Law Offices
HOLLAND & KNIGHT LLP

2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, D.C. 20006-6801

202-955-3000
FAX 202-955-5564
www.hklaw.com

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*Representative Office

CHRISTOPHER H. COLLINS
202-457-7841
Internet Address:
ccollins@hklaw.com

November 26, 2003

VIA HAND DELIVERY

D.C. Zoning Commission
Suite 210
441 4th Street, N.W.
Washington D.C. 20001

Re: Zoning Commission Case No. 03-32 - Cornell University
Special Exception for an Amendment to an Approved Campus Plan and Further Processing
Pre-Hearing Statement of the Applicant

Dear Members of the Commission:

Enclosed, please find the original and twenty copies of the Pre-Hearing Submission of the Applicant in the above-referenced case.

As certified in the statement, all of the required information has been submitted and the case is ready for public hearing.

Sincerely,

Christopher H. Collins

Jill G. Cooper

Jill G. Cooper, AICP
Land Use Planner

Enclosures

cc: Karen Thomas, Office of Planning
Linda Jarschauer Johnson, Cornell in Washington
Thomas P. LiVigne, Cornell University

ZONING COMMISSION
District of Columbia
Case 03-32
Exhibit 22

ZONING COMMISSION
District of Columbia
CASE NO.03-32
EXHIBIT NO.22

BEFORE THE ZONING COMMISSION
FOR THE DISTRICT OF COLUMBIA

CORNELL UNIVERSITY

2148 O STREET, N.W.

ZONING COMMISSION CASE NO. 03-32

HEARING DATE: DECEMBER 11, 2003

BEFORE THE ZONING COMMISSION
FOR THE DISTRICT OF COLUMBIA

APPLICATION OF	**ZONING COMMISSION CASE NO. 03-32**
CORNELL UNIVERSITY	**HEARING DATE: DECEMBER 11, 2003**
2148 O STREET, N.W.	**ANC 2B**

STATEMENT OF THE APPLICANT

I.
NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of Cornell University (the "Applicant") in support of the application to the Zoning Commission for special exception approval of an amendment to an approved campus plan and further processing under that plan, pursuant to 11 DCMR §§ 3104 and 352.2 of the Zoning Regulations. The special exception is requested in order to permit an expansion of educational, research and related administrative uses of Cornell University's Washington, D.C. campus to include both the first floor, currently permitted, and the lower level of the existing building located at 2148 O Street, N.W. (Square 69, Lot 821) (the "Site") in the DC/R-5-B zone.

II.
JURISDICTION OF THE COMMISSION

The Zoning Commission has jurisdiction pursuant to Sections 210 and 3104 of the Zoning Regulations to approve as a special exception a campus plan for a university located in a residential district. 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.

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

III.

BACKGROUND

A. Description of the Site

The Site is located on the southeast corner of the intersection of 22nd and O Streets, N.W. with an alley running along its eastern boundary. The Site measures 6,300 square feet in land area and is included in the northern half of Square 69, an area bounded by O Street on the north,

22nd Street on the west, 21st Street on the east, and Newport Place on the south. The Site is located in the DC/R-5-B District. (*See* Exhibits A and B).

B. Description of Surrounding Area

The Site is located in the Dupont Circle area, one block east of Rock Creek Park. The surrounding neighborhoods are comprised largely of single- and multi-family residences. There is also an office building on the corner of 22nd and O Streets diagonal to the Site (former site of the Congressional Quarterly), and Rock Creek Manor Nursing Center is located across O Street from the Site. The Site is within a block of the Dupont Circle retail frontage along P Street and the CR mixed use area of the West End, and is in close proximity to Francis Recreation Center and Junior High School. The Site is a short walk (three blocks) from the Dupont Circle Metro Station.

C. Project Background and Description

The Applicant and owner, Cornell University, occupies the first floor of the building as the campus of its Cornell in Washington program, which is designed to offer highly qualified students from all colleges within Cornell University an opportunity to earn full academic credit for a semester of study and internships in Washington, DC. The structure, formerly a 35-unit apartment building, contains approximately 25,375 square feet of gross floor area on four floors and the lower level. The upper three floors contain 27 residential units and are occupied as a matter-of-right apartment house pursuant to Certificate of Occupancy No. B136431 (October 3, 1983). These apartments have been occupied by Cornell faculty and students since 1983, prior to the establishment of the Cornell in Washington program in the building.

Pursuant to BZA Order Nos. 14044 (January 31, 1984) (Exhibit E) and 14623 (December 2, 1987) (Exhibit F), the first floor was renovated and occupied by Cornell as an institution of

higher learning. Cornell has occupied that space for approximately 20 years, pursuant to Certificate of Occupancy No. 138706 (May 15, 1984). The first floor includes two seminar rooms, one lecture room, one reading room, a computer lab, and office space for the Cornell Club, plus faculty and administrative offices.

The building is occupied by up to 57 Cornell junior and senior students. Up to 18 other Cornell upperclassmen, in other Washington semester programs, also take classes in the building. The maximum number of students currently using the building is 75, and there will be no increase in the number of students in the building as a result of this application. Classes are held on Monday through Wednesday evenings, and during the day on Thursdays and Fridays. Students also work in internships in offices throughout the city for academic credit on Mondays through Wednesdays.

The Applicant wishes to expand the University campus to include the lower level (*See* Exhibit G). The lower level, which measures approximately 5,075 square feet of gross floor area, is currently vacant and was formerly occupied for approximately fifteen years as a women's medical clinic. The Applicant seeks an amendment to the approved campus plan and further processing under §352.2 of the Zoning Regulations in order to allow this expansion, in accord with the current Zoning Regulations.

The lower level will include the following Cornell uses:

1) Cornell Club. The Cornell Club currently meets on the first floor of the building once a month. The Club has a small office on the first floor, mainly for storage of records. The Club will meet in a room on the lower level with its own separate entrance from 22nd Street, plus storage space for Club records. The Club office on the first floor will be converted to a teaching

assistant office. When the new meeting space in the lower level is not being used by the Club, it will be used as a student lounge.

2) Video Conferencing Facility. Currently, video conferencing is done in one of the four rooms on the first floor. The equipment is portable and must be taken out and then stored after each use. There will be a new larger dedicated video conferencing facility in the lower level. This facility will also be available for use as a lecture room, giving the University the option to hold meetings and activities for the entire group, as program needs require.

3) Cornell Center for Policy Research. The Center has proposed to occupy approximately 2,200 square feet of space for up to 8-10 Cornell researchers who are currently located in space on Connecticut Avenue. The researchers would not all be present at the site at the same time. If the Center does not occupy the space, the Applicant will make it available for other academically-related Cornell programs of a similar size.

IV.
THE APPLICANT MEETS THE TEST FOR SPECIAL EXCEPTION RELIEF TO ALLOW AN AMENDMENT TO THE CAMPUS PLAN AND FURTHER PROCESSING UNDER 11 DCMR § 210

A. Section 210.1: *Cornell University Qualifies as an Academic Institution of Higher Learning.*

The Cornell in Washington program was established in spring of 1980 with six students and "borrowed" locations for classes and housing. Students moved into the apartments in the fall of 1983, and the academic portion of the building was occupied in the fall of 1984, following the Campus Plan approval. The Cornell in Washington program was designed to provide Cornell students with a "window on Washington" and includes both regular Cornell faculty members and adjunct faculty. Cornell University is fully accredited and authorized to confer degrees. In its

prior approvals, the Board of Zoning Adjustment found that the Cornell in Washington program qualifies as a University as defined in the Zoning Regulations.

B. **Section 210.2:** *Use as a college or university shall 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.*

Cornell University has used the first floor of the building as an institution of higher learning for the past 20 years. In Order No. 14044 and again in Order No. 14623, this use was found by the Board to be not likely to become objectionable because of noise, traffic, number of students, or other objectionable conditions. This is a highly selective program with strict rules and criteria for admission and for student conduct imposed both by the University, and by the terms of the BZA Orders.

There will be no increase in the number of students in the Cornell in Washington program or otherwise occupying the building as a result of this application. There will be 8 to 10 faculty and administrative staff associated with the program on the campus at any one time. Four of the staff members live in the building. There will be approximately 10 additional Cornell personnel in the building if the Center for Policy Research or other similar program occupies a portion of the lower level.

No additional noise will be generated, because the same rules and conditions imposed by the University, and approved in the prior BZA Orders, will continue to govern. Students are discouraged from bringing cars to the Washington area. Those who do bring vehicles are required to provide evidence to the Executive Director of the program that their cars will be parked elsewhere on private property and not on area streets for the term of their enrollment in the Cornell in Washington program. The University does not permit or authorize any student in

the program to apply for Residential Permit Parking. Trash will continue to be collected and stored in an enclosure along the alley, for easy collection by the trash contractor. The maximum number of students taking classes in the building during any one semester will continue to be 75. This expansion is intended to provide more room "on campus" for the programs for these students as well as space for research functions of established academics in Washington.

Section 210.3: *In R-1, R-2, R-3, R-4, R-5-A, and R-5-B Districts, the maximum bulk requirements normally applicable in the Districts may be increased for specific buildings or structures; provided, that the total bulk of all buildings and structures on the campus shall not exceed the gross floor area prescribed for the R-5-B District. In all other Residence Districts, similar bulk increases may also be permitted; provided, that the total bulk of all buildings and structures on the campus shall not exceed the gross floor area prescribed for the R-5-D District. Because of permissive increases as applicable to normal bulk requirements in the low-density districts regulated by this title, it is the intent of this subsection to prevent unreasonable campus expansion into improved low-density districts.*

The Site is located within the DC/R-5-B District. The proposed university academic and administrative use will occupy the lower level and first floor, which includes approximately 1.6 FAR of the existing building.

Section 210.4: *As a prerequisite to requesting a special exception for each college or university use, the applicant shall have submitted to the Commission for its approval a plan for developing the campus as a whole, showing the location, height, and bulk, where appropriate, of all present and proposed improvements, including but not limited to the following:*

(a) Buildings and parking and loading facilities;

(b) Screening, signs, streets, and public utility facilities;

(c) Athletic and other recreational facilities; and

(d) A description of all activities conducted or to be conducted on the campus, and of the capacity of all present and proposed campus development.

The Campus Plan for use of the first floor was approved by the Board in Application No. 14044 and again in Application No. 14623. Architectural plans constituting the University's long-range plans for the building were submitted and approved in conjunction with the prior Orders (*See* Exhibit H). The conceptual drawing for the lower level is submitted herewith as Exhibit G. Also submitted herewith as Exhibit D are comprehensive photos of the building and the Site, showing the existing landscaping, signage and other exterior features. Signage for the proposed expansion will be consistent with the building's existing signage. The building occupies the vast majority of the Site, and there is no onsite parking or loading, as shown on Exhibit A. The surrounding street system is also shown on Exhibit A. There are no on-site athletic or recreational facilities, except for indoor student lounge areas. However, Rock Creek Park is located one block to the west. A description of all activities conducted and to be conducted is included herewith.

Section 210.5: *Within a reasonable distance of the college or university campus, and subject to compliance with § 210.2, the Commission may also permit the interim use of land or improved property with any use that the Commission may determine is a proper college or university function.*

This paragraph is not applicable to this application. The Applicant does not seek relief in this application for the interim use of land or improved property with any use that the Commission may determine is a proper college or university function.

Section 210.6: *When a major new building that has been proposed in a campus plan is instead moved off-campus, the previously designated site shall not be designated for, or devoted to, a different major new building unless the Commission has approved an amendment to the campus plan applicable to the site; provided, that for this purpose a major new building is defined as one specifically identified in the campus plan.*

This paragraph is not applicable to this application.

Section 210.7: *In reviewing and deciding a campus plan application or new building construction pursuant to a campus plan, the Commission shall consider, to the extent they are relevant, the policies of the District Elements of the Comprehensive Plan.*

The Site is designated for moderate density residential use on the District of Columbia's Generalized Land Use Map of the Comprehensive Plan. As outlined in the Comprehensive Plan, one of the objectives for residential neighborhoods is the conservation and enhancement of the essentially satisfactory qualities of the District's many stable residential neighborhoods including those qualities that make them unique. Cornell in Washington has served as a unique but stable residential program for the past twenty years. It is highly compatible with the surrounding residential neighborhood.

The Comprehensive Plan's Ward 2 Element emphasizes the importance of developing an overall combination of existing and new arts, cultural and educational facilities within the Ward. Cornell University's expansion of university academic uses supports and furthers this important objective.

The Ward 2 Element also encourages the improvement of mobility in the Ward, while minimizing adverse transportation impacts on residential neighborhoods. As detailed above, the subject application fully supports this objective of the Comprehensive Plan. The Site is located

in close proximity to mass transit and the University actively discourages bringing private automobiles to the site.

As a longstanding member of the Ward 2 community, the continued vitality of the Cornell in Washington program is significant in furthering the Ward's land use goals of conserving and enhancing existing residential neighborhoods.

Section 210.8: *As an integral part of the application requesting approval of new building construction pursuant to a campus plan, the college or university shall certify and document that the proposed building or amendment is within the floor area ratio (FAR) limit for the campus as a whole, based upon the computation included in the most recently approved campus plan and the FARs of any other buildings constructed or demolished since the campus plan was approved.*

The university academic and administrative use of the building will occupy approximately 1.65 FAR. There is no new building construction in conjunction with this application.

Section 210.9: *Before taking final action on an application for use as a college or university, the Commission shall submit the application to the D.C. Office of Planning and the D.C. Department of Transportation for review and written reports.*

It is the Applicant's understanding that the Office of Planning and the Department of Transportation have received referrals of this application.

Section 3104.1: *This section authorizes the Board to grant special exceptions as provided in the Zoning Regulations, where the Board determines such grant(s) of special exception to be in harmony with the intent and purpose of the zone plan and which does not tend to adversely impact the use of neighboring property.*

The requested special exception is in harmony with the intent and purpose of the zone plan and, as further detailed above, will not adversely impact the use of neighboring property. The use is self-contained, with no outdoor activities. The use has been operating in the building for 20 years. The proposal is for additional space for the existing programs, with no increase in the number of students. A portion of the lower level may be used for additional research or other academically-related programs, with up to approximately 10 additional Cornell personnel. The Applicant proposes to operate in accordance with the conditions adopted in the prior 1987 BZA approval, as modified by the descriptions herein. A revised list of conditions is attached as Exhibit I.

V.
ANC SUPPORT

At its public meeting of November 12, 2003, ANC 2B voted unanimously (with Commissioner Mitten recusing herself) to support this application.

VI.
EXHIBITS SUBMITTED IN SUPPORT OF THE APPLICATION

Exhibit A:	Portions of the Sanborn Atlas and Baist Map showing the Site highlighted in yellow;
Exhibit B:	Portion of the Zoning Map showing the Site highlighted in yellow;
Exhibit C:	Surveyor's Plat of the Subject Property;
Exhibit D:	Photographs of the subject site;
Exhibit E:	BZA Order No. 14044;
Exhibit F:	BZA Order No. 14623;
Exhibit G:	Conceptual plan for the Lower Level and First Floor;

Exhibit H: Floor plan of the First Floor Level (BZA No. 14623);

Exhibit I: Proposed Conditions of Approval

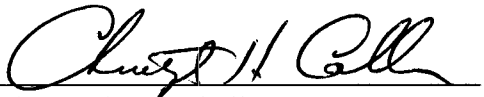
Exhibit J: Outline of Testimony of Linda Jarschauer Johnson, Executive Director, Cornell in Washington Program;

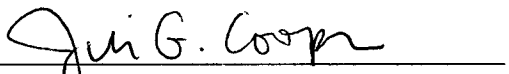
VII.
CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards for special exception relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests that the Commission grant the application.

Respectfully submitted,

HOLLAND & KNIGHT, LLP

By: 
Christopher H. Collins


Jill G. Cooper, AICP
Land Use Planner

2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, D.C. 20006
(202) 955-3000

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