

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

PUBLIC HEARING

+ + + + +

IN THE MATTER OF:

(AMERICAN UNIVERSITY -  
CAMPUS PLAN AND FURTHER  
PROCESSING)

Case No.  
11-07

Thursday,  
June 23, 2011

Hearing Room 220 South  
441 4<sup>th</sup> Street, N.W.  
Washington, D.C.

The Public Hearing of Case No. 11-07 by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room, 441 4<sup>th</sup> Street, N.W., Washington, D.C., 20001, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD Chairman  
KONRAD W. SCHLATER Vice Chairman  
GREG M. SELFRIDGE Commissioner  
PETER G. MAY Commissioner (NPS)  
MICHAEL G. TURNBULL Commissioner FAIA,  
(AOC)

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OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN Secretary

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director,  
Development Review & Historic  
Preservation

JOEL LAWSON

ARLOVA JACKSON

DISTRICT DEPARTMENT OF TRANSPORTATION  
STAFF PRESENT:

JEFF JENNINGS

OGECHI ELEKWACHI

ANNA CHAMBERLIN

This transcript constitutes the  
minutes from the Public Hearing held on June  
23, 2011.

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

2 6:35 p.m.

3 CHAIRMAN HOOD: Good ev ening,  
4 ladies and gentlemen. This is the Public  
5 Hearing of the Zoning Commission of the  
6 District of Columbia for Thursday, June 23<sup>rd</sup>.

7 My name is Anthony Hood. Joi ning  
8 me are Vice Chairman Schlater, Commissione r  
9 May, Selfridge and Mr. Turnbull.

10 We are also joined by the Office  
11 of Zoning staff, Ms. Sharon Schellin, and the  
12 Office of Planning staff, Ms. Steingasser, Mr.  
13 Lawson and Ms. Jackson.

14 I'm going to ask Mr. Parker if he  
15 could come and introduce the Dis trict  
16 Department of Transportation staff. It seems  
17 like every week -- oh, I'm sorry, Mr.  
18 Jennings. I didn't see you. Mr. Jennings, if  
19 you can help us out with that?

20 MR. JENNINGS: Sure. Good  
21 evening, Chairman Hood. For the record, my  
22 name is Jeff Jennings. I work for the

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1 District Department of Transportation. To my  
2 right is my colleague, Anna Chamberlin, who  
3 will be delivering our verbal testimony this  
4 evening, in addition to answering the brunt of  
5 the questions. And to Ms. Chamberlin's right  
6 is Ogechi Elekwachi and she may need to depart  
7 a little bit on the earlier side this evening,  
8 just to let you know. Thank you.

9 CHAIRMAN HOOD: Okay. Thank you  
10 very much, Mr. Jennings.

11 This proceeding is being recorded  
12 by a Court Reporter and is also webcast live.

13 Accordingly, we must ask you to refrain from  
14 any disruptive noises or actions in the  
15 hearing room.

16 We are reconvening this evening's  
17 case. It's the request by the American  
18 University for special exception relief  
19 pursuant to 210 and 31 04.1 of the Zoning  
20 Regulations.

21 Notice of today's hearing was  
22 published in the DC Register on April 1, 2011

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1 and copies of that announcement are available  
2 to my left on the wall near the door.

3 The hearing will be conducted in  
4 accordance with provisions of 11 DCMR 3117 as  
5 follows: Tonight, we are going to start and  
6 we're going to have preliminary matters, after  
7 which we are going to finish cross-examination  
8 of the applicant by the parties; report of the  
9 Office of Planning; report of other Government  
10 agencies; report of Advisory Neighborhood  
11 Commission 3D, 3E and 3F; organizations and  
12 persons in support; organizations and persons  
13 in opposition. Then we will do rebuttal and  
14 closing by the applicant.

15 The following time constraints  
16 will be maintained in this meeting. I don't  
17 think I need to -- we have already dealt with  
18 the applicant. The applicant had 60 minutes.

19 Organizations five minutes, individuals three  
20 minutes, if we get that far.

21 The Commission intends to adhere  
22 to the time limits as strictly as possible in

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1 order to hear the case in a reasonable period  
2 of time.

3 Again, all persons appearing  
4 before the Commission are to fill out two  
5 witness cards. These cards are located to my  
6 left on the table near the door. Upon coming  
7 forward to speak to the Commission, please,  
8 give both cards to the reporter sitting to my  
9 right before taking a seat at the table.

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

17 Please, turn off all beepers and  
18 cell phones at this time, so not to disrupt  
19 these proceedings.

20 Would all individuals wishing to  
21 testify, please, rise to take the oath. Ms.  
22 Schellin, would you, please, administer the

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1 oath?

2 MS. SCHELLIN: Please, raise your  
3 right hand.

4 (Whereupon, the witnesses were  
5 sworn.)

6 MS. SCHELLIN: Thank you.

7 CHAIRMAN HOOD: I was just  
8 wondering, well, I don't expect that we are  
9 going to get to persons in support or  
10 opposition, but I notice that there weren't  
11 that many people, so we may be able to finish  
12 this tonight. I didn't see many people stand  
13 up, just in case we got to that point. Is  
14 there a reason?

15 MS. SCHELLIN: I think that they  
16 know we are not getting there.

17 CHAIRMAN HOOD: So we are starting  
18 off with no hope before we even get started.  
19 Okay.

20 Ms. Schellin, do we have any  
21 preliminary matters?

22 MS. SCHELLIN: We do. At Exhibit

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1 365, we have a request from Alfred Brenner for  
2 the Commission to reconsider his request for  
3 party status, if the Commission would like to  
4 do that. He originally applied for party  
5 status and it was denied.

6 He lives at Westover Place and I  
7 believe this is one that the Commission felt  
8 would be covered under the Westover Place.  
9 They were granted party status, Westover Place  
10 Home Corporation, and so he has asked the  
11 Commission to reconsider his request.

12 And so staff would ask the  
13 Commission to decide whether they would like  
14 to reconsider that.

15 CHAIRMAN HOOD: Okay. Thanks.

16 MS. SCHELLIN: That's at Exhibit  
17 365.

18 CHAIRMAN HOOD: Thank you, Ms.  
19 Schellin. Again, as stated by Ms. Schellin,  
20 Exhibit 365, Mr. Brenner is asking us to  
21 reconsider his consideration. I think that we  
22 -- this is my opinion. I think we thoroughly

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1 went through party status. I think we will be  
2 able to hear from Mr. Brenner and others as  
3 time for persons in opposition or in support,  
4 depending upon which there are, I think we  
5 have fully vetted that whole process.

6 And I would not recommend that we  
7 revisit it, but I will open it up for any  
8 comments from my colleagues.

9 COMMISSIONER MAY: Mr. Chairman,  
10 can we take a couple minutes to review this,  
11 since we have only received this information  
12 tonight?

13 CHAIRMAN HOOD: Sure.

14 COMMISSIONER MAY: Mr. Chairman,  
15 reading through this, I don't see much in the  
16 application that demonstrates why party status  
17 is warranted. I mean, this is a house that,  
18 you know, there are neighbors immediately next  
19 door that are also similarly affected, perhaps  
20 some even more so.

21 So I think it is -- I don't see  
22 enough to justify party status in this

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1 circumstance. I would hope that the  
2 representation by the Westover group would be  
3 appropriate.

4 I would take note of the  
5 suggestions that were made in his submission  
6 for adjusting the plan, the Campus Plan, to  
7 try to address some of the concerns, Mr.  
8 Brenner's concerns and possibly other --  
9 presumably other neighbors.

10 And I think that's worth -- it's  
11 all worth considering, but I don't think it's  
12 relevant to the specifics of party status. So  
13 I think we will take that and consider that in  
14 due course.

15 CHAIRMAN HOOD: Okay. Anyone else  
16 want to comment? Okay. So we will leave the  
17 recommendation of myself and the comments of  
18 Commissioner May. And I don't think -- we  
19 have already voted. We don't need to vote on  
20 this issue. We can just not reconsider.

21 MS. SCHELLIN: Correct.

22 CHAIRMAN HOOD: And again, I want

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1 Mr. Brenner and others to know that in due  
2 time, we will hear from those in support and  
3 in opposition.

4 Okay. I thi nk tonight -- Mr.  
5 Tummonds? Good evening.

6 MR. TUMMONDS: Good evening.

7 CHAIRMAN HOOD: Do you have a  
8 comment?

9 MR. TUMMONDS: Yes. One point, I  
10 guess we -- someone talked the last time in  
11 the granting of party status and I think it's  
12 appropriate to address now is who would be the  
13 representative of each party that will be  
14 doing the cross-examination this evening.

15 Typically, as you know, the -- you  
16 require that there be one representative of  
17 each party that does th at cross. We didn't  
18 really talk about that last time, so I think  
19 it probably makes sense if we did that now  
20 before we got into it.

21 CHAIRMAN HOOD: Okay. I have an  
22 updated list.

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1 MS. SCHELLIN: I think it was  
2 actually in most of their application forms  
3 have a designated person.

4 CHAIRMAN HOOD: We have one name  
5 down here for all the parties. I have Thomas  
6 Smith. Well, I have to have your name first.  
7 I have Thomas Smith, Kath y Wiss, Allison  
8 Fultz, Michael Mazzuchi, hopefully he will  
9 correct me when he comes up, Judy Chesser,  
10 Robert Herzstein, Laurie Horvitz, I have her  
11 down, she is representing two parties, and  
12 then Jonathan Bender, who asked to go last.

13 That's per the order.

14 MR. TUMMONDS: Right.

15 CHAIRMAN HOOD: Okay. With t hat,  
16 if you can bring folks up who testified the  
17 last time? And maybe if we can save one seat  
18 for the person who is going to be doing the  
19 cross-examination for the parties.

20 And we a re going to start with  
21 Tenley Campus Neighborhood Association, Ms.  
22 Allison Fultz.

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1                   Okay. M s. Fultz, we are ready  
2 when you are. You want to                   turn your  
3 microphone on? There we go.

4                   MS. FULTZ:        Good ev ening, Mr.  
5 Chairman. Allison Ful tz with the firm of  
6 Kaplan Kirsch & Rockwell. I represent the  
7 Tenley Campus Neighbors Association.

8                   And before we begin , I would lik e  
9 to request that the Commission consider that  
10 we have coordinated with the            other two  
11 community groups or the other Westover Place  
12 and Neighbors for a Livable C ommunity and as  
13 well Wesley Heights and Spring Valley and had  
14 discussed having the Westover Place Neighbors  
15 for a Livable Community group conduct their  
16 cross first followed by Wesle y Heights a nd  
17 Spring Valley and then Tenley Campus last.

18                   And we would like to know if that  
19 would be acceptable to the Commission?

20                   CHAIRMAN HOOD: So that's going to  
21 affect how you present it to us. Do you have  
22 like a sequential order of making your points?

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1 MS. FULTZ: Correct.

2 CHAIRMAN HOOD: Okay. If that  
3 will make it more efficient --

4 MS. FULTZ: We have been  
5 coordinating on our cross.

6 CHAIRMAN HOOD: -- I'm going to  
7 wait for Ms. Schellin to come back. Actually,  
8 I have to be honest with you, I have a cheat  
9 sheet. So what I'm going to do is I would  
10 like for this to be put in order, because it's  
11 hard to keep remembering who is going to go  
12 first, who is on second, who is on third.

13 So what I'm going to do is ask you  
14 to go over that again. Tell me which order.

15 MS. FULTZ: So we had discussed  
16 having Laurie Horvitz, who represents Westover  
17 Place and Neighbors for a Livable Community --

18 CHAIRMAN HOOD: Go first?

19 MS. FULTZ: -- go first.

20 CHAIRMAN HOOD: And that's going  
21 to be through the whole process? Cross-  
22 examination of the Office of Planning and

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1 DDOT, through the whole process?

2 MS. FULTZ: If -- sure. We can do  
3 it that way.

4 CHAIRMAN HOOD: That way we can  
5 get some consistency. So that's what we are  
6 going to do for Office of Planning and DDOT or  
7 whoever else, we're going to do it in this  
8 order. Okay? Okay. You can go ahead.

9 Ms. Horvitz is going to go first.

10 MS. FULTZ: Correct. And then Mr.  
11 Mazzuchi, who represents Wesley Heights and  
12 Spring Valley.

13 CHAIRMAN HOOD: Is going second.

14 MS. FULTZ: Would like to go  
15 second.

16 CHAIRMAN HOOD: Okay.

17 MS. FULTZ: And then actually  
18 David Wilson, who is a member of the Tenley  
19 Campus Neighbors Association will be actually  
20 conducting the cross.

21 CHAIRMAN HOOD: I have Judy  
22 Chesser. I have her down as doing cross-

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1 examination.

2 MS. FULTZ: Ms. Chesser represents  
3 the Tenleytown Neighbors Association, which is  
4 a separate group.

5 CHAIRMAN HOOD: What was the  
6 group? I'm sorry. You said Tenley Campus?  
7 No, you're doing --

8 MS. FULTZ: I represent the Tenley  
9 Campus Neighbors Association.

10 CHAIRMAN HOOD: Okay.

11 MS. FULTZ: Which is the group  
12 immediately --

13 CHAIRMAN HOOD: I'm just trying to  
14 get the order.

15 MS. FULTZ: -- adjacent to campus.

16 CHAIRMAN HOOD: I'm just trying to  
17 get the order right now.

18 MS. FULTZ: So we will be third.

19 CHAIRMAN HOOD: Okay. So you all  
20 will be third. Okay. Who is fourth?

21 MS. FULTZ: And then Tenley  
22 Neighbors Association. And that would be Ms.

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1 Chesser.

2 CHAIRMAN HOOD: Okay. Is Mr.  
3 Herzstein okay with all of this? They  
4 actually have you last. Well, I'm sorry, Mr.  
5 Bender asked to be last, but they have you  
6 next to last. Are you okay? Okay. Let's  
7 proceed in that order and I will have to ask  
8 Ms. Schellin to update my list.

9 Let's go with Ms. Horvitz who is  
10 going to begin. Just give us a moment,  
11 please. Okay. Thank you. Ms. Horvitz, you  
12 may begin.

13 MS. HORVITZ: Thank you very much.  
14 My name is Laurie Horvitz, and as Allison  
15 Fultz indicated, I am here representing two of  
16 the parties, specifically Westover Place Homes  
17 Corporation and Neighbors for a Livable  
18 Community and I'll just be combining my  
19 questions without differentiation between  
20 those two.

21 And I can assure you that we have  
22 made every effort with the other organizations

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1 to try to avoid duplication of questions and  
2 to allocate topics, so that we are not  
3 covering the same areas.

4 Let me start, first of all of  
5 course, since I represented Westover with some  
6 questions about East Campus. And if I have a  
7 particular person in mind to answer the  
8 question, I will make that suggestion and if  
9 not, it's open for whoever thinks it is  
10 appropriate to respond.

11 So my first question is for Mr.  
12 Taylor. Didn't the BZA find in 1989 that the  
13 Nebraska Avenue parking lot site was not a  
14 suitable location for development of the law  
15 school?

16 MR. TAYLOR: I'm not hearing the  
17 question. I'm not aware of that.

18 MS. HORVITZ: You don't recall  
19 that.

20 COURT REPORTER: The first time  
21 you speak, can I get your name first?

22 MS. HORVITZ: I apologize.

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1                   CHAIRMAN HOOD:     Well, actually,  
2     everyone for the first time when you     are  
3     called on, if you could just acknowledge your  
4     name? Acknowledge who you are with     and your  
5     name. Okay. Thank you.

6                   MR. TAYLOR: I'm     David Taylor.  
7     I'm not aware of that.

8                   MS. HORVITZ: Okay. So you don't  
9     recall that there was a decision by the BZA in  
10    which there were expressed findings that the  
11    development of that site would disrupt the  
12    single largest parking facility on the campus  
13    would be adjacent to the most congested  
14    street, specifically Nebraska Avenue, would  
15    exacerbate an already difficult traffic area  
16    and would create tall buildings facing  
17    Westover Place and other homes ? You don't  
18    recall that?

19                  MR. TAYLOR: No, I was not     at the  
20    university at that time.

21                  MS. HORVITZ: Okay. Do you recall  
22    or does anybody else at the table recall that

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1 in 2001, the very same reasons were invoked by  
2 the university as a reason not to put the  
3 Katzen Arts Center on the Nebraska Avenue  
4 site? Do you recall that?

5 MR. TAYLOR: I do not.

6 MS. HORVITZ: Okay. I would --  
7 may I use an exhibit just that might help them  
8 remember this point?

9 CHAIRMAN HOOD: Are you going to  
10 submit that also to us?

11 MS. HORVITZ: I am. Indeed, I  
12 have sufficient copies.

13 CHAIRMAN HOOD: Well, let me jus t  
14 say this, Ms. Horvitz. A s you know being  
15 counsel, we want to make sure and that's why  
16 all these mixed nights, I want to make sure  
17 that they did t estify to this. Is this  
18 germane to the specific campus plan in this  
19 case.

20 The Katzen Center and those things  
21 are a different case. So I want to make sure  
22 we stay specifically to th is. I know Mr.

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1 Tummonds was getting ready to hit his mike,  
2 but he allowed for it to go.

3 MS. HORVITZ: That's fine,  
4 Chairman Hood. I was just going to show Mr.  
5 Tummonds the letter that he had written in  
6 which he had made these same argumen ts. But  
7 I'll move on and focus on the fact that in --  
8 that Nebraska Avenue is s till a congested  
9 street, is it not, Mr. Taylor?

10 MR. TAYLOR: Yes, it is.

11 MS. HORVITZ: And t he current  
12 proposal for East Campus would still create  
13 tall buildings in a lot adjacent to Westover,  
14 would it not?

15 MR. TAYLOR: It would have four  
16 five story buildings.

17 MS. HORVITZ: An d the Nebraska  
18 Avenue parking lot is still, in fact, used as  
19 one of the largest lots on campus, correct?

20 MR. TAYLOR: Currently.

21 MS. HORVITZ: Okay. Now, and with  
22 respect to the parking lot, what -- who uses

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1 it right now? Is it commuter students?

2 MR. TAYLOR: It's probably a  
3 mixture of both.

4 MS. HORVITZ:

5 MR. ABUD: It's a mix of all -over  
6 population, students, faculty and staff.

7 MS. HORVITZ: Okay. Now, I would  
8 like to talk about the buffer buildings, those  
9 are the buildings that are proposed for East  
10 Campus. Specifically, they have been  
11 identified as Buildings 4 and 6. And I use  
12 the term buffer building, because that's what  
13 the university uses as a reference for them.

14 Can you tell me what are the  
15 intended uses for those buildings?

16 MR. ABUD: Jorge Abud. They are  
17 classrooms and offices.

18 MS. HORVITZ: Would there be  
19 specific hours of operation?

20 MR. ABUD: Our classroom buildings  
21 are open at 8:00 a.m. and close at 11:00 p.m.,  
22 office hours vary, depending on the particular

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1 function. Our classes currently run from 8:30  
2 a.m. until 10:40 p.m.

3 MS. HORVITZ: We saw pictures  
4 during AU's presentation of windows that were  
5 going to face towards the Westover community.  
6 Are those windows that correspond to  
7 classroom buildings or administrative  
8 buildings?

9 MR. ABUD: Both buildings 4 and 6,  
10 each are mixed-use in those buildings, so they  
11 both have classroom and office functions in  
12 them. The -- whether the specific, you know,  
13 windows, the spaces that are behind them are--  
14 you know, vary along the back, so some of them  
15 may be classrooms, some of them may be  
16 offices.

17 MS. HORVITZ: So some of those  
18 windows facing Westover could, in fact, be  
19 used for classrooms as late as 10:30 or 11:00  
20 at night?

21 MR. ABUD: Yes.

22 MS. HORVITZ: Okay. Would

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1 students who are residing at the proposed  
2 adjacent dormitories be allowed to use those  
3 classrooms at any hour?

4 MR. ABUD: I'm not sure I  
5 understand. The 8:00 a.m. to 11:00 p.m. time  
6 frame is what is in force and we lock the  
7 buildings up outside of those hours, so they  
8 are not able to be used.

9 MS. HORVITZ: Okay. That was my  
10 question. Because I know that there was a  
11 comment by AU during its direct case that it  
12 could control usage of the buffer buildings,  
13 was the phrase. And so how is it that you are  
14 going to control usage? Are you actually  
15 going to lock the doors at 11:00 at night?

16 MR. ABUD: Yes, we do that for all  
17 of our academic/administrative buildings. The  
18 student center and the library are the only  
19 ones that are open 24 hours.

20 MS. HORVITZ: Now, I had a  
21 question about the windows facing the back on  
22 these buffer buildings. Would those windows

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1 be capable of being open?

2 MR. ABUD: Yes, the current plan  
3 is to have those windows be operable.

4 MS. HORVITZ: Are you proposing  
5 any residential uses for buildings 4 and 6?

6 MR. ABUD: No, we are not.

7 MS. HORVITZ: Okay. I might  
8 direct your attention, maybe this is to Mr.  
9 Tummonds, in Exhibit 5 to the prehearing  
10 statement, specifically Drawing No. 12.2,  
11 there is a proposed Main Campus building and  
12 land use drawing. And it appears to depict  
13 buildings 4 and 6 as though they were  
14 residential in character.

15 And I just wanted assurances on  
16 the record that that was in error.

17 MR. TUMMONDS: I think what the,  
18 if you are, in fact, referring to this, this  
19 is the plan you are referring to, the Exhibit  
20 5?

21 MS. HORVITZ: Exhibit 5 of the  
22 prehearing statement.

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1 MR. TUMMONDS: Of t he prehearing  
2 statement, the May 20<sup>th</sup> prehearing statement?

3 MS. HORVITZ: Correct.

4 MR. TUMMONDS: Okay. We will make  
5 sure the plans accurately depict what Mr. Abud  
6 said, which is that there are no residential  
7 uses proposed in Building No. 4 and Building  
8 No. 6.

9 MS. HORVITZ: Great. I appreciate  
10 that. Would the -- would any of the  
11 buildings, as proposed on East Campus, be used  
12 for conferences?

13 MR. ABUD: Potentially all --  
14 currently, all our classroom building s can  
15 host conferences and we do that in the  
16 summertime typically when we don't have a high  
17 volume of regular classes in session.

18 MS. HORVITZ: Okay. Would these  
19 conferences be associated with spec ific  
20 academic programs of the university or are you  
21 just renting out the space?

22 MR. ABUD: We do a combination of

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1 both.

2 MS. HORVITZ: About how many  
3 conferences, if you know, did AU host in the  
4 last year?

5 MR. ABUD: I don't have that  
6 information.

7 MS. HORVITZ: Okay. Does AU have  
8 any plans to use any of the buildings as  
9 proposed on East Campus for continuing  
10 education programs?

11 MR. ABUD: Potentially.  
12 Currently, all of our classrooms are available  
13 for continuing education programs. And so  
14 they would be part of that inventory.

15 MS. HORVITZ: Are those classes  
16 normally on weekends and evenings?

17 MR. ABUD: They vary. Typically,  
18 they are evenings and weekends, yes.

19 MS. HORVITZ: So the classroom  
20 space, administrative space and any other  
21 common areas that are not actually being used  
22 as residences could be used in the weekends

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1 and evenings for conferences?

2 MR. ABUD: Yes.

3 MS. HORVITZ: Does AU have any  
4 current plans to locate any offices or classes  
5 for the Osher Lifelong Learning Institute on  
6 East Campus?

7 MR. ABUD: No, we do not.

8 MS. HORVITZ: What are AU's  
9 current plans with respect to that  
10 organization's space on campus?

11 MR. ABUD: The discussions we are  
12 having right now, and this is very  
13 preliminary, is that we would locate their  
14 needs in commercial facilities.

15 MS. HORVITZ: Okay. So does that  
16 go -- what's the acronym, OLLI? Is that  
17 right?

18 MR. ABUD: That's correct.

19 MS. HORVITZ: Okay. So OLLI would  
20 be -- would not, in fact, even be on campus.  
21 Is that what you are saying? At least at your  
22 current thinking.

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1 MR. ABUD: That's correct.

2 MS. HORVITZ: Okay. And your  
3 application for 800,000 new square feet of  
4 space on campus between Tenley and the Main  
5 Campus would not result in the construction of  
6 any additional buildings that would be made  
7 available for OLLI?

8 MR. ABUD: That's correct.

9 MS. HORVITZ: Okay. I mean, it's  
10 my understanding, I have seen the letter, that  
11 president Kerwin wrote the Executive Director  
12 of OLLI on May 27, 2011, and it 's in the  
13 record several times already in this case,  
14 making the statement that OLLI's space needs  
15 mirror that of other AU programs and partners  
16 and our "solution" for OLLI and all units  
17 depends on campus plan approval.

18 Are you aware of that letter?

19 MR. ABUD: Yes.

20 MS. HORVITZ: Okay. And so what  
21 is being promised, if anything, to this group  
22 vis-a-vis space if the campus plan is

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1 approved?

2 MR. ABUD: We have not promised  
3 them anything.

4 MS. HORVITZ: Okay. Is the most  
5 likely location for OLLI the 4 801  
6 Massachusetts Avenue site?

7 MR. ABUD: I don't want to  
8 speculate about that. That is one of our  
9 commercial facilities, so it is a candidate.

10 MS. HORVITZ: Okay. And if it,  
11 OLLI, were located either on-campus or off-  
12 campus in a commercial building, such as the  
13 current law school, which is 4801  
14 Massachusetts Avenue, is it AU's contention  
15 that those students would or would not count  
16 towards the enrollment cap?

17 MR. ABUD: I believe it is our  
18 contention that was also addressed in OP's  
19 supplemental statement that was filed this  
20 week, that they would not be. It may be  
21 helpful for Mr. Taylor to discuss the  
22 relationship that exists between OLLI, what

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1 exactly it is and the university.

2 MR. TAYLOR: Yes. Indeed, OLLI  
3 via the contract we have with them, with the  
4 Osher Lifelong Learning Institute, we are to  
5 accommodate a certain number, a ce rtain  
6 percentage of their activities. And, indeed,  
7 they have notified us that their current  
8 situation is somewhat dire, because their  
9 lease arrangement is expiring.

10 So they asked, indeed, if we could  
11 further enhance our efforts to help them find  
12 space and we said --

13 CHAIRMAN HOOD: I'm --

14 MR. TAYLOR: -- we would be glad  
15 to --

16 CHAIRMAN HOOD: -- let me  
17 interrupt. I'm being told that thos e in the  
18 back cannot hear. And I want to thank them  
19 for raising their hands and n ot yelling out.  
20 I appreciate it. So let's stay in that mike.  
21 If we stay in that mike when we're asking  
22 questions, everybody can hear you.

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1 MR. TAYLOR: Okay. Thank you.

2 MR. TUMMONDS: I think what I  
3 might add, too, is that the Office of Planning  
4 did a really good job of describing with the  
5 Osher Lifelong Learning Institute is. This is  
6 in the supplemental report dated June 22,  
7 2011.

8 I don't want to go too much into  
9 that, because it's in the record, but it,  
10 basically, is the Osher Lifelong Learning  
11 Institute while it has an affiliation, it has  
12 AU's name on it, that seems to be a part of  
13 the requirements that the Bernard Osher  
14 Foundation requires when it supports 117  
15 lifelong learning institutes on university and  
16 college campuses across the country with at  
17 least one program in each of the 50 States.

18 So these are non-credit  
19 educational programs, specifically, developed  
20 for seasoned adults who are age 50 and older.  
21 This is not an AU-specific program.

22 MR. TAYLOR: That's correct.

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1                   MS. HORVITZ: All right. Thank  
2 you. I appreciate it. So just to reiterate,  
3 because that was a little background. I  
4 appreciate it. Your proposal is to exclude  
5 however many of these students who take  
6 courses that might be on the campus, because  
7 you haven't decided that yet, would not count  
8 towards the enrollment cap, correct?

9                   MR. TAYLOR: Correct.

10                  MS. HORVITZ: All right. And do  
11 these students have use of the campus library?

12                  MR. TAYLOR: As needed, just like  
13 the general public does.

14                  MS. HORVITZ: And do they have use  
15 of the computer lab?

16                  MR. TAYLOR: That I'm not sure  
17 what the requirements would be. Yes, I'm not  
18 sure.

19                  MS. HORVITZ: Okay. So they --

20                  MR. TAYLOR: These are enrichment  
21 classes. They are not matriculating for  
22 degrees. These are enrichment classes, non-

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1 degrees.

2 MS. HORVITZ: Okay. Back to the  
3 buffer building or I guess there are two of  
4 them. Could you -- could somebody tell me,  
5 maybe it's Ms. Buffington, how long in feet is  
6 Building 6 if you are running from the New  
7 Mexico side all the way to the opposite end  
8 near Building 4?

9 MS. BUFFINGTON: I don't have that  
10 exact information.

11 MS. HORVITZ: Is it hundreds of  
12 feet? I mean, the whole -- what's the full  
13 distance of the site that you are developing?  
14 It's a 6 acre site out of the 8, correct?

15 MS. BUFFINGTON: Approximately.

16 MS. HORVITZ: All right. And most  
17 of the distance is occupied by this long  
18 building that is Building 6. There is a small  
19 break and then there is another modestly long  
20 building that is Building 4. Do you have any  
21 idea how long the total length is of those two  
22 buildings as they sit parallel to the Westover

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1 wall?

2 MS. BUFFINGTON: I don't have that  
3 information right now, but we can provide that  
4 information.

5 MS. HORVITZ: That would be great,  
6 because I couldn't find that dimension at all.

7 MS. BUFFINGTON: I'm sorry, my  
8 name is Beth Buffington. I'm with Little  
9 Diversified Architectural Consulting.

10 MS. HORVITZ: Thank you. Yes,  
11 that would be appreciated, because I couldn't  
12 find that dimension anywhere in the materials.

13 Staying on a question for you, Ms.  
14 Buffington, you mentioned in your direct  
15 testimony that the East Campus site slopes  
16 down at the edges.

17 Do you recall that testimony?

18 MS. BUFFINGTON: Yes, I do.

19 MS. HORVITZ: Is it AU's plan as  
20 proposed before this Commission, given that we  
21 have a further processing request with respect  
22 to East Campus, to remove that bump in the

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1 middle of the site?

2 MS. BUFFINGTON: Well, it -- the--  
3 no. Well, yes and no, I guess. There is a --  
4 the site goes up slightly from Nebraska Avenue  
5 and then slopes off to the edges on New Mexico  
6 and Massachusetts Avenue. And we are taking  
7 off the bump that is right in the front, so  
8 that it is -- we are coming in flat from  
9 Nebraska Avenue.

10 MS. HORVITZ: Are you aware that  
11 in earlier discussions with the communities,  
12 AU represented that it would remove the entire  
13 bump that is the raise in the center of the  
14 East Campus site and presented a visual  
15 depiction of that?

16 MS. BUFFINGTON: I'm not sure  
17 exactly what you are referring to. We are  
18 taking the bump off in the middle of the site.

19 The site slopes down, so you can see in the  
20 model the site slopes down significantly on  
21 the two outer edges. We are not going to  
22 attempt to level the entire site.

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1 MS. HORVITZ: I would like to -- I  
2 must use an exhibit for this one, I think.  
3 Let me hand to you a document and then I have  
4 plenty of copies. Would the Secretary like  
5 15?

6 CHAIRMAN HOOD: How many do you  
7 need, 15?

8 MS. BUFFINGTON: Yes, we are going  
9 to do that. As represented in this drawing,  
10 this is an earlier exhibit that was -- I'm  
11 sure it's on the website.

12 MS. HORVITZ: All right. So it's  
13 your testimony that the -- this visual  
14 depiction of what is going to happen in terms  
15 of removing this bump is, in fact, consistent  
16 with AU's current plans?

17 MS. BUFFINGTON: Yes.

18 MS. HORVITZ: Thank you very much.  
19 Now, we saw a number of renderings of what AU  
20 is saying the Westover neighbors will see of  
21 the proposed buildings, both the buffer  
22 buildings and then the taller buildings, the

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1 five and six story buildings with 14 foot  
2 mechanical penthouse on top.

3 Is it AU's position, and again I  
4 probably direct this to Ms. Buffington, that  
5 none of the residents of the Westover Place  
6 community will be able to see the five and six  
7 story dormitories and those -- that 14 foot  
8 mechanical penthouse on top of each one of  
9 those buildings from their upper levels?

10 MS. BUFFINGTON: I don't think  
11 that's exactly what we show. We show that  
12 from the top story of their houses, that they  
13 could -- they would have a view of the upper  
14 story of Building 3 and Building 1.

15 MS. HORVITZ: And t he mechanical  
16 penthouse on top?

17 MS. BUFFINGTON: Yes.

18 MS. HORVITZ: The renderings that  
19 you were alluding to, they s how vegetation,  
20 trees and different seasons. How long would  
21 it take for the vegetation to grow to the  
22 point where it is -- it resembles the

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1 depictions in your renderings?

2 MS. BUFFINGTON: Those are  
3 existing trees.

4 MS. HORVITZ: Will the windows  
5 throughout East Campus, including the  
6 dormitories, be capable of opening?

7 MS. BUFFINGTON: We are plannin g  
8 on having operable windows.

9 MS. HORVITZ: Won't some of the  
10 noise from the particularly upper level  
11 dormitory windows be heard by l ocal neighbors  
12 in their homes?

13 MS. BUFFINGTON: That's hard to  
14 say. The windows, although t hey are allowed  
15 to open, they are restricted in the amount  
16 that they -- we do only allow them to open 9  
17 inches, so it isn't as thoug h it is the full  
18 window being able to be opened. And they are  
19 relatively far away.

20 And remember that the students are  
21 in a controlled environment i n a res idents  
22 hall.

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1 MS. HORVITZ: Right. We will talk  
2 about that. So just so I understand your  
3 testimony, obviously, there has been no  
4 analysis of what kind of noise the buildings  
5 will hear, because you said it's hard to say,  
6 right?

7 COMMISSIONER TURNBULL: I wonder  
8 if I might interrupt you for a minute --

9 MS. HORVITZ: Absolutely.

10 COMMISSIONER TURNBULL: -- on your  
11 question. You were talking about Buildings 4  
12 and 6?

13 MS. HORVITZ: I did switch and  
14 perhaps I didn't make that clear. I was also  
15 asking about the dormitory windows.

16 COMMISSIONER TURNBULL: Oh, okay.

17 MS. HORVITZ: Yes.

18 COMMISSIONER TURNBULL: I guess I  
19 didn't catch that.

20 MS. HORVITZ: I apologize.

21 COMMISSIONER TURNBULL: Thank you.

22 MS. HORVITZ: And that was my

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1 point is the dormitories are five and six  
2 stories, correct?

3 MS. BUFFINGTON: Yes.

4 MS. HORVITZ: So they are  
5 considerably taller than these lower buildings  
6 that you are characterizing as buffer  
7 buildings?

8 MS. BUFFINGTON: 20 feet taller.

9 MS. HORVITZ: 20 feet taller.  
10 Will lights from the dormitory windows and  
11 from the buffer buildings be visible to  
12 Westover and Wesley Heights homes?

13 MS. BUFFINGTON: For the most  
14 part, the buildings 2 and 3 that are closer to  
15 the neighbors, the windows are oriented away  
16 from the homes.

17 MS. HORVITZ: All right. What  
18 about the big six story building on Nebraska  
19 Avenue that runs parallel to the Westover  
20 wall?

21 MS. BUFFINGTON: It is oriented  
22 towards the neighbors. It is quite far away.

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1 I think, 350 feet is the recollection that I  
2 have. And it is blocked by the buffer  
3 buildings and the landscaping which are closer  
4 to the neighbors' homes.

5 MS. HORVITZ: So is it your  
6 testimony that at night and in the winter the  
7 neighbors won't be able to see any of the  
8 lights of those buildings?

9 MS. BUFFINGTON: No, I don't think  
10 that. I'm sure that they will be able to see  
11 lights.

12 MS. HORVITZ: Where will there be  
13 24 hours lighting on the buildings as proposed  
14 on East Campus?

15 MS. BUFFINGTON: I think the only  
16 place the university maintains lighting  
17 throughout the night is in the stairwells and  
18 that's for security purposes.

19 MS. HORVITZ: Will there be any 24  
20 hour lighting along the back of the buffer  
21 buildings that runs parallel to the Westover  
22 wall?

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1 MS. BUFFINGTON: I don't believe  
2 so.

3 MS. HORVITZ: Now, I haven't seen  
4 any kind of lighting plan. Is there one?

5 MS. BUFFINGTON: No. We can  
6 provide that.

7 MS. HORVITZ: That would be great.  
8 Does AU anticipate allowing any outdoor  
9 activities on East Campus that would include  
10 amplified music?

11 MR. TAYLOR: Probably not.

12 MS. HORVITZ: Okay. Is there any  
13 willingness to impose a condition that  
14 prohibits that?

15 MR. TAYLOR: Sure.

16 CHAIRMAN HOOD: So then I guess to  
17 answer to that is no? You said probably not.  
18 So you asked was there -- would you mind doing  
19 a condition to prohibit that and you said  
20 okay. Oh, so you would entertain it? Because  
21 I wasn't clear myself.

22 MR. TUMMONDS: We are willing to

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1 entertain that.

2 MR. ABUD: Yes. And perhaps I  
3 would explain all of our outdoor events that  
4 will -- all outdoor events go through an  
5 approval process. The request for amplified  
6 sound goes through a separate approval  
7 process.

8 So it would be, in any case,  
9 controlled and, obviously, we will -- we  
10 certainly would be open to talking about  
11 prohibiting amplified sound on that open area  
12 as part of the East Campus.

13 MS. HORVITZ: I have a few  
14 questions on the proposed landscape buffering  
15 on East Campus still.

16 Would the proposal for a landscape  
17 buffer extend the full length of the boundary  
18 with Westover including the surface parking  
19 lot area?

20 MS. BUFFINGTON: Well, currently,  
21 yes, we are showing a buffer along with whole  
22 perimeter.

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1 MS. HORVITZ: So there will be a  
2 minimum of a 40 foot landscape buffer of that  
3 parking lot?

4 MS. BUFFINGTON: I believe the  
5 parking lot is where -- that's its current  
6 location and it is 35 feet.

7 MS. HORVITZ: Is AU proposing an y  
8 fencing or other barrier to p revent regular  
9 usage by students of the landscape buffer?

10 MR. ABUD: It's not part of our  
11 proposal. We are certainly open to discussing  
12 that. We -- in the Katzen Arts Center case,  
13 we were asked the same thing by the neighbors.  
14 We agreed to a trial period of the first year  
15 to see whether or not university folks  
16 actually went in that area between the  
17 building and the property line at the back  
18 with neighboring homes.

19 And we are, you know, committed to  
20 putting a fence in if it was needed and  
21 requested by the neighbors after we went  
22 through that one year trial period. The

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1 neighbors felt that it wasn't needed in that  
2 case, so we would be open to a similar  
3 arrangement here.

4 MS. HORVITZ: Thank you.  
5 Switching to the retail that is proposed about  
6 17,000 square feet on East Campus. What types  
7 of retail is AU proposing for that site,  
8 anywhere on East?

9 MR. ABUD: What we have in mind is  
10 about 50 percent of the retail space being  
11 food-oriented and about 50 percent being non-  
12 food-oriented. The types of things that have  
13 been requested by our students and suggested  
14 by consultants that we have used have been,  
15 you know, clothing, insignia, AU insignia  
16 wear, educational support provider, like  
17 Kaplan, tutoring and test prep, things of that  
18 nature for the non-food part.

19 MS. HORVITZ: And what about the  
20 food part?

21 MR. ABUD: We haven't talked about  
22 specifics. Certainly, you know, we have

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1 discussed the possibility of Starbucks or  
2 Panera Bread or things of that nature, but we  
3 haven't had specific discussions with future  
4 tenants.

5 MS. HORVITZ: You may have been  
6 asked this question by Mr. Smith, I can't  
7 remember. There had been some discussion of  
8 possibly an Apple Store. Is that something  
9 that is being seriously considered by AU?

10 MR. ABUD: It is an option that is  
11 on the table, though not one of our preferred  
12 options. Students have requested that  
13 significantly. Apple has actually been  
14 encouraging us to open a store on our current  
15 campus for quite some time, but we have not  
16 chosen to do that. And we are not sure that  
17 it makes sense for East Campus either. We  
18 just have to do more analysis of their needs,  
19 our needs and see whether or not it fits.

20 But right now, it is a less likely  
21 option than some of the others I mentioned.

22 MS. HORVITZ: Is AU planning on

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1 coming up with any kind of retail plan as was  
2 suggested by the Office of Planning?

3 MR. TUMMONDS: I think that we  
4 are, but one of the -- as in typical  
5 development cases, the retailers are looking  
6 at a development horizon that is much shorter  
7 than where we are in regards to the first  
8 available date that this facility would be  
9 open would be August 2014, such that it is  
10 tough now to really gauge true retailer  
11 interest in something that is so far out.

12 But a retail plan absolutely. We  
13 -- it is something we can look at further and  
14 submit into the record.

15 MS. HORVITZ: What would be the  
16 hours of operation of the retail?

17 MR. TUMMONDS: Following up, we  
18 just don't know, at this point.

19 MS. HORVITZ: Would alcohol be  
20 allowed in any of the retail establishments?

21 MR. TUMMONDS: No.

22 MS. HORVITZ: I think in your

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1 direct presentation you indicated that all  
2 deliveries would be made to the retail  
3 underground. Is that correct, in the parking  
4 garage?

5 MR. TUMMONDS: That's correct.

6 MS. HORVITZ: Including the retail  
7 establishments that are on New Mexico?

8 MR. TUMMONDS: Yes.

9 MS. HORVITZ: Because I was  
10 looking to try to figure out how you were  
11 going to get -- I mean, I looked at your graph  
12 of the parking and it seemed as though the  
13 loading area was potentially under the  
14 building that fronted on Nebraska and that  
15 there was really no design for trucks to be  
16 going near the elevators that would take it up  
17 to retail on New Mexico.

18 MS. BUFFINGTON: There probably  
19 will be one designated retail elevator that  
20 they will have access to that will bring them  
21 up to the plaza level and they can distribute  
22 from there.

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1 MS. HORVITZ: So there will be --  
2 there would never be any delivery trucks  
3 stopping on New Mexico to unload?

4 MR. ABUD: Well, we can't promise  
5 that, because people do what they will do.  
6 But certainly our instructions to the  
7 retailers and our monitoring of their  
8 performance will be based on instructions to  
9 deliver underneath the building.

10 MS. HORVITZ: Okay. Switching to  
11 the parking lot that will remain a surface lot  
12 on East Campus, as proposed, is the  
13 configuration of that surface parking lot  
14 changing?

15 MS. BUFFINGTON: Slightly. We  
16 have included some areas so we can provide  
17 drainage off of the parking into the  
18 landscaping and we have created a new edge up  
19 on -- thank you, George, I'm trying to do two  
20 things at once. I can't walk and chew gum at  
21 the same time.

22 That we are creating this new

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1 entrance from the corner of Nebraska and Ward  
2 Circle to bring people down into the  
3 residential area, so that upper edge of the  
4 parking has been somewhat reconfigured. And  
5 then we have created these planters that will  
6 allow us to collect surface runoff from the  
7 parking in a more environmentally-friendly way  
8 than the existing parking.

9 MS. HORVITZ: Are you removing any  
10 trees that are currently on that lot?

11 MS. BUFFINGTON: No.

12 MS. HORVITZ: Okay.

13 MS. BUFFINGTON: Well, you know, I  
14 can't say that definitely. I shouldn't say  
15 that for sure, because there are exist --  
16 there are some trees in this area and we may  
17 in reconfiguring these tree boxes, be taking  
18 out some trees and putting in other ones.

19 MS. HORVITZ: I was actually  
20 concerned about possible reconfiguration on  
21 the other side, closer to where you had  
22 originally proposed the Mass Avenue entrance

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1 and exit. Is there parking coming closer to  
2 the Westover wall there than it is currently?

3 MS. BUFFINGTON: I believe this is  
4 pretty close to the existing configuration of  
5 the parking in terms --

6 MS. HORVITZ: Okay.

7 MS. BUFFINGTON: -- of the  
8 outline.

9 MR. ABUD: And certainly, the goal  
10 is for the paving to come no closer than it is  
11 today.

12 MS. HORVITZ: Okay. And what will  
13 be the anticipated uses of this surface lot?  
14 Who is going to park there?

15 MR. ABUD: Faculty, staff and  
16 students.

17 MS. HORVITZ: Are students going--  
18 who are residing in the dormitories next door  
19 going to have the ability to park there?

20 MR. ABUD: Unlikely. Typically ,  
21 for resident students we provide parking in  
22 discrete lots and if any resident students on

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1 East Campus would like parking, it is likely  
2 they will go in the underground garage.

3 MS. HORVITZ: S o will there be  
4 access to this parking lot 24 /7, the surface  
5 lot?

6 MR. ABUD: Ye s, there will be.  
7 All our parking is open 24/7.

8 MS. HORVITZ: Is there any  
9 arrangement to provi de parking o n the East  
10 Campus site as overflow parking for the  
11 Methodist Church next door?

12 MR. ABUD: We do currently have a  
13 cooperative agreement with the Me thodist  
14 Church for them to use the existing Nebraska  
15 Avenue parking lot and we would look to  
16 continue that arrangement in the future that  
17 they use on Sundays for overflow.

18 MS. HORVITZ: Okay. And I assume  
19 that that information was sha red with your  
20 traffic experts?

21 MR. ABUD: I beli eve it was. I'm  
22 not sure that it entered into their

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1 calculations, since those are focused on peak  
2 hour weekday operations.

3 MS. HORVITZ: Okay. And the East  
4 Campus surface lot could still be used for  
5 buses. Is that correct?

6 MR. ABUD: Yes, that's correct.

7 MS. HORVITZ: Is there a present  
8 intention to house summer students in summer  
9 programs on East, high school students?

10 MR. ABUD: We current use all of  
11 our resident halls during the summer for a  
12 variety of programs. And so these would be no  
13 exception.

14 MS. HORVITZ: Okay. We talke d a  
15 little bit about the typ es of retail. It  
16 seemed to be a pretty broad range. So now, I  
17 have some questions for Gorove/Slade on how  
18 Gorove/Slade could calculate or project  
19 traffic implications for retail that varies as  
20 much as the A pple Store to the Starbucks to  
21 the T-Shirt Shop. How did you deal with that  
22 issue?

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1 MR. VANPELT: Good evening. Dan  
2 VanPelt with Gorove/Slade Associates. What we  
3 used was a special retail category which is  
4 kind of a -- you know, it covers all these  
5 different types of smaller type retail  
6 establishments and they are all under one  
7 database for the Institute of Transportation  
8 Engineers collects all this information. And  
9 that's what we use to help determine our trip  
10 generation.

11 MS. HORVITZ: How is it that you  
12 chose this specialty retail as your basis?

13 MR. VANPELT: Well, based on  
14 available data, not knowing exactly  
15 specifically what this retailer will be,  
16 unless we have some specific data to tell us  
17 or do we know exactly what the tenant is going  
18 to be, typically for us, we look at the land  
19 use categories that are in the Institutes of  
20 Transportation Engineer's Database and  
21 specialty retail is the one that closest fits  
22 to what is intended for the site.

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1 MS. HORVITZ: All right. So you  
2 were using the Institute of Transportation  
3 Engineers trip generation rate analysis,  
4 correct?

5 MR. VANPELT: That's correct.

6 MS. HORVITZ: 8<sup>th</sup> Edition?

7 MR. VANPELT: Yes, correct.

8 MS. HORVITZ: I would like to use  
9 another exhibit that has the full chart of  
10 what you just testified to. Can you pass that  
11 down?

12 Now, tell me, have I handed you a  
13 document that reflects what you relied upon  
14 with respect to estimating the number of trips  
15 generated by the retail?

16 MR. VANPELT: This is all of the  
17 land use categories that are in the database.

18 MS. HORVITZ: Okay. And so can  
19 you direct me to the land use category that  
20 you used for your trip generation estimates?  
21 Is it --

22 MR. VANPELT: It's --

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1 MS. HORVITZ: -- Retail 814?

2 MR. VANPELT: It is.

3 MS. HORVITZ: Okay. So Retail 814  
4 is the specialty retail center and based on  
5 1,000 square feet, the trips per unit would be  
6 2.71. Is that right?

7 MR. VANPELT: I mean, this is -- I  
8 don't know.

9 MR. TUMMONDS: I would object to  
10 this. If she wants to present -- I'm sorry.  
11 If Ms. Horvitz wants to present testimony on  
12 behalf of her traffic engineer, I think that's  
13 appropriate. We have heard from -- she asked  
14 Mr. VanPelt the question, did he use this  
15 specialty rate, this retail specialty rate,  
16 ITE? He said he did. I think that this has  
17 probably gone beyond the scope of his  
18 testimony. This is probably more direct  
19 testimony on behalf of Ms. Horvitz' client.

20 CHAIRMAN HOOD: I actually was  
21 following you.

22 MS. HORVITZ: Okay.

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1                   CHAIRMAN HOOD: What was your last  
2 question? Because I know we were talking  
3 about the retail. B ut what was your last  
4 question?

5                   MS. HORVITZ: My last question was  
6 I wanted to make sure I understood that he was  
7 using this Line 814, which has a trip per unit  
8 of 2.71. And I only had one more question in  
9 this line.

10                  CHAIRMAN HOOD: And did we get the  
11 answer to that?

12                  MS. HORVITZ: No. I don't t hink  
13 we did.

14                  CHAIRMAN HOOD: Did you say yes?

15                  MR. VANPELT: Yes.

16                  MS. HORVITZ: Oh great.

17                  CHAIRMAN HOOD: Okay.

18                  MS. HORVITZ: So if I might have  
19 the liberty of just asking one more question,  
20 despite Mr. Tummonds' objection?

21                  MR. VANPELT: Can I clarify? I  
22 think we used 814. I mean, I don't know if

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1 that's -- I think that was the last question  
2 that I answered. So I'm not sure what your  
3 follow-up question was. We used the Land Use  
4 Code 814. That's not necessarily all the --  
5 this isn't all the data that we used. You  
6 have taken one bit of the information out of  
7 the handbook.

8 MS. HORVITZ: Okay. But where I'm  
9 going with this is just that, for example, if  
10 you had used 933, which is a fast food  
11 restaurant without drive-through window, that  
12 trip per unit would be 26.15 as compared to  
13 the 2.71 that you may have used. Is that  
14 correct?

15 MR. VANPELT: That's correct.  
16 Reading from the chart here, that's correct.

17 MS. HORVITZ: Okay. So depending  
18 on what actually goes to the site, if it were  
19 an Apple Store, it might be vastly different,  
20 because as I'm looking at this chart, the  
21 specialty retail center is one of the very  
22 lowest trip generation options on this chart

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1 and almost everything else --

2 CHAIRMAN HOOD: Ms. Horvitz, Ms .  
3 Horvitz?

4 MS. HORVITZ: I'm sorry.

5 CHAIRMAN HOOD: Ms. Horvitz, yo u  
6 don't want to testify.

7 MS. HORVITZ: Very good.

8 CHAIRMAN HOOD: I'm going to --

9 MS. HORVITZ: Thank you.

10 CHAIRMAN HOOD: -- overrule your  
11 objection, Mr. Tummonds, and let her -- I was  
12 following, I was learning something here. But  
13 you are starting to testify.

14 MS. HORVITZ: Very good.

15 CHAIRMAN HOOD: We're in the lin e  
16 of questions.

17 MS. HORVITZ: I s tand corrected.  
18 I apologize. So if, for example, you had a  
19 Starbucks and that was the question at-hand.  
20 I think you were already asked that in the  
21 earlier session. And you didn't know what  
22 would be the trip generation for a Starbucks.

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1                   Can you tell us what the benefit  
2 of this chart -- what is the trip generation  
3 for a Starbucks?

4                   MR. VANPELT: There is no specific  
5 rate for Starbucks. So, I mean, we would have  
6 to use one of the se categories. Yes, one of  
7 the other things, Rob Schiesel is with me.  
8 Rob handled a lot of our technical analyses.  
9 One of the things we have to take into account  
10 is the location and then the other types of  
11 retailers and the synergy that happens from  
12 not only the other retail, but also all the  
13 residential and all the students that would be  
14 here, too.

15                   So it all has to be taken into  
16 account. Just pulling out one piece of the  
17 development, doesn't paint the whole picture.

18                   MR. SCHIESEL: I mean, following  
19 up --

20                   COURT REPORTER: Would you state  
21 your name for the record, please?

22                   MR. SCHIESEL: This is Rob

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1 Schiesel with Gorove/Slade Associates. If you  
2 follow the methodology contained in the trip  
3 generation manual, most of these individual  
4 land use codes are -- tend to be used when  
5 these are the sole stand-alone buildings.

6 So the rates for like individual  
7 things like restaurant, supermarket are  
8 intended to be used by themselves when they  
9 are not aggravated among other retail uses  
10 that are side by side.

11 Generally, transportation  
12 engineers use two rates when there are several  
13 stores in a row, like especially when they are  
14 a ground use retail or a strip mall, anything  
15 like that. They don't look at each individual  
16 store and add it up.

17 The two rates most commonly used,  
18 that are those aggravated rates, are specialty  
19 retail and shopping center. So really, our  
20 decision came down to those two rates. And  
21 given that this was a ground floor retail of,  
22 you know, less than what we normally see for

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1 anything like a strip mall, we used the  
2 specialty retail rate.

3 MS. HORVITZ: Okay. And so you  
4 didn't, for example, use 940, which is bread ,  
5 donut, bagel shop with drive-through window?  
6 You didn't do that?

7 MR. SCHIESEL: I think we got  
8 that.

9 MS. HORVITZ: Okay.

10 CHAIRMAN HOOD: Yes.

11 MS. HORVITZ: Got it.

12 CHAIRMAN HOOD: We --

13 MS. HORVITZ: I think I'll move on  
14 now.

15 CHAIRMAN HOOD: See things work  
16 out for themselves. I didn't have to say move  
17 on.

18 MS. HORVITZ: Yes, thank you.

19 CHAIRMAN HOOD: Things work out  
20 for itself.

21 MS. HORVITZ: I could read it.  
22 Does the -- did the traffic study by Gorove/

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1 Slade assume that any pedestrians would be  
2 crossing from the Main Campus over to the East  
3 Campus for class use and administrative -- and  
4 going to the administrative buildings?

5 MR. SCHIESEL: No. Our pedestrian  
6 trip generation rates, we took with one  
7 variable instead of trying to stick with  
8 multiple variables and we chose the  
9 residential housing numbers and the retail  
10 numbers.

11 MS. HORVITZ: Okay. So there is  
12 no -- do we know how many classrooms are going  
13 to be on East Campus as proposed?

14 MR. ABUD: No.

15 MS. HORVITZ: Okay. So those  
16 pedestrians are just simply not counted,  
17 correct?

18 MR. VANPELT: I mean, as Rob said,  
19 we looked at the residential and we looked at  
20 the retail and we generated the pedestrian  
21 traffic based on those.

22 MS. HORVITZ: Okay. And so is the

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1 answer yes then?

2 MR. VANPELT: And on the park ing.  
3 The parking that is there, so, yes.

4 MS. HORVITZ: Okay. Did Gorove/  
5 Slade undertake an analysis of the peak  
6 pedestrian traffic to determine a worst case  
7 scenario as to when there would be the most  
8 pedestrians crossing?

9 MR. SCHIESEL: We based our  
10 collection of pedestrian and traffic data to  
11 coincide with the Technical Analysis we have  
12 that we try to show whether there is impact.  
13 Those analyses are the vehicular and  
14 pedestrian capacity analyses presented in our  
15 report.

16 As we have said, those are based  
17 on -- the vehicular one is based on the  
18 vehicular peak hour and as pedestrians, our  
19 input to that, we collected and based  
20 pedestrian crossings during the vehicular peak  
21 hour.

22 The pedestrian level of service

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1 calculations are based primarily on the  
2 variables such as signal timing and length of  
3 crosswalks. So the actual amount of  
4 pedestrians crossing the street doesn't come  
5 into it as a factor on our pedestrian level  
6 service calculations.

7 So the type of pedestrian data,  
8 the data most essential to the pedestrian  
9 capacity analysis, in our regard, was the  
10 signal timings. The signal timings,  
11 especially when it comes down to the amount of  
12 walk time given to a signal are worst for the  
13 pedestrian during the vehicular peak hour.

14 So that doesn't -- it may not seem  
15 to make sense at first glance, but both the  
16 pedestrian and the vehicular level service  
17 calculations are performed at vehicular peak  
18 hour because it presents the worst case  
19 scenario for both of those capacity analyses.

20 MS. HORVITZ: Isn't it true though  
21 that in 2001 at the request of a Commissioner,  
22 Gorove/Slade actually did a peak pedestrian

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1 traffic analysis to determine how many people  
2 were going to be crossing Mass Avenue going to  
3 and from the Katzen Center?

4 MR. VANPELT: I don't recall.

5 MS. HORVITZ: You are certainly  
6 capable of doing that. You just -- you  
7 elected not to, because you didn't think it  
8 was the best methodology. Is that fair?

9 MR. VANPELT: Well, I mean, it  
10 could be done.

11 MS. HORVITZ: Okay. And when you  
12 -- you were just talking about looking at the  
13 vehicular peak and that t hat was your  
14 analysis, not your pedestrian peak, when you  
15 were analyzing the vehicular peak time for the  
16 area, did you use one system peak or were you  
17 looking at the peak for e ach intersection or  
18 approach?

19 MR. VANPELT: The standard  
20 industry practice is to use a system peak.  
21 You look at when the traffic on the network is  
22 the highest.

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1 MS. HORVITZ: On the entire  
2 network?

3 MR. VANPELT: Correct.

4 MS. HORVITZ: So there could be a  
5 different peak say for a particular  
6 intersection and that is not -- you weren't  
7 looking at that peak time in your analysis?

8 MR. VANPELT: There could be, but  
9 typically, the overall system peak is pretty  
10 representative of the worst case condition for  
11 the network.

12 MS. HORVITZ: For the entire  
13 network?

14 MR. VANPELT: Correct.

15 MS. HORVITZ: But not necessarily  
16 for a particular intersection?

17 MR. VANPELT: Correct.

18 MS. HORVITZ: Okay. You were  
19 doing some traffic counts, right? I mean, you  
20 were out on the street a couple of times in  
21 September. Is that right? Or when was it?

22 MR. VANPELT: Yes, we were out

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1 there multiple times. We actually were out  
2 last September.

3 MS. HORVITZ: It do esn't matter.  
4 I -- okay. So when you were out and  
5 visualizing the situation, were you also  
6 counting buses and trucks?

7 MR. VANPELT: Those wer e not  
8 directly counted in our c ounts. We will do  
9 that. We will -- they are counted as a  
10 vehicle certainly. Th ey are not ignored.  
11 They are counted, but where they are separated  
12 out is if there is a v ery large number of  
13 them, otherwise we jus t assume a standard  
14 heavy vehicle percentage when we do our  
15 analysis.

16 MS. HORVITZ: S o you pick some  
17 kind of default rate for the buses and trucks?

18 MR. VANPELT: Right. B ecause  
19 unless there is any sort of major generator of  
20 heavy vehicles, it turns out that the  
21 percentage is usually pretty typical.

22 MS. HORVITZ: I thought I h eard

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1 testimony that was commenting that the shuttle  
2 system was on the up -rise, that there were  
3 buses going up and down and you were moving  
4 stops. Isn't Nebraska Avenue and  
5 Massachusetts Avenue an area with a lot of  
6 buses?

7 MR. VANPELT: Yes, there is  
8 significant bus activity, but not necessarily  
9 as a percentage of vehicles that use those  
10 streets.

11 MS. HORVITZ: When you were trying  
12 to project future traffic conditions, did you  
13 take into account the -- which students were  
14 going to be expanding in enrollment, that it  
15 was going to be graduate students as compared  
16 to undergraduates?

17 MR. VANPELT: We looked at the  
18 overall population and just came up with a  
19 rate based on the future growth. And we did  
20 that as really a conservative assumption,  
21 because our data has been showing us that the  
22 traffic generated by the campus is trending

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1 downward.

2 MS. HORVITZ: Certainly graduate  
3 students drive and park more than  
4 undergraduates, do they not?

5 MR. VANPELT: I think that's  
6 probably a fair thing to say, yes.

7 MS. HORVITZ: And yet, what you  
8 were doing is you in no way took into account  
9 the fact that almost all of the proposed  
10 growth in enrollment was, in fact, going to be  
11 in the population that drives and parks more.  
12 Is that right?

13 MR. VANPELT: We really drew it  
14 for all populations.

15 MS. HORVITZ: Right. You were  
16 trying to attribute, and I'm still with  
17 Gorove/ Slade, how many of the trips in the  
18 network were attributable to American  
19 University. And you did a campus trip  
20 generation analysis, correct?

21 MR. VANPELT: That's correct.

22 MS. HORVITZ: And you did not

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1 count in that campus trip generation any of  
2 the cars that are parking in the  
3 neighborhoods, did you?

4 MR. VANPELT: Not from a trip  
5 generation standpoint, no.

6 MS. HORVITZ: Well, how many cars  
7 are parking in the side streets?

8 MR. VANPELT: That's a very  
9 difficult thing to get a very good handle on,  
10 but, based on the data we provided in our  
11 testimony, when we looked at it during class  
12 times, the non-class times, there was a change  
13 of about 9 percent or so, something like that,  
14 of all the spaces that we looked at.

15 MS. HORVITZ: And I know there was  
16 a question by Mr. Smith, but how did you  
17 decide which streets to poll for the parking  
18 study?

19 MR. ABUD: The university provided  
20 those streets and based on our experience with  
21 our off-campus parking enforcement where we  
22 have the highest likelihood of university-

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1 related parking.

2 MS. HORVITZ: Do you -- thank you.

3 Do you have the data street by street?

4 MR. ABUD: The parking enforcement  
5 data or what data are you asking?

6 MS. HORVITZ: I 'm sorry, I was  
7 unclear. The data associated with how many of  
8 the available street parking spaces were  
9 available between whatever 2:00 and 4:00 when  
10 you were studying it.

11 MR. TUMMONDS: I'm sorry . You  
12 mean the raw data that then allowed them to  
13 create the slide that we had in the  
14 PowerPoint? Is that what you are asking?

15 MS. HORVITZ: Right.

16 MR. VANPELT: Yes. We would have  
17 that in our files.

18 MS. HORVITZ: All right. What I  
19 would suggest and, obviously, it's up to the  
20 Commission, but it might be instructive to see  
21 how congested the streets are immediately next  
22 to the university, as compared to the diluted

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1 study that you did where you are going all the  
2 way down Mass Avenue and everything.

3 If the university would be willing  
4 to submit it by street, I think it would be  
5 very instructive. Would you be willing to do  
6 so?

7 MR. VANPELT: Yes.

8 MS. HORVITZ: If the District of  
9 Columbia does not adopt all of your  
10 suggestions with respect to changes in  
11 signaling and the like, that would affect your  
12 projections, would it not?

13 MR. VANPELT: It would not affect  
14 our projections.

15 MS. HORVITZ: That was poorly  
16 phrased. Let me just ask a different  
17 question. Isn't it true that Gorove /Slade  
18 made traffic-related recommendations in the  
19 2000/2001 Campus Plan that were never, in  
20 fact, implemented?

21 MR. TUMMONDS: I don't believe you  
22 testified to --

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1 MR. VANPELT: Yes. No, I did not  
2 testify to that.

3 MS. HORVITZ: Okay. Isn't it  
4 important when evaluating the traffic  
5 implications for the Ward Circle area to  
6 consider the anticipated plans for significant  
7 expansion of the Department of Homeland  
8 Security?

9 MR. VANPELT: It is and it is  
10 included in our study.

11 MS. HORVITZ: And how is it  
12 included in your study? What did you rely  
13 upon?

14 MR. SCHIESEL: You know, we have  
15 met with the consultants working on their  
16 study several times and they have provided us  
17 with a report. It had several options and we  
18 -- the highest traffic generator, one of those  
19 options was what was incorporated into our  
20 report.

21 MS. HORVITZ: So you relied on  
22 somebody else's study for that purpose,

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1 correct?

2 MR. SCHIESEL: Yes.

3 MS. HORVITZ: And are you aware  
4 that the traffic study has been severely  
5 criticized and that the National Capital  
6 Planning Commission has, in fact, refused to  
7 adopt the Draft Master Plan because of  
8 concerns about that traffic study?

9 MR. SCHIESEL: We are not aware of  
10 that.

11 MS. HORVITZ: There was a  
12 reference to the fact early on that, when we  
13 were talking about the windows opening,  
14 because these students are in dormitories,  
15 they can be controlled or their behavior can  
16 be moderated.

17 I believe it was Ms. Buffington.  
18 I haven't had the chance, Ms. Espinosa, didn't  
19 you testify on direct that most of the  
20 reported incidents of student misconduct  
21 actually occur on-campus?

22 MS. ESPINOSA: Hi, Michelle

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1 Espinosa with the Office of Campus Life at AU.

2 Yes, I did testify to that.

3 MS. HORVITZ: And based on those  
4 past experiences, isn't it reasonable to  
5 assume that there will, in fact, be some  
6 future incidents of misconduct in or near the  
7 AU dormitories including underage drinking,  
8 drug use and disorderly conduct?

9 MS. ESPINOSA: I would assume that  
10 we would have policy violations. Exactly what  
11 they would be is to be seen. But, yes, I  
12 would expect there would be some misconduct  
13 definitely.

14 MS. HORVITZ: And isn't it  
15 reasonable to assume that some of that  
16 misconduct would, in fact, occur in or near  
17 the proposed dormitories at East Campus?

18 MS. ESPINOSA: Yes, that's what I  
19 said, yes.

20 MS. HORVITZ: O kay. Does AU's  
21 security force regularly patrol dormit ories  
22 and residential hallways?

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1 MS. ESPINOSA: I'm sorry, can yo u  
2 ask that again?

3 MS. HORVITZ: I can.

4 MS. ESPINOSA: Sorry.

5 MS. HORVITZ: Does AU security  
6 force regularly patrol dormitories and  
7 residential hallways?

8 MS. ESPINOSA: They do not pa trol  
9 inside the buildings. They do respond when  
10 called by the student or professional staff,  
11 but they do patrol the exterior of properties.

12 MS. HORVITZ: And are you a ware  
13 that other universities, including Howard ,  
14 Georgetown and GW, have different practices in  
15 that regard?

16 MS. ESPINOSA: I'm not aware of  
17 those specific campuses, but, yes, I'm aware  
18 that other universities have those practices.

19 MS. HORVITZ: Would AU be wil ling  
20 to agree to undertake enforcement that  
21 includes patrolling within the dormitories?

22 MS. ESPINOSA: That is not a

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1 question that I would be able to answer.

2 MS. HORVITZ: Okay. I'm al most  
3 done. There was testimony on direct that AU  
4 has scaled back, ad justed its plan,  
5 specifically with East Campus, based on a 20  
6 month dialogue. I assume Mr. Taylor and Mr.  
7 Abud recall that testimony, correct?

8 MR. TAYLOR: Yes, we do.

9 MS. HORVITZ: Okay. But, in fact,  
10 many of the e volutions of the plan were not  
11 favorable to the neighbors, were they? I'll  
12 give you an example . After the neighbors  
13 objected to the retail on East Campus, AU  
14 actually increased the amount of retail on  
15 these campuses, isn't that correct?

16 MR. ABUD: We have been t hrough  
17 many, many iterations of this plan and we both  
18 increased and decrea sed retail as well as  
19 other uses throughout that process, so, yes,  
20 this plan is an increase over one of those  
21 previous plans.

22 MS. HORVITZ: Well, the draft

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1 plan, you were very proud that there was a  
2 draft plan and it's unprecedented and all  
3 that. The draft plan from January had 14,000-  
4 some gross square feet and then by the time  
5 you filed the plan with this Commission, it  
6 had gone up by almost 20 percent. Isn't that  
7 right?

8 MR. ABUD: It went up 3,000 square  
9 feet, yes.

10 MS. HORVITZ: Right. And finally,  
11 is there a construction plan that has been  
12 proposed? I haven't seen one.

13 MR. ABUD: Exactly what do you  
14 mean by that construction plan?

15 MS. HORVITZ: Well, something that  
16 identifies how this construction is going to  
17 minimize the inconvenience, disruption and  
18 objectionable conditions for the community.

19 MR. ABUD: No, but we would be  
20 happy to, you know, entertain a series of  
21 conditions as we have used in other projects,  
22 Katzen Arts Center being the last project we

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1 did that is very close to a residential  
2 neighborhood.

3 We, working with the community, had a  
4 series of conditions about hours, how the site  
5 is accessed and inspections of nearby homes  
6 preconstruction for determining a baseline for  
7 potential future damage, all those things were  
8 done at that project and we would be certainly  
9 open to doing that for this project.

10 MS. HORVITZ: And when in the  
11 process would that occur? Would that occur as  
12 a condition of the zoning order or would it be  
13 something that we are just supposed to work  
14 out after?

15 MR. TUMMONDS: I think what we  
16 typically do is we would submit a draft, a  
17 sample Construction Management Plan. We would  
18 agree that that Construction Management Plan  
19 would be a condition of the order, but  
20 absolutely if we would be willing to amend  
21 that to do -- within reason, if you -- if the  
22 Westover Place folks, if other community

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1 members had I think appropriate conditions ,  
2 modifications to that.

3 Truthfully, we would love to be  
4 able to work with the Westover Place community  
5 about that. Up until this time, there has  
6 been a lot of -- it has been tough to talk  
7 about a Construction Management Plan when the  
8 debate has been no housing by the university  
9 on the East Campus, but absolutely through  
10 this process we will do it. We will submit  
11 it. It will be in the record prior to July  
12 14<sup>th</sup>.

13 MS. HORVITZ: That's all I have.  
14 Thank you for your --

15 CHAIRMAN HOOD: Okay. Thank you  
16 very much.

17 MS. HORVITZ: -- patience.

18 CHAIRMAN HOOD: Sure. Thank you ,  
19 Ms. Horvitz, we appreciate it.

20 Okay. Mr. Mazzuchi, if you could  
21 make sure I'm pronouncing your name correctly.

22 MR. MAZZUCHI: It is actually

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1 Mazzuchi.

2 CHAIRMAN HOOD: Okay.

3 MR. MAZZUCHI: Just before I get  
4 going --

5 CHAIRMAN HOOD: Before you -- why  
6 don't you go ahead and pass that out and make  
7 sure you are on the mike.

8 COMMISSIONER MAY: Mr. Chairman?

9 CHAIRMAN HOOD: Yes, sir?

10 COMMISSIONER MAY: I believe that  
11 during cross-examination Ms. Horvitz mentioned  
12 the NCPC action with regard to the Nebraska  
13 Avenue Complex for DHS.

14 CHAIRMAN HOOD: Okay.

15 COMMISSIONER MAY: And I would  
16 suggest that the action that was taken by NCPC  
17 actually be entered into the record, because I  
18 am not sure that it was completely accurately  
19 represented.

20 Not that it was deliberately  
21 misrepresented, but I think that it needs to  
22 be -- since that action was represented, I

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1 think that the action of the Commission ought  
2 to be put into the record.

3 MR. TUMMONDS: And would that be  
4 by Ms. Horvitz, because it was her -- I'll  
5 find it and I'll get it in.

6 COMMISSIONER MAY: I think it  
7 should be put into the record, so that it is  
8 clear, since the actions of N CPC were  
9 represented. So thanks.

10 CHAIRMAN HOOD: You know,  
11 actually, since Ms. Horvitz mentioned it, you  
12 know where it is, I don't want Mr. Tummonds to  
13 provide something that you dispute. So it  
14 might be better if you provide that to us. I  
15 mean, you can do it, too, we'll see if it all  
16 matches up.

17 COMMISSIONER MAY: I just think it  
18 should be entered into the record, because it  
19 is an action of NCPC and it should be as it  
20 was officially taken.

21 CHAIRMAN HOOD: Okay.

22 COMMISSIONER MAY: As opposed t o

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1 as it has been retold here.

2 CHAIRMAN HOOD: Okay. And I  
3 agree. That's a good point, Commissioner May.  
4 Thank you. Okay.

5 Mr. Mazzuchi?

6 MR. MAZZUCHI: Okay. Okay. So is  
7 the mike on then? Yes? Okay. Good.

8 Okay. Thanks. I'm Michael  
9 Mazzuchi. I'm here as an officer of the  
10 Spring Valley Wesley Heights Citizens  
11 Association. I live at 4430 Macomb Street,  
12 N.W., in D.C.

13 I guess I want to jump right in on  
14 some questions about the definition of the  
15 campus and the plan.

16 One of the conditions in the 2001  
17 Zoning Commission Order on the current campus  
18 plan is a definition of the campus boundaries.

19 And I know your proposed conditions for the  
20 campus plan delete that condition from the  
21 2001 order.

22 Do you plan to include a condition

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1 defining the campus?

2 MR. TUMMONDS: We will submit a  
3 condition that outlines it, outlines the  
4 properties that are subject to the campus  
5 plan, but we are not proposing anything  
6 different than what was approved in 2001.

7 MR. MAZZUCHI: Okay. I was --  
8 because you took it out of the proposed order,  
9 so I was wondering if you had planned to do  
10 anything different.

11 MR. TUMMONDS: No. We are not  
12 planning to change the boundaries of the  
13 campus plan.

14 MR. MAZZUCHI: Okay. All right.  
15 I'll go to some questions about the population  
16 of the -- population cap probably mostly for  
17 Jorge, I guess.

18 So according to the 2001 Zoning  
19 Commission Order, AU's undergraduate head  
20 count in 2000 was 4,967. Is that correct?

21 MR. ABUD: That sounds accurate.

22 MR. MAZZUCHI: Okay. And it is

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1 currently 6,318, right?

2 MR. ABUD: Yes, that's correct.

3 MR. MAZZUCHI: So it has gone up  
4 by 1,349 undergraduates or just over 2 7  
5 percent. Is that right?

6 MR. ABUD: Yes.

7 MR. MAZZUCHI: Okay. Did AU  
8 project this increase of 1,350 undergraduates  
9 in connection with the 2000 Campus Plan?

10 MR. ABUD: We did not.

11 MR. MAZZUCHI: And you ultimately  
12 did not include any proposed housing  
13 construction in the 2000 Campus Plan. Is that  
14 right?

15 MR. ABUD: That's incorrect. In  
16 2001, we did propose housing on the Tenley  
17 Campus.

18 MR. MAZZUCHI: For how many beds?

19 MR. ABUD: 200.

20 MR. MAZZUCHI: And was it actually  
21 constructed?

22 MR. ABUD: It was not.

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1           MR. MAZZUCHI: I noted that you  
2 said at the last hearing with respect to the  
3 undergraduate population that we are not  
4 proposing to grow our undergraduate enrollment  
5 other than the 1.4 percent, right?

6           MR. ABUD: That's correct.

7           MR. MAZZUCHI: But I think you  
8 said at the last campus plan meeting with the  
9 community that AU is not willing to agree to a  
10 condition that would actually cap its  
11 undergraduate population. Is that right?

12          MR. ABUD: That's correct.

13          MR. MAZZUCHI: So now, in terms of  
14 not proposing to grow, I guess at Tab R, I  
15 want to note, you actually made more or less  
16 the same statement in 2001. It's an excerpt  
17 from your testimony then. It says what we are  
18 proposing is not to grow, but to have the  
19 flexibility that in some years enrollments  
20 might go up and in some years enrollments  
21 might go down.

22                   So if you have grown quite a bit,

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1 despite not projecting it and not proposing to  
2 grow, in terms of your testimony 10 years ago,  
3 I mean, isn't there good reason to think that  
4 your projection of 1.4 percent growth might  
5 not turn out to be so accurate?

6 MR. ABUD: Well, it's hard to say.  
7 The -- since only a piece of the record  
8 appears here, I think it is taken out of  
9 context. This particular testimony was about  
10 the entire population as opposed to narrowing  
11 down to strictly undergraduates.

12 MR. TUMMONDS: Now, again, I would  
13 object to entering into the record a piece of  
14 the transcript from Thursday, February 15,  
15 2001. Obviously, Mr. Abud didn't talk about  
16 this on June 9, 2011.

17 CHAIRMAN HOOD: And I have a  
18 problem with this, because I have good  
19 attendance and I don't see my name on here in  
20 2001. We didn't convene at 4:00 p.m., I can  
21 guarantee you that. So I don't know where  
22 this came from anyway. We need to work with

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1 the Court Reporter.

2 Okay. Okay. Can we move on?

3 MR. MAZZUCHI: Sure. So also in  
4 2000, the graduate student head count was  
5 3,733. Does that sound right?

6 MR. ABUD: I'll agree to that.

7 MR. MAZZUCHI: So it has gone down  
8 by about 500 students?

9 MR. ABUD: Correct.

10 MR. MAZZUCHI: But would you say  
11 that AU has nevertheless improved the quality  
12 of its graduate programs during that period?

13 MR. ABUD: All of our academic  
14 programs have improved, both graduate and  
15 undergraduate.

16 MR. MAZZUCHI: Right. I have some  
17 questions on housing, but I have one  
18 preliminary that is relevant first.

19 You mentioned at the last hearing  
20 that you had taken a step at proposing a draft  
21 campus plan. And one of the comments you  
22 received on the draft plan is this nine page

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1 letter on Tab S. A nine page letter to  
2 President Kerwin from ANC-3D on March 3<sup>rd</sup>. Is  
3 that right?

4 MR. ABUD: Yes.

5 MR. MAZZUCHI: Yes. And it has a  
6 long list of comments and questions. It's  
7 nine pages of various things. And then at Tab  
8 T, this letter came back from President Kerwin  
9 on March 31<sup>st</sup> and at the bottom of the page  
10 there it says "it will only answer a few of  
11 the questions, 'but then "in another document'  
12 you will receive answers to the questions you  
13 posed to university officials after reviewing  
14 the draft plan."

15 And my question is can you tell me  
16 what that other document is, because I ha ve  
17 been unable to find it.

18 MR. TAYLOR: That may have been  
19 one of the submissions we did on what -- on  
20 the April 6 ANC meeting. Is that what you are  
21 talking about? Is that the document?

22 MR. ABUD: That's where I should

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1 look to find the answers to the questions?

2 MR. TAYLOR: I'm speculating . I  
3 haven't gone through what you --

4 MR. ABUD: Well, I think we also  
5 submitted a list -- an answer to a list of  
6 questions we had gotten from Commissioner  
7 Smith from ANC -3D that answered all those  
8 questions.

9 MR. MAZZUCHI: Okay. I'll look  
10 for that. Thanks. So I'm going to talk about  
11 the housing capacity subject.

12 So you list the current housing  
13 design capacity of 3,549 beds, right?

14 MR. ABUD: Yes.

15 MR. MAZZUCHI: And about 500 of  
16 those beds are at the Tenley Campus?

17 MR. ABUD: Correct.

18 MR. MAZZUCHI: But do you actually  
19 have 500 undergraduates living at the Tenley  
20 Campus?

21 MR. ABUD: No. We have some  
22 undergraduates as well as students from other

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1 programs.

2 MR. MAZZUCHI: Right. It's the  
3 Washington Semester Program and the Mentorship  
4 Program.

5 MR. ABUD: Correct.

6 MR. MAZZUCHI: So about 300 of the  
7 beds at Tenley are actually -- that are in  
8 your design capacity, right, are actually used  
9 to house the non-degree students. Is that --

10 MR. ABUD: C urrently they are,  
11 that's correct.

12 MR. MAZZUCHI: About 300 is the  
13 right number?

14 MR. ABUD: That's a close  
15 approximation.

16 MR. MAZZUCHI: And those students,  
17 they are not in your undergraduate count.  
18 They are in our other student count, right?

19 MR. ABUD: That's correct.

20 MR. MAZZUCHI: Okay. So there is  
21 something like 3,250 of the beds are currently  
22 being used to house undergraduates, r ight?

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1 And you add in the triples, which is currently  
2 about 210, right?

3 MR. ABUD: Correct.

4 MR. MAZZUCHI: All right. So  
5 that's 3,460 undergraduates being housed o n  
6 campus total?

7 MR. ABUD: Um-hum.

8 MR. MAZZUCHI: Which is about 55  
9 percent of the undergraduates, right?

10 MR. ABUD: Correct.

11 MR. MAZZUCHI: Okay. So I also  
12 wanted to confirm the number this way.  
13 According to the statistics from your Housing  
14 Department, AU histo rically houses  
15 approximately 15 percent of seniors on campus.  
16 Is that right?

17 MR. ABUD: I'm not familiar with  
18 that percentage.

19 MR. MAZZUCHI: 25 perce nt of  
20 juniors on campus?

21 MR. ABUD: I'm not familiar with  
22 that one, either.

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1 MR. MAZZUCHI: Can I, I mean, give  
2 you the -- a list of Frequently Asked  
3 Questions from your housing?

4 CHAIRMAN HOOD: Let me ask this.  
5 Are you going to present that to us?

6 MR. MAZZUCHI: Yes, I will. I am  
7 sorry, I really thought he knew those numbers,  
8 but I will present that to you.

9 CHAIRMAN HOOD: I mean, do you  
10 have copies?

11 MR. ABUD: If you got it off our  
12 website --

13 MR. MAZZUCHI: Okay.

14 CHAIRMAN HOOD: Anything referred  
15 to, we -- most of all, we need to put that in  
16 the record.

17 MR. MAZZUCHI: Okay. Anyway, this  
18 80 percent of sophomores, does that sound like  
19 a right number? You don't --

20 MR. ABUD: I don't know.

21 MR. MAZZUCHI: You don't know.  
22 Okay. All right. I'll skip that then.

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1           So if the number -- if the real  
2 number of undergraduates that are being housed  
3 on-campus, all right, is 55 percent, when you  
4 have in your campus plan the number that says  
5 65 percent of AU undergraduates live in  
6 university-provided housing, I mean, how is  
7 that the right number? That's what I'm  
8 struggling with.

9           MR. ABUD: Well, because we are  
10 also using the Berkshire Apartments w as  
11 university-provided housing.

12           MR. MAZZUCHI: Well, okay, but  
13 that's 200. And that would raise the number  
14 by 3 percent to 58 percent. Where is the  
15 other 7 percent?

16           MR. ABUD: Th e -- well, the  
17 housing at the Tenley Campus, you know, each  
18 year we make a decision about how that gets  
19 allocated. And so, in theory, it is available  
20 for undergraduates. It's just on an  
21 individual basis. Your basis, it may or may  
22 not get allocated that way, depending on what

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1 undergraduate demand is versus demand from  
2 these other programs.

3 MR. TAYLOR: So currently, we are  
4 falling short, which is one of the reasons  
5 that we do want to -- we have proposed  
6 significantly more housing and are using the  
7 triples in the off-campus housing at the  
8 Berkshire to supplement our housing.

9 MR. MAZZUCHI: But in terms of who  
10 is actually living there right now, the 55  
11 percent number is the right number?

12 MR. ABUD: That's correct.

13 MR. MAZZUCHI: So I was also  
14 wondering where you are in terms of the two-  
15 thirds housing requirement. So if I take two-  
16 thirds of 6,318, I get 4,212.

17 MR. ABUD: Okay.

18 MR. MAZZUCHI: And when I compare  
19 that to your design capacity of 3,549, and  
20 then maybe you add 300 triples as flex  
21 capacity, we get 3,849. So you are not  
22 meeting the two-thirds requirement right now,

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1 right?

2 MR. ABUD: That is correct.

3 MR. MAZZUCHI: And in 2009, you  
4 had an enrollment of 6,141 and, you know,  
5 again, by adding the triples, 345 triples, you  
6 had on-campus capacity of 3,810. All right?  
7 Which is 62 percent and that does n't meet the  
8 condition either, right?

9 MR. ABUD: I'm so rry. I lost you  
10 somewhere in the math there.

11 MR. MAZZUCHI: Oh, okay. So you r  
12 enrollment in 2009 was 6,141, right? That's  
13 in your charts.

14 MR. ABUD: Right.

15 MR. MAZZUCHI: Okay. And then you  
16 are adding 345 triples for capacity, right?

17 MR. ABUD: Correct.

18 MR. MAZZUCHI: Okay. And your  
19 housing number, at that time, was the 3,543,  
20 right? Something like that?

21 MR. ABUD: Correct.

22 MR. MAZZUCHI: So in any ev ent,

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1 the percentage available on-campus housing was  
2 lower than the two-thirds requirement, wasn't  
3 it?

4 MR. ABUD: We count the -- our  
5 capacity counts the triples inventory and  
6 counts the off-campus beds as well.

7 MR. MAZZUCHI: But what I'm trying  
8 to get at is why is it that you count the off-  
9 campus beds? I mean, they are off-campus.  
10 The requirement is to have two-thirds on-  
11 campus available housing, right?

12 MR. ABUD: We are providing the  
13 housing. We are arranging for it. We've got  
14 staff stationed there, so it functions much  
15 like on-campus housing. It does happen to be  
16 a block away from the university in a private  
17 apartment building.

18 MR. MAZZUCHI: Right.

19 MR. ABUD: So we think it's very  
20 comparable in terms of the relationship to the  
21 neighborhood and the experience that our  
22 students have to on-campus housing.

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1 MR. MAZZUCHI: So as you discussed  
2 last week when ANC-3D Chair Smith was asking  
3 questions, during these years 2008, 2009 and  
4 2010, you were pursuing enrollment targets  
5 that were higher than your historical  
6 enrollment. Is that right?

7 MR. ABUD: We were achieving  
8 enrollments that were higher than what we had  
9 projected.

10 MR. MAZZUCHI: Well, you had  
11 stated targets, right, of 1,500 in 2009, 1,500  
12 in 2010. Is that right?

13 MR. ABUD: That's correct.

14 MR. MAZZUCHI: All right. I mean,  
15 if I compare it to -- if you look at Tab U, I  
16 have an excerpt from your academic reference  
17 book that has the size of your entering  
18 freshman classes. I don't know if you want to  
19 look at it, but the -- I mean, if you look at  
20 the list of numbers there, I mean, most of  
21 them are well -below, you know, the 1,500.  
22 They are in the range of say 1,300 on average.

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1 Tab U.

2 MR. ABUD: Yes, I see that.

3 MR. MAZZUCHI: Okay. So the  
4 targets of 1,500, you know, would be higher  
5 than your actual prior entering class sizes,  
6 right? In other words, you were targeting  
7 higher class sizes than you had had  
8 historically.

9 MR. ABUD: Than we had i n this  
10 period of time, yes.

11 MR. MAZZUCHI: In the fall 2001  
12 through the fall 2007?

13 MR. ABUD: Correct.

14 MR. MAZZUCHI: Right. O kay. And  
15 my question is did you ever consider having  
16 lower enrollment targets or at least keeping  
17 them at the levels closer to the historica l  
18 levels, so that you would actually get closer  
19 to complying with the two -thirds on-campus  
20 housing requirement?

21 MR. ABUD: You know, the plan ning  
22 for overall enrollments is looked at

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1 holistically. And so targets are set for  
2 freshmen, which is what this table shows. One  
3 of the things that has also happened is that  
4 our retention of undergraduate students has  
5 increased. So a combination of those two has  
6 resulted in higher undergraduate numbers.

7 I haven't been -- I was not in  
8 discussions about how exactly those targets  
9 were set, so I don't know if we considered  
10 lower targets or higher targets.

11 MR. MAZZUCHI: All right. Okay.  
12 So now I want to shift to focusing again on  
13 what you actually used -- on the future  
14 housing on what you plan to use the beds for.

15 So I follow -- you have 1,300 beds  
16 total proposed. And I followed that 500 of  
17 the beds are to replace the 500 you demolished  
18 at Tenley, right?

19 MR. ABUD: Correct.

20 MR. MAZZUCHI: And then 212 would  
21 be to -- fully to triple, even if some -- even  
22 if you might want some triples to save money

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1 for -- individual students might want some  
2 triples to save money, but --

3 MR. ABUD: Correct.

4 MR. MAZZUCHI: -- just say you  
5 take 200 and fully be triples. So that's 700  
6 beds. But for the other 600 beds, I mean,  
7 unless you are really going to discontinue the  
8 Berkshire leases and attract, somehow attract,  
9 a lot of seniors and juniors on-campus, I  
10 mean, you won't actually use them, would you?

11 MR. ABUD: We would. Our goal is,  
12 and I believe I said this in our testimony, to  
13 discontinue the use of the Berkshire.

14 MR. MAZZUCHI: And I know that you  
15 said that, but you previously said that you  
16 won't agree to do that as a condition of the  
17 plant. Is that right?

18 MR. ABUD: That's correct.

19 MR. MAZZUCHI: Do you have any  
20 surveys or other data to show that students  
21 who live in the Berkshire or, you know,  
22 anywhere else off-campus would actually rather

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1 live on-campus?

2 MR. ABUD: Well, we do have unmet  
3 demand for housing. We currently -- each  
4 spring when the lottery for returning students  
5 for the following year and have several  
6 hundred who are requesting housing who are not  
7 granting housing. So there is that demand.  
8 We do -- there are surveys to judge interest  
9 in housing and it continues to be  
10 significantly strong in terms of students who  
11 would rather not move off-campus.

12 MR. MAZZUCHI: Okay. You don't  
13 require your undergraduates of any year to  
14 live on-campus, right?

15 MR. ABUD: That's correct. There  
16 is no requirement.

17 MR. MAZZUCHI: And you mentioned  
18 at the last hearing that you said you had  
19 turned away 300 students in a housing lottery.

20 And I wanted to ask you a question about  
21 that, because at Tab V, I have -- there is an  
22 article from the AU Eagle and it is describing

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1 the housing lottery th at you had in e arly  
2 2010.

3 And it states a projection that 76  
4 student will not be ass igned a space in the  
5 lottery and it notes t hat the AU Housing  
6 Department originally projected that 267  
7 students would apply for the lottery and not  
8 receive a space. Is th at the number that you  
9 were referring to in the 300 estimate?

10 MR. ABUD: Yes, it is.

11 MR. MAZZUCHI: So then I go to --  
12 in Tab W, there is a March 3, 2010 AU Eagle  
13 article and it seems to indicate that when all  
14 was said and done, no one was actually denied  
15 housing. The Director of Housing is quoted as  
16 saying that every student who attended t he  
17 housing lottery or who designated housing and  
18 dining programs as their proxy was able to  
19 secure a space for next fall.

20 Do you disagree with that?

21 MR. ABUD: I don't disagree with  
22 that. What h appens is when we announce that

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1 we are not going to be able to accommodate  
2 everyone, many students then opt out of the  
3 process altogether. And so in what -- the  
4 lottery process creates is essentially an  
5 artificial deflation of demand because  
6 students then start looking elsewhere for  
7 housing. When they would rather live on-  
8 campus, they just -- two things happen.

9 They, you know, look elsewhere  
10 because they would rather or they tell their  
11 parents they are not going to be able to and  
12 convince them to allow them to live off-campus  
13 and not participate in the lottery.

14 So there -- it's a complex  
15 dynamic. We still believe that we have  
16 several hundred students who, if we had the  
17 housing available, would choose to live in  
18 providing housing.

19 MR. TAYLOR: And let me interject  
20 also. Part of it, we need to improve our  
21 housing, too, because, again, our housing is  
22 outdated/out-moded/antiquated. And so that's

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1 part of what we are trying to accomplish as  
2 well.

3 MR. MAZZUCHI: Okay. I'm not --

4 MR. TAYLOR: And higher quality  
5 housing will attract more students.

6 MR. MAZZUCHI: Between the draft  
7 plan and January 2011 and the March 2011  
8 filing, you added 200 beds to the planned  
9 housing. Is that right? Because the draft  
10 plan said 1,090 and then the March '11 plan  
11 said 1,290.

12 MR. ABUD: Correct.

13 MR. MAZZUCHI: What changed  
14 between January and March to make you propose  
15 200 more beds?

16 MR. TAYLOR: Well, as I said  
17 before, the plan has been an integrative  
18 process. And so the -- we took a look at  
19 concerns about not providing enough housing  
20 on-campus versus concerns about where the  
21 housing would be and we changed our plans for  
22 specific buildings. And so the number in that

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1 process ended up being 200 higher.

2 We didn't necessarily target 200  
3 as an increase that we were looking for. It's  
4 just when you juxtapose the individual  
5 building planning with their capacities, their  
6 locations, the numbers within a small range,  
7 you know, may come out differently. And that  
8 was the case for this 200 beds.

9 MR. MAZZUCHI: But I mean, the --  
10 none of the other places you were going to  
11 house people from the Draft January 2011 Plan  
12 went down. It's just that you added North  
13 Hall and it went up?

14 MR. ABUD: Correct.

15 MR. MAZZUCHI: The question --  
16 since the housing you want to build would  
17 allow you to fully be tripled, couldn't you  
18 commit to stop housing students in triples,  
19 which was one of the ANC-3D concerns raised in  
20 the letter that I mentioned?

21 MR. ABUD: Well, I think what  
22 triples do is allow us the flexibility both in

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1 terms of quantity, but also for students who  
2 request triples for financial reasons.

3 MR. MAZZUCHI: What I mean is  
4 would you be willing to adopt a policy that no  
5 student has to live in a triple, unless they  
6 choose to, to save money?

7 MR. ABUD: No. I think that's an  
8 option, a flexibility that we need to maintain  
9 to manage our demand and supply.

10 MR. MAZZUCHI: Okay. I had a  
11 couple of questions about North Hall and I  
12 guess maybe this is for Beth Buffington.

13 Have you prepared any views as to  
14 how North Hall would look as compared to the  
15 Wesley Seminary, which is just down the hill  
16 from it?

17 MS. BUFFINGTON: We showed the  
18 views that we have prepared up to now.

19 MR. MAZZUCHI: I was just  
20 wondering how it would look in comparison to  
21 the -- the Wesley Seminary is significantly  
22 lower and it is close by. And I just wondered

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1 if you -- do you have a view that would show  
2 how they would look next to each other?

3 MS. BUFFINGTON: I believe one  
4 view was shown in the previous testimony.

5 MR. MAZZUCHI: Okay.

6 MS. BUFFINGTON: Looking up Mass.

7 MR. MAZZUCHI: Okay. Another item  
8 in the ANC -3D letter, I referred to before,  
9 recommended that AU consider some of the  
10 recommendations in an alternative plan that  
11 Neighbors for a Livable Community had prepared  
12 by the Rhodeside & Harwell firm. Is that  
13 right?

14 MS. BUFFINGTON: Could you repeat  
15 the question?

16 MR. MAZZUCHI: The question was  
17 the letter that I referred to recommended that  
18 AU consider some alternative recommendations  
19 that the Rhodeside & Harwell firm had made at  
20 the request of Neighbors for a Livable  
21 Community. Are you familiar with that plan?

22 MS. BUFFINGTON: Yes.

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1 MR. MAZZUCHI: And North Hall was  
2 one that was on one of the sites that  
3 Rhodeside & Harwell actually recommended that  
4 be used for housing, right?

5 MS. BUFFINGTON: Yes.

6 MR. MAZZUCHI: And my question is  
7 did you consider the design that Rhodeside &  
8 Harwell had recommended?

9 MS. BUFFINGTON: I don't recall  
10 their design.

11 MR. ABUD: Frankly, it wasn't a  
12 design and that's a discussion we had with  
13 Elliott Rhodeside is that when we asked some  
14 detailed questions about some of the proposed  
15 sites, he was very emphatic in saying that  
16 they had not done a design, that the shapes  
17 didn't necessarily represent, you know, the  
18 true shape of the building. That their study  
19 had not gone that far.

20 MR. MAZZUCHI: Okay. Then at Tab  
21 X there is a map that shows a few other sites  
22 that was part of that Rhodeside Plan. And I

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1 want to ask you in particular about the ones  
2 that are marked as A4 and A3.

3 Did AU consider using those sites  
4 for housing?

5 MR. MAZZUCHI: We did lo ok at all  
6 of the proposed sites. And that's one of the  
7 reasons we chose to adopt A1 as part of our  
8 plan. And so we looked at all of them and A1  
9 was the only hou sing site that we found was  
10 appropriate, given either roadways in place,  
11 which are -- is a problem or existing land  
12 features which we think are important to  
13 university and those are some of the issues  
14 with A4 and A3.

15 Both of them could not be built,  
16 you know, roughly the way they are shown  
17 because of existing roadways.

18 MR. MAZZUCHI: But you are going  
19 to move that road as part of the plan, right?

20 MR. ABUD: The plan proposes to  
21 close that as a roadway for regu lar vehicular  
22 use. It will remain open as a service roadway

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1 and remain open as a pedestrian access.

2 MR. MAZZUCHI: All right . But  
3 it's no longer a main circulation route in  
4 your plan, right?

5 MR. ABUD: It will not b e at the  
6 point in the future, but we need to build the  
7 housing soon and prior to when we might close  
8 the road. A numb er of things need to happen  
9 before we have the ability to close the road  
10 and reroute it.

11 MR. MAZZUCHI: Okay. Okay. I  
12 want to go to Tab Y. And it's a m ap that  
13 shows some commercial properties that are  
14 owned by AU in the vicinity of the campus.

15 And I just want to quickly, you  
16 know, summarize what these properties are used  
17 for and see if you confirm it.

18 So let's start with 4620 Wisconsin  
19 Avenue. And tha t's the location of some AU  
20 administrative offices, right? And then  
21 portions of the ground floor are lea sed to a  
22 restaurant and a framing store. Is that

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1 right?

2 MR. ABUD: That's correct.

3 MR. MAZZUCHI: Until November  
4 2010, it was also the location of Morty's  
5 Deli, which closed.

6 MR. TUMMONDS: Again, I'm going to  
7 object. These are properties outside of the  
8 campus plan. They are not relevant to the  
9 discussion that we have here today.

10 CHAIRMAN HOOD: What is your  
11 relevance? What are you trying to connect?

12 MR. MAZZUCHI: Oh, well, I think  
13 one of the conditions in -- that has been  
14 suggested by a number of -- by a number of the  
15 ANCs, among other people, is to count, at  
16 least for purposes of population caps and so  
17 on, students who are present at commercial  
18 properties.

19 And I just wanted to get a sense  
20 of what kinds of academic and student-related  
21 uses AU actually makes of those buildings.

22 CHAIRMAN HOOD: Let's phrase it --

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1 try to phrase your question so it's -- I  
2 actually know where you are trying to go, but  
3 I think Mr. Tummonds is actually correct. So  
4 try to phrase your question so it fits in what  
5 we are doing here, you know.

6 MR. MAZZUCHI: Okay. So --

7 CHAIRMAN HOOD: That might not  
8 have been clear to you, but you got it?

9 MR. MAZZUCHI: Sure.

10 CHAIRMAN HOOD: In other words,  
11 let's move on.

12 MR. MAZZUCHI: Sure. I'll do real  
13 quick. 4000 Brandywine Street is the home of  
14 WAMU. Do students in your communications  
15 classes do training or internships or the like  
16 at that station?

17 MR. TAYLOR: Only on an intern  
18 basis. Not for class.

19 MR. MAZZUCHI: Okay. 4 545 2<sup>nd</sup>  
20 Street, so it's various professional offices  
21 and it's also the new home of the Kogod Tax  
22 Center, right?

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1 MR. ABUD: That's correct.

2 MR. MAZZUCHI: And that's a  
3 research center associated with the Kogod  
4 Business School? Is that --

5 MR. ABUD: That's correct.

6 MR. MAZZUCHI: So are any classes  
7 conducted there?

8 MR. ABUD: No, it's strictly  
9 office use.

10 MR. MAZZUCHI: The professors from  
11 the Kogod School do research and so forth  
12 there?

13 MR. ABUD: That's correct.

14 MR. MAZZUCHI: 4200 Wisconsin  
15 Avenue, so this is the site of the Greenberg  
16 Theater, right?

17 MR. ABUD: Yes.

18 MR. MAZZUCHI: Okay. And since  
19 the last campus plan, you relocated your  
20 theater from the campus to this off-campus  
21 location?

22 MR. ABUD: Yes.

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1                   MR. MAZZUCHI: Okay. And s o, of  
2 course, you hold theater and produ ction  
3 classes and so on at that location?

4                   MR. ABUD: Yes, we do.

5                   MR. MAZZUCHI: Okay. Can you tell  
6 me what percentage of that building is vacant?

7                   MR. ABUD: I can't tel l you that,  
8 no.

9                   MR. TAYLOR: Michael, t hat would  
10 have been, I believe, in the document we  
11 referred to earlier that we provided to the  
12 ANC on the 6<sup>th</sup>. You might check that and see  
13 if the answer is in there.

14                   MR. MAZZUCHI: Okay. All right.  
15 So I guess I' ll skip to 3201 New Mexico  
16 Avenue, because we have talked about the law  
17 school location. This was purchas ed by AU in  
18 about 2003?

19                   MR. ABUD: 4801 Massachusetts?

20                   MR. MAZZUCHI: I'm sorry, 3201 New  
21 Mexico.

22                   MR. ABUD: 3201 New Mexico, yes.

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1                   MR. MAZZUCHI: O kay. And I  
2 believe about a quarter of the space -- it  
3 used to be the site of the Balducci's Grocery  
4 store, right? And about a quarter of the  
5 space now will house a pizza restaurant and  
6 about a quarter of the space is currently  
7 vacant and about half the space will be used  
8 as an AU mailroom. Is that right?

9                   MR. TUMMONDS: Again, I'm going to  
10 object. Some of the earlier questions had to  
11 deal with specific AU-related uses. The  
12 retail uses at 3201 New Mexico, I don't  
13 believe are applicable or relevant to this  
14 proceeding.

15                   CHAIRMAN HOOD: Mr. Mazzuchi, I  
16 think that we get -- we actually get it. So  
17 if we can go to the next --

18                   MR. MAZZUCHI: Okay.

19                   CHAIRMAN HOOD: -- line of  
20 questions?

21                   MR. MAZZUCHI: Okay. I'm going to  
22 turn to ask some questions about traffic.

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1 CHAIRMAN HOOD: Mak e sure we  
2 cross-examine and not testify. There is a lot  
3 of testimony.

4 MR. MAZZUCHI: Different matter .  
5 I understand. Okay. My first question about  
6 traffic. Your traffic study addresses t he  
7 peak system hour. How do you define the peak  
8 hour for the system?

9 MR. VANPELT: We do our counts in  
10 a period in the morning and in the afternoon  
11 and then we look at the data for all of the  
12 intersections and we determine when that the  
13 traffic volumes are at the highest level.

14 MR. MAZZUCHI: So it's based on  
15 volume. How doe s that relate to the period  
16 when the traffic backups or t he delays would  
17 be the worst?

18 MR. VANPELT: Typically, it's the  
19 same time. It's the worst, the highest hour  
20 for the whole system. So generally would that  
21 occurs.

22 MR. MAZZUCHI: You also did a

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1 study, traffic study , for the 2000 Campus  
2 Plan. What was the peak hour that you used  
3 for that study?

4 I'm sorry, let me ask a diffe rent  
5 question.

6 The peak hour for t he current  
7 traffic study you identified as 7:45 to 8:45  
8 in the morning. Is that right?

9 MR. VANPELT: That's correct.

10 MR. MAZZUCHI: So and you di d a  
11 study for the 2000 Campus Pl an. And I heard  
12 you comparing the traffic in the peak hour  
13 now. One of your charts compares the traffic  
14 and what the peak hour is now to what the peak  
15 hour was in 2000, right?

16 MR. VANPELT: Yes, it does, the  
17 total volume, right.

18 MR. MAZZUCHI: Yes. Do you know  
19 what the peak hour was in the 2000 study?

20 MR. VANPELT: I do not.

21 MR. MAZZUCHI: Then how do we know  
22 that we are comparing the same times of day?

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1           MR. VANPELT: We look at when the  
2 peak occurs, so it doesn't necessarily have to  
3 be the same time of day . When we collect  
4 data, from one day to the next day, it could  
5 be off by 15 minutes or maybe even a half  
6 hour, but we always make sure we are looking  
7 at the peak volumes.

8           MR. MAZZUCHI: Okay. On page 13  
9 of the Transportation Technical Analysis, it  
10 says that you took data between 6:00 a.m. and  
11 9:00 a.m. for traffic volumes, right?

12          MR. VANPELT: Correct.

13          MR. MAZZUCHI: Why did you stop  
14 taking data on morning traffic at 9:00 a.m.,  
15 but start at 6:00? I mean, are people getting  
16 up earlier or something?

17          MR. VANPELT: That's pretty much  
18 the --

19          MR. SCHIESEL: The actual national  
20 suggestions by Institute of Traffic Engineers  
21 actually suggests 7:00 to 9:00 a.m. and 4:00  
22 to 6:00 p.m. We expand that to cover three

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1 hours and, basically, that's because through  
2 our work in the District, we have learned that  
3 some Government uses have different hours. So  
4 we actually extend those each an hour earlier,  
5 because in some cases, if we are near  
6 Government or near federal employment, you  
7 actually may find that the peak hour goes  
8 earlier than the time suggested by the ITE.

9 So that's why 6:00 to 9:00 and  
10 3:00 to 7:00 are pretty --

11 MR. MAZZUCHI: In your 2000 study  
12 you counted the traffic from 8:00 in the  
13 morning until 10:30 in the morning. Is that  
14 right?

15 MR. SCHIESEL: I don't know.

16 MR. MAZZUCHI: You don't have a  
17 copy of the study?

18 MR. SCHIESEL: I don't have a copy  
19 of that.

20 MR. MAZZUCHI: Okay. I'll find it  
21 for you. So the fact that the peak hour is  
22 7:45 to 8:45 and it's not, you know, 8:00 to

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1 9:00 instead, right, what that means in your  
2 study is that the volume from 7:45 to 8:00 was  
3 greater than the volume from 8:45 to 9:00,  
4 right?

5 MR. VANPELT: Correct.

6 MR. MAZZUCHI: Which I find  
7 unusual, because I think people who live in  
8 the area would say the traffic is really bad  
9 at 9:00 in the morning.

10 MR. VANPELT: We can tell you what  
11 the data says.

12 MR. MAZZUCHI: Okay. But and  
13 maybe you wouldn't necessarily disagree, but  
14 you would say that you are measuring volume  
15 and not delays, right? I mean, if somebody  
16 perceived a delay as being -- the delay is  
17 really bad at 9:15, I mean, you wouldn't  
18 necessarily disagree with that, that's just  
19 not what you measured, right?

20 MR. VANPELT: Yes. I mean, I  
21 think the peak hour could be or would be just  
22 as bad. I mean, there is delay as part of the

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1 analysis, based on those volumes.

2 MR. MAZZUCHI: But --

3 MR. VANPELT: After the peak.

4 MR. MAZZUCHI: -- I mean, in terms  
5 of the combined effect of traffic and  
6 pedestrian traffic and so on, you know, at  
7 9:05 in the morning, what -- does your study  
8 tell us anything about that?

9 MR. SCHIESEL: No. I mean, we  
10 follow industry guidelines for estimating  
11 traffic. A system peak hour is used,  
12 including, you know, peaking factors within  
13 that individual hour to try to get to the  
14 highest case of where the traffic is highest  
15 on the entire network.

16 And often in an area like the  
17 District times immediately adjacent to the  
18 peak hour are very close, even, you know, a  
19 few percentage points off. So traffic at 9:15  
20 could be similar or even close to that at the  
21 peak hour. That's very common in the  
22 District.

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1                   Certain        days, becaus       e       of  
2       randomness in the system, it could be h igher  
3       than the data we   collected on the   couple of  
4       times that we went out and took counts.   So I  
5       wouldn't be surprised if ther   e were d elays  
6       similar to the peak hour occurring immediately  
7       adjacent to the peak hours.

8                   MR. MAZZUCHI:    But    you're    just  
9       speculating, right?    I mean, you don't have  
10      the data on it.   Is that correct?

11                  MR. VANPELT:   We       don't   collect  
12      data minute by minute.

13                  MR. MAZZUCHI:   You didn't collect  
14      it after 9:00 a.m. at all, right?

15                  MR. VANPELT:   No.

16                  MR. MAZZUCHI:    Okay.    Another  
17      point about counts.   You don't -- the various  
18      commercial properties that I mentioned where  
19      AU makes some academic or student uses, you  
20      wouldn't count traffic going to and from those  
21      either, right?

22                  MR. VANPELT:   Not for   the study,

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1 but it's included -- those volumes are  
2 included if they are on the network and going  
3 through the intersections we looked at, they  
4 were counted.

5 MR. MAZZUCHI: Right. But you  
6 wouldn't call it AU traffic. It's just  
7 traffic.

8 MR. VANPELT: Correct.

9 MR. MAZZUCHI: So, I mean, for  
10 example, I think Jorge was recounting his  
11 experience as someone who commutes back and  
12 forth to AU and Jorge parks at 3201 New Mexico  
13 Avenue, right?

14 MR. ABUD: That's correct.

15 MR. MAZZUCHI: You didn't count  
16 Jorge. How could you leave out Jorge? Okay.  
17 Some questions about the modeling of future  
18 conditions.

19 So on page 8 of the Transportation  
20 Technical Analysis, you have counts for  
21 entrances to the current East Campus parking  
22 lot. And you -- do you have that handy,

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1 because I don't?

2 MR. VANPELT: Yes.

3 MR. MAZZUCHI: Okay. Anyway, the  
4 traffic counts show a very low usage of the  
5 Nebraska Avenue entrance, right? It shows six  
6 turns out during the a.m. peak and zero turns  
7 in versus the New Mexico entrance which has  
8 four turns out and 121 turns in. Is that  
9 right? Am I saying that right?

10 MR. VANPELT: Yes.

11 MR. MAZZUCHI: And that sort of  
12 makes sense, right? Because it's a lot easier  
13 to access the New Mexico entrance than it is  
14 Nebraska Avenue, right?

15 MR. SCHIESEL: Yes, that's  
16 correct, because access -- because of the  
17 right in and right out nature of Nebraska is  
18 not as convenient to some commuters.

19 MR. MAZZUCHI: So now, in the  
20 current proposal for the parking at East  
21 Campus, you are going to have 250 spaces of  
22 parking on a portion of the current lot and

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1 that will only be accessible from Nebraska  
2 Avenue, right?

3 MR. SCHIESEL: That's correct.

4 MR. MAZZUCHI: Okay. So now, I'm  
5 turning to page 25 of the Transportation  
6 Report Addendum. And you are showing your  
7 future a.m. traffic volumes. Are you with me?  
8 Okay. So again in the a.m. peak hour I see  
9 12 cars leaving the lot and no one going in.  
10 Is that right?

11 MR. VANPELT: That's correct.

12 MR. MAZZUCHI: Okay. So how can  
13 it be that no one is entering the 250 car  
14 parking lot during a.m. peak rush hour?

15 MR. VANPELT: We would have to go  
16 back and look at the -- are they assignments?  
17 It could be an error in the figure.

18 MR. MAZZUCHI: Okay. Doesn't that  
19 mean that that parking lot is going to have a  
20 significantly greater effect on traffic on  
21 Nebraska than you have taken into account at  
22 present?

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1 MR. VANPELT: Yes. I think we  
2 need to look at that and get back to you.

3 MR. MAZZUCHI: Okay. Then I'm  
4 going to shift back to page 18 of the  
5 Transportation Technical Analysis. I want to  
6 talk about the signal timing of that.

7 So currently, you show a level of  
8 service on Nebraska northbound as an F in the  
9 a.m. peak and an E in the p.m. peak. And  
10 southbound is a C in the a.m. peak and then D  
11 in the p.m. peak. Is that -- do you see those  
12 things there?

13 MR. VANPELT: I'm sorry, which  
14 intersection?

15 MR. MAZZUCHI: This is Nebraska  
16 northbound at Ward Circle.

17 MR. VANPELT: Okay. I think we  
18 are with you.

19 MR. MAZZUCHI: Okay.

20 MR. VANPELT: What was your  
21 question?

22 MR. MAZZUCHI: I'm just trying to

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1 make sure we're all on the same page. I also  
2 want to compare that with on page 25 you have  
3 data from the 2000 Campus Plan Traffic Study.

4 And that shows a level of service on Nebraska  
5 northbound as an F in the a.m. peak and a n F  
6 in the p.m. peak and southbound is a D in the  
7 a.m. peak and an F in the p.m. peak, right?

8 MR. VANPELT: Yes.

9 MR. MAZZUCHI: Okay. So now, I'm  
10 looking at future background conditions in the  
11 study on page 30 where y ou assume after some  
12 future growth and so forth, but before the  
13 effects of the campus plan, you model a level  
14 of service on Ne braska northbound as a C in  
15 the a.m. and a D in the p.m. and the  
16 southbound as a B in the a .m. and a C in the  
17 p.m. Is that right?

18 MR. VANPELT: Yes, that's correct.

19 MR. MAZZUCHI: Okay. So your  
20 background assumption is that the level of  
21 service on Nebraska Avenue is going to improve  
22 in the future?

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1 MR. VANPELT: Correct.

2 MR. MAZZUCHI: O kay. And I  
3 apologize for the rhetorical question, but, I  
4 mean, does that really seem to make sense as a  
5 real-world matter? I mean, it has been  
6 consistently hovering around F for 10 years,  
7 right? In your model it just gets better  
8 without any particular change in  
9 infrastructure.

10 MR. SCHIESEL: There is an  
11 astounding amount of variables to go into the  
12 level of service calculations of Ward Circle.  
13 The highest variable out of all of them,  
14 especially in volumes -- our volumes from all  
15 of our reports, all the data we take is pretty  
16 consistent. The highest variable besides the  
17 volume is the signal type.

18 Ward Circle as it stands right  
19 now, there is no national standard for a way  
20 to analyze the odd configuration that it is.  
21 We break it down into several components.

22 One of the things we cannot

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1 analyze is the illegal turning maneuvers that  
2 take place. That means that multiple studies  
3 can actually analyze it slight differently.

4 We try to stay consistent between  
5 our analysis. But the major influencing  
6 factor is actually the signal timings. When  
7 we looked back at the analysis that showed  
8 level of service F in the prior ones, we tried  
9 to figure out why our existing analysis was  
10 showing better ones.

11 Well, after a bit of detective  
12 work, we found that it primarily was the  
13 signal timing changes. In between the times  
14 of the campus plan, DD OT had changed the  
15 signal timings.

16 In addition, the transportation  
17 industry wasn't as adept at analyzing  
18 pedestrians as they were even just 10 years  
19 ago. And those were actually not a factor,  
20 not included similar ways as they were now in  
21 this time.

22 So I would actually -- I would

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1 have trouble comparing saying it was apples-  
2 to-apples to compare a prior study, any prior  
3 study of Ward Circle.

4 And background conditions, we have  
5 the signal timing parameters. We received  
6 them from DDOT. It is safe to assume similar  
7 as DDOT did between campus plans that in a 10  
8 year time period, they would have updated the  
9 signal timings.

10 So based on the traffic modeling  
11 we have, we actually do show an improvement,  
12 because, like I said, not a significant amount  
13 of other variables are changing. The signal  
14 timing changes would actually show an impact.

15 MR. MAZZUCHI: I mean, you say  
16 that the signal timing would be optimized,  
17 that's what you say in the technical analysis.  
18 You assume that it is optimized, right?

19 MR. SCHIESEL: Yes.

20 MR. MAZZUCHI: Well, what does  
21 that mean? I mean, what do you -- what are  
22 you going to do?

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1 MR. SCHIESEL: A signal timing --  
2 a traffic signal is -- the timings are based  
3 on, you know, there is a couple things that  
4 must happen. There must be walk signs. There  
5 must be green times. There must be certain  
6 phases if you decide to have a green arrow.  
7 Each of those phases or pieces of the timing  
8 get a portion of a signal cycle, which is 100  
9 seconds length standard in the District.

10 Once you put in how much time you  
11 need for yellows, reds, the crosswalk times,  
12 which are set standards, there is a little bit  
13 of extra time before you add up to that 100.  
14 That's not the minimum just to get the cycle  
15 to work.

16 So, basically, we have 20, 30, 40  
17 seconds that can be adjusted. We have  
18 software programs that will run optimization  
19 algorithms to adjust where to put that  
20 remaining time within those.

21 So when variables change, volumes  
22 move around and these algorithms will run and

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1 they will calculate the lowest delay across  
2 the entire network.

3 MR. MAZZUCHI: Okay. Do you know  
4 whether DDOT will actually optimize the  
5 signals in the way that you assume?

6 MR. SCHIESEL: No, I do not.

7 MR. MAZZUCHI: Okay. Did you  
8 model what the effects would be of the campus  
9 plan without optimization of the signals?

10 MR. SCHIESEL: I don't believe it  
11 is documented, no.

12 MR. MAZZUCHI: But I mean, what --

13 MR. SCHIESEL: I mean --

14 MR. MAZZUCHI: -- does that mean?

15 I'm sorry.

16 MR. SCHIESEL: -- it's not in the  
17 report.

18 MR. MAZZUCHI: But did you model  
19 it, but not put it in the report?

20 MR. SCHIESEL: We may have. I  
21 mean, we look at a lot of scenarios when we  
22 are planning, as far as options within the

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1 campus plan. So in order to develop our  
2 recommendations, we probably looked at several  
3 different scenarios. I can't recall out of  
4 all those ones, the exact list.

5 MR. MAZZUCHI: Okay. Because in  
6 the 2000 study you modeled the effect of the  
7 campus plan without changes in signal timing,  
8 right?

9 MR. SCHIESEL: I don't have a copy  
10 of that plan in front of me.

11 MR. MAZZUCHI: Would you be  
12 willing -- if you did model it without the  
13 optimization of the signals, would you be  
14 willing to provide that to us?

15 MR. SCHIESEL: Yes, we probably  
16 could, yes.

17 MR. MAZZUCHI: All right. Thanks.  
18 Another question about modeling the future.  
19 If the law school is relocated to Tenley, that  
20 should result in some additional traffic  
21 through Ward Circle, right?

22 MR. SCHIESEL: Yes, for people

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1 coming from that direction.

2 MR. MAZZUCHI: Okay. So did you  
3 take into account any of that in assuming the  
4 trip generation of the campus plan?

5 MR. SCHIESEL: Yes, actually, the  
6 report splits up the analysis of the Main  
7 Campus and the Tenley Campus, but the guts of  
8 the analysis, the actual traffic models that I  
9 just discussed, it's one model.

10 MR. MAZZUCHI: Okay.

11 MR. SCHIESEL: And it has all the  
12 changes throughout all the inters ections  
13 between both of the campuses.

14 MR. MAZZUCHI: Yes, but when you  
15 list your assumptions, your background  
16 assumptions for analyzing future conditions, I  
17 didn't see any mention of an assumption of the  
18 changes at Tenley.

19 MR. SCHIESEL: Yes. It is one  
20 model. So that means that both the Tenley --  
21 all the changes are both included in the total  
22 future. Neither has a background, b ecause

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1 it's one campus plan.

2 So for the Main Campus results  
3 that we show and in the earlier section of the  
4 transportation report, they include the Tenley  
5 Campus. The Tenley Campus ones they include  
6 the Main Campus and they are total future,  
7 because they are one plan, they are not  
8 separated.

9 MR. MAZZUCHI: Right. But when  
10 you calculated the trip generation associated  
11 with the campus plan, all I see on the table  
12 is the trip generation associated with the  
13 population of the Main Campus. And I don't  
14 see any mention of trip generation from the  
15 Tenley Campus.

16 MR. SCHIESEL: The trip  
17 generation, for vehicular trip generation for  
18 the Tenley Campus was done with a slightly  
19 different methodology. And that is actually  
20 included in our Technical Analysis. It is --  
21 we have split up the documentation in the  
22 discussion of the two campuses separately, but

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1 it really was one traffic model where all the  
2 volumes were traveling through at the same  
3 time.

4 So I could probably find what page  
5 in the report describes the trip generation  
6 for the Tenley Campus, if I need to.

7 MR. MAZZUCHI: You could provide  
8 that to us later?

9 MR. SCHIESEL: It's described in  
10 the report how we generated trips. It's based  
11 on the number of parking at the parking garage  
12 and --

13 MR. MAZZUCHI: I'm just trying to  
14 get a sense of when you model Ward Circle in  
15 the future, and you model the effects of the  
16 campus plan, are you taking into account  
17 additional cars driving through Ward Circle --

18 MR. SCHIESEL: Yes.

19 MR. MAZZUCHI: -- to get to -- if  
20 you could point me to the page in your  
21 analysis where you have that, I would  
22 appreciate it. I just can't find it.

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1 MR. TUMMONDS: You heard his  
2 answer and his answer is yes and we can  
3 provide that backup information. Absolutely.

4 MR. MAZZUCHI: All right. Thank  
5 you. A quick question about pedestrian  
6 traffic. You discussed before that  
7 pedestrians contribute to traffic delay,  
8 right?

9 MR. SCHIESEL: Yes.

10 MR. MAZZUCHI: Okay. So an  
11 increase in the overall campus population  
12 would also increase the pedestrian traffic.  
13 And I'm not just talking about, you know, with  
14 this campus. I mean all around Ward Circle  
15 and people getting off of buses and just  
16 pedestrian traffic generally, right?

17 MR. SCHIESEL: Yes.

18 MR. MAZZUCHI: Okay. Did you take  
19 -- what consideration did you give to that in  
20 modeling the future delay times at the  
21 intersections?

22 MR. SCHIESEL: That we projected,

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1 as we discussed in our report, similar to how  
2 we project vehicular trip generation and  
3 distribute it across the network. We did a  
4 similar thing for pedestrians. All of our  
5 figures show pedestrian volume changes in  
6 crosswalks and that's a variable in our  
7 traffic model.

8 MR. MAZZUCHI: Okay. I have a  
9 couple of quick questions about the East  
10 Campus.

11 I guess it's for Beth. You  
12 mentioned that you oriented the windows of the  
13 buildings away from Westover to address noise  
14 concerns, right?

15 MS. BUFFINGTON: Well, I think it  
16 has to do with a lot of concerns that the  
17 neighbors had about -- more about privacy and  
18 light.

19 MR. MAZZUCHI: All right. Okay.  
20 Did you take any steps to address noise from  
21 the windows of the six story building that  
22 would face out onto New Mexico Avenue?

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1 MS. BUFFINGTON: Yes, the adjacent  
2 property there is the church. I'm not -- I  
3 guess I don't understand the question.

4 MR. MAZZUCHI: Did you do an  
5 experiment to see, you know, what people can  
6 hear slightly down the hill?

7 MS. BUFFINGTON: We have not done  
8 any acoustical studies.

9 MR. MAZZUCHI: At the last  
10 hearing, I guess, Jorge, you were comparing  
11 the experience at the Nebraska Hall in terms  
12 of noise affecting neighboring residents. But  
13 and I guess I wanted to ask -- I mean, aside  
14 from Nebraska Hall being about a quarter of  
15 the size of the proposed East Campus  
16 development, there is no bars or restaurants  
17 or businesses nearby Nebraska Hall, right?

18 MR. ABUD: No, there are not.

19 MR. MAZZUCHI: Whereas for East  
20 Campus, there is a liquor store 500 feet down  
21 the street and a restaurant with a liquor  
22 license a little farther down and a pizza

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1 restaurant kind of roughly in the same place,  
2 right?

3 MR. ABUD: Yes.

4 MR. MAZZUCHI: I mean, don't you  
5 think the back and forth to those businesses  
6 at night and so on might be associated with  
7 more noise?

8 MR. ABUD: Surely there is a  
9 potential for more activity. There is  
10 activity at Nebraska Hall right now. People  
11 do come and go from the building to go to  
12 other businesses, to go to other spots on the  
13 campus. So I think they are comparable in  
14 terms of the experience.

15 Obviously, East Campus volumes  
16 would be greater, because it's a larger  
17 development.

18 MR. MAZZUCHI: Okay. A couple  
19 quick questions about these. I guess another  
20 about the East Campus. David Taylor, you  
21 noted two weeks -- at the hearing two weeks  
22 ago that one goal of the campus plan was to

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1 increase recreational space.

2 Does East Campus provide for any  
3 improved recreational space?

4 MR. TAYLOR: No, not on the site  
5 there.

6 MR. MAZZUCHI: Okay. How far is  
7 it from East Campus to the closest improved  
8 recreational space on AU's Campus?

9 MR. TAYLOR: It would be on the  
10 Main Campus where the athletics fields are,  
11 where there is Jacob's Field or -- that would  
12 probably be the closest.

13 MR. MAZZUCHI: But the Horace Mann  
14 Park and Playground are right across the  
15 street from East Campus, right? That's --  
16 it's the, you know, farthest corner of that  
17 model, right?

18 MR. TAYLOR: Where the inn is?

19 MR. MAZZUCHI: Yes. So I mean,  
20 wouldn't you expect the East Campus residents  
21 to use that space a lot since you haven't  
22 given them any other facilities?

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1 MR. TAYLOR: We could work with  
2 Campus Life, indeed, to dissuade them from  
3 doing that or work with the Horace Mann School  
4 itself on that issue.

5 MR. MAZZUCHI: What would you do?

6 MR. TAYLOR: We, indeed, would  
7 tell the students that they should not be  
8 using that field, that that's for the  
9 community or that's for the young children.  
10 But that would be something that we could work  
11 out.

12 MR. MAZZUCHI: Yes, but how do you  
13 know that they would do what you asked them to  
14 do?

15 MR. TAYLOR: Well, we have a  
16 relationship with Horace Mann and with the  
17 principal and the university, so we could work  
18 this out.

19 MR. MAZZUCHI: Well, I mean, I'm  
20 talking about weekends, in particular. I  
21 mean, the Horace Mann principal is not around  
22 on Saturday. Is there going to be any -- I

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1 mean, you know, how would you control the use  
2 of a public park on a Saturday by people who  
3 live nearby?

4 MS. ESPINOSA: Michelle Espinosa.  
5 There is a couple of ways that we could  
6 probably do that. You know, certainly if  
7 there were concerns by the staff or the  
8 faculty or the principal at Horace Mann.  
9 Their current relationship with the university  
10 allows our public safety officers to respond  
11 and ask students to leave, if that is needed.

12 They certainly could provide that  
13 support and then with, you know, appropriate  
14 signage and communication in the residents  
15 halls and from the Residential Life staff to  
16 the students, that certainly would be expected  
17 of them to comply.

18 And just like all of our other  
19 residents hall policies that regulate noise  
20 and sporting events and guests and things of  
21 that sort in the residents halls, those would  
22 be part of the residents hall regulations and

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1 subject to the Code of Conduct in their  
2 housing agreement.

3 MR. MAZZUCHI: Okay. Actually,  
4 since you are speaking, I wanted to go back to  
5 a few things that you were testifying about a  
6 couple of weeks ago.

7 You noted, I think, there has been  
8 12 problem houses that had come to your  
9 attention in the last year. Was it one or two  
10 of them where the student residents had  
11 ultimately received some kind of sanction?

12 MS. ESPINOSA: We have two ho uses  
13 involving one fraternity that is under  
14 sanction and then we have another house where  
15 we had some individual student conduct action  
16 taken.

17 MR. MAZZUCHI: Okay. So the  
18 students themselves were sanctioned in only  
19 one of the houses? It was the fraternity that  
20 was sanctioned in the other. Is that right?

21 MS. ESPINOSA: Correct, correct.

22 MR. MAZZUCHI: What was the l evel

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1 of the sanction?

2 MS. ESPINOSA: The individual  
3 students that were sanctioned would have  
4 received -- it was a first violation for this  
5 type of thing, so they would have received a  
6 censure. They also, as indicated in my  
7 earlier testimony, would have been asked to  
8 participate in what we refer to as a decision  
9 making workshop or a community standards  
10 course.

11 The fraternity actually has been  
12 on probation since the late fall or early  
13 spring. I would have to look back.

14 MR. MAZZUCHI: The one house with  
15 the fraternity, was that the house at 5007  
16 Yuma Street, The Pi Kappa Alpha Fraternity?

17 MS. ESPINOSA: Yes.

18 MR. MAZZUCHI: Does that sound  
19 right?

20 MS. ESPINOSA: Yes, that's the  
21 fraternity who has members that reside there,  
22 yes.

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1                   MR. MAZZUCHI: Okay. You met with  
2 the residents, the neighbors of that address  
3 in February of this year to discuss some  
4 longstanding complaints about noise and trash  
5 and confrontations and so forth. Is that  
6 right?

7                   MS. ESPINOSA: Correct. A number  
8 of us met with them.

9                   MR. MAZZUCHI: I understand the  
10 personal details of the students would be  
11 private, but can you describe what your  
12 involvement was in that situation after  
13 February 2011?

14                   MS. ESPINOSA: Certainly. After  
15 that meeting with the neighbors, we followed  
16 up with additional meetings with the students.  
17 We also continued conversations with the  
18 adult chapter advisor of the local chapter and  
19 had additional communications with their  
20 national headquarters, which is what led to  
21 the probation status for the entire chapter,  
22 not just the residents of that house, but the

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1 entire chapter.

2 And then since that neighbor  
3 meeting, there have been no additional  
4 complaints filed about that house until recent  
5 weeks.

6 MR. MAZZUCHI: What specific  
7 contact have you had with the affected  
8 neighbors since February 2011?

9 MS. ESPINOSA: I would have to  
10 look back. I think in the past three weeks,  
11 there were reports filed with our Public  
12 Safety Office, indicating that there had been  
13 noise, students coming and going and noise  
14 late at night.

15 I have not had any individual  
16 contact with those neighbors.

17 MR. MAZZUCHI: You mentioned that the  
18 most common complaints were noise, you know,  
19 coming and going from houses and so forth. I  
20 mean, has anybody even been charged under the  
21 Student Conduct Code for noise?

22 MS. ESPINOSA: Well, in our

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1 residents halls, we do have a noise/quiet  
2 hours noise violations, that sort of thing.  
3 And off-campus incidents, such as that, if it  
4 were to fall under our code, it would most  
5 likely fall under the disruptive behavior  
6 policy.

7 There is not a specific noise code  
8 for that and we have not had any citations or  
9 arrests issued to any of our students in any  
10 of our houses by MPD for noise violations.

11 MR. MAZZUCHI: Okay. I mean, you  
12 mentioned that it is important that, you know,  
13 people have the identity of the students  
14 involved and I certainly understand that from  
15 a, --

16 MS. ESPINOSA: Sure.

17 MR. MAZZUCHI: -- you know, due  
18 process standpoint. But what I mean is if  
19 someone is complaining about noise, you just  
20 hear someone out in the night, I mean, what  
21 are you really going to be able to do about  
22 that? They are not going to know who it is.

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1 Is that right?

2 MS. ESPINOSA: Well, as I have  
3 said before, we certainly had the  
4 conversations and the follow-up with the  
5 students and tried to address that. These  
6 students will have friends come and go from  
7 their residence. They are in a private  
8 residence leased with a particular landlord,  
9 who establishes the policies for that  
10 residence through the lease.

11 So we try to intervene and work  
12 with the students and the neighbors to manage  
13 the comings and goings as much as we are able  
14 to and work with MPD. Our Public Safety  
15 Officers certainly respond when incidents are  
16 reported and then if any police action is  
17 taken, that would be on the part of MPD to  
18 respond in that way.

19 MR. MAZZUCHI: I meant to ask you,  
20 did -- at 5007 Yuma Street, have you had any  
21 contact with the landlord even since --

22 MS. ESPINOSA: She --

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1 MR. MAZZUCHI: -- February 2011?

2 MS. ESPINOSA: We did exchange  
3 emails early in February immediately following  
4 the meeting to make sure that we had each  
5 other's contact information. But I have not  
6 had any contact with her since that time.

7 MR. MAZZUCHI: Okay. I'm just  
8 going to -- I have few last questions about  
9 pedestrian safety, I guess.

10 The traffic study, and I guess  
11 this is for Grove/Slade, did Grove/ Slade  
12 assess pedestrian safety in connection to the  
13 crossing behavior at Ward Circle and Nebraska  
14 Avenue?

15 MR. VANPELT: We did look at crash  
16 rates.

17 MR. MAZZUCHI: You looked at the  
18 number of -- I mean, you looked at the data  
19 for the number of people that have actually--

20 MR. VANPELT: Correct.

21 MR. MAZZUCHI: -- been hit?

22 MR. VANPELT: Correct. We looked

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1 at, right.

2 MR. MAZZUCHI: Well, did you make  
3 any other assessment of the level of risk to  
4 pedestrians, other than just --

5 MR. SCHIESEL: Safety is a tricky  
6 issue for the transportation planning  
7 industry. There is no set -- like we have for  
8 capacity where we enter in a bunch of  
9 variables and it tells us whether it is safe  
10 or unsafe. The closest we can get is looking  
11 at things that we know maybe influence that.

12 One such thing is the pedestrian  
13 level service calculations that we do perform,  
14 because the industry uses those to look at if  
15 pedestrians are being delayed excessively,  
16 there is a greater risk of risk-taking  
17 behavior.

18 MR. MAZZUCHI: But really, all you  
19 are measuring, all your study really measures  
20 is delay, right? It just measures signal  
21 waiting times for pedestrians.

22 MR. SCHIESEL: Yes, like I said,

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1 as far as what are the variables that may  
2 influence safety goes into effect, that was  
3 one of the ones that we knew could be changed  
4 and maybe at a potential of having an impact,  
5 so that's why we looked at pedestrian delay,  
6 because it is associated with risk-taking  
7 behavior.

8 MR. MAZZUCHI: Yes. Okay. And  
9 one question about the meaning of just  
10 something on page 15 of your Transportation  
11 Technical Analysis where you are observing the  
12 -- it's your field observations of the -- what  
13 is going on there.

14 And I note that it says that "Due  
15 to heavy traffic volumes, pedestrians appeared  
16 to utilize both crosswalks and pedestrian  
17 signals." And I mean, what I'm wondering is  
18 does that mean that they are using the  
19 crosswalk even when the pedestrian signal says  
20 don't walk?

21 MR. SCHIESEL: That's often the  
22 case in most crosswalks in the District.

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1                   MR. MAZZUCHI: All right. So y ou  
2 have actually observed that? That's what that  
3 sentence means? I mean, people --

4                   MR. SCHIESEL: Yes.

5                   MR. MAZZUCHI: Yes, okay . And  
6 similarly, you said the same thing about the  
7 intersection at Nebraska and New Mexico.  
8 People use the crosswalk to c ross, even when  
9 it says don't walk.

10                  MR. SCHIESEL: Yes.

11                  MR. MAZZUCHI: Okay. I mean , I  
12 know that maybe you didn't address, you know,  
13 pedestrian behavior, but I note that for the  
14 new signal that is bei ng proposed at the  
15 parking lot, there is going to be -- I think  
16 there is a 37 sec ond wait time that is being  
17 proposed, right, for that signal?

18                  MR. SCHIESEL: I don't --

19                  MR. MAZZUCHI: It's close?

20                  MR. SCHIESEL: -- know off the top  
21 of my head. Yes. Out of those 100 seconds  
22 that a cycle -- signal gets.

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1 MR. MAZZUCHI: Right.

2 MR. SCHIESEL: Yes, a third of it  
3 may be for the pedestrian, yes.

4 MR. MAZZUCHI: Okay. But I mean,  
5 what makes you think that people will wait for  
6 the signal when they cross illegally and they  
7 don't wait now?

8 MR. SCHIESEL: I don't think I can  
9 control pedestrian behavior. At most, I think  
10 we could influence it. Right now, with the --  
11 if that right in/right out is there, the  
12 opportunity for people to cross the street is  
13 going to be there.

14 And with the option is either put  
15 up a sign that says don't cross or provide  
16 someone a proper way to cross. Our industry  
17 will always go with the latter option. Does  
18 that mean it will prevent all jaywalking? No.

19 It just means that people who wish, will have  
20 that option there.

21 MR. MAZZUCHI: Okay. That's all  
22 my questions. Thanks very much for your

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1 patience.

2 CHAIRMAN HOOD: Sure. Thank you .

3 Next, let's go with the Tenley Campus  
4 Neighborhood Association, Ms. Fultz.

5 Now, Ms. Fultz, you are going to  
6 be the only one asking questions, right? You  
7 will be the only one cross-examining?

8 MS. FULTZ: Actually, David  
9 Wilson, who is a member of Tenley Campus  
10 Neighbors Association will be conducting the  
11 cross.

12 CHAIRMAN HOOD: He is going to be  
13 doing the cross? Okay.

14 MS. FULTZ: But we will only have  
15 one person asking the questions.

16 CHAIRMAN HOOD: Is he going to do  
17 all? I think we discussed this earlier, but  
18 he is going to be doing all the cross?

19 MS. FULTZ: Correct.

20 CHAIRMAN HOOD: Okay. Mr. Wilson.

21 MR. WILSON: Yes. My name is  
22 David Wilson. I live at 4137 Yuma Street,

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1 which is on the corner of 42<sup>nd</sup> and Yuma  
2 Streets across the street from the Tenley  
3 Campus.

4 There was some discussion in the  
5 university's direct testimony about a 1986  
6 agreement with the ANC and the neighbors of  
7 the Tenley Campus. And I believe Mr. Tummonds  
8 made the statement that the Zoning Commission  
9 had held that the 1986 agreement was not  
10 enforceable. Is that what you said, Mr.  
11 Tummonds?

12 MR. TUMMONDS: I mean, I think  
13 from a zoning standpoint. So perhaps I can  
14 read Zoning Commission Order No. 949? Where  
15 it talks "For purposes of its review of the  
16 university's application for approval of a new  
17 campus plan, the Commission is not bound by  
18 the decision of the Board in approving the  
19 prior now expired plan.

20 Because the Board has no authority  
21 to bind a future Zoning Commission with  
22 respect to matters beyond the Chairman-

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1 approved campus plan, the Commission may  
2 consider the university's application as a new  
3 proceeding, in which a decision must be based  
4 on substantial evidence in the record of that  
5 proceeding."

6 The -- I'll skip down. "The  
7 Commission concludes that the effectiveness of  
8 the 1989 agreement as a condition of campus  
9 plan approval and for zoning purposes upon the  
10 effective date of this order. The zoning  
11 relevance of the 1986 agreement is even more  
12 tenuous, as that agreement was not formally  
13 adopted by the Board either in its order  
14 conditioning it or granting the university a  
15 special exception to use the Tenley Campus or  
16 in the 1990 order conditioning/granting a new  
17 campus plan applicable to Tenley Campus.

18 The Commission is guided by, but  
19 not bound by prior decision of the Board in  
20 approving the 1980 plan, given that the  
21 termination of the plan ended December 31,  
22 2000."

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1 Here is maybe where you are going.

2 "The Commission expresses no opinion with  
3 respect to whether the 1986 and 1989  
4 agreements remain in effect as contracts  
5 enforceable privately by the parties."

6 What I was trying to get at is  
7 from a zoning perspective, the Zoning  
8 Commission in 2000 said the 1986 agreement is  
9 not applicable to this body any more. The  
10 1989 agreement is not applicable to this body  
11 any more.

12 If someone wants to bring forth  
13 conditions, do it, put it forward and we will  
14 provide appropriate conditions in that  
15 setting.

16 MR. WILSON: But the neighborhood  
17 is still the same, isn't it?

18 MR. TUMMONDS: I'm sorry? I was  
19 just answering the question that Mr. May asked  
20 about is the 1986 agreement applicable in this  
21 zoning process.

22 MR. WILSON: Well, I think the

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1 question is --

2 COMMISSIONER MAY: Exc use me. My  
3 question was just whether -- what the  
4 applicant -- how the applicant regarded the  
5 state of the application. I mean, of the  
6 previous agreement.

7 MR. WILSON: Well, the record will  
8 speak for itself in terms of the  
9 representations that counsel made. There is  
10 no termination provision in that agreement, is  
11 there?

12 MR. TUMMONDS: I don't believe so.

13 MR. WILSON: Can you tell me what  
14 AU agreed to in terms of conditions in that  
15 agreement? Anybody on the AU side of the  
16 table.

17 MR. TUMMONDS: Again, I think with  
18 regards to cross -examination, we didn't  
19 testify to the 1986 agreement, other than what  
20 I mentioned about what we thought our effect  
21 was, so I'm not sure that's, again, an  
22 applicable question for cross. If they want

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1 to talk about what is in the 1986 agreement,  
2 that is perfectly fine for TCNA to do in their  
3 direct testimony.

4 MR. WILSON: Chairman Hood, we  
5 believe the 1986 agreement is relevant from  
6 the standpoint of the impact on the  
7 neighborhood, because it arose out of AU's  
8 initial proposal to put the law school on this  
9 very same site. We are talking about the same  
10 neighborhood. We are talking about the same  
11 law school.

12 And I ask that I be given some  
13 latitude to ask some questions about the 1986  
14 agreement.

15 CHAIRMAN HOOD: I think, and  
16 having been here 10 years ago with the  
17 American University Plan on the Zoning  
18 Commission, I do recall some of that. So what  
19 I would ask you to do is do that under your  
20 direct testimony and make your case then.

21 Keep it to a question. You ask a  
22 question and if you don't get an answer, then

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1 the time for you to come back to us is when  
2 you get ready to do your presentation.

3 MR. WILSON: Well, I would like to  
4 ask the question as to in 1986 was it not AU's  
5 proposal to move the law school to the Tenley  
6 Campus?

7 MR. TUMMONDS: Again, we didn't  
8 testify in our direct as to what the 1986  
9 agreement said. If they want to talk about  
10 what the 1986 agreement says, I believe --

11 MR. WILSON: I'm not asking you  
12 about what the 1986 --

13 MR. TUMMONDS: -- that they  
14 should --

15 MR. WILSON: -- agreement says.  
16 I'm asking whether or not AU had previously  
17 proposed to move the law school there. It is  
18 relevant to their case --

19 CHAIRMAN HOOD: Well, hold on.

20 MR. WILSON: -- in terms of  
21 impact.

22 CHAIRMAN HOOD: Hold on. Yes or

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1 no? I think that question could be answered.

2 If somebody can answer that?

3 MR. ABUD: Yes, we previously  
4 proposed to put the law school at the Tenley  
5 Campus.

6 CHAIRMAN HOOD: And I think that  
7 was testified to by someone, because I heard  
8 it recently. But anyway --

9 MR. WILSON: And in 1986, how many  
10 students were at the law school?

11 MR. ABUD: I don't recall. We  
12 would have to look that up.

13 MR. WILSON: Would it refresh your  
14 recollection if I suggested that it was less  
15 than 1,400?

16 MR. TUMMONDS: Again, I think this  
17 is going beyond.

18 CHAIRMAN HOOD: I'm not sure why  
19 we keep going. We get your point. We get  
20 your point about the proposal that was agreed  
21 to. We get all that.

22 MR. WILSON: I'm not asking a

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1 question about the 1986 agreement. I'm asking  
2 about the size of the law school. They are  
3 proposing a cap or a law school expansion to  
4 2,000. I think the decision in 1986 was that  
5 the impacts on the neighborhood were such that  
6 it was not proper to locate the law school  
7 there in 1986.

8 CHAIRMAN HOOD: So why don't you  
9 rephrase your question? What -- well, I don't  
10 want to tell you how to phrase it. But --

11 MR. WILSON: I'm happy to ask the  
12 question the way you would like me to ask it.

13 CHAIRMAN HOOD: No. Because the n  
14 I'll probably get myself in trouble. Rephrase  
15 your question. Just rephrase your question.  
16 I know where you are going, but I want you to  
17 rephrase the question.

18 MR. WILSON: Ok ay. What's the  
19 size of the law school that you are proposing  
20 now?

21 CHAIRMAN HOOD: That's it. Okay.

22 MR. ABUD: The current enrollment

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1 is 1,770 students. And we are proposing that  
2 it -- our projection is that it would grow to  
3 2,000 by the year 2020.

4 MR. WILSON: And would you say  
5 that the Tenley Campus neighborhood is more  
6 busy, less busy or just as busy now as it was  
7 in 1986?

8 MR. ABUD: I think it is hard to  
9 say. I think it is similarly busy, but, you  
10 know, what is, one, the definition of the  
11 Tenley Campus neighborhood and, two, the  
12 definition of busier are really -- you know,  
13 need to be defined before you can answer that  
14 question.

15 MR. WILSON: Well, let's talk  
16 about the impact that a law school would have  
17 on a neighborhood. You can't look at that in  
18 isolation, can you?

19 MR. ABUD: No.

20 MR. WILSON: You would agree with  
21 me, wouldn't you, that you have to consider  
22 such things as the fact that there is now a

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1 new Best Buy store up the street and the fact  
2 that that creates considerable vehicular  
3 traffic in the neighborhood. Don't you think  
4 you have to consider that?

5 MR. VANPELT: We have considered  
6 the current traffic in the -- in all the  
7 streets surrounding the Tenley Campus. And  
8 so, yes, you would consider those impacts, but  
9 those have been factored into our planning.

10 MR. WILSON: And is the -- is  
11 there more traffic now or less traffic than  
12 there was in 1986?

13 MR. VANPELT: We just don't have  
14 the data for 1986.

15 MR. WILSON: Okay. How about  
16 2001, the last campus plan?

17 MR. VANPELT: We would have to go  
18 back and look at the data.

19 MR. WILSON: All right. One of  
20 the things that you have said about the Tenley  
21 Campus and moving the law school there is that  
22 you think it would increase economic activity

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1 in the Tenley Campus -- in the Tenley Circle  
2 area. Do I have that right?

3 MR. ABUD: Yes.

4 MR. WILSON: And wouldn't that  
5 increase in economic activity create an  
6 attendant increase in traffic?

7 MR. ABUD: The economic activity  
8 we are referring to are students and employees  
9 at the Tenley Campus using nearby businesses.

10 MR. WILSON: And they are going to  
11 cross Wisconsin Avenue, aren't they?

12 MR. VANPELT: We would expect them  
13 to walk to those nearby businesses and so that  
14 traffic would increase from what it is today.

15 MR. WILSON: And has any study  
16 been done about what kind of economic activity  
17 would be increased as a result of what you are  
18 proposing?

19 MR. VANPELT: No. We have not  
20 done such a study.

21 MR. WILSON: Did you factor in the  
22 Janney expansion in any of your calculations

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1 about the impact on the neighborhood of moving  
2 the law school to Tenley Campus?

3 MR. VANPELT: We have to go back  
4 and look at our -- the background traffic  
5 assumptions.

6 MR. WILSON: You don't have any  
7 recollection of looking at the expansion of  
8 Janney, do you?

9 MR. VANPELT: No. But one of the  
10 things we do assume is some background growth  
11 rate, which really is meant to cover things  
12 that, you know, are additional growth on the  
13 network.

14 MR. WILSON: Well, I know you  
15 assumed a growth rate of about 1 percent per  
16 year. Do you know what the growth rate has  
17 been at the Janney School in the last five  
18 years?

19 MR. VANPELT: I do not.

20 MR. WILSON: Don't you think that  
21 would be relevant to determine what is going  
22 on in the neighborhood?

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1 MR. VANPELT: I think it could be  
2 a factor.

3 MR. WILSON: And do you know the  
4 size of the garage that is being built at the  
5 Janney School right now?

6 MR. VANPELT: We don't.

7 MR. WILSON: Do you know would n't  
8 that be relevant to your calculation in terms  
9 of the traffic impacts of the Tenley Campus?

10 MR. VANPELT: I'm sorry, could you  
11 repeat your question?

12 MR. WILSON: Yes. Wouldn't it be  
13 relevant to know how many cars are in the  
14 Janney garage that is under construction in  
15 terms of your traffic analysis of locating the  
16 law school at the Tenley Campus?

17 MR. VANPELT: It could have an  
18 impact, but I don't -- we didn't --

19 MR. WILSON: Do you know where the  
20 entrance to the Janney garage is in relation  
21 to the Tenley Campus?

22 MR. VANPELT: We don't have that

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1 plan in front of us here.

2 MR. WILSON: But -- and you don't  
3 know from having looked at the site?

4 MR. VANPELT: We don't know.

5 MR. WILSON: Do you know what the  
6 Bon Secour Building is?

7 MR. VANPELT: It was pointed out  
8 to us here on the map. It's across Yuma a  
9 Street.

10 MR. WILSON: Across Yuma Street  
11 from the Tenley Campus, right?

12 MR. VANPELT: Correct.

13 MR. WILSON: Do you know what is  
14 going on at that building? Do you know what  
15 the plans are for its development?

16 MR. VANPELT: No.

17 MR. WILSON: If there was planned  
18 to be a considerable expansion of that  
19 building, do you know what affect it would  
20 have on traffic, both foot and car traffic in  
21 the neighborhood?

22 MR. VANPELT: It could have an

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1 impact, but without knowing, I don't know.

2 MR. WILSON: But you didn't factor  
3 that in?

4 MR. VANPELT: That's -- yes.

5 MR. WILSON: Your traffic study,  
6 isn't it correct that your traffic study, you,  
7 basically, looked at what it looks like now,  
8 what it might be based on what AU has  
9 proposed, but you, basically, said you are  
10 going to have to wait until further processing  
11 to get into the details. Isn't that right?

12 MR. VANPELT: We have looked at  
13 500 parking spaces on the site. We have  
14 looked at, you know, preliminary access to the  
15 site, but those details, very specific  
16 details, will come along with further  
17 processing, that's correct.

18 MR. WILSON: But you only get to  
19 further processing if the law school is  
20 approved to be moved to the Tenley Campus in  
21 the campus plan. Isn't that right?

22 MR. VANPELT: That's true.

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1 MR. WILSON: So what stock can the  
2 neighborhood put in any traffic study if it is  
3 not complete at the time of the campus plan?

4 MR. SCHIESEL: I guess the major  
5 portion of the traffic study that has to do  
6 with moving the law school is -- its impact to  
7 the intersections in the study area during the  
8 system peak hour. I mean, we have analyzed a  
9 garage of 500 spaces accessed on Nebraska.

10 As far as I understand, Mr.  
11 Tummonds can correct me, the -- we have  
12 analyzed the impact of that in the future.  
13 And we have demonstrated what the impacts are.  
14 The further processing site will have to fit  
15 within that envelope, as far as what its  
16 impacts will be, then the exact details of,  
17 you know, exact locations of driveways, exact  
18 parking count, as long as it fits within that  
19 envelope, that's acceptable.

20 MR. WILSON: Well, what was your  
21 assumption about where the entrance and exit  
22 was going to be from this 500 car garage?

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1           MR. SCHIESEL: I believe our  
2 original submittal had an access on Warren  
3 Street and our supplemental analysis included  
4 a discussion about looking at an access from  
5 Nebraska.

6           MR. WILSON: And the reason you  
7 moved it from Warren to Nebraska is you  
8 recognized that putting the entrance on Warren  
9 would create an -- unacceptable conditions on  
10 Warren Street. Isn't that right?

11           MR. SCHIESEL: Actually, we had,  
12 as I recall, shown either that it didn't have  
13 an impact or there were possible mitigation  
14 measures. But the reason it was moved is  
15 because the team directed us to move it and I  
16 believe it was a request from the community.

17           MR. ABUD: That's correct. The  
18 Technical Analysis showed that it would work  
19 well at either location, but in our  
20 discussions with the community, we were  
21 discouraged from considering the Warren Street  
22 driveway. So we instead directed Gorove/Slade

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1 to look at only the Nebraska Avenue option.

2 MR. WILSON: Well, work well --  
3 I'm not sure what work well means. Work well  
4 for the neighborhood or work well for AU?

5 MR. ABUD: From a traffic  
6 engineering point of view, it would meet the  
7 parameters necessary for it to operate.

8 MR. WILSON: Traffic would flow  
9 freely on Warren street. Is that -- was that  
10 the finding?

11 MR. SCHIESEL: The current  
12 analysis, as discussed in the supplement  
13 report, does not change the operation of  
14 Warren Street. It does not suggest any  
15 changes.

16 MR. WILSON: No, I understand  
17 that. I guess my question had to do with the  
18 earlier version and what change was made in  
19 response to the community concerns about the  
20 traffic buildup on Warren Street. Whether or  
21 not it worked for AU is a very different  
22 question, wouldn't you agree, than whether it

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1 was acceptable to the community?

2 MR. VANPELT: Yes. I mean, I  
3 think we were working with the community to  
4 try to find a solution that worked not just  
5 for AU, but also for the community.

6 MR. WILSON: Is it your  
7 understanding that having an entrance and exit  
8 on Nebraska Avenue works for the community?

9 MR. VANPELT: We had -- the  
10 conversations we --

11 MR. SCHIESEL: I think it would be  
12 difficult for me to answer from the viewpoint  
13 of the community. We based our analysis on  
14 also what is acceptable based on the standards  
15 of traffic studies.

16 MR. WILSON: Ok ay. So your  
17 traffic studies have nothing to do with  
18 whether or not the community agrees that what  
19 you are proposing for traffic creates an  
20 objectionable condition for the community. Is  
21 that correct?

22 MR. SCHIESEL: Well, there are

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1 standard ways of defining objectionable  
2 conditions. And those are the -- that is what  
3 we use as a criteria.

4 MR. WILSON: What is the standard  
5 criteria for what is an objectionable  
6 condition to a community in terms of traffic?

7 MR. SCHIESEL: The criteria we use  
8 is we project traffic conditions 10 years out  
9 with no changes and with approval of the  
10 campus plan. We look at the system peak hour  
11 of vehicular traffic. We also look -- and  
12 then for that hour, we do analysis of  
13 vehicular and pedestrian capacity. Those are  
14 graded. We make sure that none of those  
15 points in the system, overall intersections,  
16 reach a level of service F that does not -- we  
17 look for changes where an intersection  
18 capacity changes to F where it does not in a  
19 scenario without approval of the plan. That  
20 is the criteria we use.

21 MR. WILSON: Well, let me just  
22 make sure we are clear. You are -- you

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1 understand that the zoning standard in the  
2 District of Columbia has to do with whether or  
3 not a particular development creates  
4 objectionable conditions for the community.  
5 Do you understand that?

6 MR. SCHIESEL: Yes.

7 MR. WILSON: Is it your testimony  
8 that what you have just said is the standard  
9 by which that statute or the regulation is  
10 measured?

11 MR. VANPELT: Based on the  
12 industry standards that we use of levels of  
13 service for both pedestrian and vehicular  
14 traffic, that -- those are the industry  
15 standards, those are the guidelines that DDOT  
16 requires us to use when we do our evaluation.

17 MR. WILSON: So your testimony is  
18 that if it meets your standards, it meets the  
19 statutory standard. Is that right?

20 MR. VANPELT: Right. The Industry  
21 Transportation Standards and the standards of  
22 DDOT, right.

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1                   MR. WILSON: Bu t I guess my  
2 question is whether you are giving a legal  
3 opinion as to whether or not those two things  
4 are equivalent?

5                   MR. VANPELT: I'm not giving legal  
6 advice. I'm not an attorney. I can tell you  
7 what the traffic engineers --

8                   MR. WILSON: I just want the  
9 record to be clear, because I'm hearing you  
10 say what you do from your industry standpoint  
11 and I just want the record to be clear a s to  
12 whether or not that is t he standard by which  
13 you think the Zoning Commission is supposed to  
14 make a det ermination as to wheth er or not  
15 unacceptable conditions are created by a  
16 particular traffic pattern?

17                   MR. VANPELT: For transportation,  
18 yes. I mean, there are other factors  
19 certainly when you consider the campus plan.

20                   MR. WILSON: Right. Mr. Abud, you  
21 testified earlier that all of the graduate and  
22 undergraduate programs at AU have imp roved

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1 since the last campus plan. Did I hear that  
2 correctly?

3 MR. ABUD: Yes, in general.

4 MR. WILSON: Bu t isn't it true  
5 that the ranking of the law school has dropped  
6 during that time?

7 MR. ABUD: What ranking  
8 specifically are you referring to?

9 MR. WILSON: Well, the US News and  
10 World Report rankings have had AU's law school  
11 drop to No. 50. Are you aware of that?

12 MR. ABUD: I'm not specifically  
13 aware of it, but that' s not the singular  
14 measure of quality.

15 MR. WILSON: We ll, has the law  
16 school done anything to measure whether or not  
17 the drop in its ranking has anything to do  
18 with its increase in size?

19 MR. ABUD: I don't believe so.

20 MR. WILSON: They haven't done the  
21 analysis or that you don't think there is a  
22 correlation?

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1 MR. ABUD: I don't believe they  
2 have done that kind of analysis.

3 MR. WILSON: You are proposing i s  
4 it a cap of 2,000 students or what's the 2,000  
5 number?

6 MR. ABUD: That's o ur projection  
7 for law school enrollment.

8 MR. WILSON: Are you projecting  
9 any kind -- are you proposing any kind of a  
10 cap?

11 MR. ABUD: Not a specific cap for  
12 that campus, no.

13 MR. WILSON: So how many stud ents  
14 is it your estimate that that campus could  
15 accommodate?

16 MR. ABUD: We are p roposing 2,000  
17 because we think the proposal will accommodate  
18 2,000 students.

19 MR. WILSON: Well, could it  
20 accommodate 2,500 students?

21 MR. ABUD: We haven't looked at  
22 that.

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1 MR. WILSON: So how is the  
2 neighborhood to assess how large that law  
3 school is going to become in terms of how it  
4 views having it as a neighbor?

5 MR. ABUD: The 2,000 is our  
6 projection and so that's really the only  
7 number upon which we can, you know, base our  
8 judgments about what size it will be.

9 MR. WILSON: But over the last 10  
10 years, the law school has grown by what 30  
11 percent? Isn't that right?

12 MR. ABUD: I'm -- I don't know the  
13 exact percentage. It has grown significantly.

14 MR. WILSON: And your -- despite  
15 your projections, I think, in the previous  
16 line of questioning, you had some projections  
17 and you way overshoot those projections for  
18 growth in other aspects of your student  
19 population, didn't you?

20 MR. ABUD: Undergraduate  
21 population did grow more than we predicted,  
22 yes.

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1 MR. WILSON: There are other  
2 categories of people who would use the  
3 Washington College of Law site at Tenley that  
4 aren't included in your student, faculty and  
5 staff numbers, aren't there?

6 MR. ABUD: Could you elaborate?

7 MR. WILSON: Well, your website  
8 shows that there are CLE Programs at your law  
9 school virtually every day. Isn't that right?

10 MR. ABUD: Yes. There are a  
11 number of events individual lectures, classes,  
12 continuing legal education classes. Yes, and  
13 those are not counted in the enrollments.

14 MR. WILSON: But they do generate  
15 traffic, don't they?

16 MR. ABUD: Yes.

17 MR. WILSON: And a lot of those  
18 continuing legal education programs are going  
19 to be at night, aren't they?

20 MR. ABUD: They tend to be in the  
21 evenings and weekends.

22 MR. WILSON: I see that you have

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1 been handed something that I know was in your  
2 submission of, I believe it was, yesterday,  
3 which is attendance at various events. And  
4 let's talk about that, because what you  
5 submitted indicates -- one of my colleagues  
6 tallied it up and it indicated about 3,000  
7 people attending these various events.

8 Did anybody tally that up from  
9 your side?

10 MR. ABUD: We did not.

11 MR. WILSON: Well, are you  
12 familiar with something on the AU website that  
13 indicates that you had 6,000 attendees during  
14 the academic year for the Founder's  
15 Celebration?

16 MR. ABUD: I'm not familiar with  
17 that, no.

18 MR. WILSON: Well, we will submit  
19 some information indicating that the Founder's  
20 Celebration was for 6,000 attendees at 59  
21 programs. Are you familiar with the Founder's  
22 Celebration?

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1 MR. ABUD: I am not.

2 MR. WILSON: You are also -- you  
3 hold some special events at the law school,  
4 don't you?

5 MR. ABUD: Yes, that's what the  
6 listing that we submitted is. They are all  
7 events that are not class-related.

8 MR. WILSON: And the TCNA has  
9 submitted into the record yesterday a calendar  
10 that lists almost twice as many events at the  
11 Washington College of Law as what AU's  
12 submission of the same date has indicated.

13 Have you had a chance to re view  
14 what TCNA has submitted?

15 MR. ABUD: No, I have not.

16 MR. WILSON: Do you have any  
17 explanation as to why you r calendar shows  
18 almost twice as many events as what you have  
19 submitted?

20 MR. ABUD: No. W e would have to  
21 go back and look at it and do a comparison of  
22 those two lists.

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1                   MR. WILSON: How many total people  
2 do you know who are enrolled -- not do you  
3 know. How many people in total come to CLE  
4 Programs at the Washington College of Law in  
5 the last year?

6                   MR. ABUD: I don't know  
7 specifically.

8                   MR. WILSON: In your view, is that  
9 relevant in any way to the Zoning Commission's  
10 consideration of the impacts that the  
11 Washington College of Law would have on the  
12 neighborhood?

13                   MR. ABUD: I think attendance at  
14 all events, as they are depicted in this list,  
15 are relevant. And we are -- you know, ought  
16 to be considered and were considered in our  
17 transportation plan. One thing to keep in  
18 mind is that these events are, there are 120  
19 events on this list, spread over an entire  
20 year.

21                   And so we are not talking about  
22 people coming all together at one time. And

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1 they are also attempted to be scheduled during  
2 times when we have low activity, if they are  
3 going to draw people from outside the law  
4 school. The vast majority of people that  
5 attend these events are already part of the  
6 law school, either faculty, staff or students.

7 MR. WILSON: Well, the events that  
8 you list on what you submitted are events  
9 other than continuing legal education events,  
10 aren't they?

11 MR. ABUD: The list also is  
12 separated, but the continuing legal education  
13 programs are listed.

14 MR. WILSON: And those events  
15 generally -- you are increasing those events  
16 significantly, aren't you?

17 MR. ABUD: I'm not aware of --  
18 you're talking about today, a period of time?

19 MR. WILSON: Well --

20 MR. ABUD: I'm not sure what you  
21 are asking.

22 MR. WILSON: -- are you aware of

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1 something on your website that says that CLE  
2 Programs have grown al most 400 percent in  
3 recent years?

4 MR. ABUD: I'm not aware of that,  
5 no.

6 MR. WILSON: You have talked about  
7 your analysis of traffic and the traffic  
8 analysis, if I'm -- if I have heard everything  
9 correctly, was from 6:00 a.m. to 9:00 a.m. Is  
10 that correct for the Tenley Campus?

11 MR. VANPELT: Correct. I mean, we  
12 looked at the system peaks in the morning and  
13 the afternoon.

14 MR. WILSON: Di d you do any  
15 analysis of current traffic patterns at the  
16 Washington College of Law Buildin g at  
17 Massachusetts Avenue?

18 MR. SCHIESEL: Our analysis at the  
19 existing building were limited to surveys of  
20 the population and observations and data  
21 collection of parking.

22 MR. WILSON: But you are aw are,

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1 are you not, that AU has said that peak times  
2 for arrival at the law school are going to be  
3 after 9:00 a.m.? Are you aware of that?

4 MR. SCHIESEL: I'm not sure if I  
5 recall that.

6 MR. WILSON: Mr. Abud, isn't that  
7 what AU has submitted?

8 MR. ABUD: That is correct. And  
9 the analysis that Gorove/Slade did also  
10 indicates that the peak parking accumulation  
11 starts at about 10:00 a.m.

12 MR. WILSON: Well, but Gorove/  
13 Slade did not measure traffic between 9:00 and  
14 10:00 a.m. in the Tenley area, did it?

15 MR. ABUD: No.

16 MR. WILSON: And what time do  
17 evening classes start at the law school?

18 MR. ABUD: They start at 6:00 p.m.

19 MR. WILSON: And what were the  
20 times that Gorove/Slade analyzed for evening  
21 traffic at the law school? I'm sorry, at the  
22 Tenley Campus?

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1                   MR. ABUD:     I believe our co  unts  
2                   were from 3:00 p.m. to 7:00 p.m.

3                   MR. WILSON:   Okay.   But y ou didn't  
4                   do anything to try to determine whether or not  
5                   the current traffic patterns at the law school  
6                   are consistent with what AU has represented  
7                   here.  Is that correct?

8                   Maybe I should ask the question a  
9                   different way.  Whatever stat  ements  AU h as  
10                  made about when peak tr  affic is going to be  
11                  coming and going, what are those statements  
12                  based on?

13                  MR. ABUD:   They are based on class  
14                  enrollments at that time.  So w e understand  
15                  when people are getting to the law  school or  
16                  when people need to be a t the law school.  
17                  Gorove/Slade did a separate look at how our  
18                  parking fills up over a  particular day and  
19                  that's what their analysis is based on.

20                  MR. WILSON:   Well, you  have said  
21                  that peak time for arrival would be for 10:00  
22                  classes.  Isn't -- did I hear that correctly?

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1 MR. ABUD: That's not peak time.  
2 A peak single hour, that's the point at which  
3 we have large numbers of people in class.  
4 That's the earliest point at which we have  
5 large numbers of people in class, that's 10:00  
6 a.m.

7 MR. WILSON: When you say large  
8 numbers, what's large numbers?

9 MR. ABUD: It's about 700 or so.

10 MR. WILSON: And you said that --  
11 I think you have told OP that at any given  
12 time, the most students that would be at the  
13 site would be 800. Is that right?

14 MR. ABUD: That's -- from the data  
15 that we have analyzed, that's true for every  
16 instance except 10:00 to 11:00 a.m. on  
17 Wednesday where that number could go as high  
18 as 850 or 900.

19 MR. WILSON: And is that based on  
20 the number of students who are in class at any  
21 given time?

22 MR. ABUD: It's based on the

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1 number of students enrolled f or classes at  
2 given times of the day and adding in the  
3 faculty and staff that are part of the law  
4 school.

5 MR. WILSON: Does it take into  
6 account students who might be i n the -- who  
7 might come to the library to study at 8:00  
8 a.m.?

9 MR. ABUD: It does not.

10 MR. WILSON: And I w ant to make  
11 sure I'm clear on this. I thought what you  
12 told the Office of Planning was that the peak  
13 number of students was going t o be 800. Are  
14 you saying it's the peak number of people in  
15 total, faculty, staff and students?

16 MR. ABUD: Yes, the question was  
17 about total number of people, not just  
18 students. And so the answer was 800 for all  
19 of them. And again, that -- we expect that to  
20 be the case at all times except that one  
21 atypical case where class enrollment h appens  
22 to be high and so we would expect the numbers

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1 to go up.

2 The, obviously, numbers of  
3 students are the biggest influence on the  
4 population, since that is the largest  
5 population. And also recognizing that not  
6 just class enrollment, but that students can  
7 be in the library or at the law school for  
8 other reasons aside from class. So that is  
9 factored into that estimate as well.

10 MR. WILSON: Who did that  
11 estimate?

12 MR. ABUD: That was an estimate  
13 that was provided to us by the law school.

14 MR. WILSON: You don't know who  
15 did it?

16 MR. ABUD: Who specifically? No,  
17 I don't.

18 MR. WILSON: And do you know all  
19 of the things that were measured? I mean, was  
20 somebody holding a clicker to measure the  
21 number of people who came in or is it just  
22 these are the number of people who are

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1 scheduled to be here at a particular time?

2 MR. ABUD: It was not actual  
3 counts of people through the door. It was  
4 based on their observations of the number of  
5 people in the library, their understanding of  
6 when classes are scheduled, the enrollments  
7 for those classes and when staff come and go.

8 MR. WILSON: So there was some  
9 observation of people who were there other  
10 than for classes? Is that what you are  
11 saying?

12 MR. ABUD: Yes. There were  
13 observations of how busy the library was.

14 MR. WILSON: What is going to go  
15 at the current law school site next?

16 MR. ABUD: Our desire is to use --  
17 to reuse the building in its current format,  
18 as much as possible, so it will continue to be  
19 offices and classrooms. We have not yet  
20 determined specifically which programs would  
21 go there, but that's, you know, something that  
22 as we evolve our thinking, we will be

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1 discussing with the community over time.

2 MR. WILSON: And is it AU's  
3 position that the current site at -- on  
4 Massachusetts Avenue is insufficient to  
5 accommodate 800 people at any given time?

6 MR. ABUD: No. We don't believe  
7 that specifically is the case, because 800  
8 people go there today and it works reasonably  
9 well. There are, you know, pinch points in  
10 time.

11 MR. WILSON: But the reason that  
12 you want to move is because you want to expand  
13 the law school. Isn't that right?

14 MR. ABUD: Well, we have a  
15 shortage right now, because we are renting  
16 substantial amounts of space in a building  
17 outside of -- in two buildings outside of 4801  
18 Massachusetts. So part of the motivation is  
19 to bring them back together. And part of it  
20 is projected growth in the law school, not  
21 only in enrollments, but also in research  
22 programs and other, more faculty-driven

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1 activities that -- which are those programs  
2 that are currently out of the main law school  
3 building.

4 MR. WILSON: Why do you want to  
5 grow the law school?

6 MR. ABUD: That's not a question I  
7 have addressed with the leadership of the law  
8 school.

9 MR. WILSON: Is there anyone on  
10 this panel who can answer that question?

11 MR. TUMMONDS: No.

12 MR. WILSON: Does it have anything  
13 to do with economics?

14 MR. TUMMONDS: I don't think there  
15 is anyone who can answer that question.

16 MR. WILSON: You make a profit on  
17 law students, don't you?

18 MR. TUMMONDS: Again, I don't --  
19 we don't have anyone here to answer that  
20 question.

21 MR. WILSON: You don't know the  
22 answer to that question, Mr. Taylor?

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1                   CHAIRMAN HOOD: They just said  
2 they didn't have anyone here to answer the  
3 question. So let's go t o the next question.  
4 Unless you want to try to answer, Mr. Taylor.  
5 I just heard -- okay.

6                   MR. WILSON: We ll, I heard Mr.  
7 Tummonds answer for him. I didn't hear Mr.  
8 Taylor actually answer. He i s the assistant  
9 to the president. I would assume that  
10 something as significant as the law school,  
11 they would know --

12                  MR. TAYLOR: I don't have the  
13 information in front of me.

14                  MR. WILSON: But you have the  
15 information somewhere?

16                  CHAIRMAN HOOD: So you'll get th e  
17 information to him? Okay. Or to us.

18                  MR. TUMMONDS: And is the  
19 information you want from us is does the law  
20 school make a profit on its students? Is that  
21 the answer you want?

22                  CHAIRMAN HOOD: To be frankly

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1 honest, I was up here looking for a letter.  
2 So if that was the question, I don't think we  
3 need that. I don't. But if you want to get  
4 it to him and you want to be a good neighbor,  
5 that will be fine.

6 MR. WILSON: Isn't it a  
7 prerequisite under the Zoning Regulations that  
8 in the campus plan you are supposed to list  
9 all of the activities that are going to go on  
10 for a particular site?

11 MR. TUMMONDS: That's correct.

12 MR. WILSON: And in the original  
13 submission to the Zoning Commission, did you  
14 list CLE and other programs that you have at  
15 the law school?

16 MR. TUMMONDS: No, we did not.

17 MR. WILSON: Are there any other  
18 items that are required that you didn't  
19 submit?

20 MR. TUMMONDS: I think we would  
21 say that the notion of the CLE fits under the  
22 law school use, so we thought that that was

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1 encompassed when we talked about the law  
2 school going to Tenley Campus. We believe  
3 that that was encompassing. And then through  
4 the further processing, that's where more of  
5 these gets fleshed out, the number of event s  
6 and we thought that those would be adequately  
7 addressed, at that point.

8 MR. WILSON: Well, you still hav e  
9 not given a projection of the number of people  
10 who are going to come to the site who are not  
11 counted in that 2,000 number, have you?

12 MR. TUMMONDS: Not at this point.

13 MR. WILSON: Okay. And your --  
14 AU's May 20<sup>th</sup> filing indicates that it  
15 continues to work on, and I'm quoting this,  
16 "massing height and location of buildings at  
17 Tenley." Is that correct?

18 MR. ABUD: That's correct.

19 MR. WILSON: Well, aren't those  
20 required elements in a campus plan under  
21 Section 20 -- 210.4?

22 MR. ABUD: Yes. And I think in

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1 our May 20<sup>th</sup> submission at Tab, excuse me, 3,  
2 we do have plans that show proposed buildings,  
3 the massing, the proposed entrance to the  
4 facility, the green space to open plan. This  
5 evening, Commissioner Wiss, at the last  
6 meeting, asked for more detailed information  
7 with regards to the heights of those  
8 buildings, the setback. We have that  
9 information. We will be submitting it right  
10 now and we will provide that to all the  
11 parties.

12 MR. WILSON: I'm glad you  
13 mentioned green space and open space. I seem  
14 to recall at the early stages of the  
15 formulation of the campus plan that one of the  
16 goals that was stated in the campus plan for  
17 preparing the campus plan was the preservation  
18 of open space.

19 Did -- am I remembering that  
20 correctly?

21 MR. ABUD: That's correct.

22 MR. WILSON: Is that still an

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1 objective in the campus plan?

2 MR. ABUD: It is still an  
3 objective and we believe we have sighted the  
4 new facilities in a way that is consistent  
5 with that objective.

6 MR. WILSON: Is it somewhere in  
7 the materials that you have submitted, that  
8 particular objective? Is it somewhere in the  
9 objectives laid out for the campus plan?

10 MR. ABUD: In our actual filings?  
11 Is that --

12 MR. WILSON: Yes.

13 MR. ABUD: -- the question?

14 MR. WILSON: Yes.

15 MR. ABUD: I'm not sure. I  
16 believe it is somewhere in our plan document,  
17 but I'm not sure.

18 MR. WILSON: I'm just wondering  
19 whether it was taken out of the initial  
20 principles because of the controversy that all  
21 of us have had about the open space at the  
22 Tenley Campus. Is that the case?

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1 MR. ABUD: If it was taken out, it  
2 was -- it certainly wasn't done intentionally  
3 to deal with the controversy about the open  
4 space. We certainly recognize that's an issue  
5 of significant disagreement with the  
6 community.

7 MR. WILSON: In March, I think I'm  
8 correct that, AU withdrew its application for  
9 further processing on the Tenley site. And I  
10 believe Mr. Taylor was quoted as saying that  
11 it was because they wanted to work in good  
12 faith with the neighbors and the ANC.

13 Did I hear that? Is that a  
14 correct statement?

15 MR. TAYLOR: That's the intent.  
16 Yes, we want to spend more time to flesh it  
17 out.

18 MR. WILSON: But I guess I want to  
19 specifically focus on working in good faith  
20 with the neighbors. Is that something that  
21 you said? I believe you were quoted saying  
22 that in the AU Eagle. Is that a correct

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1 quote?

2 MR. TAYLOR: Possibly. I d on't  
3 have that in fro nt of me , but that sounds  
4 accurate.

5 MR. WILSON: All right. When w as  
6 the last time you met wi th the Tenley Campus  
7 Neighbors?

8 MR. TAYLOR: Well, we met, what,  
9 some two weeks ago with the ANC surrounding  
10 that -- the law school campus to further flesh  
11 out some of the details.

12 MR. WILSON: Is it your  
13 understanding that the ANC is the same thing  
14 as the TCNA?

15 MR. TAYLOR: No, it's not.

16 MR. WILSON: You're not suggesting  
17 that the position of the ANC is consistent  
18 with the position of the TCNA, are you?

19 MR. TAYLOR: I'm ju st suggesting  
20 that ongoing conversations are being held.

21 MR. WILSON: Well, have you had  
22 any specific conversations with the TCNA since

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1 the meeting that we had on April 14<sup>th</sup>?

2 MR. TAYLOR: I would have to look  
3 at a calendar.

4 MR. ABUD: The latest meetings we  
5 have had have been organized by the ANC in  
6 concert with Councilwoman Cheh and the Office  
7 of Planning. And they were managing the  
8 invitation list for those. We encouraged them  
9 to make those invitations as broad as possible  
10 to include as many people in the community as  
11 possible.

12 You know, exactly who was invited  
13 and who wasn't invited, I'm not sure we are --  
14 we completely understand, so we had the  
15 meeting David mentioned a couple of weeks ago.

16 We had one scheduled for last night, but it,  
17 unfortunately, was canceled at the request of  
18 the ANC. So we would hope to continue those  
19 types of meetings in the future.

20 MR. WILSON: Do you remember that  
21 at the March 24<sup>th</sup> meeting or thereabouts that  
22 we, in the TC NA, asked you for some

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1 information and some specific commitment  
2 concerning the green space at the Tenley site?

3 MR. TAYLOR: That has been an  
4 ongoing discussion.

5 MR. WILSON: And just for the  
6 record, I think the ANC-3E resolutions that  
7 are a part of the record here will reflect  
8 what was requested.

9 Has there been any response to the  
10 ANC-3E resolutions?

11 MR. TAYLOR: Regarding that  
12 particular issue?

13 MR. WILSON: Yes.

14 MR. TAYLOR: Well, we have  
15 conveyed our sentiments that, indeed, we  
16 believe that the zoning process every 10 years  
17 is the appropriate way to determine that, the  
18 use of that space.

19 MR. TUMMONDS: Could you describe  
20 for me? I don't want us talking in code here.  
21 I want to make sure that the Zoning  
22 Commission is fully aware of what we are

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1 talking about.

2 This is the proposed moratorium on  
3 development of the campus -- of the Tenley  
4 Campus beyond this 10-year campus plan.

5 MR. WILSON: Right. That's my  
6 interpretation of what you are asking. Just  
7 so, and I don't want to testify here, but just  
8 so everybody is on the same page, the TCNA  
9 proposed that AU adopt some sort of a green  
10 space that would last beyond whether it would  
11 be an easement, a conservation easement or  
12 something to preserve the open space on the  
13 western side of the Tenley Campus, which is a  
14 huge asset to the community and a huge buffer  
15 between the buildings on the site.

16 And we requested that and as Mr.  
17 Taylor said, we were turned down.

18 CHAIRMAN HOOD: Is there a  
19 question? And I appreciate the background,  
20 but we want to make sure we -- you can give us  
21 -- what has been happening, and I've been  
22 allowing it, you give us the background and

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1 then you ask the question. So is there a  
2 question with that?

3 MR. WILSON: I will. And you are  
4 aware that in a March 18<sup>th</sup> letter that TCNA  
5 sent this proposal in a letter to President  
6 Kerwin? You are aware of that, correct?

7 MR. TAYLOR: Yes.

8 MR. WILSON: Why didn't AU ever  
9 send us a written response to that letter?

10 MR. TAYLOR: Well, it has been, as  
11 you know, part of the ongoing conversations  
12 that we have been having about the site.

13 MR. WILSON: Well, I'm not sure.  
14 How do you characterize the word no as a  
15 conversation?

16 MR. ABUD: There are lots of  
17 aspects of that conversation, not just the  
18 conservation use. Is that correct?

19 MR. TAYLOR: That is my  
20 recollection. I would have to go back and  
21 review the -- your letter of March.

22 MR. WILSON: Well, isn't it true

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1 that AU has said under no circumstance would  
2 it consider doing anything other than dealing  
3 with the western end of that property than  
4 through the 10-year campus planning process?

5 MR. TAYLOR: That is what we have  
6 conveyed to you, yes.

7 MR. WILSON: In a word, what we  
8 have been told in response to our request that  
9 you consider some sort of arrangement where we  
10 don't have to go through this agony every 10  
11 years, your answer to that is no.

12 MR. TAYLOR: Correct.

13 MR. WILSON: You would rather go  
14 through the agony every 10 years?

15 MR. TAYLOR: Not necessarily.

16 MR. WILSON: Well, we -- our  
17 invitation is still open for us to discuss  
18 this.

19 MR. TAYLOR: Thank you, David.

20 MR. WILSON: I think you know how  
21 important that is to the community.

22 MR. TAYLOR: Yes, we do.

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1 MR. WILSON: And your initial plan  
2 that you floated to the community included  
3 raising the Dunblane House that is on the  
4 Tenley Campus, right?

5 MR. TAYLOR: Yes, that's correct.

6 MR. WILSON: And the most -- what  
7 you have submitted does not involve razing the  
8 Dunblane House. Isn't that right?

9 MR. TAYLOR: That's correct. Our  
10 current plan is to keep that building intact.

11 MR. WILSON: And other than  
12 deciding not to raze Dunblane, can you  
13 identify anything specific that you have done  
14 over the last year in terms of adjusting this  
15 plan that has been to address the community's  
16 concerns?

17 MR. ABUD: Certainly. We talked  
18 about this earlier. The garage entry was one  
19 example where we, you know, thought for a  
20 variety of reasons that an entry off of Warren  
21 Street and related changes to Warren Street to  
22 limit traffic on Warren Street would work

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1 better overall.

2 But in terms of -- because of the  
3 community's opposition to that general notion,  
4 we changed that.

5 You know, the locations of the  
6 buildings are -- were actually decided as a  
7 result of feedback we got from the community  
8 that the footprints ought to approximate the  
9 existing buildings on the site.

10 And so the new law school  
11 buildings are on the approximate footprints of  
12 the existing buildings. That was not our  
13 original intent, but that is something that we  
14 have done as a result of discussions with the  
15 community.

16 There have been requests to  
17 emphasize a pedestrian entry along Yuma Street  
18 and we have worked to do that.

19 There were concerns about building  
20 height, so we have worked to minimize those,  
21 given the tradeoff between building height and  
22 the building spreading more and the law

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1 school's program needs.

2 So I think we have done a number  
3 of things to respond to requests we have  
4 gotten from the community.

5 CHAIRMAN HOOD: Mr. Wilson, let me  
6 just ask, about how many more questions do you  
7 have?

8 MR. WILSON: A couple dozen.

9 CHAIRMAN HOOD: A couple dozen.  
10 Okay. Well, we can kind of reference where we  
11 are. We won't get to the Office of Planning's  
12 report tonight. I guess everybody probably  
13 figured that out.

14 The goal -- I cannot limit cross -  
15 examination and I'm not doing it in any way,  
16 but the goal was to try to finish cross-  
17 examination tonight. So we see where we are.  
18 Okay. Sorry.

19 MR. WILSON: No problem. What are  
20 you proposing to actually do with the Dunblane  
21 House?

22 MR. ABUD: We haven't determined a

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1 specific use. I t is currently about hal f  
2 offices and half classroom space. So we could  
3 continue to use it in that fashion.

4 MR. WILSON: And do you have any  
5 plans, I know no t for the next, perhaps, 10  
6 years, but going beyond the next 10 years,  
7 what are your plans for t hat field on the  
8 western side of the Tenley Campus?

9 MR. ABUD: We don't have any  
10 specific plans beyond this 10-year plan.

11 MR. WILSON: But isn't it correct,  
12 Mr. Abud, that when we had a meeting in the  
13 community and we discussed th e prospect of  
14 having a 20-year horizon for the pla nning  
15 process, you told us that if there was a 20-  
16 year plan, you would have proposed 6 00,000  
17 square feet for the Tenley Campus to build.  
18 Don't you remember telling us that?

19 MR. ABUD: Yes, I do, b ecause when  
20 we are talking about a longer period of time,  
21 certainly you want to have more flexibility on  
22 into the future, not because you -- that's why

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1 I said that. Not because we had a specific  
2 need that we had identified that would have  
3 been fulfilled by that.

4 MR. WILSON: But if you had -- if  
5 you identify a specific need 10 years from  
6 now, you are going to propose putting a  
7 building on that field, aren't you?

8 MR. ABUD: That's possible, but  
9 that's speculation right now.

10 MR. WILSON: But if you were  
11 required to project out 20 years, you would  
12 have proposed a building that would have taken  
13 up that field, wouldn't you?

14 MR. ABUD: Potentially again,  
15 that's speculation. We didn't do that  
16 analysis. As I have said before, this plan  
17 for the Main Campus and for the Tenley Campus  
18 has evolved over 22 months. And so for me to  
19 speculate now what we would have decided had  
20 we had different criteria, I don't think is  
21 appropriate.

22 MR. WILSON: Well, I guess just to

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1 give the Zoning Commission a sense of how much  
2 you value that field, your initial proposal  
3 was to put buildings smack dab in the middle  
4 of that field, wasn't it?

5 MR. ABUD: Yes, it was. And to  
6 show our flexibility, we changed that proposal  
7 in response to community concerns.

8 MR. WILSON: All right. Now,  
9 maybe you do understand how important that  
10 field is to the community.

11 Now, you have talked about the  
12 campus plan being a catalyst for economic  
13 development in Tenleytown.

14 Did that happen when the law  
15 school moved to Spring Valley in the 1990s?

16 MR. ABUD: I think the law school  
17 did help nearby businesses. Certainly, you  
18 know, we see that lots of our students use the  
19 Starbucks that is directly across the street.

20 Starbucks didn't exist at that location back  
21 then, if at all, maybe.

22 The, you know, retail, certainly,

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1 our students, faculty and staff use the retail  
2 businesses that surround the law school, but  
3 they are not the only users. They -- those  
4 businesses don't rely on it, but it is a help  
5 to have their business.

6 MR. WILSON: And so but how is  
7 economic development relevant to what this  
8 Zoning Commission is supposed to be  
9 considering for the Tenley Campus?

10 MR. TUMMONDS: I think I would say  
11 more to the appropriateness of development of  
12 this site along Wisconsin Avenue. This is,  
13 again, part of the objectionable -- looking at  
14 impacts of the site is, as ANC -3E has noted,  
15 sustainability. And having more density along  
16 our major arterials, like Wisconsin, having  
17 more uses near the Tenleytown Metro Station, I  
18 think, is part of the underlying campus plan  
19 review when we look at things like the  
20 Comprehensive Plan.

21 And so I think that it is  
22 absolutely appropriate to talk about what is

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1 the appropriate use of this Tenley Campus, an  
2 8 acre site, along a major arterial near a  
3 Metro Station, near a major Metrobus Line.

4 MR. WILSON: Well, you could say  
5 the same thing about a site that was -- well,  
6 let me ask you. Where in the Zoning  
7 Regulations is that stated, that that's a  
8 relevant consideration?

9 MR. TUMMONDS: I think it would  
10 probably be more in the Zoning Regulations  
11 where we look at being not inconsistent with  
12 the Comprehensive Plan. So I think there is  
13 numerous elements in the Comprehensive Plan  
14 that talk about universities being economic  
15 engines for the city. So I think it would be  
16 consistent with that component of it.

17 MR. WILSON: And so your view  
18 would be that that would be the case,  
19 regardless of how property where it is located  
20 is zoned?

21 MR. TUMMONDS: Oh, absolutely not.  
22 It's all part of the -- it is -- you know,

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1 I'm going to say more of a holistic approach.  
2 You look at, obviously, the Section 210  
3 factors, but then also consistency with the  
4 Comprehensive Plan and Section 3108, which  
5 requires that. So, no, it's not one specific  
6 thing, but taken as a whole, I think it is an  
7 appropriate thing to review.

8 MR. WILSON: Well, how -- you  
9 mentioned the District's Comprehensive Plan.  
10 And you know that part of the Comprehensive  
11 Plan is to conserve the important scenic and  
12 visual resources west of Rock Creek -- I'm  
13 sorry, of Rock Creek West, including the  
14 Tenleytown neighborhood, right?

15 MR. TUMMONDS: That's correct.

16 MR. WILSON: And it's also to  
17 protect the low density stable residential  
18 neighborhoods west of Rock Creek Park, right?

19 MR. TUMMONDS: And I think that's  
20 why when Mr. Abu d was talking about some of  
21 the design standards about where we were  
22 looking to put buildings on the Tenley Campus

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1 and from comments that we received from the  
2 community was put them on the footprints of  
3 the existing buildings.

4 So I think the underlying design  
5 framework that we have sought to do is  
6 consistent with those two aspects of the  
7 Comprehensive Plan that you just mentioned.

8 MR. WILSON: Well, in terms of the  
9 specific part of the Zoning Regulations that  
10 refer to residentially zoned neighborhoods, it  
11 talks about objectionable conditions.

12 Now, is AU aware of any citizen  
13 located within 200 feet of the Tenley Campus  
14 that is in favor of your plan?

15 MR. ABUD: We haven't done a door-  
16 to-door poll, so we can't answer that.

17 MR. WILSON: Well, we have. Have  
18 you seen the petitions that the Tenley Campus  
19 Neighbors have submitted to the Zoning  
20 Commission?

21 MR. ABUD: Yes, we have.

22 MR. WILSON: Have you seen the map

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1 that indicates what houses have signed  
2 petitions opposed to the law school at the  
3 Tenley Campus?

4 MR. ABUD: Yes, we have.

5 MR. WILSON: And so you are aware,  
6 are you not, that every single house that is  
7 not owned by AU or by the Catholic Church has  
8 signed a petition opposed to your plan? Are  
9 you aware of that?

10 MR. ABUD: Of those houses  
11 depicted? Yes, I have that understanding from  
12 what you have submitted.

13 MR. WILSON: And your  
14 understanding is that those are all the houses  
15 located within 200 feet of the Tenley Campus,  
16 right?

17 MR. ABUD: I don't believe that  
18 covers houses across Nebraska Avenue. I'm not  
19 sure that was clear to me.

20 MR. WILSON: Okay. There is, I  
21 think, somewhere in your plan a statement that  
22 AU's plan will contribute \$400 million to the

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1 local economy. I thought I saw that. Did I  
2 see that correctly?

3 MR. ABUD: Potentially, yes ,  
4 that's our estimate of what the total cost of  
5 construction for the first five years of the  
6 plan would be.

7 MR. WILSON: Oh, so that's based  
8 on the construction just at the Tenley Campus  
9 or the campus as a whole?

10 MR. ABUD: The entire campus plan.

11 MR. WILSON: Ok ay. That's not  
12 meant to measure the economic impact on the  
13 Tenley neighborhood in any way, shape or form,  
14 is it?

15 MR. ABUD: No, it's not.

16 MR. WILSON: Mr. Chairman, I'm  
17 just -- many of my questions about traffic  
18 have been covered by others and I just want to  
19 make sure, if you can just give me a moment  
20 to --

21 Just let me ask you some questions  
22 about assumptions concerning how people would

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1 get to this, how law students would get to  
2 this site.

3 I believe I was present at a  
4 meeting where someone on the AU side said that  
5 currently only 10 percent of the law students  
6 use Metro. Did I hear that correctly or is  
7 there some different number out there?

8 MR. ABUD: Well, the number that  
9 we have talked about is that about half of the  
10 law school students drive in single occupant  
11 cars and the other half either take public  
12 transportation, walk or are passengers in a  
13 carpool or bike to the site.

14 MR. WILSON: Okay. And AU has  
15 made some projections about the increase in  
16 Metro usage if the law school is located at  
17 the Tenley Campus. What are those  
18 projections?

19 MR. SCHIESEL: I would say that  
20 exact projections of mode split is something  
21 that is not something that we generally do.  
22 What we have though looked at is what could

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1 happen if various mode splits are met and what  
2 makes sense.

3           Maybe what you are referring to is  
4 when we said that, in our testimony, if the  
5 students had a mode split of 40 percent drive  
6 and faculty and staff had a mode split of 75  
7 percent drive, which are reductions from the  
8 current percentages, that our parking garage  
9 recommendations to the university would be for  
10 a supply of 400.

11           MR. WILSON: Okay. I guess, what  
12 I'm trying to understand is if anybody has a  
13 basis for believing that fewer people are  
14 going to drive to the Tenley site than  
15 currently drive to the Massachusetts Avenue  
16 site. And I --

17           MR. SCHIESEL: The transportation  
18 planning industry has several studies that  
19 have shown that, in general, distance to a  
20 Metrorail Station is a huge variable in the  
21 mode split, the auto mode split of the user of  
22 the site.

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1 MR. WILSON: Ok ay. Other than  
2 those kinds of general studies, which I assume  
3 don't take into account the fact that AU has a  
4 shuttle bus and don't look at where do people  
5 actually reside, do they reside on the Red  
6 Line, any of those other factors, other than  
7 that kind of general study, I'm wondering if  
8 there is any basis for an assumption that  
9 Metro ridership is going to increase if the  
10 location changes?

11 MR. SCHIESEL: If you are looking  
12 for a silver bullet transportation analysis  
13 that somebody has done that shows that when a  
14 law school moves so much closer to this, no.  
15 There is no such specific study.

16 We are basing our opinion on  
17 standards and guidelines with -- throughout  
18 our industry.

19 MR. WILSON: And so what's your  
20 opinion as to how many more students are going  
21 to take Metro, if the law school moves?

22 MR. VANPELT: Well, I think what

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1 we testified to, in the numbers that we were  
2 looking for earlier, is that we have got 51  
3 percent of the students who currently drive  
4 today. We are assuming that that would go to  
5 40 percent at the Tenley site. And then for  
6 faculty/staff it's 88 percent. We are  
7 assuming that that would go down to 75  
8 percent.

9 So there's a difference of about,  
10 I guess, 11 to 13 percentage points, which we  
11 think, based on the studies that Rob talked  
12 about earlier, those are achievable with the  
13 TDM plan and the fact that we are much closer  
14 to Metro.

15 MR. WILSON: Okay. But that's a  
16 drop of 11 percent off of a larger student  
17 population, isn't it?

18 MR. VANPELT: It's -- yes.

19 MR. WILSON: And a larger faculty  
20 and staff component as well, isn't it?

21 MR. VANPELT: Sure, right.

22 MR. WILSON: How many parking

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1 spaces are there at the current Wash ington  
2 College of Law?

3 MR. ABUD: The current Washington  
4 College of Law doe s not have a set supply.  
5 They have access to several lots that they  
6 share. So, hence, there is no capped number  
7 of spaces that they have. But generally, they  
8 have available to them about 480 parking  
9 spaces.

10 MR. WILSON: And the total nu mber  
11 of spaces that you are proposing for the  
12 Tenley site is how many?

13 MR. VANPELT: 400 to 500.

14 MR. WILSON: So no increase over  
15 what is currently available at the Washington  
16 College of Law? Is that right?

17 MR. VANPELT: That's correct.

18 MR. WILSON: Does AU char ge  
19 faculty and staff for parking?

20 MR. ABUD: Yes, we do.

21 MR. WILSON: And does it ch arge  
22 students?

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1 MR. ABUD: Yes.

2 MR. WILSON: How many tickets has  
3 AU given to law students in the last two years  
4 for parking on residential streets?

5 MR. ABUD: Specifically to people  
6 we have identified as law students, in the  
7 past year, there have been about 600 tickets.

8 MR. WILSON: And do you have any  
9 way of estimating the number of law students  
10 who have parked on residential streets who you  
11 haven't ticketed?

12 MR. ABUD: No.

13 MR. WILSON: Of the 51 percent of  
14 students who currently drive, do you know what  
15 proportion of them actually use the parking  
16 that you provide?

17 MR. ABUD: No, we don't.

18 MR. WILSON: How much do you  
19 charge the students for using the provided  
20 parking?

21 MR. ABUD: Our parking rates  
22 currently are about \$123 a month.

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1 MR. WILSON: Has AU or traffic or  
2 parking consultants done any analysis of or  
3 done anything to try to determine what the  
4 affect on side streets and residential parking  
5 would be of locating the law school at Tenley?

6 MR. ABUD: Yes, I mean, what we  
7 have suggested is that the good neighbor  
8 policy be extended to be used at Tenley Campus  
9 to be able to minimize any of those sorts of  
10 impacts.

11 MR. WILSON: Essentially extending  
12 the same policy that has been in use at the  
13 present site?

14 MR. ABUD: We certainly would do  
15 that as a minimum. We are having discussions  
16 with the law school about how we could add  
17 teeth to that policy. We think the policy  
18 currently in place is reasonably effective.  
19 Although, we haven't done a specific study as  
20 we did at the Main Campus of street parking  
21 availability.

22 Our general observations are that,

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1 you know, within a couple of blocks of the  
2 current law school, there is lots of street  
3 parking available. And so to the degree that  
4 there is off-campus parking around the law  
5 school, we think it is controllable through  
6 the methods we are using now, as well as  
7 stepping them up in a couple of different  
8 ways.

9 MR. WILSON: Have you considered  
10 the fact that in the streets around the Tenley  
11 Campus, there are many, many, many people from  
12 inside the residential parking zone who come  
13 and park and walk to the Metro in the morning,  
14 so that parking is not as readily available in  
15 that area as it is at the current law school  
16 site?

17 MR. VANPELT: We don't have any  
18 data on that, but, I mean, I wouldn't be  
19 surprised if that happens. That happens at  
20 other -- near other Metro Stations in  
21 residential areas where that same thing  
22 occurs.

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1                   MR. WILSON: An d so you are  
2                   contemplating doing further traffic studies  
3                   and traffic analysis, are you not?

4                   MR. VANPELT: Yes, we will.

5                   MR. WILSON: And when is that  
6                   going to be done?

7                   MR. VANPELT: That will be  
8                   submitted with the further processin g  
9                   application.

10                  MR. WILSON: All right. And so  
11                  how is this Zoning Commis sion supposed to  
12                  determine if the traffic impacts for the  
13                  development that you are proposing are  
14                  acceptable from the standpoint of the campus  
15                  planning process?

16                  MR. VANPELT: Well, we have  
17                  analyzed the traffic for 500 spaces in the  
18                  network. We believe that the parking demand  
19                  can be accommodated on-site, so I think some  
20                  of the impacts that we are talking about of  
21                  on-street parking have to do with management  
22                  strategies and the good neighbor policy and

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1 enhancements to that to give the community  
2 those sorts of protections.

3 But from the standpoint of traffic  
4 and parking needs, we believe we have kind of  
5 assessed the envelope and there are some other  
6 specifics that will be further addressed when  
7 we do our further processing application.

8 MR. WILSON: What you look at is  
9 the major intersections and the traffic flow  
10 through those intersections, right?

11 MR. VANPELT: That's correct.

12 MR. WILSON: You don't do  
13 projections of, for example, the number of  
14 people who might leave the garage on Nebraska  
15 Avenue and determine that traffic snarled on  
16 Nebraska and therefore take a right on Warren  
17 and go bushwhack through the neighborhood, do  
18 you?

19 MR. VANPELT: We do try to -- we  
20 make some assumptions about what realistically  
21 we think people would do. And we make those  
22 assignments based on where we -- what we think

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1 people's patterns would be.

2 MR. WILSON: And so will we find  
3 in your traffic study some analysis of the  
4 number of people who will do what I just  
5 suggested?

6 MR. VANPELT: I think that it  
7 would be reasonable to expect that some people  
8 would potentially make that maneuver and we  
9 would assign some traffic to it.

10 MR. WILSON: Sir, my question was  
11 in your study that you are going to submit  
12 with further processing, will there be  
13 specific projections of the number of people  
14 who instead of going through the  
15 intersections, that your own study now  
16 indicates have unacceptable levels, will  
17 instead go through the neighborhood?

18 MR. VANPELT: Yes.

19 MR. WILSON: That -- those numbers  
20 will be there?

21 MR. VANPELT: We will have an  
22 assignment that we think will reflect what

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1 people will do. And I think that some traffic  
2 will go through the neighborhood.

3 MR. WILSON: All right. That's  
4 all the questions I have. Thank you.

5 CHAIRMAN HOOD: Okay. Thank you  
6 very much, Mr. Wilson.

7 Tenley Neighbors Association, I  
8 think Ms. Judy Chesser is cross-examining? I  
9 believe. Could you -- you don't have any  
10 questions?

11 MS. CHESSER: No, I don't.

12 CHAIRMAN HOOD: Okay. Mr.  
13 Herzstein? You are, Ms. Chesser, right?

14 MS. CHESSER: I am.

15 CHAIRMAN HOOD: Okay. Okay. All  
16 right. I had to make sure of that before I --  
17 okay. Mr. Herzstein? Yes, it's getting late.

18 MR. HERZSTEIN: Good evening, Mr.  
19 Chairman, Members of the Commission. I'm  
20 Robert Herzstein and I live at 4710 Woodway  
21 Lane, N.W., on the other side of the campus  
22 from what you have been hearing about most of

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1 the evening, or on the southwest side of the  
2 campus. And my property, my home shares about  
3 a 500 foot boundary with the, what is now  
4 called, Williams Jacobs Recreational Complex  
5 of the American University.

6 I would like to address some  
7 questions to David Taylor.

8 David, during the hearings and  
9 this Commission 10 years ago, do you remember  
10 discussion of the problem of noise created by  
11 events held on the, what was then called the,  
12 Intramural Playing Field?

13 MR. TAYLOR: Not specifically,  
14 Bob, but I do recall a number of conditions  
15 that we were going to work with you on that  
16 dealt with more than sound, that dealt with  
17 parking, that dealt with the roadway, that  
18 dealt with a barrier. I do remember a number  
19 of things.

20 MR. HERZSTEIN: Well, there was a  
21 Condition No. 15, wasn't there, that --

22 MR. TAYLOR: Oh, yes. Let me --

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1 excuse me, Bob. Let me correct myself. Yes,  
2 as a condition coming out of it, yes,  
3 absolutely.

4 MR. HERZSTEIN: And am I correct  
5 that the objective of that condition, indeed  
6 of the whole campus plan order specifically of  
7 that condition, was to alleviate and regulate  
8 the noise impact of the field on its  
9 neighbors?

10 MR. TAYLOR: That in addition to a  
11 number of other mitigation factors.

12 MR. HERZSTEIN: Not long after  
13 AU's plan was approved, with that condition,  
14 the university made changes in that field, did  
15 it not?

16 MR. TAYLOR: Yes, it did. Well,  
17 initially after 2001, the field was dormant,  
18 because the Army Corps of Engineers had some  
19 work to do there to remove all of the soil and  
20 so the field was fundamentally off-line for a  
21 number of years.

22 MR. HERZSTEIN: And then what

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1 happened?

2 MR. TAYLOR: And then after that,  
3 when, indeed, the Army Corps was finished,  
4 indeed, we decided to put in an artificial  
5 turf field.

6 MR. HERZSTEIN: You got a special  
7 grant from an alumnus for that, didn't you?

8 MR. TAYLOR: Yes, a donation.  
9 Yes, we did.

10 MR. HERZSTEIN: When did you talk  
11 with him first about that, Mr. Jacobs, I  
12 guess? When did you first talk to Mr. Jacobs  
13 about that?

14 MR. TAYLOR: I would have no  
15 knowledge of that.

16 MR. HERZSTEIN: I see.

17 MR. TAYLOR: I don't know.

18 MR. HERZSTEIN: When did the  
19 university start the planning for the new  
20 field?

21 MR. TAYLOR: Well, in conjunction  
22 with the Army Corps returning our property

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1 back to us, so that we could use it once  
2 again, because again it was totally off -  
3 limits, we then looked at some options and, of  
4 course, the Army could have just totally  
5 replaced the soil and planted grass, but we,  
6 indeed in working with Mr. Jacobs as a key  
7 donor, determined that it would be appropriate  
8 to put in an artificial turf field.

9 MR. HERZSTEIN: You did more than  
10 install artificial turf, didn't you?

11 MR. TAYLOR: In -- what do you  
12 mean?

13 MR. HERZSTEIN: Well, you changed  
14 -- didn't you change the size and  
15 configuration of the field?

16 MR. TAYLOR: Well, I'm not -- if  
17 you are talking about -- I don't know what the  
18 dimensions of the current field are, but the  
19 whole area was used for athletic activities  
20 for some number of years.

21 MR. HERZSTEIN: And that's  
22 correct. But the part that was playing field

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1 before that was level and that had grass  
2 growing on it and was cultivated, more or  
3 less, by your grounds people, was a good deal  
4 smaller than the part that you have covered by  
5 artificial turf at the present time, was it  
6 not?

7 MR. TAYLOR: It was always an all-  
8 purpose field, Bob, because you had baseball  
9 played there. You had in the outfield area  
10 you had other activities used for a larger  
11 field that size.

12 MR. HERZSTEIN: I'm just talkin g  
13 about the size. Did you or did you not  
14 enlarge the playable part of the flat ground  
15 over there?

16 MR. TAYLOR: Well, it was -- if  
17 indeed the whole field could be used for -- as  
18 a playing surface for bas eball, for touch  
19 football, perhaps, Jorge, would have the  
20 dimensions.

21 MR. ABUD: Yes. I think it's  
22 important to point out that prior to our

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1 installation of the artificial turf, the --  
2 that area included surface parking along its  
3 perimeter. And so as part of the  
4 reconstruction, we removed the surface parking  
5 and it did result in a larger field.

6 MR. HERZSTEIN: And where that  
7 surface parking was removed and the field was  
8 expanded was right along the boundary of my  
9 house, was it not?

10 MR. ABUD: That's correct.

11 MR. HERZSTEIN: So the field came  
12 closer to my house?

13 MR. ABUD: Yes.

14 MR. HERZSTEIN: And in addition to  
15 these changes, did you install a -- erect an  
16 electronic scoreboard?

17 MR. ABUD: Yes, that was done  
18 also.

19 MR. HERZSTEIN: Complete with  
20 airhorn?

21 MR. ABUD: Yes.

22 MR. HERZSTEIN: And did you change

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1 the way the field was used by the teams of  
2 American University?

3 MR. TAYLOR: Well, the field  
4 previously had been used for intercollegiate  
5 sports. We had a baseball team that played  
6 there for a number of years, into the 1980s.  
7 And then it was an all-purpose field for a  
8 number of club sports and other activities.  
9 And then as a practice field and then again  
10 the Army Corps took it off-line and then we --  
11 indeed, after we got the field back and put in  
12 artificial turf, we started using it as our  
13 field hockey venue and then women's lacrosse.  
14 So those are the two sports, two women's  
15 sports played there.

16 MR. HERZSTEIN: The field hockey  
17 and lacrosse games are intercollegiate games,  
18 are they not?

19 MR. TAYLOR: Yes, they are.

20 MR. HERZSTEIN: And before the  
21 field was refurbished, did you conduct  
22 intercollegiate games? Had you been

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1 conducting intercollegiate games on the field?

2 MR. TAYLOR: With the history of  
3 the baseball program spanning back for  
4 decades --

5 MR. HERZSTEIN: Until the '80s.

6 MR. TAYLOR: -- yes.

7 MR. HERZSTEIN: But since the '80s  
8 forward, from the '80s whenever the baseball  
9 stopped.

10 MR. TAYLOR: Th e late '80s the  
11 baseball stopped and then there was a quiet  
12 period for a few years and then the Army Corps  
13 had the field off-line and then we --

14 MR. HERZSTEIN: Yes.

15 MR. TAYLOR: Right.

16 MR. HERZSTEIN: So when you went  
17 on-line with this new field, you also  
18 instituted, more or less at the same time, a  
19 program of scheduled intercollegiate games and  
20 field hockey and lacrosse?

21 MR. TAYLOR: Yes.

22 MR. HERZSTEIN: Are those games

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1 accompanied by loud speakers, amplified sound?

2 MR. TAYLOR: By a mplified sound,  
3 yes.

4 MR. HERZSTEIN: And what kind of  
5 sound comes over the amplification?

6 MR. TAYLOR: Well, indeed, you  
7 have got, you know, the PA announcer  
8 announcing game changes, line-ups, there is  
9 some pre-game music, National Anthem, these  
10 types of things.

11 MR. HERZSTEIN: Well, the last I  
12 heard the National Anthem wasn't rock music,  
13 was it?

14 MR. TAYLOR: (No audible answer.)

15 MR. HERZSTEIN: Although there may  
16 be versions of it.

17 MR. TAYLOR: Right. Jimmy Hendrix  
18 had one, I think it was. I got that in there.

19 MR. HERZSTEIN: All right. C an  
20 you give me an idea of how many scheduled  
21 intercollegiate games are held on the field?

22 MR. TAYLOR: Yes, indeed. There

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1 is, approximately, 8 to 10 field -- lacrosse  
2 matches and perhaps 10 to 12 field hockey and  
3 then more if, indeed, we make the playoffs.

4 MR. HERZSTEIN: More?

5 MR. TAYLOR: More if, indeed, we  
6 make the playoffs.

7 MR. TUMMONDS: And what time of  
8 the day are those held?

9 MR. TAYLOR: They are all in the  
10 daytime.

11 MR. TUMMONDS: Is the field  
12 lighted?

13 MR. HERZSTEIN: Yes.

14 MR. TAYLOR: The field is not lit.

15 MR. HERZSTEIN: That's right.  
16 Have you ever -- have we ever discussed  
17 nighttime games? Has that ever been a  
18 problem?

19 MR. TAYLOR: Have we ever  
20 discussed games?

21 MR. HERZSTEIN: Have you and I  
22 ever corresponded or talked about nighttime

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1 games?

2 MR. TAYLOR: We have never had  
3 nighttime games.

4 MR. HERZSTEIN: I understand that.  
5 I just was addressing the fact that in your  
6 response to the OP submission and in your  
7 counsel's oral comments at the last hearing,  
8 there was a reference to "Oh, we don't have  
9 lights, so we don't conduct nighttime games."  
10 I was wondering why that was even brought up.

11 MR. TAYLOR: Well, one of the  
12 things that we are trying to do, Bob, and  
13 we've worked with you on for a number of  
14 years, is to mitigate the impact. And that  
15 includes things that we have done to mitigate  
16 our sound, whether it is speaker placement,  
17 whether it is our athletic staff carrying  
18 decibel meters, whether it is the fact that we  
19 have got a green screen there.

20 We are doing a number of things to  
21 help mitigate the impact, Bob.

22 MR. HERZSTEIN: Right, right.

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1 Have you -- how did nighttime games come into  
2 the picture?

3 MR. TAYLOR: Well, they are not.  
4 We don't -- we do not allow the field to be  
5 used at night.

6 MR. HERZSTEIN: All right.

7 MR. TAYLOR: It's off -limits at  
8 night for --

9 MR. HERZSTEIN: Why did your  
10 counsel refer to that and why did you --

11 MR. TUMMONDS: Because I think I  
12 referred to as typically activities that are  
13 occurring say from 3:00 to 5:00 in the  
14 afternoon for not just you, Mr. Herzstein, but  
15 also other property owners that typically are  
16 not going to have the impact of -- say we have  
17 heard a lot of discussion tonight about the  
18 Westover Place community was concerned about  
19 light spilling over into there.

20 So not having activities, athletic  
21 activities at night, we think is less --  
22 creates less of an impact.

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1 MR. HERZSTEIN: Right.

2 MR. TUMMONDS: Than if w e were to  
3 have them as we do middle of the afternoon on  
4 the weekends.

5 MR. HERZSTEIN: Like Jorge --

6 MR. TUMMONDS: 3:00 to 5:00 p.m.  
7 during the middle of the work week.

8 MR. HERZSTEIN: I don't know where  
9 to put this, but they would be much worse if  
10 they started at 5:00 a.m., too, wouldn't they?

11 MR. TUMMONDS: Well, absolutely ,  
12 but that's not really realistic. I think we  
13 are talking about typically athletic events  
14 occur later in the afternoon or say in the  
15 evening.

16 MR. HERZSTEIN: I just want to be  
17 clear that I'm trying to talk about what does  
18 occur, rather than what doesn't occur.

19 MR. TUMMONDS: And we are tal king  
20 about mitigating impacts.

21 MR. HERZSTEIN: Okay. So there is  
22 roughly 20 games a year scheduled.

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1 MR. TAYLOR: Intercollegiate,  
2 roughly.

3 MR. HERZSTEIN: Not -- and  
4 frequently have playoff games --

5 MR. TAYLOR: Right.

6 MR. HERZSTEIN: -- also. Is that  
7 right?

8 MR. TAYLOR: Correct.

9 MR. HERZSTEIN: And are those --  
10 are there other people who use the field?

11 MR. TAYLOR: Yes. Indeed, we have  
12 Club Sports periodically use the field, some  
13 intermural activity.

14 MR. HERZSTEIN: Anyone else?

15 MR. TAYLOR: Indeed, in the past  
16 year or so, I believe, Georgetown University  
17 did use the field periodically, right.

18 MR. HERZSTEIN: I think your  
19 schedule shows that Georgetown University uses  
20 the field about four days a week during the  
21 season for field hockey practice in the  
22 mornings all season long. Am I correct on

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1 that?

2 MR. TAYLOR: I would have to  
3 check. I'm not sure what the hours are.

4 MR. HERZSTEIN: And do you get  
5 compensated by Georgetown for that?

6 MR. TAYLOR: For that? Yes, that  
7 I don't know. I'm not sure if it's a loan  
8 arrangement or what. I'm not sure.

9 MR. HERZSTEIN: Are there -- is  
10 the field open for other groups who want to  
11 use it?

12 MR. TAYLOR: For student groups,  
13 for intermural activities, for recreational  
14 sport.

15 MR. HERZSTEIN: What about non-  
16 student groups? People not affiliated with  
17 the university at all.

18 MR. TAYLOR: Periodically, but  
19 it's not very often. For example, I think  
20 something I mentioned in the -- in my own  
21 testimony was it's the site of the Annual  
22 Juvenile Diabetes Research Foundation Games

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1 and so that's an annual event.

2 MR. HERZSTEIN: Would it surprise  
3 you if I suggested that the Sri Lanka Cricket  
4 Team uses the field? Would it surprise you?

5 MR. TAYLOR: It wouldn't. I have  
6 never been to a match, but, no, it wouldn't  
7 surprise me.

8 MR. HERZSTEIN: Have you been down  
9 to the field to watch some of these games?

10 MR. TAYLOR: Yes, I have.

11 MR. HERZSTEIN: So would you agree  
12 the field is a pretty busy place between the  
13 university's scheduled games, its additional  
14 add-on playoff games, the regularly scheduled  
15 Georgetown practice, the use by clubs and  
16 other student groups and the use by groups not  
17 affiliated with the university?

18 MR. TAYLOR: It is one of two  
19 intercollegiate fields that we have. Reeves  
20 Field being the other one, the soccer field,  
21 there is also similar activity that takes  
22 place there.

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1 MR. HERZSTEIN: Are you aware of  
2 how the field was used this past -- or the  
3 fact that the field was used this past  
4 Memorial Day weekend, all three days, for  
5 field hockey training and selection by a  
6 National Field Hockey Association?

7 MR. TAYLOR: By the United States  
8 Field Hockey Team.

9 MR. HERZSTEIN: Yes. All three  
10 days of the Memorial Day weekend.

11 MR. TAYLOR: Right.

12 MR. HERZSTEIN: With hundreds of  
13 students on the field.

14 MR. TAYLOR: Correct.

15 MR. HERZSTEIN: Hundreds of  
16 players, I think. Many of them are not  
17 students. Many of them are college graduates  
18 and other people hoping to be members of the  
19 Olympic Team.

20 MR. TAYLOR: Of the Olympic Team,  
21 correct.

22 MR. HERZSTEIN: Okay. And

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1 sometimes you have intercollegiate games  
2 between two schools, other than American  
3 University on the field, do you not?

4 MR. TAYLOR: Periodically, yes.

5 MR. HERZSTEIN: You make the field  
6 available, let's say, to Team A and Team B?

7 MR. TAYLOR: Well, as part of like  
8 the Patriot League Tournament, you, indeed,  
9 would have games that would not be American  
10 University playing there, but, also as  
11 previously referenced, Georgetown has  
12 periodically used the field as well.

13 MR. HERZSTEIN: And those are  
14 accompanied by amplified sound also.

15 MR. TAYLOR: Yes.

16 MR. HERZSTEIN: Is that right? Is  
17 there a requirement in the Patriot League that  
18 the games be accompanied by rock music?

19 MR. TAYLOR: Not to my knowledge.

20 MR. HERZSTEIN: To provide rock  
21 music?

22 MR. TAYLOR: Not to my knowledge.

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1 MR. HERZSTEIN: At some point, did  
2 you hear from us neighbors about the noise  
3 emanating from the field?

4 MR. TAYLOR: Periodically, we have  
5 had conversations with you, Bob.

6 MR. HERZSTEIN: As early as  
7 September 30, 19 -- '04, which I think is  
8 probably before the field was even finished,  
9 you got a message from me expressing great  
10 concern about the fact that the  
11 intercollegiate games might generate  
12 objectionable noise, did you not?

13 MR. TAYLOR: That was before the  
14 installation of the field?

15 MR. HERZSTEIN: I believe it was .  
16 It may have been at least before the games  
17 started. But we had been alerted

18 MR. TAYLOR: Yes. You and I were  
19 in correspondence.

20 MR. HERZSTEIN: Yes.

21 MR. TAYLOR: In that period of  
22 time.

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1           MR. HERZSTEIN: And do you re call  
2 a visit from my neighbor, Nick Burk, and Tom  
3 Smith and myself in, I believe, April of '07,  
4 in which we showed you a study by the Wiley  
5 Acoustic Engineering firm in which they had  
6 measured the sound level coming out from the  
7 field at the property lines?

8           MR. TAYLOR: Yes, I do remember.

9           MR. HERZSTEIN: And we provided  
10 you with a copy of their study, right?

11          MR. TAYLOR: Correct.

12          MR. HERZSTEIN: Do you r ecall the  
13 decibel count that they recorded?

14          MR. TAYLOR: My recollection is it  
15 was between 60 and 70 perhaps.

16          MR. HERZSTEIN: Well, would you be  
17 surprised if it showed 70 to 80?

18          MR. TAYLOR: I don't have the  
19 study in front of me a nd I haven't seen it  
20 recently.

21          MR. HERZSTEIN: It is in the  
22 record as an attachment to Exhibit 155 Zoning

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1 Commission, but we will go in to that further  
2 in our direct --

3 MR. TAYLOR: Okay.

4 MR. HERZSTEIN: -- testimony. And  
5 the problem has persisted sin ce that time,  
6 hasn't it?

7 MR. TAYLOR: Excuse me?

8 MR. HERZSTEIN: The problem --  
9 well, let me put it another way. Condition 15  
10 of the 2000 Order if it's objective was to  
11 eliminate the objectionable impact of nois e  
12 from events on the field, it hasn't really  
13 fulfilled its purpose, has it?

14 MR. TAYLOR: Well, I would  
15 disagree, Bob, because even using the study  
16 that you referenced, we have continued to make  
17 changes. And, indeed, that included speaker  
18 placement. We have changed t he direction of  
19 the speakers to where they shoot across the  
20 field towards the campus.

21 We, indeed, have our athl etic  
22 staff that are very aware of the sensitivities

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1 that you have for the decibel level and the  
2 sound issues. And, indeed, we have -- they  
3 carry meters with them and they take readings  
4 three times, once before the game, once the  
5 first half and once the second half just to --

6 MR. HERZSTEIN: Do you continue--

7 MR. TAYLOR: -- monitor it.

8 MR. HERZSTEIN: -- to get messages  
9 from me, reports, including some in recent  
10 months, haven't you, in which I said a game is  
11 taking place right now on the field and the  
12 decibel level measures 73 or 82 or whatever?  
13 Are those messages not still coming to you?

14 MR. TAYLOR: They are coming to me  
15 as well as to Penny Pagano, our community  
16 relations contact.

17 MR. HERZSTEIN: Yes.

18 MR. TAYLOR: And, indeed, we  
19 report them to the Athletics Department.

20 MR. HERZSTEIN: But the results  
21 don't seem very evident, do they?

22 MR. TAYLOR: I'm not sure that I

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1 would agree with that.

2 MR. HERZSTEIN: Well --

3 MR. TAYLOR: They spike. Bob,  
4 sometimes they spike from time to time. Like  
5 when, indeed, a goal is scored, there may be  
6 crowd noise that would cause a temporary  
7 spike.

8 MR. HERZSTEIN: Yes.

9 MR. TAYLOR: And so, indeed, when  
10 a player comes and goes, there is a  
11 substitution, someone is coming in for someone  
12 else, that's an announcement for the field and  
13 that would be a spike. So it's not a constant  
14 roar. It's periodic spikes, but it would be  
15 based on something like a goal being scored or  
16 a player substitution for the most part.

17 MR. HERZSTEIN: Well, living in my  
18 house would you say, oh, well, that's just a  
19 spike, that doesn't wake me up, that doesn't  
20 disturb me in my study, that's just a spike.

21 MR. TAYLOR: Well, again, Bob, we  
22 are doing decibel counts at the fence line.

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1 MR. HERZSTEIN: Did you ever  
2 accept my invitation to come to my home during  
3 a game to hear the noise for yourself?

4 MR. TAYLOR: I have not, but I  
5 have been to some games.

6 MR. HERZSTEIN: But you haven't  
7 been to my side of the fence?

8 MR. TAYLOR: No, not for a game.

9 MR. HERZSTEIN: Did you accept m y  
10 invitation to send an AU representative to  
11 meet me during a game a nd see if we could  
12 figure out how to reduce the sound to an  
13 unobjectionable level?

14 MR. TAYLOR: Well, again, Bob, my  
15 understanding is you have met with the  
16 athletics director and you have met with Ms.  
17 Pagano dealing with this issue and made your  
18 complaints known very well to them.

19 MR. HERZSTEIN: Oh, yes, I have.  
20 That was in a closed office up in your  
21 building on New Mexico Avenue. That wasn't on  
22 my side of the fence during a game.

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1                   Has anyone from the Athletic  
2 Department ever come over to my side of the  
3 fence to listen?

4                   MR. TAYLOR: That I don't know.

5                   MR. HERZSTEIN: Has there ever  
6 been a situation where one of them stood on my  
7 side and someone else stood on the other side  
8 and they turned up and down the sound to say  
9 well, that's too loud, maybe that's okay?

10                  MR. TAYLOR: They do modulate the  
11 sound if, indeed, their meters are suggesting  
12 that they are exceeding 60 decibels.

13                  MR. HERZSTEIN: Do you have a  
14 record of what their sound recording  
15 measurements show during the games?

16                  MR. TAYLOR: I can request that.  
17 I don't have it in front of me, but I can see  
18 if I can find it.

19                  MR. HERZSTEIN: If I can see that,  
20 because I have been making records and I have  
21 a sound -- a decibel meter that has been  
22 calibrated by the Wiley Engineering firm. And

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1 it continues to show the reports that I send  
2 to you in occasional email messages, which are  
3 well-above the 60 decibel permissible level.

4 Did you ever take me up on my  
5 proposal that we retain an acoustics  
6 engineering expert to advise whether the  
7 speakers could be distributed around the field  
8 and set at a lower volume, so as perhaps maybe  
9 it would happen, maybe it wouldn't, perhaps to  
10 eliminate the objectionable noise at my  
11 property?

12 MR. TAYLOR: Well, we, indeed,  
13 have rearranged the speakers and, indeed, have  
14 done that. Not necessarily with your firm,  
15 but we have done that.

16 MR. HERZSTEIN: Well, the speakers  
17 at the time Wiley first came out in 19 -- in  
18 2007, the speakers were about 10 feet in from  
19 the boundary of my property or maybe 20 feet  
20 and pointed toward the field, not pointed  
21 toward my property, but plenty of noise came  
22 out the back, that's the noise that Wiley

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1 measured.

2 Are you saying that the speaker s  
3 have been redeployed since that time?

4 MR. TAYLOR: That would be my  
5 understanding.

6 MR. HERZSTEIN: Where have they  
7 been redeployed to?

8 MR. TAYLOR: Well, they are,  
9 indeed, at the scores table on the fence line,  
10 but pointing in towards the field, so that,  
11 indeed, the sound is omitted going across the  
12 field.

13 MR. HERZSTEIN: Well, what's just  
14 where they were when Wiley measured t hem. I  
15 think -- well, that is getting outside the  
16 cross-examination. I was going to suggest you  
17 come down and take a look.

18 Did you -- on a s eparate noise  
19 issue, did you ever respond t o my suggestion  
20 that you devise a quieter backboard for the  
21 field hockey goals, so they don' t omit a loud  
22 whack sound like a gunshot every tim e a ball

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1 hits them?

2 MR. TAYLOR: No.

3 MR. HERZSTEIN: On this question  
4 of use of a field by outside teams --

5 MR. TAYLOR: Okay.

6 MR. HERZSTEIN: -- I received a  
7 message from your Penny Pagano informing me  
8 that the National Teams from Argentina versus  
9 the U.S. were going to play an international  
10 playoff of five games on five successive days  
11 on the field.

12 Do you recall that?

13 COMMISSIONER MAY: Commissioner, I  
14 wanted to allow this to go to kind of flesh  
15 this out, but I do think a lot of this is  
16 really approaching now testimony. These are  
17 questions of -- it's a question to David  
18 Taylor asking about something that -- a  
19 conversation that occurred with Penny Pagano.

20 Well, I want to be -- allow this  
21 to happen to have some discussion, but I  
22 think, at some point, it needs -- this is

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1 turning more towards testimony, instead of  
2 asking questions.

3 CHAIRMAN HOOD: Let me say this,  
4 Mr. Tummonds. While I agree, but also, at  
5 least for me, and I'm sure some of my  
6 colleagues, I kind of want to see how Penny  
7 Pagano, Ms. Pagano worked with the community.  
8 Because we do know her background.

9 I was kind of interested in  
10 hearing --

11 MR. TAYLOR: Okay.

12 CHAIRMAN HOOD: -- exactly how  
13 that was done.

14 MR. TAYLOR: Okay.

15 CHAIRMAN HOOD: So, okay.

16 MR. HERZSTEIN: Ms. Pagano now  
17 works for the university. Is that right?

18 MR. TAYLOR: That's correct.

19 MR. HERZSTEIN: On almost all of  
20 the emails you and I have exchanged since she  
21 came on board about noise have gone to her as  
22 well as you.

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1 MR. TAYLOR: Correct.

2 MR. HERZSTEIN: Is that right?

3 MR. TAYLOR: That's correct.

4 MR. HERZSTEIN: Back to the  
5 question I asked about Argentina versus the  
6 U.S. National Teams for five consecutive days,  
7 that's a pretty big event, isn't it?

8 MR. TAYLOR: Conceivably.  
9 International playoff.

10 CHAIRMAN HOOD: Seriously, I was  
11 more interested in the type of --

12 MR. HERZSTEIN: Sorry?

13 CHAIRMAN HOOD: I was more  
14 interested in the type of response that you  
15 got. What type of action or what -- of your  
16 concern. How did the university respond to  
17 you? That's what I was looking for out of  
18 your question on cross. I thought such the  
19 line we was going down now. Who won the game  
20 and all that, I -- we don't -- so let's keep  
21 it back within cross-examination.

22 MR. HERZSTEIN: Well, the games

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1 took place and with their accompanying noise  
2 and that was that, except for what aftermath  
3 may have remained at my house. Is that right?

4 MR. TAYLOR: Again, I don't recall  
5 that particular activity, but --

6 MR. HERZSTEIN: Okay.

7 MR. TAYLOR: -- in the  
8 conversation with Penny --

9 MR. HERZSTEIN: Have you ever  
10 consulted with the neighbors before allowing  
11 use of the field by athletic teams or groups  
12 outside of AU?

13 MR. TAYLOR: Yes. But we, indeed,  
14 for example, I send you and Mr. Paul a notice  
15 for like the Juvenile Diabetes games, so that,  
16 indeed, it doesn't disturb you and you can  
17 work around that.

18 MR. HERZSTEIN: That was a notice.  
19 Have you ever consulted with the neighbors  
20 about the impact on them before you decided to  
21 invite these outside teams to use the field?

22 MR. TAYLOR: Well, again, Bob, I

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1 think what we are suggesting is that we have  
2 been working to mitigate appropriately the use  
3 of the field according to the conditions in  
4 the 2001 Campus Plan.

5 MR. HERZSTEIN: In your terms, you  
6 have been trying and in my terms, you haven't  
7 succeeded. But I just asked you a yes or no  
8 question about given this existence of this  
9 problem, there comes a time when you set a  
10 schedule for the year and you say well, let's  
11 invite the two national teams to have the ir  
12 playoffs here, that would be a big event for  
13 American University or let's lease the field  
14 to Georgetown for so many days a week.

15 Before you make those decisions ,  
16 have you ever consulted with the neighbors?

17 MR. TAYLOR: Yes, I don't know.  
18 Periodically, for some events, perhaps, but  
19 perhaps for some of them we have not.

20 MR. HERZSTEIN: Before you make  
21 the decision?

22 MR. TAYLOR: Correct.

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1 MR. HERZSTEIN: Have you ever --  
2 can you cite me one exam ple where you  
3 consulted with the neighbors before?

4 MR. TAYLOR: Well, again, what I  
5 was suggesting is like for the Juvenile  
6 Diabetes, which is an annual event --

7 MR. HERZSTEIN: Yes.

8 MR. TAYLOR: -- we let you know in  
9 advance on that.

10 MR. HERZSTEIN: You notify us.

11 MR. TAYLOR: Yes.

12 MR. HERZSTEIN: That's called for  
13 by the Condition No. 15 in the 2000 Order,  
14 right?

15 MR. TAYLOR: Right.

16 MR. HERZSTEIN: Okay. Do you have  
17 bleachers on the Jacobs Field?

18 MR. TAYLOR: They are very sm all,  
19 but we do have removable ones.

20 MR. HERZSTEIN: Removable  
21 bleachers?

22 MR. TAYLOR: Yes.

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1 MR. HERZSTEIN: Right. Does it  
2 matter in terms of impact on the neighbors  
3 whether the bleachers are movable or fixed if  
4 they are full of people sitting on them and  
5 shouting and ringing bells and so on? Is it  
6 any of us impact if they are movable  
7 bleachers?

8 MR. TAYLOR: Well, it's either  
9 that or the 200 people stand, so it's either  
10 they are -- you know, that would be the only  
11 impact.

12 MR. HERZSTEIN: Right.

13 MR. TAYLOR: It's just to  
14 accommodate those that come to watch the  
15 matches.

16 MR. HERZSTEIN: I'm almost done ,  
17 Mr. Chairman. The Office of Planning has  
18 suggested a condition requiring AU to create  
19 an enforcement police for activities on the  
20 playing fields. AU's response was that it was  
21 willing to do the following:

22 "As part of the quarterly

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1 Neighborhood Liaison Committee process, engage  
2 the neighbors in discussions in order to  
3 devise an appropriate enforcement policy that  
4 balances the needs of the university and the  
5 concerns raised by adjacent property owners."

6 Well, you have had a policy for  
7 some time against transmitting objectionable  
8 noise to the neighborhood, haven't you?

9 MR. TAYLOR: Yes.

10 MR. HERZSTEIN: Has it worked  
11 satisfactorily?

12 MR. TAYLOR: Well, again, Bob, you  
13 were the only one that has complained about  
14 it. And again, as I have suggested, with  
15 monitoring and the changes we have made with  
16 athletics carrying decibel meters and getting  
17 readings, for the most part I think we are  
18 successful, but periodically we might have  
19 spikes that might go above the 60 decibels.

20 MR. HERZSTEIN: When we called on  
21 you with the report of the Wiley Engineering  
22 firm, was I the only one?

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1                   MR. TAYLOR: Th at came to meet  
2 that day? Mr. Burk was with you, but I  
3 haven't seen him since and we haven't heard  
4 from him since.

5                   MR. HERZSTEIN: Well, he is a very  
6 quiet fellow. He lets me talk for him. But  
7 Mr. Burk lives right across the street from me  
8 also on the boundary of the campus.

9                   MR. TAYLOR: Right.

10                  MR. HERZSTEIN: And several of his  
11 -- as I have i ndicated to you in  
12 correspondence, several of his neighbors share  
13 the concern also.

14                  But quite apart from that, does it  
15 matter whether I am 100 or whether I'm just  
16 one under the Zoning Regulations?

17                  MR. TAYLOR: No.

18                  MR. HERZSTEIN: And in your --

19                  MR. TAYLOR: No.

20                  MR. HERZSTEIN: -- the  
21 university's soul, does it care whether I'm  
22 just one or many?

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1 MR. TAYLOR: It doesn't matter.

2 MR. HERZSTEIN: Okay. Thank you .  
3 That comment -- that response you made that I  
4 just read from to the Office of Planning  
5 suggestion for an enforcement policy says that  
6 you would be ready to devise an enforcement  
7 policy that balances the needs of the  
8 university and the concerns raised by adjacent  
9 property owners.

10 Why would you risk burying this  
11 issues in the Liaison Committee meetings,  
12 which involve people from all around the  
13 neighborhood on many issues, mostly concerning  
14 student noise and traffic, why would you bury  
15 this issue there, rather than dealing with it  
16 directly with this small handful of neighbors  
17 who are uniquely affected by the noise?

18 MR. TAYLOR: We can deal with you  
19 on that.

20 MR. HERZSTEIN: Okay. And on the  
21 final phrase, you said "This balances the  
22 needs of the university and the concerns

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1 raised by adjacent property owners."

2 Is it your understanding that the  
3 Zoning Regulation creates a balancing test  
4 which would allow the university to create  
5 objectionable conditions including loud noise  
6 exceeding the city's noise law if it has a  
7 need?

8 MR. TAYLOR: I'm not sure I  
9 understand your question.

10 MR. HERZSTEIN: Well, you are  
11 balancing the need of the university under the  
12 approach you are suggesting. You are  
13 suggesting we reach a rule of reason of sorts  
14 that -- a balancing role.

15 MR. TAYLOR: Well, I think perhaps  
16 the reference would be that with use, the  
17 field is one of our chief intercollegiate  
18 venues, that's very important to us, because  
19 we don't --

20 MR. HERZSTEIN: It's important to  
21 you. But does the zoning law say that if it  
22 is important to you, you can create

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1 objectionable conditions for the neighbors?

2 MR. TAYLOR: No. No, that 's not  
3 what I'm suggesting.

4 MR. TUMMONDS: What is importan t  
5 to the Glenbrook Road Association is the D.C.  
6 BZA. The Court went on to state that the  
7 Board's function is to determine whether  
8 reasonable accommodation has been made between  
9 the university and the neighbors, which does  
10 not interfere with the legitimate interests of  
11 the latter.

12 So the case law that interprets  
13 what does it mean for objectionable impacts,  
14 what does it mean for th e university and for  
15 neighbors to work together is that there is  
16 this notion of a balancing, a reasonable  
17 accommodation between the two parties.

18 And I t hink that's what we are  
19 trying to get at, Mr. Herzstein. And so we  
20 absolutely want to work with you, work with  
21 some of your immediate neighbors, but the  
22 notion that the university's interests aren't

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1 to be looked at, that's not what the case law  
2 says.

3 That's not what the Zoning  
4 Regulations are about. With regards to spikes  
5 in the specific to decibels, absolutely, we  
6 need to do our best to satisfy those  
7 conditions and we will.

8 MR. HERZSTEIN: Well, this is a  
9 legal discussion we can get into more about  
10 the interpretation. But under your  
11 interpretation, a neighbor could move in, live  
12 in his house very peacefully for decades. The  
13 university could put a large installation next  
14 door, because it needs it, and suddenly the  
15 neighbor would find himself facing very  
16 different and objectionable conditions then.

17 Is that your interpretation of the  
18 law?

19 MR. TUMMONDS: No. But I think  
20 what -- in this instance, and Mr. Taylor can  
21 help with me as well, is to talk about over  
22 the years in consideration of the concerns

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1 expressed by yourself and other people who  
2 live on the western boundary of the campus,  
3 between the athletic fields and the homes on  
4 Woodway Lane.

5 The university has engaged in lots  
6 of activities to mitigate the potential -- any  
7 potential detriment conditions. These include  
8 enhanced landscaping and fencing. In addition  
9 to fencing, AU has floodgates 50 feet inside  
10 AU's property to make sure that people aren't  
11 going near Mr. Herzstein's property, that the  
12 cost of this enhanced landscaping and fencing  
13 is, approximately, \$250,000.

14 In addition, we talked earlier  
15 about the removal of the vehicular roadway  
16 that was previously a thoroughfare in this  
17 area, that was removed. I think the notion,  
18 too, of having previously vehicles, a  
19 thoroughfare, a roadway back there, we think  
20 that is mitigating the impacts on those  
21 property owners back there.

22 MR. HERZSTEIN: We're sort of

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1 getting into oral argument now, aren't we?

2 MR. TUMMONDS: But I think you  
3 would have --

4 CHAIRMAN HOOD: Here is what we're  
5 going to do. Here is what we are going to do.

6 MR. TUMMONDS: I believe it's  
7 accommodation.

8 CHAIRMAN HOOD: We are going to  
9 let Mr. Herzstein -- you're going to ask the  
10 questions. We're going to give him sound byte  
11 answers at this point. So once you ask your  
12 questions, let's go straight to questions and  
13 let's ask a question.

14 We don't need to do rebuttal or  
15 anything else. Let's just answer the  
16 questions.

17 MR. HERZSTEIN: I would like to go  
18 briefly to one or two questions about the  
19 proposed South Hall now. And then I'm going  
20 to go back to some questions about the Reeves  
21 Playing Field, the other playing field.

22 MR. TAYLOR: Okay.

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1 MR. HERZSTEIN: With regard to  
2 South Hall, am I correct that you have been  
3 informed for months, indeed years, that the  
4 neighbors on University Avenue and Woodway  
5 Lane regard the site where you propose South  
6 Hall as extremely sensitive?

7 Since even with a buffer  
8 landscaping that you have installed, which is  
9 quite nice in many ways, even with that, these  
10 neighbors can see the current dorm, the  
11 Centennial dorm on that hill and can see,  
12 especially, the lights at night even coming  
13 through the landscaping.

14 I think -- as I say, am I correct  
15 that for some time we have been informing you  
16 about the fact that that's a sensitive site  
17 for those reasons?

18 MR. ABUD: Yes, you have informed  
19 us of that.

20 MR. HERZSTEIN: Did those concerns  
21 of long-time neighbors, intensely expressed as  
22 they were, lead you to try to locate the

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1 proposed dorm on another site?

2 MR. ABUD: A s I had mentioned  
3 earlier, we have -- the current campus plan  
4 evolved from nearly two years of discussion,  
5 so we have proposed residents halls on a  
6 variety of sites.

7 We included South Hall at that  
8 particular location, because we think it is  
9 appropriate. We recognize it is up higher  
10 than some of the surrounding houses, but we  
11 also recognize that the closest house, which  
12 is on Rockwood Parkway is nearly 500 feet away  
13 and most other houses are a little more  
14 distant than that.

15 And we think a combination of the  
16 distance as well as landscaping can mitigate  
17 views of South Hall.

18 MR. HERZSTEIN: So you are saying  
19 you couldn't find any other alternative site  
20 that would avoid these problems? I'm not  
21 saying push it over right next to some other  
22 neighbor, but you couldn't find any other site

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1 located on your campus in a place that would  
2 not be objectionable to neighbors? You  
3 couldn't find another one?

4 MR. ABUD: As I said, that -- our  
5 goal was to find the most appropriate sites.  
6 Frankly, except for the Nebraska Hal 1  
7 additions, all of the sites for housing that  
8 we have proposed have been opposed by one  
9 neighbor or another. And so we have had to  
10 make choices about which of those proposals we  
11 brought forward.

12 MR. HERZSTEIN: All the ones you  
13 proposed. What about the ones you haven't  
14 proposed? Were there n one? I'm asking you  
15 whether there weren't some th at you didn't  
16 propose in the campus where there wouldn't be  
17 objections from neighbors?

18 MR. ABUD: It's hard to say.  
19 Until we propose them, we don't know if they  
20 will be objected to and s ome of them, you  
21 know, we thought there wouldn't be objections  
22 to and we have been surprised when there were.

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1 MR. HERZSTEIN: Okay. Let's shift  
2 back to the Reeves Playing Field now. In  
3 addition to the Jacobs Recreation Complex,  
4 which is next to my house, next to it down  
5 further adjacent to University Avenue  
6 neighbors is the Reeves Playing Field, which  
7 is the traditional soccer field of the  
8 university.

9 MR. ABUD: Right.

10 MR. HERZSTEIN: Is AU  
11 contemplating any expansion of the activities  
12 that it holds on that field?

13 MR. ABUD: It is still primarily  
14 the venue for men's and women's soccer and  
15 then all of the track activities, because  
16 that's where the track is.

17 MR. HERZSTEIN: All right. Are  
18 you contemplating any expansion of that or  
19 enlargement into other kinds of games or other  
20 kinds of activities?

21 MR. ABUD: Not currently.

22 MR. HERZSTEIN: Are you

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1 considering any physical changes to that  
2 field?

3 MR. ABUD: Only the addition of  
4 some bleachers.

5 MR. HERZSTEIN: The bleachers?

6 MR. ABUD: Right.

7 MR. HERZSTEIN: Why do you need  
8 more seating than you currently have? You  
9 have something like 700 or 800 seats that you  
10 built some years ago along University Avenue  
11 that face in toward the field. And by my  
12 observation, those are rarely ever filled.  
13 Why are you calling for 2,000 more seats?

14 MR. ABUD: Well, because it would  
15 be desirable for the athletics program to have  
16 more attendance.

17 MR. HERZSTEIN: Have you ever been  
18 down there or has anyone ever done a study of  
19 the attendance level and the --

20 MR. ABUD: Yes, we --

21 MR. HERZSTEIN: -- number of  
22 people who are standing around?

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1 MR. ABUD: -- do track that.

2 MR. HERZSTEIN: Pardon?

3 MR. ABUD: We do track that.

4 MR. HERZSTEIN: Would you be  
5 willing to make that available to us?

6 MR. ABUD: I think we can.

7 MR. HERZSTEIN: I would appreciate  
8 it.

9 CHAIRMAN HOOD: Mr. Herzstein?

10 MR. HERZSTEIN: If I could have  
11 that before the next hearing date, that would  
12 be --

13 CHAIRMAN HOOD: Mr. Herzstein, you  
14 mentioned a few minutes ago that you were  
15 almost wrapping up. About how many more  
16 questions do you have?

17 MR. HERZSTEIN: I just have one or  
18 two more.

19 CHAIRMAN HOOD: Okay. And let me  
20 ask this, Mr. Bender, the reason you went last  
21 is because you said a lot of questions will be  
22 fleshed out. Do you have a lot of questions?

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1       Okay.   Okay.   Well, let's finish       with Mr.  
2       Herzstein and let's see how many.       You don't  
3       have a lot of questions.   Let's see where you  
4       are.

5                       Okay.   I'm sorry, Mr. Herzstein.

6                       MR. HERZSTEIN:   Okay.   That's al l  
7       right.   So you have done studies   or done  
8       surveys to ascertain the need   for additional  
9       bleachers on the field?

10                      MR. TAYLOR:       Well, again, for  
11       athletics events, you do u se those as -- for  
12       student spirit and campus spirit, so it,  
13       indeed, would be appropriate for us to have  
14       more spectators at men's and women's games.  
15       We do encourage that.

16                      MR. HERZSTEIN:   Have you   -- well,  
17       all right.   We will watch for your studies or  
18       surveys.

19                      MR. TAYLOR:   Okay.

20                      MR. HERZSTEIN:   But basically, the  
21       reasoning for the new bleachers was that there  
22       is evidence that you need       more seating

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1 capacity for these games that are currently  
2 held on the field?

3 MR. TAYLOR: And desire for better  
4 attendance.

5 MR. HERZSTEIN: So your thought is  
6 if we build it, they will come? If we build  
7 the bleachers, th en we will get more  
8 attendance?

9 MR. TAYLOR: Hope so.

10 MR. HERZSTEIN: You requested  
11 1,000 seats in 2001. Wh y did you request  
12 2,000 seats this year, 10 years later?

13 MR. ABUD: Actually, we are in the  
14 process of rethinking that an d we will put a  
15 proposal for a lower amount forward probably  
16 in the 500 range next hearing.

17 MR. HERZSTEIN: Are you willing to  
18 commit to make no changes in the physical  
19 condition or facilities of the Jacobs Field  
20 and the Reeves Field without approval of the  
21 Zoning Commission?

22 MR. TAYLOR: I' m not sure I

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1 understand what you are asking.

2 MR. HERZSTEIN: I started out my  
3 questioning by discussing the fact that after  
4 the 2000 Campus Plan Order came down, without  
5 coming back to this Commission, you made  
6 substantial changes and constructed the Jacobs  
7 Recreational Complex and started a program of  
8 intercollegiate games accompanied by amplified  
9 sound.

10 I'm asking you whether we face the  
11 same prospect in the next 10 years, that after  
12 this campus plan order comes down, we find  
13 that the one or both fields are being changed  
14 and the use of them is being expanded?

15 MR. TAYLOR: Well, again, Bob, I  
16 think you have overlooked some of the other  
17 changes that we have made such as removing the  
18 parking, removing the roadway, the landscape,  
19 the barrier.

20 MR. HERZSTEIN: That was all  
21 called for --

22 MR. TAYLOR: All of these things

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1 were per the commitment that --

2 MR. HERZSTEIN: -- by the campus  
3 plan.

4 MR. TAYLOR: -- we made and t hat  
5 we honored.

6 MR. HERZSTEIN: Right. But I'm  
7 not addressing that, David. I'm addressing  
8 the question of peace of mind. It's somewhat  
9 like the questions David Wils on was a skining  
10 about open space. We get through this hearing  
11 and then we have no ide a what is going to  
12 happen to us.

13 In his case, he was worried what  
14 happened after 10 years, but I'm asking you if  
15 even for the next 10 years you are willing to  
16 commit to no physical changes o r new  
17 facilities on the Jacobs Field or the Reeves  
18 Field without coming back to this Commission?

19 MR. TAYLOR: We will consider it .  
20 We will take a look.

21 MR. HERZSTEIN: Okay. When will  
22 you let us know?

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1 MR. ABUD: We will do that p rior  
2 to the July 14<sup>th</sup>.

3 MR. HERZSTEIN: Ok ay. That's al l  
4 of the questions I have, Mr. Chair man. Thank  
5 you.

6 CHAIRMAN HOOD: Okay. Thank you  
7 very much, Mr. Herzstein.

8 Mr. Bender, if you can come to the  
9 table?

10 COMMISSIONER SELFRIDGE: Mr.  
11 Chairman, real quick just on -- to finish up  
12 on this. You had a list, M r. Tummonds, of  
13 modifications that were made to the field. Is  
14 that correct? I saw you r eading off the list  
15 before.

16 MR. TUMMONDS: Yes.

17 COMMISSIONER SELFRIDGE: Could you  
18 submit that for the record?

19 MR. TUMMONDS: Absolutely.

20 COMMISSIONER SELFRIDGE: Thank  
21 you.

22 CHAIRMAN HOOD: Okay.

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1 MR. TUMMONDS: And before Mr.  
2 Bender shows up, there were a number of  
3 documents that were asked for last time, a lot  
4 of them from the ANC Commissioners. We have--  
5 we assumed some of those would come up in  
6 cross-examination as we did with the Tenley  
7 Plans, so we will submit those now for you en  
8 mass and pass them out to the parties as well.

9 CHAIRMAN HOOD: Okay. Mr. Bender,  
10 let's get a time of ab out either how many  
11 questions or about how long you think your  
12 questions will be.

13 MR. BENDER: Chairman Hood, if I  
14 can get a response, I believe, sound byte  
15 answers, probably about 20 minutes bal lpark.  
16 If AU wants t o expound on some of their  
17 answers, it could go longer.

18 CHAIRMAN HOOD: Okay. Well, here  
19 is what we are going to do.

20 I think we ha ve heard a lot  
21 tonight. We are going to start, unless  
22 someone objects, the Commissioners, unless one

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1 of the Commissioners objects, I think what we  
2 are going to do is we're going to start with  
3 Mr. Bender, Commissioner Bender on July the  
4 14<sup>th</sup>, so we can go ahead and obtain any  
5 information.

6 You know, the mind can only absorb  
7 so much and I think this is a good time for us  
8 to stop and start with Mr. Bender and then  
9 right after you, we can get right to the  
10 Office of Planning and DDOT, all right, on  
11 July the 14<sup>th</sup> at 6:30.

12 What I'm hearing now, hopefully,  
13 DDOT. I'm being optimistic that we will get  
14 through all that on July the 14<sup>th</sup>.

15 So, Mr. Tummonds, if you want to  
16 pass all that up now, so we can get it and put  
17 it --

18 MR. TUMMONDS: Yes.

19 CHAIRMAN HOOD: -- with our  
20 materials?

21 MR. TUMMONDS: Yes, absolutely.

22 CHAIRMAN HOOD: Okay. And let's

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1 do all that right quick, so we won't have to  
2 do that on the 14<sup>th</sup>.

3 MR. TUMMONDS: Thank you, Mr.  
4 Chair.

5 CHAIRMAN HOOD: Okay. Thank you.  
6 Don't leave. Make sure you get your new  
7 packet, those parties and the ANC  
8 Commissioners.

9 Okay. With that, hold on, we  
10 haven't closed yet. Hold on a second.

11 With that, I want to thank  
12 everybody for their participation tonight.  
13 And we will recess until July the 14<sup>th</sup>. Good  
14 night.

15 (Whereupon, the Public Hearing was  
16 adjourned to reconvene July 14, 2011 at 6:30  
17 p.m.)

18

19

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