Government of the District of Columbia
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November 17, 2003

Mr. Geoffrey Griffis, Chairman
Board of Zoning Adjustment
441 Fourth Street, N.W., Suite 210-S
Washington, D.C. 20001

RE: BZA Application 17022
Edmund Burke School

Dear Chairman Griffis:

At the conclusion of the Edmund Burke School Special Exception case on October 28, 2003, Commissioner Perry was asked to have the ANC submit a letter by November 18, 2003, regarding the Howard University Campus Plan and the use of Howard University by the Edmund Burke School for its athletic practices and gym classes.

The use of Howard University was a continual theme throughout the Edmund Burke School Special Exception hearing, although as ANC 3F understands the proceedings, the Board of Zoning Adjustment has no authority to approve or disapprove the use of Howard University by the Edmund Burke School and that the university campus plan is within the purview of the Zoning Commission.

As requested by the BZA, ANC 3F will mostly limit this letter to the current Howard University Campus Plan Order and will not submit for the record previous Howard Campus Plan orders. o It should also be noted the 1998 Order was written by the Zoning Office staff based on the 500-page campus plan submission made by Howard University, and that it was not until Toye Bello joined the staff of the Zoning Office and the BZA and ANC training sessions occurred that ANC's learned that all documents and the plan itself on which the BZA and Zoning Commission based their decisions had to be made a part of the operating conditions to an Order.

At the same time, there is sufficient evidence in the 1998 Order to document the fact that Howard University is not entitled to have an "athletic field" under its existing Campus Plan. We were requested to submit the 1998 Howard University Order and the Burke School 1983 Order and highlight those sections of the Orders that pertain to the use of the "playing fields."

BZA
Case No. 17022
Exhibit No. 193

Board of Zoning Adjustment
District of Columbia
CASE NO. 17022
EXHIBIT NO. 193

1. BZA Order 13986, dated October 4, 1983, of the Edmund Burke School, states in the Findings of Fact, No. 19, that "The School's outdoor recreational activities are located off the subject site on the grounds of the Howard University Law School approximately 250 feet away. Students walking to the field are supervised by the physical education teacher. Fewer trips are planned to the field since the proposed gymnasium will accommodate additional activities than presently occur."

   This was based on testimony from the Edmund Burke School and no one from Howard University, the ANC, or the neighborhood testified during the BZA hearing.

2. In Howard University BZA order 16110, dated February 18, 1998:

   A. Page 2, paragraph 3, on February 12, 1997, the revised West Campus Plan was submitted to the Office of Zoning, ANC 3F, and the office of Planning.
   B. Summary of Evidence, page 5, "the subject property is also improved with a gazebo that is used by students, faculty and employees for passive recreational purposes."
   C. Summary of Evidence, page 5, No. 8, In support of its 1974 application, the applicant projected a daytime population of approximately 450 students, 41 faculty and 173 staff. The applicant stated that it planned to use the existing buildings on the site and had "no present intention" of constructing any new buildings. No athletic or comparable facilities were planned." Finding of Fact #5 from the 1974 order, states, "Howard University will not maintain any athletic or comparable activities which will create unusual noise or traffic conditions which may adversely affect nearby residential uses.".
   D. Page 6, No. 11, "The applicant submitted an Updated West Campus Plan on October 6, 1995, to the Board. Nothing in the 1995 West Campus Plan or the BZA's 1993 Howard Order changes the uses of the campus. Page 17 of the Updated West Campus Plan (attached), states "Since about 1995, the West Campus has been used exclusively for the School of Law. The West Campus operates between the hours of 7:00 a.m. to midnight, seven days a week. The campus is used primarily by the School of Law and most of its activities occur indoors. The primary outdoor activities consist of the graduation ceremony (in appropriate weather) and students studying and meeting on the grounds of the

School of Law and no athletic activities take place on the West Campus. No part of the West Campus is used by the University for outdoor activities." This is what led to Number 16 in the Summary of Evidence on Page 7 that states, "The West Campus operates between the hours of 7:00 a.m. to midnight, seven days a week. The campus is used as a law school and most of the school's activities occur indoors. The primary outdoor activity consists of people studying and meeting on the grounds of the law school."

E. Page 8, No. 20, "The Updated Campus Plan proposes to build upon the existing vegetation types and patterns of landscaping to create both formal and informal planting areas. The existing vegetation would be maintained and enhanced to beautify the campus, as well as to screen the campus from neighboring uses." The landscaping plans submitted by the applicant in the campus plan, and referenced above, show the questioned "playing fields' as landscaped areas.

F. Page 9, No. 25, "By letter dated August 14, 1997, and oral testimony at the public hearing, ANC 3F voted to support the application. In reaching its decision, the Chairperson of ANC 3F testified that extensive negotiations between the ANC and the law School resulted in proposed operating standards..." "... the applicant concurred that an agreement was reached with the ANC...."

ANC 3F, in recommending approval, with conditions, to the Howard University School of Law relied on verbal assurances from University Officials and letters from University Officials, all of which indicated Howard University School of Law's agreement that the school's campus was to be restricted for use by the Howard University Law School and Howard University Law School events only and that any other uses would be prohibited with the exception being the use of the Chapel which is controlled by the Dean of the Chapel. (See attached letter from Robert Malson, December 17, 1996, which states "One of the Commissioners asked me to look into the matter of the use of the West Campus for events unrelated to the Law School. I talked today with Denise Purdie, the Law School's Assistant Dean for Student Affairs. She indicated that the use of the buildings and grounds is restricted to Law School or Law School-related events...."

G. Based on Summary of Evidence Number 16, and contained in Item D of this letter, the Operating Condition #12 in the BZA order states, "No outdoor events shall take place on the West Campus to cause excessive noise (e.g., music, loudspeakers, etc.) with the exception of graduation."

This letter was approved by a vote of 3-2-1 at a duly noticed meeting of ANC 3F on November 17, 2003, with a quorum present (four constituting a quorum).

Sincerely,

Cathy Wiss

Cathy Wiss, Chair
ANC 3F

CC: Edmund Burke School
All Parties to the Application

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 13986, as amended, of Edmund Burke School, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 3101.42 to construct an addition to a private secondary school and for variances from the lot occupancy requirements (Sub-section 3303.1), from the prohibition against required parking spaces measuring less than nine feet by nineteen feet (Sub-section 7204.1) and from the prohibition against parking spaces not being accessible directly from streets or alleys (Sub-section 7206.4) in an R-2 District at premises 2955 Upton Street, N.W., (Square 2243, Lots 30, 49 and 50).

HEARING DATE: July 13, 1983
DECISION DATE: September 7, 1983

FINDINGS OF FACT:

1. As originally advertised, the application requested a side yard variance from the requirements of Sub-section 3305.1 of the Zoning Regulations. Subsequent to the advertisement of the hearing, the Zoning Administrator determined that this relief was no longer required since only one side yard is required for a private school in the R-2 District and the applicant is providing one side yard in excess of the requirements. The Board therefore permitted the amendment of the application to eliminate the side yard variance request under Sub-section 3305.1 of the Zoning Regulations.

2. The subject site is located on the north side of Upton Street between Connecticut Avenue and 29th Street, N.W. and is known as premises 2955 Upton Street, N.W. It is in an R-2 District.

3. The site is rectangular in shape containing 22,050 square feet of land area and 150 feet of frontage on Upton Street, N.W. The site is improved with a two-story and basement brick structure presently used as a private school. At the rear of the school, to the north and accessible from a sixteen-foot wide public alley, is a paved area approximately 100 feet in length and thirty-five feet in depth. A sixteen-foot wide public alley also abuts the site to the west. There is a ten foot building restriction line along the Upton Street frontage.

4. The site is located in an R-2 District which runs from the alley immediately west of the site eastward to

approximately 29th Street. The R-2 portion of Upton Street is a residential neighborhood consisting of three-story single-family row dwellings and, approaching 29th Street, semi-detached dwellings. The R-2 District includes portions of the Howard University Law School Campus.

5. North and west of the site is an R-5-C District which also runs parallel to Connecticut Avenue south of the site. The R-5-C area is characterized by high density residential development contained in row dwellings and apartment houses of varying heights and bulk.

6. Northwest of the site at Connecticut Avenue and Van Ness Street, N.W. is a C-3-A District of intense mixed-use development along Connecticut Avenue. This district contains the Van Ness Center and other commercial developments. In the northwest quadrant of the intersection of Connecticut Avenue and Van Ness Street is the Van Ness Campus of the University of the District of Columbia.

7. The applicant proposes to construct a three-story brick addition to the existing structure. The addition will be constructed to the west of the existing structure over to and contiguous with the western lot line. Each floor will be interconnected with the existing structure. The addition will include a gymnasium, stage and additional classrooms. The gymnasium will also serve as an auditorium. Renovation of the existing structure is also planned.

8. The height and design of the addition will be consistent with the existing structure.

9. The applicant, the Edmund Burke School, in an independent, co-educational middle and secondary school offering grades seven through twelve. The present enrollment is 165 students, of which seventy-three percent resides in the District of Columbia. Over sixteen percent of the students receives financial aid. There are twenty-eight teachers and other staff members on the payroll, but only twenty are at the school at any given time.

10. It is anticipated that the proposed addition will provide for a maximum number of 270 students. The staff will increase to thirty-five persons, although only twenty-eight will be on the site at any one time.

11. There are approximately twelve students per classroom at the present time. That number is expected to increase to fifteen.

12. The Edmund Burke School was established in 1968 and moved to its present location following approval by this Board in BZA application No. 11428, Order dated September 6, 1973. The site has been used almost exclusively as a school

since 1911. From 1926 until 1951, the property was used as the Devitt School which had at one time 250 students and also had evening classes. Later, the Board approved the use of the subject premises as a Science School for Dunbarton College in BZA Appeal No. 9200.

13. The high school curriculum for each student at the Edmund Burke School includes four years of English, three years of math, three years of foreign language, four years of history, two years of fine arts, and three electives. Independent study is also encouraged and voluntary community service is required. Further, there is a full complement of extracurricular activities including athletics, yearbook, dramatic and musical productions, poetry readings, an "It's Academic" team, backpacking, canoeing, and skiing trips and a number of ad hoc events. Students have been successful in obtaining acceptance at leading colleges and have maintained a high performance level.

14. School activities are completed by 6:00 P.M.

15. The applicant envisions community use of the gymnasium and the art facilities. Presently, the existing building is used by neighborhood civic associations and non-profit organizations.

16. All of the activities planned in conjunction with the proposed addition will be entirely contained within the structure.

17. The addition will have fourteen-inch thick concrete and masonry walls to provide maximum sound insulation. The gymnasium is located seven feet below grade in the basement to contain noise. Rock below the seven foot level prohibits the gymnasium from being any lower. Windows in the gymnasium will be double glazed.

18. A regulation, full-size basketball court measures eighty-four feet by fifty feet. The applicant, however, is only able to provide a court measuring approximately seventy-four feet by forty-two feet in the addition. The proposed gymnasium will be the minimum size that still can function efficiently for instructional purposes. A permanent stage is also proposed which will be located adjacent to the gymnasium floor so that the room may be used as an auditorium.

19. The School's outdoor recreational activities are located off the subject site on the grounds of the Howard University Law School approximately 250 feet away. Students walking to the field are supervised by the physical education teacher. Fewer trips are planned to the field since the proposed gymnasium will accommodate additional activities than presently occur.

20. Approximately three percent of the students will be allowed to drive an automobile to school. Student parking will be provided on-site in extraordinary situations. Parents of the students must request in writing permission to allow a student to drive to school. A student may drive only when there is no adequate public transportation or in other exceptional circumstances.

21. Twenty-eight percent of the students are dropped off at the school. Five percent ride with someone who parks at the school. Fifty-one percent use mass transit and fourteen percent will walk or ride bicycles.

22. Forty percent of the faculty drive automobiles to work. The remaining sixty percent either walk, use mass transportation or ride in a car pool. A majority of faculty and staff drive compact cars.

23. The landscaped side yard east of the existing building, measuring approximately thirty-four feet in width, serves as a buffer between the school and the adjacent properties. There is also a four foot grade increase in this side yard, thereby making it inappropriate for parking. The existing public alley adjacent to the western property line will serve as an open space buffer between the addition and other adjacent uses.

24. The school is located approximately one block from Connecticut Avenue, N.W. bus service and two blocks from the Van Ness Metrorail Station. Additional parking is available at nearby commercial parking facilities.

25. The R-2 District permits a maximum lot occupancy of forty percent or 8,820 square feet. As proposed, 12,284.85 square feet are to be occupied, requiring a variance of 3,464.85 square feet or 39.28 percent.

26. At the Board's request, the applicant revised the originally proposed parking layout of twenty-five spaces to include a defined pedestrian walkway to the rear door, to preserve the existing trees in the rear and side yards and to clearly locate the trash dumpster. The Board was also concerned that in the original parking layout, the spaces were offset, so that a vehicle in one space actually blocked two others.

27. Twenty-five off-street parking spaces measuring nine feet by nineteen feet are required. Under the revised plan, two spaces at nine feet by nineteen feet, nine spaces at eight feet by sixteen feet and fourteen spaces at eight feet by nineteen feet are proposed to be provided. Variances are required for those spaces measuring less than nine feet by nineteen feet. The revised plan did show one parking space partially in front of the rear exit. Such a condition

could be hazardous in the event that quick egress from the building was required in an emergency.

28. Nine spaces are not directly accessible to a street or alley with access available only across another parking space. These spaces require variance relief from the provisions of Sub-section 7206.4.

29. The Office of Planning, by report dated July 6, 1983, recommended deferral of consideration of the original application until further explanation of the proposal could be obtained. The Office of Planning was concerned with the size of the addition and the extent of the lot occupancy variance. The Office of Planning was further concerned with the impact on the neighborhood resulting from the increased enrollment. Subsequent to the filing of the report and prior to the hearing before the Board, the applicant resolved all of the Office of Planning's concerns and the Office testified in support of the application at the hearing.

30. The Forest Hills Citizens Association, by letter dated July 13, 1983, stated no objection to the application but expressed concern over the possible increase in traffic on Upton Street. The applicant has agreed to work with the neighborhood to help reduce any traffic impacts.

31. Many letters in support of the application were received into the file. The letters were submitted by neighboring property owners and District of Columbia educators.

32. Advisory Neighborhood Commission 3F by letter dated July 13, 1983, recommended its support of the application. The Board waived its Rules to admit the ANC report into the record even though the report was not timely filed.

33. No one appeared in opposition to or in favor of the application at the public hearing.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception under Paragraph 3101.42 to construct an addition to a private middle and secondary school and variances from the parking space size requirements under Sub-section 7204.1, from the prohibition against parking spaces not being accessible directly from streets or alleys under Sub-section 7206.4 and from the lot occupancy requirements under Sub-section 3303.1.

Regarding the special exception, the applicant must prove that it has complied with the requirements of Paragraph 3101.42 of the Zoning Regulations. The Board concludes

that the applicant has met its burden of proof. The addition will not be objectionable to adjoining or nearby property. The addition will be constructed of brick to provide maximum sound insulation and all activities planned will be entirely contained within the structure. Use of the site as a private school has been consistent since 1926 without adverse effect. The addition's height, bulk, scale and design are compatible with the existing building and will not adversely effect neighboring property. The increase in the number of students and faculty at the school will not over intensify the use of the available space. The number of trips generated by the addition will not create an adverse impact on the transportation system in the area, and the applicant will provide an adequate number of parking spaces. Therefore, the Board concludes that the requested special exception will be in harmony with the general purpose and intent of the Zoning Regulations and will not adversely affect the use of the neighboring property.

As to the variance relief sought, the Board concludes the site is affected by an extraordinary or exceptional condition in that the existing structure was built prior to the adoption of the existing Regulations. A sub-soil condition of the site is such that extensive and costly excavations below the seven foot level would be required to construct the addition. This condition creates a practical difficulty in the property.

The Board further concludes that the requested variances can be granted without detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan. The Board notes that the revised parking plan locates one parking space partially in line with the rear exit, creating a potentially hazardous condition in the event of emergency egress from the building. Accordingly, it is ORDERED that the application is hereby GRANTED subject to the following CONDITIONS:

1. Operation of the school shall be limited to the Edmund Burke School, except as provided in Condition No. 5.

2. Twenty-four parking spaces shall be provided on-site. Parking shall be in accordance with Exhibit No. 33A of the record, except that the parking space immediately adjacent to the west side of the rear exit shall be eliminated.

3. The noise emanating from the structure shall not exceed 55 dba (decibals) as measured at the property line nor exceed the provisions of Sub-paragraph 6102.613 of the Zoning Regulations.

4. The number of students shall not exceed 270 and

the total number of faculty and staff shall not exceed thirty-five.

5. All non-school-related use of the building shall be limited to no more than three events per month.

VOTE: 4-1 (Lindsley Williams, Carrie Thornhill, William F. McIntosh and Douglas J. Patton to grant; Charles R. Norris opposed to the motion).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: OCT -4 1983

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

13986order/KATE10

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16110 of Howard University, pursuant to 11 DCMR 3108.1, for special exceptions under Section 210 and Subsection 302.1 to update an approved west campus plan in an R-1-A/R-2 District at premises 2900 Van Ness Street, NW (Square 2049, Lot 810).

HEARING DATES: May 15, September 4 and December 18, 1996, and September 3, 1997

DECISION DATE: October 1, 1997

ORDER

PROCEDURAL BACKGROUND:

By order dated April 13, 1994, in Application No. 15767, the applicant was ordered to file an application for approval of an Updated Campus Plan for its West Campus within 12 months of the date of the order. By letter dated March 24, 1995, Howard University (Howard, University, or Applicant) sought an extension of time to file the Updated West Campus Plan. The University stated that it needed more time to discuss its Updated Plan with the neighboring property owners. By order dated June 28, 1995, the applicant's request for an extension of time was granted. Subsequently, the Updated West Campus Plan was filed on October 6, 1995. A public hearing was scheduled for May 15, 1996. Prior to that date, the University requested a postponement so that the University's new president and administration could review the Updated West Campus Plan. The Board rescheduled the public hearing to September 4, 1996.

On June 20, 1996, Advisory Neighborhood Commission (ANC) 3F wrote the Board requesting a postponement of the public hearing scheduled for September 4, 1996 to accord ANC members and their constituents more time to review the Updated Campus Plan. At the request of the ANC, the University joined in that request. The Board rescheduled the public hearing to December 18, 1996.

The applicant filed the Updated West Campus Plan on December 4, 1996. The applicant hand-delivered a copy of the Plan to the ANC 3F and requested time to discuss the Plan with the Commission and with interested members of the community. On December 9, 1996, the applicant delivered seven additional copies of the Updated Plan to ANC 3F.

By letter dated December 6, 1996, ANC 3F asked for postponement of the December 18, 1996 public hearing. The University took no position on that request. The ANC's request was denied.

At the December 18, 1996 public hearing, representatives of the applicant, including expert witnesses, presented the Updated West Campus Plan through sworn testimony and written evidence. No parties appeared, and no written materials were submitted into the record in opposition to the Plan. At the conclusion of the hearing, the Board directed the applicant to amend the Plan with additional explanatory information, to share the additional details with Advisory Neighborhood Commission 3F, and to file an amended Updated West Campus Plan by February 12, 1997.

On February 12, 1997, the revised West Campus Plan was submitted to the Office of Zoning (OZ), ANC 3F, and the Office of Planning.

By letter dated February 21, 1997, the residents requested the Board to rehear the revised West Campus Plan.

By letter dated February 25, 1997, ANC 3F requested the Board to reconsider its previous ruling denying its request to postpone the December 18, 1996 public hearing and to schedule a rehearing on this application.

By letter dated February 25, 1997, 13 residents of Upton Street, N.W. submitted a petition stating that they did not receive notice of the December 18, 1996 hearing and requesting a rehearing of this application.

By letter dated February 25, 1997, the Van Ness South Tenants Association, through counsel, requested party status and a rehearing of this application.

On February 25, 1997, the Van Ness East Condominium Association submitted a motion requesting party status, and a rehearing of the application with full public notices pursuant to 11 DCMR Section 3317.

By letter dated February 25, 1997, an ANC Commissioner requested a rehearing of this application.

On March 5, 1997, by memorandum, the Office of Planning stated that the applicant's February 12, 1997 submission revising the West Campus Plan complied with the Board's direction of December 18, 1996.

By letter dated March 4, 1997, the applicant requested the Board not to decide its application at the public meeting scheduled for April 1997. The applicant stated that as part of its community outreach efforts, and in recognition of the community's request for more information about the Campus Plan, the University would hold a public forum at its School of Law.

application. No person appeared in opposition to the application. At the conclusion of the public hearing, the record was closed.

SUMMARY OF EVIDENCE:

1. This is an application by Howard University for a special exception under Section 210 and Subsection 302.1 for review and approval of an updated West Campus Plan. The West Campus of the University is located at 2900 Van Ness Street, N.W., and is used for the University's School of Law. The entire campus is within the R-1-A and R-2 Districts.

2. The R-1-A District permits matter-of-right development of all structures with a minimum lot area of 7,500 square feet, a minimum width of 75 feet and a maximum height limit of three stories/40 feet. The R-2 District permits matter-of-right development of all structures with a minimum lot area of 4,000 square feet, a minimum lot width of 40 feet and a height limit of three stories/40 feet. A college or university is permitted in the R-1 and R-2 Districts by special exception.

3. The site is located one block east of the intersection of Connecticut Avenue and Van Ness Street, N.W., north of Upton Street. It consists of Lot 810 in Square 2049, which contains [as identified in the Lusk Directory] 854,090 square feet of land area or 19.6 acres. The topography of the site varies, with a dramatic slope from the highest point in the center of the campus down to Soapstone Valley Park on the north. The portion of the site bordering the park is currently maintained as open space, with mature trees and other vegetation along the perimeter.

4. The subject property is improved with interconnected, red brick, masonry buildings: (a) Notre Dame Hall; (b) Houston Hall; (c) Holy Cross Hall; and, (d) the Daniels Law Library. These buildings were constructed over 60 years ago and reflect Gothic Revival, Victorian and modern architectural styles. The buildings range from one to four stories in height measured from Upton Street. The gross floor area of all of the existing buildings totals 207,442 square feet. The floor area ratio (FAR) for the campus is approximately 0.22, which is well below the 1.8 FAR permitted for University use in the R-1-A and R-2 District. The lot occupancy of the campus is 16.9 percent; the Zoning Regulations permit a maximum of 40 percent.

(a) Notre Dame Hall contains office space and a floor area of 40,274 square feet. The building has four stories, a basement and a sub-basement.

(b) Houston Hall contains classrooms, dining facilities and a kitchen, a 429-seat moot court/auditorium, student lounge area, a chapel and administrative offices. This structure is the oldest building on the campus and the core educational facility. Houston Hall is four stories in height, with two basement levels and contains 84,904 square feet.

(c) Holy Cross Hall contains administrative offices and classrooms, is four stories in height with two basement levels and contains 51,032 square feet.

(d) The Daniels Law Library is one story in height with two basement levels and contains 26,298 square feet.

(e) The maintenance building is 15 feet in height (over two floors) and contains 4,934 square feet.

The subject property is also improved with a gazebo that is used by students, faculty and employees for passive recreational purposes.

The cluster of buildings that comprise the classrooms and administrative offices is located on the southern portion of the property. The maintenance building is located at the eastern boundary. The gazebo is located north of the Daniels Law Library structure. All of the structures, together with the surface parking lot, occupy less than ten percent of the west campus. The natural configuration and contour of the site, as well as the abundant landscaping, effectively screen the site from the surrounding neighborhood.

5. The site is not located in a historic district and there are no designated historic landmark buildings on the property.

6. The land uses that are located in the area immediately surrounding the west campus are: residential (single-family dwelling units and high-rise apartment houses); commercial (office buildings and retail goods and services); and open space (Soapstone Valley Park and Rock Creek Park). A number of institutional facilities are located nearby. These facilities include the main campus of the University of the District of Columbia, the Van Ness/UDC Metrorail Station, the Levine School of Music, and the Burke School.

7. There are two pedestrian/vehicular entrances that provide access to the campus. The Van Ness Street cul-de-sac entrance is the primary means of access. The Upton Street entrance is used infrequently, primarily for ceremonial events.

8. On May 24, 1974, the Board approved the West Campus Plan by granting Howard University's application for special exception to use the site for its Graduate School/Professional Center (see Application No. 11669).

In support of its 1974 application, the applicant projected a daytime population of approximately 450 students, 41 faculty and 173 staff. The applicant stated that it planned to use the existing buildings on the site and had "no present intention" of constructing any new buildings. No athletic or comparable facilities were planned.

9. On October 31, 1978, the Board approved a special exception to allow the applicant to replace a deteriorated maintenance building

between Houston Hall and Holy Cross Hall. Vehicular traffic is permitted to access the site from Upton Street only during ceremonial occasions. Traffic accessing the site consists of students, faculty, staff, visitors and service/delivery vehicles. The loading berths facilitate the delivery of school supplies and food items to the campus, among other uses. An elevated, concrete, 10-foot by 20-foot service/delivery pad was added to the west side of Houston Hall pursuant to the Board's approval of Application No. 15767 in 1994. Deliveries take place in that area.

In its deliberations on the application, the Board found that the interior road network was adequate for the existing traffic volume.

14. The West Campus is served by 255 on-site parking spaces. In addition, the students, faculty and support staff use public transportation. The Van Ness/UDC Metrorail Station and several Metrobus routes are located along Connecticut Avenue, a short walk to the site. For a university located in the R-1-A or R-2 District, the Zoning Regulations require two off-street parking spaces for every three teachers, plus one off-street parking space for every ten classroom or auditorium seats. The number of parking spaces may vary from the minimum required by the Zoning Regulations, depending upon the Board's approval of the university's campus plan. The applicant indicated that based on the Zoning Regulations, the University is required to provide 77 off-street parking spaces and that the University has provided three times the minimum number required.

15. The development projects proposed in the Updated West Campus Plan seek to establish a more unified urban design character for the site by altering the approach lanes within the campus, by restricting parking along the campus roadway, and by dedicating a portion of the parking lot for visitor parking.

16. The West Campus operates between the hours of 7:00 a.m. to midnight, seven days a week. The campus is used as a law school and most of the school's activities occur indoors. The primary outdoor activity consists of people studying and meeting on the grounds of the law school.

17. Occasionally, special events such as weddings, funerals, and graduations are also held on the campus. During the past year, the West Campus Chapel was used an average of four times a month for weddings, funerals and other activities. Weddings are the main non-University activity of the West Campus. Other activities include the Christmas Concert of the University's choirs, Mass, and services by local churches. These activities do not occur on a regular schedule. The applicant indicated that the special events are limited to those persons associated with the School of Law.

18. The Updated West Campus Plan proposes the construction of a library addition to Holy Cross building, and the construction of a new President's House.

Law Library Addition

During the last accreditation site visit by the American Bar Association, it was determined that the existing Daniels Law Library building has physical limitations that could adversely affect the academic standing of the School of Law. The accrediting officials directed the University to improve its library facilities by adding more building space. Accordingly, the University proposes to build an addition to the north side of Holy Cross building to house a new law library. The new library structure would contain a gross floor area of 65,941 square feet. (The existing Holy Cross building contains five floors and the proposed addition would be between four and five stories.) The University anticipates that some of the space within the Holy Cross building would be used for law library support functions. The start of construction is planned for 1998. When constructed has been completed, the University would demolish the existing Daniels Law Library building and convert that area to open space.

President's House

The Updated West Campus Plan proposes a new three-story residence to house the President of Howard University. The location would be near the top of the hill just to the north and east of the Holy Cross Building. The start of construction of the President's House would be in 1999. The existing maintenance building is proposed for renovation to a caretaker's residence for the President's House.

19. The architectural character of the President's House and caretaker's residence would be consistent with the other buildings on the West Campus and would add to the variety of structures on the property. The office activities conducted on the upper level of the maintenance building would be moved to vacant office space in one of the buildings on the West Campus. The lower level of the building would be maintained for storage of equipment and supplies.

20. The Updated Campus Plan proposes to build upon the existing vegetation types and patterns of landscaping to create both formal and informal planting areas. The existing vegetation would be maintained and enhanced to beautify the campus, as well as to screen the campus from neighboring uses.

21. Since the number of faculty, staff and students on the West Campus would not increase, the proposed new development projects would not significantly change the level of pedestrian or vehicular movement to and around the site, and would not have an adverse impact on surrounding properties.

22. The applicant testified that the University's West Campus is identified on the city's Comprehensive Plan Generalized Land Use Map for "institutional use". The institutional land use category is defined in the plan as land and facilities occupied by colleges, universities, hospitals, religious institutions and similar

facilities. The Comprehensive Plan requires the preparation of master plans by colleges and universities to reduce adverse neighborhood impacts and to alleviate uncertainty over future institutional activities.

The applicant stated that use of the site, as outlined in the Updated West Campus Plan, is consistent with the institutional use identified in the Comprehensive Plan.

23. The applicant's traffic consultant submitted a written transportation and parking analysis into the record and gave expert testimony at the public hearing. The consultant indicated that in previous deliberations on the Campus Plan, the Board found that the interior road network on the West Campus was adequate for the existing traffic volume. The consultant stated that in analyzing the traffic access and parking needs and potential of the 1997 Updated West Campus Plan, neither the location of the President's House nor the relocation of the law library addition would appreciably impact the vehicular trip generation on the campus.

The traffic engineer indicated that most official functions at the President's House would be scheduled during evening, weekend, or holiday periods when the parking facilities would be substantially underutilized (i.e., outside of classroom or peak library usage periods). The traffic expert further stated that after analysis it was determined that the site's off-street parking facilities and circulation system should continue to adequately meet the needs of the campus. The consultant indicated that the 1997 Updated West Campus Plan should be approved because vehicular and pedestrian traffic associated with the University would not adversely affect the use of neighboring properties.

24. By memorandum dated March 5, 1997 and oral testimony at the public hearing, the Office of Planning stated that the application satisfied the zoning requirements. The Office of Planning recommended approval of the application provided that: (a) the University maintains an open space of three acres of greenery adjacent to Soapstone Valley Park, and (b) additional landscaping (i.e., trees) is provided on the proposed surface parking lot.

25. By letter dated August 14, 1997 and oral testimony at the public hearing, Advisory Neighborhood Commission (ANC) 3F voted to support the application. In reaching its decision, the Chairperson of ANC 3F testified that extensive negotiations between the ANC and the Law School resulted in proposed operating standards that are included as a part of the ANC's Resolution of Support. The ANC Chairperson testified that Howard University had agreed to the operating standards becoming conditions to approving the requested zoning relief. At the hearing, the applicant concurred that an agreement was reached with the ANC to have the proposed operating standards incorporated as conditions into the Board's final order.

26. A resident of the Van Ness East Apartments testified in support of the application but asked that the applicant work toward decreasing the sound impact of certain air conditioning units

located outside of a University building, near residential space. The applicant agreed to do so.

27. Four students of the School of Law appeared and testified in support of the application. Each student stated that they had not experienced or otherwise become aware of any adverse effects (noise, traffic, congestion, or crime) during their tenure at the School of Law. The students indicated that the average age of a law school student tended to be in the mid-20s and that most students were serious about pursuing their professional degrees.

FINDINGS OF FACT:

Based on the evidence of record, the Board finds as follows:

1. That the applicant has met the requisite burden of proof as set forth in Sections 210 and 302.1 of the Zoning Regulations.

2. The construction of a law library addition to Holy Cross Hall is reasonably necessary and would not tend to affect adversely the use of neighboring properties. (The building would contain 65,941 square feet, and an FAR of .08). Further, the law library addition is not likely to become objectionable to neighboring properties because of noise, number of students, or vehicular traffic.

3. The construction of the President's House would not tend to affect adversely the use of neighboring properties nor is it likely to become objectionable to neighboring properties because of noise, vehicular traffic, or number of students. The President's House would offer some off-hour official entertaining, would contain an estimated gross floor area of 10,000 square feet, and would be constructed to a height of 35 feet.

4. Sufficient on-site parking is provided. The applicant is proposing to provide 255 parking spaces, whereas the Zoning Regulations require 77. The campus would have less traffic, in terms of faculty and employees, than what was previously approved by the Board in 1994. The West Campus is not likely to have an adverse impact on neighboring properties because of traffic.

5. The concerns expressed by ANC constituents at public meetings are reasonably resolved by the proposed operating conditions recommended by ANC 3F and agreed to by the applicant.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the applicant is seeking a special exception to allow for an Updated West Campus Plan for a ten-year period. The granting of such a special exception requires compliance with the requirements of Section 210, Subsections 302.1 and 3108.1 of the Zoning Regulations. The Board concludes that the applicant has met its burden of proof.

The Board concludes that the proposed library addition to Holy Cross Hall and the construction of the President's House on the West Campus are located so as not to become objectionable to neighboring properties. The proposed library addition and the President's House would not increase the total bulk of buildings on the West Campus. Therefore, the prescribed gross floor area would not be exceeded.

The Board concludes that the University's application can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the application would not tend to affect adversely the use of neighboring properties.

The Board accorded ANC 3F the "great weight" to which it is entitled. In light of the foregoing, it is **ORDERED** that the application be **GRANTED**, subject to the following **CONDITIONS**:

1. Approval shall be for a period of **TEN** (10) years.

2. No construction trucks and/or construction machinery that are performing work on the West Campus, such as bulldozers or construction trailers, shall be parked either on Van Ness Street or Upton Street.

3. No West Campus construction shall take place on weekends. During weekdays, Howard University shall endeavor to respect the residential neighborhood and not begin construction or stage noisy construction activities prior to 8:00 a.m.

4. With the exception of examination periods, the hours of operation for the West Campus shall be 7:00 a.m. to 10:00 p.m., Sunday through Thursday, and 7:00 a.m. to 12 midnight, Friday and Saturday. The Law Library may remain open until 12 midnight daily. Law School faculty, administrators, and staff shall have access to the West Campus at any hour.

5. Howard University shall include as part of its campus plan, a February 26, 1997, letter from Interim Vice President Harry G. Robinson III to ANC 3F, and shall abide by the terms of the letter with respect to the operation of the Criminal Justice Clinic (Exhibit 29 of the Record). The curriculum of the clinic shall not be expanded to cover felonies and other violent crimes without the opportunity for discussion among Howard, the Advisory Neighborhood Commission and the neighborhood.

6. Controlled access to the campus shall be provided at the Van Ness Street entrance (gate closed and controlled/security guard) within half-an-hour after closing until the school reopens.

7. Howard University shall take reasonable measures to mitigate the impact upon the community of all non-University events. Such events shall be limited to those approved by a University Dean or cabinet member. The University shall require security and parking control at events on the campus that are appropriate to the scope and scale of the event and the nature of the surrounding residential community.

8. The Upton Street entrance shall be opened as a relief valve for Van Ness Street when Howard University has graduation and other ceremonial events and/or the campus is being used for large groups or events.

9. The President's House on the West Campus shall not be rented or used for non-Howard University fundraising events.

10. Howard University School of Law shall identify a high-ranking University official who shall act as a point of contact with the ANC and the neighborhood. This person shall be available to mitigate and resolve neighborhood concerns about traffic and parking problems as well as other problems that the school activities may inadvertently cause.

11. Howard representation shall become a part of a neighborhood committee with the other major institutions in the area, and the scheduling of university related and non-university related events shall be made in conjunction with an overall neighborhood scheduling coordination plan to minimize conflicts among the University of the District of Columbia, Howard University, Levine School of Music, Intellsat, the Edmund Burke School, residential organizations and other major traffic generators in the neighborhood.

12. No outdoor events shall take place on the West Campus to cause excessive noise (e.g., music, loudspeakers, etc.), with the exception of graduation.

13. Howard University Law School shall maintain the portion of the West Campus bordering Soapstone Valley Park as open space for the term of this Updated West Campus Plan, consistent with the Parks and Open Space Element of the Comprehensive Plan.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16110

As Director of the Board of Zoning Adjustment, I certify and attest that on FEB 18 1998 a copy of the order entered on that date in this matter was mailed first class postage prepaid to each party who appeared and participated in the public hearing concerning the matter, and who is listed below:

Cynthia A. Giordano, Esquire
Linowes and Blocher, LLP
Attorney for Applicant
1150 17th Street, NW, Suite 302
Washington, D.C. 20036

Harry G. Robinson III
Howard University - Vice President for
University Administration
2400 6th Street, N.W.
Washington, D.C. 20059

Scott Strauss, Chairperson
Advisory Neighborhood Commission 3F
3400 International Drive, N.W., #2J21
Washington, D.C. 20008

MADELIENE H. DOBBINS
Director

DATE: FEB 18 1998

Before the Board of Zoning Adjustment, D. C.

Application No. 11669, of Howard University pursuant to Section 8207.2 of the Zoning Regulations, for a special exception to permit Howard University Graduate School/Professional Center (e.g. Law School) as provided by Section 3101.46, to use premise 2935 Upton Street, N. W., Lot 5, Squares 2049 and 2243, in the R-1-A and R-2 District, as a part of its campus plan.

HEARING DATE: May 15, 1974
EXECUTIVE SESSION: May 21, 1974

FINDINGS OF FACT:

1. The subject property is located in the R-1-A and R-2 districts, and had been the campus of Dunbarton College until that institution recently terminated operations.

2. The property comprises approximately 20 acres and is improved by several buildings which had formerly served as the classrooms, dormitories and libraries of Dunbarton College.

3. Howard University acquired this property in March, 1974, with a view towards locating thereon its Law School and other graduate level activities having a projected daytime population of approximately 450 students, 41 faculty, and a non-teaching staff of 173. This is substantially the level of activity maintained by the former owner of the property, when Dunbarton College was in full operation.

4. Howard University, in conducting its operations, will utilize the existing buildings on the site, and has no present intention of constructing any new buildings. Applicant does, however, intend to remodel some of the existing buildings and to add a parking lot in the interior of the campus to provide a total of 224 on-campus parking spaces, although only 159 parking spaces are required by the Zoning Regulations.

5. Howard University will not maintain any athletic or comparable activities which will create unusual noise or traffic conditions which may adversely affect nearby residential uses.

6. On May 9, 1974, the National Capital Planning Commission, to whom this application had been referred, recommended that the Board approve this application. In addition, the D. C. Department of Highways and Traffic has determined that traffic to be generated by Howard University's use of the subject property will not have an adverse impact on existing traffic flows.

BZA

CASE No. 1576

7. The Howard University application has the full support of the Van Ness Area Development Committee (which comprises the Forest Hills Citizens Association, North Cleveland Park Citizens Association, Cleveland Park Citizens Association, and Chevy Chase Citizens Association), who have filed a letter with the Board stating that "the citizens feel comfortable with the presence of Howard University, and are most appreciative of the sympathetic approach that the officials of Howard have displayed in this matter."

8. No opposition was registered.

CONCLUSIONS OF LAW:

The Board is of the opinion that substantial reasons have been presented warranting the granting of this application.

It is our considered opinion that Howard University's proposed use of the subject property would be consistent with the interests and objectives of the Zoning Regulations of the District of Columbia. We are of the opinion that the proposed use will not become objectionable to adjoining and nearby property owners because of noise, traffic, or other objectionable conditions. The Board concludes that this use will be in harmony with the general use of neighboring property in accordance with the Zoning Regulations and maps.

ORDERED:

That the above application be GRANTED.

VOTE: 4-1 (Lilla Burt Cummings, Esq. abstaining.)

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: James E. Miller
JAMES E. MILLER,
Secretary to the Board

FINAL DATE OF ORDER: MAY 24 1974

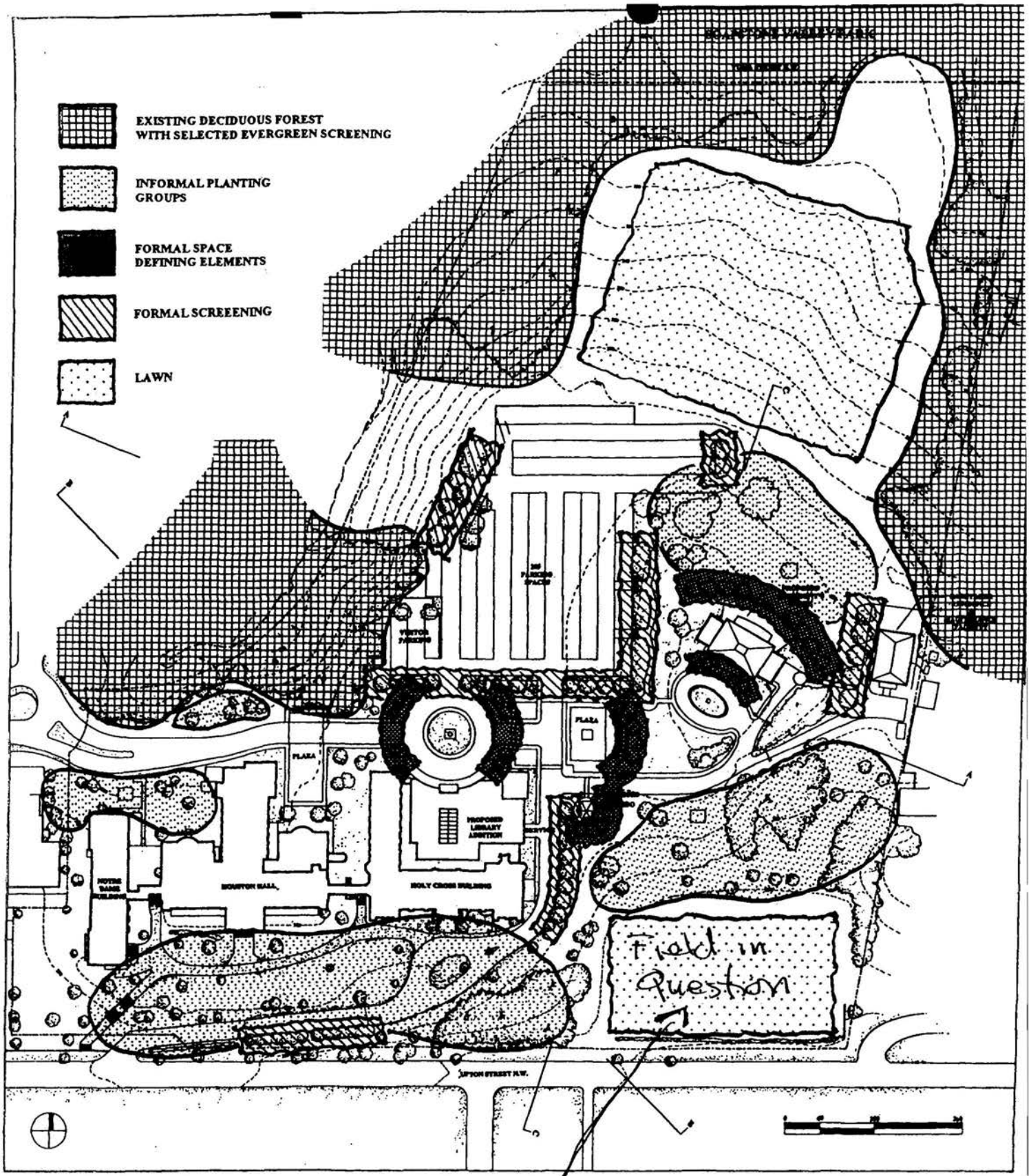
THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF ECONOMIC DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.

Likewise, the University continues to limit traffic plans at its Upton Street entrance and provide major services and vehicular access off of Van Ness Street even though it is not required to do so. The School of Law has no plans to change this voluntary policy during the period of this 1997 West Campus Plan.

Existing Campus Usage and Activities

Since about 1995, the West Campus has been used exclusively for the School of Law. The West Campus operates between the hours of 7:00 am to midnight, seven days a week. A summary of special School of Law activities is included at Tab D. The campus is used primarily by the School of Law and most of its activities occur indoors. The primary outdoor activities consist of the graduation ceremony (in appropriate weather) and students studying and meeting on the grounds of the School of Law. There is no athletic program requirement for the School of Law and no athletic activities take place on the West Campus. No part of the West Campus is used by the University for outdoor activities.

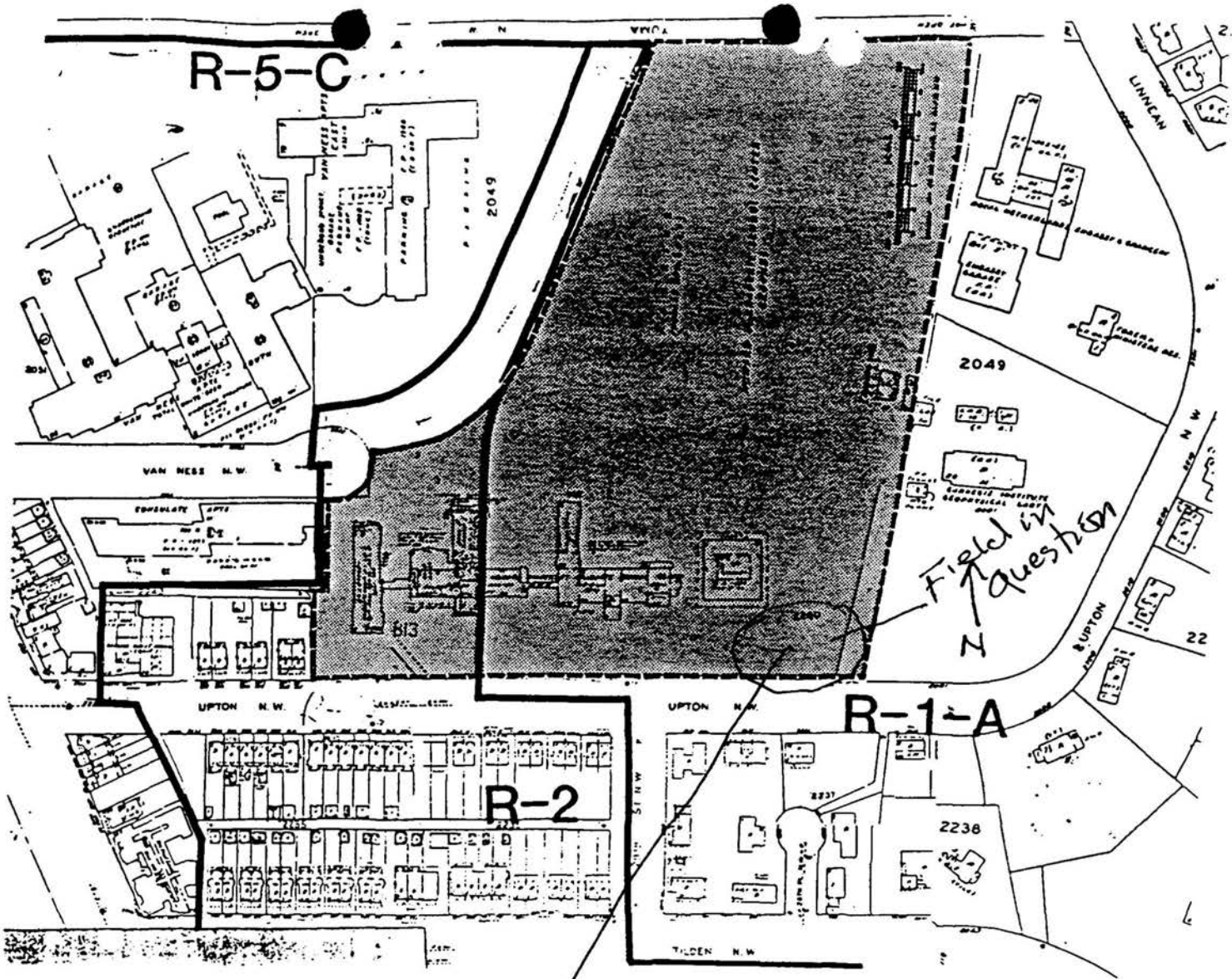
Occasional, special events such as weddings, funerals, and graduations are also held on the Campus. During the past year, the West Campus Chapel was used on average four times a month for weddings, funerals, and other activities. The main activity of the West Campus Chapel is for weddings. (Tab D.) Other activities include the Christmas concert of the University's choirs and mass or services by local churches. In 1996, the St. Louis Cathedral held



Landscape Concept

Howard University
West Campus

KEYES CONDON FLORANCE ARCHITECTS
JANUARY 10, 1997



DATE: December 16, 1992

SCALE: 1" : 120'

SOURCE: SANBORN-VOL. , PL.

LEGEND:

ZONE BOUNDARY

PROPERTY INVOLVED

15767
ANC-3F

Application of Howard University, as amended, pursuant to 11 DCMR 3108.1, for special exceptions under Section 210 for an amendment to an approved campus plan and further processing under the amended plan to allow an addition to an existing law school in an R-1-A/R-2 Districts at premises 2900 Van Ness Street, N.W. (Square 2049, Lot 810).

Field in Question

15767

HOWARD UNIVERSITY

OFFICE OF THE
VICE PRESIDENT FOR ACADEMIC AFFAIRS

December 17, 1996

Mr. Scott Strauss
Chairman
Advisory Neighborhood Commission 3F
3400 International Drive, NW, Suite 2J21
Washington, DC 20008

Dear Mr. Strauss:

I would like to thank the Commission for allowing Vice President Harry G. Robinson III, Dr. Hazel Edwards and I to present the Howard University West Campus Plan at the Commission's meeting last night.

One of the Commissioners asked me to look into the matter of the use of the West Campus for events unrelated to the Law School. I talked today with Denise Purdie, the Law School's Assistant Dean for Student Affairs. She indicated that the use of the buildings and grounds is restricted to Law School or Law School-related events, with one category of exceptions. The use of the Chapel is controlled by the Dean of the Chapel (and not the Law School) but Dean Purdie estimates that the Chapel is used for weddings about twice each month and occasionally for funerals.

Howard University looks forward to continuing the dialogue with the Commission and with interested community groups and individuals throughout December, January and beyond. While the hearing before the Board of Zoning Adjustment may be completed tomorrow, the BZA frequently keeps the record open for thirty or more days to receive additional comments and views. I look forward to working with the Commission and community representatives.

Please feel free to contact me at 806-2559 if you have any questions.

Sincerely,

Robert A. Malson,
Consultant

2400 6th Street, N.W.
Washington, DC 20059

(202) 806-2550
Fax (202) 806-4971

Page 1

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