GOVERNMENT OF THE DISTRICT OF COLUMBIA
Dupont Circle Advisory Neighborhood Commission 2B

April 7, 2003

ZONING COMMISSION
District of Columbia
Case 02-25
Exhibit 56

2003 APR -7 PM 3:35

Ms. Carol J. Mitten
Chair, Zoning Commission
441 4th Street, NW, Suite 210
Washington, DC 20001
Deliver via facsimile: (202) 727-6072

RE: Zoning Commission Order #02-25 - 1615 New Hampshire Ave., NW - University of Notre Dame Campus Plan

Dear Ms. Mitten:

On April 2, 2003, the Dupont Circle Advisory Neighborhood Commission (Commission or ANC 2B) once again considered Zoning Commission Order #02-25, an order issued in response to an application by Nauru Phosphate Royalties on behalf on the University of Notre Dame for a special exception to establish a university at premises 1615 New Hampshire Ave., NW, in an DC/SP-1 District. With seven of nine commissioners in attendance, a quorum at a duly called public meeting, the following motion was approved by a vote of six in favor with one abstention:

> The Dupont Circle Advisory Neighborhood Commission requests reconsideration of Zoning Commission Order #02-025, which sets forth the Zoning Commission's ruling on an application by Nauru Phosphate Royalties on behalf on the University of Notre Dame for a special exception to establish a university at premises 1615 New Hampshire Ave., NW, in an DC/SP-1 District. ANC 2B respectfully submits that the Commission's October 28, 2002, decision was erroneous, and respectfully requests that the Commission reconsider its decision, for the following reasons.

I. The Commission did not fully address the adverse impact on neighboring property owners that will result from more than doubling the number of full-time residents at the Property.

In order to grant the University's application, the Commission must find that the proposed use "is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions." D.C. Mun. Regs. tit. 11, §§507.7, 507.8. In its decision, the Commission allowed the University to more than double the number of full-time residents at the Property, from nineteen (19) to fifty (50). ANC 2B submits that the Commission did not adequately address the serious adverse effects of such a dramatic increase in the number of full-time residents on the peace, order, and quiet of the Corcoran Street neighborhood.

The Commission ruled that the addition of fifty student residents was "comparable to the fifty (50) office workers who currently occupy the building and the attendees of seminars held at the Property."

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Conclusion of Law ¶6. The Commission did not acknowledge, however, that office workers and occasional seminar attendees affect a neighborhood in a significantly different manner from full-time residents. Office workers occupy property during business hours on weekdays, and are not present during the evening and weekends, when neighborhood residents seek to enjoy peace and quiet at home. Similarly, seminar attendees are only present in the neighborhood for brief periods of time. Allowing fifty student residents — at the rate of four per room – to occupy the Property will result in a significant increase in noise during the time when neighboring residents will be at home. The conditions imposed by the Commission on the use of the Property will not fully address the additional noise caused by such a major increase in the number of full-time residents.

By comparing fifty office workers to fifty full-time student residents, ANC 2B respectfully submits that the Commission mixed apples and oranges. ANC 2B therefore requests that the Commission reconsider whether the proposed use is "objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions." D.C. Mun. Regs. tit. 11, §§507.7, 507.8.

II. The Commission should consider the motion for reconsideration filed by the Corcoran Mews Condominium Association because neighboring property owners did not receive notice of the University's application in a timely manner.

As ANC 2B previously argued, neighboring property owners, including residents of the Corcoran Mews Condominium Association, did not receive notice of the University's application in a timely fashion. In its decision, the Commission dismissed this lack of notice by noting that only eleven of the notices mailed to neighboring property owners were returned. The Commission did not address the specific statements filed by neighbors that they did not in fact receive a notice. This evidence indicates that many of the notices must have been lost in the mail, or were never actually mailed.

Zoning Order #02-25 clearly misrepresents the depth of opposition to application. While the Order cites specific support and testimony of those associated with the University of Notre Dame, the Order suggests simply that "Nine witnesses testified and several letters were filed in opposition..." In fact, the letters and testimony reflect opposition to the application by more than fifty percent of the property owners on Corcoran Street within the 200 foot radius. Further, the current Single Member District Commissioner, Robert Meehan, lives within the area where notice is to be provided. Commissioner Meehan received no such notice of this zoning application. The Office of Zoning erred in the service of notice in this case and the rights of the affected neighbors were diminished. The Zoning Commission should have ordered the case be reposted when this error was discovered.

Given this lack of notice, ANC 2B respectfully requests that the Commission consider the alternative request raised by the Corcoran Mews Condominium Association, in a motion for reconsideration filed on November 6, 2002, that the Commission limit the number of residents at the Property to no more than thirty-one (31). In its October 28, 2002, decision, the Commission refused to consider the arguments of the Association because the motion was "filed by a non-party" and because "its filing preceded the issuance of [the Commission's] final order." Because of the lack of notice set forth above, and for reasons of fairness, ANC 2B requests that the Commission consider this request by the Association, whose members will be directly affected by the proposed use of the Property.

III. The Commission should deny the University's application, or in the alternative, limit the number of residents at the Property to thirty-one residents per semester.

For the foregoing reasons, ANC 2B respectfully requests that Commission reconsider its October 28, 2002, decision and deny the University's application. In the alternative, ANC 2B requests that the Commission limit the number of residents at the Property to no more than thirty-one per semester.

As this establishment is in the Single Member District of Commissioner Bob Meehan, he will serve as the Commission's representative on the matter. Please feel free to contact Commissioner Meehan for additional information or assistance by e-mail at Bob.Meehan@DupontCircleANC.net or on (202) 234-5151

ON BEHALF OF THE COMMISSION:

Very truly yours,

Vince Micone
Chairperson