BEFORE THE ZONING COMMISSION
OF THE DISTRICT OF COLUMBIA

Application of
Trustees for Harvard University

Zoning Commission Case No. 03-07
Public Hearing: May 5, 2003
ANC 2E

ZONING COMMISSION
District of Columbia
Case 03-07
Exhibit 28

STATEMENT OF THE APPLICANT

I.
NATURE OF RELIEF SOUGHT

Pursuant to 11 DCMR §3035.1 and in accordance with 11 DCMR §210.5, the Trustees for Harvard University (hereinafter the "Trustees"), on behalf of owners Robert and Anne Bass, request special exception approval to permit the interim use of property located in an R-1-B District, at 3232-3240 R Street, NW,(Lots 96 and 1015 (formerly Lots 97, 98, and 99) in Square 1280)(the "Subject Property") by the Trustees' Dumbarton Oaks Research Library and Collection (hereinafter "Dumbarton Oaks") (Exhibit A).[1] The requested interim use is for a period of five years. The Trustees are to lease the Subject Property from the owners during this period.

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II.
EXHIBITS IN SUPPORT OF APPLICATION

Exhibit A: Portion of the Sanborn Atlas showing the Subject Property outlined in red.

Exhibit B: Photographs of the Subject Property.

Exhibit C: Portion of the Zoning Map with the Subject Property indicated by arrow.

[1] In its initial application materials, the Applicant inadvertently noted the Subject Property as being zoned R-3. With respect to the relief requested in the Application, the distinction between the zoning districts is of no effect.

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Exhibit D: BZA Order No. 16555, dated December 11, 2000, approving the further processing of an amendment to the Dumbarton Oaks Campus Plan for a library addition, for two gardener's court buildings and minor changes to existing buildings.

Exhibit E: Letter from Tom Birch, Chair ANC 2E, to Carol Mitten, Zoning Commission Chair, dated April 8, 2003, recommending approval of Application for period of five years.

Exhibit F: Outline of the testimony of Edward Keenan, Director, Dumbarton Oaks.

Exhibit G: Outline of the testimony of Michael Steen, Project Manager, Dumbarton Oaks.

Exhibit H: Outline of the testimony of Steven Sher, Director of Zoning and Land Use Services, Holland & Knight LLP.

III.
BACKGROUND

Description of Subject Property

The Subject Property is located on the south side of the 3200 block of R Street, NW, mid-block between Wisconsin Avenue to the west and 32nd Street, NW, to the east. (Exhibit A). The Subject Property is bounded to the west by the Georgetown Branch Public Library, at the corner of R Street, NW, and Wisconsin Avenue. Single family residences are located to the east of the Subject Property and to the north across R Street, NW. The Subject Property is bounded to the South by open space fronting on Reservoir Road, NW.

The Subject Property contains approximately 39,904 square feet of total lot area and is improved with the landmark Scott-Grant House along with a number of additional buildings, including a guardhouse (3232 R Street), former carriage house and storage structures (immediately behind guardhouse), and guest house/former gardener's cottage (located in far southwest corner of Subject Property). The Subject Property is currently an unoccupied residential compound owned by Robert and Anne Bass. The Subject Property is zoned R-1-B.

The building now known as the Scott-Grant House at 3238 R Street was constructed circa 1854 and has a long associational history, including anecdotal references to it as the "Summer White House" for President Ulysses S. Grant shortly after the Civil War. The building appears to have been altered circa 1907, when the entrance to the building was moved from the first to the basement level and the porch and fan window above added. The carriage house was constructed circa 1910. Interior alterations were undertaken by a number of succeeding owners, including extensive renovations undertaken in the late 1930s. The Scott-Grant House was designated a D.C. landmark in 1964 and is located within the Georgetown Historic District.

Dumbarton Oaks

Dumbarton Oaks, a Harvard University property is a research educational institution located within one-half block of the Subject Property, in a Federal-style mansion on property with premises address of 1703 32nd Street, NW, (Square 2155, Lot 812) and containing a lot area of approximately 708,000 square feet. The Dumbarton Oaks Campus is developed with extensive historic gardens and plantings as well as a variety of important structures. Dumbarton Oaks has important resources in Byzantine and pre-Columbian artifacts, rare books, furnishings and artwork, and provides Byzantine Studies, pre-Columbian Studies and Garden and Landscape Studies to a select number of fellows and visiting scholars.

On July 16, 1941, the Board of Zoning Adjustment (hereinafter "BZA") first granted permission to the Trustees to establish an education use at Dumbarton Oaks (BZA Order No. 568), then finding "that the use and study of the Works of Art and the Library now contained on this property will be carried as part of the regular annual curriculum of Harvard University, and that this use is educational and a school within the meaning of the Zoning Regulations." The BZA found further that the establishment of "this use is not likely to become objectionable in

this residential district because of noise, traffic, and number of students ...the granting of this exception will be in harmony with the general purpose and intent of the Zoning Regulations and maps, and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and maps."

Over the course of 60 years, the Trustees have subsequently only applied for, and received approval, for four enlargements of the buildings on the Dumbarton Oaks Campus: first, on June 1, 1956 (BZA Order No. 4456), allowing a second floor to be added to the existing main building for use as a library; second, on March 20, 1961 (BZA Order No. 6232), allowing the construction of a one-story museum wing and a one-story and basement library wing to the existing main building; third, on June 12, 1987 (BZA Order No. 14584), allowing for the infill construction of an addition to the existing building to provide new museum space within an existing courtyard, along with underground storage and support areas; and fourth and most recently, in December, 2000 (BZA Order No. 16555)(Exhibit D), providing for further processing under the approved campus plan to construct a proposed library addition, two gardener's court buildings, and to undertake other minor changes to existing buildings on the Dumbarton Oaks Campus.

In accordance with the most recent approval of the BZA, construction activities have commenced on the Dumbarton Oaks Campus and there is a need for temporary off-campus space while construction proceeds.

Dialogue with Community

The Trustees enjoy good and open relations with neighboring property owners. The Dumbarton Oaks Campus is well-maintained and the fellows and visitors who utilize the Campus are respectful of their residential surroundings.

The Trustees presented the instant Application to Advisory Neighborhood Commission

2E (hereinafter "ANC") at its regularly scheduled April 1, 2003 public meeting. At that meeting, the ANC voted unanimously to recommend that the Zoning Commission approve the instant Application for a period of five years.(Exhibit E).

IV.
JURISDICTION OF THE COMMISSION

The Zoning Commission has jurisdiction pursuant to §§ 210 and 3035.1 of the Zoning Regulations to approve by special exception a request for interim use of land or improved property located in a residential district and within a reasonable distance of a college or university campus. Jurisdiction over the review and approval of campus plans was transferred to the Zoning Commission from the BZA by Commission rulemaking in Order No. 932 (Zoning Commission Case No. 99-09), dated December 8, 2000.[2]

Uses that are permitted by special exception are presumed to be appropriate for the applicable zoning district as long as certain conditions are satisfied. In considering special exception applications, the Commission's discretion is limited to determining whether the relevant conditions and special exception criteria have been met. If an applicant meets its burden, the Commission must ordinarily grant the application. First Baptist Church of Washington v. District of Columbia Board of Zoning Adjustment, 432 A.2d 965 (1981); Stewart v. District of Columbia Board of Zoning Adjustment, 305 A.2d 516, 518 (1978).

The District of Columbia Court of Appeals has also affirmed the Commission's jurisdiction and scope of review in campus plan cases and has made clear that in reaching its decision the Commission may take into consideration such factors as institutional necessity. Draude v. District of Columbia Board of Zoning Adjustment, 582 A.2d 949, 955 (1990).

[2] The BZA heard the campus plan amendment and further processing application for Dumbarton Oaks through to completion, as provided in §3035.2 of the Zoning Regulations.

Further, the court has distinguished the broader public good referenced in the Zoning Regulations from the more narrow interests of neighboring property owners.

V.
WITNESSES

The following witnesses will testify in support of the application:

1. Edward Keenan, Director, Dumbarton Oaks.

2. Michael Steen, Project Manager, Dumbarton Oaks.

3. Steven Sher, Director of Zoning and Land Use Services, Holland & Knight LLP.

VI.
THE PROPOSAL COMPLIES WITH THE REQUIREMENT OF SECTION 210.5

Section 210.5 of the Zoning Regulations authorizes the Zoning Commission to permit, under certain conditions, the interim use by a college or university of land or improved property that is located within a reasonable distance of said college or university's campus. The Commission must first determine that the proposed interim use is a proper college or university function. The Commission must likewise be satisfied that the use will be located so that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions.

Proposed Interim Use is a Proper University Function

The Trustees seek to utilize certain of the existing buildings on the Subject Property, primarily the Scott-Grant House, as administrative office space for no more than 18 members of Dumbarton Oaks staff, who will be displaced from their existing space on the Campus during the scheduled renovation and new construction being undertaken pursuant to the 2000 BZA

approval. The space would be occupied primarily during normal business hours. No public events would be conducted at the Subject Property by the Trustees. The only event that might occur would be very small in-house receptions. Dumbarton Oaks' Director of Facilities and Services is to reside at the guest house/former gardener's cottage on weekdays and the owners of the Subject Property will continue to maintain security staff and a handyman for the other buildings. All these proposed uses for the Subject Property are consistent with the approved campus plan for Dumbarton Oaks and their extension to the Subject Property is reasonable and warranted.

In keeping with the interim nature of the instant Application, the Trustees propose utilizing the Subject Property for no longer than five years following approval of the Application by the Zoning Commission.

Proposed Interim Use Not Likely to Become Objectionable to Neighboring Property

The Trustees' interim use of the Subject Property will not be objectionable to neighboring property owners as a result of any noise or traffic generation, or students, or any other condition.

1. Noise

The Trustees propose to utilize the Subject Property primarily as administrative offices during weekday business hours. Any noise generated as a result of this proposed use would be at most inconsequential. In addition, the Subject Property is bounded on two sides by nonresidential use; the public library to the west and open space to the south. In the event that a small in-house reception is held at the Subject Property, there will be no music played or other noise generated. There will be no parties, public events, fund-raising events, or large-scale receptions held at the Subject Property.

2. Traffic

There will be no increase in vehicular traffic created by the proposed interim use. Dumbarton Oaks employees using the Subject Property will continue to park in their current spaces on the Dumbarton Oaks Campus and walk the one-half block to the Subject Property. Likewise, should there be any in-house receptions held at the Subject Property, attendees would be required to park on the Dumbarton Oaks Campus. There will be no commercial traffic generated at the Subject Property. Only a very few, if any, vehicular traffic trips to the Subject Property will be required, primarily for maintenance of the property and once-daily mail delivery and office trash removal in the Dumbarton Oaks pick-up truck.

3. Students

The proposed interim use will result in no increase in number of students/fellows on the Dumbarton Oaks Campus, of which there are currently fewer than 25.

4. Other Objectionable Conditions

There are no other objectionable conditions to neighboring property that would be created as a result of the Trustees' interim use of the Subject Property. To the contrary, existing security and caretaking of the property will continue. There will be no alterations undertaken to the Subject Property or the improvements thereon as a result of the proposed interim use. And the Subject Property will be maintained by Dumbarton Oaks staff at a level consistent with the Dumbarton Oaks Campus.

VII.
THE PROPOSAL COMPLIES WITH REQUIREMENTS OF SECTION 3035 OF THE ZONING REGULATIONS

Under §3035.1, the Zoning Commission is authorized to hear and decide all special exception applications related to campus plans, including interim use of land or improved property within a reasonable distance of a campus. Pursuant to §3035.4, the Zoning Commission shall review said applications utilizing the standards set forth in §3104, namely that an application will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property.

1. Harmony with the Zoning Regulations and Maps

The instant Application is in harmony with the Zoning Regulations and Maps. University use is permitted by special exception in the R-1-B District.

2. No Adverse Effect on Neighboring Property

As set forth above, the proposed interim use will have no adverse impact on neighboring property. There will be no additional noise, traffic, students or any other objectionable condition created as a result of the instant Application. Furthermore, the Application has been reviewed and recommended for approval by ANC 2E, within whose bounds the Subject Property is located.

VIII.
CONCLUSION

For the reasons set forth above, it is respectfully submitted that the Trustees for Harvard University, on behalf of Robert and Anne Bass, are entitled to the requested special exception

relief and that said relief may be granted in accordance with the requirements of the Zoning Regulations.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By: _____
Norman M. Glasgow, Jr.

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Dennis R. Hughes

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