of trustees and to allow
8 access to Saint Mary's Court and Saint Mary's
9 Church.

10 ANC-2A further voted, in a two
11 part vote, 4-1 to support allowing access for
12 The Remington and Foggy Bottom/West End alumni
13 of GW, which is a total of 250."

14 Let me just ask, do we know that
15 there is 250 alumni of GW that live in that
16 community that have an interest?

17 MR. BARBER: There are about 1,200
18 GW alumni who live in the Foggy Bottom/West
19 End area. So this is -- 250 is a small
20 fraction.

21 CHAIRPERSON HOOD: Oh, so when
22 they graduate, they stay in the neighborhood.

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1 Okay.

2 MR. BARBER: And add to the tax
3 rolls. I think Mr. Jeffries made a point of
4 that during our campus plan hearing. We have
5 certainly had indications of a great deal of
6 interest and you'll hear some of that tonight.
7 I don't expect that there will be a problem
8 about reaching the 250. Quite frankly, we may
9 have a waiting list and so we'll have to, you
10 know, cut that off.

11 CHAIRPERSON HOOD: Okay. All
12 right. Thank you. Again, no one is here from
13 the --

14 COMMISSIONER JEFFRIES: That's my
15 point. You're going to have a waiting list
16 and then in two or three years, you're going
17 to come back for another 300. You know,
18 please, don't speak.

19 MR. BARBER: Okay.

20 COMMISSIONER JEFFRIES: Because,
21 you know --

22 MR. MOORE: Mr. Jeffries, that

1 case may have a lot of merit.

2 CHAIRPERSON HOOD: And I think
3 that I agree with Commissioner Jeffries. I
4 really do. I think that's what initially
5 happened, to be honest.

6 MR. BARBER: Let me ask you this,
7 would you want to foreclose if the community
8 said, and not today, because if we don't have
9 that, why ask for support? But suppose the
10 community -- at the community's initiative, we
11 think -- they said we want to be able to use
12 the center on a wider basis and we want to
13 reopen this case. That possibility shouldn't
14 be foreclosed either.

15 COMMISSIONER JEFFRIES:
16 Absolutely. I agree with you. I mean, the
17 university should really be able -- I mean,
18 this would be a fluid process. You should be
19 able to be flexible in terms of your growth
20 and all that. Got it. My only issue is, I
21 mean, 300, this is a drop in the bucket and I
22 understand why you are coming here with that

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1 number, at this time.

2 Got it. I understand the context
3 in which you operate in. But it's just that,
4 you know, again, I mean, given the number, I
5 just feel, particularly the 1,200, very likely
6 you'll be back and that's fine. And I think
7 it goes to what Commissioner Etherly spoke
8 about in terms of, you know, what's your due
9 diligence? What's your process in terms of
10 how you manage your growth and so forth?

11 But, you know, I'm prepared to
12 move on, you know, so --

13 CHAIRPERSON HOOD: We're going to
14 cut it off. Again, I'm calling for ANC-2A for
15 cross examination? Seeing none, thank you.
16 And again, I read the letter which they had
17 provided for the record. And that probably
18 would -- actually, I did at the wrong time,
19 but anyway, so noted.

20 Mr. Parker, Office of Planning.

21 MR. PARKER: Good evening, Mr.
22 Chairman, Members of the Commission. My name

1 is Travis Parker with the Office of Planning.
2 Our report is in the record and for the most
3 part, I'll stand on the record. We found in
4 favor of this case. We found that it met the
5 test of 210.

6 But specifically, to talk to
7 Commissioner Jeffries' point about how we
8 looked at this issue of incrementalism and
9 additional people using the facilities, we
10 look at impact or have looked at impacts on
11 the campus in terms of people coming from the
12 outside to campus. Whether it be students or
13 others.

14 And if this application was for
15 300 people from another ward in the city or
16 from Virginia, we would have had a seriously
17 different recommendation on this project. But
18 these people, actually zero new cars coming to
19 the neighborhood, that wouldn't -- other than
20 the Saint Mary's which will be parking there
21 and come anyway.

22 And the foot traffic itself is

1 people that already live there anyway. So
2 unless we assume that they never leave their
3 house except to come to the gym, they are not
4 having any impact that they wouldn't have
5 otherwise. They already live in the
6 neighborhood. So that was our view whether it
7 is 300, 600, 1,200, it's no new impact that's
8 not already there.

9 If we start talking about people
10 outside of the campus coming in, that's where
11 we have more of a concern.

12 COMMISSIONER JEFFRIES: The
13 university, obviously, in terms of what Mr.
14 Barber said, I mean, things change. And you
15 know, who knows what happens in the future as
16 the university starts to look at how it grows.
17 It might determine that it might make sense.
18 And I know then the Office of Planning will
19 push back, because perhaps you're bringing
20 more vehicles in and things of that sort.

21 MR. PARKER: Right, right.

22 COMMISSIONER JEFFRIES: Yes. I'm

1 just dealing more with the drop in the bucket
2 approach, which I understand given the
3 universe in which they live in.

4 MR. PARKER: Fair enough.

5 CHAIRPERSON HOOD: Mr. Parker, I
6 have one quick question. The dividing up of
7 the passes, is it going to be to specific --
8 case in point. If I went to Saint Mary's
9 Church and I probably should have asked, I'm
10 hoping you know, because I should have just
11 asked and I just thought about this in looking
12 at the witness list.

13 Saint Mary's Church, say if I'm a
14 member of Saint Mary's Church, and they have
15 50 passes allocated.

16 MR. PARKER: Um-hum.

17 CHAIRPERSON HOOD: And there is
18 going to be organized through, I guess, the
19 church or whomever. Will I be able to go
20 continuously or do I have to share that pass
21 with my other members?

22 MR. PARKER: That's a great

1 question that I don't know the answer to.

2 CHAIRPERSON HOOD: I'll ask that
3 question when they come back up.

4 MR. PARKER: Okay.

5 MR. MOORE: We know the answer.

6 CHAIRPERSON HOOD: Yes, when you
7 come back up, I'll ask it, just don't forget
8 it, because I may.

9 MR. MOORE: Okay. Mr. Hood, two
10 things. Number one, I have --

11 CHAIRPERSON HOOD: We actually are
12 not -- we have a process, Mr. Moore. We're
13 going to the Office of Planning. We're going
14 to do the ANC report. We're not ready for
15 rebuttal or closing comments.

16 MR. MOORE: I wasn't going to do
17 that. I wasn't going to ask to do that. I
18 thought Mr. Parker was through. I was going
19 to say two things. Number one --

20 CHAIRPERSON HOOD: Well, you're
21 good, because I hadn't called for cross
22 examination yet, so you may have some parkers

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1 -- questions.

2 MR. MOORE: All right.

3 CHAIRPERSON HOOD: But I want to
4 make sure we are finished.

5 MR. MOORE: Sorry.

6 CHAIRPERSON HOOD: So hold your
7 seat. Any other questions? Mr. Moore, you're
8 all right. You go right ahead.

9 MR. MOORE: I have no cross
10 examination for Mr. Parker. I just wanted to
11 address the Chair, if I may?

12 CHAIRPERSON HOOD: Okay.

13 MR. MOORE: I have an additional
14 supplemental report that I'm trying to --

15 CHAIRPERSON HOOD: Can you do that
16 -- can we do that at the --

17 MR. MOORE: I would like to turn
18 in.

19 CHAIRPERSON HOOD: You can turn it
20 in to staff. She will pass it out.

21 MR. MOORE: And then secondly, I
22 would like to just ask the Commission if it

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1 would hear from the people who -- the
2 neighbors who have come here.

3 CHAIRPERSON HOOD: Yes, but we
4 have a witness list and I was -- once we go
5 through the other procedures, I'll get right
6 to that.

7 MR. MOORE: Thank you.

8 CHAIRPERSON HOOD: Okay. Okay.
9 We heard the report of Office of Planning.
10 And again, no one is here from ANC-2A? Any
11 cross examination from Office of Planning? I
12 don't want to have to have another hearing,
13 because once before I missed that, right, Ms.
14 Schellin?

15 MS. SCHELLIN: Yes.

16 CHAIRPERSON HOOD: Make sure I
17 don't miss that this time. Report of other
18 Government agencies? Do we have any? No,
19 okay. Thank you. We didn't get a DDOT
20 report. Fine. Are we there? Okay. That's
21 not officially on the record. I didn't hear
22 that, so okay. Report of the Advisory

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1 Neighborhood 2A, again, I read their submittal
2 out of order, but in a way it's already been
3 read for the record.

4 Now, I have a list of
5 organizations and persons in support and I'm
6 going to go through that list first. And I
7 believe everyone that I see, when you come up,
8 most people are getting three minutes. Okay.
9 Anyway, let me -- in support. And Rubin --
10 Robin, I'm sorry, Robin Meigel. Michael? If
11 it sounds like your name, then it's probably
12 you, so if you would forgive me and just come
13 right on up.

14 MR. MOORE: Mr. Chair, you may
15 want to consider calling several of them at
16 once. I think they will be prepared to
17 testify as a panel.

18 CHAIRPERSON HOOD: Okay. Well,
19 Mr. Moore, at this point, is it the same
20 people on the list? Well, Mr. Moore, why
21 don't you just go ahead and handle it.

22 MR. MOORE: You can come up and do

1 this. All right. We can do that. Ms.

2 Jachles, Ms. Tai, Ms. --

3 CHAIRPERSON HOOD: Mr. Moore?

4 MR. MOORE: And Ms. Blumer.

5 CHAIRPERSON HOOD: I was actually
6 joking.

7 MR. MOORE: Oh.

8 CHAIRPERSON HOOD: Because -- but
9 you're all right. Okay. I have the list
10 here. Unless there are some specific order
11 they need to go in? Okay. Okay. Okay. All
12 right.

13 COMMISSIONER JEFFRIES: This is
14 like the Clinton campaign, you know.

15 CHAIRPERSON HOOD: Okay. Margaret
16 Pully. If you all, when you hear your name,
17 can come to the table, please. Sandra Welch
18 and Toni Boyer. And thank you, Mr. Moore, for
19 your assistance. Okay. Please, make sure you
20 fill out your witness cards. And I'm going to
21 ask that we not speak unless we are on the
22 mike, so we can record it by the Court

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1 Reporter.

2 My colleagues told me I was losing
3 control, so I'm getting ready to get it back.
4 So, Ms. Meigel, Meigel? Turn your microphone
5 on and correct me, then I'll --

6 MS. MEIGEL: Meigel.

7 CHAIRPERSON HOOD: Meigel. Thank
8 you, Ms. Meigel, you may proceed.

9 MS. MEIGEL: Hello.

10 CHAIRPERSON HOOD: You have 3
11 minutes.

12 MS. MEIGEL: My name is Robin
13 Meigel and I have lived at The Remington since
14 1992 and I have owned my condo there since
15 '97. I do support the petition of GW to live
16 up to the agreement they made with The
17 Remington in the late 1990s, an agreement that
18 helps to bridge greater interaction and
19 communication between the university
20 population and the non-university members of
21 the Foggy Bottom community.

22 There can be no doubt that the

1 physical participation of these residents in
2 the activities of the wellness center may
3 facilitate a level of integration with the
4 surrounding community that cannot presently
5 happen in the same way now. The likelihood
6 that I'll strike up a conversation with a
7 student on a treadmill or in the locker room
8 is greater than when we simply pass on the
9 street. And the net result is a win-win for
10 the community, university population and for
11 the residents.

12 It's my understanding that one
13 argument raised against this proposition is
14 that it presents unfair competition for for-
15 profit sports clubs in the neighborhood and if
16 those making the argument can demonstrate that
17 current paid memberships in these clubs would
18 be lost to the wellness center as a result of
19 the petition being granted, then perhaps it is
20 being -- it's worth listening to.

21 But the fact is that the market
22 for these clubs is very different than the

1 socioeconomic bracket for the candidates for
2 these proposed memberships. Memberships or
3 members of the LA Sports Club, for example,
4 are not typically in the market for this kind
5 of an alternative and it wouldn't have the
6 same appeal.

7 The Watergate Sports Club has been
8 around since I have lived in the neighborhood
9 and if I could afford it, I would have signed
10 up there by now. They don't have me as a
11 customer to lose. The potential loss of
12 customers in the universe of candidates for
13 these particular memberships cannot be so
14 great as to make or break the economics of
15 those clubs.

16 And urban life can be very
17 isolating and this proposal is a small step in
18 demonstrating that this need not be the case
19 in Foggy Bottom. So I urge you to vote in
20 favor of the petition. Thanks.

21 CHAIRPERSON HOOD: Okay. Thank
22 you. We have your testimony. Ms. Pully?

1 MS. PULLY: Hi, I'm Margaret
2 Pully. I'm the Executive Director of Saint
3 Mary's Court, which is a senior citizen
4 apartment building for very low income seniors
5 and disabled people. And I'm here tonight on
6 their behalf and with some of them. We are
7 part of the additional use group that the GW
8 University is trying to grant access for.

9 And when the Health and Wellness
10 Center was first proposed, Saint Mary's Court
11 and its residents were promised access to the
12 facility by GW. And since it has opened, we
13 have not been permitted to use this facility
14 and this has been a big disappointment for all
15 our residents.

16 The center is very easily
17 accessible to even our most frail residents
18 who could walk over or even take their walkers
19 or their scooters and that's not too much
20 traffic, I don't think. Although some of
21 these scooters are getting a little out of
22 hand.

1 Exercise and the use of the state
2 of the art equipment would be extremely
3 beneficial to all of them who live at Saint
4 Mary's Court. And many of them are
5 recuperating from joint replacements or
6 dealing daily with the limitations of
7 arthritis and other diseases. And having
8 access to the wellness center and all it
9 offers would greatly contribute to their well-
10 being.

11 Another plus would be the inter-
12 generational benefits of having seniors and
13 students working out together to create more
14 harmony and better neighbors. The residents
15 of Saint Mary's Court are also on very limited
16 incomes and the cost to use any other like
17 facility is prohibited.

18 And although many of us at Saint
19 Mary's Court were reluctant to see more
20 construction right next to us, because they
21 did block our view of the Washington Monument,
22 the generous offer of GW to share this

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1 building was appreciated and very promising to
2 us.

3 We hope that the Zoning Commission
4 will grant their request to expand its access
5 to the residents of Saint Mary's Court. And
6 I'm joined tonight by several of the
7 residents, who would like to say something,
8 and I'm also submitting a letter of support
9 from another resident who could not be here.
10 So thank you.

11 CHAIRPERSON HOOD: Thank you. All
12 right. I guess next we'll hear from Ms.
13 Welch.

14 MS. WELCH: Hi, I'm Sandra Welch.

15 CHAIRPERSON HOOD: Speak into your
16 microphone.

17 MS. WELCH: Oh, sorry. I'm Sandra
18 Welch, a resident at Saint Mary's Court. I've
19 been using the Smith Center regularly for
20 swimming due to degenerative arthritis in both
21 knees and at the request of my doctor.
22 However, often it is closed for special events

1 and we're not able to use it.

2 With the Health and Wellness
3 Center available, which we have been unable to
4 use, this would allow me to swim on a more
5 regular basis and also the water is warmer and
6 easier on older adult bodies. I would also
7 like to use the exercise equipment for knee
8 strengthening and overall conditioning.

9 If Yoga is available, that would
10 be wonderful as one of the relaxation exercise
11 techniques that I would benefit from very
12 much. Overall, for me as an active senior, I
13 would derive much enjoyment and health
14 benefits from the Health and Wellness Center
15 being available to me. Thank you.

16 CHAIRPERSON HOOD: Okay. Thank
17 you very much, Ms. Welch. Ms. Boyer?

18 MS. BOYER: Good evening.

19 CHAIRPERSON HOOD: Good evening.

20 MS. BOYER: My name is Toni Boyer.

21 I have been in Foggy Bottom at Saint Mary's
22 Court since 1992. I strongly support GW's

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1 proposal to open up the Health and Wellness
2 Center to the community, especially for the
3 Saint Mary's Court residents.

4 It is important for all people to
5 get proper exercise, but for the senior
6 residents of Saint Mary's Court, it is
7 essential to get regular mental and physical
8 exercise. It may come as no surprise, but I'm
9 not a professional body builder. While the
10 weight room may not be my thing, I would love
11 to use the pool and some of the cardio
12 machinery.

13 By being able to use the
14 equipment, we can keep our bodies in shape.
15 Just as importantly, we can keep our minds in
16 shape by interacting with the young college
17 students. On a limited income, the Health and
18 Wellness Center is my only option and I urge
19 you to support this application.

20 CHAIRPERSON HOOD: Thank you, Ms.
21 Boyer. Colleagues, any questions of this
22 panel? Does the applicant have any questions?

1 Is anybody here from ANC? Okay. No one here
2 from ANC-2A. Thank you all for coming down
3 and testifying and we appreciate that.

4 COMMISSIONER JEFFRIES: Very much
5 so, by the way. Thank you.

6 CHAIRPERSON HOOD: Okay. We have
7 next, Paige Blumer, I believe, hopefully,
8 Paige Blumer, I'm sorry, D. Tai, and this next
9 one is I think the first name is Belove.
10 Barbara? Is it Barbara? Oh, it's not the
11 handwriting, it's my eyesight.

12 COMMISSIONER JEFFRIES: No, some
13 of it is the handwriting.

14 CHAIRPERSON HOOD: Okay. So we've
15 got three. Let me see what else we have.
16 Okay. Rosemary James? Jarvis, I'm sorry.
17 Well, I'll tell you, I'm going to have to go
18 to the eye doctor, I think. Okay. We're
19 going to begin with Ms. Blumer. Turn your
20 microphone on and you have 3 minutes.

21 MS. BLUMER: Okay. Good evening.
22 My name is Paige Blumer. I'm a homeowner in

1 Foggy Bottom. I've owned my house since 2005,
2 that's the year I began graduate studies in
3 English Literature at George Washington. I
4 received a master's degree from GW last May
5 and I'm not on the English faculty of the
6 National Cathedral School for Girls.

7 While I was a graduate student at
8 GW, I was a regular and enthusiastic user of
9 the Health and Wellness Center and became
10 dependent upon that facility as my primary
11 means of exercise and staying in shape. My
12 daily teaching schedule has me coming home
13 after dark in the winter months. If I were
14 offered a membership in the Lerner Center, I
15 would be able to walk to the gym early in the
16 morning, before I leave for school and take up
17 my fitness regimen where I left off when my
18 student membership expired.

19 This would make my satisfaction
20 with life in Foggy Bottom complete. As an
21 educator, I plan to stay connected with GW,
22 perhaps even working for the university during

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1 the summers drawing on the university's
2 extensive resources for research and for field
3 trips for my students and staying connecting
4 to the department from which I received my
5 degree.

6 It makes sense that I would also
7 want to walk to the GW Health and Wellness
8 facilities. One of the reasons why I chose
9 this neighborhood is the ability to not have
10 to depend on a car or other transportation for
11 aspects of my daily life, such as shopping or
12 pursuing physical fitness.

13 Georgetown, Trinity and Howard
14 alumni are permitted to use the facilities of
15 their schools. I know that colleges and
16 universities in other cities also routinely
17 grant alumni access to their fitness
18 facilities. It just seems logical that as an
19 alumni, I should be accorded a similar
20 privilege by GW.

21 I urge you to support gym
22 membership for GW graduates who reside in

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1 Foggy Bottom. We're good Foggy Bottom
2 citizens. I trust that you will agree with me
3 that the university's offer is generous and a
4 sensible one. Helping graduates to feel
5 welcome in and a part of both the GW community
6 and Foggy Bottom is an important and positive
7 gesture by the university, which you have in
8 your power to approve. Thank you.

9 CHAIRPERSON HOOD: Thank you. If
10 you can just hold your seat. Ms. Tai?

11 MS. BLUMER: Okay.

12 MS. TAI: Okay. My name is Dwan
13 Tai. I'm a resident and alumna of George
14 Washington University. I serve as President
15 of Allies Building Community, a 501(c)(3)
16 nonprofit organization, that is located in
17 Foggy Bottom/West End Neighborhood. I lived
18 in the Foggy Bottom Neighborhood for more than
19 38 years.

20 Originally, I came to D.C. to
21 complete my Ph -- master's as well as Ph.D.
22 And since then, D.C. has been my home and I

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1 have devoted almost 40 years to volunteer
2 community service in Washington, D.C.

3 I'm here to testify in support of
4 George Washington University's request related
5 to the Lerner Health And Wellness Center. My
6 neighbors and I would really appreciate if the
7 Zoning Commission would authorize the
8 university to permit the 300 new users, who
9 are either immediate neighbors or GW alumni
10 that live in the neighborhood to have access
11 to the center.

12 It will allow GW to live up to its
13 commitment or offer to the community that was
14 made over 10 years ago, because about 50
15 complimentary passes will go to the
16 neighborhood residents of Saint Mary's Court
17 of low income senior citizens, members of the
18 church that's right by the center and
19 Remington, located directly on G Street. And
20 also allowing the 250 paid neighborhood alumni
21 gym access would be one way of insuring that
22 the alumni stay connected to the university

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1 and help the university.

2 I actually like GW's approach
3 related to incrementalism, because it is very
4 responsive of economics. You see what the
5 situation is. You see if there's any negative
6 impact or whatever and if it makes sense, then
7 you ask, but most of the time if it doesn't
8 make sense, you don't bother. Don't ask for
9 more than, you know, you think -- very
10 conservatively, so it's very respectful.

11 So I actually, you know, like to
12 try experimenting and all that. I don't think
13 we need to project any suspicious thing, you
14 know, even though I understand sometimes it
15 could be frustrating. I think it's a very
16 reasonable approach. So on behalf of the
17 fellow alumni and my neighbors and the
18 elderly, I really would appreciate your kind
19 consideration to authorize the university to
20 allow the proposed, very limited community
21 access to Lerner Health Center.

22 If you have any questions, I'll be

1 happy to answer. Thank you very much.

2 CHAIRPERSON HOOD: Okay. Thank
3 you, Ms. Tai. If you can hold your seat.
4 Barbara, we never got your last name. I guess
5 I'm --

6 MS. MOLLOHAN: Mollohan.

7 CHAIRPERSON HOOD: Mollohan?

8 MS. MOLLOHAN: Yes.

9 CHAIRPERSON HOOD: Ms. Mollohan.

10 MS. MOLLOHAN: Yes, sir.

11 CHAIRPERSON HOOD: You may begin.

12 MS. MOLLOHAN: Okay. Good
13 evening. We were here several years ago and
14 now we're back again. My name is Barbara
15 Mollohan. I'm an owner of a condominium at
16 The Remington. We have supported the George
17 Washington University. I have been there for
18 the past 10 years. They have been good
19 neighbors to us.

20 The reason that we supported their
21 building, the Health and Wellness Center, is
22 because, at that time, they indicated that

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1 with our support, it would be beneficial to
2 them and that we would be able to use the
3 facility after it was built.

4 Well, I respect them, because the
5 last time we did go to the Commission and we
6 were -- they were denied as we were denied.
7 And this time, I compliment them, because in
8 their good faith to us as making the promise
9 several years ago, they have come back and
10 tried to implement the process again.

11 I just want to say that it would
12 be beneficial to the people that are in the
13 neighborhood. A health and wellness center is
14 for a diverse community, white-haired, blonde-
15 haired, black, white, asian, whatever and
16 that's the true definition. And I think by
17 incorporating the groups that are here, it
18 would be most beneficial to the community.

19 I just came back from my hometown,
20 which is not as affluent as here in
21 Washington, and the college there invites all
22 members of the community to use their Health

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1 and Wellness Center, although it's only a
2 small population of 2,000 students there, but
3 they do invite the community. So the facility
4 is such a beautiful facility and I think it is
5 being under-utilized.

6 And I think it would be good for
7 the community and for the numbers of people
8 that they are asking for, just a slight drop
9 in the bucket, I don't see how it could hurt
10 anything. But thank you for your time.
11 Appreciate it.

12 CHAIRPERSON HOOD: Thank you.
13 Could you just hold your seat? Ms. Jarvis?

14 MS. JARVIS: My name is Rosemary
15 Jarvis. I live in Apartment 801 at The
16 Remington and am the President of the
17 Condominium Association. Our building has 52
18 apartments and has no gym facilities. We are
19 directly behind the new student housing
20 building and across the street from the
21 wellness center.

22 We bought our apartment in 1986

1 and have watched Foggy Bottom change,
2 sometimes with trepidation. Initially, I was
3 hesitant about the new GW dormitory, as a
4 neighbor, the kind of changes and the kind of
5 changes that that would make.

6 As you can well imagine, the idea
7 of having 700 students directly behind our
8 building was not an ideal situation. I am
9 pleased to report that we have no issues with
10 the university and the students and find them
11 to be good neighbors, just as the university
12 had promised when they proposed -- when the
13 building was proposed.

14 When the wellness center was under
15 construction, the university offered our
16 building access to the facilities and we were
17 thrilled. We were disappointed when the
18 request was denied by the Zoning Commission.
19 We are hoping you will allow us and the
20 adjacent properties to use the facilities and
21 allow the university to fulfill their
22 commitment to us.

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1 We do not see how the access to
2 the wellness center could inconvenience any of
3 our Foggy Bottom neighbors. I also have
4 included a couple of letters from people that
5 are in our building who could not attend
6 agreeing with our statement.

7 CHAIRPERSON HOOD: Okay. Thank
8 you all for your testimony. Colleagues, any
9 questions of this panel? Does the applicant
10 have any questions? And let the record
11 reflect I've been informed that there is no
12 need to call for the ANC, because they will
13 not be here. But as my colleagues know, I
14 don't want us to have another hearing where I
15 make a mistake and we have to come back down
16 here for another hearing.

17 So let the record reflect we have
18 been told that we don't need to keep calling
19 the ANC and we will do that, so the record is
20 going to reflect that. Okay. Thank you all
21 for your testimony. I'm not going to attempt
22 to pronounce the last name. Cynthia?

1 MS. JACHLES: Jachles.

2 CHAIRPERSON HOOD: Jachles. Okay.
3 Lionel Gloster, Gina Fernandez and Mackenzie
4 Yates.

5 MS. JACHLES: Shall I start? Good
6 evening.

7 CHAIRPERSON HOOD: You can start.

8 MS. JACHLES: If you read my
9 letter, it says "Good evening, ladies and
10 gentlemen." I'm so used to seeing Carol
11 Mitten here, I thought there were ladies here.

12 CHAIRPERSON HOOD: You know, Carol
13 is a good friend of mine. We look so much
14 alike, I don't know how --

15 MS. JACHLES: My eyes are like
16 your's tonight. It's not listed in my
17 testimony, it's something I have observed
18 tonight. You will see the alumni from the
19 neighborhood seem to be young, working for
20 nonprofits, working for schools and some of us
21 older working for nonprofits. So in addition
22 to the Saint Mary's Court, people who are low

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1 income, you have also got some public servants
2 among the GW alumni that would be well-served
3 by this affordable facility.

4 I moved to Washington in 1999 and
5 deliberately chose to live in Foggy Bottom to
6 take advantage of the resources GW affords its
7 alumni. I have audited classes, attended
8 lectures, used the Gelman Library, eaten at
9 the food court in the Marvin Center, etcetera.
10 The only facility I am unable to access is the
11 Lerner Health and Wellness facility, which I
12 desperately need.

13 I testified before you three years
14 ago and hope that now you will approve the
15 university's revised scaled down proposal. It
16 is natural for me to be able to use GW's
17 health facility. I live one block away, can
18 see the structure unobscured from the front
19 door of my building, Columbia Plaza
20 Apartments.

21 In an editorial comment, there are
22 many people in Columbia Plaza that may not be

1 represented, whose opinions may not be
2 represented by the other parties who are here
3 tonight, so I know I would use the facility on
4 weekends, I'm still working, probably before
5 the kids wake up. I'm a swimmer. I use
6 exercise classes and also when I come home
7 from work at night, I'm sure the School
8 Without Walls' children have gone and perhaps
9 the students from GW have already left as
10 well.

11 Five years ago, a private exercise
12 class left Columbia Plaza, since it did not
13 have enough students. In order for me to
14 access classes now, I must take a subway and
15 a bus to other neighborhoods and if too late
16 at night a taxi home and it becomes expensive.

17 Recently, the Hatchet Report and
18 GW mentioned that other universities
19 logically, Georgetown, Howard allow alumni to
20 use their facilities. So to prevent GW from
21 allowing its alumni to use it, it kind of
22 isn't there, as far as I'm concerned.

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1 Given all the above information, I
2 would assume that it's logical for you now to
3 approve this scale down proposal. And I
4 believe that all of your cases should be as
5 clear cut and simple as this one. Thank you.

6 CHAIRPERSON HOOD: Thank you, Ms.
7 Jachles. Next, Mr. Gloster?

8 MR. GLOSTER: Good evening,
9 Commissioners. I'm Lionel A. Gloster and I'm
10 a life-long member of Saint Mary's Episcopal
11 Church and on the vestry, the governing body
12 of Saint Mary's Episcopal Church.

13 And passage of the Zoning
14 Commission Case No. 02-26A would allow Saint
15 Mary's Episcopal Church and George Washington
16 University to foster renewed community spirit.
17 As GW embarks on this community outreach
18 honoring the past commitments of offering
19 Saint Mary's and its adjacent neighbors usage
20 of the Health and Wellness Center brings a new
21 found awareness that we all can exist in our
22 beloved Foggy Bottom and West End.

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1 The impact of the Health and
2 Wellness Center will have on Saint Mary's
3 aging congregation of seniors, young families
4 and professionals will be significant. A
5 major component in Saint Mary's community is
6 spirituality, which embarks on the mind, the
7 body and the soul. Exercise and the uses of
8 the indoor pool, indoor track, group walks,
9 classes and dancing, nutrition and health
10 topics play a significant role in achieving
11 wellness, which is essential to sustaining
12 life.

13 But me personally, as a member of
14 Saint Mary's, we have a number of GW students
15 that worship with us and the interaction with
16 our congregation has been overwhelming.
17 Another factor that it brings to light is the
18 idea of Saint Mary's interacting with GW's
19 personnel, interacting with the students and
20 interacting with other people in the community
21 has brought a new resilience to Saint Mary's
22 Episcopal Church.

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1 I find personally I'm a
2 marathoner. I personally would be wealthy to
3 use that indoor track during the winter. It
4 cuts down on my response of running, training
5 outdoors in Rock Creek Park late at night.
6 But another component that really is essential
7 is that we have about 20 percent of our
8 congregation lives in the community and
9 surrounding area and that makes it very
10 comfortable for them to be able to walk and be
11 able to get there.

12 And we will be able to manage the
13 passes, the complimentary passes we get. That
14 will be an internal process where everybody in
15 the church would value from it. So with that,
16 I agree wholeheartedly that passes would be
17 very welcome in our community. Thank you.

18 CHAIRPERSON HOOD: Thank you very
19 much. Ms. Fernandez?

20 MS. FERNANDES: Good evening. My
21 name is Gina Fernandez, a senior at the George
22 Washington University. I'm here this evening

1 on behalf of the GW student body to express my
2 support of expanding the membership of the
3 Lerner Health and Wellness Center to include
4 members of Saint Mary's Court, Saint Mary's
5 Church, The Remington and GW alumni who live
6 in the neighborhood.

7 GW students pride themselves on
8 being part of the Foggy Bottom community. We
9 plant trees and clean up the neighborhood with
10 our neighbors. We share Thanksgiving with
11 members of Saint Mary's Court. And many of
12 these students help out at Miriam's Kitchen
13 when they have the chance.

14 Our neighbors also have the
15 opportunity to use our library, eat on our
16 campus and audit our classes. Best of all, we
17 get a chance to celebrate our amazing
18 community here in Foggy Bottom every fall with
19 the Friends Block Party on I Street Mall. It
20 only makes sense to allow our neighbors to use
21 our exercise facilities as well.

22 Being part of a community means

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1 sharing resources with one another within that
2 community. By opening the Lerner Health and
3 Wellness Center to our neighbors, we'll be
4 doing just that.

5 In addition, many of our GW alumni
6 stay in the Foggy Bottom and West End
7 Neighborhoods and as the new working force in
8 D.C. contributing to its growth. I know many
9 graduates who have chosen to stay in the
10 District specifically in Foggy Bottom and I
11 hope to do the same.

12 I feel that keeping our GW
13 community together means giving our alums
14 access to the Lerner Health and Wellness
15 Center. I know that along with many other
16 classmates -- I know I along with many other
17 classmates plan to stay in Foggy Bottom. We
18 hope to continue our undergraduate tradition
19 of urban living without a car and that means
20 that we need to live in a walking neighborhood
21 with access to grocery stores, dry cleaners,
22 libraries, coffee shops and all other things,

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1 like a place to work out, which we want in our
2 future home neighborhood.

3 I think it would be great if we
4 could continue to have a facility that I have
5 been accustomed to using for over four years
6 now. By allowing members of GW's local alumni
7 community and the neighbors of Saint Mary's
8 Court, Saint Mary's Church and The Remington
9 access to our exercise facility, you will be
10 allowing our neighborhood to grow stronger,
11 both in a physical sense and in a community
12 sense.

13 I urge you to vote in favor of
14 this case tonight. Thank you.

15 CHAIRPERSON HOOD: Okay. Thank
16 you very much, Ms. Fernandez. Ms. Yates?

17 MS. YATES: Good evening. My name
18 is Mackenzie Yates and I would like to testify
19 today in support of GW's application to expand
20 access to the Lerner Health and Wellness
21 Center. I am a 2006 alumna of the George
22 Washington University Law School and a Foggy

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1 Bottom resident.

2 While I was a law student at GW,
3 my now husband and I grew to love the Foggy
4 Bottom Neighborhood so much that we decided to
5 purchase our first home there in 2004. As a
6 law student, I was able to walk two blocks to
7 the Lerner Health and Wellness Center to swim,
8 run, lift weights and play squash with my
9 fellow students.

10 However, the minute I graduated, I
11 could no longer use the Lerner facility and
12 had to find a local gym which has not been
13 able to provide facilities even remotely
14 comparable to those that Lerner provides.
15 More importantly, I no longer have that
16 connection to the university community that I
17 once felt.

18 For me, access to Lerner has
19 several unique benefits that I simply cannot
20 recreate elsewhere. While I was a law
21 student, I was able to take advantage of the
22 personal trainers who work at the gym and were

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1 also students at the university. Having since
2 trained with other personal trainers in town,
3 I can safely say that the trainers at Lerner
4 are the most up to date on the recent training
5 techniques and the most fun to train with,
6 because they are all students who are,
7 approximately, my age.

8 Lerner also provides a diversity
9 of fitness facilities that I have not been
10 able to find at any other facility close to
11 where I live. If I want to go to a gym that
12 has both weights and a pool, I have to join
13 two different facilities or drive across town
14 to indoor pools that do not require a
15 membership. And if I want to play squash, I
16 have to join yet another facility and would
17 likely end up playing with people I don't
18 know.

19 If I were given the opportunity to
20 use Lerner, I could swim, lift weights and
21 play squash all with people I know or who
22 share the connection to GW that I do. As a

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1 neighbor within two blocks of the facility, I
2 also can see no disadvantage to expanded
3 access. Alumni like me and adjacent neighbors
4 who are granted access would all be able to
5 walk to the facility creating no increase in
6 traffic and even perhaps a decrease in traffic
7 for those of us that currently drive to other
8 facilities in town for our fitness needs.

9 Neither the hours of the facility
10 nor the volume of people going in and out of
11 Lerner has ever created a nuisance or a
12 problem for us and I certainly don't
13 anticipate that this minimally expanded access
14 would change that in the slightest.

15 As an alumna, I'm thrilled that
16 the university would consider going to the
17 hassle of amending the zoning for the facility
18 to accommodate us. It is nice to see that GW
19 administration wants us to continue to be
20 active members of the GW community. And I'm
21 very excited to get back into the gym and
22 reconnect with some other fitness buffs my

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1 age.

2 I appreciate your time and I hope
3 that you will grant the expanded access.

4 CHAIRPERSON HOOD: Thank you very
5 much, Ms. Yates. Good timing. Colleagues,
6 any questions of this panel?

7 COMMISSIONER JEFFRIES: Yes, just
8 a quick question. Ms. Yates, you do recognize
9 that you might not be able to join this
10 wellness center based on what has been
11 presented? I mean, if there is 1,200 from
12 what the university is saying, 1,200 alumni
13 that are Foggy Bottom residents and it's --
14 there is an allotment of 250, you might be on
15 a waiting list.

16 MS. YATES: Well, I'm hoping that
17 by my active participation in this process
18 that I --

19 COMMISSIONER JEFFRIES: Ah, that's
20 where we go. Okay. I just -- you know, so
21 thank you. Thank you for coming down.

22 CHAIRPERSON HOOD: Thank you all

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1 for your testimony.

2 COMMISSIONER ETHERLY: While we
3 are waiting, Mr. Moore, if on rebuttal you
4 want to make sure that no inducements have
5 been offered to people who have testified
6 tonight, that might be helpful to clarify for
7 the record. Thank you, sir. Thank you, Mr.
8 Chair.

9 CHAIRPERSON HOOD: Did you want
10 that on the record or --

11 COMMISSIONER ETHERLY: That was
12 meant entirely in jest, of course.

13 CHAIRPERSON HOOD: All right. So
14 do we have anyone else who would like to
15 testify in support of this application?
16 Seeing none, next we'll go to opposition,
17 opponent. We have one opponent, in part, but
18 let me call Ms. Dorothy Miller who is
19 representing Columbia Plaza Tenants
20 Association, opponent, Elizabeth Elliott,
21 Foggy Bottom Association, in part, opponent
22 and Commissioner, I have it somewhere else

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1 where I can -- Commissioner Melini.

2 COMMISSIONER MELINI: I'm not
3 speaking today. The Commission just voted not
4 to favor anything, but simply not to oppose
5 anything and I voted to -- in part to oppose
6 that, that yielded the 4-1 vote.

7 CHAIRPERSON HOOD: Okay.

8 COMMISSIONER MELINI: But our
9 transmission to you, as I understand it, is
10 pro forma saying to vote. It doesn't really
11 elaborate in any way and I have not been
12 listed as a party today.

13 CHAIRPERSON HOOD: Okay. All
14 right.

15 COMMISSIONER MELINI: I follow
16 Mrs. Miller's lead, who is my predecessor,
17 however. I'll say it that way.

18 CHAIRPERSON HOOD: Okay. Okay.
19 Turn your mike on, Ms. Miller. Thank you very
20 much for that. Okay. Ms. Miller, you want to
21 begin?

22 MS. MILLER: Well, I guess I'm the

1 Grinch that stole Christmas. But this -- I'm
2 sorry, you broke my heart when you won't let
3 me be a party to the case, because I wanted to
4 correct something that was wrong in the report
5 from the planning office. And the other thing
6 is this was in my District from the beginning
7 and this was the first time -- the first thing
8 we ever won from the Zoning Commission.

9 They said no, they couldn't have
10 it. Why? Because it was on the periphery of
11 the campus. It was high activity project and
12 shouldn't be there. So they said no, but they
13 were going to confine it to a very small
14 number. And they have been back almost every
15 year since to raise the number. So I've got
16 that off my chest.

17 And you have read my statement, so
18 -- and I've got a few more things there for
19 you that I have picked up. And the problem is
20 the pedestrian traffic down there, it's not
21 only car traffic. Did you ever try to drive
22 a street that's full of students? So it's not

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1 just, you know, car traffic. You can't move.
2 You simply can't move.

3 And they are taking baskets from
4 the gorgeous new grocery store, they are
5 taking baskets from the Safeway and running
6 students across the street and a few other
7 things. Now, I know GW can't take care of all
8 their students, but they try, I'm sure.

9 But anyway, I know you've read
10 what I had to say in the beginning, but I did
11 want to say that my replacement was the
12 gentleman that just spoke to you. And the
13 problem that happened was the fact I resigned
14 in May, because I'm getting so blasted old I
15 can't do it any more and it broke my heart,
16 because the mind and the body won't -- the
17 body can't do it, but the mind wants to do it.

18 And three other Commissioners quit
19 at the same time. So we have a whole new
20 Commission. So the people voting on this had
21 no background nor did they look it up nor did
22 they find out why, that this should have been,

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1 according to the campus plan, in the middle of
2 the campus, not on the periphery of the
3 campus. And that's the reason why the Zoning
4 Commission laid over backwards to try to keep
5 it, the activity down as much as they could to
6 protect our neighborhood.

7 I think you know we no longer have
8 a neighborhood. And any time GW wants
9 something, they will promise you anything in
10 this world, like they promised the apartment
11 building, which is a transit hotel. Oh, you
12 know, come on, we'll promise you. Heck, and
13 they promised them anything until the Zoning
14 Commission makes the decision.

15 That don't stop them from
16 promising and then if you do this for me, I'll
17 do that for you, you know, come on. Now, the
18 problem on Saint Mary's Church, they broke
19 that church and they're not bothering to pay
20 to fix it. And this is one way to get -- to
21 stop the church from suing them. And when
22 they came before the Zoning Commission, they

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1 said oh, they didn't need any light and air.

2 Well, the Saint Mary's Church
3 didn't need any light and air, neither did GW,
4 is the way I looked at it. And they got --
5 the church got soldered by the lawyer and it
6 was a tragedy. And then the pastor left and
7 they have had one problem after another and I
8 tried to -- we tried -- it was designated
9 historic and the little carriage house should
10 have stayed with it, but GW bought that.

11 And they have given them parking
12 places instead. Isn't that nice. Well, you
13 have read my statement, so let me see if there
14 was anything else. And I have added a few
15 more things and the ANC did not vote to --
16 basically, they weren't going to oppose it.
17 It wasn't that they approved it. They just
18 weren't going to oppose it.

19 And it should have been in the
20 middle of the campus, not on the periphery.
21 And the students, they talk about the
22 restaurant across the street. You know that

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1 restaurant doesn't have a bathroom? They have
2 to take the people and lead them into the
3 apartment, into the student dormitory to take
4 them to the bathroom. Then they are left in
5 there.

6 Now, I testified against that,
7 too, but that didn't do any good. But they
8 fired the person who approved it two weeks
9 later, but that didn't help us on that
10 particular case. Then they put an outdoor
11 cafe, that's not supposed to be had in a
12 residential area either. And I tried to block
13 that and I guess my time is up.

14 CHAIRPERSON HOOD: Again, Ms.
15 Miller, we --

16 MS. MILLER: My whole 5 minutes?

17 CHAIRPERSON HOOD: All 5 minutes.

18 MS. MILLER: Oh, what a shame.
19 You broke my heart when you took away my right
20 to cross examine.

21 CHAIRPERSON HOOD: Well, I'm
22 sorry, Ms. Miller. I try to do what's right.

1 MS. MILLER: Well, I thought it
2 was right that I should ask for it. It's been
3 in my Single Member District --

4 CHAIRPERSON HOOD: You know, it's
5 been a long time --

6 MS. MILLER: -- from the
7 beginning.

8 CHAIRPERSON HOOD: -- you and I
9 just are disagreeing right now.

10 MS. MILLER: I know.

11 CHAIRPERSON HOOD: But that's
12 fine. That's fine.

13 MS. MILLER: But it had been in my
14 Single Member District from the beginning.

15 CHAIRPERSON HOOD: Let's hear from
16 Ms. Elliott and then -- hold your seat. We
17 may have some questions for you.

18 MS. MILLER: Okay.

19 CHAIRPERSON HOOD: Ms. Elliott?

20 MS. ELLIOTT: Thank you,
21 Commissioner Hood. Good evening. My name is
22 Elizabeth Elliott and I'm here testifying on

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1 behalf of the Foggy Bottom Association. At
2 its November 4th monthly meeting, the
3 executive board of the Foggy Bottom
4 Association authorized me to appear on behalf
5 of the association.

6 The FBA endorses the positions in
7 the original written filing for party status
8 in this case of former long-time ANC-2A
9 Commissioner and Chairperson Dorothy Miller in
10 whose Single Member District the subject
11 property is located.

12 The board had also authorized me
13 to seek party status for the FBA in this case,
14 but that vote came after the filing deadline
15 and after discussion our sense was that Ms.
16 Miller's submissions, written submissions,
17 which include the current ANC-2A05
18 Commissioner's position expressed our current
19 concerns to a great extent.

20 Before focusing on the FBA's
21 position on GW user request, I would like to
22 note that the FBA categorically opposes

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1 complimentary passes for occupants, permanent
2 or otherwise of The Remington Condominium.
3 According to the D.C. Real Property Assessment
4 Database, the majority of units listed in this
5 building are not owner-occupied. Despite that
6 fact, despite the fact that all Remington
7 units are classified under a residential use
8 code in the property tax records, the
9 buildings owners make no pretensions about the
10 fact that it is serving not primarily as
11 dwelling units for permanent residences --
12 residents, but as The Remington Executive
13 Suites and I have attached some documents
14 supporting that.

15 The owners are not operating a
16 condominium, but a hotel and skirting zoning
17 and tax regulations in the process. Our
18 Internet research revealed that this has been
19 going on for quite a while, apparently since
20 the last 1990s, even prior to the owners'
21 support of GW use special exception dormitory
22 project on Square 43.

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1 As you know, hotel use is not a
2 matter-of-right in Residential Zones and we
3 would suggest that the Commission is opening
4 itself to liability should it approve this
5 particular item. The Commission should note
6 that -- and this has been brought up by
7 Commissioner Miller, contrary to the OP report
8 in this case, ANC-2A did not vote to support
9 GW's submission. It voted to not take action
10 to oppose the application, which is a
11 different situation entirely, and should not
12 allow the great weight of the ANC to be
13 applied either for or against the university's
14 request.

15 We would remind the Commission as
16 did the ANC in 2002 and 2004 that one of the
17 primary reasons in its original case on this
18 project, the Board of Zoning Adjustment
19 rejected this application. It was the
20 building's location on the far western
21 boundary of the campus in the midst of non-
22 university residential housing.

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1 A review of the case record
2 demonstrates that the BZA based its subsequent
3 approval of the Lerner Health and Wellness
4 Center on the university's documented
5 testimony regarding its planned low intensity
6 use of the building. Ignoring this reality,
7 the university repeatedly cites the fact that
8 by its calculations, the Health and Wellness
9 Center is under-utilized.

10 A situation that it admittedly
11 chose to create by building an over-large
12 facility. It is not this Commission's
13 responsibility to ameliorate GW's self-created
14 planning and development errors.

15 The FBA does not oppose the
16 continued inclusion of the Mount Vernon Campus
17 faculty, staff and students, but does oppose
18 the Commission making these changes permanent,
19 at this time. The university's submission
20 does not indicate that this Commission has
21 recently granted GW's application for 200
22 additional beds for undergraduate students to

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1 the Mount Vernon Campus, which has an overall
2 cap of 1,500 beds.

3 The FBA requests that the
4 university be required to return to this
5 Commission at least a year after the Pelham
6 Hall Project is completed with discrete
7 numbers and the usage of the center by the MVC
8 population. This raises a related issue. The
9 impact of the thousands of MVC-Foggy Bottom
10 Shuttle Bus trips, this nearly exclusive
11 transport connection between the two areas in
12 and out of our neighborhood has had a negative
13 effect on our co-located community that is not
14 reflected in GW use submission.

15 The prospect of even more of these
16 vehicles running in and out of various parts
17 of the neighborhood whether for class
18 attendance on both campuses for use of the
19 center or for use of the MVC sports facilities
20 of our community is troubling. The FBA
21 supports the university's application as
22 outlined for continued use of the Lerner

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1 Health and Wellness Center by students
2 enrolled in the School Without Walls program
3 at our hysterically landmarked Grant School.

4 We would note that due to ongoing
5 construction of a large GWU dormitory abutting
6 the southern campus boundary and located
7 behind the Grant School, the students enrolled
8 in the Walls Program are attending classes
9 elsewhere currently and the building is
10 currently empty.

11 We assume that the renovation of
12 the Grant School and the building application
13 will not begin for some time and would request
14 that the exception being granted for the Wall
15 students have a start date that coincides with
16 the return to the Grant School.

17 CHAIRPERSON HOOD: Ms. Elliott if
18 you can give us your closing thought, your
19 finishing statement?

20 MS. ELLIOTT: Well, I wanted to
21 say that we support and commend the university
22 for providing limited complimentary passes to

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1 the residents to the residents of Saint Mary's
2 Court, a suggestion that the ANC made in 2002.
3 We support the Saint Mary's Church
4 participants. We don't support the opening of
5 paid memberships, however, nominal at the
6 Lerner Health and Wellness Center to the
7 alumni until this issue that was raised about
8 the unfair competition.

9 The FBA has been contacted by
10 business members, the URCA, which raised this
11 issue. And then, a couple of things I would
12 like and maybe you can cover --

13 CHAIRPERSON HOOD: Ms. Elliott, we
14 have your testimony.

15 MS. ELLIOTT: Okay. Great.

16 CHAIRPERSON HOOD: So I just want
17 to stop you there.

18 MS. ELLIOTT: Great. Thank you.

19 CHAIRPERSON HOOD: And thank you
20 very much, because we may have some questions
21 and I let you go a little longer, so hopefully
22 Ms. Miller you won't have a problem. I let

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1 her go a few minutes longer than I did you.
2 But I let her go a few minutes longer and I
3 want to make sure I'm fair, because I cut you
4 right off at the --

5 MS. MILLER: I've always thought
6 you were fair. I've been with you from the
7 beginning.

8 CHAIRPERSON HOOD: Thank you.
9 That's nice. You made me feel better now.
10 You sure have and I appreciate that.

11 Okay. Colleagues, do we have any
12 questions? Well, let me say this though. I
13 notice you both mentioned about the ANC and it
14 clearly states in Exhibit No. 18, it says
15 "ANC-2A considered whether the application
16 will result in an objectionable impact to the
17 neighborhood." Let me get to the bottom line.
18 "ANC-2A recommends to the Zoning Commission,
19 give its support to this application."

20 MS. MILLER: That was not what we
21 did. That's not what they did.

22 CHAIRPERSON HOOD: Put your mike

1 on, Ms. Miller.

2 MS. MILLER: That was not what
3 they did.

4 CHAIRPERSON HOOD: Do you know I
5 asked for --

6 MS. MILLER: We decided not to
7 oppose it. That was the -- now, I've got the
8 minutes.

9 CHAIRPERSON HOOD: Commissioner
10 Corsen. I'm just saying this --

11 MS. MILLER: Yeah, I know.

12 CHAIRPERSON HOOD: Whoever that
13 is.

14 MS. MILLER: Well, you wait until
15 I get my hands on him.

16 CHAIRPERSON HOOD: Well, Mr.
17 Corsen, if you're watching, I apologize, but
18 this is what happens.

19 MS. MILLER: I was the one who
20 moved to make him Chair, because out of the
21 group, when I retired in May, three others
22 right behind me, so we ended up with a whole

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1 new ANC and nobody knew anything.

2 CHAIRPERSON HOOD: Well, I just
3 wanted you both to know that we have a letter
4 and staff, I guess we can provide a copy. Oh,
5 you can have mine, but anyway, it's --

6 MS. MILLER: Well, I haven't seen
7 it, but I will get him to send me a copy and
8 I'll get him to correct it.

9 CHAIRPERSON HOOD: Okay.

10 MS. MILLER: Because I've got the
11 minutes.

12 CHAIRPERSON HOOD: Well --

13 MR. MOORE: Mr. Hood, with all due
14 respect to Ms. Miller, the letter speaks for
15 itself. I didn't write it.

16 CHAIRPERSON HOOD: Okay. Mr.
17 Moore, with all due respect, that was just me
18 clarifying. I already noted the letter is
19 here. I know what it says. It says support.
20 So that's why I wanted to clarify it to the
21 two young ladies who are here that it's
22 obviously the ANC supported. And that's what

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1 we -- you know, we can only work with what's
2 in the record. I can't work with -- and you
3 know that, Ms. Miller.

4 MS. MILLER: Well, I --

5 CHAIRPERSON HOOD: You and I have
6 been around a while.

7 MS. MILLER: The thing is I'm
8 going to have him correct that, because that
9 is incorrect.

10 CHAIRPERSON HOOD: Okay. Okay.

11 MS. MILLER: They voted not to
12 oppose.

13 CHAIRPERSON HOOD: Okay.

14 MS. MILLER: And the gentleman
15 sitting there is the one that replaced me and
16 he can vouch for what I'm saying is correct.

17 CHAIRPERSON HOOD: We don't need
18 to -- and at that time, if something comes, I
19 don't know where we will be with that. It may
20 not even be useful or it may be useful, but
21 you can handle that how you choose.

22 Okay. Any other questions? And

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1 let me just say early on it was the BZA,
2 because you remember, as you both remember, we
3 didn't -- the Zoning Commission didn't start
4 looking at --

5 MS. MILLER: I know.

6 CHAIRPERSON HOOD: -- these campus
7 plans --

8 MS. MILLER: They moved it over.

9 CHAIRPERSON HOOD: -- until we
10 moved it over to the year 2000.

11 MS. MILLER: Because it was just
12 too big for the little BZA.

13 CHAIRPERSON HOOD: Okay. Do we
14 have any other questions?

15 COMMISSIONER JEFFRIES: No
16 questions.

17 CHAIRPERSON HOOD: Okay. Does the
18 applicant have any questions? Okay. We thank
19 you both for your testimony. And thank you
20 for being consistent, being consistent.

21 MS. MILLER: Well, this is going
22 to be my last one.

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1 CHAIRPERSON HOOD: Okay. All
2 right. Mr. Moore, come on back up.

3 MR. MOORE: Mr. Chairperson and
4 Members of the Commission, we thank you for
5 your time and close attention to our
6 presentation. The university has put a
7 substantial and uncontroverted evidence into
8 the record to support the special exception
9 that is before you.

10 The evidence of record shows that
11 the university's mission with respect to the
12 center is to serve the entire community, that
13 includes students, staff, board of trustees
14 and the residents of the area in which it is
15 located. That has always been the purpose for
16 which this and other university facilities in
17 the District of Columbia are created.

18 After six years of operating
19 experience, the university has now gathered
20 enough factual evidence to demonstrate that it
21 is able to do that without averse zoning
22 impact. The university is elated that both

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1 the Office of Planning and the Advisory
2 Neighborhood Commission 2A both agree.

3 They do so because the applicable
4 zoning tests have been met. There is no
5 evidence that the proposed use will become
6 objectionable to neighboring property because
7 of noise, traffic, number of students or other
8 objectionable conditions.

9 In point of fact, the evidence
10 shows that all of the neighboring property
11 owners except the Odd Fellows have submitted
12 supporting statements into the record. The
13 Odd Fellows, of course, have not submitted a
14 statement in support or opposition. The Odd
15 Fellows are a difficult group to find.

16 In addition, some of the owners
17 and residents of properties in the
18 neighborhood have appeared this evening or
19 have written letters into the record to
20 expressly tell you of their support for this
21 application. Those few who would argue to end
22 or curtail these community health benefits

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1 take positions that are contrary to the
2 express interest of their own constituents.
3 Go figure.

4 You have in the record reports and
5 testimonies of the university's expert traffic
6 consultant who has conducted studies of the
7 current use at the center. Her study
8 concludes that the university's base of users
9 can be increased, that the center's base of
10 users can be increased as requested without
11 having an adverse impact on traffic or
12 parking.

13 But the Commission really doesn't
14 need an expert to tell it that adding
15 potential users who live within a stones throw
16 of the center is not going to impact traffic
17 or parking. The Commission doesn't need
18 experts to tell it that universities are able
19 to and do offer their university users to
20 their neighbors, that's a good thing.

21 I'm not sure why anyone would
22 think otherwise. But this is America and

1 people are entitled to think what they want,
2 although convincing yourself doesn't win an
3 argument.

4 The location, excessive noise and
5 unfair competition issues raised by the
6 opponents are not new. They are precisely the
7 same issues that were presented to the BZA in
8 1998 and to this Commission in 2004. Each
9 Board concluded in those cases that this is a
10 proper and appropriate location for the center
11 as did this Commission in approving the 1998
12 and the 2007 campus plans. Thus, the location
13 questions have already been decided four
14 different times.

15 Moreover, citing an expert
16 consultant study submitted by the university
17 in the 1998 case, the BZA found that excessive
18 noise will not be an issue, especially to all
19 of the adjacent neighbors, who coincidentally
20 will be using the center.

21 The unfair competition to private
22 health clubs allegation was raised in the 2004

1 case and overruled by this Commission. And
2 justifiably so because protecting one business
3 from another is not within the purview of the
4 BZA or the Commission. And even if it was,
5 the whole notion of the Lerner Center driving
6 the nearby LA Sports Club at the Ritz Carlton
7 out of business on its face is just pure
8 nonsense.

9 Does the recently opened Quigley's
10 Food venue unfairly compete with Kincaids
11 Restaurant, which is also on campus? Does the
12 university food court in the Marvin Center
13 cause economic shivers to the nearby TGI
14 Fridays or the productions at GW's Lisner
15 Auditorium are about to drive the Kennedy
16 Center out of business? The answers are this
17 is not a zoning issue and no, no and no.

18 What we have is a very simple
19 case. The university has the willingness and
20 the capacity to continue to offer its
21 beneficial health facilities to those it has
22 been successfully serving over the past three

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1 years and to extend the same benefits to the
2 residential community within the campus plan
3 area. The neighbors would like to have them.
4 The university would like to see them have
5 them.

6 There is no zoning reason related
7 to traffic, parking, number of students that
8 they should not have them. Instead, there is
9 a wealth of evidence in the record supplied by
10 an expert that is unrebutted to support such
11 a finding and a conclusion. And in these
12 circumstances, the application for special
13 exception relief must normally be approved.

14 We ask you to do so. Thank you
15 for listening and for your fair consideration
16 of the record evidence.

17 CHAIRPERSON HOOD: Thank you, Mr.
18 Moore. Any questions of Mr. Moore?

19 COMMISSIONER JEFFRIES: I just --

20 MR. BARBER: There's one question
21 you have, Mr. Hood, that I can come back to.

22 CHAIRPERSON HOOD: Thank you.

1 Thank you. I had forgot all about that.

2 MR. BARBER: Oh.

3 CHAIRPERSON HOOD: Good man. I
4 like that. Thank you.

5 COMMISSIONER JEFFRIES: Mr. Moore,
6 I'm just hoping that Odd Fellows is not like
7 a form of name calling.

8 MR. MOORE: That's their name.

9 COMMISSIONER JEFFRIES: I mean --

10 MR. MOORE: That's their name.

11 COMMISSIONER JEFFRIES: That's
12 their name?

13 ALL: Yes.

14 MR. MOORE: It's a national
15 organization believe it or not.

16 COMMISSIONER JEFFRIES: Oh, okay.

17 MR. MOORE: It's a little strange,
18 but --

19 COMMISSIONER JEFFRIES: Okay.

20 Thank you.

21 MR. MOORE: I wouldn't call them
22 names, sir.

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1 MR. BARBER: Yes, I think your
2 question was how will the passes be managed.

3 CHAIRPERSON HOOD: Right.

4 MR. BARBER: All right. Among the
5 immediate neighbors and we have talked to each
6 of the managing agents of these organizations
7 and, basically, the passes would be provided
8 so that the managers of those groups could
9 assign the passes on a daily basis among their
10 members. And they would be in charge of
11 collecting those passes.

12 And so say there are 15 passes
13 that are given to Saint Mary's Church, the
14 management at Saint Mary's Church would manage
15 that, so there will only be 15 at most at any
16 one given time, but it could be rotated among
17 their members.

18 CHAIRPERSON HOOD: Okay. Thank
19 you very much for that clarification.

20 MR. BARBER: Okay.

21 CHAIRPERSON HOOD: Yes, that was
22 what he was explaining to me. Go ahead.

1 Okay. Can I have --

2 COMMISSIONER ETHERLY: Mr. Chair,
3 just one very quick question.

4 COMMISSIONER JEFFRIES: Excuse me,
5 wait. Maybe you answered it and I'm sorry I
6 was distracted. So what's the -- how will the
7 decision be made for the 250 in terms of the
8 alums?

9 MR. BARBER: The alums will be
10 different. The alumni will be paid
11 memberships and so only those people who once
12 we identify the 250 alumni, they --

13 COMMISSIONER JEFFRIES: That's my
14 question. How do you identify the 250 alum?

15 MR. BARBER: We would do this on a
16 first come, first served basis and we will
17 give them a one year membership and we will
18 renew that annually.

19 COMMISSIONER JEFFRIES: So that
20 250 could stay in place for as long -- and it
21 might take a while for those who are on the
22 waiting list to get in?

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1 MR. BARBER: It could.

2 COMMISSIONER JEFFRIES: Okay. But
3 the -- so it will be first come, first served
4 and that's that. Okay. Yes, except for Ms.
5 Yates.

6 MR. BARBER: Well --

7 COMMISSIONER JEFFRIES: Yeah,
8 yeah.

9 MR. BARBER: -- we do recognize
10 her and appreciate the people who have
11 supported us, yes. I'm sure Ms. Yates
12 appreciates you looking out for her.

13 COMMISSIONER JEFFRIES: Oh, no,
14 Ms. Yates is looking out for herself.

15 MR. BARBER: Yes. And let me say
16 just one other thing. The incremental -- the
17 question of incrementalism, I mean, quite
18 frankly, the reason why we are here today is
19 because you told us to come back. You know,
20 you put a three year time limit and said you
21 could only have these members for three years
22 and you have to come back and renew it.

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1 And if we had to go through the
2 process, we had to file, pay the fee, hire Mr.
3 Moore, hire a traffic consultant.

4 COMMISSIONER JEFFRIES: Right.

5 MR. BARBER: It really behooved us
6 and this is kind of how we got here. It
7 behooved us to take a look and ask ourselves
8 the questions okay, if we're going to renew
9 these, are there any other groups we should be
10 addressing? And when we asked ourselves that
11 question, there were only two other groups
12 that came up. Those we have made commitments
13 to going back to 1997 and who have stuck with
14 us and keep asking us over a period of time
15 and our graduates, who have been using the
16 facility and have begun to ask us as well, you
17 know.

18 There wasn't any plan about we
19 will start with this and come back in two
20 years. Quite frankly, had to not been forced
21 to come back, I'm not sure we would have
22 gotten to those additional groups, certainly

1 not in this time frame. It wasn't on our
2 radar screen. We had to come back and that
3 forced the question on us.

4 COMMISSIONER JEFFRIES: You have
5 the last word.

6 CHAIRPERSON HOOD: Actually, so in
7 other words, if -- the question I asked you
8 earlier about three years, so by no uncertain
9 terms, if we did not require you to come back
10 for three years, and this goes back to the
11 trust factor, can you unequivocally say that
12 you would not be back down in front of us?
13 I'm not saying you cannot do it, but your last
14 statement leads me to believe that if I strike
15 the three years return, that you will not ever
16 come back to the Zoning Commission in the next
17 25 years to try to add another class.

18 MR. BARBER: I won't be here for
19 the next 25 years. But no, I think it's an
20 unfair question and, quite frankly, I would
21 never bind the university of the right to re-
22 evaluate things in the future, whether that's

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1 three years or five years. And I think you
2 have the last word. You, being the Zoning
3 Commission, can always say no based upon the
4 case before you.

5 I can tell you what our intention
6 is today. I can tell you why we're here. I
7 can tell you what prompted that. But I am not
8 going to say the university would never, you
9 know, take another look at this situation and
10 determine whether we can meet the standards
11 set forth in the Zoning Regulations and come
12 back for another examination.

13 And again, it may be a different
14 situation. We may come arm and arm with
15 Dorothy Miller or -- but that's the point.

16 CHAIRPERSON HOOD: Let me just --

17 MR. BARBER: Conditions can
18 change.

19 CHAIRPERSON HOOD: Right and I
20 agree, but I don't -- I disagree with you on
21 the question. I don't think it was an unfair
22 question, because you made as though -- you

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1 said this Commission had you come back in
2 three years. So let's go back to that.

3 MR. BARBER: Okay. No, that's the
4 reason why the timing. Now, we will be -- and
5 that's just reality in terms of how the
6 university works. We might have come back in
7 a year or two years, you know, because these
8 people are still -- want to have usage. We
9 think it's a good idea.

10 The reason why we're here tonight
11 is because you set this time frame. This is
12 not -- this was not -- given everything we
13 have been through, the campus plans, Square
14 54, this was not on our agenda. And so we may
15 have come back in a year or two or three and
16 eventually got back to it, but we're here
17 tonight because you told us to come back.

18 And it forced us to ask the
19 question at this particular time for who else
20 should we be accommodating? And quite
21 frankly, once we asked that question, it's the
22 application you have before you. There is no

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1 plan to go through a step 2 or do something
2 else in the future. But I don't know what the
3 future situation will be and what the
4 university's decisions might be in the future.

5 COMMISSIONER JEFFRIES: You know,
6 earlier this evening I asked you what was the
7 driver of this and so you have given just
8 another reason.

9 MR. BARBER: The timing was
10 certainly driven by the order that you set.
11 But when we started to look at well, who else
12 should we -- when we start asking the
13 questions, it was the thing -- it was the
14 factors that Ms. O'Neil had identified.

15 COMMISSIONER JEFFRIES: Right.

16 COMMISSIONER ETHERLY: Just one
17 final question as a follow-up to the
18 Chairman's question regarding the passes for,
19 I guess, all three classes.

20 MR. BARBER: Yes.

21 COMMISSIONER ETHERLY: I'm not
22 necessarily -- all three of the new classes.

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1 I'm not necessarily so worried about Saint
2 Mary's Court, but I'm just contemplating the
3 issue of transferability. Passes moving
4 outside of those identified classes just
5 because someone might conceivably say, hey, I
6 have a pass for the Lerner Center. I have
7 some relatives in town or something like that.

8 Is the university prepared or done
9 some thinking on kind of just how to deal with
10 that issue?

11 MR. BARBER: We have talked about
12 among the immediate -- first of all, the
13 alumni are not a problem, because they will be
14 each given a pass that's identified -- that's
15 key to their identification.

16 COMMISSIONER ETHERLY: Just to
17 them.

18 MR. BARBER: Right.

19 COMMISSIONER ETHERLY: Okay.

20 MR. BARBER: With the three
21 groups, we will require the management of
22 these organizations to identify specifically

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1 who is eligible to use it, because that's
2 important to us, because each of those people
3 who are potentially eligible has to sign a
4 waiver.

5 COMMISSIONER ETHERLY: Okay.

6 MR. BARBER: And those people,
7 it's that group of people who have signed that
8 waiver and who are associated with that
9 organization, only those people will be
10 eligible to get those passes.

11 COMMISSIONER ETHERLY: Okay.

12 Excellent. Thank you.

13 MR. BARBER: Okay.

14 COMMISSIONER ETHERLY: Thank you,
15 Mr. Chair.

16 CHAIRPERSON HOOD: Thank you,
17 Commissioner Etherly. All right. Anything
18 else, Mr. Moore?

19 MR. MOORE: If the Commission is--
20 well, I would ask the Commission if it would
21 be willing to act tonight?

22 CHAIRPERSON HOOD: Okay.

1 Colleagues, we have a request in front of us.
2 I don't know if we will gather any more
3 additional information. And I think the
4 record is complete at what is being requested.
5 It's on a Commission night and to prolong it,
6 I don't know, you know, what we would see
7 where we would get anything new or anything
8 different, especially if we closed the record.

9 But remember, let me be mindful
10 that this vote -- we only get one vote on
11 this. One bite of the apple. So with that,
12 I would open up to my colleagues and entertain
13 anything that -- how you want to proceed or
14 what we want to do.

15 COMMISSIONER ETHERLY: Mr. Chair,
16 I think the record is more than complete and
17 full in this case. I think we have had some
18 very excellent and necessary discussion around
19 the contours of how this works out, but I
20 would be more than comfortable moving forward
21 under a motion for the purposes of just
22 facilitating our conversation further, as this

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1 will be conceivably my first motion as a
2 Member of the Zoning Commission, please, feel
3 free to correct me in terms of nomenclature.

4 But I would move approval of
5 Zoning Commission Case No. 02-26A of George
6 Washington University/Lerner Health and
7 Wellness Center for a special exception under
8 11 DCMR section 210 and for further processing
9 of campus plan, Square 42, Lot 55, and I would
10 invite a second.

11 CHAIRPERSON HOOD: Okay. It has
12 been moved. Can I get a second?

13 COMMISSIONER JEFFRIES: I'll
14 second.

15 CHAIRPERSON HOOD: Okay. Let's do
16 a little deliberation. We have a request in
17 front of us and I'll throw this around.
18 Before we finalize the vote, we have a
19 question in front of us of whether or not this
20 review process we heard Mr. Barber mention
21 that the Zoning Commission had them come back
22 in three years, and I don't want to go into

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1 all what he said. I think the record speaks
2 for itself.

3 But I'm of the opinion that the
4 review process for the neighborhood to weigh
5 in on adverse impacts or any impacts to the
6 neighborhood traffic or whatever you have it,
7 that a three year or even a five year process
8 to review now, I understand from his comments
9 they may come back for some more classes, but
10 still there is some point of time that the
11 neighborhood and the community, since they are
12 working together or trying to work together,
13 has a review process. That's why I would be
14 in favor of putting either three to five year
15 review process in place. And I will open it
16 up for any comments.

17 COMMISSIONER TURNBULL: I would
18 agree, Mr. Chair. I think that the university
19 has proved its case or done its due diligence
20 on the impact that this has for the community,
21 but I think -- and I think it is the
22 university -- it fulfills what they originally

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1 stated out. It's university-related, but it's
2 also an excellent -- it's community
3 involvement and I think that's part of the
4 university's mission also.

5 But I think we do owe it to the
6 community as a whole to offer some type of a
7 review process where things can come back and
8 we can review it. I'm just concerned that,
9 and I think as you were alluding to, whether
10 it's three years or five years, I think we can
11 debate that, but I think we should put that in
12 as -- call it a safeguard or a measure for the
13 community to have review on how the process is
14 working.

15 COMMISSIONER JEFFRIES: Well, I
16 respectfully disagree. I don't think it's
17 really necessary for them to come back in
18 three to five years. I think this application
19 -- I think they have structured an application
20 that is so minuscule in terms of what they are
21 asking for. I mean, this increment is very,
22 very little. I don't see what could really

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1 possibly -- I mean, they have the absolute
2 right as an institution, as a university to
3 make the determination on whether there are
4 changes and I would rather they come back, but
5 I don't really see the need, based on what is
6 being presented tonight.

7 I mean, they are not tipping the--
8 there is not a tipping problem here. I mean,
9 this is -- I mean, 300 more users for this
10 facility, it's just not a show stopper. It
11 would be different if you were starting to
12 push those limits that were stated in terms of
13 the ceiling that the consultant stated, but
14 you are so far down, there's just really no
15 real reason to have them to come back here in
16 three to five years, I mean, based on what
17 they are presenting tonight.

18 Now, if they were coming back with
19 they were asking for 600, 700, 800, then we're
20 talking, you know, but, you know, again, I
21 think the application was very smart in that,
22 you know, these are -- this is foot traffic.

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1 This is not vehicular traffic. There's just
2 not any -- there's no movement and there's no
3 more vehicular traffic or additional
4 congestion in this area.

5 So I just don't think this 300
6 does anything, quite frankly, to, you know,
7 have an adverse impact on the immediate
8 community. And so I just don't think it
9 warrants to come back in three to five years.

10 CHAIRPERSON HOOD: Okay.
11 Commissioner Etherly, you're not agreeing any
12 more?

13 COMMISSIONER ETHERLY: No, no, no.
14 I would tend to agree with both the Chair and
15 Mr. Turnbull on this. And I agree because I
16 do not think at all the need to come back is
17 in any way necessitated by what we're talking
18 about tonight. I think the opportunity to
19 have a timely look as things progress and
20 hopefully as the center increases its traffic
21 among that eligible pool that you already
22 have, I think hopefully that would be a good

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1 problem to have, but I think it's one that
2 would be helpful for us to have a scheduled
3 point at which we take another look at it.

4 As much as I would like to
5 negatively impact Mr. Moore's opportunity to
6 make gainful income, I view it in a slightly
7 different perspective of Vice Chairman
8 Jeffries. Again, not because of the 300 that
9 we are talking about tonight. Mr. Jeffries is
10 absolutely correct in that it is
11 extraordinarily de minimis. De minimis is not
12 even really the right word for it.

13 But in terms of an opportunity in
14 a scheduled way to look over the next couple
15 of years at some point how you are coming
16 along in terms of the usage patterns, I think
17 would be a useful milestone to have built in
18 place. And then hopefully after that time, we
19 might be in a better position to say look you
20 know, let's just, you know, kind of cut it now
21 and the university can choose to come back
22 when and if it feels necessary to do so to

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1 seek enlargement of your classes or to bring
2 new classes into the mix.

3 But so I would tend to err on that
4 side, that cautionary side at this particular
5 point, Mr. Chair.

6 CHAIRPERSON HOOD: Okay. Let me
7 ask, I had three of my colleagues in favor.
8 Let me just ask now the next question and I
9 want to be respectful of Vice Chair Jeffries.

10 COMMISSIONER JEFFRIES: Why?

11 CHAIRPERSON HOOD: Because I think
12 what I'll do -- well, that is a good question
13 why, but anyway, no, I'm just playing. I do
14 want to seriously be respectful of his
15 opinion, so I think we will take this in two
16 votes, so you can -- I heard your opposition.

17 COMMISSIONER JEFFRIES: Well, I
18 mean, I think everyone has pretty much
19 stated --

20 CHAIRPERSON HOOD: Right. But I
21 wanted to give you the opportunity to be able
22 to vote against the time frame. So the record

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1 will reflect that you have voted against the
2 time frame.

3 COMMISSIONER JEFFRIES: Um-hum.

4 CHAIRPERSON HOOD: But not against
5 the application.

6 COMMISSIONER JEFFRIES: Okay.

7 Okay.

8 CHAIRPERSON HOOD: I think that's
9 being fair.

10 COMMISSIONER JEFFRIES: Right.

11 MR. BARBER: Mr. Chair, could I?

12 CHAIRPERSON HOOD: Let me do this.
13 We're deliberating right now. Let's do this.
14 How much time? Is it three or five years?
15 Let me hear from my colleagues.

16 COMMISSIONER ETHERLY: I would
17 tend, in response to your question, Mr. Chair,
18 to err on the side of five years, given the
19 growth -- given the use patterns that have
20 been discussed and laid out in the
21 documentation provided by the university. I
22 think five years is an appropriate enough

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1 snapshot over which time if there is going to
2 be any significant change in the use pattern,
3 I think that's enough time for it to mature.

4 I don't necessarily anticipate
5 three years resulting in a warshed of 15,000
6 people now coming in on a weekly basis to the
7 center, so I think five years would be a very
8 thoughtful compromise.

9 COMMISSIONER JEFFRIES:

10 Commissioner, you might need to withdraw that
11 motion, because I seconded.

12 CHAIRPERSON HOOD: He seconded the
13 motion. What I would like for you -- let's do
14 this.

15 COMMISSIONER ETHERLY: Okay.

16 CHAIRPERSON HOOD: Commissioner
17 Etherly, if you could make the motion again
18 with the time frame and the time period in it
19 and also the caveat of making sure that those
20 50 passes will be for the community. If you
21 can just put that in there, and I would -- we
22 will get somebody else to second.

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1 COMMISSIONER TURNBULL: And I
2 think it was for a minimum of 50.

3 CHAIRPERSON HOOD: A minimum of
4 50. Thank you for the correction. But if we
5 can just --

6 COMMISSIONER ETHERLY: So amended.

7 CHAIRPERSON HOOD: Okay.

8 COMMISSIONER ETHERLY: I'll do it
9 as simply as that.

10 CHAIRPERSON HOOD: So amended.

11 COMMISSIONER ETHERLY: So amended.

12 CHAIRPERSON HOOD: Okay.

13 COMMISSIONER ETHERLY: So as the
14 Chair indicated, five years and the 50 passes
15 as discussed.

16 CHAIRPERSON HOOD: Okay. And
17 okay, it has been moved and I'll ask -- what
18 we did, we took the other -- we withdrew the
19 first motion, because you seconded.

20 COMMISSIONER JEFFRIES: Right,
21 right, yes.

22 CHAIRPERSON HOOD: So let's not

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1 get confused. I know it's getting late.

2 Okay. So you have made the --

3 COMMISSIONER ETHERLY: I've made
4 the motion.

5 CHAIRPERSON HOOD: -- motion.

6 COMMISSIONER ETHERLY: Correct.

7 CHAIRPERSON HOOD: And I will
8 second that motion.

9 COMMISSIONER ETHERLY: Excellent.
10 Thank you.

11 CHAIRPERSON HOOD: All in favor --
12 wait a minute. Let me think. No, no, we've
13 got to do it differently. Take that motion
14 off the table and let me make a motion. Take
15 the motion off the table.

16 COMMISSIONER ETHERLY: So tabled,
17 Mr. Chair.

18 CHAIRPERSON HOOD: Okay. Okay.
19 We don't want to table, withdraw the motion.

20 COMMISSIONER ETHERLY: The motion
21 is withdrawn.

22 CHAIRPERSON HOOD: Okay. Do you

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1 second withdrawing the motion?

2 COMMISSIONER TURNBULL:

3 Absolutely.

4 CHAIRPERSON HOOD: Okay.

5 COMMISSIONER TURNBULL: I second.

6 CHAIRPERSON HOOD: Okay. So the
7 motion is withdrawn. Okay. What I would like
8 to move is that we approve -- we add to this
9 application a five year period for review
10 process in which the George Washington
11 University will need to come back to the
12 Zoning Commission at that time to review the
13 special exception and I would ask for a
14 second.

15 COMMISSIONER ETHERLY: Second it,
16 Mr. Chair.

17 CHAIRPERSON HOOD: It's moved and
18 properly seconded. Any discussion?

19 All those in favor?

20 ALL: Aye.

21 CHAIRPERSON HOOD: Any opposition?

22 So ordered. Staff would you record the vote?

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1 MS. SCHELLIN: The staff records
2 the vote 4-0-1 to approve Zoning Commission
3 Case No. 02-26A for a five year period and
4 with the requirement that at least a minimum
5 of 50 of the 300 passes be offered to the
6 community. Commissioner Hood moving,
7 Commissioner Etherly seconding, Commissioners
8 Turnbull and Jeffries in favor, Commissioner
9 Parsons not present, not voting.

10 CHAIRPERSON HOOD: We're working
11 it out. We want it to reflect correctly.

12 COMMISSIONER ETHERLY: Okay. I'm
13 just going to follow the Chair's lead on this
14 one, because he has kind of lost me. But I
15 think where we are and I think we're at an
16 appropriate point, Mr. Chair, that I would
17 move approval of ZC Case No. 02-26A of George
18 Washington University/Lerner Health and
19 Wellness Center for a special exception under
20 11 DCMR section 210 and further processing of
21 the campus plan, Square 42, Lot 55, and would
22 invite a second.

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1 CHAIRPERSON HOOD: I'll ask for a
2 second. Okay. It's been moved. Can we get
3 a second? Any discussion?

4 COMMISSIONER JEFFRIES: I'm
5 confused. Can we conference that?

6 CHAIRPERSON HOOD: Why are we
7 confused?

8 COMMISSIONER ETHERLY: And why are
9 we doing it a second time?

10 COMMISSIONER JEFFRIES: We're not.
11 We're done.

12 COMMISSIONER ETHERLY: We're done.

13 CHAIRPERSON HOOD: No, no.

14 COMMISSIONER ETHERLY: We're done.

15 CHAIRPERSON HOOD: What we did --
16 hold on, trust me, I got it. I've been to
17 parliamentary class, trust me. Trust me. Ms.
18 Miller, I'm sorry. I've been to parliamentary
19 classes. See, I've been there. Trust me. We
20 were trying to -- the issue was I was trying
21 to be respectful of Commissioner Jeffries'
22 vote against the time, so that's why we made

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1 the first motion.

2 COMMISSIONER JEFFRIES: Right.

3 CHAIRPERSON HOOD: He did not want
4 to vote against the whole application, the
5 whole special exception. So now what we are
6 doing is approval of the special exception.
7 The motion has been made with an example of a
8 minimum of 50 and it has been moved and I
9 seconded. All those in favor?

10 ALL: Aye.

11 CHAIRPERSON HOOD: Any opposition?
12 So ordered. Staff would you record the vote?

13 MS. SCHELLIN: Staff records the
14 vote 4-0-1 to approve Zoning Commission Case
15 No. 02-26A. Commissioner Etherly moving,
16 Commissioner Hood seconding, Commissioners
17 Turnbull and Jeffries in favor, Commissioner
18 Parsons not present, not voting.

19 CHAIRPERSON HOOD: Okay. And I
20 thank everybody for their participation.

21 MR. BARBER: Request for
22 clarification?

1 CHAIRPERSON HOOD: Sure.

2 MR. BARBER: The five year come
3 back, there are two categories of users before
4 you. The users that were approved in 2004 and
5 then the new 300. I would request that the
6 five year be restricted to the 300 or at least
7 be clear about that. Our request is that we--
8 the 2004 users be made permanent and we come
9 back and have to renew the 300. But either
10 way, it should be -- I would request it be
11 made clear.

12 CHAIRPERSON HOOD: I think the
13 motion spoke for itself. And I think all
14 classifications will be reviewable within five
15 years. And my colleagues would agree? Okay.
16 Thank you. Any further clarification needed?

17 MR. MOORE: No, thank you.

18 CHAIRPERSON HOOD: All right.
19 Thank you both. And I thank everyone for
20 their participation and have a nice evening.

21 (Whereupon, the Public Hearing was
22 concluded at 8:54 p.m.)