

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Karen Thomas, Case Manager
Joel Lawson, Associate Director Development Review

DATE: October 10, 2024

SUBJECT: BZA Case 21143 (3100 R Street, N.W.) to permit the use of an existing residential building by a nonprofit organization (Trustees for Harvard University.)

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following special exception relief:

- Use of existing residential building by a nonprofit organization for the purposes of the nonprofit organization, Subtitle U § 203.1(n), pursuant to Subtitle X § 900 (residential use existing; nonprofit organization use proposed).

The Office of Planning (OP) recommends **approval** of the following area variance relief:

- Gross floor area requirement for a nonprofit organization located in a residential building, Subtitle U § 203.1(n)(2), pursuant to Subtitle X § 1000 (10,000 gross square feet minimum required; 8,060 gross square feet existing).

The Applicant and ANC 2E have drafted an extensive Memorandum of Agreement (MoU) – see [Appendix I](#) of the report, although as of the date of this report, it appears this agreement has not been ratified. OP has no objections to this MoU. The OP recommendation of approval is subject to two of these conditions, intended to mitigate potential undue impacts on the purpose and intent of the zoning regulations and long-term impacts on the neighborhood:

1. The proposed office use of the building will expire two (2) years after the effective date of the BZA Order approving the Application or December 31, 2026, whichever is later.
2. The proposed office use will be limited to Monday through Friday, from 8 a.m. to 6 p.m., except that no office meetings or conferences shall take place at the Property before 8:30 a.m. No more than four (4) Dumbarton Oaks employees, which includes contractors and subcontractors assigned to work at the Property (collectively, the “Employees”), may be assigned to work at the building at one time.

II. LOCATION AND SITE DESCRIPTION

Address	3100 R Street NW
Applicant	Trustees for Harvard University
Legal Description	Square 1281, Lot 836
Ward, ANC	2, ANC 2E
Zone	R-1B/GT

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Historic District	Georgetown HD (and Commission of Fine Arts)
Lot Characteristics	The 3,101 square feet, irregularly shaped corner lot at R Street and 31 st Street NW is unremarkable in its topography.
Existing Development	Developed with a semi-detached single-family residence with basement and 8,060 sf of residential floor area consisting of three full floors above ground, a partially below grade basement and habitable 4th floor / attic.
Adjacent Properties	Immediate adjacent properties are described in DC Property Quest as residential and owner-occupied properties.
Surrounding Neighborhood Character	The surrounding neighborhood is primarily residential in the vicinity of Dumbarton Oaks Park which supports the institutional/educational use of Harvard University. A museum, library, and gallery use for the Tudor Place Foundation, Inc. are situated in the southern portion of Square 1281.

III. APPLICATION IN BRIEF

The Applicant, Trustees for Harvard University, proposes to occupy the existing four-story plus basement residential building as part of its Dumbarton Oaks facility for temporary office use and future residential use. The building is 8,060 square feet in gross floor area, where the special exception criteria allowing a nonprofit organization to occupy a residence requires a total of 10,000 square feet of gross floor area. The applicant has requested special exception relief to permit the nonprofit use in a residential building, as well as an area variance for not meeting the area threshold. Additions are not proposed to the residence.

Dumbarton Oaks has operated in this neighborhood since 1940 as a center for Byzantine/Pre-Colombian Landscaping and Garden Studies and supports fellowships for post graduate students for research. The subject property, now owned by the Applicant has been vacant for 15 years, as documented in its Prehearing Statement on [Page 4, Exhibit 22](#).

The Applicant wishes to put the property into use, to discontinue the property status as a Class 3 vacant property in the District, which makes it subject to monetary penalties. The property was purchased in 2021 to house scholars and guests conducting research at the main campus of Dumbarton Oaks. The Applicant has since proposed to temporarily occupy the space with four employees for a period of two years, as its main campus is being renovated, and in the future return the use to residential by providing a residence for up to six visiting professors or professional scholars.

An original set of conditions noted in the Applicant's Prehearing Statement of Exhibit 22 have since been refined through collaboration with the ANC 2E to satisfy the immediate neighbors and community's concern with the proposed temporary office use and its future residential use to mitigate potential impacts on the neighborhood. The Memorandum of Agreement (MOA) between the parties, including those conditions are attached as [Appendix I](#) to this report for ease of reference. It has been submitted to the record as [Exhibit 49A](#).

IV. OFFICE OF PLANNING ANALYSIS

- a. *Variance Relief from Subtitle U § 203.1(n)(2), pursuant to Subtitle X § 1000, to allow a nonprofit organization to occupy a residential building not having 10,000 square feet of gross floor area.***

i. Exceptional Situation Resulting in a Practical Difficulty

The subject property is approximately 2,000 square feet less than the 10,000 square feet area required for a nonprofit organization to occupy the residence by special exception approval.

The applicant has provided that the property is exceptional because of a combination of factors, including: 1) its relative size compared to other residences in the area; 2) the status of the property as a contributing structure in the historic district and 3) the vacant status including the financial impact of and recent District requirements for vacant properties.

The applicant's prehearing statement notes the claim of a neighborhood resident that the property has been vacant for approximately 15 years. Upon purchase of the property in 2021, the Applicant sought concept approval for exterior and interior renovations from the Old Georgetown Board (OGB) and Commission of Fine Arts (CFA) (See [Exhibit 22E](#)). Due to current economic conditions, the applicant is not able to procure the \$9.5M in funding needed for renovation of this property, until around 2027. If the property continues its vacant status through 2027, the Applicant will incur fines (as documented in the prehearing statement) for the property's vacancy and on-going deterioration within a historic district.

The lot is the largest residential lot in the square, developed prior to the existing regulations. Conversion to an apartment use is not permitted in the lower density R-1B/GT zone. The Applicant provided information including the length of time the property was vacant to show a potential lack of interest in using it as a single-family residence. As a contributing structure in the historic district, additions cannot be made to increase the size to satisfy the required area. Thus, the existing square footage may be too large for contemporary single-family use, but undersized for the 10,000 gross square feet requirement for a non-profit (which is permitted); while conversion to an apartment use is not.

These factors in combination create an exceptional situation resulting in a practical difficulty for the Applicant.

ii. No Substantial Detriment to the Public Good

The requested relief from the 10,000-square foot requirement should not cause substantial detriment to the public good, particularly with the proposed conditions of approval that would provide certainty and mitigate the potential impacts of the proposal. The residence has 8,060 square feet of finished floor space. The nonprofit use would not result in a more intensive use, providing office space for only four employees for a two-year period while renovations of the Main Campus are undergoing. After that, the temporary use would end, and the property would revert to residential use for no more than six (6) temporary resident scholars of Dumbarton Oaks in the future. Onsite parking and other activities would not be permitted pursuant to the MoU (See Exhibit 49A).

Exterior modifications to the structure are not proposed, further minimizing potential impact to the neighborhood. Therefore, beyond its temporary use for two years, the long-term impact to the neighborhood should not be greater than that anticipated for a residential use.

iii. No Substantial Harm to the Zoning Regulations

Although the intent of the regulations is to retain residential use of buildings in this zone, the requested relief, with the proposed conditions, should not cause substantial, long-term harm to the Zoning Regulations, since that the proposed use would be temporary and restricted consistent with the recommended conditions.

b. *Special Exception Relief from Subtitle U § 203.1(n), pursuant to Subtitle X § 900, to allow a residential building to be occupied by a nonprofit organization.*

203.1 The following uses shall be permitted as a special exception in R-Use Groups A, B, and C, if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9 subject to applicable conditions of each section:

(n) Use of existing residential buildings and the land on which they are located by a nonprofit organization for the purposes of the nonprofit organization:

(1) If the building is listed in the District of Columbia's Inventory of Historic Sites or, if the building is located within a district, site, area, or place listed on the District of Columbia's Inventory of Historic Sites;

The building is a contributing structure within the Georgetown Historic District.

(2) If the gross floor area of the building in question, not including other buildings on the lot, is ten thousand square feet (10,000 sq. ft.) or greater;

The gross floor area of the building is 8,060 square feet, which is less than the 10,000 square feet required. The applicant has requested a variance from this provision, and analysis has been provided above.

(3) The use of existing residential buildings and land by a nonprofit organization shall not adversely affect the use of the neighboring properties;

The proposed use of a nonprofit organization, as provided by the applicant and outlined in this report, should not adversely affect the use of neighboring properties. The applicant proposes that four employees would work on site for a two-year period, and thereafter, the residential use would resume for up to six scholars who may reside there for limited periods throughout the year. Events are not proposed to be held at the residence and parking would be provided on the Dumbarton campus across the street or at Fellowship House, 1700 Wisconsin Avenue, as stated by the Applicant.

Noise or unusual activity are not anticipated from the residence. The Applicant has agreed to conditions to mitigate the potential for adverse impacts on the neighbors due to noise, parking or traffic by its hours of operation, and minimizing traffic to and from the location. A Memorandum of Agreement between the neighbors and the Applicant stipulating conditions for the operation is provided at [Exhibit 49A](#).

- (4) *The amount and arrangement of parking spaces shall be adequate and located to minimize traffic impact on the adjacent neighborhood;*

On-site parking would not be permitted. Rather, the applicant provides for employees' parking on the main Dumbarton Oaks campus or at its location at 1700 Wisconsin Avenue. Future resident scholars would not be permitted to have a car during their residency and any guests would either arrive by public transportation, ride share services, or park on the Dumbarton campus. Residential Permit Parking (RPP) would not be available to employees. Since events are not proposed to be held at this location, OP does not anticipate that lack of on-site parking would have an adverse impact on the adjacent neighborhood.

- (5) *No goods, chattel, wares, or merchandise shall be commercially created, exchanged, or sold in the residential buildings or on the land by a nonprofit organization, except for the sale of publications, materials, or other items related to the purposes of the nonprofit organization; and*

Merchandise would not be sold on the property.

- (6) *Any additions to the building or any major modifications to the exterior of the building or to the site shall require approval of the Board of Zoning Adjustment after review and recommendation by the Historic Preservation Review Board with comments about any possible detrimental consequences that the proposed addition or modification may have on the architectural or historical significance of the building or site or district in which the building is located;*

Current renovation proposals shown in [Exhibit 22E](#) received concept approval by CFA and are focused on select site alterations, including exterior envelope repair and maintenance, as well as select interior renovation, repair, and improvements. No additions are proposed.

The applicant is aware that any proposed modifications could require review and approval from the Historic Preservation Office and the Old Georgetown Board.

Special Exception Relief from Subtitle X § 900

- i. *Is the special exception in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps?*

The non-profit use is presumed compatible with the R-1B districts subject to conditions. In this case, OP supports the area variance requested pursuant to U § 203.1(n)(2) due to the factors which create an exceptional condition of the property resulting in a practical difficulty for the Applicant, and subject to the condition that the non-conforming use be temporary. OP is satisfied that the other conditions of U § 203.1(n) would be met and no additions would be made to the property. The Applicant has not requested any relief from the development standards, ensuring that the property remains consistent with the established development pattern along R Street and 31st Street, including the character of the historic district.

Therefore, the special exception request would be in harmony with the general purpose and intent of the Regulations and Zoning Map as

ii. Would the special exception appear to tend to affect adversely, the use of neighboring property?

The special exception relief should not result in a long terms use that would unduly adversely affect neighboring property as discussed prior. In addition, there are letters in support from the community at Exhibits 20 and 23. The ANC have worked out several conditions to mitigate potential impacts from the temporary office use and future residential use by the signed Memorandum of Agreement (MOA) noted in the record at Exhibit [49A](#).

V. COMMENTS OF OTHER DISTRICT AGENCIES

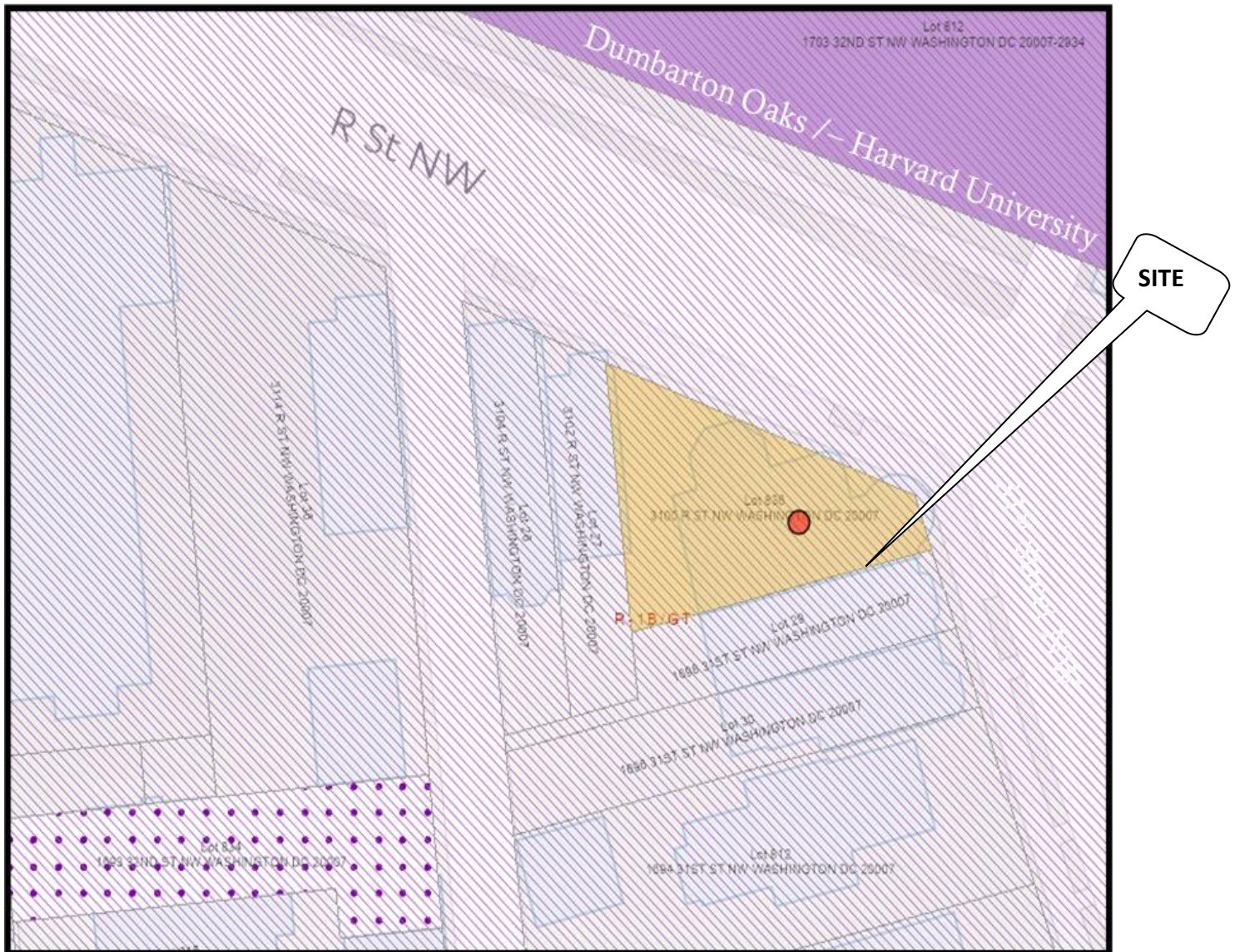
DDOT's report was submitted to OP via email on 7/8/2024 and expressed no objection to the approval of the application.

VI. COMMUNITY COMMENTS

ANC 2E submitted a report to the record at [Exhibit 47](#), which indicates support subject to the conditions of the MoU as referenced in this report.

The Applicant provided documentation of its community outreach to the neighborhood at [Exhibit 49](#). As of the date of this report, there are community comments in the record in support of the application including at Exhibits [20](#) and [23](#). Letters in opposition are noted in Exhibits 37 through 42 and Exhibit 48.

Location Map



APPENDIX I MEMORANDUM OF AGREEMENT REGARDING 3100 R STREET, NW

2024, by and between the Trustees for Harvard University (“Applicant”), and Advisory Neighborhood Commission (“ANC”) 2E (the “ANC”). The Applicant and ANC 2E are together referred to herein as the “Parties.”

RECITALS

WHEREAS, the Applicant owns and manages the 16-acre Dumbarton Oaks campus (“Main Campus”), a premier center of scholarship in the fields of Byzantine, Pre-Columbian, and Garden and Landscape Studies that has operated at its current location in Georgetown since 1940.

WHEREAS, the Applicant owns Fellowship House at 1700 Wisconsin Avenue, NW, the Oaks Townhouse at 3104 R Street, NW, and La Quercia Apartments at 1619 30th Street, NW to house distinguished scholars and professors in the humanities who come to Dumbarton Oaks to engage in personal research or to participate in collaborative projects that advance the scholarly mission of Dumbarton Oaks (“Dumbarton Oaks Scholars”).

WHEREAS, in March of 2021, the Applicant purchased the property at 3100 R Street, NW (the “Property”) for the purpose of housing Dumbarton Oaks Scholars.

WHEREAS, in February of 2022, with the support of the ANC 2E, the Old Georgetown Board approved concept plans for the renovation of the Property.

WHEREAS ANC 2E and the Applicant recognize the existing Campus Plan for the Main Campus, and that the Campus Plan excludes the Applicant’s non-Main Campus properties outlined above.

WHEREAS the construction projects currently underway at the Main Campus has caused a realignment of resources and delayed the renovation of the Property.

WHEREAS, in order for the Property not to remain vacant, Dumbarton Oaks seeks to maintain limited interim office and administrative functions on the Property during construction on the Main Campus.

WHEREAS, the Applicant has filed an application with the Board of Zoning Adjustment of the District of Columbia (the “BZA”) seeking approval for a nonprofit use for the existing residential building located at 3100 R Street, NW (the “Property”), which has less than 10,000 square feet of floor area to permit the use of the building as office space, on an interim basis, and then as housing for Dumbarton Oaks Scholars (the “Application”).

WHEREAS, the Application has been assigned BZA Case No. 21143, and specifically seeks

(i) special exception approval for the nonprofit use pursuant to Sub. U, Sec. 203.1(o) of the Zoning Regulations and (ii) an area variance from the requirement that the gross floor area of the building be 10,000 square feet or greater pursuant to Sub. U, Sec. 203.1(o)(2) of the Zoning Regulations.

WHEREAS, the Applicant values the Georgetown community, one of the nation’s federal historic districts, and its active residential community, and desires to mitigate any potential impacts of the nonprofit use of the Property, enhance safety, and maintain the community fabric of Georgetown.

WHEREAS ANC 2E values Dumbarton Oaks very unique and long-standing presence in Georgetown, yet ANC 2E would not generally support efforts to rezone residential housing in the heart of Georgetown's residential district, especially for office space given the negative impact such changes have on the residential community's fabric.

WHEREAS the Parties desire to ensure that the special exception approval for the nonprofit use does not continue to run with the land should the Applicant sell the Property.

WHEREAS, as a condition of the ANC's support of the Application, the Applicant and the ANC desire to enter into this MOA upon the terms below, regardless of whether the conditions are included in the BZA Order.

NOW, THEREFORE, for and in consideration of the mutual promises contained herein, the receipt of which is hereby acknowledged, the Parties hereby agree as follows:

Temporary Office Use

1. The proposed office use of the building will expire two (2) years after the effective date of the BZA Order approving the Application or December 31, 2026, whichever is later.
2. The proposed office use will be limited to Monday through Friday, from 8 a.m. to 6 p.m., except that no office meetings or conferences shall take place at the Property before 8:30 a.m. No more than four (4) Dumbarton Oaks employees, which includes contractors and subcontractors assigned to work at the Property (collectively, the "Employees"), may be assigned to work at the building at one time.
3. In order to mitigate any potential noise from the office use of the Property on the abutting residence, prior to the issuance of a certificate of occupancy for the non-profit use of the Property, the Applicant shall install, as an interim measure, acoustic panels and drywall along that portion of the southern facing wall that is both (a) on a level of the building occupied by the office and (b) shared with the abutting residence at 1698 31st Street, NW. The type and quality of acoustic panels shall be industry standard for mitigating sound generated by the proposed office use.
4. In order to mitigate parking impacts on the immediate neighborhood from the office use, the Applicant agrees to restrict the uses on the Property as provided in Paragraph 5 of this MOA and to limit parking for Employees to the off-street parking at the Property, within the Main Campus, and the Dumbarton Oaks's Fellowship House located at 1700 Wisconsin Avenue, NW. Employees shall not be permitted by the Applicant to use neighborhood on-street parking while the Property is occupied by the office use. Further, use of on-street parking for any visitors to the Property, including for repairs or service, shall be at a level that is typical for a residence in the immediate neighborhood. Parking required for major construction or renovation activities at the Property shall be included in a construction management plan, as discussed in Paragraph 13 of this MOA. Employees and visitors of the Property may not apply for a Residential Parking Permit or Visitors Parking Permit while the Property is occupied by the office use. The Applicant agrees to proactively communicate these parking restrictions to the Employees and all visitors of the Property.
5. While the Property is occupied with the approved office use, Dumbarton Oaks shall not permit the use of the Property for receptions, parties, conferences, celebrations or similar functions with a gathering of people, or visitor ticket sales/pick-up for the Dumbarton Oaks public gardens.
6. While the Property is occupied with the approved office use, any construction/renovations at the Property shall be restricted to the hours of 8 a.m. to 6 p.m., notwithstanding the hours permitted by the District Department of Buildings.

7. For the duration of the office use, the exterior of the building and the lawn shall be well maintained to the same standard as the Applicant's other non-campus properties. The aesthetics of the building shall demonstrate that the building is occupied and in use.

Housing for Dumbarton Oaks Scholars

8. In order to mitigate any potential noise from the use of the Property as housing for Dumbarton Oaks Scholars on the abutting residence, the Applicant agrees to remove the acoustic panels installed for the office use, and to install a soundwall at each level of the building along that portion of the southern facing wall that is shared with the abutting residence at 1698 31st Street, NW. The soundwall will be installed with the full renovation of the Property, and the soundwall material shall be Quiet Rock 545 or the same high quality industry standard to mitigate sound for the use of the Property as housing for Dumbarton Oaks Scholars.

9. The Property shall provide temporary housing accommodations for up to six (6) Dumbarton Oaks Scholars at one time.

10. In order to mitigate parking impacts on the immediate neighborhood, except for those with ADA needs, Dumbarton Oaks Scholars shall be prohibited from having an automobile while residing at the Property. Dumbarton Oaks Scholars with automobiles due to their ADA needs, shall use the off-street parking at the Property, within the Main Campus, or at the off-street parking facilities at the Fellowship House at 1700 Wisconsin Avenue, NW. Further, use of on-street parking for any visitors to the Property, including for repairs or service, shall be at a level that is typical for a residence in the immediate neighborhood. Dumbarton Oaks Scholars and their visitors may not apply for a Residential Parking Permit or Visitors Parking Permit. The Applicant agrees to proactively communicate these parking restrictions to Dumbarton Oaks Scholars and all visitors of the Property.

11. While the Property is used to house Dumbarton Oak scholars, Dumbarton Oaks shall not use the Property for parties, conferences, celebrations or similar functions with the exception of dinners and small receptions for those Scholars housed at the Property, in a spirit typical of a residential neighborhood and not entertaining space for the range of Dumbarton Oaks Scholars housed beyond the Property. At no time will the Property be used for visitor ticket sales or ticket pick-up for the Dumbarton Oaks public gardens.

Community Collaboration

12. No later than the effective date of the BZA Order, Dumbarton Oaks shall identify an employee to serve as a community liaison. The community liaison shall be responsible for proactively engaging with the neighborhood stakeholders on issues related to the use and maintenance of the Property. While the Property is occupied with the office use, the community liaison will provide brief quarterly written updates to ANC 2E on the status of the renovations of the Property for housing Dumbarton Oaks Scholars.

13. Once the Applicant is ready to renovate the Property as housing for Dumbarton Oaks Scholars, Dumbarton Oaks shall enter into a construction management plan with ANC 2E relating to the renovation of the Property to address the usual issues such as off-street parking plans for contractors. ANC 2E recognizes that some on-street parking is necessary for the renovation of the Property, which will be addressed in the construction management plan.

Limitations on Special Exception Approval

14. The special exception approval under the Application is limited to office/administrative and housing as contemplated in the Education, College/University Use category in Subtitle B, Sec. 200.2(j) of the Zoning Regulations. No other use categories in Subtitle B, Sec. 200.2 or any other section of the Zoning Regulations

shall be permitted on the Property. Moreover, no other uses will be pursued by the Applicant for this Property except for the two uses identified in this MOA.

15. In the event the Applicant desires to sell the Property, the Applicant agrees to file a request with the BZA that the approval of the special exception and area variance granted in the Application be terminated so that the special exception approval and area variance no longer run with the land. The Applicant's request must be granted by the BZA prior to the sale of the Property. The Applicant shall notify any prospective purchaser of the Property of this provision.

Miscellaneous

16. ANC and Party Status Support of Project. The terms and provisions of the MOA are conditioned upon a written letter of support from ANC 2E to the BZA, and the withdrawal of letters from the neighbors with party status in opposition to the application prior to the BZA hearing scheduled for October 23, 2024. Additionally, the Applicant shall enter into a separate a MOA with the neighbors with party status in opposition to the application prior to the BZA hearing. With the exception of the change in parties, the provisions of that MOA shall be identical to the ones herein.

17. Incorporation into BZA Order. The Applicant will enter this MOA into the case record for the Application and request that the BZA include the foregoing provisions as a condition in the BZA order approving the Application. Any provision not so incorporated into the BZA order shall be fully enforceable between the Parties ("Privately-Enforceable Provisions"). Any disputes arising out of or related to Privately-Enforceable Provisions shall be decided by binding arbitration between the Parties in the District of Columbia pursuant to the rules of the American Arbitration Association.

18. Amendment. The Parties hereto reserve the right to amend this document at any time with the written agreement of all Parties.

19. Severability. This MOA and the rights and obligations of the parties hereunder shall be construed in accordance with the laws of the District of Columbia. If any term, provision, covenant or agreement contained herein, or the application thereof to any person or circumstances, shall be held to be invalid, illegal or unenforceable, the validity of the remainder of this MOA or the application of such term, provision, covenant or agreement to the persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

20. Binding Effect. This MOA is binding upon and shall inure to the benefit of the heirs, successors, assigns, parents, subsidiaries, affiliates and related entities of the Applicant and the ANC. In the event that the boundaries of the ANC change such that the Property is no longer within ANC 2E, the provision of this MOA shall inure to the benefit of the successor ANC.

21. Authority to Execute. Each of the parties executing this MOA represents and warrants to each of the other parties hereto that: (i) it has the full power and authority to enter into this MOA and to consummate the transaction described herein without obtaining any further approvals or consents, and (ii) the entering into of the MOA will not constitute or result in a violation or breach by any such party of any judgment, order, write, injunction or decree issued against or imposed upon it or any agreement to which it is a party or by which it is bound.

22. Counterparts. This MOA may be executed in counterparts and via original or facsimile signature.